Maliciously selfish motives behind ACTU's ad splurge

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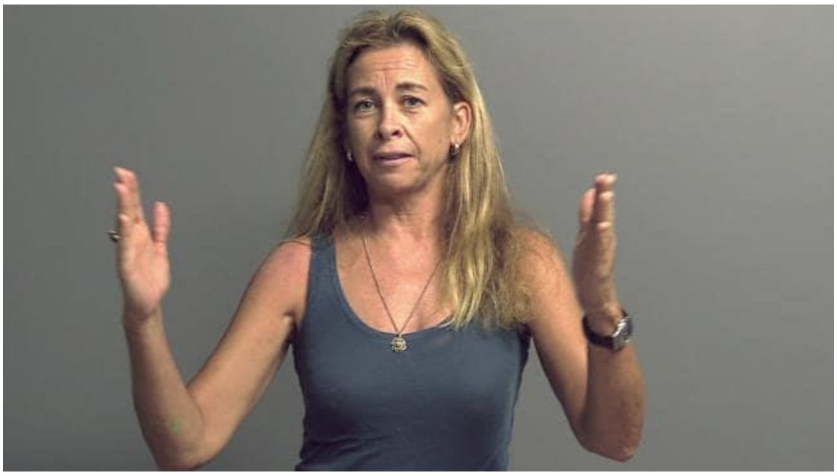

An actor in an ACTU 'Change the Rules' ad.

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If the ACTU has launched the largest advertising campaign in its history, it is hardly out of altruism. It is because it is on a promise, and a good one at that.

Labor will not only remove what few constraints there are on union corruption; it also will override the umpire when the Fair Work Commission takes decisions the unions don't like.

The overall result will be a dramatic shift in the industrial relations system, granting the unions greater power, with less accountability, than ever before. And they will, no doubt, use that power to help keep Labor in office, durably altering the political balance.

Merely to list Labor's commitments is to underline the extent of the change.

The Registered Organisations Commission, set up in the wake of the Health Services Union scandal to bring at least a degree of transparency into the unions' management of their members' money, will simply be abolished.

So will the Australian Building and Construction Commission, which Labor and the unions accuse of being a star chamber — even though its investigative powers are no greater than those the Australian Securities & Investments Commission and the Australian Competition & Consumer Commission have long enjoyed and routinely employ.

At the same time, Labor will hobble the competition that the unions detest. Labour hire companies, which top the list, will be hit with an avalanche of regulatory requirements, increasing their costs to the point where many will go out of business.

Self-employed truckers, who are the transport union's bugbear, can look forward to the re-establishment of the so-called Road Safety Remuneration Tribunal, which the Gillard government created to undermine their viability. And the Construction Forestry Maritime Mining and Energy Union is already boasting that Labor will allow it to force workers and subcontractors off building sites unless they join the union and accept its demands.

Nor does it end there. Until now, Australian governments have relied on independent tribunals to determine regulated wages and conditions, limiting parliament's role to that of legislating the general principles that guide those tribunals' rulings. But in a move that is effectively unprecedented, Labor will reverse the Fair Work Commission's penalty rates decision, giving the government a direct role in determining private sector pay. And although Labor has released no details of how it intends to implement its "living wage", it may also require overriding the latest minimum wage determination.

There is, finally, what could be the icing on the unions' cake, in the form of the wage subsidies for childcare workers announced this week. Here, too, Labor is reversing the FWC, which found the unions' claim that childcare workers are "undervalued" was not substantiated by "any evidence".

And here too, the details of Labor's policy remain up in the air. But if the Gillard government's schemes are any precedent, those subsidies — and the ones for aged-care workers that can be expected to follow — could be available only to providers who enter into enterprise agreements, giving the unions scope to deflect a share of the payments for their own purposes.

In short, the unions will get everything they want and more, in a package that makes the one Gough Whitlam brought to office in 1972 pale into insignificance. And they will have in their sights the greatest prize of all: an assured hold on superannuation's rivers of gold and, through them, the prospect of a commanding say in many of Australia's largest companies.

Yet while the unions will hail the changes as a triumph, they are a sign of weakness rather than of strength.

After all, if the unions have to rely so heavily on the coercive powers of the state, it is because they have nothing to offer the vast majority of Australians, who have abandoned them in droves. Moreover, far from reversing the root causes of that deterioration in their position, Labor's package risks perpetuating their worst features, including a pervasive absence of transparency, a leadership infiltrated by crooks and spivs, and a short-termism that makes business seem long-sighted.

Our unions are, in that respect, chillingly similar to the medieval guilds in their declining phase. As Cambridge's Sheilagh Ogilvie shows in her monumental study, The European Guilds, the guilds, instead of adjusting to the pressures that emerged as transport and communications costs fell and trade grew, increasingly focused on "reducing threats from innovation, competition, and audacious upstarts" by exploiting what market power they still had to "generate sufficient rents to pay off political elites".

The result was a corrupt bargain: political elites locked in the "exclusive legal privileges that allowed the guilds to (continue) reaping monopoly profits", while the guilds used their resources to buttress the elites' grasp on power.

But that bargain was scarcely costless: in virtually every case, the areas where those oligarchies prevailed fell ever further behind. It was in Britain and The Netherlands, which decisively reined in the guilds, that economic growth took off, while the German lands and Austria, where the guilds managed to entrench their position, grew slowly or not at all.

The consequences were not merely economic. Time after time, the oligarchies that rested on those coalitions of guilds and political elites proved Aristotle's observation that no system of government is more prone to conflict than oligarchy, because there are "in oligarchies two ever-present forms of strife, that of the oligarchs towards the people and that of the oligarchs towards each other".

As seizing rents and protecting them from encroachment became the order of the day, the common good came to be "seen as (and so to be) a ruse for fools and dreamers", while the political arena degenerated into a place where rival factions, like gladiators, fought to the death.

The ultimate effect, in Ogilvie's words, was to breed "rent-seeking, demarcation struggles, and hostility towards outsiders, diminishing rather than fostering the trust that might have made markets and states work better".

Unfortunately, none of that means the corrupt bargain is sure to be short-lived. The Greek oligarchies may have been exceptionally unpleasant, but they lasted, on average, about 95 years, while the guilds, which had exhausted their economic function by 1600, retained their stranglehold on many parts of Europe until the 1850s.

There is, in other words, no reason to believe that good institutions flourish while bad institutions falter. Rather, as Ogilvie somberly concludes, history teaches us that "institutions survive for centuries not because they address market failures, but because they serve the distributional interests of powerful groups".

So could Australia's unions, no matter how deep their flaws.

And while they prosper, it is the powerless who, once again, will pay the price.

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https://www.theaustralian.com.au/commentary/maliciously-selfish-motives-behind-actus-ad-splurge/news-story/3280c4a4c2d54be3c89fca607d3282a1