

**SENATE EMPLOYMENT, WORKPLACE RELATIONS
AND
EDUCATION COMMITTEE DEPARTMENT OF THE SENATE
PARLIAMENT HOUSE, CANBERRA ACT 2600**

Email: eet.sen@aph.gov.au

From

**Bishop Philip Huggins
Bishop of the Northern Region
Anglican Diocese of Melbourne**

**Submission on the Work Place Relations Amendment Bill 2005 - to the Employment,
Workplace Relations and Education Legislation Committee**

By: Bishop Philip Huggins

Industrial Relations and Workplace Relations

Background

During August I had a couple of opportunities to converse with the relevant Minister for proposed changes to Workplace Relations - The Hon. Kevin Andrews. The most recent was with our new Primate and others on 18th August in the Federal Parliament. Earlier Anglicare Australia CEO's met with the Minister and other Federal Parliamentarians.

In preparation for these meetings I tried to clarify both some principles given by Christian social teachings and some concerns regarding the I.R. proposals.

The Minister then said that there would be more statements in coming weeks, then a further process of Consultation once the Bill is drafted. (He said around 100 people were working on the drafting.)

Our meetings were cordial and informative. They followed earlier media after the Prime Minister's statement to the Parliament and the ACTU response to the Government's proposals.

Alas, the Government's Bill does not seem to have responded to expressed concerns.

Some Principles to Endorse (as enunciated in recent Church documents):

- We seek a good and fair society, with all working for the common good.
- Collaboration to achieve change - not class warfare.
- We ensure the dignity of the poor. There are obligations on the rich to contribute more to others well-being.
- A perfecting of justice through charity and compassion.
- The right to form professional organisations;
- An obligation to protect the weak against the strong.

A theological starting point given by these principles is that we endorse the dignity of all humankind, and of work in the continuing process of creation. This is compared to having economic systems and philosophies as our starting point.

An economic system should serve human dignity and well-being. Individuals, each carrying the divine image, must not be reduced to servants of an economic system or philosophy.

Our focus is on the dignity of all - because we are all made in the image of God.

Workers are not commodities. Through work we should contribute to the common good, in a dignified manner.

A healthy society respects these principles and ensures the gifts of all find productive work so that all can contribute to our common wealth.

A healthy society involves mutual respect and complementarity between employers and employees.

Continuing Issues of Concern

When the Coalition's I.R. Proposals were first published, they raised serious questions.

It is hard to see how these questions are answered by the current Bill. Let me elaborate regarding these questions.

(1) Work - family/community balance

- There are current stress indicators of overwork pressures. Won't this get worse?
- What will be the effect on Sunday worship and family times if Sunday becomes like any other day?
When will people have predictable time together with their loved ones?
God's plan for humankind includes a day for worship and recreation with family and friends. This ancient wisdom still shapes many lives, including our ethnic faith-communities for whom Sunday is precious!
- Casual employment is nearly 30% of all employment.
- It is hard to build a secure future when casually employed.
Will the proposals not worsen this situation?
- Many people already bring work home in their bag or computer. Work encroaches on personal and family time. The young, building their futures, are already under pressure as they drag their HECS debt into a housing market that it is hard for them to afford. Unless there is family wealth to assist, the housing they can afford may place them a long way from their employment and from their extended families.

Their lives are highly geared around mortgage and other debt. They are likely to be seduced by proposals that allow them to trade annual leave and other conditions for cash. But at what future cost to personal and social health? And at what cost to their children who, with changing work patterns, may go into childcare almost as soon as they can breathe. That is, if childcare can be found and afforded.

These intergenerational issues of work stress appear only to be worsened by every aspect of this Bill.

And all this is before we consider what will happen when there are recessionary pressures in the economy : job losses, a cutting of hours for the casually employed, people “forced” onto workplace agreements at lower wages and conditions.

This Bill is being introduced at a time when it looks its best. Is that why there is this haste?

