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Bad choices for work

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No doubt Australia needs a better system of workplace regulation - but Work Choices will only reinforce existing negative trends, write Mark Bahnisch and John Quiggin.

The changes to the regulation of work and wage fixation embodied in Work Choices represent a radical departure from past Australian practice.

While there has been much discussion of the extent to which these changes amount to taking the "American path", comparisons with New Zealand, which began at a similar starting point to Australia, are probably more relevant.

Since the mid-1980s, Australia has pursued an approach to industrial relations reform characterised as "managed decentralism", in contrast to the big-bang deregulation introduced by the Employment Contracts Act in New Zealand in 1991.

Work Choices represents the abandonment of the previous Australian approach in favour of the New Zealand model.

It is aimed at reducing the role of unions, awards and arbitration, while increasing that of direct contracting between employers and individual employees. In particular, the scope of awards has been contracted and minimum conditions will be set by legislation rather than through the awards process.

Minimum wages will be set by the Fair Pay **Commission**, rather than the Australian **Industrial Relations Commission**. Most significantly, the reframing of the no-disadvantage test will allow Australian workplace agreements (AWAs) to undercut award minima, effectively making award protections optional for employers.

Equally important, the changes enhance the power of the federal government, through the minister for employment and workplace relations,

to intervene in the setting of wages and conditions. State tribunals will be abolished and prescriptive and punitive powers are given to the minister and the **AIRC**.

Under the present legislation, this power is to be used almost exclusively against unions. It is easy, however, to envisage the same powers being used by a left-wing government to impose conditions on employers.

Work Choices will have profound effects on the balance of power between employers and employees, and will reshape Australians' day-to-day experiences of work. The changes represent a shift from a system designed around the setting of pay and conditions by an independent body with encouragement for collective bargaining to a system where ministerial and managerial discretion are paired with encouragement for individual bargaining.

Work Choices is commonly described in terms of labour market deregulation. This is an odd description of a piece of legislation more than 600 pages long and replete with new offences and penalties.

For example, workers cannot negotiate protection against unfair dismissal even if they and their employers want to do so. Unions are barred from offering the same deal to multiple employers, although an employer is free to offer a uniform contract to employees. There is huge asymmetry in the right to strike and the power of employers to lock out and to impose individual agreements.

The purpose of the legislation is not deregulation but the use of centralised power to impose labour market relationships favoured by the government and the business sector. It is, in part, for this reason that labour economists who support deregulation, such as Mark Wooden of the Melbourne Institute of Applied Economic and Social Research, have opposed WorkChoices.

Experience in New Zealand and evidence on the outcomes of collective bargaining and AWAs under the Workplace Relations Act can provide a basis for assessing the likely impacts.

Available evidence on productivity suggests a negative correlation between contract-based reform and productivity growth. The deregulated and individualised system in New Zealand has a poor productivity record. Productivity growth in Australia has been unimpressive since the Workplace Relations Act came into force in 1997-98.

In part, weak productivity reflects the creation of low-wage, low productivity jobs, a pattern particularly evident in New Zealand, but also apparent in the West Australian experiment with contracts. But there does not seem to be much net growth in employment. Compared with Australia, New Zealand has performed consistently poorly on all criteria, as is evidenced by the steady flow of migration across the Tasman.

The government claims reforms to unfair dismissal will generate large employment gains, but this appears to be based on wishful thinking and out-of-date research. Recent estimates by University of NSW academics Paul Oslington and Benoit Freyes suggest a net gain of only 6000 jobs.

On one point, the international evidence is clear-cut. Every labour relations regime that has been deregulated has led to an increase in income and social inequality. The increase in inequality has been particularly sharp in New Zealand, but it has also been evident in other English-speaking

countries that have undergone reform. In the long run, entrenched earnings inequality leads to a waste of human capital, thereby retarding the skills growth and innovation which provide the basis for sustained productivity growth.

The macro effects of Work Choices are unlikely to be positive either for the Australian economy or for Australian society.

However, what has been under-analysed to date is the effect on Australians in the workplace. The combined effect of shifts such as the removal of the **AIRC** and unions from grievance procedures, empowering employers in bargaining and individualisation of the employment relationship will serve to reinforce a less participatory workplace culture.

Of particular importance is the exclusion of "operational reasons" in the unfair dismissal provisions for larger organisations.

Most large organisations undergo constant restructuring and such a change will allow for much managerial discretion in terminating employees, reinforcing the imbalance of power in day-to-day work life. Yet there is much evidence to show that collective decision-making and maximising employee autonomy pays off in both white and blue collar workplaces.

Australia needs a better system of workplace regulation. Issues such as skills shortages, an ageing workforce and the need for innovation and genuine flexibility all cry out to be addressed. Work Choices will reinforce existing negative trends both economically and socially, while increasing the complexity of the system and shifting power from employees further towards employers, and from independent institutions to executive discretion.

Caption :PHOTO: The industrial relations reforms will reshape the day-to-day experiences of work. Photo: JESSICA SHAPIRO

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