

Submission

to

Senate Employment, Workplace Relations and Education
References Committee

Inquiry into Workplace Agreements

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The Uniting Church in Australia
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**SUBMISSION OF THE
JUSTICE AND INTERNATIONAL MISSION UNIT,
COMMISSION FOR MISSION, SYNOD OF VICTORIA AND TASMANIA,
UNITING CHURCH IN AUSTRALIA**

TO

**THE SENATE EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION
REFERENCES COMMITTEE
INQUIRY INTO WORKPLACE AGREEMENTS**

The Uniting Church in Australia values families, children and the parenting role. The church believes that children are a gift from God, and that society and employers have a responsibility to support and protect families and family life. This leads us to believe that employers should have family-friendly policies. This means that Government policy must be rigorously evaluated for its impact on people who are poor, disadvantaged and marginalised.

"The value of each worker is not as a commodity but as a person, a human being, loved by God. Our community has values that are more important than economics."

(The Reverend John Henderson, General Secretary of the National Council of Churches
- quoted *Sydney Morning Herald* June 29 2005)

"As soon as the Employment Contracts Act came in everything changed in this place and we were told – now he'd do it his way. First he got rid of the union, and some were threatened that if they belonged to the union they would be down the road. The contracts were never negotiated. We were called in one by one and given this printed document with a place to put your signature. Some of the young ones were not allowed to take their contracts home for their parents to read. The first year all of us who already worked there got penal rates. As people left or were sacked, the new ones went on to a flat rate with no set amount – they were all getting different wages. Within a year there was a 90% rollover of staff".

(A supermarket checkout supervisor summing up the impact of the New Zealand Employment Contracts Act in place in the 1990s)

"It is not too late to develop some real safeguards for some of Australia's most at risk workers"

(Dr Mark Zirnsak, Synod of Victorian & Tasmania, the Uniting Church in Australia
- in *Crosslight*, Uniting Church newspaper)

AUGUST 2005



The Uniting Church in Australia
Synod of Victoria and Tasmania
Justice and International Mission Unit

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Mr. John Carter
Committee Secretary
Senate Employment, Workplace Relations and Education Committee
Department of the Senate
Parliament House
Canberra ACT 2600
Australia
2005

Dear Mr. Carter,

The Justice and International Mission Unit would like to thank the Committee for this opportunity to make a submission relating to *The Senate Employment, Workplace Relations and Education References Committee Inquiry into Workplace Agreements*.

Support by the Uniting Church for the most vulnerable workers in the Australian community is not new as evidenced by our long-standing commitment to the community-group FairWear, also making recommendations to the Committee Inquiry. We endorse their recommendations to the Inquiry, which include:

- That the Federal Government maintain the current 'no disadvantage test' and include current Award entitlements as a minimum application to any work agreement;
- That the outworker clauses within Federal Clothing Award are maintained in their entirety and that any changes to legislation exclude homeworkers; and,
- That the appropriate union has access to workplaces to ensure monitoring of the supply chain can occur without restrictions.

This submission addresses the areas being considered by the Standing Committee as set out in the Terms of Reference.

When drafting this response to the Senate Inquiry much information was drawn from *The Uniting Church as Employer, 'Theology & Principles'*, a joint publication written and produced by the Synods of Victoria and New South Wales and the *Workplace Relations Policy briefing paper* recently produced by the *Social Justice Network* of the *National Council of Churches in Australia*.

To begin this submission we include a foundational statement of the church in relation to social justice, our key criteria for industrial relations reform as well as the most important questions we would like to raise with the Committee. These themes are subsequently expanded upon throughout.

Yours faithfully,

Dr. Mark Zirnsak
Director
Justice and International Mission Unit
Commission for Mission

FOUNDATIONAL STATEMENT

Excerpts from *Statement to the Nation - Inaugural Assembly, Uniting Church in Australia, June, 1977*

We pledge ourselves to seek the correction of injustices wherever they occur. We will work for the eradication of poverty and racism within our society and beyond. We affirm the rights of all people to equal educational opportunities, adequate health care, freedom of speech and employment (or dignity in unemployment if work is not available). We will oppose all forms of discrimination which infringe basic rights and freedoms.

We will challenge values which emphasise acquisitiveness and greed in disregard of the needs of others and which encourage a higher standard of living for the privileged in the face of the daily widening gap between the rich and poor.

We are concerned with the basic human rights of future generations and will urge the wise use of energy, the protection of the environment and the replenishment of the earth's resources for their use and enjoyment.

Finally we affirm that the first allegiance of Christians is God, under whose judgment the policies and actions of all nations must pass. We realise that sometimes this allegiance may bring us into conflict with the rulers of our day. But our Uniting Church, as an institution within the nation, must constantly stress the universal values which must find expression in national policies if humanity is to survive.

We pledge ourselves to hope and work for a nation whose goals are not guided by self-interest alone, but by concern for the welfare of all persons everywhere — the family of the One God — the God made known in Jesus of Nazareth the One who gave His life for others.

In the spirit of His self-giving love we seek to go forward.

RECOMMENDATIONS

Any of the proposed changes should conform to the following criteria:

- Moral values as expressed in church social justice teaching, which recognize the importance of dignity in employment, and just and fair wages and conditions for all workers;
- The preservation and encouragement of people's human rights (with particular reference to applicable international human rights instruments – see Appendix 2);
- An independent arbiter (the AIRC) to set minimum wages in accordance with the concept of a living wage and labour rights and to resolve workplace disputes;
- The use of an established system of awards in setting wages and conditions;
- The promotion of secure, permanent work above and before casual work;
- Protection of the right of workers to bargain collectively and to join and be represented by unions;
- The right of all employees to challenge unfair dismissal and to receive redundancy pay and their entitlements whether they work for small or large business;
- Deeming provisions that recognise that certain workers (e.g. outworkers) are employees even though on 'contracts';
- Deeming provisions and other legislative measures to protect workers against being forced into becoming 'independent contractors' on wages and conditions less than would be payable to them as employees;
- Secure, safe and healthy workplaces where people are free of discrimination, harassment and bullying;
- Equal pay for work of equal value; and,
- Paid employment providing an adequate source of income - freeing people to balance the demands of work with other aspects of family and community life.

QUESTIONS

Even though the Government has released information making its position on industrial relation reform reasonably clear, the full details are yet to be released. Outstanding questions to be addressed include:

- How will the arrangements for unions to enter a workplace encourage union membership? Will workers find it easier or harder to make contact with the relevant union in order to join or get help under the new arrangements proposed by the Australian Government?
- How will the proposed changes affect the ability of workers to insist on collective agreements and to get union assistance in the bargaining process? Will the changes make it easier or harder? How do the changes and their intention compare with the relevant ILO standards (see Appendix 2)?
- What protections will be put in place for minimum and award classification wages so as to protect workers in the bargaining process? Will there be an improvement, from the employees' point of view, over (a) the current protections provided by the AIRC processes and (b) the current use of the relevant award as the standard in the bargaining process?
- The Australian Fair Pay Commission (AFPC) will adjust minimum and award classification wages. What parameters will guide when the AFPC adjusts wages? How will this differ from the legislation governing the AIRC, and the way the AIRC has gone about its work? How will the minimum wage adequately support a couple with two children to meet the necessities of living? Will there be a guarantee of set periodical review? Will increases be in line with CPI?
- Will 'systematically employed' casual workers find it easier to secure decent ongoing work?
- What effect will the proposed workplace relations changes, and proposed changes related to 'independent contractors', have on the state and territory legislation intended to protect outworkers? If the proposed changes override this, how will the Australian Government ensure that outworkers in the garment industry are protected? How will the Government distinguish 'sham contracts' from real ones, and how will it ensure that employers do not turn their employees into contractors as a way of avoiding basic responsibilities as employers?
- Would the Government consider the Commonwealth being a signatory to the *International Labour Organisation - C177 Convention concerning Home Work* so as to further protect outworkers within the context of proposed workplace reform (see Appendix 2)?

**THE SENATE EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION REFERENCES
COMMITTEE INQUIRY INTO WORKPLACE AGREEMENTS**

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Preamble

The Uniting Church in Victoria and Tasmania seeks to be a living Christian faith community across Victoria and Tasmania; faithful to God, seeking ways of love, peace and justice for all people. The Synod of Victoria and Tasmania of the Uniting Church in Australia oversees 748 individual churches. After government, the Victorian wing of the church is the largest community services employer in the state. Nationally, the Uniting Church in Australia employs over 70,000 people working in contexts ranging from kindergartens to aged care.

Introduction

This submission recommends that industrial reform should promote human dignity. Minimum standards for work should be in place so that people are not exploited. Government policy should be in line with The United Nations Universal Declaration of Human Rights, which states:

Article 23

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
2. Everyone, without any discrimination, has the right to equal pay for equal work.
3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
4. Everyone has the right to form and to join trade unions for the protection of his [or her] interests¹.

The industrial relations system in Australia has evolved in a way that arguably places priority on what Justice Higgins in the 1907 *Harvester Decision* called “the normal needs of the average employee, regarded as a human being living in a civilised community”². There are currently some significant changes being proposed for the Australian industrial relations area that will potentially undermine this principle. The Prime Minister, John Howard, has stated that the new reforms are based on the concepts of flexibility, freedom and fairness. With regard to flexibility and fairness, the Minister for Employment and Workplace Relations, Kevin Andrews, has agreed with the sentiments of the Business Council of Australia by stating that, “regulatory excess in the name of fairness is misconceived”³. However, reducing the right to pursue a case of unfair dismissal or the loss of payments for redundancy are issues of great concern to the Justice and International Mission Unit. There is a risk that proposed changes to the setting of the minimum wage could reduce the level of future increases granted to vulnerable low-paid workers.

Minister Kevin Andrews has said that the proposed changes to industrial relations are in line with Christian teaching. The Minister has stated, "It's quite clear to me that the ethical core of the Christian thought about employment is the principle that every person who is capable, and wants a job, should have the ability to get a job"⁴.

