
MARCH 2018

ORGANISING OURSELVES

RE-BUILDING AUSTRALIA'S UNIONS.



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ABOUT THE AUTHOR

Tim Lyons is a Research Fellow at Per Capita, Deputy Chairman of large Industry Superannuation Fund, and a Director of a state-owned utility. He works with unions and NGOs as a partner in Reveille Strategy Pty Ltd.

Tim had 20 years experience in the trade union movement as an organiser, advocate, policy specialist and senior leader. After 13 years with the National Union of Workers, he spent 7 years as the Assistant Secretary of the Australian Council of Trade Unions until 2015 where he was responsible for organising programs and led the work program on labour law, economics and pensions.

Tim works, speaks & writes on organising, labour, tax, governance and finance. His writing has appeared in publications including The Guardian, The AFR, The Australian, The Saturday Paper and Meanjin. He tweets @picketer

ACKNOWLEDGEMENT & DISCLAIMER

I am grateful to colleagues at various unions (particularly United Voice, the National Union of Workers and the Queensland Nurses and Midwives Union) and in academia with whom I have had the benefit of discussing these matters. I have also been greatly influenced by colleagues from overseas, particularly Tom Woodruff and Dan Schlademan.

My Partners in Reveille Strategy and close friends Troy Burton and Kristyn Crossfield have both been vital contributors to my thinking on these issues and to the analysis and ideas in this paper.

All errors and opinions are, of course, my own.

ORGANISING OURSELVES

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“The old is dying and the new cannot be born: in this interregnum a great variety of morbid symptoms appear.”

Antonio Gramsci

Trade unionism in Australia is at, and in some sectors already past, a tipping point from which rebuilding will be close to impossible. Much of the old ways Unions did and still do business is defunct, or at the very least under severe and mounting pressure. Unions in much of the developed world are in a similar position. The situation in which unions find themselves as institutions and that which members and potential members find themselves in as workers is well understood. The causes of that crisis have been extensively analysed, including by me.

The urgent question now, and the one this paper seeks to address, is how unionism might undergo the sort of transformative change necessary not just to survive but to build the new organisations we need for workers to win.

The question is not new. Many of us have spent many years trying to change organisations slowly and incrementally. Very often our efforts have produced mixed results or have even failed. What seems different in the current environment is the extent to which there is an emerging, currently unspoken (except in private) consensus among many of the best and most thoughtful union leaders here and overseas that transformational change is necessary.

The trade union movement is at a “moment”, a time when a critical mass of leaders is prepared to approach these issues in a way that goes well beyond the incrementalism of our experiments. To reflect on where we have failed, and to entertain genuinely radical ideas that really reimagine unionism.

It is pretty clear where unions are now. Less clear is what will be born next. Some of what we are doing now seems, in my opinion to be more likely to hold us back.

A mentor of mine is fond of saying “*What we know how to do is not enough.*” An Australian union leader and close friend tells his organisers that “*if we have a week where we don’t feel uncomfortable, then we are not pushing hard enough.*” Taking advantage of my lack of a formal role in the movement (but as someone who works with innovative labour organisers in Australia and overseas) I see it as my obligation to push the need for reflection on what needs to change, to imagine what we need to learn how to do, as much as I can.

Ray Dalio, the billionaire financier, says that progress is a function of deep reflection on pain (our failure and mistakes). We have had plenty of pain but, I’d argue not enough genuine reflection to make progress. This paper sets out some of my reflections and some suggestions for progress.

ORGANISING OURSELVES

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“The Second Temple was different to the first.”

Dryden

The Second Temple in Jerusalem, built when the first was destroyed, was a striking, even shocking, departure from the original. It was much less grand, far less ornate, and was even missing the defining feature of its predecessor: the Ark of the Covenant.

But it was still the temple: it retained its role at the center of Jewish life and its emotional and intellectual pull on the Jewish people. In short, it merely looked different: what it did, its meaning to the community and its purpose was unchanged.

