

WORKPLACE 'REFORM' AND THE RESTRUCTURING OF HIGHER EDUCATION

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The Howard government is engaged in the most comprehensive and strategically determined assault on the labour movement in Australia's history. The offensive is one dimension of a larger agenda to transform the Australian political economy. This is an agenda that is driven by the ambition to subordinate all socio-economic processes to the force of the market in order to expand opportunities for and accelerate the pace of capital accumulation. It is being coupled with an unparalleled determination to obliterate any opposition to this ambition, a campaign largely but not wholly aimed at the organised labour movement. The project is an intensely political one.

The amendments to the *Workplace Relations Act* have to be considered in the context of a raft of other industrial relations 'reforms'. The most striking illustration of this is the concentrated targeting of worker rights in those sectors of the economy that continue to have high rates of unionisation. This aspect of the government's industrial relations agenda is the primary concern of this paper. In particular, attention focuses on the government's concerted efforts to change industrial relations in universities and how this is linked to a broader transformation of the higher education system.

The industrial relations changes also need to be located in a broader context, because the re-balancing of employer-employee relations is not just a matter effecting change in the balance of power between capital and labour. It is also reorienting employment relations as part of the redefinition, or the *marketisation* of universities as Simon Marginson has

described the process, as well as a restructuring of the higher education system more generally (Marginson 1997). The ideological reach of this extends beyond universities *per se*. Peter Costello and Tony Abbott's longstanding vendetta against compulsory student 'union' fees – and the fees do not fund unions – seems to be little more than a settling of past scores. But, put this in the context of a more deviously motivated and farsighted, and no doubt Howard-informed ambition to eradicate what is regarded as a critically important training ground for Labor Party cadre, and the Howard government's management of universities becomes a touchstone for the transformation of the Australian political economy more generally.

The Howard agenda is first and foremost an offensive directed against the labour movement generally. Unions stand in opposition to a pivotal tenet of Howard's 'vision' celebrating the pre-eminence of the individual as an economic being and liberal notions of free will, a will that is largely exercised through the market. Australian Workplace Agreements (AWAs), contracts negotiated ostensibly between individuals, can be looked upon as the *liet motif* of individualism and how this should be played out in the labour market. Howard's political project is as much a cultural project, and this is manifest in a raft of other policies promulgated by the government.¹ It is evident, for example, in the idea of the individual being essentially independent, assuming responsibility for self-provision, either for him/herself and/or family. This is the individual, 'freed' of reliance upon the public purse, who meets the costs of the public services provided on the basis of the 'user-pays' system. It is the individual who, when it does become necessary to avail her/himself of welfare support due to a mismatch in the market, signs onto a 'mutual obligation' pledge and undertakes to commit to recuperating her/his role as a productive and self-reliant member of the community.

1 Consider, for example, the observations of the 'director of the work reform unit (*sic.*) at the Institute of Public Affairs, Ken Phillips, that all the opposition to the "work regulation changes" can be attributed to what he contends is the inherently conservative position held by many that the institutions of the "cultural settlement", and most particularly the Australian Industrial Relations Commission, and the associated work patterns should be maintained (*The Australian* 24 October 2005).

Yet the Howard government's offensive is not just a simple ideological determination to promote a neo-liberal cultural vision. The proposed amendments to the *Workplace Relations Act* do not have as their object the creation of a 'level playing field' in which employers and wage labour are on an equal footing. Howard's project is unambiguously a project being carried out at the behest of capital. In a multiplicity of ways, the industrial relations changes compromise the bargaining strength of labour while that of employers is strengthened. The amendments are designed to marginalise, if not exclude, unions from the negotiation of minimum terms and conditions of employment and rates of remuneration for workers. They will put obstacles in the way of workers' ultimate weapon, the ability to withdraw labour by taking industrial action, while strengthening employers' ability to exercise sanctions to workers' detriment especially through the medium of lock-outs or dismissal. Notwithstanding the many millions of dollars spent trying to convince a sceptical population that the proposed amendments will provide greater choice and flexibility for all of the stakeholders, the government has failed to convince that the amendments are justified, let alone fair.

The Targeted Assault on Organised Labour

The government's efforts to obstruct the right of labour to organise collectively have particular focus on three arenas: the Commonwealth public service, including those federal government business enterprises, many of which have been corporatised or privatised and which are now run by managers steeped in anti-union sentiment; the building and construction industry; and, the public education and higher education system more especially.

