

THE LIVING WAGE AND THE NEEDS
OF THE LOW PAID:

A DISCUSSION PAPER

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PREAMBLE

Over the past six years the Australian Council of Trade Unions (ACTU) has applied to the Australian Industrial Relations Commission (AIRC) for an increase in award rates of pay – the *Safety Net Review - Wages*. Known colloquially as the “Living Wage Case”, these annual applications have resulted in award wage increases of varying amounts each year.

The AIRC is required to adjust the award safety net in accordance with statutory requirements. In particular, the *Workplace Relations Act 1996 (Cth)* requires the AIRC to have regard to “*the need to provide fair minimum standards for employees in the context of living standards generally prevailing in the Australian community*”¹ and “*the needs of the low paid.*”²

The Living Wage Case is becoming increasingly important as studies³ identify the growing incidence of the “working poor” in Australia. The award system, acting as a safety net of minimum terms and conditions of employment, is seen as one way of ensuring that living standards in Australia are maintained at an appropriate level.

This discussion paper has been written in response to the issues raised in the previous Living Wage Cases. In particular, it discusses the definition of the “low paid” and what might constitute a “living wage.” The objective of the paper is to initiate discussion about these and related issues for further consideration and evaluation.

It is to be noted that the focus of this paper is on Federal Safety Net adjustments. State wage cases are also held on an annual basis as a way of adjusting State based award wages.⁴ Therefore, State award minimum wages may vary from State to State depending on relevant industrial legislation. Further, some differences in the administration of State based award rates may occur. Despite this, many of the principles and issues raised in this paper apply to State Wage cases.

¹ *Workplace Relations Act 1996 (Cth)* section 88B(2)(a).

² *Workplace Relations Act 1996 (Cth)* section 88B(2)(c).

³ See for example: *Financial Disadvantage in Australia 1999: The unlucky Australians?* Smith Family, November 2000 or *Two Australia's - Addressing Inequality and Poverty*, St Vincent de Paul, May 2001.

⁴ States holding State based wage cases include, New South Wales, South Australia, Queensland, Western Australian and Tasmania.

THE LIVING WAGE

Since 1890, the Catholic Church has consistently affirmed the dignity of labour and the right of the worker to earn a *just* wage. In this context a *just* wage has been considered to be a level of remuneration that allows an employee to support his or herself and their family in dignity. In other words, a *just* wage is a wage that allows an employee “to receive what will enable him housed, clothed, and secure to live his life without hardship.”⁵

Furthermore, the concept of a *living wage* has been an integral part of the Australian industrial relations system since the inception of the basic wage in the 1907 *Harvester Case*. This case established the minimum wage of an unskilled worker at a level that was sufficient to ensure food, shelter, clothing, and frugal comfort. This was considered to be a wage that was both *fair* and *reasonable*.

Since its inception, the administration and amount of the basic wage has been the subject of much debate. Over time, the manner in which the “Living Wage” has been calculated and administered has been modified to suit changing economic environments. However, constant points at issue have been the calculation of the dollar amount of the living wage and whether employees who are truly “low paid” are assisted through the establishment and maintenance of the living wage.

THE BASIC WAGE AND ITS RATIONALE

In the 1907 *Harvester* judgement, Higgins J developed a process to establish a wage level to enable a worker, his wife and three children, to achieve a standard of living appropriate to the “*normal needs of the average employee, regarded as a human being in a civilized community.*”⁶ He did so by calculating the cost of purchasing a series of items, such as household goods and food, which, in his view, were essential to attain a standard of living for a family of five. He then compared this to the prevailing wage rates for unskilled labour in the private and public sectors.

Subsequent debate has surrounded what should be included in determining the needs of an average employee, and the way in which the *Living Wage* should be determined.

Today, the *Workplace Relations Act (Cth) 1996* (the Act) provides the framework for the maintenance of an effective award safety net of fair and enforceable minimum wages and conditions of employment. Consistent with this principle, the Act requires the AIRC to ensure that a safety net of fair minimum wages is established and maintained. Furthermore, the AIRC must have regard to the needs of the low paid when adjusting the award safety net. At the same time, the AIRC must also have regard to the need to provide fair minimum standards in the context of living standards generally prevailing in the Australian community and economic factors.⁷

⁵ Pope Leo XIII, *Rerum Novarum*, St Paul’s Publications: Boston, (1891), paragraph 51.

