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The role of union leadership and identity in building union commitment

Tim Bartram, Pauline Stanton and Terese Garratta
La Trobe University

ABSTRACT

In the face of declining union membership in Australia, the Australian Nurses Federation (ANF) (Victorian Branch) has increased their membership over 14 consecutive years. In this study, we surveyed 1020 Victorian ANF members to examine the role of union leadership, member belief in the union, collegial support, union satisfaction, workplace conditions and attitudes of employers, and demographic controls in building union commitment. Using linear regression modelling, our findings reveal that transformational union leadership, member belief in the union, collegial support, workplace conditions and age of the union member predict union commitment. Implications are drawn for both research and practice, particularly for union organising and the role of union leadership in building a workplace presence and creating a union identity.
**ABSTRACT**

The role of Human Resources in Merger and Acquisition transactions can have a critical impact on deal outcomes. However, although current rhetoric acknowledges the importance of Human Resources in M&A transactions, insufficient evidence exists to suggest that Human Resources directly influences business strategy or transaction performance outcomes. Factors such as Merger and Acquisition success and failure rates, merger motives and merger types and transaction climate provide significant insight into the reasoning for the predominantly operational and executional role of HR in M&A deals.

**Introduction**

Over the past few decades, Merger and Acquisition (M&A) activity has significantly developed internationally, with M&A transactions becoming a critical strategic tactic for organisations in the quest for growth, diversity and shareholder return. These transactions have significant implications not only for the economic, financial, legal and political success of an organisation, but also for the human equation – Human Resources (HR).

Despite the growth and increasing sophistication of global merger and acquisition activity, research indicates that transaction success remains an elusive deal outcome. One of the primary reasons for the reported high failure rate of M&A transactions can be attributed to the lack of consideration of Human Resource issues before, during and after the deal. Economic, financial, legal and technological factors, identified as the most significant issues impacting deal success, can no longer be considered the only critical success drivers of M&A transactions. It is now widely argued, evidenced and recognised that HR factors can have a critical impact on M&A outcomes, and that M&A success hinges on the effective and successful management of Human Resource issues. Cultural integration, change management, people and processes, communication and leadership are some of the human resource elements which can significantly affect M&A results. Although current rhetoric acknowledges the importance of Human Resources in M&A transactions, insufficient evidence exists to suggest that Human Resources directly influences business strategy, organisational performance or creates a competitive advantage in an actual deal situation. The reality is that Human Resources generally plays a support role in M&A deals, with a focus on executional and integration issues, rather than as a strategic influencer. However, it is becoming widely acknowledged that the exclusion of Human Resources as a strategic business partner from the all stages of a transaction can significantly influence deal outcomes and ultimately deal success.

The scope of this paper is to provide critical insight into the perceived and actual role of Human Resources in M&A transactions, and the impact of Human Resources of merger motives and merger types, and transaction climate on the role of HR and transaction outcomes. The paper also aims to identify the issues associated with understanding and measuring the impact of HR in M&A transactions.
The key themes and issues to be investigated are Merger and Acquisition success and failure rates and the main causes of failure for transactions. The measurement methodologies of M&A success and failure will also be examined, merger motives and resultant merger types, and the implications for the role of Human Resources in transactions will also be examined. In support of the issues discussed, preliminary findings from primary investigation into the role and impact of Human Resources in an Australian case study of a M&A transaction will be explored. In support of the issues discussed, preliminary findings from primary research in the M&A transaction of National Foods and King Island are discussed. This case study is a work in progress and is one of two currently being investigated. Findings are not conclusive or significantly developed at this stage, but provide some insight into the issues examined in this paper. Overall, the paper aims to substantiate the significance for business outcomes of the role of Human Resources in Merger and Acquisitions, and identify the actual role and impact of Human Resources in transactions.

**Context**

Merger and Acquisition activity has created and developed an increasingly complex corporate landscape over the course of the 20th and early 21st centuries. In the past three decades Merger and Acquisition transactions and related downsizing and divestiture activity has progressed at a steady rate in most developed economies. The total value of deals announced globally in 2003 was US$1,009 billion, and mid year figures for 2004 has placed total value at US$557 billion (KPMG and Dealogic, 2004).

The key strategic motivations driving Merger and Acquisition activity are the drive for domination of transnational markets and the push of global competitiveness, as well as speed to market. Organisations seek to ‘buy’ rather than ‘build’ customer bases, distribution channels, brands and technology. Economic and legal deregulation, changing social and political policies are also factors facilitating the rate of M&A transactions.

**M&A success and failure rates**

The large volume of local and international research studies available regarding the issue of merger failure and success, despite varying research objectives and methodologies, are consistent in their findings that large numbers of Merger and Acquisition transactions fail to reach potential. Although significant disparity occurs in the research results available, the range of Merger and Acquisition failure rates are commonly placed between 50% - 83% (KPMG; 1999, AT Kearny;1999, Egon Zehnder & London Business School;1987, Watson Wyatt;1999, Deloitte & Touche; 2001). As research studies and surveys are becoming increasingly sophisticated and broader in their measurement criteria, with greater emphasis on analytical than anecdotal measures, higher rates of failure of Merger and Acquisition transactions are being documented. Current empirical research indicates that up to 83% of global Mergers and Acquisitions fail (KPMG, 1999). The Australian market also reflects global trends with a KPMG study of 73 Australian domestic deals completed during the year to September 2000 indicating that only 25% created value (KPMG, 2001).

Various explanations have been offered to as to why such a large percentage of Merger and Acquisition transactions are deemed failures. However, any specific elements of the merger and acquisition process have yet to be identified as the critical success or failure factor impacting on the performance of a transaction. It is more likely that a range of issues and elements are responsible for M&A failure.

The prescriptive literature and empirical research findings provide a wide range of insights into the critical Human Resource success factors impacting Merger and Acquisition outcomes. The empirical research studies are consistent in their identification and analysis of the key factors that contribute to merger and acquisition success. Typically, the most common factors cited as ‘keys to Merger and Acquisition success’ are communication, cultural integration and fit, integration project planning, due diligence, leadership and talent placement and management. The characteristic reasons denoted for failure are the overestimation of synergy between joining organisations, excessive premiums paid for target companies, inadequate integration planning and implementation. All of these factors are intrinsically linked to Human Resources.
A number of models are useful in the assessment of M&A success and failure factors. Hubbard (1999;13) provides a dual framework for the explanation of merger and acquisition performance, encompassing ‘fit’ and ‘process’ issues. ‘Fit’ issues are those which assess the juxtaposition of the acquirer and the target. The acquirer has limited ability to influence the fit issues, however there are some factors over which control can be asserted. ‘Fit’ issues are those of size, diversification and previous acquisition experience. Organisational and strategic fit, along with cultural fit and other demographic factors also contribute to matters of ‘fit’. ‘Process’ issues are those surrounding the transaction and implementation process, and include pre-acquisition planning, implementation and negotiations, factors over which, the acquirer can exert a large degree of control. The fit and process model is a comprehensive one, encompassing the two variables that impact success – the background circumstances of the combining organisations prior to the deal (situational or context factors) and the actions of the buyer to ensure transaction objectives and outcomes are realised (managerial behaviour or action) (Hunt et al 1997 ; 62).

In exploring these factors which contribute to merger and acquisition success, it is difficult to distinguish one particular factor that is contingent upon performance. Success or failure is rather an amalgamation of a number of variables. It is still open to debate in the literature and research as to which are the most significant elements that impact M&A success.

**Measurement of M&A success and failure**

Traditionally, Merger and Acquisition failure and success has been primarily measured using a variable range of economic and financial criteria and measures. These criteria have been utilised to provide absolute measures of Merger and Acquisition transaction success, with the most popular absolute measurement being return on shareholder value. However, more recently, a more comprehensive evaluation criteria has emerged in the assessment of Merger and Acquisition outcomes, with Human Resources issues and elements becoming a key measure of M&A success.

Despite the broader focus and increasing diversity of M&A success criteria, the issue in evaluating the success or failure of M&A transactions based on human resources criteria is problematic in that there is no absolute measure of success. ‘Success’ or ‘failure’ will be very different for each organisation, based upon differing variables such as merger motives, strategic objectives and size of the deal. As Buono and Bowditch (1989) found, it is difficult to measure M&A success as the financial and technical issues usually have a ‘right and wrong’ value assumption, with errors relatively easy to locate and clear cut solutions formulated, whilst ‘soft’ issues such as behavioural and human issues are not as concrete, and cannot be accounted for in quantitative terms.

Other problems identified in measuring Merger and Acquisition outcomes is that no deal is the same – each Merger and Acquisition arises out of different business conditions, different goals and projected outcomes. Measures of success can also be contingent on the health of transacting organisations and the complexity. These measurement issues have been highlighted in many research projects and surveys investigating the success and failure rates of Merger and Acquisition transactions. As there is no prescribed formula to evaluate these matters, this often results in subjective measures such as the size of the deal, the time scale involved, geographical scope of the study and the implementation and integration methodology (Egon Zehnder & London Business School, 1987).

A key issue is how to determine measures of M&A success. There is a growing body of empirical research available that records, measures and analyses success and failure rates of Merger and Acquisition transactions. This originates predominantly from the large global consulting firms that have the resources and ready client survey base available to conduct such research. Whilst these surveys are valuable, they differ in focus, scope and methodologies, and their independence, impartiality and accuracy can be bought into question, given that the studies are often used as strategic selling tools for clients, in the quest to sell Merger and Acquisition consulting services.
Despite the growing breadth and complexity of M&A transaction evaluation, there remain several areas where the measurement methodology of Merger or Acquisition performance could be improved. In analysis to date, the measurement of success has been conducted over a relatively short time frame immediately after the Merger or Acquisition. Since it may take many years for the true performance of the organisation to be ascertained, more long term studies need to be conducted. As well as financial issues, employee attitudes and the behaviours of employees (e.g., absenteeism, turnover, performance) also need to be measured to determine the outcomes of integration.

The role of human resources

Despite the prescriptive literature supporting the critical importance of Human Resources involvement in all phases of a transaction for the execution of successful Mergers and Acquisitions, the empirical evidence suggests that there is little actual participation of Human Resources at the strategic level. The body of empirical literature exists indicating that the Merger and Acquisition process and potential success is more a result of providence, rather than the outcome of any planned HR strategy in a transaction. From the time of deal initiation, through to the outcomes, Mergers and Acquisitions have been considered as ‘journeys into the unknown’ (Cartwright and Cooper, 1992), with HR playing a minimal role in the M&A process. Despite the growing understanding of the critical impact of HR strategy and planning from the early stages of an M&A transaction, reality suggests that HR is often only active in the implementation phase, indicating a significant lack of integration of HR and business strategy.

The overall findings of a study conducted by the London School of Business and Egon Zehnder (Hunt et al 1987) found that the Human Resources function is conjectured to have a minimal, if any, role to play in the Merger and Acquisition process. These findings were universal across the survey results, whether the whole Merger and Acquisition process was considered, or particular stages of the transaction (e.g., identifying a target, negotiation, planning, implementation). In response to the survey question “Was the personnel function involved in any capacity”, the majority of buyers surveyed stated that Human Resources was not involved in the process. Two thirds of the sample stated that the Human Resources function had not been involved in any capacity prior to the signing of the deal. The remaining one-third who had involved Human Resources in the final stages of the process regarded the role of Human Resources as ‘marginal’ and restricted to specific issues such as conditions of employment and redundancies. Overall, three clear areas were identified by the London Business School and Egon Zehnder study where Human Resources could play a more influential role – human due diligence, input in the negotiation and planning process and active participation in the implementation phase.

A study conducted by the Conference Board (US) (McShulskis, 1998) found that only 22% of organisations included HR in the initial planning stages of a deal. The Conference Board surveyed 88 senior Human Resources executives whose organisations had undergone a merger transaction. In the study it was reported that less than 33% of Human Resource professionals surveyed stated that Human Resources issues have a significant influence in the planning or negotiation of Mergers and Acquisitions. Between 9% and 13% of respondents claimed that human resources plays no role until after the transaction has taken place, and even then, almost 20% reported that Human Resources issues only play a moderately significant role. However, over 80% of respondents agreed that those issues do only become critical once the deal progresses.

These results reveal that Human Resources is not an integrated component of business strategy, despite the emphasis given to the need for strategic Human Resources in the Merger and Acquisition process.

Merger motives and merger types

The role of Human Resources in Merger and Acquisition transactions can be in essence, linked to the motives for mergers and merger types, despite the current limited range of academic analysis and evidence to support this position. There are a number of theoretical models, frameworks and empirical research concerning Merger and Acquisition motives and types in
the literature. Most link the strategic purposes for Merger and Acquisitions transactions with resulting Merger and Acquisition type, the integration strategies and approach required, and impact on transaction outcomes.

Merger motives can be summarised into three main categories, as presented in a framework developed by Berkovitch and Narayanan (1993; 347). Berkovitch and Narayanan suggest that there are three major motives for takeover/merger and acquisition activity – efficiency or synergy, agency and hubris. They advocate that these motives exist simultaneously as merger motives within a transaction. Based on empirical evidence, Berkovitch and Narayanan (1993; 347) found that synergy is a primary motive in Merger and Acquisition transactions, based on projected positive economic gains of merging organisations. A more detailed theoretical model of Merger and Acquisition motives is presented by Trautwein (1990). In the model, Trautwien (1990) reviews seven alternative explanations of merger motives: economic efficiency; monopoly theory, empire building; raider; process, and disturbance theory. Trautwein's model is built upon a range of empirical evidence that examines the strength and credibility of each motive.

Although there is a wide range of literature available regarding M&A motives, there is little available regarding the link between M&A motives and the implications and impact for human resources. In one of the most comprehensive examinations of the links between merger motives and Human Resources, Hubbard (2001) has also created a model which links merger motives to pre-acquisition planning and the degree of post merger integration required in a transaction. Merger types can also indicate the degree of integration required between merging organisations, and are an indicator of how Human Resource issues will be impacted and the level of planning and integration required from an HR perspective (Napier; 1989; 276).

In one of the more evolved models of merger types and Human Resources, Haspelagh and Jemison (1991) explore the impact of the extent and level to which integration is required and achieved in corporate diversification activity. They propose three different types of takeover, all requiring differing degrees of integration and implementation. These transaction types are termed absorption, symbiotic and preservation takeovers. Haspelagh and Jemison found that there were two variables affecting the type and extent of integration. The first variable was the degree of strategic interdependence between the acquirer and the target. If the strategies of the two businesses were closely connected and synergistic, the businesses would need a high level of integration at strategic level. If the two businesses were strategically independent, they could be run as separate operating entities, reducing integration issues. The second variable was the degree of organisational autonomy required by the target.

In reference to the relationship between merger types and HR, Napier (1989) presents a typology of three Merger and Acquisition types - extension, collaboration and redesign. An extension merger occurs where the acquiring firm leaves the acquired firm to continue to operate as is, changing little of managerial or operational practices. Collaborative mergers occur when two firms join to generate gains through the merging of operations, assets or cultures or through an exchange of technology or expertise. Collaborative mergers can therefore be split into two forms – synergy or exchange. A redesign merger involves the widespread adoption of policies and practices of one organisation by another.

Napier (1989) suggests that in determining the type of Merger and Acquisition to pursue, the planning and implementation of HR issues and degree of change required for a successful transaction can be forecasted. For example, in an extension merger, integration may be limited to financial criteria rather than HR issues. In such cases, the impact on HR issues is relatively low and the acquisition remains relatively independent. For other merger types such as redesign, the effect on HR issues and changes to practices can be extensive, often involving widespread change to strategy, planning, policy and processes.

Merger motives and merger types have far reaching implications for Human Resources in a transaction, as the level of integration determined from business strategy and merger motive and type, indicates the impact of HR in the planning and integration phases of a deal and the consequent transaction outcomes. In a further examination of merger types, it is also found that the degree of friendliness or hostility of a deal can have ramifications for the role of HR.
Human Resources implications and outcomes of a Merger and Acquisition transaction have a significant relationship with merger motives with merger types. Merger motives can provide an insight as to the structure or characteristics of a merged entity and the consequent Human Resources implementation requirements and outcomes. Merger types forecast the degree of integration required between merging organisations, and are a guide as to the critical human resources issues involved in the deal and the level of planning and integration required from an HR perspective.

**M&A climate**

In addition to Merger and Acquisition motives and types, the degree of hostility or friendliness can have a significant impact on the HR issues, strategies, plans and priorities that arise out of a transaction.

In a small sample of the literature available regarding merger motivations and types, the degree of hostility or friendliness in a merger and acquisition deal has been examined in the context of Human Resources consequences. Buono and Bowditch present a brief analysis of the degree of friendliness or hostility that is involved in a merger and acquisition transaction, and propose these transaction dynamics as an indicator of the level of organisational and human resources issues involved, the types of integration issues that are likely to emerge, and the role and impact of Human Resources in such environments. (198;65). Pritchett (1985) expands this concept and suggests that the amount of resistance or opposition to a merger and acquisition transaction can significantly effect the HR issues involved and the role of HR. In one of the most comprehensive considerations available regarding the nature of a transaction and the outcomes for Human Resources, Pritchett has created a framework of merger and acquisitions providing four categories as to the degree of hostility or friendliness of a deal – cooperative/adversarial continuum, organisational rescues, collaborations, contested situations and raids. Pritchett's classification of Merger and Acquisition Climates also contains 'the incline of resistance', indicating the intensity of opposition to a transaction and the amount of resources required to execute the transaction (funds, skills, time). According to this model, which will be examined in greater detail below, an organisational rescue is the most cooperative relationship whereas a raid is the most hostile and adversarial in nature.

**Case study findings**

Preliminary research concerning an Australian M&A transaction between two organisations in the Fast Moving Consumer Goods industry, supports the proposal that Human Resources does not act as a strategic business partner from the outset of a M&A transaction.

The two transactions selected for this study are National Foods and King Island, and Southcorp and Rosemount. The case studies were chosen on the grounds of Australian ownership, industry, and the motives for the merger and the types of merger.

The research aims to examine the actual role of Human Resources in M&A transactions and the impact of HR on successful outcomes. These findings are being tested against the rhetoric of the current literature which suggests that HR is a strategic business partner, able to influence, drive and deliver deal success. The research will provide insights into the role of Human Resources in Australian M&A transactions, in a growing stream of enquiry, which is at present, predominantly focused on international case studies, literature and research.

Preliminary findings regarding the National Foods and King Island Dairy transaction are interesting. National Foods is one of Australia’s largest food companies, with core activities in milk and dairy foods. The King Island Group is a manufacturer, distributor and marketer of speciality cheese products and an analogous range of gourmet foods to the Australian Market.

National Foods acquired the King Island Company in February 2002 for $92 million as a part of its strategy of growing its portfolio of successful dairy brands and moving into higher value added sectors of the market.

Merger type had a clear impact on the role of HR in the transaction. As the transaction was a horizontal deal, the level of integration was indicated by the resultant outcomes of deal...
synergies realised. Due to the nature of the horizontal transaction, the integration plan involved a ‘split’ integration model, preserving the marketing and selling functions of King Island, and keeping them separate to National Foods, whilst fully integrating other functional areas such as distribution, manufacturing, human resources, and finance, in the anticipation of significant operational synergies and savings. The implications for HR were that of restructuring and culture.

Human Resources was involved in the post-transaction strategy and implementation, and was seen as integral to the integration execution. Despite not being involved at the early stages of the deal in the strategic business process, careful planning and attention to Human Resources issues were contributory to the financial success that the merged entity has experienced in the past year. Some of the key Human Resources issues for the transaction were the integration of two distinct cultures (corporate vs. boutique, family style business) and the communication process. The role and impact of Human Resources in this transaction so far supports the suggestion that HR does not act as a strategic business partner in the early stages of the deal, but plays a role in the integration stages of a transaction. However, the impact of HR issues and the way in which they were managed in the integration phase, have contributed to the growing success of the merged entity.

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Capital markets, corporate governance, and labour market flexibility: Evidence from OECD countries

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ABSTRACT

Drawing from various literatures, this article explores links between equity markets, corporate governance, and labour market flexibility. Such linkages are set against alternative explanations of labour market flexibility which relate to other markets, institutions, and culture. Various data sources are used to test relationships for a set of OECD countries. The results are mixed: equity markets are associated with job tenure and activity rates, but not with other forms of employment flexibility such as part-time working. They are also associated with the use of equity-based rewards and with pay dispersion. Other influences such as product markets, government and industrial relations institutions, and national culture are associated with other dimensions of flexibility. Nevertheless, the paper shows that equity markets are an important determinant of some aspects of labour flexibility.
Public policy and industrial relations in Australia: From centralised collective norms towards decentralisation and individualism

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ABSTRACT
Successive Australian governments have adopted a deregulatory approach to the labour market and linked workplace reform to enterprise productivity (Whitfield and Ross, 1996; Bamber and Davis 2000). Australia has implemented many of the recommendations of the OECD Jobs Study (1994) including the shift towards enterprise based bargaining, the restructuring of the national job placement service, strict inflation targeting and more directed work-testing for unemployment welfare support. Wiseman (1998) suggests that Australia has been one of the exemplars for a national neo-liberal economic policy agenda, including the free trade policy program. Facilitating the process of change has been the legislative actions of governments within both the state and federal jurisdictions. The Australian industrial relations system has been transformed over the past two decades from one with strong centralised industrial relations institutions and collective norms to one that emphasises decentralised bargaining and facilitates individual employment contracts (Wooden, 2000). These changes are likely to progress further towards individualism once the Coalition parties obtain control of both houses of Federal parliament in mid 2005. This paper outlines the public policy programs of successive Australian governments that have contributed towards the transformation in the industrial relations and bargaining regime. The analytical focus in this paper is to examine the broad change in public policy intent as well as to examine the impact of policy changes on industrial relations. Part of the process of industrial relations change is related to changes within the public sector and changes associated with the policy program associated with “microeconomic reform”.

References
Beyond fragmented futures: Where next for working life research and policy?

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ABSTRACT

This paper draws out the analytical and policy implications arising from your recent book, Fragmented Futures: New Challenges in Working Life (Watson et al 2003). That book addressed three questions: How has Australian working life changed since the early 1980s? Why have these changes occurred? And what are the challenges for the future of Australian working life research and policy? This paper briefly summarises our findings to the first two questions. The bulk of the paper answers the third.

Introduction

How is working life changing? This is best understood as involving fragmentation in working life policy and practice. At the level of policy this involves a rich mix of a decay in the Harvester Man model of work and the steady ascendancy of neo-liberal notions of free ‘individuals’ and ‘firms’ underpinning new policies on working life. At the level of practice diverse forms of employment have emerged to replace the once near dominant Harvester Man model of work. Wages and hours of work have become more unequal – driven partly by a wages ‘breakout’ amongst the top deciles and partly by growth in involuntary part-time and extended hours workers. And working life transitions involving education/training, family formation and retirement are often difficult and people’s capacity to navigate them are unequally distributed. This is because, for high income earners market services (eg childcare) can be bought to ease the pressures of balancing work with life beyond it. For many people, however, navigating transitions can only be achieved by working as a casual and/or significantly compromising the subjective quality of life as discretionary time is squeezed out of households. Hence, while fragmentation of the older model has provided the potential for increased diversity – it has resulted in a deepening and reconfiguration of inequality.

What has caused this outcome? The short answer is that it has not been solely or even primarily induced by public policy. Deep cultural changes, especially concerning the changing role of women have been critical. Equally underlying instability in the market economy – especially the long down turn, the crisis in excess capacity and the preoccupation with shareholder value - have played a critical role in restructuring the level and composition of demand (Brenner 2002). We are now on a growth trajectory of economic development based on inequality. (Froud et al 2002) The shift to neo-liberal approaches to working life policy have intensified these changes and limited the capacity of the state to effectively engage with new and emerging realities of inequality. In this way it is working to promote a future of unequal freedoms and undermining institutions that could help promote genuine (ie freely chosen) diversity in working life. That is a working life with real choices available to all.

What are the challenges for the future of Australian working life? Our analysis has highlighted key legacies of the distant and recent past that need to be understood when thinking about possibilities of the future and the constraints limiting their potential realisation. In particular our analysis has revealed that five key challenges need to be addressed if research and policies concerning Australian working life are to be improved.
Challenge 1: The traditional ‘standards’ approach to promoting fairness is not enough

A Fragmented Futures showed inequality is deepening and creating unfairness at work in the traditional areas of unemployment, wages and hours of work. On all of these issues there have been poor outcomes for many Australians since the 1980’s. For example, while unemployment and underemployment rates vary with boom and recession, with the passing of time they settle at higher levels at each stage of the trade cycle. Wage outcomes are becoming more unequal, and hours of work are fragmenting. While this has desirable outcomes for some people, especially part-timers with caring responsibilities, for others it is undesirable with approximately 40 percent of males working part time wanting longer hours, and two third of females working extended hours wanting shorter hours. Clearly, existing approaches to addressing these issues are not working. New approaches need to be developed.

But the problems of fairness related to work are not just about renewing standards for the traditional issues. New issues must also be addressed. Non-standard work is on the rise and many of the jobs emerging in new industries and occupations are limited in the skills required and the wages and conditions associated with them. Work intensification is becoming an increasingly serious problem for growing numbers of workers. Special attention also needs to be devoted to ensuring workers skills are more effectively developed on the job. Finally, changing roles at home and at work raise profound challenges. While households have proven to be very adaptable in adjusting to the labour market – the labour market has not been as adaptable in adjusting to the needs of households. The traditional Harvester Man model has failed to address these developments and in some cases unwittingly nurtured their emergence.

Challenge 2: Free market inspired approaches to ‘flexibility’ are not working

The major policy alternative to the Harvester Man model to date has been ‘deregulation’ in the name of ‘flexibility’. Far from solving problems concerning fairness at work this has merely exacerbated them. This has been the explicit aim of wages policy. Increased wage inequality has been the result. This has not delivered lasting reductions in the level of unemployment. While unemployment did fall as real wages fell in the later 1980s this proved to be only a temporary achievement. Unemployment and especially underemployment remain at unacceptably high levels. ‘Deregulation’ has, however, made an enduring contribution to a reduction in job quality, especially at the lower end of the labour market. The major result of recent changes appears to have been an increase in the number of workers moving between unemployment and low paid casual jobs. Meanwhile, at the top of the labour market high earners have drawn further away from the mainstream. In a similar vein, it is now clear that enterprise bargaining has very successfully facilitated changing working time standards, but this has not given flexibility to individuals and allowed them to strike their own balance between life and work. Rather it has created growing numbers of people dissatisfied with their hours of work and the balance between their work and life beyond it.

Challenge 3: Capturing the benefits of coordination: standards for flexibility

How do we get beyond the limitations of the traditional ‘standards’ and emerging ‘flexibility’ approaches to promoting fairness associated with work? At numerous points in Fragmented Futures we identified the potential benefits for both fairness and efficiency if coordination in the labour market is improved. Coordination needs to be improved amongst employers to ensure better management of the risks associated with hiring and managing labour occurs so that economies of scale can be realised. Improved coordination amongst workers is needed to ensure the risks and benefits associated with work and working life are more fairly distributed. How is this to be achieved? Special attention needs to be devoted to clarifying the concepts that help make sense of the world and which thereby structure thinking about options for the future.
Our starting point, with apologies to John Donne, is that no workplace is an island. Rather production and service provision are increasingly organised on a network or supply chain basis. Equally, no worker is an island. Most share labour market experiences caused by important labour market transitions, such as taking up study, moving to a new city or region, having children, and retiring. Many share the experience of unemployment and finding a job. Gunther Schmid (1995; 1998) has described these periods of life-cycle change as producing “transitional labour markets.” Few people would disagree with these general propositions. But what do they mean for how we approach the future of work? This paper does not offer precise details on where to go next. It does, however, offer some leads on the key issues we need to focus on in developing a new approach to work. The essence of this new approach is that we need to take fairness seriously but do so in a way that is compatible with an efficient economy. The key finding in this regard is that we need to move beyond the traditional ‘standards’ and emerging ‘flexibility’ mindsets. Instead, the key challenge for the future is to establish effective standards for flexibility.

This finding is supported by recent research from scholars working in disciplines as diverse as economics, sociology, education, industrial relations and law. Over the course of the 1990s a growing body of research has highlighted the benefits for both efficiency and fairness in simultaneously capturing the benefits of coordination at sectoral and national level and adaptability at the workplace and regional level (Briggs 2002). Pointers as to the types of issues that need to be confronted if work is to be fairer in the future than in the recent past can be summarised as follows.

**WORKING TIME:** Hours of work provide a particularly good example of how standards for flexibility can achieve better outcomes than either totally ‘standardised’ or totally ‘flexible’ arrangements. For extended hours workers this could take the form of having a cap on the number of overtime hours worked over a six month period. Once all workers in a work area filled their quota, management would be required to recruit additional labour to meet further demands and reduce work intensification problems. This would facilitate flexibility in the short run and nurture sustainability in the longer term.

Equally, more attention needs to be devoted to promoting quality part-time work. Such an approach could involve rights for workers to request part-time work with the onus being on the employer to prove why such arrangements were not possible for particular jobs. The specification of new standards of this nature would nurture increased choices for many people, ensuring flexibility for (and not simply of) workers.

**SKILLS:** The issue of skill formation provides another good example of how coordinated flexibility can achieve superior outcomes. The essence of a new approach would involve establishing arrangements which pool the risk of training so that the individuals and employers who take responsibility for nurturing skills do not acquire a cost disadvantage for doing so. Insights into how this might be achieved are provided by the better examples of group training companies. These arrangements ensure that no one employer has to bear the risk of training an individual, and means that more training places than would otherwise emerge are offered by employers. More importantly, it ensures that support structures are in place to help trainees and employers get the best out of the training system in ways that minimises risks to them. As such, coordination increases the range of choices available for individual workers and employers.

**WAGES:** In recent times Australia has moved rapidly from a highly centralised to a highly decentralised system of wage determination. The problems with both approaches are now clearly evident. The challenge for wages policy is to work with the grain of the labour market – especially the notion of comparability as a basis for defining fairness. The idea of accepting ‘the going rate’ is as common amongst employers as it is amongst workers. This was clearly evident in the data on pay movements for CEOs and senior executives. If pay relativities are not properly managed, wage rates tend to leapfrog up as people try to maintain their standing in the relative pay structure. These forces are clearly at work at the top of the labour market today. If these forces are to be effectively managed we need to move beyond the fiction that somehow wages can set at enterprise or individual level as if such entities exist in a vacuum.
Instead, greater attention needs to be given to the potential benefits of coordinating bargaining on a multi-employers basis. Coordination need not necessarily mean rigid prescriptions in pay rates and movements. If properly managed, it can deliver both stability at national and sector levels and adaptability at local and workplace level. Shorter hours in the German engineering sector, for example, involved wage agreements at industry level specifying overall standards for wage movements and length of the weekly working hour week (i.e. 36 hours). As framework agreements, however, workers and managers at the local level had considerable discretion in how the new standards were to operate in their workplaces.

In dealing with the problem of executive pay consideration could be given to devising taxation based incomes policies. These involve imposing additional taxes on companies which increase earnings in excess of community norms. Such arrangements do not prevent adaptation at enterprise level, but they send a powerful signal about how wage relativities should be handled. As such they would put a break on unstable and unfair pay structures, much of which currently emanates from the top of the labour market. Such policies also ensure the community shares in super-normal profits, most of which currently accrue to a very small band of people.

REDEFINING EMPLOYERS: In thinking about employers we need a more encompassing set of categories and social arrangements to define and enforce work related rights. Currently most labour market rights and obligations are defined with respect to employers conceived as operating independent businesses. The construction industry offers some powerful examples of how standards can be enhanced for all workers, not simply employees and the responsibilities more effectively shared across all employers in the industry. In several States the entitlement to long service leave is accrued against the industry (not an individual employer) and is available to all who contribute to the industry – contractors as well as employees. Equally, the operation of the Memorandum of Understanding on safety in the NSW industry also revealed how coordination amongst the head contractors could help standardised safety procedures amongst sub-contractors and thereby provide a better platform for promoting safe working practice throughout the industry for all workers, not just ‘employees’ of particular firms.

REDEFINING WORKERS: The problem with old regulatory approaches is that workers are neither as ‘standardised’ nor as ‘unique’ as commonly assumed. It is more accurate to recognise that they often share experiences and circumstances which make it possible to increase choices for individuals by better coordinating the provision of services for people in common situations. Consider the issue of work/life balance for example. This is a growing problem for many people. These problems are not, however, unique to each household – many households face very similar pressures. Amongst households with working parents most problems emerge within four distinct situations:

- the ‘traditional’ model of one full time work and one full time carer;
- the ‘career couple’ model of two full time workers;
- the ‘one plus’ model with one full timer and on part-time worker, and;
- the ‘sole parent’ model (Buchanan and Thornthwaite, 2001).

As such, the pressures involved in managing work and family life for employed parents are not unique and because of this they are not efficiently solved on a workplace by workplace or household by household basis. If people are to have the capacity to choose between these different arrangements support will need to be available in terms of child care, flexible rostering arrangements and possibly some home-help arrangements. These are the kind of arrangements for which there can be considerable economies of scale when needs are co-ordinated through new collective structures. Traditionally Australia has nurtured a dynamic community based child care sector to provide quality, affordable child care. These initiatives and ones like it need to be developed further as social innovations that enhance the choices available to individuals and households.
**Challenge 4: Keeping working life in perspective**

Powerful economic forces shape the extent and nature of the key problems in working life like unemployment, wage inequality, fragmentation in working time and sub-standard forms of employment. Improved policies on working life alone will not solve issues such as these. Policies concerning full employment and industry development are particularly important. Any advance in these areas of policy needs to grapple with the limitations of strategies pursued in the 1980s and 1990s. For example, while the Accord shifted factor shares from wages to profits, the increase in profit share delivered only transitory labour market gains. To ensure that increased profits and savings are put back into positive and sustainable economic development new institutions need to be established to ensure priority is accorded to creating quality, sustainable jobs. Such institutions could take the form of an enlarged and invigorated public sector – especially in education, health and social services. Wage earner funds, which involve the redistribution of excess profits through networks of regionally elected local economic development councils, offer another possible basis for shaping more desirable forms of economic and social growth.

There is also a need to have a more active industry policy. This is necessary if we are to directly shape the industry and occupational composition of employment – ie the content of work. In short, any serious improvement in working life will require that policy on work is no longer regarded as a discreet area of policy. Instead, a commitment to promoting sustainable, quality employment must become the defining feature of the overall mix of public policies directed at shaping economic and social development in general.

**Challenge 5: Building new linkages in policy and practice**

Too often responses to new issues in working life occur on an ad hoc basis. The currently fashionable status of ‘work and family’ initiatives is but the latest example of this trend. Arguably the greatest challenge in responding to the problems of working life today and in the future concern changing established realms of activity, such as wages policy and practice, in ways that successfully engage with emerging issues. It is not simply a matter of adding further issues to the bargaining, test case or policy agenda. Rather it is necessary to identify ways in which issues can be linked to address traditional and emerging concerns simultaneously. Staffing levels, for example, have implications for work intensification, skill formation and (potentially) levels of non-standard employment – as well as aggregate labour costs. They also have implications for the quality of service provided by workers to customers/clients as well as the quality of work experienced by those producing a product or service.

Making links between different issues requires establishing links between a range of social groups. Establishing these links in practice will be necessary if lasting changes are to be achieved. For example, problems of work intensification for nurses are linked to funding levels for public health. Skill shortages in manufacturing are linked to an industry policy environment which encourages the sweating rather the development labour assets: i.e. a process akin to farmers eating their seeds. And problems in work/family balance for shop assistants has as much to do with wage rates, rosters and levels of public funding for child care as they do with any fancy ‘work/family’ packages promoted by employers. In short, achieving a fairer future for work is intimately linked to establishing a broad coalition committed to achieving a fairer society.

**Conclusion: Unequal freedoms or cohesive diversity?**

Our major conclusion concerns the need to clarify policy objectives and broaden the categories that guide working life analysis and policy. Clearly neo-liberal notions of free individuals and flexible firms are failing to deliver diversity that offers real choices to growing numbers of workers. Equally traditional approaches to working life intervention, based as they were on gendered notions of breadwinning, have failed to grapple with changed labour market realities and workers’ (especially women’s and young people’s) aspirations.
This way of framing current challenges has echoes of the need for a ‘third way’ beyond the limits of traditional ‘labourist’ and ‘neo-liberal’ approaches. Recent Australian experience, however, has highlighted the limitations of this approach. As we have argued elsewhere (Buchanan and Watson 2000) a prototypical version of ‘the third way’ was pioneered by the Australian Labor Party (ALP) Government in 1980s – years before Clinton and Blair gained office. This policy approach only deepened and reconfigured inequality as noted in our analysis. The root cause of this policy failure was the obsession with developing market and quasi-market mechanisms to solve most social and economic problems. Interest in direct interventions and service provision (the hallmarks of traditional Australian ‘labourism’ and European Social Democracy) gave way to reducing tax levels and increasing ‘targeting’ of public expenditure to achieve ‘growth with equity’. (Hawke 1985) The Hawke and Keating ALP Governments worked vigorously to implement this policy agenda. Levels of tax and government expenditure fell as proportion of GDP and the targeting of welfare was amongst the tightest within the OECD. As the analysis of this paper has revealed – problems of working life, especially inequality, continued to deepen and expand on every key dimension of the TLM framework.

As such our analysis highlights that if we are concerned with equality today policy attention needs to move beyond a preoccupation with redistribution of income by means of reduced levels taxation and higher targeting of government transfer payments. If diversity is to be real, in the sense of offering an increase in the choices actually open to people policy needs to move beyond the ‘quasi-market’/targeted transfer-payment/enterprise bargaining mindset. Equality is not just about slightly reducing income inequality (as is assumed by in third way policy and practice). Its about how we live our lives. The notion of transitional labour markets (TLMs) provides a powerful framework for thinking about this issue. The transitions it draws analytical attention to involve profound social experiences like learning, caring for the young, aged and infirm, experiencing unemployment and living life beyond work. Profound experiences need not necessarily be desirable or pleasant. For many Australians today these experiences are painful. Support for many in skill formation, raising children or when unemployed is limited and often non-existent. Having extra money helps navigate these transitions – but money alone is of limited use if the support services available are limited in quality or scale. In making increased diversity desirable (ie choices real) more thought and resources needs to be devoted to new institutional arrangements that actively assist or facilitate the fairer sharing of the costs and risks of making these transitions. Such arrangements need to be designed so as to achieve, simultaneously, the benefits of coordination and increased choice for workers, households and workplaces.

In short, the key challenge for working life policy today is to ensure that fragmentation diversifies options and does not deepen and reconfigure inequality. And this means particular attention has to be devoted to rethinking notions of equality and diversity. For us the key idea needing further development is the notion of what we call ‘cohesive diversity’.2

The challenges of promoting cohesive diversity are great. At their core is the need to move beyond traditional notions of breadwinning with its conservative notions of women and acceptance of the market. It also means breaking with the fictions underpinning neo-liberalism – with its assumptions built on the fantasies that humans as commodities in the market. But most challenging of all it also means recognising the limitations of what some US researchers have termed ‘money liberalism’ and traditional notions of tax-transfer payments as the primary tool for equality. The reconciliation of equality and choice is not easily achieved through simply redistributing money more fairly for realisation of equality in consumption in the market. The problems of residualism have long been recognised and are now becoming evident. More significantly the market just does not address social needs – it only addresses solvent demand. In addressing social need we need social innovation. Cohesive diversity requires ascertaining what the social dimensions of diversity are and developing the organisational arrangements to help make those arrangements real. Economics and money are part of the equation. But deepening social capacity is equally important.

To date this is an issue that has receive too little attention in the literature on the future of working life. Fortunately leads on what a more effective approach to working life might look like are implicit in aspects of ‘spontaneous’ labour market and social practice. As Polanyi notes over sixty years ago: while laissez faire had to be planned, planning was spontaneous. (Polanyi 1944 (1957): 147)
Good examples are provided by the challenges facing working parents and skill formation. Current policy on work and family is predicated on the assumption that abstract individual households interact with abstract firms. Operating alone such entities have very limited choices. In the work/family transition we identified four work/parenting pathways. The challenge for policy is to devise effective ways of enabling people to choose between one of these four. By defining the problem socially – that is collectively – it becomes possible to identify potential economies of scale and to redistribute resources to make choices in that domain real. Similar considerations apply to the issue of skill formation. Individual workers and employers do not just need subsidies for the public good aspects of skills. They also need institutional forms to help spread the risks of employment based training. In particular, they need brokers who can network training providers, employers and workers with common training interests/needs. They also need support structures to help develop better system of on-the-job training.

Encouragingly organisational forms are emerging which deliver such services and improved outcomes. The clearest examples in Australia are provided by the better group training schemes. Greater attention needs to be devoted to identifying, nurturing and developing arrangements such as these. Unless greater attention is devoted to the, the choices available to growing number of people will be limited and the future will be marked by increasingly unequal freedoms, not cohesive diversity.

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AWAs: Retrospective and prospective

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ABSTRACT

With the Coalition’s emphatic victory in the 2004 federal election, the place of Australian Workplace Agreements now seems assured. Further, the Coalition’s unlikely control of the Senate provides it with a unique opportunity to fulfill any left-over ambitions it might have to extend the influence of AWAs. By contrast, the federal labor party is said to be closely re-examining each of its policies in light of its electoral defeat, and seems likely, if Mark Latham’s recent speeches are any guide, to alter its industrial relations policies including Labor’s long-held opposition to individual employment contracts. This particular juncture therefore appears to be an apt time to reflect on the experience of AWAs and consider how they might be reformed. In this paper we examine the extant AWA literature and its empirical observations of the issues, strengths, weaknesses and controversies associated with the use of AWAs since they became available in March 1997, before turning to consider the reform possibilities. We argue that this experience indicates that AWA regulation needs to be overhauled to improve procedural fairness but also to enable them to compete with the growing use of common law employment contracts.
A new vision for Industrial Relations: The Howard Government agenda

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ABSTRACT
This paper traces the development of industrial relations policy since the Hancock inquiry and suggests that the current reform trajectory is about to change dramatically. The Howard government is likely to bring in radical changes with the new senate in 2005 that will fundamentally change the basis of our regulatory system. The small business model of industrial regulation that informs the reform agenda suggests that the labor movement will face major challenges and the traditional employer-employee relationship will also undergo significant changes.
“Redefining work relationships through contractors – legal and policy developments”

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ABSTRACT

In the lead up to the 2004 Federal election, the Prime Minister announced that a re-elected Coalition government would introduce a new Independent Contractors Act to enshrine and protect the status of independent contractors. The Act would be designed, he said, to enhance workers’ ‘freedom to contract’ and encourage independent contracting as a legitimate working arrangement.

This paper examines the scope of this proposed Independent Contractors Act. In Part I, we discuss the policy behind the proposed reforms and examine the present State and Federal legislative provisions which the Government says are inhibiting contractors’ ‘freedom to contract’. We also look at current judicial approaches for distinguishing between employees and contractors, including approaches developed to uncover ‘sham’ independent contractor arrangements which have posed an important challenge for courts and policy-makers.

In Part II, we examine the reforms introduced in the area of taxation law. In this context, the Government has introduced measures to curb the growth of independent contractor arrangements. However, it is argued that these reforms do little to combat the problem of sham independent contractor arrangements in other contexts and that, from a tax practitioner’s perspective, the initiatives are an example of failed tax reform.

In Part III, we look at the policy implications of the government’s proposed reforms. We also examine the convergence between the Government’s approach in this area and its Ageing workforce policies. The question, whether we are seeing a new model for regulation in Australia, is also considered.
The decline of collective bargaining coverage in Australia, 1990–2005

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ABSTRACT

This paper outlines a new conceptualisation of the changes in the Australian industrial relations system since the early 1990s. The dominant conceptualisation refers loosely to a move from ‘compulsory conciliation and arbitration’ to ‘enterprise bargaining’. Some have spoken, even more loosely, of ‘decentralisation’ or perhaps ‘deregulation’. This paper draws on the international literature devoted to comparing collective bargaining systems and focuses on the concept of collective bargaining coverage. From this perspective, the change in Australia is not, as it is often falsely portrayed, a shift towards more collective bargaining. Instead it is best seen as centring on the erosion of collective bargaining. We have moved from a system that – though possessing peculiar features – was based on multi-employer collective bargaining to a system that is based on unilateral management determination of wages and conditions (with some islands of single-employer collective bargaining). The surviving residues of the award system provide a brake on this process, but they are slowly fracturing and losing their purchase on wages and conditions.
Rationalisation, individualisation and de-collectivisation: Challenges to the socio-cultural regulation of work

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ABSTRACT

In a neo-liberalising economic climate evident in many OECD countries, elite economic and business leaders encourage a highly rational strategic managerial action in the restructuring of production organisations toward flexibility and contingency and rapid response to dynamic market environments. An ensuing deregulation of employment relations has stimulated much academic and trade union commentary that raises pressing concerns over the individualisation of employment relations, and consequences of a further weakening of collective action in wage bargaining and in the social regulation of work.

Critics argue that trends toward decollectivisation and individualisation in employment relations intensify managerial control over the labour process and heighten rational, atomised individualism. Elite workers may benefit from individualisation, but for the majority of workers the uncertainties and risks of individualised employment relations portend greater worker subjectification to powerful, heteronomous control and exploitation.

At the same time, however, accompanying and consequent of the trends of hyper-rationalisation and liberalised workers other cultural trends add further complexity to these developments. Alongside the technological and managerial imperatives promoting a decollectivisation and desocialisation of economic work participation, a heightening cultural turn of interests mobilises complex currents of action. The cultural turn toward a greater reflexivity, heightened individualism and self-expressivism that includes for instance identity-based life-styles and demands for work-life balance across industries raises new socio-cultural demands and agendas. This paper considers prospects for the utilisation of these rising demands alongside the challenges of de-collectivisation in the socio-cultural regulation of work.
Managing precarious employment arrangements. Professional contractors and social support

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ABSTRACT
This study presents the sources of social support available to and used by a 240 Professional Contractors (PCs) in Victoria, Australia. As part of the non-standard workforce, the PCs in this study access work via professional recruitment/contracting agencies (CAs). Accordingly, it was proposed that PCs experience many insecurities associated with these employment arrangements, and rely on social support to manage a contracting lifestyle. The results found that PCs generally relied more on home-related support than work-related support. The effect of gender was evident within these results. Males more frequently reported spouse, partner or defacto than females; females reported a greater number of sources of support than males; and females reported greater levels of satisfaction with support received than males. Contrary to expectations, females reported a greater number of work-related supports than males. The presence of dependents was also found to be important, as PCs with dependents reported a greater number of supports. These results are generally consistent with past studies and provide insights for managing a precarious, contracting lifestyle.

Introduction
In a competitive global marketplace, organisations strive to maximise efficiency and flexibility to optimise performance. Consequently, the concept of workforce flexibility has emerged and evolved. The emphasis on workforce flexibility has compounded many of the insecurities associated with non-standard employment in general, and contracting arrangements in particular. The term non-standard employment is not precisely defined or accurately captured through Government data collection sources. However, many commentators agree that the major defining characteristic is the absence of full-time, permanent, open-ended and secure employment (see Burgess, 2002; Watson, Buchanan, Campbell and Briggs, 2003). Through the analysis of self-reported survey data, this research study identifies the supports available to and used by PCs. Interview data from three Melbourne-based CAs complements and extends the survey data.

The employment environment of PCs
Incomplete workforce statistics make capturing the parameters of professional contractors a difficult task. Legally, these types of employment arrangements have been, and continue to be, challenging and subject to some debate. This situation is compounded by the growth in labour hire and conflicting findings being reported about the experiences of contractors (see for example Brennan, Valos and Hindle, 2003). However, as a starting point, ABS (2004) data indicates that 8% (141,500) of professionals are own-account workers, and many more are likely to have non-standard arrangements. The insecurities associated with non-standard employment have been acknowledged (see Burgess, 2002; Watson et al., 2003). These insecurities relate to working-time, income, benefits, function, skill reproduction and employment generally. However, when these themes are considered within the context of professionals, slightly different themes become apparent.

Davis-Blake and Uzzi (1993) attribute the reasons for organisations using professional contractors to the requirement for a highly skilled and committed workforce. At the elite end of the contracting continuum, the professional contractor workforce appears to differ from many other peripheral arrangements as it is characterised by high demand and short supply (Van Huss, 1995). These characteristics place the professional contractor in a somewhat stronger negotiating position than the more easily replaced unskilled or low skilled contractor. ‘Drawing together the literature on self-employment, professionals and contracting provide an extremely optimistic picture of the self-determined, self-actualised worker’ (McKeown, 2001, p. 95).
However, on a less positive note, the rights and entitlements of contractors and outsourced workers are often unclear. Hall (2002) refers to the essential quality of a labour hire arrangement as being the splitting of contractual and control relationships to ascertain liability. Highly skilled contractors may be costly, placing pressure on the wages system. This may result in PCs feeling pressured to be readily available, immediately productive and to earn their keep.

Given the positive and negative aspects associated with contracting, why are many professionals in this form of employment arrangement? The main dimensions that emerge from the literature are that they are pushed or pulled (Hughes, 2003), seeking to manage work-life balance (Taniguchi, 2002) or exploring employment options to possibly secure a full-time job (Wheeler and Buckley, 2001). Consequently, contracting or self-employment arrangements may be viewed as a bridge to new or expanded opportunities, or a trap (Natti, 1993). If contracting is an undesirable option, PCs may experience increases in stress levels, work-life conflict and overall dissatisfaction with life. If contracting is a desirable option, PCs may have a very different experience.

Factors in support of organisational workforce flexibility

Pressures from the macro-level business environment have fuelled the desire for organisational flexibility, which can be achieved in many ways. From Atkinson’s (1988) ‘Flexible Firm’ to the eight related and overlapping types of employment flexibility identified by Bamber (1990), all are driven by business bottom line requirements and employees being flexible or having to work long hours. Common themes in the literature relate to labour insecurity and to the use, and possibly overuse, of core workers (see for example Davis-Blake and Uzzi, 1993; Watson et al., 2003). The extensive use of peripheral labour provides a convenient means to achieve workforce flexibility.

Burgess (2002) asserts that the use of non-standard labour is largely a short-term expediency related to uncertain product market conditions. This statement is supported by findings reported by Brennan et al. (2003) and Hall (2002). These studies confirm that employers use peripheral and agency workers to increase organisational capacity (to cope with demand), to access specialised skills and to reduce labour costs. However, the goal of workforce flexibility has not been alone in contributing to the growth of the contracting workforce. Reduced government involvement in employee relations and declining unionisation rates, particularly for those without leave entitlements, have generally strengthened the negotiating position of employers. The growth in employment services organisations and range of employment options has also encouraged the use of contractors and on-hired workers.

ABS (2003) data indicates 2,704 organisations in the employment services industry. The major areas of employment placement are in health care and medical occupations; trade, labour and related occupations; and clerical occupations. Clearly this industry is making a valuable contribution to the Australian economy, and the Recruitment and Consulting Services Association Inc. (RCSA) is playing a lead role. This Association lobbies for improvements or alterations to legislation and regulations in the interests of the industry, and is a driving force behind improving the professionalism, ethics and image of employment services organisations (RCSA, 2003). RCSA members provide a broad range services that are customised to meet the needs of Host Organisations/Employers (HOs), such as on-hired employee services, on-hired contractor services, recruitment services, employment consulting services and managed project or contract services (RCSA, 2003).

A recurring theme of this brief overview has been the organisational focus on flexibility, particularly workforce flexibility, and its consequential impact on employment security. Consequently, many professionals are managing a precarious, contracting lifestyle.

Managing precarious employment arrangements

Regardless of whether professionals move to contracting arrangements through choice or necessity, they have limited access to standard employment rights and benefits. Contracting arrangements may therefore compound or relieve the conflict between work and non-work responsibilities. Past work-life balance studies have generally emphasized the negative, rather than the positive, links between work and family roles. These studies reveal that the role
expectations of work and family domains are not always compatible, resulting in inter-role conflict, dissatisfaction or role spillover with negative effects (see review by Kossek and Ozeki, 1998). It is possible that PCs experience detrimental effects as their employment environment is characterised by insecurity, long working hours, short notice periods, limited or minimal access to leave and pressure to perform (ABS, 2004; Hall, 2002; Wooden, 2002; Bryson and White, 1997). This presents an important reason for PCs to rely on quality social support on a day-to-day basis, and at times of crisis.

The concept of social support

Stress and work-life balance researchers emphasise the importance of social support as a coping resource in dealing with stressors in different life domains (see for example, House, 1981). Of particular relevance to this paper is the conceptual work of Sarason, Levine, Basham and Sarason (1983), which focuses on social support within two dimensions, identifying who provides support as well as assessing the levels of satisfaction with the support received. Consequently, the Social Support Questionnaire (SSQ) survey instruments developed by Sarason et al. (1983, 1987) concentrate on emotional social support and its buffering effect.

House (1981) notes that a necessary condition for supportive acts or behaviours is some interaction between two people, and that a minimal condition for experiencing social support requires one or more stable relationships with others. Past research has uncovered a broad range of sources of social support potentially available in the work, home and other personal areas of life. Based on these findings and the employment insecurities previously discussed, it is hypothesised:

H1: Professional Contractors will report a greater number of home-related than work-related sources of social support.

After reviewing a number of social support studies, Shumaker and Hill (1991, p. 106) conclude “socialization is differentiated by gender, and socialization experiences are inextricably tied to the development, maintenance, composition, and functions of social networks.” They further add that in adulthood, men often cite their spouses as their only confidants, whereas women cite spouses and friends with about the same frequency. Etzion (1984) observed the work stress-burnout relationship was moderated by supportive relationships in the work environment, especially for men, and only family resources were related to personal functioning among women. These findings lead to two related hypotheses.

H2a: Male Professional Contractors will report their spouse, partner or defacto as a source of social support more frequently than female Professional Contractors.

H2b: Male Professional Contractors will report a greater number of work-related sources of social support than female Professional Contractors.

Stereotypically, women are the main support for family and children, often balancing home and work-related duties and responsibilities. Baxter (2000) reported that the gendered division of domestic labour means many female workers have dual caring responsibilities, for children and ageing parents. Consequently, female workers may have a greater number of supports than male workers. However, as noted by Thoits (1992), social relationships are also a potential source of stress, thus highlighting the importance of being satisfied with the support received. Therefore, it is hypothesised:

H3a: Female Professional Contractors will report a greater number of sources of social support than male Professional Contractors.

H3b: Female Professional Contractors will be more satisfied with support received than male Professional Contractors.

In line with past work-life balance studies, Ginn and Sandell (1997) reported high levels of work responsibility, together with responsibility for young children and working full time generates high stress levels. Based on these findings it is hypothesised:

H4: Professional Contractors with dependents will report a greater number of sources of social support than those with no dependents.
**Research methodology**

This study involved a mixed-method research design. Stage One involved the secondary analysis of data gathered from 240 PCs (refer to McKeown, 2001). The respondents completed the six-item short version of the SSQ (Sarason et al., 1987). Cronbach’s alpha coefficient was .93. In Stage Two, semi-structured interviews were conducted with a purposive sample of three Melbourne based CAs to extend the survey findings.

**DESCRIPTION OF PARTICIPANTS:** Of the 500 surveys forwarded, 240 useable surveys were returned by adults actively registered as PCs with three selected CAs (48% response rate). Key characteristics of the survey respondents are presented in Table 1.

<table>
<thead>
<tr>
<th>Characteristic</th>
<th>Description of Respondents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gender</td>
<td>179 males (74.6%) and 61 females (25.4%)</td>
</tr>
<tr>
<td>Modal age group</td>
<td>40-44 years (25.8%)</td>
</tr>
<tr>
<td>Marital status</td>
<td>189 married/defacto (78.8%)</td>
</tr>
<tr>
<td>Annual income range</td>
<td>Under $25,000 to in excess of $185,000</td>
</tr>
<tr>
<td>Presence of dependents</td>
<td>121 with no dependents (50.4%)</td>
</tr>
<tr>
<td></td>
<td>119 with one or more dependents (49.6%)</td>
</tr>
</tbody>
</table>

The majority of respondents were employed in information technology (27.1%) or business, manager or administrator (25.4%) type occupations. Respondents worked in a range of industries, with the largest number employed in public administration and defence (15.4%). Moving to the participants in Stage Two, interviews were conducted with three CAs, which are described in Table 2.

<table>
<thead>
<tr>
<th>Descriptor</th>
<th>Agency 1</th>
<th>Agency 2</th>
<th>Agency 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agency Size</td>
<td>Large</td>
<td>Medium</td>
<td>Micro</td>
</tr>
<tr>
<td>Main industry/ies serviced</td>
<td>Manufacturing, Defence, Mining, Primary Industries and Utilities</td>
<td>Finance and Insurance</td>
<td>International Health</td>
</tr>
<tr>
<td>Dominant gender of PCs</td>
<td>Male</td>
<td>Male</td>
<td>Female</td>
</tr>
<tr>
<td>Professional occupational categories</td>
<td>Engineers, Para-professionals (Architects and Metal Trades)</td>
<td>Accountants, Information Technology Professionals, Business Managers and Administrators</td>
<td>International Health Care Professionals</td>
</tr>
<tr>
<td>Work domain</td>
<td>Organisation</td>
<td>Home domain</td>
<td>Service or Caregiver</td>
</tr>
<tr>
<td>-------------</td>
<td>--------------</td>
<td>-------------</td>
<td>---------------------</td>
</tr>
<tr>
<td>Individual</td>
<td>Professional association - General (PC); APESMA and user groups (A1); Institute of Engineers (A1); Australia and New Zealand Institute of Insurance and Finance (A2); Government advisory service (PC); Government employment advisory service (A1); Employer/agency social club (A1)</td>
<td>Spouse (PC); Defacto (PC); Partner (PC); Family (A2, A3); Brother (PC); Sister (PC); Mother (PC); Father (PC); Relatives-in-law (PC); Uncle (PC); Aunt (PC); Daughter (PC); Son (PC); Ex-spouse (PC); Ex-partner (PC); Friend-general (PC, A1, A3); Separate social circles outside of work (A1)</td>
<td>Children’s caregiver (PC, A2, A3)</td>
</tr>
</tbody>
</table>

*character in brackets() indicates source: A1=Agency 1 (large), A 2=Agency 2 (medium), A3=Agency 3 (micro) and PC
Discussion of results

Numbers of support sources: Hypothesis 1 was supported, and PCs identified a greater number of home-related supports than work-related supports. The sources of support reported by PCs were combined with those identified in the interview data and aggregated in Table 3. While the findings indicated that PCs mostly rely on home-related supports, many respondents indicated having few or no supports.

The CA interview data added further explanation, and suggested that work and professional networks facilitated PCs movement onto another placement, while good quality home supports assisted PCs to manage the financial and emotional consequences of unplanned breaks between contracts. In addition to individual supports, CAs identified three professional associations available to PCs in the Engineering and Insurance/Finance industries. PCs did not refer to unions as a source of support, however, professional associations and CAs were identified. CA interview data also confirmed that CAs do perform support roles. For example, Agency 1 provides a staff social club and regularly visits contractors on-site and Agencies 2 and 3 are privy to PC's personal circumstances and act as an intermediary with the HO.

Regardless of whether professionals move into contracting through necessity or choice, they rely on others to provide emotional, appraisal, informational and instrumental support. Support from home and work sources is required during periods of transition. This difference in domains from which individuals seek support is an important concept, because, as Table 3 demonstrates, CAs identified a number of sources that PCs did not report. This result suggests that PCs may be unaware of these potential, often work-related, sources of support. Alternatively, PCs may not have viewed them as providing the type of emotional support they required, perhaps providing instrumental support. The importance of quality social support in managing employment insecurities should not be underestimated. The next section discusses the impact of gender in these results.

Gender differences: Survey findings indicated that gender had an effect on the sources of social support and levels of satisfaction with support received. The current study involved 179 male respondents (74.6%) and 61 female respondents (25.4%) working in a variety of occupational categories and across a range of industries. This descriptive statistic is interesting in itself and suggests that contracting arrangements may be more conducive to or imposed upon male professionals. Regarding marital status, 82% of males and 71% of females reported being married or in a defacto relationship. Hypothesis 2a was supported, as male PCs did report their spouse, partner or defacto as a support more frequently than female PCs, (eta squared=.006). Contrary to Hypothesis 2b, females reported a greater number of work-related supports, when compared with males, (eta squared=.004). Nelson and Burke (2000) note that support in the workplace is particularly important for females, as it may be limited due to their exclusion from informal networks and lack of access to mentors. This finding could be partially explained by the precarious nature of contracting which results in both male and female PCs being excluded from workplace networks.

Hypothesis 3a was supported. Female PCs reported a significantly greater number of sources of social support than male PCs, (eta squared=.12). Hypothesis 3b was also supported. Female PCs reported being significantly more satisfied with support received than male PCs, (eta squared=.17). While female PCs have a greater number of supports, and are significantly more satisfied with support received, this result could suggest that females are better at identifying their supports, or simply, that they were more thorough in completing the survey.

The findings relating to gender generally concur with those reported in the work-life balance literature. For instance, Shumaker and Hill (1991) found that socialisation is differentiated by gender and tied to the dimensions of social networks. Sharing experiences with others is often an important first step in reducing or managing work-life conflict. Although significant differences were reported by male and female PCs, many PCs reported that they rely on their spouse, partner or defacto and significant others as a coping strategy, possibly to deal with the insecurities associated with contracting. The themes of gender and caring responsibilities are evident in the results here. The next section expands these findings and discusses the impact of dependents.
THE ROLE OF DEPENDENTS AND SOCIAL SUPPORT: Hypothesis 4 was supported. PCs with dependents reported a significantly greater number of sources of social support than PCs with no dependents, (etas squared=.019). It has been demonstrated that PCs have limited access to many employment related entitlements and benefits. Therefore, as almost half of the PCs surveyed had one or more dependents, these PCs reported having a greater number of sources of social support. The sources identified include reliable and good quality supports, to care for children on a regular basis, and in times of crises. This is critical because for many contractors, no work equates to no pay. Given the large variation in annual income levels reported by respondents, it is likely many PCs work on a part-time basis through choice or necessity. These findings align with past studies by researchers such as Bryson and White (1997) who found self-employed women were more likely to work part-time, often as a way of combining family responsibilities with paid work. The themes of inter-role conflict associated with caring responsibilities and the need for social support are evident in the work-life balance literature, and clearly applicable to contractors and non-standard workers.

Conclusion

This study has focussed on the sources of social support available to and used by PCs to manage a precarious lifestyle. Although there is clearly scope for further research, through a longitudinal study or broader scale to more fully explain social support, this study presents some useful insights for managing a contracting lifestyle. As previously outlined, there are many insecurities potentially associated with non-standard employment, even for highly skilled and qualified professionals. Into the future, it is likely that more professionals will be faced with the prospect of contracting, whether through choice or necessity. To improve the likelihood of having a successful and positive contracting experience, professionals must recognise the employment insecurities and identify individuals and organisations that are available to provide quality social support. House (1981) presents four forms of social support - emotional support (esteem, affect, trust, concern, listening), appraisal support (affirmation, feedback, social comparison), informational support (advice, suggestion, directives, information) and instrumental support (aid in kind, money, labor, time, modifying environment).

The importance of social support should not be underestimated in preparing for, and securing employment placements, as well as managing the transition between placements. PCs must be aware of market and industry trends relating to their occupational category, to develop realistic employment expectations. They may also find it useful to critically review their individual skills set, as CAs and HOs seek the best skills set-job placement match to satisfy HO’s needs. PCs should be able to clearly demonstrate and verify their qualifications, competencies, skills, employment history and experiences, regardless of whether they are job searching alone, or through a CA. When selecting a CA to job search on their behalf, PCs may benefit by clarifying the types of services, level of commitment and social support being offered by the CA. PCs must also understand their employment and contractual relationships with CAs and HOs. This is very important as contracting arrangements currently pose difficulties to traditional common law rules. Consideration of these insights may assist PCs to feel more supported in managing their precarious, contracting lifestyle.

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Union power: Space, structure, strategy

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ABSTRACT

Contrary to much of the orthodoxy about the immutability of union structure and strategy, we argue that unions have undergone immense change in the recent past. The rise and fall of the Accord with the national Labor government, the rationalisation of union numbers through amalgamation, the very different visions of the Australian Council of Trade Unions’ Future Strategies policies published in 1987 and 2003, the rise of organising strategies all point to this. Nevertheless, union power and membership remain, quite clearly, in crisis. One of the keys to unlocking this is the changing geographies of work and unionism. We suggest here that the changes which unions are making have, in the main, been at the national scale but that at other scales and sites there has been less change. We set out to show how, when, where and why these changes have occurred – and why they have not, thus far, been able to reinvigorate unionism overall. In part this failure is because of the changing geographies of work over the last twenty years: both economic globalisation and regulatory decentralism pose strategic and spatial challenges to nationally scaled labour organisations. In part it is because of weaknesses within and divisions between union structures. To explore and explain this argument, we look at the nature of union power and strategy over the last generation. We then chart some indicative episodes which illustrate some of the more novel developments which are taking place and the obstacles to their success.
Serving time: The temporal dimensions of front-line service work

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ABSTRACT

Managerial attempts to control time are often predicated on an assumption that time is absolute and objective. Yet an examination of the way that time is constructed in the retail banking industry shows that time is highly elastic and subjective (Mainemelis 2001). Management may place an emphasis on time discipline and predictability through the use of quantifiable targets and monitoring, however, customers bring an unpredictability and uncertainty to the service exchange. This paper explores the implications of these contrasting and competing notions of time for front-line service employees in bank branches and in call centre operations. The paper shows how front line service employees can be caught between the temporal expectations of management, those whom they service, and their own conceptions of timely service.

Introduction

The concept ‘time is money’ underscores the increasing managerial fragmentation, quantification and remuneration of time into hundredths of a minute (Cochrane 1985: 60, Braverman 1974: 53). Indeed, the modern industrial way of life is associated with a particular appeal to time and speed (Epstein and Kalleberg 2001: 8). Time and motion studies and just in time production, as well as, participative and group work methods, reflect the enduring relationship between work and time and time-work disciplines. While managerial attempts to control time appear to assume a notion of time as absolute and objective, time is in fact elastic and subjective (Mainemelis 2001). Nowhere is the subjectivity and elasticity of time more evident than in service work. This is in large part because the very characteristics of service work render concrete notions of time redundant. Korczynski (2002: 6-7) identifies five attributes that highlight the temporal dimension of service work: intangibility, perishability, variability, simultaneous production and consumption, and inseparability. Notions of time are explicit within all five of these attributes. Yet, as the varying temporal dimensions in tangibility, perishability, variability, simultaneousness and inseparability suggest, time takes on a variety of meanings and ‘serves’ a diverse set of interests.

The service exchange itself is often referred to as the ‘moment of truth’, with this moment being the point when lasting impressions about organisations are formed (Frenkel et al 1999: 6). Yet within this particular moment there are a range of temporal expectations. Service work brings an important third actor into the workplace, the customer, and these customers have their own temporal subjectivities and expectations about quality customer service. It is not only external stimulus (for example the clock on the wall) that determines an individual’s notion of time; time also depends on internal characteristics of the observer. As Mainemelis (2001) observes, time is determined by inner duration, time seems to slow down, run or stop, depending on one’s emotional state. Therefore, perceptions and experience of time in service work may vary from customer to customer and between customer and employee. This paper analyses emerging temporal tensions between managers, employees, customers and suggests that the service interaction involves considerable transactions in time. In doing so the paper reinforces Burrell’s (1992) invocation that time is made uncertain by human intervention, with the customer adding a further element of uncertainty and unpredictability to the service exchange.
**Time in service work**

Management may place an emphasis on quantifiably fast, efficient service, which shapes various aspects of the labour process. Similarly customers may share this desire for efficiency, however they often bring competing expectations or understandings that unhurried, focused time may be a key component of superior customer service. Indeed the adoption of automated self service options in many service areas, means that time constraints around when service can be dispensed and received have disappeared completely from many routine service interactions. Technological innovation based on computer and satellite technology have removed many of the spatial and temporal limitations associated with service delivery as customers are ‘served’ any time of the day and in any location. This is particularly apparent in service delivery via the telephone or internet, where customers can shop, bank or simply browse what is on offer from anywhere at any time.

