



Submission to the
Senate Employment, Workplace Relations,
Small Business and Education Committee
Inquiry into the
Workplace Relations (Registered Organisations) Bill 2001
and the
Workplace Relations Amendment (Transmission of Business)
Bill 2001

8th May 2001

Executive Summary

The Australian Catholic Commission for Employment Relations (ACCER) makes this submission to the Senate Employment, Workplace Relations, Small Business and Education Committee (the Committee) in respect of the *Workplace Relations (Registered Organisations) Bill 2001* and the *Workplace Relations Amendment (Transmission of Business) Bill 2001*.

The ACCER is a Commission established by the Australian Catholic Bishops' Conference and is supported by the Australian Catholic Leaders of Religious Institutes.

The ACCER bases its submission on Catholic Social Teaching, which aims to bring about a good and fair society for the benefit of all. A fundamental principle of Catholic Social Teaching is that work affirms, enhances and expresses the dignity of those who undertake it. Therefore, upholding the dignity of every person should be at the core of any industrial relations system. Principles espoused in Catholic Social Teaching, as applied to an Australian industrial relations context, have been published in the paper "*Industrial Relations - The Guiding Principles*" (See Appendix One).

Catholic Social Teaching supports the right of employers and employees to form trade unions and employer associations. The right to freedom of association is considered to be a fundamental freedom of a just society.

Given this the ACCER has a moral interest in ensuring the operation of trade unions is not legislatively constrained so as to inhibit the right to freedom of association.

The *Workplace Relations (Registered Organisations) Bill 2001* proposes to replicate the provisions currently contained in the *Workplace Relations Act 1996* relating to registered organisations and to establish a new piece of legislation.

The ACCER states that the establishment of new legislation relating solely to registered organisations is unnecessary, as it does not appear to add anything of value to the current industrial relations framework.

Additionally, the ACCER provides various comments on the changes proposed by the *Workplace Relations (Registered Organisations) Bill 2001* in relation to the registration and deregistration of registered organisations, the representation of members and the provisions relating to the rules of registered organisations, membership, accountability and democratic control of registered organisations.

The ACCER is concerned about the introduction of provisions of the *Workplace Relations (Registered Organisations) Bill 2001* which may inhibit the right to freedom of association by limiting or restricting the rules of an organisation, the membership of the organisation and the representation of members. Further, the ACCER is concerned about the introduction of unnecessary administrative and financial reporting requirements which may further deplete the limited resources of registered organisations. This could negatively affect the ability of the registered organisation to effectively represent its members.

In commenting on the *Workplace Relations Amendment (Transmission of Business) Bill 2001*, the ACCER is mindful of the relationship between the employer and employees. Predominantly, this relationship should be one of mutual respect and dignity, with both parties working together to achieve the objectives of the business and security of employment.

The ACCER recognises that at times the relationship between employers and employees may not necessarily be harmonious, particularly in circumstances where the business has been taken over by another entity. In such situations the ACCER is concerned that the employees of the business are not disadvantaged by the change.

The *Workplace Relations Amendment (Transmission of Business) Bill 2001* appears to protect the terms and conditions of employment as established by a certified agreement when the business is transmitted, while providing a degree of flexibility for the new entity to establish new terms and conditions of employment.

However, the ACCER suggests that this Bill include a provision that requires the AIRC, in making an order relating to transmission of business, to consider whether the employees of the business have been or will be disadvantaged by the transmission of the business.

