

United Voice recommendations to the Working Group on business and human rights – Applying a Gender Lens to the UN Guiding Principles

About United Voice

United Voice is an organisation of over 120,000 Australian workers, united by our belief in the dignity of workers and the right to fair and just treatment at work. <https://www.unitedvoice.org.au/>

1) Recommendations for government to protect against human rights abuses

Equal pay in feminised industries and occupations

- There is an enormous personal cost to working in a female-dominant industry.¹
- It is currently extremely arduous and costly for unions to seek an Equal Remuneration Order (ERO).² Government should undertake legislative reform to the *Fair Work Act 2009* to make it easier to obtain equal remuneration orders.
- The Government should create an advisory Pay Equity Panel that investigates wages in female-dominated industries and has the ability to recommend adjustments to the minimum wage in the applicable award to deliver sector-wide outcomes to working women.
- The Government should commit to improving pay in feminised industries where government funding is the predominant source of funding. In particular, the Government should:
 - Fund professional pay for educators in ECEC, and
 - Ensure the National Disability Insurance Scheme (NDIS) funding model allows for adequate pay that reflects the skills and qualifications required to deliver high quality disability support.
 - Ensure aged care funding recognises the true cost of delivering quality aged care, inclusive of workforce costs.

Living wage

- The Australian Government should support consistent and fair increases in the national minimum wage to achieve a living wage. This will have a significant impact on women in industries with high levels of award-reliance such as ECEC, the care sector, cleaning, and hospitality.
- The Australian Government should support the restoration of penalty rates for weekend and public holiday work, as these cuts have disproportionately affected low-paid women in the hospitality and retail industries.³

Public procurement

- Government should use its public procurement power to command decent work from its suppliers in the services and goods it procures. In industries such as cleaning and security services, at a minimum, public procurement contracts should mandate the provision of a living wage and secure work to those working on government contracts, in addition to all other legislated minima. Government should actively monitor and enforce decent work in its contracted goods and services. The Australian Government should follow the Black Economy

¹ https://www.unitedvoice.org.au/gender_segregation

² Smith, M. & A. Stewart (2017) 'Shall I compare thee to a fitter and turner?' the role of comparators in pay equity regulation', *Australian Journal of Labour Law*, 30, 113-36.

³ The Australia Institute and The Centre for Future Work (2017) *Fact Sheet: Women's Wages and the Penalty Rate Cut*, http://www.tai.org.au/sites/default/files/Womens_Wages_and_the_Penalty_Rate_Cut.pdf

Taskforce's recommendation to certify all its buildings under the [Cleaning Accountability Framework](#).⁴

Collective bargaining

- The Australian Government should support a return to industry-wide collective bargaining, so that working people are able to negotiate with real decision-makers in their workplace or industry. The current system, which restricts bargaining to the enterprise level, is entirely unsuitable for workers in industries dominated by supply chains and triangular employment relationships, such as cleaning and security, and in fragmented industries composed of large numbers of small employers such as the early childhood education and care sector, and the hospitality industry.⁵

Freedom of association and the right to organise

- Australia's workplace relations laws interfere with ILO core conventions that protect freedom of association and the right to organise (in particular, C. 87 and C. 98).⁶ Legislative reform should be enacted to protect workers' rights in line with the fundamental ILO conventions ratified by Australia.

2) Recommendations for business to respect human rights

In Australia at present, corporate activism against fundamental labour standards on the one hand, and the rise of insecure work, triangular employment relationships, and complex supply chains, on the other, pose significant challenges to business's responsibility to respect the human rights of women in the workplace.

Anti-worker lobbying

- Australian corporate activism is undermining decent work. Employer bodies lobby against minimum wage increases every year;⁷ they have successfully lobbied for cuts to penalty rates for low-wage workers in hospitality and retail who work on weekends and public holidays;⁸ and they have lobbied for a series of laws that further restrict the capacity of unions to organise workers.⁹ Women, who are concentrated in low-wage and precarious work, bear the brunt of employer groups' influence on these fundamental labour standards.

