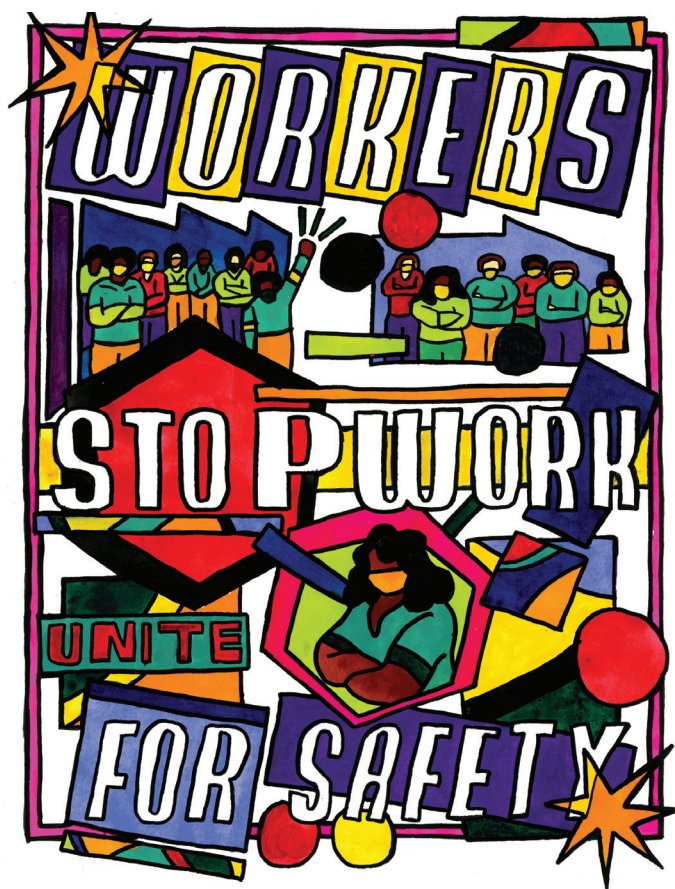


WORKERS SOLIDARITY

BULLETIN · ISSUE 22

While workers are still figuring out how to protect their loved ones and livelihoods through the fallout of COVID-19 the bosses are ticking a few things off their wish list. We are seeing systematic attacks on the sick leave, penalty rates and job securities unionists have won and worked long and hard to protect. Instead of fighting back one issue or one workplace at a time, we need a united fight now. Read on for more.

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Nicky Minus | @nickyminus

WORKERS IN STRUGGLE

AMIEU and JBS Brooklyn

AMIEU members at JBS Brooklyn won paid pandemic leave on 12 August after raising concerns about a lack of health and safety precautions taken around COVID-19. The workers also won the right to quarantine for 14 days from their last shift, because of a COVID outbreak. Paul Conway, Victorian State Secretary of the Victorian AMIEU, the largest employee representative union for the meat industry, said that securing the pandemic payment was an important win for its members who have been working hard to support Victoria's meat supply during COVID.

AMWU and Cadbury

AMWU members lost a long fight against Cadbury (backed by the Federal Government all the way) on 13 August when the High Court ruled that shift workers cannot accrue sick leave according to the hours per day that they have worked – see feature article for details. The AMWU had won this case in both the Fair Work Commission and the Federal Court, but Cadbury appealed to the High Court, and unfortunately, they won. Members and delegates stood up against a big company like Cadbury and unfortunately this time, they lost. But if you don't fight, you definitely lose. These members are now battle hardened for the next fight.

UWU and Derrimut Distribution Centre

At the Mitre 10 distribution centre in Derrimut, Victoria, over 60 workers represented by the United Workers Union ceased work on 8 August after a positive COVID case was identified that morning.

Mitre 10 has now:

- Allowed workers from the warehouse where the affected employee worked to leave to get tested
- Stopped staff working across both sheds to decrease risk of cross contamination

- Given each worker their own individual set of equipment so they no longer have to share
- Committed to involve HSRs in contract tracing from now on

MUA and MV Portland

10 MUA seafarers have won a major victory in the Federal Court, when a decision was handed down on 10 August, declaring that they didn't have to pay fines and damages over unlawful industrial action. The 10 seafarers undertook a two-month sit-in back in 2015, to prevent their vessel, the MV Portland, from being replaced by foreign flag-of-convenience ships crewed by exploited workers. The crew found out from media reports that Alcoa was planning to sack 40 Australian seafarers and sell the MV Portland, which had been carrying alumina from Kwinana in Western Australia to its Portland Aluminium Smelter in Victoria for 27 years. The 10 seafarers on board refused to sail the vessel to Singapore, where it was to be sold, occupying the vessel for two months before they were forcibly removed by security guards in the dead of night and replaced by a foreign crew.