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Part A

Workplace Relations (Registered Organisations) Bill 2001

1. The *Workplace Relations (Registered Organisations) Bill 2001* (the Bill) proposes to:
 - incorporate in one instrument all legislative provision relation to the registration, deregistration, amalgamation and disamalgamation of registered organisations;
 - regulate the rules of these organisations;
 - provide for improved democratic control of organisations by regulating the conduct of elections for positions in organisations, and providing criteria for disqualification from office in an organisation;
 - improve the accountability of registered organisations by modernising the requirements for record-keeping, financial reporting and access to financial records;
 - regulate the conduct of officers and employees of registered organizations; and
 - provide for penalties, including civil penalties and civil compensation, with respect to breaches of the provisions of the Bill.¹
2. The ACCER makes its submission to the Senate Employment Workplace Relations Small Business Committee based on the principles espoused in Catholic Social Teaching.
3. Catholic Social Teaching promotes the right to freedom of association. The right to join or not to join a trade union or employer association is considered to be a fundamental right of a just society.
4. Organisations representing employees and employers therefore have a legitimate role in any industrial relations system. *Laborem Exercens* states that the purpose of trade unions is to defend the vital interests of employees.² “They are.... a mouthpiece for the just rights of working people in accordance with their individual professions.”³ In this context organisations representing either employers or employees must act in the interests of their members and within the guidelines of the law.

¹ *Workplace Relations (Registered Organisations) Bill 2001 Explanatory Memorandum*, Outline.

² John Paul II, *Laborem Exercens; On Human Work*, (St Paul Publications; Homebush) September 1981, page 81.

³ John Paul II, *Laborem Exercens; On Human Work*, (St Paul Publications; Homebush) September 1981, page 83.

Replication of current provisions

5. Current legislative requirements prescribing the actions of registered organisations are predominately contained in the *Workplace Relations Act 1996* (the Act).
6. The Bill replicates many provisions relating to registered organisations currently contained in the Act. It proposes to remove these provisions from the Act and place them into a separate piece of legislation. It is contended by government that this will simplify the operation of the Act.⁴
7. However, the removal of a section of the Act may not necessarily simplify the working of the current Act. Indeed, the current Act operates essentially as a self-contained document for federally legislated industrial relations matters. The introduction of a new piece of legislation may create confusion and merely add to the number of pieces of legislation that an organisation is required to purchase, update and observe.
8. The ACCER therefore suggests that the intention of the Bill can be achieved through amendments to the current Act.

Registration and Deregistration of Registered Organisations

9. The Bill establishes that the registration process for registered organisations is to be simplified in order to facilitate a “diverse range of organisations thereby providing greater choice.”⁵
10. The ACCER supports the registration of organisations where they genuinely represent the interests of their members. However, all registered organisations must have the industrial ability and resources - both financial and industrial - to effectively represent and promote the interests of their members. In practice, the formation of a diverse range of organisations may reduce the ability of individual organisations to effectively represent their members.
11. Part Three of Chapter Two of the Bill deals with the powers of the Federal Court to cancel the registration of an organisation on certain specified grounds.
12. The ACCER submits that the deregistration of an organisation should be based on a just and fair process. Accordingly, the deregistration of an employee association should be determined by an independent third party with considerable industrial relations knowledge, such as the AIRC. It is not considered to be appropriate for the deregistration of an organisation to be jurisdictionally separated between the AIRC and the Federal Court. Such a distinction may create confusion about which jurisdiction is the appropriate one.

⁴ *Workplace Relations (Registered Organisations) Bill 2001, Explanatory Memorandum*, page ii.

⁵ *Workplace Relations (Registered Organisations) Bill 2001, Explanatory Memorandum*, page 4.

Representation of members

13. Chapter 4 of the Bill enables the AIRC to make an order in relation to demarcation disputes and the representation rights of unions.
14. Specifically, the Bill enables the AIRC to consider an application by an organisation, employer or the Minister to vary an order regarding the representation rights of employees.⁶
15. Such an amendment may unnecessarily inhibit the right to freedom of association for the affected employees as it allows for employers and the government to initiate proceedings in relation to the representation of employees which has previously been dealt with by the AIRC. This may unnecessarily introduce political influence into the representation of employees or may enable employers to influence the type of registered organisation representing their employees. In essence, the inclusion of this provision enables the parties to continually question the orders of the AIRC. Therefore, the ACCER does not support such a provision.