Undermining collective bargaining

- There is a growing trend for employers to terminate collectively bargained enterprise agreements, with large companies forcing their employees onto minimum award conditions.¹⁰ Parallel to this, other employers that struck non-union enterprise agreements under the anti-worker Work Choices legislation over a decade ago are holding onto these

⁴ Black Economy Taskforce Final Report, October 2017, <https://static.treasury.gov.au/uploads/sites/1/2018/05/Black-Economy-Taskforce-Final-Report.pdf>

⁵ Isaac, J. (2018) 'Why are Australian Wages Lagging and What Can be Done About it?', *The Australian Economic Review*, 51(2), pp. 175-190.

⁶ Australian Government – Australian Law Reform Commission (2016) '6. Freedom of Association and Assembly: Laws that interfere with freedom of association and assembly', *Traditional Rights and Freedoms – Encroachments by Commonwealth Laws (ALRC Report 129)*, <https://www.alrc.gov.au/publications/laws-interfere-freedom-association-and-assembly>

⁷ <https://www.businessinsider.com.au/minimum-wage-fair-work-commission-aigroup-2018-3>

⁸ <https://www.theguardian.com/australia-news/2017/may/09/sunday-penalty-rates-should-be-cut-immediately-industry-lobby-says>

⁹ <https://www.afr.com/news/policy/industrial-relations/government-negotiating-with-senate-crossbench-over-union-laws-20180320-h0xps8>

¹⁰ Stanford, J. (2017) *The Consequences of Wage Suppression for Australia's Superannuation System*, <http://www.twu.com.au/Home/Political/Making-the-Industrial-Political/Wage-Suppression-and-Superannuation-Report/>

expired agreements that effectively allow them to pay their employees less than they would earn under the award minimum. Workers in the hospitality and retail industries, both of which are feminised, are particularly affected by this.

One-sided flexibility

- Business is promoting a one-sided interpretation of flexible work that provides employers with a just-in-time workforce with no guaranteed hours and income for workers.¹¹ Business should work with government and workers' representatives to formulate and mainstream mutually beneficial forms of decent flexible work.

Secure work is decent work

- The business sector should promote secure work. Employers should provide employees with predictable and sufficient hours, paid leave provisions, and security that enables workers to plan for the future.
- Business is currently overly focused on executive dimensions of gender equality. Corporate gender equality efforts are being directed at achieving equal representation in boardrooms and at enacting boutique policies such as increased rates of superannuation (pension contributions), job-sharing, return-to-work bonuses and the provision of on-site childcare, all of which garner them good PR¹², but are tantamount to 'bluwashing.' While these are of course good policies, they provide a fig-leaf to disguise corporations' wider-ranging actions that negatively affect women workers in the lower-paid echelons of the workforce and throughout companies' supply chains. United Voice's female members who clean CBD buildings and who care for the elderly and those with disabilities are increasingly being engaged in insecure work arrangements that exclude them from such basic conditions as paid leave. The normalisation of insecure work has deep repercussions on other dimensions of women's lives, for instance barring them from obtaining a loan or a rental agreement. Of great concern, too, is the growing tendency for companies to outsource entire parts of their workforce to third party companies at the lowest cost possible, placing downward pressure on wages and conditions. This supply chains pressure is inextricable from the epidemic levels of exploitation and slavery-like practices occurring in parts of the Australian labour market, with low-skilled, temporary migrant women being the greatest victims.¹³

¹¹ De Stefano, V. (2014) *The rise of the "just-in-time workforce": On-demand work, crowdwork and labour protection in the "gig-economy"*, Conditions of Work and Employment Series No. 71, https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/publication/wcms_443267.pdf

¹² <https://www.wgea.gov.au/sites/default/files/WGEA-Employer-of-Choice-citation-holders-2017-18.pdf>

¹³ Commonwealth of Australia (2017) *Hidden in Plain Sight*, report from the Inquiry into Establishing a Modern Slavery Act in Australia, https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Foreign_Affairs_Defence_and_Trade/ModernSlavery/Final_report ; Commonwealth of Australia (2016) *A National Disgrace: The Exploitation of Temporary Work Visa Holders*, report from the Inquiry into The Impact of Australia's Temporary Work Visa Programs on the Australian Labour Market and on the Temporary Work Visa Holders, https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Education_and_Employment/temporary_work_visa/Report