

# Submission

to

Senate Employment, Workplace Relations and Education  
Legislation Committee

## **Inquiry into the Workplace Relations Amendment (WorkChoices) Bill 2005**

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## Introduction

1. The Australian Political Ministry Network (PolMin) welcomes the opportunity to submit its views on the Workplace Relations Amendment (*WorkChoices*) Bill 2005.
2. PolMin is an independent membership organization which is committed to affecting change in public policy in accordance with Catholic Social Teaching. This body of teaching has evolved through the authoritative declarations of consecutive Pope Leaders since Pope Leo XIII's 1891 encyclical *Rerum Novarum* on the rights of workers. *Rerum Novarum* "expounds...the Catholic doctrine on work, the right to property, the principle of collaboration instead of class struggle as the fundamental means for social change, the rights of the weak, the dignity of the poor and the obligations of the rich"<sup>1</sup>. Pope John Paul II's contemporary encyclicals *Laborem Exercens* (1981) and *Centesimus Annus* (1991) reflect the same concerns.
3. The Australian Catholic Bishops emphasised the link between the nature of work and the common good: "Work is a principle means by which human kind seek their personal fulfillment and make their contribution to the common good. Simply expressed, work exists for the person, not the person for the work. It follows that human work cannot be treated as a resource or as a commodity to be traded in like any other commodity"<sup>2</sup>.
4. PolMin expresses concern that the Howard Government *WorkChoices* proposals fail to ensure an industrial and workplace relations system that upholds the dignity of the worker. The proposed changes threaten to encourage a society that prioritizes profit over people, and therefore undermines the common good. PolMin is concerned about the reduced role of the Australian Industrial Relations Commission, the removal of unfair dismissal arrangements; changes to wages and conditions and the limited role of the unions under the changes.

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<sup>1</sup> *Guidelines for the Study and Teaching of the Church's Social Doctrine in the Formation of Priests*, Congregation for Catholic Education, 1988, p. 24

<sup>2</sup> *Industrial Relations – The Guiding Principles*, Australian Catholic Bishops Conference 1993, p. 2

## Why WorkChoice?

5. On the 26 May, 2005, the Prime Minister and Minister for Employment and Workplace Relations announced the principle features of the proposed reforms to the *Workplace Relations Act 1996*. The rationale for the reform was summarised by Minister for Workplace Relations, Kevin Andrews: “*Australia needs a more flexible labour market to maximise economic growth and employment opportunities and to maintain and improve our standard of living in an increasingly globalise world*”, (26 May, 2005)
6. It is claimed the current arrangements inhibit economic growth, employment prospects and international competitiveness. However, it has been argued that deregulation of the labour market has actually produced a world wide expansion of the gap between rich and poor. There is little evidence to suggest that a clear relationship exists between minimum wage changes and employment levels. In fact, cross national studies show a strong positive relationship between the incidence of low pay and poverty<sup>3</sup>. PolMin is concerned that moving towards a system with lower minimum wages and conditions will result in a greater pool of lowly paid, low skilled jobs, creating an underclass of ‘working poor’.
7. PolMin is concerned that the government has failed to produce sufficient evidence to prove that the changes will actually deliver a stronger economy, with more employment and higher wages. Such radical change requires proper substantiation, after sufficient public debate. However, PolMin expresses concern about the incredibly short amount of time the Senate committee has been afforded to inquire into the most dramatic changes to industrial relations law in 100 years. PolMin also expresses concern that the government has prevented the inquiry from covering all aspects of the proposed legislation.

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<sup>3</sup> *Minimum Wages*, Policy Commentary, Brotherhood of St Laurence, 2005

## **The Proposed Changes and Critical Issues**

### **Changes to Unfair Dismissal Laws**

8. The term unfair dismissal is generally used to describe a dismissal that is “harsh, unjust or unreasonable”. Until now employers have been urged to follow certain steps – ‘procedural fairness’ – in dismissing an employee. These steps included explaining to the employee their ill performance, giving the employee an opportunity to improve and after reasonable time to improve, give them appropriate notice. Under the proposed changes, businesses that employ up to 100 employees will now be exempt from unfair dismissal laws. There will no longer be access to low or no cost independent umpires in the Australian Industrial Relations Commission (AIRC) for workers in companies with less than 100 employees.
  
9. Although employers will still be bound by anti-discrimination and unlawful dismissal laws, the proposed changes could effectively see employers dismiss workers at will with limited ability for recourse. Security of employment is a matter of fundamental importance to the dignity of the worker and as such, employees should be protected from unwarranted or arbitrary dismissals. This should be especially true of low paid, unskilled workers, who may find it difficult to obtain further employment. The size of the business should not affect the workers right to be protected.

