

Wages Policy in an Era of Deepening Wage Inequality

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**This is the fourth in a series of Policy Papers,
commissioned by the Academy, to encourage
public debate on issues of national concern.**

*Occasional Paper 1/2006
Policy Paper # 4*

**The Academy of the Social Sciences in Australia
Canberra 2006**

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ISSN 1323-7136

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Acknowledgements

The authors would like to thank the Academy of the Social Sciences in Australia for their generous support in producing this paper. A number of people also provided helpful feedback and assistance. Thanks to two anonymous referees, Megan Blaxland, Peter Saunders, Jerold Waltman and John Robertson.

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Chris Briggs, John Buchanan and Ian Watson

1 Introduction

As this paper goes to press, Australia's industrial relations system stands on the brink of a major overhaul, an 'industrial revolution' in the words of the *Sydney Morning Herald*.¹ The Howard government's control of the Senate from July 2005 is leading to sweeping changes in the legislative framework governing industrial relations in Australia, both at a Federal and State level.² Not only will these changes see attempts made to wind back collective bargaining and union influence at workplaces, but those workers outside the bargaining sector will see major changes in how their wages are set. For those currently dependent on the Safety Net Adjustment (SNA) Review conducted annually by the Australian Industrial Relations Commission (AIRC), the prospects are grim.

The government proposes establishing a 'Fair Pay Commission' which will comprise five members, including two academic economists, a business representative and a union or employee representative. Such a commission is likely to be dominated by neo-liberal thinking, an outlook which sees pay increases automatically costing jobs. It is unlikely that low paid workers can expect the kinds of wage increases they have gained in recent years to continue under such a regime. For those workers outside the bargaining sector and dependent on individual contracts (either formal or informal), the growing reach of commercial law principles, rather than labour law principles, will also see them further disadvantaged in the future.

In this paper we set out a framework for wages policy in an era of deepening wage inequality - the situation Australia faces at the start of the twenty first century. Ironically, it was at the turn of the last century that many of the industrial relations institutions and principles which now stand on the edge of dissolution were first established. We have argued elsewhere that these institutions have generally served Australia well, despite much unevenness in their outcomes.³ However, the economic and labour market realities which these institutions sought to regulate have changed profoundly, particularly during the last twenty years. We would argue that in reacting to the sweeping changes which the Howard government will unleash, we should not look nostalgically backward. Rather, we need to develop a framework which grapples with these new realities, which recognises the true worth of current and past institutions, and which highlights the policy gaps that must still be plugged.

We do not provide here a comprehensive overview of wage determination in Australia, nor an overview of economic policy more generally. Rather, we aim to integrate a number of disparate threads whose logic is often seen in isolation. We draw the connections between developments in commercial law and the wages system, between the welfare-to-work debate and low wages, and between life-cycle issues and wage setting. Moreover, we also engage in a modest amount of (philosophical) 'under-labouring' by clearing the terrain of some of its confusing terminology and its anachronistic dualisms - unhelpful dichotomies like 'centralised versus decentralised' and 'regulated versus unregulated'. We propose a new concept - coordinated flexibility - as one way of moving forward in this area.

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1.1 The dilemmas

Historically, policy makers in Australia have grappled with a number of problems related to incomes policy. These have included:

1. how to curtail wage explosions and their inflationary effects.
2. how to incorporate non-wage incomes into a coherent policy framework. This had dimensions at the top of the labour market (executive salaries) and at the bottom (social security transfers).
3. how to maintain fair relativities across the wages structure, so that skills margins and incentives for training were protected from erosion.
4. how to enshrine egalitarian principles in the process of income determination.
5. how to ensure flexibility in the engagement of labour.
6. how to accommodate market fluctuations in the supply and demand for labour.

In most respects, Australia's system of awards was effective in dealing with the latter items, specifically (3), (4), (5) and (6), but not with the first two. For example, while egalitarian principles were violated by gender, race, ethnic and skill inequalities in the distribution of incomes, the system had the capacity to address some of these - such as the Arbitration Commission's Equal Pay decisions of the late 1960s and early 1970s. Over-award payments helped employers cope with labour shortages, while flexibility provisions in awards met the more reasonable demands of employers. On the other hand, the reach of the award system - even when supplemented with an official incomes policy during the 1980s - was inadequate in dealing with non-wage incomes. From the perspective of managing the macro-economy, the 'flow-on' provisions within the award system fuelled wage explosions, something evident in the mid-1970s and again in the early 1980s.⁴

Despite this unevenness, the award system worked reasonably well for nearly a century, with its successes ensuring reasonable living standards for most of the working population and preventing the emergence of a significant number of working poor. However, over time it also spawned many detractors. Among some economists and business spokespeople, the award system encouraged a particular mindset, typified by terms like 'inflexible', 'ossified', 'archaic', 'inflationary' and so forth. The strong link between effective award coverage and trade union influence, and the pivotal role of the Arbitration Commission in sustaining the system, were particularly galling for many of these commentators, who complained throughout the 1980s about 'third party' meddling in workplace relations.⁵

By 2006, these criticisms have become largely obsolete (they still surface in current polemics about the future of industrial relations). Inflation has been effectively squeezed out of the economy, 'third parties' like Industrial Commissions and unions have been largely marginalised, and the pursuit of flexibility has been largely won by employers, using either enterprise agreements or individual contracts to gain almost complete discretion over the deployment of labour. The development of labour is a different matter, and the neglect of skills formation for the good part of a decade has come back to haunt both employers and governments.⁶

The new realities are ones of fragmentation, evident in the polarisation of many aspects of working life:

- large numbers of workers with long hours of work and substantial numbers with inadequate hours, or no work at all;⁷
- growing inequality in the distribution of wages, only moderated by government

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- transfer payments and a progressive taxation system;⁸
- secure employment for one segment of the workforce, insecurity for the rest;⁹ and
- access to bargaining rights for one segment of the workforce, an absence of 'voice' for many of the rest.

Where the hallmark of the award system was its anchorage in a network of relativities, with many aspects interconnected, the current industrial relations system is based on this growing fragmentation in the labour market. From the perspective of earnings, fragmentation is evident in the setting of wages. Figure 1.1 shows, for example, at least eight categories of worker. This typology is based on the relative earnings of those workers (high and low) and the formal arrangements which determine their earnings.

The 6 categories of worker within the contract of service framework experienced quite disparate outcomes during the 1990s. Categories 5 and 3, in particular, enjoyed high wage growth, while category 2 was dependent on the IRC for its belated increase in real wages towards the end of the decade (we will return to these developments below).

Figure 1.1: Fragmentation in the setting of wages

RELATIVE LEVEL OF WORK-RELATED EARNINGS		BASIS OF EARNINGS			
		CONTRACT OF SERVICE			CONTRACT FOR SERVICE
		AWARD	COLLECTIVE AGREEMENT	INDIVIDUAL CONTRACT	
HIGH	1. OVERAWARDS	3. CERTIFIED AGREEMENTS (HIGH WAGE)	5. EXECUTIVE- PROFESSIONAL CONTRACTS	7. INDEPENDENT CONTRACTORS	
LOW	2. SAFETY NET ADJUSTMENT	4. CERTIFIED AGREEMENTS (INCL NON UNION) (LOW WAGE)	6. MINIMALIST INDIVIDUAL CONTRACTS	8. DEPENDENT CONTRACTORS	

Source: ACIRRT (1999: 85)

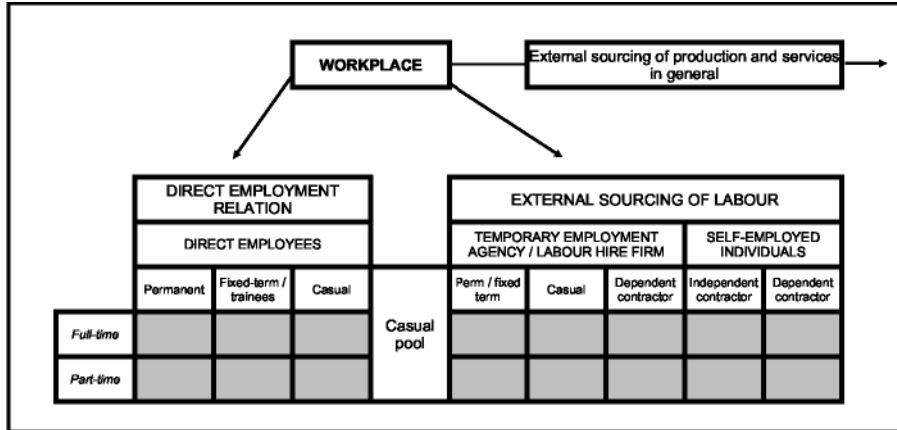
From the perspective of forms of employment, there has been a reconfiguration of employment relationships which has also brought about increased fragmentation in the labour market. As Figure 1.2 shows, the forms of employment common in the contemporary Australian labour market are quite diverse. This reconfiguration has affected how workers are engaged by employers, and by the agents of employers. The changes which have been most dramatic have included:

- an increase in fixed-term and casual contracts of employment and their spread into many industries (such as manufacturing) which have not traditionally had big numbers of such workers;
- a greater role by labour hire agencies in the provision of workers; and
- an increase in outsourcing, both in the public and private sectors, and more influences on employment conditions as a result of development in supply chains.

An era of growing inequality

One of the most disturbing developments during recent decades has been the growing polarisation of wages, something US and UK labour markets have also experienced.¹⁰

Figure 1.2: A workplace perspective on different forms of employment



Source: Watson et al. (2003: 65)

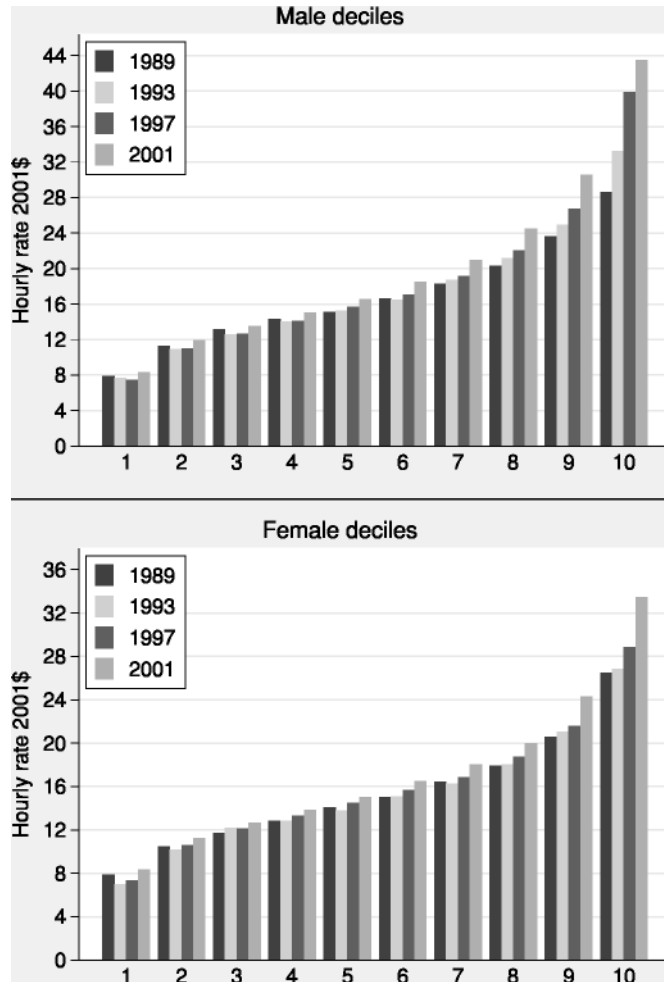
This wages inequality was driven largely by changes at the top of the labour market, though stagnant or declining earnings at the bottom of the labour market also contributed. Male employees in the bottom 10 per cent of the distribution fell behind those on the median for most of the decade, with the biggest drop occurring at the start of the decade. In 1989 a person on the 10th percentile earned about 62 per cent of someone on the median; by 2001 they earned less than 60 per cent. Among women in the bottom 10 per cent, the story was more volatile. The drop between 1989 and 1993 was much steeper - from 65 per cent to 61 per cent - but the rest of the decade saw steady improvement. Nevertheless, both men and women at the bottom of the labour market ended the decade in a worse position, relative to the median, than they had been at the start of the decade.

Turning to the top of the labour market wage inequality increased considerably from 1989 to 1997 before tapering off. In 1989, a man on the 90th percentile earned 1.6 times that of someone on the median. By 2001 the ratio was over 1.9. Women at the top of the labour market followed this pattern, but in a much more muted fashion. They began the decade earning just under 1.6 times that of someone on the median and ended it earning over 1.7 times. Neither in terms of growth, nor in absolute terms, did women at the top of the labour market come close to the experience of men at the top.

