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- (c) Government policies and practices that relate to legal education and research;
- (d) Professional development opportunities for legal academics;
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**WORRY TO WOMEN OF WELFARE TO WORK & WORK
CHOICES**

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I INTRODUCTION

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 wrought unprecedented changes to Australia's workplace relations and welfare system with complex and dense legislation. This paper considers the two pieces of legislation highlighting the more significant aspects and then focuses on the casualisation of labour and some of the areas in which this impacts on women and families such as unsocial hours, superannuation savings for women and uncertain income:

The main object of labour law has always been, and I venture to say will always be, to be a countervailing force to counteract the inequality of bargaining power which is inherent and must be inherent in the employment relationship.¹

The five day Senate inquiry in November 2005 into the 678 pages of complex *WorkChoices* legislation did not consider the interplay between this legislation and the *Welfare to Work* legislation that led to fundamental changes to Australia's system of industrial relations and welfare.

This paper considers firstly changes under the *Welfare to Work* legislation, and then important aspects of the *WorkChoices* legislation, and how they work together to impact on women in the specific area of casualisation of the workforce. Casual work in the changed social security environment impacts on childcare, superannuation savings and family-life balance. These issues are considered together with comparative assessments from other Organisation for Economic Co-operation and Development (OECD) countries.

¹ Otto Kahn-Freund, *Labour and the Law* (1972) 8.

II WELFARE TO WORK

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

This 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. The changes are stated by Government to encourage these groups back into the workforce and away from welfare dependency by removing them from pensions to benefits. The Government advocates that the best way to help parents and children is to help the parents find a job. This denies the individuals ability to make the assessment for themselves and raises the question is any job better than no job?

From 1 July 2006 the Parenting Payment for new claimants will be restricted to persons whose youngest child is less than six years of age.² Sole parents whose youngest child is over six years of age (eg school age) will be required to look for at least 15 hours of work a week although they will be allowed to remain on the Parenting Payment (PPS) until their youngest child turns eight years of age.³ When their youngest child turns eight years they will be placed on the Newstart Allowance (NA). This allowance imposes an activity test that requires the receiver to seek work (making ten job applications a fortnight) and accept between 15 to 25 hours of work a week.⁴ The recipient is required to accept a job offer, refusal leading to a penalty. A further penalty is the inability to be placed on NA if a person leaves their employment voluntarily.⁵ Parents already on the Parenting Payment as at 1 July 2006 are required to seek part-time employment of at least 15 hours a week but they will continue to receive the Parenting Payment until their youngest child reaches the age of 16 years.⁶

² *Social Security Act 1991* (Cth) s 605.

³ *Ibid.*

⁴ Above n 2, s 607.

⁵ *Employment and Workplace Relations Amendment (Welfare to Work) and Other Measures Act 2005* (Cth) sch 4, item 8 penalties for compliance failures for PP; *Ibid* sch 7, item 73 Penalties for compliance failures NA. A NA is not payable for a period of 8 weeks for repeat or serious breaches of a Newstart Activity Agreement.; For further penalties see above n 2, s 500ZE PP, 629 NA.

⁶ Above n 2, s 500F.

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Legislative definitions are given of unsuitable work. This encompasses jobs where there is no suitable childcare or appropriate schooling, or the costs of outside school hour's care render the job financially unviable. Parents also do not have to accept jobs that require travelling in one direction for more than 60 minutes or where the cost of travel makes the job financially unviable or costs more than 10 per cent of the gross wage.⁷

The Act exempts certain categories of persons from the participation requirements where recent domestic violence has occurred, they care for a disabled child, they are a foster carer, home educator or distant educator or fall into a prescribed category, and the latter is likely to include principal careers of large families.⁸

A person receiving a Parenting Payment is currently entitled to an education supplement amounting to A\$62.40 a fortnight. Newstart recipients on the other hand are required to look for work at the same time as they engage in education, if they so choose. For a supporting parent this will leave little time for family and leisure.

Various concessions are made to sole parents such as access to the Pharmaceutical Allowance, Pensioner Concession Card and Employment Entry Payment with easing of the income test from 70 per cent to 60 per cent and the increasing of the threshold from A\$142 per fortnight to A\$250 per fortnight. Government estimates are that by 2008-09: 95 100 sole parents and 26 100 partnered parents will be affected, and around 4 800 will receive no payment.⁹ This policy change seems far from family friendly and tends to contradict the Governments desire to have mothers stay out of the workforce and look after children.

This later policy is engineered through the Governments changes to the Family Tax Benefit (A) and (B). Second earners in a family, often the woman, are put at a disadvantage by paying tax and losing their FTB (B) if they earn over the threshold.

⁷ Above n 5, sch 4, item 7 PP; sch 7, item 41NA.

⁸ Above n 2, ss 602B - 602C.

⁹ Terry Carney, 'Welfare to work, or work-discipline re-visited?' (2006) 41(1) *Australian Journal of Social Issues* 27.

