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The Interplay of Welfare to Work and WorkChoices

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Abstract

The *Workplace Relations Amendment (Work Choices) Act 2005* (Cth) (*WorkChoices*) together with the *Employment and Workplace Relations Amendment (Welfare to Work) and Other Measures Act 2005* (Cth) (*Welfare to Work*) have brought about a new era for workers. This paper considers the cumulative effect of these two legislative changes on working women in Australia. It concludes that in a number of important ways, the cumulative effect of the two Acts has very negative consequences for women in Australia. These ways, including likely increased casualisation, increased working hours and increased uncertainty of hours, are important in themselves, but the thesis of the paper is that the changes must be considered not in isolation but in a broader social context. After doing so, we conclude that the effect of the legislative changes impacts most severely on women in Australia. On this basis, we call for a review of the way in which the Acts combined produce a raft of negative effects for women. The raft of legislation can be seen to entrench marginalisation of women in the workplace.

Introduction

The main object of labour law has always been, and I venture to say will always be, a countervailing force to counteract the inequality of bargaining power which is inherent and must be inherent in the employment relationship. (Otto Kahn-Freund 1972, 8)

A review of the changes under the *Welfare to Work* and *WorkChoices* legislation and their cumulative effect is important when considering women in the workforce. This effect was something the Government discouraged by limiting the terms of reference for the Senate inquiry (November 2005) into the *WorkChoices* legislation, to exclude welfare changes.

The Howard Government argues these legislative changes will work to encourage people off welfare and into work, giving us a more prosperous economic outlook and more flexible work/life balance. Part I of the paper considers the changes to welfare and working conditions and their suggested rationale. Part II of the paper will consider the cumulative impact of these changes on women. We examine a range of ways in which the legislation might impact particularly on women, taking into account child care issues and parental leave rights (which have not changed). We will make comparative assessments with other OECD countries to benchmark the new Australian standard. We will conclude in Part III that the combined effect

of the legislative changes will impact disproportionately on women in Australia, although this may not have been intended. We call for a reconsideration of these legislative changes on the grounds that their (negative) impact on women is too great. This may not have been evident to its architects given the narrow range of the inquiry before the laws were implemented.

Our method seeks to re-establish links between social security measures on the one hand, and the law regulating workplaces and industrial relations on the other. This is not a novel concept in international terms (Sarfati (2003) and Ramia, Chapman and Michelotti, 2005), and enjoyed some support in the late nineteenth century (Webb (1897)); but it has escaped serious attention in the Australian literature until recently. Polanyi (1944) saw the relationship between labour markets and social concerns facing workers in terms of a double movement consisting of

The action of two organising principles ... The one was the principle of economic liberalism, aiming at the establishment of a self-regulating market, relying on the support of the trading classes, and using largely laissez-faire and free trade as its methods; the other was the principle of social protection, aiming at the conservation of man and nature as well as productive organisation, relying on the varying support of those immediately affected by the deleterious action of the market – primarily, but not exclusively, the working and the landed classes – and using protective legislation, restrictive associations, and other instruments of intervention as its methods.

Polanyi believed if the market were left unregulated, it would ‘commodify’ labour to the point where it was robbed of its ability to maximise productive output, a failure of the capitalist system which had already been noted by Marx (1906). We see the risk in the changes considered here collectively as a failure of this kind. As originally conceived, industrial relations systems had a protective function, including questions such as unemployment insurance, the need to supplement the law with social policy measures to prevent destitution, and questions of exploitation, underemployment and poverty. Over time this was lost. Ramia, Chapman and Michelotti (2005) lament the eventual domination of the principles of labour law over broader social policy issues. In discussing the plight of women in relation to the new system here, this can be seen as an overarching theme. The changes to *WorkChoices* cannot and should not be seen in isolation, but as part of a much broader social policy canvas. The canvas includes the historical ways in which women have been marginalised in the Australian workplace, and the continuing participation challenges faced by working women.

PART I: CHANGES AND THEIR SUGGESTED RATIONALE

Rationale for Reform

Changes made by *WorkChoices* are said to be designed to encourage high employment, improve living standards, lower inflation and encourage international competitiveness through higher productivity and a more flexible labour market. The Government claims the changes will lead to a simplified national system of workplace relations, while providing a safety net for workers. Central to the changes is the encouragement given to individual employer and employee bargaining, and further decentralisation of employee relations decision-making.

Though the Federal Government may not say explicitly that it has set out to reduce wage costs, this is a clear impact of the legislation, with its removal of guaranteed penalty and overtime rates. Others have noted that Australia’s minimum wage rate is high compared with that of other OECD countries which is said to undermine Australia’s competitiveness (Ryan, 2005, Moore, 2005). Wooden (2005, 1781-79) has questioned the expertise of the Australian

Industrial Relations Commission (AIRC) and complained about the Commission constantly increasing the minimum wage, claiming that

Either it does not care about the jobless or ... it believes there is no relation between the price of labour and the quantity demanded ... the AIRC has little or no experience that would enable it to make sound decisions which take account of the economic effects of minimum wage increases

A range of literature suggests that deregulation of the labour market will increase employment. Borland and Woodbridge (1999) for example claim that deregulation of wage rates in Australia would increase employment of the low paid by 10-15%. Gregory, Klug and Martin (1999) make a similar argument.

The argument in favour of these reforms has also been made on productivity grounds. For example, Ryan (2005) estimated that without past labour market reform, Australia's productivity growth would have been 1% lower each year between 1994 and 2002. Harding (2002) estimated that existing unfair dismissal laws cost Australian business \$1.3 billion, or 0.2% of GDP. The Prime Minister himself complained that Australian companies being forced to comply with six different workplace relations systems was an 'anachronism'.

The McClure Report (2000), commissioned by the Department of Family and Community Services, endorsed OECD-driven changes to reduce welfare dependency and acknowledged the importance of tax and social security on labour. Western countries are facing the dilemma of ageing populations and this was considered in the Intergenerational Report (2002-3). Both reports significantly alter the historical conceptions of labour law and social security law, bringing the two together for the first time in this country (Rider 2005). The McClure Report promoted the concept of mutual obligation whereby recipients of welfare are obligated to genuinely seek work. This was to be encouraged through facilitating re-entry, (the carrot), into the work force and financial sanctions (the stick). This was also the purpose of the Working Nations policies under the Keating Government. The ageing population dilemma presents governments with the spectre of ballooning costs for health and pensions along with a diminishing work force and an associated reduced ability to raise taxes, not to mention challenges for employers trying to find workers, and economic productivity. Coupled with these changes is the privatisation of job centres in 1997 to the Job Network. This means private agencies utilising entrepreneurial approaches for job matching of job seekers are now working together with the social security arm, namely Centrelink, a government-created body.