Comparing both the top and bottom of the labour market, women's earnings were much more compressed than were men's. The bottom decile among women did not fall as far below the median as was the case for men; and the top decile did not rise as far above the median as was the case with men.

While this picture is one of changes in relativities, it also appears that the real earnings of low wage workers fell during part of the 1990s. As Figure 1.3 shows, among men in the bottom four deciles, real earnings declined from 1989 to 1997. In the period 1997 to 2001 earnings improved, and real wages finally passed their 1989 level. The impact of the series of Safety Net Adjustments (the 'Living Wage' cases) during the late 1990s is the most likely reason for this improvement in real earnings among the low paid workforce.

Figure 1.3: Changes in median earnings by deciles, Australia, 1989 to 2001
(absolute amounts in 2001 dollars)



Source: Unpublished data from ABS (1989, 1993, 1997, 2001). Population: Employees.

Note: The numbers on the y-axis show the median earnings for people in that decile. The actual boundaries of the decile are above and below that median. For example, for men in 2001 the bottom decile is composed of those workers earning were below \$9.80 an hour, while the second decile were composed of those workers earnings between \$9.80 and \$12.15 per hour.

The top deciles are also illuminating and reinforce the picture of a 'wages breakout' at the top of the labour market. Among men, deciles 9 and 10 showed strong growth in real earnings throughout the 1990s, with the absolute size of the increases in the 10th decile quite remarkable. Men in this decile¹¹ saw their average hourly earnings increase from about \$28 an hour (in 1989) to \$33 an hour (in 1993) then to \$40 an hour (in 1997) and then finally to \$43 an

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hour (in 2001). Women in the top two deciles also saw increases in real earnings during this period, but the magnitude of these was not comparable to that among the men.

Research on wage inequality suggested that part of the reason for the growth in wages inequality during the 1990s was compositional change in the make-up of these deciles, particularly on an industry basis.¹² A pronounced decline in manufacturing jobs occurred among workers in the bottom decile, both for men and women. This partly reflected a long term trend, but it also included the consequence of the 1991 recession, which marked a major shakeout in manufacturing, and the export of the lowest paid jobs to Asia and the Pacific. The gap in the bottom decile left by the decline in manufacturing jobs was filled by jobs in hospitality, recreation, personal services (for men), and wholesale and retail trade (for women). While this pattern is consistent with overall industry restructuring - the decline of manufacturing and the growth of the service sector - the extent of the changes among the lowest decile was much greater than it was across the distribution as a whole.

Changes in the composition of the lowest decile explain part of the decline in hourly earnings. Amongst men, manufacturing jobs were worth about 8 per cent more than jobs in recreation and personal services. Among women, they were worth 12 per cent more. Thus, while it is true that manufacturing jobs for women are low paid jobs (compared with the situation for men), they are, nevertheless, better paying jobs for the bottom decile than service sector jobs. From an hours perspective, these changes represent a loss of jobs in those industries which have traditionally provided full-time employment, alongside growth in the classic 'underemployment industries' - retail, recreation and personal services. As long ago as 1993, Gregory highlighted this trend as one of the factors behind the 'disappearing middle'.¹³

While *income* inequality (in distinction to wage inequality) abated during this decade, this was largely due to Australia's progressive taxation system and some of its social security transfer payments (particularly family payments to low wage workers).¹⁴ The polarisation of wages which we have just outlined was also offset towards the end of the decade by a combination of Safety Net Adjustments and an improvement in the business cycle. Nevertheless, the 1990s demonstrated the extent to which the labour market, and the new industrial relations landscape, had become the motor for wage inequality in the Australian economy.

1.2 Why policy matters

At the end of the 1980s a system of enterprise bargaining was being promoted as a solution to some of the dilemmas outlined earlier.¹⁵ It was envisaged that inflationary pressures would be curtailed once wage increases were linked to productivity improvements at the workplace level. It was also intended that greater flexibility in the deployment of labour would be achieved once enterprises were allowed to bargain with their own workforce, largely 'free' of outside 'interference'. The issue of inequality was not part of the agenda during the late 1980s, so the likelihood that enterprise bargaining would contribute to the polarisation of earnings was either ignored, or welcomed (by those who viewed such outcomes as evidence of an 'efficient' labour market).

In practice, after a flurry of activity in the early and mid-1990s, enterprise bargaining reached a plateau by the late 1990s and has increased only marginally in the subsequent decade. From a policy perspective, this has left a major hiatus in industrial relations thinking, summed up in the observation that collective bargaining remains the flywheel of

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the industrial relations system, but is a system which has been stagnating in terms of coverage for at least the last half decade (see Table 1.1). Moreover, while enterprise bargaining privileged workplaces as the appropriate bargaining units - and indeed, legislation restricted bargaining to this particular unit - economic realities have moved on. Many new developments in the engagement and deployment of labour - encapsulated in the growing diversity evident in Figure 1.2 - have cast serious doubt on the ability of bargaining units, when restricted to workplaces, to ensure adequate outcomes for the various categories of worker who make up the contemporary workforce in Australia. The policy challenge which arises is how to revitalise bargaining in a way that deals with these new economic realities. Our argument is that bargaining units should follow the 'grain' of the labour market, in the same way that the award system did historically, and grapple with the new economic realities of increased casualisation, outsourcing, reconfigured supply chains and so forth.

**Table 1.1: The Spread of Enterprise Agreements:
1989, 1992, 1994, 1995, 2000, 2002, 2004**

Year	% of employees covered
1989	23 ^(a)
1992	28 ^(b)
1994	35 ^(c)
1995	35 ^(d)
2000	37
2002	38
2004	41 ^(e)

Notes:

- a) *This estimate is derived from unpublished information available in the Australian Workplace Industrial Relations Survey (AWIRS). That survey collected data on the situation prevailing in Australia workplaces in late 1989. The statistic refers to the proportion of employees covered by what were then known as 'Certified or Registered Agreements'. Data on unregistered agreements have been excluded because at that time they generally did not contain wage increases. The population for this estimate is all employees working in locations with 20 or more workers in all industries other than agriculture and defence. The sample was 2004 locations.¹⁶*
- b) *This statistic¹⁷ refers to the proportion of employees covered by local written agreements, both ratified and unratified in late 1992. The population for this survey was the same as for AWIRS. The sample was 700 workplaces.*
- c) *This statistic is taken from data collected from DIR's 1994 workplace bargaining survey. It refers to the proportion of employees covered by registered and written unregistered agreements. The population was employees working in locations with 10 or more employees. The sample size was 1060 workplaces.¹⁸*
- d) *Details similar to those for note (c) above.¹⁹*
- e) *ABS, Employee Earnings and Hours, Australia, May 2000, 2002 & 2004, Cat No 6306.0. These data refer to the percentage of workers covered by registered, collective enterprise agreements.*

Why does this matter? As well as responding to labour market changes, industrial relations policy also shapes the labour market. At any one point in time, the prevailing industrial relations landscape is a major factor in the constitution of work. It shapes what types of work emerge, and what types of work are not allowed to emerge. For example,

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are Australian women to enjoy the security and *pro-rata* benefits of permanent part-time employment, along the lines of their Scandinavian sisters, or is their fate to be found in the low paid, high-turnover jobs common in the US service sector? Industrial relations policy, and wages policy in particular, makes a difference to the direction in which the labour market heads.

In the rest of this paper we consider some of the major issues which need to be addressed if an effective wages policy is to be developed in coming years. Prime among these is the need to engage with the changed formal institutional arrangements that determine work related earnings. Traditionally wage determination in Australia has involved a dynamic between a bargaining sector, based on industrial agreements, and a non-bargaining sector, based on awards set by industrial tribunals. We consider how these sectors currently operate - and how they could operate better - in Sections 2 and 3.

Not all workers, however, have been covered by this system. Those working as contractors - that is contracts for service - have gained their work related earnings as a by-product of business activity. In the past, their rights have been governed by commercial law. In Section 4 we consider how principles of labour law have made inroads into the determination of earnings for this group. More importantly we also consider how principles of commercial law have made major incursions into the domain of labour law and dramatically changed the nature and reach of the bargaining sector. It has long been recognised that wages policy both influences, and is influenced by, tax and income support policies. In Section 5 we consider the recent initiatives directed at shifting people from welfare to work and their implications for work related earnings.

Finally, in Section 6 we consider the question: where next? This draws the strands of the argument together by highlighting how a more comprehensive and coherent approach to wages can be crafted out of the fragmented arrangements examined in the previous four sections. Any new approach to wages policy needs to build on the simple reality that no worker or workplace today is an island. The key challenge is to capture the benefits of both solidarity and autonomy. This is best achieved if policy aims to transcend the limits of the distant and more recent past by promoting coordinated flexibility in the labour market.

2 Bargaining sector

Too often is it assumed in Australian public debates that there is only 'one way' to economic development and global competitiveness. A voluminous literature has emerged over the last decade illustrating that the Anglo-Saxon 'liberal market economies' and 'coordinated market economies' of West and Northern Europe have similar long-run economic performances, albeit with different levels of social equity.²⁰ While Australian debate continues to be proceed as though the choice is markets vs regulation, or centralised regulation vs decentralised flexibility, this literature has illustrated policies can be directed at simultaneously achieving coordination and flexibility. Framework agreements and coordinated minimum wage standards can be combined effectively with workplace bargaining and flexibility for firms and their stakeholders. Dovetailing with comparative analyses of bargaining systems, and micro-analysis of the relationships between minimum wages and economic outcomes referred to throughout this paper, the 'coordinated flexibility' literature provides a sound analytical foundation for the retention of award standards on the grounds of productivity and fairness.

2.1 Centralised or decentralised? the old mindset

Much analysis of wages bargaining in Australia still occurs through the prism of the debate around 'pattern bargaining'. The elimination of 'pattern bargaining' has been a central policy objective of the Federal Government which it claims is incompatible with a 'genuine' bargaining system. From this perspective, Australia currently has an 'intermediate' system, combining elements of centralised and decentralised wage-setting, characterised by excessive multi-employer regulation considered to be 'rigidities'. We would argue that this portrait of wage-bargaining in Australia is false. More importantly, the terms of the debate are anachronistic and represent a mindset which we need to transcend if we are to ask the right questions about wages policy.

The use of multi-employer coordination mechanisms in concert with decentralised bargaining is so widespread that the OECD notes one of the central preoccupations of contemporary research is developing and testing more precise measures of 'coordination'.²¹ Whilst the Federal Government, and other like-minded bodies such as the Productivity Commission, continue to rehearse old polemics about centralised versus decentralised bargaining, international bargaining practices and policy debates have moved on.

The Department of Employment and Workplace Relations (DEWR) defines pattern bargaining as follows:

The process of pattern bargaining occurs where a party seeks common outcomes on an all or none basis from agreements across a number of enterprises or workplaces, usually within the same industry or for multiple enterprises at a particular project or site.²²

Critics argue that pattern bargaining undermines the object of the Workplace Relations Act to promote 'genuine' workplace bargaining. Tony Abbott claims: 'Unions use pattern bargaining to conduct their negotiations across a range of employers or an industry and do not genuinely negotiate at an enterprise level. Pattern bargaining ignores the needs of employees and employers at the workplace level.'²³ The DEWR and Productivity Commission claimed pattern bargaining was especially prevalent in construction and automotive manufacturing.

Conceptually, the key theorem cited in favour of 'fully' decentralised bargaining is the hump-shaped thesis of Calmfors and Driffil, which posits that 'intermediate' wage systems produce the worst outcomes, and 'extremes work best'.²⁴ In a seminal study which stimulated further research into the relationship between wage-setting processes and macroeconomic performance, Calmfors and Driffil suggested that highly decentralised bargaining arrangements and highly centralised bargaining arrangements were capable of delivering favourable macroeconomic outcomes relative to the intermediate or hybrid case (neither highly centralised nor decentralised). In a simple plot of unemployment outcomes of countries cross ranked along a bargaining structure continuum (with highly centralised at one end and highly decentralised at the other), Calmfors and Driffil found a hump shaped relationship in which unemployment tended to be lowest in countries with highly decentralised or centralised wage-setting. The hump-shaped thesis has also been used by some Australian scholars to advocate reforms to move to a 'fully' decentralised bargaining system.²⁵

The characterisation of the Australian wage-setting system as 'intermediate' is false. ACIRRT completed studies of enterprise agreements in Construction (1182 agreements) and

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automotive manufacturing (173 federally registered agreements) the two industries in which DEWR claimed pattern bargaining is especially rife. Evidence from these two studies challenges many of the assumptions, assertions and policy reforms advanced by the Commonwealth Government in relation to pattern bargaining.²⁶ Firstly, the occurrence of common or even identical provisions in agreements in an industry is not necessarily evidence of pattern bargaining. As Justice Munro noted in a major case on pattern bargaining during the AMWU's Campaign 2000, it is not a set of common demands but the absence of an 'opportunity to concede' or 'modify' these demands in enterprise negotiations that constitutes pattern bargaining.²⁷

Secondly, pattern bargaining is often initiated by employers. Pattern agreements flow down supply-chains. Enterprise agreements amongst assemblers commonly refer to the requirements of 'Toyota Production System', 'Ford Production System' or 'Holden Production System'. Within the construction industry, identical agreements are crafted by employer associations and passed down from head-contractors to sub-contractors. Pattern agreements were also found in non-union agreements within the construction industry, especially amongst non-residential building and construction, painting and carpentry.

