

# Labor Government and the Reform of the State

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One of the most important debates within contemporary Labor and left circles concerns the apparent failure of state and national Labor Governments to realise major social or economic reform objectives. In fact some would go so far as to argue that the modern Labor Government has become almost indistinguishable from its Liberal counterpart. This article seeks an explanation of reform failure through an examination of the character of the policy process. In two important cases, it is argued, Labor lost battles over policies it was proposing because it took the nature of existing relationships within the state for granted.

## THE NATIONAL REHABILITATION AND COMPENSATION SCHEME (NRCS)

There can be little doubt that the Whitlam Government's compensation scheme was one of the most radical pieces of social reform bought before a post-war Australian Parliament. It proposed to remove the private insurance industry from the workers' compensation and third party motor accident areas and to severely limit the appeal of most forms of personal accident and sickness insurance. In July 1974, the Whitlam Cabinet agreed to introduce a Compensation Bill which would replace these and other aspects of the national patchwork of injury and sickness schemes with one single arrangement whereby all citizens would receive twenty-four hour cover for all forms of disability. In the words of the 1974 policy speech, the Government would seek to reduce the "hardships imposed by one of the great factors of irregularity in society - irregularity of luck".

Common law actions through which victims of industrial and other accidents and illnesses contested their claims before the courts would also be abolished, as would the lump-sum payments granted to victims as once-off compensation for their pain, disability and income loss. Instead, weekly payments would be provided to those affected through a centrally organised national compensation office. The various state compensation arrangements would be abolished as would the prevailing means test for sickness benefits. An earnings-based system of payments would take over from the inconsistent and often incoherent mix of private, state, and national benefits available to the community; a mix which all those involved regarded as urgently requiring reform.

The Government's method of developing the NRCS policy raised little comment. Yet the choices it made at the very earliest stages of policy preparation influenced its capacity to get its legislation passed and implemented.

The framework for the scheme was not new. It owed its origins to the New Zealand system first proposed by a 1967 Royal Commission chaired by Justice Woodhouse. Whitlam met Woodhouse in 1970, discussed compensation arrangements in Australia and left the judge with a commitment that he would approach him again concerning a possible Australian compensation scheme.

In 1971, with Whitlam's strong support, the ALP adopted as national policy a commitment to the provision of national compensation cover for all citizens. Whitlam included this concept in the 1972 election manifesto, turning it from a broad statement of intent into a policy priority. In March 1973, at the Prime Minister's initiative, a Committee of Inquiry, with Woodhouse as its chairman, was established to report on the 'manner of instituting and administering' the scheme.<sup>2</sup> The other Committee member was Justice Meares of the New South Wales Supreme Court.

The Committee Report provided a scathing critique of the existing mix of private insurance and government compensation coverage. It also did its best to fuel the Labor interest in thorough-going reform: "concessions, we think, ought not to be made in favour of outmoded institutions for mere reasons of peace and quiet".<sup>3</sup> Nevertheless, when it introduced legislation for a full sickness and injury scheme in October 1974, the Government made it clear that while committed "in principle, it (was) not committed to every detail of it".<sup>4</sup>

The Government, through Treasurer Frank Crean, was at the same time attempting to establish two consultative committees with the insurance industry to examine the difficulties they would face when the scheme was implemented. This, and the Government's other efforts to test the reaction of those affected, were soon overshadowed. Both the Liberal Party and important parts of the labour movement were expressing doubts about the desirability of the Woodhouse proposals. On October 30 the Senate decided that it was not prepared to pass the NRCS legislation and that instead it would refer the matter to its Standing Committee on Constitutional and Legal Affairs. This course

of action was sponsored by Labor Senators and received the support of the Minister responsible for the legislation, who told the Senate, amongst other things, that he found himself "in the position of...being amazed at (his) own moderation" and that he did "not want to achieve some footnote in history as being the Minister who was responsible for some disastrous piece of legislation".<sup>5</sup>

During its nine months before the Senate Committee the NRCS legislation became the focus of an organised and articulate attack by lawyers, insurers, and trade unions, each of which had much to lose should the Woodhouse proposals be implemented. The Committee reported in July 1975 that the Bill should be withdrawn. Labor Senators joined opposition members of the Committee in raising doubts about the financing of the scheme, the desirability of eliminating common law actions, and the feasibility of providing national earnings related sickness coverage for all citizens.<sup>6</sup>

The Government, through the Department of Repatriation and Compensation, set to work to close some of the gaps identified by the Senate Committee. On 14 August 1975, Cabinet agreed to drop the attempt to provide sickness cover.