UWU and Wyong dispute

The Wyong dispute at the NSW Woolworth's distribution centre ended with a victory for United Worker Union members:

- Level 1's and 3's - 11.2% increase over 3 years - double on offer before strike
- Level 2's with 6 years' service with the company made level 3's, increasing pay by 17.4% over 3 years - almost double offered before strike
- 80:20 ratio of permanents to casuals (including agency casuals) - nothing offered before strike
- Woolworths and agency casuals have the right to convert after 12 months' service
- Redundancy cap doubled in the event of site closure - from 40 weeks to 82 weeks
- Union rights including paid union meetings
- Family and domestic violence leave - 5 paid and 5 unpaid

MUA and DP World

Protected action continues at DP World after 2 years of EBA negotiations broke down with management, despite an agreement in principle being reached in October 2019.

National secretary, Paddy Crumlin has hit out at detractors, saying that Industrial action undertaken by wharfies has and continues to be completely legal, adheres to the requirements of the Fair Work Act, and aims to minimise potential disruption to the general public.

Workers are taking protected industrial action to stave off corporate attacks on their wages and conditions. The industrial action includes clear exemptions for any medical or COVID-19 related cargo, ensuring there are no delays to these important items reaching the community. DP World continues to stall negotiations to reach a resolution to this dispute.

USA

California AFL-CIO resolved to disaffiliate with police and border patrol unions on 6 August, citing how both perpetuate racial and economic injustice, as well as violent oppression. The resolution is the first in the US passed by a state AFL-CIO board.

Jordan

Police raided the Jordan Teachers Syndicate headquarters in Amman and 11 of its branches arresting all 13 syndicate board members on 25 July. Attorney General Hassan Abdallat ordered the closure of the independent, elected labour union representing teachers for two years after high-profile disputes with the government.

Ukraine

International human and workers' rights groups are calling for the withdrawal of a number of proposed amendments to Ukraine's trade union laws. They say the amendments, if passed, would violate Ukraine's international commitments to uphold labour laws, tightly restricting worker's rights to freedom of association.

Some of the draft proposals include a limit on the number of primary trade unions in an enterprise to only two, a large-scale transfer of union's assets to the state and attacks on the autonomy of union management.

BACKBONE OF OUR MOVEMENT



Emma Bagg
Organiser, staff delegate and staff HSR
ASU Vic-Tas Branch

How long have you been a union member?

23 years.

Why did you join the union?

I came from a working-class family, but we never really talked about the union movement, but my family always talked about fighting for workers' rights.

When I was 15 and working in hospitality, I always questioned my rights and entitlements for myself and other staff. However, it was not until I was 20 and I started work at the Colac Abattoirs and I joined the AMIEU as I realised the importance of being part of a collective and standing together.

What's your best memory/story about being in the union movement?

When I was the Organiser in the North East of Victoria, one of the sites I had coverage for was Rural City of Wangaratta. When I arrived, members were feeling defeated due to new management team who had created a toxic workplace. Slowly but surely, members allowed me to start taking on a few issues and getting some wins on the board. Some more delegates were elected, we set up delegate networks and new members started to join which then started to build power at their workplace.

We started bargaining the enterprise agreement, the employer wanted to take away some of their conditions by removing wording from the Dispute Resolution Clause that allowed members to dispute written warnings or policy matters. This was the clause we had used to get some wins on the board, so it was no surprise the employer wanted to remove it.

However, the members stuck strong and united as they knew the value of this wording and for the first time since the 1990's voted on and took Protected Industrial Action. In the end the members won the fight and maintained this condition, but it did not come easy.

What's the most important issue facing the union movement today?

The pandemic has really brought out into the spotlight the reality of insecure work across all industries and the need for all of us to work together as a movement.

It is import we grow and build membership, but we need to make sure this also includes building activism and mobilisation as that is how real change will happen.

Why should people join their union?

Being a union member is something to be very proud of as you know you are part of something bigger and that does not leave anyone behind.

If you want a fairer society and to maintain or better workers' rights, then joining your union is the only way to organise and make real change happen.



COVID-19 (again!) What are the Implications for Employers?

