

## **Industrial Relations: Reform or Vandalism?**

By Tim Martyn

Henry Ford once complained, "Why is it when I hire a pair of hands, I get a human being as well?" Today, Australians are being forced to consider a similar conundrum: in the pursuit of economic prosperity, how much are we willing compromise our families and communities?

The Federal Government has declared that for Australia to continue to compete in a global marketplace, we need to lower the costs of labour to business, particularly at the lower end of the spectrum. Yet such incomplete arithmetic begs the question: by reducing the costs of work to business, are we not at the same time raising the costs to families? As Henry Ford indicated, it is simply impossible to improve productivity without considering human needs – particularly among the most vulnerable. With the Australian Workplace Relations Amendment Bill 2005 currently before Parliament, it's important to consider how they will impact on Australians at every income level.

### **Dismantling Australia's Labour Market Safety Net**

In Australia, a worker's right to a living wage was declared in the Harvester Judgement handed down by Justice Higgins in 1907. In it, Justice Higgins determined the minimum weekly wage required to support a family of 5 by establishing the cost of living, i.e. the amount an average worker paid for food, shelter and clothing. The agreed upon sum of two pounds two shillings per week would enable a family, on a single income, to live in 'frugal comfort.'

In 2005, Australians are being asked to discard the Harvester formula for determining the prevailing national 'living wage,' along with much of the labour market protections built up over the last century. These include scrapping of unfair dismissal laws covering 90 per cent of the Australian workforce, removing the no disadvantage test for workers negotiating individual contracts and restricting the ability of unions to intervene in disputes between employees and employers.

At the heart of the changes is a plan to relegate the Australian Industrial Relations Commission (AIRC), the body that has determined wages for a century, to settling industrial disputes. Replacing the AIRC is a new Australian Fair Pay Commission, an institution with a wholly different agenda to its predecessor.

The Government appointed head of the new Australian Fair Pay Commission (AFPC), economist Ian Harper, is a controversial choice to protect Australia's lowest paid. Not only is he on the Academic Board of the Centre for Independent Studies (CIS) – and institution that has openly declared its hostility to minimum wages – but he has written extensively on the mistakes made by the Harvester judgement for not including considerations of businesses ability – or propensity – to pay wage increases.

While the other Government representatives on the AFPC have not yet been appointed, what is clear is that the Federal Government believes that the present minimum wage is at least \$70 too high, as they declared this year. The present rate of the minimum wage, the CIS and the Federal Government argues, is an impediment to employment growth at the bottom end of the labour market. Rather than assisting the long-term unemployed to fill the present skills gaps in the labour

market, the Government's new strategy is to create jobs for low skilled workers by keeping down wages and conditions.

The Federal Government intends to make the labour market more flexible by reducing the minimum rights and conditions afforded to workers to just five – a 38 hour standard working week, minimum hourly wages, sick leave, annual leave and 12-months unpaid maternity leave. Everything else will be negotiable. Thus, individual employees will be able to bargain away prior rights and conditions for more pay.

However, there has been considerable community concern that many individuals, particularly among low-income Australians with little or no bargaining position, will fare far worse under the new system.

To date, Australians have been loath to take up individual contracts. Despite the Federal Government's ongoing promotion of the benefits of Australian Workplace Agreements (AWA), only 2.4 percent of the workforce has made the switch – up from 1.2 percent in 2002. This amounts to less than 200,000 workers nation wide. The most rapid growth in AWA coverage has been in the hospitality sector, where unions and collective agreements have failed to penetrate a largely casual and part-time workforce, with a high rate of turnover.

The slow take up of individual agreements is largely a result of the 'no disadvantage test' amended that was introduced along with the Federal Government's 1996 Workplace Relations Act. Under this clause, employees are protected from bargaining away their safety net entitlements when moving onto individual contracts. An individual contract, such as an AWA, fails the 'no disadvantage test' when it would result, on balance, in a reduction in the overall terms and conditions of employment afforded to employees by relevant State and Federal laws and awards.

The no disadvantage test was a safety net designed to protect individuals with little or no bargaining power. As the AIRC explained in its decision in the Safety Net review Case decision in 2004, "Bargaining is not a practical possibility for employees who have no bargaining power."

