

Appendix 3

Government Policy, Women and the New Workplace Regime: A Contradiction in Terms and Policies*

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There are many pressing issues facing Australia's labour market at present, including an aging workforce, skill shortages and a declining birthrate. Management identify labour shortages as the "Number 1" problem facing them. Policies that can address these issues in a positive and productive way are needed. However, these do not seem to be forthcoming in any of the political debates around the proposed changes to Australia's industrial relations.

In this paper we outline some of the contradictions and problems in the proposed changes. In particular, we focus on how these changes will affect women workers. Women are a particularly important, yet vulnerable, segment of the labour market. Better and fairer utilisation of women in the workforce is an essential component of addressing the labour shortages and this requires the diminution of existing barriers to their participation. These barriers are a consequence of two major factors. Firstly, the inequitable outcomes for women workers — lower pay, fewer entitlements, less job security — compared with their male counterparts and secondly, the lack of support for women combining paid employment and motherhood.

Women in Paid Work

One of the most significant social shifts Australia is now experiencing is with regards to women and participation in paid work. At the beginning of the twentieth century, approximately 20 percent of women were in paid work: in 1947 female participation stood at 22 percent (Patmore 2003, 27), slowly increasing to approximately a quarter of the workforce by the 1950s. The "take-off" began in the late 1960s and is now close to 60 percent (Whitehouse, 2005; ABS, Cat No. 6291.0.55.001).

The growth in female participation rates has been particularly beneficial for Australia's "hungry" labour market. This is especially so given that male participation rates have declined in the same period from 77 percent in 1983 to 72 percent in 2003 (ABS, Cat No. 6291.0.55.001) and as yet there is no indication of a reversal of this trend. As a consequence, women are

being called upon more and more to return to the workforce.

Furthermore, 71 percent of women in the prime child-bearing years (25–34) are now in paid work. This represents a massive 31 percent increase over the past 20 years (ABS, 2005, p.165) and means that these young women are faced with managing the dual agenda of work and motherhood.

The Commonwealth government has argued that Australia needs to increase the birth rate and the size of the workforce, yet it provides no workplace incentives to allow women to combine work and motherhood. For instance, in one of the most obvious policy areas that could validate women's dual roles, there is still no paid maternity leave for working women in Australia. We estimate that at least 40 percent of the female workforce has no access to paid maternity leave (Baird & Litwin, 2005). And it is the lower paid and those in female-dominated industries who are least likely to have access to paid maternity leave (Baird, Brennan & Cutcher, 2002). For example, up to 65 percent of managers and 54 percent of professional women have access to paid maternity leave while only 18 percent of clerical, sales and service workers and 0.4 percent of casual workers are entitled to it (Watts & Mitchell 2004:179). For those that do, the provision varies widely, from a minuscule two days to 16 weeks.

Government Regulation

This uneven provision of such a fundamental entitlement highlights the need for government regulation. Other countries such as the United Kingdom and New Zealand provide extensive periods of paid maternity leave. Why not Australia?

However, while the government's proposal to move four matters from the allowable matters in awards to legislation, including parental leave, may sound promising, it potentially has significant hidden costs and disadvantages.

Since 1993 Australians have had the right to 52 weeks unpaid parental leave with the right of return to work enshrined in legislation (Industrial Relations Reform Act, 1993; Workplace Relations Act, 1996). This, however, did not include any legislative right to paid parental leave. Instead, paid maternity, paternity, adoption or parental leave, has had to be negotiated through award and enterprise bargaining or provided through the prerogative of management. The removal of maternity leave from allowable award matters undermines the chance to negotiate improved entitlements through collective bargaining or individual

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bargaining and places greater pressure on company policy and managerial discretion. As previous research has already demonstrated, this invariably leads to uneven and inequitable results (Baird, 2003; 2004).

The available evidence also shows that greater reliance on AWAs and individualised arrangements will not improve maternity leave or paternity leave entitlements. For instance, based on the same sample of 500 AWAs that the OEA used for its own report to parliament in 2004, a mere 11 percent of AWAs make any reference at all to maternity leave, paid or unpaid. Even fewer provided for paid maternity leave. Only 7 percent (or 35 AWAs) referred to paid maternity leave with the average length of leave at 6.1 weeks. This is well below the international standard of 14 weeks.