Several proposals concerning the financing of the scheme and assistance to private insurers were also prepared. Cabinet and Caucus agreed on the new policy in late October and drafting of the new Bill was in train when the Government was removed in November 1975.

### THE NATIONAL INVESTMENT FUND (NIF)

Like the Compensation Scheme, the National Investment Fund (NIF) proposal was part of an interventionist strategy adopted by the Whitlam Labor Government. It was in fact a policy which was introduced in tandem with another; a proposal to reform the Australian Industry Development Corporation (AIDC). In essence the AIDC was a form of capital-welfare measure implemented by the Liberal-Country Party Coalition in 1970. It was a device designed principally to fill finance gaps for Australian firms wanting to expand but unable to find support in the existing local capital market.

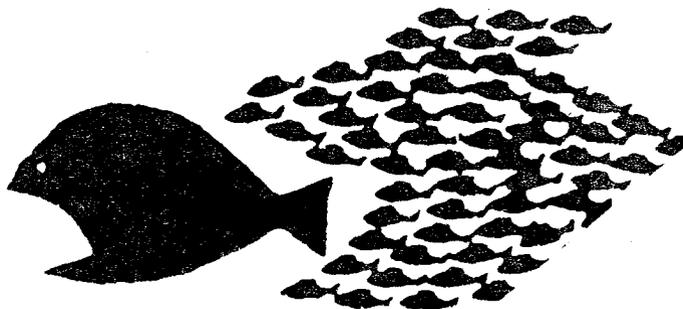
In August 1973, Labor's Overseas Trade Minister, Dr. Cairns, introduced into Parliament a Bill to expand the role of the AIDC by lifting the constraints on its borrowing powers, and to enable it to raise funds both locally and overseas. The new Bill was also a measure aimed to widen the scope of the AIDC by permitting it to assist a wider variety of firms. It would be able to buy equity in firms which it proposed to assist and to actively seek investment opportunities, rather than continuing to wait upon applications from companies in difficulty.

To finance these expanded operations, Cairns proposed to establish a National Investment Fund. The debates which followed tended to regard the two Bills as one, although as it turned out their fates were different. Nor was there any intrinsic link between them. While short term considerations encouraged the view that the NIF was to be a finance arm for an expanded AIDC, it could equally have been used for direct government investment in a variety of public and private sector schemes.

The NIF proposal rested squarely on a view amongst some Labor leaders and advisors that the resources of large superannuation and endowment insurance offices ought not to remain outside public control.<sup>7</sup> Instead, the Federal Government should require them to contribute to a national fund, which it would administer and from which the insurers and other institutional investors would derive an interest dividend. In addition, Labor argued, there needed to be a means for "the ordinary Australian to participate in his [sic] country's development".<sup>8</sup> So the NIF would take individual deposits as well.

Labor's interest in the investment role of insurance offices was informed by widespread criticism within the labour movement of the prevailing pattern in such investments. In particular, Labor MPs attacked the increasing tendency for such investments to be concentrated in speculative, quick-profit property developments in the commercial districts of capital cities. These ventures were regarded by Labor as "hedges against inflation by people who have not used the criterion of the Australian national interest when making their investment decisions".<sup>9</sup>

The NIF would obtain the participation of insurance companies and financial institutions by requiring them to increase their investments in Commonwealth Securities by ten percent. It would also seek individual contributions. Cairns argued that the "purpose of the NIF (was) to provide for the ordinary Australian a readily available chance to invest his [sic] savings into the ownership and development of Australia".<sup>10</sup> Labor advocates of these reforms were happy to consider them in the context of the party's socialist objective:



We are not at all reluctant to use the word 'socialism'. The word 'social' is good; so is the word 'socialism'. Indeed, it means that the community itself is involved in these projects.<sup>11</sup>

The immediate response of the business sector had been strongly negative. They now launched a public campaign against the NIF and AIDC policies. However it was far from being a unified or overwhelming attack on Labor's Bills. There were differences amongst business leaders and opposition parties.

