

The Federal Government's Industrial Relations Policy: Report Card on the Proposed Changes

Seventeen of Australia's leading academic researchers in the fields of industrial relations and labour market issues, employed in universities across Australia, today release a series of papers analysing the Howard Government's proposed changes to Australia's industrial relations laws and the likely effects of these changes.

As independent specialists in industrial relations and labour market issues, it is our view that industrial relations policies should be informed and led by research and evidence. Accordingly, we have pooled our expertise to review the actual evidence – as opposed to spin, speculation and anecdote – about the impact on Australian workers and workplaces of the policies introduced by the Howard Government.

Overview

There are at least four critical labour market challenges facing Australia today, such as:

- labour and skill shortages exacerbated by an ageing population
- the productivity slow-down
- work-family tensions
- the growth of low-paid, precarious employment.

On all the evidence available from this wealth of research, there is simply no reason to believe that the Federal Government's proposed changes will do anything to address these complex economic and social problems. The Government's proposals will:

- Undermine people's rights at work
- Deliver a flexibility that in most cases is one way, favouring employers
- Do – at best – nothing to address work-family issues
- Have no direct impact on productivity
- Disadvantage the individuals and groups already most marginalized in Australian society.

Employee rights undermined

The narrowing of awards and enterprise agreements and the promotion of individual contracts proposed by the Government will significantly enhance managerial prerogatives and diminish the independence and choice available to employees. Contrary to the claims by the federal government, employees will not have 'freedom of choice'. Most employees will be either forced to accept new employment rules dictated to them by employers or give up their jobs (see Bray and Waring paper).

The right of employees to choose to bargain collectively and to require employers to recognize this choice is not protected in Australia – unlike all other OECD nations (including the USA). The effect of the proposed reforms will be to force employees onto individual agreements and deny them access to collective agreements. Australian evidence shows that collective agreements deliver better wages, better employee 'voice' in the workplace and better working conditions than individual agreements (see Briggs, Cooper and Ellem paper).

Labour Laws Corporatised

If the Howard Government seeks to establish one national labour law regime through primarily relying upon the corporations power, this will inevitably lead to labour law

becoming a sub-set of corporations law. In truth, we will be witnesses to the corporatisation of our labour laws. Labour laws seek to balance the rights, duties and obligations of employers and employees as equal legal actors in the processes of work and production. However, general labour laws relying upon the corporations power could not for long maintain this balance between employers and employees. In the fullness of time, these labour laws will inevitably fasten upon the economic needs of corporations. Their employees will be viewed as but one aspect of the productive process in our globalised economy (see McCallum paper).

'Safety net' compromised

The Government's plans will effectively abolish the award system – the main way in which minimum standards for wages and employment conditions have been developed in Australia. While the reform may preserve the 'shell' of an award system, they are likely to eliminate the last remnants of their substance. The Government's proposals further restrict the content of awards and drastically shrink its effective coverage. No viable alternative mechanism for establishing minimum standards is being offered. This threatens the wages and in particular the employment conditions of many workers (see Campbell).

Wage inequality increased

Evidence from ABS income data since the mid 1980s, when the shift from awards to enterprise agreements began, reveals growing income inequality overall and less protection for low paid workers in particular. All full-time workers, except those under 25 years of age, have experienced growing inequality. Those at the top have enjoyed spectacular increases in income while many at the bottom of the scale have gone backwards (see Saunders paper).

Further, there is no guarantee that the new national minimum wage proposal by the Federal Government will be an effective minimum, especially since the Government's package of reforms will reduce the effectiveness of awards. It would need to be updated, at least annually, in line with prices and other wage movements and there would need to be adequate means of inspecting workplaces with severe penalties for underpayment (see Brosnan paper).

Job security weakened

Australia has very high levels of casual work compared to other OECD countries. Research shows that casual work has negative effects on gender equality, and on the development of skills, it provides workers with no security to plan for the future let alone to plan for retirement, and contributes to a wider degrading of wages and conditions. The proposed changes will not address these problems, in fact they will further expand the gaps in the system that have allowed the rapid expansion of casual work (see May, Campbell and Burgess paper).

Many workers hired as independent contractors will find that their incomes are more uncertain, their hours of work less predictable, access to paid annual leave non-existent and the threat of dismissal ever present. Increasingly workers will have little choice except to accept these forms of employment (see Underhill paper).