Rules of Registered Organisations

16. The Bill proposes to modify also the current legislative provisions of the Act relating to the rules of registered organisations.
17. In particular, section 139(1)(e) of the Bill introduces the requirement that the rules of a registered organisation incorporate a provision which would not allow membership dues to be payable by a person who is not eligible to become a union member or who is not “*actively participating*” in the affairs of the organisation.
18. It should be noted that employers or employees might join a registered organisation for a variety of reasons. For instance, the variety of benefits and services offered by registered organisations to their members may attract some employers or employees rather than any ideological or industrial reason. Alternatively, employers and employees may seek to join a registered organisation on the basis of moral or social reasons but may not wish to or be able to *actively* participate in the affairs of the organisation. Such a provision may therefore unnecessarily limit the revenue of registered organisations.

Membership of Registered Organisations

19. The Bill establishes a new requirement for registered organisations that if a person or organisation has not paid membership dues to an organisation for a continuous period of 24 months, the organisation must remove the person’s details from their records. Thus the person or organisation ceases to be a member of that registered organisation.⁷ Furthermore, if that same person or organisation seeks to rejoin the registered organisation within 6 months of their previous

⁶ Workplace Relations (Registered Organisations) Bill 2001, section 130(2)

⁷ Workplace Relations (Registered Organisations) Bill 2001, Explanatory Memorandum, page 60.

membership, the registered organisation must not require the person or organisation to pay an entrance fee.⁸

20. The ACCER submits that the requirement to pay or not pay an entrance fee should be a matter determined solely by the registered organisation. To ensure fairness, the application of an entrance fee or waiving of an entrance fee for certain members should be applied consistently throughout the registered organisation. However, details relating to the payment of the entrance fee should be determined by the registered organisation.
21. Other organisations or groups in the community are able to determine the application of an entrance fee privately. Furthermore, the waiving of an entrance fee is at times used as a marketing tool to attract new members to such groups. The legislative provisions of the Bill effectively diminish a registered organisation's ability to use such a marketing tool, even though it has been suggested by some that such organisations need to *market* their services if they are to remain relevant and effective.

Accountability of registered organisations

22. The Bill intends to improve the accountability of registered organisations by “modernising” the requirements for record keeping, financial reporting and access to financial reports.⁹
23. The ACCER contends that the maintenance of accounting reports in a manner that is transparent, open and honest is an essential element of the organisation's obligation of accountability to members. As members and stakeholders in a registered organisation, employees have a right to review and comment on the financial dealings of that organisation.
24. To this extent, the Bill proposes to introduce the requirement that registered organisation prepare general purpose financial reports in accordance with Australian Accounting Standards.¹⁰
25. The introduction of this requirement may cause a significant cost to registered organisations who have not had to comply previously with such a requirement. Such a provision is to be introduced immediately; that is, without any transitional period. It is acknowledged that the Industrial Registry, under the provisions of the Bill, may have the ability to determine whether particular accounting standards apply to an organisation, it is considered to be more practicable to introduce a transition period for implementation. This would enable all registered organisations the opportunity to prepare for full implementation, if this proposal is to be adopted, without significant cost or disruption to the provision of services to members.

⁸ *Workplace Relations (Registered Organisations) Bill 2001, Explanatory Memorandum*, page 61.

⁹ *Workplace Relations (Registered Organisations) Bill 2001, Explanatory Memorandum*, Outline.

¹⁰ *Workplace Relations (Registered Organisations) Bill 2001* section 242.

26. Clause 226 of the Bill requires a registered organisation to lodge a statement detailing each loan, grant or donation over \$1,000 to the Industrial Registry within 90 days of the end of each financial year.
27. In principle, the ACCER supports the full reporting of all loans, grants and donations made to or made by registered organisations.
28. However, the requirement that a registered organisation must submit a separate statement to the Industrial Registry detailing loans, grants and donations is considered to be an unnecessary administrative procedure.
29. The open and honest reporting of all monies received or spent, donated or loaned should be reported as a separate line item in the appropriate financial report. It is contended that such open and honest reporting of financial matters forms part of the accountability of registered organisations to members. Such financial reports should then be made available to relevant parties, such as members and the Industrial Registrar.
30. Furthermore the setting of a dollar threshold amount on a donation, loan or grant may result in registered organisations receiving or spending amounts, but not being required to report it. Thus the requirement to report all donations, grants or loans in the financial reports reduces the ability of the registered organisation to generalise monies spent or received.
31. Division 7 of Chapter 8 of the Bill provides for increased access of members to financial records. The ACCER supports the related provisions.
32. Access to financial records by members form part of the duty of accountability of registered organisations to members. Members should have the ability to question the registered organisation about its financial reports.