We have heard the Premier of Victoria, Daniel Andrews, say that at one stage at least, 80 per cent of newly identified COVID-19 infections came from workplaces.

During Stage 4 all non-essential businesses in metropolitan Melbourne have been closed – and those that are still operating must have implemented a COVIDSafe plan by midnight August 7. In addition, workers needing to move outside their 5km from home, or who need to be out between 8pm and 5am must also have Permitted Worker Permits. These are measures being taken by the government to control Victoria’s ‘second’ and more serious wave of the Coronavirus pandemic.

Apart from the drastic financial effects of these measures on workers and employers/businesses, – what implications are there for employers if a worker contracts COVID-19 in the course of their employment?

Many employers/companies have had to reorganise their work and allow their employees to work from home. This has meant, perhaps, some extra expense, and a loss of ‘control’ over their workforce.

Another implication, also relatively ‘straight-forward’ will be related workers’ compensation claims and possibly an increase in premiums. However, at the end of July there had been only 111 approved workers compensation claims relating to coronavirus. The majority of these were from teachers who suffered psychological stress. It is likely that there will be more claims from workers who have actually contracted coronavirus. For example, few, if any, workers from one of Victoria’s largest clusters at Cedar Meats Australia, have submitted WorkCover claims, despite least one worker spent several weeks in intensive care.

But what if someone dies?

In what may be the first reported fatality tied to a workplace infection, a Victorian chicken plant worker was found dead in his home on August 9 after contracting COVID-19. The 51 year old reportedly contracted the virus at the Golden

Farms plant at Breakwater, near Geelong, which has been linked to 44 cases. The long-time United Workers Union member had been employed at Golden Farms for more than 15 years.

“This case highlights the absolute gravity of the current situation facing essential food workers. It is tragic that workers could contract this deadly virus simply because they have turned up to work to feed our communities,” said UWU’s Director of Food and Beverage Susie Allison. “Food workers across the country are putting their own lives and their family lives at risk by attending work to ensure our supermarkets remain stocked. Every measure must be taken to ensure their safety. In particular, workers must be provided with readily accessible paid pandemic leave so they are not forced to choose between keeping their workmates safe and no income or digging into sparse leave entitlements.”

But could there be more serious consequences for employers like Turosi, the parent company of Golden Farms. Could such employers end up with millions of dollars in fines or even a jail sentence? There has been a lot of discussion in the papers and elsewhere regarding the new workplace manslaughter provisions in the OHS Act and whether employers could find themselves charged under these provisions if a worker dies of COVID-19. My immediate reaction was that this was scare-mongering. This is despite Jill Hennessey, the Minister for Workplace Health and Safety, “confirm(ing) employers could face charges under newly introduced industrial manslaughter laws where they are found to have failed in duties of care relating to the spread of infections.” (from an article in the Australian Financial Review). I suspect, as does Kevin Jones (SafetyAtWorkBlog) that the Minister was responding to a question.



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For an employer, or another duty holder, to be charged with the workplace manslaughter provisions of the OHS Act, that entity or person must have breached their duty owed by negligent conduct. So, non-compliance with their duties under the Act is not enough.

What is negligent conduct in this context? Under these provisions, conduct will be considered ‘negligent’ if it involves both ‘a great falling short of the standard of care that a reasonable person would have taken in the circumstances’ and ‘a high risk of death, serious injury or serious illness’.

WorkSafe chooses its prosecutions carefully: it considers, amongst other things, the likelihood of success. It weighs up all factors. In my view it is unlikely to make its first attempt to prosecute an employer under these new provisions a case where a worker has died of coronavirus during a pandemic of a novel virus about which we knew little and are learning all the time. It should be remembered that the duties of employers are qualified by ‘so far as is reasonably practicable’ – and in these circumstances the defence team would probably be able to put together a good case that knowledge gaps, confusing directions, and other matters contributed to the risk which resulted in the death of a worker; that the employer, under much pressure, did ‘the best they could in difficult/impossible circumstances’.

The regulator is much more likely to prosecute a case that is much clearer, less tenuous. What sort of case?

On July 27 this year, residential construction company, Seascope Constructions Pty Ltd, was convicted and fined \$850,000 in the Melbourne County Court after a worker fell to his death on a building site in Melbourne’s north. This was the second highest fine for a workplace fatality – in September 2017 a contractor to a major poultry producer was fined over \$1.37m – but went into liquidation.