Thirdly, DWER, the Productivity Commission and the Commonwealth Government overstate the level of uniformity between agreements. Within construction and automotive manufacturing, pattern agreements can quite commonly be identified but usually it's more accurate to say the agreements exhibit variations on a pattern.²⁸

The case presented for 'fully' decentralised wage-setting in Australia is conceptually and empirically flawed. There is not a single bargaining system in the OECD which corresponds to these fictitious notions of a 'real' enterprise-bargaining system. All bargaining systems combine elements of multi-employer regulation and workplace bargaining. Even in the United States and the United Kingdom (universally considered the purest national cases of decentralised bargaining and deregulated labour markets) there is considerable pattern-bargaining and multi-employer regulation.²⁹ Most international observers, including the OECD, consider Australia already has a highly decentralised wage-setting system, grouping Australia with New Zealand, the United Kingdom and United States as decentralised bargaining systems.³⁰

Empirical studies have generally failed to validate the hump-shaped thesis. In a generally accepted critique, Soskice demonstrated that Calmfors and Driffil failed to differentiate between the formal level of bargaining and the level of wage coordination.³¹ Centralised bargaining is the most obvious way to coordinate outcomes but even if bargaining is decentralised, some or all bargaining rules and outcomes may be coordinated across workplaces through informal or formal pattern-setting mechanisms, social pacts and framework agreements. The combination of coordination mechanisms with decentralised bargaining is the hallmark of 'intermediate' systems variously referred to as 'coordinated flexibility', 'coordinated decentralisation' or 'organised decentralisation'.³² The hump-shaped thesis was consequently flawed as many nations were mis-classified, including high-performance economies such as Japan and Switzerland which were classified as decentralised but in which wage-setting is highly coordinated. As the OECD concludes: 'Some subsequent studies have reported evidence in support of the "hump-shaped" hypothesis, but most other studies have not found such a relationship.'³³

International research and debate has moved beyond the centralised-decentralised polemic and begun to explore how mechanisms of coordination interface with decentralised bargaining. As the OECD notes, there has been 'considerable progress' in conceptually

unpacking the different forms of coordination and the 'proliferation' of different indicators to measure their effects.³⁴ 'Coordinated flexibility' is an umbrella term used to describe bargaining systems in which decentralised workplace bargaining is accompanied by various types of social pacts or multi-employer framework agreements and informal wage coordination across enterprises. These framework agreements set bargaining rules, sometimes determine some bargaining outcomes while still allowing considerable flexibility and discretion at lower levels.

What would coordinated flexibility mean in an Australian context and why would it be superior to the current system? Firstly, it would mean relaxing the monopoly of enterprise bargaining in the Workplace Relations Act - which will be strengthened by the Work Choices Bill - to provide genuine choice and flexibility for the parties to shape their bargaining arrangements according to their needs. The focus upon enterprise-bargaining was designed to enhance choice but has itself achieved a rigidity which doesn't reflect the diversity of modern business and workplace arrangements. Coordinated flexibility would allow for agreement-making across sectors, occupations, supply-chains and regions - not just within the enterprise. Secondly, there are 'public goods' associated with multi-employer coordination in particular contexts (such as industrial stability, workplace trust and enhanced skill formation) which could be harnessed whilst retaining workplace flexibility. Thirdly, the evidence on the relationship between coordinated flexibility and macro-economic outcomes is still being debated - some studies find superior outcomes, the OECD more cautiously says the jury is still out - but there is consensus that coordinated flexibility delivers superior equity outcomes.

2.2 Genuine choice? Enterprise bargaining vs coordinated flexibility

The Workplace Relations Act is constructed around an enterprise-oriented system of agreement-making guided by the principle this enables the parties to develop work arrangements which best suit their needs. Only single-employer agreements are legally recognised, industrial action must relate to a single-employer and so on. Consequently, the bargaining model of the WRA is actually a very rigid, one-size-fits-all model because the Workplace Relations Act superimposes one type of bargaining structure (enterprise-level, single-employer bargaining) across the entire labour market. The object of designing a system around enterprise-based bargaining was to maximise the choice and flexibility of the workplace parties. However, where it has found parties not bargaining in accordance with its pre-conceived notions, the response of the Federal Government has repeatedly been to try to legislate and regulate the parties to make them comply - instead of designing a bargaining regime which recognises and accommodates diversity.

A system of coordinated flexibility would allow the parties to genuinely choose the bargaining structure and agreement coverage which best suits their needs. The organisation of economic activities has become increasingly diverse and complex: sub-contracting, vertical disintegration and outsourcing have led to the creation of complex supply-chains. Distinctive regional labour markets exist outside metropolitan areas. Some types of work are structured as occupations, others are structured as sectors. Many economic activities have multiple layers of organisation which ideally would be regulated by different types of agreements depending on the circumstances. A system which only recognises enterprise-level agreements inhibits the capacity of the parties to choose and develop bargaining arrangements and agreements appropriate to their circumstances. Coordinated flexibility would allow the parties to develop multi-employer agreements across occupations, regions, supply chains or industries to set bargaining rules and outcomes whilst retaining scope for

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workplace bargaining. If the monopoly of enterprise bargaining was relaxed, the bargaining system would be much more diverse and flexible as the parties could choose the type of agreement which genuinely suited their needs.

The 'public goods' of coordinated flexibility

There are a number of public goods associated with systems of coordinated flexibility:

1. *Industrial stability, continuity of supply and workplace trust*

An uncoordinated bargaining system can leave isolated enterprises and sectors with complex supply chain arrangements and just-in-time production systems vulnerable to disruption. Disconnected bargaining disperses and scatters bargaining periods across the calendar year, each potentially able to create severe dislocation across the sector or competitive difficulties. Deconstructing the industry into small bargaining units creates incentives for rational, self-interested market agents to exploit the bargaining power which flows from the organisation of production and supply-chains.

It is precisely for these reasons that other major automotive industries prefer coordinated bargaining to meet the challenges of globalisation - as is explained below in terms which will be instantly familiar to an Australian audience:

there is another face to globalization ... in a context in which competition has become more intense, and in fact increasingly so between 'high-end' Japanese and German competitors - as in the automobile industry - and where success in the market increasingly depends on tightly coupled production networks (just-in-time production, highly coordinated supplier links), many employers find themselves more dependent than ever on a high degree of predictability on the shop floor and on the active cooperation of their workforces to produce at high quality and on a just-in-time basis ... centralized bargaining guarantees a degree of predictability by concentrating industrial conflict and providing a uniform timetable for negotiations that protects individual companies from isolated, disruptive wage disputes, something that has if anything become more dear to firms in an era of just-in-time production.³⁵

Cost savings associated with lower levels of disputation and security in fully deploying just-in-time techniques, competitive advantages flowing from enhanced reliability in meeting customer orders and improved capacity for planning accrue from the stability and predictability of coordinated wage bargaining.³⁶

It has been argued that the stability of coordinated bargaining flows through to shop-floor relations:

... the question is how trust relations emerge and last ... Trust between management and the workforce is likely to develop only if there are rules that make shop-floor industrial relations so predictable that short-run self interest can be replaced by long-term views of common interest. Because the actors at the shop-floor are directly involved in this collective action problem, there is good reason to assume that such rules can be established only by external actors, namely, higher level associations and the state.³⁷

By settling some of the more contentious issues, liable to be played out workplace by workplace in the absence of a coordinated solution, the opportunities for constructive bargaining is improved. Coordinated bargaining systems also appear to encourage more consultation and consensus-decision making than fragmented bargaining systems which are

typically characterised by high levels of managerial prerogative and unilateral decision-making.³⁸

2. *Skill formation and labour market flexibility*

Uncoordinated wage systems exacerbate emergent skill deficits and shortages associated with an enterprise-based training system under conditions of excess capacity and global competition. Excess capacity, intense competition and pressures on margins are leading to reduced intakes of apprentices and reliance on an ageing workforce for skills, on the one hand, and new forms of business organisation and non-standard labour on the other. Labour intensification and a preoccupation with ensuring labour is fully deployed on-the-job has undermined the capacity of workplaces to conduct skill development. Declining skill formation capacity is linked to new forms of business organisation and rising usage of non-standard employment. Labour hoarding in the 1960s and 70s to enable firms to respond quickly to market upturns has been replaced by lean workforces topped up by casual, contractors and labour hire workers as required. Training levels for these types of employment are notoriously poor.³⁹

Fragmented, enterprise-specific approaches within such competitive markets will lead firms to rationally offer skills training to the extent that it is compatible with the short-term needs of the firm. Otherwise there is a serious risk they will not recoup their investment either because employees leave or are poached by other firms who have not invested money in training. Organisational and work restructuring, especially downsizing, has reduced employment security, job tenure and employee attachment to their employers thereby increasing these risks.

Uncoordinated wage systems increase the opportunities for firms to poach skilled labour by offering wage inducements to selected employees as an alternative to training. The rational response of firms in this environment is not only to reduce training levels but also to offer increasingly narrow, firm-specific skills training. The pool of skilled labour with transferable skills is therefore likely to diminish over time: enterprise flexibility creates industry-level rigidities inhibiting the capacity of the industry to adjust to volatility.⁴⁰

3. *The wage-productivity nexus*

The Productivity Commission assumes that enterprise-specific wage-setting yields the most efficient outcome by creating incentives for productivity improvements and aligning wages with the marginal productivity of labour in the firm.⁴¹ However, an increasing body of industrial relations researchers have concluded the popular link between enterprise bargaining and productivity improvements during the 1990s are empirically unproven and over-estimated.⁴² Additionally, coordinated wage-setting offers rewards for firms with above-average productivity. Coordinated wage bargaining relates wage increases to the average level of productivity and profitability across firms. Firms with higher productivity, profitability and capacity-to-pay are therefore likely to pay higher wages under an uncoordinated system - eroding the premium from higher-performance for reinvestment - than they would under a coordinated wage system. Uncoordinated systems can also lead to a higher average wage across an industry if the wage settlements of these lead firms then become an informal pattern-setter which flow-on through the industry.

Coordinated flexibility and macro-economic performance

As the OECD (2004)⁴³ has observed, a 'considerable' number of studies have found 'intermediate' systems of coordinated flexibility deliver superior macro-economic outcomes.

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In the biggest-scale study of its type, using nominal labour costs and real unit labour costs to assess the performance of 18 OECD nations across six different time periods from 1970-1990, it was found that coordinated bargaining systems with 'medium' and 'high' degrees of centralisation delivered superior results compared to decentralised bargaining systems with little wage coordination.⁴⁴

The OECD is more cautious in its assessment. Whilst noting a 'considerable' number of studies have found intermediate systems deliver superior outcomes, their own calculations found little significant impact on four indicators of macro-economic performance (unemployment, employment, inflation and real earnings growth). After classifying nations as 'low', 'intermediate' or 'high' on measures of coordination and centralisation, the *Employment Outlook* report concluded:

The overall impression that emerges from these comparisons is that partitioning countries according to centralisation/coordination, on its own, is not very informative for predicting aggregate economic performance. This impression is reinforced by the observation that there is a lot of variation in aggregate outcomes within each of the three CC (coordination/centralisation) groupings in all three periods (70s, 80s, 90-02). A closely related implication is that little support emerges for intermediate CC countries generally having the worst performance.⁴⁵

This, the OECD further notes, may be because the effects of wage-setting institutions are contingent on interactions with other economic and social institutions and/or because of the complexity of isolating linkages between wage-setting and macro-economic performance. Results are far from conclusive but research findings on the macro-economic performance of intermediate systems generally range from 'no worse' - including notably a study by the World Bank⁴⁶ - through to superior outcomes.

