

A UNITARY IR SYSTEM



WORKPLACE RELATIONS
A UNITARY SYSTEM OF INDUSTRIAL RELATIONS
AUSTRALIAN DEMOCRATS ISSUE SHEET

A unitary IR system has three prime motivations. One is achieving common human rights across Australia. At present they differ. The second motivation is economic. Efficient, competitive, productive enterprise requires common, easily administered rules and laws. The third is achieving comprehensive coverage.

We need one industrial relations system not six. We have a small population, yet we have nine governments and a ridiculous overlap of laws and regulations. There are areas of the economy that genuinely require a single national approach.

Like finance, corporations or trade practice law, labour law is one of those areas.

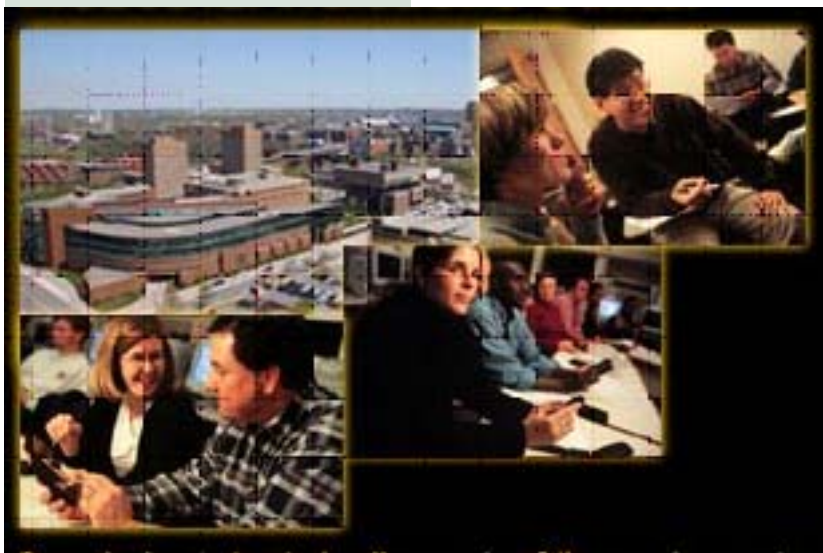
awards. The same employer faces different arrangements in various jurisdictions. This creates several problems:

■ **Inequity:** similar workers and employers face different legal regimes in relation to all kinds of workplace issues;

■ **Inefficiency:** many employers and employees are unsure which laws, awards or agreement-making systems apply to them. Inefficiency is amplified by the straightforward duplication of certain provisions, with more than one law potentially applicable to different workplaces. Sometimes different federal and state laws apply to workers on the same site. The result of inefficiencies is higher costs and lost productivity;

■ **Forum shopping:** Some parties to the industrial relations system take advantage of the existence of different legal regimes by 'shopping around' from one jurisdiction to another in pursuit of 'better deals'; and,

■ **Coverage:** Many workers are currently not covered for



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Workers doing similar work in different states often have different rights and pay rates and are covered by different employment agreements or

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state or federal industrial relations legislation.

However, moves towards a comprehensive, unitary industrial relations system in Australia are likely to be slow, in view of the constitutional limitations on the Commonwealth's capacity to directly fix wages and conditions.

Referenda aimed at extending the Commonwealth's industrial relations powers failed in 1911, 1913, 1926, 1944 and 1946. It seems unlikely that anyone would attempt a unitary system by referendum again.

The most effective way to get a single industrial relations system would be by referral of powers to the Commonwealth by the States. Victoria successfully did this in 1997, with the support of the Democrats. With that referral came a category of several hundred thousand Victorian employees under inferior employment conditions under the State law of the time. Despite Victoria's success it is unlikely at this stage that other states will follow suit.

Opposition to a unitary system comes from two principal sources: vested interests (which include states rightists) and those who oppose whatever the content will be.

The only other route to a unitary system is for the commonwealth to use constitutional corporations power or the external affairs power to cover the field. This the government recently tried to do with unfair dismissal laws via the

"Victoria successfully did this in 1997, with the support of the Democrats."

Workplace Relations Amendment (Termination of Employment) Bill 2003. This bill failed to pass the Senate.

In the end the Democrats did not support the *Workplace Relations Amendment (Termination of Employment) Bill 2003* because it would have disadvantaged some employees in some states.

However, relying on the constitutional corporations power alone will still leave large

chunks of small business unregulated, as around 70% of small businesses are not incorporated, and do not fall under that power. While Federal awards do not currently cover many small businesses, State common rule awards cover some. Any unitary system must not only keep in the system those already in the federal or state systems, but it must also capture those presently not covered at all.

The Democrats believe that a unitary system does not have to be achieved with an all or nothing outcome. We do not have to immediately move from six systems to one. Transitional arrangements could allow for up to six systems to continue, after a national system was established. The first step is to build the political will and consensus to try and reach that goal.

If a move to a unitary system is possible and can occur without any diminution of rights, achieving simplicity, efficiency and greater fairness, and achieving better coverage of workers, then the Democrats will support it.



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