As already suggested, the service encounter embodies competing temporal notions. Customer service may be about predictability and certainty underpinned by a desire for speed and efficiency. Alternatively because quality customer service often means giving customers time, taking time to listen, or more generally not hastening the service exchange, competing notions of time in service are indelibly related to competing notions of the customer. For instance, Korczynski et al (2000: 671) argue that in seeking to achieve the dual goals of ‘customer-orientation and efficiency, management will prefer employees to identify with a collective, disembodied concept of the customer’. Conversely, employees ‘may be more likely to identify with an embodied, individual customer, for service employees interactions with specific customers may be an important arena for meaning and satisfaction in work’ (ibid). The issue here is that these two conceptualisations of the customer are underpinned by conflicting temporal fabrics. A concept of service that relies on 24 hour availability is centred on a concept of a collective, disembodied customer. Such an instrumental and quantitative approach to customer service is associated with measurable interactions that are standardised, predictable and efficient with an emphasis on speed. By contrast employees preferred (qualitative) concepts of an ‘individual, embodied customer’ is underpinned by a notion of customer service that is customised, unhurried and in many respects difficult to measure.

This paper examines the impact of these competing concepts of time on employees, managers and customers in the retail banking, including the increasing delivery of bank services through call centre operations. The paper analyses how customer expectations and technological innovation alter the temporal dimension and expectations of service work. In order to do this it draws on findings from two large qualitative research studies, covering call centre operations and retail banking, carried out between 1994 and 2003. Together the studies provide a rich source of data drawn from a total of 150 semi-structured interviews with management, employees, union officials and consumer advocates. This interview data is also supported by information gathered from analysis of a range of primary and secondary documentation including company literature, brochures, PR information, customer newsletters, media reports and government inquiries.

The paper is organised as follows. The following section outlines the way in which technological innovation has impacted on service delivery in retail banking. This is followed by a discussion of the impact of these new customer service options on employees both in the retail bank branches and in call centre operations. Emphasising how service technology has changed the nature of temporal transactions which are made between employers, employees and customers. This discussion highlights the way that time has continued to be an important measure of employee performance and control, while also highlighting how the service exchange can be made uncertain and unpredictable by both customers and employees.

**Temporal technology in retail banking**

Retail bank management in Australia have moved away from providing face-to-face service in branch outlets and now encourage customers to carry out their banking over the phone or via the internet. The service interaction in retail banking is now very often between the customer and a machine and the major banks in particular have introduced a range of fee incentives to discourage customers from conducting their personal banking in branches. The introduction of ATMs and EFTPOS has given rise to the concept of self-service in retail banking. The flexibility
and convenience offered by these new technologies has undoubtedly suited the changing lifestyles of many retail banking customers as these customers show a willingness to adopt new self-service technologies. Since 1993, the number of ATMs throughout Australia has almost tripled to 14,714 outnumbering bank branches by three to one, and the number of EFTPOS terminals has increased from 30,486 in 1993 to 40,084 in 2002 (Reserve Bank 2002). Longer working hours and the increase in two income households made accessing bank branches between the traditional banking hours of 10am and 3pm more difficult for many households. Automated self-service options have enabled retail bank managers to give customers access to their money at any time of the day, coopting customers in as a ‘co-producer’ of the retail banking service. As Sturdy (2001: 7) indicates, ‘economies may be achieved by getting or educating customers to perform some of the labour themselves’.

New technologies have also expanded to enable customers to undertake a significant proportion of their banking from home via either the phone or the internet. When retail bank customers need to discuss banking options they are directed to phone banking. As one customer service officer (CSO) in an Australia and New Zealand Banking Corporation (ANZ) bank branch explained ‘customers are told to ring call centres or other business districts rather than talk to the branches; even our phone number is not in the phone book anymore’ (Interview, 18 March 2002). The willingness of retail bank customers to engage with these new service options has been reinforced by fee disincentives for over-the-counter transactions that accompanied the introduction of self service innovation. The large banks have used fee increases to ‘encourage’ people to adopt technological service options and avoid over-the-counter transactions. These over the counter penalties have been very effective in shaping customer behaviour. In evidence to a Federal parliamentary committee on fees for electronic banking, the CBA reported that it had raised the proportion of its transactions performed electronically to 80 percent of total transactions and in three years to 2001, the ANZ had reduced the proportion of branch-based transactions from 20 percent to 12 percent (Gittins 2001).

This move away from face-to-face service and to automated service alternatives has also facilitated the closure of 7,000 retail bank branches over the past twenty years. In many cases the functions carried out in these branches have been moved to head office or have been transferred into call centre operations. For instance the last decade has seen the emergence of over 4,000 call centres, a third of which operate within the financial services sector incorporating retail banking (Cullen 2001). While call centre operations vary widely in terms of size, industry location, labour market and the types of the labour-management policies and practices they implement, some generic concerns relate to turnover and employee burnout, the former of which ranges from averages of 22 percent per annum and the latter averages at around eighteen months (Call Centre Research 1999: 57). Much of the burnout rate is attributed to the relentless pace of the work and the work intensification facilitated by sophisticated employee monitoring technology (Taylor and Bain, 1999; van den Broek, 2003). Much of the monitoring technology rotates around expectations about how time is allocated. That is the duration of customer waiting time, time allocation per call including the time it takes to answer a call, time spent on the call, wrap time and time spent away from the telephone.

Temporal technology – Implications for customers

Despite the move to automated, phone and internet banking, there is evidence that many bank customers still desire service through face-to-face contact. A recent study by the Financial and Consumer Rights Council found that ‘anger over bank fees, branch closures and the impact of electronic banks has hit a record high and feelings of distrust and exploitation are overwhelming’ (Lewis: 2000b). While there is no doubt that the introduction of technology has meant that customers have access to their accounts 24 hours a day, it would appear that disincentives now attached to face-to-face delivery of service are some of the most pressing concerns of bank customers.

It may be that the major banks have underestimated the importance of the service relationship to their industry. For instance a Deloitte Research study that charted responses to a telephone survey of 2000 banking consumers in ten countries and compared these with responses of 133 senior financial services executives in 17 countries. The results indicate an incongruity between the meaning attached to customer service offered by the customers and that offered by executives:
Although financial services executives agree on the critical importance of customer service, they often mean such issues as 24-hour access, increased convenience, and one-stop shopping. Consumers, on the other hand, are more concerned with the quality of their interactions with their financial services providers, so-called 'moments of truth'. Is information provided quickly? Is it easy to resolve problems? Are personnel friendly and eager to help? Am I recognised? Do they remember my last call? (Deloitte Research 2000: 7).

The survey showed that many customers expect personal, responsive attention and branches remain highly relevant (Deloitte Research 2000: 4). In short they want customer service officers who have time to serve them. While offering greater levels of convenience for customers, technological change has resulted in increased levels of customer dissatisfaction. This dissatisfaction is in large part because of the gap in the notions of customer service offered by the large retail banks and the concept of customer service held to by customers. These different notions of customer service are underpinned by different notions of time within service. Management are emphasising fast and predictable service encounters. The following section of the paper shows that front-line service employees would prefer to engage with customers in a way that acknowledges the variability, spontaneity and unpredictability of the service encounter.

Temporal technology – implications for front-line service employees

The impact of technology and the co-option of the customer as a 'co-producer' of the service have resulted in the closure of the bank branches and job losses for front line retail bank employees. The last two decades have witnessed major reductions in the number of bank branches. In 1980, Australia had 11,760 bank branches but by June 2000 the number had fallen to 4,728 (Reserve Bank 2002). As a result of this between 1990 and 1999 the finance industry (principally the retail banks) shed over 24 percent of its workforce, a total of 54,600 jobs (Probert et al 2000:11). A major consequence of these job losses has been a significant increase in working hours for many employees:

Employment in this sector is characterised by very long average hours of work, both for full-timers and many part-timers, managers and clerical or sales staff. Not only is paid overtime widespread, but so are high levels of unpaid overtime, worked not only by full-time employees and managers, but also by clerical and sales employees and part-time employees (Probert et al 2000: 47).

An ANZ branch manager explained how the problem of long hours can be linked in part to understaffing. She believed that the banks are not providing adequate staffing levels in their branches because they are not taking into account the 'emotional labour' (Hosshild 1983) component of service work. As the Branch Manager commented: 'They understaffed us because they can't measure those human factors. They can't measure the woman who comes in here and her husband has just died; she has no idea about the money.' (Interview 18 March 2002). This is in contrast to the easy calculation of time spent on customer calls or tabulating sales output. Further, Cath Noye, Assistant Secretary of the Victorian/Tasmanian Branch of the FSU, remarked that this strong commitment to customer service underlines retail bank employees' willingness to work long hours, often without extra pay. She suggests that 'they will work unpaid overtime rather than leave their customer sitting there, because they feel that responsibility for the customer' (Interview, 18 March 2002). Probert et al's (2000: 19) study confirms that like many other interactive service employees, bank employees place great importance on, and gain a degree of satisfaction from, the customer service component of their work.

The CSOs interviewed for this research indicated that unreasonable targets and pressure to perform inhibit their ability to provide the level of customer service they believe is important. As an ANZ CSO lamented: 'I get satisfaction from customers [but] because you are so short of time it is a bit like a treadmill, you think go get on with the next thing and there is a real clash between your personal standards and what you have to do to get the job done' (Interview, 18 March, 2003). There is evidence of a pronounced mismatch between retail-bank employees' own ethic of customer service and senior management expectations about the level and type of service that should be provided. As one Branch Manager remarked:
[The] interaction that they have with this person on the other side of the counter is important. It is important for that person and you do get a confusion in your head about what is real and what is not and the way the bank perceives how that interaction should occur and how it really does occur (Interview, 18 March 2002).

This conflict in the minds (and hearts) of the front-line service employees is a result of their ‘preference for a relationship of empathy and identification, rather than instrumentalism, with customers’ (Korczynski 2002: 116) and is bound up with competing temporal expectations. For instance empathy and identification with customers as ‘embodied individuals’ takes time, whereas management would prefer customers to identify with a ‘collective, disembodied customer’ (Korczynski et al 2000) which brings more certainty, predictability and time discipline to the service exchange.

**Temporal technology and the call centre labour process**

Nowhere is the managerial preference for the concept of a ‘collective, disembodied customer’ more apparent than in relation to call centre work. While many service encounters require co-location of the service employee and customer, a distinctive feature of call centre work is that while production and consumption occur simultaneously, this exchange does not require co-location. Particularly call centre services have become ‘tradable’, nationally and internationally across numerous time zones and cultural frontiers (Dicken 1992: 354, Machlan, Clark and Monday 2002: 90, van den Broek 2004). Further locational separation between customer and producer also means that communication competencies including verbal tone, pitch, and fluency are as important as energy and enthusiasm to form the cluster of technical and emotional competencies required of call centre work. However unlike internet and ATM technology where customers ‘self-serve’, call centre operations and operators are centralised, rationalised and closely managed.

While emotional labour underpins much of the call centre labour process as customers interact with CSRs who provide detailed product or service information, however such emotions are laboured within particularly constrained physical environments. Amongst the most dominating visual features of the call centre workplace are motivational mobiles encouraging teamwork, commitment and quality performance displaying messages such as ‘MOMENTS OF TRUTH’, a moment when the expectation is that 80 percent of calls be answered in 12 seconds (van den Broek 2002). Along with the motivational mobiles is the suspension of large display boards which measure whether this expectation is realised. For instance electronic boards indicate various statistics, including the number of calls feeding through the automated call distribution (ACD) system, production targets and queue times.

Employees working with ACD systems face constant call queues with staff required to enter a code outlining the reason for any absences from their workstations. Various expectations about performance are established. For instance in many cases staff are expected to answer over 90 percent of calls within 12 seconds and abandoned calls are benchmarked at around three percent. ‘Talk-time’ represents the amount of time spent conversing directly with customers on the phone, and ‘wrap-time’ describes the amount of time for completing administrative tasks after the customer has hung up (ibid). In order to maximise talk time and deal with waiting customers, extended wrap time is strongly discouraged.

The ACD technology predicts the number of employees required to process customer demands on a daily basis. It facilitates the allocation of workloads and charts future workloads based on employee performance. The system allows management to ‘recognise achievement and respond to under-achievement empower through the assignment of responsibility and accountability and to measure performance’ (ibid). Each stage of the call is monitored producing statistics measuring quantifiable aspects of each call. Qualitative aspects are also measured through remote call taping and review of call content. Results for sales campaigns, adherence to scripts and set procedure and call completion times are then displayed on whiteboards visible to managers and other CSRs (ibid). Such elaborate call centre technology allows for continuous workflows increasing the speed and efficiency of the system and allows management to allocate time for tasks and set the overall pace of work. In short the technology allows management to monitor the quantity as well as the quality of employee output (Taylor and Bain 1999).
Perhaps more than any other financial service interaction, much of this monitoring relates to the temporal expectations of quick service and is facilitated by tight employee scripting. Central factors determining the quality of a call are disaggregated into three areas of verbal expression including how calls are opened, the manner in which the body of call is performed and call close factors. The basic call requirements included assessment of phone manner; attempt to build rapport and courtesy to customers. Again the emphasis is on certainty and predictability. While statistics measure both qualitative and quantitative factors, the latter often dominates. Pressure to get through calls quickly stems in part from the fact that CSR’s statistics influence remuneration and promotional prospects within the firm. For instance, one CSR interviewed believed that the two team leaders and manager who interviewed him for promotion were looking primarily for quantitative productivity achievements (Interview, 1 March 1996).

Contrasts in the temporal expectations of employees and employers are apparent as early as at the recruitment interview and in training. While training is used to develop qualitative measures including customer empathy and rapport, displaying these emotional skills requires time and discretion. However such time and discretion is significantly undermined by the nature and extent of surveillance and quantitative KPIs outlined above. As one respondent in Thompson et al’s (2004: 141) research noted:

I thought that each customer was supposed to have individual needs, so you’ve got to give them time. But it’s ‘we need to bring those down, let’s look at bringing your stats in line with everybody else’s’. It’s on top of you all the time… Basically, at the moment I feel like a machine. The personal touches have gone and they need to bring them back.

The undermining of ‘personal touches’ by managerially-enforced output targets is reflected in surveys which reveal that many CSRs generally disliked performance statistics used to measure performance and were concerned with excessive workloads (Bain and Taylor 1999: 10, Deery and Iverson 1998: 8). CSRs’ perception that the introduction of statistics was encouraging a ‘worse service’ has also been reinforced by survey and interview evidence. One Australian study of Telstra call centres revealed that while 98 percent of CSRs thought customer service was important, 72 percent did not believe that management had a high regard for service quality and 66 percent thought they were inadequately rewarded for customer service. (Deery and Iverson 1998: 12-13).

Clearly the nature of call centre work has in-built temporal dimensions which have significant impact on those who work in the industry and those who use their services. The rationale for call centre operations is based on efficiency and rationalisation and is operationalised through ACD technology which has revolutionised retail banking services. However there have been various temporal tensions identified here relating to managerially enforced output targets and customer expectations about quality service. As indicated below these tensions play out in various ways.

**Clawing back time**

A labour process based on high-volume and low cost will always find it difficult to deliver consistently high quality customer service and to maintain employee morale. However while this picture may appear very bleak, call centre CSRs respond or variously resist many of the temporal constraints embedded in call centre labour processes. Indeed these are not one way transactions in time as CSRs construct their own temporal transaction with customers. For instance employees might undertake follow-up tasks for customers at the expense of managerially defined output targets and they might also use their own judgements of service to sideline quantity objectives in favor of delivering improved customer service. While there is less evidence that loyalty to the customer and the firm turns employees into ‘self-disciplined subjects’ who performed without managerial inducements (Aleroff and Knights, 2000:12; Knights, Noble, Willmott and Vurdubakis, 1999:19), there are numerous situations where employees try to reclaim time, either for themselves or in combination with customers. For instance employees might ameliorate the repetition of the work and regain a degree of job control by maximising job, and thereby increasing customer, satisfaction.

There is often a perception that the contemporary workplace is free of the temporal demands often associated with traditional workplaces. Reflecting these sentiments, one call centre manager
believed that, ‘one of the underlying things in this organisation is the youthfulness and the high energy levels. There are no clocks in the place…no-one signs in, no-one signs off, and people just work until the job is done’ (Interview Senior Manager, 7 December, 1995). However while there may not be visible clocks ticking on the wall ‘in this place’ or many other workplaces, and while staff may no longer sign in or out, they do log on to technology which has very sophisticated methods to measure temporal activities, including arrival and departure time as well as time spent away from their workstations or indeed time spent in the bathroom. Indeed this paper highlights that in ‘low skilled’ call centre work the transaction in temporal demands and expectations between manager and employee and between employee and customer and are as strong as they have ever been.

Discussion

This paper has shown that both service employees and customers bring their own temporal expectations and imperatives to service interactions. In this way the paper finds support for Mainemelis’ (2001) contention that concepts of time are subjective and elastic. Whereas management might promote or hold to objective notions of time centred around a ‘disembodied customer’ (Korczynski 2002) with an emphasis on convenience via technological service option, customers bring to the service interaction competing notions of time. While they may appreciate the convenience offered by the technology, there is evidence of a desire, preference and even need amongst customers for service that involves face-to-face interaction and time to serve. Similarly employees are caught between the temporal expectations of management, those whom they serve, and their own conception of timely service.

Within the context of rigid output targets, employees lament and act on their inability to devote the required time to deliver quality customer service and find ways to overcome such temporal constraints. In this way, both service employees and customers bring to the service relationship subjective concepts of time that are not simply a response to external stimuli but arise from internal, emotive perceptions of and expectations about service and time. These internalised notions of time are tied in with Korczynski’s (2002) notion of an ‘embodied customer’ and a desire on the part of both the front line service employee and the customer for personalised and individualised service.

This paper has focused on the impact of these competing temporal expectations on employees in retail banking and call centres. We have shown that as a result of the high degree of technological innovation introduced into the service exchange, time thrift, time efficiency and work time discipline are as much part of contemporary workplace as they have been in the past. For service employees technological change and the varying temporal expectations and subjectivities of management and customers have manifest in specific ways. While the temporal dimension of service has been extended for customers to allow twenty-four hour access to their bank accounts from any location, for front line service employees in retail banks and call centres, technological innovation has had some negative temporal consequences. Job losses in bank branches have resulted in increasingly long hours for remaining staff and a growth in unpaid overtime. Many of the front line bank branch jobs have been transferred to the call centre industry where we see a particular emphasis on speed and rationalised efficiency. In call centres managerial discourse is particularly evocative of time pressures, with the introduction of new temporal concepts, such as ‘talk time’ and ‘wrap time’. Indeed in call centres the temporality of service work has been intensified so that the concept of service work as a ‘moment of truth’ is more likely to be measured in ‘seconds of truth’ where employees are continuously reminded of the temporal dimension of their work.

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Industry based vocational education and training in Australia and New Zealand

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ABSTRACT
Since the 1980s much emphasis has been placed on the need for a dramatic re-orientation towards workplace education and training in order to up-skill employees to participate in the global knowledge society and contribute to the development and growth of national economies.

There are similarities in the ways that government and industries in Australia and New Zealand have responded to these concerns. Both countries have moved away from traditional apprenticeship training to introduce new approaches to industry based vocational education and training that have produced rapid growth in the number of participants. However there are a number of significant differences in the structure and philosophy of training provision in each country that raise questions about the comparative efficacy of the actual processes, and the relevance of the outcomes to the intended goals. Comparing the two ‘systems’ helps us step back from the fog of policy and quantitative achievement to raise issues of concern.
A current debate on employer’s responses to an ageing workforce

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ABSTRACT


This paper discusses the current status of strategic responses and implementation programs delivered to engage, retain and recruit our ageing labour force by Australian employers. A review of the literature suggests limited research has been conducted in Australia on this issue across large organisations, small and medium enterprises and family owned businesses. (Dunemann & Barrett 2004:1, Hudson 2004:1) It is argued that Australian employers have failed to recognise that they have a shrinking labour market with less than one in three Australian employers seeking to attract mature age workers (Hudson 2004:1), despite all of the evidence to support the impending shortfall.

Introduction

This paper discusses the current status of strategic responses and implementation programs being delivered to engage, retain and recruit our ageing labour force by Australian employers. A review of the literature suggests limited research has been conducted in Australia on this issue across large organisations, small and medium enterprises and family owned businesses. (Dunemann & Barrett 2004:1, Hudson 2004:1) It is argued that Australian employers have failed to recognise that they have a shrinking labour market despite all evidence to support this.

Research on current literature suggests that the level of attention being given to our ageing workforce by Australian employers is limited. The information presented here will serve as the foundation on which a theoretical framework and hypothesis may be developed for further research into the retaining, retraining and recruitment of mature age workers in an ageing population.

The literature suggests that research into Australian employer’s strategic responses to an ageing workforce is limited and appears to be non-existent from a rural or regional perspective. There are numerous identifiable gaps in this area to which three are being addressed in this paper. Firstly, of the 1.3 million companies in Australia, research has only been conducted on 0.058% (ASIC 2003-2004, Hudson 2004). Secondly, research has not been forthcoming on the employer’s responses in small, medium or family owned businesses and finally, research on mature age employees and their perspectives on their role in the labour market. This is only a sample of a few gaps that support the argument for the necessity to engage in research into employers actual actions and the mature age worker’s perspective. This is the basis for the argument that further research is required on the retention, recruitment and retraining of the mature age worker presently being undertaken for a Masters by Research for Monash University-Gippsland.

This paper discusses the current trends and gaps into research on employer’s strategic responses to an ageing workforce in the United Kingdom, United States of America and Europe. This is followed by a summary of why this area of research is pertinent and the implications for Australia should employers’ continue to ignore the mature age worker.
**Current research findings - Australia**


However, there have been very few research projects, published works or case studies identifying organisations that have specifically taken actions to engage the mature age worker, who has been cited as the only remaining segment of the workforce in which participation rates can be increased (Hudson Report 2004). The Hudson Report 2004 (Australia) has uncovered the extent to which employers are not pro-actively seeking to attract and retain mature aged workers. Of 7,468 employers surveyed nationally, a staggering 68.2% were not addressing this issue. This represent, less than one in three Australian employers who are seeking to attract mature age workers. (Hudson Report 2004:2, ASIC 2003-2004)

From the level of research conducted for this paper, it is disconcerting to identify that only limited case studies exist, especially in comparison to the number of organisations that will ultimately be affected. (Hudson Report 2004, Jorgensen 2004, Fox 2004, Kelly & Harding 2004, Ashton 2003, Morden 2003, Goldberg 2000, McGoldrick & Arrowsmith 2001, AEC 2000b, Walker 1998, Hartmann 1998, Dagher & D’Netto 1997, Arrowsmith & McGoldrick 1997, Lyon & Pollar 1997, McDonald & Potton 1997, Robinson 1984) In the Annual Report of the Australian Securities and Investment Commission 2002-2003 it is stated that they regulate 1.3 million companies in Australia. The extent of research conducted to date is minimal and disarming. When calculated, of the 1.3 million companies in Australia, those surveyed through the Hudson Report 2004, cited as a sampling of small, medium and large organisations, represent only 0.058% of the 1.3 million companies in Australia. The Hudson Report (2004) findings stated that of this 0.058%, more than half were not addressing the issue of recruiting, retaining and engaging the mature age worker. (Hudson 2004:2)

Large corporations that have been cited in the media such as Westpac, Australia Post and Bosch are said to be introducing policies to actively seek out over 45’s for their workforce. McDonalds have stated they want to change the fact that they get very few applicants from older workers (ABC 2003i: 1). Examples available of what employers are stated as implementing has been identified through the cases studies of the Australian Employers Convention 2000 in the ‘Age Balance Workforce Case Studies November 2000’. These are case studies conducted on Australia Post, Coles Myer Logistics, Don Mathieson Staff Glass (DMS Glass) and the RACV Club. To date only two of the case studies have been published, Coles Myer Logistics and Don Mathieson Staff Glass (DMS Glass). Investigations carried out with the researchers involved in this project, has found that it is unlikely the studies conducted on Australia Post and RACV Club will be published in the near future. To date only two of the case studies have been published, Coles Myer Logistics and Don Mathieson Staff Glass (DMS Glass). The case studies on Coles Myer Logistics and Don Mathieson Staff Glass (DMS Glass) showed that each has instigated skill training (technology based), mentoring and the addressing of occupational health and safety issues of older workers. Both also cite the offerings of employee rotation in different positions, external training, employees being encouraged to apply for promotions and new positions, and to reinvent themselves. There are also a few anecdotal comments from mature age employees who emphasise the enjoyment of their work and support of their employers. (AEC 200b) Four case studies conducted and two case studies produced could hardly be representative of Australian employers. Further, there are no findings relating to perspectives of the mature age worker as pertaining to their involvement in the implementation of these strategies, the relationships between the different age cohorts, and the mature age workers relationship within cultures of these organisations. What these case studies have delivered, however, is more of an information tool to encourage businesses to conduct age profiles on their workforces to assist in achieving an age balance in the workforce, which is a start for employers. (AEC 200b)

To uncover only four studies concerning employer responses to an ageing workforce confirms the limited research that has been conducted. Each of the companies identified are large
organisations, which sees a definitive gap in research in relation to small, medium and family owned businesses. Hence, reinforcing the need to research more broadly and across employment sectors to identify the retention, retraining and recruitment of mature age workers. Not only from an employer's perspective, but also the employee's perspectives, which can than assist in the creation of models for implementation that all stakeholders have had input.

What the literature further suggests is that within Australia, family owned businesses are also lacking in research to identify employer's strategic responses to an ageing workforce or succession planning. (Dunemann & Barrett 2004). The necessity of this research is supported by the literature review titled Family Business and Succession Planning undertaken by Dunemann and Barrett (2004). They identified that 27% of firms listed in the Australian Stock Exchange are family owned. Further, “the Australian Bureau of Statistics’ data on small business owners states that 33% of small business owners were aged over 50 and this figure has increased at an annual rate of 3.7%. (ABS 2004 in Dunnman and Barrett 20004:5) Further, “many family business people recognise that succession planning is an important issue, but studies show they are not actively planning succession, be it management or ownership succession”. (Dunnman and Barrett 20004:5)

From the Australian Government perspective, (APS 2003a) research has identified, that the Australian Public Service Commission has produced a detailed policy for their ageing workforce. This policy is to provide procedures for their Human Resource practitioners to implement. They developed their policy as a result of the Department of the Treasury’s Intergenerational Report 2002, which confirmed that Australia, like other OECD countries, is experiencing an ageing population and labour force. Unfortunately no data or information was available on the outcomes of their policy and if in fact they are being implemented. Further there is no indication of how employees have been responding to the policy. (APS 2003a)

As research concerning employers’ strategic responses to an ageing workforce is clearly lacking within Australian literature, it is necessary to discuss cases and examples from other nations, such as the United States of America and Europe. Research conducted in the United States of America, by the Society for Human Research Management/NOWCC/CED ‘Older Workers Survey 2003’ (in Lockwood 2003:5) showed similar results as those in Australia’s Hudson Report 2004, that most employers “are not yet taking the anticipated labour shortage seriously, fewer than 30% of respondents are making changes in their policies, retention and management in response to the increasing age of their workforce” (Lockwood 2003:5). In the United Kingdom research suggests the same findings. In research conducted by BNAC (a group of leaders from business, labour and academics in the United Kingdom, the United States and Canada) identified that many respondents to the BNAC Survey indicated that they had not considered specific measures to accommodate older workers. The members of the BNAC are concerned that employers and policy makers are not yet sufficiently aware of the challenges an ageing workforce poses. They state, “many current practices and public policies were shaped during times when high unemployment, particularly among the young, was a key preoccupation, and are ill suited to the conditions of the early twenty-first century”. (Robson 2001:v)

European research has indicated that strategies are being implemented. A study was conducted in the Netherlands in 2000 titled ‘Managing an ageing workforce and a tight labour market: views held by Dutch employers’, with results published in 2003 (Remerey et al 2003). This survey consisted of questionnaires being sent to over 2,800 companies, organisations, Dutch municipalities and general hospitals in the Netherlands. A number of issues were raised in the survey, but the most pertinent to this paper were their findings into the degree to which employers implement measures, or consider implementing measures aimed at retaining older staff. Findings however did not provide information on the process outcomes for employees.

The following Table 1: Percentages of Dutch Employers implementing measures for retaining older staff; indicates that the most widely implemented measures were found to be those aimed at accommodating older staff with additional leave/increased holiday pre-pension measures and the least implemented was the reducing older workers to lower ranks and a loss of salary (Remerey et al 2003:32).
In summary, this research suggests that employers in the United States of America and the United Kingdom are not taking the ageing workforce seriously and are failing to seek out and implement sufficient strategies for the retaining, retraining and recruitment of mature age workers. In Europe the research suggests that the areas of additional leave/increased holidays and pre-pension measures are on the agenda however the retaining, retraining and recruitment of mature age workers is still lacking.

**Why is this research necessary?**

Within Australia, a number of employees are participating in workforces where employers are failing to take the demographic change seriously. (Hudson 2004, Gettler 2004, ASIC 2003). These employees represent the group that Gettler (2004:1) refers to as the 50-somethings that are reshaping the labour market. Gettler’s article reports on the Age/Sydney Morning Herald Study into the Australian workforce that investigated industry by participation rates over a 12-month moving average to February 2004. The study indicates that mature age worker have increased their share of the workforce from 8 percent to 11.5 percent. With an increase in participation of this mature age cohort it would be advantages to know if employers are responding strategically to their ongoing engagement and retention.

**Implications if employers do not take action**

From an economic perspective there are significant implications should employers not implement strategies to engage and retain the mature-age worker, and not just from a health, superannuation and social security perspective. As cited by Veronica Sheen, Deputy Director of the Council on the Ageing Australia, and supported by academic and economic literature, we are facing an increase in social expenditure, reduction in national savings, reduction in business investment, reduced taxation through wages and salaries, a slowing of productivity growth with the contraction of labour supply and the loss of human capital through retirement without replacement by younger people (Sheen 2001, Harding & Kelly 2004, Creedy 1999, Bacons 1999, Dowrick 1999)

**Conclusion**

The paper presents the definitive gaps in the level of research attention being given to our ageing workforce with research only been conducted on 0.058% of the 1.3 million organisations. Also the lack of research on employers in small, medium and family owned organisations, and the

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**Table 1**

<table>
<thead>
<tr>
<th>Measures</th>
<th>Is being implemented</th>
<th>Is being/will be implemented</th>
<th>Will not be considered</th>
</tr>
</thead>
<tbody>
<tr>
<td>Part-time early retirement/part-time pre-pension</td>
<td>51</td>
<td>27</td>
<td>22</td>
</tr>
<tr>
<td>Additional leave/increased holiday pre-pension</td>
<td>62</td>
<td>21</td>
<td>17</td>
</tr>
<tr>
<td>Prolonged career interruptions</td>
<td>12</td>
<td>34</td>
<td>54</td>
</tr>
<tr>
<td>Age limits for irregular work</td>
<td>35</td>
<td>22</td>
<td>43</td>
</tr>
<tr>
<td>Exemption from working overtime for older workers</td>
<td>34</td>
<td>32</td>
<td>34</td>
</tr>
<tr>
<td>Flexible working hour</td>
<td>47</td>
<td>32</td>
<td>21</td>
</tr>
<tr>
<td>Training programs for older workers</td>
<td>21</td>
<td>46</td>
<td>33</td>
</tr>
<tr>
<td>Reducing workload for older workers</td>
<td>41</td>
<td>44</td>
<td>15</td>
</tr>
<tr>
<td>Reducing older workers to a lower rank and a loss of salary (demotion)</td>
<td>7</td>
<td>38</td>
<td>55</td>
</tr>
<tr>
<td>Ergonomic measure</td>
<td>65</td>
<td>22</td>
<td>13</td>
</tr>
</tbody>
</table>

(Source: Remery et al 2003:33)
lack of research conducted on employees in the mature age worker cohort. Each of these gaps support the argument for the necessity to engage in further research. This paper briefly explored the status of this issue in the United Kingdom, United States of America and Europe. Further, the implications to Australia's economic future, through employer inertia, were also summarised. The importance and relevance of identifying employer's strategic responses to an ageing workforce in Australia can directly link to current management research through models for Diversity Management and Organisational Cultural Change. This new research could encompass definitive strategies and models that are age-specific and age-friendly, that could be used to retain, retrain and recruit mature age workers, with benefits for both the employers and employees. This discussion paper forms part of research being undertaken into the retention, retraining and recruitment of mature age workers in an ageing population through a Masters by Research in the Business and Economic Department, Institute of Regional Studies, Monash University, Gippsland, Victoria.

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Multiple meanings of the high performance workplace: High performance work organisation in low skill services

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ABSTRACT

Over the past decade and a half, the high performance work system literature has highlighted a number of features of work organisation - broadened jobs, increased investment in training, and input into workplace problem solving and decision making - that appear to be associated with desirable performance outcomes both for firms and workers. These characteristics have been identified across a range of industries and by a broad cross section of researchers. Primarily, however, this research has been conducted in manufacturing settings amongst skilled and semi-skilled blue collar workers. To date, we know little about what constitutes a high performance work system model in service settings.

In this paper, we draw upon survey data from 947 service workers employed in U.S. hospitals as nursing assistants, food service workers, and housekeepers, and ask what constitutes a high performance model of work organisation in this population. Our data suggest that high performance models in this setting look quite different from the one that has been documented in blue collar manufacturing settings. More narrowly defined jobs, with adequate staffing, and higher rates of pay appear to produce better outcomes for workers (greater satisfaction and lower stress) as well as for hospitals (lower staff turnover and higher patient satisfaction). Jobs that were redesigned around the manufacturing-based high performance model (broadened, with additional training, and employee input into problem solving) were less successful in producing these performance outcomes.
What’s next for IR in Australia: Reforming the corporation

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ABSTRACT

Australia stands at the crossroads in industrial relations. There is a need for a policy debate on new structures rather than recycle the arguments of individualism versus collectivism. There may well be more productivity to unlock from the Australian economic system and the workforce but the question remains what is the best way to do this and preserve Australia’s cultural values of fairness, equity, fierce independence, competition and a sense of fraternity. These values are much more complex than simply freedom of choice and are fundamental to a rich and coherent society.

We propose a new consensus corporate model which will deliver these values and beliefs and deliver a high firm performance. The way forward is to build on these three core beliefs. The new model is called the Corporate Partnership Model which is a partnership of employees, management and shareholders separated in different corporate structures. The implications for industrial relations reform of the Corporate Partnership Model are significant. The enterprise level bargaining arrangements and a decentralised labor market are an ideal context in which to introduce such an approach. It provides for workplace representation at the highest and lowest level of the firm and delivers on workplace reform and higher performance and employment creation breathing new life into the individualism and collectivism debates and IR reform more generally.

While trade Unions may feel a degree of anxiety over the blurring of the capital and labour relationship, the corporate partnership model could deliver benefits that they aspire to for their members such as job security, superannuation and employment conditions as well as equality, justice and opportunity. Further there is no evidence of a decreased desire for union representation in employee ownership firms. This paper discusses the Corporate Partnership Model using empirical evidence and IR theory and then plots the implications for public policy and trade unions.
Reconstituting the subject: Changing representations of the worker in managerial and anti-managerial meta-narratives of work

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ABSTRACT

As Matts Alvesson and others have noted social identities are often constituted in the form of narratives – that is, written or verbal accounts with a focus on common themes or issues and which link a set of ideas or a series of events. Where applied to worker identity these narratives have assumed “meta-like” attributes and in so doing they have influenced thinking about worker identity and thus our understanding of worker ‘wants’, ‘needs’, ‘expectations’ and ‘motivation’. We argue that whether managerialist or anti-managerialist in nature, these meta-narratives amount to constructivist and highly normative representations of worker identity.

Using a discursive framework of analysis which distinguishes between discursive concepts, discursive objects and discursive subjects, we explore the normative assumptions underpinning each of these meta-narratives, their impact on conventional thinking about workers’ wants, needs and motives, and the ways in which they lock their proponents into essentialist positions about the nature of the ‘human resource’. In doing so we argue that each represents a particular way of constituting the employee subject. In line with Potter and Wetherall’s (1987: 6) observation that discourses “do not just describe things; they do things”, we also show how these meta-narratives have influenced approaches to both the practice and study of management.

The paper is divided into four main sections. The first outlines a conceptual framework that draws on a discourse analytic approach. The section explains the value of this framework and discusses its relevance to the chapter.

In the second section, we discursively analyse three key meta-narratives in ‘modern’ management thought: Scientific Management; Human Relations; and commitment-based or ‘soft’ Human Resource Management. We show how each can be seen as promulgating its own distinct meta-narrative about employee identity and what it is that the employee wants/needs/expects from the employment relationship. Earlier management meta-narratives represented the employee as seeking to satisfy various constellations of individual material and/or socio-cognitive needs. More recent versions emphasise the employee as being needful of empowerment and high involvement or as seeking trust/justice.

A third section applies the same mode of analysis to the work of critical management writers such as Hugh Willmott and Barbara Townley and identifies a parallel process of identity projection and shaping at work. In contrast to managerialist constructions, critical management perspectives variously emphasise either pride in work, game-playing, instrumental attachment to work, or the desire for freedom from work itself.

The final section considers the wider implications of our discursive study. It suggests that studies which combine social identity theory with discourse analysis offer the best chance of obtaining rich and innovative insights into worker wants, needs and expectations.
Many a good tune played on an old fiddle industrial relations and the ageing workforce

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ABSTRACT

The ageing workforce presents an unprecedented challenge for businesses and economies across the world. In the European Union [EU] for example, two trends have been identified that underpin this challenge. First, long term demographic changes especially falling birth rates, has meant that there are fewer younger workers: middle and older age groups now represent an ever more important part of the workforce. Concomitantly, the trend since the 1980s of the early withdrawal from the labour market of older workers along with the fall-out from economic restructuring has implications for economic growth and the long term sustainability of welfare systems (Eironline 2000). Notable EU developments to combat age discrimination in employment include: a shift toward increasing the level of participation by older workers by reinforcing their employability, reviewing employment rules and practices and promoting equal opportunities. Organisations throughout the EU are being encouraged to reconsider their personnel policies and their training concepts by equipping older workers with skills needed and the knowledge on how to renew them (Eironline2000). In most European countries new policy approaches to an ageing workforce have been adopted by government (Krenn & Oehlke 2001; Taylor and Walker 2003). Likewise in Australia, public debate and government policy agenda are becoming increasingly focussed on the older worker cohort (acirrt 2003). Big business and unions are working together to increase the number of older people remaining in the workforce. The 2003 joint ACTU and Business Council of Australia report 'Age Can Work: The case for older Australians staying in the workforce' articulated the need for organisations to combat age discrimination, support older workers and promote quality part-time jobs as a transition stage from full-time to retirement. This paper looks at measures adopted or advanced by unions in Australia and other economically developed nations to combat age discrimination and promote the employment of older workers.

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Increased contract employment in the Australian coal industry: Threat or opportunity?

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ABSTRACT

The Australian coal industry has seen a dramatic increase in contract employment since the late 1990s. Over a third of employment is now contract employment, in an industry renowned for being hazardous and with industrially adversarial. A still heavily unionised sector, with strong Lodge level organisation, the expansion of contract employment is being used by many of the large mining companies as an often overt de-unionisation initiative. How can the mining union respond to this threat in the light of an increasingly hostile federal government anti-union agenda? This paper examines critically the causes of this increased increased labour market fragmentation in coal and looks at the implications for the union, for employees and contractors.
Globalisation and labour relations: The case of Asian ports

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ABSTRACT

This paper analyses contemporary changes in the port sector, with particular attention to labour issues. As a process expected to increase global economic integration, port reform is now a significant part of the neo-liberal agenda. In this sector, high capital outlays and rapid technological change, resulting from the globalisation of maritime trade, create pressures for greater private sector involvement. The scale of labour restructuring occurring as a consequence of these processes is particularly problematic in developing countries. Contrary to many accounts that suggest this can be a consensual process with little dislocation to the workforce, the paper argues that such an outcome is only likely under specific conditions. Elsewhere, the context of this transformation is dependent upon an array of factors, including the relationship of the state to capital and labour. To illustrate these tensions, the paper examines the case of Port Klang, Malaysia, which is often depicted as a model of consensual divestment. It suggests that even if it is accepted that this case is an appropriate approach to labour restructuring, the conditions occurring here are unlikely to apply elsewhere in the region.

Introduction

This paper analyses the processes of change affecting the port sector in the Asia-Pacific region, with particular attention to labour issues. Port reform is premised on the expected benefits of increased global economic integration. As such, ports form an increasingly significant part of the neo-liberal reform agenda and throughout the world there have been moves to alter their organisation and management. On the one hand, ports are affected by broader changes occurring in global maritime trade and changes in technology. On the other hand, each port reflects not only its own pre-existing conditions but is also subject to a number of other intermeshed factors: the country’s internal economic conditions; its relationship to the world economy; the nature of liberalisation occurring; and social, political and cultural relationships that might impact on the functioning of the port. Each of these factors conditions the specific context of the transformation of ports and the nature of industrial relations in these ports.

The argument begins by first considering the dimensions of globalisation and structural change as they apply to the port sector. The evolving consensus on the management of this change and the implications that this has for port structures is then examined. After considering a critique of the politics of adjustment, the paper moves on to examine the specific case study of Port Klang. In arguing against a consensual interpretation of labour restructuring in Malaysia, the paper suggests the need for a different approach to theorising reform and change in the port sector.

Globalisation: The state and maritime trade

Globalisation in its simplest sense refers to the increasing global flows of finance and trade leading to an increased interdependence between regions. This is a qualitatively unique historical juncture in terms of both the scale of capital accumulation and the trans-national institutional and class configurations driving the process (D. Nayyar 2001: 7-11). While all countries are affected by globalisation, the consequences for developing countries are particularly controversial. Globalisation is most clearly a spatial process whereby separate locations are integrated into a single international market (Turnbull, 1999: 10; Harvey 1990; Stratton 2000). Recent work has drawn attention to how spatial differences in the uneven development of capitalism affect industrial relations (Herod 2002).
There are at least two distinct, yet related, processes of globalisation driving the transformation of ports in the Asia-Pacific: the transformation of the state and the globalisation of maritime trade. The following sections analyse each of these, before examining the implications for organised labour. These processes are particularly significant in linking developing countries to the global market, since ‘more than 80 percent of trade (by weight) with origins or destinations in developing countries is waterborne’ (Turnbull, 1999: 10).

**Privatisation and globalisation of maritime trade**

Port restructuring is part of broader internal changes taking place towards deregulation of the economy and the attendant change in the responsibility of the state. As globalisation increases in magnitude the state has become internationalised and more obliging towards the expansion of capital on a global scale (Panitch 1998:12-13). The globalisation of maritime trade has also had a significant impact upon the transformation of the operation, management and organisation of ports in the Asia-Pacific region. The global liberalisation of trade and the increased emphasis on export competitiveness necessitates measures to improve productivity and reduce costs in their port sector (International Labour Organisation 1996; Turnbull 1999).

A significant factor in the transformation of ports has been changes in the technology associated with the transportation and distribution of cargo, particularly the widespread introduction of containerisation since the 1970s. This process had a dramatic effect on the composition of maritime trade from the 1990s onwards, as world port container traffic doubled between 1990-98 and has continued to grow exponentially ever since. The rapid growth in container traffic as the premier form of maritime trade is primarily due to the reduction in freight rates, which is in turn connected to the economies of scale that have occurred with the growth in the size of container vessels. However, since these economies of scale substantially disappear if the vessel’s capacity is under-utilised, the process has also been associated with relentless competition among major shipping lines (Turnbull 1999).

The most dramatic effects of containerisation have been reduced ship turn-round time, which has massively reduced labour costs (ILO, 1996). Not only has this transformed the efficiency of distribution and enabled goods to be handled more quickly, it has also meant an increase in intermodal transport as containers can be transferred from ship to rail, air or road with greater ease and efficiency. When combined with improved logistics and information technology, this has had an important effect on manufacturing. These developments have enabled a shift to ‘just-in-time’ methods, which have increased the flexibility and responsiveness of industry. Increasingly, then, countries seeking to develop export industries have been forced to transform their operations so that they conform to global standards of business and trading practices (ILO, 1996: 3).

Occurring concurrently with the reduction in freight cost has been an increased concentration in the ownership of shipping lines and stevedoring operations. The majority of global maritime trade is now controlled by an oligopoly of shipping lines and container operators who have consolidated their position through a series of mergers. For these operators, this has meant more power in negotiating concessions and facilities from individual ports. Consequently, ports are constantly competing with regional rivals to attract these container liners on the basis of higher productivity and lower costs.

Just as maritime trade has become increasingly concentrated in fewer corporations, so too has the proportion of trade become restricted to fewer cargo ports. Although there are more than 2800 international cargo ports, 80 percent of total seaborne trade is handled by just 40 of these ports (ITF 2004: 1). This increased concentration has meant that some ports have become global feeder hubs while others are regional hubs. On the one hand, each of these serves different kinds of markets. On the other hand, each are linked to the others in different kinds of ways. The intensity and efficiency of these links varies between regions and there is increasing regional competition between developing countries to capture transhipment traffic by evolving into a hub port. In this situation, port authorities have had to both invest in infrastructure to accommodate the new dimension of maritime trade (through measures such as channel digging, upgrading cranes, logistics and stacking systems) and reduce costs as much as possible (Turnbull, 1999).
**Port reform: The evolving consensus?**

Ports have historically taken a variety of different forms (Brooks 2004:168-183). Most developing countries have had state owned facilities and the port has operated either as a Service port or a Tool port. In a Service port not only does the port provide all the facilities, it also services the vessels and their cargo using labour employed by the port authority (Brooks 2004: 169). In contrast, in a tool port, commercial operators do the servicing (Brooks 2004: 170). However, the evolving consensus on the most appropriate management structures is the Landlord port model. In this model 'the port maintain ownership while the infrastructure is leased to private operating companies' (Brooks 2004: 170).

The World Bank and its regional affiliates (ADB, IAB etc) are the institutional driving force behind much of the restructuring of ports in the developing world. Up to 1997, reform has been instituted in 230 ports in developing or transitional countries as part of structural adjustment packages (ITF, 2004: 2). It is not inaccurate to suggest, therefore, that the World Bank’s *Port Reform Toolkit* (hereafter the PRTK) is perhaps the most significant document in charting the changes that have occurred in the organisation and management of the port sector. This is self-consciously both a descriptive and prescriptive work, since it seeks to analyse the changes that have occurred in the sector as well as outline how ports can move towards a particular form of port operation and organisation. The normative assumption underlying the PRTK is that some form of privatisation is necessary in the port sector. Once this assumption is accepted, the rest of the PRTK reads as a manual for how to navigate past the various obstacles-legal, institutional, financial and labour-that may confront would-be reformers.

In this sense, the prescriptions for port reform are in keeping with a broader Bank position that stresses the changed role for the state should be primarily limited to enabling the operation of market forces, rather than having an interventionist role in accumulation, correcting market failure or in equity enhancing measures, its role is now to provide the legal and administrative conditions in which the market can flourish. With its emphasis on supply-side factors (‘build it and they will come’) delivered through the private sector, the PRTK is part of a continuum of thinking which has resonance with earlier statements such as the 1994 World Development Report *Infrastructure for Development*. This latter report argues for a model of development achievable only by the government increasing private sector participation, a process the Bank sees as centred on commercial management, competition, and stakeholder involvement.

**Labour relations**

Undoubtedly one of the most contentious and potentially problematic areas of port reform is labour restructuring. Indeed, since dockworkers wield such disproportionate power in effecting global trade, the long history of strike waves in many countries in response to technological change has meant that ports have long carried a reputation as a particularly difficult area of labour restructuring (Turnbull, 1999). The past decade has seen a rapid increase in strike action by dockworkers in many parts of the developed and developing world as a response to the rapid changes in the sector.

If ports are to conform to the standards increasingly expected all over the world in terms of technology, efficiency and cost, most will require substantial shedding of labour during restructuring. In ports worldwide this has often been as much as two thirds of the workforce. Although there are various reasons behind this restructuring, competitive pressures are the most likely impetus. Other reasons include a spatial shift in the location of many tasks that were previously performed inside the port. For example, the stuffing and unstuffing of containers has moved to cheaper, inland, dry container depots, leading to workforce reductions at the port and demarcation disputes.

A recent global survey by the ILO of the effects of restructuring on dockworkers has indicated that in general there have been dramatic changes in labour market conditions in the port sector (International Labour Organisation, 1996). Certainly, the technological change implied in containerisation may have benefits for labour, since increased predictability that comes with containerisation should lead to decreasing casualisation as the labour requirement can be precisely planned.
Furthermore, the increases in productivity expected from port restructuring should translate into increased wages and a reinvigorated sector. This should in the medium term increase employment opportunities, though usually nowhere near pre-reform levels. However, along with massive layoffs, the conditions demanded by the corporations who control the world’s ports and container lines often preclude the unionised culture of traditional dock labour. There are many cases around the world where this is achieved by directly employing a permanent labour force and by demanding that much of the new labour force is drawn from outside the traditional dock labour (World Bank 1995: 29). Thus, on the one hand, gains in productivity may lead to better conditions for workers in some ports, particularly in the developed world. On the other hand, elsewhere it is possible that the reduction in collective bargaining power may leave workers more vulnerable without a concomitant increase in working conditions.

The model proposed in the World Bank’s PRTK suggests that labour restructuring can be accomplished successfully by following a number of strategies. The first step is that the process should be inclusive; it is recommended that this be accomplished in a tripartite process involving government, labour unions and the private sector. The Bank recognises that there may be resistance to these moves but argues that unions must recognise that restructuring is in their member’s long term interests (World Bank, 2001a: 9).

Given the inevitable costs of restructuring, the PRTK suggests that a combination of transitional strategies need to be implemented, which mirror the approach taken to labour restructuring in other sectors (Kikeri 1997). A preferred strategy is to phase out the workforce by voluntary retirement. When this is not possible, or is insufficient, the workers may be employed casually or given reduced hours to ease the process. There may also be a need for a compensation package; generally developed countries are in a position to give longer and more generous packages than developing countries.

Various retraining and vocational education programmes are included in this process. On the one hand, those workers being retained need new skills for more specialised and/or multitasking operations that they will be required to perform after technological upgrade of port operations. On the other hand, those workers now redundant will need to retrain so that they can be absorbed into different sectors of the economy (World Bank 2001a: 17-22). Social funds and poverty alleviation programmes are now commonplace as a mechanism to ease the dislocations and structural unemployment resulting from adjustment (Graham 1994) and World Bank port restructuring finance sometimes includes these kinds of measures.

However, there is some doubt about who should pay for this transitional strategy. The PRTK argues that the financial cost of transition should be met by the government- although there is some suggestion that private sector operators, or even the customers such as the shipping lines, might pay for a proportion. However, these latter options are somewhat negated by later statements in the PRTK, which argue that labour restructuring should where possible take place prior to divestment (World Bank, 2001a: 16).

Adjustment in Asia-Pacific ports: Port Klang, Malaysia

Clearly, the process of social transformation in ports involves a number of complex and interrelated issues. To consider the specific manner in which these transformations occur, the analysis now considers Port Klang, Malaysia. By examining the political economy of Malaysia, it becomes apparent that change occurring in the port sector is a series of shifts negotiated between many different actors, who may lobby to modify or exclude certain aspects of the process while attempting to push forward those areas most advantageous to their interests. In this sense, adjustment is an intrinsically political act.

The Malaysian economy has grown rapidly in the part two decades, diversifying from its base of tin, rubber, petroleum and tropical timbers to a greater emphasis on manufacturing, including electronics and semi conductors (Gomez and Jomo 1999). While there have undoubtedly been gains in prosperity in the economic strategy pursued by Malaysia, this has been accompanied by increasingly authoritarian tendencies. Political control in Malaysia resides with Barisan Nasional (BN), a coalition of parties dominated by the United Malays’ National Organisation (UMNO) as well as parties that represent ethnic Chinese (MCA) and Indian (MIC) constituents.
For much of the post-Independence period, ethnic Chinese and Indian were dominant in the ranks of the domestic capitalist class. The development strategy of the 1950s and 1960s was based on import substitution policies combined with an emphasis on rural development and economic diversification (Jomo and Todd, 1994: 128). Although this strategy had some limited success, it had also resulted in a growing disparity of income among different ethnic groups. These growing disparities were to have both political and economic consequences. Race riots in 1969 and the subsequent imposition of a period of Emergency rule (1969-1971) saw a change in direction. The New Economic Policy (NEP) was introduced in 1971 as an attempt to foster a more inclusive growth pattern, principally through the promotion of the interest of the bumiputras (sons of the soil) by increasing their participation in business either directly or through trust companies set up on their behalf. The NEP led to an increase in government involvement in all sectors of the economy, a greater export orientation and greater reliance on foreign capital.

The period since the introduction of the NEP has seen a growth in wages and living standards, particularly among the middle class (Gomez and Jomo, 1999: 29). Despite the generalised rise in standards of living, the pattern of Malaysian development has continued to promote inequalities. These include geographical differences between the prosperous western parts of Peninsula Malaysia and elsewhere and differences between rural and urban areas. In terms of class, the politics of patronage has meant that close business associates of the ruling political parties have disproportionately benefited.

Privatisation, instituted from 1981 onwards, represented a dramatic change to the previous economic strategy. This strategy has been largely successful, due in large part to infusion of sizeable quantities of foreign direct investment (FDI), particularly from East Asia. The areas that have undergone some form of privatisation in Malaysia now include major infrastructure provision, including ports, airports and highways. The Klang Valley is the centre of much of the transformation of the Malaysian economy. This includes not only Kuala Lumpur but also a large conurbation of planned towns and cities stretching to Port Klang.

In many ways, Port Klang is emblematic of Malaysia’s development experience and the corporate-statist complex that controls this process. The Port Klang Authority (PKA) was the first port authority in Malaysia to corporatise and privatise facilities and among the first in the world. The PKA now supervises three major operators- Northport, Westport and South Port- with the PKA acting as a supervisory body following the landlord port operation scheme. Port Klang ranks 12th (for 2002) among the world’s top ports. As the National Load centre for Malaysia, Port Klang is the most important of the country’s seven major federal ports. The port has been developed to compete with the Port of Singapore as a major hub for transshipment. Its operations include container terminals, general, dry bulk, liquid bulk and passenger handling. Situated next to a Free Commercial Zone (FCZ), which covers both Westport and Northport, the port supports a highly diversified adjoining industrial sector.

While the port was originally mainly used as a cargo depot for rubber based on its connections to rail network it has subsequently developed rapidly in conjunction with the rest of the Klang Valley as the national transportation network expanded (Thong, 1996: 335-372). The impetus for much of this development was the containerisation revolution from the 1970s onwards and the initial loss of trade to Singapore that this entailed. The Malaysian response was to attempt to develop Port Klang as a rival container port to Singapore, leading to the corporatisation of the port in the mid-1980s and the increased infrastructural provision from the 1990s onwards (Dick and Rimmer, 2003: 99-100). Rapid growth over the past few years has been assisted by its strategic position at the edge of the Malacca straits, the busiest maritime trade zone in the world. This means that it is a perfect trans-shipment point for the huge volume of traffic that comes through on the Asia-Europe route.

**Labour relations**

The growth of the Malaysian economy has been accompanied by a growing centralisation of political power and intolerance towards dissent. These measures include: repression of civil society; restrictions on media; attacks on the independence of the judiciary; and, consistent modification of the Constitution (Gomez and Jomo, 1999: 2-5). Often justified on the basis of ethnic grounds, such repression has become particularly widespread since the ascension to power of Mahathir Mohamad in 1981.
Again, the Malaysian industrial relations system is derived from a particular configuration between labour, capital and the state. The system privileges the requirements of capital, which has made it an attractive destination for Foreign Direct Investment. The industrial relations system is an adjunct to this overall economic strategy: it is highly skewed towards management prerogatives, is intolerant of worker dissent and provides little space for workplace bargaining (Suhanah, 2002). Over time, mechanisms have become institutionalised to represent the interests of workers while at the same time discouraging the formation of broad based coalitions.

The system of industrial relations in Malaysia has a legacy stretching back to colonial period, although there has been changes in it's functioning. Tun Abdul Razak developed a tripartite approach to Industrial Relations as part of the objectives of the New Economic Policy. This was accompanied by increasingly repressive labour laws, which were strengthened in 1971, 1976 and 1980 (Jomo and Todd, 1994: 130). Successive governments during this period sought to reduce the organisational capacities and effectiveness of the union movement. By the 1980 Amendment, the government had set in place a system that included the following discretionary powers for the Registrar of Trade Unions: the right to decide whether strikes were legal; the capacity to suspend trade unions for up to six months; the right to remove any member from a union's executive (Parasuraman, 2004:11).

The impetus for the 1980 Amendment was the Malaysian Airline System (MAS) strike in 1978-79, which resulted in deregistration of the union and the imprisonment of activists under the Internal Security Act. The International Transport Workers Federation (ITF) attempted to intervene in the dispute by supporting the AEU, to which the MAS workers were affiliated. In solidarity, workers at Port Klang threatened to take strike action but were silenced in no uncertain terms when the government sent several truckloads of troops to the port (Jomo and Todd, 1994:142-143, 145).

The 1980 Amendment provided the framework for a more repressive industrial relations climate during the tenure of Mahathir Mohamad (1981-2003), as the right to strike, organise and collectively bargain became more closely regulated. Instead, after the 'Look East Policy', there was growing encouragement of 'in house unions', which provided an institutional mechanism for the representation of labour without dissent (Todd, Lansbury and Davis, 2004: 3). This was accompanied by increasing restrictions on trade union activities in the name of creating a more market friendly environment (Jomo. and Todd, 1994). While in recent years there has been significant emphasis given to greater skills development, the state has resisted attempts by unions to organise nationally and the labour movement remains fragmented (Kuruvilla, 1996: 645-646).

The labour restructuring programme at Port Klang is often cited as a model of the way that consensual disinvestment can be achieved in many other sectors throughout the developing world. For example, the World Bank singles out Port Klang in many of its writings on privatisation, with an evaluation in 1992 arguing that here divestment was an 'unqualified success' (Quoted in Haarmeyer and Yorke, 1993: 6). Much is made in the literature of how the government held negotiations with relevant unions prior to divestment in 1984. Following these negotiations, workers were given assurances of employment for five years. Further, employees were given the option of either taking early retirement, join the new company, or continuing to work for the PKA. Wages and productivity both subsequently increased, the latter assisted by retraining (Kikeri, 1997: 12).

However, the industrial climate that prevailed at this time, and continues to prevail, is very rarely discussed. The Klang Containers Terminal Staff Union (KCTSU) was at the time of divestment affiliated with the country's peak union body, the Malaysian Trades Union Congress (MTUC), which had been under constant attack during the 1970s and 1980s. The KCTSU resisted attempts to register itself as an in-house union of the National Union of Commercial Workers (NUCW), since the latter group was not an affiliate of the MTUC (Jomo and Todd, 1994). Far from proceeding from a position of strength, then, organised labour at Port Klang was under pressure to conform to management demands or face incorporation into a weak and ineffectual organisation.

In summary, then, the model of labour restructuring in the Malaysian port sector rests on an assumption that the suppression of basic worker rights will be compensated for by increasing
wages and living standards. Just as in the case of the earlier East Asian examples, many supporters of neo-liberalism may see the growth of Malaysia as vindication. A counter argument might be that the process has been uneven and has been achieved by suppressing workers rights and allowing conditions that are not allowable under most International Conventions. Certainly, even brushing aside the obvious concerns about Malaysia’s industrial relations system, it is questionable whether the process can be replicated elsewhere, since it has been fuelled by an infl ow of foreign direct investment unlikely to be equalled in many other economies. Certainly, in the case of Port Klang, it success as a hub for transhipment has undoubtedly been premised on locational factors that cannot be replicated in more remote parts of the Asia-Pacific. These factors suggest that the current model of labour restructuring in the port sector is far from unproblematic.

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Organising ‘non-standard’ women workers for economic and social security in India and Australia

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ABSTRACT
The reported increase in ‘non-standard’, informal and contingent work in Australia and other advanced industrial economies poses a significant organisational and cultural challenge to the trade union movement. Traditional union strategies forged primarily in the context of a masculine, blue collar, industrial context are neither appropriate nor effective amongst a labour force that is increasingly casualised, fragmented, mobile and feminised. Organising this ‘new’ labour force requires new strategies.

In this paper I draw on the organising strategies of an Indian all-women’s trade union, The Self Employed Women’s Association (SEWA), and an Australian community-based labour organisation, Asian Women at Work Inc (AWatW) to outline existing strategies for organising ‘non-standard’ labour. In my evaluation of these two organisations I identify six key features of successful organising amongst fragmented and contingent workers. These include a focus on common work-life experience; a ‘whole person’ approach; organising not servicing; re-socialising work-life; the clear articulation of organisational values; and developed external linkages. At both SEWA and AWatW these organisational features promote the visibility and voice representation of marginalised workers seeking work-life reform in a context of enhanced economic insecurity and inequality.

Introduction
Since the 1980s workers in the advanced industrial world have experienced major changes in the way production and employment is organised. Recent research indicates that these changes have given rise to new forms of economic insecurity and social polarisation (Crompton, Gallie & Purcell 1996; acirrt 1999; Standing 1999). In particular, reforms focused on reducing ‘rigidities’ in the labour market have given rise to a new ‘flexible’ employment regime in which an increasing proportion of the labour force is employed in ‘non-standard’ jobs on a part-time, contract, casual, or piece-rate basis (Allen & Henry 1996; Mitter 1986). While not all of these jobs are poor quality jobs, the increase in ‘non-standard’ employment contracts has precipitated a rise in work that is formally insecure, precarious and marked by low wages (Herzenberg, Alic & Wial 1998; Martens & Mitter 1994; Portes & Sassen-Koob 1987; Rasell & Appelbaum 1997). And as a direct consequence new forms of social and economic insecurity have developed amongst population groups concentrated in these forms of employment. Some of these forms of insecurity are directly related to the structural features of dependent forms of work. Others are the result of government failure to extend formal modes of social protection to ‘non-standard’ work. (acirrt 1999:168-170; Carre, duRivage & Tilly 1995:20-22).

It is well documented that women are disproportionately represented amongst the part-time, casual and contingent labour force (Weaver 1997, Carre, duRivage & Tilly 1995; Zeytinoglu 1994). While there are many reasons why women accept employment in the new flexible and fragmented labour regime, participation in precarious, irregular and low paid work has engendered particular forms of economic and social insecurity for women and the families that depend on their income. With limited access to economic security, many workers have become increasingly invisible, powerless and politically inconspicuous. This is especially the case for migrant women engaged in manufacturing home-based work (Jane Tate 1994; HomeNet 1998). The evolving nature of women’s precarious labour force participation poses a significant challenge for feminist political economists interested in women’s economic status and its affect on women’s access to economic security, social security and political participation.

Traditionally, it has been the labour movement that has provided the institutional environment within which issues of work security and worker protection have been addressed. However, unions experienced at organising full-time, bread-winning, male workers have struggled to develop strategies that redress the new and complex forms of economic insecurity experienced by a fragmented, flexible and feminised labour force (ILO 1998:32-37).
Fragmentation of the labour force is driven by a variety of new, coupled with the resurgence of many old forms of flexible production and employment. Guy Standing argues that ‘flexibility’ is primarily generated through changes to the production process; employment; the work process; and job structure (Standing 1999). Together, these generate flexibility and fragmentation in both the spatial and temporal dimensions of work. Irregular or non-standard hours, in combination with either a casual, short-term or piece-rate employment contracts also leave workers highly mobile, atomised and often located beyond the locus of the mainstream economy, at the interface of the public and private spheres.

Spatial and temporal dislocation amongst non-standard workers leads to worker invisibility. This has significant implications for both worker identity and the ability of unions to engage workers in collective forms of organisation and struggle. Unorganised and unconnected to the labour movement, non-standard workers experience a ‘representational-gap’ (ILO 2002). Voiceless, they remain exposed to myriad forms of socio-economic insecurity.

What strategies are there for the labour movement to organise an increasingly flexible, fragmented and feminised labour force, in which the prevailing social relations of production de-socialise work and undermine workers’ individual and collective identity? It is a critical question given that if contingent labour is left unorganised, the institutional mechanisms through which working conditions, economic and social security can be improved will remain illusive and leave workers economically, socially and politically vulnerable.

This paper explores ways in which the labour movement can reorientate itself to organise and respond to the particular needs of non-standard and contingent workers. An examination of the Self Employed Women’s Association (SEWA), in India, and community-based labour organisation Asian Women at Work (AWatW) in Sydney to organising ‘non-standard’ workers provide stimulating points of reflection and learning for policy makers, academics and labour activists concerned with the rise of precarious and contingent employment and its impact on women’s economic status. The examples of SEWA and AWatW not only provide practical guidance on the ‘how to’ of organising non-standard labour, but also highlight the critical role organising plays in promoting democracy, citizenship and economic development in a context of economic inequality and insecurity.

The Self Employed Women’s Association (SEWA), Gujarat, India

The Self Employed Women’s Association is an Indian trade union of women employed in the informal or ‘unorganised’ sector. Workers in this sector of the economy are typically exposed to unregulated and often irregular processes of production and employment relationships in which they are denied access to fair wages, decent working conditions, protective labour laws and social security. Approximately 100 million women, or ninety six percent of the female labour force are employed in the informal economy (Deshpande & Deshpande 1997:546).

SEWA was established in 1971 at the instigation of a group of head-loaders, cart-pullers, vendors and clothing workers. Their aim was to establish an all-women’s union that would specifically address the interests of women workers. The goals of SEWA are to organise vulnerable and highly exploited women workers towards full-employment and self-reliance.

SEWA members represent a variety of trades and services, including home-based workers such as weavers, potters, bidi rollers, agarbatti rollers, dry food makers, tailors, handicraft artisans, agricultural produce processors; vendors and traders who purchase goods such as vegetables, fruit, fish, other food items, household items and clothes from wholesalers and sell them in different parts of the city; labourers and service providers including agricultural labourers, construction site workers, handcart pullers, head-loaders, dhobi wallahs, and cooks; and small producers who invest in their own labour and capital to do business, such as gum collectors, salt workers, embroiderers, and dairy workers.

SEWA is based in Ahmedabad, and has affiliates in several other states, including Madhya Pradesh, Uttar Pradesh, Kerala, Bihar and Delhi. The largest membership is in Gujarat. In 2002 there were 535 674 SEWA members in Gujarat, and 689 551 across India (SEWA 2002).
Asian Women at Work (AWatW), Sydney, Australia

AWatW was established in 1993 by social worker, Debbie Casterns. As a community-based labour organisation AWatW’s aim is to empower Asian women migrant workers to fully participate in Australian society. Members of AWatW are employed in factories, restaurants, shops and as industrial outworkers in their homes. The AWatW ‘network’ includes approximately one thousand Asian women workers. Two-thirds of these are formal members of the organisation, while the other third participate in AWatW activities, but for a variety of reasons are uncomfortable about becoming formal members. While the mainstream labour movement in Australia has largely failed to organise Asian women workers, AWatW has developed an innovative model of labour organising that is responsive to the spatial, temporal and cultural dislocation of migrant women workers.

Organising fragmented and vulnerable women workers

While the scale and scope of organising activities and strategies vary enormously between SEWA and AWatW, the two organisations share some common features. Both SEWA and AWatW seek to unite workers from a broad range of trades and service backgrounds by accentuating the common work-life experience of members. Both organisations treat workers as ‘whole people’ whose work-lives are directly affected by both traditional industrial issues and non-industrial issues. And both have a commitment to organising and not merely servicing workers as passive recipients of assistance. At the heart of the two organisations is a commitment to building worker visibility and voice. This is a direct consequence of membership and its capacity to re-socialise the work-life experience. Finally strong organisational values and external institutional linkages contribute to successful organising and work-life reform. These six features go some way to explaining the relative success of SEWA and AWatW in organising vulnerable and fragmented workers.