The marked difference with the Howard Government's approach and the Keating Government's approach, as well as those in other OECD Countries such as the UK, is to rely heavily on the 'stick' aspect of encouragement as against the 'carrot' approach, which is more inclined to emphasise retraining and education to encourage workers to independence from welfare, rather than utilising sanctions (Carney 2006, 31). The Government is clearly attempting to reduce reliance on welfare, while also encouraging secondary earners in dual-income households out of the work force (Rider 2005).

Welfare to Work: Employment and Workplace Relations Amendment (Welfare to Work) and Other Measures Act 2005 (Cth).

The *Welfare to Work* legislation has made significant changes in income support arrangements, in particular for sole parents, mature-aged workers and people who receive a Disability Support Pension (DSP). The Government believes finding a job for parents is the best way to help children and families. This runs counter to notions of anti-discrimination and

equal opportunity by not allowing individuals to make that assessment for themselves, raising the question whether any job is better than no job.

Before the changes, sole parents were eligible for Parenting Payment Single (PPS) until their youngest child turned 16. PPS is a pension level payment, providing \$256.05 a week plus various supplements and a pensioner concession card. The income test allows a recipient to earn \$76.30 a week (plus \$12.30 for each extra child after the first) while receiving full payment, and payment is reduced by 40 cents per dollar for income above that level. One partner in a couple with children was eligible for Parenting Payment Partnered (PPP) until the youngest child turned 16. PPS was, and still is, aligned with Newstart Allowance (NA), the unemployment benefit. Parenting Payment recipients were not required to seek work, except for some moderate obligations when their youngest child reached 13. Families with children are also eligible for (means-tested) Family Tax Benefit Parts A and B, whether they receive other Centrelink benefits or not.

From 1 July 2006, PPP for new claimants who are partnered has been restricted to those whose youngest child is aged less than six (Sch 4: s5 *Welfare to Work*). Sole parents may claim PPS until their youngest child turns eight, but from the time the child turns six, must look for at least 15 hours of work a week. Once the youngest child is eight, they will need to apply for NA, unless they are entitled to another payment. This allowance is paid at a lower rate and has a much less generous income test than the PPS and requires the receiver to seek work (making ten job applications a fortnight) and accept any suitable job offer between 15-25 hours of work a week (Sch 7: s68). Parents already receiving PPS (before 1 July 2006) must, once their youngest child turns six, seek part-time employment of at least 15 hours a week but they will continue to receive the Parenting Payment until their youngest child turns 16 (Sch 4: s5). As NATSEM (2005) and Wong (2006) have indicated, the problem with the Newstart Allowance is the very high effective marginal tax rates for recipients, because of the very steep rate at which the benefit is withdrawn.

The *Welfare to Work Act* provides the penalties for compliance failures for PPS (s8) and NA (Sch 7: s73). These payments are withheld for eight weeks for repeat or serious breaches of the activity test or an Activity Agreement (Sch 7: s73). Serious breaches include cases where the individual leaves a job, loses a job for misconduct, fails to take up a job offer that the Centrelink or the Job Network considers suitable, or fails to take up or complete a *Work for the 'Dole'* requirement. Carney (2006) and Rider (2005) argue the sanctioning regime is becoming harsher with fewer controls and more discretion. The number of people affected is significant:

...DEWR figures disclosed that 106,000 breaches were imposed in the 12 months to 2005, 64,000 of which were the heavier activity test breaches, and 3,800 were third breach, 'total loss of payment' penalties (Senate 2005 in Carney 2006, 36-37).

There are a number of exemptions. In addition to the range of exemptions for other Newstart recipients, such as temporary incapacity and family crises, there are exemptions for foster carers, home schoolers, people with children with disabilities, and a six month exemption for those who have left their partner following domestic violence. Unsuitable work includes work outside school hours where there is no suitable childcare. Subject to exceptions, parents need not accept jobs requiring travel for more than 60 minutes either way, where the cost of travel exceeds 10% of the gross wage, or where the financial return from work, after the costs of travel and childcare, and the effects of tax and income support withdrawal, is less than \$25 per week (Sch 4:s7-PP; Sch 7: S41-NA).

The success of the Government's *Welfare to Work* policy depends on the availability of affordable and appropriate childcare for single parents in particular. The Government responded to the issue of childcare shortages in the 2006-07 Federal Budget with the removal of caps on the number of places for after-school and family daycare, leaving it to the marketplace to satisfy supply and demand, with an estimated creation of a further 25,000 childcare places by 2009. It is not clear that this change will resolve the problem of access to childcare. One problem for low income families is the cost of childcare above the amount covered by the Child Care Benefit.

Under the former rules, Parenting Payment recipients were free to participate in education or training. Sole parents were entitled to an education supplement of \$31.20 a fortnight (2006 rate) and an annual payment of \$208. The supplement is not available for Newstart recipients and the annual payment is only available once. Those not now eligible for Parenting Payment, who apply for Newstart, are not generally permitted to study as an alternative to looking for work, and must look for work while also engaging in education, if they so choose, without this assistance. For a supporting parent, this will leave little time for family and leisure and places demands on childcare availability. The alternative is to claim Austudy, which pays sole parents a rate even lower than that of Newstart and requires full-time study. Austudy was not amended under *Welfare to Work* to take account of the special needs of sole parents.

Various concessions are made to sole parents claiming Newstart, including access to the Pharmaceutical Allowance and Pensioner Concession Card. The legislation also eased the income test for all Newstart recipients. Newstart is reduced if a recipient's income is over \$31 a week. The reduction rate is 50 cents per dollar for income between \$31 and \$125 a week, and 60 cents per dollar of income over \$125 (Rider 2005). There is no allowance in the income test for additional children. As at 2006-2007, the minimum wage is \$12.74 per hour. Harding et al (2005a and b) prepared economic models for NATSEM in which they predicted the possible net gain for a sole parent with one child moving from 0 to 15 hours work a week could be as little as \$31 a week, with the Government receiving a tax windfall of \$114 a week, as well as savings from reduced social security payments. Table 1 describes the predicted positions for average pay rates and thresholds, reflecting high effective marginal tax rates for the NA:

Table 1: Predicted positions for average pay rates and thresholds, 2006-07

	PPS	NA	Difference
Payment rate – 1 child	\$257 per week	\$228 per week	-\$29
Max amount earnable before payment is reduced	76	31	-\$46
Withdraw rate for each \$1 private income above threshold	40%	50%	+10%
Second income test threshold	n/a	\$125	
Withdraw rate for each \$1 private income above threshold	40%	60%	+20%
Income Support Zero When Income Reaches	\$718	\$426	\$292

Source: Harding et al. (2005a, 17)

The Government estimates that by 2008-09, 95,100 sole parents and 26,100 partnered parents will be affected, and around 4,800 will receive no payment (Carney 2006). This policy change is not family friendly. This requires encouraging workers out of the workforce so there is no job displacement. Workers identified as suiting this need are naturally second-income earners, for whom the Government does not have to provide social security, owing to the income of the primary earner. This occurs through the Government's changes to the Family Tax Benefit (A) and (B).

