

A Fair Go At Work

Collective Bargaining for Australian Workers

Report of the ACTU Overseas Delegation on Collective Bargaining

A Fair Go At Work is a union policy discussion paper on the future of Australia's industrial relations (IR) system prepared by a delegation of senior union officials who have investigated contemporary collective bargaining systems both domestically and overseas.

The focus of the report is collective bargaining.

Collective bargaining for workers is a key feature of a fair, modern, democratic society. Collective bargaining promotes improved productivity, better wages outcomes for workers and more cooperative workplaces¹.

Under the Federal Government's IR laws Australian workers have no enforceable right to collective bargaining.

Even where a majority of workers in a workplace want a collective agreement their employer has the unilateral right to refuse to bargain collectively and can insist that to get a pay rise, job or promotion workers must sign an AWA individual contract.

This report represents a new approach for Australia – one which respects workers' rights and promotes cooperation and productivity in workplaces.

The report's recommendations will be debated at the ACTU Congress in October this year

Democratic Principles and Decent Rights for Workers

The report makes a number of key policy recommendations for a future model of collective bargaining in Australian workplaces.

1. A Strong Safety Net of Pay and Conditions

There should be a decent safety net of pay and conditions in awards and/or legislation that is able to be adjusted to take account of community standards and ensures the low paid a fair share in the benefits of prosperity.

- *Under Workchoices Australian workers are only guaranteed a minimum wage and four minimum conditions. Everything else including overtime pay, penalty rates and weekend and Public Holiday pay is up for grabs.*

2. Collective Bargaining Rights

Over and above the safety-net workers and employers should be encouraged to collectively bargain for improvements in pay, conditions, flexibility and productivity. The current system of 'union' and 'non-union' agreements should be replaced with a single stream of collective agreements which can be made with unions or directly between employers and employees. Unions members must at all times have the right to be represented by their union. Workers, unions and employers should be free to agree to bargain at whatever level they decide. Where there is no agreement the Commission should have the power to determine the issue.

¹ Australian Bureau of Statistics figures show that annual average wage increases are greater under collective agreements than under AWAs. Between June 2004 and June 2005 wages increased by 4.3 percent under union collective agreements compared to only 2.5 percent under AWAs.

- *The right to collectively bargain is a core human right enshrined in the UN Declaration of Human Rights and the ILO. Collective bargaining rights address the inequality of bargaining power between workers and employers. But Workchoices favours individual contracts over collective bargaining and there is no obligation on employers to respect the right of workers to bargain collectively.*

3. An Obligation to Bargain in Good Faith

The law should oblige all parties – union, employers and workers - to bargain with each other in good faith, and empower the Industrial Commission to help make this happen.

- *There is no requirement for parties to bargain in good faith under Workchoices.*

4. A Democratic Say for Workers

It is the democratic right of workers to have a collective agreement at their workplace if they want one. If there is disagreement over the type of bargaining that should occur at a workplace, for example if an employer refuses to bargain collectively and insists on individual contracts, the workers themselves should be given a say. In these circumstances the majority view of the workers should determine the issue. If a majority of workers support a collective agreement then the Commission must ensure an employer respects that decision and collectively bargains in good faith.

- *Under the Government's IR laws the only say that matters is that of the employer. An employer can deny workers the right to a collective agreement even if that is what a majority of workers want.*

5. Last Resort Arbitration

In the event that bargaining has broken down and there is no reasonable prospect of reaching agreement, the Industrial Commission should be able to arbitrate as a last resort to resolve disputes. This is vital to protect the public interest and the needs of the low paid.

- *The Government's IR laws do not give the Commission any effective powers to arbitrate intractable bargaining disputes.*

6. The Right to Union Membership and Representation

Australian workers must be given a legal right to be represented by a union in discussions with their employer and in collective bargaining.

7. Protection from Unfair Treatment and Dismissal

The Commission should have the power to guarantee fair treatment for workers, protect workers from unfair dismissal and maintain and improve the award safety net.

- *Under Workchoices employees in businesses with less than 100 staff can be sacked unfairly. Workers in larger businesses can be also be unfairly dismissed if their employer cites 'operational reasons' as the cause of the dismissal.*

8. The Abolition of AWAs

The Federal Government's AWA individual contracts are being used to undermine the pay and conditions of Australian workers. They give employers unilateral and unfair rights to reduce worker's take-home pay and they should be abolished.²

ENDS

² An Office of the Employment Advocate survey of AWAs registered under the new IR laws found that every AWA examined removed at least one award condition and almost one in five eliminated all award conditions.