Australia's international obligations

Through the United Nations system, governments have developed a number of ‘human rights instruments’. The first of these, the Universal Declaration of Human Rights, is a resolution of the United Nations that has considerable moral force, although it is technically not binding on nations. It was the basis for two documents of international law, the International Covenant on Civil and Political Rights, and the International Covenant on Economic Social and Cultural Rights. Over 140 nations have ‘ratified’ each of these covenants, including Australia. Ratification involves taking on the responsibility to implement them in domestic law, and to be accountable to the United Nations for their implementation through a reporting system.

¹ United Nations, 1948, *Universal Declaration of Human Rights*, General Assembly resolution 217 A (III) 10 December, [online], available from: <http://www.un.org/Overview/rights.html> [15 August 2005]

² Plowman, D.H., 1992, *Protectionism and Labour Regulation*, The Proceedings of the XIIIth Conference of the H.R. Nicholls Society at The Terrace Adelaide Hotel 13th-14th November, [online], available from: <http://www.hrnicholls.com.au/nicholls/nichvo13/vol134pr.htm> [15 August 2005]

³ Business Council of Australia, cited by Andrews, K. [The Hon.], 2005, *Speech, Where do we want workplace relations to be in five years time?*, Speech to Committee for Economic Development of Australia, Zinc, Federation Square, [online], available from: <http://www.dewrsb.gov.au/ministersAndMediaCentre/mediacentre/printable.asp?keywords=&title=&creator=Andrews&type=&month=&year=&index=&show=3240> [15 August 2005]

⁴ *Coalition slanging match over IR reforms*, 2005, Sydney Morning Herald [AAP], 31 May, [online], available from: <http://www.smh.com.au/news/National/Coalition-slanging-match-over-IR-reforms/2005/05/31/1117305615188.html> [15 August 2005]

Australia's international obligations (continued)

In addition, there is the International Labour Organisation (ILO), to which Australia belongs. It is tripartite in the sense that employers, workers (unions) and governments attend meetings and participate in decision-making. The ILO sets international labour standards in the form of conventions on particular matters (see Appendix 2).

Australia is a signatory to many of these conventions, and is accountable to the ILO for fulfilling its obligations under those conventions. The ILO has, for example, raised questions about the Workplace Relations Act of the Commonwealth Government.

Because this earth comes from God, and because all human beings are equally valuable, everyone has the right to the basic necessities of life. We understand that a nation will only function well when it is based on both human rights, and the responsibility of all to respect those human rights. The international human rights instruments are not perfect, but they are the closest thing the world has to natural law, i.e. an understanding that is common to people regardless of nation, race, culture or religion. Work is the primary way in which people provide for their basic survival needs. The human rights instruments include very clear statements about the rights of workers to decent wages and working conditions, and to the right to organise and to strike to obtain these. All employers have a responsibility to respect those rights in their employment practices.

The position and actions of the Uniting Church in Australia

This Judeo-Christian tradition calls for the respect of the dignity of each person and to defend the most vulnerable in our society. It is not a matter of just finding work. The work needs to consist of decent conditions and adequate remuneration to allow an individual to comfortably live and to fully support any family dependents. Biblical basis for such an opinion can be found in Malachi 3:5, where the Lord speaks against those who oppress the hired workers in their wages. Similarly, in the Letter of St. James 1-6, those who make profit at the expense of workers are severely condemned. St. Ambrose of Milan (339-397) spoke of the need for generosity by saying “be rich then, but towards the poor, so that as they share in your nature they may also share your goods”⁵. St. John Chrysostom (347-407), spoke consistently for equity and justice for the poor. St. John did not speak against profit per se, but pleaded for redistribution of it by saying. “...make the poor sharers with you, and become a good steward of the things God has given you”⁶. Later, in the reformed tradition, John Calvin (1509-1564) stated (when discussing the issue of usury), “the common society of the human race demands that we should not seek to grow rich by the loss of others”⁷. Profits should be fairly distributed to those who labour.

The Uniting Church in Australia position on industrial relations is consistent with that of other churches. Catholic Social Teaching, for example, has, for over 100 years, recognised the importance of preventing exploitation of workers. In the 19th century, Pope Leo XIII was already aware of the dangers of ‘individual contracts’ due to the unequal power relations between employer and employee, when he stated that, “If through necessity or fear of a worse evil the workman accept harder conditions because an employer or contractor will afford him no better, he is made the victim of force and injustice”⁸. In 1991 Australian Catholic Bishops made a statement about unemployment which asserted:

Work is the key to building a just society. That is why teachings about work and the rights and duties of workers and employers have been central to the teaching of the Church about social justice...The Catholic Church has never accepted the view that reduces human labour to a commodity, to be bought or sold - or not - merely according to the laws of supply and demand.⁹

⁵ Ambrose of Milan [St.], *Three Books Concerning Virgins*, To Marcellina, His Sister, Book I, [online], available from: <http://www.ccel.org/ccel/schaff/npnf210.iv.vii.ii.viii.html> [15 August 2005]

⁶ Chrysostom, J. [St.], *Homily LXVI*, 3. cited in Phan, P.C., 1984, *Social Thought, Message of the Fathers of the Church*, Michael Glazier Inc. Delaware, Pg. 144

⁷ Calvin, J., 1509-1564, *Harmony of the Law*, Volume 3, Exodus 22, Exodus 22:25, [online], available from: http://www.ccel.org/c/calvin/comment3/comm_vol05/htm/v.i.x.htm [15 August 2005]

⁸ Leo XIII [Pope], 1891, *Rerum Novarum* - On Capital and Labor, [encyclical], [online], available from: <http://www.catholic-forum.com/saints/pope0256e.htm> [15 August 2005]

⁹ Australian Catholic Bishops Conference, 1991, *Statement about unemployment* cited in National Council of Churches in Australia Social Justice Network, 2005, *A Briefing Paper, Workplace Relations Policy*, [online], available from: http://www.ncca.org.au/departments/social_justice_network/documents_and_statements/workplace_relations_-_briefing_document_2005 [15 August 2005]

The position and actions of the Uniting Church in Australia (continued)

Members of the World Council of Churches including the Uniting Church in Australia, Anglican, Catholic and Orthodox churches, and the churches of the Methodist and Reformed traditions, support the international human rights instruments in relation to industrial relations (see Appendix 2). Please consult Appendix 1 for key statements and resolutions stating the position of the Uniting Church in Australia in relation to industrial relations.

The church understands that human beings live in an interdependent community. Such a community requires reciprocal relationships which are based on respect and equity of power. Being part of a community carries responsibilities. It is inconsistent with a sense of community for a group with power to impose obligations on people without power. The church is therefore sensitive to the unequal power relationship between employer and employee. This leads the church to recognise the need for collective bargaining, awards, and legislation to protect the interests of workers.

The Uniting Church in Australia actively encourages its members to join the appropriate union or professional association. The church encourages people who work for the church to join a union and to be represented by a union in all industrial negotiations.

The Uniting Church values families, children and the parenting role. The church believes that children are a gift from God, and that society and employers have a responsibility to support and protect families and family life. This leads us to believe that employers should have family-friendly policies. This means that Government policy must be rigorously evaluated for its impact on people who are poor, disadvantaged and marginalised.

In 2003, the Seventh Assembly of the Uniting Church in Australia adopted a resolution - *A Call for Justice Concerning Employment*¹⁰. The resolution states that moves towards modes of more flexible employment need to be made in a framework that ensures an adequate income and decent, safe working conditions. It is important that state and federal governments pursue policies, which facilitate rather than hamper small businesses. However, business has a responsibility to choose options, which minimise negative social impacts. When business abandons this responsibility, employees can suffer as is illustrated by the following quote.

“They're going to cut down the overtime and a couple of the conditions are going to change ... The conditions are unfair for us, I think. It is better for them than us ... I don't really want to sign it, but to have a job if I have to sign it, I might have to sign it”¹¹.

(Warehouse workers at a stationery store warehouse in Sydney June 2005)

The Uniting Church believes that it is not appropriate or necessary that Australian competitiveness be based on low wages, poor working conditions and insecure employment. When people exist on low wages, they cannot afford to purchase goods and services. People can be forced to work longer hours, or to have a second worker in the family simply to make ends meet. Greater numbers of casual rather than permanent jobs being created leads to a sense of insecurity where people find it harder to plan for a decent future for themselves and their families.

Recent statements from the Christian Churches

Reverend Elenie Poulos, National Director of UnitingJustice, has criticised the proposed changes, "we must remember that the purpose of a strong economy is to help Australians access secure and equitable standards of living"¹². Reverend Poulos is “concerned for the well-being of the increasingly high numbers of people in casual employment, especially women”¹³, she stated.

¹⁰ National Assembly of the Uniting Church in Australia [Seventh Assembly], 1994, *A Call For Justice Concerning Employment*, [online], available from: <http://nat.uca.org.au/unitingjustice/transformingsociety/economicsforpeople/> [15 August 2005]

¹¹ *Low-paid workers concerned about IR reforms*, [reporter: Ewart. H.], 2005, [transcript of television program], Australian Broadcasting Corporation, 2005, 2 June, [online], available from: <http://www.abc.net.au/7.30/content/2005/s1383415.htm> [15 August 2005]

¹² National Assembly of the Uniting Church in Australia, 2005, *Industrial Relations Reforms set to Hurt Workers*, [media release], 26 May, [online], available from: <http://nat.uca.org.au/news/mediareleases/2005/release260505.htm> [15 August 2005]

¹³ Ibid.