Democratic Control of Registered Organisations

33. The ACCER values the democratic process as it enables the involvement of people in making political choices; it allows the people the possibility of electing candidates and of holding such elected candidates accountable.
34. Authentic democracy must be based on values that are openly and honestly communicated and that underpin the ideas and convictions of those elected officials.¹¹
35. Given this, the election of officials to registered organisations should be conducted by an independent third party to ensure that they are undertaken within the boundaries of authentic democracy. It is recognised that the Bill requires all elections for office within a registered organisation or branch of a registered organisation to be conducted by the Australian Electoral Commission.

¹¹ John Paul II, *Centesimus Annus; On the Hundredth Anniversary of 'Rerum Novarum.'* (St Pauls Publications; Homebush) May 1991, page 85.

36. On a practical level it is contended that the Bill should enable the Australian Electoral Commission to apply for an exemption from conducting an election for a registered organisation. Such a provision would recognise the broader responsibilities that the Australian Electoral Commission has in conducting elections within Australia. This would introduce a degree of flexibility for the Australian Electoral Commission to ensure that the holding of all elections may be undertaken with maximum efficiency and accuracy.
37. Where the Australian Electoral Commission cannot conduct an election for a registered organisation within the particular time frame, the registered organisation should have the ability to apply for an extension of time in which the election may be conducted. Alternatively, where the Australian Electoral Commission cannot conduct an election for a registered organisation, it should be able to appoint an alternative independent organisation with the ability to conduct the election.
38. The Bill introduces a new requirement in relation to the use of organisational resources to assist one candidate over another in an election for office.¹² The ACCER supports the introduction of this provision on the basis that the formal or informal support of a candidate in an election may inhibit the integrity of the election process and affect the genuine result of the election.

¹² *Workplace Relations (Registered Organisations) Bill 2001, Explanatory Memorandum*, page 66.

Part B

***Workplace Relations Amendment (Transmission of Business)
Bill 2001***

1. The *Workplace Relations Amendment (Transmission of Business) Bill 2001* (the Bill) proposes to:
 - empower the Australian Industrial Relations Commission (AIRC) to make an order that a certified agreement does not bind an employer as a result of a transmission of business; or
 - empower the AIRC to make an order that a certified agreement binds an employer to a specified extent as a result of a transmission of business.
2. Currently, section 149 of the *Workplace Relations Act 1996* (the Act) requires that, subject to any order if the AIRC, an award may be binding on...any successor, assignee or transmittee (whether immediate or not) to or of the business, or any part of the business, of an employer who was party to that award. This includes a corporation or organisation who has taken over the business or part of the business.¹³
3. Furthermore, the Act specifies that if a certified agreement is in operation at a workplace that is subsequently taken over, either wholly or in part, by a successor, transmittee or assignee (whether immediate or not), then the new employer is bound by the certified agreement to the extent that it relates to the whole or part of the business which is taken over.¹⁴
4. It is argued by the government that such a provision creates a degree of inflexibility in employment relations for employers taking over a new business. Further, that this may, in some cases seriously inhibit the operation of the business.
5. However, where a business is transmitted to another entity, the ACCER would be concerned that the employees of that business are not disadvantaged. Furthermore, the ACCER would be concerned that the business structure could not be artificially manipulated to enable an employer to avoid their responsibilities to their employees.
6. The Bill suggests amendments to the Act to make provisions in relation to the binding effect of certified agreements on successors, transmittees or assignees parallel to that which are currently stated in section 149 of the Act.
7. The ACCER supports such amendments as they promote consistency in the Act in relation to transmission of business and workplace relations matters.