The government has used its position as an employer to try to lock unions out of workplaces, to restrict their involvement in enterprise bargaining, and to force public servants to sign AWAs in order to demolish any sense of a collective order to which unions are a party. It has exercised its political leverage in the building and construction industry by tying the tendering for public infrastructure works to the requirement that successful tenders must provide opportunities for non-

union work-site agreements. The full force of the state is also being brought to bear in the building industry with the passage of legislation, the *Building and Construction Industry Improvement Act 2005*, designed to severely restrict union coverage and representation of construction workers. The Act has established an industrial police force with the authority to pursue an industrial investigative agenda that is based on the removal of workers' most basic rights, such as the right to legal representation and to silence. The proposed *Independent Contractors Act* will further weaken the right to union coverage and protection by preventing independent contractors and workers engaged through labour hire companies from being party to and thus benefiting from the protections afforded by industry awards and enterprise agreements.

Similar strategies are being deployed in the vocational education and training and higher education sectors. Earlier this year, the government passed the *Skilling Australia's Workforce Act*, the purpose of which has been to link Commonwealth funding contributions to the TAFE and Vocational Education and Training sectors to force State governments to adopt radical changes to the organisation of, and employment practices, in the sector. The Commonwealth's funding contribution is now contingent upon all TAFE colleges offering staff AWAs, giving greater autonomy to TAFE directors to recruit and set salaries, and to implement performance management systems that reward high performance and target under-performance. The TAFE colleges will be pressured to become more entrepreneurial and more commercially-oriented. The government has also dedicated Federal funding to support the establishment of 24 private vocational and education training institutions to compete with the TAFE colleges which will reinforce the reorientation of TAFE colleges.

The Assault on Organised Labour in the University Sector

The government's attack on unions in the TAFE sector is based on the methods deployed within the university sector and those being pursued in construction. It is almost wholly based on its ability to exercise leverage through the power of the public purse, although successive Ministers of

Education have been known to engage in bully-boy tactics in order to win the support of university managements to their cause.²

As has been the case in State education systems, unions, and especially the National Tertiary Education Union, have been able to assert considerable influence through the enterprise bargaining process. The first round of bargaining in 1992 was a comparatively tame affair and provided some indication of the effectiveness of the nationally organised union. Bargaining focused essentially on rolling the industry award into individual enterprise agreements and securing industry-standard wage and salary increments. The Union was well prepared, and most university managements were relatively ill-equipped to meet the Union's coordinated bargaining approach across the university sector.

This first step in enterprise bargaining was critically important in helping to define the character of work in a higher education system in which colleges of advanced education, either through renaming or amalgamation, had only recently been incorporated into the university system. The Union approached the negotiation of the terms and conditions of employment on the principle that teaching and research were essential in the definition of academic labour. This has remained a fundamental principle of the NTEU. It lies at the heart of the Union's campaign to block the Howard government's efforts to water down the accreditation of universities which would permit the establishment of teaching-only institutions.

The second round of bargaining proved more of a challenge for both Union and university managements, but the Union had formulated a bargaining strategy based on pattern bargaining in which leading sites would seek to negotiate agreements that the Union would then seek to negotiate at other universities. The commencement of bargaining in this second round, for agreements that set conditions of employment and

2 The Minister's advisors have been particularly vociferous, contacting university managements on a regular basis to warn them that the university will jeopardise the promise of Commonwealth Grant revenue supplements if they do not adhere to the government's ambitions to lock unions out of bargaining and to marginalise union presence on campuses. Even the Prime Minister has apparently made direct overtures to university managements, making promises of special project funding conditional upon the management's demonstrated resolve to pursue his anti-union strategy.

rates of remuneration for the period 1996-1998, preceded the election of the Howard government. So the passing of the *Workplace Relations Act* with its provisions for AWAs made no real impact on terms of employment and conditions in universities. University enterprise agreements, in effect, provided protection from the more odious elements of the Act.

