

Report on ASSA Symposium

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Introduction to Industrial Relations Reform: Looking to the Future

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Introduction

Industrial relations is a field of knowledge and human activity which is critically important for economic performance as well as social cohesion in Australia. An industrial relations system impacts not only on workplace performance but also on the allocation of the gains produced. The objective of this symposium was to examine critically the recent history of industrial relations reforms and to analyse the major policy issues facing government, employers, trade unions and the workforce.

The symposium supported by the Academy of the Social Sciences in Australia (ASSA) and hosted by the University of Sydney Business School. The symposium brought together leading social scientists, employer and union representatives and policy makers. It not only examined previous attempts to reform the industrial relations system but also analysed four critical policy issues which need to be addressed in the future.

This symposium also celebrated the outstanding contributions of Emeritus Professor Joe Isaac, a former President of the ASSA, not only to scholarship in industrial relations and labour economics, but also to the practice of industrial relations in Australia and at the international level for more than seven decades.

Learning from Past Experience

Keith Hancock began the analysis of industrial relations reforms by revisiting the changes introduced by the Hawke and Keating Labor governments in the 1980s and 1990s, which saw the abandonment of the conciliation and arbitration system that had been the central feature of the Australian industrial relations system since its inception in the early 1900s. Soon after the election of a Labor government in 1983, the then Prime Minister Bob Hawke established a Committee of Review of Industrial Relations Law and Systems chaired by Keith Hancock. The Hancock Report supported continuation of the main features of the existing system but recommended a range of reforms, including greater integration between the Federal and State systems as well as facilitating the ability of the parties to 'opt out' from the principal tribunals and agree upon alternative mechanisms of conciliation and arbitration. The Hawke

government agreed to the broad thrust of the Report's recommendations and incorporated many of them into the *Industrial Relations Act 1988*.

However, opposition to the established centralised system increased during the late 1980s, principally driven by the Business Council of Australia (BCA) which emerged in 1983 as a successor to previous bodies representing larger corporations. Although the BCA failed to make a submission to the Hancock Committee, it later mounted a case for replacing the existing system with enterprise based agreements which would provide a much reduced role for union and arbitrators. The ACTU also supported a greater emphasis on enterprise bargaining. This laid the foundation for subsequent reforms during the 1990s.

From *WorkChoices* to *Fair Work* and Beyond

The industrial relations legislative reforms undertaken by the Howard Coalition government (1996-2007) and the Rudd/Gillard Labor governments (2007-2013) were analysed in the paper by Andrew Stewart. The Howard government introduced its first round of reforms in 1996 but saw many of its initiatives blocked or modified by a hostile Senate, in which it lacked a majority. However, when the government gained a one seat majority in the Senate following the 2004 federal election, it introduced radical reforms under its *Workplace Relations Amendment (WorkChoices) Act 2005*.

Although the Rudd/Gillard government restored the primacy of collective bargaining, there were lasting effects from *WorkChoices*. However, Stewart argues that the legacies of *WorkChoices* appear to be at odds with what neo-liberal proponents of change might have anticipated, such as: the concept of awards setting a floor for workplace bargaining; the right of employees to complain against unfair dismissal; and an independent umpire with a strong role in setting standards and resolving disputes.

The Politics of Industrial Relations Reform

The paper by Rae Cooper explored the politics of industrial relations reform in Australia, focussing on three election campaigns during the period 2007 to 2015. Cooper argued that although the Rudd/Gillard Labor governments provided the trade unions with opportunities in a range of policy areas, including industrial relations, unions did not experience a 'revitalisation' during this period. Unions were marginalised by the Abbott government, which established a Royal Commission into trade union governance and corruption. In 2013, despite legislation by the Rudd/Gillard government which provided unions with opportunities to bolster their power through an enhanced collective bargaining regime, the proportion of union members among the workforce continued to decline.

Cooper concluded that it is unlikely that the major political parties will achieve consensus on industrial relations reform. While Tony Abbott assured voters during the 2014 election that no major changes would be made to the *Fair Work Act*, he established inquiries by the Productivity Commission into workplace relations and a Royal Commission into alleged union

corruption. Although major industrial relations reforms were undertaken by the Hawke/Keating Labor governments, the changes to legislation by the Rudd/Gillard period of government were modest and did not result in the revitalisation of the union movement.

Reforming Collective Bargaining and Dispute Resolution

Mark Bray and Johanna Macneil's paper compared the rhetoric and reality of collective bargaining under the *Fair Work Act 2009*. The Labor government's intention was that the 'good faith' bargaining provisions in the Act would result in more cooperative relationships between employers and unions. However, the declining incidence and coverage of collective agreements, as well as the absence of evidence that greater cooperation had emerged from collective bargaining, led Bray and Macneil to conclude that the main result of reforms was to create a system of 'orderly adversarial bargaining'.