⁶ *Ex parte HV McKay (the Harvester case)* [(1907) 2 CAR 1] extracted from: McCallum, R, C., Pittard, M.J., *Australian Labour Law: Cases and Materials*, (1995) 3rd edn, Butterworths: Melbourne, page 598.

⁷ *Workplace Relations Act 1996* (Cth) section 88B(2)

In its April 1997 decision, the AIRC established a Federal Minimum Wage, which is the minimum wage for a full time adult employee covered by any federal award.⁸

Debate surrounds the application of the Federal Minimum Wage and whether adjustments made to it actually assist the low paid. Many employees may not have their wages regulated by an award and, thereby, may not benefit from adjustments made to the Federal Minimum Wage and the award system. Alternatively, adjustments made to the Federal Minimum Wage may take an extended period of time to flow through the award system.

Such criticisms, however, are related more to the coverage and administration of the award system rather than its legitimacy.

Furthermore, adjustments made to the Federal Minimum Wage have been criticised for providing consequential wage increases to high-income families, an outcome that is not seen as being aligned with the intention of providing assistance to the low paid. This criticism is based on the assumption that low paid workers are usually a part of dual income families, where one person earns a higher income.

This, however, may be an accurate assessment in some circumstances only, as it does not take into account the uniqueness of individual families and their earning capacity, or the number of single income families or people within the community who rely on a wage, however low, as their only means of income.

Therefore, while the award system may not be perfectly targeted to meeting the needs of the low paid, it is contended that it does assist these employees to some degree,⁹ and that it does provide protection for those employees who may be unwilling or unable to bargain for improved terms and conditions of employment.

Despite this, the AIRC has stated that:

*“the needs of the low paid award wage-earners, however, cannot be met solely by the Commission’s establishing and maintaining a safety net of fair minimum wages and conditions. There are many factors apart from wages which determine the living standards of such employees. They include private circumstances, the level of assistance provided by income support programmes, the taxation system and other government social initiatives.”*¹⁰

While it is agreed that many personal circumstances may contribute to the financial situation of an individual or a family, it is also appropriate to question whether the social security system should be used as a replacement for the payment of a *just* wage by employers. In particular, Catholic Social Teaching proclaims that it is the responsibility of the employer to pay a *just* wage and that the role of the State is to establish a minimum code or standard in relation to wages to ensure that the needs of the worker and his or her dependents are met.¹¹

Furthermore, it has been argued by some commentators that some people earning a low wage are transitory. That is, they will only earn a low wage while they are learning new skills or receiving

⁸ Australian Industrial Relations Commission *Safety Net Review - Wages - April 1997*, Print P1997 (1997).

⁹ Australian Industrial Relations Commission *Safety Net Review - Wages - May 2000* M Print S5000 (2000) page 36.

¹⁰ Australian Industrial Relations Commission *Safety Net Review - Wages - April 1997* Print P1997, (1997) page 56.

¹¹ Bishops Committee for Industrial Relations, *Industrial Relations - The Guiding Principles*, (August 1993), page 5.

education. Once such skills or education have been received, those people move out of the “low wage” category to a higher pay level. This argument, however, is based on the assumption that the labour market is continually expanding and adapting to new forms of technology and new skills, and that those people in the “low wage” category are receiving training and education in the skills required by the labour market. This may not always be a realistic assumption, especially in times of economic decline or recession.

IDENTIFYING THE LOW PAID

There is no one agreed definition of who constitutes the *low paid*.

Simplistically, low paid employees may be considered to be those employees who earn below the designated *Living Wage* or whose pay is low relative to other employees. In the terms of the Living Wage Case decisions, the low paid have been considered to be those workers in receipt of *award* wages, despite the varying levels of award wage rates of pay.

While a lack of clarity exists about the definition of the *low paid* and the level at which this must be set, it is recognised that certain groups within the community consistently fall at the lower end of market rates of pay, and hence often constitute the low paid.

