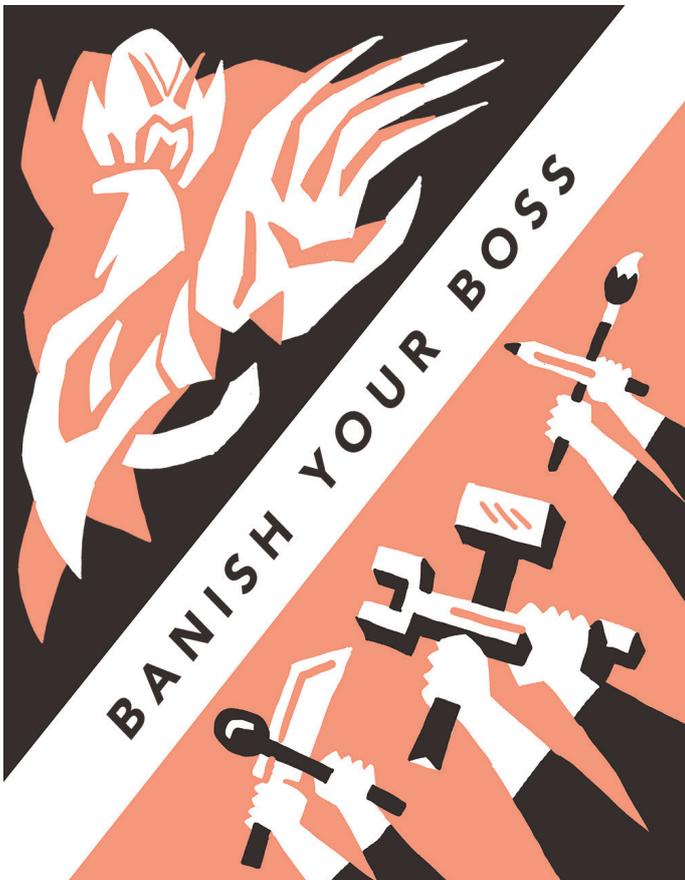


WORKERS SOLIDARITY BULLETIN

BULLETIN · ISSUE 29

In this issue of the Workers Solidarity Bulletin we look at the recent raids by the Australian Federal Police on CFM-MEU officials' offices and homes, in the context of the increasing number of raids the AFP has undertaken in the last few years with the apparent aim to intimidate. We also examine who can be a health and safety rep for their workplace. **Read on for more.**

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Ben Juers

WORKERS IN STRUGGLE

AUWU v Commonwealth Govt of Australia

The class action lawsuit brought by hundreds of thousands of unemployed workers and welfare recipients against the federal government's disastrous robodebt scheme has been settled out of court, with the government agreeing to pay \$1.2 billion. However, only \$112 million of that figure will go towards compensation for the over 400,000 claimants.

Robodebt is the nickname for a Federal Government scheme of automatic income matching and compliance program. In 2016, the program started sending debt threats to Australian's on social security payments. One in five automatically generated debts were incorrect.

A previous Federal Court case brought by an individual supported by Victoria Legal Aid, ruled that the system was illegal. Community action spearheaded by the Australian Unemployed Workers Union and Not My Debt forced a Senate Inquiry in 2017 that found that Robodebt caused 'emotional trauma, stress and shame' calling on the Government to urgently pause the scheme. The out of court settlement in 2020 has the Minister of Social Services, Stuart Robert still claiming that the program was stopped when he became aware of issues which the timeline seems to dispute.

AMWU, ETU & UWS v Lactalis

After 10 days of industrial action AMWU, ETU and UWS members voted YES on November 14, on their new agreement. Some of the highlights include:

- 3.6% wage increase over the next 2 years with the final 9 months of the agreement sitting at 2.9%.

- An increase of almost 30% to permanent jobs on-site with many casual workers to be immediately converted.
- A conversion clause that guarantees permanent jobs for future generations to come.
- A commitment to Bendigo's future with secure permanent jobs, a public commitment that Lactalis will not shut the site and a \$20 million investment for the Bendigo factory.

This has been a significant change for the workers at Lactalis after years of sub-par agreements they've finally gotten what they deserve. This is what a united front can deliver!