1. ORGANISING AROUND COMMON WORK-LIFE EXPERIENCE: Unlike most trade unions, SEWA and AWatW organise women workers from a variety of trade and industry backgrounds. Organisational unity and institutional solidarity is therefore not established on the basis of common trade, but upon the foundation of common work-life experience. This includes voicelessness, exploitation, harassment, social and political isolation, economic marginality, vulnerability and insecurity.

   For Indian women engaged in informal labour the social and institutional relations of production, exchange and reproduction produce deeply entrenched forms of social, economic and political insecurity, poor health, inadequate housing, isolation, fragmentation and voicelessness. The structural characteristics of work include dependence on middle-men and contractors for the supply of raw materials and the sale of finished products; insecure and exploitative ‘terms’ of employment; lack of social security; spatial isolation and lack of information, and low and irregular wages. These are the common experiences around which workers unite at SEWA and organise for socio-economic security and political voice.

   For Asian migrant women in Australia the work-life experience can be uncannily similar. Isolation is often cited by workers as an impediment to work-life reform. Isolation is typically associated with home-based industrial outwork, but Asian women workers in Sydney employed at low wages and under oppressive conditions, including long hours of work also cite time constraints as a critical determinant of their ability to engage more fully in society. With little time left after completing long hours of work and family duties, women find it difficult to find the time to retrain, improve their language skills or look for alternative work. Language and other cultural barriers also constrain the opportunities these workers have to participate in the political economy. These work-life experiences transcend trade and industry and form the foundation upon which workers are collectively organised.

   The focus on common work-life experience does not however negate the role that both trade and location play in the practical task of organising workers. Both SEWA and AWatW also organise workers on the basis of common location and common trade. At SEWA organising workers within the areas in which they live and work is partly a means by which they manage the organisational constraints associated with a fragmented workforce that is spatially dislocated.
SEWA organisers are assigned to the various urban and rural areas and are responsible for co-ordinating union activities implementing policy and addressing the specific needs of workers in her area. This layer of ‘geographical unionism’ serves both a practical and strategic purpose. At a practical level area-based organising reduces the cost and time taken to organise workers spread over large distances. Close interaction between union organisers and regular members facilitates both efficient communication between organisers and regular members, as well as coherent action amongst large groups of workers. It also enhances members’ sense of ownership of the union since they know and trust the local women who are union organisers. This has a strategic impact as a high rate of worker interaction helps to build solidarity and increase the bargaining power of what has become a very effective movement of poor self-employed women.

Trade-based organising is the final tier of SEWA’s organising approach. SEWA’s Trade Committees, Trade Councils, Tripartite agreements, Trade and service cooperatives are occupationally specific modes of organising designed to achieve trade specific outcomes and have most in common with more traditional forms of union organising. However, the bargaining strength of SEWA lies in its ability to collectively organise across trades and across geographical distance to build a union of over 500,000 members. In a context where labour is fragmented, isolated and atomised, interventions for positive change in the political economy require a large and united, collective voice. Without this, the bargaining power of a fragmented labour force is limited.

Like SEWA, AWatW also organises workers on the basis of common location and trade. Amongst clothing outworkers, AWatW has found that local area support groups have been a critical organising tool and provided a strategic means by which workers who are isolated in their homes identify with other workers, share information and provide support. English classes and other educational seminars run in specific locations for local workers have also facilitated successful organising. Industry and workplace based organising strategies add a final ‘layer’ to AWatW’s organising strategy.

Implementation of a diverse organising strategy that focuses on common work-life experience, but includes a geographical and trade centred element facilitates both SEWA and AWatW to organise a diverse labour force and promote a collective voice. These two examples suggest that in order to meet the voice representation and income security needs of a fragmented, heterogeneous and non-standard labour force, unions need to think beyond the boundaries of trade-based organising. Instead trade specific organising needs to be set within a broader conceptual and organisational framework that gives primacy to the structural and institutional roots of worker socio-economic insecurity. This will require unions to think differently about work, workers and organising.

2. ‘WHOLE PERSON’ APPROACH: Setting SEWA and AWatW apart from mainstream trade unions is their ‘whole person’ approach. While the focus is very much on a member’s status as a ‘worker’, both SEWA and AWatW have developed a sophisticated understanding of the complexity of workers lives, their multiple responsibilities, and needs. This means that wages and conditions are not the only issues around which SEWA and AWatW organise. Instead, the strategy at both organisations is predicated upon a sophisticated analysis of the strategic relationship between the public and the private, and between economic and social security.

Traditional trade unions typically focus on the public sphere of paid work and pay little regard to the private sphere where labour is reproduced. In contrast, SEWA pays close attention to the relationship between the reproduction of labour and labour’s productive capacity. The strategic relationship between reproductive and productive activities is emphasised in the union’s ‘whole person’ approach. In this approach affordable, accessible and good quality healthcare, shelter and childcare are posed as critical issues for SEWA members that directly contribute to worker productivity and income security. The provision of affordable, quality childcare is a key feature of SEWA’s strategy to enhance women’s economic security. In the absence of child-care, informal working women have no option but to combine the task of caring for small children with their work. This limits the mobility and availability of a worker and reduces their productivity. This is reflected in low wages. In the ‘whole person’ approach worker needs, such as health, shelter and childcare are reconceptualised as productive resources and entitlements around which the union organises members.
AWatW also takes a strongly ‘whole person’ approach to organising. Like SEWA the focus is on a woman as a worker. But the framework within which the ‘worker’ is conceptualised is broad and moves beyond wages and conditions. In the context of workplace visits AWatW organisers will provide workers with information on occupational health and safety and women’s health and domestic violence; information on vocational education and training courses and local English classes. Special worker ‘kits’ in community languages also provide information about Australian society, law and welfare. AWatW runs periodic courses, seminars and workshops that include both worker and citizenship education, as well as hobby groups and cultural events that celebrate both significant Australian, international and ethnically specific festivals. The ‘whole-person’ approach has both practical outcomes and strategic ones as it addresses the full range of worker’s needs, and opens up new ways of connecting with and organising workers.

A ‘whole person’ approach is also supported in the literature on organising non-standard workers. In a study on the Domestic Workers Association in Los Angeles, most of whom are Latinos, Hondagneu-Sotelo and Riegos argue that ‘[Organisations which] combine expressive or cultural events with self-help seminars and consciousness raising, along with direct action and advocacy, may be well-suited to the new structures of a post-fordist work’ (1997:76). While the language of ‘self-help’ is not common amongst trade unions, AWatW have certainly found that self-help seminars in combination with consciousness raising, civics education, cultural celebrations and traditional forms of worker education together provide an organising framework that is relevant to a diverse and marginalised labour force.

3. ORGANISING NOT SERVICING: Both SEWA and AWatW organise workers, conceptualising them as active agents in their own development, not passive receivers of services. While the SEWA strategy does include many members services, such as the Bank, the health, childcare and housing cooperatives, legal services etc., these are delivered by members to other members who together own and run the services. AWatW’s commitment to organising workers and not servicing is strong, however success has been uneven. Members who are clothing outworkers are very active through their Chinese and Vietnamese outworker support groups. Factory and restaurant workers however, have not developed the same levels of confidence and activism and tend to rely more heavily of AWatW staff.

At SEWA the focus on organising and collective participation is resolute with union members systematically included in every aspect of union activity. Members are directly responsible for organising workers, running meetings, developing agendas and formulating union policy. This member-based, member-centered form of organising achieves multiple outcomes for the union. Firstly, the integrity of the struggle is maintained, as the agents of change are those who are fundamentally affected. Secondly, Government officials, employers and judges are genuinely confronted by the personal presentation of workers’ difficulties. Thirdly, it produces the skill and leadership development amongst union members that informs the collective strength and bargaining power of the union. Finally, SEWA’s grassroots, representative organising model works to raise workers’ consciousness and empower them politically. This member-based organising strategy sits in contrast to traditional union organising strategy, in which workers share a common target and a successful campaign is mounted when many workers unite against this common target. Organising non-standard labour where there is no shared employer, no shared work site and no shared co-workers requires non-traditional approaches. Organising non-standard labour tends therefore to look a lot like community organising (Martens and Mitter 1994; Carr, Chen and Jhabvala 1996). Indeed unions in the United States have drawn directly on the community organising techniques developed by community organisers such Saul Alinsky and the Industrial Areas Foundation, the civil rights movement and the new left community organising of the 1960s and 70s in order to hone their techniques and rediscover grassroots organising in a union context.

4. RE-SOCIALISING WORK: PROMOTING VISIBILITY AND VOICE: AWatW and SEWA provide isolated and fragmented workers with their own institution, a place and a space at which workers can meet, talk, plan and implement strategies for work-life reform. For workers who typically suffer low self-esteem, poor self-confidence, and little self-respect, the opportunity for social interaction, recognition and respect is a powerful and strategic one. Worker organisations re-socialise the work-life experience and provide the social foundations of worker agency upon which work life reform is pursued.
SEWA members report that union membership delivers a positive change in their psychological well-being, including self-confidence, self-respect, and self-esteem. Moreover, it is this positive relationship to the self that provides marginalised workers with the psychological integrity critical to their engagement in (public) strategies for work life reform. Worker agency therefore has social foundations (Hill 2001). SEWA has found that until workers are able to conceptualise themselves as workers, and understand their role and contribution to the economy, they lack the personal self-definition and solidarity essential to the struggle for economic and social security.

Members of AWatW also report a growth in their self-confidence, esteem and respect as a direct result of their participation in AWatW. Recognition and respect are identified as important personal resources they receive from their work sisters and the collective confidence they gain through collective activities. Many also report a newfound capacity to negotiate with and challenge mendacious employers and officials (AWatW 2001; AWatW 2004).

Resocialising work is a critical strategy for the protection and voice regulation of non-standard labour. Standing notes that the decline in statutory regulation that accompanies increased flexibility, means that strong voice regulation is required in order that ‘participants in the labour market have a secure capacity to bargain and influence the character of employment, [and] to have an adequately strong ‘voice’ to ensure that distributive justice is pursued. Without that, all other forms of labour security will be jeopardised (Standing 1999:388). Reflecting on the labour conditions and social insecurity in trades and locations where workers are denied their right to freedom of association, provides a stark reminder as to both how critical strong voice regulation is, and how far wages and conditions can fall when it is not present.

5. ORGANISATIONAL VALUES AND ETHOS: SEWA’s and AWatW’s success at organising highly fragmented and vulnerable labour has not just been about sound strategy. The status and bargaining power of both organisations has been enhanced by strong organisational values that have delivered internal structural and strategic coherence, as well as astute linkages to external institutions.

SEWA is a Gandhian trade union whose organisational ethos and social philosophy is driven by Gandhian values. The Gandhian roots of the union provides the philosophical framework against which the work-life experience of informal working women is redefined and reconstructed. As a Gandhian trade union, SEWA advocates an alternative to the individualistic, metropolitan and industrial future that lies at the centre of mainstream development policy and planning. A Gandhian moral code values instead the working classes, rural labour, women, traditional forms of work and trade unions, all of which are allocated a central role in the future of the Indian nation. Workers are expected to raise their consciousness and organise for unity as a matter of personal and corporate dignity.

Gandhi’s message of liberation through economic independence is especially suited to SEWA’s poor, self-employed membership. Gandhi was forthright and radical in his views on women and their role in politics and the economy. He advocated women’s independence and their right to resist physical and mental oppression. Gandhi also expressed great faith in the inherent leadership and strength of women, and expected women to play an important role in the world of work and social change. It is this belief in the leadership capacities of women that serves as the source of SEWA’s strength.

At a structural and strategic level, the Gandhian principles of satya, ahimsa, sarvadharma and swadeshi provide the key coordinates of SEWA’s organising framework and practice of militant but non-violent trade unionism. These principals are not mere ideals, but a practice. Satya is the practice of being truthful and honest. Ahimsa is the practice of non-violence and non-violent protest most famously expressed in the Gandhian concept of satyagraha which translates as truth-force or love-force. Gandhi’s vision was to resist injustice through moral fortitude, not brute force: ‘[satyagraha] is the vindication of truth, not by infliction of suffering on the opponent but on one’s self’ (Fischer 1997:103). Satyagraha is therefore a peaceful process of non-violent resistance that seeks to honour and trust the humanity of the oppressor by confronting them with the humanity of the oppressed with a view to ultimate reconciliation. This is not passive resistance, but the assertion of moral character and discipline designed to effect grand political change. SEWA has adopted this practice and in all negotiations with employers and officials.
Sarvadharma is the practice of integration and equality of all faiths and all people. At SEWA this is practiced through the saying of prayers and singing of pledges derived from all faiths – Hindu, Muslim, Christian, Parsi, and Jain. It is with this affirmation of the equality of all faiths and all people that union meetings begin. And it is this principal and practice that acts as the ‘glue’ that holds a union of workers from diverse trades, religious, geographical and language backgrounds together in a unified whole.

Swadeshi is the propagation of local livelihoods, local economic development and the promotion of self-reliance, best expressed in the union’s trade and service cooperatives, and in union member’s boycott of industrial fibres and their commitment to wearing Khadi, a traditional cotton weave.

Finally, the Gandhian culture of SEWA is a powerful tool in the macro struggle for economic and cultural justice because it is indigenous. Its capacity to redefine the economic and cultural landscape within which the informal economy and women workers are constructed is significant because it ‘speaks into’ an established culture, history and psychological space. Workers respond positively to Gandhi’s valuation of the individual, the political participation of women, the worker, the traditional, the rural and the poor. Government officials and employers, while they might disagree or resist, also have a cultural framework within which they can interpret SEWA demands. The challenge posed by SEWA’s Gandhian ethos to unions organising vulnerable workers in the developed world, is that values matter – both in terms of defining a unifying vision, and in terms of providing a fragmented labour force with a clear organisational framework.

AWatW also has a shared set of values. These revolve around a belief in the inherent power of women, that migrant women deserve a ‘fair go’ and that collective action is the most effective way of breaking down worker isolation and increasing the resources of marginalised working women. While these values are implicitly shared by staff and members, and shape the organisations strategy and modus operandi, they are not clearly articulated. Few nations can boast of a Gandhi. However perhaps unions need to look into their history to find people and campaigns that can become their own local and indigenous organising tools that provide disenfranchised workers with inspiration, vision and a practical guide to collective grassroots action.

6. EXTERNAL INSTITUTIONAL LINKAGES: Both SEWA and AWatW have been astute at developing a range of formal links with external institutions. These have delivered both leverage, status and funding. SEWA grew out a strong established union called the Textile Labour Association (TLA) from which it drew its first Executive Committee. This delivered SEWA significant expertise and organisational power from the very beginning. Since then SEWA has been developed a number of linkages and affiliations with representatives of the international labour movement. The 2002 Annual report lists organisational relationships between SEWA and eight international organisations including the International Union of Food, Beverage, Restaurant, Agricultural and Allied workers (IUF); The International Union of Chemical, Energy and Mine workers (ICEM); the International textile, Garment and Leather Workers federation (ITGLWF); the International Cooperative Alliance (ICA); The international cooperative and mutual insurance federation (ICMIF); (Women in Informal Employment, Globalising and Organising (WIEGO); Streetnet; HomeNet. They also have developed relationships with the ILO and a number of international research foundations (Ford Foundation and Aga Khan).

AWatW has been similarly proactive at developing good relationships with migrant, labour, government and community organisations. They are well connected to the ethnic media, key migrant community groups, the NSW Labour Council, individual unions including the Textile Clothing and Footwear Union, Government Departments for women, migrants and industrial relations at both the state and federal level, local governments and a number of religious and community organisations. They also have loose affiliations with two international networks, the Committee on Asian Women in Hong Kong, and Homeworkers World Wide.

Each of these linkages provide SEWA and AWatW with important external sources of information, opportunities for information exchange and skill development of union leaders; and opportunities for collaborative research and collective, global action. These external relationships are important because they contribute to the development and institutional strength and bargaining power of each organisation. They also provide valuable funding sources.
Conclusion

The organising strategies developed by the Self Employed Women’s Association in India and Asian Women at Work in Australia demonstrate the strategic role that labour institutions play in redressing the economic and social insecurity associated with contingent non-standard forms of work. They also demonstrate that it is possible to organise women workers who are spatially isolated, lack a strong worker identity, and are employed in a range of precarious employment contracts that leave them marginalised from both the mainstream economy and society. As a greater proportion of the global labour force is employed in non-standard jobs, unions must find ways to organising these workers and redress the entrenched forms of social and economic insecurity commonly associated with non-standard labour.

References


The roles and behaviour of employer associations: Theoretical application for resource dependence perspective

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ABSTRACT

The theories and cases about the roles and behaviour of employer associations in industrial relations have mainly focused on institutional functions. This paper argues that we should consider organisational perspective to understand different behaviours of employer associations. Applying for resource dependence theory, this paper discusses 'interdependence' between organisations and environments, 'the social control of organisational choice' and the representative functions of employer associations. First, 'interdependence' between individual firms and environments seems to affect employers' tendency to associate in terms of the availability of resources and mutual coordination. Second, 'The social control of organisational choice' can explain internal dynamics of employer associations, which help us to understand the relationship between member companies and the associations. Finally, among the symbolic, 'collective goods' and 'selective goods' functions of employer associations, the 'selective goods' functions become more increasingly important. Despite those implications, further research is necessary because this paper focuses on raising need of a new theoretical approach.
Contemporary industrial relations reform in Korea

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ABSTRACT

In late 1997 Korea was hit by a foreign exchange crisis. Kim, Dae Jung government pursued reforms in the financial, corporate, labor and public sectors. The Tripartite Commission, established in early 1998, played a key role to implement reforms of industrial relations and labor market. In the field of industrial relations the government focused its efforts on creating jobs and reducing the number of unemployed with industrial relations reforms such as a more flexible labor market (eg. redundancy), more cooperative labor-management relations, introduction of dispatch worker system, etc. Thanks to the reform mentioned above, Korea economy made a rapid recovery and was able to repay its outstanding loans to the IMF in August 2001.

Labor movements in Korea have played an important role in democratisation, economic development and protection of socially vulnerable groups. But industrial conflicts between monopolistic managements and powerful trade unions are dragging down the nation’s economy. Thus, the Participatory Government is going to reform industrial relations system again to minimise social cost caused by industrial conflicts, increase flexibility and stability in the labor market and reduce the income and social gaps between workers. To minimise social cost, the government will improve workers’ basic rights and grant counter-rights to employers to build labor-management autonomy. The government will put efforts into improving function of dispute mediation, putting in place laws and principles in the field of industrial relations and increasing flexibility of the labor standards such as wage, working hour, employment, etc.

During 2003-2004, the 40-hour work week, the employment permit system for foreign workers and the retirement pension system were introduced. At the moment government is working to establish systems such as protecting irregular workers and allowing public servants the formation of unions.
Contracts versus relationships: 
An examination of employer resistance to the 
Employment Relations Act 2000 

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ABSTRACT 
Employer opposition to the Employment Relations Act 2000 highlights the sometimes extreme differences in ideology underpinning different approaches to the regulation of the employment relationship. This paper seeks to examine if the contractual and relational approaches to governing employment relationships are mutually exclusive. While the contractual approach is clearly based in the extension of property rights through managerial prerogatives, the relational approach is based on a balancing of property rights and labour rights. It is observed that in practice, the actions to build trust and good faith are consistent with employer strategies to develop competitive advantage through people. However at an ideological level, a gulf still exists between the two approaches.

Introduction 
During the past two decades employment legislation in New Zealand has undergone “frequent, radical changes” (Rasmussen 2004). The conciliation and arbitration system, first established in 1894, was replaced in 1991 by the contractual approach to employment relations embodied in the Employment Contracts Act. More recently, in 2000, the contractual approach was replaced with a relational approach through the adoption of the Employment Relations Act. At the time of its introduction, there was significant employer opposition to the ERA. This opposition was renewed in 2004 with the introduction of the Employment Relations Law Reform Bill, the provisions of which became effective on 1 December 2004.

Employer opposition to the ERA goes to the heart of assumptions regarding the rights of capital and labour within the capitalist system. This paper seeks to examine if the contractual and relational approaches to governing employment relations are mutually exclusive. In doing so, this paper will:
1. describe the changes in employment legislation in New Zealand during the past two decades;
2. review employer support for the ECA and their opposition to the ERA;
3. identify the tensions between the various outcomes of the employment relationship;
4. examine employer claims to a framework that allows relatively unfettered use of managerial prerogatives to ensure business success; and
5. examine if academic literature can bridge the gap between the contractual and relational approaches to governing employment relations.

Two decades of change in employment legislation 
In 1991, a National-led government introduced the Employment Contracts Act (the ECA). The circumstances surrounding the replacement of New Zealand’s industrial relations system of conciliation and arbitration with the ECA in 1991 have been well documented (see for example, Latornell 2004; Deeks & Rasmussen 2002; Deeks et al 1994). However, it is worth noting that one of the long-term impacts of the conciliation and arbitration system was the creation of uniform wages and working conditions within particular industries and occupational groupings regardless of an employer’s size, location and financial performance or the individuals work performance (Coddington 1993) and (Dannin 1997). Also developed were entrenched relativities between industries and occupational groups (Harbridge & Crawford 1997). Enterprise-level issues were rarely, if ever, discussed during the negotiation of national awards (Coddington 1993). Ultimately, when coupled extreme tariffs and government regulations designed to protect domestic industries, the conciliation and arbitration system helped contribute to highly inefficient businesses which were inflexible and slow to adapt to the changing global business environment.
By contrast, the ECA provided a framework which facilitated a massive restructuring of businesses designed to increase flexibility and efficiency. The ECA was intended “to promote an efficient labour market” (preamble). It was built on the assumption that employment relationships are the result of an essentially private economic and transactional contract between an employer and an employee (Latornell 2004). Burton (2004: 136) has noted that “under the ECA employers had, for the first time, gained the right to negotiate terms and conditions suited to their own enterprises and, not surprisingly,… were not slow to make use of their newfound freedom”. Kiely and Caisley (1993: 224) reported that, after the passage of the ECA contrary to all known contract law, employers “persist[ed] in asserting that they do have the ‘right’ to unilaterally vary employment contracts”. Other employers adopted a ‘take-it-or-leave-it’ approach to negotiations, an approach which was upheld by the Court (Kiely & Caisley 1993). Many employers also discovered that they could effectively cut unions out of the employment relations process. Court of Appeal decisions allowed employers to ‘recognise’ the authority of unions to act as an employee’s representative and then completely ignore them. The Courts held that recognition did not require an employer to negotiate with an employee’s representative (Latornell 2004).

In 2000, a Labour-led government passed the Employment Relations Act (‘the ERA’). The ERA was introduced because, in the government’s view, the structural adjustments facilitated by the ECA had contributed to: casualisation of the workforce; increasing replacement of employer-employee relationships with employer-independent contract relationships; increasing replacement of collective contracts with individual contracts; and increased reliance on legalistic solutions to employment relationship problems (Wilson 2001: 7).

Through its introduction of the ERA, the government argued that “the contractual adversarial stance to employment relations was replaced by a negotiated cooperative approach that was founded on the equitable notion of good faith” (Wilson 2004: 9). As stated in the so-called Key Objects section, the intent of the ERA was:

to build productive employment relationships through the promotion of mutual trust and confidence in all aspects of the employment environment and of the employment relationship, by recognising that employment relationships must be built on good faith behaviour and by acknowledging and addressing the inherent inequality of bargaining power in employment relationships (s. 3(a)).

In December 2004, the ERA was further amended by the Labour-led government. The object of the Act was changed by altering the order of its reference to the concepts of ‘mutual trust and confidence’ and ‘good faith’. It also broadened the context within which unequal power relationships are assumed. The object of the act now reads

to build productive employment relationships through the promotion of good faith in all aspects of the employment environment and of the employment relationship by recognising that employment relationships must be built not only on the implied mutual obligations of trust and confidence, but also on a legislative requirement for good faith behaviour and by acknowledging and addressing the inherent inequality of power in employment relationships (s. 3(a), as amended).

Amendments were also made to attempt to provide additional definition to the concept of ‘good faith’. Section 4(1A) of the amended ERA states that

The duty of good faith…

(a) is wider in scope than the implied mutual obligations of trust and confidence; and

(b) requires the parties to an employment relationship to be active and constructive in establishing and maintaining a productive employment relationship in which the parties are, among other things, responsive and communicative; and

(c) without limiting paragraph (b), requires an employer who is proposing to make a decision that will, or is likely to, have an adverse effect on the continuation of employment of 1 or more of his or her employees to provide the employees affected—

(i) access to information, relevant to the continuation of the employees’ employment, about the decision; and

(ii) an opportunity to comment on the information to their employer before the decision is made (Employment Relations Service 2004: 16)
Employer opposition to the ERA

When then the Employment Relations Bill (the ‘Bill’) was first debated, “there was substantial employer opposition to many parts of the Bill in large part, no doubt, due to its departure from the relative freedom of contract under the Employment Contracts Act” (Cleary 2004: 4). Some have characterised the opposition of the New Zealand Employers Federation (now Business New Zealand) and the New Zealand Business Roundtable (NZBR) to the Bill as an attempt to “destabilise the Government’s relationship with the business community” (Wilson 2004: 13).

Employer opposition to the ERA at the time of its introduction in 2000 focused on a number of aspects. Among these were the creation of “profound uncertainty” (New Zealand Manufacturers Federation, 2000, p. 2) the ERA would generate for the economy, the complication of the direct relationship between employers and employees by overriding “the right of individual employers and employees to form a relationship that suits their circumstances” (New Zealand Business Roundtable 2000: 15), increasing compliance costs (New Zealand Manufacturers Federation 2000) and the potential for decreased “labour force flexibility” (New Zealand Manufacturers Federation 2000: 8). One of the most significant concerns of the opponents was the lack of information within the ERA regarding the nature, intent and definition of ‘good faith behaviours’. This concern was clearly summarised by Harrison (2001: 87-89), who noted that the ERA gives rise to three fundamental interpretation issues regarding the content of the duty of good faith.

First, does the duty of fair dealing apply to every aspect of the legal and social relationships which may arise in practice between any three of the named parties to an ‘employment relationship’? Or does the duty only apply to the parties’ dealings with each other in their respective capacities as employer, employee, union member, and so on?... Secondly, an important question arises as to the operational content of the obligation to deal in good faith. Is it effectively limited to matters of process, setting a standard for procedural (fair dealing) between the parties to an ‘employment relationship’? Or does it transcend procedural dealings between the parties, and impose certain minimum standards of substantive conduct?... Thirdly, what standards of conduct, procedural or substantive as the case may be, does the duty to deal in good faith require?... [D]oes good faith mean or include: fair treatment, reasonable conduct; acting without negligence; acting without breach of applicable legislative provisions (for example, without discrimination contrary to the Human Rights Act 1993)? Or does ‘good faith’ mean no more than the absence of arbitrariness, or indeed the absence of an attitude of bad faith?

Employer representatives, particularly the NZBR, argued for a continuance of the ECA. “Employees and employers face disparate, complex and uncertain pressures. Mutually beneficial arrangements will only be achieved if they are able to determine contract types, terms and conditions that best suit their specific circumstances” (New Zealand Business Roundtable 2000: 6). The NZBR furthermore argued that “formal contractual mechanisms” is one way for employers and employees to reduce the risks of conflict and encourage long-term cooperation (New Zealand Business Roundtable 2000: 21). The NZEF stressed that the uncertainty in the business environment was underpinned by a “feeling that employers may lose effective control of their business” (New Zealand Manufacturers Federation 2000: 5, emphasis added).

In 2004, when amendments to the ERA were being discussed and debated, employer opposition to the ERA continued unabated. Business New Zealand argued that aim of the Bill—now passed into law—“is to take New Zealand back to the era of collectivism by placing difficulties in the way of individual bargaining and rewarding those who join the collective and therefore the union—something like compulsory unionism by another means” (Business NZ 2004: 21). Business New Zealand noted that amendments to the good faith provisions, which the government stated were an attempt to clarify the concept, have been characterised as “undermining the right of employers to manage their enterprises in the most effective way” (Business NZ 2004: 11).

Outcomes of employment relationships

Employer opposition to the ERA clearly underlines the challenges inherent in developing a legislative framework that balances the competing outcomes of employment relationships. At the workplace level, the framework for employment relationships serves to: resolve conflict and ensure due process; ensure the supervision, motivation and participation of individual employees; and determine the operation of work rules and work organisation (Katz & Kochan 1992).
At a societal level, Barbash (1972) has stressed that all industrial relations systems generate identifiable interests among the parties to the employment relations system: management interest in cost efficiency; employee interest in security and protection against cost efficiency; and government interest in social welfare, economic planning and the balancing of the interests of the three parties. Similarly, Meltz (1989) argued that efficiency and equity are classical standards by which employment relationship and industrial relations systems are measured. More recently, Budd (2004: 13) has built on Meltz's view by adding voice to these standards.

Efficiency is the well-known standard of economic performance, equity encompasses fair treatment, and voice is the ability to have meaningful input into decisions. Efficiency is an instrumental standard of economic performance—the effective use of scarce resources that provides the means for consumption and investment—and is the primary objective of employers. Equity and voice are the objectives of labor. Equity is an instrumental standard of treatment—a fair wage, basic social or private insurance coverage, vacation time, and non-discriminatory treatment are instrumental in providing the means toward greater ends such as food, shelter, health care, and leisure. Voice is an intrinsic standard of participation—participation in decision making is an end in itself for rational human beings in a democratic society. Intrinsic voice is important whether or not it improves economic performance, and whether or not it alters the distribution of economic rewards (original emphasis).

Control and managerial prerogatives

From the earlier discussion of employer opposition to the ERA, it is clear that New Zealand business is expressing its perceived need for control and relatively unfettered managerial prerogatives. Traditionally, within the field of employment, the management of employees has been based on “the perceived need for close control of the work and behaviour of the lower echelons if organizational goals were to be achieved, and these views still have resonance today” (Skinner & Spira 2003: 28). This need for close control is embodied in Frederick Taylor’s principles of scientific management. Even though changes in the business environment and changes in organizational structures have resulted in greater empowerment of employees, “there still remains a need for accountability, both internal and external, which necessitates the implementation of control systems and procedures” (Skinner & Spira 2003: 28). And while it is likely that many managers would insist that they have moved beyond Taylorist work practices, Shapiro (2000: 321) has noted that the influence of Taylor’s ideas “with their orientation to making human work fit the mechanical requirements of efficiency and accuracy is still felt. Taylor’s legacy could be observed within some organisations in their tendency to separate employees’ hands from their brains”.

Management prerogatives concern the problem of who is in control of the operations of the business (Turnbull 1948). Mayer (2001: 221) notes that “while democracy is the norm in the state, at least in the advanced industrial nations, authoritarianism prevails in the economy”. While managerial prerogatives are thought to arise, at least in part, out of the “old master-servant doctrine of common law” (Turnbull 1948: 47), they are more often viewed as being derived from the rights of property ownership which lie at the heart of the capitalist system. Barbash (1972: 43-44) has noted that capitalism functions on three levels.

First, it represents the private ownership of property and property rights, and second the exercise of managerial authority in the enterprise associated with these property rights. On both these planes the objective eventually is profit maximising or, perhaps more precisely, optimising or ‘satisficing’. Third, capitalism is an ideology whose proponents seek to create a climate of opinion and policy generally favourable to the advancement of private profit opportunities. As applied to the labor process the management plane of capitalism represents a system of power or management prerogatives. Management justifies its prerogatives as essential to the maintenance of enterprise efficiency and, hence, of profit.

The concept of management prerogatives is based on the argument that due to inherent property rights, management has a legal authority to direct and control a business organisation. Traditionally, this has been viewed as the right and authority to organise and direct employees, machinery, materials and money in order to achieve the objectives of the enterprise (Young 1963).
Management prerogatives “afford management the ability to control the enterprise by directing its workforce, determining the means and methods of operation, and, in short, exercising all the rights necessary to effectively and efficiently run the business” (Darrow-Kleinhaus 2001: 10).

This view of managerial prerogatives is not, however, without its opponents. Young (1963: 242) argues that management prerogatives do not include controlling employees.

As far as the employee is concerned, the specific authorities which have been given to management are restricted to the right to enter into an agreement with the employee and the authority to use the assets of the firm to compensate the employee for his services.

In reaching this conclusion, Young relies on the work of John R. Commons who noted that “the labor contract is not a contract, it is a continuing renewal of a contract at every successive moment, implied simply from the fact that the labourer keeps at his work and the employer accepts his product” (Commons 1939 cited in Young 1963: 243). Young concludes his argument by noting that “management has confused its legal rights and economic power” (Young 1963: 244). The employer’s economic power is such that it more often than not enables them to propose an employee’s terms of employment on a ‘take-it-or-leave-it’ basis. Traditionally, due to a fear of unemployment, employees are often willing to accept employment conditions that have been unilaterally imposed by an employer. “The employer used economic coercion in the threat of discharge rather than legal control to achieve employee compliance” (Young 1963: 244).

In a similar vein, Budd (2004: 45) argues that while there is not an accepted consensus as to a hierarchy of rights within society, property rights of the owners of capital have somehow been elevated above the equity rights of labour.

The tradition that asserts the superiority of property rights over labor rights focuses on exclusive property rights—the extent to which ownership allows the exclusion of others, which has historically served as the foundation of autonomy and liberty. But the function of property rights has evolved from protection of liberty to promotion of economic efficiency. (original emphasis).

Economic theory has largely ignored the equity rights of labour, instead arguing that well-defined property rights and the freedom to use property are critical to the efficient function of a market-based economy. Any government regulations which constrain property rights are typically seen as restrictions on property rights and the efficient function of the market (Budd 2004).

**Interrelations of trust, contracts and control**

This paper now turns to examine if academic writing in the areas of trust, contracts and control are able to bridge the gap between contractual and relational approaches to governing the employment relationship. Unfortunately, academic literature regarding the interrelationships of trust, contracts and control is extremely limited. There is some consensus regarding the conditions required for trust to exist. Trust exists when there is a “willingness to be vulnerable under conditions of risk and interdependence” (Rousseau et al. 1998: 395). Malhotra and Murnighan (2002: 534) note that academic literature “suggests that contracts and trust can or do substitute for one another”. They note that “contracts are external controls that help to reduce uncertainty by constraining individual and organisational behaviours” (2002: 536). Sitkin and Roth (1993: 367), classify contracts, bureaucratic procedures and legal requirements as different kinds of control mechanisms. Organisations tend to adopt these control mechanisms “as substitutes for trust when interpersonal relations are lacking”. In a similar manner, trust and control can be viewed as two different mechanisms for managing risk and uncertainty (Skinner & Spira 2003). Reed (2001: 201) characterises trust and control as coordinating mechanisms.

Conventionally, the concept of ‘trust’ is taken to signify and represent a co-ordinating mechanism based on shared moral values and norms supporting collective co-operation and collaboration within uncertain environments. In sharp contrast, ‘control’ is taken to refer to a co-ordinating mechanism based on asymmetric relations of power and domination in which conflicting instrumental interests and demands are the overriding contextual considerations.
Trust tends to be associated with control in some shape or other, however, the relationship between trust and control is not clearly understood (Das & Teng 1998). “The relationship between trust and control is considered to be substitutional. While trust is thought to render control superfluous, control is believed to undermine trust” (Sydow & Windeler 2003: 75). It has been argued that contracts and other legalistic mechanisms serve to increase confidence within relationships and even build trust. However, evidence appears to counter this argument. Investigating the impact of contracts on trust, Malhotra and Murnighan (2002: 556) conclude that “whereas binding contracts may help to reduce risk and enhance the likelihood of cooperative interaction, they can work against the development of informal understanding and mutual trust”. Furthermore, legalistic control mechanisms can lead to “an inflationary spiral of increasingly formalised relations” (Sitkin & Roth 1993: 367).

Clearly, the academic literature provides little assistance in bridging the gap between contractual and relational approaches. Trust and control appear to be separate, but related concepts. They both seek to reduce uncertainty, but they largely function as substitutes for one another. Furthermore, control appears to be tightly aligned with contractual approaches to employment relations, which trust appears to be equally as tightly aligned with relational approaches to employment relations.

**Building ‘trust’ and ‘good faith’ in practice**

The recent amendments to the ERA make clear the government’s view that ‘good faith’ is “wider in scope than the legal doctrine of implied mutual obligations of trust and confidence” (Employment Relations Act 2000, s. 4(1A)(a)). The amended ERA requires the parties to an employment relationship to be “active and constructive in establishing and maintaining a productive employment relationship in which the parties are, among other things, responsive and communicative” (Employment Relations Act 2000, s. 4(1A)(b)). The legislation does not however, give concrete examples of what employer actions would be appropriate in building ‘trust’ and ‘good faith’. This is not unexpected, as legislation often does little more than enunciate general principles. It is this lack of certainty surrounding the definition and interpretation of key concepts that underpin the entire piece of legislation which fuels at least some of the employer opposition to the ERA.

A review of the academic and practitioner literature on trust and good faith does provide insights into the types of employer actions and practices needed to build trust and good faith. The following are some examples of employer practices that could be used to build trust and good faith.

1. Building a management team that does more than pay lip-service to organisational values, but instead lives those values as well, by providing training and educational opportunities to enhance “manager’s competencies, skills, and capabilities, especially in the areas of leadership, participation in decision-making, delegation, communication and fairness” (Whitener et al. 1998: 526).

2. Implementing human resource processes and procedures which are built on principles of procedural justice. “Employees who feel treated fairly by, and have high quality relationships with their supervisors will exhibit higher trust in them” (Whitener 1997: 397).

3. Ensuring managers and supervisors use verbal rewards, expressions of appreciation, support and encouragement for employees (Lewicki et al 1998).

4. Ensuring the work environment is free of discrimination, bullying and harassment (Rogers 1995a).

5. Ensuring open communication through five critical behaviours: being positive, seeking other’s ideas, listening, disclosing information and ‘not shooting the messenger’ (Rogers 1995b).

The practices noted in academic and practitioner literature are consistent with contemporary, strategic human resource management practices “designed to enhance employee commitment to an organisation’s vision, mission and goals” (Latornell 2004: 81). So at a practical level, building trust and good faith is consistent with business claims of needing to base an organisation’s competitive advantage on its people. Ultimately, it is the potential constraint on operations
created by a legislated requirement of good faith behaviours and implied mutual obligations of trust and confidence which is at odds with employer ideology.

In the contracting model of the employment relationship, “the contract between the parties, although enforceable in court..., is intended to be largely or entirely self-enforcing” (Wachter 2004: 176). As a consequence the parties tend to rely on organisational norms “to guide their behaviour, with the firm’s hierarchical governing structure serving as the ultimate authority for resolving disputes” (Wachter 2004: 179). Can we therefore trust employers to ensure the outcomes of efficiency, equity and voice desired for the employment relationship are met? Wachter (2004: 189) argues, that the hierarchical, norm-based system embodied in the contracting model of the employment relationship does not always work. “Although the firm has the appropriate incentives to treat workers fairly, the managers may not act this way because of either individual managers’ idiosyncratic behaviour or firm policy”. For example, when faced with a decision where the solution brings the organisation’s need for efficiency into conflict with the employee’s need for equity or voice, it can be expected that the need for efficiency will, more often than not, win.

**Conclusion**

Employer opposition to the Employment Relations Act 2000 is focused on the potential loss of effective control over operations due to the imposition of a standard of good faith behaviours and implied mutual obligations of trust and confidence. This opposition is clearly based on an ideology which elevates the rights of property owners and the related issue of managerial prerogatives above the rights of labour. While the actions and practices which organisations could adopt in order to build trust and good faith are generally consistent with contemporary, strategic human resource management practices. However, it is the potential constraint on operations created by a legislated requirement of good faith behaviours and implied mutual obligations of trust and confidence which is at odds with employer ideology. Academic research to date provides little insights into how to bridge this gulf; contracts and control are generally seen to be substitutes for trust in managing uncertainty. Clearly, if employers are unwilling to be vulnerable to the risk that the actions of their employees will be in the interests of the organisation, employer acceptance of trust and good faith will be limited. It also appears that unless a middle ground between contractual and relational approaches to governing the employment relationship can be found, New Zealand will be subject to periodic and wild swings in employment legislation associated with changes in the political ideology of the Government.

**References**


**Government policy, aviation deregulation and the 1989 pilots’ dispute**

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**ABSTRACT**

During the period leading up to the pilots’ dispute, a number of changes in government policy led to friction between sections of the union movement and the government. One of these policy changes, the proposal to deregulate interstate air services in 1990, had a major effect in destabilising the relationship between the unions representing employees in the aviation industry and the government. In July 1989, the breakdown of negotiations between the Australian Federation of Air Pilots and the management of the government owned Australian Airlines led to the dispute, which paralysed interstate air services for months and ended with the complete restructure of the industry. In this paper I argue that concerns about the increased flexibility which deregulation was designed to produce affected both the negotiating strategies developed by the major airline companies and the union and the response by the government to the breakdown of these negotiations.

**Introduction**

As Richard Hyman points out in *Strikes*, ‘Every important trade union struggle over wages or conditions today has a political dimension, since it impinges directly on government economic strategy’ (Hyman 1972: 171). He goes on to say ‘…any attempt to change the organisation and direction of individual enterprises or the economy as a whole would represent a highly political act – which would pre-suppose consciously articulated political aspirations on the part of working people’ (ibid). Blackmur, in his discussion of industrial conflict in Queensland in the 1940s, justifies the study of strikes and lockouts because of ‘the possibility that they may have a significant impact on future industrial relations at the macro and/or micro levels, and that they may contribute significantly to change in the wider society’ (Blackmur 1993: 1).

Industrial conflict rarely springs fully-formed into the public view. Local disputes may arise solely from internal disagreement about wages or conditions and lead to, for example a picket outside the gates. Once the issues are resolved, through conciliation or arbitration, workers go back through the gates and the dispute has little effect on the community surrounding the workplace.

Others, such as the 1989 pilots’ dispute, although they may start ‘in the ordinary way’ (McEvoy and Owens 1990: 87) rapidly escalate and develop into ‘something most extraordinary…one of the longest and most bitter industrial disputes in Australia’ (ibid). This dispute, it was never a strike, has been extensively researched but little attention has been paid to the regulatory, economic, political and industrial context in which it occurred.

**The domestic aviation industry in the 1980s**

During the decade leading to the pilots’ dispute the Australian Federation of Air Pilots (AFAP), often in concert with other industry unions, had a variety of skirmishes with the government over policy and structural changes which workers believed were having a negative effect on their jobs, aviation safety and the efficiency of the regulatory authorities such as the ‘significant loss of experience and expertise’ caused by the transfer of staff of the Department to Canberra (Stuart 1979). The various unions representing transport workers, air traffic controllers, flight attendants and flight engineers were all involved in action over similar issues.

Through the Aviation Safety Advisory Panel (ASAP), during the years 1978 to 1985, the combined industry unions lobbied successive Prime Ministers and Ministers for Transport or Aviation and their Opposition Shadow Ministers. They wrote letters, made press statements, met with politicians and bureaucrats and provided submissions into inquiries or responses to issues papers.
The issues over which these concerns, some of which escalated into actual conflicts, arose were many and varied; some specific to the industry and others, such as the effects of the Accord, particularly from Accord Mark VI which ‘was deeply divisive to the labour movement…by allowing long-established working conditions and working practices to be altered’ (Wilson 1998: 551) and, in AFAP’s view, had ‘created an uneven playing field where employers are primed to extract maximum productivity with minimal compensation to employees’ (O’Connell 1988: 10).

Policy changes to superannuation and taxation affected the total workforce but had specific resonance for pilots due to their generally short working life and high incidence of early retirement for medical reasons. AFAP had won employer and employee funded superannuation many years before in the major airlines and was conducting a campaign to improve superannuation for its members employed in general aviation. The union, with the ACTU and other white-collar unions, had worked since 1983 on a long campaign against this legislation, brought in only three months after the government had insisting ‘that there would be no change to individuals presently on superannuation’ (Brooksbank & Coysh 1983). Concessions were won, including a reduction from 30 to 15% in the top rate and other changes which ‘do meet the reasonable concerns which were expressed by groups such as the pilots’ (Hurford 1983), but lump sum taxation remained. The AFAP President spoke for colleagues when he expressed disappointment that the Hawke government would not withdraw legislation to allow ‘savage taxing of lump sum superannuation…plundering our retirement benefits (Brooksbank 1986a: 14).

An exchange between AFAP President, Brian McCarthy and Treasurer, Paul Keating, shows some of the pilots’ concerns about the effect flat wage increases and high tax rates were having on their salaries. The Treasurer was sent a copy of the following resolution passed at Extraordinary General Meetings of the union: ‘these meetings overwhelmingly reject the concept of further flat increases and accepted the Decision only on the basis of substantial taxation cuts flowing to all sections of the community…’ (McCarthy 1988). The respondent Peter Morris, the Minister Assisting the Treasurer, provided some comfort on the issue of flat wage rises, writing ‘the Government shares your members’ concern with flat dollar increases forming part of an ongoing wage determination process’ (Morris 1988). Morris gave the pilots some hope with a reference to the Government’s announced commitment to ‘provide personal tax cuts in 1989-90 provided there is an acceptable wages outcome in 1988-89 and an appropriate wages/tax trade-off ‘ (ibid).

Issues specific to the aviation industry included the structure and location of the Department of Transport, and the effects of these changes on morale, staff losses, efficiency and communication with the industry. Stuart, Chairman of ASAP, pointed out the loss of staff following the government’s decision to concludes that ‘the whole proposal is clearly unworkable; if it is persisted with it will be a disaster’ (1978: 3); airport safety, including the lack of adequate firefighting services (AFAP 1979) and ‘serious staff shortages in Air Traffic Control (Stuart 1981); the proposed sale of TAA (Smith 1981) which was later withdrawn following the election of the Hawke government in 1983; and a continuing battle, won and then lost, to have a separate Department of Aviation.

In the years immediately preceding the dispute, three interrelated issues came to dominate the discussions about the future of the aviation sector. In 1987 the new Minister for Transport and Communications, Gareth Evans, announced his intention to repeal the legislation which ‘will bring the two airlines policy to an end, and open Australia’s interstate air services to free competition’ (Evans 1987: 1).

Unions in the industry, especially the AFAP, were very concerned about this proposal as they feared that if Australia followed the same path to deregulation that the USA had taken a decade before the same negative effects would be felt by Australian workers. Internationally linked to other pilot organisations through membership of the International Federation of Air Pilot Associations (IFALPA) they received regular information about what deregulation had done to wages, working conditions, industrial relations, safety and, most particularly job security as established airline companies merged, went into bankruptcy and collapsed and new entrants appeared and disappeared. The news seemed overwhelmingly bad for workers although the US proponents of deregulation were still singing its praises. Australian supporters of proposed deregulation and its opponents both used examples from the US to bolster their arguments in
the public and private consultations leading to the Australian government’s announcements. For this reason a brief discussion of the US experience is relevant.

**Deregulation in the United States**

Alfred Kahn, the architect of deregulation in the USA, remains convinced that although ‘the meltdowns in commercial aviation have been catastrophic for almost all the parties financially involved…they offer no valid basis for reversing deregulation (Kahn 2004: 47). Ansett’s Manager of Aviation Policy, commenting on the US experience said ‘the established carriers have been able to respond to the lower fares of new entrants by either renegotiating wages and conditions with their employees or, in extreme circumstances, going bankrupt and voiding their labor contracts…’ (Kimpton 1986: 4).

Ten years after deregulation, the following statistics were produced in a US industry journal; of the 36 established airlines in 1978 only 19 were still operating in 1986; the 198 new entrant airlines in 1978 were reduced to 58 by 1986; there were 22 mergers or acquisitions in the period with a total price of US$7,365 million and only 6 of the airlines with the top 10 market share in 1970 remained there in 1986 (Cassell & Spencer 1987: 26-28).

Henry Duffy, President of ALPA the pilots’ union has a bleak view of deregulation which he believes ‘has brutalised the relationship between labor and management…We are threatened with replacement every time we come into confrontation with a company. So we have had to escalate our response’ (Duffy 1988: 73). In another forum, Duffy elaborated on the effect of deregulation on workers: airline workers measure this cost in terms of lower overall compensation, terminated pension plans, lower pay for new hires, and loss of jobs. The travelling public has paid the price in terms of worthless tickets and disrupted travel plans in the wake of airline bankruptcies, and in terms of reduced safety and a much lower quality of service’ (Duffy 1987: 11). He also suggested that the industry was at a crossroad and warned of the negative effect of taking the road ‘that continues the adverse effects of deregulation. On that path you’ll find opportunistic managements looking for windfall gains like further labor pay and job cuts. The bottom line is that employees will continue to pay the price of deregulation (ibid).

To some extent, the problems evident during the first decade of deregulation in the US coloured the way all the parties responded to invitations to participate in consultations about aviation deregulation in Australia.

**Aviation regulation in Australia and the two airlines policy**

Even before the end of World War II, the Chifley government had indicated its intention to nationalise the airlines which operated interstate scheduled services and in 1945 it passed enabling legislation, establishing Trans Australia Airlines (TAA). However the major privately-owned companies challenged the validity of sections of the legislation and the High Court found in their favour. In response the government then passed unique legislation, the Civil Aviation Agreement 1952, to closely regulate parallel operations of a government-owned and privately-owned airlines. Poulton, the author of the most detailed history of what came to be known as the Two Airline system, states the successive versions of the Airlines Agreement Act form a system ‘novel to Australia having no counterpart in any other part of the world and has successfully provided a forum in which a private enterprise operator has competed with a privately owned operator’ (1981: 1). In its early stages this legislation ‘provided machinery for rules concerning air routes, time tables, fares and freight rates and other related manners’ (ibid: 51). Later versions of the Act loosened the controls and the 1981 Act ‘was designed to increase the level of competition within the industry, while maintaining the established network of services on a safe and efficient basis (Evans 1987: 2).

In 1984, the then Minister for Aviation, Kim Beazley, introduced two Bills aimed to clarify the position of TAA. One repealed legislation, passed but not enacted by the previous government, and ‘providing for the establishment of a public company and remove any doubt that TAA will remain a statutory authority of the Commonwealth’ (Evans 1984a:1). The second aimed to ‘give TAA greater flexibility of management and greater responsibility in its commercial airline operations while providing an appropriate level of Ministerial control and oversight (Evans 1984b:3).
The following year, recognising the high level of public interest in deregulating sectors of the economy and responding to advocates of aviation deregulation such as the Opposition, state governments, the Centre for Independent Studies and smaller commuter airlines wishing to expand their operations, the Government established the Independent Review of Economic Regulation of Domestic Aviation (the May Review).

**The May review and deregulation**

The May review was conducted over two years, and the committee received 80 submissions. These were prepared by airline companies, potential new entrants, unions, state governments and the travel industry. An incomplete survey of the available submissions shows a wide range of preferences, especially from industry participants. The pilots’ union’s initial submission made clear its strong opposition to total deregulation, citing the problems in the US to back their assertion that probable outcomes would include ‘an influx of new entrants gravitating to major population centres and advantaging those centres, disproportionately’ (AFAP 1985: 3); ‘more fluctuations in the levels of service and fare structures’ (ibid: 4); and ‘a reduction in (safety) standards on a gradually increasing basis’ (ibid: 9). Their preference was for a differently regulated rather than a totally deregulated system as they had already made clear at a 1985 seminar, Economic Regulation of Aviation in Australia, when the President Buck Brooksbank stated ‘we welcome constructive change and strongly support a regulated multi-operator Australian Aviation environment. We oppose total deregulation’ (Brooksbank 1985: 5).

In January 1987, public comment was sought on a draft report and a further 30 submissions were received. The union made both a written and a verbal submission, the latter being in two parts one discussing the need to continue to monitor fare levels and the equitable distribution of cheap fares (Coysh 1986) and the other concentrating on safety implications of deregulation (Brooksbank 1986b).

The final report was launched by the Minister for Transport and Communications in October 1987. It was critical of the current situation; found that Australian aviation was ‘characterised by relatively low labour productivity and relatively high and stable profit levels’ and identified 5 options ‘for future Government policy on aviation, ranging from Option 1 ‘maintenance of the status quo to Option 5 full economic deregulation (Evans 1987). The summary of preferences included in the attachment to the Minister’s Statement shows that Ansett strongly favoured Option 1 but viewed Option 5 as ‘the only viable alternative….subject to AAL being sold and international operators being prevented from extending their operations on Australian domestic routes’ (Evans 1987: 14). The ACTU also preferred this Option, believing that there was insufficient evidence of the necessity for change. Review Australian Airlines preferred Option 4, partial deregulation, with the ‘proviso that route entry controls are also retained’; (ibid: 12); this option was also preferred by other respondents, in preference to the more highly regulated Options 2 and 3. The middle Option 3 was only preferred by the Regional Airlines Association while others strongly opposed it (ibid: 12). The unions strongly opposed Option 5 but expressed no common preference for any of the other Options. Most state governments supported Option 5, as did East-West Airlines the largest of the regional operators, before it was taken over by Ansett later in the year. This was the option recommended by the Review and accepted by the Government (ibid: 2). In his statement, the Minister said “what is involved in the Government’s economic deregulation policy is not a simple, or simple-minded, lifting of existing controls, but a complex group of interacting policies involving a number of internal checks and balances (Evans 1987: 9).

This immediately raised issues within the industry, chief among them the possible privatisation of the government airlines Australian and Qantas. Assurances were given in Evan’s statement that Qantas would remain Australia’s sole international airline and will not be permitted to operate domestic scheduled air services and that steps would be taken to ‘put Australian Airlines in the best possible shape to compete in the post 1990 environment’ (ibid: 8-9) but, apart from announcing that AAL would be incorporated as a public company, these did not spell out the government’s intention in detail.

It was in this atmosphere of uncertainty about the future of their industry and their employer that bargaining between AFAP and the management of AAL commenced.
The 1989 dispute

In July 1989, when they commenced their scheduled negotiations for a new 2-year agreement, AFAP was acutely aware that, with the government’s announcement of the forthcoming deregulation of the industry in 1990, they were entering a new era. They hoped that this agreement would both enable them to catch up to the conditions of their colleagues employed by Ansett (Learmonth 2002: 198-199) and to establish a firm footing for an uncertain future.

A pattern of bargaining in alternate years with the two major companies was well established, and the union expected that both companies would be anxious to continue in this manner as it would allow them to negotiate independent and different agreements to meet the challenges of deregulation and the introduction of greater competition. The Australian Industrial Relations Act 1988, with its introduction in Part VIB of enterprise bargaining also appeared to give the existing process additional legitimacy. Unexpectedly, after a promising start, AAL management withdrew from the process with a demand that future negotiations be conducted on an industry-wide basis.

The events which followed drew in Ansett Airlines and two subsidiaries, IPEC and East-West Airlines, the Australian Council of Trade Unions (ACTU), the Australian Industrial Relations Commission (AIRC), the Victorian Supreme Court and, most particularly the Hawke Labor government. Once the trouble spread beyond the initial AFAP and AAL negotiations, Ansett through its Chairman Sir Peter Abeles, played a large role, especially in public. The dispute has been covered in detail by others, including Bray and Wailes, McEvoy and Owens, Sappey and Burgess and the main events only will only be briefly listed here.

July 89  AAL withdraws from negotiations with AFAP
         AFAP sends new letter of demand to companies seeking 29.47% salary increase
August   In & out of IRC - Government offers support for Award cancellation
         PM meets with Ministers and airline Chairmen
         Pilots commence 9-5 campaign
         Government authorises RAAF and internationals to carry domestic passengers
         Companies threaten dismissal if pilots refuse to commit to full service & start standing them down
         Awards cancelled
         1647 pilots resign to protect themselves from legal action
         Companies serve writs on AFAP and individual pilots
September AFAP offers return to work so negotiations can commence
         AAL offers reemployment on individual contracts
         Federal Cabinet agrees to waive landing charges to avoid stand downs
         Ansett offers individual contracts
         IRC offers to arbitrate but pilots feel would not resolve the dispute
October  Companies seek & get new awards based on individual contracts
         Opposition & Democrats set up Senate inquiry
         Some union expressions of concern at precedents for the union movement
         PM claims in Parliament that AFAP no longer exists and the dispute is over
         Damages hearing starts in Victorian Supreme Court
November More union & public support
         In Supreme Court airlines admit few pilots have returned
         Pilot meetings, rallies and community/public meetings
         Damages case decision – some charges dismissed but damages awarded against AFAP
December PM asks airlines not to pursue damages
         RAAF ceases flights & airlines cease lease of seats on international services
         Chartered aircraft & overseas pilots still operating
January 90 Compensation to the airlines ceases
February &  Airline’s press release announces they will not pursue damages
March    Pickets, meetings & doorknocking in run up to election – Labor wins
Of the several explanations that have been put forward for the actions of the companies and the strong support provided by the Hawke Labor Government and the ACTU, the need to protect the Accord is the most common. However the view of Bray and Wailes (1999: 93), that the employers ‘opposed the 1989 wage claim because the imminent deregulation of the industry raised concerns about the ability of the companies to pass on wage concessions to consumers’ is strongly supported with Burgess and Sappey (1922: 289) who assert ‘the wage claim provided an opportunity for a show-down with the AFAP for the purpose of altering the pilots’ award in time for deregulation, and McEvoy and Owens (1990: 87) who argue that deregulation meant that ‘the stakes were critical for all parties, and indeed, the whole community’. Another view was that the real reason for the dispute was ‘the consolidation of the union’s power in the forthcoming deregulated era’ (Wilson 2002: 131). Another view was that the real reason for the dispute was ‘the consolidation of the union’s power in the forthcoming deregulated era’ (Wilson 2002: 131).

An insider, Graham McMahon, the General Manager of Ansett in 1989, commented on the effect of the dispute on Ansett’s preparation for deregulation in the following remark, quoted in Ansett, The Collapse; ‘We were putting a lot of things in place to get ready for deregulation when the pilots dispute blew up and that set us back on our heels considerably’ (Easdown & Williams 2002: 92). Another insider, Brian McCarthy, the President of the union during the dispute ended a speech to the 45th Annual IFALPA Conference in Washington with the following words: ‘It is obvious that the dispute is really about deregulation. Various comments made by the airlines and by Government Ministers indicate that preparing the airlines for deregulation has played a significant role in the current dispute. The most significant start was to destroy the pilots union’ (McCarthy 1990: 9).

**Conclusion**

If preparation for deregulation was behind the actions of the parties it is worth asking the question. Did they get the results they wanted?

The pilots certainly did not. Of the 1645 pilots employed by the interstate companies who resigned, many left the country and ended up flying for most of the world’s airlines, although not in the USA. A small number returned to their previous employer and others never flew again. Another small group joined one of the new entrants into the deregulated industry and many of those lost their jobs again when, one by one, they succumbed to the pressures of competition and collapsed or were taken over by a bigger rival. All the pilots who remained in Australia found themselves working harder and with less control over their working lives. They may have got more money, especially if they went into one of the established companies, but many of the conditions that their predecessors had fought for. The pre-dispute Awards averaged more than 150 pages and contained a number of clauses which provided for union representatives involvement in a number of scheduling, safety and aircraft selection activities, ‘testimony to the significant inroads into managerial prerogative achieved by the pilots’ (Bray & Wailes 1999: 86). The Awards which replaced them were about 10-12 pages in total and had been stripped of all signs of union participation. In essence they provided basic conditions and allowed the company to ‘gain complete control over a pilot’s rostering and work hours, seniority, promotion, away from home accommodation and leave entitlements, (Norrington 1990: 68). Recently pilots who went overseas have returned to work in Australia, often for Virgin Blue; others have returned to retire in familiar territory.

The airlines did at least at first They ended the dispute with a much smaller and fragmented workforce with only a weak staff association as their union option. In many ways, ‘the combination of government support and strategic mistakes by the pilots provided the airlines with an opportunity to address their long-standing concerns about pilot productivity in advance of the deregulation of the domestic airline industry’ (Bray & Wailes 1999: 95). The dispute was never about wages, although that was the common perception, fed by the companies and the Government. Instead, after the dispute, pilots received significantly higher wages in return for ‘extraordinary increases in productivity’ (ibid: 103). However, for some of both the established companies and new entrants, the good times did not last and in the fifteen years since the dispute...
Government policy, aviation deregulation and the 1989 pilots’ dispute

several companies – Compass twice, Impulse, Ansett and some of its subsidiaries – have come and gone. One new independent airline Virgin Blue, appears to be firmly in place and Qantas, which absorbed Australian Airlines has spawned Australian II and Jet Star.

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The ACTU probably didn’t although it appeared to be on the winning side immediately after the dispute, which gave it another opportunity to demonstrate that ‘no union successfully defied the ACTU…The ACTU was able to harness state power and exploit the institutional legacies of the state-union relationship’ (Briggs 2002: 95). However, its actions angered sections of the union movement and led to a motion at the next Congress, condemning the ACTU’s actions and pointing out the potential for the same actions to be taken against affiliated unions. This motion was passed only after it was amended so as to largely nullify its original intent. The ACTU Secretary, Bill Kelty, said at the Congress, which was held at the height of the dispute, that ‘the pilots had declared war on ordinary Australian workers and the wage-fixing system’ (Singleton 1990: 189). It is possible that, in 1998, memories of 1989 influenced the protagonists in the waterfront dispute. This time the ACTU, on the side of the embattled union, managed a successful campaign that mitigated the effect of changes in work practices on the workers.

Did the public win? After they got over the disruption of the dispute and in between the various airline collapses that followed deregulation many did. The number of people flying increased greatly as fares dropped, routes expanded and services increased. Business travel became more common although congestion on the ground, especially in Sydney is a growing problem of a different kind. Tourism eventually recovered from the effects of the dispute and holiday travel in Australia has increased dramatically. The communities and families with connections to pilots remain marked by the events of the dispute with many rifts still not healed.

Did the Government win? Certainly it was returned at the next election and, in 1990, legislated for the deregulation of domestic aviation. Most of the goals set in the May Review have been achieved. In his 1987 statement, Gareth Evans listed a number of benefits that ‘increased opportunities for competition in a deregulated environment’ would provide (Evans 1987: 3). These were:

- ‘greater incentives for existing and new participants in the industry to become more efficient and responsive to customer needs;
- a wider range of air fares, in particular an increased availability of discount fares;
- growth, particularly in the price sensitive leisure travel market; and
- a greater variety in the types, standards and frequency of services provided, and use of more appropriate aircraft on some routes’ (ibid).

Bray and Wailes provide a comparison of some of the change at Australian Airlines and show that between 1984 and 1991 the number of pilots fell from 496 to 303; annual total aircraft departures rose from 60,469 to 63,603; and annual aircraft departures per pilot increased from 122 to 210 (Bray & Wailes 1999). Based on these figures the Government would appear to have achieved its goals.

It remains for others to balance the economic, industrial and political gains of the deregulation of Australia’s domestic aviation industry against the personal and social dislocation caused by the 1989 dispute and the subsequent changes to the airlines and their workers.
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The work-child care interface: How working women with young children combine work and child care

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ABSTRACT

For women who are mothers of young children, the decision to participate in the labour force depends on a large number of co-determining factors. These factors range from the economic to social with attitudes, family background and access to child care all being influential. Unfortunately, data constraints have made it difficult to simultaneously test the strength of these influences. However the Household, Income and Labour Dynamics in Australia (HILDA) Survey provides an opportunity to assess the extent to which access to a set of employment benefits, childcare arrangements and domestic arrangements facilitate the combination of work and family responsibilities for women with young children. This paper uses data from Wave 1 of HILDA, collected in late 2001, to identify women with preschool aged children classified as being either employed, unemployed and marginally attached to the labour force and those not in the labour force. The paper examines the extent to which there are significant differences in family background, personal characteristics, job characteristics, domestic arrangements and attitudes to parental roles and work for each of these sub-groups. Further, for the group of employed women, the paper compares reported work hours and child care hours and identifies women with a care deficit (non-parental care hours less than maternal work hours) and those with a care surplus (non-parental care hours exceed work hours) and endeavours to explain the difference.
The invisible health risks of precarious employment

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ABSTRACT
This article reports a new conceptual approach to measuring the characteristics of precarious employment and their effect on health. Our starting point is the Karasek ‘job strain’ model. We argue that ‘job strain’ focuses on the health effects of work once people are employed. It is less effective in capturing the health effects associated with the employment relationship, the process by which workers acquire work, keep work and negotiate its terms and conditions. We develop a new construct, ‘employment strain’ to measure these aspects of work organisation. Evidence presented indicates employment strain is associated with poorer health outcomes.

Introduction
This study explores the nature of precarious employment relationships, with a particular focus on understanding their impact on health outcomes. A number of studies have focused on how precarious employment relationships alter exposure to physical risks such as noise and toxins, or the psychosocial work environment including control over work and workload (Benach et.al. 2002b; Goudswaard & Andries 2002; Salonieri et.al. 2004; D’Souza et.al. 2003). This paper takes a different approach and suggests that the employment relationship itself is a source of exposures that can affect health. To explore this hypothesis we introduce a new concept of ‘employment strain.’ Employment strain is a multi-factor measure of the control, workload and support characteristics of an employment relationship. This paper will focus on the development of this new construct and report results from a first wave of fieldwork.

Our point of departure is the Karasek Job Demand-Control (JD-C) model and the concept of ‘job strain’ (Karasek and Theorell 1990). Job strain is found when jobs provide low levels of control over how work is done while at the same time requiring high expenditures of psychosocial effort to complete assigned tasks. Studies show that workers exposed to job strain are more likely to be exhausted, depressed and dissatisfied with their job, and they are more likely to have stress-related illness and cardiovascular disease (Belkic et al. 2000; Karasek and Theorell 1990). Other studies have shown that chronic exposure to job strain increases blood pressure (Schnall et al. 1998).

A central argument of this paper is that Karasek’s job strain captures only one dimension of the control-demand-support trilogy at work, that being the dimension associated with the work process and the production of goods and services. We argue that the control-demand-support trilogy associated with the employment relationship is equally important, and that this trilogy has become more relevant with the spread of precarious employment relationships.

How might the employment relationship affect the control, effort and support characteristics of work? The employment relationship shapes the level of control workers have over access to employment and the setting of its terms and conditions. It influences the amount of effort required searching for employment, the effort expended to keep employment, exposure to harassment and discrimination, and the effort required balancing demands related to multiple job holdings at multiple sites. The employment relationship shapes support in three ways. First, the temporary nature of employment relationships influences the relationship between worker and employer, and between workers and levels of support at work. Second, it influences household relations and the ability to satisfy domestic needs. Third, the variability of work demands and irregular schedules can affect the relationship between workers and their community.
Those working within the ‘job strain’ framework have become increasingly aware of the limitations of the original control and workload constructs proposed by Karasek and the need to consider the employment relationship as a factor affecting health outcomes (Wall, T., et al. 1995; Sparks & Cooper 1999; de Jonge, J., et al. 1999; Benach et al. 2002a). In particular, models need to incorporate what Cooper has called the shift to a ‘short-term contract culture’ or the spread of precarious employment (Cooper 2002). Quinlan, Mayhew, and Bohle (2001) suggest adding ‘precarious’ dimensions to the understanding of job control and using this to explore the relationship between precarious work and health outcomes. Benach et al. (2002b) point towards the importance of including the employment relationship in any analysis of work and health. Their work based on European Union data concludes that the employment relationship may have an independent effect on health outcomes, regardless of differences in working conditions. Other studies have shown that job strain and high job insecurity are independently associated with a number of mental health outcomes (D’Souza et al. 2003).

Our challenge was to design a study that captured the characteristics of the employment relationship and in particular precarious employment relationships. To do this we needed to find indicators that went beyond those useful in the study of work organisation at individual workplaces, where employment is full-time, where workers have a permanent and ongoing employment relationship, and where the terms and conditions of employment are either contractually defined or based on well established customs and norms. To incorporate the employment relationship into work organisation models we define new indicators of control, workload and support. Together they make up a new work organisation construct ‘employment strain’. Employment strain is not a substitute for Karasek’s job strain construct. Rather, employment strain captures a unique dimension of the employment experience. Details of this new construct and how we propose to measure it are provided in what follows.

