

Australia: Ousted CFMEU leaders seek to bury workers' opposition to administration in drawn-out legal challenge

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Former leaders of the Construction, Forestry and Maritime Employees Union (CFMEU) announced on Tuesday a legal challenge to the federal Labor government's legislation facilitating the appointment of an administrator to run the construction union.

Under the new laws, a state-appointed lawyer has been granted total control over all aspects of the union, including the power to expel members and fire elected officials and employees, who face lifetime bans. The aim is to drive down pay and conditions in the construction sector, as part of a broader wage offensive.

Prominent barrister Bret Walker SC will lead the High Court case, which was lodged jointly by ousted CFMEU officials, Jade Ingham (former national president) and Michael Ravbar (former Queensland secretary). The proceedings will be financed through "crowdfunding" and contributions from other unions, including the Electrical Trades Union (ETU) and the Maritime Union of Australia (MUA).

The ousted CFMEU bureaucrats are arguing the law violates the implied freedom of political communication in the 1901 Constitution, breaches the separation of powers by punishing otherwise than by a court, exceeds federal power and amounts to taking union property without "just terms" compensation.

The case is a political diversion, designed to demobilise workers by placing their struggle in the hands of the courts. In addition, the case is unlikely to succeed. The High Court has previously ruled that violating the implied freedom is justified for a supposed reasonable purpose, like "national security" or "fighting crime." It has also permitted various forms of punishment without trial, as in the terrorism legislation, and approved the wide use of federal power for workplace relations legislation. Moreover, the government could amend the legislation in the event of a High Court loss.

Imposed on the basis of entirely untested allegations of

corruption in Nine Media publications, the administration is unquestionably draconian. Whether there are legal grounds for its overturn within the framework of Australia's anti-democratic constitutional framework, which has no bill of rights and few references to civil liberties, remains to be seen.

But whatever the outcome, the CFMEU's court case has nothing whatsoever to do with defending the interests of construction workers. The sole concern of the deposed officials is to restore their bureaucratic prerogatives and privileges, within the framework of Australia's pro-business industrial relations legislation that they have defended for decades.

Since moves towards the imposition of administration began, the CFMEU officials have made appeals to the Labor government that is spearheading this attack, the Fair Work Commission responsible for imposing the dictates of big business and now the capitalist courts. Everything has been aimed at restoring their own jobs and preventing any mobilisation of construction workers.

The union and its lawyers have made clear that their goal is simply a return to the status quo ante. Speaking of a restoration of "procedural fairness and natural justice" in opposition to the legislation under which administration was imposed, they are begging for a return to the industrial relations framework as it existed three weeks ago.

In reality, the so-called Fair Work Act contains some of the most restrictive anti-strike rules in the advanced capitalist countries. Since it was concocted by the Rudd Labor government in 2008, in collaboration with the unions, the legislation has served as the framework for the suppression of the class struggle, banning most strikes and including wide-ranging provisions for the victimisation of workers who oppose the continuous assault on their jobs, wages and conditions.

Even if the latest laws are struck down, there are pre-existing mechanisms in the Fair Work Act to place a union

under administration.

In fact, before the new laws were passed, the CFMEU bureaucracy was negotiating with the Fair Work Commission over just such a process. The leadership does not oppose administration in the slightest, but wants to be a part of it. Their complaint about the new legislation was that it cut across the backroom dealings that were already well underway and that it had cost 270 officials their jobs.

This has been shown by the role of Zach Smith, the national secretary of the union. While making vague condemnations of the administration and expressing “solidarity” with his sacked co-bureaucrats, Smith has retained his position and will collaborate with the administrator.

Smith is a key member of the Labor Party national executive, along with other union powerbrokers, such as the United Workers Union’s Gary Bullock and the Health Services Union’s Gerard Dwyer, underscoring the extent to which union bureaucrats actually run the Labor Party.

In a mealy-mouthed statement on Wednesday, Smith wrote that: “The administration will come and go, politicians will come and go, but our Union will stand long after they are gone.” It was necessary for workers to “stick by” the CFMEU, in which case this would not be “the end of our union.”

Smith’s position, as a flack for the administrator, is what his ousted colleagues aspire to. As a Labor Party-linked bureaucratic apparatus that has suppressed any struggle by construction workers over decades, the CFMEU leadership is above all determined to prevent a mobilisation of construction workers, which would come up against the whole industrial relations framework they defend.

For six weeks, neither the CFMEU nor any other union leadership called for workers to take industrial action in opposition to Labor’s attack, until after the legislation had been allowed to pass. It was only the sudden sacking of 270 CFMEU officials on August 23 that prompted rallies to finally be called.

The starkest expression of the bureaucrats’ orientation was a resolution moved at the Melbourne rally, that sacked CFMEU leaders should be allowed to retain their positions in the leadership of the industry superannuation funds.

With some 40,000 angry workers on the street in front of them, the preoccupation of the deposed leaders was to try to drum up support to keep their seats in the boardrooms they share with the bosses and representatives of major corporations.

The union bureaucrats have obtained these positions, along with other substantial privileges including six-figure salaries, in exchange for enforcing the dictates of corporations and governments for decades. They serve as an industrial police

force, shutting down any attempt by workers to fight for real improvements to their wages and conditions.

Workers must fight the administration, but the whole record of the union as well as the events of the past eight weeks demonstrate they cannot do it under the domination of the CFMEU.

Already, major building companies are seeking to go on the offensive by modifying clauses in existing enterprise agreements or refusing to ratify recently negotiated ones. Multinational contractor Multiplex has reportedly asked the Fair Work Commission to quash its pending agreement with the CFMEU, which workers have already voted on, on the grounds that it is a product of coercion.

Amid a slowdown of construction and a slump of the broader economy, the aim is to inflict real wage cuts on construction workers, whose modest pay rises of 5-6 percent over the past period have been hysterically denounced in the financial press. By attacking a powerful and militant section of the working class, a precedent is being established for deeper attacks across the board.

This agenda is provoking opposition, expressed in the rallies against administration, which were attended by tens of thousands of workers across the country. What is required is a political and industrial mobilisation of workers throughout the construction sector and more broadly, against the administration and the onslaught on workers’ wages and conditions.

Rank-and-file committees, independent of the CFMEU, should be established at building sites across the country. These would be a mechanism for sharing information, outside the control of the CFMEU, and for coordinating unified and sustained action, not just occasional protest stunts subordinate to the manoeuvres of the union officialdom. Such committees could make a powerful appeal for a united struggle with manufacturing, logistics and other sections of the working class, also facing an assault on their position.

This is a fight against the Labor government, the entire union bureaucracy, most of which has supported administration, and the CFMEU leadership itself. It poses the need for a new, socialist perspective, which rejects the subordination of construction, and every area of economic life, to the profit dictates of the property developers, the major corporations and the banks.



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