Family Tax Benefit (A) is paid per child at a maximum rate of \$4318 per annum for children under 13 and \$5333 for children 13-15 years. While FTB (A) is tax exempt, it is means tested and reduced by 20-30 cents in the dollar for family income over \$40,000. Family Tax Benefit (B) is paid per family. It is not income tested for single income families (sole parents or single income couples) but is reduced by 20 cents in the dollar of the second earner's income over \$4,000. This means second earners in a family are put at a disadvantage by paying tax and losing their FTB (B) if they earn over the threshold. Thus the FTB (B) acts as a disincentive to work when in a double-income family. The potential loss of childcare entitlements, as well as loss of FTB (A) and Parenting Payments if a partner's income is high, is also a disincentive to work, and usually this applies to the woman (McDonald 2003). Clearly this policy aims to have one parent, invariably the woman, being the non-wage earning carer, as parents on high incomes are discouraged from choosing to share the care and work equally. This is because FTB (B) compensates single income families for having access to only one tax-free threshold (HREOC Discussion Paper 2005). The provision of tax cuts in the 2006-07 Federal Budget of \$6,200 a year to single income earners on \$150,000 with no dependent children, compared to just \$730 a year to dual-income earners on \$30,000 with two children, or \$783 to a single parent with two children, indicates that the gap in wealth in Australia is likely to grow and families are not the highest priority.

The reforms intrude into the private sphere of the family and often result in imbalance and inequity, favouring employers. Women now form a substantial part of our workforce and have entered into tertiary education (ABS, 2004) in a significant way. In 2003, the proportion of women aged 25-34 years with a higher education qualification exceeded that of men (28 percent and 23 percent respectively), whereas a decade earlier, the proportions for men and women aged 25-34 were both about 13 percent. Women are also increasing in the work force while men are declining (Pocock 2005a). However, with one in four workers being responsible for the care of children or the aged or the disabled, government and corporate assistance will be required to support this. Employers might offer childcare facilities to support the unsociable and longer work hours they require of their employees. The *Welfare to Work* reforms mean people looking for any sort of paid work, whether it is casual, impermanent or part-time, while still having considerable family and carer commitments. As Cass (2006) has noted, women who have been out of the workplace for a lengthy period with family commitments can face high barriers to re-entry.

WorkChoices Legislation

The Act, validated by the High Court on 14 November, 2006, defines an employee in s4AB as someone employed by an 'employer'. This definition clearly relies largely on the corporations power (s51[20] *Constitution*). An employer includes a business entity that is a constitutional corporation. This will cover the vast majority of workers, since according to the Federal Government's estimates in 2000; corporations employ at least 85percent of non-farm labour in Australia (Reith 2000).

The Act intends to override most of the existing State industrial relations jurisdictions (s7C). Notably, state laws (including state awards) will no longer be able to include provisions about pay rates. Generally, an award or workplace agreement prevails over a valid State law in the event of inconsistency. Many advances in the working rights of women have been made at the State rather than federal level. The new Australian Fair Pay Commission (AFPC) takes over many of the previous functions of the Australian Industrial Relations Commission (AIRC). In particular, the AFPC is responsible for the setting of minimum wage levels in Australia (s7I). The AIRC has been credited with greatly advancing equal pay for women. Peetz (2007) found that the first AFPC decision on minimum wages represented an average real wage cut of 1%; this decision affected mostly women.

The Act encourages the making of an individual employment agreement between an employer and employee, called an Australian Workplace Agreement (AWA). The Act provides for an expedited 'approval process' for an AWA – an agreement must be signed and dated by both parties, and the signatures must be witnessed. The agreement is lodged with the Employment Advocate but, unlike the previous system, there is no vetting of agreements. In the past, an AWA had to be approved by the Employment Advocate, who would make sure the agreement passed the 'no disadvantage' test.

Part VI provides for awards, focusing on their simplification and rationalisation. The amendments seek to reduce the number of awards, which currently total more than 4000 (Federal and State). Awards will be restricted in their content to 13 matters, a reduction from the current 20. Some topics are specifically excluded from awards, including transfers from one type of employment to another. This particularly affects women seeking conversion from part-time to full-time work. An employer has the right under the new laws to request an employee to work on a particular public holiday. The employee will no longer be guaranteed penalty rates for doing so, but these may be negotiated. Of course, unfair dismissal laws do not apply to casuals, a category of employment of particular relevance to women and to which we now turn.

PART II HOW THE ACTS COLLECTIVELY UNDERMINE WOMEN AT WORK

Our argument in this paper is that these changes impact on women to a disproportionate extent. This may not have been fully realised when the changes were introduced, given the lack of thought evidently given to the broader issue of industrial relations. In justifying our assertion that the Acts impact women to a greater extent, we consider now some aspects of the legislative changes considered most relevant to women.

1. The Act further encourages further casualisation of the workforce and this affects women more.

Australia has among the highest rates of casualisation in the OECD world. In 2003 the figure reached almost two million workers (26%). From 1994 to 2004 31 percent of female workers were employed on a casual basis, compared with men whose casualisation increased from 16 to 22% (ABS, 2006). Scholars have noted the tradition of the Australian labour market starts with the myth of the unencumbered worker, a person (read 'man', at least initially in the *Harvester case*) who is not 'encumbered' by family or domestic responsibilities (Berns 2002). The model assumed the man as the breadwinner, with the woman as homemaker and financially dependent on her husband. While thankfully the model has evolved over time, Berns sees the development of casual work for women as a fragmentation of the labour force into a core of male full-time unencumbered workers, supplemented by a periphery of female secondary workers.

The result of the legislative reforms, to remove restrictions in awards on the right of an employer to employ casuals, is expected to see a further increase in the number of casual employees, with 22% of all new jobs created since 1996 being casual. During the Howard Government, Australia has seen casual positions, compared to permanent ones, reach a 1:3 ratio. This means 2.3 million workers have no entitlements to holidays or sick leave, and cannot access unfair dismissal laws. One of the incentives for casual workers to trade-off security and entitlements, is the increased pay loading. Under *WorkChoices* this loading will be 20 percent but subject to change by the Fair Pay Commission. This loading aims to compensate casual employees for the lack of other entitlements, but is not enshrined. Casuals also have no access to unfair dismissal protections (which themselves have been watered down by the new laws).