RAFFWU for Retail Workers!

On November 25, the Fair Work Commission (FWC) handed down its Junior Rates decision in retail rejecting all of the Shop Distributive and Allied Employees' Association (SDA) case, labelling it facile and noting the absolute failure of the SDA to put on relevant evidence. The FWC went on to say it would make a minor change to provide workers under 21 years of age who have completed a trade (such as bakers and butchers) and higher levels (such as Department and Store Managers) would not be paid a junior rate. This will affect a few hundred workers at most - probably much less.

The SDA has claimed this outcome as a "huge win". In truth, tens of thousands of very young workers will continue to be paid junior rates despite being supervisors or being responsible for small retail outlets like Bakers Delight because SDA ran a woefully inept case without any evidence.

We cannot rely on the bosses or their SDA. This was doomed from the start. Structural discrimination by bosses fleecing billions in wages despite demanding full output from young workers is a feature of the exploitative system. Junior rates will be abolished when workers join together and en masse, fight back.

[You can read the decision on the fair work commission's website.](#)

RAFFWU v Woolworths

Woolworths Supermarkets forced proud indignant women, members of RAFFWU, to do a

week of unpaid training and work and then cut casual hours soon after promising jobs. A Government funded program designed to empower First Nations women was used by Woolworths to pit workers against each other for limited jobs, while working for free. It's reprehensible. RAFFWU is fighting for these workers

QLD Aboriginal Wage Claimants v QLD Government

Families of stolen wages victims in North Queensland have waited decades for their entitlements but have been left devastated by the payouts and are questioning how they were calculated. One woman's family received \$12,000 for 40 years' work.

The Queensland Government settled a long-running stolen wages case for \$190 million back in 2019.

The entitlements are being distributed to more than 10,800 Aboriginal and Torres Strait Islander people for wages earned between 1939 and 1972.

Recipients of stolen wage entitlements from the Queensland Government say the payments are grossly unfair.

India General Strike

Over 250 million workers took part in the 26 November strike despite repression, a joint general strike by workers and farmers has shut down India.

Indian trade unions condemned the arrests of workers' and farmers' leaders across the country as they demonstrate together in one of the biggest ever nationwide general strikes. Indian trade union leaders issued a clarion call to the government to repeal anti-worker labour codes and anti-farmer farm laws as a massive mobilization of industrial and agricultural workers and farmers across the country disrupted normal life across the country, in rural and urban areas.

Trade union leaders expressed concerns that, using Covid-19 as an excuse, the government has unleashed widescale repression. Police used violent means to attempt to stop hundreds of thousands of workers and farmers who are on their way to Delhi to demonstrate peacefully in the capital city on 26 and 27 November.

BACKBONE OF OUR MOVEMENT



Samantha Bond
ASU, International Organiser with Union Aid Abroad-APHEDA

How long have you been a union member?

39 years.

Why did you join the union?

I joined my first union as a 14 year old casual at K-Mart. The woman in payroll gave me the form and told me I didn't have to join. I remember clearly thinking well obviously that means I DO have to join.

My next union was Actors' Equity which was a closed shop for working actors in the 1980's. No ticket - No start.

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

I love the power of a good union rally and there are so many to choose from over the years.

Student Union rallies in the 1980s, performing street theatre against tertiary fees, Melbourne Workers' Theatre Rapid Response Team performing at picket lines and industrial rallies, IWD Rallies, Refugee Solidarity Rallies, WorkChoices Rallies and who can forget street dancing during the ASU's Equal Pay campaign?

I think my favourite (combining my all great loves) was when we asked the MUA to drive their enormous Boat Float (renamed the GSTitantic) in the Brunswick Street Parade as part of Melbourne's Fringe Festival in Fitzroy. It was less than 12 months after the Patrick's Dispute and the love and solidarity with the MUA was palpable amongst the cheering Fitzroy arts crowd.

What's the most important issue facing the

union movement today?

Trade Union repression here in Australia (via organisations like the ABCC) and globally is increasing. Unionists in countries like the Philippines, Cambodia and Colombia are being arrested, imprisoned or murdered under oppressive political regimes. Global Solidarity is imperative in the fight-back.

Why should people join their union?