We need to build unions that look very different, but whose meaning, purpose and role is fundamentally the same.

I and others have written about how (amalgamations aside and with the important caveat that branches and divisions remain legion) the structure of the union movement is little changed from a century ago.

Unions are currently structured to exercise power, not to build it.

This is true of the mechanisms by which we allocate resources, what we allocate them on, and who has veto rights over these allocation processes. It's true of the skills we have, the systems we use, and of how we conceive democratic participation. And it's especially true of what our leaders are allowed the time and space to focus on. We retain a concept of “a union” that's a collection of buildings and paid staff that do things for people. We retain a managerialist, legalistic and technocratic approach to members and their interests.

We generally seek to tightly control from the top, rather than allow a distributed leadership model where not just officials but activists exercise real leadership within a clear strategy. It is unsurprising that unions are struggling when they are structured to exercise power they no longer have. Unions were traditionally structured to exercise industrial power that came from a mass membership, legal power that came from centralised wage fixing and political power via the ALP.

These types of power are either gone completely or very much reduced. So, our forms of organisation must change: form must follow function.

Unions have historically grown when they have been taken risks, been radical and been less concerned with neat organisational forms. But also when they have been open and welcoming. In its heyday of organising millions of new workers, the CIO in the US granted any

ORGANISING OURSELVES

small group of workers who asked for one a Charter as an affiliate. Some of these went nowhere, others became large powerful unions.

Unions collectivise people's activity and money to give them the power to fundamentally improve their lives. This will not change.

But the institutional form of unionism, the forms of member participation and how we acquire, and exercise power will not be same in a public hospital or a car factory as in something like, say, the NDIS. Some of these forms of unionism may sit outside but alongside a traditional union and have a different form. We need to allow people to experience and participate in unionism in a way that makes sense to them.

The changes unions seek to IR law from a future ALP government must be carefully calibrated to support this. Perhaps the most critical (and mentioned far too infrequently) is a set of organising rights vested in workers themselves: a right to collective participation and action, a right to free speech in the workplace, the right to agitate and organise other workers.

My reflection is that successful unions in the future (ones that are capable of building real power) will have very, very different structures, resource allocations, skill mixes and model of leadership than what they do now.

ORGANISING OURSELVES

§

“I agree with everything you said. So now make me do it.”

Lyndon Johnson to Martin Luther King.

“Voting for Socialism is not Socialism any more than a menu is a meal. Socialism must be organized, drilled, equipped and the place to begin is in the industries where the workers are employed...”

Eugene V. Debs

“I don’t want to say that the State isn’t important.....[but] the state can only operate on the basis of other, already existing power relations.”

Michel Foucault

Most of what matters, in positive social change terms, happens a very long way from a ballot box. And most positive social change has very little at all to do with it being ‘the right thing to do’.

Positive change comes from people acquiring the power to take some off those who already have it.

That was Johnson’s point to King about civil rights. The moral strength of King’s demands and their evidence base from the horrifying lived experience of Jim Crow was not enough. It was necessary to demonstrate the demands of the community, and not just at the ballot box, even where this was possible given the nature of the fight. It required communities to organise (and mobilise) to acquire the power to force change.

The structure, regulations and priorities of government reflect existing power relations. Changing that involves organising, agitation and building the power to make successful demands. Elections and Parliaments play a role, but generally to merely confirm the new distribution of power. The voluntary postal survey on marriage equality is a classic example. The farcical process at the end was a way out for forces that had been defeated by long term organising and activism over an extended period.

I am concerned for a number of reasons about unions relying on a message about the need for law reform, as we currently are, to support a narrow political mobilisation strategy.

First, as noted above, it’s not generally how social change works. In the case of labour law, it is very difficult to identify any transformative improvement in the labour law framework of a western country that was not preceded by successful organising, or at least significant conflict.