Deregulation of the workforce will in most cases lead to increased casualisation (Dawkins & Norris 1990; Dawkins et al. 1993) This has particular implications for women, given their increased reliance on casual employment. Often women seeking work/life balance have little choice other than casual labour - 34.3 percent of women working casually have dependent children (ABS, 2001). Owens (1990), Gaze (2001) and Chapman (2005) have noted how the labour market and labour regulation continue to benefit the Harvester-worker at the expense of casual employees.

While increased casualisation creates a more flexible workforce and is desired by business, there is evidence that this change will impact women's wages. Women are already over-represented in the numbers of low-paid employees and earn about 85 per cent of male earnings for the same work (ABS, 2004, Cat.6302). Webster and Tseng (2002) found a positive correlation between wage rises of six percent or above and (male) gender during the early years of individual agreement making in Australia. Further, there was a much higher likelihood of wage rises for full-time employees than part-time or casual employees. A Canadian study by Jackson and Schellenberg (1999), supported by the work of Peetz (2005), found that 'casual workers fare worse under AWAs than collective agreements, compared to more permanent workers, with a gap of 15 percent', and concluded that, controlling for other factors

Collective bargaining coverage has significant positive impacts in terms of raising pay and access to benefits, and in terms of reducing the incidence of low pay among women workers (Jackson and Schellenberg 1999).

Pocock et al. (2004, 44) in an important study of casual employees in Australia note that '65 percent have a negative or very negative view of their casual terms'. Campbell and Brosnan (1999) see deregulation as increasing casual employment, given:

1. It widens the gap in protection as a result of exemptions and special provisions;
2. It lessens the likelihood of compliance with regulatory conditions due to its effect of limiting enforcement and limiting the legitimacy of compliance; and
3. It expands the poorly regulated and unregulated sectors outside of award coverage.

Casual workers often lack both control and influence in their employment (Hall et al. 1998) as well as suffering an obvious lack of job security (Burgess & Campbell 1998). An Australian Workplace Industrial Relations Survey 1995 found 35 percent of permanent employees satisfied with their influence over workplace decisions, compared with only 22 percent of casual employees. Casual employment masks the problem of underemployment (Burgess & Mitchell 2001). While it has been called flexible, the reality is that casual work does not

provide choice or flexibility for the worker. Pocock et al's (2004) study found 32 percent of casuals saw all flexibility belonging to the employer, at their expense. Women in violent relationships having uncertain job security are more likely to stay, even if the relationship is causing them harm.

Financial institutions are finding creative ways to maintain lending, for instance lending against equity in existing property, or low-documentation loans (at higher interest). However, if women have no property ownership, they are unlikely to be able to enter the property market while they are in casual employment. Single parents on low incomes do not have access to the options available to dual-income earners, particularly the self employed, in tax minimisation such as income-splitting, spouse superannuation contributions, family trust options and negative gearing in relation to shares and property. Of course, superannuation is not available to casual employees (as it is to permanent employees, whether full or part-time), so to the extent that a woman has been in casual employment throughout her career, that may impact on her ability to provide herself with a comfortable retirement.

Some workers are not clear even of the basis of their employment (see NSW Office for Women, Information Paper 2005 in which a survey of 5,000 younger workers (under 25) revealed half could not tell the difference between casual and permanent work and a quarter had never received a pay slip), then the likelihood of ensuring they have appropriate pay and conditions is doubtful. This lack of regularity in employment exacerbates the already burdensome notification requirements under social security law. As Knegt (2002) argues, more flexibility is required in social security law enforcement, taking into account the flexibility in labour laws and more hybrid transitory forms of employment.

The changes made by the Federal Government are likely to increase the percentage of the Australian workforce employed on a casual basis. This is likely to affect women more than men. There are a range of difficulties encountered by casual employees, as this section of the paper has noted. Thus, this change is likely to impact more on women.

2. Less Reliance on Awards is Generally Bad for Women; Greater Reliance on Bargaining is Generally Bad for Women

We have seen that under the changes, the number of awards is to be reduced 10 fold and their content reduced from 20 to 13 allowable matters. No doubt, the influence of awards is set to diminish in the industrial landscape in Australia.

This change particularly affects women. As Kirby J noted in *New South Wales v Commonwealth* (2006), that system is often credited with great advances in the working conditions of women in Australia in the past 50 years, including the right of equal pay for equal work. Norris (1986) credits Australia's award system with reducing the differential between the average wage levels of men and women to a much smaller level than in the United States or United Kingdom, as does Peetz (2007). Important test cases that have been heard by the AIRC include Maternity Leave (1979); Adoption Leave (1984); Parental Leave (1990); Carers' Leave (1994/95); Right to Refuse Unreasonable Overtime (2001); Right to Request Part-Time Employment After Parental Leave; and Request Variation in Work Hours (2005). Owens (2005) credits the work of the AIRC in creating more family-friendly flexibility in working conditions. As Peetz has noted (2007b), women are far more reliant on awards than men, and those reliant on awards have most to lose from *WorkChoices*, given the stripping back of award contents. The independence of the arbitrator is now lost, with the

Government replacing its role with the Fair Pay Commission to which it directly appoints members.

Prior to the introduction of *WorkChoices*, 60 percent of women were dependent on safety net standards. Peetz (2005) has noted that in 2005 casual workers (as indicated, women are over-represented in this category) on AWAs received 15 percent less income and women on AWAs received 11 percent less income than those on registered collective agreements, with individual agreements fixing wages for a longer time, up to five years. This move against collective bargaining goes against ILO principles which favour the collective right to bargain.

Women and Individual Bargaining

There exists concern about the extent to which women feel comfortable bargaining for their workplace rights. Kolb et al. (2003) claims women are not as assertive in standing up for their workplace rights as men (as a general proposition). Baird and Todd (2005) found the disparity between the wages of men and women was greater when individual agreements were being used. A survey by Niederle and Vesterlund (2005) found that women tended to shy away from competitive environments while men were keener to compete, despite there being no difference in their performance levels. Men were more confident about their talent, with three quarters believing they were the best in a group, compared to about 40 percent of women. Carney argues:

... there is no equality between the individual worker or welfare client (the 'consumer'), and the more powerful and more organised employer or welfare provider (Centrelink and/or the Job Network). The falsity of that assumption of 'equality' of bargaining power, exposes the intellectual bankruptcy of reforms which effectively oust/weaken public law protections (a reduced role for labour arbitration or welfare review), and which now leave non-standard workers vulnerable to contractual exploitation whether in work or not.

One area lack of bargaining power impacts is the ability to determine hours, particularly where a worker is casual and can be called in at short notice to cover high demand periods and left wondering if they will have hours when business is quiet. On-call employees are good for employers but the effect on the employee is considerable (Carney 2006, 30-31).