Recent statements from the Christian Churches (continued)

This year, Pope Benedict XVI affirmed the Encyclical of Pope John Paul II¹⁴, *Laborem Exercens*, as a work that should be read by young people so as to inform the advancement of conditions for workers consistent with the principle of respect for human dignity. *Laborem Exercens* sets out strong arguments for an industrial relations system which places priority on “worker’s rights, since the rights of the human person are the key element in the whole of the social moral order”¹⁵. The Catholic Bishop of Parramatta, Kevin Manning, has echoed these sentiments in a letter published in *Catholic Outlook*¹⁶. He says the proposed policies would perpetuate an existent unequal employment relationship between worker and employer where unscrupulous employers can be unfairly protected by Government legislation.

The new Anglican Primate, Archbishop Phillip Aspinall has spoken about the Christian commitment to the poor, “the key principle the church would want to defend is proper protection for the weakest and most vulnerable in our community ... that is a prime value of the Judeo-Christian tradition, one that rings through the prophets and the Gospel”¹⁷. In particular the new Primate is concerned about change to unfair dismissal laws, “the purpose of unfair dismissal laws is to prevent unfair dismissals. If a change there means we’re going to allow unfair dismissals - that is, expose vulnerable people to unfairness - that is a real concern, not only to the churches but the whole community”¹⁸.”

The FairWear campaign

The Uniting Church in Australia Synod of Victoria and Tasmania has a long standing commitment to the rights of vulnerable workers in the clothing industry. In particular, the church has focussed on the situation for outworkers in Australia.

The FairWear campaign, involving Uniting Church members, was active in 1998 to defend award conditions for homebased workers against changes intended by the Federal Government at that time. The Industrial Relations Commission upheld that the outworker clauses in the Federal Clothing Award should be kept intact. Campaigners saw this as a victory for vulnerable workers.

In 2000 the Synod passed a resolution to support the FairWear campaign (see Appendix 1). The church called for all apparel and footwear manufacturers to *comply with a code of practice, require all their contractors and subcontractors pay their employees a living wage, and respect the right of all employees to join a trade union*. The role of trade unions was affirmed with reference to international human rights standards (see Appendix 2). Also in 2000, the FairWear campaign initiated research on the plight of Outworkers (see Appendix 3 and 3.1). This is still the only research of its type undertaken in Australia.

The FairWear campaign has been successful in persuading some Australian manufacturers and retailers to sign the Homeworkers Code of Practice.

¹⁴ Benedict XVI [Pope], 2005, [statement], REGINA CÆLI St Peter's Square 6th Sunday of Easter, 1 May cited in National Council of Churches in Australia Social Justice Network, 2005, *A Briefing Paper, Workplace Relations Policy*, [online], available from: http://www.ncca.org.au/departments/social_justice_network/documents_and_statements/workplace_relations_-_briefing_document_2005 [15 August 2005]

¹⁵ John Paul II [Pope], 1981, *Laborem Exercens* – On Human Work, [encyclical], 14 September, [online], available from: <http://www.ewtn.com/library/ENCYC/JP2LABOR.HTM> [15 August 2005]

¹⁶ Manning, K. [Bishop], 2005, *The Bishop's Letter*, Catholic Outlook, June, [online], available from: <http://www.parra.catholic.org.au/Bishop/Letters-Arch/05june-letters.htm> [15 August 2005]

¹⁷ West, A., 2005, *Anglican leader joins the IR fight*, The Australian, July 11, available from:

http://www.theaustralian.news.com.au/common/story_page/0,5744,15887124%25E2702,00.html [15 August 2005]

¹⁸ Ibid.

The FairWear campaign (continued)

The Victorian Government in 2003 introduced the *Victorian Outworkers (Improved Protection) Act* which has provided for more protections for these vulnerable workers. When outworkers agree to be ‘independent contractors’, manufacturers can pay them below the minimum wage because the worker becomes his or her own ‘business’. Even though it has been difficult to enforce, the *Victorian Outworkers Act* ensures that these people should be paid a minimum wage, whatever an employer calls them. Despite this, the Ethical Clothing Trades Council¹⁹ found a disturbing lack of compliance by some Victorian companies in meeting the minimum levels of lawful entitlements of clothing outworkers as set out in the Act. In response, in June this year, the Victorian Government announced their intention to implement a *mandatory code of practice* similar to regulations already in place in NSW.

FairWear uncovers experiences such as these recounted by outworkers (see Appendix 3.1):

“I begin work at 8.30am each day and I stop working at around 12.30am [after midnight ... and] my life is quite normal [for an outworker].”
“After school I go down to the garage to help my parents [sew] until dinner time ... we continue our work till about 9pm. I juggle schoolwork while I do sewing. ... Sometimes I have to skip school because I can’t get up.”
“I am sewing skirts for a high fashion label. I receive \$6 per skirt and I take more than one hour to complete each garment. I am pretty fast, so other women take longer ... the retail price is \$230.”

The Government is looking at the issue of independent contracting which could override ‘deeming provisions’. These provisions make it more difficult for employers to enter into ‘sham’ arrangements with their employees by deeming them independent contractors. This could reverse some of the positive changes outlined above.

The Justice and International Mission Unit is hopeful that the Commonwealth Government will hear the voices of outworkers (please consult Appendix 3.1) and ensure adequate safeguards are in place for these workers when legislative changes take place in the area of workplace relations. The clauses of the Federal Clothing Award (1999) that cover outworkers should remain in place and not be able to be undermined by new arrangements pertaining to individual contracts or independent contractors. All protections for outworkers in the area of ‘deeming’ should be safeguarded.

Further issues of concern

The end of the award system?

Currently, 1.6 million Australians rely on the award system. John Buchanan from the University of Sydney School of Business has stated that in about two years time the changes to the industrial relations framework will “wipe out” the award system²⁰. This could have ramifications for some of the most vulnerable workers in our community, such as people who work from home or people whose first language is not English.

Reduction of union contact with workplaces and bargaining rights

Unions need access to workplaces so that they can adequately liaise with members (and potential members), negotiate agreements and independently assess health and safety conditions. The proposed industrial relations changes will require written notice of union visits. Union recruitment visits will only happen once every 6 months. Managers will be able to restrict where unions meet and monitor discussions. This means that vulnerable workers could be too scared to ask for assistance from their union, as the manager will be able to ‘listen in’. Of course employers who do not treat their employees with respect will be the least likely to welcome scrutiny from unions.

¹⁹ Ethical Clothing Trades Council of Victoria, 2004, *12 Month Report*, [online], available from: [http://www.irv.vic.gov.au/CA256EF9000EB8A3/WebObj/332BC39C68F5407CCA256FCE0016683F/\\$File/Ethical-Clothing-Trades-Council-Report-final.pdf](http://www.irv.vic.gov.au/CA256EF9000EB8A3/WebObj/332BC39C68F5407CCA256FCE0016683F/$File/Ethical-Clothing-Trades-Council-Report-final.pdf) [15 August 2005]

²⁰ *Low-paid workers concerned about IR reforms*, [reporter: Ewart. H.], 2005, [transcript of television program], Australian Broadcasting Corporation, 2005, 2 June, [online], available from: <http://www.abc.net.au/7.30/content/2005/s1383415.htm> [15 August 2005]

The working poor – protection for the most vulnerable workers at risk (with reference to the New Zealand experiment)

It is feared that the changes to the new industrial relations framework will gradually move Australia towards a system which will lead to greater numbers of 'working poor'. Already in Australia there are vulnerable workers such as outworkers who make clothes at home for an average hourly rate of \$3.60 and work up to 7 days per week²¹ (see Appendix 3). Requirements for employers to register with the industrial relations commission to provide records of where they send work to, and what they are actually paying outworkers, could be at risk - leading to greater exploitation in the industry through a lack of accountability.

In New Zealand, similar workplace reforms to ones proposed by the Federal Government were introduced in the 1990s. The Prime Minister John Howard has made positive reference to these reforms²².

The New Zealand Employment Contracts Act (ECA) was introduced in 1991 and repealed in 1999. According to Russell Lansbury, the Associate Dean (Research) in the Faculty of Economics and Business and Professor of Work and Organisational Studies in the School of Business at the University of Sydney, and Braddon Ellem also from the University of Sydney:

.... if we compare Australia and New Zealand pre-1996, we see that Australia, with its collectivist industrial relations, had substantially higher productivity growth than New Zealand with its non-award, individualised system. Productivity in the two countries had been similar before this²³.

A study on the pay rates for low-paid supermarket workers in New Zealand found that real wage rates dropped by 11% between 1987 and 1997²⁴. There was a 33% real pay cut for those relying on weekend employment²⁵. A checkout supervisor at a supermarket summed up the impact of the ECA on workplaces:

As soon as the Employment Contracts Act came in everything changed in this place and we were told – now he'd do it his way. First he got rid of the union, and some were threatened that if they belonged to the union they would be down the road. The contracts were never negotiated. We were called in one by one and given this printed document with a place to put your signature. Some of the young ones were not allowed to take their contracts home for their parents to read. The first year all of us who already worked there got penal rates. As people left or were sacked, the new ones went on to a flat rate with no set amount – they were all getting different wages. Within a year there was a 90% rollover of staff²⁶.

The impact of the ECA on New Zealand²⁷:

- In 1990 the minimum pay and conditions of over 700,000 New Zealand workers was determined by an award or collective agreement. By the year 2000 that number had nearly halved to around 400,000;
- The state-set minimum wage moved 14% during the ECA, while inflation rose 18%;
- Median incomes for those in the 15-25 year age group fell from \$14,700 to \$8,100 between 1986 and 1996;
- The quality of jobs lowered - from 1991 to 1999 growth in full-time employment was 15.5% compared to 36% for part-time jobs, including part-time jobs of as little as one hour a week;
- The level of underemployment (those in part-time work seeking more hours or full-time work), trebled between 1990 and 2000;
- While labour productivity growth from 1993 to 1998 averaged 0.5%, Australia averaged 3.2% in the same period; and,
- Food-banks in Auckland alone grew from 16 in 1990 to 130 in 1994.