In the Senate, where the Government lacked a majority, the Bills attracted a tempered reaction. The DLP, unable to decide its view of the legislation, led an initiative to refer the proposals to the Select Committee on Foreign Ownership and Control. Almost immediately the facade of a united business condemnation of the policies cracked open. In an attempt to quell rumours that the AIDC was itself opposed to the direction of the reforms, AIDC Director and leading company director, Sir John Dunlop, went before the Committee to make a supportive submission. He argued that he was "quite simply, not worried at all about backdoor or any other socialisation". He stated that he believed what Dr. Cairns and other members of the Government have said and that socialisation was "no part of the AIDC's functions".<sup>12</sup>

Dunlop's endorsement brought a strong reaction from his fellow members of the Board of the Bank of New South Wales. They immediately asked him to withdraw his statement of support or resign his place on their board.<sup>13</sup> He resigned.

There were also differences inside the Labor caucus. These came to light in arguments concerning the work of the Senate Select Committee.

The committee did not present a report. This failure reflected the difficulty which it faced in dealing with the issues associated with these Bills. Without a favourable report the Government stood little chance of securing Senate support.

The Committee experienced both ideological and procedural problems. The first were to be expected, the second were unnecessary.

The original membership of the Committee heard a wide variety of submissions, including the one from Dunlop referred to above. It developed a sympathy for the Government's proposals but had many reservations. However in February 1974 the Parliament was prorogued and the Bills lapsed, as did the membership of committees. A new group of senators was not selected for this committee until March 19. On April 8 the Government put the two Bills before both Houses once again and the Senate again sent them to the Select Committee on Foreign Ownership and Control. Then, on April 11 both Houses were dissolved and Labor began its campaign for a second term.

The two proposals were included in the ALP's election policy speech<sup>14</sup> and were reintroduced into Parliament, in modified form, on July 16. The Government took this opportunity to castigate the Senate for its 'remarkable record of delay' in considering the original proposals.<sup>15</sup>

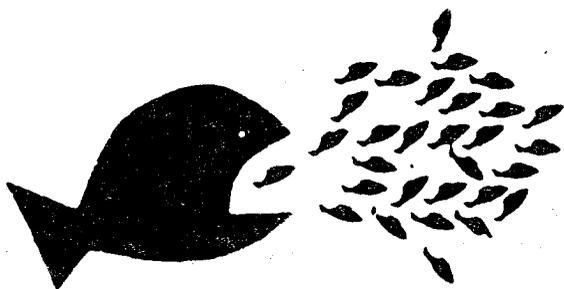
Labor's representatives on the Committee took exception to these remarks, pointing out that the Government had itself contributed substantially to the Committee's problems and to its inability to reach agreement.<sup>16</sup> Apparently undeterred, the Government pushed ahead with the Bills, and the Senate lived up to Government's expectation by rejecting the NIF legislation in its entirety.<sup>17</sup>

## DISCUSSION

These two episodes suggest several levels at which a discussion of Labor's reforms could take place. One could, for example, discuss the extent to which the policy instruments in each case were appropriate to the needs that had been identified. Alternatively, it could be useful to review the policy issues themselves, in order to determine whether or not Labor was addressing real and significant problems.

Both lines of inquiry could produce useful insights, but it is doubtful that they would tell us anything substantial about these episodes or about the Labor Government. This is because they rest on rationalist assumptions concerning the policy-making process.<sup>18</sup> Such assumptions make it difficult, if not impossible, for consideration to be given to a more fundamental issue - the possible bias or value-structuring within the state itself. Instead, attention is consumed by issues concerning policy data, the feasibility of policy options, and the limits to government resources.

A more illuminating approach considers the nature of policy-making as itself a primary question. Both of the episodes outlined above point to ways in which the very means of policy



formulation and implementation shaped the outcome.

In both cases, several aspects of the policy-making process severely disadvantaged the proponents of reform. In the national compensation case this dynamic worked at a number of levels. To begin with, Labor adopted a pluralistic approach to the selection of policy. Its concerns were almost exclusively with a search for the right scheme or the best technical solution to the compensation problem. This involved attempts to secure authority through an election policy commitment and to import expertise. However the major problems proved to be political, not technical.

Conventional policy making procedures only provide a means for dealing with technical problems. The Committee of Inquiry is one such device. However, reform proposals aggravate a range of economic and bureaucratic interests, and these cannot be dealt with in arenas that are primarily designed to seek rational solutions. Woodhouse had no authority and no inclination to consider the political questions associated with the establishment of a national compensation scheme.