Serious investigation of the health and safety consequences of precarious employment is quite recent. The evidence suggests a complex association between the employment relationship and exposure to physical and job strain risks, and health. A number of studies suggest that workers in some precarious employment relationships are more likely to be exposed to physical situations that increase the risk of work related injury or illness (Quinlan 1999, Quinlan, Mayhew, and Bohle 2001). Precarious employment was associated with poorer health outcomes in a study of German workers (Rodriguez 2002) but no effect was found in a study of British workers (Bardasi & Francesconi 2004) or a sample of Finnish workers (Virtanen et al. 2002). Studies based on a sample of European Union workers found some workers in precarious employment relationships face certain kinds of high-risk physical working conditions. However, some forms of non-standard employment can be protective: part-time workers report being exposed to fewer physical hazards, and less intensity of work (Benavides & Benach 1999; Benach et al. 2002b; Pedersen et al. 2003; Goudswaard & Andries 2002; Daubas-Letourneux & Thébaud-Mony 2003). Research on Finnish workers challenges the simple notion that precarious employment is always associated with poorer psychosocial working conditions (Saloniemi et al. 2004).

In summary, these studies suggest various reasons why workers in precarious employment relationships may experience work related health problems. However, at the same time these studies suggest that on some measures of health outcomes, workers in standard employment relationships report the worst outcomes. These studies do point the way to a deeper understanding of how the employment relationship might affect health outcomes. They suggest that insecurity, continuous evaluation, frequent changes in worksites and work colleagues, frequent bouts of unemployment, unpredictability of work schedules and earnings, poor living conditions and differences in coverage of social regulations related to precarious employment may play an important role in understanding the health outcomes of these workers.

**Employment relationship health risks and precarious employment**

The core of our hypothesis is that focusing on the work-related health risks of precarious employment (e.g. physical risks, exposure to toxins and job strain) ignores a second source of work-related health risks associated with the employment relationship. The growth of precarious employment re-problematises the employment relationship as a source of work-related health risks. While there are health risks present in all employment relationships, studies
that assume the standard employment relationship have not made them visible. The differences in the rights enjoyed by those in precarious employment relationships and standard employment relationships leads us to argue there is a second pathway between work and health outcomes, fundamentally different from the production process based pathway examined by Karasek. This alternative set of risks can be described as employment strain.

While employment strain is a hazard all workers face related to the nature of their employment relationship, these risks are likely to be higher for those in precarious employment relationships. Those in precarious employment may face increased uncertainty over access to future employment and the terms and conditions of employment. They may experience added demands associated with the constant search for new employment and the need to balance multiple employers and worksites. Added demands related to ensuring a positive employer assessment of work performance needed to increase the probability of being offered more work. They may face increased uncertainty over the ability to satisfy minimum household economic demands as a result of low pay, limited benefits and high levels of variance in earnings. Or they may enjoy reduced levels of social support and increased risk of harassment from employers and co-workers as a result of the temporary nature of social relations.

**Measuring employment strain**

To measure employment strain we designed a fixed response self-administered survey. Between 2002 and 2004 we received surveys from 800 Canadian workers. Those who had not worked in the last month were dropped from the sample leaving 786 surveys with usable data. The sample is composed of workers who responded to ads placed in newspapers; employees of a temporary agency; homecare workers; university workers; community workers and a diverse group found through employment agencies and worker-based groups in Toronto. Some of the sample was recruited through unions.

We used the survey questions to construct new measures of control, workload and support related to the employment relationship. Together these constructs measure employment strain. Details of these new constructs and how they are measured are provided below.

**EMPLOYMENT RELATIONSHIP UNCERTAINTY:** We define three types of uncertainty associated with the employment relationship; work uncertainty, earnings uncertainty and scheduling uncertainty. High levels of uncertainty are synonymous with low levels of control. Employment relationship uncertainty is calculated by summing the values of the questions representing its three components described below.

Work uncertainty measures the level of control over future employment and the frequency with which employment terms are re-negotiated. All employment in a competitive labour market is uncertain, but for those involved in precarious employment, the degree of uncertainty is qualitatively different. In the absence of an ongoing relationship with an employer or contractually defined rights to further employment, workers in precarious employment relationships face a high degree of uncertainty over getting more work. Work uncertainty includes two questions on respondents’ perceived uncertainty about whether current employers will offer more work and average contract length.

Earnings uncertainty measures the level of control workers have over future earnings. It includes seven questions on whether the worker can predict future earnings, the existence of written pay records, whether unemployment insurance and government pensions are deducted from earnings, whether workers are paid when they are sick, whether they are paid on time, and whether they have disability insurance and pension entitlements.

Scheduling uncertainty measures the control workers have over when and where they work. It is constructed from three questions about the length of advance notice of work schedules, hours to be worked and work location.

**EMPLOYMENT RELATIONSHIP WORKLOAD:** We define four types of workload associated with the employment relationship; effort finding work; multiple employers/worksites effort; constant evaluation effort, harassment and discrimination effort. Employment relationship workload is calculated by summing the values of the questions representing its four components described below.
**Effort finding work** measures time spent looking for work. For workers in standard employment relationships this is unlikely to be significant, however for non-permanent workers this may require significant effort. **Effort finding work** is calculated from a single question asking how much time individuals spend looking for work.

**Multiple employers/worksites effort** measures the effort expended as a result of having multiple employers and working at multiple worksites. It combines eight questions about the number of employers, supervisors and work locations, unpaid time spent traveling between jobs, frequency of working with new sets of co-workers in unfamiliar locations, and conflicts arising from having multiple employers or work locations. Again, these are effort expenditures most likely to be incurred by workers in temporary positions.

**Constant evaluation effort** measures the effort expended by workers trying to increase the probability that their current employer will offer them more work. Where contracts are short-term in nature, workers may feel they are constantly being evaluated and have to perform at levels beyond that expected of workers in standard employment relationships. A Finnish study revealed that this was one of the negative aspects associated with precarious employment (Pedersen et.al. 2003). **Constant evaluation effort** includes three questions about the extent to which attitude and performance evaluations affect the length and nature of future work offers.

**Harassment and discrimination effort** measures the effort expended as a result to exposure to harassment and discrimination at work. Where employment is temporary and change of employers and locations frequent, the probability of facing harassment and discrimination may increase. **Harassment and discrimination effort** includes five questions about the frequency of harassment at work, the frequency discrimination is a barrier to getting work or how one is treated at work, the role of favoritism in getting work, and the frequency of being asked to do things unrelated to work.

**Employment relationship support**

We define three types of employment relationship support; **work support**, **household insecurity and social support**. **Work support** measures the support workers receive at work. It combines four questions about the availability of help with a job, assistance at work if a worker is stressed, the presence of a union and its effectiveness. **Household insecurity** measures the capacity of an individual to satisfy household economic needs. Low levels of household insecurity may make it easier for a worker to handle low levels of control and high levels of effort associated with their particular employment relationship. It combines 3 questions regarding individual and household earnings, and household benefit coverage (drug, medical, dental, eye, life). **Social support** measures the support an individual has in the community at large. It combines four questions about whether an individual has access to someone who provides emotional, practical or financial support in a crisis situation, and questions asking if they can draw on the support of friends & family, people in their neighbourhood, or in their community to deal with problems they might face.

**Employment strain and health outcomes**

In the tables that follow, we examine four different clusters of employment relationships; three representing different forms of precarious employment and one representing the standard employment relationship. The temporary agency and short-term contract cluster is made up of workers employed through temporary employment agencies, or who work on short-term contracts, are self-employed or work seasonally. This group is the most representative of the segment of the labour market that has increased dramatically since the early 1980s. The part-time cluster is made up of workers who reported having a permanent part-time job of less than 30 hours per week. The on-call cluster is a class of workers who have an ongoing relationship with an employer, either full-time or part-time, but whose hours vary from week to week based on the employer’s needs. The full-time cluster includes workers in permanent positions who work 30 or more hours per week.

The characteristics of the sample are reported in Table 1. Interestingly, the two groups with the most dramatic difference in their employment relationships, the temporary agency cluster and the full-time cluster, were demographically very similar in this sample, except that the temporary agency workers were more highly educated, but earned less.
Types of Precarious Employment

<table>
<thead>
<tr>
<th>Types of Precarious Employment</th>
<th>Temp agency &amp; short-term contracts</th>
<th>Part-time</th>
<th>On-call</th>
<th>Full-time</th>
</tr>
</thead>
<tbody>
<tr>
<td>Average age (years)</td>
<td>34.9</td>
<td>32.0</td>
<td>47.0</td>
<td>36.5</td>
</tr>
<tr>
<td>Female (%)</td>
<td>50</td>
<td>74</td>
<td>89</td>
<td>55</td>
</tr>
<tr>
<td>White (%)</td>
<td>63</td>
<td>52</td>
<td>79</td>
<td>69</td>
</tr>
<tr>
<td>Lived in Canada &lt; 5 years (%)</td>
<td>12</td>
<td>14</td>
<td>1</td>
<td>9</td>
</tr>
<tr>
<td>Some university (%)</td>
<td>47</td>
<td>38</td>
<td>8</td>
<td>29</td>
</tr>
<tr>
<td>Own income &lt;$25,000 (%)</td>
<td>76</td>
<td>89</td>
<td>82</td>
<td>47</td>
</tr>
<tr>
<td>Household income &lt;$35,000 (%)</td>
<td>63</td>
<td>59</td>
<td>50</td>
<td>35</td>
</tr>
<tr>
<td>No employment benefits (%)</td>
<td>58</td>
<td>54</td>
<td>42</td>
<td>29</td>
</tr>
<tr>
<td>Full-time student (%)</td>
<td>13</td>
<td>29</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>Union member in all workplaces (%)</td>
<td>11</td>
<td>17</td>
<td>74</td>
<td>26</td>
</tr>
<tr>
<td>Hours last two weeks</td>
<td>105</td>
<td>73</td>
<td>122</td>
<td>155</td>
</tr>
</tbody>
</table>

Table 2 reports our findings about the extent to which employment uncertainty, effort and support are experienced differently by workers in different employment relationships. In general, the three precarious clusters reported higher levels of employment relationship uncertainty and employment relationship workload, higher levels of household insecurity and lower levels of work and social support than the full-time cluster. This was particularly true of temporary agency and short-term contract workers.
Table 3 reports results of our analysis of the relationship between employment relationship characteristics and health outcomes. Each cell represents the change in the odds ratio (the relative probability) of a specific health indicator caused by a ten point increase in the relevant employment relationship index after controlling for differences in age, sex, physical work environment and prior health status. Numbers greater than one represent increased odds of reporting the relevant health outcome.

<table>
<thead>
<tr>
<th>Employment relationship characteristics and health outcomes (Figures represent the change in the odds-ratios associated with a ten point increase in the relevant employment relationship index.)</th>
<th>Health less than very good</th>
<th>Pain half the time or more</th>
<th>Exhausted after work most days</th>
<th>Tense half the time or more</th>
<th>Everything an effort most of the time</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employment relationship uncertainty</td>
<td>1.10 (**)</td>
<td>1.07</td>
<td>1.07</td>
<td>1.10 (**)</td>
<td>1.13 (**)</td>
</tr>
<tr>
<td>Work uncertainty</td>
<td>1.04</td>
<td>0.98</td>
<td>0.99</td>
<td>1.01</td>
<td>0.98</td>
</tr>
<tr>
<td>Earnings Uncertainty</td>
<td>1.11 (**)</td>
<td>1.06</td>
<td>1.01</td>
<td>1.06</td>
<td>1.11 (**)</td>
</tr>
<tr>
<td>Scheduling Uncertainty</td>
<td>1.05 (**)</td>
<td>1.06 (**)</td>
<td>1.07 (**)</td>
<td>1.06 (**)</td>
<td>1.07 (**)</td>
</tr>
<tr>
<td>Employment relationship effort</td>
<td>1.13 (**)</td>
<td>1.20 (**)</td>
<td>1.28 (**)</td>
<td>1.39 (**)</td>
<td>1.14 (**)</td>
</tr>
<tr>
<td>Effort Getting Work</td>
<td>1.02</td>
<td>1.02</td>
<td>1.01</td>
<td>1.02</td>
<td>1.05 (**)</td>
</tr>
<tr>
<td>Effort Multiple Employers/Sites</td>
<td>1.01</td>
<td>1.08 (*)</td>
<td>1.19 (**)</td>
<td>1.21 (**)</td>
<td>1.09 (**)</td>
</tr>
<tr>
<td>Constant Evaluation Effort</td>
<td>1.04 (*)</td>
<td>1.05 (**)</td>
<td>1.06 (**)</td>
<td>1.08 (**)</td>
<td>1.05 (**)</td>
</tr>
<tr>
<td>Harassment/Discrimination Effort</td>
<td>1.13 (**)</td>
<td>1.16 (**)</td>
<td>1.15 (**)</td>
<td>1.24 (**)</td>
<td>1.02</td>
</tr>
<tr>
<td>Household Insecurity</td>
<td>1.09 (**)</td>
<td>1.10 (**)</td>
<td>1.01</td>
<td>1.04</td>
<td>1.03</td>
</tr>
<tr>
<td>Work Support</td>
<td>0.82 (**)</td>
<td>0.86 (**)</td>
<td>0.92 (**)</td>
<td>0.80 (**)</td>
<td>0.94</td>
</tr>
<tr>
<td>Social Support</td>
<td>0.91 (**)</td>
<td>0.99</td>
<td>0.93 (**)</td>
<td>0.92 (**)</td>
<td>0.95 (*)</td>
</tr>
</tbody>
</table>

*** p<.001, **, p<.05, * p<.10; n ranges from 645-729
model: health index = f(age, sex, white, prior health status, work environment, work index)

Greater employment relationship uncertainty, and in particular greater uncertainties related to scheduling and earnings, were correlated with poorer self-reported health, more frequent tension at work, and more frequent reporting that ‘everything was an effort.’ A ten percentage point increase in employment relationship uncertainty increased the likelihood by about the same amount that workers reported less than excellent health, tension at work, or that ‘everything was an effort.’ Greater employment relationship uncertainty was not, however, significantly correlated with reports of working in pain or exhaustion. This supports the argument made above that the effect of the employment relationship on the physical characteristics of work varies and that precarious employment may not systematically be correlated with poorer physical working conditions.

Increased employment relationship effort was associated with poorer health status. This was particularly true for the effort it takes to handle multiple employers/sites, constant evaluation, and harassment/discrimination. The association was particular strong between employment relationship effort and tension at work. A ten percentage point increase in employment relationship effort increased the likelihood that workers would report tension at work by forty percentage points. We did not find a statistically significant relationship between the effort individuals expend finding work and health outcomes.

We found that workers with greater household insecurity were more likely to report poorer health status and working in pain. Increases in employment related support were significantly correlated with better health outcomes on all the measures of health status, except the indicator of ‘everything an effort most of the time’. Higher social support was correlated with better self-reported health, less exhaustion and lower levels of tension.
These results suggest that even after correcting for differences in age, sex, race, physical work environment and prior health problems, those characteristics of the employment relationship associated with temporary employment are correlated with poorer health outcomes. When workers have higher levels of employment relationship uncertainty and higher levels of employment relationship workload they are more likely to have poorer health status, particularly tension at work. Workers who have stronger work and social support and less household insecurity are more likely to have better health status.

**Employment strain and health outcomes**

In this final section of the paper we examine how the interaction between employment relationship uncertainty and employment relationship workload affect health outcomes. Employment strain was defined as having high scores on both the employment relationship uncertainty index and the employment relationship workload index. Median scores were used as the cut points for determining employment strain; high employment relationship uncertainty (46.2) and high employment relationship workload (35.3). In our sample, 45 percent of the temporary cluster, 34 percent of the part-time cluster, 30 percent of the on-call cluster and 21 percent of the full-time cluster were exposed to employment strain. This suggests that working full-time significantly reduces the risk of being exposed to employment strain relative to temporary agency workers, but does not eliminate it. Table 4 reports the relationship between employment strain and health outcomes correcting for the effects of age, sex, race, physical work environment and prior health status. In each case, employment strain was associated with poorer health outcomes. These associations were statistically significant in the case of exhausted after work most days and tense half the time or more. In both cases those exposed to employment strain were more than twice as likely to report these two conditions relative to those not exposed to employment strain.

<table>
<thead>
<tr>
<th>Employment strain and health outcomes (Figures represent the change in the odds-ratios associated with being exposed to employment strain.)</th>
<th>Odds-ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>Health less than very good</td>
<td>1.25</td>
</tr>
<tr>
<td>Pain half the time or more</td>
<td>1.27</td>
</tr>
<tr>
<td>Exhausted after work most days</td>
<td>2.12 (*** )</td>
</tr>
<tr>
<td>Tense half the time or more</td>
<td>2.30 (*** )</td>
</tr>
<tr>
<td>Everything an effort most of the time</td>
<td>1.50(*)</td>
</tr>
</tbody>
</table>

*** p<.001, **, p<.05, * p<.10; n 603-612

model: health index = f(age, sex, white, prior health status, work environment, employment strain).

**Conclusions**

The objective of this paper was to explore the relationship between the employment relationship and health outcomes. We proposed a set of indices that measure employment relationship uncertainty, employment relationship workload, household insecurity and work and social support. Workers in precarious employment relationships reported more employment relationship uncertainty, more employment relationship workload, more household insecurity and generally lower levels of support, although the later showed a less clear pattern across the four types of employment relationship explored in this paper. We tested the relationship between the characteristics of the employment relationship and health outcomes. We found poorer reported health outcomes as employment relationship uncertainty and employment relationship workload increased, and levels of support were reduced. The association was strongest with measures of overall health, tension and ‘everything was an effort’ and weaker with measures of pain and exhaustion. These results suggest that the spread of precarious employment relationships may have implications beyond the level of security enjoyed by workers, their standards of living and levels of social cohesion. These forms of employment may also affect population health, an issue to which researchers and policy makers may want to pay more attention.
The authors would like to thank Nicki Carlan, Simon Enoch, Cindy Gangaram, Brian Gibson, Erika Khandor, and Syed Naqvi for their contributions to the research. The research was funded by the SSHRC CURA program and the Workplace Safety and Insurance Board. The researchers are members of the Alliance on Contingent Employment housed at York University.

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Too old to work and too young to die? Older workers, changing labour market patterns and the dilemma for trade unions

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Monash University

ABSTRACT

The contradictory push-pull policies of the past decade concerning the place of the older worker in the labour market reveals a dilemma for trade unions in developed countries, and Australia is no exception.

The paper focuses on Australia with some comparison to other countries, and looks at the shift from early exit to employment retention strategies, contrasting the evolution of public policy towards retaining ‘older’ workers with disjointed and sometimes stealthy corporate policies for cheapening the wage bill.

The OECD backflip on extending the working life of the older worker, however, create a ‘contested terrain’ for trade unions.

Using Australian and internationally comparative data, the paper begins by looking at the two dimensions of the contested terrain for trade unions: the diversity of working patterns among older workers; and the growing diversity of personal objectives around the work-life balance, a growing diversity that has a gender as well as an age component.

It then looks at three dilemmas that are posed to unions by the new contested terrain. These are: the issue of how to craft recruitment and retention strategies for older workers which reflect their diversity; and the challenge of engaging older workers in the union renewal struggle, since workers who are 45–54 years of age represent the most unionised age slice in Australia. The third dilemma that unions face is crafting a plausible, strategic and industry-specific response to the long-held belief that older workers who ‘stay on’ disadvantage labour market entry for younger workers.

“Too old to work and too young to die” ends by examining the potential role for ‘the prematurely elderly’, workers 45 years old and older, in the union renewal struggle. Specifically, it looks at existing Australian and international examples of their contribution to the 4 Rs of union renewal: recruitment, retention, representation and re-engagement.
The supply of non-cash remuneration: Employer responses

Michael Lyons and Will Ward
University of Western Sydney

ABSTRACT

This paper compares and contrasts the federal Coalition government’s system of taxing non-cash remuneration with its industrial relations system based on agreement making between employers and employees. It was anticipated that synergies between the two policies would be detected because of the government’s assertions to having simplified both systems. Analysis of over 10,000 enterprise agreements revealed that flexible remuneration clauses are rare. However, employee level data shows that the supply of non-cash remuneration is extensive. Moreover, analysis of a survey of businesses located in Sydney found the compliance costs of processing employee remuneration had increased. While the employer respondents expressed a readiness to supply non-cash remuneration to their staff, the taxation of such arrangements was found to be a considerable impediment. The results suggest that if flexible remuneration is supplied, it is probably done informally to avoid taxation compliance costs, and this accounts for the greater incidents of employer provided fringe benefits found with the employee level data. We argue, therefore, that the conflict between the government’s two policies denies employers and employees the capacity to achieve their industrial relations aspirations. Consequently, the government’s claim of having simplified the industrial relations system must be questioned because of this additional form of regulation.

Introduction

Part of the process in shifting work relationships from been conceptualised by the ‘status’ of the parties – such as slavery, feudalism, and master-servant – to having a basis in a promissory exchange to form contractual rights and obligations – the employment relationship – is the shift from payment ‘in kind’ to payment in cash (Macken et al. 1997). Payment ‘in kind’ under the truck system was considered to have connotations with slavery and inconsistent with the concept of ‘free labour’ (Stevens 2001). One of the justifications for proscribing the truck system was, in Western Australia at least, that money wages would advantage small businesses (Stevens 2001, p. 94). Generally, under Australian truck legislation (e.g. Truck Act 1900 (NSW); ss. 117-121 Industrial Relations Act 1996 (NSW)) non-cash payments can only be made if agreed to by the respective employee. Prior to 1986, if an employee agreed to have part of their remuneration paid in non-cash form they could easily reduce the amount of income tax payable. As a result, it was estimated that in 1985 about two million Australians were in receipt of some type of non-cash remuneration, or fringe benefit (Woellner et al. 1999, p. 1487). Accordingly, the Fringe Benefits Tax (FBT) was introduced in 1986 to overcome the ability of higher income employees to avoid income tax obligations by converting some of their remuneration into non-cash ‘perks’ (Gumley 1996, p. 85).

The Fringe Benefits Tax

The FBT obligations were imposed on employers in order to reduce the number of ‘taxpayers’ in administrating the system (Gumley 1996, p. 90). According to Burgess (2000), imposing the FBT obligations on employers makes its administration unequitable and complex. The method adopted by governments to reduce the FBT compliance burden on employers is to limit the type of benefit that can converted into non-cash remuneration (Bernhardt 1999, p. 104). Thus, with the exception of superannuation, some share ownership schemes, and cars, the taxation advantages of non-cash remuneration are limited (Hart 1998). The 1999 review of business taxation recommended that FBT be imposed on employees and not employers, except in the case of entertainment and car parking benefits (Ralph 1999, pp. 42-6, 217-227).
Prior to the commencement of the ‘A New Tax System’ (ANTS) in 2000, the employer only had to determine their overall FBT obligation (Martin 1999). However, the changes to the FBT introduced by the ANTS (e.g. *A New Tax System (Fringe Benefits Reporting) Act 1999* (Cth)) have added to the administrative burden on employers (Beharis 2000), partly due to the uncertainty surrounding the application of the Goods and Services Tax (GST) on fringe benefits supplied to employees (see also Mann 2000) and party due to the requirement to determine the FBT obligation payable for each employee (and include this amount on group certificates).

A particular concern for government is that non-cash remuneration can reduce an employee's reported taxable income, thus reducing their statutory obligations payable for superannuation, Medicare, and Higher Education Contribution Scheme levies and charges while at the same time bringing their income within the threshold to access government payments and rebates such as the Child Care Benefit (Lucas 1999, p. 153). The requirement of employers to report the total remuneration of employees on group certificates – cash and fringe benefits – was introduced to circumvent this problem. State governments have also amended their payroll tax legislation so that the employer's obligation is based on the total employees’ remuneration and not just the cash component (Mann et al 2001, p. 223).

From a human recourses perspective, flexibly tailoring individual employee remuneration has a number of advantages and disadvantages. While they can moderate the employer's risk in terms of the ‘principal-agent problem’, they can also be administratively burdensome to design, supervise and enforce (Kent et al. 2001, pp. 108-9). While they can improve individual performance, particularly for senior managers (Jensen & Murphy 1990), this is not a straightforward outcome (Izan et al. 1998). One of the potential issues with performance related remuneration is that the reward can too easily be regarded as entitlement (Isaac 2001), and thus be converted into an ‘economic rent’ (Norris 2000). Further, smaller businesses are not always able to offer the same flexible remuneration packages as larger firms (Oetomo & Swan 2002). In addition, remunerating staff with a combination of cash and non-cash fringe benefits is a considerable burden for small and medium sized businesses (Honan 1998, p. 298). For example, a study conducted by the University of New South Wales’s ‘ATAX’ in 1997 found that about 90 percent of taxation ‘compliance costs’ are endured by smaller businesses (cited in Chittenden et al. 2003).

**FBT and industrial relations**

Just as the revenue policy of the federal government is set out in its taxation legalisation, its policy towards industrial relations is set out in the *Workplace Relations Act 1996* (Cth). The principal objectives of the Act include encouraging employers and employees to agree on their own industrial arrangements at the workplace level (s. 3(b)) and in doing so choose the most appropriate form of agreement to give effect to the relationship (s. 3(c)). However, there is the potential for taxation policy – particularly with respect to non-cash remuneration – to be at odds with industrial relations policy. For instance, one potential danger with employee ‘salary sacrificing’ arrangements is that they may be inconsistent with an employer's obligation under industrial instruments (awards and agreements) to pay their staff at a prescribed amount (Latham 1999; Mann et al. 2001, p. 221). Indeed, Creighton and Stewart (2000, p. 235) argue ‘any fringe benefit [employees] might receive would normally have to be provided on top of the wage payments required by that instrument, rather than in substitution for them, for otherwise the award or agreement would be breached’. Consequently, industrial instruments need to contain clauses explicitly allowing non-cash remuneration for employees to avoid this danger (Bernhardt 1999, p. 105). From the employer's perspective non-cash remuneration can be used to increase the levels of motivation and performance of employees. While an employer might desire to supply such fringe benefits via ‘salary sacrificing’ arrangements with employees the taxation implications could impede the formation of such bargains.
For example, the female labour force participation rate in Australia is approaching 60 percent (ABS cat. no. 6203.0) and projected to increase over the next decade (ABS cat. no. 6260.0). Therefore, the issue of work related child care arrangement takes on considerable importance. Approximately half of all child care arrangement are due to work related reasons (ABS cat. no. 6106.055.001). Consequently, there should be a high demand by employees for their employer to provide some form of child care facility as part of non-cash remuneration. However, the FBT consequences of such a ‘fringe benefit’ skew the supply of employer sponsored child care in a number of ways. Prior to 1999 the employer needed to have either exclusive occupancy rights of the facility’s premises or exclusive proprietary rights, thus effectively restricting the supply of management sponsored child care places to large employers (Bernhardt 1999, p. 107). While this rule has been relaxed as a result of a Federal Court decision, for the provision of tax ‘effective’ child care as part of a salary package (and hence reduce the after-tax cost of child care to some employees) it appears that the main beneficiaries are employees with high incomes. Moreover, the revised FBT ruling is silent on the number of employers that can share the one centre and thus puts in doubt the utility – for both employers and employees – of ‘salary scarified’ child care places. Furthermore, child care is only GST ‘free’ if the facility receives government funding or if the child care provider is a registered carer for the purposes of the Child Care Benefit (IBISWorld Pty Ltd 2003). In short, even with the increasing demand for child care places from working parents, employer initiatives on this front, in Wooden’s words (2002, p. 177), ‘remain highly under developed’ to the extent that only three percent of Australian firms offer a child care facility at or near the workplace, while 17 percent of United States business supply such a ‘benefit’ (Russell & Bourke 1999, p. 238). Arguably, the government’s taxation regime accounts for employer inertia in this context.
The supply of non-cash remuneration

According to the Australian Bureau of Statistics, non-cash benefits constitute the remuneration packages for about 12 percent of Australian workers, and one third of managerial employees (ABS cat. no. 6106.055.001). Nevertheless, there appears to be a discrepancy between the number of employees who report being in receipt of a fringe benefit and clauses in industrial agreements permitting ‘salary sacrificing’ arrangements. Table 1 shows the proportion of employees in the major industry classifications who indicated being in receipt of at least one fringe benefit in 1992 (the last occasion this data series was collected). This data shows that more than 12 percent of the respective industry workforces received some form of non-cash benefit from their employer. Yet when the employee responses are compared with the proportion of formal collective agreements made between 1991 and 2003 that contain a ‘salary sacrifice’ clause recorded in the Australian Centre for Industrial Relations Research and Training’s (acirrt) ADAM database (Agreements Database and Monitor), a totally different picture emerges. While the employee data suggest that non-cash remuneration is widespread in the private sector, the agreements data suggests the supply of non-cash remuneration is more or less restricted to the public sector. Put another way, the industries with the highest share of public sector workers have the lowest incidents of employees receiving a fringe benefit, whereas the same industries have the highest incidents of ‘salary sacrificing’ clauses according to the agreements data. A possible explanation for this discrepancy is that the taxation costs (both compliance and money) dissuades employers and employees from formalising their flexible remuneration arrangements by including clauses in industrial agreements.

Such conjecture appears to be supported by Table 2. The table shows the extent of the supply of individual fringe benefits according the size of the business. The employee data shown is, in many respects, remarkable for there is little variation in the supply of the benefits across the different sized firms. If anything, the employee data shows that smaller workplaces are more likely to provide non-cash remuneration. Moreover, the employee data challenges the research evidence that small firms are reluctant to provide fringe benefits to staff because of the compliance costs involved.

### TABLE 2
Scope of fringe benefits, by workplace size & benefit (%)

<table>
<thead>
<tr>
<th>Fringe benefit</th>
<th>1-19</th>
<th>20-99</th>
<th>100+</th>
</tr>
</thead>
<tbody>
<tr>
<td>Child care or education expenses</td>
<td>0.3</td>
<td>0.2</td>
<td>0.4</td>
</tr>
<tr>
<td>Club fees</td>
<td>2.0</td>
<td>2.0</td>
<td>1.7</td>
</tr>
<tr>
<td>Entertainment allowance</td>
<td>2.3</td>
<td>2.2</td>
<td>2.3</td>
</tr>
<tr>
<td>Goods or services</td>
<td>19.4</td>
<td>15.6</td>
<td>17.7</td>
</tr>
<tr>
<td>Holiday expenses</td>
<td>3.1</td>
<td>4.3</td>
<td>6.6</td>
</tr>
<tr>
<td>Household energy</td>
<td>4.9</td>
<td>1.2</td>
<td>1.5</td>
</tr>
<tr>
<td>Housing</td>
<td>5.9</td>
<td>2.4</td>
<td>2.8</td>
</tr>
<tr>
<td>Low-interest finance</td>
<td>3.1</td>
<td>3.4</td>
<td>4.4</td>
</tr>
<tr>
<td>Medical or hospital expenses</td>
<td>2.5</td>
<td>2.9</td>
<td>6.1</td>
</tr>
<tr>
<td>Personal study leave</td>
<td>2.1</td>
<td>2.6</td>
<td>4.3</td>
</tr>
<tr>
<td>Share options or rights</td>
<td>3.3</td>
<td>2.8</td>
<td>4.0</td>
</tr>
<tr>
<td>Telephone</td>
<td>13.0</td>
<td>8.0</td>
<td>8.2</td>
</tr>
<tr>
<td>Transport</td>
<td>25.6</td>
<td>18.4</td>
<td>16.1</td>
</tr>
<tr>
<td>Union or professional association fees</td>
<td>4.5</td>
<td>2.8</td>
<td>2.9</td>
</tr>
<tr>
<td>Agreements with fringe benefit clauses, 1991-2003</td>
<td>7.4</td>
<td>7.6</td>
<td>19.6</td>
</tr>
</tbody>
</table>

Source: ABS catalogue no. 6334.0 (August 1992); acirrt (2004).

Note: The agreements data comes from 4,362 registered collective agreements contained in the ADAM database with workplace size information.
But once again, the agreements data shown in Table 2 implies that taxation costs of non-cash remuneration dissuades employers and employees from formalising their fringe benefits arrangements by including clauses in industrial agreements. There is, though, an alternative explanation for the discrepancy between the employee and agreements data: the volume of employer provided fringe benefits has declined rapidly since 1992 and consequently the agreement data is a true representation of the incidents of flexible remuneration arrangements in Australia over the last decade.

**Survey evidence**

In order to assess which of the two plausible explanations is the more accurate we conducted a survey of management canvassing a range of topics connected with the supply of non-cash remuneration. The survey questionnaire was mailed to 1000 businesses located in the Sydney metropolitan area, randomly selected from the list of firms contained in the ‘Australia on Disc’ business directory. The questionnaires were dispatched in August 2004. We requested that the questionnaire be completed by either the most senior manager, or the employment relations / human resources manager. Surprisingly 211 questionnaires were returned marked ‘not at this address’, suggesting a high degree of ‘churning’ of enterprises in and around Sydney. At total of 89 useable surveys were returned, representing an ‘effective’ response rate of about 11 percent.

The vast majority of replies came from commercial enterprises (84%), ‘stand-alone’ businesses (76%), and wholly Australian owned firms (91%). Over 80 percent of the respondent firms employed between 1-20 staff, with most staff (74%) employed on a permanent, full-time, basis. Consistent with the ‘size’ of the businesses, most (79%) indicated they were ‘union free’ and their industrial relations are regulated by a State or federal award (53%) with a range other arrangements (registered and unregistered collective agreements, Australian Workplace Agreements, and common law contracts) applying in the other firms. Overall, the respondent businesses expressed satisfaction with the industrial award system, with only 14 percent indicating some dissatisfaction. In light of the surveyed firms’ characteristics, if they provide flexible remuneration to their employees they would be prone to do so on an informal basis, and not via clauses in statutory agreements. The survey evidence supports this proposition.

<table>
<thead>
<tr>
<th>TABLE 3</th>
<th>Factors influencing the supply of non-cash remuneration, survey replies (%)</th>
<th>Time &amp; effort</th>
<th>FBT costs</th>
</tr>
</thead>
<tbody>
<tr>
<td>A factor in making the decision</td>
<td>19.1</td>
<td>18.0</td>
<td></td>
</tr>
<tr>
<td>A factor, but only a minor factor in making the decision</td>
<td>24.7</td>
<td>15.7</td>
<td></td>
</tr>
<tr>
<td>An important factor, but not the major factor in making the decision</td>
<td>32.6</td>
<td>29.2</td>
<td></td>
</tr>
<tr>
<td>A major factor in making the decision</td>
<td>12.4</td>
<td>19.1</td>
<td></td>
</tr>
<tr>
<td>The only factor in making the decision</td>
<td>4.5</td>
<td>7.9</td>
<td></td>
</tr>
</tbody>
</table>

Only a quarter indicated that non-cash remuneration was provided by the business. However, for most staff in the respondent firms no flexible remuneration is supplied. Conceivably, this is due to the compliance costs involved. Two thirds indicated that both the administrative costs and time and effort taken to process employee remuneration has increased over the last five years, and for a quarter of the businesses they had increased significantly. When asked what form of non-cash benefit the enterprises would prefer to supply to their employees, the responses reflected the type of fringe benefit reported by employees in Table 2: goods or services, transport and telephone. The fact that management expressed a willingness to supply some form of non-cash remuneration, yet most do not do so, is evidence that compliance costs are an obstacle.
To assess what factors might be obstacles for the employers to supply non-cash benefits, we asked what would influence their decision to provide flexible remuneration if a staff member requested it. The results are reported in Table 3. While the administration of non-cash remuneration is a factor, the taxation obligations imposed by the FBT regime are more influential. We also asked what aspects of existing compliance costs have the most impact on the business in processing employee remuneration. The results are reported in Table 4. For a third of the firms, compliance costs are not an issue. Nevertheless, the responses indicated that the FBT regime is more of a burden than the administration of other employment related staff on-costs. The replies concerning the FBT are noteworthy, if not surprising. Approximately 60 percent of the employers nominated FBT compliance as an issue for that business, despite the fact that non-cash remuneration is supplied in only a quarter of the enterprises. Can this be explained? We postulate that it can. The burdens imposed on employers by the complex taxation regime established by the ANTS in 2000 means that even if a business provides no flexible remuneration to its employees, its must calculate if the goods and/or services it supplies to staff incur GST, give rise to a GST input credit, are an ‘effective’ or ‘ineffective’ salary sacrificing arrangement, are concessionaly treated or a deductible benefit, and calculate the ‘grossed-up’ remuneration of each individual employee. In addition, they need to calculate the total remuneration of each staff member for State payroll tax purposes.

**Conclusion**

This paper has examined the intersection of the federal government’s taxation policy towards the supply of non-cash remuneration to staff and industrial relations policy that purports to give primacy to the parties in an employment relationship to determine their own industrial rights and obligations. The taxation of non-cash remuneration was introduced to protect the revenue base of the federal income tax system and to establish a more equitable taxation system by denying highly compensated employees from reducing their income tax obligations by being remunerated with non-cash perks. The initial justification for imposing FBT on employers and not the beneficiaries of flexible remuneration, employees, was to simplify the administration of the system by reducing the number of taxpayers. However, this simplicity had been replaced with the complexity of the ANTS introduced by the Coalition government in 2000. So while the Coalition’s industrial relations policy is to simplify the procedures employers and employees follow to tailor their employment relationship to suit their respective needs, the FBT regime reduces the ability of the parties to have their anticipated compensation arrangements become a reality.

Our analysis of over 10,000 formal collective agreements made in Australia since the onset of enterprise bargaining in 1991 shows that flexible remuneration clauses are included in only eight percent of agreements, and are skewed towards the public sector and larger workplaces. This agreement level data is at odds with employee level data.

Our survey of businesses in Sydney assessing factors influencing the supply of non-cash remuneration by employees offered insights into the discrepancy between the two levels of data. While a quarter of firms indicated that flexible remuneration was provided at the enterprise, the vast majority indicated that the compliance costs of processing staff remuneration had increased during the term of the Coalition government. Moreover, the impact of FBT compliance was found to be a burden for most business respondents. The survey analysis supports the employee level data; the supply of non-cash remuneration is more widespread than the agreement level data suggests, as the provision of these benefits is conducted on an

<table>
<thead>
<tr>
<th>Table 4 Remuneration processing issues for management, survey replies (%)</th>
<th>Admin effort</th>
<th>Admin costs</th>
<th>FBT effort</th>
<th>FBT costs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not a issue for this business</td>
<td>33.7</td>
<td>34.8</td>
<td>34.8</td>
<td>31.5</td>
</tr>
<tr>
<td>Only a minor issue for this business</td>
<td>47.2</td>
<td>48.3</td>
<td>40.4</td>
<td>40.4</td>
</tr>
<tr>
<td>A major issue for this business</td>
<td>14.6</td>
<td>11.2</td>
<td>18.0</td>
<td>21.3</td>
</tr>
</tbody>
</table>

N = 89
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The demise of Australian shipping: Power and control in industrial relations

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University of Newcastle

ABSTRACT

This paper will argue that the demise of the Australian shipping industry, with its repercussions for Australian seafarers and their unions, lends weight to two propositions.

Developments in industrial relations can only be properly understood by an examination of the wider economic, political and ideological environment in which they take place. A conventional, bargaining model approach does not always capture the relevant variables, and the globalised shipping industry represents the ultimate form of unfettered capitalism and demonstrates, all too graphically, the implications for labour of further increasing the influence of capital, or at least certain sections of capital, over the regulation of the labour market.

In respect of the first proposition, the paper will attempt to show that while certain developments within the industry have been highly significant to its demise, it has been the increased globalisation of the industry, along with the dramatic shift to the right in the policies of the Australian Government that are the ultimate determinants. Moreover, these government policies are underpinned by and, in turn, are reinforcing of, the growing conservatism and self-absorbed individualism of the Australian public.

The second section of the paper will attempt to show that globalised shipping is “free enterprise at its freest” (Langewesche, 2003). It satisfies a number of the major conditions for perfect competition and its operation has been disastrous for labour, ie the seafarers who are not officers. They are poorly paid, work extremely long hours and are subject to various forms of abuse. Moreover, despite a well organised and active international union, this situation seems likely to continue. Finally, under the policies of the Howard Government, these exploitative and degradating working conditions are now to be found on the Australian coastal trade.

Reference

Worker voice across organisational boundaries

Mick Marchington and Jill Rubery
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ABSTRACT

Trade unions have been through challenging times over the past 25 years as a series of pressures have reduced their influence both at workplace and national level. This has significant implications for the future of independent worker voice, particularly because evidence suggests that alternative non-union voice mechanisms have not proved effective (Terry, 2003). Much of the existing research has focused on continuing workplaces, where unions have found it hard to resist new management initiatives and collective bargaining has often shrunk to little more than a hollow shell. The situation in new workplaces is even starker as unions have experienced major difficulties in gaining recognition. However, as yet, there has been little analysis of worker voice across organisational boundaries, in situations where choices about whether or not to recognise unions or allow worker voice may be dependent on the actions of more than one employer – as in public-private partnerships (PPPs) or sub-contracting arrangements. In this paper we argue that the prospects for worker voice in these situations are bleak. One option would be to develop partnership arrangements, but these are difficult to establish across organisations that have a mass of different business contracts and rely heavily on agency labour and sub-contracting. Another option would be to try and negotiate deals simultaneously with clients and suppliers across organisational boundaries, but this is problematic for a variety of reasons. Ultimately we suggest unions may need to look ‘outside the box’ and turn to models that have been used in other countries.

The decline in union and worker voice

The last 25 years have seen major sectoral shifts in employment in the UK as well as in other industrialised countries. Employment levels have been reduced in sectors where unions were strong and voice was relatively well-embedded – such as the public sector and large parts of manufacturing – and they have grown in service sector firms that have traditionally been less well-organised. This has led to decline in union membership and influence across the economy, a trend that has been exacerbated by the increased prominence of small firms which are also slowly unionised. At the same time, employers have adopted more individualised HR styles that have tended to marginalise unions and put a primacy on ways of enhancing co-operation and unity rather than acknowledging and dealing with differences of opinion. Methods of employee involvement (EI) have been central to the HR practices adopted but these tend to be based around communications and involvement rather than grievance handling and dispute resolution. These are essentially weak forms of EI, designed solely to provide information that might help sell management decisions or improve working methods rather than give workers an independent voice (Dundon et al, 2004).

There are basically two ways of looking at the decline in union representation and worker voice. Firstly, it could be argued that there is a representation gap, whereby workers are keen to join unions but are prevented either by management actions designed to keep unions out or by the failure of unions to seek recognition. In short, this sees the lack of voice as an unfulfilled desire on the part of workers. Secondly, it is suggested there has been a withering of support for unions and workers are not actually that interested in becoming members. This might be because they lack knowledge of what unions do or they are opposed to them in principle, and the fact that younger workers have much lower rates of union membership offers some support for this view (Charlwood, 2003). Whatever the cause, there has been a significant growth in what Bryson and Gomez (2003) term the ‘never generation’, people who have never been union members during their working lives or have no contact with people who are. Between 1983 and 2001 this rose from 28% of the working population to 48%.
We would argue that the growth of multi-employer workplaces has contributed significantly to the rise in the ‘never generation’. Contrary to established notions of a single employer workplace, the multi-employer workplace is one where a web of contracting and sub-contracting arrangements takes place. Four examples illustrate what this means in practice: an airport, located on one site, in reality incorporates several employers and a myriad of different employment relationships – such as agency workers on short-term contracts, staff seconded to other employers to provide services on a regular basis, and those on so-called permanent contracts working for yet another employer; a hospital includes nurses and doctors employed by an NHS Trust, nurses from an agency and ancillary staff employed by a private firm that has a long-term agreement with the NHS Trust; a multi-client call centre, although distanced from client workplaces, has workers from different employers and agencies deployed on separate client contracts and subject to varying degrees of control by the client; a private sector firm which contracts-out cleaning, catering, security and long-term construction work to different employers, each of which has workers at the same establishment as those employed by the firm.

In short, the reality of the single employer establishment and organisation is now a myth, but there has been little systematic analysis of what this means for employment relations and HRM, as well as for worker voice and representation. In circumstances such as these, an attitude survey of staff working at a hospital is meaningless unless it is clear whether all staff, including those working for a range of employers, have been included. Equally, a partnership agreement between an employer and a trade union is of little value if it excludes large numbers of people working at the site. The question of organisational commitment is also problematic if workers have difficulty identifying who is their ‘real’ employer due to multiple influences over their working patterns (Earnshaw et al, 2002). These issues are discussed in greater depth elsewhere (see for example Marchington et al, 2004a; 2004b; Rubery et al, 2003; 2004).

The union response

In this paper we explore how, in multi-employer workplaces, worker voice typically becomes fragmented and divided, and in some cases muted altogether. Whilst it has been hard for workers and unions to retain a voice in continuing workplaces, attempting to establish voice in new organisations or where workers may be moved around between contracts is extremely difficult. Even workers employed by the same organisation, or from the same profession, but employed by different organisations at the same workplace, face major problems in generating and sustaining shared identity and commitment with their colleagues. Furthermore, whilst some sections of the workforce employed by the same organisation may be able to sign-up to partnership deals, others can be disenfranchised because they work at a site that lacks union traditions or they work increasingly alongside agency workers who show little interest in or have few opportunities to articulate their voice. The problems unions face is well summarised by Erickson et al (2002: 544):

‘Organising workers in industries where the employer is elusive and where layers of sub-contracting diffuse responsibility across multiple actors is a problem for unions throughout the world.’

Historically trade unions in the UK have focused their attention on the regulation and protection of workers’ economic interests, narrowly defined at the sectoral, company or workplace level, with limited engagement in policy debates at the societal level (Crouch, 2003). While this could be seen as a source of strength because workers are able to deal directly with employers that are trying to reshape employment relations, the lack of voice beyond the organisation also exposes trade unions to the wider impact of economic restructuring. If employers are not prepared to enter voluntarily into recognition agreements or the ultimate employer is elusive – as in sub-contracting arrangements – few opportunities exist for workers and unions to articulate their voice. Nevertheless, the main instruments that have been used for trade union renewal and modernisation in the UK – the partnership and organising approaches - are workplace-based and predicated on the notion of the single employer.

For many unions, the partnership model has formed a centrepiece of their recent strategy, supported by TUC Partnership Institute and the work of the Involvement and Participation
Association (IPA). This works on the assumption that the best way for trade unions to protect and enhance their members’ interests is to co-operate with employers in order to achieve mutual gains (Guest and Peccei, 2001). Most of the quoted studies are drawn from simple organisational forms, often in a single industry or workplace, and in these circumstances it is easy to overlook the potential advantages of collaborating with other workers and instead focus on the benefits that appear to flow from identifying with the employer. However, the ability of partnership to secure benefits in a multi-agency context is much more doubtful due to potentially conflicting objectives both between workers and between organisations. Tensions are always likely across a network because employers have conflicting goals from business contracts, and these can spill over into hostility between workers employed by ‘partner’ organisations. Both parties may be committed to ensuring maximum gains from the contract, and if penalties are invoked for poor performance the result may be conflict between workers. Similarly, there may be little interest in achieving mutual gains for workers across the business contract since a major reason for sub-contracting in the first place is to reduce costs and keep down wages. Permanent staff may indeed be hostile to agency workers who they fear provide a cheap and flexible source of alternative labour, a situation which is exacerbated if the agency does not have a recognition deal with a union. Even within a single firm that has a partnership agreement at corporate level, or one that covers some groups of workers at one site and not others, tensions can arise between staff employed on very different types of employment contract, in different parts of the country, and from different occupations. In general it is difficult to develop a case for partnership in contexts where there are multiple employers at the same workplace or where a single firm engages in multiple types of business contract.

An alternative approach for unions is to try and establish unity and solidarity across the network, and adopt the organising approach to mobilise worker voice. This works on the principle that grass roots activism is the best way to sustain union renewal and ensure the development of worker voice because it is embedded at the workplace. This has also been supported by the TUC through its Organising Academy (Heery, 2002). However, this too runs into problems when we consider worker voice across organisational boundaries, especially if work is fragmented and undertaken by workers who have little chance to compare notes about their employment conditions. Moreover, it requires remarkable resilience by workers on insecure contracts – such as agency workers or temporary staff – to declare openly they are willing to be union representatives in an environment where it is known unions are not welcomed. The chance of building up commitment to the union is again limited if workers are on short-term contracts or they move around frequently between different jobs – and employers – even if this is at the same workplace. Attempts to organise union meetings can also be problematic if different employers are not prepared to allow their staff time off or the contracts operate at different times of the day. As with partnership, the organising approach faces a series of obstacles once one moves beyond the confines of the single employer model.

Changing organisational forms and the reshaping of work

The project from which this paper is drawn was financed by the ESRC under its Future of Work Programme. It involved eleven different researchers, initially all based at the Manchester School of Management, UMIST, and it examined a total of 59 organisations across eight networks. In total nearly 500 people, from all levels in the organisational hierarchy, were interviewed for the project and masses of documentary information were collected from the organisations that took part. The networks included PPPs, franchises, agency work, supply chain agreements and other forms of inter-organisational mechanisms for producing goods and delivering services. The workplaces at which data was collected included a range of small to large establishments and organisations spread around the country, which had variations in gender balance and occupational mix. Moreover they ranged from the well-organised to union-free. A key factor was that we interviewed people from both sides of the business contract: from clients and suppliers, from public sector workplaces and private sector agencies, and from large and small firms. Although we make no claim that our findings are statistically representative, they are theoretically grounded and, in our view, capable of generalisation due to the richness and depth of the data we collected. For the purpose of this paper we focus on four of the networks.
The **customer service network** comprised several contracting arrangements between a relatively new firm specialising in customer relationship management activities (TCS) and a number of the organisations it dealt with. Two locations were investigated in depth. At the multi-client call centre, employment policies varied significantly due to the influence of the client and the nature of the business contract, as well as due to relations between TCS and the agency that supplied it with labour. TCS had a partnership agreement with staff working at another large centre but those working at the call centre were not unionised although a staff forum was in place. At the other site, a long-term partnership deal operated between a local authority (Council X) and TCS for administering housing benefits, with employment policies for transferred workers reflecting local government traditions, including high levels of union membership amongst those transferred to TCS. Agency workers were less likely to be union members.

At the **airport**, a large number of organisations collaborated with each other to provide services, such as check-in and baggage handling, to the airlines. Very close co-ordination was required between the different organisations to ensure that, so far as reasonably practicable, planes took off on time. Prior to the government's anti-monopoly legislation, many of these tasks were undertaken by different sections of the airport's staff, but now staff and tasks are now routinely sub-contracted, raising problems for worker loyalty and commitment, as well as issues of how to manage and control the inter-organisational labour process to provide high levels of customer service. Levels of union membership were high across the board here, particularly covering staff who continued to work for the baggage handling company that was a wholly-owned subsidiary of the airport.

The **teacher supply** case examined relations between an agency that provided supply teachers (TeacherTemp) to schools in north west England. Although TeacherTemp is a relatively new organisation, it now has a sizeable share of a growing market. It operates through head offices in towns and cities throughout Britain, managing these with a small core of staff responsible for recruiting teachers onto their books, liaising with schools and local education authorities, and marketing the agency. Contact between the consultants at TeacherTemp and the senior teachers in schools tended to be frequent and regular, and business contracts were short-term in nature for the most part. Whilst teachers employed by the schools were highly unionised, membership was less attractive to agency workers particularly because the agency did not negotiate with unions. Nevertheless, agency teachers were still quite highly unionised.

The **chemicals** case investigated relations between a manufacturing plant (Scotchem) - itself part of a large multinational chemical firm – and organisations in chemicals, road transport and ancillary services sectors. The site has a large degree of autonomy in its arrangements for sub-contracting, and contracts varied in scope and size, as well as their importance to either party, but since reputation, health and safety and reliability are all important to Scotchem, close inter-organisational relationships were important to the company. In the case of the contract between Scotchem and Securiforce - the company that delivered security services at the site – we found that whilst levels of union membership remained high at Scotchem and a partnership agreement was in place, the security staff had no opportunities for voice.

**Union identity and worker representation**

In all cases union identity and the influence of worker representatives was affected by changing organisational forms. At the chemical firm, security duties used to be undertaken by Scotchem workers who were on the main salary grades for chemical workers, as well as being union members, but once this work was contracted-out pay levels reduced significantly. Moreover, Securiforce did not recognise a union nor did it have any mechanisms in place for worker voice, and the unions representing workers at Scotchem showed no interest in these workers. If anything, they resented their presence and were as willing as management to blame security staff if things went wrong. Agency workers showed a lower inclination to join unions, even though in the housing benefit and supply teacher cases they were entering workplaces with high levels of active unionism. Interviews revealed little interest in unions. Unions were not considered when the call centre was set up as a green-field site even though TCS had a partnership agreement and dealt with unions at other sites.
For a variety of reasons, it proved hard for workers who were employed by different organisations or on different business contracts to build up commitment and identity to each other. They lacked opportunities to talk about whether they shared similar grievances, and at the call centre the only thing that bound them together was a common canteen for staff. Even here there was little chance to mingle because the business contracts varied so much. The airport had once been a site with strong and cohesive union organisation but this became fragmented and disjointed as workers were put onto different contracts and in many cases actually worked for different firms. Tensions became very apparent not just between those employed at different firms but also between permanent and temporary staff, men and women, and those on separate pay bands. In all these workplaces the value of union membership appeared to be called into question.

Prospects for partnership

We have already mentioned that TCS and UNISON have a partnership agreement that potentially covers all staff working for the organisation. In reality however, this was restricted to one or two sites with a long history of unionisation and whose work was inherited by TCS when it was set up; newer contracts, such as at the non-union call centre or the housing benefits work – which was gained from the public sector – are not included in the agreement. Part of the problem is vastly differing traditions. For example, staff working in housing benefits have a professional background and local authority traditions, and they are located some distance away from most other TCS staff. Whilst TCS is prepared to accept a continuing union presence at this site, the company prefers to devolve HR management to separate business units so that it can be tailored to the specific circumstances of the contract. The UNISON officials working at this site when TCS took over the contract were sceptical about the value of partnership and preferred to retain their existing arrangements, hoping to maintain links with the rest of the local authority branch. Although many of those who transferred from the local authority still work at the site, they are being supplemented by a growing number of agency staff and workers who have been recruited by TCS since the contract was implemented. In short, a combination of management and union preferences, plus an increasing mix of workers from different backgrounds, has meant that partnership has not been extended to this site.

The situation at the call centre was rather different. Here, there was no question of unions being recognised when TCS opened the facility, as at that time the company was intent on developing a union-free environment at its new sites. Moreover, there was sensitivity to the wishes of clients, and it was felt any moves to recognise unions could prejudice business contracts – even though in at least one case the client had a partnership agreement with its own staff at a separate site. TCS tended to treat each contract separately, and it did not want to establish a company-wide approach to deal with specific HR decisions such as union recognition. UNISON was also aware that attempts to gain recognition at the call centre would be difficult and costly, and with limited resources union officials decided to concentrate their attentions elsewhere, both in terms of servicing existing members at other sites and in starting campaigns where it was felt there would be a better chance of success. Ultimately, however, despite partnership being espoused by senior managers and union officials in public, it had not been extended to many other sites in the company. This resulted in worker voice being disconnected within and beyond the organisation.

Unity and solidarity across the network

If workers are employed on the same business contract up and down the supply chain there could be some mileage in unions seeking to develop voice across organisational boundaries. Unfortunately, contracting relations often tend to exaggerate differences between workers, thus making cooperation more difficult to achieve. There was clear evidence from our cases that workers on different sides of a business contract found it hard to identify closely with their colleagues even if they had worked alongside one another in the past. Supply teachers were typically regarded in a poor light by the permanent staff at schools; it was felt they were not committed long-term to the students and also appeared lazy and unwilling to do additional work – such as attend parents’ evenings. It was also hard to establish close relations when placements may only be for a short period, in many cases no more than a day or two (Grimshaw et al, 2003).
Supply teachers were less likely to complain about problems or join with the permanent staff in taking forward a grievance, largely because they were fearful about being blacklisted by the school or the agency.

The situation at the airport had also changed substantially with the growth of inter-organisational relations, in particular between those working for the two baggage handling firms. Union representatives at one of the firms tried to persuade managers not to cooperate with the other firm, even though they knew this could have negative consequences for workers there. Whilst it might be expected that secondments to other organisations could lead to shared identities across firms, in reality this only tended to make workers keen to get a transfer to what they regarded as better work. At the housing benefits office, staff from the council and TCS worked closely together in processing claims, with the former being responsible for signing off forms for payment. Despite regular meetings between staff from the two organisations and frequent telephone contact, there was little evidence that workers were prepared to cooperate with one another across the business contract. Instead they tended to blame each other for problems. Relations between union representatives working at the council and at TCS were no longer close, even though housing benefits staff had been heavily involved in the branch prior to their transfer. Not only did it become difficult to get time off to attend, representatives from TCS also found there was little of direct relevance to them on the agenda.

Conclusion

It should be apparent from this short summary that opportunities for worker voice are limited in the context of inter-organisational contracting. Peripatetic workers faced major problems because they did not have a continuing base and those on uncertain contracts were cautious about raising grievances for fear of reprisal. Employers were sometimes elusive, especially when layers of sub-contracting were created through agency work and secondments. Unions themselves faced problems in choosing where to target recruitment drives due to weakened finances and limited resources. Whilst they have proved very valuable in renewing unions in single employer workplaces, we found neither the partnership nor the organising models had much relevance in multi-agency networks.

So, what options exist for unions seeking to establish and extend voice mechanisms in the context of the contracting culture? Drawing on a series of initiatives the following are worth considering further:

- Negotiating up and down the supply chain and trying to mobilise workers employed by different organisations, as well as seeking to influence the substance of business contracts so that profits are not made solely from exploiting those in a weaker labour market position;
- Getting members for life, by trying to encourage a long-term commitment to the union with less focus on inter-union competition and more on retaining members and recruiting the ‘never generation’;
- Enlarging the playing field, by focusing on ‘portable’ benefits that are not specific to one workplace but have meaning and relevance more generally – issues such as child care, community well-being or environmental safety – as well as collaborating with wider interest groups (Wever, 1995);
- Extending legislation to provide workers with more specific protections, by allowing comparisons in relevant cases across organisational boundaries in the areas of equal pay and discipline/dismissal, and in clarifying the position of agency workers (Earnshaw et al, 2002).

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The effects of performance management and cross-cultural training on outcomes of international assignments: Preliminary Australia-China findings

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ABSTRACT
The study reported in this paper seeks to understand how cross-cultural training and career development for expatriates is integrated into performance management in Australian ventures. Using in-depth interviews with expatriates, this paper identifies a deficiency in current literature and business practices which overlooks the importance of training and career development in the design of performance management systems. This highlights the need for a more integrative model of performance management.
Re-working institutions to protect low-paid work: 
Implications of the Irish experience

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ABSTRACT

Debates about national labour market institutions have tended to concentrate on economic growth and the maximisation of employment, but what about the conditions of that employment? This paper considers the potential for national institutions to influence the quality of labour market outcomes for the low-paid. The recent successful experience of Ireland is analysed. The possibility that issues of equity might be addressed by national partnership arrangements has implications for many countries. At a theoretical level the paper raises questions for the theory of 'competitive corporatism' and argues for a greater focus on the institutional arrangements that provide for equitable social outcomes.

Introduction

Must national labour market strategies neglect social outcomes? Since the early 1980s, the pressure for countries to deregulate their labour markets in order to remain competitive within the global economy has been pervasive. The market-led approach has dominated the debate over models of capitalist organisation with much of the political discourse predicting eventual convergence. The institutional comparative literature, however, rejects the convergence thesis and argues that the predominant trend in industrial relations has, if anything, been divergence. Instead, it points to the emergence of neo-corporatist social pacts, or ‘competitive corporatism’, which takes account of employers concerns for competitiveness and flexibility while building social consensus and maintaining social protections (e.g. Rhodes, 1998; Soskice, 1999).

While much of this literature focuses on the way in which labour market institutions and bargaining structures promote co-operation, stability, human capital development and so on, and thus enable employers to develop long-term competitive strategies around high value-added production (e.g. Traxler, 1995; Thelen, 2001), much less emphasis has been placed on the issue of social protections. It seems to be taken for granted that the ‘competitive corporatist’ model delivers equitable outcomes for workers, even if to a lesser extent than the corporatist arrangements of the 1970s. The social outcomes under the neo-liberal model are certainly well established. In the US and UK, for example, there has been a growth in unskilled, casualised and low-paid jobs and an increase in the numbers of “working poor” (e.g. Rubery, 1997; Osterman et al, 2002), while in New Zealand, labour market deregulation under the Employment Contracts Act resulted in reductions in pay and loss of bargaining power for more vulnerable groups of workers (e.g. Conway, 1998; McLaughlin, 2000). Much less focus has been placed on the social outcomes in the theory of competitive corporatism.

This article is part of a wider doctoral research project which examines the labour market strategies of three small economies, New Zealand, Ireland and Denmark, and how effectively they address issues for low-paid workers. Here the focus is on Ireland. 28 interviews were conducted in Ireland during 2004 with senior representatives of employers’ organisations, trade unions, government, community groups and industrial relations academics. Unless otherwise stated, the material and ideas are drawn from these interviews. The data analysis is not yet complete and thus the ideas presented here should be considered at this stage as ‘work in progress’.
Ireland is of relevance for a number of reasons. Firstly, in line with the conference theme of ‘Reworking Work’, the Irish case challenges the neo-liberal view on institutions and regulations for governing the world of work. In the Irish context there is some, though by no means universal, agreement that the Irish system of industrial relations under ‘Social Partnership’ is best described as ‘competitive corporatism’ (e.g. Hardiman, 2000 & 2002; Roche, 2004). Secondly, Ireland has been of particular interest to industrial relations actors in the New Zealand context, and the subject of many delegations of unions and policy makers interested in the success of other small open economies. While Ireland’s phenomenal economic performance is of interest, equally of interest is the ‘social partnership’ approach to addressing both economic and social development.

The paper proceeds by firstly outlining the turnaround in economic performance and the emergence and development of social partnership in Ireland over the last 18 years. In the second half of the paper two key areas of importance to any discussion on labour market protections are analysed. The first relates to issues of low pay and income inequality and how well they are addressed. The second related to issues of representation. It also considers how the interests of the marginalised in the labour market are kept on the political agenda. The paper argues that the Irish case provides evidence that labour market deregulation is not a necessary component of economic success. It also argues that a variety of institutional arrangements need to be considered for promoting the interests of low-paid workers in a context of decreasing union influence. Finally, it suggests that the Irish model raises some questions for the theory on “competitive corporatism” and how well it provides for equity. While Ireland has moved towards the European model of social pacts in terms of process, it would appear to be moving away from the European model in relation to social outcomes.

**Ireland’s economic turnaround**

The story of economic growth in Ireland is impressive by any assessment. In the mid-1980s, the economy was in severe recession with a debt to GDP ratio of over 125% and average growth in GNP of around half a percent. Wage inflation was very high and real wages were decreasing. The nominal wages of manual workers, for example, rose by over 100 percent in the 1980s but in real terms they fell by around 7 percent. Unemployment peaked at around 17 percent while total employment levels decreased, and at the same time the labour force was shrinking as a result of high levels of emigration. By the end of the 1990s, the contrast was dramatic. Economic growth was averaging 8.5 percent per annum and public finances were under control with the debt to GDP ratio one of the lowest in Europe at 60 percent. Unemployment began to fall from 1994 onwards and by 1999 was below 7 percent. It has continued to fall since and is now around 4 percent. The unemployment story is all the more remarkable in the context of a labour force which has expanded by over one-third since the late 1980s with numbers in work having risen from 1.1 million in 1987 to over 1.7 million by 2004. At the same time, the standard of living also increased spectacularly, with GDP per head of population levels rising from around 60 percent of the EU average to over 110 percent of the average – higher than countries such as the UK, Germany, France or Sweden. (For a more detailed analysis of economic performance see Nolan, O’Connell & Whelan, 2000).

There is some agreement about the reasons for Ireland’s turn around in fortunes though the relative weight of these is contested. Certainly there is no doubt that high levels of foreign direct investment (FDI) in high tech sectors such as pharmaceuticals, chemicals, microelectronics and information and communication technologies played a key role. Most of the FDI was American MNCs attracted by low corporate tax, comparatively low wage costs and thus high profits, with the rate of return on investment averaging 20 percent in the latter half of the 1990s, the highest rate in Europe by some significant margin. In addition, Ireland had a young, well-educated, English-speaking but under-utilised workforce. Ireland also provided US MNCs with a doorway to EU markets. The Industrial Development Authority is also credited with playing a significant role in targeting and attracting clusters of strategically important sectors that would enable the Irish economy to “move up the value chain”. Another component of the economic turnaround included vast levels of EU funds for investing in infrastructure and training of the labour force, though arguably the size of its impact is small (Aust, 1999; Hardiman, 2000 & 2003).
Finally, there is the social partnership, which many commentators (though not all) would argue played an important role in Ireland’s impressive economic success by moderating wages, providing an industrial relations environment of peace and stability, and providing political legitimation to the policy changes, particularly in the early years of achieving debt reduction and fiscal control. The emphasis here, however, is not on its contribution to economic performance but to social performance. The following section outlines how the ‘social partnership process came about and the way it operates before moving on to a discussion of key issues from the perspective of low-pay.

**Social partnership**

While voluntarist decentralised bargaining has been a central feature of Irish industrial relations for a significant part of Ireland’s modern industrial relations history with no legally imposed framework for bargaining and dispute resolution, the practice of centralised tripartite wage bargaining pre-dates the current social partnership model. From 1970 to 1980 there were nine national pay agreements between unions, employers and the government. The latter agreements went beyond just wage bargaining and included government commitments on a range of public policy issues such as taxation, social welfare, education and training, housing, labour law and employment creation, in exchange for constraints on industrial peace and wage restraint. However, in the early 1980s the process collapsed in the face of significant wage drift, industrial conflict, and poor economic performance. Thus, there was a return to decentralised bargaining with the government attempting to set pay norms through its public sector agreements as well as through publishing pay guidelines for the private sector, though these were largely ignored (Roche, 1997; O’Kelly, 2000). Consequently, nominal wage increases were inflationary while industrial conflict continued to be a problem. The fiscal situation continued to worsen, partly as a result of the “catch all” nature of Irish politics. With no clear left and right political parties, the two main parties Fine Gael and Fianna Fail take support from across the political spectrum and as a result tended to ‘buy’ electoral support from various pressure groups (Hardiman, 1987; Roche, 2004). Accordingly, the nature of Irish politics meant that for both parties, any programme of neo-liberal reform was not on the agenda. Indeed, even tackling government spending would alienate segments of the electorate.

The return in 1987 to centralised pay bargaining is most often explained in terms of desperation and a shared sense of crisis about the continuing poor economic performance. There was also a shared analysis of the key problems; unacceptably high levels of unemployment and public debt, both of which were caused by poor economic growth. It was the trade unions who initiated the process of change. In 1984 they acknowledged the need for a restrictive incomes policy and advocated a co-ordinated approach. This was taken up in the 1986 report by the National Economic and Social Council (NESC), a tripartite body which had been established in 1974 to offer strategic advice on economic and social matters. What they offered in this report was not political choices but an “imperative” to build a solid macroeconomic policy that would reduce debt and raise competitiveness. They also advocated a co-ordinated approach to wage bargaining as well as a focus on social integration so that the costs of fiscal adjustment were not carried by those on welfare. To this end they advocated an increase in benefit levels (Aust, 1999). For the new Fianna Fail government elected in 1987, negotiation provided the best means of bringing government spending under control without serious political fallout (Hardiman, 2003).

For the unions, the motivation for a return to centralised bargaining was threefold; membership levels were dropping significantly, their members were experiencing decreases in real income, and they were concerned about political marginalisation given what had happened to the labour movement in the UK under the neo-liberal programme of Thatcher’s government. While the two major parties in Ireland were unlikely to go down this path on their own, Fine Gael had flagged up liberal economic policies as a possibility, and the recent electoral success of a newly formed liberal party, the Progressive Democrats, meant that the unions could not be certain that Ireland would not go the same way (Roche, 2004). In signing up for the initial partnership agreement, the trade unions were signing up for significant cuts in government spending which would impact on jobs for their members in the public sector. As one government official described it, ‘these were quite draconian measures’ agreed to.
The one group that was less certain about joining the process was employers. Given the failure of centralised pay deals in the 1970s they were apprehensive about local level wage drift and the Government’s political will to follow through with spending cuts. However, given the failure of the recent period of free wage bargaining to bring about wage moderation or reduce industrial conflict they were able to be cajoled into signing up by the Irish Prime Minister. They have since become convinced by the degree of stability and certainty on wage costs, taxation and economic development provided by the model.