Casual workers, many of whom are women, receive no paid maternity leave entitlements under AWAs.

Furthermore, there is no paid paternity leave in Australia to encourage fathers to parent, despite obvious social shifts occurring in Australia (HREOC, 2005), and like maternity leave, it is unlikely to be forthcoming with individualised bargaining and AWAs. In the sample of AWAs used by the OEA, only 7 percent refer to paternity leave at all and of those only 4 percent provide for any paid paternity leave.

Family Unit

The Commonwealth government says the family unit is the most important social structure, yet it provides little incentive to enable women and men to combine work and family and it is about to make it harder for single mothers already struggling to maintain their family units. The Commonwealth government says their policies are about choice, yet the same government is about to force mothers of young children back into the workforce and it has not provided the supports for this to occur.

The Commonwealth government said it would introduce a rebate for care costs in the last budget, but it has not done so. Even though government said it would introduce 88,000 new childcare places it has not set a limit on childcare costs and some parents are now forced to pay \$90-\$110 per day for childcare while they work (Bourke et al, 2005). Who can afford these costs, especially if they are on the minimum wage?

The proposals to change how the minimum wage is to be set, and the likelihood that adjustments may not be as frequent or as reasonable as current arrangements, will make the relative costs of childcare even more problematic, both for parents and for childcare workers.

The Commonwealth government says Australia needs to increase the size of the workforce and wants to encourage women into paid work. There are thousands of mothers choosing to not return to the labour market because it is not worth their while and consequently their skills and experience are being lost. Yet the same government plans to make it even less worth their while particularly for those female workers at the lower end of the pay scale. This includes all those who work in the three sectors where women's work is concentrated: retail, hospitality and health and community services.

All the evidence points to lower wage outcomes for

women workers as a consequence of the proposals to, firstly, replace the Australian Industrial Relations Commission to set minimum wages with the "Australian Fair Pay Commission" and, secondly, to use these paltry minimum standards as the No Disadvantage Test for individual agreements.

Fair Pay Commission

The Australian Fair Pay Commission will only have the power to recommend changes to the minimum wage. Ultimately the government will control whether their recommendation is implemented as well as controlling appointments to the tribunal. This system of setting the minimum wage will be significantly less independent of government than the current process by which the existing Australian Industrial Relations Commission determines the minimum wage. In the most recent decision, for instance, the Commonwealth government advocated a mere \$11-per-week increase for the lowest paid, while the Australian Industrial Relations Commission granted a \$17-per-week increase (*Workplace Express*, 7.6.05).

The Australian Fair Pay Commission is modeled on the U.K.'s Low Pay Commission. The minimum wage in the U.K. is 48 percent of full-time median earnings while in Australia, at present, it is closer to 60 percent. Some insight into the future may be gained from studying other countries where minimum pay is set by the state rather than an independent tribunal. For example, since New Zealand moved to individual contracts in 1991, the state-set minimum wage has not kept pace with inflation. In the United States the federal minimum wage is \$5.15 per hour and it has not been adjusted for many years. The proposal to change the setting of the minimum wage is in accordance with a recent OECD report (*Economic Policy Reforms: Going for Growth*) which recommended that Australia cut its minimum wages to make certain groups more attractive to employers. So, at the very least, workers can expect lower increases in the minimum wage in future so that the minimum wage will decrease relative to the average wage.

Individual Agreements

The other major thrust of the Commonwealth government's changes in wage determination is to increase the use of individual agreements. Evidence demonstrates that women workers end up worse off than men under individualised arrangements. For example, in the federal system in 2004, women on registered individual agreements were earning an average of \$20.00 per hour compared with their male counterparts who were earning \$25.10 (See Table 1 below). This gap in men's and women's average hourly earnings under individual agreements increased from 12.7 percent in 2002 to 20.3 percent in 2004 and while men's average hourly rates had increased from \$23.70 to \$25.10, women's had actually decreased from \$20.70 to \$20.00.