²¹ Cregan, C., 2001, *Home Sweat Home report on outworkers in the textile industry in Melbourne*, Department of Management, University of Melbourne, Victoria

²² Howard outlines economic need for IR changes, 2005, ABC Online News, 12 July, [online], available from: <http://www.abc.net.au/news/newsitems/200507/s1411910.htm> [15 August 2005]

²³ Ellem, B. and Lansbury, R., 2005, *Tough times ahead as proposed workplace reforms miss the boat*, 1 July, [online], available from: <http://www.onlineopinion.com.au/view.asp?article=3616> [15 August 2005]

²⁴ McIntyre, L., 2005, *The Failed New Zealand IR Experiment - Lessons for Australia*, May, [online], available from: <http://www.ieu.asn.au/campaigns/general/201.html> [15 August 2005] [with some material drawn from Robyn May, formerly senior research fellow at Victoria University of Wellington's Industrial Relations Centre during 2001-2004, now at RMIT, May 2005]

²⁵ Ibid.

²⁶ Ibid.

²⁷ Ibid.

The capacity for employers and employees to genuinely choose and bargain

The issue of the capacity for employers and employees to genuinely choose and bargain is a key issue that is dealt with throughout this submission.

Sometimes, employers seek exemption from normal labour standards by converting existing employees into being 'independent contractors' or by hiring new employees on this basis. Recently in Dandenong, Victoria, automotive workers, who were mostly female migrant workers, were told by the company they work for, Kemalex Plastics, to become 'individual contractors' (i.e. individual 'businesses'), which would have resulted in a loss of annual leave, superannuation, sick leave and public holidays. With the support of their union the workers were able to resolve this matter.

When faced with such dilemmas it is important for employees to have the free choice to refuse employment on such a basis. For this to happen, the Government needs to put in place strong protections for such vulnerable workers. There should also be full recognition to the role of trade unions to address power imbalances when conflict arises.

Similarly, when workers are requested to move from a collective agreement to an individual Australian Workplace Agreement they should be given the choice to refuse. Recently, mushroom farmers in Merbein were able to refuse an arrangement that would have caused serious disadvantage. The trade union representing these workers got in contact with the Office of the Employment Advocate (OEA) to successfully resolve the matter in the interests of the workers, stating that loss of pay for the workers offered by the employer would have unfairly been up to \$125 a week²⁸. It appears that the reforms proposed by the Federal Government will result in less power for the OEA to intervene in such matters due to the unjust loss of the 'no disadvantage test'.

As workers move job or enter into bargaining at their own workplace, there will no longer be a guarantee of *no disadvantage* when compared to the award. This provides the legal framework for the reduction of take-home pay and loss of employment benefits for many employees. Full compensation for the disadvantage of working long, unsocial hours on the weekend, on public holidays or at night should be guaranteed.

An expanded response to the key changes

The four key planks of the changes are:

- individual rather than collective agreements being the norm;
- the loosening of federal unfair dismissal laws;
- weakened job security; and,
- the minimum wage decision-making process.

In the future, due to the proposed removal of the 'no disadvantage test', workers signing on to individual contracts (Australian Workplace Agreements) will not have as many of their conditions protected. It appears that conditions such as skill-based pay rates, bonuses, overtime rates, penalty rates, shift loadings, weekend and public holiday loadings, casual loadings, all allowances, redundancy pay, annual leave loading, minimum notice for changes to roster and reimbursement of expenses will no longer be secure. Furthermore, it appears that workers in enterprises employing less than 100 people who refuse to sign such agreements will not be able to challenge loss of such benefits outside of a costly legal battle in the courts. Minister Kevin Andrews has countered these arguments by stating that employers will not be able to coerce or apply duress on an employee in connection with an individual contract. However, it is not duress to make an individual contract a condition of employment, even where the job applicant has no other prospect of finding work. Also, the Full Court of the Federal Court has noted that an employer may lock an employee out (stop them coming to work) in order to convince them to sign an individual contract.

²⁸ Robinson, P., 2005, *Wage slaves and unions face an uphill struggle*, The Age, 19 May, [online], available from: <http://www.theage.com.au/news/Business/Wage-slaves-and-unions-face-an-uphill-struggle/2005/05/18/1116361613248.html> [15 August 2005]

Individual contracts (Australian Workplace Agreements)

The Office of the Employment Advocate has advised the Justice and International Mission Unit that about 5.4% of workers wages and conditions are codified in Australian Workplace Agreements.

Workers have been reluctant to move towards such an individualised framework. Employers have had no incentive to change arrangements because of the current 'no disadvantage test' which ensures the agreements do not undercut existing conditions. However, all of this is set to change.

It appears that in the future workers will not have a choice if the employer requires an existing worker who enjoys award/collective agreement conditions to go on to an individual contract. It will be easier to 'offer' an agreement as a condition of getting a job, pay rise, promotion or to even avoid being made redundant. In relation to this, collective agreements will also be able to undercut award conditions. Furthermore, if some employers gain competitive advantage from the introduction of lesser conditions it stands to reason that employers offering conditions above the minimum could be forced to consider 'lowering the bar' as well.

Funding from the Federal Government for a range of educational and community services could be calculated on the basis of individual contracts being implemented. The ACTU has claimed that \$1.5 billion of federal funding for TAFE's and universities is contingent on the introduction of such contracts. Workers in the tertiary education sector are worried that paid maternity leave will be lost.

Unfair dismissal

Employers with less than 100 workers will be made exempt from unfair dismissal laws. Presently, a worker can refuse unreasonable requirements such as not being paid overtime or imposition of shifts without proper notice. Unfair dismissal laws are designed to reduce incidents of bullying and harassment in the workplace so that work relationships can be more cooperative rather than coercive. These changes would give fewer rights to those in small-medium sized businesses compared to those in larger businesses. This is clearly unfair.

Prime Minister John Howard has cited studies that have found that removal of protection against unfair dismissal will result in small-medium businesses creating 50-70,000 jobs. However, Associate Professor of Business and Economics at Monash University, Rowena Barrett, has stated that these claims are unproven²⁹.

The claim of an employment boost has also been challenged by a recent credible survey by *D&B Australasia*³⁰ of 1200 Australian business owners and executives on business expectations. It is notable that this research was completed after the proposed changes to industrial relations were announced. When business was questioned about the impact of the changes to unfair dismissal laws, more than 80% said that the changes would have little or no impact on their intention to hire new staff.

Introduction of these changes may also have unintended negative consequences. For example, greater competition and the introduction of the exemption from unfair dismissal laws of businesses with under 100 workers could result in large firms creating small subsidiaries or to hire more casuals. Additionally, in *Online Opinion*, workplace relations solicitor Irfan Yusuf³¹ stated that there will be incentives for workers to pursue unfair dismissal cases in new ways such as 'unfair contract' provisions available in industrial relations acts in most Australian jurisdictions.

Some have argued that the current unfair dismissal laws place an unfair burden on businesses. However, teaching fellow at Ballarat and Swinburne Universities, John Legge, has noted that the number of claims by workers is small, and that under the present system redundancy cannot be challenged and costs related to redundancy do not have to be more than eight weeks wages³².

²⁹ Robinson, P., 2005, *You're fired!*, The Age, 4 June, [online], available from: <http://www.theage.com.au/news/General/Youre-fired/2005/06/03/1117568377557.html> [15 August 2005]

³⁰ D&B National Business Expectations, 2005, July, [online], available from: http://www.dnb.com.au/pdfs/bex/bes_july_2005.pdf [15 August 2005]

³¹ Yusuf, I., 2005, *Lawyers will turn Howard's industrial nirvana into employer hell*, 2 June, [online], available from: <http://www.onlineopinion.com.au/view.asp?article=3517> [15 August 2005]

³² Legge, J., 2005, *New laws will give employees a choice: the minimum wage or the sack*, Sydney Morning Herald, 2 June [online], available from: <http://www.smh.com.au/news/Opinion/New-laws-will-give-employees-a-choice-the-minimum-wage-or-the-sack/2005/06/01/1117568257970.html> [15 August 2005]

Individual contracts (Australian Workplace Agreements)

In a recent article in *The Age*³³, it was noted that in 1996 there were 21,200 unfair dismissal claims made but by 2003 this figure had reduced to 15,200. 15,200 people is a very small amount if we consider that the Australian Bureau of Statistics reports that there are currently 9,981,900 people employed in Australia.

There is no doubt an employer can abuse his or her power over others in the workplace. Likewise, there will be some employees who make vexatious claims with regard to his or her termination of employment. However, this is not a sufficient reason to discard unfair dismissal laws. This is tacitly admitted by the retention of unfair dismissal laws for workplaces with over 100 people. The Justice and International Mission Unit is concerned that without the protection of accessible recourse for unfair dismissal that some employees will not have their cases justly heard. Take for example the plight of Mandy Holland³⁴, who won an unfair dismissal action in the NSW Industrial Relations Commission. Under the new workplace changes her case would not have been heard. Ms. Holland was employed by a firm subcontracted by a local government. Ms. Holland, was dismissed from her employment because she undertook duties consistent with her position description. Ms. Holland properly cautioned a child to a safe distance away from a pond. The grandmother of the child objected to this, and successfully used her influence to remove Ms. Holland from her position. The contract of the firm was up for review and the grandmother used her relationship with influential local councillors. The NSW Industrial Relations Commission found that her dismissal was unfair and awarded her damages, as she did not feel comfortable going back to her old job.

Weakened job security

Presently, those 'systematically employed' casual workers, who habitually perform the same hours of work every week, find it hard to secure decent conditions and to challenge unfair dismissal. According to recent research by 17 leading academics and coordinated by the University of Sydney³⁵, the proposed changes to industrial relations will lead to an environment conducive to an increase of the already high level of casual workers in Australia. The study states that, "casual work has negative effects on gender equality, and the development of skills, it provides workers no security to plan for the future let alone plan for retirement, and contributes to a wider degrading of wages and conditions"³⁶.