Peetz (2007a, 2007b), in comparing average hourly earnings for non-managerial employees, found that the rate for women was about 89% that of men in 2006 (down from 91% in 2004). The difference between rates of pay was greatest for women on individual agreements.

Further, of course the less one is paid, the less bargaining power the person has. Yet women are highly over-represented in the ranks of the low-paid; women comprise 47% of the workforce but 65% of all those earning less than \$500 per week (Australian Bureau of Statistics, 2004b). Further, the welfare changes discussed earlier encourage women back to the workforce once their children reach school age, in the way that benefits are reduced at this time. A woman in this position may not be in a strong bargaining position when she knows she has financial responsibility for the welfare of her children. A sole female parent who knows that if they knock back a workplace agreement lacking penalty rates, overtime, shift allowances, redundancy pay and leave loading, they may breach the new welfare rules and may be 'punished' by a temporary withdrawal of benefits, is not in a strong bargaining position. Strachan and Burgess (2000) point to the 'incompatibility of decentralised bargaining and equal employment opportunity in Australia'.

A study of Queensland Workplace Agreements in the late 1990s compared individual and enterprise agreements. For example, QWAs were found to be less likely to include family-

friendly measures, training, consultation and occupational health and safety provisions. Only one of the 122 QWAs studied referred to balancing work and family life, compared with 11 out of the 85 certified agreements (Australian Centre for Industrial Relations Research and Training (ACIRRT) 1999). Wilkinson (2005) has reviewed the effects of inequality at an international level and finds a direct correlation between greater inequality in income levels and levels of violence, community disintegration and poorer health outcomes.

In 1995, the ABS found that males doing overtime were paid about 45 percent of the time; women doing overtime were paid about 26 percent of the time. While differences in occupations may explain some of the difference, it is possible that some of the difference may be attributable to the willingness of workers to insist on their legal entitlements.

For these reasons, it is submitted that the move away from awards, and the move away from collective bargaining and towards individual bargaining, impacts greater on women.

3. Longer Working Hours Hurt Women More

It is clear that one of the effects of the legislation is likely to be that workers will work more hours. This reflects Berns' (2002) concept of Australian labour law and labour markets' assumption that workers are 'unencumbered' by family or domestic responsibilities, so they are available to work any time, and on short notice. This is a natural consequence of reducing the cost of labour (by removing a right to penalty and overtime rates), reducing the guarantee of annual leave (from four weeks to two) and by removing statements about maximum and minimum hours of work from awards. This is noteworthy, given evidence that already Australians generally work among the highest number of hours in a given week in the world, and this is increasing (Campbell 2005; Peetz et al. 2003; Pocock 2005a). Women's participation rates in the workforce continue to increase, at a time when four in ten Australian workers (mostly women) have responsibility for the care of someone else (Pocock and Masterman-Smith (2005)).

Pocock argues that unsociable working hours, which in 2000 included 64 percent of workers working overnight and on weekends (ABS, 2002, 132), impact on families:

Various international studies find that unsocial working time is associated with negative social, psychological and health effects for workers, and with emotional, developmental and cognitive problems in children (Pocock 2005b, 10).

Han (2005) also found

Negative effects of working non-standard hours on an adult's psychological (eg depression), social (eg marital instability), and physical (eg fatigue, quality of sleep) well being ... for example, working rotating shifts or irregular hours has been significantly associated with problems related to health, sleep and individuals' psychological performance ... Working at nights may alter the body's circadian rhythms, leading to sleep disruption, fatigue, digestive disorders, and a greater risk of cardiovascular disease ... Such adverse impacts on maternal well-being raise concerns about the potential impact – directly or indirectly – of mothers' non-standard schedules on their children's wellbeing

Families require predicability of work hours; children need routine. Holidays are a good opportunity for family time together. Pocock and Clarke (2004) showed that many children value time with parents over more money, regardless of socio-economic background. Families are being placed second in the demand for their lifestyle to change to fit business cycle demands and business and government must accommodate this imbalance. Campbell et al. (2005) note the number of hours worked is a shallow gauge, and more attention must be

paid to schedules and flexibility of hours. According to the 1995 AWIRS survey, stress-related illnesses for women increase as they work more hours. No similar effect appears for men working longer hours (Wooden 2000). It is thus a reasonable conclusion that one of the effects of the legislative changes will be to increase stress-related illness in women. An ACTU survey *Employment Security and Working Hours – A National Survey of Current Workplace Issues* (July 1999) found that 41 per cent of respondents reported being dissatisfied with the balance between work and family. That percentage is unlikely to drop as a result of the 2005 and 2006 changes.

While parents on NA or PPS do have a right to refuse a job if the hours are too long or if they occur when there is no child care available, they are in a difficult position if the hours required are unpredictable. If they leave the job for this reason, they need to convince Centrelink that it was justified. While the new rules allow this, the parent may not fully understand their rights.

Of course, sick leave is not a guaranteed right for casual employees, so to the extent that women are proportionately over-represented in the ranks of casual staff, this is an issue. Sick women will be forced either to take time off without pay, or attend work while sick. A single woman with a sick child who is in child care also faces the difficulty that child care centres will not accept a sick child. The mother may be forced to try to make short term arrangements (Winchester 1990, Lee 2005).

Other OECD countries have recognised the need to provide flexibility for workers with children (Fagan, 2004, Fagnani and Letablier, 2004). The UK *Employment Act 2002* gives parents with children under six the right to request flexibility in their work hours where they have 26 weeks or greater continuous work experience. Employers must consider these requests but can refuse on various grounds relating to the business needs. The Netherlands has more protective legislation in this regard in the *Working Time Adjustment Act 2000*. The AIRC *Family Provisions Test Case* also gave recognition to this issue but has been overturned by *WorkChoices* (Pocock 2005a).

Britain's *Employment Act 2002* (UK) has recognised the need for paid parental leave allowing for 26 weeks' paid leave, and the *Work and Families Act 2005* (UK) which introduces initiatives such as keep-in-touch days for workers on parental leave. New Zealand has recently increased the right of all workers, including casuals, to three weeks' paid holiday leave entitlements, with a further increase to four weeks in 2007. The ILO has recommended a base minimum of 14 weeks' paid parental leave. The minimum right to parental leave introduced in the *WorkChoices* legislation is substantially below that ordered by the AIRC *Family Provisions Test Case* on 8 August 2005, which is now overruled by the legislative changes. The case had given an employee entitled to parental leave (N.B. not all parents) a 'right to request' their employer to

- simultaneous unpaid parental leave up to a maximum of eight weeks
- extended unpaid parental leave from 52 weeks to a maximum of 104 weeks, and
- permission to return from parental leave on a part-time basis until the child reaches school age.