We can learn from Western Australia in terms of what will happen when the federal government lowers the minimum standard for individual agreements from

awards to a very minimalist set of wages and conditions. This was the basis of the No Disadvantage Test in WA under the former coalition state government. The gap between men’s and women’s average hourly earnings under individual agreements in 2002 in WA was as much as 26.6 percent.

The Commonwealth government says it is about equity, yet the policies advocated by the government will exacerbate the gender-wage gap as they encourage the increased use of individual agreements and diminish further the significance of awards. Research shows that “effective implementation of minimum wage protection is ‘critically important’ for gender pay equality” (Rubery *et al*, 2002). At present women receive approximately 85 percent of the male wage and these proposals to change wage determination will exacerbate this.

The Commonwealth government proposals make no mention of ways to redress inequity in pay and the potential abolition of state tribunals will be a further loss in this respect. The state industrial relations jurisdictions in NSW, Queensland, WA and Victoria have all played an important role in addressing the very persistent problem of pay inequity by conducting reviews of gender pay inequity. These reviews have highlighted the importance of industrial tribunals in addressing gender pay inequity and the undervaluation of women’s work (for example, Todd & Eveline 2004). The provisions available under the current Workplace Relations Act have been unsuccessful in achieving their objective, with the process assessed as “contestable” and not “user friendly” (Whelan, 2005). It is unknown what the new regulations will provide in terms of reaching or maintaining equity, but the government’s record does not auger well for women workers.

The Commonwealth government talks about national security but ignores the importance of job security. The ongoing casualisation of the workforce has increased workers’ insecurity and there is a pressing need to reverse this trend (Pocock, Buchanan *et al*, 2004). Women are adversely affected by casualisation. A higher

percentage of women than men are employed on a casual basis. In 2004, 26.1 percent of women and 16.2 percent of men were employed casually (ABS 6359.0). There is a lower level of earnings associated with this type of employment. The growth in part-time and casual “employment has been accompanied by an increasing gap between part-time and full-time average hourly earnings. Between 1990 and 1998 the part-time/full-time ratio for non-managerial average hourly earnings declined from 0.94 to 0.86. Similarly the ratio of casual to permanent average hourly earnings dropped from 0.94 to 0.88” (Whitehouse, 2001).

Conclusion

In summary, the Commonwealth government’s proposed industrial relations reforms do nothing to address the most pressing labour-management problem today in Australia — labour shortages and the need to better utilise existing human resources here in Australia. Currently labour market reforms are focused on employer demand, that is, reduce wages to make certain groups more attractive to employers. This ignores supply side issues. For women who are primary carers, paid work needs to be worth their while. It needs to be decent work, allowing them to utilise their skills and experience, it needs to be financially worthwhile (including consideration of childcare costs) and it needs to enable the woman to integrate her caring and employment responsibilities.

Women in Australia already work hard at both motherhood and paid work. They are more likely to be in casual positions, receive lower pay and fewer entitlements than men (Burgess & Baird, 2003). Furthermore, women are more likely to rely on award protection, but even this safety net is to be drastically lowered. Under 10 years of enterprise bargaining women’s employment conditions have not substantially improved (Preston 2003; Whitehouse & Frino 2003), and the evidence presented here indicates that further

Table 1: The Gender Wages Gap x Bargaining Stream in Australia, Average Hourly Earnings, 2004

	Males	Females	% Gap	Amount
Awards only	16.40	16.40	0.00	0.00
Registered collective agreements	25.10	22.50	10.36	2.60
Unregistered collective agreements	22.00	20.30	7.73	1.70
Registered individual agreements	25.10	20.00	20.32	5.10
Unregistered individual arrangements	23.90	21.20	11.30	2.70

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.

deregulation will result in more adverse consequences for women.

Socially, the Commonwealth government is ignoring its own "BBQ stopper". Men and women alike want women to continue to produce children, be the primary carers and participate more constructively in the labour market than is currently possible.

Given that most employers, based on short-term economic interest, are unlikely to embrace strategies to improve the position of women in the workplace, governments are required to play a leading role in bringing about change. The economic benefits should 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. Now is the time for innovative workplace reform to ensure this and thereby also secure the social and workplace fabric of Australia. Now is not the time for proposals "stuck in the past" focused on increasing management's control over labour and reducing wages and entitlements.

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