Despite the protection afforded by this safety net, low-income Australians on individual contracts have experienced a relative decline of wages and conditions. In particular, David Peetz of Griffith University concludes in his report *'The impact on workers of Australian Workplace Agreements and the Abolition of the No Disadvantage Test'* that non-managerial employees on AWAs are significantly disadvantaged relative to their non-AWA counterparts. While the Minister for Employment and Workplace Relations, Kevin Andrews, has argued that, "Workers on AWAs earn on average 29 per cent more than their colleagues on collective agreements," Peetz discovered that these gains – while significantly overstated – accrue largely to management level employees. Thus, employees who are in a position to bargain can make the most of individual contracts; but what about the other half?

Peetz's survey of non-managerial workers on individual contracts showed that they received an average 2 per cent less per hour than workers on registered collective agreements. While this doesn't seem a huge difference, it was the most vulnerable workers who fared the worst.

Women on AWAs had hourly earnings that were 11 per cent less than women on collective agreements. Casual workers were paid 15 per cent less than those on

collective agreements, and AWAs paid permanent part-time workers 25 per cent less. This evidence indicates a bleak future for non-managerial employees after the removal of the no disadvantage test.

Australians can expect to see freeze on real weekly earnings, particularly among new workers, those changing jobs and disadvantaged employees. We may also anticipate some worsening problems with the gender pay gap, and between full-time employees and those on casual and part-time contracts.

### **The Future of the Australian Labour Market**

The Minister for Employment and Workplace Relations, Kevin Andrews, declared earlier this year:

*“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 globalised world.”*

However, the ‘flexibility’ offered by developing countries, with their ready supply of educated graduates, low wage costs, few minimum conditions such as holidays and annual leave, and timid labour unions makes them incomparable destinations for foreign investors or multinational companies looking to reduce costs. Australia, with its high average annual earnings and minimum labour market conditions simply cannot compete on flexibility alone. In the ‘race to the bottom’ of wages and condition, we are simply too far behind to catch up.

A second question is whether winning the race to the bottom, in the pursuit of low-skill and unskilled jobs, is a race worth winning at all. While the Federal Government signals that changes are necessary to “maintain and improve our standard of living,” many commentators have argued that the proposed changes to Australia’s Industrial Relations system will only result in declining living standards, particularly for the least well off.

Since the Federal Government announced its intended changes, Church leaders from across the denominational spectrum have warned that the needs of the economy should remain second to the rights and working conditions of employees and their families. Sydney’s Anglican Archbishop, Dr Peter Jensen, explained that Australia’s present prosperity had already been purchased, “at a fearful price to relationships.” He cautioned that “in the quest for an even better economy, we may be getting rid of the very things that make our money worth having: namely relationships. After all, without relationships, we may as well be robots.” Like many Australians, Dr Jensen is worried what will become of the already strained work/family balance as employers come to expect weekend work and overtime.

The other critical concern is what will happen to the more than a million un- and underemployed Australians, and all others who lack the bargaining position to ensure maximum returns from a negotiated, individual contract. The Minister for Workplace relations has already signalled that single parents and other welfare recipients who knock back jobs because of poor wages and conditions will be stripped of benefits under the new industrial relations regime. How will we ensure that these groups won’t be exploited?

By removing the link – established by the Harvester decision – between work and family wellbeing, the introduction of the AFPC and scrapping of the no disadvantage test and the reduction of minimum rights and conditions threaten to significantly

reduce the quality of life for the unemployed and low-paid. By breaking the link between a job and prosperity, these changes threaten to swell the ranks of the working poor.

As a nation, we have to consider what effect these changes will have on society. We must ask ourselves whether it is morally acceptable to let wages and conditions fall below a level at which employees can sustain a decent standard of living for their families. We must question whether in the interests of greater labour market 'flexibility,' workplaces will become less friendly to the needs of families and communities. Most importantly, we must guard against the social and economic costs associated with the creation of a permanent underclass of expendable, disposable individuals.

These are trade-offs between society and the economy. It is worth considering whether while fulfilling our responsibilities as employees, we are neglecting equally important responsibilities as parents, spouses and citizens.