ORGANISING OURSELVES

Organising, agitation and demands always proceed reform: it's a response to workers acquiring power and exercising it, not done in order to give workers more power. That is, the law evolves to reflect the new or changing power relations. To take two examples, our arbitration systems were a product of the organising and conflict of the 1890's, and the Wagner Act in the US was a response to the mass organising and sit-down strikes of the CIO.

Second, it seems to me to send a disempowering signal to workers, a message that there is nothing you can do now (the deck being stacked against you) and an excuse for unions to not transform themselves. More specifically, convincing people that things need to change is only half the job of an organising union. The second, and more important in many ways, is to convince them that collective action is the answer. A unionism that stops at the first step risks being just performative witness to suffering.

There is no doubt that extensive legal changes to strengthen our labour market institutions and to give workers more power are desperately needed. Years in both technocratic and organising roles and a close familiarity with the data on our labour market mean I need no convincing. It's a question of how best to win those changes. It seems to me that the risk with the current union strategy is that it amounts to a kind of reverse of the Labourism that emerged from the 1890s: rather than 'we can't do everything by organising, we need the state' it becomes "we can't do anything without the state."

This strategy seems unlikely to achieve our aims. As Rosa Luxemburg put it "*those who do not move, do not notice their chains.*" Organising is a precondition of transformational policy change and my experience of the last Labor Government is one where commitments are very often significantly watered down by the time they reach the statute books.

My reflection is that to wait for changes in the law before we really invest in organising is likely to be fatal to the push for change. It is not an either / or situation, we need organising and mobilisation. Power is not given up willingly, but seized through organising, agitation and demands. Political mobilisation alone is insufficient.

ORGANISING OURSELVES

§

*“Power never concedes nothing without a demand.
It never did and it never will.”*

Frederick Douglass

Australia’s wages crisis has two linked but closely related aspects. The first is stagnant wage growth, and the second in rampant wage theft. Australians need a pay rise, but for many of us our starting point is even getting our legal entitlements.

While the precise drivers of the wage crisis might be debated (and clearly includes a mixture of institutional and macroeconomic factors) the brutal truth is that employers are not paying wage increases because they don’t have to and are stealing wages because they can. Employers currently have the power to do these things and they will not concede it without a demand.

The extent of the crisis, particularly in relation to wage theft underlines why organising is so vital: however strong our laws are, without workers being organised their rights will very often remain unenforced and we can’t vote ourselves a pay rise.

The wages crisis is the best organic organising opportunity for the union movement in decades, even more so than the attacks on penalty rates. It represents the chance to speak to and for the Australian people about our core issue: market incomes. It is our way into the deficit of wellbeing people feel, and their sense of insecurity. It’s the best way to restore what one US writer called the declining “union idea” in the national psyche. It’s also our moral obligation as existing institutions, given most of wage theft victims are low wage workers including international students, our most exploited labour market cohort.

But it’s not enough to be morally righteous and to be the experts. As I noted earlier, to just confirm for people that there is a problem is only part of the job. We must aggressively position collective action and unions as the way to win pay rises and end wage theft. We need to help workers make demands, now, and significant ones. One lesson of the Fight for \$15 in the US is that workers engage when transformative, not transactional demands are made. Transformative demands inspire and create hope.

We are not doing any of this in a meaningful way. Given that ‘workers acting together to make demands on their employer’ is the very core of unionism, this suggests a crisis of confidence about the validity of our core strategy – collective action.

My reflection is that we must own the wages crisis and make collective action the solution, urgently build the tools and create the spaces for workers to make demands.

ORGANISING OURSELVES

§

“I was the guy who had to get the ACTU in a headlock and pull its teeth out with a pair of pliers. But it was like administering, pulling a set of rotten teeth out. Comparative wage justice couldn't last.”

Paul Keating (on introducing firm level enterprise bargaining)

The dentistry certainly worked. The unions' teeth were successfully pulled, although they weren't as rotten as the former PM suggests or the surgery wouldn't have been necessary in the first place. The effects can be seen in rising inequality, in the wages crisis, in low union density and in the labour share of national income.