¹³ *Workplace Relations Act 1996* section 149(1)(d)

¹⁴ *Workplace Relations Act 1996* section 170MB

8. Additionally, the proposed amendments introduce flexibility for new employers to seek an order to override the transmission of certified agreements.
9. However, it is contended that in determining an order, the AIRC shall fully hear from all parties to the certified agreement. This enables all of the parties to a certified agreement to have a “voice” in relation to the transmission of business and the subsequent terms and conditions of employment.
10. In making orders in relation to the transmission of certified agreements or awards, it is contended that the AIRC should ensure that employees are not being disadvantaged if the award or certified agreement is not to be considered binding in every respect upon the new employer. This should require the employer to submit to the AIRC the detail of proposed new terms and conditions of employment to apply in the workplace. In this way, the AIRC could ensure that the transmission of business does not disadvantage the terms and conditions of employment of the employees.
11. It is therefore suggested that the AIRC apply a no disadvantage test, as established in Part VIE of the Act, where the terms and conditions of employment of a transmitted business are determined currently under a certified agreement and an order is sought to override the agreement. In determining the designated benchmark for the application of the no disadvantage test the AIRC should apply the current certified agreement. This protects the employees and ensures that they are not disadvantaged by the transmission of the business.
12. In reality, where a new employer has taken over a business, the terms of conditions of employment would have been assessed by it before it completed the purchase. This is part of the normal due diligence of business whenever taking over another business and a new workforce.

Appendix One

INDUSTRIAL RELATIONS - THE GUIDING PRINCIPLES

The quality of the relationship between workers and those who employ them affects the welfare of individuals and families, the promotion of justice and harmony in the workplace and society at large, and the prosperity of the nation. As industrial relations arrangements in Australia continue to change, the Bishops Committee for Industrial Affairs (a committee of the Australian Catholic Bishops Conference) offers the following statement of principles taken from the Church's social teaching. The Bishops' Committee believe that these principles should form the basis of all arrangements which seek to promote and protect the employee/employer relationship.

*Most Rev Noel D Daly, DD.
Bishop of Sandhurst
Chairman
Bishops Committee for Industrial Affairs.*

(1) INTRODUCTION

The debate in Australia concerning the reorganising of workplace agreements and the duties of employers and employees to one another, takes place in a period of economic uncertainty, high unemployment and of increasing economic and social pressure on family life.

The Church has examined the issues of work and the employment relationships over many years, beginning with the Encyclical of Pope Leo XIII in 1891 entitled "*Rerum Novarum*", through to the present day. Pope John Paul II has published two encyclicals on this subject, "*Laborem Exercens*" and "*Centesimus Annus*", the latter upon the 100th anniversary of Leo's Great Encyclical.

In the debate on public policy, correctly the province of the legislators, political parties, worker and employer organisations and the community, there is need to draw attention to fundamental principles of morality and social justice.

The Church expresses no preference as to one form of industrial relations structure or another; it does however hold firmly the right of citizens to work and the primacy of the dignity of each human person, which must be recognised in all laws, particularly in laws governing economic strategies and industrial relations.

The legal framework and the institutions which flow from it in order to regulate the employer/employee relationship have no validity unless they are constructed to serve the needs, rights and obligations of individuals.

Pope John Paul II, in his Encyclical on human work entitled "*Laborem Exercens*", pointed to several important rights of workers. In particular, he pointed out the right to work, the right to just wages, the right to form associations for the purpose of defending the vital interests of workers, the right to strike under certain circumstances, the right of women not to be discriminated against because they choose to form a family and the right to adequate rest.

(2) THE NATURE OF WORK

Work is a principal means by which human kind seek their personal fulfilment and make their contribution to the common good. Thus there is a natural priority of labour over capital. 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.