People with little or no bargaining power within the labour market are often paid a low level of wages. Such people do not have the ability or skills to bargain for higher wages directly with their employers, and may rely on the award system to determine their rate of pay.

Furthermore, economic conditions and the labour market may result in changes in the demand for different skills from employees. Such changes may have a greater negative impact on those employees who are already paid a minimal amount, as their skill level is generally low and retraining and reskilling is not always available to them.

Human rights generally requires that all people within a society should achieve an adequate standard of living.¹² The standard of living of the poor should not stagnate or fall behind that of the rest of society.

However, what is considered to be an “adequate standard of living”? And how should an “adequate standard of living” be measured or assessed?

Within the concept of an “adequate standard of living” lies a complex problem. A uniform minimum wage does not confer a uniform standard of living for all workers. For example, an individual person on the minimum wage will have a greater standard of living than a sole income earner of a family of four, who is also earning the minimum wage.

Pertinently, the provision of money for the needs of workers - and their dependents - may not necessarily be a function of the wages system only. Government payments and social welfare provisions may also be included in a family’s income.

¹² *International Covenant on Economic, Social and Cultural Rights*, Article 11

Moreover, it may no longer be appropriate to base the achievement of an adequate standard of living on the sole income of one family member. Changes in society have resulted in a greater number of dual income families. Hence, the income in such a family is often greater than that of a single income family. However, this does not necessarily mean that people are living at a higher level of comfort or ease. Some dual income families may be in fact combining income to achieve one adequate wage. This is particularly pertinent for families where one or more wage earners may be part-time or casually employed.

Adopting the needs of the family as an economic unit requires assumptions to be made about the inter and intra relationships of families. Given the uniqueness of each individual family unit such assumptions may be false or misleading in their application.

This is not to suggest that family income is not an appropriate measurement on which to determine an “adequate standard of living”, but rather it should not be the only measurement.

Given these complexities in defining who are the low paid, what constitutes an “adequate standard of living” and the diversity of needs, it might be necessary to utilise a mixture of measurements and criteria.

MEASUREMENT OF THE FEDERAL MINIMUM WAGE

Since its inception in 1997, issues relating to the measurement of a Federal Minimum Wage have not been resolved. Generally, the focus has been on macro-economic indicators and the impact of wage adjustments on all workers, rather than on the *actual* needs of *low paid* workers.

The AIRC observed in the *Safety Net Review – Wages- 1999* decision:

“Considering the needs of the low paid requires the exercise of judgment as to varying income levels and the resultant living standards attained in the Australia community.”¹³

In the *Safety Net Review - Wages - 2000* decision, the AIRC stated:

“Each of the parties which has provided an estimate has done so, through different approaches, to assist the Commission, [AIRC] but each has been subject to criticism. Given the absence of a direct cost measure, a degree of judgment is required and it would be unwise to place undue reliance on any one estimate advanced, although each of the estimates provides guidance.”¹⁴

Some of the measurements and criteria suggested by the parties to the previous Living Wage Cases include:

- Changes in the average weekly ordinary time earnings (AWOTE) figures and other wage indexes. While these indicators may provide a general overview of changes to wages, they may be easily distorted by changes in wages other than those provided by a safety net

¹³ Australian Industrial Relations Commission, *Safety Net Review - Wages - April 1999*, Print R1999, (1999) page 213.

¹⁴ Australian Industrial Relations Commission *Safety Net Review - Wages - 2000 Decision*, Print S5000, (2000), page 24.

adjustment. That is, changes in executive salaries may distort the indicators to show an overall percentage increase in wages when the actual wage increase has only been attained by a few people.

- Economic indicators such as Gross Domestic Product, changes in inflation and employment. While these indicators may provide a good image of the macro-economic conditions prevailing in the past or the expected macro-economic conditions for the future, they do not take into account the effects that any adjustment to the minimum wage may have on the low paid. Furthermore, many factors - both domestic and international - may affect these economic indicators.
- The Budget Standards Method, which represents the needs of a specified household, in a particular place at a particular time, to achieve a specific standard of living. The starting point for the development of a *budget standard* is that it is the *consumption* of goods and services within a household that determines the standard of living. This assumption may not be accurate as it may be that the inverse is true for many households. That is, it is the *income* of the household that determines the consumption. However, an advantage of this method is that it is the *needs* of the household that informs the starting point for the survey.