Thus, the first three-year agreement, the Programme for National Recovery (1987-1990) was agreed which placed sharp limits on pay increases (3% on the first £120 per week and then 2% on the remainder). The quid pro quo for wage moderation and agreement on cuts to social spending was tax cuts as well as government commitments on social policy. It is generally agreed there was an element of luck in the success of the first agreement as it coincided with an upturn in the international economy. The resultant drop in inflation led to a significant increase in real disposable income, which then paved the way for the negotiation of subsequent agreements (Hardiman, 2002).

Tax cuts for pay moderation have been a feature of all six agreements (though in the latest agreement they were only discussed at the mid-point and are not formally part of the agreement). The scope of the issues addressed has widened with each agreement. The second agreement, the ‘Programme for Economic and Social Progress’ (1991-1994), included government commitments to implement legislation for protecting part-time workers and improving equal opportunities and dismissal protection. All parties agreed to address the issue of long-term unemployment and to that end a pilot project of publicly funded employment was introduced. This was expanded significantly in the third agreement, ‘The Programme for Competitiveness and Work’ (1994-1996). This agreement had a strong focus on addressing unemployment, and training and skill formation given that at this stage there had been economic growth but no significant improvement in unemployment.

An important development in the fourth agreement, ‘Partnership 2000’ (1997-2000), was the inclusion of an additional actor, the community and voluntary pillar, made up of representatives of community and religious groups which work to address various areas of marginalisation such as poverty, unemployment and gender equality. This reflected a widening of the agenda from economic and employment issues to wider issues of social inclusion. The subsequent agreements were The Programme for Prosperity and Fairness (2000-2003) and Sustaining Progress (2003-2005). The latest agreement was unusual in that the pay element was only negotiated for 18 months because of economic uncertainty. Thus, the social partners came together again to negotiate the second 18 months during 2004.

Underpinning the negotiation of the social partnership agreements has been the development of an increasingly complex array of institutional structures. These include bodies for monitoring and reviewing the agreements and resolving disputes, more than 20 working groups to address initiatives included in the agreements, and a number of agencies whose role is to provide strategic direction and forums for consensus-building on key economic and social issues. These various groups consider issues as diverse as international competitiveness, life-long learning, child care, and the social inclusion of prisoners on release. In addition, the partnership model has extended from the national level to the sectoral and local levels. Workplace partnership is well established in the public sector though the development within the private sector has been disappointing.

The social partnership model is founded upon a consensus-building process. Preference-changing dialogue, experimentation and informed-debate lead to a search for pragmatic policy solutions (Teague, 2002). A number of interviewees noted that while there may not be a shared understanding on all issues, the process of dialogue helps to break down ideology and intransigent views on various issues and build trust between the social partners. There are two important factors which facilitate the dialogue. Firstly, the nature of small economies makes consensus easier to build with a high degree of familiarity between the various social partners. As one interviewee said, ‘everyone knows everyone – you pass half of them along O’Connell Street at lunch time’. Secondly, the institutions and forums exist in which the various social
partners can arrive at shared understandings of economic and social issues and discuss policy options. Indeed, the failure of the tripartite arrangements in the 1970s was in large part to do with conflicting understandings of the economic situation (Hardiman, 1987). Sectional interest and hard nosed positions remain, however, a feature of social partnership. Before each round of negotiations both unions and employers threaten to withdraw from the process in order to win concessions (Roche, 2004). To what extent this reflects instability in the process as opposed to ‘an Irish jig that everyone dances to keep their constituents happy’ is unclear. Confidence in the sustainability of the model seems low, but then no one has an alternative. ‘It’s a bit like the house that Jack built’ said one government official, ‘no one is sure which direction it should fall, and so its stays standing – ironically with more support from the majority of union members than ever before’.

The pursuit of social objectives

It is one thing to describe the effectiveness of the institutional structures and processes, but it would be a mistake to analyse them without considering the outcomes they aim for and achieve. The economic outcomes have already been pointed out, but how far has the Irish experiment succeeded in its social objectives? Much of the discussion in Ireland in recent years has been about the distributional impacts of the partnership agreements. While all boats have been rising on the incoming tide of economic prosperity, they have not been rising equally (Kirby, 2002). Living standards have increased across the board with absolute poverty (a measurement of absolute deprivation used in the National Anti Poverty Strategy) having fallen from almost 18 percent of the population in 1987 to just over 5 percent by 2000. While this is a significant improvement given the country’s history of poverty, whether absolute poverty is now an appropriate indicator for a wealthy industrialised country is a contentious issue. Relative poverty, on the other hand, increased during the economic boom period of 1994-2000, with the proportion of people whose income is below 60 percent of the median rising from almost 16 percent to 22 percent (NESC, 2003). This is explained by the rise in average earnings from employment and property, while adjustments to welfare payments have not kept pace. In addition, the emphasis on tax cuts in the partnership agreements has been regressive benefiting those in employment over those reliant on welfare. Tax cuts have also had implications for social spending. Despite Ireland’s significant economic growth, the government spend on welfare as a proportion of GDP has actually been falling with current levels marginally above the US and well below the EU average. Thus, the focus in the partnership agreements has been on the market wage through pay increases and tax cuts rather than the ‘social wage’. Obviously this has implications for the model of social service provision with a basic level of provision provided for all and then those who can afford it, supplementing this (O’Riain and O’Connell, 2000). While there is widespread dissatisfaction with the current levels and standards of service provision, survey evidence shows the public has no desire for tax increases (Hardiman, 2003). Indeed, in the latest pay negotiations over the second 18 months of Sustaining Progress, the government indicated there would be further tax cuts in the coming budget.

From a labour market perspective, earnings inequality has also widened substantially. This is a trend that has occurred in a large number of open industrialised economies as returns on skilled jobs have commanded a premium in an era of escalating technology and knowledge. In Ireland’s case, dispersion of hourly earnings between top and bottom deciles was already one of the highest in the OECD prior to 1987 (behind the USA and Canada). While it has continued to rise, the increase was most pronounced in the pre-boom period of 1987-1994, suggesting that the period of rapid growth did not accentuate earnings inequality. In addition, a closer analysis of the spread shows that it is more a case of higher increases for the upper deciles, reflecting the changing nature of the Irish labour market with growth in high-tech sectors and increasing returns on education, rather than the lower deciles being left completely behind (Barrett, Fitzgerald & Nolan, 2000). Furthermore, with the large numbers of unemployed entering the workforce during the second half of the 1990s as unemployment dropped, in many cases in to lower paid work, it is not surprising that earnings inequality increased. Indeed, a number of interviewees were surprised that income equality was not much greater given all these factors.
 Nonetheless, low pay is still an issue in Ireland with recent United Nations data (UNDP, 2001) showing Ireland to have one of the highest proportions of its workforce categorised as low-paid, second only to the United States. As is the case generally elsewhere, the low-paid in Ireland are more likely to be young, part-time, women over 25 (particularly married women – a problem exacerbated in Ireland by a chronic shortage of affordable child care facilities) and working in retail and personal services (Barrett et al., 2000). In addition, low-paid jobs in Ireland have increasingly been filled by immigrant labour on work permits given the tight labour market. (This is an area where there have been many anecdotes in the media of exploitation and this is supported by the experiences of unions working in low-paid sectors. However, there has been no research and the Inspectorate office of the Department of Enterprise, Trade and Employment (DETE) deny it is a significant problem).

The social partnership agreements have addressed low-pay but whether they have done enough is debatable. The agreements have tended to include a special increase for low-paid workers but on the whole they lack the wage compression element of the wage agreements in the 1970s. The focus instead has been on providing an adequate safety net and to this end a minimum wage was introduced in 2000 and tax credits were introduced with the eventual aim of having those on the minimum wage pay no tax. A commitment was made under the terms of The Programme for Prosperity and Fairness (2000-2003) to take those on the minimum wage out of the tax net, though currently only 90 percent has been removed. The minimum wage was introduced at £4.40 which at the time equated to 56 percent of median hourly earnings (Barrett et al., 2000). However, with no mechanism implemented for reviewing it and with significant rises in average earnings over the last four years it quickly fell behind in relation to median earnings. Under the most recent agreement, Sustaining Progress, the government committed to raise it to €7.00 per hour from February 2004, which brings it up to around 60 percent of median hourly earnings. This represents one of the highest minimum wages in Europe. There is no evidence of any negative impact on employment levels since the minimum wage was introduced.

As far as other conditions of employment are concerned, Ireland has relatively low levels of regulation and employment protection, more akin to the UK and the US than continental Europe. For example, statutory redundancy payment legislation only applies after two years service and minimum rates are very low, and there is no statutory right to sick leave. There have been a number of legislative commitments by the government in the national agreements though many of these were primarily driven by the implementation of EU directives. Thus, changes were made to improve rights for fixed-term work (2002), part-time work (2001), parental leave (1998) and working time (1997). While there has been an increase in part-time, temporary and other forms of atypical employment, very few part-timers are looking for full-time work suggesting that the growth in non-typical employment has been voluntary. This explains why trade unions are not overly concerned about issues of casualisation but are more focused on pay. The trade unions do claim responsibility for the legislative ban on zero hour contracts and premium rates for Sunday working under the Organisation of Working Time Act 1977.

One additional institutional mechanism that applies in low-paid sectors such as catering, hotels, retail grocery, agriculture and security is Joint Labour Councils which set minimum terms and conditions of employment. These are the same as the Wage Councils in the UK (abolished in the early 1990s) and similar to industry Awards in New Zealand prior to the ECA. They are negotiated between unions and employers from the sector with an independent chairperson who has a casting vote if needed. The agreements are not automatically linked to the partnership agreements and so trade unions must request a meeting to negotiate the increases contained in the partnership agreements. The agreements tend to set minimum rates for various categories of workers with higher rates for length of service and positions of responsibility. They also include other minimum terms of employment which may not be covered by law such as overtime, sick leave and pensions (not all agreements include all these terms). The agreements are then registered as an Employment Regulation Order and become legally binding on all employers in the sector. Enforcement is then down to the Inspectorate, though with only 17 inspectors to enforce the JLCs and other areas of the minimum code, there is general consensus that the service is grossly under resourced.
Social outcomes under partnership, then, have been mixed. On the one hand the standard of living has risen for all, unemployment has come down, there is a good minimum wage and, while low-paid workers may not have seen their incomes rise proportionately with higher paid workers, social partnership has prevented the real income decreases at the lower end of the distribution that have been experienced in the USA and UK (Hardiman, 2000). On the other hand, labour market inequality is among the highest in the OECD, employment protections are generally weak and with a low tax regime the ‘social wage’ has been declining. Furthermore, there is a significant level of debate about the distributional effects of partnership, with the wage-profit ratio having falling considerably in Ireland since 1987, more so than in the UK, one of the bastions of neo-liberalism. While workers have gained through rising living standards, the biggest beneficiaries of the Irish success have been employers, and in particular MNCs (Aust, 1999; Kirby, 2002). Given the central role that trade unions play within the social partnership model, the following section looks at the institutions and processes for representation and asks why things have not been better from an equity point of view.

**Representation of the voiceless**

Trade unions face a number of paradoxes and tensions within the Irish context in trying to represent workers. Despite their high profile in negotiating pay rises in the social partnership agreement, union density has been falling. It was around 55 percent in the 1980s but has since fallen closer to 40 percent, in line with trends across Europe (though membership numbers have actually been rising but the labour market has been growing at a faster rate). Within the public sector density is closer to 80 percent but in the private sector it is estimated to be only about 25 percent. In low-paid sectors rates are much lower. MANDATE, which represents retail workers, has union density of about 15 percent and the majority of their members work in large organisations, with 60 percent in closed shop agreements. With high turnover in the sector, the union needs to attract an additional 12,000 members a year to maintain membership levels.

Collective coverage rates across the economy are about the middle for EU countries. Between those covered by the partnership agreements and those covered by other collective agreements, total collective coverage is estimated to be somewhere around 65 percent (IRN, 2003). However, an issue that gets little discussion in the literature on the social partnership but is very relevant for any analysis on low-pay, is the extension of the pay terms of the social partnership agreements. The pay element only applies to those workers who are under the employment of organisations affiliated with the Irish Business and Employers’ Confederation (IBEC) and there is no legal extension or *erga omnes* to the rest of the labour market. It seems to be assumed that the social partnership creates norms that flow out to the rest of the labour market though there is no research to back this up. Unions may be able to use the agreements in collective bargaining in other organised employments. However, given that Ireland has a large number of small workplaces, many in low-paying sectors, it is possible that significant numbers of workers are covered by only the minimum code and market forces and thus, may not be sharing in the benefits of social partnership.

Part of the problem for unions is the lack of institutional support for union recognition. Ireland has never had statutory recognition but up until the 1980s it was policy to encourage collective bargaining with unions. The government policy in this area, however, changed with the arrival of large numbers of union resistant high-tech employers. The union response has been to try and gain statutory recognition through the social partnership but they have so far been unsuccessful. The government is fairly open about not wanting to upset the goose that lays the golden eggs and, consequently, MNCs have a fairly significant influence over policy even though they outside the social partnership agreements. Thus, paradoxically, Ireland with its partnership model of dialogue and consensus building joined the UK in opposing the EU directive on information and consultation. Obviously, the lack of union recognition has implications for union organising in low-paid sectors where the membership trend is downwards. A compromise solution reached in the last agreement was ‘right to bargain’ legislation. This provides for the imposition of a binding settlement in companies where collective bargaining does not take place. It is too early as yet to tell what impact the legislation will have.
There are also tensions within the union movement with varying priorities given the range of workers they represent. Thus, while unions representing low-paid workers may be more interested in pushing for flat rate increases and tax cuts at the lower end of the scale in the agreements, the priorities for unions representing middle income earners are percentage increases which benefit their members more than a flat rate increase and upward adjustment of the higher tax band thresholds. Unions representing lower paid workers claim it is difficult to get low-pay onto the agenda and that many of their counterparts feel the minimum wage has done enough to address low-pay.

This raises questions about how the voiceless are represented in an era of decreasing unionisation and falling density, when institutional supports for unions are inadequate, where unions have divided priorities amongst themselves and where they are not necessarily representing the interests of the low-paid and unemployed. The role of the community and voluntary pillar is therefore of particular importance. While employers and unions remain the central actors in the agreements, the community and voluntary pillar play a more significant role than unions in keeping issues for the low-paid and welfare recipients on the agenda. For example, it is they who have been pushing most for the government to honour its commitment to take those on the minimum wage out of the tax net, and for welfare benefits to be indexed to average industrial earnings so that inequality is not further widened. While there is some debate about how influential they are in driving social policy (Hardiman, 2000), they would argue that the social partnership gives them high-level access to represent the interests of marginalised groups and to hold government accountable for commitments they have made under the partnership agreements. Their involvement also gives them a public profile which they use to maximum effect in the media to keep social issues on the agenda.

**Conclusion**

The focus in this paper has been on the Irish experience and its implications for issues of low-pay elsewhere, both at a policy level and theoretically. At a policy level, for small open economies adrift in the maelstrom of world competitiveness, the good news is that deregulation and rampant neo-liberalism are not essential components of a successful economy. Ireland has shown this. Indeed, Ireland has shown that social partnership is important for building cohesion and providing legitimacy for change in a period of rapid economic adjustment. In addition, it has shown that regulations and mechanisms for providing decent minimum wages and collective bargaining structures for low-paid sectors can be part of a successful strategic approach. The result of this has been that Ireland has not experienced the real income decreases at the lower end of the distribution evident in the USA and UK.

Nonetheless, there are some issues of concern including growing income inequality and a reduction in the social wage. In addition, in an environment where union density is decreasing and unions are struggling to have influence at workplace level, questions arise about giving voice to the issues of low-paid workers. Moreover, unions increasingly represent the low-paid less and less, and they are not always the ones advocating the cause of the marginalised in society. The alternative mechanism to collective representation for advancing worker rights has traditionally been legal minimums. The Irish case shows the value of including a wider representation of civil society. Their influence may be limited but the social partnership process provides them with the forum to raise issues and gives them access to the corridors of power to hold government to account for commitments they have made.

At a theoretical level, Ireland raises questions for the theory of competitive corporatism. Ireland would certainly appear to fit within the framework of neo-corporatism, at least in terms of process, but questions remain over the social outcomes. If the theory of competitive corporatism is to take the dimension of social protections seriously then more work is needed on analysing the differences and similarities in social outcomes under different social pacts, and the institutions and regulations that provide strong supports and decent protections for low-paid workers in such countries. It is somewhat paradoxical, that while Ireland has adopted the approach of the more recent continental European social pacts, its social outcomes appear to be moving it in a different direction.
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Rethinking new public management: Community development jobs and practices in Australia

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ABSTRACT

The paper will discuss within a framework where real or imagined standards, and traditions, procedures and means of accountability that were upheld were not being updated or adapted, the changes of the New Public Management (NPM) has created new circumstances in which the jobs and practices of community workers and managers in Australia were not only taking on new functions but becoming increasingly closely involved with the private sector attitudes, and practices and community organisations, particularly where private bodies were providing expertise and technology to enable community organisations to improve services and delivery in pursuit of their management goals. The fragmentation of organisations and the primacy of the contract culture have increasingly affected how community managers and workers perceive their roles, functions and future in Australia. While operating within a community service ethos, community management are more likely to begin to see themselves as employees of a specific community organisation. The new community managers and community workers of community organisations want autonomy, they criticise bureaucracy but prefer some financial guarantees, not so different from the old leaders of denominational community organisations earlier.

Introduction

The development of the welfare state after the Second World War led to the expansion of publicly financed but privately provided welfare state financed but privately provided welfare state services. The scheme of full recognition and public payment of private, mainly denominational, organisations was also adopted for a number of other services, such as health care, welfare work, housing and media. But only in the case of education was equal financial treatment of public and private services given a place in Australia. Lijphart (1968) supplied essential guidelines for its administration, such as the acceptance of extensive liberties of action of the organisations and the principle of proportional representation for the distribution of facilities between the pillars and of benefits between the respective segments of the population. However, the successful liaison with a growing welfare State was not without consequences for the functioning and character of the institutions. As service industries they modernised, increased in scale and professionalised. Their ideology and denomination became less and less relevant and the networks eroded.

The ‘reform of the welfare state’ in Australia was a mixed blessing for the community sector. Reforms were directed towards cutbacks in public expenditure, territorial and functional decentralisation, privatisation and deregulation. Many community organisations felt the need, or were forced, to reorganise, scale–down or commercialise due to the decreasing levels of government funding. In addition, deregulation meant the end of the community sector monopoly in certain areas and gave newcomers the opportunity to enter the domain previously dominated by the community sector. On the other hand, community sector have experienced a reduction of direct government interference and a growth of independence. On the other hand, they have lost tasks and resources, and have been forced to accept commercial newcomers in their fields. Privatisation also stimulated community sector activity. The term privatisation is often associated with the private commercial sector, but were also state agencies pushed off to the private community sector, for instance in health and housing. Some notable examples of government agencies that moved to the community area are housing organisations and heath care institutions.
At the beginning of a new century, the conclusion may be drawn that the overall result of privatisation for the community sector has not been a loss of ‘market share’ as a strong incorporation of ways of the market into its behaviour of community organisations. In a few years a terminology of entrepreneurship, marketing and market niches has become quite popular among the offsprings of old private initiatives. An important stimulus in this culture shift has been the growth of new service providers at the margins of the community sector as result of functional decentralisation. The new managers and community workers of these community organisations want autonomy, they criticise bureaucracy, but prefer some financial guarantees, not so different from the old leaders of denominated community organisations earlier. One could say that privatisation has continued the tradition of the private provision of community services.

The New Public Management, based on modern microeconomics and contract law, provides a new set of tools for the transformation and so called improvement of the community sector. Community services are increasingly adopting a range of techniques based on market models for assessing costs and risks. In the 1990s, Australian Government resolved that management by objectives was to be introduced into all community organisations. The reforms are part of an international trend following Margaret Thatcher’s TINA concept; there is no alternative. A more flexible, result-oriented and cost effective community sector is thought to have a vitalising and rationalising effect on the welfare state. Concepts such as management, strategic planning, service, customer orientation, and also total quality management and entrepreneurial spirit have cropped up in community organisations.

New Public Management implies emphasis on the control and responsibility of top community management, incentives, competition, quantitative result indicators, and measures of efficiency and effectiveness. Resources are to be managed better, and new reward systems are to provide motivation and discipline for community workers. Decentralisation and deregulation are highlighted as instruments for providing better services and in making the community sector more service-minded. The same goes for flexibility in hiring practices and the use of community relations’ techniques. The New Public Management philosophy for community management is built on the idea that social progress is achieved through economic productivity; increased efficiency and productivity is the result of ever-improving and increasingly sophisticated information processing technologies and community organisation, as well as increased room for community management manoeuvring.

Rhodes (1991) argues that the new public management was a determined effort to implement economy, efficiency and effectiveness of government and the community sector. According to Rhodes (1991) the new public management has the following doctrines: a focus on management, not policy, and on performance appraisal and efficiency; the use of quasi-markets and contracting out to foster competition; cost-cutting; and a style of management with emphasises, amongst other things, output targets, limited –term contracts, monetary incentives and freedom to manage.

Dunleavy (1994:38) points to an ideological dimension arguing ‘new public management is the domesticated, de-politicised version of ‘new right’ or ‘market liberal’ policy analysis, made somewhat more technical, consensual and generic. Effectively, NPM has become a generic label for a group of policy and administrative solutions emphasising competition, disaggregation and incentivisation’. He further argued (1994:61) that ‘there is a clear danger of the radical outsourcing evangelism coinciding with bureaucratic incentives for organisational reshaping and political loss of confidence in the nation state as an expression of the collective life of complex societies’.

Friedman (1990:21) mentions ‘both physical and human capital must be cared for and replaced. That is even more difficult and costly for human than for physical capital-a major reason why the return to human capital has risen so much more rapidly than the return to physical capital’.

Tanner (2004:11) mentions ‘we’re working longer and harder, separating from our partners and children more, living alone more, moving more. We’ve built a society in which we have less time for our children, less interaction with our neighbours and less involvement with community.’
Community jobs and practices

In this concept community workers, their jobs and practices is considered a profession that can perform community management through a more critical attitude towards the use of resources and trade union activity are intended to make it possible to do more for less. Is this concept fit for reforming the welfare state and the community sector?

Despite the burgeoning literature on the New Public Management reforms, there has been a tendency to overlook the implications of these reforms for employment relations on community jobs and practices in the community sector. The impact of the NPM reforms involves a radical shift from the traditional community service sector. The central elements of community service sector included; uniform employment conditions; recruitment based on merit; promotion based on merit; rights and duties of community workers; tenure of appointment; and pension benefits upon retirement. These elements of community service underpinned personnel administration within the Commonwealth and were also central to the community sector personnel administration. Private sector management practices were not viewed as applicable to the Australian community sector because of political, equity and social justice considerations.

Proponents of the NPM are essentially reacting against the traditional procedures and formalities evident in the traditional community jobs and practices approach to personnel management. They emphasise instead flexibility in employment arrangements instead of tenure of appointment and the need to measure the performance of community sector managers and community workers and to quantify the outputs they achieve (Davis, 1997; Painter, 1997).

As well as emphasising the supposed shortcomings of the community sector service model, advocates of the NPM reforms emphasise the similarities between the nature of managerial work in the community and private sector. (Pusey,1991). They adhere to the maxim that management skills are generic and can be transferred unproblematically from the private to the community sector. (Pusey,1991). Advocates of the NPM model also maintain that management techniques and practices imported from the private sector are context free, value neutral and applicable to the effective operation of the community sector regardless of the political aims or objectives of governments (Gray and Jenkins, 1995; Hood, 1995).

However, the ideological underpinning of the NPM model involves a reaffirmation of the rights and prerogatives of community managers. This implies that the goals, which the community sector organisations pursue and the means by which community workers interpret their responsibilities should be decided by community management (Yeatman,1987).The value and belief system that is reinforced has been referred to as unitarism; a managerial perspective that seeks to legitimate community management within the workplace and which propagates the view that common goals unite both management and community workers. Community managers within this framework also emphasise the need for a united structure of authority, leadership, and loyalty, with full managerial prerogative legitimised by all members of the community organisation. (Fox,1974).

Bendy (1956) mentions all community enterprises have in common a basic social relation between the employers who exercise control and the community workers who obey, and all ideologies of community management have in common the effort to interpret the exercise of authority in a favourable light. To do this, the exercise of authority is either denied altogether on the ground that the few merely order what the many want; or it is justified with the assertion that the few have qualities of excellence which enable them to realise the interests of many.

The approaches adopted by community managers towards their community workers can characterised as oscillating between a high trust approach emphasising responsible autonomy and a low trust, or more overtly authoritarian, alternative (Fox, 1974; Friedman, 1990; Wright, 1995). Friedman (1990) outlined two approaches community managers adopt; direct control and responsible autonomy: Under ‘responsible autonomy’, community managers seek to utilise the malleable aspect of community workers’ potential to work by providing them with increased responsibility, minimum supervision and by encouraging their commitment to the community organisation.
Conversely, under direct control strategies community workers are subjected to heightened surveillance by supervisors and the community job is subjected to fragmentation and a detailed division of community work. (Friedman, 1990). Both direct control and responsible autonomy contain contradictions that have the potential to limit their effectiveness. Under direct control, the treatment of community workers as machines subjected to close supervision overlooks the independent and potentially hostile will of community workers. Similarly, community workers under ‘responsible autonomy’ may not absorb the community organisation’s corporate culture and may remain aware that community management’s ultimate goals involves higher levels of profitability rather than satisfying the needs of the community jobs and practices workforce (Friedman, 1990).

While Friedman’s typology has also been criticised for merely representing a simple dichotomy, in his response to such criticisms Friedman (1990:185-6) mentions ‘the two strategies represent what I believe to be fundamental contradiction of the labour process in a class—divided society. There is always a fundamental tension between the need to gain cooperation or consent from those who do the work, and the need to force them to do things they do not wish to do, or to be treated in a way which is against their own interest, in order that the goals of those in control of the labour process be achieved. This contradiction is fundamental to all class-divided societies’.

In a similar vein, Legge (1995) outlines two contrasting strategies that human resource community managers may adopt towards community jobs a ‘hard’ model involving ‘utilitarian instrumentalism’ and a ‘soft’ model emphasising ‘developmental humanism’. The hard model emphasises the need to integrate community workers human resource strategies with the community organisation’s business strategy. This approach perceives the community organisation’s human resources to represent merely another factor of production whose cost management has to minimise (Legge, 1995). This approach highlights the ‘quantitative, calculative, and business strategic aspects of managing headcount resource in as “rational” a way as for any other economic factor (Legge, 1995). In contrast, the ‘soft’ approach advocates integrating community human resources management to the community organisation’s business strategy by treating community workers as valued assets, a source of competitive advantage through their commitment, adaptability and high quality of skills, performance and so on.

Some commentators have attempted to portray the NPM reforms as a high commitment approach to community workers management. Baker (1989) states community workers human resource management in the community sector seeks to generate the commitment of community workers by providing increased job satisfaction and more opportunities to participate in decision-making.

A workplace reform agenda emphasising community workers development emerged in the community sector in response to a series of National Wage case determination. Community workplace reform emphasised development through the broadbarding of tasks and focus on multi-skilling, community career paths and increased community workforce participation in decision-making (Curtain, R; Gough, R. and Rimmer, M., 1992; Mathews, 1994).

Technological and community organisational change arising out of the community workplace reform initiatives was believed to represent an opportunity to enhance community workers skills levels and increase community workforce involvement. Mathews (1994) noted that community workplace reforms had generated a more skilled and committed community workforce and it is these people policies, with their emphases on continuous community skills formation, the development of community career paths, the opening up positions to minorities, the development of jobs that challenge and fulfill, and building of structures that allow for participation and involvement that have been crucial. However, Mathews (1994) also conceded that limitations of the computer system meant that processing work within the community organisation continued to be monotonous. This gave rise to accusations that multitasking had been oversold, and had become identified with the task overloading, so that one boring task became many boring tasks. Cordery, J. I., Mueller, W.S. and Sevastos, P.P. (1992) state multi-skilling may amount in many situations to little more than a simple community management strategy for the more effective deployment of community work, with few substantial changes to job content, required skill level, or a community worker’s opportunities for intrinsic.
Thus despite the rhetoric of multiskilling and community workers’ development, for many community workers’ in the community sector workplace change initiatives have involved an increase in routine community work tasks.

The NPM reforms have little to do with the community employer attempts to humanise work, involve minimal consultation by community management and have done little to improve community workers morale. Boston, J., Martin, J., Pallot, J. and Walsh, P. (1996) mention that for many community workers the changes in employment conditions have resulted in low morale and high levels of job insecurity and point to the dominance of a ‘hard’ utilitarian instrumentalist model of community human resource management.

**Effect of reforms on the community sector**

What is it about community sector reform that has had such an adverse effect on community workers and managers? First, there is a higher rate of workplace change going on in the community sector. The opening of the Australian economy and its exposure to the forces of globalisation has had a bigger impact on the community sector than the private sector. In responding to the Asian economic crisis, the Australian Government made conscious choices to reshape the community sector in a program of microeconomic reform and budgetary stringency which required substantial program of microeconomic reform and budgetary stringency which required substantial savings in the community sector. While ‘market forces’ acting on the external account may have helped this strategy, it was sustained by an ideology that imposed more discipline and change on the community sector than market forces themselves imposed on the private sector.

Second, the character of the community sector workplace change has been distinct. One example concerns the ‘downsizing’ process that resembled a management fad in the private sector but which has become ubiquitous in the community sector. While job losses were more common in the community sector than private sector, there were also quite distinctive patterns of reasons for those job losses. ‘Lack of demand’ was a reason commonly associated with the private sector, whereas ‘financial problems and difficulties’ and ‘government-initiated restructuring’ were commonly associated with the community sector. Community workers attitudes varied according to the reasons for job losses. Community workers reacted more adversely—with higher stress and dissatisfaction with community management—when job losses were due to financial problems rather than because of lack of demand. (Morehead, A., Steele, M., Alexander, M., Stephen, K. and Duffin, 1997). The author suggest that community workers’ are more likely to be able to understand and accept job losses that arise from external demand conditions, and find greater difficulty in accepting job losses that are seen to be imposed because government is starving community organisations of funds. The apparent arbitrariness or irrationality of such approaches increases stress, uncertainty and distrust.

Third, the NPM brings with it a series of cultural clashes which effect community workplace perceptions and attitudes. For many community sector employees, the NPM creates a new set of objectives and values that are dissonant with those that have permeated the community sector culture in the past. For example, the new managerialism may appear to undermine notions of equity that have had such a prominent role in the community sector management practices; fears that fairness is losing its importance lead to stress, distrust, insecurity and dissatisfaction.

**Conclusion**

The paper has explored the impact of New Public Management on community jobs and practices in Australia in recent years by reference to a substantial body of literature. In a period of rapid economic change, the reform agenda has imposed more discipline on the community sector than market forces have imposed on the private sector. It has brought about cultural clashes and community organisational restructuring that community workers have had difficulty in accepting. The New Public Management agenda to introduce market-based solutions, increase the prerogatives of community managers and community workers, measure performance and cut costs, in particular labour costs, has tended to promote distrust, stress and dissatisfaction at the community workplace and has been retarding the growth of high trust and non-authoritarian approaches to community workers management.
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How do young people find out about the world of work?

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ABSTRACT

Young people comprise a significant proportion of the Australian labour market, despite the fact that school retention rates are improving. This is due to the increasing number of young people taking up part-time work while at school and university. Young workers are crowded into particular industries, forming, in the words of Lipsig-Mumme and Nielsen (2003), a “reserve army of the precariously employed young”. The deregulation and increasing complexity of arrangements governing how wages and conditions are determined in Australia, as compared with a decade ago, mean that the work context for young people is a difficult one. In contrast to the array of information provided by schools, employers, and career services on occupations, students learn much less about their rights and responsibilities in the employment relationship. This paper reports on preliminary research that explores the activities of various industrial and non-industrial actors in Queensland, and how they provide information and education for young people about their rights and responsibilities at work. It documents a considerable amount of activity, involving government departments, trade unions, and quasi-non-government organisations. However, this activity is uncoordinated, does not emphasise employment conditions, and is not integrated into most young people’s places of learning or work. Given young people’s near universal participation in the labour market, this suggests that many young workers may be unaware of their rights and vulnerable to exploitation.
**Time and work**

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**ABSTRACT**

The cry is heard in many walks of life that we do not have enough time to do everything we want. There are the pressures of paid work and need of many to juggle employment with household demands, volunteer work and leisure. We are witnessing an intense “space-time compression” due to faster transportation, the internet, communication satellites and the increasing speed of money markets. Against the background of these concerns, this paper explores the issues of time and work. There are many different types of time and that humanity has shaped the perception of time. People designed the hours, days and months. Historians also classify past time into eras.

The paper focuses on two temporal dimensions of work - temporal boundary and temporal content. Temporal boundaries of work are the lines that divide work from leisure and paid work from unpaid work. How many hours or days do we work for payment in a week? How much annual leave and how many holidays? How unpaid work at home is divided on the basis of gender and class? The temporal content of work is the way in which work is organised on a temporal basis. What is the speed of work? How do workers overcome a perception of slow moving time at work?

Finally, the paper explores temporal frames of reference. There is a focus on the past, present and future – historicism, “presentism” and futurism. At its worst historicism is antiquarianism which focuses on history for its own sake and denies any link to the present or future concerns. Historians can also ignore the context in which events occur. Similarly “presentism” denies the relevance of the past, while futurism becomes pure fantasy with no grounding in past or present experiences. Despite these divisions, the three temporal frames of reference are linked. The paper will explore these frames of reference by examining the issue of industrial democracy or employee democracy.
The paradox of precariousness: Exploring the experiences of part time and female workers

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ABSTRACT
The concept of non-standard employment has gained increasing currency over recent decades. Typically, it is closely associated with the notion of precarious employment. There is significant debate in the literature about the benefits and drawbacks of non-standard employment, ranging from increased flexibility to poor salaries and working conditions. Drawing on a national survey of one thousand employees, this paper explores the experiences of part time and female workers in Australia. The findings challenge conventional wisdom about the precariousness of non-standard work, revealing that a segment of the female and part time workforce are highly satisfied and have organisational citizenship. These findings suggest that non-standard employment is in fact, a core element of the contemporary labour market. This argument is reinforced by the ACTU's current policy initiatives to strengthen protection and extend benefits to employees in non-standard arrangements, through the Work Family Test Case (2004).
The organiser’s tale (of three barbies): Home grown community unionism in a less favoured region

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ABSTRACT

In this paper we want to look at the experience of one union’s attempt to successfully organise a Greenfield call centre site in an old industrial region of South East Victoria in Australia – the Latrobe Valley. The paper is based on discussions and formal research interviews that the co-authors have carried out since the early days of the union’s attempts to organise the call centre. Gail Drummond was an organiser with the CPSU who led the organising strategy aimed at the Call Centre; she now works for the ACTU in the Organising Centre.

Introduction

In this paper we want to look at the experience of one union’s attempt to successfully organise a Greenfield call centre site in an old industrial region of South East Victoria in Australia – the Latrobe Valley. The area, about 150 kilometers South east of Melbourne covers four small to medium sized towns and has a population of just under 70,000. It still supplies around 85 percent of Victoria’s energy needs through power generation based on open cast brown coal mining. With particular reference to union organisation in Call Centres, the paper picks up on Kelly’s observation that we do not know much about how union organisation originates. In particular the paper can be seen very much as the Organiser’s Tale and in that light can be seen as complementary to the work of Taylor & Bain (2003: 170) who outline the process whereby, in a UK call centre, from collective interest definition and attribution there arose the desire for unionism, that is for a particular form of collective interest representation. Taylor and Bain argue that discontent is necessary but not sufficient for collective identification. The role of individuals (officials, activists, delegates, shop stewards and their political orientation) is vital in channeling the emergence of interest identification and a sense of injustice. Following Kelly’s use of mobilisation theory (Kelly 1998, see also Danford et al 2003: 17) it is argued that mobilisation depends on the ability and willingness of leadership to direct workers sense of injustice toward management, and further that such action often hangs on critical incidents which provide the opportunity for anti-management leadership. In effect such incidents allow for employer provoked collectivisation of employee discontent. As we shall see Gail’s experience follows pretty much this pattern. However where Taylor and Bain told the story of the process of unionisation from the employees point of view, here we tell a similar story but from the point of view of the organiser.

Call centres and local economic development

Governments and regional development agencies around the world are marketing themselves as call centre locations with these characteristics in mind. However, as Richardson and Belt (2001, p. 74) point out, all these competing regions do, in attempting to emphasise difference, is selectively harness positive images and data to present a sales pitch which simply reflects the sameness with all other localities involved in the game. It is, in effect, the latest twist in the downward spiral of dog-eat-dog regional competition fuelled by unchecked place marketing. Additionally, call centres are increasingly abandoning metropolitan locations and seeking areas further down the urban hierarchy. This is partly due to government action and incentives as well as rising land and labour costs, but also because regions that are disadvantaged by distance and/or perceived economic uncompetitiveness can be attractive to call centres, which provide the possibility of unlocking under-utilised labour markets.
According to Budde (2004) regional call centres can be ten to 15 percent cheaper to run than Metropolitan based centres but in rural and regional Australia they have to overcome problems of poor technology infrastructure, insufficient numbers of qualified staff and unreliable electricity supply.

There are however a number of shortcomings associated with call centre employment in such regions:

- call centres offer only limited possibilities for career development. Managers tend to be parachuted in and stay for limited periods. Belt (2001) argues that, for women, large numbers of routine jobs and flat organisational structures limit career opportunities.
- LFRs tend to attract only a limited range of call centre activities, which occur at the lower end of the spectrum in terms of skills and pay levels; and
- call centre employment may not be sustainable, through outsourcing, offshoring, and further developments in ICTs.

Therefore, although much regional development rhetoric around call centres focuses on the knowledge economy, high technology investment and information industries, the reality may be both more mundane and more problematic. For the Latrobe Valley, the new Call Centres importance was couched in the familiar terms of job creation bringing the new economy to an old region. However, despite aiming at employing more than 500 people, the parent company played down the job creating role as the opening was accompanied by the rationalising of a number of smaller regional centres, including one in the town next door. What was not discussed was the level of subsidy that came with the location, the relatively low wage levels in the locality compared to metropolitan sites or how these factors might combine to reduce relatively high levels of labour turnover experienced at other parent company call centre sites. Crucially, for the first time the parent company had outsourced management of the site to an American specialist call centre operator, who hitherto had not recognised unions on any of their premises.

**Locality, community and union organisation.**

For Mather, Taylor & Upchurch (2004) current patterns of neo-liberal restructuring opens up civil society and presents unions with a new set of strategic choices, particularly given the crisis of what they define as social democratic forms of trade unionism:

‘The challenge is thus to develop new methodologies that are able to grasp the reciprocal relationship between trade union power and the wider society following the crisis and decomposition of social democratic trade unionism.’

One such strategy may be community unionism, although as some critics have pointed out (Stirling 2004) examples outside of the US are few and far between, tend to be isolated, short lived and extremely local. Wills & Simms(2004) has argued that community unionism itself is not new and has taken at least three different forms over many years of collective organisation in the UK, culminating in what she describes as reciprocal community unionism in which unions work with their communities rather than on their behalf. In the current context, Stirling following Wills & Simms (op cit) and Lipsig-Mumme 2003) develops a three fold categorisation of community unionism:

‘Firstly there is community as identity. In this sense the union is the community in that the trade unionists are members of a community dominated by a single employer such as a pit village...The community, the employer and union are entwined in a reciprocal relationship. Community action is likely to be oppositional to the employer and defensive – such as in a wage dispute or closure – and derived form a shared identity and a sharedness in the outcome.’ (ibid: 4)

Stirling ascribes such an approach to old monoindustrial communities (such as the Latrobe valley). However, as we have seen, community unionism could take a number of forms in these circumstances and this approach does not take into account changing historical circumstances nor the contested nature of notions of community.

Stirling’s second category sees community as resource. “This describes a situation in which both the unions and the community can share common interests and utilise each other as resources. The relationship will have peaks and troughs and periods of dormancy but be associated with
the longer term development of reciprocal relationships that are not necessarily focused on an organising campaign in a particular workplace or in a particular occupation but in building mutually supportive strategies'. (ibid: 5)

This may be focused on longer term strategies with regard to particular communities (eg ethnic minorities) that challenge established union ways of working.

Finally there is the notion of community as instrument. ‘This describes a situation in which there is no necessary ‘organic’ connection between the union and the community but both might utilise each other for instrumental reasons. Particular workers are targeted and they are often those at the margins of traditional trade unionism. House calls, public meetings and the local media become key strategies alongside the mobilisation as supporters of the community organisations that represent the targeted workers. On the other hand, the community might be seeking organisational help for a petition or for accessing people with power. In both cases, this is generally a short-term relationship with clearly defined outcomes that can be met and dissolve the relationship.’ (ibid: 5)

As we shall see, in Gail’s case versions two and three can be found within the same strategy, bringing into question the usefulness of the formulation. However, on this reading then community unionism offers a threefold possible advantage. Firstly it is part of a strategy that can increase union membership. Secondly by working with community organisations unions can achieve credibility with ‘outsider groups’. Thirdly, the community itself provides a point of pressure on the company that is useful in developing corporate campaigning strategies.’ (ibid: 12-13). However, Stirling goes on to argue that in all these cases there is an assumption that workplace union organisation is ‘in place’. Community unionism, for Stirling, is dependant on effective workplace organisation which it can support but not replace. Our argument will be that this is a false dichotomy, the relationship between workplace union organisation and community should be dialectical not dichotomous. We now turn to experience of organising in the Call Centre, an organisation whose workforce was an archetype of the new flexible economy, being composed mostly of young women with no personal history of union membership.

**Unionising the call centre: A tale of three barbies**

The union in general and Gail in particular had chosen the region specifically to test some of the ideas that were emerging from the Organising Academy as well as fledgling ideas of community based unionism.

‘I actually targeted here because of the union history of the area’

‘I was hoping that the culture of the union was still alive and some rubbed off’

Survey data from the region (Rainnie et al 2003, Rainnie et al 2004) would seem to suggest that working people in the region were concerned about the nature of work and employment in the Valley, particularly its apparent casualisation, and remained relatively well disposed towards trade unions. On the other hand, the once powerful Gippsland Trades and Labour Council was almost on the verge of extinction.

Earlier organising attempts by another union through the activity of a locally based organiser had failed. The CPSU initiative was triggered from within the Call Centre itself:

‘A call came into the CPSU Membership Service Centre in June of last year (2002). The caller worked at TeleTech in the Latrobe Valley and was not happy with the way that he and his colleagues were being treated at work. He asked if I would come to his house to talk to them about the benefits of joining the CPSU. He invited four other people employed by TeleTech to his home to meet with us.’

‘From this first meeting the four other employees also arranged meetings in their homes and invited more employees along. We had started to get people interested in joining the CPSU using friendships and networks in the community. This group of people was quite amazing. They were not scared to let other employees of TeleTech know that they were now Union members, they even went as far as wearing CPSU lanyards - a mammoth step for workers in such an intimidating environment.’
‘We started calling other CPSU members working in different areas of the Valley to see if they knew of anyone that was working in the TeleTech call centre. We found another six people willing to join the CPSU by doing this.’

It is worth stressing again Stirling’s point that there are not a lot of living examples of community unionism upon which to draw, therefore strategy and tactics emerged and evolved in practice. However, in any situation, organising is never going to work and form the basis for collective organisation and action without an issue that can be identified and attributed to the actions of management. In this case it was rosters and pay, rather than the much vaunted issue of surveillance which has occupied the minds of researchers on Call Centres:

‘I went in over the pay slips that they actually weren’t recording the actual hours worked. They were recording that they were working 38 hours a week. In actual fact they’re required to come in 15 minutes earlier every day. So they’re actually working more than 38 hours a week so their pay slips aren’t true. So there was my breach. And it was hilarious. We went into the call centre. I think we signed up 30 people in two days. People were just so keen to have a union inside that call centre.’

Organisation and action spiraled and soon we arrived at the first of a series of important barbeques.

**Barbie #1**

‘During July last year the few members that we had, along with some of our members from other workplaces in the Valley, arranged a BBQ in the local park. The members decided that the situation at TeleTech was not improving for them. Getting paid the correct amount each week seemed to be the biggest problem. Our members were ready to bring things to a head. Our members organised a stop work meeting for the following Monday morning. They used a phone tree to call their workmates at home and to let them know about the intended action’.

‘Forty-five workers marched up - that’s pretty huge but that Friday morning ..they’ve never done that marched up and asked the HR manager for a meeting’

‘She wouldn’t come out and meet with them in the lounge together and it was absolutely stunning because one person said she bugged us every day when we were by ourselves and so you could see these 45 people feel the power... absolutely wonderful, because they’ve got it. And they have and they haven’t been disappointed and nothing has happened for them taking that action. So it’s been a really very good process for them and they are a union.’

The action involved a large risk of going badly wrong and was extremely stressful for all concerned:

‘It was one of the scariest things that I had ever been involved with. I was worried that no one would walk off the job at the designated time. I was also worried that the employees could get the sack. Yet seeing the empowerment that it gave the workers was just amazing. This action had been a huge risk and luckily it paid off.’

‘They were all paid by twelve o’clock on Friday which is what we demanded.’

The implications of the success of the action ran far beyond the Call Centre itself:

‘Out of this action we got a lot of local support and media. The community was appalled that locals were not being paid correctly and getting the sack for taking too many toilet breaks.’

This action was closely followed by the second barbecue which was deliberately aimed at problems of the region as a whole and not just the Call Centre.

**Barbie #2**

‘I was still trying to increase visibility and community involvement. I got in touch with St.Vincent de Paul, a local charity. They do things pretty hard in the Valley because of
the high level of unemployment. I arranged to hold a BBQ to help raise money for the soup kitchen that they run. TeleTech would not let us do this on site and we were forced to do it on the nature strip outside the call centre. The local council gave approval for the BBQ and also waived the fees that you would normally have to pay. Whilst speaking to the woman at the council, she arranged for me to meet her daughter, who worked at TeleTech. She signed up as a member. Our attempts to increase visibility were paying off, people were joining the union.

The thinking behind a community issue and community involvement went beyond a simple recruitment drive, rather it was driven by an understanding that with the increasing casualisation of the labour market (exemplified by the turnover rates in the Call Centre), the union would have to have relevance in all areas of people’s lives if they were to retain an active and committed membership. Furthermore, in contrast to the old heavily male dominated unions whose image was not always positive even to those sympathetic to unions, integrating social justice issues into the activity of the union contrasted with the old view of such issues as optional extras to bread and butter workplace organisation.

The next stage in the recruitment drive was a weekend blitz. This involved Gail and three graduates from the Organising Academy collecting names and addresses of people who worked in the Call Centre and then visiting as many as possible at home during the course of one weekend. Gail was also aware that as a tactic a blitz was flavour of the month but not guaranteed of success:

‘It’s a bit of a silver bullet with Unions at the moment, the blitz idea. Everyone wants to try it for recruitment of course, because all the Unions are in trouble with memberships flagging, blah, blah, blah, so it’s seen as a bit of a silver bullet, which is a shame, …………. Um, and if you’re going to try a blitz, I guess you would try somewhere like Moe. That’s a logical place to try… well that’s what I think anyway, because it’s pretty open to Unions down here. It’s not completely hostile, and if you’re going to try, you have to try somewhere that’s likely to succeed. And we thought that Moe would.’

Almost inevitably, organising for the blitz required another barbeque, just around the corner from the Call Centre.

**Barbie #3**

‘We…came up to Moe, had the barbie as you know, and invited a few people along to that. That was just to make it look legitimate, just to see if we had the support locally. The guys at the CFMEU who had done the Pilbara blitz – I wanted them to talk to people. Coz’ we were all pretty scared, we were all pretty nervous. We’re not trained sales people, so cold calling as it is, knocking on peoples doors can be pretty scary….we had the barbie, had way too many drinks, got up the next day…’

The involvement of local unionists from the Trades and Labour Council who had been involved in the Pilbara organising drive was important for two reasons; first, as Gail points out, to draw on that experience; but second because their presence on the barbeque signaled a local recognition of what Gail and CPSU was doing. The GTLC was an all but moribund organisation at this point and all Gail’s attempts to get in touch with local union officials in an attempt to gain support had, hitherto, failed or been ignored. But now organisers form a number of different unions came to lend support.

However, for the blitz to work a degree of organisation within the call centre itself was necessary. This Gail believed would not work at the first stage of green field site organising strategy:

‘…look that’s biggest thing about a blitz, to have the visibility in the call centre before you do it. You have to have the visibility. I didn’t want to get to people’s doors and have to explain what the CPSU was and what a union is, coz that’s just going to take way to long, and we allocated 15 minutes for each person. Um we thought that was plenty of time really, and you’ve got to have the visibility and people have got to know who you are, and that was a huge help that I was so known in the call centre, like to look at 90 percent of people know who I am.’
The blitz in particular and community based unionism in general are not substitutes for workplace union organisation, but can be effective in building and maintaining such organisation. Despite all their fears and apprehensions, the blitz worked very well, at least partly due to the traditions of the locality working in the unions favour:

‘Everyone was very friendly. I mean you’d get… I’d knock on some doors, and the people would ask you in before you spoke! So you’d be inside and you’d be ‘oh…’; and they didn’t work for Teletech – I’d be at the wrong address! So it was very funny!! Or you’d knock on some doors and the parents would let you in and their kid wasn’t home yet. And so they would ring their child, coz’ they knew where they were and say ‘Look, you’ve gotta come home – your Union’s here.’ ‘Alright,’ and they’d come home which was really cool, and they’d chase their kid, like if their kid was supposed to be at someone’s house and they weren’t there, they’d chase them to find them and send them home again! I think about 50% of the people we saw were in their jammies, which was very cute and one of the interesting things was, you weren’t just talking to the person that was at Teletech – you were actually talking to the whole family. So you’d go into the lounge room and the whole family would be there, which was quite interesting too. Coz’ a lot of the Dad’s, if they were there, were saying how they were with the Union when they were at the power station, etc. So the family wasn’t hindering, they were helping a lot. They were helping a lot – they’re pretty incredible families down here.’

By the time that Gail parted company with the CPSU to join the ACTU, the project looked like a success:

‘The project so far has paid off and is continuing to do so. We have eight workplace delegates in the Valley and two in Melbourne. We have a weekly WOC at one of the delegate’s homes and regular phone hook ups with the Valley and Melbourne delegates. The delegates discuss what issues are happening in the two Victorian workplaces and campaign around them simultaneously. We have started lobbying the Latrobe Council for a council funded child care centre that could be placed in the community centre next door to the call centre and the list goes on.’

‘Lots of hard work is still being done but it is getting to the point of, if you start work at TeleTech, you join the CPSU, this is the normal and O.K thing to do. Like the members say ‘it is like being in a special cool club.’

Furthermore, organising the Moe site had knock on effects beyond the site itself and the Melbourne office:

‘I wanted to feed back to the rest of Teletech across Australia and that's worked perfectly. Everybody in Teletech in Australia knows about Moe and they know what goes on. Because as I said management's stupid! And will put emails to the whole company; “what the CPSU’s saying is lies!” So they email it to the whole company which of course gives us visibility everywhere and gets us into the other sites. Moe has helped every TeleTech site in Australia. Every single site.’

But the work is extremely labour and resource intensive and different from the work of standard union officials:

‘… the work that I do here is different to what any organiser in the CPSU I think would do anywhere. Because I’m giving more of me, and more of my time, and you become more personally involved. You do, but I think you have to. To do proper community organising you have to. You do have to become involved with the community. And that involves giving more of yourself. But that’s okay, it works.’

For Lopez (2004) such a form of organising requires long term commitment of time and resources and a fundamental rethink of union organisation both locally and nationally.

Connection with community paid off in terms of workplace union organisation. The two are interlinked and feed off each other, but such work demands a new approach from activists and organisers:

‘Personally I feel that we have been accepted into the community. Going to the Valley for me is a very rewarding experience. I can sit in the call centre for four hours and have at least 30 people pop in to see us and just say hi. Even the security guard that TeleTech
hire to watch us encourages workers to come in and see us. We are invited into member’s houses for dinner and to see their kids perform at local concerts’.

‘So for us working with the community has been a rewarding and challenging experience. The success of organising the call centre in the Valley has flowed through to other TeleTech workplaces in Melbourne, Sydney and Canberra. It has also helped with organising our more traditional areas of coverage in the Valley.’

**Conclusion**

Understanding of and involvement with the community outside of the workplace was crucial in determining the success or otherwise of the organising drive in the Moe Call Centre. Such involvement is hardly new in Australia or outside of it. But the examples of union organising in and with communities, even within Victoria itself (Wonthaggi in the 1930s) had largely been forgotten. In recent years Australian union organisation has tended to be highly centralised and institutionally focused. Even in areas, such as the Latrobe valley, that did have a tradition of workplace based union organisation, that organisation had often been conservative, male dominated and centred on a small number of heavy industries. The predominantly young female labour force in the Call Centre was employed by an American multinational company very different from the old SEC. Nevertheless, knowledge of and involvement with that Unionate community allowed for a successful campaign amongst workers who are archetypes of the new flexible and supposedly unorganisable workforce. As Lopez (2004) points out, such an approach does not consist of a simple laundry list of tactics, rather it involves a process of change within the labour movement itself.

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**Stretching credibility: Independent research versus employer policy objectives in the labour hire industry**

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**ABSTRACT**

This paper reports on an on-going debate between Underhill versus the Recruitment and Consulting Services Association (RCSA) concerning defamatory claims made by the RCSA against Underhill in mid-2004. It explains the nature of the claims, and discusses the problem of pursuing independent academic research in a hostile political environment. In 2002, the Underhill Report (2002) for WorkSafe Victoria analysed workers’ compensation claims in Victoria for labour hire employees and direct hire employees from 1994/95-2000/01. The Report concluded that labour hire employees had a higher incidence of workers’ compensation claims, and appeared to have more severe injuries than direct hire employees. A number of possible explanations for these differences, based upon international research findings, were provided. In 2004, in the context of the Maxwell Report into the Victorian Occupational Health and Safety Act 1985 and the subsequent revisions to the Act, and the Victorian Parliamentary Enquiry into Labour Hire Employment in Victoria, the RCSA, the employer association representing labour hire employers, went on the offensive. They hired the ACIL-Tasman Institute to critique the methodology of the Underhill Report, and provide a voice for their own view that labour hire employees were no more likely to be injured at work than direct hire employees.

With the ACIL-Tasman Report (2004) in hand, the RCSA then issued a national press release raising five criticisms of the methodology employed in the Underhill Report, and accusing Underhill of reporting “her findings in a biased way. She claims that on-hired employees are at greater risk of workforce injury or illness than other workers, but her own figures disprove this claim”. At this point, the argument about research methodology turned into a legal argument about defamation. A letter was issued by Underhill’s solicitor to a number of parties, including the RCSA, accusing them of making highly defamatory and false accusations in their media release and the ACIL-Tasman Report supporting their press release. Several months later, the RCSA’s legal representatives responded with a denial of the defamation and an offer to publish Underhill’s response to the ACIL-Tasman report subject to the right of the RCSA “to make a fair comment reply itself”. This offer has not been taken up.

The RCSA is not a stranger to the concept of unethical behaviour. The behaviour of their members towards one another led to the ACCC providing interim approval to a RCSA Code for Professional Practice, which includes: “Ethical behaviour is not simply compliance with legal requirements, it extends to honest, equity, integrity and social responsibility in all dealings. It is behaviour that holds up to disclosure and to public scrutiny.” Yet the RCSA publicly endorsed and promoted a report which they knew to include false statements, because it offered them support in their arguments against the introduction of regulation of employment in an industry where employees are disadvantaged relative to traditional, direct hire, employees in most respects.

The paper concludes with a discussion of the difficulties confronting academics pursuing independent research in an environment where extremely well-funded conservative think-tanks are willing to lend their support to conservative arguments, irrespective of the objective merits of their case.

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The new migrant worker: Transnationality and the making of new industrial terrains?

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ABSTRACT

The transformation of national industrial landscapes that has followed the political force of the globalisation of economies and the accompanying raft of state-engineered neo-liberal based economic and industrial relations policies have weakened the position of nation-based trade unions. This weakening of the labour movement throughout the world has also forced a rethinking of the historical aspiration to progress an internationalist working class program. One particular emphasis finds hope in building on the persistence of the globally-oriented ‘new social movements’. Confidence in such movements is premised on the object of such movements to transcend the limitations of the old internationalism which is held have been founded on a cobbled together of nation-based labour movements that remained imprisoned by the nation. The new social movements, it is contended, match the forces of globalisation, and more particularly those of an unfettered capital, by transcending national borders and constructing a global terrain of struggle.

Critical to the positing of this new internationalism is the jettisoning of universal notions of class struggle that are effected through worker struggles, dominated by industrial struggles, and their supplanting by ‘social movement unionism’. However, a quite different point of entry into reconsidering the nature of class struggle takes as its starting point the structural transformations that are wrought by globalisation and the economic and industrial reforms to comply with neo-liberal political agendas. Of particular interest is the way in which restructuring has engendered uneven development within economies and across the global political economy and reconstituted the international division of labour in the process.

This points to conceptual weaknesses in this new internationalism. The focus on globalisation and the ‘new social movements’ as multifaceted developments that together annihilate space, does not engage with the more immediate and directly material ways in which established conceptions of space are challenged by globalisation. Uneven development and the dismantling of regulatory systems have disrupted established economic life, displacing people and frustrating people’s ability to meet their material needs. Globalisation and neo-liberal programs have impelled resurgence of international migration. But in the context of states making it both easier for some to migrate, sanctioning the rights of business people, professional and skilled workers to migrate and re-settle or encouraging emigration as an export income earning exercise, whilst simultaneously making it more difficult for others, by restricting or thwarting the rights especially of workers recruited for lower paid occupations or informal work, contemporary migration can be posited as being formed around struggles over the definition of the industrial, economic, social and political terrain in which the migrant worker is now placed. The new migrant worker can be regarded as being constituted as a transnational subject, asserting her/his place through a projection of identity formed around nationality and a sense of belonging that retains connections with her/his place of origin, simultaneously to forging her/his place in the spatial arena in which she/he is employed. Transnationality, it will be argued, carries the migrant work beyond the traditional industrial realm of nation-based unions as s/he seeks to establish a place in the world. This study, focusing on the industrial and political struggles of Filipino migrant workers will examine the making of the modern migrant worker as being founded on a transnationality that introduces the migrant to new geographies. This, it will be argued, is a doubled movement based on struggles around the right to work in host nations, and the associated campaigns to secure other civil and political rights normally associated with citizenship, and, insofar as this is forged around a sense of community that is defined in terms of ethnicity, investing energies in efforts to retain connections with places of origin, to promote the economic well-being of those places and to secure the right to project a political will in the reshaping of places of origin. But, contra the optimism of the new internationalism, this exploration explores the inherent tensions and contradictions in the making of the transnational subject.
Globalisation and labour relations in Australian airlines industry: A case study of pilot experience

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ABSTRACT

The 1989 pilots' dispute fundamentally altered the nature of pilot labour relations in Australia. The once powerful pilot union was convincingly defeated by airline management with the assistance of the Government. Since the dispute ended in 1989, globalisation has become an increasingly important factors influencing the reform agenda for both state and airlines companies. This paper aims to research the impact that globalisation has had on the pilot labour relations in Australia through the investigation of the initiatives and response of key players such as airline management, pilot unions, and pilots themselves. The results show that the influence of management over the pilot labour relations process has increased substantially. The conditions of employment and their ability to collectivise through trade unions have been systematically suppressed by a series of 'reform agenda' with the neo-liberal ideological orientation. Important challenges for the future of pilot labour relations in Australia are also considered.

Introduction

In 1989, the Australian Federation of Airline Pilots embarked upon an industrial campaign in support of a 29 percent pay rise for domestic airline pilots (Norrington, 1990). The outcome of this campaign was the spectacular defeat of the pilots and their union after the Federal Government supported the re-establishment of domestic airlines following the mass resignation of pilots.

Several studies have assessed the 1989 dispute, and its implications for pilot labour relations. However, few studies have considered how changes since the dispute have impacted upon the key players in the employment relationship. Over the past fifteen years, globalisation has gained importance as a factor that governments and firms must negotiate in order to remain competitive. The aim of this thesis is to draw a link between globalisation, and the changing role of the state and airline management in pilot labour relations. Key research questions include: 1.) To what extent has globalisation impacted on the role of the state and airline management in the pilot labour relations process? 2.) How has airline management responded to the changes caused by globalisation, and what initiatives have been introduced since the 1989 dispute? 3.) How has the role of pilot unions changed, and what is their response to the new form of labour-management relations that has emerged since the 1989 dispute? 4.) What impact have the changes had on domestic pilots' labour relations experiences since the 1989 dispute, and what is their response to these changes?

Globalisation and deregulation of airlines industry and labour market

Globalisation has had a profound impact on Australian domestic airlines since the 1989 pilots’ dispute. Over the past fifteen years, the airline industry and the labour market have been deregulated, and management has adopted a more strategic approach towards the employment relationship. Globalisation can be defined in three ways; (i) the reduction of barriers to trade and globalisation of markets; (ii) the globalisation of production whereby little or no regard is paid to national borders; and (iii) the redesign of political structures and labour laws to “maximise exports, reduce state social spending and end state economic regulation” (Giles, 1996, p.3).
THE Deregulation in Airlines Industry: To increase international competitiveness and respond to globalisation, the Australian Government has deregulated the airline industry and the labour market. Prior to 1990, the Australian airline industry was characterised by a two airline agreement that aimed to prevent monopolies and promote growth between the two major carriers – privately owned Ansett and publicly owned TAA/Australian Airlines (Bray, 1996). Legislative separation between international and domestic carriers further ensured the industry was closely controlled by government until its deregulation in 1990 (Bray, 1997). However, the process of deregulation actually began in the 1970s when parallel flight and fare restrictions were abandoned and regulations regarding the use of discount fares began to be eased (Quiggin, 1997).

THE Deregulation in Labour Market: During the 1980s and 1990s Australia’s industrial relations (IR) system underwent significant changes influenced primarily by the popular neo-liberal philosophy. In 1988, the Structural Efficiency Principle was introduced into the existing Accord to ensure that wage increases accounted for market efficiency, and in 1993 the Industrial Relations Reform Act began the move towards decentralisation by reducing the role of the Australian Industrial Relations Commission (AIRC) in dispute resolution (Deery, Plowman, Walsh and Brown, 2001). After its election in 1996, the Howard Government pursued full labour market deregulation in the form of the Workplace Relations Act (WRA), which drastically changed the course of Australian labour law (Pyman, 2001).

The WRA gave employers and employees the opportunity to bargain directly, without union involvement, and allowed employees freedom of association, thus abolishing closed shops. New methods of enterprise bargaining were introduced in the form of individual contracts, or Australian Workplace Agreements (AWAs), and certified agreements, which further reduce the need for unions (Deery et al., 2001).

Although one may argue that the Australian Government attempted to adopt an IPE approach through the WRA, trade unions remain an important aspect of Australian IR and a high number of union-certified employment contracts still remain (Lansbury and Wailes, 2004). This indicates that either the process failed, or the Federal Government has recognised Australia’s entrenched collective system and dared not push the boundaries of their agenda too far. Regardless, Giles’ (2000) approach of “rethinking and reshaping national institutions and actors” (p.182) parallels that taken by the Howard Government in 1996.

AIRLINE MANAGEMENT: Worldwide competition as a result of globalisation in the airline industry has placed enormous pressure on operating costs. According to the International Transport Workers’ Federation (1992) (ITF), particularly heavy pressure on labour costs has resulted in poorer working conditions and increased workloads. This is because labour constitutes around 30 percent of an airline’s costs, and unlike fuel and landing charges, labour is under direct management control.

More recently, Qantas has implemented CM strategies including the retrenchment of 1000 employees, the use of annual leave to reduce staffing, a freeze on the hiring of new staff and the conversion of 300 full-time jobs to part-time status (Easdown and O’Brien, 2003). The airline indicates that these measures are a response to the pressures of September 11, SARS and the global economic downturn (Qantas, 2003), which supports Gialloreto’s (1988) hypothesis that during economic depressions, airlines will use short-term, tactical initiatives to reduce costs.

In addition, Qantas’s moves confirm the view held by the ITF (1992) that globalisation has changed management attitudes towards employees, and HRM’s unitarist approach has made workers more dispensable and interchangeable than ever before. Nesbit (1998) indicates, however, that redundancies and cut-backs are a concerning aspect of HRM policies for Australian firms because they reduce employees’ organisational commitment and trust in management.

Case studies

Three ‘stakeholders’ in the pilot labour relations process have been identified in the literature review. These are pilots, pilot unions and airline management. Each group is treated separately in the case studies and the respondent profiles are presented in Table 1.
**Case study findings**

**AIRLINE MANAGEMENT RESPONSES:** The analysis of M1 and M2’s responses is divided into three sections. First, changes since the dispute are examined, followed by management’s initiatives and responses to industry and labour market deregulation, and union activity. Finally, their views on the challenges and implications posed by globalisation are examined.

**Changes since the dispute.** As a result of the dispute, Ansett brought pilots’ wage increases, status and conditions of employment in line with the rest of the workforce. Pilot management functions were relocated from the airport to corporate headquarters and their employment contracts were simplified from several hundred pages to only twenty, which facilitated uniform pay increases and reduced the need for dispute resolution in the AIRC. These changes were part of a wider culture change program called “the communications campaign” (Bray, 1996, p. 153), which focused on productivity and profitability. In fact, M1 believes that in many respects, airline management pre-empted the WRA by shifting the focus of dispute resolution for pilots away from the AIRC, six years before the WRA was introduced.

Ansett and Australian established in-house unions after the dispute and refused to negotiate with the AFAP. According to M1, in-house unions increase efficiency because “you are dealing with your own people”. Further efficiencies were realised through the abolition of seniority-based promotions and the introduction of productivity based pay. Pilot recruitment became more focused on personality and overall fit with the airline, which helped prevent future industrial disputation, and productivity based pay advantaged many pilots because they were able increase their earnings if they worked more.

Furthermore, scope clauses, which require an airline to allocate first rights to flying in subsidiary airlines to the parent airline’s own pilots, were also abolished after the dispute. These management changes, summarised in Table 2, amount to a restructuring of pilot labour relations and a focus on efficiency in the face of deregulation and globalisation.

**TABLE 2**

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<th>PRE-DISPUTE</th>
<th>POST-DISPUTE</th>
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<tr>
<td>Fixed wage for pilots</td>
<td>Productivity based pay</td>
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<tr>
<td>Complex employment contract</td>
<td>Simplified, 20-page contract</td>
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<tr>
<td>Promotions based on seniority</td>
<td>Promotions based on suitability</td>
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<tr>
<td>Pilots seen and treated as unique employees</td>
<td>Pilots integrated with the rest of the workforce</td>
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<td>External unions</td>
<td>In-house unions</td>
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<td>Personnel management approach</td>
<td>HRM-style approach</td>
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<tr>
<td>Dispersed organisational structure</td>
<td>Centralised and interactive structure</td>
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<tr>
<td>Scope clauses</td>
<td>Management prerogative for allocation of flying</td>
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The changes initiated after the dispute reflect the strategic, efficiency-based approach of HRM. In particular, the initiatives identified by M1 and M2 can be summarised in terms of ‘hard’ and ‘soft’ HRM (Table 3). ‘Hard’ HRM views employees as factors of production, and structures policies and systems around business objectives. In contrast, ‘soft’ HRM sees employees as trusted and valued assets whose commitment must be harnessed to achieve business objectives (Legge, 1995).