The Government's handling of the NRCS legislation in the Senate indicated a degree of procedural orthodoxy which can only have indicated that Labor saw no alternative but to allow interests opposed to its legislation full scope to savage it. The Senate was left to decide its own means of handling this controversial measure. Not surprisingly it chose a means disadvantageous to Labor. The Standing Committee investigation arrangements favoured those interests likely to want the NRCS vetoed. The groups best able to get access to committee meetings and to committee members were the organised, well connected groups of insurers, lawyers, union officials and doctors who benefited most from prevailing compensation systems.

Further, this Committee provided a well publicised forum for attacks on the NRCS but did not have any authority to resolve differences and secure support for the legislation.

In short, the Government did little to muster public support, did nothing to find a route through the Senate, and, at all the stages between proposing the scheme and its death in the Senate, allowed its policy to become the focus of resistance. Where interests were not overly antagonistic, Labor might well have obtained commitments of support. The unions, for example, stood to benefit from a comprehensive reform of the system. However, the Government's decision to solve the problems of compensation itself left its potential supporters with what amounted to an 'all or

nothing' choice. With a clearly articulated program already announced the priority for these groups was not that of getting government to act, but that of stopping it from doing too much. The unions owed no obligation to the defence of the scheme as a whole because they had not been involved in devising it. As a result, when faced with the alternatives of future, hypothetical gains and certain, immediate losses, they logically chose to do something about the latter.

Other potential sources of support were left completely silent. The Government took no action to organise and encourage the various groups of consumers who stood to benefit from these proposals. The means it chose for pursuing its objectives disadvantaged those few groups already organised. None had the financial and legal support necessary to follow the policy process through the Labor Party, the Committee of Inquiry, the Senate Standing Committee, and the public debates concerning these issues. Only the unions, private insurers, and the medical and legal professions could muster such stamina.

In the case of the NIF proposal, a similar pattern emerges. The Government began the policy process by solving a problem that it alone had identified, using a means that it regarded as appropriate. By the time anyone else was involved, the focus of debate had become specific and the major interests had adopted specific positions in response. Like the earlier case, this strategy assumed great strength and support on the Government's part. It was the approach to policy that one might expect from a government doing something that is uncontroversial so far as the other agencies of the state and the major interests are concerned.

The NIF proposal was both novel and radical. It aimed to equip the Australian Government to become an equity investor in a potentially wide range of private sector ventures and at the same time to become an influential actor in the capital market.

Although reference was made during the debates on these Bills to the possibility that their implementation would mean a decrease in foreign control of the economy, no detailed argument was ever presented concerning the impact of the measures. Without specified benefits it was difficult to find beneficiaries. This in turn limited the potential for support.

Meanwhile, the method that the Government adopted to get its reforms through Parliament again did nothing to generate support, to improve the proposals, or to shield them from attack. This time there was no public inquiry, so the advantage of a favourable judicial report was absent. Also missing was the substantial

publicity which an inquiry attracts and which can provide the basis for governments to educate public opinion. Instead, the fate of the reform was allowed to rest with the Senate and its Select Committee on Foreign Ownership and Control. Here again, the process favoured those most able to veto proposals. The Senate Committee had no brief and no resources to explore the issue of increased public investment in detail. What expertise it managed to develop was allowed to be dissipated by the proroguing of Parliament in February 1974. As in the national compensation episode, these conditions favoured the well organised and articulate representatives of the banks, insurance companies, and other business groups, who could most easily approach Committee members with detailed information and argument.

In both of these cases, Labor did not provide a means for dealing with its antagonists. It made no effort either to negotiate with them or to reduce their unity and public credibility. Yet there was evidence at the time that these interests were far from impregnable and that they were capable of being placated. Had Labor chosen to include interest group representation in some part of the policy formulation process, it might well have found a formula for gaining the active support of at least some key groups.

Further, had it been conscious of its needs, Labor might have done more to generate support amongst those not already represented in these policy struggles. These, after all, were the groups which these policies were intended to assist.

#### LABOR AND THE STATE

The problem identified in these two episodes can be summarised by saying that the Labor Government took the existing relations within the state as given. Its policy thrust was towards the resolution of problems out in the community. However, without a reformed state it proved unable to generate worthwhile policy proposals and totally unable to get its reforms implemented. Its choices in relation to the means for generating and supplementing policies were orthodox. It relied on rationalist justifications, and it employed committees, experts, and Parliamentary procedures in a conventional way. These means favoured the opponents of reform. They constitute a source of bias.