Such decisions of the AIRC will no longer be possible under the new legislation. The risk with the *WorkChoices* legislation is that even good employers will be forced to reduce employment conditions to meet the lowest in the market place, to be able to compete on a level playing field. By 1999, Australia rated seventeenth out of 20 countries studied by Jaumotte (2004) when comparing family support mechanisms. Only Spain, New Zealand and

Mexico fared worse. We should not expect AWAs will engender any enthusiasm for paid maternity leave (Baird 2005).

Of course, if women are expected to work more hours, accessible child care becomes important. This applies to two parent families but to a greater extent to sole parent families. Nearly one quarter of Australian families are sole parents and the predictions are for a continued growth in sole parent families (ABS, 2002), with the rate of young mothers returning to work rising. This is placing heavy strains on childcare. The Howard Government recognised this by removing the cap on the number of after-school care and family day-care places, leaving it to the market to determine the level of supply and demand. They estimated this will result in 25,000 additional childcare places by 2009. This change does not affect long-day care, which is not subject to centralised regulation although this is where the places are needed if women are to obtain secure full-time employment. Of course PPS recipients don't have to work until children are of school age, but the changes affect those who wish to work while their children are younger than this. Child care costs are rising, up by 50 percent since 2000, with access to the rebate of 30 percent restricted (Plibersek 2005). The Government's policy on childcare is an incomplete solution and does not address psychological and other health effects of long-day care for children (Knox et al. 2003). Deregulation of the childcare industry may well exacerbate these concerns, as the Government has not addressed the lack of qualified childcare workers.

Lee (2005) notes women employed full-time experienced more difficulty in obtaining childcare, emphasising the need for long-day care places and the fact that women are likely to seek part-time and casual employment to fit their carer roles. Lee's (2005) study did not factor in income in this conclusion. However, she noted that women working up to 14 hours a week relied on informal care, primarily grandparents. This raises implications for the demand that older workers remain in the workforce longer and for grandparents to go from welfare to work. Who will be there to look after the children? She also found that the HILDA data shows a disparity between the number of hours actually worked and the preference for hours worked. Mothers who worked fewer hours showed greater satisfaction but still had a preference to work longer hours while those mothers working longer hours had greater stress and a preference to work shorter hours. This may well demonstrate the difficulty in getting the right balance between work and family and supports Pocock's (2005a) assertions that the Australian labour framework offers part-time work as the only solution for mothers.

PART III CONCLUSION

The industrial relations changes, together with the welfare and tax reforms, demonstrate a clear ideological preference for OECD-based ideals favouring free market forces, and a move away from collective bargaining, unionism and the rights of workers. The protective function of industrial relations systems has largely been forgotten. The preference for employer flexibility is argued to lead to greater productivity. However, in a globalised competitive world, the challenge to make profits may well mean, despite the attempts of well intentioned employers to maintain reasonable working conditions for employees, employers will be compelled towards a 'race to the bottom' to maintain profit margins. The Berns description of the 'unencumbered worker' remains alive and well in this legislation.

This combination of legislation is bad for women because it:

- (a) gives the green light for even greater casualisation of the workforce – women are already over-represented in this category of workers; the paper has shown ways in

which employment protections for casually employed workers are not strong and the way in which this impacts women and families;

- (b) takes away the substantive power of the Australian Industrial Relations Commission, previously lauded as a key factor in improving working conditions for women over the years, reduces the safety net which women in particular rely on, and encourage people to negotiate individually, which as a generalization is more challenging for female workers than for male workers;
- (c) will lead to more hours at work for women, compromising the work-life balance even further, placing further stress on child care arrangements, when the right to paid parental leave in Australia remains unavailable to most workers;
- (d) encourages women away from welfare into a workforce with fewer protections than necessary and with increased penalties for failure to work, and less protection in welfare payments for the vulnerable.

Our argument is not that the Federal Government has set out to attack working women; rather it is that the full complexity of factors affecting women at work has been ignored in the ideological push for more 'flexibility' at work indicated by this legislation. It is this full range of factors considered collectively that shows the very negative social effects of the regime on women (and families more broadly), and should lead to a rethink of its foundations and its broader implications. The raft of legislation can in some instances be used to entrench the marginalization of women at work. It is not clear that this kind of socio-legal research was carried out prior to the introduction of the reforms. In considering the issue of women and the new laws, it is hoped that industrial relations is not thought of merely as a legal issue, but as a much larger complex social issue. Tinkering with one aspect can have unintended consequences elsewhere if the bigger picture is ignored. It is time for Australian industrial relations policy to embrace the concept of work/family balance rather than ignore a worker's non-work responsibilities.

References

- ACTU Survey *Employment Security and Working Hours – A National Survey of Current Workplace Issues* (July 1999).
- Anti Discrimination Commission Qld, Annual Report (2004-05) [Online], Available: http://www.adcq.qld.gov.au/pubs/annualreport2005/ADCQ14_10.pdf (Accessed 26 March 2006).
- Australian Bureau of Statistics (2004) *Measures of Australia's Progress*, Cat. No. 1370.0 2004. Canberra: ABS.
- Australian Bureau of Statistics (2004) *Labour Force, Australia*, Cat. No. 6202.0, October 2004. Canberra: ABS.
- Australian Bureau of Statistics (2004) *Average Weekly Earnings Australia* Cat No. 6302.0 February 2004 Canberra: ABS.
- Australian Bureau of Statistics (2004) *Employee Earnings, Benefits and Trade Union Membership 2004*, Cat No. 6310.0, 34. Canberra: ABS.
- Australian Bureau of Statistics (2006) *Year Book Australia*, 2006, Cat No. 1301.0 Canberra: ABS.
- Australian Bureau of Statistics (2001) *Forms of Employment 2001*, Cat No.6359.0, Canberra: ABS.
- Australian Bureau of Statistics (2002) *Australian Social Trends*, 2002, Cat No. 41020.0, Canberra: ABS.
- Australian Bureau of Statistics (2004) *Deaths, Australia*, Cat. No. 3302.0, Canberra: ABS.
- Australian Bureau of Statistics (2004b) *Employee Earnings, Benefits and Trade Union Membership* Cat. No 6310
- Australian Workplace Industrial Relations Survey 1995.*
- Australian Centre for Industrial Relations Research and Training (ACIRRT) *Trends in Queensland Workplace Agreements: Developments Since Amendments to the Workplace Relations Act 1997 and the Industrial Relations Act 1999.* Queensland: DETIR.
- Australian Chamber of Commerce and Industry (2005) *Workplace Reform – Working for Australian Women*, November 2005, Position paper.