Together we can fight injustice everywhere, in our workplaces, our communities and across the globe. Union Solidarity is the biggest threat to inequality, neo-liberalism and corporate greed.



What is the status of non-permanent workers under the OHS Act? Can they be elected as HSRs?

"I've been told by a manager that casual workers are ineligible to nominate in HSR elections, is that true?"

OHS MATTERS

The manager does not know what s/he is talking about - **any employee in the DWG is eligible to nominate and be elected as the HSR.**

This is taken from the Employee representation: A comprehensive guide to part 7 of the OHS Act 2004:

Who is eligible to stand for election? To be eligible for election, a person must be a member of the DWG and must not be disqualified from acting as an HSR. DWG members may nominate themselves or another member of the DWG to stand for election as an HSR.

“And can casuals be members of DWGs?”

Again, from the Act and the guide, when negotiating DWGs included in the factors which must be taken into account is: “the number and grouping of employees who perform similar types of work, such as doing the same tasks or working under the same or similar working arrangements (e.g. having the same shift arrangements; the same breaks; being part-time, casual or seasonal; working under the same contract or certified agreement; or having the same job grade).”

It is inconceivable in today’s workforce that casuals would be ineligible. There are many workplaces where the majority of workers are casuals – in many the only permanent workers are in ‘management’. And anyone in a managerial position, while technically eligible to be a member of a DWG and therefore eligible to nominate as an HSR – should not be one. Again from the guide:

Can a manager be an HSR?

Strictly speaking, the OHS Act allows any employee of the employer to nominate to be elected as the HSR of a DWG. However, consideration must be given as to whether line management (i.e. managers, supervisors, team leaders, etc.) should or should not be an HSR. The HSR role is one of representation – not one of responsibility for meeting workplace health and safety duties.

If a DWG is defined in such a way that a manager/supervisor (who is an employee) is a member, they can be nominated and elected as an HSR.

For example, in a larger workplace, people in managerial or supervisory roles are not the employer per se; they are still employees under the Act with the right to have their OHS interests represented.

However, in practice, managers/supervisors are designated people who usually have some level of control of the working environment.

A person who has a line management role who is also an HSR may be placed in an awkward, and possibly inappropriate, position. For example, they may be the person with whom an OHS concern is raised (as the employee representative) and, at the same time, be the person who, at least initially, has the responsibility (on behalf of the employer) to respond to that concern. WorkSafe would, in general, counsel against such an arrangement.

This question raises a more fundamental problem with Victoria’s OHS Act: the issue of how casuals and labour hire workers are covered: who has duties towards them, how they are to be consulted with and more. This has been an increasing problem as the employment practices in Australia have changed, and more workers have moved from being permanently employed to ‘something else’.

The model Work Health and Safety Act (WHS Act) sought to address this by changing ‘employer’ to ‘person who conducts a business or undertaking’ (PCBU) and ‘employee’ to ‘worker’. PCBUs have a general duty of care to all workers in their business or enterprise – irrespective of whether they directly employ them or what the employment status is. This broadens things out considerably – perhaps too much in some cases, as volunteers, students on work experience placement and so on are captured by the term ‘workers’.

Nevertheless, it means that the PCBU must provide, so far as is reasonably practicable, a working environment that is safe and without risks to all workers. They also have the duty to consult all workers. And all workers have the right to elect their own representative.

The Victorian government is currently considering, in consultation with employer groups and unions, changes to the OHS Act which would include changes to the concepts of ‘employer’ and ‘employee’. The VTHC has a list of other amendments we believe need to be made to the Act to address inconsistencies, clarify the rights of HSRs and more.

threats of jail-time and are subject to police raids of their homes.

AFP Raids on CFMMEU Homes, Offices are Politically Motivated Fishing Expeditions

The Liberal government is very happy to support the attacks on unions wherever it can. The use of the AFP in raiding homes and offices of officials is yet another example of politically motivated intimidation. How quick the AFP are to jump at the opportunity to steal files from the most militant union in Australia versus how slothful and considerate they are to investigate serious misconduct by government ministers displays a clear class-war character.

The message is clear: if you speak up or speak out you’re a target.