"the danger of treating workers as special kind of merchandise or as an impersonal force needed for production (the expression 'workforce' is in fact in common use) always exists especially when the whole way of looking at the question of economics is marked by the premises of materialistic economism". (1)

Every family has the right to sufficient income through work. Workers have the right to just minimum wages and to just and safe working conditions.

(3) THE RIGHT TO WORK

Some one million Australians are seeking work. Their plight deserves the sympathy, understanding and corrective action of all those in a position to contribute to the solution to this great social problem. This includes employers and employees who can justly be called upon to make sacrifices so that others may find work. Governments and political parties have an onerous responsibility to give effect to this right to work by providing "*suitable employment for all who are capable of it*". (2)

The provision of more work opportunities does not, however, by itself justify reducing, below a just level, the wages of those already in jobs.

(4) THE RIGHT TO REST

Economic considerations, whether by the employer for increased production or by the employee for increased wages, cannot set aside the need to provide for adequate rest. Adequate rest brings with it considerations of the reasonable time which may be worked in any one day or in any one week. Respect for human dignity requires that working conditions, including the length of shifts and the length of a week's work, be such as to protect the health and well being of workers and to recognise their obligations to their family and the wider community.

The establishment of one day each week (Sunday/Sabbath) when individuals can not only rest from their labours but turn their minds to other aspects of their human development and that of their families, is an important requirement of respect for human dignity and the establishment of humane working conditions.

(5) FREEDOM OF ASSOCIATION

In Australia, employers and employees have organised themselves into associations over many years. This is a proper and legitimate exercise of the right of freedom of association. It is a fundamental freedom of a just society. Trade unions and employer organisations have a right to exist and to represent those who are their members in a collective way.

Setting out the rights of workers, Pope Paul II adds:

"all these rights, together with the need for workers themselves to secure them, give rise to yet another right: the right of association, that is to form associations for the purposes of defending the vital interests of those employed in the various professions. These associations are called labour or trade unions. The vital interests of the workers are to a certain extent common for all of them; at the same time however each type of work, each profession, has its own specific character which should find a particular reflection in these organisation" (3)

Compulsion, either to join organisations or not to join them, is breach of the right of individuals to choose whether and how they will exercise their right of freedom of association.

The organisations themselves must act in the interests of their members and subject to law. It is a misuse of the power of organisations for them to be used for purposes other than those for which they were created, and for which members freely joined them.

(6) THE RIGHT TO WITHDRAW ONE'S LABOUR

The right to strike or to withdraw one's labour is a basic right of every worker. This right to strike, or to conduct work stoppages, is recognised by Catholic Social Teaching as legitimate in proper conditions and within just limits.

In this connection workers should be assured the right to strike without being subjected to personal sanctions in the criminal jurisdiction for taking part in a strike.

Equally, individual workers should be able to make a decision about whether to withdraw their labour free from coercion and intimidation.

Workers have the right to refuse any activity to which they morally object and to refuse to carry out duties which they genuinely believe to be dangerous to their health or to the safety of themselves, other workers and the community.

In the case of industrial disputes, the right to strike must only be used as a last resort and in proportion to the issue. It is an *"extreme means"* (4).

That is to say that the right to strike may only be exercised when all other reasonable avenues for the resolution of the dispute have been exhausted and where the consequences of the withdrawal of labour are in proportion to the justice of the claim.

The use of strikes or lockouts for political purposes extraneous to the employment relationship is not legitimate.

(7) ESSENTIAL SERVICES

It is proper for legislators to make special arrangements for the common good of society - *"if necessary by legislation"* (5) - for the provision to the community of essential services, and to guard against the withdrawal of labour if it would result in the denial of these essential services to the community. In these circumstances, where there is a restraint on the basic right to withdraw one's labour, there is a parallel obligation to ensure that grievances are dealt with speedily and justly by the direct employer and by the indirect employer, so as to obviate wherever possible the exercise of the right to strike. In regulating this area of work governments should be wary of too broad a definition of what is an essential service or making employment within what is an essential service a sufficient definition. Not all employees engaged in authorities and enterprises providing essential services are themselves essential to the provision of the service.