- Australian Communication Exchange v DDT [2003] HCA 55.
- Baird M, Todd P (2005) *Government policy, women and the new workplace regime: a contradiction in terms and policies*. Proceedings of the AEU Federal Women's Conference, May 2005.
- Baird M (2005) Parental leave in Australia: the role of the industrial relations system. *Law in Context: Work, Family and the Law*, 23(1), 45-64.
- Berns, S *Women Going Backwards: Law and Change in a Family Unfriendly Society* (2002) Aldershot: Ashgate Publishing
- Bloom D, Winstead D *Sanctions and Welfare*. Policy brief, MDRC. [Online], Available: <http://www.mdrc.org/publications/191/policybrief.html> (Accessed 17 March 2006).
- Borland, Jeff and Woodbridge, Graeme Wage Regulation: Low Wage Workers and Employment in Sue Richardson ed (1999) *Reshaping the Labour Market: Regulation, Efficiency and Equality in Australia*
- Burgess J, Campbell I (1998) The nature and dimensions of precarious employment in Australia *Labour and Industry* 5, 8.
- Burgess J, Mitchell W (2001) The Australian labour market. *Journal of Industrial Relations* 43(2), 124.
- Campbell I, Chalmers J, Charlesworth S (2005) *The Quality of Part-time Jobs in Australia*. Towards assessment paper presented to the Transitions and Risk: New Directions in Social Policy Conference, Centre for Public Policy, University of Melbourne 23-25 February 2005.
- Campbell I, (2005) *Long Working Hours in Australia: Working-Time Regulation and Employer Pressures*. CASR Working Papers July, 2005.
- Campbell I, Brosnan P (1999) Labour market deregulation in Australia: the slow combustion approach to workplace change. *International Review of Applied Economics* 13(3), 353.
- Carney T (2006) Welfare to work, or work-discipline re-visited? *Australian Journal of Social Issues* 41(1), 27.
- Carney T, Ramia G (2002). *From Rights to Management: Contract, New Public Management and Employment Services*, Dordrecht, Kluwer Law International.
- Commonwealth of Australia (2002) *Intergenerational Report 2002-2003, Budget Paper No 5*. Canberra: AGPS.
- Cass, Bettina 'Care Givgin and Employment: Policy Recognition of Care and Pathways to Labour Force Return' (2006) 32 (3) *Australian Bulletin of Labour* 240
- Chapman, A 'Work/Family, Australian Labour Law and the Normative Worker' in Conaghan, J and Rittich, K ed *Labour Law, Work and Family* (2005), Oxford University Press
- Conaghan, J and Rittich, K ed *Labour Law, Work and Family* (2005), Oxford University Press
- Dawkins P, Norris K (1990) Casual Employment in Australia. *Australian Bulletin of Labour* 16(3), 156-173.
- Dawkins P, Norris K, Stromback T (1993) The Efficiency and Equity Implications of Labour Market Deregulation. In: Argy F, ed, *A Long Term Economic Strategy for Australia* CEDA Information Paper No. 36, 3.
- Edgar D. (2005) *Family Impact Statement: On 'Workchoices' – the proposed new Industrial Relations Regime*, Unions NSW, November 2005.
- Employment Act 2002* (UK).
- Employment and Workplace Relations Amendment (Welfare to Work) and Other Measures Act 2005* (Cth).
- Fagan, C (2004) 'Gender and Working Time in Industrialised Countries in Messenger, J H ed Working Time and Workers' Preferences in Industrialised Countries Abbingdon, Oxford 108-146
- Fagnani, J and Letablier, M T (2004) 'Work and Family Life Balance: The Impact of the 35-Hour Laws in France' 18 *Work, Employment and Society* 551-572
- Family Law Amendment Act 2005* (Cth).
- Final Report of the Reference Group on Welfare Reform (2000) *Participation Support for a More Equitable Society*, Department of Family and Community Services (McClure Report).
- Gaze, B (2005) Quality part-time work: can law provide a framework? *Labour & Industry* 15(3), 89-111.
- Gaze, B (2001) Working Part Time: Reflections on Practicing the Work-Family Juggling Act' 1 *QUT Law and Justice Journal* 199
- Gregory, Bob, Klug, Eva and Martin, Yew May 'Labour Market Deregulation, Relative Wages and the Social Security System in Sue Richardson ed (1999) *Reshaping the Labour Market: Regulation, Efficiency and Equality in Australia*
- Hall R, Harley B, Whitehouse G (1998) Contingent work and gender in Australia: evidence from the 1995 Australian Workplace Industrial Relations Survey. *Economic and Labour Relations Review* 9(1), 55-58.
- Han, W 'Maternal Non-Standard Work Schedules and Child Cognitive Outcomes' (2005) *Child Development* 76, 1, 137-157
- Harding et al. (2005a) *Options for Reducing the Adverse Impact of the Proposed Welfare-to-Work Reforms upon People with Disabilities and Sole Parents*. Report to the National Foundation for Australian Women, November 2005.
- Harding A, Ngu Vu Q, Percival R, Beer G (2005b) *The Distributional Impact of the Proposed Welfare-to-Work Reforms Upon Sole Parents*. Report to the National Foundation for Australian Women, August 2005.