The bargaining literature and the OECD review complements an existing body of literature which has found broadly similar macro-economic performance between the English-speaking 'liberal market economies' and the North and Western Europe 'coordinated market economies'. Hall and Soskice, summarising this literature, note that a comparison of headline indicators (GDP, growth rates, unemployment) lead to the conclusion:

Despite some variation over specific periods, both liberal and coordinated market economies seem capable of providing satisfactory levels of long-run economic performance.⁴⁷

The notion that United States has a superior employment record to 'Europe', and therefore decentralised and deregulated systems perform best, is commonplace in public debate. However, closer examination by scholars working in this tradition challenges this conventional wisdom. Firstly, Europe comprises a diverse group of economies with variable performance over the past 20 years. United States unemployment is 'sometimes lower, sometimes higher' than that of various European nations.⁴⁸ In particular, prototype coordinated market economies (CMEs) have lower or comparable levels of unemployment than that in the United States:

The argument that CMEs have poor unemployment records is belied by the success of many CMES, the Netherlands is at 2.1% on the latest OECD standardized unemployment rates for 2001, Denmark 4.3%, Austria 3.6%, Switzerland 2.5% (2000), Sweden 4.9% and Norway 3.6%.⁴⁹

Similarly, the OECD (2004) has constructed an index of 'job protection' which illustrates the nations with the highest levels of protective employment regulation have the highest

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employment-population ratios. Secondly, there are other factors which appear to explain differences between the United States and some of the less flattering comparisons made, especially Germany. Higher unemployment rates in Germany principally reflect the shock of absorbing the post-Communism East German economy and differences in criminal justice policy between the United States and European nations such as Germany. Western and Beckett (1999), United States labour market economists, indicate that in Europe unemployed males outnumber prison inmates by a factor 20-50:1 compared to less than 3:1 in the United States.⁵⁰ Once the incarcerated population is incorporated into calculations of the size of the labour market - or what the labour market would be if their criminal justice approaches were the same - a very different picture emerges. Labour utilisation in Europe is higher for 15-19 year olds between 1976 and 1994 and the unemployment rate for the United States is just above that of Germany in the mid-1990s. Put simply, the official rate of unemployment in the United States is deflated because they gaol more of those who would otherwise be unemployed.⁵¹ Thirdly, unemployment rates amongst low-skill workers in the United States were higher relative to skilled workers than in Europe,⁵² '... so one can hardly blame European unemployment on rigidities in low-skill labour markets since no such rigidities applied to unemployed low-skilled Americans'.⁵³ The OECD further notes in the *Employment Outlook Report* that studies using micro-level data have 'not verified' theoretical claims that 'the relative employment performance of low-skilled workers was worse in countries where the wage premium for skill was more rigid'.⁵⁴

However, there is one striking difference between these types of economies and bargaining systems - coordinated bargaining systems deliver more equitable patterns of wage dispersion. The OECD concluded that its econometric analysis and review of the literature:

Confirms one robust relationship between the organisation of collective bargaining and labour market outcomes, namely, that overall earnings dispersion tends to fall as union density and bargaining coverage and centralisation/coordination increases. It follows that equity effects need to be considered carefully when assessing policy guidelines related to wage-setting institutions.⁵⁵

The social costs associated with the different approaches are most dramatically captured in the studies of the use of the penal system as a labour market institution - the US gaols its unemployed, Europe places them on welfare - and there is no question that coordinated bargaining maintains a more cohesive and equitable labour market.

The Commonwealth Government continues to rehearse an old polemic about centralised versus decentralised bargaining but international bargaining practices and policy debates have moved on. A uniform trend towards more decentralised bargaining and increased labour market flexibility can be observed throughout the OECD but whereas Australia has followed English-speaking nations down the path of 'disorganised decentralisation', the coordinated market economies of Europe have more fruitfully combined decentralised bargaining with multi-employer coordination.

Just as the debate on bargaining has been erroneously preoccupied with a binary conception of the level at which it can occur - that is, 'centralised' or 'decentralised' - so the debate about publicly defined standards has been preoccupied with an even more unhelpful binary notion of choice; that is, whether minimum wages should be regulated or deregulated. It is to this issue that we now turn.

3 Non-bargaining sector

When it comes to the non-bargaining sector there are at least two broad directions in which policy might go. One is a 'low wage sector' strategy in which minimum wages are allowed to fall to very low levels, and government transfers are then used to lift some people out of poverty. The other direction is a 'living wage' strategy, in which minimum wages are kept at a level which allows wage earners to be self-reliant and not dependent on government transfers to protect them from poverty. The first strategy is characteristic of the US labour market, the second describes, in part, the situation prevailing in Australia in 2006.

3.1 The 'low wage sector' strategy

The US labour market is characterised by a large sector of low wage, low productivity jobs in which receipt of a full-time wage is not sufficient to keep a worker from living in poverty. Table 3.1 shows both the incidence and distribution of low-paid employment for Australia, the UK and the US during the mid-1990s.

Table 3.1: Incidence of low-paid employment by occupation, age and sex(%)

Measure	Australia	UK	US
Occupation			
Professional/ Technical	4	4	9
Managers	10	6	9
Clerical	13	29	30
Sales	20	40	28
Personal services		40	53
Trade/Craft	20	16	18
Labourers	19	28	36
Age			
Less than 25	35	46	63
25- 54	9	15	21
55 and over	13	23	24
Sex			
Male	12	13	20
Female	18	31	33
Total	14	20	25

Source: OECD (1996): 72–73.

Note: Low-paid workers defined as those full-time workers earning less than 2/3 of the median earnings for all full-time workers. Figures for sales and personal service workers are reported together in the Australian data.

Some of the most interesting differences between the three countries are apparent when low-paid workers are compared by occupational group. The figures for the US and the UK are significantly higher across all occupations than for Australia. One of the most significant differences is the proportion of low-paid personal service and sales workers in Australia (20 per cent) compared to the US where more than half the personal service workers are low-paid. The Australian figures for these occupations are also half those of the UK. Further, there are notable differences between the incidence of low-paid labourers

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in Australia (19 per cent), the US (36 per cent) and the UK (28 per cent). In Australia there is a clustering of low-paid employment in three occupational groups (sales and personal service workers, trade and crafts persons and labourers). In both the US and the UK clerical workers also have a high incidence of low-paid employment. Interestingly twice the proportion of professional and technical workers in the US are considered low-paid compared with Australia where only 4 per cent are low-paid. The data suggests that the arbitration system, as a safety net for low-paid workers in Australia, has prevented the extremes evident in the US and to a lesser extent the UK.

Barbara Ehrenreich's sobering experience of low paid service work - *Nickel and Dimed, On (Not) Getting by in America* - highlighted one of the reasons there are so many job openings for those women being jettisoned from welfare.⁵⁶ Ehrenreich suggests that job turnover is high in the US partly because the pay and conditions are so bad that management is able to leave their job vacancy signs permanently on display. Despite the high turnover, these kinds of jobs are not 'stepping stones' into better paid jobs. Research by the OECD found that seven out of ten American low-paid workers in 1986 were either still in low paid jobs or were not working full-time five years later. The comparable figure for Denmark was just one-third.⁵⁷ Research by the Urban Institute on employment in health care, child care and hospitality found dramatic differences in industry mobility between low-paid workers and non-low-paid workers. Whereas about 68 per cent of non-low-paid workers were still in the same industry after 32 months, only 14 per cent of low-paid workers were. A larger proportion of low-paid workers - over 18 per cent - had actually passed through three industries during that time period, all within the low-paid sector.⁵⁸

Changes to the Earned Income Tax Credit (EITC) scheme and harsher State welfare regulations have resulted in large numbers of single parents returning to the US labour force during the mid to late 1990s. Follow-up studies on these EITC outcomes have been revealing. In Wisconsin, for example, the 18,000 welfare recipients who found work after December 1995 held more than 42,000 jobs in total - an average of 2.3 jobs each. Half of the new jobs came from temporary help agencies or from the retail sector. As Garry Burtless summed up the experience: 'Wisconsin welfare recipients certainly found jobs. Few landed good ones, however, and many exited quickly from the jobs they found.'⁵⁹

With minimal access to training, high job turnover and negligible prospects for career advancement, it is not surprising that low wage sectors have very low productivity. Again, the USA is instructive. The emergence of a large pool of low-wage jobs in the service sector has had a serious and adverse impact on productivity growth. In the US manufacturing productivity growth between 1979 and 1990 was 2.9 per cent and between 1990 and 1996 it was 4.2 per cent. In non-manufacturing, it was 0.3 percent and 0.2 percent respectively. These latter growth rates were a tenth of those prevailing in German non-manufacturing over the same period.⁶⁰ As Robert Brenner concluded:

The upshot has been a truly vicious circle, in which low wages have made for low labour productivity growth which has in turn rendered 'unrealistic' any significant growth of wages and thereby provided the basis for continued low productivity growth.⁶¹

The US experience also provides important insights into the nexus between hours of work and wage inequality. Researchers such as Bell and Freeman (1994) and Bosch (1999)⁶² have noted that as earnings inequality increases, so the quality of hours worked decreases. Amongst full-time workers, hours worked are amongst the longest in the advanced industrial world, while amongst part-time workers, hours worked are amongst

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the most fragmented and erratic. It is clear that the issue of low wage employment involves more than just issues of income; it affects the whole nature of work and the quality of life associated with it.

3.2 The 'living wage' strategy

Much of the overseas formulation of wages policy operates within the framework of 'minimum wages', legislated minimums below which wages (in certain sectors) should not be allowed to fall. In the case of the United States, the level of the minimum wage was allowed to stagnate for nearly two decades, leaving many low wage workers trapped in poverty. The consequences of this stagnation has been sketched above. Similarly, in the UK, the abolition of the wages councils during the 1980s left most low wage workers there bereft of any protection. The creation of a Low Pay Commission (LPC) which has significantly increased the minimum wage in recent years has attempted to remedy these years of neglect.⁶³

Jerold Waltman suggests that there are a number of terms which have been used in debates about earnings: minimum wages, fair wages, just wages and living wages. His own preference is for the notion of a 'living wage', one which looks to the 'needs of the employee' as its basis.⁶⁴ This means that the living wage should be set at a level which would:

provide someone who works full-time year-round with a decent standard of living as measured by the criteria of the society in which he/she lives. It would be calculated as an hourly figure and apply to those who work part-time as well as those employed full-time. (Emphasis in original)⁶⁵

For Waltman such a level is necessary for social inclusion, but not in the narrow sense that Blair's 'Social Exclusion' Unit might use the term. Rather, for Waltman a living wage is needed to provide the foundation for living standards in an advanced, market economy and to ensure inclusion in the political culture which 'civic republicanism' requires:

Civic republicanism's aim is a society of self-governing citizens. Poverty and vast inequality are both antithetical to a viable civic republican polity for they undermine the capacity of people to function as citizens. At the same time, civic republicanism legitimates public action - subject to certain limiting conditions - to address social maladies of various descriptions. It does not separate the polity and the economy into watertight spheres subject to different standards of evaluation.⁶⁶

From the perspective of egalitarianism, a living wage can underpin a society of self-reliant individuals in a way in which government subsidies to low wage employment can never do. Such subsidies, often in the form of supplementary welfare payments, are both fragile and arbitrary, liable to be modified or withdrawn to suit political fashion or necessity. The recipient, despite a partial income from paid employment, remains 'dependent' on welfare. A secure livelihood, based on a living wage, earned in the workplace, remains a far preferable basis for citizenship and political inclusiveness.

Ensuring that living wages prevail at the bottom of the labour market is one of the best ways in which public policy can promote a society based on self-reliant individuals. Similar concerns in other nations have 'led to the revitalisation of living wage movements across the globe'.⁶⁷ Australia is fortunate in having the infrastructure for establishing and maintaining a living wage. Minimum award rates have long been recognised as central to enabling the workforce to be self-reliant. The balance has already shifted in Australia

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towards greater reliance on the tax-transfer system but further shifting the balance would have negative equity and social consequences.

The 'case for the living wage' is not just about quantity. Indeed, it is primarily about job quality. Much of the economic modelling carried out to establish the 'job-destroying' impact of minimum wages focuses solely on the elasticity of labour demand, and how many jobs are likely to disappear (or fail to be created) if an increase occurs in the minimum wage. Not only is the evidence for this argument inconclusive,⁶⁸ but it totally ignores the issue of job quality. Jobs which are based on living wage principles are more likely to be jobs with decent working conditions, reasonable prospects for job security and job advancement, and jobs which produce higher morale, commitment, and productivity. By way of contrast, if the floor at the bottom of the labour market is allowed to fall this allows product market competition to drive down labour market standards. The 'race to the bottom' which is bound to eventuate won't just drag down hourly rates. Also falling will be safety standards, working time arrangements, working conditions, morale and productivity.

Australia's own 'living wage' case

Waltman sees Australia as one country where labour market institutions have been largely successful at protecting the low paid workforce from poverty. And indeed, the name given to the strategy pursued by the unions in recent years is the 'living wage campaign'. It is worth examining this strategy in more detail before we draw these arguments together.

The Australian Council of Trade Unions launched their living wage campaign in 1996, in the form of a claim in the Australian Industrial Relations Commission to vary awards. The case aimed to increase rates of pay for the lowest paid workers to compensate for falls in their real earnings during the first half of the 1990s. Since 1996, this campaign has resulted in annual wage increases for some of the lowest paid workers in Australia, and has re-established need as a criterion of wage fixing when it had been almost completely eclipsed by productivity-based criteria.