Seascope Constructions pleaded guilty to failing to ensure that persons other than employees were not exposed to risks to their health and safety by failing to prepare and conduct work in accordance with a safe work method statement (SWMS). Seascope engaged the carpenter and a handyman via the website Gumtree to work at the site, including to lay flooring.

The workers were not provided with a SWMS before commencing the high risk construction work or while performing the work and that no safety procedures or safe working methods were discussed.

What were the legal requirements?

Apart from the ‘general duty of care’ under s21 of the OHS Act, construction is classified as a ‘hazardous industry’ under the OHS Regulations (2017). Where there is a risk of a person falling more than 2 metres, this becomes ‘high risk’ construction work, with consequently

more requirements. This concept was first introduced in the 2007 regulations, so industry has been working under these rules for over 10 years. For any high risk construction work there is an absolute requirement to have a SWMS. The regs are clear:

Safe work method statement required for high risk construction work

- An employer or self-employed person must not perform high risk construction work if there is a risk to the health or safety of any person arising from the work, unless –

a. A safe work method statement is prepared for the work before the work commences; and

b. The work is performed in accordance with the statement.

In this case there seems to be a clear argument that the behaviour of this employer would satisfy the ‘negligent conduct’ definition: ‘a great falling short of the standard of care that a reasonable person would have taken in the circumstances.’ Of course Seascope could not be charged under the workplace manslaughter provisions, as these came into effect on July 1 this year, and were not retrospective.

The Worker’s Solidarity Bulletin is a living document written to reflect what is happening within the labour movement, here in Australia and across the world. The producers of this publication, and participants in Workers Solidarity more broadly, don’t necessarily endorse or agree with all of the views in this publication. This is a place for debate and discussion.

See something you disagree with? Not seeing something you think we should talk about?

Shoot us a line with your thoughts at
workers.solidarity@gmail.com



Panorama of Hiroshima, Shigeo Hayashi

This month marks 75 years since the atomic bombings of Hiroshima and Nagasaki by the US military. The bombs were dropped on the 6th and 9th of August, and together, killed around 175,000 people, including nearly half of Hiroshima's entire population. 90,000 more died in the months that followed, due to radiation.

When Japan surrendered on the 14th August, US President Truman told a crowd outside the White House, "this is the day when fascism finally dies," despite the US dropping the bombs at a point when Japan was already close to surrender, following months of a US firebombing campaign targeting nearly seventy Japanese cities and killing 550,000 people.

Following Japan's surrender, Emperor Hirohito declared on the radio that to keep fighting under the threat of further nuclear retaliation would lead to "the total extinction of human civilisation". The majority of the victims in Japan were working class civilians. On the anniversaries of these atrocities, we join anti-war activists internationally in protesting the military-industrial complex.

The Bosses are Attacking, We Must Fight

ANALYSIS

In the last fortnight, the franchise industry has called for the scrapping of weekend and evening penalty rates. They have said that the COVID-19 pandemic can be used to "shift the paradigm" on industrial relations.

Also in the last fortnight, the High Court of Australia ruled against giving part time and shift workers sick leave based on the number of hours worked, versus the number of days worked. It means that workers working 8 hour days, and workers working 12 hour days, accrue the same amount of sick leave. Cadbury argued that a "normal day" was 7.6 hours, and every worker could accrue no more than 10 x 7.6 hour days in sick leave. This was a battle fought by Cadbury workers, represented by the Australian Manufacturing Workers Union. The AMWU won this fight in the Federal Court. But Cadbury took the fight higher. The new decision will save employers billions of dollars in our wages, and costs us billions of dollars in lost wages.

The bosses recognise that this is class war. But they don't call it that. They call it, industrial reform.

They are stripping away many of the things that organised workers have fought for and won over decades. Penalty rates. Sick leave. Permanent work. Job security.

They are doing this because they have to. They have to, because the economy is in crisis. People are spending less, and profits are low. If they cannot make profits out of sales, then they have to make money another way. This other way is wages and conditions. The bosses know that this means fighting. So they attack first.

Now is the time for fighting. The economy is in crisis and someone must pay. There are only two possibilities. The bosses, or the workers. We must fight. If we don't, we will lose.

But how to fight?

Do we fight on Facebook? Do we fight by signing petitions, by pressuring politicians? Do we fight in the courts?

History shows us that the only way to fight is by using our industrial strength, collectively,

to hurt the bosses in the only language that they respond to – profits.