Setting the minimum wage

A 'Fair Pay Commission' is set to replace the Australian Industrial Relations Commission (AIRC). Industrial law barristers Adam Hatcher and David Chinn have stated that if Government recommendations about the minimum wage had prevailed since 1997 in the AIRC, that minimum-wage workers would be worse off by \$44 a week³⁷. As is stressed in the following quote by the Australian Catholic Commission for Employment Relations, it is important that the idea of a 'living-wage' is maintained where a full-time worker is able to cover housing, food, transport, utilities, appropriate medical care, with some left over for recreation for themselves (and his or her family):

...the minimum wage must be sufficient to enable one parent to be in the paid workforce and for the couple to be able to support two children and achieve an acceptable standard of living. Clearly, this is far from the case at the moment. The best available evidence reveals that a couple with two children relying on a minimum wage of \$467.40 per week (and after tax and government benefits) would be struggling to meet the very necessities of living³⁸.

³³ Robinson, P., 2005, *You're fired!*, *The Age*, 4 June, [online], available from: <http://www.theage.com.au/news/General/Youre-fired/2005/06/03/1117568377557.html> [15 August 2005]

³⁴ Bachelard, M., 2005, *Guard sacked for doing her job*, *The Australian*, 7 July, [online], available from: http://www.theaustralian.news.com.au/common/story_page/0,5744,15847911%25E2702,00.html [15 August 2005]

³⁵ Lansbury, R. [Prof.], (ed.), 2005, *The Federal Government's Industrial Relations Policy: Report Card on the Proposed Changes*, Work & Organisational Studies, Faculty of Economics and Business, The University of Sydney, June, [online], available from: <http://www.econ.usyd.edu.au/wos/IRchangesreportcard/> [15 August 2005]

³⁶ *Ibid.*

³⁷ Hatcher, A. and Chin, D., 2005, *Labouring under an illusion of workplace reform*, *Sydney Morning Herald*, 3 June, [online], available from: <http://www.smh.com.au/news/Opinion/Labouring-under-an-illusion-of-workplace-reform/2005/06/02/1117568316664.html> [15 August 2005]

³⁸ Australian Catholic Bishops Conference, 1991, *Statement about unemployment* cited in National Council of Churches in Australia Social Justice Network, 2005, *A Briefing Paper, Workplace Relations Policy*, [online], available from: http://www.ncca.org.au/departments/social_justice_network/documents_and_statements/workplace_relations_-_briefing_document_2005 [15 August 2005]

Setting the minimum wage (continued)

In 1999 the United Kingdom National Minimum Wage was introduced. Minimum wages were initially set at £3.60 per hour and later increased to £4.10 in 2001. There was much debate at the time of introduction about whether this would have a negative impact on employment. However, a recent study has concluded that no negative employment effects have occurred due to this policy³⁹.

Currently, pension benefits for retirees in Australia are indexed in line with the Consumer Price Index (CPI). To allay any concerns about a future 'wage freeze', at the very least there should be a guarantee that minimum wages also be indexed to the CPI.

Unemployment needs to be countered - but not by creating jobs that provide a low wage, offer poor working conditions and are not secure.

Is there a practical need for change?

Cardinal George Pell has recently said, "We've had a long period of prosperity in Australia and I think that means that the necessity for radical change needs to be established"⁴⁰.

Does there really need to be such change to the system? Employment has grown by 1.5 million jobs since 1996. The latest unemployment figures are on a 29-year low. Over the last decade Australian productivity has increased and industrial disputes have decreased. This is despite the increases to the minimum wage over this time and the current unfair dismissal laws, which have been in place since 1994.

Any reform to the Australian industrial relations system needs to protect the rights of low-income working people in times of economic growth, as well as downturn.

Conclusion

In 1999 the churches made a number of statements in response to mooted industrial relations reforms. These statements are still relevant today.

Reducing unemployment requires both a clear ethical starting point and good economic and social policies⁴¹.

There is no one single action that will reduce unemployment. There is, however, one key proposal to avoid - the low wage solution.⁴²

With low inflation and a budget surplus, Australia has the opportunity to focus employment policy on employment growth. The policy of relying on economic growth and increased labour market flexibility as the principal means of reducing unemployment is flawed⁴³.

The Justice and International Mission Unit is concerned about upholding the dignity and wellbeing of all people. It supports an industrial relations system that seeks to restrain parties from engaging in exploitative and unethical behaviour, whether they are employers or employees. The Justice and International Mission Unit is concerned that the proposed changes to the industrial relations system will unfairly disadvantage vulnerable workers, leaving them open to exploitation.

³⁹ Stewart, M.B., 2004, *The Employment Effects of the National Minimum Wage*. Economic Journal, Vol. 114, No. 494, Pg. C110, March

⁴⁰ Pell comments reflect wider IR concerns: Labor, 2005, Sydney Morning Herald [AAP], 2 July, [online], available from: <http://www.smh.com.au/news/national/pell-comments-reflect-wider-ir-concerns-labor/2005/07/02/1119724842962.html> [15 August 2005]

⁴¹ McClelland, A., 1998, *Ten steps towards full employment*, Brotherhood of St Laurence cited in A Briefing Paper, Workplace Relations Policy, National Council of Churches in Australia Social Justice Network, 15 June 2005, cited in National Council of Churches in Australia Social Justice Network, 2005, *A Briefing Paper, Workplace Relations Policy*, [online], available from: http://www.ncca.org.au/departments/social_justice_network/documents_and_statements/workplace_relations_-_briefing_document_2005 [15 August 2005]

⁴² Ibid.

⁴³ Anglican Bishops, 1998, [statement], *Unemployment, a key issue of the '98 election*, 20 September, [In support they quote Professor Bob Gregory] cited in National Council of Churches in Australia Social Justice Network, 2005, *A Briefing Paper, Workplace Relations Policy*, [online], available from: http://www.ncca.org.au/departments/social_justice_network/documents_and_statements/workplace_relations_-_briefing_document_2005 [15 August 2005] [In support they quote Professor Bob Gregory]

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Appendix 1 - Uniting Church Policy Statements

Commitment to justice and human rights

The Inaugural Assembly of the Uniting Church in Australia (1977) set an ongoing agenda in social justice advocacy and practice, in its Statement to the Nation. This was expanded in the 1988 Assembly Statement to the Nation, which included the following paragraphs:

In co-operation with all fellow Australians of goodwill, we are committed to work for justice and peace, calling for honesty and integrity, encouraging tolerance and compassion, challenging acquisitiveness and greed, opposing discrimination and prejudice, condemning violence and oppression and creating a loving and caring community.

We are conscious of conflicts and tensions within the nation and the world. We deplore the divisions of humanity along racial, cultural, political, economic, sexual and religious lines. In obedience to God, we struggle against all systems and attitudes which set person against person, group against group, or nation against nation

We recognise a widening gap between the rich and the poor, not only within Australia, but within the whole human community. We will strive to uphold the rightful claims of the poor on the resources of this nation and the world. We will seek to identify and challenge all social and political structures and all human attitudes which perpetuate and compound poverty.

The Sixth Assembly of the Uniting Church (July 1991) passed the following resolution of significance to industrial relations:

That, recognising the importance of trade unions, professional associations, and employer organisations in the overall democratic process in society, and acknowledging that in the present political, economic and industrial climate, trade unions are under serious threat:

- 1.the role trade unions and professional associations play in protecting those who are weaker in society, and the need for people to stand together in solidarity against injustice be affirmed;
- 2.the need for Christians to express their discipleship in trade unions and professional associations as one way in which church and work life connect and influence each other be affirmed;
- 3.members of the Uniting Church be encouraged to join and be active in the trade union and/or professional association appropriate to their employment;
- 4.synods, Assembly agencies, and other Church bodies be requested to encourage employees to join and be active in an appropriate trade union and/or professional association. [Minute 91.14.18]

The Seventh Assembly (1994) adopted a resolution on unemployment, which included a number of clauses relevant to issues of employment and workers' rights. The first summary principle is:

13.1 Australia should adopt the goal of paid employment for all who seek it, providing adequate income and safe working conditions, in the context of a socially just and ecologically sustainable economy, and adopt appropriate measures to ensure that this goal is met, through the cooperation of government, business and unions.

There should be an active employment policy, with the public sector acting (in addition to its other roles) as employer of last resort, ie providing jobs to those who have been unemployed for a certain time. High levels of unemployment should not be accepted as long as there is useful work which goes undone, and there are people who are overworked. There needs to be commitment to job creation in the business, public and community sectors, in a way consistent with concern for human rights of workers. As work is restructured it should take account of the needs of workers and their families.

[continued over]

Appendix 1 - Uniting Church Policy Statements (continued)

13.14 Unions have a responsibility towards the unemployed, as well as towards their own members. They have a responsibility to ensure that changes in the economy are widely shared, and do not only benefit a small elite of workers. They also have a responsibility to work with government and business in planning for the future in a way which promotes full employment, at adequate wages and conditions, in an ecologically sustainable economy.

13.15 Moves towards more flexible employment such as work-sharing, part-time and casual work need to be made in a framework which ensures workers have adequate income and working conditions.

The Victoria Synod has on record several resolutions that relate to a workplace that is free from discrimination and one that fulfils the objectives of Equal Opportunity. For example:

93.5.1.1-3 The Synod resolved:

- (a) To affirm that persons should not be discriminated against on the basis of their gender, marital status, disability, race or age in matters of employment, education, church membership or access to accommodation and other services provided by the Uniting Church in Australia.
- (b) That all presbyteries, parishes and agencies be advised of the above resolution.
- (c)
 - (i) To support the maintenance of Clause 38 of the Equal Opportunity Act 1984, in order to protect the freedom of religious groups to practise their beliefs.
 - (ii) That the Victorian Government be informed of resolution (i) hereof.

The NSW Synod has similar principles in its 1992 resolution on unemployment.

