

# ***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.*

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## **(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*"