Recent estimates suggest enterprise agreements cover around 40 per cent of the workforce, leaving a large proportion dependent on the award system. These are the constituency for the living wage. As a group, they are disproportionately female, and concentrated in retail trade, health and community services, and the food service and hotel industries.⁶⁹ The living wage claim aims to achieve some kind of 'catch-up' for these workers who have clearly slipped behind the field.

Over time the wage component of the Living Wage Claim was incorporated into the annual decisions of the Australian Industrial Relations Commission on 'Safety Net Adjustments' (SNAs) to awards. In addition to its traditional role in industrial dispute resolution, under the Australian *Workplace Relations Act 1996* (the Act), the Commission was responsible for establishing and maintaining a 'safety net', that is, a safety net of fair minimum wages and conditions of employment. The Commission was expected to have regard to the following:

1. the need to provide fair minimum standards for employees in the context of the living standard generally prevailing in the Australian community;
2. economic factors, including levels of productivity and inflation, the desirability of attaining a high level of employment; and
3. when adjusting the safety net, the needs of the low paid.

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It is important to note that SNA cases did not simply deal with the lowest paid. Because the Act also authorised the Commission to rule on relativities, these cases set rates of pay for all those with limited enterprise bargaining power, not just the low paid. Consequently many middle and upper range white collar jobs were also affected by SNA decisions. Once the federal Commission reached a decision, the state tribunals usually made decisions identical to those made at federal level for workers on state awards.

The ACTU's living wage claims enjoyed modest but genuine success in the Safety Net Adjustment cases held annually between 1997 and 2005. How have living wage claims affected incomes of low paid workers? It is difficult to distinguish the impact of change in workforce composition from the impact of regulation on income. However, it is likely that Australia's system of wage determination has defended hourly rates of pay from falling as fast as they would have in the absence of intervention, and reduced the proportion of employees working at very low rates of pay. This appears to be one of the main reasons for the Government's proposal to replace the AIRC's SNA hearings with a process of statutory minima determined by a Fair Pay Commission. Table 3.2 shows that the proportion of employees earning less than ten dollars per hour (in constant 1999 dollars) declined over the decade from 1989 to 1999, with the most precipitous decline experienced by female workers. A similar pattern in the proportion of employees earning less than 12 dollars per hour is also evident. Significantly, the gender gap closed somewhat as the rate of improvement in men's real earnings lagged behind the rate of improvement in women's earnings. Moreover, that more than one fifth of the adult labor force earned less than twelve dollars an hour in 1999 is itself a symptom of broader processes at work in the economy, and of the importance of continuing and enhancing living wage campaigns.

Table 3.2: Wages Growth of Low-Paid Workers, 1989–1999 (%)

Year	1989	1990	1994	1997	1999
Percentage of employees earning under \$10.20 per hour					
Males	11.3	8.5	8.5	8.5	8.7
Females	16.4	13.4	10.6	10.0	9.2
Persons	13.5	10.6	9.4	9.2	8.9
Percentage of employees earning under \$12.20 per hour					
Males	24.0	19.7	21.5	20.7	20.0
Females	33.1	30.1	28.4	27.1	23.1
Persons	28.0	24.2	24.6	23.6	21.4

Sources: Labour Force Survey and Income Distribution Survey. Population: Adult, non-managerial employees.

A striking feature of the Safety Net Adjustments from 1997 to 2005 was that the Australian Industrial Relations Commission had been engaged in a comprehensive exercise of what is known as 'evidence based policy development'. Each year employers, unions and governments of all persuasions presented arguments and evidence of how much, if any, wages should rise for those with limited bargaining power. Since 1996 employers and the Federal coalition government argued that anything more than marginal increases would be counter productive, asserting that any wage rises would either increase employment losses or produce more subdued employment growth. The Commission has been in the position where it could assess these arguments in the abstract, as well as observe the

impact of its decisions over time. On the basis of this experience it reached a number of simple, but very important, findings.

The first is that the scholarly debates on the alleged negative impact of increases in minimum wages are, at best, inconclusive. The key point which has emerged is that what matters most are the scale of the increase and the nature of economic conditions prevailing at the time of its implementation. This underpinned the Commission's second key conclusion that reasonable wage increases for those dependent on awards are sustainable if introduced in a situation of healthy economic growth (AIRC, 2004). It is interesting to note that virtually identical findings have been reached by recent studies of the UK Low Pay Commission (LPC, 2004) and the OECD (2004) in their reviews of the literature on the economic impact of increases in the minimum wage. Clearly, the changes introduced in the *Work Choices* Bill to diminish the role of the AIRC in setting basic award rates have more to do with ideology than with facts. It is important when considering new long-term directions for wage policy in Australia that we do not forget the experiences and observations of the AIRC on the Safety Net Adjustment.

Up to now, we have examined developments in the work related earnings of people working as employees. Any comprehensive discussion of policy of work related earnings must, however, consider the situation of contractors - that is, those operating beyond the reach of both the bargaining and non-bargaining realms that we have considered so far. It is to this segment of the labour market that we now turn.

4 Commercial sector

4.1 Employees and contractors

The evolution of wages policy is intimately connected with the laws governing work. Throughout most of the last century Australian wages policy was developed on the basis of this country's unique system of labour law. As is well known, this realm of jurisprudence is built on the law concerning the employment contract. This contract can take on of two forms: a contract of service between an employer and an employee or a contract for the provision of particular services. Traditionally wages policy has been primarily concerned with setting rates of pay for employees. The work related earnings of contractors providing particular services has, generally speaking, been regulated by 'the market'. Rights and obligations of employers and employees have been specified in labour law. Those concerning contractors have been determined by commercial law - especially the general law of contract and trade practices.

The distinction between 'employees' and 'contractors' is relatively easy to draw in theory. In practice, however, the world does not correspond to such binary categories. Instead, as Collins (1990) has noted, there is a continuum determined by the degree to which control at work and the risks associated with work related earnings are distributed between different agents involved in production and service provision.⁷⁰ In thinking about wages policy of the future it is, therefore, essential that some consideration is given to the so-called 'commercial' sector; that is, the sector of non-employees. In particular we need to consider: What is its size and characteristics? How have the principles governing it co-existed with those of labour law? Most importantly, given that the distinction between 'employees' and 'contractors' is becoming more difficult to make, is there a need to redefine the foundation categories that underpin policies concerned with work related earnings?

In recent years the Australian Bureau of Statistics has gone to considerable trouble to generate

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estimates of what it describes as the different 'forms of employment'.⁷¹ Drawing on this work the Productivity Commission has produced a number of useful research papers which have helped make better sense of so-called non-standard forms of employment.⁷² The size and nature of the 'commercial sector' is evident in the data produced by the 1998 Forms of Employment Survey. This shows that over 1.8 million (22 per cent) of employed persons were 'owner managers'. Of these just 850,000 (46 per cent) were what Waite and Will (2001) describe as 'Self-employed contractors'. These are people who do not employ anyone and more often than not work on a contract basis. About 490,000 (59 per cent) of these people could be safely described as 'independent contractors'. The remainder - some 350,000 - were what the ABS describes as in 'some way dependent' on the person to whom they worked. This group constituted about 4.2 per cent of all employed persons in 1998. The key indicators of dependence were the fact that they either:

- did not have control over their own working procedures;
- had terms in their contracts which prevented them from subcontracting their work; or
- their contract prevented them from working for multiple clients.⁷³

It is important to appreciate that dependent employment relationships are not confined to self-employed contractors. Many owner managers with employees work on a franchise basis. These arrangements are often more prescriptive than those concerning employees. For example, some hamburger chains (organised on a franchise basis) dictate such specific details as who the suppliers of inputs will be and how long a hamburger patty should be cooked. Prescriptions of this nature are absent in many so-called 'employer-employee' relations. As such the estimate of 4.2 per cent of the workforce being contractors who are in some way dependent should be regarded as a lower bound estimate of workers having this status.

4.2 Labour law and commercial law

How have work related earnings of this segment of owner-managers been regulated in the past? As a matter of formality this sector is defined as falling beyond the reach of labour law as it is regarded as a realm of commerce. Work related earnings are determined as a by product of commercial arrangements. As such this sector is primarily governed by contract and trade practices law with their notions of competition characterised by 'mutuality' and 'equality of bargaining power' between the parties resulting in agreements which, once entered, have to be honoured. Formality, however, has often not coincided with the reality of the distribution of risk and structures of control in how labour is deployed and rewarded. Tensions have often arisen as to whether a realm of human economic practice is characterised as one primarily involving 'business' or 'work'. If a set of arrangements is regarded as 'business' it is regulated by the commercial law, if it is treated as 'work' it falls within the ambit of labour law. On what basis have these competing principles for regulating work related earnings co-existed? A defining feature of this area of law is that labour law principles have emerged as exemptions to the commercial law. For example, within the common law of contract, contracts involving labour gave the providers of labour special rights to recover payment for labour expended even if other parts of the contract were unenforceable (eg, rights to sue for *quantum meruit*⁷⁴). The initial legal right for unions to exist emerged in the 1870s and took the form of gaining immunities from the common law prohibition against conspiracies to restrain trade. It took many years for unions to achieve positive recognition as opposed to mere

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immunity from common law attack in the arbitration acts of the early twentieth century. Even today basic rights to collective bargaining are listed as special, limited exemptions to the operation of the Federal Trade Practices Act [s155]. But the dividing line between the law of 'commerce' and 'labour' has never been fixed and unambiguous.

Labour law notions of collective bargaining and socially defined standards overriding market outcomes have made serious encroachments into the commercial domain. Arguably the most developed jurisprudence in this regard has arisen in response to the problem of inequality of bargaining power surrounding owner drivers in the NSW road transport industry.⁷⁵ The public policy basis for collective bargaining rights and statutory determination of basic conditions for owner drivers emerged from the devastating effects of competition regulated on the basis of raw market forces alone. As the Transport Workers Unions has recently noted:

42. The primary purpose of these collective arrangements is the payment of rates which, as a minimum, allow drivers to recover all costs of the truck labour. That is, they operate to prevent exploitation to the extent of not even recovering everyday costs thereby fostering sustainability of the owner-driver; the stability of the transport operator and industry; and the safety of industry participants and general road-using public.⁷⁶

Without such protection the practice of so-called 'destructive competition' prevails. According to the TWU this occurs:

44. . . . where competing transport operators win commercial contracts by charging prices that are below actual cost. Without at least minimal protections operators are able to force upon owner drivers rates that do not even cover vehicle and labour costs. This has flow-on effects for employee drivers, whose employers are then encouraged to cut their terms and conditions in order to compete. . . . 46. Failure to ensure at least cost recovery leads not only to jeopardising the owner-driver business model and a stable market within which operators can compete fairly, but leads to the proliferation of unsafe systems of remuneration by putting downward pressure on pay rates in the transport industry as a whole. This is not in the public interest because inadequate systems of remuneration lead drivers to work faster and/or longer in order to survive.⁷⁷

Initially regulated under s88F of the NSW *Industrial Arbitration Act* this provision has evolved into a more general basis for the public setting of standards to overturn or radically change 'unfair contracts' involving 'work' in general. As a result key labour law rights are now available and used by those involved in partnerships, franchises and executive management as well as non-standard low skilled workers.⁷⁸ Innovations of this nature are not confined to NSW. At Federal level there has also been movement, most of which has occurred under the current Howard government. The 'Dawson Review' of Trade Practices Legislation proposed that small businesses should have a general right to bargaining collectively with large firms, where the large firm had a disproportionate amount of bargaining power. This provision was designed for sectors like retail where many small businesses often have limited bargaining power when negotiating rents with owners of large shopping malls.⁷⁹ The Australian Competition and Consumer Commission (ACCC) has recently granted Victorian chicken growers the right to bargain collectively with processors of their produce. In particular, it granted the right to withhold produce as part of a 'collective boycott.' The ACCC noted that the granting of such rights was necessary

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to provide growers with greater input into their contracts with processors leading to more efficient outcomes. The ACCC also consider[ed] that transaction cost savings c[ould] be achieved.^{80 81}

Ironically this privilege is only available to members to the Victorian Farmers Federation. Traditionally a strong supporter of 'freedom to contract' this leading employer association is now championing the extension of collective bargaining in its own domain while the Federal government is doing its best to wind it back everywhere else. The irony is even greater given that the Federal government has now tabled amendments to the *Trade Practices Act* in Parliament to prohibit any union ever being able to represent contractors and owner-managers in this way.⁸²

4.3 The incursion of trade practices law

Countering the drift of labour law principles into domains normally covered by commercial law, has been the even greater incursions of trade practices law into heartland labour law territory. Since the 1970s sections of 45D and E of the *Trades Practices Act* have specifically outlawed so-called 'secondary boycotts'. This is industrial action undertaken in solidarity by unions not directly privy to a dispute but launched to help other unions bring greater pressure to bear on a particular employer. The typical example of such action concerned truck drivers refusing to cross a picket established by manufacturing workers in dispute with their employer. The truck drivers usually did not have an employment relationship with the factory owner but took the action in support of the workers in dispute. Such action has, historically, been very important for the union movement at large in enhancing its power *vis-à-vis* employers. While the secondary boycott provisions have provided for significant penalties, they were rarely used in the 1970s and early 1980s, and remained dormant.