Bray and Macneil concluded that neither the ambitions of unions nor concerns of employers about the operation of the *Fair Work Act* were realised. While some of the legislative reforms brought recalcitrant employers to the bargaining table, bargaining has not expanded and may even have declined in recent years. While there is a lack of solid empirical data, it appears that a significant proportion of collective agreements are made without effective employee representation and possibly without bargaining. Finally, the support given by the *Fair Work Act*, which focused on minimalist conditions for distributive bargaining, was insufficient to produce the genuine cooperation within the workplace necessary to promote longer-term cooperation and productivity improvement. To achieve these more ambitious goals requires greater commitment of parties to both the process and outcomes of collective bargaining.

Reforming Policies on Women, Work and Family

The paper by Marian Baird argued that it is necessary to move beyond the legacy of the 'male breadwinner paradigm', which has dominated Australian industrial relations for the past century, and to develop new policy options in relation to women and work.

While the *Paid Parental Leave Act 2010* was a major step forward, Baird highlights the problem that unpaid parental leave, which is the entitlement that women must access in order to take leave from work, sits in the National Employment Standards (NES) of the *Fair Work Act 2009* (in the employment portfolio) while the PPL scheme is under a different Act (in the social services portfolio). Furthermore, the eligibility criteria for each scheme are different. Baird argues that the federal government should consider changing the NES unpaid parental scheme entitlement to a paid parental leave entitlement. This might be a better way of ensuring that at least one of the essential policies which allow women to combine work and parenting could be protected. Thus, greater progress is needed if an 'equity orientation' is to be achieved in Australia's policies with respect to women, work and family.

Reforming Policies on Productivity and Wages

In her contribution, Sue Richardson advocated spreading potential efficiency and macro-economic gains from increased productivity more widely across the workforce as one means of stemming the rising inequality. A faster rate of growth of nominal wages would also help. Other possible actions supported by Richardson include: greater investment in early childhood, especially for children from disadvantaged families; higher quality education that is focussed on the less advantaged; effective regulation of the labour market to establish and enforce rules of fair treatment; and migration policies that take into account their impact on various parts of the labour force. She also noted that there are well established and quite effective mechanisms for the redistribution of disposable income and that reliance cannot be placed upon natural forces of the market to ensure that gains in productivity will be matched by rises in real wages.

Reforming Skills and Immigration Policies

Damian Oliver and Chris F. Wright, questioned whether Australia's skills policy ecosystem has the capacity to serve likely future labour market needs. Oliver and Wright begin with an historical analysis of the interaction between the main components of the national skills ecosystem, namely: education, training, immigration and industrial relations.

According to Oliver and Wright, reforms to education and training policies since the 1990s have contributed to declining employer and community confidence in the value of vocational qualifications, diminishing enrolments in many trades-based apprenticeships, stagnation in both public and private investment in vocational skills and the erosion of transferable occupational and industry-specific skills. Rather than arguing for greater investment in VET, employers have urged governments to liberalise work visa regulations in order to import labour for both skilled and less skilled jobs. Unions have been limited by legislation to bargaining over a narrow range of industrial issues and agreements on skills are uncommon.

Oliver and Wright concluded that a key problem has been the lack of effective coordination between the various institutions involved in the national skills ecosystem which has contributed to market failures. They proposed four actions: greater dialogue between education institutions; employers and workers to develop a modern qualifications system; establishing new institutions to create and sustain much needed coordination; closer integration between education and training policies; and support for workers to re-engage in formal education and training at multiple stages during their careers and working lives.

The Productivity Commission's Proposed Reforms of Australia's Workplace Relations Framework

In December 2015, the Productivity Commission released its Report on Australia's Workplace Relations Framework. In summary, the Report concluded that while there was scope for improvement in Australia's workplace relations framework, radical reform was not required and that 'repair not replacement' was needed. In his presentation to the symposium, the

President of the Productivity Commission, Peter Harris, focused on three potential areas of change: the introduction of new 'enterprise contracts' to provide for variations in awards, the potential impact of the minimum wage on employment and changes to penalty rates for weekend work.

In considering possible changes to awards, Harris noted that the growth of enterprise agreements has meant that a declining proportion of employees are dependent solely on awards, even though awards still play a key role in setting wages and conditions. The Commission recommended the introduction of an 'enterprise contract'

A second issue discussed by Harris is whether the relatively high minimum wage in Australia has measurably affected employment growth. The Commission concluded that modest increases in the minimum wage are unlikely to affect employment levels, but it urged that further consideration be given to the circumstances of both those in work and those out of work, particularly when the employment outlook weakens. Alternatives to the minimum wage system, such as the Earned Income Tax Credit, used in some other countries, are not regarded as providing a superior approach to the current system in Australia.

Concluding remarks

Joe Isaac expressed the wish that the symposium, would generate debate and provide guidance for industrial relations reforms in order to create a stronger basis for the future of the Australian economy and society. The papers which comprise this volume provide a foundation on which future policies and practices in relation to the reform of industrial relations in Australia could be based.