### **Proposed changes to wages and conditions**

10. Until now, workers under individual agreements have had the protection of the “no disadvantage” safety net to ensure protection of their rights. PolMin is concerned that the scrapping of the “No Disadvantage” test will have the effect that existing workers could face reduced wages and conditions when required to sign individual contracts or new enterprise agreements.
  
11. Ensuring this safety net was a role of the Australian Industrial Relations Commission (AIRC). PolMin is concerned at the significantly reduced powers under the proposed changes, bestowed to Australia’s unique AIRC, noted by Pope John Paul II in a visit to Australia as a “*unique system of arbitration and conciliation*” which has “*helped to*

*defend the rights of the workers*". PolMin is concerned that the previous focus of the AIRC on the needs of the low paid workers and on fair minimum standards will be lost.

12. PolMin has concern that the new Australian Fair Pay Commission, headed by free market economist Professor Ian Harper, will now set minimum wage conditions without being bound by maintaining workers real living conditions.
13. PolMin is also concerned that the proposed criteria for wage fixing now will be the "single person"<sup>4</sup>, as opposed to the "living wage", which recognized the need for employees to live in dignity and the need for the employee to be provided with a wage sufficient to support a family. The Church has been a strong advocate of the "living wage":

*"The remuneration of work is not something that can be left to the laws of the marketplace; nor should it be a decision left to the will of the more powerful. It must be determined in accordance with justice and equity; which means that workers must be paid a wage that allows them to live a truly human life and to fulfill their family obligations in a worthy manner"*

Pope John Paul XXIII, *Mater et Magistra*, 1961

14. The Government will set out in legislation key minimum conditions of employment: annual leave, personal/carers leave, parental leave including maternity leave and maximum ordinary hours of work. Other conditions guaranteed in awards can be traded away in individual or collective agreements. They include public holidays, rest breaks, annual leave loadings, overtime rates and allowances.
15. These changes raise serious questions about the power balance between employers and workers, with the power evidently weighted towards the employer. Wide concern has been expressed that the changes are likely to leave low paid and unskilled workers vulnerable to exploitation, and if they work for a business of less than 100 employees, without recourse to conciliation and arbitration. PolMin believes these changes will undermine the security and protections workers need to live in dignity.

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<sup>4</sup> Australian Catholic Commission for Employment Relations, *Letter to Minister for Employment and Workplace Relations*, July 2005

### **The role of the Unions in pursuing the Common Good**

16. Catholic Social Teaching recognises the rights to form and belong to unions and collective workplace organisations. In *Laborem Exercens*, Pope John Paul II outlined the importance of unions:

*“All these rights, together with the need for the workers themselves to secure them, give rise to another right: the right of association, that is to form associations for the purpose of defending the vital interest of those employed in the various professions”.*

17. PolMin is concerned that the government’s proposals dramatically limiting the rights of unions to organise and operate in the workplace. *WorkChoice* significantly constrain union’s ability to strike, limits what they can do include in collective agreements and makes it harder for union officials to enter the workplace. These changes constitute a significant roll back of 100 years of industrial and workplace relations gains.

18. PolMin believes the right to association and representation are fundamental principles of democracy. The attack on the unions cuts at the heart of the democratic values, rights and protections that enable the achievement of the common good.

### **Conclusion**

PolMin does not claim to have all the answers to the challenges posed by the current industrial relations system. However, we believe that any solution must always be grounded in the principle of the dignity of the human person. Respect for human rights, particularly protecting the rights of the poor and marginalized, should drive decisions about industrial and economic life. PolMin believes the *WorkChoices* legislation is not in the interests of the common good and unsubstantiated claims that *WorkChoices* will ensure a stronger economy and more jobs fail to appease our concerns. Attempts to grow the economy and encourage competitiveness in a global market should not come at a cost to Australians standard of living and way of life. To ensure Australia’s Industrial

Relations system upholds the dignity of the worker and contributes to a fair and prosperous society, PolMin recommends:

1. Ensuring Australia's industrial relations system is built on principles of fairness and justice, to ensure respect for the dignity of all, particularly the poor and marginalized.
2. Ensuring security of employment for all, regardless of the size of the workplace, by ensuring access to unfair dismissal protection.
3. Ensure the minimum wage continues to be set as a 'living wage', rather than as a single adult.
4. Fully uphold the right to association and participation as fundamental tenants of our democracy, and protecting the right of unions to collectively represent employees.
5. Retaining the century old wage setting function of the independent Australian Industrial Relations Commission with an emphasis on a 'living wage'.

## **References**

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Australian Catholic Commission for Employment Relations, "Briefing Paper No 1 on the Commonwealth Government's Proposals to Reform Workplace Relations in Australia", Sept 2005, [www.accer.asn.au](http://www.accer.asn.au)