In its Safety Net Review Submission of February 2000, the ACCER called for the AIRC to establish a set of criteria for determining the needs of the low paid and to provide a context in which the maintenance of minimum wages could be established. The ACCER contended that the establishment of principles upon which adjustments to minimum wages could be made should replace the current adversarial approach. At the same time, the Australian Council of Social Services (ACOSS) made a similar submission.

For example, an *adequate standard of living* might be established using a database or an itemised list of goods and services that people should be able to afford to obtain a standard of living that is acceptable. This list might include dietary requirements or benchmarks for housing, clothing and transport. This database could be used in conjunction with macro-economic measurements of the Consumer Price Index and level of employment and Gross Domestic Product.

As indicated previously, the AIRC has rejected the establishment of such benchmarks for the setting of minimum wages based on the needs of the low paid.

Instead, the Federal Minimum Wage is currently linked to the C14 classification rate in the Metal Industry Award, so as to provide *industrial realism* in the setting of the minimum wage. This rate of pay is currently \$431.40 per week.

However, it is debatable whether *industrial realism* should be the primary concern in setting a national minimum rate of pay, especially where the needs of the low paid are being considered. That is, should intra and inter percentage differences occurring within the award system be a priority in establishing safety net wages?

Under section 88A of the previous federal industrial relations legislation - the *Industrial Relations (Reform) Act 1993* - the AIRC had to have regard for “*stable and appropriate relativities based on skill, responsibility and the conditions under which work is performed, and on the need for skill-based career paths.*”¹⁵ The current Act provides the AIRC with discretion to include in awards,

¹⁵ *Industrial Relations (Reform) Act 1993* (Cth) section 88A(d)

classifications of employees and skill-based career paths,¹⁶ and matters incidental to them.¹⁷ It therefore follows that the AIRC also retains the power to decide whether existing award relativities should be maintained or altered. Such relativities are considered to remain an important determinant of the fairness of the wage structure within the award system.¹⁸

The relativities within the award system will be affected by whether the adjustments made to the award system are flat dollar amounts, (e.g. \$15 per week) or percentage increases (e.g. 3 % of weekly wage). Tension exists between the two types of adjustments that may be made. While flat dollar amounts may have a greater impact on the outcome for low award wage earners, they may also distort the relativities within the award system. Conversely, while percentage increases maintain the relativities in the award system, they provide award earners at the higher levels with the greatest increases.

The AIRC has awarded flat dollar increases, or a combination of flat dollar increases and percentage increases, over the past six adjustments made to the award safety net. In the Statement made by the AIRC in handing down the *Safety Net Review - Wages – 2000 Decision*, it indicated that on the next occasion that award rates of pay were to be reviewed, the AIRC would expect to be addressed on whether a return to a percentage adjustment is necessary to ensure that the award system provide fair wages for all employees and that relativities are maintained.¹⁹

In considering the various submissions in relation to this matter, the AIRC commented in the *Safety Net Review - 2001* decision:

*“In our view skills, responsibilities and the conditions under which the work is performed remain relevant considerations in the fixation of fair minimum wages. However the form of the increase is a matter for determination on the merits of the particular case taking into account all the relevant statutory provisions. In this case we have concluded that it would not be appropriate to award a percentage adjustment.”*²⁰

Given this, the AIRC awarded a sliding scale of increases to the award safety net of:

- \$13.00 per week increase in award rates up to and including \$490.00 per week;
- \$15.00 per week increase in award rates above \$490.00 per week up to and including \$590.00 per week; and
- \$17.00 per week increase in award rates above \$590.00 per week.