(2) Unfair Dismissal Proposals

- On Power differentials : what will be the protection against any employers misuse of power? Will these protections be accessible? ‘Harsh, unjust or unreasonable’ forms of dismissal need protection for an individuals’ dignity and security.

Whilst dismissal on grounds of race, etc., will still be protected, these other matters relate to bullying, intimidation, the fickle use of power.

There still needs to be protection against unfair dismissal based on a harsh, unjust and unreasonable use of a power differential.

The Bill does not provide this protection. Parents will worry about what kinds of harassment their children may face as they enter the workforce. Harassment they may endure for fear of losing their jobs.

- Why if it is acceptable for some to have Unfair Dismissal procedures (companies over 100 employees), is it not acceptable for others? This is illogical.
- Will the new proposals not lead to a change of culture that results in decreased accountability? By analogy, what would happen if Equal Opportunity legislation was repealed? The current legislation is educative about what are civilised standards in the workplace. The new Bill diminishes this. As Archbishop William Temple once said “the law does not save but it does civilise.”

- The claim is that these I.R. proposals will increase employment : Evidence?

The onus of proof is with the Government. There is evidence to the contrary.

(3) **Individuals negotiate their own workplace agreements: Questions still remain**

- (a) Won't employees be pressed to accept what is offered? Especially if there is a change to the "no disadvantage test"

Will the value of current safety net awards be retained? It seems not.

- (b) Power and Knowledge differentials? Some employees, including the young, will not know how to negotiate. Some will have less to negotiate with. What happens to them? Will they not end up on workplace "Agreements" that offer lower pay/conditions?

- (c) Will unions have the same access/capacity to offer collective bargaining?

If not, why not, and who replaces this traditional role of trade unions? History shows these institutions evolved from times when individuals were exploited and locked into poverty. Trade Unions evolved from a social context to which we should not return.

Our many honourable employers don't need a return to 19th Century class conflict - the kind that led to trade unions. Nor do our very many good employers need to be unfairly stigmatised by divisive legislation..

(4) **Australian Industrial Relations Commission (AIRC's) traditional role in comparison to the proposed "Fair Pay Commission":**

- Will there be the same social stability, given how the AIRC balances 'capacity to pay' with equity considerations when deciding wage cases?
- Criteria for wage fixing : Is it changing to "single person" **not** family?
What about "Fair minimum standards?"
Will these disappear leading to the 'working poor' of the U.S.A.? Will the changes drive down wage rates over time, even whilst the rich continue to get richer?

(5) **Consultations on the draft legislation : Adequate?**

In August we asked about our opportunity to participate in consultations once the legislation was available for comment.

We asked whether there would be a Senate enquiry to which we can make submission. The Minister, Hon. K. Andrews suggested this. I met with the Hon. Andrew Robb (23.9) and he assured me there would be consultation once the legislation is available.

We recall there was only a one-day Senate enquiry over the full sale of Telstra legislation. Now we learn submissions to the Senate Enquiry must be made in 7 days. Then just 5 days of Hearings after it has taken months to prepare this huge Bill, itself 611 pages in length. Then hundreds of pages of explanatory memorandum.

Is this the way a healthy democracy should function? There is no justification for this haste.

The appearance given is of a government which doesn't believe it has anything to learn from anyone else.

(6) **Continuing Theological reflections**

(a) Given human frailty and our capacity for sin, our need is for checks and balances to ensure power is constrained. A sober view of human reality, based on Christian theology, is currently embedded in our institutional life through various checks and balances. The question is why not continue with incremental improvement of our existing system rather than this radical structural change?

(b) If we want to ensure any I.R. proposals enhance the God-given dignity of each individual Doesn't this mean:

- There is a continuous need to set minimum conditions to protect the vulnerable and poor.
- A minimum family wage not a minimum set by reference to a single worker.
- A renewed focus on improved education/training to enhance Australia's skilled and thus globally competitive work force.