- House Standing Committee on Family and Human Services, *Inquiry into Balancing Work and Family* 3 Feb 2006, Sydney: Parliament House.
- Household Income and Labour Dynamics in Australia (HILDA) Survey* 2004. University of Melbourne.
- Human Rights and Equal Opportunity Commission (HREOC) (2005) *Striking the Balance: Women, Men, Work and Family: Impact of the Proposed Welfare-to-Work Reforms upon People with Disabilities and Sole Parents*, Report to the National Foundation for Australian Women, 3 November 2005.
- Intergenerational Report Budget Paper No 5, 2002-2003 Budget*, Commonwealth Treasury
- Jaumotte F (2004) *Female Labour Force Participation: Past Trends and Main Determinations in OECD Countries*. Geneva: OECD Economics Department.
- Jackson A, Schellenberg G (1999) Unions, collective bargaining and labour market outcomes for Canadian working women: past gains and future challenges *Research Report 11, Canadian Labour Congress*.
- Kahn-Freund O (1972) *Labour and the Law*. London: Stevens.
- Knegt R (2002) Culpably unemployed. In: Berghman J, Nagelkerke A, Boos K, Doeschot R, Vonk G eds, *Social Security in Transition*, 215-128. The Hague: Kluwer Law International.
- Knox V, London A, Scott E (2003) *Welfare Reform, Work, and Child Care: The role of informal care in the Lives of Low-Income Women and Children*, MDRC. [Online], Available: <http://www.mdrc.org/publications/353/policybrief.pdf> (Accessed 20 March 2006).
- Kolb D, Frohlinger C, Williams J (2003) Why don't people get paid what they're worth? (and some ideas about what to do about it). *The Negotiator Magazine* January 2003.
- Lee J (2005) *The Work-Child Care Interface: How Working Women With Young Children Combine Work and Child Care*. Employment Studies Centre Working Paper 2005, 4.
- McClure Report (2000) (McClure, Patrick *Participation Support for a More Equitable Society*, commissioned by Minister for Family and Community Service)
- McDonald P (2003) Reforming family support policy in Australia. *People and Place* 11(2), 1-15.
- Marx, Karl *Capitalism: A Critique of Political Economy* (1906 ed)
- Moore, Des 'Why Labour Market Players Should Have Freedom to Contract' (2005) 38 *Australian Economic Review* 192
- NATSEM (2005) The Distributional Impact of the Proposed Welfare-to-Work Reforms Upon Sole Parents and People with Disabilities', presented at the 34th Conference of Economics, University of Melbourne, p8
- Niederle M, Vesterlund L (2005) *Do Women Shy Away from Competition? Do Men Compete Too Much?* Draft Working Paper June 2005, Stanford University: Department of Economics.
- Norris K (1986) The wages structure: does arbitration make a difference? In: Niland J, ed, *Wage Fixation in Australia*, 183-201, Sydney, Allen & Unwin.
- OECD (2004) *Strengthening Growth and Public Office for Women, NSW Premiers Department survey of 5,000 younger workers*. Ministerial Council Background Paper, 13-14 May 2004. [Online], Available: www.women.nsw.gov.au/PDF/FS2Employment.pdf (Accessed 26 March 2006).
- Owens, R 'The Peripheral Worker: Women and the Legal Regulation of Outwork' in Thornton, M ed *Public and Private: Feminist Legal Debates* (1990)
- Owens, R 'Taking Leave: Work and Family in Australian Law and Policy' in Conaghan, J and Rittich, K ed *Labour Law, Work and Family* (2005) *Oxford University Press*
- Parental Leave and Employment Protection Act 1987*.
- Peetz D, Townsend K, Russell B, Houghton C, Allan C (2003) Race against time: extended hours in Australia. *Australian Bulletin of Labour* 29(2), 126-142.
- Peetz D (2005) Lies, AWAs and statistics. *Workers Online*. [Online], Available: http://workers.labor.net.au/features/200506/b_tradeunion_awas.html (Accessed 21 March 2006).
- Peetz, D 'Collateral Damage: Women and the WorkChoices Battlefield' (2007b), paper presented at AIRAANZ Conference
- Peetz, D (2007) Assessing the Impact of WorkChoices One Year On, report commissioned by the Department of Innovation, Industry and Regional Development, Victoria
- Pocock B (2005a) Work-life 'balance' in Australia: limited progress, dim prospects. *Asia Pacific Journal of Human Resources* 43(2), 198-209.
- Pocock B (2005b) *The Impact of The Work Place Relations Amendment (Work Choices) Bill 2005 (or "Work Choices") on Australian Working Families*. Paper Prepared for Industrial Relations Victoria.
- Pocock, B and Masterman-Smith, H 'WorkChoices and Women Workers' (2005c) 56 *Journal of Australian Political Economy* 126
- Pocock B, Prosser R, Bridge K (2004). *Only a Casual... How casual work affects employees Households and Communities in Australia*. Unpublished paper.
- Pocock, B and Clarke, J (2004) *Can't Buy me Love? What Young Australians Think of Parental Work, Time, Guilt and Their Own Consumption*, The Australia Institute, Canberra

- Plibersek T (2005) Speech to Childcare Associations Australia Annual Conference, 21 October 2005, Melbourne [Online], Available: <http://www.alp.org.au/media/1005/specchwomwfcyou210.php> (Accessed 20 March 2006).
- Polanyi, K *The Great Transformation: The Political and Economic Origins of our Time* (1944) Beacon Books, Boston
- Ramia, Gaby, Chapman, Anna and Michelotti, Marco 'How Well do Industrial Relations and Social Policy Interact? Labour Law and Social Security Law in the Social Protection of Sole Parents' (2005) 21 *International Journal of Comparative Labour Law and Industrial Relations* 249-279
- Reith P (2000) *Breaking the Gridlock: Towards a Simpler National Workplace Relations System*. Discussion Paper 1.
- Rice Walker Actuaries (2004) *Women In Retirement... Face an Up Hill Battle* [Online], Available: http://www.ricewalker.com/FileLib/analysis_09october04_women_and_retirement.pdf. (Accessed 24 March 2006).
- Rider C (2005) Using tax and social security to reconstruct the part-time labour market: a note on 'Welfare to Work'. *Australian Journal of Labour Law* 18, 302-312.
- Ryan, Matthew 'Workplace Relations Reform, Prosperity and Fairness' (2005) 38 *Australian Economic Review* 201
- Sarfati, H 'Interaction Between Labour Market and Social Protection Systems: Policy Implications and Challenges for the Social Partners' (2003) 19 *International Journal of Comparative Labour Law and Industrial Relations* p253-265
- Sex Discrimination Act 1984* (Cth)
- Strachan, G and Burgess, J 'The Incompatibility of Decentralised Bargaining and Equal Employment Opportunity in Australia' (2000) 38 *British Journal of Industrial Relations* 361
- Superannuation Guarantee (Administration Act) 1992* (Cth)
- Thornton, M ed *Public and Private: Feminist Legal Debates* (1990)
- Van der Ah P, van Berkel R (2002) Challenges for an activating welfare state. In: Bergman J, Nagelkerke A, Boos K, Doeschot R, Vonk G, eds, *Social Security in Transition*. The Hague: Kluwer Law International.
- Webb, Beatrice and Sidney *Industrial Democracy* 1897
- Webster E, Tseng Y (2002) The determinants of relative wage change in Australia. *Australian Economic Review* 35(1), 70-84.
- Wilkinson RG (2005) *The Impact of Inequality: How to make Sick Societies Healthier*. London: Routledge.
- Winchester HPM (1990) *Women and children last: The poverty and marginalization of one-parent families*. *Transactions*, Institute of British Geographers 15,70-86.
- Wong, P (2006) *Reward for Effort: Meeting the Participation Challenge, A Discussion Paper on Australia's Workforce Participation Issues*
- Wooden M (2000) *The Changing Labour Market and its Impact on Work and Employment Relations*. Paper Presented at ASSA Workshop on the Future of Work and Employment Relations, University of Sydney, November, Melbourne Institute of Applied Economics and Social Research, University of Melbourne.
- Wooden, M (2005) Workplace Relations Reform: Where to Now?' 38 *Australian Economic Review* 176
- Work and Families Act 2005* (UK).
- Working Time Adjustment Act 2000* Netherlands.
- Workplace Relations Amendment (Work Choices) Act 2005* (Cth).
- New South Wales v Commonwealth* (2006), unreported High Court of Australia, 14/11/06