<table>
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<th>Hard HRM</th>
<th>Soft HRM</th>
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<tr>
<td>Productivity based pay</td>
<td>Company information sessions</td>
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<td>Simplified employment contracts</td>
<td>Mentoring programs</td>
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<td>Flexible rostering</td>
<td>Interactive culture</td>
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<td>Abolition of seniority based promotions</td>
<td>Salary sacrificing cars/laptops</td>
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<td>In-house unions</td>
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**Responses to deregulation and unions.** M1 acknowledged that the WRA allowed airlines to “water down the influence of unions” so that they could put the interests of the firm first in a more difficult environment. He emphasised that Ansett always recognised and respected the role of unions, however reserved the right to bargain with employees directly. Conversely, M2 explained that unions have not lost power but have adopted a more consultative approach in response to the needs of members because the nature of competition is such that people realise that their future, job security, promotional opportunities and increases in money are driven by the organisation’s profitability. He explained that unions do not have the time or money to resolve minor disputes, and as such need HRM to function effectively. In response, Qantas has introduced mentoring programs and corporate information sessions that ensure pilots understand the challenges facing the business. Qantas also provides the option of salary sacrificing motor vehicles and laptops to give pilots another option of where to spend their income.

**Challenges and implications for the future.** M1 believes that globalisation, through the use of foreign pilot labour, facilitated the re-establishment of airlines after the dispute. Pilots realised that “there is an unchartered workforce sitting offshore that is willing to come to Australia and is able to be tapped”. Both M1 and M2 emphasised that, in terms of globalisation, Australia is still catching up with other international airlines like Malaysian or Singapore, who use foreign contract pilots to top up their own workforce.

M2 believed that globalisation has put pressure on the cost base of the airline. He saw air travel as a commodity and a price based purchasing decision, and the fact that carriers like Virgin Blue might able to offer pilot salaries approximately $80,000 less than Qantas creates significant pressures. Both M1 and M2 felt that the most pressing challenge is to address the desire for pilots to be considered part of the senior management team on the basis of their income. M2 went on to explain that in the future, there will be further growth of lower pilot pay rates, and entitlements will be more focused on reaching objectives to improve productivity.

**UNION RESPONSES: The Post-Dispute Experience.** Traditionally, the AFAP had been averse to arbitration. However, after the dispute domestic airlines would only negotiate with their in-house unions, so arbitration became the only method the AFAP could use to effect change. U1 commented that it became very hard for AFAP members to identify with the union if they returned to domestic flying. Ansett and Australian Airlines heavily promoted their in-house unions, and with very low membership fees, they successfully attracted most pilots. In addition, the AFAP and its members were portrayed in a negative light by the media, and the continuing umbrage between those pilots who defected and those who remained loyal, made rebuilding the union a difficult task.

U1 believes that the WRA afforded airline management a lot more power whilst excluding the AFAP from a lot of negotiations. Qantas’s market power is such that when it announces an enterprise agreement with a certain set of pay increases, these increases filter down to the smaller
carriers and form somewhat of an industry standard. U1 therefore described Qantas’s behaviour as “pattern bargaining in reverse”. The industrial might of Qantas, he explained, restricts the ability of unions to strike, so achieving pay rises of only one or two percent is very hard work.

**New Union Initiatives.** After the dispute, the AFAP pursued a reorganisation strategy. Separate enterprise unions were established within the AFAP to represent the regional pilots who were still members. The AFAP had traditionally been organised around geographic boundaries, however the dispute forced the union to consolidate and reorganise around employers. This is a significant change that illustrates the power lost by the union because after the dispute, pilots could no longer be represented as a universal body of employees. Another aspect of the union’s consolidation involved focussing attention on areas of expertise, like individual pilot grievances and loss of licence insurance.

**Challenges and Implications.** Like M1 and M2, U1 did not see labour mobility as a problem for Australian pilots. Rather, the most pressing issue caused by globalisation is the proposed single aviation market between Australia and New Zealand. U1 believed that globalisation has influenced our domestic aviation market in profound ways. The industry is very brittle, and major events like September 11 and SARS have a significant impact on domestic passenger numbers, which flows down to pilots and their unions. He explained that fifteen years ago, the interdependencies that exist today would never have been imagined.

**PILOT RESPONSES:** Pilot responses are analysed in three sections based on three different airlines. First, the experiences of P1 and P2 at Qantas are examined, followed by P3 from Virgin Blue and finally P4 from Jetstar. This approach is used to evaluate differing attitudes towards management and to establish an overview of pilot attitudes regarding the reform in airlines industry.

**Qantas – Experiences with Management.** Both P1 and P2 agreed that since the dispute, productivity based pay has increased their workloads substantially, however job security has remained strong. Job satisfaction has not changed because they both love doing their job, although they feel this may be used against them. Both pilots are dissatisfied with their labour relations experiences, emphasising that nothing is ever gained from Qantas management without some concession from pilots in return. They described the relationship between Qantas, the AIPA and pilots as adversarial, and neither P1 nor P2 believed they would ever gain a concession from management. In fact, P2 explained that management will not let him take annual leave when he would like. Rather, it will be allocated to him when it is convenient for the company. P2 illustrated that he worked “exceptionally hard” after Ansett collapsed to help Qantas gain market share. Qantas frequently blames cost pressures for decisions like this, however both pilots have become very cynical, especially in the wake of Qantas’s record $650 million profit earlier this year. Pilot rostering is one area that has provided substantial cost reductions for Qantas. The rostering function was centralised to Sydney and rosters have become very flexible agreements in management’s eyes. Both P1 and P2 reported high levels of fatigue as a result of shorter lay-overs. Superannuation is another area that P1 and P2 were dissatisfied with. At Qantas, pilots receive only 55 hours worth of superannuation per month, regardless of how much flying they do. Like most Qantas pilots, P1 and P2 had average between 80 and 100 hours flying per month, while superannuation was only paid for just over half their salary. Furthermore, P2 explained that Qantas pilots will be unable to take advantage of the proposed ‘freedom of choice’ legislation for superannuation. Qantas has an arrangement with the government whereby pilots must invest in the Qantas fund. He attributes this to the fact that pilots own in excess of 70 percent of the fund, and if they were to exit, the system would probably collapse.

**Qantas – Experiences with the AIPA.** Neither pilot believes that the AIPA plays a legitimate role in the labour relations process because the union has always focused on international pilots. Domestic pilots were incorporated into the AIPA when Qantas merged with Australian Airlines, and since then international pilots have always been favoured. Another aspect of the union that frustrates pilots is the close ties it holds with Qantas management. Both P1 and P2 explained that union officials often transfer to Qantas management, which they feel undermines the union’s autonomy. Many pilots believe that collusion between union and management is commonplace. Both pilots believe that the AIPA does not provide worthwhile benefits, and as such they are reconsidering their membership.
Qantas – Challenges and Implications. Agreeing that their overall position has substantially deteriorated since the dispute, both pilots felt that more adequate union representation is required. They pointed out about long hours, poor rostering and an inability to decide when they can take holidays as factors contributing to fatigue and stress, which in turn jeopardise safety.

Virgin Blue – Experiences with Management. Perceived job security, according to P3, has fallen dramatically since the dispute. The ‘job for life’ attitude that once existed has been destroyed. P3 started with Virgin Blue two years ago, and since then he has witnessed a more collaborative approach emerge with management regularly updating the pilot body on the company's performance. Describing employee relations as “pretty harmonious”, he explained that there is nothing about Virgin Blue’s approach that impedes his ability to establish fair terms of employment. He did point to several negative experiences whilst working in general aviation and for smaller carriers. The HR initiatives used by his previous employer, National Jet, made it difficult to negotiate fair terms of employment. AWAs were introduced and the pilot managers who had previously negotiated contracts were replaced with HR managers who had little knowledge of the piloting profession. P3 described his belief that this change was made to exclude the AFAP from any negotiations occurring at National Jet after the dispute.

Virgin Blue – Experiences with the AFAP. P3 believed that the AFAP did a very good job of bettering his terms of employment at Virgin Blue. The AFAP has evolved over the past fifteen years from a near-bankrupt position, to currently exercising significant input into the Virgin Blue enterprise agreement. The AFAP now covers 80 percent of Virgin Blue pilots, and is also making progress with Pacific Blue contracts. Accordingly, P3 sees the future of the union as very positive, and does not believe that globalisation has decreased the need for unions.

Virgin Blue – Challenges and Implications. According to P3, the proposed Australia and New Zealand mutual airspace agreement is the most pressing issue facing pilots and their unions. P3 also criticised recent airspace management changes in Australia. These changes introduced a new class of airspace, through which commercial jets must descend, and the expectation was that commercial jet pilots would look out of their cockpits for other smaller aircraft.

Jetstar – Experiences with Management. Although P4 began flying after the dispute, he explained that pilots no longer have a ‘job for life’. The industry has fundamentally changed and as such, a pilot may expect to fly for several airlines during their career. P4 has not always had positive labour relations experiences. Prior to Jetstar he worked for Impulse as a contractor and as such did not enjoy any of the benefits of permanent work. After Impulse was sold to Qantas, he became a Qantas employee, which entitled a permanent contract and other full-time benefits. Thus, P4 explained that his pay and conditions of employment “improved by a great amount”, and he is very content with his current situation at Jetstar. There are no problems with rostering and he is able to take time off when he wants it.

Jetstar – Experiences with the AFAP. P4 has recently joined the AFAP after several years without representation. His primary reason for joining was to take advantage of litigation protection and loss of licence insurance. He explained that around half of the Jetstar pilots would be unionised, however he does not feel that the AFAP contributes to bettering his terms of employment because the nature of the pilot-management relationship at Jetstar delivers favourable results.

Jetstar – Challenges and Implications. Unlike the other three pilots, P4 did not foresee any downward pressure on wages. He believed that as long as the pilot body maintains good relationships with management, their terms of employment will remain positive. Because general aviation is the training ground for commercial pilots, P4 explained that the domestic carriers may not always have a well trained pool of pilots to recruit from. General aviation lacks funding, and is operating on very old technology. Low-cost carriers are taking a lot of business from regional airlines and, as such, many aspiring pilots may not find it as easy as P4 did to build their skills in general aviation.

Concluding remarks

The 1989 pilots’ dispute permanently reshaped labour relations in the airline industry and altered the balance of power between pilot unions and airline management. Since 1989, globalisation
has become an increasingly important issue for governments and firms. The case studies have demonstrated that the Australian Government has responded to the pressure for competitiveness by deregulating the labour market and the airline industry. On the other hand, management has responded by adopting an increasingly unitarist approach towards the employment relationship, especially through strategic HRM in both ‘hard’ and ‘soft’ forms.

These changes have impacted on pilots and pilot unions significantly. It appears that the power once held by the AFAP has been all but transferred to management, especially at Qantas. In turn, unions have been pressured to collaborate with management in order to retain relevance. The end result of these changes is a severe deterioration in pilots’ conditions of employment. The once powerful pilot body has been methodically suppressed by the Federal Government and airline management.

As a result, low-cost carriers can offer pilot wages approximately half those of Qantas for exactly the same job. Qantas has responded by establishing its own low-cost carrier, Jetstar, and by engaging in a series of ruthless cost cutting initiatives within the firm. As a result, Qantas pilots have lost trust in management and are experiencing stress and fatigue due to work intensification.

Globalisation has pressured management to reduce costs, and pilots must understand that the AFAP days of old are long dead. However, management must also recognise that ruthless cost cutting has an adverse impact on pilots, and reduces the safety of their passengers. The results of this study indicate that unions need to work towards mutually beneficial outcomes with management, whilst retaining a certain degree of autonomy. Qantas and the AIPA represent by far the majority of domestic pilots, however the case studies have indicated that AIPA members believe their union is not independent. As such, this union may benefit from a restructuring aimed at increasing autonomy so that the union can begin to provide its members with the benefits they truly deserve.

References:


Worker participation in Europe – Current developments and its impacts on employees outside the EU

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ABSTRACT
Worker participation has been subject to controversial debate in Europe. Although the Member States’ traditions in industrial relations and especially in worker participation vary greatly, the Council of Ministers agreed on some directives in this regard, recently: the EWC directive (94/45/EC) and the information/consultation directive (2002/14/EC), and the directive (2001/86/EC) supplementing the Statute for a European company with regard to the involvement of employees, which emphasises voluntary negotiations between employees’ representatives, a so-called special negotiating body, and the management. The latter directive does not only provide information and consultation procedures but also provisions regarding board-level representation. For that reason, the focus of this paper is on the European company (Societas Europaea = SE). In this context, the fundamental provisions regarding the SE are presented. After discussing some exemplary cases in order to demonstrate the practical implications of this legal initiative regarding employee involvement, some issues arising are examined.

Introductory remarks
Direct as well as indirect employee involvement has always been controversially discussed in Europe. A reason for that might be seen in the huge differences in the industrial relations systems and traditions, which are “not simply the result of chance occurrence or historical accident, but develop(ed) instead because of identifiable forces” (Bean, 1994:80), such as the economic environment, law and public policy, social attitudes, and the demographic and technological context (Katz and Kochan, 1992; Kochan, 1980). Although these differences are persistent, Member States agreed recently on some legal initiatives regarding indirect employee involvement. In 1994, the Council of Ministers agreed on the Directive (94/45/EC) on the establishment of an European Works Council or a procedure in community-scale undertakings and community-scale groups of undertakings for the purposes of informing and consulting employees that provides a framework for a transnational information and consultation procedure. Later, in 2002, the Council and the Parliament agreed on the Directive (2002/14/EC) establishing a general framework for informing and consulting employees in the European Community. This directive is aimed to set a minimum standard of information and consultation with respect to national issues all over Europe. Although EU Member States that do not have a system of information and consultation at the national level so far are able to enact less strict rules (article 10), by and large, this directive might be seen as a step towards employees’ legal right to be informed and consulted in all Member States.

Even though these two directives might be seen as groundbreaking, the focus of this paper is on a legal initiative that goes beyond the scope of information and consultation, namely the European company (SE=Societas Europaea). The SE is governed by two legal acts, the council regulation No. 2157/2001 and the directive regarding employee involvement No. 2002/14/EC, which are presented below in more detail. Considering the scope of the directive, it is astonishing that it does not only provide rules regarding information and consultation but also on worker participation meaning board-level representation in that instance. Although no certain model of worker involvement is preferred by the directive, but moreover negotiations in good faith between the parties are emphasised, it offers the opportunity for European employees’ being represented at the board-level.

The structure of the paper is the following: First of all, the principal provisions regarding the corporate governance structure, the governing law, and especially employee involvement are discussed. Then three exemplary cases are presented. Before concluding, three issues arising in this context are examined.
The European company statute

EMERGENCE: On October 8th, 2001, after more than 30 years of discussion, the Council of Ministers enacted two legal instruments: the council regulation (No. 2157/2001) on the Statute for a European company (SE), subsequently referred to as SE/Re, and the council directive (2001/86/EC) supplementing the Statute for a European company with regard to the involvement of employees, subsequently referred to as SE/Di. In this context, it is a legitimate question, why it did take Member States more than 30 years to agree on the SE. Actually, two major obstacles can be identified: (1) the scope of an European group law and (2) the scope of employee involvement.

The first obstacle was overcome with the Commission’s proposals in 1989 and 1991 (European Commission, 1989a and 1989b; European Commission, 1991a and 1991b), a complete revision of the 1970 proposal which would have created a comprehensive European group law (European Commission, 1970). In those proposals the SE became a hybrid form. This means that the institutional frame of the European company is governed by Community law, while certain aspects, such as tax law or capital maintenance requirements, are subject to national provisions. At the same time, the proposal was divided into two parts: a regulation on the statute of the European company and a directive supplementing this regulation with regard to the standing – explicitly not participation - of employees. Regarding employee participation, the directive would have put companies in the position to choose between three equivalent models of employee involvement – equivalent in the view of the Commission. Due to some Member States’ disagreement on employee involvement, the matter was let to rest again.

Eventually, the obstacle of employee involvement was overcome by suggestions of the so-called Davignon Report (European Commission, 1997), which was prepared by a group of high-ranking experts on European systems of worker involvement presided by Etienne Davignon. Due to the great diversity of national models of employee involvement, the group pleaded for “negotiated solution(s) tailored to cultural differences and taking account of the diversity of situations. […] The path we are opening up is therefore that of negotiations in good faith between the parties concerned, with a view to identifying the best solution in each case, without imposing minimum requirements” (European Commission, 1997, paragraphs 94c and 95). However, it needed another two compromises before it could come to the “miracle of Nice” (Hirte, 2002:1).

The first compromise is the so-called “before and after” principle and was made in 1998 (Herfs-Röttgen, 2001; Blanquet 2002). It specifies that employees’ acquired rights regarding worker participation must be secured, meaning that “rights in force before the establishment of the SE should provide the basis for employee rights of involvement in the SE” (Directive 2001/86/EC, recital 18). After this agreement, only one Member State, namely Spain, still impeded the deal. This anew standoff was overcome during the Nice Summit in December 2000 by the agreement on the opting-out clause, which was added due to Spain’s urging (Köstler, 2001; Pluskat, 2001) and means that Member States have the opportunity to make it possible for an SE to register without an agreement on the involvement of employees in case of a merger between companies that were not subject to worker participation so far (Directive 2001/86/EC, recital 9). Eventually, the SE/Re and the SE/Di, which are specified in more detail below, were enacted on October 8th, 2001. Consequently, the SE could have been found by joint-stock companies since October 8th, 2004.

THE LEGAL ACTS: The SE is available only for companies with certain legal forms, namely joint-stock companies such as the British plc. or ltd. or the German AG or GmbH. Moreover, companies concerned must be subject to law in at least two Member States (SE/Re article 2). Though, Member States refers here not only to the 25 EU Member States but involves also the other three Member States of the European Economic Area (EEA) due to their acceptance of the SE/Re and the SE/Di (Decision, 2002). The SE, which has a separate legal personality, must be seen as another legal alternative for joint stock companies doing business in Europe. In contrast to the 1970ies draft the SE/Re does not constitute a comprehensive European group law, but provides companies with an institutional frame that is filled by national law. Consequently, it cannot be spoken about one uniform SE but moreover it must be spoken of 28 different ones (Hommelhoff, 2001; Schwarz, 2001; Wiesner, 2001). The minimum capital,
which must be divided into shares, is € 120,000.-- suggesting that the establishment of a SE is only reasonable for large groups (Hommelhoff, 2001). Additionally, the abbreviation “SE” is provided exclusively for European companies and must be put in front of or behind the company name (SE/Re article 11). For the internal corporate governance structure is specified that the SE must have a general meeting of shareholders and either an administrative board, so-called one-tier system, or a management board and a supervisory board, so-called two-tier system, as governing bodies (SE/Re articles 38 to 45 and 52 to 59). The companies are free to choose between the two systems.

In general, the SE/Re provides four forms of foundation. First of all, a SE can be established by a merger, which is only available to public limited companies from at least two different EU or EEA Member States. Secondly, a SE can be found by the formation of a holding company, which is available to public and private limited companies that have their registered offices in at least two different EU or EEA Member States or have subsidiaries or branches in Member States other than that of their registered office. Additionally, a holding-SE can form a subsidiary-SE, which is considered as secondary form of foundation (Hommelhoff, 2001). According to Wenz (2003), who examined the SE as to its practical applications, the holding-SE might play a considerable role particularly for parent companies from countries outside the EU and the EEA in order to reorganise their business in Europe, which for example is currently discussed by General Motors (see for example http://www.commentwire.com/commentwire_story.asp?commentwire_ID=6080). Thirdly, a SE can be established by the formation of a joint subsidiary, which is available under the same circumstances applicable to the formation of a holding company to any legal entities governed by public or private law. Finally, the SE can be found by the conversion of a public limited company that was previously formed under national law and had a subsidiary in at least one other EU or EEA Member State for at least two years. In this context, Wenz (2003) talks about a reengineering-SE. Even though a (national) public limited company converted into a SE is not allowed to move its registered office at the same time as the transformation takes place (SE/Re article 37 paragraph 3) and is not allowed to reduce the form of board-level representation (SE/Di article 4 paragraph 4), companies might benefit from a transformation, because then they can choose the corporate governance structure.

Furthermore, Wenz (2003) identifies another application of the European company statute, the cross-border-SE that means the transfer of registered office (SE/Re article 7). According to the SE/Re the transfer of registered office does not require liquidation and new foundation of the company anymore. Rather companies are able to transfer their registered office by preserving their legal identity resulting in a higher degree of mobility of the SE. In fact, it is the first time that companies are free to move their registered office without losing their legal personality within the EEA. Even though the possibility to transfer registered office is not completely unlimited, as aforementioned, the provisions contribute considerably to the completion of the SE’s freedom of establishment and undoubtedly will increase the mobility of European companies.

After having outlined the SE/Re, the paper turns to worker participation in the SE (see for instance Pluskat, 2001; Heinze, 2002; Teichmann, 2002; Köstler, 2003). The crucial link between the SE/Re and the SE/Di is that the SE may not be registered unless an agreement on arrangements for employee involvement has been concluded (for details see SE/Re article 12 paragraph 2; see also Blanquet, 2002). By that, it is guaranteed that the provisions on co-determination are respected (Weiss, 2003). At this point of analysis, it is pointed out that the SE/Di does not affect national provisions regarding worker participation at the company level, meaning, for instance, that the German Works Constitution Act (Betriebsverfassungsgesetz – BetrVG) is still applicable (Köstler, 2002). The SE/Di rather deals with transnational information and consultation rights on the one hand and with board-level representation on the other (Heinze, 2002; Teichmann, 2002; Weiss, 2003).

While information and consultation procedures have to be established in any SE, the form of board-level representation in the SE is subject to voluntary negotiations which are conducted by the management and the special negotiating body (SNB) that represents employees of all companies concerned and is established as soon as possible after the plan of establishing a SE was announced by the management.
In principle, the employees’ representatives are elected or appointed – dependent on national provisions – in proportion to the number of employees in each Member State of the companies concerned. Simply put, every country in which the companies concerned do business shall be represented with one vote (Köstler, 2002; ETUC, 2003). In general, the SNB may ask assistance in negotiations of experts of choice (SE/Di article 3 paragraph 6) who then have an advisory function. Costs incurred must be beard by the companies, but Member States can set limits. Besides provisions on the election or appointment of the employees’ representatives in the SNB the Member States may provide that trade unionist can be members of the SNB, irrespectively, whether they are employees of the companies concerned or not (SE/DI article 3 paragraph 2 lit b).

Generally speaking, each member of the SNB has one vote (SE/Di article 3 paragraph 4). In principle, the SNB can agree on any form of worker participation, as long as the agreement is accepted with the absolute majority. If co-determination shall be reduced in case of establishment by a merger or by creating a holding company/forming a subsidiary, a two-third majority decision representing two-thirds of the employees that are employed in at least two Member States is required, when 25 percent (creation of a merger-SE), respectively, 50 percent (creation of a holding-SE or subsidiary-SE) of the employees concerned where covered by any form of co-determination so far. Additionally, the SNB may agree with a qualified majority decision that negotiations are not commenced at all or are terminated (SE/Di article 3 paragraph 6) resulting in the application of national law regarding information and consultation of employees, as a rule application of the EWC Directive (94/45/EC), if the management still wants to establish a SE (Heinze, 2002; Keller, 2002).

After the SNB is established the negotiations shall commence as soon as possible. The duration of negotiations is fixed by the SE/Di to six months from the SNB’s establishment, but may be extended up to one year by agreement of the parties involved (SE/Di article 5). The task of the SNB is to negotiate with the management of the companies concerned about a written agreement on the arrangements for the involvement of the employees within the SE (SE/Di article 4). The agreement shall specify the scope of the agreement, the composition, the functions, the procedure for information and consultation, and the frequency of meetings of the representative body as well as the financial and material resources to be allocated to the representative body. If the SNB and the management agree on board-level representation, the number of members and the procedure of their election, appointment, recommendation or opposition by employees and their rights shall be specified in the agreement, too. Additionally, it shall specify the date of entry into force, its duration, cases were the agreement should be renegotiated, and the procedure for renegotiation. If the parties do not arrive at an agreement within the prescribed time and the management still wants to form a SE, or the parties involved agree so, then standard rules are applicable (SE/Di article 7 and part three of the annex).

In the annex of the SE/Di, the standard rules are divided into three parts. Part one contains provisions on the composition of the representative body. Standard rules regarding information and consultation can be found in part two. In Annex part 3, participation is governed. Which part of the standard rules is applied depends on some criteria, which are related basically with the result of the negotiations, the form of foundation, and the number of employees already covered by any form of worker participation.

The standard rules concerning the composition of the representative body and those for information and consultation are applied, if the negotiating parties agree so. Additionally, they are applied, when the negotiations failed, but the management still wants to establish an European company and the SNB did not refuse negotiations or terminate negotiations. With respect to standard rules regarding participation, not only the afore-mentioned criteria must be fulfilled but also some additional ones that are bound to the form of foundation and on the proportion of the total number of employees of the companies concerned who were covered by a certain form of co-determination so far (SE/Di article 7). These criteria are presented below in Table 1.

Besides provisions on the negotiation procedure, the content of the agreement and the standard rules, the SE/Di contains also miscellaneous provisions, such as the reservation and confidentiality (article 8), the operation of the representative body and procedure for
the information and consultation of employees (article 9), the protection of employees’ representatives (article 10), the misuse of procedure (article 11), and the compliance with the Directive (article 12). However, these provisions are not presented here in detail. Finally, an overview of the negotiations and its outcomes are presented below in Figure 1 (overleaf).

### TABLE 1

<table>
<thead>
<tr>
<th>Form of foundation</th>
<th>Standard rules regarding participation apply, when ...</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transformation</td>
<td>Employees have been covered by any form of participation so far. Then, this regime must be maintained.</td>
</tr>
<tr>
<td>Merger</td>
<td>25% of the employees were covered by any form of participation so far or even less than 25% if the negotiating parties agree so. Then, this regime must be maintained.</td>
</tr>
<tr>
<td>Holding or subsidiary</td>
<td>50% of the employees were covered by any form of participation so far or even less than 50% if the negotiating parties agree so. Then, this regime must be maintained.</td>
</tr>
</tbody>
</table>

### Exemplary cases

What does that all mean for the creation of a SE? In the following, cases are presented that shall illustrate the great variety of possible outcomes. In general, agreements are hardly predictable. Even though the standard rules ensure quite strong worker participation, it is conceivable that the SNB might even agree on a reduction of worker participation standards in the SE with the management by being granted job guarantees, future investments for (certain) plants or similar in return.

**Case 1.** Company A, a UK ltd. with 4,500 employees in the UK has a subsidiary in Germany with 3,500 employees and Company B, a Spanish SA with 2,000 employees, want to form a holding-SE seated in the Netherlands. The SNB consists of 11 members (5 from the UK, 4 from Germany and another 2 from Spain). The SNB can agree on any form of worker participation by an absolute majority, because the number of employees concerned covered by any form of worker participation before the formation of a SE is still below the threshold of 50% applicable in case of formation of a holding-SE (only the German employees were covered by worker participation so far). If the management and the SNB agree so or negotiations fail but the management still wants to establish a holding-SE than the standard rules apply. This means, that proceedings regarding information and consultation (SE/Di Appendix Part I and II) are applicable, while the threshold for the application of the standard rule regarding board-level representation is not accomplished. The registered office can be transferred to the Netherlands.

**Case 2.** Company A, a UK Ltd. with 4,500 employees, Company B, a German AG with 2,500 employees, and Company C, a Spanish SA with 3,000 employees, want to merge and transfer its seat to the Netherlands. The SNB consists of 11 members (5 from the UK, 3 from Germany and another 3 from Spain). In case of a merger, it must be ensured that all participating companies are represented in the SNB. This criteria is fulfilled here. The SNB can agree on the form of worker participation that covered at least 25% of the total number of employees before the creation of the merger by an absolute majority, or the German co-determination, or even on a reduction of that worker participation by a two-thirds majority that must represent two-thirds of the employees in at least two Member States. This means that the British and Spanish representatives can outvote the German representatives. If the management and the SNB agree so or negotiations fail but the management still wants to establish a SE by merger than the standard rules apply. In case of a merger this means that not only proceedings regarding information and consultation are applicable but also the standard rules regarding board-level representation, because the threshold of 25% of employees concerned were covered by any form of co-determination so far resulting in a transfer of the equal proportion of employee representatives in the board as provided by German law. The registered office can be transferred to the Netherlands.
Case 3. Company A, a German AG with 4,500 employees in Germany, has branches in the UK with 3,500 employees and in Spain with 2,000 employees. The management wants to transform Company A into a SE and transfer its seat to the Netherlands. The SNB consists of 11 members (5 from Germany, 4 from the UK and another 2 from Spain). In this instance, worker participation cannot be reduced. The only thing that changes regarding worker participation is that the board-level representatives are not any longer only from Germany but also from the UK and Spain depending on the agreement. Thus, the board-level representation becomes European. Another question under negotiations might be that the management wants to change its structure from two-tier to one-tier, a choice it did not have before, resulting in new arrangements regarding worker participation. Regarding the transfer of seat, it can be said that it is not possible at the moment of the establishment of a SE by transformation. Consequently, Company A SE must stay in Germany for the moment, but can be transferred later without liquidation and new foundation of the SE.

Issues

As indicated above, one of the critical issues with regard to worker involvement in the SE might be seen in negotiations between the management and the SNB aimed to come to an agreement. However, an even more critical issue might be that the members of the SNB must agree on the form of worker participation they want to enforce before the SNB can negotiate it with the management. The outcome of that “internal” negotiations cannot be predicted seriously due to heavily varying preferences, aims, traditions, and roles regarding employee involvement and more specifically regarding board-level representation in Europe.

In order to demonstrate the great variety of traditions regarding board-level representation in Europe respectively the potential for tensions in the negotiation procedure two countries considered as the extremes of the “worker participation’s continuum” are presented in more detail below: the UK with no rights for board-level representation and Germany with extensive rights for board-level representation. The following analysis of board-level representation in Germany and the UK refers mainly to Schulten et al (1998) and Mävers (2002).

In Germany, employees have considerable legal rights regarding board level-representation: the Coal, Iron and Steel Industry Co-Determination Act (1951), the Co-Determination Amendment Act (1956), the Works Constitution Act (1952), and the Co-Determination Act (1976).
The procedure of appointment or election of representatives varies with respect to the size of the company and their industries. In all companies with 500 to 2,000 employees, one-third of the members of the supervisory board represent the employees. In companies with more than 2,000 employees even one-half of the members of the supervisory board are employees’ representatives. In these large companies, the chair of the supervisory board represents the shareholders and has a double vote in case of critical decisions. The labour director, who is a member of the management board, could be appointed without agreement of the employees, but this seems being rather hypothetical. In the coal, iron and steel industries, a neutral member is appointed to the supervisory board by the management and the employees’ representatives in order to avoid a deadlock. The labour director can only be appointed with the agreement of the employees’ representatives.

<table>
<thead>
<tr>
<th>Country</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Austria</td>
<td>(\frac{1}{3}) of supervisory board</td>
</tr>
<tr>
<td>Belgium</td>
<td>No board-level representation</td>
</tr>
<tr>
<td>Cyprus</td>
<td>No board-level representation</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>(\frac{1}{3}) of supervisory board</td>
</tr>
<tr>
<td>Denmark</td>
<td>(\frac{1}{3}) of supervisory board (at least two members)</td>
</tr>
<tr>
<td>Estonia</td>
<td>No board-level representation</td>
</tr>
<tr>
<td>Finland</td>
<td>According to an agreement between the employer and the personnel groups</td>
</tr>
<tr>
<td>France</td>
<td>According to the type and size of company</td>
</tr>
<tr>
<td>Germany</td>
<td>According to the type and size of company: (\frac{1}{3}) or (\frac{1}{2}) of board</td>
</tr>
<tr>
<td>Greece</td>
<td>Board-level-representation only in state-owned companies</td>
</tr>
<tr>
<td>Hungary</td>
<td>(\frac{1}{3}) of supervisory board</td>
</tr>
<tr>
<td>Iceland</td>
<td>No board-level representation</td>
</tr>
<tr>
<td>Ireland</td>
<td>(\frac{1}{3}) of board (between 1 and 5 directors)</td>
</tr>
<tr>
<td>Italy</td>
<td>No board-level representation</td>
</tr>
<tr>
<td>Latvia</td>
<td>No board-level representation</td>
</tr>
<tr>
<td>Liechtenstein</td>
<td>No board-level representation</td>
</tr>
<tr>
<td>Lithuania</td>
<td>No board-level representation</td>
</tr>
<tr>
<td>Luxembourg</td>
<td>(\frac{1}{3}) of board</td>
</tr>
<tr>
<td>Malta</td>
<td>Board-level-representation only in state-owned companies</td>
</tr>
<tr>
<td>Norway</td>
<td>(\frac{1}{3}) of board</td>
</tr>
<tr>
<td>Poland</td>
<td>In partly or formerly state-owned companies: 1 to 4 members of the board</td>
</tr>
<tr>
<td>Portugal</td>
<td>Board-level-representation only in state-owned companies</td>
</tr>
<tr>
<td>Slovakia</td>
<td>(\frac{1}{3}) of supervisory board</td>
</tr>
<tr>
<td>Slovenia</td>
<td>(\frac{1}{3}) to (\frac{1}{2}) of supervisory board</td>
</tr>
<tr>
<td>Spain</td>
<td>Board-level-representation only in state-owned companies and saving banks</td>
</tr>
<tr>
<td>Sweden</td>
<td>2 members of the board</td>
</tr>
<tr>
<td>Switzerland</td>
<td>No board-level representation</td>
</tr>
<tr>
<td>The Netherlands</td>
<td>No legal provision to appoint or elect a certain number of employee representative</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>No board-level representation</td>
</tr>
</tbody>
</table>
In the United Kingdom, there is no legal right for board-level representation. Instead of worker participation provided by law as known, for instance, in Germany or Austria, collective bargaining, understood as a “mechanism for the determination of pay rates and other basic terms and conditions for the majority of the workforce and more generally represents a key arena for the conduct of collective relations between managers and managed” (Blyton/Turnbull, 1994:175), is of great importance. In the 1970ies after Britain's accession to the European Economic Community, claims for board-level representation raised. In the following years, two reports, the Bullock Report and the White Paper, were published that offered proposals for the introduction of board-level representation. At that time and later, some formerly state-owned enterprises, for example British Railways or the British Steel Corporation, tried to establish some form of board-level representation. Due to those companies bad performance and the fact that the idea of worker participation did not gain acceptance on the social partner's agenda, the matter was given up.

Another issue of great importance might be seen in the fact that for the first time board-level representation is Europeanised. So far, only German employee representatives were in the supervisory board of a German joint-stock company (for example, DaimlerChrysler as an exception). With the SE, the current situation changes. The SNB decides on the matter which representatives are sent in the board and from which countries they are. It seems reasonable to assume that it will be in the interest of the employees’ representatives that employees from different countries are represented in the competent organ. Of course, some might argue now that the SE falls short the global reality of a lot of these companies, but it still seems better having only an European solution than having no such solution.

So far, European employees have been in the centre of the analysis, but of course the question arises as to the SE's impacts on employees outside Europe. Actually, no provision regarding that question can be found in the SE/Di. This might be connected with the fact that it is ruled in the SE/Re that only companies that are found and registered in the Member States may participate in the foundation of a SE. Nevertheless, companies from outside Europe might re-organise their European business by taking advantage of the SE or European companies might be involved in business outside Europe. Consequently, it is worth thinking about impacts on employees outside Europe. As Köstler (2004) argued, the SE/Di does not explicitly bar employees from outside Europe from involvement arrangements in the SE. It appears legally feasible that employees from outside Europe can be included simply by a corresponding wording in the written agreement between the management and the SNB. Though, this option should not be overrated, as such a wording depends heavily on the willingness of the – European - management and the – European – SNB. It might just not be in their interest to involve employees from outside Europe, even though they might be affected likewise by the decisions taken. This is true especially for European companies that have subsidiaries not only in Europe but also overseas. In those cases in which the headquarters of the group is outside Europe, one might even more doubt the willingness of the - non-European - management to establish a global employee involvement procedure.

By and large, it will take a great effort of the parties concerned, the SNB and the management, whose attitudes are stamped by varying preferences, aims, and traditions, to come to an agreement on the issue of worker involvement. Upon all doubts, it must be recognised that the creation of the SE and with it the provisions regarding employee involvement are fundamental. Probably, it is not that “miracle” that has been proclaimed by some authors (see for instance Hirte, 2002), but it is a step in the right direction. Of course, pressures on the national systems of industrial relations and corporate governance increase, and not all people concerned will benefit, but overall the competitive position of companies in the EEA in comparison to companies outside this economic area might be strengthened (Blanquet, 2002).

Prospects

The aim of this paper was to present current developments with respect to worker involvement in Europe. For that reason, two directives, the EWC directive and the information/consultation directive, were mentioned. The focus of the paper, however, was on the European company and especially on its provisions regarding worker participation. Some exemplary cases have
demonstrated plainly the difficulties that might arise in the context of the form of worker participation. In the course of the paper, three issues have been identified. First the issue of the different traditions making it impossible to predict the outcomes of the negotiations. Secondly, the issue of the Europeanisation of board-level representation making it thrilling to have a closer look at board-level decisions in the future. As a third issue, the impacts on employees outside Europe were discussed.

In essence, the introduction of the SE might advance the creation of European best practices not only regarding corporate governance but also with respect to worker participation rights. The creation of the SE might be seen as the first step towards an “international company”. Considering this as the first step, this would mean that in an indefinite future there will be a negotiated worker participation not dominated any longer by employees’ representatives from certain countries or economic areas but representing employees from all over the world.

References


The 2002/4 dispute in the UK fire service

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Keele University, UK

ABSTRACT

In February 2004 I was asked by the General Secretary of the Fire Brigades Union (FBU) to write an account of their recent dispute. The result is a book to be published in February 2005.

Introduction

This paper is divided into four sections. First there is a brief introduction to the UK Fire Service, the FBU and the main industrial relations' issues and institutions. The second section looks at the claim that emerged from the FBU conference in May 2002. Thirdly, there is an account of the negotiations, strikes and subsequent settlement; and finally there is some analysis of the dispute in terms of the efforts made by the employers and the government to 'modernise' the service, the relationship between the union and the Labour government, between central and local government, and of course the nature of public sector employment.

Because of the somewhat odd nature of this research the main evidence comes from the FBU. I was given access to all documents, interviewed the leadership, and interviewed and met with dozens of activists, as well as attending four FBU conferences. Other sources included media accounts of the dispute, government documents and statements, debates in Parliament, interviews with some managers and employer representatives, interviews with others involved such as MPs and senior TUC figures, and discussions on a non-attributable basis with other important figures involved.

Background

The UK Fire Service, like most of what remains of our public services, is a national service locally delivered. The national bit is controlled by legislation, standards, training, national agreements, and finance; and the local bit covers the fact that the staff are employed by Fire Authorities, themselves part of Local Authorities, with locally elected employers and accountable to the local community through councillors. The management of the Service remains hierarchical and until recently the Service was a byword for bullying and prejudice, especially against women, gays and members of ethnic minorities. The management culture remains semi-militaristic.

Nearly all firefighters (both fulltime and part-time, known in the UK as retained) and a majority of control staff belong to the FBU. The union has a tradition of a leftwing leadership and activists, and of successful defence of conditions of service at brigade level. There is a national collective bargaining system that has broken down in recent years, but the mainstay of the system was a pay formula agreed after a bitter national strike in 1977/8. The formula has meant automatic increases in line with the average rise in the pay of manual male workers. Because of this there has been relatively little bargaining since 1978 and this has created two outcomes: relative stability in the service with no national disputes; and without the need to ask for more the FBU has not had to trade pay for changes in conditions. As a result the employers have been eager, sometimes supported by central government, for major changes in working practices under cover of a 'modernisation' agenda. In much of this local employers, despite the rhetoric of autonomy and decentralisation, have been bound by central government policy and this has created further tensions in the system as between local employers – themselves divided along political and urban/rural lines – and central government ministers and civil servants.
The claim

From the late 1990s the pay formula had failed to produce pay rises expected by FBU members. This had meant a classic decline in both their relative pay and in their perception of the fairness of that pay given changes in their jobs. In addition the FBU had elected a new younger leadership, firefighters were held in high esteem especially after 9/11, and both employers and the New Labour government were desperate to ‘modernise’ the service along the lines of changes in health, education and other parts of central and local government. So at the May 2002 FBU conference delegates supported a leadership call for a substantial pay rise of 40% thus taking a fully trained firefighter up to £30,000; and that women in control rooms and part-timers should now receive the full equivalent amount. The claim was to be presented to the employers and negotiations were to be opened with the possibility of industrial action to win the claim.

The Union leadership had calculated on the timing being good: there was widespread support amongst the membership; public opinion was on their side; the employers were divided and seen as weak; the service was both efficient and quite small so that the costs of meeting the claim were modest; the Labour government was in its second term with a large majority and a relatively strong economy with robust public finances; many Labour MPs and other trade unionists said they would support such a claim. As a result when the Union embarked on its hearts and minds campaign over the summer months of 2002 it met with huge success and overwhelming support.

Despite media rumours of a generous employer counter-offer and silence from ministers nothing happened until late summer. The Union members became frustrated by the lack of response from the employers; the union leadership threatened a ballot on strike action; and the media and government all seemed confused by the lack of any response from the employers. Indeed it took a visit from Andy Gilchrist, the FBU general secretary, to the deputy prime minister, John Prescott, to get him to lean on the employers to make a first formal offer to the union. This was 4% -- far below union expectations, far below press leaks of what the employers were prepared to pay, and calculated to inflame the situation. This 4% was to come with strings in the shape of new conditions of service, but it also came with a potential carrot – an independent inquiry into the Fire Service and the pay of the staff chaired by Professor Sir George Bain, backed by the TUC, and with the possibility that whatever Bain recommended the government would have to accept.

The dispute

The FBU rejected both the 4% offer and the Bain inquiry. The argument on the latter was that there had already been many inquiries into the Service, that the government tended to ignore them, that Bain was not independent since both the chair and the terms of reference had been decided by the deputy prime minister, and that it was a device to delay industrial action and to take the sting out of the campaign. Instead the FBU mounted a strong publicity campaign and won a massive yes vote for discontinuous strike action. By late November the employers were very nervous, the Union was upbeat about a negotiated settlement made under the threat of action, and the government was heading for a war in Iraq. On 20/21 November there were all night negotiations at the end of which the FBU leadership thought that at the very least they had an agreement on most issues. This view was supported by the TUC leadership, the head of ACAS, and the chair of the NJC. But at the last moment the employers side, apparently under pressure from senior members of the government, backed off. As a result there was an immediate eight-day strike. This set of failed negotiations was a key turning point and signalled the intention of government to fight the union and defeat its claim.

During the days of strike action in November and December there was a media frenzy with some papers supporting the union while most opposed the union but with mixed levels of support for the government and factions within the government. By now the Prime Minister was attacking the union leadership publicly and adding to the splits in his own party and the wider labour movement. The nuances of policy difference between Blair, Brown and Prescott were apparent but overall the firefighters faced the full fury of the state machine with army cover for the jobs, endless media briefings, and the use of Parliament to speak out against the FBU. The employers were sidelined while ministers fought with the union. It was nasty and bitter.
By early January 2003 the FBU was rattled by the failure of the strikes to produce a settlement, by the government’s support for the Bain report which just repeated the government’s own position, by the growing confidence of the employers, and by the problem of public opinion at a time of impending war. The union leadership was itself coming under pressure from within: while the vast majority of members and activists wanted a settlement sooner rather than later even if it meant tough changes in service conditions, a minority of activists (mainly in London) wanted more and longer strikes. It was into this uncertain and difficult situation that the government again moved. This time the deputy PM brought in new legislation to impose reform on the Service with the right of ministers to impose a pay settlement.

This allowed the FBU leadership to go back to its members and to the wider labour movement on the issue of free collective bargaining and the right to fight not only for more pay but also against job losses. It also allowed MPs the chance to speak out against the government’s policy and employers’ position and in favour of a decent settlement. By now the Iraq war was about to start and the FBU knew it had to cancel all action during that time. This combination of impending war, government threats of imposition, employers new found strength, and wavering amongst its own members in the FBU created the chance for a settlement, and Frank Burchill, the NJC chair, intervened to put on the table something all could live with. After much further posturing and attacks on the union a settlement was reached in June 2003. There would be a pay rise outside the formula but only once nationally agreed changes to working practices had been verified by the Audit Commission at local level. There was the rub.

By November 2003 when more payments were due the employers announced that payments would be staggered and that verification was not complete so no more money was coming. This resulted in unofficial industrial action and more talks. Finally after several months of employers changing the agreement and union opposition, the FBU again moved to ballot members on industrial action, but this time a final agreement was reached in August 2004.

**The analysis**

Such disputes throw up issues and reveal power relations normally hidden from view. It is my contention that the government is dominated by neo-liberal ideas and thus has an overarching policy imperative to privatise public services if possible, and if not then to create market pressures on local managers in order to secure greater control over costs and outcomes. In labour intensive services with strong unions and national collective bargaining regimes this means that reform of labour management and labour practices is the most important element in any ‘modernisation’ agenda. Thus when a group of workers decide to ask for more through the democratic processes of their own union and within the laws of the country, and when they are dealing with independent employers ‘free’ to negotiate and manage the service, we might expect a straightforward something for something deal -- a negotiated trade between higher pay and changed working practices. But this did not happen. The Prime Minister intervened directly to stop a negotiated settlement, to push the union into industrial action, and then to ignore the employers and seek to both break the union and impose pay and conditions on a group of public sector workers. This illustrates the importance of controlling public sector pay, of modernisation through taylorisation, of seeing off any union militancy, and of making sure all others watching learn the lessons: go along with central government policy of privatisation and managed marketisation, or else.

Apart from what it tells us about central-local government relations and about UK neo-liberalism, it also throws light on strikes, the bargaining process and unions themselves. The paper will address familiar problems associated with the internal union decision-making processes, the issues raised when public sector workers (especially an emergency service) strike, and how traditional models of bargaining may not fit situations where the government of the day has reasons, other than those do to with the management of a particular industry, for intervening against the strikers.
What exactly is the relationship between HRM practice and union presence/absence? Evidence from Australian and Canadian firms

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ABSTRACT

Many local and international commentators argue that the continued decline in union density in developed countries is attributable partly – or even largely – to the ascendency of HRM discourse and practice in western work organisations since the mid-1980s. Yet, even amongst the critics, there is considerable disagreement as to which practices are primarily to blame. For instance, whereas Sisson, Heery, and Kelly, and (closer to home) Deery and Walsh contend that the ‘individualised employment arrangements’ characteristic of ‘hard’ HRM, particularly individual performance appraisal and individual performance pay, are primarily to blame, other writers, such as Willmott, Kessler and Purell, suggest that the greater threat to union presence lies in the more subtle practices associated with ‘soft’ HRM, including those characteristic of high commitment/involvement/performance management. Complicating matters still further, writers like Guest and Conway, Bacon and Storey, and Lawler, contend that high involvement HRM practices are not necessarily incompatible with a union presence at all, and that ‘co-partnership’ may represent a superior alternative to non-HRM, non-union ‘bleak houses’. Indeed, Guest and Hoque’s research on greenfield sites in Britain indicates that a union presence is actually associated with a high utilisation of HRM.

What seems to be required here, however, is a little less ideological heat and a little more empirical light. With this in mind, this paper endeavours to address two major shortcomings in the existing literature. Firstly, it seeks to move beyond the assumption of causal unidirectionality by modeling unionisation as both consequence and a cause of HRM practice. Secondly, it seeks to overcome the single-country focus evident in most extant studies by drawing on and comparing quantitative data from firms in two developed, mid-sized countries, namely Australia and Canada.

Using survey data from 349 Canadian and Australian firms, the paper examines, firstly, the bivariate associations between union density and a range of performance and reward management practices applied to non-managerial employees in each country. Using stepwise regression analysis, with controls for industry and firm size, the paper then explores the relative importance of unionisation as a predictor of various HRM practices in each country. Thirdly, using the same technique, the paper models various HRM practices as predictors of union density.

Overall, the findings lend strong support to Deery and Walsh’s contention that individual performance-pay practices are antithetical to union presence. The results also indicate that less highly unionised firms are, indeed, more likely to use a wider range of performance and reward practices. In both countries, total number of individual performance pay plans and total number of HRM practices are found to be strong negative predictors of workforce unionisation. At the same time, the findings indicate significant inter-country divergence in the association between union presence and HRM practice. The results also suggest that some HRM practices, including some group incentives, are more union-friendly than others.
Laughing all the way: Executive pay, company performance and corporate governance in the Australian banking industry

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ABSTRACT

The major retail banks typically dominate Australia’s list of annual high net profit earners. To some commentators, this constitutes proof that the banks are well governed and that bank CEOs are justly rewarded in relation to both the responsibility and risk that they bear and the dictates of the market for ‘top executive talent’. Others point out that while bank CEOs are amongst the most highly paid and wealthy of all Australian salaried CEOs, their tenure of office is relatively short, their business is high risk and highly competitive, and their ability to realise the high wealth potential of executive equity plans is constrained by increasingly onerous performance hurdles. To invoke the language of classical Agency Theory, it would seem that the boards of the major Australian banks have effectively addressed the principal-agent problem.

Yet, on closer examination, a rather different set of realities emerge. Drawing on Bebchuk and Fried’s (2002, 2004) theory of ‘systematic rent extraction’ and using both qualitative and quantitative data, this paper examines the associations between chief executive office remuneration, board composition, corporate governance structures, executive behaviour, and bank performance in the top ten ASX-listed retail and investment banks over the past five years.

The opening section contextualises the study by providing a brief overview of the international debate about executive pay and corporate governance, along with associated conceptual insights and arguments, including those associated with rent extraction theory. The following section reveals trends in the level and composition of CEO remuneration, retention and separation payments, and draws comparisons with trends in pay rates for CSOs and other line employees in the banking workforce. Subsequent sections deal with board composition in the ten banks, ownership spread/concentration, CEO recruitment, tenure and turnover, CEO ‘structural power’, processes associated with CEO pay determination, the opacity of CEO employment contacts, board and CEO behaviour in relation to executive share option plans, and the use and abuse of performance hurdles as applied to short-term and long-term incentives.

As a way of gauging the degree of pay-performance ‘sensitivity’, the paper then compares CEO remuneration trends firstly against traditional accounting and market-related measures of company performance and then against the Economic Value Added measure of capital use efficiency. Judged against the latter criterion, the rise and rise of bank CEO pay is both performance insensitive and perverse. This unflattering finding is also considered against the backdrop of the social costs of bank executives’ aggressive pursuit of profit maximisation, including the abandonment of broader social responsibilities to bank customers and staff.
Pay equity in the Australian public sector

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ABSTRACT
This paper argues that much of the persistent pay inequity evident in Australia can be found in the public sector. Governments continue to resist paying their employees equitably. This was evident from when equal pay for work of equal value was introduced, and again in the 1980s when the public service unions fought the Federal Government to make sure female-dominated professions were in the same job evaluation and classification system as male-dominated professions. However, while job evaluation was aimed at ensuring equity, it was not the panacea anticipated and other problems to do with monopsonistic forces enable governments to continue to pay female-dominated occupations less than their male counterparts. As wage case studies from a (shortly to be submitted) thesis (Short unpublished) show, enterprise bargaining only worsened these problems when agency level bargaining occurred and agencies were very male- or female-dominated.

Introduction
Even though pay equity continues to be a problem in Australia with an average gap of 16% between the earnings of men and women working full-time ordinary hours and 23% in WA (Short 2003), at first glance it does not appear to be an issue in the public sectors around Australia. Female public sector employees are paid on the same salary scales as male public sector employees; most public sectors have job evaluation systems that compare similar jobs to ensure equity; and women are increasingly the majority amongst public sector employees. However this paper will argue that it is in the public sector that much of the inequity in pay between men and women remains.

The historical origins of public sector pay inequity are described. More recent information from wage case studies of the Australian Public Service (APS), the Western Australian Public Sector (WAPS) for general administrative and clerical staff and Victorian and WA government teachers is used to identify further problems. These case studies, part of a nearly completed thesis (early results were reported in Short 2004), involved in-depth interviews with 39 Commissioners, union officials and employers and their representatives as well as the collection of wage data for the period 1990 to 2003. The public sector case studies were contrasted with studies on private sector child care, retail and clerical work (being female dominated areas) and studies on metal trades, building, transport and mining work (male dominated areas). Problems identified in the public sector wage case studies involve different outcomes for male and female-dominated agencies, lower pay increases for lower-level female dominated occupations in the sectors and monopsony.

Historical background
From 1912 to 1972 women were paid less (45–75% of the male rate) if they were doing women’s work but generally equal pay when they competed with men for employment in the same jobs. The rationale consistently used for this different treatment in the Australian Industrial Relations Commission (AIRC) and its predecessors was that women only needed to support themselves while men needed to support a wife and children. This approach was mirrored in all other jurisdictions around Australia including that of Western Australia (Short unpublished). In 1972 women were granted equal pay for work of equal value in the AIRC and this principle was adopted by the States too.
However, Short (1986) analysed each of the AIRC decisions conducted under the 1972 principle of equal pay for work of equal value and found that none of these decisions involved direct comparisons with male-dominated occupations. In other words the value of female-dominated jobs was not assessed. While the majority of women working in Australia at that time achieved increases in pay this did not necessarily result in full equal pay for work of equal value. Deals resulting in consent agreements were made with employers by unions. Unions appeared to have settled for what was possible rather than equal work value.

Short (1986:325, 334) shows that local government (WA) and Commonwealth public service typists applying for equal pay for work of equal value were treated in this fashion. When the pre-existing separate male and female pay structures were eliminated under the 1972 decision typists were simply added on to the bottom of the (male) clerical range without consideration of their skills in typing which were in addition to the skills needed for a lower level clerical job. It appears that no work value assessment was made and the unions did not object.

Unions were only able to achieve what the AIRC and employers were prepared to accept and in the early to mid 1970s there appeared to be little sympathy for female workers near the bottom of pay structures. That women’s jobs were paid less than those of men, even without any type of comparison of skills or value, was probably still seen as only natural.

MOVING INTO MALE CLASSIFICATIONS/JOB EVALUATION STRUCTURES: During the 1980s the Australian Public Service was the focus of union activity on pay equity. Unions and women’s groups recognised that in order to remove remaining pay inequities there needed to be a comparison of the skills, qualifications and other work value factors of female-dominated jobs with male-dominated jobs. The problem was no longer where women worked alongside men in the same jobs but in the predominantly female areas such as clerical work, therapy and nursing.

At the end of 1985 the Professional Officers Association (POA) (which became part of the Community and Public Sector Union (CPSU)) was the first organisation to be successful in enabling the direct comparison of female dominated occupations and male occupations. The Australian Industrial Relations Commission allowed physiotherapists, occupational therapists and speech pathologists to be included in the Australian Public Service Science Group.

This [employment category] contains fifty-two different science-qualified professions, which share a common salary and classification structure, including common criteria for the evaluation and classification of work within the various occupations… Before the case, the three therapist professions were the only science-qualified professions excluded from the Science Group, despite the fact that their professional qualifications were recognised as meeting the criteria for inclusion. (Rafferty 1989:527)

The Professional Officers Association continued its pay equity campaign within the Commonwealth Public Service. A series of cases in the Australian Industrial Relations Commission (see Rafferty 1989; 1991; 1994) allowed the comparison of the work of male dominated professions such as engineers, counsellors and psychologists with social workers and dental therapists. The Commonwealth Government, as their employer, resisted each case, even when it was a Labor Government that professed to support pay equity. By 1992 the main Australian Public Service Agreement included all these female-dominated professions allowing direct comparison with their male counterparts in the wage structure.

PUBLIC SECTOR JOB EVALUATION SCHEMES: Yet even ensuring female professionals were in the same job evaluation system as their male counterparts did not necessarily remove all inequities. Job evaluation schemes introduced into Australian public sectors or services in the late 1980s “evolved to erase explicitly separate pay scales by gender and yet, at the same time, reproduced gendered pay practices in new ways.” (Figart 2000)

Job evaluation allowed the comparison of jobs on the same criteria such as responsibility, skills used and numbers of staff supervised. However, as Burton, Hag and Raven (1987) and Short (1992) have shown the standard job evaluation systems used in the public sectors around Australia were based on the Hay job evaluation system and this reflects the values of American society in the 1940s and 1950s where it originated rather than contemporary values.
The UK Equal Opportunity Commission highlights some of the problems inherent in the system.

Job evaluation is a system of comparing different jobs to provide a basis for a grading and pay structure. The aim is to evaluate the job, not the job holder, but it is recognised that to some extent any assessment of a job’s total demands relative to another will be subjective. Moreover, job evaluation is in large part a social mechanism which establishes agreed differentials within organisations (EOC cited in Short 1992:5).

The biases built into job evaluation systems start with the job descriptions used as the basis for evaluation. Job descriptions tend not to record or to downplay ‘female’ or ‘soft’ skills such as co-ordination, co-operation and caring (Guy and Newman 2004; England 1992: Chapter 3; Cox & Leonard 1989).

Furthermore, the use of multiple job evaluation systems or pay/classification structures within a public service or sector prevents clear and equitable pay comparisons (Risher 1984; Hastings 1990); the greater the proliferation of salary structures and systems the lower the equality of pay within and between these. Most Australian public sectors also use different evaluation systems and/or pay structures for predominantly male or female work. For example, in a public sector there are commonly different job evaluation systems or pay classification structures for managers, technicians, and police (mainly male) and for nurses, teachers and child care givers (mainly female). As Armstrong and Cornish (1997) note it is really important for women working in female ghettos, such as those in the occupations just mentioned, to be able to compare the wages with those outside these ghettos. Within a public sector that can only be achieved by using job evaluation schemes that encompass the broadest range of jobs possible. These problems continue to persist and worsen under deregulation.

**DECENTRALISATION AND MINIMUM RATE ADJUSTMENT:** By 1992 evidence was already emerging that the POA pay equity gains were being eroded under the new decentralised industrial relations system. Rafferty (1994:459) noted that female public sector professionals at that time were having their wage structures compressed into the lowest levels of the now integrated professional officer classification system.

The Australian industrial relations system began to be decentralised in 1987 when the Commission moved into granting extra increases to those making workplace-level agreements for award restructuring and structural efficiency, and then for enterprise bargaining. Previously most award wage increases had been decided centrally in the AIRC in national wage cases with increases flowing on into the different states during state wage cases.

During the 1988 National Wage Case, in response to the move to award restructuring, the ACTU pressed for a national ‘blueprint’ involving restructuring all awards to provide ‘consistent, coherent award structures, based on training and skills acquired, and which bear clear and appropriate work value relationships one to another’ (ACAC Print H8200:6). As Plowman (1995:282) observed the ACTU was seeking

…a threefold comparative wage exercise. It sought to relate minimum rates awards to paid rates awards by way of the provision of supplementary payments. It sought to relate awards in one industry to those in others. It sought to relate wage rates within awards.

This blueprint would form the restructured award safety net to enterprise bargaining, a process later referred to as minimum rate adjustment (MRA) which was adopted in the 1989 National Wage Case.

Minimum rate adjustment allowed for women’s jobs such as clerical and retail jobs to be directly compared to male-dominated metal trades jobs for the first time. The historical bias against female-dominated jobs could have been corrected within the Australian industrial relations system. What is more the new restructured awards could provide skills-based career structures ‘which had been notably absent from women’s jobs in the past.’ (Hunter 2000:12)
However the unions and work areas that did pursue award restructuring and minimum rate adjustment were not comprehensive (Short unpublished). This was particularly so amongst female work areas and the public sector. Minimum rate adjustment was not available to those in paid rates awards which were mainly in the public sector. Paid rate awards list the actual amount to be paid to workers on the job, minimum awards by contrast list a minimum amount to be paid which the employer can add to as they see fit.

According to the ACTU (Short unpublished) paid rates awards were all assumed to be quite high relative to private sector blue collar (minimum award) wages and therefore thought to be about right in comparison to other awards. Thus it was felt that public sector paid rate jobs did not need a safety net or comparison with the metal trades despite the continued pay equity work by the POA/CPSU.

The wage case study comparing the APS with the WAPS (Short unpublished) involves minimum rate adjustment during the time period studied, i.e. 1990 to 2003. Both governments maintained firmly that that the main public sector awards were paid rate awards and therefore not subject to minimum rate adjustment. Yet both public sectors had higher paying enterprise agreements simultaneously with what they called paid rate awards. The APS changed its main public sector award from a paid rate to a minimum rate basis in 1998. In this process the APS put down wage rates from the levels existing in the previous paid rate award to make the rates minimum. At this late stage in the MRA process it is possible that the metal trades’ award used as a comparator for the public sector award adjustment no longer reflected minimum rates paid in the metal industry as it had not been minimum rate adjusted for eight years and EBA rates were at least 50% over the award (Short unpublished).

Thus the WA government general clerical and Victorian teachers’ awards have been prevented from testing under the minimum rates adjustment principle even though these awards may not be equable in their relativities to the metal trades’ award, and in the case of the APS the test may have been flawed. The other female-dominated areas studied in Short (unpublished), retail, child care and clerical work, were able to access minimum rate adjustment although with less favourable outcomes than the men (Short 2002a:40). As a result the public sector employees/occupations involved may still be suffering pay inequity relative to private sector male-dominated occupations.

**Pay equity in the 1990s**

The public sector wage case studies (and indeed the other government-related case study into child care) in Short (unpublished) demonstrate four further pay equity problems. First, with more radical decentralisation of public sector industrial relations, where agencies are able to bargain for their own wage rates and conditions individually rather than be involved in sector-wide agreements, female-dominated agencies may end up paying less than male-dominated agencies. Second, where wage increases are always granted in percentage terms rather than in a flat rate payment women who dominate the lower end of the public sector will gradually lose pay in relative terms. Third, the public sector is found not to be responsive to market conditions such as supply and demand so it is probable that public sector wages are subject to monopsony influences resulting in lower pay than found in the private sector. Fourth, not unconnected to the last point, the administrative and clerical public sector jobs in particular, and other female-dominated public sector-related jobs studied in Short (unpublished) gained much lower pay increases since 1990 than the male-dominated jobs studied.

Short (unpublished) compared enterprise bargaining agreements between 1992 and 2003 for the WA and Australian public sectors. Two classifications were compared from each: AO2 and AO6 in the APS, and Level 2 and Level 6 in the WA public sector because women are more likely to dominate the lower levels. However as Short (unpublished) explains there is substantial doubt over whether these apparently equivalent levels are in fact equivalent between the two sectors. Thus it is more valuable to look at changes within each sector rather than between them. The different departments were chosen because Health is dominated by women whereas Main Roads is dominated by men. The federal Department of Transport and Regional Services was used because, like Main Roads, it deals with infrastructure and contracting out of male dominated services. In WA in June 2003 77% of Health Department staff members were female; in the federal department 72% were female. In WA 21% of Main Roads staff were female and in the federal Department of Transport and Regional Services, 46%.
Short (unpublished) found there were differences in pay between female and male dominated departments as well as in the increases given to different male and female-dominated classification levels. WA was particularly striking, perhaps because their agency-level enterprise bargaining agreements started earlier (1996 compared to 1998/9) and came out of a much more deregulated background with a government urging the adoption of workplace agreements amongst all staff, not just senior staff as in the APS. The APS had sector-wide instead of agency level agreements until 1998. WA returned to a sector-wide agreement with the election of a Labor Government in 2001.

The major difference was between the WA female-dominated Health Department and the WA male-dominated Main Roads Department highlighting the wage/gender connection. By 1998 Main Roads Level 2 employees were being paid $89 or 15.8% more a week than the WA Health Department Level 2 employees. Level 6 employees in Main Roads were receiving $186 or 19.7% more per week than those in Health. By contrast in the APS, in 1998 when enterprise bargaining at agency level began, Transport and Ageing AO2s were being paid $10 more than AO2s in Health. A similar gap existed for APS AO6 employees. Thus the male–dominated agency had higher wages but not by as much as in WA.

By the end of the study period, after four or five years of agency EBAs the federal Department of Health and Ageing had actually overtaken the Department of Transport and Regional Services with both ASO2 and ASO6 employees being paid more in that agency. By the end of 2003 Health and Ageing was paying ASO2 employees $76 more per week compared to Transport and Ageing; ASO6 employees in Health were paid $52 more per week compared to Transport. In 2001 the situation in WA changed with the Labor Government in WA taking the WA public sector back to a sector-wide agreement and reversing the effects of the agency-level agreements by 2004 – just outside the study period. By 2004 Main Roads and Health wages were the same for each classification.

There appear to be a number of reasons for Main Roads gaining such an advantage during agency-level enterprise bargaining in the period 1995 to 2001, namely the type of funding the agency received, timing, conditions traded off, productivity, the type of work being performed (which also relates to gender predominance), and militancy.

Main Roads was one of a group of agencies that drew well ahead of other WA agencies during agency-level bargaining. Most of these agencies tended to be male dominated and received funding from sources other than from central revenue. For example Main Roads collected funding in the form of licence payments and federal infrastructure grants. According to a manager this made ‘it a lot easier to actually put in place some innovative conditions and pay arrangements’ (Short unpublished). The WA Health Department’s budget problems left them with little to pay for productivity increases under enterprise bargaining. As the Health Department manager said ‘the ability to actually sit down and account and acquit and say yes we’ve had a 5% increase in productivity and we’ll share this 2.5% each, is just hypothetical nonsense’ (Short unpublished). Health did not have the money to share.

Main Roads was also a year ahead of Health with its enterprise bargains starting in February 1995 and they traded off a lot of conditions such as public holidays and hours that may have been more important to Health’s female workforce. Main Roads were also much better positioned to identify productivity savings due to the nature of the work it undertook. They employed mostly technical and professional/engineering staff to administer contracts for infrastructure maintenance and development and only a small group of clerical staff. However Main Roads had a philosophy of dealing with wages as one group – a team - and the clerical administrative staff thus received the same increases as other staff.

Use of a total factor productivity model was another feature for Main Roads but not Health. A manager explained that:

…part of our pay is through productivity and we were one of the first agencies to actually measure productivity. We had a total factor productivity model in place very early in the enterprise bargaining process that looked at what are we producing, what impact are we making on the economy, on our contracts, on delivery of our programmes - and that produced a figure that we were able to translate into a pay outcome for employees. (Short unpublished)
In the long run the model became unworkable. As the same manager pointed out:

Treasury was starting to question the validity for pay increases… How much did an employee contribute to it? You know how much is in their control? Because the model took a lot of things in, like environmental factors. Sometimes we aren’t able to influence that at all because there’s certain environment regulations in place.

According to the public sector union the type of employees at Main Roads also influenced militancy in the agency and assisted in enterprise negotiations.

Now in Main Roads you had an agency which had more of a culture of that [being organised] because you had a blue collar workforce, you had unions which were doing that out in the private sector already and they brought that sort of culture into their membership in Main Roads - which isn’t our membership - but our members gained strength from that. (Short unpublished)

Health staff did not have the same blue collar influence.

Health Department … you call a meeting of members in the Health Department, you’re lucky to get five people there. And you do the walk throughs, you try and get the delegates, you try and get a structure there and they didn’t have that identity with a union culture in the same way. (Short unpublished)

Also of interest in the administrative/clerical area is the opportunity to look at how percentage wage increases affect a wage structure. When percentage, rather than flat increases are given the people at the lowest end of the pay structure end up with less of an overall increase over a number of years. Using WA Main Roads’ figures (see Table 1) this process can be seen. Between 1990 and 2003 Level 2 employees had a wage increase of 31.1%, over the same period Level 6 employees had a wage increase of 37.1%. Unlike Health, Main Roads gave the same percentage increases to its staff during the study time period. Health gave its lower level staff a flat increase in the first EBA and this results in Level 2s in Health gaining a higher proportionate increase in their pay (38.9%) that Health Level 6s (33.9%). Arguing for flat increases is very difficult for unions as this quote shows.