In so far as such bias is generalised it may be understood as structured into the state itself.<sup>19</sup> Patterns of public administration, together with Parliamentary traditions, provide one level of such structure. Established relationships between political parties, departments, and interest groups provide a second. Both grant unequal access to policy-



making to different groups. Both work to make some issues non-negotiable and unchallengeable.<sup>20</sup>

Labor left these relationships intact. It sought to use them as a means for putting reforms in place. This served to cripple the Government's already limited prospects.

In order to develop better reform proposals and as a means of securing their implementation Labor needed to address these questions of state structure at a variety of levels.

First Labor needed to act as an organiser of certain community interests. This process of organisation is often described in simple terms as one of increasing the level of public participation in the policy process. However, this may obscure almost as much as it reveals. No Labor Government operating in the two areas described above would have wanted to further advantage the insurers, the banks, and the professions. Participation needs to be understood in terms of the political objectives of support as well as the social goals of problem-solving.

In order to get these more specific kinds of participation, Labor would have needed to approach the compensation and National Investment Fund struggles very differently. For instance, it should not have considered as its first priority the preparation of a comprehensive program but should have paid more attention to the organisation of those in need, so that their experience could have informed government action. In this way, questions of knowledge and support can be answered at the same time.

From this perspective the Government's use of committees and party structures must be regarded as having been impediments to reform in both cases. For instance, the adversarial, pseudo-legal style of Senate Committee investigations is clearly less likely to provide a favourable venue for women's groups, migrants, local community groups, and consumer organisations than it is to advantage business groups and professional associations. Both the cost of these proceedings and their complex style mitigates against the generation of certain kinds of support. They also limit the ability of participants to take a comprehensive view of policy. Participants in the adversarial inquiry are forced to fight for a favourable outcome,

not necessarily for a fair one. Such committees have neither the resources to do adequate research nor the authority to strike bargains. They may perform a role in the education of parliamentarians but they seldom assist the more marginalised interests, on whose support Labor must depend.

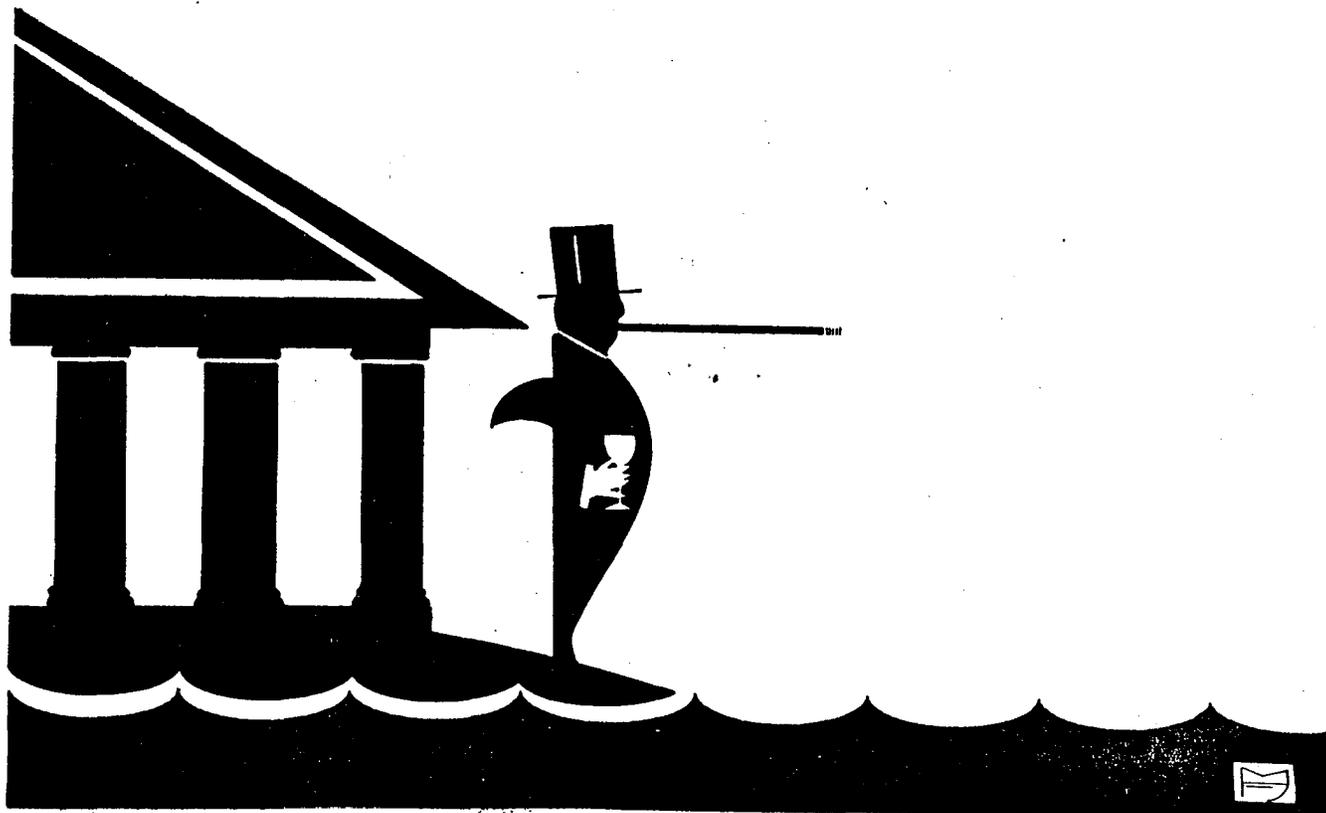
In order to have secured that support, Labor needed to actively foster the organisation of certain 'public interest' processes. There is a substantial literature that details the ways in which this can be achieved.<sup>21</sup> The methods or strategies clearly vary according to the nature of the issues being addressed. In some instances, funds may be required so that groups are able to conduct their own policy research, while in other instances government, bureaucratic, and ALP resources may be required to provide representational arenas, local inquiries, conferences, and the like for the interests that lack organisation.