The policy of firm level enterprise bargaining is a failure.

Australia's system of firm level enterprise bargaining, very tight restrictions on industrial action, absolute legal prohibition of secondary boycotts or solidarity actions, and the availability of bargaining for employers in the absence of a trade union, is essentially unique.

Prior to enterprise bargaining (and even since its introduction prior to the creation of a full national system excluding essentially only a core state public sector in five states) there was an ecosystem of ways the system(s) could deliver a pay rise. Awards, bargaining in all but name, extensions of agreed rates to whole industries, paid rates awards, work value cases, meaningful access to equal pay orders and national and state wage cases that were relevant to standards of living and market rates.

The period of 1993 to 2009 saw a mass extinction event in this ecosystem. Waves of IR law change wiped out or neutered one path to wage increases after another.

Essentially, the only species left in this ecosystem for the private sector is firm level enterprise bargaining. For workers to collectivise and seek a pay rise (or to change anything else about their work) they must “bargain” with their legal employer. Meanwhile, those outside the Fair Work system, State Crown Employees, are (*defacto* or sometimes *dejure*) hostage to the wages policy of the relevant government.

The issues with this system have been much discussed. For the purposes of this paper, it is enough to note two of them.

First, with a firm level focus unless you happen to work in a capital-intensive industry (say a power station) or occupy a choke point in the economy (like large supermarket warehousing) it is impossible to aggregate enough worker power at the firm level to make transformative demands. This is particularly, but not only true of feminised work and the service sector generally. Even where workers can aggregate real power at a single enterprise, the system tends to stop any collective action: witness the recent case of Sydney's train drivers.

ORGANISING OURSELVES

What firm level bargaining does is atomise workers into smaller and smaller groups with less and less power. It also prevents them linking up with other workers who have similar interests to get power.

What the law does, capitalism accentuates: it contracts out, it casualises, it uses labour hire, it has remote workers who never sight a colleague, it uses teams as instruments of control, it splits into subsidiaries and it moves operations around the globe.

Secondly, the system is incredibly and unnecessarily legalistic. The relevant chapters of the Fair Work Act are essentially catalogue of things that workers and unions can't do. It is this sense that the system is inflexible, not the freedom to pay less sought by employers. Unions, perhaps with our legacy in the formality of the arbitration system, remain very committed to the legal enforceability of formal agreements.

Both the law and capital, everywhere and always, break workers down into smaller and smaller groups, where it's impossible to aggregate any real power. Growing new teeth will mean we have to do things differently to aggregate power and make gains.

My reflection on this is that we need to consciously and deliberately build up collectives of workers with sufficient power to win, to push back against a system that breaks us up and be creative about what community of interest might define a collective. We need to replace firm level bargaining with genuine collective bargaining, and perhaps redefine it as any time a group of workers makes a demand on their employer(s) or the corporation that indirectly determines their wages. We should start doing this outside the formal system. This precludes protected industrial action, but that is very, very rare in any event. This approach can make a real contribution to building new forms of unionism, by redefining how workers experience and participate in bargaining, and how we achieve outcomes. Paradoxically, the fact that so few workers have experience of unions is an opportunity: without a preconception of what it is, a union and collective bargaining can look like anything we want.

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*“People in any organization are always attached to the obsolete
- the things that should have worked but did not, the things
that once were productive and no longer are.”*

Peter F. Drucker.

When you examine the financial accounts and strategic plans of a mid-sized private company that has confidence in its business model and a strategy to grow, you often see a number of things. You see some debt, with borrowings used to fund a growth strategy. You see a serious commitment of resources to human capital development, to product innovation, to R&D and to strategy development and execution. You see not a lot of cash sitting around doing nothing. You don't see a lot of superfluous assets like property.