Our members at a high level have an expectation of percentage wage increase and they don’t understand - well, some don’t understand the equity argument. …But if we get a percentage wage increase - which benefits higher income earners - lower income earners don’t leave the union. But if you go for a flat rate which benefits low-income earners, high-income earners will resign. So there’s a really … and it’s interesting; we’ve got into a culture of percentage wage increases. (Short unpublished)

Like all the female-dominated areas studied in Short (unpublished) the public sector clerical wage rates lost ground against (AIRC standard) metal trades wage rates during the period under study. The worst example was WA Health Department Level 6s who went from 214% of the WA trades’ rate in 1990 to 145% by 2002. However Level 2 WA Health Department employees also did badly falling from 126.4% of the trades’ rate in 1990 to 88.9% in 2003.

Table 1 below shows that public sector administrative and clerical occupations gained the least wage increase over the period of all the occupations studied. Public sector employees in WA and federally gained between a 31% and a 39% increase in their wages between 1990 and 2003. It appears that governments have been very successful in restraining wage increases during the period 1990 to 2003. This same government restraint may also have affected the wages of teachers and child care givers who are also influenced by government funding and policies. However their outcomes were better. WA child carers gained an increase of 51% and teachers 51 to 52%. This was as a result of a minimum rate adjustment case which tied them to WA teachers after 1993. Teachers managed to get better increases in enterprise bargaining from the government than did other public sector employees, perhaps due to public opinion.

One might argue, somewhat controversially, that public opinion affects government judgments about pay increases more than do markets. An employer representative talked about the public sector market being different. ‘[B]y definition, you know, there often isn’t a market, or, a market is different’ (Short unpublished). Normal forces of demand and supply are unlikely to operate (at least in the short term) to affect wages and this is evident when considering the persistent and serious shortages in nursing being experienced by governments.
According to interviewees the public sector operates by looking at budgets (and worrying about raising taxes), not shortages of labour. In an example of this a public sector employer representative interviewed claimed that pay equity is difficult to achieve in the public sector because of the large numbers employed in occupational groups where women predominate e.g. nurses and teachers.

You’ve also got to take into account that…[in] the public system where there are large numbers of females employed it’s unrealistic to consider that they are going to throw money at trying to fix the pay disparity between males and females…just one percent on some of these public areas is worth millions of dollars, given the size of the workforce. (Short unpublished)

In a similar fashion a Commissioner pointed out that while other industry sectors were able to work out the value of an occupation through market forces and what is perceived to be fair the public sector found politics interfered and had to ask the Commission to solve the problem.

…the only cases that come here are the ones that people can't solve. You know, most people can work out what value is. Either by the determination of the market forces, or their own sense of, equity, having regard for the range of people that they employ. It’s only when the public sector, mainly, is unable for political reasons, to come to that decision that we inherited it. (Interview with Commissioner B)

From an economic theory point of view this is probable evidence of monopsonistic power in the public sector. To put it in lay terms, monopsonies exist where the potential employee has very little or no alternative in employer. The employer is a monopoly buyer of labour. The occupation the employee wants to enter is employed or (in the case of child care) funded mainly by one organisation (i.e. government) in the geographical area. The same would apply to teaching with even non-government teachers' wages being affected by the wages paid in the government sector. In the case of women this is exacerbated by restrictions on their ability to move to gain employment because of their family responsibilities and the jobs of their partners.
This means the employer has more power over the worker than normal and can set wages lower than the market rate would have been (e.g. Norris 1993:157-159). However it should be noted that in the longer term governments probably do finally respond to market pressures — this is beginning now to show for nurses with many now employed at much higher agency (casual) rates (Email comment from Health Department manager).

Summary

In summary this paper has shown how the Australian and WA governments, both Labor and Coalition, have not generally promoted equal pay in their own workforce. This is evident both historically and more recently. Job evaluation systems used in public sectors in Australia have yet to be corrected for pay equity probably due to cost constraints. A review of the treatment of clerical and administrative staff and teachers’ wages in WA and Australia shows that in the more radical decentralisation period experienced in WA between 1995/6 and 2001 female public servants in female dominated agencies did much less well than male public servants. However it is also clear that a government prepared to fix this kind of problem can do so and this is seen twice, once with the APS in 1994/5 and in WA in 2001-3. From the wage case studies (Short unpublished) it is evident that the public sector workforce operates in a different market situation to the private sector. In the public sector budgets and politics appear to be more important than the forces of demand and supply, at least in the short run. It would seem that the politics of selling a large public sector budget outweighed and may still outweigh any considerations of equity. Solutions suggested in Short (unpublished) involve changing legislation to allow for pay equity investigations and orders; and conducting pay equity audits at the occupational level involving also correcting inequitable job evaluation schemes. The public sector needs to ensure it is paying its employees equitably or risk compromising its ability to retain and recruit staff in the face of competition from the private sector. It may also see so few people entering female-dominated occupations such as teaching and nursing that quality of service can no longer be maintained.

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**Political use of the purpose clause in British Columbia labour relations legislation**

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**ABSTRACT**

This article examines a series of amendments to the purpose clause in British Columbia labour legislation from 1973 to the present, employed as a form of political control over labour law and the labour relations board. Over this period, different stages of the use of this provision by the government are apparent. Purpose clauses were first used to support the independence and flexibility of the board. Subsequently, government used the purpose clause to limit the board's discretion, and to direct its decision making. Most recently, the purpose clause has been recast as a 'duties' clause and the government expressly intended that it would direct the board's deliberations and decisions and would guide its application and interpretation of all other substantive provisions in the legislation. We see labour legislation being used, again, as an economic tool. The difference is that it is now being used to restrict the economic power of labour to enhance business competitiveness.

**Introduction**

Labour relations in many Canadian provinces have been characterised by pendulum swings in tandem with changing provincial governments. With a new government tends to come substantial and wide ranging amendments to labour legislation involving changes to numerous sections of the legislation and modification or replacement of various statutory procedures, reflecting that government's labour relations policy.

However, beginning in the mid-1970s and accelerating in recent years, reform of labour legislation took a different course in one province. In British Columbia, in addition to the usual overhaul of the labour legislation traditionally accompanying political change, new governments began turning to the purpose clause to effectuate their labour relations agendas. Purpose clauses are the lenses through which all other provisions are read. Consequently, modifying this provision can alter the interpretation of the whole of the legislation. As such, the purpose clause is potentially a powerful tool for controlling the application and interpretation of labour law.

This article examines a series of amendments to the purpose clause in British Columbia labour legislation from 1973 to the present, employed as a form of political control over labour law and over the labour relations board. Over this period, we can see different phases of the use of this provision by the government. In the first stage, it was used to support the independence and flexibility of the board. In subsequent years we see the purpose clause used by the government to progressively restrict the freedom and discretion of the board, and to direct its substantive and procedural decision making. We also see that changes to the purpose clause signal a change in direction of labour legislation back to being a tool of economic control. From its roots as an economic tool used to combat the Depression, labour law developed in mid-century into a means of furthering social justice, and is now returning to its origins as a means of achieving economic ends. The most recent changes, in 2002, recast the purpose clause as a 'duties' clause and the government expressly intended that it would direct the board's deliberations and decisions and would guide its application and interpretation of all other substantive provisions in the legislation. Primary among the new purposes to be achieved are those that further the economic competitiveness of businesses.
Purpose clauses

Purpose clauses are a statement of the principles or policies that the legislature intends the legislation to implement, or of the objectives the legislation is intended to achieve, they also define the limits of discretion conferred on the decision-maker by the legislation (Sullivan, 2002, p. 300, 302; Canadian Assn. of Industrial, Mechanical & Allied Workers, Local 14 v. Paccar of Canada Ltd., 1989, p. 465-466). They are substantive provisions located in the body of legislation and, as such, are as binding as any other substantive provision of the legislation. Consequently, statements in purpose clauses can influence interpretation and understanding of the legislation as a whole, and can guide its interpretation in a particular direction (Sullivan, 2002, p. 300-1). However, purpose statements have not been widely used in Canadian legislation, and are not addressed in the interpretation acts in either the federal or provincial jurisdictions (Sullivan, 2002, p. 300). So far, only British Columbia and Ontario’s labour legislation include purpose clauses.

The Wagner Act: our beginnings

Canadian labour legislation is founded on America’s Wagner Act of 1935 (the National Labor Relations Act), which enhanced the power of trade unions by providing legal protection to unions chosen as workers’ bargaining representatives. The Wagner Act was a product of both organised labour's political power and of President Roosevelt's determination to harness economic forces to combat the Depression (Gregory, 1961, 230). As an economic tool, the Act was intended to create purchasing power and inflation to counteract the deflationary effect of depression by enabling trade unions to improve terms and conditions of work through their collective bargaining power (Gregory, 1961, 225, 343-344).

The Act contained a preamble, section 1, explaining the need for the legislation as a response to the harm to commerce caused by industrial disputes, including employer refusal to recognise unions. It set out the following as the policy of the United States:

‘[T]o eliminate the causes of certain substantial obstruction to the free flow of commerce and to mitigate and eliminate those obstructions when they have occurred by encouraging the practice and procedure of collective bargaining and by protecting the exercise by workers of full freedom of association, self-organisation, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection.’

Therefore, the Wagner Act was introduced primarily as an economic tool, with desirable social outcomes anticipated as a result of its economic effects. Labour’s power was enhanced only in order to achieve the economic goals of the government, and social outcomes were not the goal in and of itself.

This US experience can provide us with some perspective on the modern Canadian situation. Currently, the economic effects of union collective bargaining power are regarded as economically undesirable in the context of global competition. Governments are increasingly interested in supporting the competitiveness and flexibility of business based on low input costs, and minimal regulation.

Initial optimism and freedom for the board

In 1972 British Columbians elected the New Democratic Party (NDP), a social democratic party, after two decades of conservative Social Credit governments. The NDP’s key election promise was to bring about more peaceful and constructive labour relations, ending the years of labour-management turmoil that had badly harmed the province (Weiler, 1980, p. 3), a promise that the opposition party supported in principle and in the legislature.

Against this backdrop of a cooperative effort to improve labour relations in the province and, particularly to calm labour unrest, the Labour Relations Code was substantially reformed and the labour board was restructured. The new Code contained many innovative elements and its primary function was to make the collective bargaining process work successfully and to achieve effective industrial relations by allowing the Board to become involved in the ‘total process’ (Labour Code of British Columbia, 1973; L. Hanson (NDP), Hansard, 1 June 1987, p. 1489).
The board’s jurisdiction was expanded to cover the full spectrum of labour relations issues, and it was conceived of as an independent, expert body which was expected to use the experience and judgement of its members to manage labour relations, with the mission of establishing more constructive labour relations in the province. In order for the board to discharge its newly broadened responsibilities, the legislature granted it a great deal of autonomy and power, much of which had been within the jurisdiction of the courts. A separate Part of the Code set out the board’s structure, functions and jurisdiction, and included a purpose clause.

The purpose clause, section 27, provided that the board ‘...may exercise the powers and shall perform the duties...’ given to it under the Code, and identified two objectives to be met by the board in exercising its powers and performing its duties: securing and maintaining industrial peace, and promoting conditions favourable to settlement of disputes. Nevertheless, little express attention was paid, in board decisions, to the Section 27 directions.

There was concern that these extensive board powers could be abused (R.E. Skelly (NDP), Hansard, 4 October 1973, p. 511). However, the structure of the board, the expertise of those appointed to the board, and transparency of board decision-making, were relied on as safeguards designed to protect against abuse of this power. First, the legislation contemplated creation of an ombudsman position, and the ombudsman would be able to publicise board decisions and make recommendations to the Minister’s office for legislative change (W. King (NDP), Hansard, 4 October 1973, p. 515).

Second, the structure of the Board anticipated that most panels would be headed by the neutral chair or neutral vice-chair, and representatives of employees and management, would be a safeguard against abuse of power by the Board (W. King (NDP), Hansard, 4 October 1973, p. 515). Third, the Board would have the power to reconsider any decision or order of the Board or panel of the Board. Fourth, the requirements that all Board decisions be made available in writing (s.23), and that all general policies created by the Board be published (s.27(3)) were regarded as safeguards against abuse of power by the Board (E. Hall (NDP), Hansard, 4 October 1973, p. 493).

To a great degree, transparency of decision-making was the means that the legislature relied on to control the new labour board, and the need for control was envisioned only as a safeguard against abuse of the board’s powers, not as a means for directing the outcomes of board decisions. For this, the legislature relied on the good judgement and experience of the board. The purpose clause was not intended to restrict the discretion or flexibility of the board in its decision-making. To the contrary, in the interests of allowing the board flexibility, s.27(1) provides that the Board is not bound by the general policies it formulates (W. King (NDP), Hansard, 24 October 1973, p. 917) and s.27(2) permitted the board to seek submissions from other persons when it formulated general policies.

Additional express purposes: 1977

The NDP government was short-lived, losing power in the next election, in December 1975. The new Social Credit government amended the purpose clause in 1977, adding a series of explicit purposes and objects was added (Labour Code of British Columbia Amendment Act, 1977).

These amendments introduced a hierarchy of purposes within section 27. Of primary importance were the public interest and parties’ rights and obligations. Second in prominence was effective industrial relations, good working conditions and the well-being of the public. Given least prominence were the purposes of achieving industrial peace, harmonious relations, improving collective bargaining, and promoting conditions favourable to orderly and constructive settlement of disputes.

These amendments expressly introduced concern for the public interest, and the rights and obligations of parties into the purpose clause. They also added an instruction to the board that it may exercise its powers and shall perform its duties ‘so as to develop effective industrial relations’, again emphasising the public interest, stating that this was to be done ‘in the interest of achieving or maintaining good working conditions and the well-being of the public.’
Section 27 then directed the board to have regard for a number of particular purposes and objects, to achieve the earlier mentioned purposes of effective industrial relations, public well-being, and good working conditions. The purposes appearing in the 1973 Code were recast as: ‘promoting conditions favourable to the orderly and constructive settlement of disputes between employers and employees or their freely-chosen trade unions’ (s.27(c)); and ‘securing and maintaining industrial peace, and furthering harmonious relations between employers and employees’ (s.27(a)).

A new purpose was introduced: ‘improving the practices and procedures of collective bargaining, between employers and trade unions as the freely chosen representative of employees’ (s.27(b)).

Finally, the new section 27 also altered the focus of the earlier objects of the legislation, changing the focus from ‘harmonious relations’ to ‘industrial peace’, and promoting ‘orderly and constructive’ settlement of disputes rather than simply settlement of disputes.

Overall, with the 1977 amendments, several considerations were new and central to the purpose clause. Primary among these were concern for the interests and well-being of the public, and concern for parties’ rights and obligations. The government intended that the Code would serve the public interest, that labour legislation was not the ‘private preserve’ of unions and employers, and that it would be clear from section 27 that this legislation put primacy on the public interest over solely parties’ interests (L.A. Williams (SC), Hansard, 9 September 1977, p. 5357-8).

Expanded purposes: 1987

In 1987, with the province still under a Social Credit government, the labour board was replaced by an Industrial Relations Council, the Labour Code was renamed the Industrial Relations Act, and the section 27 purpose clause was also significantly amended (Industrial Relations Reform Act, 1987, s.18). Legislative debate over the change to the purpose clause was lengthy and fractious, in stark contrast to the limited debate over the 1973 and 1977 purpose clauses.

While the hierarchy of purposes in section 27 was maintained, a number of changes were made to the provision. First, regard for the ‘rights of individuals’ was introduced as a primary consideration of the board, alongside the rights and obligations of parties. The opposition suggested that this indicated that rights of individuals were to be treated as paramount to good industrial relations (C. Gabelmann (NDP), Hansard, 1 June 1987, p. 1496).

Regard for good working conditions and the competitive market context was elevated to a primary purpose, the amended section 27 directed the board to recognise the ‘desirability for employers and employees to achieve and maintain good working conditions as participants in and beneficiaries of a competitive market economy.’ The opposition asserted that this amendment indicated that the government intended to achieve a ‘competitive market economy’ and that a key object and effect of this legislation would be to remove organised labour from the province (Lovick (NDP), Hansard, 1 June 1987, p. 1487). The opposition characterised the proposed IRA as ‘massive government interference’ into private contracts between employers and their workers, which is contradictory to the philosophy of a ‘competitive market economy’ (C. Gabelmann (NDP), 1 June 1987, p. 1482).

Third, the mandatory direction for the board to exercise its duties was maintained, but the language regarding exercise of its powers was changed from permissive to mandatory, directing the board to exercise its powers to achieve the secondary purpose of ‘expeditious resolution of labour disputes’, rather than the predecessor objective of ‘effective industrial relations.’ The opposition objected to this change of language, asserting that this would ‘open the door to what was commonly referred to in the old days as the injunctions mills … where where injunctions will be the normal course of events in labour relations, bringing it back into the courts….To say that labour disputes need to be resolved and then use ‘expeditious’ as the only qualifier, leaves an impression and a requirement that it must be done quickly by whatever means. You don't qualify it by saying voluntary, and you don't qualify it by saying effective. ‘(C. Gabelmann, Hansard, 2 June 1987, p. 1508).
Concern for the well-being of the public remained in the amended purpose clause, although it was relocated to the ‘objects and purposes.’ The opposition NDP was concerned that the new emphasis on the public interest would mean that the interests of those not in labour would be preferred over the subcategory of the public in labour (Hansard, 2 June 1987, p.1502).

Finally, the amendments added a number of purposes and objects that the board was to have regard to in pursuing the above purposes. These included: ‘encouraging the voluntary resolution of collective bargaining disputes’ (s.27(d)), ‘minimising the harmful effects of labour disputes on persons who are not involved in the dispute (s.27(e)), ‘providing such assistance to employees and bargaining agents as may facilitate the making or renewing of collective agreements’ (s.27(f)), and ‘gathering and publishing information and statistics respecting collective bargaining’ (s.27(g)). The government indicated that requiring the council to have regard for ‘minimising the harmful effects of labour disputes on persons who are not involved in the disputes.’ Was fundamental because ‘[F]or too long organised labour has held the innocent third party to ransom in many a community across this province.’ (Hansard, 1 June 1987, p. 1485-6).

Overall, these amendments demonstrated greater focus on the outcomes of the labour relations system than on the process, increased concern for the rights of individuals and insulating individuals from harmful effects of labour disputes. The importance of working conditions and expeditious resolution of disputes were emphasised, and there were more specific and mandatory directions to the board. The Social Credit government presented the labour legislation amendments, including the revamped purpose clause, as a change that would create stability in the province’s industrial relations. The opposition NDP disagreed, charging that the goal of the Act, made clear in the purpose section, was to deunionise to become more competitive, to use labour legislation as an economic tool, and to have the state intervene between the parties to ensure competitiveness (Clark (NDP), Hansard, 1 June 1987, p. 1484).

In contrast, the clause had no reference to free collective bargaining or the rights of workers to organise in order to enter into free collective bargaining (Clark (NDP), Hansard, 1 June 1987, p. 1484; Guno (NDP), Hansard, 1 June 1987, p. 1489). The government was trying to legislate a competitive economy and to legislate consensus in industrial relations. (Clark (NDP), Hansard, 1 June 1987, p. 1484) Noting that the purpose clause is ‘the veil through which all the other sections are read’, Clark charged that the IRA was not labour legislation, but rather a highly interventionist economic and political agenda, with deunionisation as one of its goals (Clark (NDP), Hansard, 1 June 1987, p. 1484). The NDP observed that the clause formerly spoke of industrial relations between employers and unions, while the proposed clause speaks of relations between employers and employees, and charged that this signalled the government’s fundamental philosophy of labour relations and demonstrates the government’s intention to remove unions from the province (Gabelmann (NDP), Hansard, 1 June 1987, p. 1481-2).

**Front and centre - a new prominence for the purpose clause: 1992**

Following its election in 1991, the new NDP government formed a three person sub-committee of special advisors to hold consultations and make recommendations for labour law reform. In 1992 a new purpose section was passed as proposed by the sub-committee, together with a number of other amendments, including renaming the legislation the ‘Labour Relations Code’, and restoring the name of the labour relations board. REFER TO LEGN

Among the sub-committee’s recommendations was the suggestion that the purpose clause be moved to the beginning of the statute in order to emphasise its role as providing the ‘governing principles’ of the legislation (British Columbia, 1992, p. 18). The purpose clause was given greater prominence by relocating it to section 2 of the Code.

The sub-committee also recommended that the purpose clause be reworded characterising the rewording as reflective of, and providing the foundation for the substantive changes to be made to other parts of the Code. (British Columbia, 1992, p. 18). The Minister of Labour stated that the new purposes section made it clear that economic concerns, particularly the increasingly competitive global economy were key, and that workers and employer must work together in an ‘economic partnership’ to succeed in this economy, and that without good labour legislation the goal of economic development can be hampered (M. Sihota (NDP), Hansard, 28 October 1992, p. 3668).
Among the changes made in this new purpose clause was removal of the hierarchy of purposes and objects that appeared in earlier versions of the clause. It was reorganised to simply state that the board shall have regard to a list of purposes. The purposes listed were both process and outcome-oriented, many reflected purposes in the former section 27, others were restated, and some purposes were removed. In particular, the following purposes and references were deleted: recognition of the importance of good working conditions as beneficiaries of a competitive market economy; securing and maintaining industrial peace and furthering harmonious relations between employers and employees; assisting employers and bargaining agents to facilitate bargaining collective agreements; and collection of collective bargaining information and statistics. Most contentious was removal of the requirement that the board have regard to the rights of individuals and parties and to parties’ obligations.

Although the Social Credit opposition approved of the new prominence of the purpose clause, it objected to removal of any references to a ‘competitive economy’ and to ‘rights of individuals’, both of which appeared in the 1987 formulation of the clause (Farrell-Collins (SC), Hansard, 28 October 1992, p. 3668; D. Mitchell (SC), Hansard, 29 Oct 1992, p.3725). The opposition suggested that the deletion of reference to individual rights might mean that the government was trying to enforce collective rights over individual rights and that this change would erode individual rights (Mitchell (SC), Hansard, 5 November, 1992, p. 3858).

The purpose of ‘encouraging the voluntary resolution of collective bargaining disputes’ was recast as ‘encourag[ing] cooperative participation between employers and trade unions in resolving workplace issues, adapting to changes in the economy, developing workforce skills and promoting workplace productivity’ (s.2(1)(b)).

Meanwhile, the mandatory direction to the board in exercising its powers and duties, and the purposes of encouraging collective bargaining between employers and unions, and of promoting conditions favourable to orderly, constructive and expeditious settlement of disputes, were maintained unchanged (s.2(1), 2(1)(a), (d)).

Newly added was the purpose of encouraging mediation as a dispute resolution mechanism (s.2(1)(f)). As well as retaining the concern for minimising the effects of labour disputes on third parties, the new purpose clause including the object of ‘[ensuring] that the public interest is protected during labour disputes.’(s.2(1)(e)).

Reigning in a rogue board: 2002

The conservative Liberal party gained power in 2001, and labour relations reform was high on the agenda of this new government. Among the changes passed in 2002 were substantial changes to the section 2 purpose clause.

Most notably, the provision was transformed from a purpose clause into a ‘duty’ clause, retitled ‘Duties’, and its scope was extended to apply not only the board, but also to ‘other persons’ exercising powers and performing duties under the Code. They are each directed to exercise powers and perform duties in accordance with a series of eight specific objectives or ‘principles’. Six of these objects were the purposes enumerated (though some with slight modifications) in the 1992 purpose clause, and two additional ‘duties’ were added to the list of purposes: a recognition of rights and obligations and fostering the employment of workers in economically viable businesses (s. 2(1)(a) and (b)).

For instance, encouraging the practice and procedure of collective bargaining between employers and trade unions as the freely chosen representatives of employees, is unchanged (s.(2)(1)(c)); unchanged ‘minimises the effects of labour disputes on persons who are not involved in those disputes’ (s.(2)(1)(f)); unchanged ‘ensures that the public interest is protected during labour disputes’ (s.(2)(1)(g)); unchanged ‘encourages the use of mediation as a dispute resolution mechanism’ (s.(2)(1)(h)). s.(2)(1)(d)) is a slight modification of a pre-existing provision, changed to include ‘developing a workplace the promotes productivity’ rather than ‘promoting workplace productivity’; similarly (s.(2)(1)(e)) is slightly changed from before, by encouraging settlement of disputes, rather than ‘disputes between employers and trade unions.’
The first of the two new objectives is reminiscent of the ‘rights and obligations’ purposes appearing in the 1977 and 1987 amendments, is to recognise the rights and obligation so employees, employers and trade unions under the Code (s.2(1)(a)). The second objective, to foster employment of workers in economically viable businesses, is new. (s.2(1)(b)).

DUTIES: The most controversial, and what is proving to be the most significant of these changes was the redefinition of the purpose clause as a duties clause. The Minister of Labour stated that this change was motivated by what the government viewed as the board's failure to apply the purpose clause with sufficient rigour. The board had simply used the section 2 purpose clause as a guideline and a useful policy tool, rather than as a substantive part of the Code which the board was obliged to consider. He emphasised that it was the government's intention that the board would consider the principles set out in section 2, and that these amendments sought to ensure this by recasting the purpose clause as a duty (G. Bruce (L), Hansard, 15 May 2002, p. 3508).

The effect of this change will likely be significant, since not only the Board, but ‘all other persons’ exercising powers and performing duties under the Code are also obligated to adhere to the Section 2 principles. This includes arbitrators, mediation officers, settlement officers, special officers an industrial inquiry commissions – all of whom are decision makers under the Code. Further, it may apply to trade unions, which are ‘persons’ under the Code, and which exercise powers and duties under the Code in bargaining, striking, picketing, and representing their members (Granville & Pender, 2002).

As one commentator warns, these changes could lead to unprecedented government intervention in collective bargaining and internal union affairs, with the object of encouraging economic viability of businesses. They suggest, as examples, that unions could be required by this provision to collectively bargain in a manner that fosters employment of workers in economically viable businesses, and that unions engaged in striking and picketing may be obligated to do so in a manner that minimises the effect on third parties and that ensures that the ‘public interest’ is protected (ss.2(1)(b), (f), (g)) (Granville & Pender, 2002). Therefore, it may lead to state intervention in collective bargaining and internal union affairs and significant change to the board's approach to other Code provisions (Granville & Pender, 2002).

A recent decision of the board suggests that the scope of the duty will not be as wide as has been suggested. In the Health Employers' Assn. of British Columbia decision (2003, paras. 72, 77) the board considered who else fell under the section 2 duties and, while recognising that decision makers exercise an office or discharge a statutory function under the Code, and it is they rather than the parties, who are under a duty, the Panel stated that it is ‘directly or indirectly’ the parties who ultimately bear the burden of giving life to Section 2:

‘…The other persons must then be those who also engage in decision-making under the auspices of the Code, like arbitrators. It may also extend to mediators, Special Investigating Officers, Industrial Relations Officers and anyone else who in the narrow definition of duty exercises an office or discharges a statutory function under the Code. It would not however, include the parties under the Code, except as HEABC has noted, perhaps the duty of fair representation imposed on unions under Section 12 and the requirement to bargain in good faith under Section 11 of the Code."

...whether directly or indirectly, it is the parties who ultimately must bear the burden of putting life into the Section 2 principles. This is consistent with the Minister’s comments on the recognition of the rights and obligations of all parties in the collective bargaining relationship. He said: ‘By recognising the rights and obligations of employees, employers and trade unions under the code, we ensure recognition of the balance that is so essential in labour relations’: Debates of the Legislative Assembly (Hansard) Vol. 8, Number 1, p. 3508. It is at the very least the Board’s duty to ensure that everyone governed by the Code pays due regard to the principles enunciated in Section 2 by interpreting and applying the Code with that goal in mind.’
**EMPLOYEE RIGHTS:** One of the new principles introduced was s.2(a), requiring recognition of the rights and obligations of employees, employers and unions. The Minister of Labour explained that employee rights were introduced because employees are affected by board decisions, and recognition of their rights will ensure recognition of the balance that is necessary in labour relations (G. Bruce (L), Hansard, 15 May 2002, p. 3508).

**FOSTERING EMPLOYMENT IN ECONOMICALLY VIABLE BUSINESSES:** A new addition was the principle of fostering employment of workers in economically viable businesses. The Minister of Labour emphasised that economically viable businesses were necessary for jobs to exist, and pointed out that and ‘Labour relations is sometimes said to be about sharing the pie, but of course first you need a pie to share.’ (G. Bruce (L), Hansard, 28 May 2002, p. 3635, 3508).

Commentators have warned that this principle may be most significant of the changes to Section 2 (focusing on the term ‘economically viable businesses’ because it has ‘…the potential to substantially change the Board’s approach to the various substantive provisions of the Code, to the benefit of employers and the detriment of employees and their unions.’ while the Board has no expertise in determining viability and this may lead to lengthy hearings involving expert evidence on this point (Granville & Pender, 2002). The NDP opposition suggested that use of the term ‘viable’ would require the board to make international comparisons as opposed to within-province comparisons of the competitiveness of businesses in the province (J. MacPhail (NDP), Hansard, 28 May 2002).

**NEW ANALYTICAL FRAMEWORK:** As described by the board, the new section 2 has created a new analytical framework for board decisions and for fostering labour relations (Judd, 2003). The board has stated that it will approach section 2 by reading it as a whole and together with other substantive provisions of the Code, and treat it as a ‘comprehensive roadmap’ to application and interpretation of the Code:

‘Section 2 sets out a vision of labour relations which: describes the goals of the system to the immediate parties; places those goals within a larger, societal context; and emphasises the mechanisms by which to proceed towards those goals …. 

Subsection 2(a) recognises the rights and obligations of the three immediate parties to labour relations: the employees, employers, and trade unions. Subsection 2(b) then identifies the goal of ensuring that the labour relations system fosters or encourages the employment of workers in economically viable businesses.

Building on that base, subsection 2(c) confirms the critical franchise under which employees in the Code can freely choose to be represented by a union.

Once unionisation has been chosen by the employees, subsection 2(d) addresses the Code’s preference as to how the employer and the union are to meet the challenges they face. Those challenges range from ‘adapting to changes in the economy’ to how the parties are to resolve their workplace issues and generate a productive workforce. That direction, first put into the Code in 1993, requires unions and employers to work together to jointly address these issues through ‘cooperative participation’.

The subsections then proceed to: emphasise the need for ‘orderly, constructive and expeditious settlement of disputes’ (subsection 2(e)); place all of these matters within the larger public interest (subsections 2(f) and 2(g)); and, lastly, encourage mediation as a dispute resolution mechanism in labour relations (subsection 2(h))’ (Judd, 2003, paras.18-22).

Unlike with previous purpose clauses, the board has embraced the new section 2 duties clause. In the barely two years of its existence, it has been argued and explicitly applied by the board in numerous board decisions. Its effect on labour law has been substantial.

**Conclusion**

In conclusion, by examining the transformation of the purpose clause in British Columbia’s labour legislation from its inception to the present time, several themes emerge. First, we see that the purpose clause has changed from being a mechanism for supporting the independence
and flexibility of the labour relations board into a device for restricting the board’s discretion and for directing its decision-making. Over time, this use for the purpose clause has become more distinct, culminating in its change into a ‘duties’ clause, charging not only the board but other persons with abiding by its stated principles.

Second, we see a shift in the types of purposes advanced in this clause. Specifically, there is a trend away from interest in promoting constructive and effective labour relations towards concerns for economic viability, protection of non-parties from negative effects of labour disputes, and toward individual over collective rights and interests. Expressly motivating this is the government’s economic concerns for the competitiveness of business in the face of globalisation. In a sense, then, the purpose clause is guiding labour legislation in this province to its Wagner Act roots – as a government economic policy tool. The key difference today, is that it is not in the government’s economic interest to enhance the power of unions and the effectiveness of labour relations, but rather to curb it to protect the ability of business to produce goods and services at the lowest possible cost and with the minimum of interference by labour.

The use of the purpose clause in labour legislation is proving to be a highly effective means for government to harness labour legislation and the labour board as a policy tool of government, to the certain detriment of labour relations, itself.

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Understanding what makes union-community coalitions effective: A framework for analysing union-community relationships

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ABSTRACT

Relationships between unions and community organisations are an important feature of Australian union renewal. This paper develops a three-part typology that categorises these union-community relationships, ranging from simple instrumental union-community relationships, to union-community coalitions and finally to community unionism. The paper argues that the deeper the union-community relationship, the more likely it is to yield union power and achieve successful campaign victories. The most important contribution from this framework is that effective union-community relationships require not only a relationship of trust and reciprocity between the coalition partners, but most importantly require a significant depth of commitment and participation by unions.

Introduction

Union renewal is occurring in Australian unions, as they grapple with changes to their practice and structure to increase their power. A key part of union renewal is the drive towards new organising strategies. Supplementing this commitment to organising is an evolving discussion around union-community relationships, in particular union relationships with community organisations. In this paper the term community unionism is invoked to analyse the trend of unions and community organisations working together. This trend is developing as a tactical response to a climate of declining union density and falling union power, and where employer hostility and aggressive anti-union legal impediments are narrowing the capacity for traditional forms of union action.

However there is not yet an effective framework to describe the different ways in which unions and community organisations engage with each other. This paper seeks to bridge that gap. It discusses three different levels of union-community relationships, defining and describing their practice and outlining their ability to enhance union power. This paper begins with a discussion of basic union-community relationships (instrumental union-community relationships), then moves through an analysis of union-community coalitions, before defining community unionism as the most effective form of union-community practice. Finally this paper briefly reflects on what this diverse union practice means for union renewal, and the role of community unionism.

Union relationships with community organisations can vary from episodic engagement to deep transformative relationships. This section establishes a framework that describes and categorises the different levels of union-community relationships, and their strengths and weaknesses for building union power.

Instrumental union-community relationships

Many relationships between unions and community organisations begin and end without significant interaction. These relationships are simple and distant, ranging from one-off requests for support, endorsement of events, one-off participation in events (such as a picket line or rally) or financial assistance. These relationships are the most basic interaction, and though capable of expanding into a deeper alignment, are fairly limited. These basic relationships are only dealt with sparingly in the literature on union-community relationships.
These relationships can be defined as ‘instrumental union-community relationships’ (Lipsig-Mumme 2003). The term describes all union-community relationships that involve episodic engagement or requests between unions and community organisations without the formation of a joint structure. This term occupies the space between unions acting alone and when unions form temporary union-community coalitions.

The episodic nature of this type of relationship limits its potential, yet it signifies an important step in union and/or community organisation practice. The existence of instrumental union-community relationships demonstrates a desire for alignment between unions and community organisations, signalling the possibility of greater coalitional practice. Instrumental relationships establish tangible patterns for seeking and providing tactical solidarity for unions and community organisations. While an instrumental relationship may only provide short-term potential for future action, it does create the possibilities of greater solidarity between unions and community organisations, which may lead unions or community organisations to greater, more powerful coalitional arrangements in the future. It is to the more powerful arrangement of a union-community coalition that we now turn.

**Union-community coalitions**

A union-community coalition is a descriptive term for a short-term, structured relationship between unions and community organisations. The term attempts to cover the field and describe all the possible forms of union-community relationship practice (Brecher 1990; Craft 1990). I use this term to define the most basic form of coalition, where the key feature is a broad relationship between a variety of community organisations and unions. The literature on structured union-community relationships investigates four key aspects of coalitions: the issues and common interest campaigned on, the structure and planning within the relationship, the place of the relationship and the type of union participation. The term union-community coalition has practical utility, because most structured union-community relationships are simple tactical, short-term, single issue, union-dominated formations.

Much of the literature on union-community coalitions attempts to define these coalitions by describing all the possible variations in their style and practice. They try to develop a definition that covers the field of the different types of practice. Early writers such as Brecher and Costello emphasise the multiplicity of issues that union coalitions campaign on, while acknowledging that union coalitions are mostly reactively formed by unions in response to a crisis (Brecher 1990; Craft 1990; Banks 1992). This suggests union-community coalitions can be staged on any issue, from a union issue to peace or refugees. Similarly, the writers emphasise the multiplicity of different structures for union-community relationships, arguing that they can operate within a ‘coalitional’ structure or inside a particular organisation (Banks 1992).

The literature mirrors and demonstrates the limitations of union-community coalitions in practice. While noting the importance of equality and trust between the coalition parties, there is no suggestion in the literature that any pre-conditions need to be met before a union-community coalition is said to occur (Craft 1990; Banks 1992; Tuffs 1998). Similarly in practice, when coalitions form they often are limited by unequal participation and influence by coalition partners. Unions tend to dominate the coalition decision making (Waterman 1991; Munck 1999), and newly formed coalitions tend to not play close attention to scale or locality, operating at any spatial level, from the local, city-wide, national or international, and across industry or craft (Lipsig-Mumme 2003).

Yet this literature tends to overlook the question of union involvement in a union-community coalition. By focusing on the source of power that external community organisations can potentially provide unions, they overlook whether a particular type of internal union practice contributes to the effective operation of a coalition (Brecher 1990; Craft 1990). This is a critical omission. Union participation in coalitions is frequently remote, with union officials often substituting for union members, with limited reporting procedures back to the union membership (Clawson 2003).

In practice it is the lack of union participation in coalitions that is the major weakness of union-community coalitions as an organisational form. While union involvement in coalitions
usefully provides social movements or community campaigns with greater power, financial resources or influence (such as in the refugee campaign in NSW) (Tattersall 2004), they often incompletely engage the resources or capacity of unions. Because union-community coalitions can be staged on any issue, there is little regard to the types of issues that politicise union members. Rather, these formations are organised by the leadership often without considering whether the campaign will develop union members.

Furthermore, reliance on a coalition structure limits in-depth participation by unions. Coalitions alone do not provide significant space for rank and file union member participation in decision making, as they limit decision making to officials. Without ownership or involvement in decision making it is difficult to spark local organising amongst union members inside unions on community issues.

The characteristics of instrumental centralised unionism, such as hierarchy and an economistic focus on wages and conditions over social issues, play a role in limiting union participation in union-community coalitions. Union involvement is limited to the coalition rather than supplementing coalition participation with activism amongst union members. A more effective form of union-community action sees union members activated on the concerns of a coalition at the same time as the coalition operates between unions and community organisations. Indeed, this deeper form of union-community relationship brings into focus the category community unionism.

**Community unionism**

Community unionism is an evolving and sometimes ambiguous term. I use it here to define a deeper form of union-community coalition practice than a simply coalition, where there is a higher level of integration between the participating union and the campaign of the coalition. Community unionism creates this deeper relationship firstly through a more integrated form of union involvement, secondly through a deep and reciprocal coalition structure, thirdly through focusing on issues of mutual self-interest to participants and finally through a concern for the importance of place.

Community unionism is most sharply distinguished from a union-community coalition by the existence of union participation. Several writers single out the role of unions because unions generally have the largest membership and greatest resources out of the organisations participating in coalitions (Nissen 2004). The issue of union participation is evident on two levels, first from the perspective of union participation in the external coalition, secondly, in terms of the internal operation of the participating union.

In terms of the external coalition, Nissen argues that union buy-in to the coalition is a central determinant of its success (Nissen 1999; Nissen 2004). He argues ‘buy-in’ is evidenced by a union’s willingness to mobilise in support of a campaign, the seniority and number of members or officials it gets involved in the coalition’s decision making structure and its willingness to provide financial resources. The greater the buy-in the greater the effectiveness of the union-community coalition (Nissen 1999; Nissen 2004).

The internal organisational structure, strategy and vision of the participating union also plays a critical role in the overall effectiveness of the union-community coalition. The writers suggest that unions must move beyond centralised hierarchical unionism to effectively engage their membership in a union-community coalition (Moody 1997; Nissen 1999). The goal of this change process is to create unions who are effective participants in union-community coalitions. These writers argue that unions must shift from service unionism, and become ‘community orientated’ by broadening their vision to include issues beyond wages and conditions, involve their membership in decision making, education and mobilisations around the issues supported by the coalition. Thus a community union is a union more open to rank and file participation, has a social vision and concern for the conditions of working people (beyond the confines of wages and conditions), and a structure that facilitates local organising capacity (Waterman 2001; Wills 2002; Clawson 2003).
Union-community coalitions have the deepest structure when they establish a relationship of trust and exchange between the partners (Tuffs 1998; Nissen 1999; Fine 2003; Nissen 2004). This relationship of trust may not only include formal equal participation, but the participation of individual bridge-builders who have experiences in both community organisations and unions, who can help translate contrasting organisational and cultural practices (Estabrook 2000). A flat coalitional structure is able to effectively harness the contrasting capacity of community organisations to wield political power, with a union’s capacity to exercise economic power (Fine 2003). Some argue that while a coalition structure is necessary, it is not sufficient. They argue that effective union-community coalitions must also enable individuals to participate in the structure, in particular stressing the importance of rank and file union member participation (De Martino 1999; Clawson 2003).

Certain issues make union-community relationships more effective. Fine and Clawson suggest that when the issues at the heart a coalition are in the mutual self-interest of participating organisations, then it is more likely that there will be significant organisational commitment to the coalition, making the coalition more effective (Clawson 2003; Fine 2003). For unions, this would mean that the types of issues selected would be more likely to be in the direct, material self-interest of the membership, such as teachers campaigning on public education. Lipsig-Mumme also suggests that the longer the relationship the more likely that the relationship will be effective and transform the participating organisations (Lipsig-Mumme 2003).

The location of a union-community coalition affects its capacity to be effective and deliver power. Labour geographers analyse the conditions under which unions can exercise power through the manipulation of spatial power (Herod 1998). In particular they analyse how local action can be strategically useful when capital is fixed and needs to work in a narrow spatial area, such as in industries like mining, human services and the public service (Johnston 1994; Savage 1998; Walsh 2000; Ellem 2003). They note that ‘organising local power’ requires unions to not only organise union members, but to organise power from local communities, such as through locally-based union-community coalitions (Jonas 1998; Walsh 2000). In addition, writers such as Wills also suggest that local action may be effective because it can allow for the direct participation by the union rank and file (Wills 2002). Thus writers suggest that union-community coalitions will be more effective in conditions where spatial power and resources are locally based.

Community unionism denotes the deepest form of union-community relationship, where a breath of activity between unions and community organisations is complemented by a depth of activity within participating unions. This is the most powerful form of union-community relationship, as it not only provides a serious commitment of union resources to a campaign, but also expands the movement capacity and power of the participating unions. Thus this arrangement not only typifies the greatest way for union-community campaigns to facilitate objective political outcomes, but also acts to enhance the movement’s resources and power of unionism.

A typography of union-community relationships

Section One developed a language to categorise the different ways in which unions and community organisations engage with each other, and to suggest the ways in which these different relationships provide resources and power. The range of relationships and their different features are outlined in Table 1.

The different categories developed in this paper serve to link variations in union practice to a schema that reveals the extent to which such practice enhances power. It is important to note that while these categories are distinct, they must not be seen as black and white descriptors. Instead, they operate on a continuum of possible union practice.

Conclusion

Discussions on union renewal increasingly are considering how unions engage allies in rebuilding union power. Yet, unfortunately the literature on this topic is somewhat ambiguous. This paper has sought to bring together the various methods and practices of unions and community organisations and to develop a typology for distinguishing between simple episodic engagement between unions and community organisations, to transformative and radical engagement.
My framework develops a three fold categorisation of union-community relationships. Firstly there are one-off instrumental relationships, which are tactically advantageous but not highly powerful. Secondly are union-community coalitions, which are more structured, allowing for shared organisational participation in a campaign. However, for coalitions to be truly powerful they must practice community unionism. In such a case the relationship is on an issue directly in the interest of the membership, there is often an open and reciprocal structure for organisational participation, a localised space for rank and file participation, as well as significant union buy-in and internal union commitment.

Usefully this framework not only demonstrates how unions and community organisations can escalate their engagement, but it also argues that the closer and more reciprocal the relationships, the more likely they are to yield union power. The paper has argued that the most difficult yet most fruitful partner in a union-community coalition is the union itself. It is the union that is so difficult to engage, due to its centralised and hierarchical structure. Yet if the issue at the heart of a union-community coalition is also in the mutual self-interest of the union, and if the union demonstrates an organisational, long-term commitment to the coalition, then the breadth and depth of action across the coalition and inside the union can yield a significant increase in union power.

As the union movement continues to renew its strategies and practices and rebuild unionism, it is likely that unions will continue to increase the trend of reaching out to community organisations to enhance their capacity and their power.
As this paper suggests, the process of reaching out is not only useful to maximise a union’s capacity to achieve objective victories, but is also essential for unions to again be the central agents for improving the livelihood of working people, both inside and outside the workplace. This paper seeks to contribute to this reaching out process by providing a typology that is a guide for action, suggesting how pathways to effective action can be drawn from very basic relationships, but also emphasising that the key to successful union-community relationships is a significant commitment and internal reform process within unions themselves.

References


The gender pay gap: Reviewed, researched, will it be resolved?

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The University of Western Australia

ABSTRACT
There is a substantial body of research on the nature of the gender pay gap, the factors contributing to it and its deleterious impact economically and socially. Numerous governments have commissioned reviews to address it. So should we be expecting to witness changes being implemented that will improve gender pay equity? This paper argues that in attempting to understand the persistence of the GPG, more attention needs to be focused on those groups who benefit from its existence. Capital, public sector employers and consumers are benefiting economically from the point that some women's labour is cheaper than it might otherwise be. Socially, a substantial GPG (as exists currently) entrenches traditional gendered family roles which would still be appreciated by a number in the community.

Introduction
The Gender Pay Gap (GPG) reflects and perpetuates serious inequality between men and women in our society and, from a business perspective, underutilisation of women's economic capacity. While in Australia the equal pay cases helped to narrow the GPG in the 1970s, there has been minimal improvement in the relative position of women's earnings in Australia over the past two decades. In fact, in Western Australia (WA), the GPG has enlarged from 17.5% in 1991 to 22.6% in the February 2004 quarter. WA has the largest gap between men's and women's wages of any Australian state. This situation has persisted despite improvements in the levels of education and workplace experience amongst women in WA and a substantial increase in WA's minimum wage.

A substantial body of research provides comprehensive analysis of the GPG, its impact and its causes from economic, sociological, instrumental and organisational perspectives. In addition, over the past five years numerous governments have commissioned reviews into gender pay inequity and/or means to address it; for example, in the UK, NZ, and within Australia, in NSW, Queensland and Victoria. In WA both the former Coalition Government and most recently the Labor Government have reviewed pay equity for women with both reviews providing numerous recommendations to advance gender pay equity (Todd and Eveline 2004; Ministerial Pay Equity Working Party 2000). Should we now expect, therefore, a substantial narrowing of the GPG during this next decade? In this paper, we argue that this could be achieved but that the broader socio-economic context makes it unlikely unless substantial political pressure is brought to bear on the parties. In attempting to understand the persistence of the GPG, it is necessary to recognise those groups who benefit from its existence and who are most likely to channel the commitment of governments to improve gender pay equity into review processes that are limited in their outcomes to a plethora of reports.

The paper commences by outlining the nature of the GPG and evaluating whether or not it is a problem. A summary of the factors contributing to the GPG is then presented followed by an overview of the recommendations made to reduce the GPG in WA. The paper concludes with an analysis of prospects for progress in gender pay equity. This paper draws from a review of the GPG in WA completed by the authors. Much of what is considered, however, is applicable nationally and internationally.
Recent trends in the gender pay gap in Western Australia

In the February 2004 quarter the gender wage gap in the full-time WA labour market was 22.61%. In dollar terms this meant that women’s average earnings were $232.30 less than those of men. This was calculated on ordinary time earnings and as can be seen in Table 1, the gap increased to 25.81% when based on full time adult total earnings. The corresponding gaps at the national level were 15.20% and 18.79% respectively. WA women’s average ordinary time earnings were 93.52% of their national counterparts, whereas the relativity between WA and Australian men was 102.47%. When the average total earnings of full-time and part-time employees are taken together, the gender pay gap in Western Australia increases to 42.28%. This is not surprising given that the majority of part-time employees are women but again this gap is considerably larger than that at the national level, of 34.31%.

The gender pay gap: Is it a problem?

Gender pay inequity has economic, social and political consequences for individuals, business and governments. For individuals and communities, improved gender pay equity is fundamental to gender equality, since it increases women’s labour market attachment, financial independence and life choices. With pensions linked to life-time earnings pay equity is crucial to retirement security as well as to life chances in the labour market (Reed 2002:25). Many younger Australians aspire to a more equal sharing of work and family roles, rejecting the traditional male breadwinner/female home-carer model of an earlier era (Charlesworth 1999; Reed et al 2003). Yet that goal is undermined when women’s incomes are lower than that of their spouses, since research shows it is the lower paid woman who inevitably reduces her commitment to the paid workforce when the couple are struggling to balance work and family demands (Charlesworth et al 2002; Gregory 2002; Mumford and Pereira-Nicolau 2003). The unequal pressure of those demands also feeds into an Australian birth-rate well below replacement level, with women delaying motherhood until their early thirties, or even forgoing it altogether (Pocock 2003).

For business purposes, more equitable pay for women would counter currently inefficient labour market matching processes (Watts 2003). An assumption often made is that low wage jobs will stimulate employment. However, as Rubery et al (2002) show, low pay creates disincentives for women to participate in the labour market (see also Gregory 2002; Mumford and Pereira-Nicolau 2003). With Australian business highlighting skills shortage as a Number One concern, better utilisation of women in the workforce can help secure that all-important skills base. Since gender pay equity has been shown to encourage better utilisation of women’s participation in the paid labour force, it can also address business concerns about the ageing population and its implications for labour market supply (Austen and Giles 2003). The International Confederation

<table>
<thead>
<tr>
<th>TABLE 1</th>
<th>Adult employees in Western Australia and Australia, average weekly earnings and gender wage gaps, February quarter 2004</th>
</tr>
</thead>
<tbody>
<tr>
<td>Western Australia</td>
<td>Men</td>
</tr>
<tr>
<td>Full time adult ordinary time earnings</td>
<td>$1027.20</td>
</tr>
<tr>
<td>Full time adult total earnings</td>
<td>$1086.80</td>
</tr>
<tr>
<td>Total earnings</td>
<td>$920.10</td>
</tr>
<tr>
<td>Australia</td>
<td>Men</td>
</tr>
<tr>
<td>Full time adult ordinary time earnings</td>
<td>$1002.40</td>
</tr>
<tr>
<td>Full time adult total earnings</td>
<td>$1067.10</td>
</tr>
<tr>
<td>Total earnings</td>
<td>$898.20</td>
</tr>
</tbody>
</table>

Source: ABS 6302
of Free Trade Unions (2003) cites further advantages to employers who promote pay equity. These include: simple, transparent and easily understood pay systems that send a positive message that all staff are valued (averts disputes); and pay reviews, which ensure equitable rewards and thus help improve morale, organisational effectiveness and reduced turnover costs.

For governments, the persistent gender pay gap poses similar problems, plus some additional ones. Since gender pay equity impacts on women’s capacity to be economically independent it provides a means for governments to reduce women’s claims upon state welfare both during their working lives and in retirement (Preston and Austen 2001; Austen et al 2002). Gender pay equity has implications therefore for government policy on the ageing population, for the development of viable and skilled labour markets and for governmental responsibility for the economic and social wellbeing of current and future communities and workforces.

Given the above, it would seem reasonable to conclude that the GPG is a problem that all parties would want to address. On the other hand, one cannot ignore a number of aspects of the broader socio-economic context which suggest that the GPG may in fact be beneficial to certain groups.

Firstly, the GPG implies that some women’s labour is cheaper than it might otherwise be. This is a clear benefit to capital, to public sector employers, and to consumers who would undoubtedly find the increased wages being passed on in increased prices for goods and services. Secondly, a substantial GPG (as exists currently) entrenches traditional gendered family roles. Women are discouraged from continuing in their careers when they have children, this then ensures that women continue to adopt the primary caring role at home, providing unpaid support for the male breadwinners at work. This lack of challenge to the ‘1950s social status quo’ would still be appreciated by a number within the community. Indeed, it also ensures that employers do not have to do more than offer token gestures in the guise of ‘family friendly’ workplaces, for they will continue to have their ‘ideal workers’, i.e., male employees with a support network at home.

In summary, whilst the persistence of the GPG has serious economic and social consequences, there are a substantial number of beneficiaries from its perpetuation.

### Factors causing the gender pay gap

The usual starting point in explaining the GPG is human capital theory. Human capital theory views women’s choice of employment and consequent remuneration as the outcome of their rational human capital investment decisions. This approach has helped to identify the contributors to gender pay inequity – for example, an improvement in the level of female labour market experience helped to reduce the gender pay gap in Australia in the 1980s by about one-quarter (Preston and Crockett 1999:565). Many analysts, however, have recognised the limits of a human capital perspective on gender pay inequality (see O’Donnell 1984; Whitehouse 2003; Rubery et al 2002). As Preston and Crockett (1999: Table 1, p.566) showed in their succinct summary of an array of econometric studies into the GPG in Australia, most of the Australian studies have found that less than 1/4 of the gender wage gap is due to differences in the characteristics of men and women and that therefore 3/4 remains unexplained. It is essential therefore to look beyond standard economic models to understand the causes of the GPG.

A number of studies have pointed to the sex-segregated labour market as a major explanator of the GPG (Pocock and Alexander 1999; Heiler, Arsovska and Hall 1999; Wooden 1999). Pocock and Alexander (1999:88) concluded that ‘between 58 and 81% of the gender pay gap is associated with being in feminised work (whether occupation, industry, workplace or job-cell).’

Findings on the sex-segregated labour market point to the critical importance of the value attached to jobs and skills associated with female labour. Many argue that the paid work of women has been undervalued and that attempts to describe it have received little recognition (Hunter 1988; Acker 1989; Pocock 1988). At an organisational level, job evaluation techniques have been utilised as seemingly objective tools to analyse jobs. Job evaluation systems, however, have been criticised for their inept interpretation of some aspects of traditional female duties and skills (Probert et al 2002a; Acker 1989).
In Australia, the implementation of comparable worth has proven extremely difficult. While the 1972 ‘equal pay for work of equal value’ case led to a significant decline in the gender pay gap during the 1970s, its implementation was only partial (see Short 1986 for further detail). The 1998 NSW Pay Equity Inquiry is regarded as having charted a new course for understanding and addressing the undervaluation of women’s work and the subsequent Equal Remuneration Principles developed in NSW, Tasmania and Queensland are viewed as providing much better possibilities for the implementation of equal remuneration in Australia.

The wage determination system has also impacted on the GPG in Australia. As is well known, the 1907 Harvester decision established the concept of wages being determined on a gendered needs basis with a woman to be paid 54% of a man’s wage. While the articulated rules have changed, it is argued that the legacy of the gendered needs analysis of the male breadwinner and the women’s work supplementing the family income continues to influence wage determination today.

The introduction of enterprise bargaining and the consequent fragmented bargaining system in Australia has exacerbated gender pay inequity. The distribution of female employment between wage determination streams and the inequalities within the streams is contributing to the overall gender pay gap. Recent studies using ABS data show that women are much more over-represented in the lowly-paid award-only stream (Preston 2003; Whitehouse and Frino 2003).

Table 2 summarises the hourly rate of pay by bargaining stream and by gender for WA and Australia. The trends revealed are similar to those found by Whitehouse and Frino (2003): lowest hourly rates occur in the award-only stream, men’s hourly rates are greater than women’s in all streams albeit that they are almost identical in the award-only stream; that is, the lowest paid category. The one stream that stands out in the WA analysis is the registered individual agreements in which there is a 26.64% gap compared with 12.66% at the national level. In 2002, 9.4% of the WA workforce had their wages and conditions covered by registered individual agreements, 7.7% under a WA workplace agreement (WPA) and 1.7% under a federal Australian Workplace Agreement (AWA).

<table>
<thead>
<tr>
<th></th>
<th>Males</th>
<th>Females</th>
<th>% gap</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Western Australia</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Awards only</td>
<td>15.30</td>
<td>15.20</td>
<td>0.65</td>
<td>0.10</td>
</tr>
<tr>
<td>Registered collective agreements</td>
<td>23.40</td>
<td>20.30</td>
<td>13.2</td>
<td>3.10</td>
</tr>
<tr>
<td>Unregistered collective agreements</td>
<td>19.90</td>
<td>18.20</td>
<td>8.54</td>
<td>1.70</td>
</tr>
<tr>
<td>Registered individual Agreements</td>
<td>21.40</td>
<td>15.70</td>
<td>26.64</td>
<td>5.70</td>
</tr>
<tr>
<td>Unregistered individual Agreements</td>
<td>20.70</td>
<td>18.10</td>
<td>12.56</td>
<td>2.60</td>
</tr>
<tr>
<td><strong>Australia</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Awards only</td>
<td>15.80</td>
<td>15.20</td>
<td>3.80</td>
<td>0.60</td>
</tr>
<tr>
<td>Registered collective agreements</td>
<td>23.80</td>
<td>21.30</td>
<td>10.50</td>
<td>2.50</td>
</tr>
<tr>
<td>Unregistered collective agreements</td>
<td>21.50</td>
<td>19.20</td>
<td>10.70</td>
<td>2.30</td>
</tr>
<tr>
<td>Registered individual Agreements</td>
<td>23.70</td>
<td>20.70</td>
<td>12.66</td>
<td>3.00</td>
</tr>
<tr>
<td>Unregistered individual Agreements</td>
<td>21.30</td>
<td>19.10</td>
<td>10.33</td>
<td>2.20</td>
</tr>
</tbody>
</table>

Source: ABS 6306.0

Note: These statistics are based on non-managerial employees’ average hourly rates of pay and therefore are likely to understate the gap particularly in terms of individual agreements.
Analysis of registered collective agreements provides further insight into the causes of the gender earnings inequality within this particular bargaining stream. Simply put, it has been found that male dominated agreements have generally delivered higher increases than female dominated agreements (Whitehouse and Frino 2003:586; Heiler et al 1999:112). Nor do the findings from the studies of collective agreements by Heiler et al (1999) and Whitehouse and Frino (2003) support the hypothesis that women may be trading off pay for better working conditions.

Another factor contributing to the GPG has been the lack of support to enable employees to combine work and family responsibilities, with women bearing the consequences of those pressures. Having children has a positive impact on men’s wages but a negative impact on women’s (Preston 1997; Pocock and Alexander 1999). Assessments of the provision of family-friendly arrangements in Australian workplaces conclude that such initiatives are confined to the minority (Pocock 2003). For example, up to 65% of managers and 54% of professional women have access to paid maternity leave while only 18% of clerical, sales and service workers and 0.4% of casual workers are entitled to it (Watts and Mitchell 2004:179). And there is a gap between the provision of family-friendly benefits and the utilisation of these measures (Campbell and Charlesworth 2004; Probert et al 2000). Much depends on the organisation’s culture in ensuring that the implementation of family-friendly benefits does not result in women being compromised in their careers.

Analysis of the impact of motherhood upon women’s participation in paid work shows that it usually results in a series of labour market transitions (Pocock 2003; Campbell and Charlesworth 2004). There are many barriers to women making temporary withdrawals or changing to part-time employment and retaining their previous earnings and career status. For many women, such transitions lock them into peripheral employment or unemployment.

**The way forward**

Given the array of factors that have been identified as contributing to the gender pay gap, it is not surprising that so many analysts recommend a multi-dimensional approach to address the issue. Underpinning this multi-dimensional approach there needs to be a wholistic approach to policy development. Gender mainstreaming of pay and employment policy provides this wholistic approach and

shifts the focus from deficits or deficiencies in female characteristics, behaviour and preferences to the investigation and rooting out of gender pay discrimination as embedded in institutional arrangements, social norms, market systems and pay policies (Rubery et al 2002:1).

Gender analysis is the principal tool associated with mainstreaming. It offers a systematic procedure for analysing policy proposals and existing policies to determine their differential impact on women and men.

In relation to strategies to address the GPG, there has been a debate about the relative merit of voluntary strategies compared with regulatory remedies. Unions and employer groups have been deeply divided on the question of whether mandatory or voluntary measures are more effective, with employer groups much more likely to advocate voluntary remedies and unions arguing for a more comprehensive mix of voluntary and mandatory measures. (see Grimshaw et al 2001; McDermott 1999). Submissions and interviews for the WA review reflected a similar pattern. Submissions from most employer groups denied the need for regulation on the grounds that market forces ensure the best outcomes for the majority and that additional layers of complex legislation burden small business in unacceptable ways. In favouring the voluntary approach, employers argued that it permits arrangements suited to particular industries, and leaves decision-making with those best able to satisfy both business and employee preferences. On the other hand, submissions from women’s groups and unions expressed considerable doubts about relying on voluntary strategies. In addition, international research supports the concern that a reliance on voluntary strategies does not produce satisfactory results (Reed 2001).
A wholistic approach requires a combination of regulatory and voluntary strategies. This will ensure that the regulatory provisions support workplace-based voluntary strategies rather than potentially contradicting them. Having recognised the need for a combination, the importance of voluntary strategies should not be understated. In the field of IR, statutory processes have their limitation, and it is in the workplace where the GPG will eventually be resolved. The resolution of issues impacting on the GPG is dependent upon the commitment of parties in the workplace.

There are clearly a vast array of possible strategies that could be adopted to improve gender pay equity and thereby impact on the GPG as has been evidenced by exemplary organisations. The equal pay audits recommended by the United Kingdom Kingsmill Report (2001) provide a particularly appropriate example of a voluntary strategy focused around pay. The equal pay audits require employers to examine whether they have gender inequalities in their pay system, and if so, to establish the causes and devise a plan to address them.

Turning to regulatory strategies to address the GPG, the previous sub-section identifies aspects of the existing IR legislation that need to be addressed. Firstly, it is necessary to ensure that the legislation enables parties to pursue work value cases based on historical undervaluation, as has been done in NSW, Tasmania and Queensland with the introduction of Equal Remuneration Principles. Secondly, the legislation needs to include requirements to take account of equal remuneration for men and women in all aspects of the wage determination process; for example, when amending awards or prior to registering industrial agreements. Thirdly, the legislation prescribing the minimum conditions of employment needs to include the following:

- the effective implementation of a decent minimum wage;
- a range of work/family leave provisions;
- the right for employees to request conversion to part-time employment within their existing positions;
- an extension of entitlements to casual employees.

Finally, governments can lead the way in the drive to reduce the GPG by focusing on their own employees in the public sector. Governments are such large employers and women account for a disproportionate share of public sector employment, hence it is imperative to address gender pay inequities within the public sector.

**Prospects for the achievement of progress in women’s pay**

At this point, it is necessary to consider the prospect of such changes being implemented within our existing IR systems in Australia. Any such consideration immediately reveals barriers in terms of ideology, conflicting economic interests and lack of understanding of the problems.

As with earlier Inquiries, the WA review found a widespread lack of awareness and understanding of the GPG. Understanding often does not extend beyond equal pay; there is the presumption that now that men and women are paid the same rate for the same job there is no longer a problem and that all jobs are valued as they should be. An extensive education program would be required to develop capacity amongst managers and decision makers to enable implementation of change. Educative programs would also need to raise community awareness so as to challenge existing expectations, not least of all amongst women.

Much of the change in practice necessary to address the GPG will need to emanate from employers. Australian employers over the past two decades have generally eschewed arguments for change based on equity, it is the ‘business case’ that has to be convincing. While the promise of a more equitable system resulting in more-committed employees does not appear to seduce the majority of employers in Australia to change their behaviour, the growing shortages of skilled and professional employees might be expected to be more convincing. It is interesting to note that employers and governments have focused much more on older workers than on women workers, positioning them as a group that could be better utilised within the workforce and thereby increase labour market participation. The need for employers to be responsive to older workers’ interests in work/life balance and be more flexible in terms of employment arrangements is commonly advocated. This may well increase the likelihood of quality part-time employment emerging which would also facilitate the retention of women workers with caring responsibilities. On the other hand, when we consider how employers have responded to
persistent labour market shortages of groups such as nurses and chefs, it does not give much
cause for optimism that employers may be persuaded to address those issues such as working
hours, workloads and wages which could result in better retention.

Labour market supply issues provide opportunities for skilled and professional women but there
is little indication of labour shortages amongst the unskilled. The less skilled women will be
dependent upon regulatory change to improve their position, for example, changes in relation
to minimum conditions. The ‘business case’ that employers would perceive in relation to these
women employees would be to avoid changes that would increase their costs. Given that the
dominant employer organisations in Australia continue to espouse free market ideology, they
can be expected to oppose changes to work value cases judged by the Commission and similarly
to oppose regulatory intervention that might stipulate improved work/family leave provisions,
access to part-time employment and increased entitlements for casuals. In sum, reliance on the
‘business case’ to convince employers to implement strategies to reduce the GPG is a flawed
supposition for while there are important economic benefits to be gained from improving
gender equity in the workplace, individual employers are likely to be more responsive to their
immediate cost position.

Given that most employers, based on economic interest, are unlikely to embrace strategies to
reduce the GPG, this suggests that governments will be required to play a leading role in bringing
about change. The economic benefits may be more apparent at a government level, than at the
level of the individual employer; in particular, benefits in relation to long term labour supply and
reduced dependence by women and their families upon state welfare. In addition, governments
continue to profess commitment to improving the position of women as well as espousing the
need for better work/family practices within the workplace. On the other hand, governments
in Australia have also embraced the free market ideology with its accompanying decentralised
approach to regulating the workplace. Governments are also major employers of women and
strategies such as those advocated to narrow the GPG will potentially increase their labour
costs too. Given that employer associations will lobby intensively against proposed further
regulation of the employment relationship, groups representing women employees will need to
persuade the government that such regulatory changes would be worthwhile politically.

This then raises the question of the role of the remaining IR party, the union movement.
Is the union movement likely to exert sufficient power at the level of either the state or the
workplace to bring about the changes necessary to improve the GPG? While the union peak
bodies have displayed support for actions to improve gender equity within the workplace, there
is less indication of it being on the immediate agenda at the individual union level. With regard
to gender-based work value cases, the unions have a critical role to play yet most will struggle
to allocate the resources necessary to advance such cases. Will individual unions be prepared to
place gender pay equity as a priority and, for example, to include women’s workgroups in their
high wage agreements?

Finally, in relation to the parties who traditionally influence IR outcomes, one has to consider the
politics of gender. To what extent does capital, the union movement and the state embrace the
existing gendered breadwinning/caring roles? The work/family debates would suggest that the
vision is the perpetuation of the existing gendered roles with men as the primary breadwinners
and secondary carers and women as the primary carers and secondary breadwinners, rather than
one in which women and men share equally the breadwinning and caring roles.

The above analysis confirms Pocock’s analysis (2004, 1999) that women will need to exert far
greater power over the IR and political decision making processes in order to achieve substantial
progress in gender pay equity. Some professional and skilled women may be able to exert greater
power individually during the next decade due to labour market shortages although the limits
to this have been evidenced in relation to groups such as nurses. The majority of women will
be dependent upon collective power to achieve change. Given the current low level of union
density and the gendered nature of unions and their activities (Pocock 1997) women will need
to activate this collective power not only through unions but also through a broader women’s
movement that can be more inclusive of all women participants in the labour market. Such a
movement would need to persuade governments that their political support is contingent upon
the adoption of strategies that will narrow the GPG.
Conclusion

Previous research on the GPG details various factors within IR as contributing to gender pay inequity: human capital acquisition; the sex-segregated labour market and the value attached to jobs and skills associated with female labour; the nature and implementation of the wage determination system; the lack of accommodation of caring responsibilities within the paid workplace; and the lack of quality part-time employment opportunities. The GPG is impacting upon women's labour market attachment, the optimal utilisation of women's skills and experience within the labour market, as well as impacting upon their financial independence and life choices. Thus there is general agreement within the literature that gender pay inequity has economic, social and political consequences for individuals, businesses and governments.

In attempting to understand the persistence of the GPG, more attention needs to be focused on those groups who benefit from its existence. Capital, public sector employers and consumers are benefiting economically from the point that some women's labour is cheaper than it might otherwise be. Socially, the GPG perpetuates traditional gendered care/breadwinner roles. During the past decade numerous governments have commissioned reviews into gender pay inequity and the means to address it. At this point, the focus needs to shift to the implementation of the reforms necessary to narrow the GPG. Without this change in focus away from 'what is causing the GPG' to 'why is it not being addressed', dissatisfaction and concern will continue to be channeled into government reviews that dissipate the momentum of those that express opposition to the status quo.