(8) THE INFLUENCE OF BODIES EXTERNAL TO THE DIRECT EMPLOYMENT RELATIONSHIP

A direct employer of labour must exercise morality and social justice in dealings with employees; equally employees must carry out their duties to him fairly and justly. This is best explained by the popular saying 'a fair day's work for a fair day's pay'.

Employees and employers should be able to choose freely to be represented in their dealings one with the other by employer organisations or trade unions or other representatives of their choice.

Apart from governments, significant influence on the employment relationship can come from courts, tribunals and other institutions which shape the legal framework and

the manner in which the employer/employee relationship is regulated. They must also act justly and must recognise freedom of association.

It would be wrong if, for example, employer organisations and unions were permitted to exist but were rendered ineffective and prevented from pursuing their just and rightful interests by the nature of the laws regulating their activities.

In this sense, these bodies are morally obliged to ensure that the bargaining position of all parties is as equal as possible. No party should hold unreasonable sway over another. If this does happen, as it sometimes has in the past, employment contracts of all kinds can be corrupted by actual or implied coercion. Governments, who fund organisations to carry out important social work, also need to refrain from using the funding process to dictate employment contracts that are unfavourable to either the employee or the employer. It is a well established principle in the teachings of the Church, and indeed in the community generally, that contracts entered into under duress have no validity.

"there is always underlying such agreements an element of natural justice and one greater and more ancient than the free consent of contracting parties, namely, that the wage shall not be less than enough to support a worker who is thrifty and upright. If compelled by necessity or moved by fear of a worse evil a worker accepts a harder condition which, although against his will he must accept because the employer or contract imposed it, he certainly submits to force against which justice cries out in protest" (6).

These authorities and institutions (sometimes termed "The System") have an obligation to protect the community in general and the weak in particular. Where there are disputes between employers and employees, there should be mechanisms for reaching just solutions which protect the rights of both employers and employees. The 'public interest', as it is known in Australia, is a valid consideration for these bodies.

In his visit to Australia in 1986, Pope John Paul II said *"Australia has a long and proud tradition of settling industrial disputes and promoting co-operation by its almost unique system of arbitration and conciliation. Over the years this system has helped to defend the rights of workers and promote their well being, while at the same time taking into account the needs and the future of the whole community"*. (7) Whatever changes need to be made to the mechanics of the conciliation and arbitration system, it should be ensured that these principles are preserved.

(9) WORKPLACE REFORM

In Australia, the focus is shifting from industry-wide and craft based awards to Enterprise Bargaining. There appears to be a consensus that workplace or Enterprise Bargaining provides better opportunities for growth and development in Australia and thus the creation of more jobs accompanied by greater work satisfaction and fulfilment.

It is not for the Church to opt for one system over another. Under any system, close co-operation and mutual trust between employers and employees are to be encouraged. Such co-operation and trust can only be built on a foundation of respect for human dignity and just dealings one with the other.

In circumstances of exploitation and coercion, the indirect employer, that is governments, tribunals and courts, must provide opportunities for the just settlement of disputes, and may think it wise to set down a code of minimum standards of wages and conditions based on respect for the dignity of each human person engaged in the workplace and cognisant of the needs of the worker and his or her dependants.

There is a particular need to protect the well being of those in the working community whose educational qualifications and level of skills place them in a vulnerable position. Care should be taken to ensure that they receive appropriate protection, and are given, so far as it is possible, opportunities to improve their prospects, and *"realise their humanity more fully in every respect"* (8) through access to education and training during their working life.

Legislators must be cautious in the use of political and legal power not to deprive legitimate institutions, including trade unions and employer organisations, of the role that is proper to them in the protection of the rights of their members and the role they play in contributing to the common good.

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- (1) *"Laborem Exercens"*
 - (2) Ibid
 - (3) Ibid
 - (4) Ibid
 - (5) Ibid
 - (6) *"Rerum Novarum"*
 - (7) Papal Visit to Australia, 1986
 - (8) *"Laborem Exercens"*