These days, you will usually also see evidence of a digital strategy that goes to back-end efficiency, new channels of contact with customers, and work on the development of genuinely new products.

The business has a plan and a model that it believes will work and it is allocating resources and investing accordingly to that plan.

What do you often see when you examine similar documents for unions? None, or very few of these features. In fact, you often see the reverse. You see large reserves that are slowly eroded to fund general operations. You see little investment in human capital innovation and R&D. And you almost never see sufficient resources (people, systems and processes) devoted to strategy. You see large amounts of waste through duplication of systems across divisions, and a failure to use the scale of the whole organisation when procuring. Many, perhaps most, unions have 'lazy balance sheets', they are sitting on significant cash and underutilised or underperforming property assets.

Investment in growth is a serious endeavour in business. On the other hand, in unions the extent growth strategies are pursued it is sometimes less a product of strategy as it is panic about decline. Some unions are captive to an existing declining membership base and sacrifice the pursuit of new members in strategic new industries in order to satisfy existing members in declining industries. Our structures reflect the economy of the 1980s not 2018, and resources are not well matched to opportunities: some of the unions with the most potential for significant growth have among the lowest levels of existing resources, and vice versa.

I am not, of course, making the case to run unions as a business. While the fiduciary obligations of officers in relation to member's funds built up over decades is paramount, that is no excuse for excessive conservatism.

ORGANISING OURSELVES

Perhaps the most disappointing aspect of this is the lack of confidence it reflects: if a union had a plan to grow that it really believed would work, it would make serious investment in it. A failure to do so reflects a lack of belief we can grow power for workers to win. But that reduces running a union to the equivalent of a hobby. A socially useful hobby, but a hobby nonetheless.

My reflection is that unions need to ‘sweat the members’ capital’. Unions need to use their resources efficiently, including by ending wasteful duplication and make a conscious plan to stop doing things which do not work or don’t contribute to building power. Unions need to make a serious investment (including in leader time and effort) in relation to strategy, innovation and organising that has the potential for breakthroughs at genuine scale. Unions must invest, collaboratively, in new technologies which can dramatically lower the barriers for engagement of members and potential members and enable new modes of participation and organisation.

ORGANISING OURSELVES

SELECTED REFERENCES

Set out below are examples of my own writing that are relevant to the ideas in this paper.

- Lyons, T *The Labour Movement: My Part In It's Downfall.* (Meanjin, 2016)
Is Work Working? (Per Capita, 2018)
Urge to Merge. (Per Capita, 2016)
Digital Tools for Australian Unions. (Reveille Strategy, 2017)
Solidarity and self-interest in the future of unionism. (Eureka Street, 2016)
Is a Collective Future Still Possible? (Victorian Fabians, 2017)
Crippling Unions. (Chifley Research Centre, 2014)

The following is a non-exhaustive list of books that have contributed to my thinking in this paper.

- Anderson, A *Private Government*
Dalio, R *Principles*
Dean, J *Crowds and Party*
Early, S *The Civil Wars in US Labor*
Fraser, S *The Age of Acquiescence*
Geohegan, T *Only One Thing Can Save Us*
Graham, C *Happiness for All?*
Hacker, J *The Great Risk Shift*
Han, H *How Organizations Develop Leaders*
Hoffer, E *The True Believer*
Kreiss, D *Prototype Politics*
Lichtenstein, N *State of the Union*
 The Right and Labor in America
McAlevey, J *No Shortcuts: Organizing for Power*
 Raising Expectations (and Raising Hell)
Millner, M *Elites: A General Model*
Paulsen, R *Empty Labor*
Rosenfeld, J *What Unions No Longer Do*
Silver, J *Coming Up Short*
Smucker, J *Hegemony How To: A Roadmap for Radicals*
Tokumitsu, M *Do What You Love.*
Vehhaeghe, P *What About Me?*
Wajcman, J *Pressed for Time*
Weil, D *The Fissured Workplace*
Windham, L *Knocking on Labor's Door*

In addition, works by Saul Alinsky, Albert O. Hirschman & Karl Polanyi have been critical to the foundations of my views on work, unions and organising.