References


**It’s not fair: The difficulties of union collective bargaining in New South Wales**

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**ABSTRACT**

This paper is a case study on the formalisation of wages and working conditions at a NSW workplace. The study highlights the importance of bargaining power and demonstrates the difficulty of negotiating an enterprise agreement in workplaces with low union density. In situations where union members are unlikely to take industrial action to pursue their claim, this case study highlights that the decision to make an enterprise agreement can rest entirely with the employer.

**Introduction**

Although bargaining is a key feature of industrial relations literature, there are few recent case studies which have the benefit of unlimited access to data, participants or the processes in the Industrial Relations Commission to describe, in depth, how an agreement is reached (see Fells 1997, Pegg and Young 2001). Rather, a significant number of studies take a macro approach, looking at outcomes across a whole industry (Bray 1996, Buultjens 1996, Waring and Barry 2001) or gender implications of bargaining (Strachan and Burgess 1997, George 1998, McDermott 1998). Or, they focus on one component of an agreement such as the mediation process (Davis 1998) or the use of accounting technology to justify a claim (Monir Zaman and Abu Shiraz 2003).

This case study follows the agreement/award-making process at a workplace in country New South Wales. It was possible because of unlimited access to personnel, union and company documents and Industrial Relations Commission proceedings. Firstly, a brief background to the workplace is provided. This is followed by a description of the bargaining process for an enterprise agreement when the previous agreement was terminated by the company. The story unfolds as the employer, attempting to introduce radical workplace change, refuses to negotiate an enterprise agreement, and the parties both lodge logs of claims for an award with the New South Wales Industrial Relations Commission. After months of conciliation, the parties seek arbitration. This process is described in section three of the paper. During the arbitration process, the constraints imposed on the Commission by wage fixing principles are revealed. These principles restrict the amount the Commission can arbitrate in a new award. Following the making of the new award, the union attempts to negotiate an enterprise agreement with the employer. The fourth section of the paper describes this process. Finally, the conclusion is made that, at workplaces where the employment is seasonal and union density is low, if an employer refuses to negotiate an enterprise agreement, there is little a union can do to further the wages and working conditions of its members.

**Background to the workplace**

The focus of this case study is a workplace in country New South Wales. The nature of the work is such that employment for most workers is seasonal, with the majority of employees working between May and September each year. During the peak season, work is performed twenty four hours a day, seven days a week.

The workplace began operation in 1987 and wages and conditions were governed by an informal arrangement between the employer and union. There was no award covering these employees. In 1991 an unregistered enterprise agreement was negotiated between the union and the company to cover a range of occupations at the workplace. Conditions remained the same at the workplace, with wage increases negotiated annually until 2001 when the enterprise agreement was formally certified for a 12 month period by the New South Wales Industrial Relations Commission. The agreement was not renewed after the nominal expiry date however the wage increases were renegotiated each year.
The bargaining process

During the non-peak season, in late 2002, the union began negotiations with the company for a new enterprise agreement. The company continually refused to renegotiate the enterprise agreement, arguing that it could not remain viable under the conditions in the existing agreement. In particular, the company highlighted that it believed certain occupations covered by the enterprise agreement were overpaid.

Instead of negotiating with the union for a new enterprise agreement, the company informed workers that it intended to offer individual contracts. Under these contracts, future State Wage Case increases were to be passed on to every worker except those in classifications which the company believed were overpaid. These ‘overpaid workers’ were to only receive 60 percent of the State Wage Case increase for the following two years, in order that their rate of pay would become comparable with the C10 basic trade rate in the Metal Industry Award.

In response, the union stated its intention to apply for a NSW award to cover the employees and at a union meeting, members endorsed resolutions that they would refuse to sign individual contracts, and stated that all negotiations for a state award and an enterprise agreement were to be done on their behalf by the union. As per usual practice, in 2002, the union then lodged a number of dispute notices in the Industrial Relations Commission and the Commission held several conciliation conferences to assist the parties in reaching a new agreement.

However, by December 2002, with little progress having been made, the company notified the union that it had applied to the Commission to have the 2001 enterprise agreement terminated, effective from March 2003. Four days after the company made its application to the Commission, the union lodged a log of claims for an award. In February/March 2003, the company also lodged a log of claims with the Commission, and notified the union that ‘in the spirit of cooperation’, it would undertake that the terms and conditions in the terminated enterprise agreement were to apply until a new industrial arrangement was introduced.

The log of claims of both parties were at complete odds. The union log of claims contained all the provisions in the terminated enterprise agreement plus some additional provisions from industry awards which had been omitted from the original enterprise agreement. In other words, the union's claim did not attempt to significantly vary existing wages and conditions. In contrast, the company's log proposed a radical departure from previous practices.

Despite both parties serving logs to make a state award, during 2003 further conciliation conferences were held between the parties in an attempt to negotiate a new enterprise agreement, assisted by the New South Wales Industrial Relations Commission. The issues discussed included:

- The suitability of the company-provided uniform to the conditions under which work was required to be performed.
- Rostering arrangements. The union claimed that there was favouritism in rostering with some employees given the shifts they preferred (for example day shift) while others were favourably rostered to work at times when penalty rates applied. The union argued that, to ensure fairness in rostering, the roster should be rotating and include all employees and all work performed.
- Further, during peak periods, some workers were being given less than 10 hours between shifts – the union argued that the minimum time off between shifts was to be ten hours to allow sufficient rest time.
- Payment of meal breaks – Awards in the industry usually contain provision for an unpaid meal break of between 30 and 60 minutes. Due to the rostering practices at this company and the constraints imposed by the type of operation, the practice was that a paid 20 minute meal break was provided during the shift at a time when operations allowed. This paid meal break reflected the difficulty in rostering people for the unpaid 30 to 60 minute meal break which was typically found in the industry's awards and agreements. The employer wished to eliminate the paid break.

As part of the conciliation process, the parties believed that the Commission would gain a greater understanding of the dispute if the Commission inspected the workplace. This occurred in late August 2003, during peak season.
Following the inspection, the company agreed that the rates of pay for all existing permanent and seasonal employees at the time of the inspection would be grandfathered. In other words, while the rate might change for new employees as a result of the conciliation/arbitration process, existing employees’ rates of pay would remain at the level they were before any negotiations took place. At this stage (August 2004), the company had only agreed to grandfather the rates of pay, claiming that the conditions were to be those contained in the company's log of claims which had been presented before the Commission.

To further the process, the company had reiterated in September 2003 that:

- Rates of pay of existing employees would be grandfathered.
- Conditions for all employees were to be in accordance with the company’s log of claims.
- Non-grandfathered employees were to be paid the rates in the company’s log of claims.
- These conditions would be embodied in an award with a nominal term of three years.
- The State Wage Case 2003 increase would be applied to all existing employees from September 2003 and subsequent State Wage Case increases paid from September in following years.

The union rejected the offer, with members passing a resolution that they would only accept grandfathering if it applied to wages and conditions and by the end of October 2003, the company had agreed to also grandfather the conditions for workers who were employed at the date of the inspection.

Despite this agreement, in October 2003, the union had written to the Commission noting that the company had been trying to impose the provisions of its log of claims on all employees (new and existing) before any arbitrated settlement had occurred.

The Commission called a further conciliation hearing between the parties in late October 2003 and by the end of this hearing the Commission indicated that conciliation was exhausted. The parties had reached agreement over most of the matters in dispute although two key sticking points remained. The first related to allowances and the second to meal breaks.

The next step was arbitration and the parties agreed that the outcome was to be an enterprise award. Notwithstanding the previous eighteen months of negotiations, the company indicated that, if arbitration was to occur, all previous agreements were off the table and the Commission was to arbitrate on the entirety of wages and working conditions for all employees. To this end, the parties were directed to submit their evidence and affidavits by early December 2003 with the case listed for February 2004.

**Arbitration**

The hearing was held over three days in country New South Wales to enable witnesses who lived in the local area a chance to appear. After opening submissions, the union began to call its witnesses. After the first day of the hearing, with the first union witness having been in the witness box for most of the day, the Commission indicated that the parties were close to agreeing on the content of a settlement. The Commission directed both the union and employer to meet overnight in an attempt to reach an agreement which the Commission would then ratify as an award.

**PROBLEM OF THE WAGE FIXING PRINCIPLES:** One of the key concerns for the union regarding arbitration was the small ‘ambit’ of wages within which the Commission could determine the wages payable to those covered by the new award. This ambit was the result of the ‘Wage Fixing Principles’ which govern decisions of the Commission in relation to awards.

The Wage Fixing Principles are determined each year in the State Wage Case. The principles aim to provide a framework under which all concerned - employers, workers and their unions, governments and tribunals - can co-operate to ensure that measures to meet the competitive requirements of enterprises and industry are positively examined and implemented in the interests of management, workers and, ultimately, Australian and New South Wales society. Accordingly, the principles from the 2003 State Wage Case state, at Principle 13 that:
Any first award or an extension to an existing award must be consistent with the Commission's obligations under Part 1 Chapter 2 of the Act.

In determining the content of a first award the Commission will have particular regard to:

(a) relevant wage rates in other awards, provided the rates have been adjusted for previous State Wage Case decisions and are consistent with the decision of the Stage Wage Case 1989;

(b) the need for any alterations to wage relativities between awards to be based on skill, responsibility and the conditions under which the work is performed;

(c) for conditions of employment, other than wage rates, prima facie the existing conditions of employment;

(d) that the award would comply with the requirements of section 19 of the Act.

The union’s concern was that, because of a focus on enterprise bargaining in the industry over the last decade, award rates of pay had not been increased significantly and were in no way comparable to what workers were actually being paid. However, Principle 13 determined that the Commission, when making a decision, had to have regard to award rates only and effectively decide between the ambit created by the lowest and highest of these rates. For the union, this meant a decision through arbitration of between approximately $15.00 per hour and $17.00 per hour, even though these rates did not reflect the actual rates paid to workers in the industry under their enterprise agreements.

The second concern for the union was the level of work undertaken by employees of this workplace compared to other workplaces in the industry elsewhere. During the first day of evidence, the Commissioner highlighted that he did not believe the skills required by employees at this workplace were comparable to workers in other workplaces in the industry. Most importantly, the Commissioner noted that the training required to be able to work at the case study workplace was approximately four to five weeks while the training provided at other workplaces in the industry which undertook similar work was at least several months, and for some, more than a year. This was the key argument of the employer in their affidavits provided to the Commission, and one which seemed to strike a chord.

Hence it was important for the union to try to gain a favourable outcome from the negotiations rather than allow the Commission to arbitrate. Overnight, the parties agreed that the conditions in the terminated enterprise agreement were to apply to all workers as part of the new award. When the parties reported back to the Commission the following day on the success of their negotiations, they were able to report that the only outstanding issues related to the hourly rate of pay, the application of penalty rates and meal breaks.

On that basis, the Commissioner recommended that the parties keep negotiating, with the Commission acting as mediator. During the discussions, the company agreed that wages for the existing employees would be grandfathered, and the penalty rates under the terminated enterprise agreement would also apply. With the conditions for existing employees remaining the same as before but adjusted by the 2003 State Wage Case increase, the focus of the parties turned to the wages for future employees.

The Commissioner again reminded the parties of the constraints imposed by Wage Fixing Principle 13 and indicated that he did not believe that the skills required by workers at this company were as high as those at other like operations. For this reason, he suggested that if required to arbitrate the wage component, his decision was not likely to be at the highest award rate. By the end of the day, the company offered a wage rate of $16.30 per hour. The union accepted the offer on the basis that it was exclusive of penalty rates. However the agreement almost fell over when the employer revealed their offer of $16.30 was an ‘all in’ hourly rate.

The parties continued negotiating the rate, with the union using a current roster of working hours to ensure that the best deal was negotiated for future workers. The sticking point was the structure of remuneration. The union wanted an hourly base rate plus penalties for early morning, afternoon and night work, while the employer would not budge from the position of an ‘all in’ hourly rate.

When the parties finally reached agreement for an ‘all in’ hourly rate of $16.80 per hour, the Commission indicated that this was a realistic outcome. The union calculations showed that,
based on an eight week roster, the workers would be better off under the new award than they
would have been if they had been paid according to the highest hourly rate in the industry
awards. Of course, this did not hide the fact that all other workers in the industry earned
significantly higher than their award rates of pay, and nor did it hide the fact that existing
employees were going to be paid a significantly higher hourly rate of pay than future employees,
plus penalties, for exactly the same work.

With the wage rate for future employees agreed, the final sticking point was whether the wages
payable the existing employees would be increased by future State Wage Increases. At the start
of negotiations, the employer had made it clear that they believed these workers were overpaid
and that their intention was to freeze the wages of the grandfathered employees until the wage
rate in the new award caught up. Given the difference between the two rates of pay, this would
effectively mean that the rate of pay for existing workers would be frozen for several years.
The union argued that it was its intention that the State Wage increase be passed on to existing
workers as well as future workers, and that the grandfathering arrangement was not a wage
freeze.

To resolve the dispute and make the award, the Commission inserted a provision under the wage
rates of the grandfathered employees, which stated that ‘the parties will confer with respect to
the application of the 2004 State Wage Case and any dispute in this matter will be referred to
the Commission’. The union sought a further provision which stated ‘… and any decision of
the Commission will be binding’.

The reason the union wanted this provision was simple. The Wage Fixing Principles state that
the State Wage increase must be absorbed into over award payments. The manner in which
the rates of pay for the grandfathered employees had been written into the award was such
that they were over award payments. This meant that, regardless of a dispute being referred
to the Commission, the Commission could not flow the State Wage Case increase onto the
grandfathered employees rates of pay. However the Commissioner indicated to the union that
he believed the employer would look at the 2004 State Wage Case in good faith and there was
no need to include the sentence as sought by the union.

However, soon after the 2004 State Wage Case was handed down, the union approached the
company seeking that the increase be applied to the rates of pay of the grandfathered employees.
The company refused and the union notified a dispute in the Commission. As expected, when
the union appeared before the Commission, the Commission indicated that its hands were tied
by the Wage Fixing Principles and the increase could not flow on to the grandfathered workers
except without the employer's consent. In other words, the rates of pay of the grandfathered
employees had become frozen for several years until the award rate caught up. There was
nothing the union could do except, as the Commission recommended, commence negotiations
for an enterprise agreement with the employer.

**ENTERPRISE BARGAINING:** With the end of the peak season rapidly approaching, the union
wrote to the employer, stating its intention to negotiate an enterprise agreement. The company
responded that it did not intend negotiating further with the union.

Although union members were keen to negotiate penalty rates for new workers as well as
a higher rate of pay overall, they were not willing to take industrial action to further their
claim. This was the result of a number of factors. Firstly, there were only a few weeks left
in the peak season, and most of the workers felt that management could simply hold out to
the end of the season and suffer the impact on their business. Second, a high number of the
seasonal workers were not union members and only intended working with the company for
one season. They did not hold a long term view on the future of wages and conditions. Third,
union members were reluctant to take action because, while for most of the locally employed
workers, this was a second job and they could survive without the income, they noted that for
other seasonal workers, this was their only source of income and they could afford to take
industrial action.

In the absence of industrial action, if the company did not agree, there was no way an enterprise
agreement would be negotiated to cover workers at the site.
Conclusion

This case study has highlighted the problems in determining a realistic rate of pay for workers in NSW who are not covered by an award. As noted, the Commission is bound to operate within the Wage Fixing Principles determined in State Wage Cases. This means that a decision for rates of pay in a new award must have regard to the rates in existing awards covering similar work. Given the focus by unions on enterprise bargaining, often the rates of pay in these awards are very low when compared to the rates that enterprise agreement covered workers actually get paid.

Finally, this case study has highlighted that, even in regimes where the Government is not anti-union, unless an employer agrees to negotiate, there is little a union can do to further the wages and working conditions of its members. Of course, industrial action is the way claims can be pursued, but this is not likely in workplaces with low union density, in this case as a result of the seasonal nature of employment.

References


Shareholder value and industrial relations: Two Australian case studies

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ABSTRACT

Much of the literature on industrial relations change has examined the connections between changes in product market conditions and regulatory frameworks and labour management practices. However, there is an emerging literature with examines the impact capital markets and firm financing decisions can have on employment relations practices. This literature has mainly focussed on national level comparisons and argued that differences in capital market structure and corporate governance arrangements produce differences in labour management practices. One of the major problems with this literature is the establishment of clear causal relationships between capital markets and labour management practices. Because firm labour management practices are deeply embedded and potentially affected by a broad range of variables makes it unlikely that national level studies will produce evidence of a clear causal relationship between finance and labour. This paper attempts to overcome these problems by focussing on the connections between shareholder value and changes in labour management in two recently privatised Australian companies- Qantas and Commonwealth Bank of Australia. The experience of privatisation makes it possible to compare employment relations practices at these companies before and after labour management became subject to capital market and shareholder pressure. This research design makes it easier to isolate the effects of shareholder value on firm level labour management practices. Both companies experienced significant changes in employment relations practices in the aftermath of privatisation and the paper reports evidence to suggest that these changes were closely associated with changes in ownership. The evidence from the case studies is therefore consistent with the view that the ideology of shareholder has an independent impact on managers’ labour management decisions.
Rethinking service work and employment: The Pandora’s box of aesthetic labour

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ABSTRACT

Using aesthetic labour as a springboard, this paper argues that a rethinking of the understanding of work and employment in interactive services. The term ‘aesthetic labour’ is analytically complex (Witz et al., 2003). Here it is enough to note that it refers to the employment by companies of people with certain capacities and attributes that favourably appeal to customers and which are then developed through training and/or monitoring. It has become translated in the popular imagination as those people who are employed on the basis of ‘looking good’ and/or ‘sounding right’. In its tabloidised form, along with sexism, racism and ageism, ‘lookism’ is now offered as one of the key issues of the contemporary workplace (Oaff, 2003). Glasgow-based research has highlighted the demand for and supply of aesthetic labour in retail and hospitality (SCER 2004; Warhurst et al. 2004).

Rather like Panbdora’s Box, once aesthetic labour is recognised and accepted as a feature of work and employment in interactive services, many issues, some of which might be uncomfortable, are opened for debate and discussion. This paper seeks to outline and explore these issues. Some of these issues are conceptual, others practical but all not only extend understating of aesthetic labour but also raise a number of related issues more generally about work and employment in an area of the economy with most jobs growth (Futureskills Scotland 2003).

The paper first defines aesthetic labour and, drawing upon a recent employers’ survey, also demonstrates its importance to these employers. It then explores some of the key issues that emerge from aesthetic labour demand and supply, specifically issues of skill and skill formation, training policy and provision, and discrimination in the labour market. To these existing issues, commentary is added on further issues, focusing on class and social status and the need for further research on the conceptual and empirical boundaries of aesthetic labour. The paper concludes by arguing that on the basis of an awareness of these issues a reconceptualisation of interactive services’ work and employment is needed, especially the composition of ‘service’, and, moreover, a rethink is also needed of the study of this work and employment.

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Corporate governance and industrial relations:  
A literature review and research agenda

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ABSTRACT

The search for more complete and satisfactory explanations of industrial relations phenomena has recently extended into the sphere of corporate governance. Two recent contributions to this literature (a special edition of the British Journal of Industrial Relations\(^1\) and an edited book by Gospel and Pendleton\(^2\)) articulate the importance of questions of corporate stewardship and financing to a range of industrial relations variables. In this paper, I venture further into the corporate governance literature in an effort to examine its value to industrial relations scholarship. It is contended that the utility of the corporate governance literature stems from its central debates over competing theoretical models of the firm. How the firm is conceptualised is of critical importance to the way in which it is governed and regulated. Moreover, these different perspectives of the firm help to explain variations in the relationship between workers, managers and owners and the independent behaviour of each of these parties. The paper concludes by outlining a possible research agenda for empirical examination of the nexus between corporate governance theories and issues and industrial relations.

\(^1\) See British Journal of Industrial Relations, (2003) 41 (3).
The potential for and limitations of electronic agreement making in Australia

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ABSTRACT

An integral part of the package of federal industrial relations ‘reforms’ enacted in Australia in 1996 were individual employment contracts. To allay fears that the individual contracts (known as Australian Workplace Agreements - AWAs) would result in unfettered exploitation of workers, the government introduced a new industrial relations institution, the Office of the Employment Advocate (OEA). Its central statutory role was to ensure that individual contracts met certain minimum conditions before they were registered. Also, the OEA was expected to facilitate the spread of AWAs across Australian workplaces. Part of this process has involved the development of easily accessible ‘model’ pro forma agreements and, for a demonstration effect, the OEA placed a number of “best practice” AWAs on its website.

While a literature is emerging on electronic HRM practices, to date there has been little discussion of the potential and limitations associated with electronic agreement making. While the OEA website and AWAs represent an operational example of electronic agreement making we consider the potential for extending electronic agreement beyond individual agreements and beyond single workplaces.
The right to politically strike?

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ABSTRACT

The right to strike on political issues is a controversial contested industrial relations and labour law issue. Governments and employers use labour law against the political protests of striking unionists. Controlling industrial action by sanctions (almost) extinguishes the right to strike. When political protest includes industrial action, such strikes are declared unlawful. When the issue of ‘political’ is clarified, the argument for the justification of the right to politically protest and the right to strike can be developed. International labour law principles and International Labour Organisation (ILO) jurisprudence on political strikes are adopted. Are restrictions justified against strikes on political issues or should there be greater freedoms for Australian workers and their unions to assert without risk of penal sanctions the right to politically strike? Forms of the right to political protest with industrial action could be considered for protection. The justifications may inform policy debates.

A. International protection of the right to strike

A1 ILO PRINCIPLES: Novitz (2003) analyses the strengths of the ILO and European jurisprudence and the application of the right to strike in international law. She shows the contemporary relevance of justifications to protect the right to strike. She details how the right to strike is acknowledged and upheld internationally. ILO jurisprudence has the right to strike as integral to uphold these Human Rights Conventions: The ILO’s Freedom of Association and Protection of the Right to Organise Convention 1948 (No 87) and the Right to Organise and Collective Bargaining Convention 1949 (No 98). Australia is bound by these Conventions and principles, Creighton (1995, 1997, 1998); Creighton and Stewart (2000:378). Article 8, paragraph 1(d) of the ILO’s International Covenant on Economic, Social and Cultural Rights of 1966, provides for: ‘The right to strike, provided it is exercised in conformity with the laws of the particular country.’

The ILO Committee of Experts made a key statement on the right to strike on the application of Conventions and Recommendations (CEACR): ILO (1983):

The right to strike is one of the essential means available to workers and their organisations for the promotion and protection of their economic and social interests. These interests not only have to do with obtaining better working conditions and pursuing collective demands of an occupational nature but also with seeking solutions to economic and social policy questions and to labour problems of any kind which are of direct concern to the workers.

Novitz (2003:368) concludes ‘there remains scope for the endorsement of ILO principles, based on an appreciation of the right to strike as a civil, political, and socio-economic entitlement.’ Ben-Israel (1988:1) earlier argued:

The phenomenon of the strike is one of the crucial problems of contemporary industrial relations because it lies at the very core of the legal regulation of industrial conflict. The strike is basic to the distribution of power between capital and labour, and also forms part of the problem of the autonomy of groups and their relationship to the State. …Since the late 1940’s…a basic consensus emerged, albeit slowly and somewhat grudgingly. The social partners’ freedom of recourse to concerted activity gained recognition as an essential element of industrial relations without which freedom of association could not exist. Freedom of association is a fundamental human right… Hence the freedom to strike has emerged as an essential tool for the implementation of such a basic freedom as freedom of association.

Understanding these modern human rights principles assists the question of political strikes.

Australian unions involved in organising strikes run considerable risks at law and more so for (most) political strikes. Workers and unions raise issues of unfairness arguing an imbalance between the interests of labour and capital. Is there a basis for reformed labour laws that allow political protest strikes without the current sanctions? (other than the individual employee loses pay).

**A2 Political strikes: Justification by international standards**

**A2 (1) PROHIBITION OF ‘PURELY POLITICAL’ STRIKES:** The ILO, based on tripartism, has not given support to politically motivated industrial action. The term ‘political strike’ is the term associated with illegality and disapprobation. The reason is that ‘the political strikes’ are viewed as disruptive of democratic processes’ Novitz (2003:56). ‘Purely political strikes’ are coercive and prohibited.

Strikes protesting against government industrial, social and economic policy are nevertheless legitimate. The economic and social interests of workers encompass a wide range of legitimate issues that are interrelated to government as well as employer policies and usually enmeshed in politics. (Novitz (2003:295) considers a range of conduct where a ‘political strike is that which is aimed at deposing the government, reducing its credibility, dictating the policies it should follow, or merely seeking to influence the policy formation process.’)

But it is different with strikes on ideological grounds, less directly connected to workers’ self interest. Here the right to strike is linked to contemporary understandings of democracy, human rights of political participation as citizens, and the right to politically protest as an exercise of civil liberties. Such argued for political freedoms are increasingly under threat. After the new Senate in July 2005, the Howard government should almost extinguish the right to strike. Should unions have the political right to protest and strike against such workplace laws? Novitz (2003: 56) begins her analysis:

My contention is that it is inappropriate to speak of political strikes as if they constituted an amorphous mass of iniquity, for strikes may be capable, not only of undermining, but also facilitating democratic participation. First, a strike can be said to be ‘political’ insofar as it challenges the traditional balance of power between capital and labour in any particular enterprise or industry. (With) industrial action that challenges traditional powers of managerial prerogative…there may be an argument for protection of the right to strike as aspect of ‘industrial democracy’. Secondly, the adjective ‘political’ can be used to describe actions taken by reasons of ideological convictions relating to the achievement of social justice. Strikes which challenge an employer’s environmental practices or trading partners could come within this category. Here, workers are not acting in their own direct interests, but in line with what they considered to be fundamental ethical beliefs. By taking an extended view of workers’ legitimate interests or by mounting an argument based on ‘freedom of speech’, it may be possible to provide a democratic justification for protection of a right to strike in these circumstances. Finally, the term ‘political’ is most commonly applied to those actions which are designed to affect the operation of government. Strikes which have such aims are generally regarded as the most alarming. Nevertheless, I shall examine the controversial argument that the ability to take such industrial action can sometimes be justified in democratic terms both in the context of ‘protest strikes’ against totalitarian regimes and even, potentially, against Western European ‘democratic’ government.

**A2 (2) STRIKES THAT CHALLENGE GOVERNMENT POLICY:** So-called ‘political’ strikes by public sector unions are legally protected when during enterprise bargaining on wages and conditions. Public servants, teachers, university workers, nurses and those not in essential services (narrowly interpreted) striking as a last resort are justified; so long as public health and welfare is not adversely affected.
Macfarlane (1981:158) argues that, ‘if one is dealing with a highly repressive autocratic regime, it is not difficult, in terms of democratic theory, to justify the use of the strike weapon to secure the overthrow of the Government or major changes in the Constitution.’ Trade unions in the past have played a crucial role in the fight for democracy. Should in Australia industrial bans defending democracy be unlawful and unions subject to penalties?

Novitz (2003: 62) argues for the right to strike to influence government:

Pluralist theorists who advocate ‘participatory democracy’ consider that centralised political power is neither a reality nor desirable. …employers and workers can be regarded as two interest groups, which can and should have input into government policy. …If there is to be some balance between the relative political influence of capital and labour, there may be a case for legal recognition of strikes which seek to influence government policy.

Transnational corporations threaten government with moving capital overseas. Should workers have the parallel freedom to strike to influence government policies?

**A2 (3) POLITICAL PROTEST STRIKES LEGITIMATE:** But what about more general political strikes against government policies? The ILO concludes that ‘protest strikes’ aimed at influencing government policy do merit legal protection without sanctions. In the Argentina case, the Congress of Argentine Workers organised a strike that included national employment policy, job stability, free education and a public health system. The government declared the strike illegal and said that the strike was ‘clearly of a political nature, since it did not involve the defence of particular or specific interests of workers in a given activity, but was the expression of pure and simple opposition to the social policy of the Government’. The ILO Governing Body Committee on Freedom of Association (CFA) reminded the government that ‘trade union organisations should have the opportunity to call for protest strikes particularly with a view to exercising criticism of the social and economic policy of the governments,’ Novitz (2003: 293). Clearly such a form of political ‘protest strikes’ are not to be declared unlawful on ILO principles. Macfarlane (1981) explores this distinction between ‘coercive’ and ‘protest’ strikes. Political ‘protest strikes’ are strikes designed merely to draw attention to the extent or depth of feeling against particular government law or policy while ‘coercive strikes’ are ‘designed to force the government to change that policy.’ ‘Protest strikes’ at least, but not ‘coercive strikes’, should be permissible in a democratic society.

The Committee of Experts on the Application of Conventions and Recommendations said:

Organisations responsible for defending workers’ socio-economic and occupational interests should… be able to use strike action to support their position in the search for solutions to problems posed by major social and economic policy trends which have a direct impact on their members and on workers in general, in particular as regards employment, social protection and the standard of living (ILO CEACR 2002, cited Novitz 2003: 293).

But is there a point to the argument that coercive political strikes against governments should be unlawful? Obviously so. However, the political right wing and corporate leaders support certain political strikes, on occasions. There are protest strikes against governments that are not democratic e.g. strikes in Zimbabwe; that are white racist (South Africa); fascist, communist (Poland and the Solidarity strikes) or that are authoritarian Nigerian or left wing, Venezuela. All over the world at any one time governments implement their reactionary economic and social politics and workers and unions use the political strike in opposition to the policies and the repression of political protests (see www.labourstart.org/).

**A2 (4) INDUSTRIAL DEMOCRACY RIGHT TO STRIKE:** Democratic participation at the workplace and in political policy making is important justifications, e.g. the October 16th National strike on University and Government decision making, White (2004). ‘It has become increasingly common for workers to claim, in their work situations, some version of the rights they now enjoy in the political field’ Novitz (2003:57). The scope of the right strike is broader when based on employees having a voice, not only over their own working conditions, but when they are opposed to the way an enterprise is being run or government policy impacting on the enterprise decision making.
A 2 (5) RIGHT TO STRIKE AS A CIVIL LIBERTY: Ignatieff (2001:165) demonstrates that the right to politically protest is broadly accepted throughout the liberal democratic world recognised as an important civil and human right. Political protests historically have been evolving as a civil and political right and linked to freedom of speech, freedom of association and the right to free assembly. (Novitz 2003: 65):

To view the right to strike is an aspect of ‘free speech’, ‘freedom of association’, or even ‘freedom from forced labor’ is to give it the status of a fundamental civil liberty. This suggests that it could be exercised whenever the worker so chose the prima facie personal freedom. The entitlement to take industrial action could not be limited in terms of subject matter, such as collective bargaining or workplace governance, except where it infringed some other right or vital aspect of the public good.

Hunt (2001) argues that legal reasoning to legitimise restricting strikes in Australia is not ethically based. Workers have a moral right to wage justice and to strike as a civil liberty outweighing other rights, such as employer’s property rights. Moral rights reasoning and ethical arguments based on these principles may be applied to political strikes.

A 2 (6) IDEOLOGICAL STRIKES AGAINST EMPLOYER POLICIES: Novitz (2003: 59) continues:

Workers have been willing to engage in industrial action for reasons unconnected with their own immediate concerns or financial interests. The motivation for their action often has an ideological basis and broad social implications. While the ILO sees the right strike as a fundamental right of workers and their organisations, it has regarded it only as a means for the promotion and defence of workers’ direct economic and social interests.

Novitz (2003: 296) indicates that the CFA may intervene to protect participants in ideologically motivated strikes aimed at changing an employer’s policies. The CFA found that a strike called by university teachers to protest against acts of repression against students came within the framework of legitimate trade union activities. The university teachers were not taking industrial action in respect of their own conditions of employment, but to express their abhorrence at how their employer, the government, had treated students. This strike was taken for the benefit of others, on ideological or humanitarian grounds. Nevertheless, the CFA found the strike to be legitimate. Similarly, a British ban held legitimate was the threat made by members of the BBC staff that union members would take whatever industrial action necessary to prevent the 1977 FA cup final being relayed via satellite to South Africa in protest against apartheid.

A 2 (7) GREEN BANS AND CONSCIENCE STRIKES: In the 1970s, the NSW Builders Labourers Federation embarked upon ‘Green bans’ industrial action to protect the environment by refusing to take jobs constructing a luxury complex on undeveloped bushland, on the Greenbelt Sydney, respecting community opposition to this project, Thomas (1973). These bans for environmental and community protection were justified politically by the militant Communist union leadership, Silverman (1966, 1971). Novitz (2003: 61) argues this form of industrial action could be seen as a means by which to:

allow the values of the ‘life world’ Habermas (1997) to permeate the capitalist system. The Sydney ‘green bans’, were where constitutional democratic procedures have not decided how to develop Sydney before the labourers stepped in; profit making builders had. The green bans may be understood as taking one step further a union goal traditionally applied to setting wages and conditions of employment; substituting a conscious group decision for a market determination.

Australia has a history of political struggles and strikes on environmental issues and social issues. Novitz (2003:60) argues:

…that considerations of a social character should be permitted to influence the market-led considerations often taken by employers… to extend the concept of ‘workers’ ‘self-interest’, so to accommodate industrial action taken on a principled stance. This is an attempt to relate the right strike back to the socio-economic interests of workers. Such strikes could be considered justifiable on the grounds of individual conscience and
moral autonomy or as an extension of free speech. Indeed a strike may be viewed as an aspect of acting as a responsible citizen, a role which cannot simply be suspended during working hours.

Political strikes were taken for reasons of conscience. Hay (1978: 37) cites the (in)famous Waterside Workers Federation 1938 ban on the shipment of pig-iron to Japan in protest against war preparations, where the Communist waterfront union leader Healy asserted ‘the right of the individual to refuse to participate in any action towards which he (sic) may have conscientious objection.’ Silverman (1966, 1971) assesses the arguments of militant unionists for political strikes and the responses. Waterfront unionists ‘refusal to participate in the business of munitions manufacturing was similar to their later refusal to assist the Dutch to reassert control in the East Indies. They claimed that they retained their personal rights and prerogatives, one of which was to aid persons in a struggle for freedom.’

Hay (1978) makes a case for political strikes in a liberal democracy on grounds of republican democratic theory. Union bans on foreign policy issues for human rights are justified in terms of conscience and free speech. They are promoted as legitimate civil disobedience; Silverman (1966, 1971). Should political rights of workers to decline to carry out work that violates their sense of social justice and conscience be allowed? Should workers have protection when attending mass citizen Peace Rallies such as in the ‘Not in My Name’ 2003 anti-Iraq war protests?

A3 The right to strike as a human right

The right to strike is seen as a human right, Creighton (1995, 1997), although justified on socio-economic grounds. Ewing (2004) sees a convergence of the justifications for the right to strike: the traditional socio-economic arguments and the civil and political justification for the right to strike are joined by a human rights justification. There is a renewed advocacy for the right to strike as a human right. International labour law is joined by human rights law.

History demonstrates the need for human rights, Ignatieff (2000). Workers assert their human rights have been abused by suppression, here of the right to strike. Workers and unions uphold today as in the past the right to strike. Legitimate positions are strongly held such as the ‘dignity of labour’, that ‘labour is not a commodity’, is ‘not forced labour’, and workers are ‘free and not slaves’. As a human right not to be abused and punished for going on strike, it is put forward to protect the individual employee’s dignity.

Ewing (2004) shows the right to strike as a human right has interesting features. A human right is inalienable in that it cannot be abrogated by the State or by individuals. Human rights are indivisible and often unequivocal. The exercise of human rights has to in practice be made possible by the State. What would this mean for the political strike?

Although an individual right, the right to strike is exercised in combination. Individuals organising collectively especially in unions are fully protected. For the right to strike generally including on political issues to be effective then the union organisers and the union organisation are not subject to penalties. The individual on strike has a ‘firewall protection’. Apart from losing wages, no other penalties can be imposed. You cannot be dismissed or discriminated against for going on a protest strike to express your political view.

In our globalised network economies, individual protection is arguably still important in workplace relations. This human right to be effective requires immunity from common law sanctions. The strike on political issues would not constitute a breach of the individual’s contract. Nor would torts law and injunctions be available to employers. The right to strike as a human right means that certain solidarity strikes are protected, including political protest strikes. As a human right, the scope is wider than bargaining on socio-economic issues. It can be used to respond to political attacks on workers industrial rights. Individuals should have the freedom to determine how the right to politically protest with industrial action should be exercised and for what purposes. The right to strike can be used to politically promote other human rights and to oppose exploitation and oppression and for human rights. Ewing (2004) argues:
If the right to strike is a human right workers must be free to determine the causes they will promote by using it, just in the same way that we do not censor the purposes that may be promoted by the exercise of the right to freedom of assembly. People are free to exercise their human right to peacefully assembly by marching through the streets to demonstrate their opposition to the invasion of another country or anti trade union legislation. Why should they not also be free to exercise their human right to strike to promote the same ends by staying at home, or in order to reinforce the protest? It is not for the State to determine the causes which may be promoted in this way.

Green (1990) recommended the policy approach taken by ILO jurisprudence that the workers determine the purpose of the strike, here political. It is the conduct that the right protects, not the purpose. Unions have freedom over the purpose.

The right to strike as a human right, Ewing (2003) explains does not mean that there are not nor ought not to be reasonable limitations and respect for the rights of others, with the doctrine of proportionality. As we shall see, Australian labour law allows sanctions political strikes. This leads to reform debates for some protection of political strikes.

B. Australian laws against political strikes

B1 AUSTRALIAN CONSTITUTIONAL FREEDOM OF COMMUNICATION? One line of inquiry is in Constitutional law. The High Court has determined that as citizens Australians have an implied constitutional freedom of political expression; the right of freedom of communication on political matters. The High Court's constitutional principle of freedom to communicate political views is functional, 'is necessary for and a corollary of' Australia's system of liberal representative democracy. This is a negative freedom limiting a government's legislative and executive powers rather than a positive right, Williams (1998).

Doyle (1995) is critical of the High Court's narrow characterisation of political communication that is protected but limited to speech. The reasoning of the speech/action distinction that political speech is protected but not action is not valid. Doyle (1995) argues that 'the High Court may be faced to abandon this untenable distinction between speech and conduct, as it denies Constitutional protection to many forms of communication employed by citizens – especially workers.' Doyle (1995) argues that 'peaceful picketing' and 'industrial action is also expressive conduct worthy of constitutional protection.' She was dealing with industrial action broadly. But arguably protection should be secure when the purpose of the strike is political protest.

From this, there are arguments that unionists on strike peacefully picketing and leafleting to communicate political views with mass media present could be constitutionally protected, against any legislative restriction. Doyle (1995) gives the illustration of workers attending mass union political protests marches against the Liberal Kennett Victorian State government as coming within consideration of the implied freedom of political communication. This reasoning could apply to protect workers leaving work to attend protest marches e.g. against industrial law amendments deregulating the industrial relations system and adversely affecting their workplace and economic interests by the Minister for Workplace Relations Andrews that will be passed by the Senate after July 2005.; or the building workers protesting the Cole Royal Commission.

Doyle shows a union ‘to avoid sanctions attaching to industrial action, it must bring its activities within the implied freedom of communication.’ But this may not help. Unions have had to put up with the schizophrenic industrial/political distinction. Doyle’s argues that this industrial/political dichotomy is arbitrary, confusing and untenable. Her description of the arbitrary distinction of union conduct as industrial or political can be applied today to the WR Act (1996) distinction between industrial action that is protected or not protected. Past judicial interpretation has given judicial recognition of political strikes, which are not industrial. As such, unions could not invoke the jurisdiction of the Conciliation and Arbitration system. However, when it comes to employers stopping strikes, then so-called political strikes, that are not industrial as they are not ‘matters pertaining to the relationship between employers and employees’, become so when the industry is disrupted. The act of taking the industrial action is then sufficient so that orders against such strikes going ahead or continuing can be made.
Industrial Courts exercise power to stop the industrial action, using section 127 of the *WR Act* (1996) and injunctions. There are differing Commission opinions of whether a worker has a right to strike to attend a political protest. Whether a discretion is exercised by the AIRC that the conduct is such it should be declared unlawful depends on the circumstances. There is one line of argument that a political strike may be unprotected, but depending on the circumstances not sufficiently illegitimate as to be made unlawful and be penalised by the Federal Court enforcing the *WR Act* (1996).

It could be argued Australia's Constitutional freedom of communication should protect, for example political protest by University staff and their unions, as universities have to uphold free speech in inquiry and debate. The October 16th strike was to communicate staff concern in defence of higher education and the independence of universities. White (2004) concludes that such protest strikes as on University independence and workplace rights were both industrial and political, with justifications for protection against any possible sanctions.

Political picketing is precarious. In *CEPU v Laing* (1998) 159 ALR 73 the Federal Court upheld the s127 order to cease the peaceful picketing against the WA Court government's repressive industrial laws. The Federal Court did not extend Constitutional protection to industrial action as political communication.

The common law injunction can stop picketing. Protection is not afforded to effective picketing, such as acts of physical blocking. Disorderly conduct, trespass, and the ancient common law of ‘watching and besetting’ are weapons against the picketers by the employer. Picketing may be held to be a civil wrong and tortious or run foul of secondary boycotts law. Picketing action is subject to traffic law, criminal and property law. Industrial and community protests as picketing particularly enmeshed in political issues such as in the Waterfront dispute were held to be unlawful, with Justice Beach of the Victorian Supreme Court injuncting (unsuccessfully) nearly everyone on the peaceful Waterfront assemblies.

Silverman (1966) and Hay (1978) describe political protest strikes that did not see sanctions used by employers. This was for tactical reasons, or it was a one day stoppage over or the damage was limited. Employers and governments respond robustly at the workplace and in the political arena, in the media and at negotiating conferences but not necessarily in the courts. Silverman (1966, 1971) describes recognition of some political strikes. This is an industrial relations practice that means sanctions against short political strikes, one day protest stoppages are not used. With de facto acceptance, should it be legal?

Responses to industrial action as political protests cover a range of accommodation and tolerance to repression. But Collins (2003: 248) warns ‘we can detect a reluctance of modern states ever to take the idea of the social right to strike so seriously that they relinquish the power, should governments so wish, to take decisive action through force to break a strike. The right to strike is always contingent on the state’s ultimate monopoly of force.’

**B2 AUSTRALIAN LAWS AGAINST POLITICAL STRIKES: HISTORICAL CONTEXT:** Unions in Australia have a long history of political action through the ALP; but not using industrial action for political purposes. After the defeat of the 1890’s strikes, a lesson for unions was not to use the strike weapon as a political strike, but election to parliament. Hyman (1989: 171): ‘Every important trade union struggle over wages and conditions has today a political dimension, since it impinges directly on government economic strategy.’

Political strikes in the 1960’s and 1970’s invoked public controversy. Government and employers used political invective against militant union leaders with accusations of politically motivated threats to the community. This is despite the small number of political strikes. Hay (1978) shows that they have been relatively insignificant in number. Strikes on political issues have been short protests or bans with minimal economic disruption. Political strikes show strongly held criticisms of government policies and significant grievances by workers and their unions that are debated in the political arena.
The ACTU historically organised social campaigns, but rarely used the political strike. Strikes are justified industrially to protect workers’ social interests, e.g., the 1977 Medibank national protest strike was for the social wage. Union leaders do assert that workers should not be forced into master and servant relationships by employers or governments. Strongly held views justify a strike over political issues. Employers supported the principle of the right to strike for enterprise bargaining but based on the prohibition on industrial action during the currency of the agreement and was applied only on industrial matters, ‘pertaining to the employer and employee relationship’ and not political issues. This employer view was reinforced by the High Court (2004) in Electrolux.

B3 (1) POLITICAL STRIKES: UNLAWFUL: In Australia, nearly all political strikes are unlawful. The WR Act (1996) says only strikes in enterprise bargaining at a single business have protections against statutory and common law penalties, Creighton & Stewart (2000:148; 155; 378). Employers litigate on any breaches of the details of the legislative processes that make the strike unprotected (Noyen 2003). Legal boundaries are complex and risky, even more so with Electrolux (2004) making more uncertain what is protected action. Sanctions apply to political strikes under the WR Act (1996), the TP Act (1974) section 45D and at common law. The Waterfront (1998) and Pilots (89-90) industrial disputes are characterised as political by the power of governments and courts. Both governments condemned the disputes as political, although they were industrial issues, enmeshed in politics. Hyman (1989:171) argues: ‘...the increasing intervention of the state on the side of the employers in industrial relations means that the traditional trade union segregation of industrial from political activities has become largely meaningless.’

B3 (2) INDUSTRY BARGAINING UNLAWFUL: The WR Act (1996) protects strikes during the bargaining period only at the single workplace. National, industry or multi-employer strikes for agreements run the risk of being declared unprotected. Any national strike, let alone a national strike on political issues, may not be protected. Australia is the only country in the Western world that bans national strikes. Collective bargaining industrial action at the industry level is accepted by the ILO. The ILO has cited Australia’s restriction against collective bargaining at the industry level or multi-employer level, against pattern bargaining, as being in breach of ILO principles. Should national protest political strikes not be subject to penalties?

B4 SOLIDARITY STRIKES UNLAWFUL: An effective penal power outlawing strikes characterised as solidarity, sympathy, third party or boycott strikes is Section 45D of the TP Act (1974). Section 45D deters solidarity strikes and is a hotly contested politically. Australian trade law treats union solidarity as though it were an oppressive restraint of trade, Hunt (2001). The TP Act amendment 2002 makes strikes against overseas trade unlawful. Union solidarity action with political bans risk breaching s 45D. Creighton & Stewart (2000:380) cite the ILO Committee of Experts ‘that sympathy action (which could include much, if not all, secondary action) should be lawful so long as the action in support of which it is taken is itself lawful.’

B5 POLITICAL STRIKES UNLAWFUL AT COMMON LAW: Unions organising strikes over political issues are most vulnerable to common law liability, Ewing (1993:18-39); Creighton & Stewart (2000:395-416). The common law of contract and tort applies where strikes as such are unlawful regardless of the circumstances of the strike. Consequently, interlocutory injunctions in the civil courts can stop strikes, particularly on political issues. Ancient British common law master and servant law, tort and contract law survive with common law judges making industrial action unlawful irrespective of the merits, Conlon (1992). These common law rights available to employers are the industrial torts: inducing breach of contract; interference with contractual relations; intimidation; civil conspiracy; and causing economic loss by unlawful means. The common law of contract based on master and servant status makes unlawful the withdrawal of labour. However remarkable, the strike is at common law a breach of the individual’s contract of employment. Increasingly, employer tactics use interlocutory injunctions to stop strikes (Noyen 2003). Australia’s failure to provide protection against common law liability is in breach of our international obligations. Should there be firewalls protection for unions and individuals in political strikes against these common law weapons?
Conclusion

Is it arguable that Australia’s restrictions on the right to strike on political issues are unfair? Should workers be able to exercise protest power with industrial action in a democracy? The right to politically protest by strike action could be re-evaluated: 1. in a democracy, political strikes do occur and the State’s legal responses should not be to suppress; 2 overcomes unfairness between the interests of labour and capital, rebalanced to meet international obligations; and 3 engages in a reform debate for the protection of the right to politically protest and the right to strike of benefit to industrial relations and the community.

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1 Electrolux Home Products Pty Ltd v Australian Workers Union [2004] HCA 40 (2 September 2004)
ABSTRACT

One feature of the Federal election campaign was the almost absence of industrial relations as a campaign issue. However, post the election and with a coalition majority assured in both houses of parliament, industrial relations reforms have been propelled into the forefront of the priority list by the government for its new term. In this process, the government has been assisted by the constant suggestions from the media that industrial relations reforms are the key issue to be addressed in the new term. In this article we seek to examine the following issues associated with the proposed changes to industrial relations legislation:

a. the language and rhetoric of industrial relations discussion found in the media, post election
b. what business groups are requesting and suggesting with respect to industrial relations
c. what the government has suggested as its priorities with respect to industrial relations
d. the premise and foundations behind these proposed reforms
e. on what criteria the reforms should be subsequently evaluated
Women, computing and the ‘ideal worker’:
A comparison of professional occupations

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ABSTRACT

In this paper we use recent census data supplemented with case study evidence to investigate the extent to which professional computing occupations in Australia are constructed around the notion of an ‘ideal’ worker. Census data are used to compare computer professionals with other selected professional occupational groups, illustrating different models of accommodating (or not accommodating) workers who do not fit the ideal model. The computer professionals group is shown to be distinctive in combining low but consistent levels of female representation across age groups, average rates of parenthood and minimal provisions for working-time flexibility. One strategy employed by women in this environment is selection of relatively routine technical roles over more time intensive consultancy based work.

Introduction

The under-representation of women in skilled computing work has received considerable descriptive and analytical attention, with explanations typically focusing on the enduring masculinity of science and technology, the way this is perpetuated in recreational and educational experiences of children and young adults, the culture and content of tertiary courses in computer science and information technology, and perceptions of computing work as isolating rather than socially engaging (see, among many, Greenhill et al 1996; Henwood 2000; Mahoney and Toen 1990; Wilson 2003; Wright 1996; and for broader analyses of women and technology, Cockburn 1985; Wajcman 1991). At the organisational level, masculine workplace cultures, lack of informal networks and role models for women, gender-biased notions of skill, sexual harassment and a limited capacity to balance work and family are among factors seen as impacting negatively both on the likelihood that women will choose to enter information technology (IT) jobs and their career prospects once they are working in the field (for example, Ahuja 2002; Panteli et al 1999; Webster 2004). Thus, alongside fundamental barriers associated with intimate links between masculinity and technology, a wide range of more generic factors are drawn on, particularly in relation to retention and advancement. This raises questions over the extent to which work organisation and culture in IT is idiosyncratic. While writers such as Lang (2003) have noted that long hours, male dominated environments and lack of female role models have also characterised law and medicine (areas into which women nevertheless made significant inroads), there is as yet little comparative analysis of employment patterns in IT and other professional work that can shed light on the extent and nature of IT ‘difference’. In this paper we take a first step in this direction with an examination of the extent to which professional computing differs from other selected types of professional employment in terms of the capacity to accommodate those who do not fit an ‘ideal’ worker model.

The notion of an ideal worker (essentially a worker with the [male] characteristic of freedom from domestic responsibilities) has long been implicit in feminist studies of employment, particularly when the focus has been on highly paid managerial and professional jobs. As Cockburn observed some twenty years ago, ‘women who want to compete with men for good jobs are obliged to present themselves on the labour market as men, domestic persona and cares carefully tucked out of sight’ (1985: 250, emphasis in original). At one extreme, such pressures may manifest themselves in the choice to remain childless, as illustrated in Wajcman’s study of women in top managerial positions (Wajcman 1999: 143). More broadly, prevalent ‘ideal worker norms’ underpin the ‘glass ceilings and maternal walls’ that impede women’s entry to, and progression within, highly paid professional and managerial positions (Williams 2000: 20, 68-69) – often regardless of their actual family status, as all women (not just wives and mothers) are affected by the ‘construction of “free” workers as men’ (Wajcman 1999: 143). The labour market does, of course, accommodate ‘non-ideal’ workers, although typically segregating them either in ‘mommy tracks’ within occupations or in those areas of the labour market with the most working time flexibility.
While much professional work has traditionally been based on the assumption of an unencumbered worker supported by the unpaid work of a wife (see Crompton 1986), recent increases in the proportion of women in areas such as medicine and law raise questions over the extent to which ‘ideal worker’ norms have been modified in these areas. Our concern in this paper is to compare professional computing work with professions in which female representation has traditionally been high or has recently increased, and thus to assess the prevalence of ideal worker norms and the capacity to accommodate non-ideal workers in this area of employment.

Several contrasting possibilities are suggested in the literature on IT employment. On the one hand, IT firms are frequently depicted as organisations free of traditionally gendered culture and practice (see Panteli et al 1999), and the technology itself brings potential to organise work in more flexible ways. On the other hand, research suggests long working hours, lack of part-time work and a need to constantly update skills. Project work for clients typically involves tight deadlines, on-site work and on-call availability (Webster 2004), with the pressure to work long hours depicted by Henwood (1993) as imbued in a culture of ‘Boys’ Own heroism’. The relatively deregulated and individualist environment in much of the IT sector can exacerbate these difficulties, with professional development largely the responsibility of the individual, and widespread contracting out and freelance work limiting the scope for regulation of employment conditions (see Webster 2004). Such factors are seen as underpinning a ‘leavers’ problem – not only are women reluctant to enter IT work, they leave it at a greater rate than men (see Bentley 2003).

While ‘IT’ incorporates a wide range of occupational groups, each likely to have developed different expectations about ideal workers, our focus in this paper is on professional computing work. We recognise that the term ‘professional’ is not unproblematic (in comparison with professions such as law and medicine, for example, there is no specified professional education, membership of a professional body, or set of professional sanctions to distinguish these employees – see Beekhuyzen et al 2003: 78), however there is a clear set of occupational divisions in the Australian Standard Classification of Occupations (ASCO) that enable us to distinguish high skill computing from technical support and more routine jobs within the IT spectrum. In the following section of the paper we compare these ‘computer professionals’ with professional occupations in which female representation has recently increased (legal professionals and general medical practitioners), another relatively new area of professional employment (human resource professionals) and with the female dominated ‘professional support’ occupation of nursing. Although it would be possible to make comparisons across a much wider range of occupations, we are primarily interested in comparing computer professionals with professional occupations that have better accommodated women. In seeking indicators of the prevalence of ideal worker norms, we examine: the relative propensity of women to stay in these occupational groups over childbearing years; the prevalence of parenthood; the presence of working time pressures and flexibilities; and evidence of penalties such as increasing vertical segregation and pay inequality with age.

**Data**

We draw on unpublished data from the Australian Bureau of Statistics (ABS) 2001 Census of Population and Housing to compare the representation of women in selected occupational classifications. The advantage of the census data is the statistically reliable picture it provides of the Australian population, although a limitation is the lack of a finely detailed categorisation of IT jobs in the Australian Standard Classification of Occupations (ASCO). Also, although comparisons can be made over time between successive censuses, changes in ASCO in 1996 limit our capacity for comparison over time. Moreover, because the data are cross-sectional rather than longitudinal, direct information on transitions over the life course cannot be obtained, although breakdowns by age group do allow us to draw some inferences. We focus primarily on the 4-digit occupational category ‘Computer Professionals’, with separate information on 6-digit groups within this category (Systems Managers, Systems Designers, Software Designers and Programmers) to elaborate the situation where appropriate. Comparisons are made with Legal Professionals, Generalist Medical Practitioners (GPs), Human Resource (HR) Professionals and Registered Nurses. We also draw on case studies of professional computing work to elaborate the statistical data. This material is based on interviews with managers and employees in eight organisational case studies conducted in 2003-4.
**Analysis**

The census data confirm the low representation of women in professional computing jobs, and their segregation into the lower paying and more routine areas of the IT sector. In 2001, women made up 23 percent of computer professionals, 31 percent of support technicians and 85 percent of data entry operators (in descending order of average income). There is little evidence of change between 1996 and 2001 in these figures, with the exception of a 12 percentage point decline in the female share of support technicians (noted also by Byrne and Staehr 2003). Women's representation in the other professional groups addressed in our analysis was significantly higher than the 23 percent recorded for computer professionals: 46 percent for GPs; 50 percent for legal professionals; 61 percent for HR professionals; and 92 percent for registered nurses (again in descending order of average income). Our specific focus in this paper is not so much on these aggregate comparisons, but rather on indicators of retention and advancement. As noted above, in the absence of longitudinal data we use breakdowns by age groups to provide an indication of change over childbearing years.

**FEMALE SHARE BY AGE GROUP:** A comparison of women's representation by age group in the selected occupational categories is presented in Figure 1. The occupations are listed in the legend on the right-hand side of the figure in ascending order of average income (again showing the inverse association between female share and average income, with the exception that the computer professionals group is a clear outlier). Apart from emphasising the low female share in computing professional jobs, Figure 1 shows relative stability across age groups in this occupational category, particularly in comparison with legal and HR professionals. These groups exhibit a marked decline in female share over the age groups—a pattern consistent with recently increasing entry of women to these professions, but also consistent with low retention rates of women in occupations poorly equipped to accommodate non-ideal workers, and suggesting a much more dramatic ‘leavers’ problem in these occupations than in computing. In contrast, among GPs, apart from a slight dip among late 20s and early 30s age groups, female share remains relatively constant until declining amongst those over 40. For registered nurses, the lowest paid group represented in the figure, the high female share tends to increase marginally with age, consistent with widespread availability of provisions to support non-ideal workers (although providing no indication of what penalties might be attached to such arrangements).

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**FIGURE 1**

Female share by age group, selected occupations, Australia 2001

Notes ‘Computer professionals’ combines systems managers, systems designers, software designers, application and analyst programmers, system programmers, computer systems auditors and other computing professionals nec.

Finer detail on computing professionals is presented in Figure 2, which shows patterns for four 6-digit level groups within this category (Systems Managers, Programmers [combining Applications and Analyst Programmers with Systems Programmers], Software Designers and Systems Designers). Again these are listed in ascending order of average income and illustrate an inverse relationship between female share and average income. Thus, although women’s representation is comparatively high among Systems Managers, this is the lowest paid occupational group within the computer professionals category, underlining its relatively low status. In combination with Donato’s (1990) observation that women in IT management tend to be managing other women working in areas such as data entry, these figures signal the need for caution in interpreting data on women in management in the IT field.

Turning to the issue of consistency in female share across age groups, there is little suggestion of a decline over childbearing age groups in any of the groups except the Systems Managers, and for Programmers there is an increased female share among those in their 30s and 40s. This would be consistent with a tendency for male programmers in these age groups to be moving into managerial or advanced technical positions, and/or with women transferring into programming jobs from other areas. There is, however, a marked decline in female share amongst older workers for Programmers, and a similar, although smaller, decline for Systems and Software Designers. This phenomenon would be consistent with lower entry levels of women into these types of jobs in the past, but the data do not allow us to test this interpretation.

Overall, interpretation of these figures is limited not only by the inability to distinguish between the impact of changing entry levels and problems of retention, but also by the inability to identify where changing female share might be due to the movement of men (or women) into other occupational categories. Nevertheless, the data do not provide support for the notion that demand for ideal workers is having a marked impact on computing professionals, unless this is occurring at the entry level (and Weinberger’s [2004] analysis suggests the contrary). In the following sub-sections we investigate the extent to which this might be due to lower levels of parenthood among computing professionals or, alternatively, working time arrangements that facilitate work/family balance.

**PARENTHOOD:**

Lower levels of parenthood among computer professionals might be expected in view of widespread recognition of the problems of skill maintenance during career breaks. This was frequently noted in our case study interviews – as one employee put it: ‘the longer a gap appears, the more you’ve got to explain, and…the less ready people are to accept your explanation’
(female computer professional, medium IT company). Additionally, there is an expectation that this is a relatively young workforce. To investigate these issues we use the census data to compare the proportion of employees with children in the various occupational groups. Figure 3 shows that while women working as nurses or general practitioners are the most likely amongst these groups to have children (and the average age of women in these groups is relative high at 42 and 37 years respectively), parenthood is more prevalent among women working as computer professionals (average age 35 years) than among women in legal and HR professions (average ages 34 and 35 years respectively). Within the computer professionals group, however, it is women working as programmers who are most likely to have children (43 percent, compared with 34 percent of female systems managers and around 35 percent of female software and systems designers).

Again, lack of longitudinal data and detailed information on reasons for choices about parenthood place some limits on what can be ascertained from the figures being used in this paper. Nevertheless, the data thus far have provided little evidence that women who enter computer professions are choosing not to have children in order to fit with an ‘ideal worker’ model, or that they are leaving the profession in significant numbers during childbearing age groups. Alternative possibilities are that the long hours culture associated with project work is not typical, or avoidable, within these occupations; and/or that other flexibilities are available, for example part-time work or working from home. Although we are unable to address the latter with the census data, the next sub-section compares the selected occupations on aspects of working time.

**WORKING TIME:** Columns 1 and 2 in Table 1 show that among the selected occupations, average weekly hours for women is lowest among registered nurses (31 hours per week) and highest among legal professionals (41 hours per week). The figure for computing professionals (38 hours per week) conceals some variation within this group (around 39 hours per week for women in systems and software designer roles, and 37 hours per week for programmers). Amongst computer professionals, women’s average weekly hours are around three hours per week lower than men’s – similar to the situation for legal and HR professionals, but a narrower difference than is evident for nurses and GPs.

The contrast between occupations is more marked for the proportion working very long hours (more than 49 per week) shown in columns 3 and 4 of Table 1. Both male and female computer professionals are less likely to work these very long hours than employees in HR and legal professions, or in general medical practice, where the strongest contrast between males and females is evident.
At the other end of the working hours scale, however, there is little evidence that part-time work is readily available for computer professionals. As Figure 4 shows, part-time work is widely used by registered nurses, particularly among those in their mid-30s; with a similar pattern (at a lower level) among GPs. Computer professionals stand out as the least likely to access part-time work, with little variation across age groups.

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**TABLE 1**
Weekly working hours in selected occupations, Australia 2001

<table>
<thead>
<tr>
<th>Occupation</th>
<th>Average hours/wk</th>
<th>%working 49+hrs/wk</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>F</td>
<td>M</td>
</tr>
<tr>
<td>Registered nurses</td>
<td>31</td>
<td>37</td>
</tr>
<tr>
<td><strong>Human resource professionals</strong></td>
<td>38</td>
<td>41</td>
</tr>
<tr>
<td>Computer professionals</td>
<td>38</td>
<td>41</td>
</tr>
<tr>
<td>Legal professionals</td>
<td>41</td>
<td>44</td>
</tr>
<tr>
<td>General practitioners</td>
<td>36</td>
<td>43</td>
</tr>
</tbody>
</table>


Notes: 1. Less than 35 hours per week.

Our case studies consistently highlighted the difficulties faced by professional computing staff trying to access part-time work. Managers were often strongly resistant to the idea: ‘Part-time work and IT just [don’t mix]…it is so difficult to get the job done, and…your responsibility is to the company to get the job done’ (Female manager, IT section of a large, publicly funded organisation). Employees tended to accept the rarity of part-time work: ‘I did go back to part-time work and it was fantastic, but then there was no part-time work! It’s like gold dust in IT’ (Female computer professional, medium IT company). We also found evidence of long hours work, but this was very role dependent – most evident among consultancy staff who had to respond to client needs and least evident among programmers and research and development staff.

Overall, in light of the census data, computer professionals do not stand among the selected professional occupations as working the longest hours, and the difference between men’s and women’s average hours is not as marked as in those professions in which very long hours is most prevalent. On the other hand, all our evidence suggests that they have very limited access to part-time work, although we found little evidence to support the idea that the work would not be amenable to such arrangements.
**GENDER PAY RATIOS:** Thus far the analysis has indicated relative stability in female share across age groups in professional computing work, in spite of lack of any evidence that women in these jobs are deciding against parenthood in order to be seen as ideal workers, or that ‘non-ideal’ status is accommodated through the availability of the usual forms of working-time flexibility. In this final sub-section we investigate the possibility that computing professionals are distinctive in the extent to which women pay a ‘vertical segregation’ (and thus a pay equity) price for their ‘non-ideal’ status – that is, that they choose roles within these occupations that keep them at the lower ends of career ladders and pay scales but perhaps allow some additional flexibility. We examine changes in gender pay equity ratios across age groups to identify whether there is any evidence of ‘IT exceptionalism’ on this measure.

**FIGURE 5**
Female/male pay ratios for full-time employees by age group, selected occupations, Australia 2001

As Figure 5 shows, there is a decline in the gender pay ratio of around 15 percentage points across age groups for all employees, and this is more marked than for any of the professional groups examined in this paper. Among the professional occupations examined here, the biggest declines are for HR professionals and registered nurses (11 and 10 percentage points respectively), with GPs and legal professionals comparatively static, and computer professionals occupying a middle ground with a decline of around five percentage points. Examination of the 6-digit groups that make up the computer professionals category shows that there is almost no change over the age groups for systems and software designers, a decline of around four percentage points for programmers, and a larger decline of around seven percentage points for systems managers.

While the comparisons presented in Figure 5 are based on averages uncontrolled for skill, experience and other variables, they do suggest a range of possibilities associated with the accommodation (or not) of non-ideal workers. Among the two groups that maintain relatively high levels of female representation across the different age groups, and where there is reasonable access to part-time work and parenthood rates are relatively high (nurses and GPs) it appears that penalties for what might be seen as a ‘mommmy track’ are considerably higher for nurses than for GPs. Among the two groups with the most significant declines in female share across age groups (legal and HR professionals), the penalty among those who stay on appears higher among the HR group. These comparisons suggest equity benefits attached to relatively flat career structures at least partly governed by regulated professional fees for GPS and legal professionals.
Computer professionals appear somewhat more likely to encounter increasing vertical segregation/pay inequity with age, although not so much as nurses and HR professionals. An interpretation consistent with our qualitative data is that women choose different roles within computer professional work to enable them to manage family commitments — opting for office based programming work in lieu of more highly paid on-site consulting and professional services work. As one of our respondents explained: ‘I’m also a mother…. I have four children, and over the years I’ve with [this company] I’ve very carefully picked the roles that I’ve applied for, to be roles [in which] I can maximise my ability to meet the double life of mother and…full-time working parent’ (Female computer professional, large IT company).

Conclusion

The analysis presented in this paper suggests broad groupings of professional occupations in terms of the capacity to accommodate non-ideal workers, ranging from a ‘strong ideal worker’ model (evident in legal and HR professional work, where female share reduces markedly over age groups, parenthood rates are comparatively low, working hours are long and there is minimal working-time flexibility) to a more accommodative model (evident for nurses and GPs, where female share is more constant across age groups, parenthood rates are relatively high and working-time flexibility is more widely available). In spite of differences within these groupings, particularly in the extent to which pay equity penalties tend to emerge amongst older age groups, they are models of contrasting extremes, neither of which appears to fit the data associated with computer professionals.

Our data illustrate something of a puzzle surrounding computer professionals: on the one hand reiterating the low level of female representation in these occupations, and emphasising the lack of working-time flexibility and problems associated with career breaks that suggest an expectation of ideal workers; but on the other showing (for the relatively small numbers of women who do engage in these jobs) comparative consistency in female share across age groups alongside average parenthood rates. We argue that computer professionals are under considerable pressure to maintain ideal worker profiles, and that the main accommodative strategy employed is role selection within the profession – a strategy that carries a moderate vertical segregation and pay equity penalty over the life course. This argument and the proposition that this is an occupationally distinctive model are necessarily speculative, requiring detailed longitudinal data across different professional groups for rigorous assessment.

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The state, industry policy and industrial relations in the Australian automotive industry, 1983 to 2002

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ABSTRACT

This paper compares the approaches of the Hawke/Keating Labor governments with the Howard Coalition government to industrial relations in the context of automotive industry policy in Australia. The Hawke and Keating governments were successful in restructuring the automotive sector. Between 1983 and 1996, the Labor government was indirectly able to initiate industrial relations reform through its industry policy. The Howard government between 1996 and 2002, by contrast, experienced both success and failure in its automotive restructuring agenda, and its objectives to pursue workplace reform were unsuccessful. Orthodox theories in industrial relations – those within the pluralist paradigm – do not contain the analytical depth to adequately explain the relationship between the state, automotive industry policy and industrial relations between 1983 and 2002. The reasons for the inapplicability of orthodox industrial relations theory to this case study is attributed to an inability to account for circumstances: in which policy spheres such as industry policy can impact upon industrial relations; where various components of the state apparatus can shape the formulation of policy; where states will not act in a neutral fashion or against the short-term interests of capital and labour in a particular industry; where capital and labour will unify against the state; and where the state is not able to implement its policy objectives. ‘State-centred’ theories from the disciplines of comparative politics and political economy are better able to account for the circumstances in which governments are more or less likely to achieve their policy objectives. Using an analytical framework developed from these theories, this paper argues that despite more favourable economic conditions, the Howard Government has been less successful that its predecessors in achieving its industrial relations policy objectives. Labor’s policy success was underpinned by a ‘bargained consensus’ approach, working closely with industry stakeholders in the formulation and implementation of policy. The success, or lack thereof, of the Labor and Coalition governments between 1983 and 2002 was also contingent upon the cohesion of the state apparatus. These findings highlight the ultimate conditionality of the state’s power in industrial relations.