Further, in its decision the AIRC noted that, *“the form of adjustment is appropriate for reasons of fairness and as a measure towards avoiding the further compression of relativities between job classifications.”*²¹

Despite the importance placed on the maintenance of award relativities in past Safety Net Reviews the AIRC indicated in its *Safety Net Review - Wages - 2002 Decision* that there was *“...no claim*

¹⁶ *Workplace Relations Act 1996* (Cth) section 89A(2)(a)

¹⁷ *Workplace Relations Act 1996* (Cth) section 89A(6)

¹⁸ Australian Industrial Relations Commission *Safety Net Review - Wages - April 1997*, Print P1997, (1997) page 56.

¹⁹ Australian Industrial Relations Commission *Safety Net Review - Wages - 2000 Statement*, (2000), page 2.

²⁰ Australian Industrial Relations Commission *Safety Net Review - Wages - 2000*, PR002001, (2001), page 45

²¹ Australian Industrial Relations Commission *Safety Net Review - Wage - 2001 - Statement*, PR002001, (2001), page 2.

before us which takes account of the compression of relativities and addresses the issue in a direct way.”²²

Finally, there appears to be little or no analysis of whether adjustments made to the award safety net assist the low paid after the adjustments have been made.

For the past two cases the ACTU has included in their Living Wage Case submissions personalized stories from low-income earners. Most of these stories relate to economic hardship felt by those people and their families. Additionally, most of the people have stated that they received previous award adjustments. However, all claim that the increases were not enough. Yet, there is little if no evidence other than this from any of the parties to the cases about the micro-economic impact of previous decisions. In general, the respective parties tend to predominantly focus their respective submissions at the macro-economic level, particularly inflation and unemployment rates. The impact upon the real needs of the low paid has not been demonstrated in any great statistical analysis, though it is conceded that this is an extremely difficult task.

AWARD COVERAGE & THE FEDERAL MINIMUM WAGE

A final consideration needs to be given to the appropriateness of the award system to provide a *“safety net of fair minimum wages and conditions of employment.”*

Awards, and therefore the terms and conditions contained in them, are generally only legally binding on employers and union parties listed as respondents. The AIRC does not have the power to declare “common rule” awards, binding upon every employer or employee in an industry, unless that award relates to an industrial dispute occurring in a Territory or involves public sector employment.²³ Given this, some employees, especially those engaged by small businesses, may not be covered by an award. It is important to note however that each state, except for Victoria, is able to establish state based “common rule” awards.

In this respect, in order for awards to be legally binding, each employer in an industry must be identified. This can be administratively and financially costly, and may be of little or no value to trade unions, whose membership basis is derived predominately from medium to large organisations.

Therefore, many employers and employees, generally those involved in small business in Victoria, the Australian Capital Territory and Northern Territory, may not legally bound to any federal award. Correspondingly, many employees may not be provided the income protection afforded by the award system.

²² Australian Industrial Relations Commission *Safety Net Review - Wage - 2002*, PR002002, (2002), para. 156.

²³ *Workplace Relations Act 1996* (Cth) s. 141.

CONCLUSION

The establishment of a *Living Wage* or a *just wage* should be one of the fundamental principles of any industrial relations system. Such a wage assists in ensuring that the dignity of the individual is maintained through the recognition of work undertaken.

The payment of a just wage is a moral obligation of the employer. However, the State should provide assistance in ensuring that this moral obligation is maintained. Additionally, the establishment of a minimum wage by the State should form a benchmark for all employers to assess the remuneration levels of employees.

In this sense the State must ensure that the minimum wage provides an *adequate* standard of living for workers. In determining an adequate standard of living the measurement should incorporate what is reasonable to obtain those goods that enable an employee to be a part of the wider community.

Given that the principle underpinning the provision of a Federal Minimum Wage is the protection of the low paid, consideration is required as to whether this principle is being met by the current industrial relations system.

Until a proper analysis is undertaken of the impact of the Living Wage Case decisions upon the low paid, the true extent of the efficacy of these cases will not be known. That is, the Living Wage Case may not be tackling the real needs of low paid workers. It may be that direct monetary adjustments alone do not assist in breaking the cycle of low wages and that more comprehensive non-wage measures – including meaningful access to skills enhancement and career opportunities – are needed to redress the apparent nexus of low skills and low wages.



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