The point about such strategies is that they not only enable Labor Governments to build valuable political support, but by changing the relationship between government agencies and public interest groups, they allow Labor to reap a more productive harvest from the state itself. In the language of conventional public administration studies, these kinds of strategies provide a new range of 'reference groups' for bureaucrats and advisors and give them new sets of 'incentives' by which to judge their own performance.

A further point about the broader level impact of these changes is that they address an important problem which a number of commentators have identified. This concerns the alleged gap between Labor Party policy and Labor Government action. Hindess is right to attack many of the recent efforts in the U.K. to close this gap.<sup>22</sup> Most depend upon strategies to make the Party more democratic and its leaders more accountable. In these strategies, the assumption is frequently made that the party has a worthwhile policy platform and that what is absent is a Parliamentary wing more willing and better equipped to implement it.

The importance of debates about party democracy should not be depreciated, but it would seem that in the context of this discussion they may miss the point. The nature of relations within the state cannot be altered by changing the constitution or the rules of the Labor Party. The problems of inconsistency, betrayal, and back-tracking by Labor Governments may well be a consequence of intra-state relations rather than intra-party ones.

Such relations shape what might be termed the 'field of probabilities' within which governments seek to manoeuvre and compromise. This field is constrained by the nature of the relationships or structures discussed above. These in turn are built into the existing rules and procedures of policy making. In the two cases examined here, these relations were dominated by interests opposed to reform. The



active engagement of the insurers, the unions and the professions in the policy process shaped the debates that occurred in Cabinet, at the Committee of Inquiry, and in the Senate Committees. Their concerns were used to amplify and expand the influence of those Ministers, departments, and parliamentarians seeking opportunities of their own to emasculate the reforms. The conventional policy-making path followed by Labor assisted these interests.

This should not be construed as a fatalistic view of the role of these institutions. Rather, it is a comment on their tendency to respond to the conditions imposed upon them by their immediate environments. Those conditions, however, can change.

Offe and Ronge argue persuasively that the state

"does not defend the interests of one class, but the common interests of all members of a capitalistic class society".<sup>23</sup> In the process it acts with bias in favouring those groups whose co-operation is necessary to the stability of existing policy-making processes. The proposition being advanced here is that the nature, number, and significance of such groups can be altered by the state itself. The key is a willingness to admit and advantage those interests that reforms are intended to benefit. The recently increased role of trade unions and women's groups provides the clearest confirmation that such alterations have already occurred. The tendencies of governments to yield to pressure and seek bargains could become an advantage to reform, provided that we alter the conditions imposed by strategic interests and the procedures which advantage them.

#### NOTES

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