ORGANISING OURSELVES

IDEAS TO HELP BUILD NEW UNIONS IN AUSTRALIA

OWN THE WAGE CRISIS

Use the low wage rises and wage theft issues to re-boot the "Union Idea" in the public mind, reasserting the relevance of the union movement. Not just by being the experts but by making collective action, now, the solution.

INVEST IN TECHNOLOGY

Make a serious, collaborative commitment to developing and sharing tech that is designed for labour organising, not repurposed from sales or political campaigning. Establish a global network of unions to fund development of a CRM that does what we need and that we own. Use AI to help provide advice in order to reclaim ground from government institutions such as the Fair Work Ombudsman. Build online spaces for member to member collaboration. Use peer to peer SMS platforms for organising and mobilisation. Overseas, AI powered apps have been developed to automatically generate court filings and letters of demand. This tech is affordable. Imagine having 50000 underpayment claims clog the courts.

RESTRUCTURE

Dismantle internal legacy structures that stop us implementing a strategy to win. Fiefdoms waste money in duplication and prevent us aggregating activity and money in a concentrated, strategic way that allows workers to win.

STOP WHAT DOESN'T WORK

End our lazy balance sheets. Stop doing things which don't work or don't build power. Concede areas where you can't make organiser sign ups work and have no alternative strategy by walking away or giving to a union prepared to invest. Use the resources of the union to make genuinely massive investment in a strategy to grow through breakthrough organising.

JOINT ORGANISING

Invest in properly resourced joint organising in industries with shared coverage. In areas like aged care and NDIS, ally with residents, clients and families to attacking models of funding and care that ultimately hurt both recipients and workers.

BUILD NEW COLLECTIVES

Just as the system and capital break us up into small groups, we need to consciously assemble ones that can aggregate enough power to in. We need to think laterally about communities of interest. For example we could jointly resource an independent spin-off to organise international students as a concrete response to wage theft. Poaching existing member shouldn't be tolerated, but a union that has a strategy to organise 'vacant space' using leverage from existing members should always be allowed to go where the union with notional coverage has no plan.

COLLECTIVE BARGAINING

Redefine collective bargaining to anything we want it to mean - anytime a group of workers takes action to secure gains at work. Step away from the strictures we have come to know under the current legislation and capitals' strategy to divide workers time and again.

RESOURCE WINNING PLANS

To avoid the fate of the US, where public sector unions are now the last ones standing and are consequently under severe attack, we need to pool real resources (millions of dollars) from all unions to fund the best available breakthrough organising strategies in the private sector.

THINK OUTSIDE IR

Think outside the IR law (and procurement) frame when asking governments, particularly state governments to help create good jobs, given their role in licencing and regulation.

SOLIDARITY ACTIONS

Extend the fantastic union traditional of solidarity actions and practical support for existing members of other unions under attack to supporting new workers seeking to organise. Digital platforms give us new opportunities to realise the collective strength of the entire movement using an online to offline engagement model.

SUPPORT ORGANIC ORGANISING

Resource and support organic organisation in hard to organise areas, even if it doesn't automatically turn into traditional-style membership and the workplace structure of Organiser, Delegates and Members. Be less concerned with legal status and control and allow those workers to take those organisations in the direction they need.

CO-OPERATIVES

Think about how we can support workers in the gig economy by giving them control. Build, and make free, gig economy platforms that can be owned as a co-operative by the workers themselves.