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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 FTB (A) and Parenting Payments if a partner's income is high are also a disincentive to work, and usually this applies to the woman.¹⁰ It is clear this policy aims to have one parent, invariably the women, being the non-wage earning carer as parents on high incomes cannot choose to share the care and work equally. This is due to the fact FTB (B) aims to compensate single income families having access to only one tax-free threshold.¹¹

Table 2: Summary of the Newstart Allowance and Parenting Payment Single Payments for Sole Parents with One Child, 2006-07a

	Parenting Payment Single (PPS)	Newstart Allowance (NSA)	Difference
	\$ pw	\$ pw	\$ pw
Payment rate for those with one child	\$257	\$228 ^b	-\$29
Amount of income that can be earned before payment is reduced	\$76	\$31	-\$45
Withdrawal rate for each \$ of private income above this threshold	40%	50%	+10%
Second income test threshold	na	\$125	
Withdrawal rate for each \$ of private income above this threshold	40%	60%	+20%
Income support cuts out when private income reaches this point (cut-out point)	\$718 ^c	\$426 ^c	\$292

a These are the estimated averaged payment rates and thresholds that will apply in 2006-07. The actual payment rates vary at various points throughout the financial year, in line with indexation arrangements. All figures rounded to nearest whole dollar.

b This includes \$2.90 a week of Pharmaceutical Allowance, which the government has said will also now be paid to Newstart Allowees who are sole parents.

c This includes the effect of the \$2.90 a week of Pharmaceutical Allowance.

Source: Specially created version of STINMOD/05A

Source: *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 (2005) [17].

¹⁰ Peter McDonald, 'Reforming Family Support Policy in Australia' (2003) 11(2) *People and Place* 1, 6

¹¹ Human Rights and Equal Opportunity Commission (HREOC), Sex Discrimination Unit, *Striking the Balance: Women, men, work and family* (2005), 107.

The ideologically based reforms of Government intrude into the private sphere of the family and often result in imbalance and inequity, favouring particular parties. The fact is that women now form a substantial part of our workforce and have entered into tertiary education¹² and decision making roles more than ever before with a corresponding positive impact on the growth of our economy. However, children, the aged and disabled remain to be cared for and in order to benefit all of society more help from the government and corporate employers is required to achieve this. One possibility would be for employers to offer childcare facilities to support the unsocial and longer work hours they require of their employees. The *Welfare to Work* reforms set up policy changes which will have people looking for any sort of job, subject to the few exemptions, while still having considerable family and carer commitments. The question arises with these, often vulnerable people, being required to participate in the workforce, what sort of world has been established by the *WorkChoices* legislation for them to engage with.

III SIGNIFICANT CHANGES UNDER THE *WORKCHOICES* LEGISLATION

A Workplace Relations Amendment (Work Choices) Act 2005 (Cth)

Changes made by *WorkChoices*, and validated by the High Court on 14 November, 2006, are said to be designed to encourage high employment, improved living standards, low inflation and international competitiveness through higher productivity and a more flexible labour market. The Howard Government claims the changes will lead to a simplified national system of workplace relations, while providing a safety net for workers. At the heart of the changes are the encouragement given to individual employer and employee bargaining, and the further decentralisation of employee relations decision-making.¹³

¹² Australian Bureau of Statistics (ABS) *Measures of Australia's Progress*, 1370.0 (2004). In 2003, the proportion of women aged 25-34 years with a higher education qualification exceeded that of men (28 per cent and 23 per cent respectively), whereas a decade earlier the proportions for men and women aged 25-34 were both about 13 per cent.

¹³ *Workplace Relations Amendment (Work Choices) Act 2005* (Cth) s 3 of the Act sets out the main objects. They include also ensuring compliance with minimum standards, industrial instruments and bargaining processes by providing effective means for the investigation and enforcement of employee entitlements, and the rights and obligations of employers, employees and their organisations, ensuring awards provide minimum safety net entitlements for award-reliant employees

The Act defines an employee in s 4 AB as someone employed by an 'employer'. This definition clearly relies largely on the corporation's power.¹⁴ 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 85 per cent of non-farm labour in Australia.¹⁵

Clearly the intention is to override most of the existing State industrial relations jurisdiction. This is evidenced in s 7C of the amending Act which states that the law excludes State or Territory industrial law, State laws regarding employment generally, that deal with all leave (excluding long service leave), that provide for a court or tribunal to deal with remuneration, that provide for the variation of an employment agreement on the grounds of fairness, and laws governing rights of entry to the workplace to unions (excluding entry on the ground of occupational health and safety). In effect, State laws dealing with any of the above matters will no longer apply.

