Bishop and Bench set sights on casual work

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Complaints from Australian workers about forced casual status are increasing. Most suggest the nature of their employment is anything but casual. They believe that they should be classified as part-timers. Manipulation of casual work provisions is apparent right across today's labour market in most industries and all states. So it is no surprise that almost all of the concerns raised with ALIA have been valid.

This is much more than an esoteric debate about terminology, as some might see it. Employment status has a major effect on benefits and, especially, on career paths. Casuals are seriously disadvantaged by comparison with permanent part-time and, particularly, full-time staff. They earn less, have little access to training and development, find promotion almost impossible and to date have had limited protection against unfair dismissal. Most are victims of a relentless drive for lower labour costs, for which 'flexibility' has become a sometimes-cynical euphemism. Some employers are using casual status purely as an artifice to lower wages and avoid proper process in terminating employment.

Casual work has always been a legitimate form of employment in Australia. Industries with seasonal fluctuations, unexpected surges in demand or occasional peak periods could not have functioned effectively without access to a pool of short-term labour. Genuine casual employment is irregular and unpredictable. Each period of work is distinct. The number of hours may vary greatly from contract to contract and the employee does not — and does not expect to — retain a continuing relationship with the employing body. There is nothing at all wrong with this type of work in that type of circumstance. It meets all legal tests and is usually mutually beneficial.

What is disturbing today is the use of casuals to replace permanent part-time and full-time jobs. Casuals now make up more than a quarter of the Australian workforce. Even more alarmingly, almost half of these people have been employed as casuals in the same job for more than a year. Some, including library workers in some of our largest and best-known institutions, have been casuals for as long as ten years. The oxymorons of 'permanent casual' and 'full-time casual' have been legitimised, despite their inherent absurdity — and their questionable legality.

Without doubt some people — students and travellers, for example — are content with genuine casual work. But it is equally certain that the vast bulk of those categorised presently as casuals want greater security, better benefits and acknowledgement of their continuing connection and contribution to the workplace. The time has long passed when criticism of casual work's spread could be brushed off as just another trade union attempt to halt declining membership. In a recent pastoral letter, the Chair of the Australian Catholic Social Justice Council, Bishop Morris, expressed the Church's serious concerns by writing:

> *'It is time to question whether casual employment is necessary in such high proportions and across such a broad range of industries. Australia cannot be described as a fair society if a growing number of workers are engaged on an uncertain, irregular and insecure basis without access to the basic rights of more permanent workers ... employment security should not be subject to artifical manipulation of employment categories.'*

Many people will say 'amen' to that.

They — and the Bishop — may also welcome a recent decision on casual work by the Australian Industrial Relations Commission [AIRC] Full Bench. In *Cetin and Ripon P/L, trading as Parkview Hotel [PR938639]*, the Bench upheld an appeal by a waitress against a decision that she had no access to unfair dismissal provisions because she was a casual, employed for less than twelve months. The Bench granted access and upheld the complaint against her dismissal, noting her work was a predictable and regular four set shifts per week. In doing so, the Full Bench has destroyed previous assumptions that employers can dispense with casual staff virtually at will. This removes much of the rationale for describing as casual staff who are clearly part-timers in law. With casuals now granted the same rights, there should be reduced incentive for contrived arrangements to deny part-time status.

Some employers will almost certainly be unimpressed by the views of either bishops or benches on this issue. They are likely to reassert the supposed efficiency benefits of a more casualised workforce. For them, a major international study of casual work recently publicised through the University of Melbourne might be more likely to cause a rethink. It finds that the productivity of Australian business is being badly eroded by its increasingly casualised workforce. At 27.3 per cent, Australia's rate of casual employment is very high by world standards — second only to Spain. The Proudfoot Consulting Group survey identifies overuse of casual and temporary staff as the major factor in a worrying lack of properly qualified, trained and experienced staff which is damaging productivity in major industrialised countries. Australia has experienced a thirteen per cent loss of productive time from this problem, the highest of all seven countries studied.

When moral, legal and economic imperatives combine in this way to urge a review, it is sensible to reconsider. The AIRC will clearly regard as permanent part-timers any so-called casuals who do work that is regular and predictable. The Bench is sending a strong message to employers that they should review their employment policies to comply with its recent ruling. ALIA will be encouraging employers in the sector to do precisely that, lest they fall foul of these important new principles. ■

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