This situation has changed dramatically in recent years. Prosecutions and actions taken pursuant to these provisions have not only increased - they have also changed in form. Actions against traditional forms of solidarity action have grown in number. These have typically involved campaigns by unions to establish 'pattern' agreements through coordinated action against firms endeavouring to resist agreeing to arrangements which are, generally speaking, accepted as industry standards. Good examples of this involving road transport workers and construction workers are provided by the ACCC in the later 1990s.⁸³ Of even greater significance, however, has been the use of these provisions of the *Trades Practices Act* to undermine industrial arrangements and action undertaken to regulate the growth of nonstandard forms of employment (eg, restrictions on the use of contract labour and labour hire) and employment contracts that fragment bargaining units (eg, Australian Workplace Agreements). An example of the former is provided in a case involving the Communication, Electrical and Plumbing Union which took action attempting to limit the contracting out of work to a labour hire firm.⁸⁴ An example of the latter has been the levying of huge fines (ie, \$100,000 each) on three unions⁸⁵ involved in a picket directed at resisting the use of non-local labour on the basis of Australian Workplace Agreements in the construction and operation of a new gas processing plant in rural Victoria.⁸⁶ The settlement of this case involved registration of an agreement between the aggrieved employer, the ACCC and the three unions concerned. In accepting the settlement, Justice Gray of the Federal Court gave a very candid commentary on how it is often the realities of the cost of litigation, and not substantive rights that is shaping the evolution of punitive arrangements in this area of the law. As he put it

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8. . . . if I had been determining the penalties myself in this case I should have fixed a figure considerably lower than the \$100,000 agreed. . . . The respondents [ie, the unions] are not profit-making enterprises. They did not engage in the conduct the subject of the proceeding for their own gain, or the gain of their officials. Their overriding concern was no doubt to protect the employees of Upstream Petroleum Pty Ltd, including those employed in the future, . . . from possible exploitation by the negotiation individually of their terms and conditions of employment. The use of a picket is a very traditional means of engaging in industrial action over such an issue. With the exception of a four-hour period on 2 October 2002, access to the site was not blocked. . . . In these circumstances, to call upon the respondents each to pay such a large sum from their resources, which ultimately come from the pockets of wage-earners appears to be excessive.

9. . . . There can be little doubt that the agreement has been brought about as much for financial reasons as for any other. Facing a proceedings that would have been long and involved if the [ACC] Commission were put to its proof, the respondents probably chose to pay larger amounts in penalties rather than incurring large bills for the Commission's costs of the proceedings.

. . .

11. My conclusion is that the penalties sought must be at the very highest end of the range appropriate for conduct of this kind.⁸⁷

Clearly unions endeavouring to maintain coherent labour market standards on a multi-employer basis by endeavouring to pursue pattern bargaining and/or to maintain decent forms of employment and coherent collective bargaining structures now face profound obstacles in trades practices law. And the problems do not just concern abstract principles of law, but the very practical problem of incurring huge losses associated with the costs of litigation and not simply the penalties imposed for breaching commercial law. It was for reasons such as these that industrial tribunals have always operated as a 'no-costs' jurisdiction. As such, the shift to a more commercial basis for regulating relations at work involves far more than an abstract shift in the determination of rights and obligations - it has very practical implications as to the viability of enforcing those rights and obligations.

4.4 Implications for wages policy

As the logic of enterprise bargaining becomes more pervasive, the role of commercially based principles for regulating work related earnings will increase. Previously wages policy was built on a foundation of labour law that governed work related earnings and conditions of employment on the basis of dealing with classes of work - what were defined as industries, occupations and callings. Unions and employer organisations respondent to awards covering these classes of work were treated as the key parties for setting and maintaining standards for them. These generally applicable standards were codified in awards that governed basic wages and working conditions for anyone performing a particular class of work covered by that award. With the shift to enterprise bargaining the status of unions and employer organisations has changed. They are now regarded as representing particular groups of people - members - and not particular categories of work. And as they endeavour to raise standards it is not treated at law as raising standards for a class of work in general, rather as activity directed at furthering gains of a narrowly defined, sectional group - their members. Gains made are contained in

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agreements, the benefits of which only extend to the parties involved – that is, the relevant enterprise and its workers. This has major implications for how unions in particular are defined and their legal rights and obligations specified. Instead of being labour market players helping set and maintain widely applicable standards they are increasingly treated as economic agents who must play by the rules of business. These are ‘the enterprise’ as the unit of bargaining and, increasingly, legal rights and obligations as defined by the laws governing commerce and not employment.

This is a particularly unhelpful development. Labour law originally emerged because of the inadequacy of commercial law principles for dealing with the social domain of work. Just as the law covering marriages is not governed by the law of contract, so it was recognised that relations at work required distinct principles appropriate to that domain. It is ironic that within the domain of commercial law the fiction of individual contracts as adequate for regulating business relations is giving way to at least limited rights to collective bargaining. As the recent case with Victorian chicken growers has shown, the key issue is often the reality of power relations within a supply chain - not the formal contractual relations between each producer and his or her individual contract with the processor. It was realities such as these that gave rise to the law governing owner drivers in NSW. The principles here subsequently evolved into the more general laws governing unfair contracts - s106 of the NSW *Industrial Relations Act*. Any coherent wages policy of the future needs to build on foundations such as these; foundations that engage with the modern realities of production and service provision. A retreat to ‘time honoured’ principles of contract and commercial law are just not appropriate, either for the realm of commerce or the realm of work.

Wages policy is ultimately about setting a price for labour. As such it is concerned with the issues of labour supply and labour demand. This section has dealt with one aspect of demand. Labour demand does not just concern the issue of quantity (ie, more or less requirements of labour hours). It also has a qualitative dimension, a key one of which is how the risks of employment are shared. This is overwhelmingly determined by employers in the forms of employment they offer to potential workers. This section has highlighted the importance of understanding this important qualitative dimension of changing demand conditions, especially the changing legal forms used to coordinate production and service provisions. Equally significant have been changes occurring on the supply side of the labour market. Life courses are changing, but not on the basis of myriad ‘unique individual’ experiences. The challenge here is to grapple with changing categories of life experience. It is to this issue that we now turn.

5 Work and welfare

5.1 A wage earner’s welfare state

Australia’s history of labour market regulation, particularly its unique industrial institutions and its compromises between capital and labour, had important consequences for its system of welfare. The ‘basic wage’ principle which grew out of the Harvester decision reaffirmed that the labour market was the central institution for providing for the welfare of the working class. In Francis Castles’ classic phrase, Australia developed ‘the wage earners’ welfare state’.⁸⁸ Other forms of public welfare provision were marginal or non-existent. When the labour market failed, as it did dramatically during the 1930s, this absence of public welfare was starkly revealed. As Macintyre succinctly phrased it: ‘Most

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Australians experienced the Depression as an elemental force laying waste to the national economy and reducing whole communities to hardship and despair'.⁸⁹ Consequently, one of the central pillars of the post-war settlement in Australia was remedying this deficiency by providing social welfare payments, particularly sickness benefits and unemployment benefits. Despite universality in entitlement, compared with insurance schemes, these benefits were nevertheless a secondary layer of support, intended to supplement failings in the labour market but not to replace its central role. They formed a 'residual conception of social security', in Ben Chifley's words: 'bridge building to carry the people over those economic gaps which must necessarily occur from time to time'.⁹⁰ A situation like this left the post-war welfare state highly vulnerable because this kind of welfare worked fine during periods of prosperity and short-term economic downturns, but it could not cope with any long-term decline in the labour market fortunes of any significant section of the population.

The other shortcoming in this welfare model was its lack of universalism and its partiality towards means-testing and targeting of benefits. This became particularly evident during the 1980s as the Hawke Labor Government distanced itself from the universalism of the Whitlam years. The trend accelerated during the 1990s, as Fred Argy explained:

developments in our social security system - a much tougher set of eligibility criteria and penalties, the erosion of relative benefits for many welfare recipients, deliberate attempts to 'shame' recipients and a shifting of responsibility to non-government players - are pregnant with significance. They strike at the very heart of egalitarianism - equal access to welfare benefits as a right. A large number of welfare recipients, notably the long-term unemployed, face an income support system that has become less generous and more conditional, arbitrary, demeaning and moralistic.⁹¹

In this section we look at the latest version of moralistic welfare politics. Instead of a serious engagement with the problems of deficiencies in labour demand alongside sectoral shortages in labour supply, current policies have become preoccupied with cheap solutions based on welfare-to-work strategies. While these may be electorally popular, they fail the test of sustainability across the life course, the trajectory which many workers must negotiate during their interrupted working lives. As we shall argue, policies which deal effectively with transitional labour markets are more appropriate than policies aimed at creating a low wage sector in Australia.

5.2 The failure of employment policy

For at least the past decade policies aimed at integrating labour-market policy with welfare policy have been deficient, if not chaotic. The conception which has dominated policy thinking has largely ignored issues of labour demand. From within this framework, the characteristics of the unemployed have been used to explain unemployment: sometimes this is couched in harsh terms - they are seen as 'work shy' or 'welfare dependent' - and sometimes it is phrased in less moralist human capital terms - they lack skills or motivation. Current debates around 'welfare dependency' disguise the fact that employment policy in Australia has largely failed. The current welfare debate is highly moralistic and, as we argue below, has resurrected the nineteenth century distinction between the 'deserving' and 'undeserving' poor. A harsh regime of breaching - removing or reducing unemployment benefits - has been instituted to police this distinction, to accentuate the

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moralism, and to save on government expenditures. Simply missing an interview with Centrelink staff can lead to the loss of unemployment benefits, the loss of income for the poorest people in the community.

Current approaches to employment policy are entirely locked within a labour supply perspective yet it is clear that there are two aspects to unemployment: a demand deficiency which creates a pool of unemployed persons, and a supply dimension which determines both the amount of labour on offer, and the composition of that labour. Effective labour-market programs need to address all dimensions. They need to confront the major regional imbalances between supply and demand: labour shortages in affluent parts of the major cities alongside a paucity of jobs in the rural regions. They also need to deal with the composition of the pool of unemployed (as well as those outside the labour market) whose morale and skills may need augmenting if they are to make the most of job opportunities which arise. The Keating Government's Working Nation program attempted to grapple with these problems, through the case-management of job seekers, but the withdrawal of several billion dollars from that area during the late 1990s has left a serious vacuum in the area of genuine labour market programs. The current Job Network system does not constitute a serious intervention in the labour market: there are no skills formation initiatives, job subsidies for employers or targeted public sector employment programs.

Because of the dominance of labour supply perspectives, the arguments for demand deficiency are rarely heard. This perspective is, however well established, with important contributions in the United States by Galbraith, and in Australia by Mitchell and his colleagues.⁹² As Mitchell and Muysken (2002) argue, the core explanation for unemployment in Australia lies in constrained demand:

the rise in unemployment [following the 1974 recession] was associated with a marked deficiency in aggregate demand. Had aggregate demand not fallen in the mid-1970s and remained well below the 1960s levels for the next decade, the unemployment rate would not have risen significantly in Australia. The severity of the demand restraint meant that the unemployed pool rose beyond what could be absorbed in any normal recovery.⁹³

For Mitchell and Muysken, government responsibility is clearly evident: 'misguided government policy has been responsible for the persistently high unemployment and the cumulative and permanent losses to social and economic well-being entailed'.⁹⁴ These researchers trace the evolution in Australia of a 'GDP gap', a direct pointer towards the deficiency in demand. Over the past two decades GDP growth has been insufficient to keep pace with the growth of the labour force and labour productivity. They argue for employment policy to be re-oriented towards restoring the kind of economic growth which would deal effectively with unemployment. Bill Mitchell, for example, proposes a Buffer Stock Employment model whereby the government would act as an employer of last resort, absorbing workers who were displaced from the private sector. Such employment could expand and contract according to the economic cycle.⁹⁵ John Langmore and John Quiggin have also called for increased government spending on community services and infrastructure as a way of simultaneously reducing unemployment and contributing to the 'vitality of the economy', thereby guaranteeing its long-term expansion.⁹⁶ Clearly, without a re-orientation of employment policy along these lines, regional unemployment problems in Australia will not be alleviated.