The NSW Synod family ministry policy includes principles on “family friendly social policy and social institutions”:

Principle 14 - Family ministry will advocate appropriate social policies

The right to establish and maintain a family is a fundamental human right. All institutions in society, businesses, government, community organisations, political parties and the church, have a responsibility to order their lives in ways which do not cause harm to families, and that, where possible, support and nurture families.

Families cannot meet all the needs of their members on their own. Families require adequate income to provide for their needs, and access to the services which their family members need, such as education, health, housing, income support and services in times of difficulty. This implies particular duties for both employers and government...

The 1988 meeting of the NSW Synod also adopted social justice principles (as incorporated into Uniting Care Childrens’ Services Forum Manual)

1. That all members of the community should have an equitable opportunity to participate in the economic, social, cultural and political life of the nation.
2. That all members of the community should have equitable access to, and an equitable share of, the resources which Governments manage on behalf of the community.
3. That all members of the community should have the right, within the law, to enjoy their own language, and should respect the rights of others to their own culture, religion and language.
4. Social Justice moves beyond pre-occupation with narrow economic considerations to a recognition of the fundamental importance of compassion and equity for the well being of the society.
5. Social Justice gives priority in the allocation of Government resources to those groups who are currently most disadvantaged as measured by those principles.

[continued over]

Appendix 1 - Uniting Church Policy Statements (continued)

6. Social Justice focuses on structural change to remove the causes of disadvantage.
7. Social Justice ensures that Government programs and policy, and private enterprise development, do not further disadvantage already disadvantaged groups.

In 2000 the Synod passed a resolution to support the FairWear campaign. The church called for all apparel and footwear manufacturers to comply with a code of practice, require all their contractors and subcontractors pay their employees a living wage, and respect the right of all employees to join a trade union.

9.3 FairWear

To express its support for the FairWear campaign to eliminate exploitation of home-based workers in the apparel and footwear manufacturing industry in Australia.

- (a) To call on all apparel and footwear manufacturers and retailers in Australia:

- (i) to sign and comply with the Homeworkers Code of Practice, endorsed by the Textile, Clothing and Footwear Union of Australia, including accreditation and display of *No Sweat* labels, to ensure that their products are not made through exploitation;
- (ii) to require that all their global contractors and subcontractors pay their employees a 'living wage';
- (iii) to respect the right of all employees to form and join trade unions, in compliance with international human rights standards, and to allow these right to be guaranteed by independent and transparent monitoring.

- (b) To encourage Synod of Victoria agencies, congregations, members and schools to consider, wherever possible, not purchasing apparel and footwear from manufacturers and retailers that are known to be in violation of this resolution.

8. Appendix 2 – International human rights instruments

Universal Declaration of Human Rights

The sections of the Universal Declaration of Human Rights that are relevant to employment issues are:

Article 20

Everyone has the right to freedom of peaceful assembly and association.

No one may be compelled to belong to an association.

Article 23

Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

Everyone, without any discrimination, has the right to equal pay for equal work.

Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

The International Covenant on Civil and Political Rights

Article 22

1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.

2. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.

3. Nothing in this article shall authorise States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organise to take legislative measures which would prejudice, or to apply the law in such a manner as to prejudice, the guarantees provided for in that Convention.

The International Covenant on Economic, Social and Cultural Rights

Article 6

1. The States Parties to the present Covenant recognise the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

2. The steps to be taken by a State Party to the present Covenant to achieve the full realisation of this right shall include technical and vocational guidance and training programs, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual. [Continued over]

Appendix 2 – International human rights instruments (continued)

Article 7

The States Parties to the present Covenant recognise the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

- (a) Remuneration which provides all workers, as a minimum, with:
 - (i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;
 - (ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;
- (b) Safe and healthy working conditions;
- (c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;
- (d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays

Article 8

1. The States Parties to the present Covenant undertake to ensure:

- (a) The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organisation concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;
- (b) The right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organisations;
- (c) The right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;
- (d) The right to strike, provided that it is exercised in conformity with the laws of the particular country.

2. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces or of the police or of the administration of the State.

3. Nothing in this article shall authorise States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organise to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that Convention.

Appendix 2 – International human rights instruments (continued)

International Labour Organisation (ILO) Convention 87 (adopted 1948)

Considering that the Preamble to the Constitution of the International Labour Organisation declares "recognition of the principle of freedom of association" to be a means of improving conditions of labour and of establishing peace; Considering that the Declaration of Philadelphia reaffirms that "freedom of expression and of association are essential to sustained progress"; adopts ... the following Convention, which may be cited as the Freedom of Association and Protection of the Right to Organise Convention, 1948:

PART I. FREEDOM OF ASSOCIATION

Article 1

Each Member of the International Labour Organisation for which this Convention is in force undertakes to give effect to the following provisions.

Article 2

Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation.

PART II. PROTECTION OF THE RIGHT TO ORGANISE

Article 11

Each Member of the International Labour Organisation for which this Convention is in force undertakes to take all necessary and appropriate measures to ensure that workers and employers may exercise freely the right to organise.

ILO Convention 98 (adopted 1949)

Article 1

1. Workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment.
2. Such protection shall apply more particularly in respect of acts calculated to
 - (a) make the employment of a worker subject to the condition that he shall not join a union or shall relinquish trade union membership;
 - (b) cause the dismissal of or otherwise prejudice a worker by reason of union membership or because of participation in union activities outside working hours or, with the consent of the employer, within working hours.

Article 3

Machinery appropriate to national conditions shall be established, where necessary, for the purpose of ensuring respect for the right to organise as defined in the preceding Articles.

Article 4

Measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilisation of machinery for voluntary negotiation between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of *collective agreements*.

Appendix 2 – International human rights instruments (continued)

*International Labour Organisation - C177 Home Work Convention, 1996, Convention concerning Home Work
[Not ratified by the Commonwealth of Australia]*

Article 4

1. The national policy on home work shall promote, as far as possible, equality of treatment between homeworkers and other wage earners, taking into account the special characteristics of home work and, where appropriate, conditions applicable to the same or a similar type of work carried out in an enterprise.
2. Equality of treatment shall be promoted, in particular, in relation to:
 - a) the homeworkers' right to establish or join organizations of their own choosing and to participate in the activities of such organizations;
 - b) protection against discrimination in employment and occupation;
 - c) protection in the field of occupational safety and health;
 - d) remuneration;
 - e) statutory social security protection;
 - f) access to training;
 - g) minimum age for admission to employment or work; and
 - h) maternity protection.

Article 7

National laws and regulations on safety and health at work shall apply to home work, taking account of its special characteristics, and shall establish conditions under which certain types of work and the use of certain substances may be prohibited in home work for reasons of safety and health.

Article 10

This Convention does not affect more favourable provisions applicable to homeworkers under other international labour Conventions.

Appendix 3 - Summary of research findings "Home Sweat Home" part 1

The report "Home Sweat Home" provides the preliminary findings of a 3 year project that commenced in 1998. The project is being directed by Dr Christina Cregan, Senior Lecturer in the Department of Management at Melbourne University.

Dr Cregan approached the Textile, Clothing & Footwear Union of Australia. She wanted to make direct links with outworkers so the latter could be trained as interviewers in the project.

8 outworkers contacted another 111 outworkers. The sample of 119 took part in an intensive 2-stage study that involved an administered questionnaire and open-ended discussion. Each interview lasted about 3 hours. The investigation was conducted in Vietnamese or English, as appropriate, and involved Vietnamese, Cambodian and Australian outworkers. 115 of the outworkers were female. The project was supervised by Dr Cregan and involved strict academic methods of enquiry, following ethical guidelines and involving translation and back-translation..

Part one questionnaire findings are now released. The following are key points from the preliminary results.

- Outworkers reported earning an average hourly rate of pay of \$3.60.
- The highest rate was \$10.00 - one individual. Lowest rates were less than 50 cents.
- Three-quarters said they had experience of wages not being paid on time, nearly all (46%) of unpaid wages.
- The vast majority -89% - said the family could not manage without their wages.
- The average number of hours worked per day was more than 12 hours.
- About three-quarters (74%) reported working in the range of 12-to 19 hours a day.
- Well over half (62%) reported working 7 days per week with a further 26% working 6 days per week. Only a small minority (12%) worked less than this.
- About two thirds of outworkers (65%) said they did not like their work. Most of these were resigned to working because "I just have to do it". The next largest group, 22%, stated "I neither like it nor dislike it" and the smallest group, 13%, said they liked their work.
- The main reasons that were given for doing this work was that they could not get a job outside the home (70%) and that their English was not good enough to get other work (63%).
- About two-thirds (68%) % reported relying on other family members to help. In 54% of cases, this was the husband/partner. In 31% of cases, the children assisted. Sometimes, neighbours and friends helped.
- The vast majority reported that they worked routinely during the school holidays (93%), on Saturdays (91%), Sundays (87%) and on public holidays (89%).

Workers rated a range of issues as 'very important' including:

- 95% - factory owners be made to follow the law.
- 92% - higher piece rates.
- 92% - regular and prompt payment for their work.
- 88% - guaranteed regular hours of work each week.
- 82% - employer pay superannuation.
- 82% - receive paid public holidays and paid sick leave.
- 79% - Workcover paid by the employer.
- 67% - retailers join the homeworkers' code of practice.
- 77% - receive 4 weeks paid annual leave.
- 78% - learn and understand about their legal rights.

Appendix 3 - Summary of research findings "Home Sweat Home" part 1 (continued)

Policy implications of the preliminary set of findings

This is novel Australian research in a difficult area. It requires painstaking, careful work. It will provide evidence to the academic community of a group of workers who have remained largely invisible'.

This empirical study gives weight and substance to the claims of the TCFUA and outworker groups who have reported that these workers are among the most disadvantaged in the Australian labour market.