It was anticipated within the NTEU that the subsequent round of bargaining would present the Union with more of a challenge. Not only had the university managements sought to better prepare and coordinate their approach to bargaining, especially through the Australian Higher Education Industry Association. It was also apparent that the government would become more actively engaged in trying to influence bargaining outcomes. In the face of this challenge, the Union convened a national bargaining conference to formulate a log of claims to which individual branches could add further claims, setting mandatory settlement points and resolving to progress settlements by pursuing the previously successful pattern bargaining strategy. Once again, lead sites were identified to set the floor for sector-wide agreements.

This round of bargaining was considerably drawn out, more so than those that had preceded it, and advances in negotiations became more directly linked to staff taking industrial action at critical stages in the bargaining. Progress was frustrated by the then Minister for Education, David Kemp, directly intervening by pressuring university managements not to give ground on key government objectives. He impressed upon them the government's determination to see university enterprise agreements that included provisions to permit the offering of AWAs to staff, thereby breaking the reach of collective agreements. Almost without fail, the Union was able to hold the line across the sector to ensure that enterprise agreements precluded the offering of AWAs. A typical example of one such clause which was incorporated in a number of agreements covering the period 1999-2002 stated:

The University will not offer or enter into an AWA with any existing or prospective staff member prior to the nominal date of expiry of the Agreement.

The position of the Union in protecting and improving the terms and conditions of university staff was further strengthened when the Australian Industrial Relations Commission issued the *Higher Education Contract Employment Award* in response to the Union lodging a claim to limit the increased employment of fixed-term and casual staff across the higher education sector. While the Commission elected not to intervene on the question of casualisation, the *HECE Award* did introduce some limits on the employment of fixed-term staff, thereby extending employment security and paving the way for many staff to be converted to continuing employment.

The NTEU's stature as an effective and well-organised union was beyond doubt when Brendan Nelson assumed his position as Minister for Education. Moved by leadership ambitions, even more so than his predecessor, he has sought to make his mark by pushing for a major restructuring of higher education. Pivotal to this has been his demonstration of a more determined resolve to reduce the influence of the Union in the setting of conditions of employment and rates of remuneration. This is consistent with the Howard government's industrial relations agenda, and, at least in one quarter, the impression seems to be held that if Nelson can prove himself in battle against the NTEU, he will enhance his position in the leadership stakes.

But Nelson's brief is doubly charged because he must first prove himself as capable of setting an agenda for change and for carrying the conservative mantle in the process. This is an immensely personal challenge because he has to demonstrate that he has himself completed the transformation from being a 'wet' within the Liberal Ministry, or worse, a Labor Party fellow-traveller, to a conservative who can take on and beat a union that is recognised as one of the more progressive unions in its support for an array of social justice and progressive political causes.³

As Minister for Education, Nelson has accelerated the process of restructuring and sought to reduce the claim that higher education makes

3 Contrary to conservative assumptions, the National Tertiary Education Union is not affiliated with the Labor Party.

on the Commonwealth budget.⁴ Nelson also turned his attention to dealing with the Union, a challenge for which the leadership was reasonably well prepared. The NTEU organised a bargaining conference in preparation for the fourth round of enterprise bargaining, which was to get under way in 2002. The conference reconfirmed the Union's commitment to proscribe any agreement that included a provision that permitted the offering of AWAs. It formulated a raft of new claims to negotiate agreements that would enable the containment of work overload, and focus energies on re-jigging the work/life balance and push for, among a number of measures, an extended period of paid parental leave.⁵ The University of New South Wales was the first university to settle in this fourth round of bargaining, and the NSW University agreement was certified with the no-AWAs clause rolled over.

With bargaining at the University of Sydney proceeding simultaneously, additional Union gains suggested that the NTEU's pattern bargaining strategy was proving a continued success.⁶ Nelson sought to frustrate this. Just as the University management and the unions had all but finalised agreement in late spring of 2003, the Minister for Education announced the government's intention to offer a one-off increment in funding that was conditional upon universities agreeing to make available, if not offer, AWAs to staff. The announcement drove a wedge between the University and the Union, and the University of Sydney management demanded that the required clause be incorporated into the enterprise agreements. Industrial stoppages followed with the object of

4 The Commonwealth government contributes to university funding through the Commonwealth Grants Scheme. The magnitude of the funded share of universities' revenue has declined markedly over the last decade. The Commonwealth contributed less than 60 per cent of universities' income stream in 1996 (Marginson & Considine 2000: 60). This has now declined to 40 per cent.