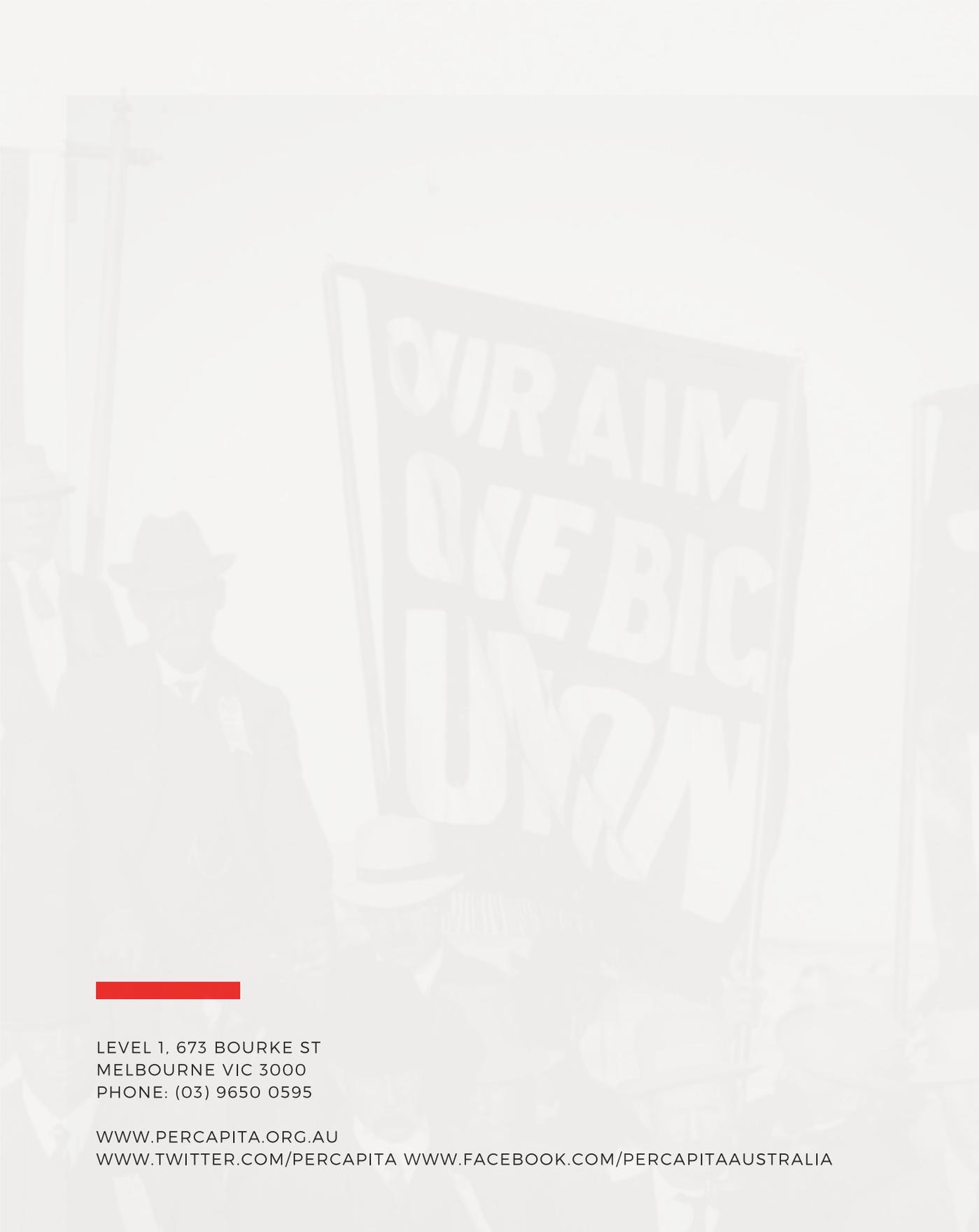
PRIORITISE ORGANISING RIGHTS

Prioritise among our legislative agenda a set of organising rights vested in workers themselves: a right to collective participation and action, a right to free speech in the workplace, the right to agitate and organise other workers.

SET STANDARDS FOR CAPITAL

Develop, and campaign and organise around, what a 'social licence to operate' is for Australian business. Hold them to account, work with those who support our values and punish offenders.





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