That is, rather than proposals that stress the lives of the poor and the more vulnerable.

(c) The Federal Government sees a link between the **Welfare to Work** proposals in the last Budget and the **I.R. proposals**.

- The Welfare to Work proposals are meant to bring into the workforce some of the 3 million not involved in the workforce.

Since the Federal Budget of 2005, Anglicare Australia, with the Brotherhood of St. Laurence, Salvation Army, Uniting Care and Catholic Welfare have been meeting with the Hon. Peter Dutton, Assistant to Minister Kevin Andrews, on aspects of these proposals, including the initial severity of ‘breaching’ proposals and the proposed role of our agencies in implementation.

These discussions have been quite productive but there are still questions about the actual availability of some long-term unemployed, those on disability pensions, etc. for durable employment.

“Availability” is a matter of emotional conditions, skill levels, and such things as geographic proximity to employment with integrated services like accessible child-care. These discussions have led to a better outcome. But there are still issues of equity that are a concern. Some National Party members are now also articulating these concerns.

(d) In our conversations the Minister assured us that there are positive answers to questions such as:

- Will these proposals produce more ‘working poor’ on low hourly rates, as in the U.S.?

He thinks not. But the onus of proof is on the Federal Government and the evidence seems in the other direction.

- Are there actual models that demonstrate these proposals will produce productivity and employment growth?

The Minister referred to international example, but where is the evidence?

- What about differentials in the bargaining power of various employees? e.g. the new CEO of Telstra compared with those in regional call centres!!!

The Minister recognised this but the Bill doesn’t offer adequate protections.

- Why change so radically a system that has evolved incrementally over 100 years and is balancing objectives of economic capacity to pay with equity considerations?

In the face of this argument, the Minister suggested the changes would not be all that radical.

I wonder if he would still say the same?

- Matters of enforcement were not much discussed in our consultations. They are still not very clear. Do people still have reason to fear the pressure of legal and other sanctions? Will the legislation silence dissent or make legal remedies unaffordable? People do want to be free. A society which institutionalises oppression puts at risk its own social order, sooner or later.

Conclusion:

Church leaders must continue to raise questions and concerns as part of a prophetic ministry and a “preferential option for the poor”. We have to do this whilst seeking to maintain a pure heart, a clear spirit without enmity or partisanship.

We have to honour our freedom in Christ, as we seek to make our best contribution to the common good.

The fact is that the Federal Government has now had months to prove their case for I.R. reforms. We have waited patiently for the legislation.

Now, it must be said, the case remains unproven. We have in place a stable system, which has evolved over time on the basis of sound ethical principles.

We have low unemployment and low rates of industrial disputation. We have, through the current Industrial Relations Commission a mechanism which balances equity considerations with the economy’s capacity to pay.

The Federal Government has not demonstrated its case for changing all this.

Nor has the Government eased anxieties that these radical reforms will leave many people worse off : those individuals who aren’t in a strong negotiating position; individuals who face being unfairly dismissed; and those whose wages will be driven down so that their work will still leave them poor.

As it happens, on the day this submission had to be finalised, I was at the funeral of an ordinary, decent Australian. A man who began his working life as an employee of major companies, then expressed his private enterprise by starting his own small business. This decent man looked after his staff in the same seamless way he looked after his own family. Even amidst his hard work he found time for community service, through his local church and sporting groups. Our institutional framework has always supported and encouraged these kind of good Australian lives. They are at the heart of our common wealth, both spiritual and material. There is a serious question as to whether or not the Bill may erode this institutional framework.

The Government should withdraw the legislation and consult more widely.

Bishop Philip Huggins MA, B.Econ.
Diocese of Melbourne
Anglican Centre
209 Flinders Lane
MELBOURNE VIC 3000

Telephone: (03) 9653 4243
Mobile: 0418 799 515
Email: phuggins@melbourne.anglican.com.au