5 The Union sought to negotiate enterprise agreements that included provision for up to 39 weeks paid parental leave which proved a quite successful and pathbreaking settlement, although the extended leave is generally restricted to maternity leave.

6 Up until the fourth round, the University of Sydney enterprise agreements, for academic and teaching staff and general staff, had in each round been the first to be settled and certified. There was some disquiet in the sector over the wage and salary increments agreed in the 2002-2005 enterprise agreement, and one can only surmise that the reason bargaining was being drawn out was the University management's reluctance to be the sector's pace-setter.

having the management honour its earlier undertakings, but it soon became evident that the University of Sydney management would not budge on wanting to secure the conditional funding increment.

The University of Sydney management's position on the funding increment was one shared by university managements throughout higher education. The irony in the management's capitulation to Nelson's pressure was that it occurred in the face of a real decline in government funding and in the context of the government refusing to supplement funding to meet the additional costs of any negotiated agreements on salary increases. In part, however, the reluctance of the university managements to work together and stand up to the Minister's intervention in university affairs was a consequence of there being a lack of unanimity among the universities as to the future shape of funding. One critical factor influencing the universities' position was the Minister's prevaricating on the question as to whether universities should be permitted to charge a premium on the student fee contribution, the Higher Education Contribution Scheme (HECS). Some Vice Chancellors in the older, established group of eight universities, the 'sandstones', including Sydney University, had lobbied to permit the introduction of a HECS premium, and it would seem that a deal was struck behind closed doors – a veritable gentlemen's agreement – that secured the universities' consent to AWAs in order to get the funding increment, with the Minister agreeing to allow universities to strike a premium of up to 25 per cent on the government-set HECS charge.

The enterprise agreements finalised at the University of Sydney included the clause:

The University may offer Australian Workplace Agreements in accordance with the Workplace Relations Act.

The qualification, the reference to the WRA, aimed to ensure genuine choice, so that staff would not be 'press ganged' into signing AWAs. This served as the template for agreements that were negotiated at other universities.

The industrial instrument that had hitherto blocked university managements from offering AWAs was thus swept aside. However, the

university managements have not tended to avail themselves of the opportunity to strike individual agreements with new staff. A number have in more recent times begun offering AWAs to casual staff, but in general AWAs have not been adopted with the enthusiasm that the government would have wanted. This is in part because university managements are reluctant to lock themselves into what could become an administrative nightmare. More significant though, this is testimony to the continuing presence of the Union on campuses and to the important role of the Union in lobbying and representing the interests of university staff in national and State forums. Membership of the NTEU continues to grow, and the Union has been going through a restructure in order to more actively engage its members.

The Higher Education Workplace Relations Requirements

Nelson's 2003 funding initiative was a harbinger of things to come. The 2003 initiative had made it quite clear that university managements would not stand up to the Minister. There have been intermittent complaints about the fall-off in the real level of government funding, but these have not been at all voluble, let alone orchestrated to have any real effect. Few Vice Chancellors have publicly taken issue with the fact that, if it was not for the increasing contribution of HECS fees, government funding would have fallen at a much greater rate than it has.⁷

University managements seem incapable of acting as an effective lobby. The 'employers' association', the Australian Higher Education Industry Association, is falling apart, so it is in no position to stand up to the Minister's interventions. The 'Group-of-Eight' Vice Chancellors have recently indicated their intention to pull out of the AHEIA. Regional universities have successfully lobbied National Party politicians to secure government payment of a 'regional supplement'. The managements at

⁷ The government maintains that the aggregate magnitude of government funding has increased, even though it might concede that the monetary value of funding per place has decreased. But, in dollar terms, the *per capita* contribution from the Commonwealth Grant Scheme has declined, and this decline has been quite steady.

some universities, and particularly those whose student catchment is based in the lower socio-economic suburbs of Melbourne, Sydney and major regional centres, see no financial advantage in raising HECS-fees. The play of individual egos is, needless to say, another factor frustrating any commonality of purpose. But, even if there were some common purpose across the sector, it is difficult to imagine the AHEIA demonstrating any resolve. This weakness is amplified by an organisation that has become a prisoner of the government's agenda to restructure and rationalise the higher education system. The AHEIA's industrial voice does little more than parrot the Nelson rhetoric.