But we cannot do this if we are divided. And we cannot do this if we are not organised.

What does it mean to be organised? It is not just being a member of your union, though this ingredient is essential.

It also means having democratic discussions within workplaces, within industries and across industries. These discussions must focus on working out a plan together, and taking action together.

Some workers are in more strategic positions than others. These workers' work has the potential to hold up, or cripple the entire economy. These workers include but are not limited to those in electricity and other energy supply, in Information Technology, in food and transport, as well as those in frontline health and essential services.

These workers must fight industrially. This could be striking, but it could be other actions too. Worktime reductions, working to rule, workplace occupations, black bans, go slows, just to name a few.

But workers that are not in strategic industries cannot just sit back and watch. The fight is for all of us. Fighting workers must be supported – morally and practically.

Workers taking industrial action will likely be punished for it. They will receive heavy fines, as will their unions. They might be locked out of their workplaces. They might get sacked.

We must support fighting workers with food for picket lines, donations so that they can keep paying their rent and their bills, and political support to defend them against media attacks. We must not be employed in their jobs if they get sacked.

We must never cross a picket line. We must support them with our bodies when their picket lines are attacked by the police.

For what reasons must we take industrial action?

We must demand safe work places. When workers get sick, they must have access to quality, free healthcare.

They must have access to pandemic leave or another easily obtained living income.

They must be able to quarantine or self-isolate safely, in housing that is adequate, safe and secure, without risk of eviction.

These are our demands. This is what we are fighting for.

A Living Income for all – Free Health Care for all – Secure Housing for all

Workers Solidarity General Meeting
Online via zoom, next meeting: TBA
WorkersSolidarity.org.au

Marxism vs Identity Politics: How Can We End Oppression?
Online event hosted by Socialist Alternative
Sunday 23rd August 18:00
Search 'facebook' for more details

Southern Deadly Yarns: Bruce Pascoe
Online Author Talk

The first in a series of virtual events highlighting the work of First Nations authors.
Monday, 24th August 18:30
Search 'facebook' for more details

Online forum: How the North East Link toll road will affect you

A forum with experts, community members and local activists discussing Melbourne's North East Link tunnel from various perspectives.
Thursday 27th August 19:30
RSVP - claudia.gallois@foe.org.au

Online film fundraiser: Stingray Sisters
Fundraiser for Sue Bolton's Moreland Council Election campaign

A highly-acclaimed documentary set in the remote community of Maningrida, Arnhem Land. Also Q&A with director Katrina Channells.
Friday 28th August, 6:30pm

Black Palestinian Forum: Countering Colonialism & Dispossession

Featuring Boycott Divestment and Sanctions (BDS) co-founder, Omar Barghouti with First Nations and Palestinian Australian speakers.
Saturday 29th August 19:30
bdsaustralia.net.au/black-palestinian-forum

Friends of the Earth - New Volunteer Session
Online Meeting

Tuesday September 1st 17:00
RSVP - phil.evans@foe.org.au

How to Talk About Climate Change: Online Talk
With Dr Rebecca Huntley. SEARCH event co-hosted by New International Bookstore
Wednesday 2nd September, 18:00
Register at nibs.org.au

Raising Peace: 100 Years of Peacemaking (Online event)

'International Volunteers for Peace' and 'The Women's International League for Peace and Freedom' both celebrate their centenaries this year. They have joined Independent and Peaceful Australia Network to celebrate.
21st September, exact time TBC.
ivp.org.au/raising-peace for more information

Build Our Future: Climate Justice & Jobs National Day of Action

25 September - Nation wide
More information: schoolstrike4climate.com/buildourfuture

Online Rally: Defend the Right to Protest, Free the Refugees

Timed to coincide with landmark court case's contest mention
Refugee Action Collective (Victoria)
Tuesday 29th September 08:30am
Search 'facebook' for more details

Voice. Treaty. Truth. Advocacy Course

Two day Online Course
Organised by the First Nations Workers Alliance and the ACTU, Running regularly from now until November
atui.org.au/voice-treaty-truth-advocacy-course

Tolpuddle Radical History School
Online lectures

The Radical History School is part of the annual Tolpuddle Martyrs' Festival (UK). Open and free to all, it is a great chance to learn more about radical and trade union history. Videos recorded July 2020.
tinyurl.com/yypnrcae

Blockade IMARC 27-29 October 2020

27th - 29th October
Melbourne Convention and Exhibition Centre
blockadeimarc.com