The preliminary findings demonstrate unequivocally that outworkers in the clothing industry do not own a business. These are low-income earners. Because they are not classified as 'employees they fall outside the award system and are particularly vulnerable to exploitation. An outstanding characteristic of this investigation was the fear of the outworkers. Even though their wages are so low and their hours of work so long, they were frightened that they would lose their job if they talked about it. Many more were contacted but refused to talk.

The clear policy implication from these findings is that state and federal governments should intervene to ensure that outworkers will be covered by awards and legislation in state and federal jurisdictions.

The Australian federal and state governments, the union movement and the community at large should not ignore these findings.

In particular, Australian women should have deep concerns about female 'sweated' labour that makes their clothes.

* All percentages refer to the number who answered the question. Because this was an administered survey, there were few missing cases.

Appendix 3.1 - 'In the dark world': outworker narratives

'In the dark world': outworker narratives

Christina Cregan*
Department of Management
University of Melbourne

*I would like to acknowledge the outworkers who agreed to be interviewed in this project. Most were very fearful of losing their jobs. In particular, I am extremely grateful to the survey team. Following the publication of the first working paper, some team members were interviewed by the media. The woman who allowed her face to be shown on the television has not been offered work in the textile industry since that time. She now spends her time travelling to and from Melbourne, doing seasonal rural work.

The following are short, representative excerpts from interviews with 119 outworkers carried out at the start of 2001. Each interview lasted 2-3 hours. These excerpts form the preliminary findings from the second part of the survey.

THE CONTEXT

'When we were living in Vietnam before the war we were very happy. I had a good job. I was a teacher in the army. Then I was a prisoner of war and I remember when I was released from prison I was so pleased to be with my wife and child again.'

'Here I have freedom ... and I am not afraid of the government ... I prefer to live in Australia.'

'All around me are migrants who aren't Vietnamese, but we co-exist fine together.'

BECOMING AN OUTWORKER

'I am an outworker because when I came to Australia I didn't have any (Australian) qualifications and I didn't know how to speak English.'

'In Vietnam I was a teacher.'

'I am an outworker because I can't find any other job.'

'In Vietnam I had just graduated.'

'The reason I am an outworker is because I can't speak English and I couldn't find other jobs.'

'I graduated as an engineer in Vietnam.'

'It's easy to become an outworker only the wage is very low. If you agree to the low wage then you have a job.'

'In Vietnam I was a businessman.'

'I came to Australia by myself and a relative of mine told me that I should become an outworker because people would deliver the work to me. Because I had just come to Australia I didn't know how to drive or know any roads and I didn't know many people. Becoming an outworker to me was very suitable. Back then, sewing was a booming industry and wages were equivalent to factory workers. But now if I had to pick a type of work to do I wouldn't choose to become an outworker because wages are very low.'

Appendix 3.1 - 'In the dark world': outworker narratives (continued)

'I worked in a factory in Vietnam.'

When my husband and I first came to Australia we knew some people from Vietnam. They lent us money so we would have enough to buy sewing machines, and taught us how to sew.

'I was a farmer in Vietnam.'

'The reason I am an outworker is because when my husband and I first came to Australia we didn't have a car and didn't know how to speak English. We were living with my sister in law and she taught me to sew and loaned me money to buy a machine.'

'I ran a tailor's shop. I taught other people to be tailors.'

I stayed with some relatives. They lent me enough money for a sewing machine. That cost about \$3,000. It took me over a year to pay that back. You're caught, you see. *(Claps hands together)* Just like that. You've invested so much. You have to stay in the trade to make it worthwhile. It's a trap. Then, for some work, you need specialist machines, so you may buy 1 or 2 more. That gives you a better chance of getting regular work. But that means more debt.

'I was a student in Vietnam.'

A DAY IN THE LIFE OF ...

'I work at night and during the day. I work about 14-19 hours a day. Each day I wake up at 5am, do exercise and have a shower till 6 am. Then I sew till 12pm and then I have lunch. And then I continue sewing until about 5pm. And then I cook and eat dinner until about 6.30 pm and then I sew until 11pm.'

'I wake early at 7am, then brush my teeth, take a shower and go to the toilet. After this it is my children's turn. I wake them up, help dress them in their school uniform and then prepare breakfast. I tidy up the house quickly and then sit at my sewing machine and start to work. I start with the batch that is needed urgently first to get them out of the way, then go on the others. ... If there is a rush job then I eat 2-minute noodles ... just so I can save time.'

'I remember once that I worked the whole day then the next morning at 5am I fell asleep for a few hours till 9 am. After that I worked till 9pm to finish that job. That happens every time there is a rush-job.'

Every day I wake up around 8am and go to the bathroom, etc. I wake my children up and cook their breakfast. When they are done eating I clean the house and then begin to sew. I sew until noon. At noon I rest and cook lunch for my children and myself. After that I continue to sew till 4.30, then I cook dinner for my family. When dinner is over I clean the dishes and when I am done I have break. At 6.30 I start to sew again. I sew until 12am. When my husband comes home he helps me by folding the clothes or cutting the stitches. My husband also helps me with the children, such as bathing them and putting them to bed. If there is a rush job I work till 2am.'

'I usually have 2-minute noodles or yesterday's rice heated up.'

'I begin work at 8.30am each day and I stop working at around 12.30am (the next day) ... If I had to describe my work-life it would be that my life is quite normal.'

'I wake up at 6.30am and do exercise. At 7 am I wake my children, cook them breakfast and help them prepare to go to school. At 7.30 I begin to sew. At 12.30 I take a break and eat lunch for half an hour. I then sew until 7pm. I cook dinner between 7pm and 8. I then sew until 11pm. I go grocery shopping once a week on Sunday.'

Appendix 3.1 - 'In the dark world': outworker narratives (continued)

'When there's a rush-job, my husband has to help me. I don't have time to cook food. ... I don't have any breaks at all.'

'I am a single mother with three children. I wake up at 4am and sew and at 8am I take my children to school. When I get home I begin to sew again. At 12 I eat lunch and sew again. At 2pm I cook food for my children and at 3 I pick them up. When they get home I feed them and after that is done I begin to sew again till about 11-12am. If there's a lot of work, I work until 2am.'

'Usually I eat the food that remains from previous meals.'

'I wake every morning and cook breakfast for my children. My husband does the garden. Then we do housework together and begin to sew at 7am. My husband and I sew till 12pm and then we cook noodles for lunch. Sometimes we work till 1-2pm before we have lunch. Then we sew till 5pm. We always stop at 5 because my children eat dinner with us. My children take turns to do the washing up while my husband and I go back and sew until 12am. I don't do a lot of housework because when my children get home from school, they do it.'

'Being an outworker I often help out other outworkers because they help me when I need help.'

'I never dress up or put make up on during the day. I barely have enough time to sew the clothes.'

'I never have any leisure time.'

'Ever since I've been in Australia I have never taken a holiday.'

'I don't ever have holidays.'

CHILD LABOUR AND FAMILY LIFE

'When there is a rush job my husband and my two children stay up all night to do the work. At times my husband and I have stayed up for two nights. We are afraid that if we don't complete the work we will have to pay for the clothes.'

'Working at home has affected my children. When they get home from school, they do homework eat dinner then help my husband and I for two hours each day. On the weekends they help me sew all day. I feel sorry for my children because they can't go out and be with their friends.'

'When there is a rush job my husband and my daughter sew all night and eat tinned food so that I don't have to cook or clean the dishes.'

'My daughter helps me to sew when there is a rush job. Sometimes she has school-work to do but she doesn't do it because we have to get the work completed.'

'My job has affected my children because they have to share the noise, dust and my bad days.'

I'd rather my children didn't have to help 'because I want them to concentrate on their study.'

'I wake up early in the morning and go to school. Then after school I go down to the garage to help my parents until dinner-time. After dinner we continue our work till about 9pm. I juggle school-work while I do my sewing. Often, when the day's been rough, I still have to stay up and finish my homework for the next day. Sometimes I have to skip school because I can't get up for the next day.'

'When I have a rush job I make my children help me so they don't have time to do homework.'

Appendix 3.1 - 'In the dark world': outworker narratives (continued)

'After I come home from school my parents give me time to do my homework. After I finish my homework I help my parents from four hours to six hours of work. I basically do some of the sewing and help my parents pack up. ... When there's a rushed job I spend more time helping my parents and sometimes ... I stay up really late to help them finish. Sometimes until one or two in the morning. At other times I go on all night. I can't go out with my friends. My only fear is that I can't make it into higher education and have to do this for the rest of my life.'

'Occasionally my children stay at home and help me.'

'I wake up early in the morning to go to school. Then after school I go down to the garage to help my parents sew until it's time for me to prepare dinner for the family. After dinner, we continue to work till about 11pm. My parents work from about 8am till 9pm every day. As for me, I only do six hours straight. I cook and clean and do all the other household chores to help my mother out. Meanwhile I juggle school work while I take care of my brothers and sisters. ... I check the weather reports for to-morrow's weather to know what to dress my siblings in and when to put out the laundry. ... I'm the eldest sister in the family and so it is my responsibility to take over the position as a mum when my mother is not present. ... My work is very tiring. At times I feel really tired and I just want to run away, away from everything. But I would always think of what it would be like for my parents if I should be absent and I would see images of my siblings and how they would feel so hurt and neglected.'

THE MARKET RATE OF PAY

'We're poor. Both of us are outworkers.'

'I sew a shirt and get paid \$5 and I see the shirt retailing at \$100 that it takes me an hour to get completed. But there's nothing I can do about it because everyone gets paid the same amount to sew the same clothes. It's not like I get paid \$5 and someone else might get paid \$6 (for the same item). That's the reason why I have been sewing for 12 years.'

'At times I see the clothes that I was paid to sew and I can't afford to buy them.'

'The price they pay is very low ... they said it's because the big factory pays them lower all the time.'

'I get worried because the work time is getting longer but our wages are becoming lower. I also worry for my children. I know they need more from us but we both don't have time for them.'