With next to no sign of any united opposition from university managements, 2003 was an obvious starting point for formulating a more concerted attack on the organising authority of the Union in higher education. The moulding of a coherent set of requirements that university managements would have to meet if they were to be awarded any further funding increments began to take form in the Department of Employment and Workplace Relations, not in the Department of Education, Science and Technology, in 2004. The *Higher Education Workplace Relations Requirements (HEWRRs)* were the product of this endeavour, and the government announced its intention to begin applying the *HEWRRs*, from April 29, 2005, to all of those universities that had not concluded a fourth-round enterprise agreement. All of these universities would be required to conclude *HEWRRs*-compliant enterprise agreements by the end of November 2005 in order to be awarded additional funding. All of those universities that had certified fourth-round enterprise agreements at April 29 would have to negotiate *HEWRRs*-compliant enterprise agreements by 31 August 2006. *HEWRRs*-compliant agreements will deliver a 5 per cent increase in Commonwealth Grant Scheme (CGS) funding in 2006 and 7.5 per cent in later years.⁸

⁸ The demand on private higher education providers is even more restrictive. Additional funding will be awarded to private higher education providers on the condition that all staff are employed on individual contracts.

There are five new criteria that universities must agree to incorporate into their enterprise agreements if they are to be awarded the CGS funding increments. These are:

- **choice in agreement making** for staff, which means that all new staff appointed after April of this year must be offered an AWA by August 2006;
- **direct relationships with employees**, the object of which is to proscribe union representation on consultative committees, managing change committees, appointment committees, performance assessment committees, and misconduct committees;
- **workplace flexibility**, which restricts the capacity to negotiate agreements that limit the number of casual and fixed-term staff and would limit the application of protections in how managements manage performance, misconduct, etc;
- **productivity and performance clauses**, to bolster line management and link remuneration to performance assessments;
- **freedom of association**, which is designed to stop universities' managements from providing the union with office space, conducting meetings on campuses and from using internal mail systems that date.

Universities' Acquiescent Leadership

The response of Vice Chancellors to this extraordinary intervention in university affairs has been alarming. With one notable exception, they have not whispered a word of dissent.⁹ The extent of managerial acquiescence is truly extraordinary, while the AHEIA has sought to coordinate this submission. There may be a simple explanation for this. The metamorphosis of Vice Chancellors into chief executive officers has seen the embrace of a managerialist, corporate approach to the management of universities that has invariably been linked to a redefinition of the place of staff within the university system. Staff

⁹ The exception is the ANU's Vice Chancellor

manifest as cost, and the 'bottom line' requires above all else an attention to financial detail. As Marginson (1997), Marginson and Considine (2000), and Cain and Hewitt (2004), and many others have detailed, the academic enterprise has been transformed into a business enterprise. This has brought a change in attitudes towards staff who are not valued in the way they once were. Academic labour has been commodified and devalued. University governing bodies have been stripped of staff representatives, while academic boards have been turned into relatively ineffectual forums that do little more than rubber stamp edicts emanating from the central command. University managements generally do not accord staff representative organisations, and most obviously the Union, the respect that they once did.

Notwithstanding the Union's commitment to lobbying the government to provide appropriate funding to maintain the integrity of higher education, there are some Vice Chancellor's who now regard the Union's organising presence in the sector as a factor that has shaped the federal government's use of funding as a blunt instrument to influence management policy. Others, and especially some of the Group-of-Eight university Vice Chancellors, view the Union as the major obstacle to their 'mission' to the establishment of a more comprehensive user-pay's, full fee-based system.

The irony in the Vice Chancellors' position is that their silence is, in effect, being bought at considerable cost to the universities because the monetary rewards in securing the *HEWRRs'* Commonwealth Grant supplement will be offset against the cost of ensuring compliance. Compliance obliges all university policies to be *HEWRR*-compliant, and DEST intends undertaking on-site audits to ensure this. Indeed the pandering and kowtowing to the government highlights a fundamental weakness of university managements because at one and the same time that the government has been pushing university independence and restricting funding in such a way as to force more financial self-provision, government intervention in university affairs has been escalating. Auditing and quality assurance requirements are placing extraordinarily demanding reporting obligations on universities, and compliance with the *HEWRRs* will compound the cost of this intervention.