It may seem strange to emphasise problems of demand deficiency at a time when the unemployment rate is at a 30 year low - just over 5 per cent. However, this figure is

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seriously misleading for several reasons. The unemployment rate is no longer a reliable indicator of the overall health of the labour market;⁹⁷ it does not register the growth in under-employment; and it does not reflect the departure of large numbers of mature age workers who have left the labour market. The labour force 'extended under-utilisation rate' goes some way to capturing the under-employment component, and this rate stood at 12.2 per cent in September 2004.⁹⁸ This reflected a combination of the unemployment rate (5.5 per cent), the under-employment rate (5.6 per cent), and a subset of marginally attached persons.

If we add to this the involuntary exodus from the labour force of mature age workers - particularly men in their late 50s and early 60s with backgrounds in blue-collar occupations - we glimpse still higher levels of unemployed labour. As Evan Thornley observed in his Alfred Deakin Innovation Lecture:

We used to have about a million unemployed and about 100,000 disability pensions. Now we've got half a million unemployed and 600,000 disability pensions. We've just rearranged the deck chairs, and declared victory.⁹⁹

Similarly, Ken Henry, Secretary to the Treasury, in contesting the 'capacity constraints' thesis being promoted by the Reserve Bank, observed that an hours perspective on the labour market was most revealing:

. . . the proportion of the 15+ population in employment is at historically high levels. But if we take into account the changing mix of full-timers and part timers in the workforce, and their average hours of work, and derive a measure of average hours worked per head of the whole population of working age (15+ years) . . . labour utilisation does not look so high by historical standards . . . we have been at or around present levels on a number of occasions in this cyclical expansion.¹⁰⁰

In summary, whatever the 'true' unemployment figure turns out to be, and despite the pockets of skills shortages evident in key sectors, the comfortable conclusion that 'we have beaten unemployment' is not warranted by the evidence. The key issue for public policy in the coming years is how the interface between those in employment and those not - whether on welfare or outside the labour market - should be handled. What is the right policy mix for managing transitions between these two states and what does this mean for wages policy?

5.3 Welfare to work and wages policy

The 2005 Federal budget was notable for its generosity to high income earners alongside its niggardliness to those on welfare. Two different newspaper comments on the following day typified the range of ideological positions on welfare prevailing in contemporary Australia. The right-wing *Daily Telegraph* headlined:

Workers 1 Shirkers 0. Treasurer Peter Costello last night emerged a working class hero by rewarding workers with \$22 billion in tax cuts and prodding the able-bodied off welfare.

Meanwhile the moderate *Sydney Morning Herald* posted a cartoon showing a messianic Peter Costello facing a group of Australians on welfare:

And Peter said unto the lame, the ageing, and the single parent: 'Behold, I will throw away your pension; rise up and work!'

From 2006, new welfare recipients on the Parenting Payment (Single) benefit and

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disability benefits will be expected to undertake job seeking activities. Not only will their incomes be lower if they find themselves on unemployment benefits (Newstart allowance) but they will become subject to the moralistic policing of both Centrelink and Job Network providers. The latter will be given, for the first time, the power to breach their clients.

While the ostensible reasons for these changes have been couched in terms of national priorities, such as solving labour shortages and dealing with the demographic 'time-bomb' of an ageing population, the underlying logic is more prosaic. There is a political dimension - evident in the *Telegraph's* headline - of scapegoating single parents and the disabled, but there is also an economic imperative. And it is in this economic realm that the connection with wages policy becomes evident.

A low wage sector for Australia?

As we have argued throughout, the underlying logic of much of the industrial relations changes which have occurred, as well as proposals currently being developed, is accentuating labour market fragmentation and the polarisation of earnings in Australia. It is about the creation of a low wage sector in Australia comparable to that in the United States. For some economists, this is seen as the only solution to unemployment; for others, it meshes with their pre-conceptions of what defines an 'efficient' labour market.¹⁰¹ Artificially high minimum wages - 'propped up by the AIRC' - are seen as an impediment to further economic growth.

The low wage sector strategy in Australia has received a major boost with the Howard government gaining control in the Senate from July 2005. The industrial relations changes currently foreshadowed to commence in 2006 include the creation of a new Fair Pay Commission to take over the AIRC's tasks in making wage decisions. The AIRC's role in vetting enterprise agreements will also be removed, and the award simplification (or 'award stripping') process will see another four provisions removed (rules of jury service, notice of termination, long service leave and superannuation). Newspaper reports have quoted Prime Minister Howard as refusing to guarantee that no worker would be worse off under the new system.¹⁰² These changes have been welcomed by those economists who reject the principles underpinning the wage-earners' welfare state. As Chris Richardson observed:

The problem is that we have been using our industrial relations system like a welfare system, using companies to try and achieve fairness when that's not what they're good at . . . They're good at making money, and we should let the tax and welfare systems get the fairest system we can make.¹⁰³

When it comes to public policy, implementing a low wage strategy involves a fundamental contradiction with the functioning of the welfare system. As we noted earlier, Australia had developed a highly targeted social security system. Benefits are paid according to very precise means-testing guidelines. One of the consequences of this is that 'poverty traps' are common. When low income recipients earn additional money, they lose a very large percentage of that extra income by way of tax payments and reduced benefit payments. In some cases, low wage workers receiving some form of social security payment can face effective marginal tax rates (EMTR) of over 60 cents in the dollar - often much higher - if they earn extra income. In recent years, attempts have been made to reduce EMTRs and allow welfare recipients to take on a certain amount of part-time work without jeopardising their social security benefits.¹⁰⁴ There are limits, however, to how far one can reduce the

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'taper' at which social security benefits cut out altogether. Consequently, the EMTRs which they face will always be significant. This is particularly so if re-entry into the labour market also entails the loss of health care and travel concessions.

Ultimately, the only way that financial incentives for re-entry into the labour market can be truly effective is for the gap between social security benefits and the prospective wage to be widened. In other words, the jobs on offer need to be middle-paying jobs, not minimum wage jobs. Clearly, a strategy of encouraging welfare to work cannot co-exist alongside a low wage strategy unless the welfare system itself is compromised. This means either a reduction in welfare benefits - to widen the gap - or compulsory withdrawal of entitlement to benefits. Both of these tactics have been evident in recent years, and the 2005 Budget exemplified them. Moving people from disability and single parent status to job seeker status means a lower level of benefits and also a more draconian set of eligibility requirements.¹⁰⁵

A complete rethink is needed around the concepts and terminology of the welfare debate. In current debates, receiving income support from welfare is somehow more 'passive' and morally dubious than receiving other forms of unearned income (such as rental income, inheritances, dividends). One hundred years ago social commentators worried about the 'idle poor', but they also worried about the 'idle rich'. Today, the latter group, despite their massive growth in numbers, have slipped off the radar screens of the moral critics. As Guy Standing points out in his illuminating discussion of 'workfare'

the claims that the long-term unemployed or other recipients of transfers are immersed in a 'dependency culture' are exaggerated . . . many studies have shown that the poor want to work just as much as the non-poor. . . . The dependency-combating argument put forward by workfare proponents is double-edged. Why stop at the poor? What about middle-class dependency, which is considerable. In many countries the more affluent strata are dependent on tax relief that allows them to contract enormous debts, such as mortgages. Many middle-income earners are dependent on fiscal welfare.¹⁰⁶

What happens within the current moral framework is that welfare invariably becomes associated with negativity, and with reactionary public policy responses. Instead of a one-sided 'mutual obligation' punitive regime, the welfare system should be approached as something which is liberating, as a system of mutual community support operating across disparate social groups and across generations. As the work of Schmid and his colleagues¹⁰⁷ shows, the real issues we should be grappling with today are about the multiple transitions in working life: movements between education and work, parenthood and work, and work and non-work more generally. In particular, public policy needs to address the challenges of family formation, and how sickness and misfortune should be handled from a more enlightened labour market perspective. Life is full of risks, working life even more so. How should these risks be managed over the life cycle so that fairness prevails?

In essence, welfare policy should not be primarily focused on the persecution of those at the bottom of the labour market. While ensuring the integrity of the system is obviously important, welfare policy should more broadly encompass challenges faced by all citizens in managing risk and in smoothing the transitions between the different stages in their working lives. Family formation, child care resources, tax disincentives and issues of female labour supply should be the major starting point for contemporary debates, not just a tabloid-style debate about whether the disabilities suffered by ageing factory workers are genuine or not.

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Family formation and the reserve army

Public policy for dealing with labour shortages is a complex issue, and the current mix of policies exhibit considerable confusion. As Patricia Apps has shown, the current policies around family payments inhibit female labour supply.¹⁰⁸ As Apps and Rees argue:

Australia[']s . . . Family Tax Benefit system results in almost prohibitive tax rates on female labour supply over significant ranges of family income . . . Effective tax rates faced by married mothers with young children can be in the order of 60 to 80 cents in the dollar . . .¹⁰⁹

With this research in mind, Ross Gittins responded to the 2005 budget as follows:

Employers are reluctant to take on older workers, those who have been out of the workforce for years and those with disabilities . . . The silly thing about scouring the bottom of the employment barrel is that the Government, for its own ideological reasons, is ignoring a much more fruitful source of recruits to the paid labour force: married mothers.¹¹⁰

For married mothers there is not only the issue of EMTRs if they lose family payments, but there is also the cost of childcare. The choices between allocating their labour to domestic production or into market work clearly hinge on a careful 'cost-benefit' analysis of their family circumstances, the current tax transfer system, and availability of resources outside the home, particularly childcare.¹¹¹ This suggests that a low wage strategy is not consistent with increasing female labour supply from this source. To explore this further, it is worth considering how wage levels and sources of labour supply are related.

The core of this relationship is the simple truism that a low wage sector requires a surplus labour supply to maintain downward pressure on wages at the bottom of the labour market.¹¹² A low wage strategy will always require an increase in what is sometimes called 'the reserve army of labour'. Following the seminal work of Botwinick¹¹³ (1993) we would argue that this notion of the reserve army can be fruitfully employed to illuminate the nexus between welfare and the labour market.

The reserve army has traditionally relied on married women but, as just noted, this option is increasingly limited because of deficiencies in the supply of childcare and because of disincentives built into the family payment system. The welfare-to-work strategy, on the other hand, faces fewer limitations because it rests on compulsion, rather than the building of incentives. It is increasingly aimed at recruiting from the most vulnerable segments of the population, among workers whose life circumstances are least likely to protect them from taking up the lowest paying jobs. This is a key difference between their labour, and those of married mothers. The latter do not have to accept the lowest paying jobs: not only do many of their partners have incomes, but the incentives for working outside the home are very sensitive to the relative advantages of that choice. If the job on offer pays too little, it makes much more sense to stay home and engage in domestic production, such as childcare and housework.

Botwinick also shows how the replenishing of the reserve army of labour creates conditions of constant competition for the employed workforce, particularly the lowest paid. Efforts by workers themselves to build shelters from competition play an important role in segmentation.¹¹⁴ While Botwinick's main concern is explaining persistent wage differences, the argument he advances about the interconnections of low wages, underemployment and the reserve army is most illuminating:

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. . . chronic underemployment is the normal condition within the aggregate labor market
. . . labour mobility is no longer a sufficient condition for the equalization of wage rates .
. . . low-wage firms . . . continue to find ample sources of cheap labour within the reserve army. Consequently, there will tend to be little upward pressure on wage rates at the low end of the labor market.

Those workers who ultimately exert a downward pressure on above-average wage rates primarily come from the reserve army. More importantly, the actual pressure on above-average wage rates comes from the actual or potential replacement of high-wage workers by these cheaper and generally more desperate workers within the reserve army.¹¹⁵

Forcing single parents and the disabled to more 'vigorously' search for work reinvigorates the reserve army of labour. This in turn plays an important role in fostering the low wage strategy which is the hallmark of contemporary neo-liberal policy in Australia.

6 Where next?

Wage policy deals with some of the most important issues affecting the quality of life in societies with market economies. It is the domain where work related earnings, economic performance and citizens' material living standards intersect. As such, it is not a 'technical' issue amenable to 'value free' solutions. While rigorous analysis can help identify the matters requiring decision, ultimately the decision is about the type of society we want to live in. How much should people earn for their role in the division of labour? How should the benefits of economic development be shared? And how should the labour component of production and service provision be constituted, in price terms, relative to capital? In the early part of the twentieth century answers to these questions were framed on the basis of the Australian variant of the male breadwinner model of employment - what we have referred to as the 'Harvester Man Model'.¹¹⁶ As we have shown at length in that book, this model of employment has been in secular decline for some time but some legacies of this era remain.