Unfair dismissal: no evidence on jobs

One of the key items in the Government's IR reforms is the exemption of companies with 100 or fewer employees from the unfair dismissal provisions of the Workplace Relations Act. There is no convincing evidence that this measure will generate new jobs. Rather, the exemption is likely to cause the quality of jobs in small to medium sized enterprises (SMEs) to decline and make it difficult for such employers to recruit high quality workers. It is questionable whether SMEs have been disadvantaged by the current provisions of the Act

because the AIRC is required to take into account the size of the business when examining cases of unfair dismissal. New employees can be dismissed without recourse to the unfair dismissal provisions during a three month probation period. Moreover, unfair dismissal is a symptom of a wider problem – namely, poor human resource management practices in many SMEs. The proposed reforms will do nothing to redress these problems and may exacerbate them (see Barrett paper).

Negative impact on women and families

Across all aspects of women, work and family the Federal Government's new workplace policies appear to be riddled with contradiction. The proposals do not address the number one problem of labour market shortages. In particular, there are fewer incentives for women to participate. Firstly, the changes will exacerbate problems of lower pay, fewer entitlements and job insecurity. Secondly, the changes contradict the Government's professed commitment to better work/family practices. Evidence already shows that individualized employment arrangements result in lower work and family benefits. The proposed changes can only exacerbate these problems (see Baird and Todd paper).

Productivity gains questioned

The Government's claim that individual contracts deliver higher productivity is highly questionable. This is evidenced by comparing Australia and New Zealand and by comparisons over time here in Australia. During the period when Australia had a collectivist national government and New Zealand an individualistic one (exemplified by the Employment Contracts Act, 1991), productivity growth was substantially higher in Australia – and this was after the two countries had experienced similar rates of productivity for the previous 14 years. Australian productivity growth increased in the productivity cycle that commenced after the introduction of collective enterprise bargaining, but fell back in the cycle that commenced after the introduction of the Workplace Relations Act. Current rates of productivity growth in Australia are, if anything, inferior to the rates that were achieved under the traditional award system in the 1960s and 1970s. The argument linking individual contracting to productivity relies on enhanced employee commitment; however, numerous studies show that company commitment is higher amongst people also committed to a union. Individual contracts may actually lead to reduced productivity because of employee mistrust (see Peetz paper).

Learning from the failed New Zealand experiment

A detailed examination of the New Zealand experiment with the ECA in the 1990s offers many lessons for Australian policy makers. During this period in New Zealand, the male full-time participation rate in employment fell 11 percentage points, inflation rose dramatically and productivity flat-lined. Furthermore, research shows that the notion of individual bargaining was a false one in the ECA context. Workers received individual contracts that did away with many long-held entitlements, such as overtime and penalty rates, and often contained pay-cuts as well. New Zealand experienced a deepening of income inequality and a big growth in the number of families with no adult in work. The ECA did not deliver on labour market participation, productivity or wages and many average Kiwi workers are still reeling from the fall-out (see May, *Age*, 24 May 2005).

'Deregulation' and 'a unified system'. What do they mean?

The language of the Government obscures the realities of policy change. It speaks of 'deregulation' but all markets need to be regulated. The question is how are labour markets regulated. The Government speaks of a 'unitary system', but what would emerge from these proposals would be greater fragmentation, leading to greater, not less, uncertainty. To

achieve a truly workable unified system, the Government would have to co-operative with the states and other key stakeholders (see Ellem paper).

Meeting the challenges? The report card

On the basis of our considered analysis, the proposed changes will do nothing to address labour and skills shortages or the productivity slowdown. They will, however, damage the fabric of Australian society by encouraging poorly-paid jobs with irregular hours and little security, worsening work-family balance. The focus of Federal Government policy is to give employers power over employees instead of promoting innovative solutions based on workplace partnerships.

Australia faces significant labour market and workplace challenges. Now is the time for innovative workplace reform to address these challenges and secure social and economic prosperity for future generations. Yet, the Government has missed this opportunity. It has come up with an old-fashioned low-wage solution. Today, facing new challenges, policy makers can and should construct industrial relations policies which deliver better economic *and* social outcomes which benefit all Australians.

The problems before us and the policies to address them deserve careful, thoughtful and rigorous analysis based on thorough research. We hope that these papers will contribute to discussion in the community.

Full papers and summaries are published on the University of Sydney, School of Business Website at:

<http://www.econ.usyd.edu.au/wos/IRchangesreportcard/>

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