While the Vice Chancellors have quietly acceded to the government's *HEWRRs* agenda, and accepted the implications this has for the standing of staff rights within the university, there has been one issue that has roused a chorus of criticism, although their position is not inconsistent with the Vice Chancellors' newly claimed brief as chief executive officers. Many Vice Chancellors have been particularly outspoken in criticising the proposed 'VSU' legislation that would bring an end to the collection of compulsory student union fees. The bottom line, the loss of a substantial income stream, has been the paramount concern. The regional and outer-suburban universities have been especially concerned with the likely negative implications this would have upon the provision of amenities for local communities.¹⁰ One or two Vice Chancellors have even come out publicly in support of the importance of student unions as providing the arenas in which students can exercise a civic voice. But not a public word in support of the right of staff to be organised in the Union, let alone an acknowledgement of the important role the Union plays in university life and public debate.

Negotiating HEWRRS-compliant Enterprise Agreements

It has been in this context, realising that university managements would not countenance risking a funding increment, that the Union has sought to work around the possible detrimental effects of the *HEWRRs* by endeavouring to negotiate and, in some instances, re-negotiate existing certified enterprise agreements, *HEWRRs*-compliant agreements. The task has not been all that straightforward. The *HEWRRs* Bill has still not been debated in parliament, let alone legislated. The advice being provided by the Department bureaucrats, and sometimes by the Minister's advisors, as to what is and what is not *HEWRRs*-compliant has been ambiguous and contradictory. Decisions as to whether individual enterprise agreements are *HEWRRs*-compliant rest ultimately with the

¹⁰ Indeed the absolute inability of the drivers of the voluntary student legislation to appreciate the pivotal place of universities and university amenities in these communities is testimony to their inability to think through the implications of the fundamentalist neo-liberal commitment to notions of individualism, self-reliance and the 'user-pays' philosophy.

Minister himself, and the reality is that it is probably more likely that in practice it will be the Department of Employment and Workplace Relations which signs off on agreements. University managements have, in effect, been placed over a barrel. They are reliant upon the goodwill of the Minister for Education, and Nelson has sought to demonstrate that it is his authority that matters.¹¹

The negotiation of *HEWRRs*-compliant agreements has been all the more difficult because, while staff of the Department of Education, Science and Training have been deployed to provide advice as to whether draft agreements, or even particular clauses, meet the *HEWRRs*, the advice has been less than clear, and it has changed over the course of the six months following the April 29 edict. The Minister has not helped in this because in his letter to Vice Chancellors of 7 September 2005, he tendered the advice that:

...my Department will assist your university in any way it can to achieve the required level of compliance. In particular, it will respond to any questions you have and provide comments on draft agreements. However, I note that ultimately the decision as to whether universities' agreements, practices and policies are compliant is one that I will make, and my Department's comments should only be taken as a guide.

The absurdity of this position is that the Department could sign off on an agreement as being *HEWRRs*-compliant, the agreement is then presented to staff to be voted on, the agreement then certified by the Industrial Relations Commission, and the Minister then declares that the agreement

11 Minister Nelson wrote a 'personal' letter to all Vice Chancellors on 7 September 2005, informing them of the progress of the government's higher education legislative agenda. He advised that the intention of the 'reforms' was 'to achieve meaningful, lasting and much needed reform in the higher education sector.' He warned the Vice Chancellors that, in assessing compliance with the *HEWRRs*, "...universities will need to keep in mind that the practical application of all workplace agreements through the development of compliant workplace policies and practices is also an important part of the *HEWRRs*. Approaches which are focused on minimising, diluting or circumventing genuine reform are unlikely to result in *HEWRR*-compliant workplace arrangements. As Minister Andrews and I announced on 29 April 2005, these reforms will assist universities to become more productive, efficient, flexible and internationally competitive".

is not *HEWRRs*-compliant. The reality is that the Minister is not as pivotal in this game as he has made out. When the Deakin University management had their recently Union-negotiated about-to-be certified *HEWRRs*-compliant enterprise agreement vetted by the Department of Employment and Workplace Relations, the management demanded written confirmation from DEWR that their agreement was *HEWRRs*-compliant before proceeding to ballot and certification!

HEWRRs-compliant Enterprise Agreements: a Defeat for Collective Bargaining?