Whistleblowers, journalists, members of the opposition and media – even state media – personnel are targets. Witness K, Bernard Collaery, Annika Smethurst and Shaoquett Moselmane have all been subjected to a similar type of treatment by the law enforcement arm of the state.

Previous raids by the AFP on CFMMEU offices in Brisbane and Canberra have turned up nothing. Nor have any arrests been made. In the case of the Canberra raid, the ACT Supreme Court found that the AFP acted unlawfully.

The raids on the CFMMEU need to be understood in the context of continuing attacks on workers democratic rights during industrial bargaining. The use of state force against the democratic institutions of workers must be identified as dishonest and crass opportunism and denounced by all progressive voices.

Stop the attacks on unions!

The Australian Federal Police (AFP) and NSW Police raids on CFMMEU union official homes and offices can only be seen as part an on-going attack on unions by the Liberal government. On the 18th of November the CFMMEU Pymont headquarters was raided and the cops spent eleven hours gathering who-knows-what for sifting through at their leisure. Raids were also carried out at the homes of union officials.

No arrests have been made and no further information has been forthcoming as the matter is an ongoing investigation related to the Fair Work Act.

At this point in time EBA negotiations have stalled at the ports and the Union is also negotiating this year’s construction EBA. The Australian Building and Construction Commission is “investigating” site-safety shutdowns by union officials in NSW. Union officials are slandered as fabricating or creating safety issues which are used to shut down sites, slapped with enormous fines,

We contacted the CFMMEU to fact check our article, and we were told that they unfortunately could not comment, but were directed to their statement from general secretary Dave Noonan, which we have reproduced here:

The CFMEU confirms that AFP and NSW Police have served a search warrant at the NSW Branch Office in Pymont and at private premises.

The union is cooperating to the extend required by law.

The warrant relates to investigations under the Fair Work Act and related matters.

The AFP have been taking an increasingly active role in industrial relations matters, and have previously raided CFMEU Offices in Canberra and Brisbane.

Neither of those raids resulted in any charges being laid against any union official.

In the case of Canberra, the AFP actions were found to be unlawful by the ACT Supreme Court.

The AFP do not appear to have a similar level of urgency when investigating alleged malfeasance or corruption of Coalition Ministers as we have seen in the Angus Taylor and Michael Cash scandals.

At this stage the union is unable to comment further.

Workers Solidarity General Meeting

Third Thursday of every month

Next meeting TBA

workerssolidarity.org.au

Now Showing: Brazen Hussies

Documentary by Catherine Dwyer about the Women's Liberation Movement (1965-1975)

Cinema Nova, 380 Lygon St Carlton

More information at cinemanova.com.au

Starting a Worker Cooperative

Formal short online course hosted by Earthworker Cooperative

Every Wednesday until December 9th

09:30 - 12:30

03 94158700 for more info & enrolment

Online Event: Wage theft, Covid and Casualisation - Lessons from Melb Uni Struggle

Speakers: UniMelb NTEU casual activists Nathan Gardner and Geraldine Fela

Hosted by Solidarity

Wed 9 Dec 6pm

[Search facebook for more information](#)

Online Event: Global Day of Action in Solidarity with the Mass Protests in Thailand

Hosted by AAWL and Free Somyot

Thur 10 Dec 12:15am - 11:30pm

[Search facebook for more information](#)

Online Event: I am Greta Doco - Panel Discussion

Farida Iqbal, Shoi Sengupta, Anja Homburg, Dr Blanche Berlie, Tishiko King and Anna Langford discuss the documentary I am Greta, about climate activist Greta Thunberg.

Hosted by Friends of the Earth Melbourne

Wed 9 Dec 6:00pm, \$10

melbournefoe.org.au/i_am_greta

Rally: Stop the Cuts to Jobseeker

Hosted by Victorian Socialists and the Australia Unemployed Workers Union

Sat 12 Dec 1pm, State Library Victoria

[Register Online](#)

Online Event: Pathways for an Australian Basic Income

Ben Spies-Butcher and Troy Henderson discuss the paper "Between universalism and targeting: exploring policy pathways for an Australian Basic Income"

Hosted by Search Foundation

Wed 9 Dec 6pm

[Search facebook for more information](#)

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?

Write to us with your thoughts at:
workers.solidarity@gmail.com