6.1 Old problems, new approaches

Over the last century the earnings of Harvester Man were determined in an institutional setting which accorded major significance to three types of stability. Initially, the system of conciliation and arbitration was founded to nurture industrial stability by nurturing 'a new province of law and order'.¹¹⁷ In settling disputes, awards were made between the contesting parties. Following the logic of the common law, like cases were to be treated alike. This philosophy of jurisprudence underpinned the notion of 'comparative wage justice' - that is, the maintenance of stable occupational wage relativities - articulated as different wage 'margins' for different levels of skill and responsibility associated with different types of work.¹¹⁸

As the wages system matured, the system of conciliation and arbitration evolved to become a key player in nurturing and maintaining macro-economic stability. This involved industrial tribunals coordinating general movements in wage rates with changes in other macro-economic variables such as employment, inflation, the balance of payments and inflation. The basis on which this stability was determined varied over time. For example, during the late 1980s concerns with 'comparative wage justice' gave way to issues of 'structural efficiency' and there was constant balancing between respecting the economy's

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'capacity to pay' general wage increases and the maintenance of living standards through preserving 'real wages'.

However, these differences all occurred within an institutional framework that accepted and promoted a coordinated approach to wage determination. Central to the dynamism of this system was the interplay between economic realities and formal institutional determination of industrial tribunals. The key economic realities were underlying levels of unemployment and the outcomes of collective bargaining. Developments in these set powerful limits to, and provided guidelines for, what was sustainable for industrial tribunals.

Today these institutional settings no longer dominate the labour market in the way that they used to. The proportion of the workforce corresponding to the Harvester Man model of work and home life is a fraction of what it used to be.¹¹⁹ The last two decades have seen an increased presence of women in the workforce, the spread of non-standard employment, and the fragmentation in the conditions of employment experienced by the workforce, particularly around wages and hours of work. Just as significant has been the change in the system of wage determination. Whereas previously there was an intimate connection between the bargaining and non-bargaining sectors, today such links are at best muted, and generally non-existent. Of growing significance is the domain beyond both awards and collective agreements: whereas once this constituted a small proportion of the labour force, it is now a sizeable segment.

If we were designing a wages system from scratch, where would we start today? Waltman's arguments about building on the idea of self-reliance are very attractive. In a democracy it is self-evident that as people become more independent of either the state or the rich, community self-determination also grows. In devising new institutional arrangements for setting rates of pay for self-reliant individuals it would also seem self-evident that they should engage with changing economic and social realities. The essence of these realities is, as John Donne might have said, that no workplace is an island. Production and service provision are increasingly organised on a network or supply-chain basis.¹²⁰ Conceiving production as occurring primarily on an enterprise basis fails to grasp this key reality of modern economies - a reality noted in the literature on coordinated flexibility and in the emerging principles governing social standards for contractors in the NSW and nascent collective bargaining rights in Federal trade practices law.

Equally, no worker is an island. Most workers share labour market experiences caused by important labour market transitions, such as taking up studying, having children, experiencing spells of unemployment and retiring. As noted in Section 5, Gunter Schmidt and his colleagues have described these periods of life course change as producing 'transitional labour markets'. Clearly, any sensible wages policy today should take the notions of 'self reliance', 'network production' and 'labour market transitions' as central reference points. Building on the recent literature concerning coordinated flexibility noted in Section 2, these categories should be operationalised in an institutional arrangement that blends the public determination of decent labour market standards with bargaining, especially by newly defined collectivities, such as those determined through supply-chains arrangements and changing life courses.

6.2 New priorities

Promising as these leads may be, it important to recognise that in any realm of policy,

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especially wages policy, new institutional arrangements cannot be built from scratch. The legacies of the past powerfully shape what is possible in the present and future. As Karl Marx eloquently noted, even in revolutionary situations 'all the traditions of past generations weigh like a nightmare on the brain of the living'.¹²¹ Our own era is no exception. Wage policy today must engage with the decaying edifice of Harvester Man and the profound segmentation in the formal system of wage determination. Therefore, in moving forward, while guided by concerns with self-reliance, network production and changing life courses, at the same time we are aware of the necessity of working with our institutional legacies, particularly the forms of wage determination discussed in previous sections. Consequently, we now offer an overview of the key issues for employers, unions and public officials which are relevant in each of the four domains discussed earlier.

The non-bargaining sector: setting the lower and upper bounds of work related earnings

Every society needs a reference point for determining living standards. In Australia this reference point has, traditionally, come from the labour market - the wage earners' welfare state insight. Jerold Waltman has recently established the moral, conceptual and factual bases for a 'living wage' as vital for providing a coherent and robust foundation for both economic and social development. Developing and maintaining a decent foundation wage should be central to any wages policy in the future.

What principles should inform the rate prevailing for such a wage? There is a strand of Australian wages policy which has taken actual living standards as a key reference point in the determination of the rate for the most basic level of work related earnings. There is a better ability to ascertain this today than ever before. The comprehensive 'Budget Standards' approach developed by the Social Policy Research Centre at the University of New South Wales provides an excellent basis for identifying what is required for modest, but adequate, budget standards.¹²² At the same time, the growing data on Australia's working time preferences¹²³ have shown that hours preferences are very closely related to earnings. With data such as these a more rigorous foundation to wages and related hours issues could be developed.

Australia has never had a minimum wages system along the lines that operate in places like the UK and USA. Instead, it has had a comprehensive set of award rates for different occupational groups. This recognised the reality that many people in the labour market, not just the lowest paid, often lacked equality of bargaining power with the people engaging their services. It important that this tradition not be lost; but rather, extended.

Many problems in the wages system today are generated by developments in the high wage sector. Prime among these are deepening inequality and destabilising relativities. This has implications not only for wages movements, but it also has a highly destabilising impact on consumption norms.¹²⁴ There are a number of ways this problem can be addressed. Jerold Waltman has proposed that movements in the minimum wage be linked to movements in the earnings of the top 5 per cent of the population. Such a linkage would focus the attention of policy makers on the source of any undue 'wage pressures' on those best able to restrain their earnings. If the rich show no restraint, lower income earnings should not be expected to provide macro-economic balance by falling further behind in relative terms. A more direct option would be to impose punitive taxes on organisations that grant increases in work related earnings above an agreed community norm. This is an idea proposed by the Noble Laureate, James Tobin, over three decades

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ago.¹²⁵

The development and maintenance of upper and lower bounds to the wage systems will require more effective institutions of wages policy than currently exists. Australia's traditional network of industrial tribunals was inspired by a judicial model of intervention and decision-making. While in recent years these tribunals have evolved to perform more 'executive' functions, it is important that this older tradition continues and that tribunals develop the capacity to make their own inquiries into living standards. Currently they are limited to the evidence presented to them by the parties. While this is often very comprehensive, there is a need for industrial tribunals to increase their capacity to comprehend and respond to the changing nature of work. In recognition of this they should also have a more encompassing name: something like 'Work and Working Life Commissions' which signifies they can set standards for all forms of employment across all levels of the labour market. In conducting their affairs, however, they should not be regarded as the sole adjudicators of labour market standards. The setting of new wage norms - both upper and lower limits - should not just involve industrial tribunals making administrative decisions by fiat. Their deliberations should also be highly influenced by the decisions of other players in the labour market, especially those manifested in the agreements reached between employers and unions. Such an approach to wages policy would build on an earlier tradition where awards and agreements evolved in an iterative way. Developments in the non-bargaining sector would influence and be influenced by the bargaining sector. This would overcome the weaknesses of a system based primarily on administrative fiat on the one hand and the free play of market forces on the other.

The bargaining sector: fly-wheel for standard setting

Developments in the non-bargaining sector should set upper and lower bounds for labour market standards. The rates of pay that would prevail for many workers should, however, be determined on the basis of bargaining. This should involve organisations which represent collectives of workers who face common employment situations and those owning and/or controlling those situations.

For many workers today, conditions at work are governed as much, if not more, by firms at the head of supply chains rather than by the workers' immediate 'employer'. This reality is recognised in sectors like car production which has its own 'industry panel' within the Australian Industrial Relations Commission. This panel deals with disputes affecting all the four car assemblers as well as suppliers involved in industries as diverse as glass, rubber and plastics production. Similarly, in clothing there have been initiatives to hold retailers accountable for the conditions experienced by the outworkers who ultimately produce the goods they sell. While developments in cars and in clothing are at an early stage of evolution, they nevertheless provide important pointers on how the nature of bargaining could evolve to address the changing realities of work. An operating example of such arrangements is provided by project agreements in construction. Instead of each sub-contractor having a separate rate for workers performing the same work on site, a common 'site rate' prevails. While this is usually the preferred practice for many project managers, sub-contract employers and unions, significant moves are underway to outlaw this particular variant of 'pattern bargaining'.

Initiatives directed at achieving the benefits of coordinated flexibility in Australia in the short run are likely to be frustrated by the *Work Choices* reforms. Whatever their

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intentions, these laws will not prevail against the underlying economic realities which shape production and service work in today's Australia. For example, innovations based on 'skill eco-systems' are directly dealing with many of the realities emerging around skills formation. Some of these are long standing in nature,¹²⁶ others are more recent.¹²⁷ These developments should be monitored closely because structures associated with skill are often closely allied with those involving wages. Another area to watch closely is that of developments in the commercial sector, for what is being expressly forbidden in industrial law is now, in part, being tolerated in trade practices law.

The commercial sector: substitute for, or component of, the wages system?

As we discussed in Section 4, there has long been an uneasy relationship between contracts of and contracts for service. There appear to be major initiatives underway to promote contracts for service at the expense of contracts of service.¹²⁸ These developments should not blind us to the progressive outcomes possible within the commercial sector. The rights of owner-drivers in the NSW road transport industry provide an instructive case in how collective bargaining and publicly defined standards can flourish in a world based on contracts for service. Indeed, developments in this area of practice have provided the basis of the 'unfair contracts' jurisdiction which has delivered rights for anyone - irrespective of their formal legal status - to gain access to fair earnings, conditions and treatment if the contract involves 'work'.

It is also worth acknowledging the nascent growth in collective bargaining rights within trade practices law. While there is an undeniable need to dramatically change those parts of the *Trade Practices Act* that encroach on the realm of labour law (such as sections 45d and 45e) there is also a need to observe closely how other parts of this law respond to the changing realities of commercial life. This implies that any comprehensive approach to wages policy should monitor (and devise appropriate changes) around laws which govern the commercial sector. These should ensure that such laws operate as an integral part of the wage system in a positive sense, and not as loopholes for undermining established labour standards. The recent emergence of collective bargaining for small businesses is an important development worth close attention in this regard.

Welfare and work: beyond the low paid sector

The current debate about the links between work and welfare is dominated by a strategy for reorganising the unemployed and others dependent on welfare into a large-scale, low-paid workforce. Such an approach is very disturbing. For those most immediately affected, it promises to load onto their already disadvantaged lives a greater burden of disadvantage. From a labour market perspective, this approach ignores the fact that while many welfare recipients want to work, most employers don't want to hire them. From the perspective of social policy, the approach undermines the fundamental objectives of good public policy: namely, the creation of a greater range of choices and the expansion of social rights, rather than their contraction.

The one positive feature of the current debate on 'welfare reform' is that it recognises the intimate connections between wages, taxes and income support. Instead of only considering these connections in the lower reaches of the labour market it is vital that the debate is broadened to examine these connections for the entire population. One of the most significant features of modern working life has been a growing interest - especially

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amongst women and the young - in redefining the links between paid work and life beyond it. Fewer women are either workers or mothers - growing numbers combine both roles. Few young people are just students or workers - many are both. Across the population at large a small but growing number of men wish to combine work with family time. In addition, increasing numbers of people combine full-time work with study. German researchers at the WZB in Berlin have argued that developments such as these mean it is important that policy grapples with what they call the changing nature of 'transitional labour markets'.¹²⁹ For them a far more progressive approach to wages, taxation and income support policy should be based on acknowledging that labour force participation varies over the life course. For us, a relevant living wage system should complement this reality, not push against the tide by ignoring it. The task is to devise earnings regimes which make for fairer and more efficient transitions across the life course. We need to move beyond poverty traps and all the other counter-productive elements of the welfare system which impede smooth transitions between appropriate work situations.

At the same time, developing sound policies for earnings over the life course could also provide a new rationale for thinking about issues like long service leave and study leave. Similarly, easing the tensions associated with working and the care of younger and older citizens could also be incorporated into a wages system based on these principles, a system which ensured decent rates of pay, good standards for flexible hours and rights to social support at the neighbourhood level.¹³⁰ In this regard, the activities of State and local governments can be just as important as developments at a national level. There is no need to wait for enlightenment to descend on Federal Government thinking for policy-makers at other levels to develop effective policy mixes that link wages, hours and social support. The challenge is to experiment with new approaches which expand the choices open to people in making those key transitions in their working lives, and those which provide options in how we respond to the challenge of an ageing population.

6.3 Conclusion

At present, changes in wage policy are driven by an ideology that fits poorly with how labour demand and labour supply are changing. For policy today, the key challenge is to work with sub-optimal institutional arrangements and do the best that is possible to capture the benefits of both coordination and flexibility. This will provide a basis for generating labour market standards appropriate to a modern, civilised society. As such, it would also arrest the paradoxical trajectory of current developments in the labour market, the disturbing reality that Australian society grows richer at the same time as fragmentation deepens.

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