Needless to say, some NTEU members feel that the Union should have 'drawn a line in the sand' and not conceded any ground to the pressure from Nelson. The negotiation of *HEWRRs*-compliant agreements has necessitated the Union giving some ground on some core conditions. The most obvious one has been conceding the removal of staffing caps that restrict the proportion of staff who can be employed on a casual basis. But this may not prove as much of a retreat as might at first seem, because the negotiation of an increase in the casual loading should act as a disincentive to any substantial increase in the rate of casualisation. Likewise the benefits that flowed from the *HECE Award* can be secured in different ways.

The advantage that the Union has in this, the *HEWRRs* round of bargaining, is that the AHEIA industrial advice provided to university managements appears to be largely based on the DEST '*HEWRRs* questions and answers' website. The calculated approach that the NTEU is pursuing is, in effect, laying the foundations for *HEWRRs*-compliant agreements in a way that has consolidated, if not enhanced, the purchase of its pattern bargaining.

The Union has been able to limit the government's agenda to give managements the capacity to force prospective and/or existing staff to accept AWAs. Drawing on its earlier endeavour to accommodate the AWA option for employers, the Union has drafted a model clause that draws on the present *Workplace Relations Act* (1996), which should

serve to prevent university managements from forcing staff to accept an AWA.¹² The clause will provide for:

Guaranteed genuine choice of Agreement making for all employees through explicit Agreement provisions which require all current and prospective employees to be offered employment on either an AWA or the Enterprise Agreement.

Where the criticisms of the Union's engagement with the *HEWRRs* agenda is most telling, however, is that *HEWRRs*-compliant agreements will end Union delegates' and/or officials' automatic representation on a plethora of university committees. Staff, and not Union, representation on these committees is a formal criterion that must be adhered to if a university is to receive the funding increment. But this does not preclude the representation of a Union delegate or delegates on these committees. The success or otherwise in maintaining union representation on these committees will depend on how well the Union is able to canvas and win support across the body of staff to ensure that it is the Union representatives that are elected. This is a strategic and organising challenge that Union members must now address.

University Workplace Relations – Beyond the *HEWRRs*

It is important that our understanding of the changes being effected in universities is not wholly defined by focusing industrial energies on meeting the challenges that *HEWRRs*-compliant enterprise agreements pose to the integrity of work in the university workplace. The *HEWRRs* are a vital ingredient in the government's broader agenda to restructure and rationalise the higher education system in Australia. Smashing union opposition to this broader project is seen as necessary because the NTEU has been the most consistent and reflective critic of a government project that is intended to decrease public funding of universities, shift the costs of higher education to students, and force universities to become more

¹² Success in limiting the use of AWAs will, needless to say, rest on the ability of the Union to engage staff in the advantages that derive from being a party to the collective enterprise agreement.

financially self-reliant and commercially oriented, shift research to more commercially focused endeavours and complement government-defined research priorities, and re-orient teaching programs so that they become more vocationally oriented.

The Union has not been all that successful in halting this shift and maintaining the integrity of university education and research. The most obvious consequence of this has been an intensification of work. Student-staff ratios have increased substantially in the last decade. Staff have been placed under enormous pressure to produce more and to personally draw in more research funding. Across the university system, whole research agendas have been redefined in the endeavour to meet the changing demands of the government. The Union has not, of course, been able to save some universities from impending financial crisis, nor to forestall the growing number of staff redundancies.

The *HEWRRs* fit into a larger legislative agenda that aims to effect the wholesale 'reform' of higher education, and, as Nelson has advised, with more legislation mooted, 'assist universities to become more productive, efficient, flexible and internationally competitive'. The *HEWRRs* go to the heart of this mission because many of the 'reforms' are contingent upon changing what academic staff do, marginalising staff involvement in university governance, silencing individuals' criticism of a whole raft of government policies, and imposing more 'flexible' employment arrangements and reducing rates of remuneration for many staff employed across the sector.

The Howard government is seeking to wrest statutory authority over universities from the State governments, with the intention of redefining what universities are. Should it succeed, and Union lobbying of State governments suggests it will not, the Commonwealth would abolish the requirement that individual universities should all offer a comprehensive range of programs and be engaged in research. Commonwealth control would also pave the way for more (government-subsidised) private providers, many of which would be teaching-only universities that would 'cherry pick' fee-paying students by offering only those programs that attract them. Some of these ambitions were articulated in the position paper *Our Universities: Backing Australia's Future* issued in May 2003 and further developed in *Building Better Foundations for Higher*

Education in Australia – A discussion about re-aligning Commonwealth-State responsibilities released in March 2005.