Several respondents: 'It works out at about \$3 (\$3, \$3.50, \$4, \$5) an hour.'

'I think what my boss pays me is too low. I am paid \$1.20 for a shirt and that shirt will sell for about \$50 in the stores. I think the difference is too big. But what can I do? If I don't accept the work then someone else will.'

'If I don't take (the wage) someone else will and it will be my loss.'

'I want to find a factory job but this field of work is becoming worse and many factories have had to close ... In recent years the price of work has slipped. Several years ago you'd get \$5/6 (for a particular item). Now it's \$2 so I must work more hours to receive the same amount of pay I used to have.'

'I could be doing the same garment as I worked on last year and they have taken 50 cents or \$1 off the price.'

AND HOW IT'S SPENT

'I never treat myself with my earnings. My earnings go to pay our bills and there is never any money left.'

'I am paid so little I can't take my family out and do simple things such as seeing a movie together or going camping.'

'We've never taken a family holiday because we can't afford one.'

Appendix 3.1 - 'In the dark world': outworker narratives (continued)

'I bring money into the family so we have enough money to buy nappies for our children.

'Without this money my brothers and sisters won't be able to get into higher education.'

'Occasionally I treat myself out of my earnings but only to buy cheap make-up and jewellery.'

UNPAID AND LATE WAGES

'If you want to be an outworker you can find a job easily. But that doesn't mean you'll get paid (*laughs*).'

If I had to describe my work-life it would be that I am a worker who is always being cheated.

'Most of our friends are outworkers. Their bosses have cheated them all. Their bosses have so many reasons and excuses and the excuse they use most is that the companies haven't paid them yet and any day now they will pay.'

'Employers make excuses by saying: you've not met the due date, you've made lots of mistakes. But in reality you did nothing wrong. In the end your wage gets deducted and you can't do anything about it.'

'In general my boss has ... paid me what he said. Not like the other bosses who run away with workers' money by shutting the factory or moving house.'

'My boss said that the company hadn't paid him so he couldn't pay me.'

'My boss has cheated me. He kept saying to-morrow and then he moved away.'

'I don't know about anything. All I know is that my husband collects the work from the factory. We sew the work and maybe get paid, maybe not.'

CONTROLS

'I think that the smaller companies take orders from the larger firms and the larger firms sometimes rush the little companies and complain about slow progress. This in turn puts pressure on outworkers.'

'In general my work is very accurate ... because I am scared if I don't do the work properly my boss would give me a bad name and no-one would give me work.'

'My work is usually good because if it weren't ... my boss would make me redo all the sewing, make me pay for the clothes or not give me any more work.'

'Well if we do good work then naturally the employer provides us with a lot of jobs. If we do something 'wrong' then we have to wait longer for work. ... Sometimes they deduct money because they say they need to do repairs. I know this isn't true.'

'I am always afraid of not receiving work - my workload isn't regular.'

'Generally I can take on high quality work because I have a sharp eye for details.'

'I rarely do high quality work because of the fear that I will do something wrong.'

'I work at an average pace and do basic sewing. I don't do higher quality clothes because of the fear that I will do something wrong.'

Appendix 3.1 - 'In the dark world': outworker narratives (continued)

'If I sew quick and beautifully then he gives us a lot of work to do. But if something is done wrong then I have to wait longer for work.'

'I am afraid that I won't get work because I am getting less and less work. (Nowadays) when I finish a workload it's 2-3 weeks before I get another job.'

'I have worked for quite a number of people and the way they treat me is all the same. When there is a lot of work and when there is a rush job my boss becomes very nice to me. But when there isn't a lot of work to do my boss becomes horrible.'

'All bosses are like that. When there is work they are very nice, but when there isn't any they become fussy.'

'I depend on my personal relationship with my boss ... I listen to my boss like a child would listen to a parent.'

'Sometimes they yell and shout at you.'

'I've heard my parents being threatened by their employer that they would cut down my parents pay and would not give us any more work.'

'Home-working doesn't allow women to control their lives because if they want to go out on a specific day they can't because they have to sew and even if they are sick they still have to sew.'

'I think that home-working doesn't allow women to control their lives because with this field of work the time of work that you do is never definite. ... In a perfect world I would be a teacher.'

HEALTH

'Sometimes I get back pain and also sore dry eyes and my leg is like dying and my finger feels as if it doesn't belong to me anymore, too painful.'

'I only have breaks when I can't continue sewing anymore because my back is so sore. I do some stretches to ease the pain. That takes about two to 15 minutes.'

'I exercise everyday because I have so many aches and pains.'

I go to the doctor's every month. He's told me to exercise to get rid of the pains caused by the sewing, so my husband and I go for a walk for thirty minutes every day.'

'I don't have time to exercise because I am too busy looking after my children.'

'There was one incident when my child was sick and there was a rush job ... it made me feel guilty because I had to sew and couldn't look after my child.'

Child respondent: 'There was one time when I sewed my fingers together. It really scared me from coming back to work.'

Child respondent: 'I've had an experience when the side of my arm was sewn and got caught in the sewing machine and I had to have specialists come to get me out.'

Appendix 3.1 - 'In the dark world': outworker narratives (continued)

ISOLATION

'There was once a strange person who knocked on the door. I did not dare to answer because of the language. I was afraid and don't know English.'

'I go to the shops every week on the weekend.'

'I know what the weather is like because I always watch it on TV everyday.'

'I mostly find out the weather through the radio.'

'I usually don't know what time or what day it is because I am too busy sewing.'

'I always listen to the radio so I know what the weather is like so I can tell my children if they need to wear a coat or not.'

'I watch the world outside from the window all the time.'

'Sometimes I really don't know the weather, even whether it's a hot or cold day.'

'At times I feel lonely because I work all day in the house and see no-one.'

IF I LOST THIS JOB...

'If I lost this job ... I would have to go on the dole.'

'If I lost this job ... then I would have to go to Centrelink for the unemployment benefit.'

A lot of friends ... won't go to Centrelink because they are too ashamed

'If I lost my job I would have to go on the dole. I don't like that way. The people in the social office look at me like prison officers. They ask so many stupid questions.'

'I don't want to go on the dole but if this field of work doesn't improve then I would have to.'

'I'm afraid of losing this job. If I lost this job then my family will struggle. We really need the income as it is currently.'

PERSONAL ASPIRATIONS

'In a perfect world I would become a nurse.'

'In Vietnam I was a teacher. Now I just hope that I have regular work so my family will be happy and healthy.'

In a perfect world: 'In Vietnam I was a student ... I would like to go back to school and get a degree.'

'If I could change my work I would become a journalist.'

'I want to go to school and earn a degree ... I would love to teach. I know that I can't teach high school but I would like to teach younger students ... but I don't have any spare time to go back and get a degree.'

In a perfect world: 'I would like to be a doctor.'

'I would like to finish university and be a teacher, but that's impossible.'

Appendix 3.1 - 'In the dark world': outworker narratives (continued)

'While I sew I often imagine seeing people who have an office job answering phones and it makes me want one of those jobs so badly.'

'I just want a job that provides enough for my family and to give me enough to live on when I retire.'

'I just hope that that I keep getting regular work and that the prices stay the same, not decline.'

'Well, before 1975 I was a government official. Now I sew, but it's very much better compared with our lives after 1975.' (*Was in prison camp.*)

Child: 'I see myself graduating from some really awesome course in Uni and when I go out to work I will earn lots of money and my parents will never have to work again.'

ATTITUDE TO CURRENT SITUATION

'I live in the dark world, no future.'

'I would describe myself as a machine that runs after time.'

'I am the lowest person in the work ladder.'

'I am a slave to work.'

'My main feeling is that the sacrifice I have to pay for my life in Australia is too hard.'

'I see my future as becoming bleaker.'

'I work as hard as cattle.'

'If I had to describe my work life it would be an endless struggle to make ends meet.'

'Pains, aches. Depression.'

'My fear is that I won't get work and that the payment will get lower and my family won't have enough to live on.'

'Religion does help ... I just have to accept that I have been dealt a life of hardship.'

'My life right now isn't exactly good. Sometimes I get upset because of all the pressure I am under. And then I want to quit the work that I do but then when I think about it again. My life isn't that bad. I have a happy marriage and I can always share problems with my husband.'

'Before I came to Australia I knew that life would be hard because I would have to start all over again but I'm doing this for my children's future so I accept it.'

'Regardless of how hard life is here in Australia I still would have definitely come here because I have freedom. My children can have a better future. ... If we were in Vietnam, that wouldn't be possible.'

'I have accepted that my own life is dead and with no future. My only hope is for my children to be happy and successful.'

'I do all this for my children. When my children smile then I smile as well. Their happiness is very important to me and I am happy when they are happy.'

'I hope that my daughter never becomes an outworker.'

'In the beginning when I first came to Australia I would weep about my life a lot but now I am used to it so I don't weep as much.'

Appendix 3.1 - 'In the dark world': outworker narratives (continued)

REMEDIES?

'I would like to go to school and learn English ... But I am too busy.'

I feel I'm trapped because I can't speak English so I can't get a better job. English is the key. But I need to work all the time so I don't learn it. I listen to SBS radio and talk in Vietnamese at home. My children act as interpreters to the outside world.

'I am not learning English ... because my husband and I are too busy.'

'The main things to change to improve an outworker's life is to let the outworker receive regular work, get a pay rise, get the benefits that factory workers receive (such as work cover and sick pay) and always get paid on time.'

'I think outworkers should be paid the same as factory workers. ... They have to pay for their own sewing machine and electricity and there is more pressure on outworkers.'

'The main thing to change to improve an outworker's life is to stop big companies sending their clothes overseas so outworkers would receive more work.'

'I do think that outworkers should be paid the same as factory workers because outworkers have to buy their own sewing machine, pay their own electricity and sew to meet the standards of our boss.'

'My work is very hard. I just want people to know that we are very poor workers who do not deserve to be treated by people in this way. Please speak up for us.'