The ambition to encourage universities to become more specialised in focus has also been flagged in the government position paper *Building University Diversity: Future approval and accreditation processes for Australian higher education*, also issued in March 2005. Were the thrust of the recommendations implemented, then the higher education system as we know it would all but disappear. 'Diversity' would entail a concentration of research into a small number of universities. The range of research would also be reduced within individual universities. Research opportunities would be dictated increasingly by the prospect of commercial returns or political imperatives.¹³ And this shift in emphasis appears to be being underscored by the government's proposed *Research Quality Framework* which will link funding to a particular performance evaluation process.

'Diversity' would result in some universities being turned into teaching-only institutions, and this could well entail a narrowing of the discipline areas that the university could offer. Teaching would tend to become more routinised in character. Severing the research-teaching nexus would diminish the import of what academic work in universities is about. In the face of the pressures to make teaching a commercially-viable proposition, there is also presently pressure on some universities to rationalise course offerings and transfer some programs into the TAFE sector. The rationalisation process is already apace. Directed funding, organised through the benchmark requirements that will be introduced in 2006 with the introduction of the *Learning and Teaching Performance*

13 Decisions by the Minister for Education to veto recommendations for the award of grants by the Australian Research Council in 2004 and again in 2005, and his decision to establish 'community advisor groups' and to appoint a couple of conservative pundits to these committees and undermine the role of peer evaluations, has set off alarm bells among university researchers. See, for instance, *The Australian Financial Review* 14 November 2005. Interestingly, there has been very little criticism of these developments by Vice Chancellors.

Fund, could well propel universities along this path of increased specialisation.¹⁴

All of the changes that have been engineered and those that are proposed will transform the function of higher education in Australian society. The government's agenda is defined by an extremely instrumental and functionalist characterisation of the purpose of the university in contemporary Australia. It is framed by the belief that universities should be managed as if they were businesses servicing the needs of clients in order to meet commercial imperatives (Marginson 1997: 240-49). It would transform universities into 'factories' whose function is to provide little more than the 'education' required for vocational accreditation. It is, in short, a transformation that is defined by a particular world vision that cannot see beyond the functional needs of capitalism. And, insofar as the project seeks to diminish opportunities for critical inquiry and learning, it would block the social and intellectual interaction that is engendered by collegiality, and turn the university experience for students into a 'one-stop' vocational entity. The project is as much a cultural as an economic one.

Conclusion

The changes in the higher education system that have been adopted to date, and those with which the government is now proposing to proceed, require more flexible employment arrangements. Restructuring and rationalisation can only proceed by changing what staff do, limiting the range of work in which academic staff engage, or by forcing their exit from the system. In many respects, what the government seeks through *HEWRRs*-compliant enterprise agreements is an industrial instrument that formalises labour's present place in the wholesale restructuring and transformation of higher education that is under way. The government's industrial mission seeks to abolish resistance from within universities to its more radical ambitions for change and its determination to dictate what universities teach and what research will be undertaken.

14 The *Australian Higher Education Quality Assurance Framework* and the periodic audits of individual universities could well reinforce this reorientation.

However, it is not just the opposition within universities to the government's higher education changes with which the Howard government is preoccupied. University managements stand silent, the AHEIA simply parrots the government rhetoric on the merits of 'reform', leaving the National Tertiary Education Union as the one consistent voice that is challenging this assault on the integrity of higher education. The federal government's targeting of the NTEU is aimed at silencing organised opposition to the radical transformation of the higher education system in Australia.

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Postscript: Following pressure from the Minister for Education's office, the Union has received eviction notices demanding that it vacate on-campus offices by 30 November 2005.

Following a University of Melbourne proposal to reorient the focus of the University's academic program, to concentrate on post-graduate teaching, the Minister for Education has now embraced the 'American model' to recommend outer metropolitan and regional universities concentrate on undergraduate teaching and cease engaging in research, and for the delivery of postgraduate teaching and higher education research to be concentrated in the Group-of-Eight universities.

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