However, State laws relating to other work-related matters, including discrimination, superannuation, workers' compensation, occupational health and safety, child labour laws, long service leave, public holiday (observance, not pay rates), method and frequency of payment of wages or salaries, deductions from wages and salaries, apprenticeship matters (not pay rates), industrial action, and jury service can continue to apply. Notably, state laws (including state awards) will no longer be able to include provisions about pay rates. Generally, an award of workplace agreement

consistent with Australian Fair Pay Commission decisions and which avoid creating disincentives to bargain at the workplace level, supporting harmonious and productive workplace relations, balancing the right to take industrial action for the purposes of collective bargaining at the workplace level with the need to protect the public interest, ensuring freedom of association, protecting the competitive position of young people in the labour market, assisting employees to balance their work and family responsibilities, preventing and eliminating discrimination in the workplace, and assisting in giving effect to Australia's international obligations regarding labour standards.

¹⁴ *Australian Constitution* s 51(xx).

¹⁵ Peter Reith, 'Breaking the Gridlock: Towards a Simpler National Workplace Relations System', (Discussion Paper No. 1: The Case for Change, 2000) <<http://mediacentre.dewr.gov.au/mediacentre/AllReleases/2000/October/LaunchofBreakingtheGridlockTowardsASimplerNationalWorkplaceRelationsSystem.htm>> at 20 March 2007.

prevails over a valid State law in the event of inconsistency.¹⁶ This has implications for women when we consider that many of the advances for women in the workplace in recent times have occurred at the State level.

The Act establishes the Australian Fair Pay Commission (AFPC), which will take 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.¹⁷

The legislation provides some safety net of wage entitlements through the Australian Fair Pay and Conditions Standard (AFPCS). These are guaranteed minimum entitlements, and any workplace agreement that provides for lesser entitlements for employees will be invalid.¹⁸ The AFPCS applies to five conditions of employment: (1) basic rates of pay and casual loadings,¹⁹ (2) maximum ordinary hours of work,²⁰ (3) annual leave,²¹ (4) personal leave,²² (5) parental leave.²³

The Act encourages the making of an individual employment agreement between an employer and employee, called an Australian Workplace Agreement (AWA).²⁴ The preference to individualisation, namely contracts negotiated on an individual basis between corporate employers and individual employees are likely to lead to the

¹⁶ Above n 13, s 7D, subject to exceptions dealing with occupational health and safety, workers' compensation, apprenticeships, or other prescribed matters.

¹⁷ Above n 13, s 7I.

¹⁸ Ibid s 89A(2).

¹⁹ Called the Australian Pay and Classification Scales (APCs).

²⁰ Above n 13, s 91C(3), stated as 38, plus 'reasonable additional hours'. The average number of weekly hours can be averaged over a 12 month period.

²¹ Ibid s 92E, generally four weeks, with ability for the employee to 'cash out' up to half of this.

²² Ibid s 93E.

²³ Ibid s 89(2), of course, this protection is substantially below that recently ordered by the AIRC in the Family Provisions Test Case, which included up to 24 months' unpaid parental leave after the birth of a child, the right for employees to request part-time work on their return to work from leave, and a new right for casuals to take some family leave, and of course does not offer paid parental leave, a standard in many other Western countries. See, eg, the new United Kingdom arrangements found in the *Employment Act 2002* (UK) which provides for paid parental leave (as does New Zealand) and *Work and Families Act 2005* (UK) which introduces initiatives such as keep in touch days for workers on parental leave.

²⁴ Ibid s 96; Ibid, s 98, employees must be given appropriate information about the agreement before being asked to sign it.

degrading of employment positions. Women on awards earn 83 per cent of male earnings while those on AWA's earn 60 per cent of the mean earnings of men on AWAs.²⁵ Collective agreements may be made between employees collectively (with or without union involvement) and an employer.²⁶ However, collective agreements will be overtaken by individual agreements over time. This move against collective bargaining goes against International Labour Organisation (ILO) principles which favour the collective right to bargain and is even harsher than the USA requirements which permit collective bargaining where more than 50 per cent of workers desire unionisation.

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.²⁷ The agreement is then lodged with the Employment Advocate but, unlike the previous system, there is no vetting of agreements. In the past, an AWA has had to be approved by the Employment Advocate, who would make sure the agreement passed the 'No Disadvantage' test. In other words, in the past the Employment Advocate would check to make sure that the agreement did not, on balance, make the worker worse off than the worker would have been under the relevant award. The No Disadvantage test does not appear in the new regime, and the Employment Advocate will no longer be able to reject an agreement. Mandatory²⁸ and prohibited²⁹ content of an AWA is prescribed.

The amendments make it a serious offence, punishable by a maximum of 60 penalty units, to engage in or organise, or threaten to engage in or organise, any industrial action, take or threaten to take other action, or refrain or threaten to refrain from taking any action, intending to coerce another person to agree, or not to agree, to

²⁵ ABS, *Employee Earnings and Hours*, 6306.0 May (2004).

²⁶ Above n 13, ss 96A, 96B.

²⁷ Ibid 98C, a parent or guardian will be involved if the employee is under 18.

²⁸ Ibid ss 101, 101A-C.

²⁹ Ibid s 101D-F.

make, approve, lodge, vary or terminate a collective agreement. Similar provisions apply to AWAs.³⁰

The amendments recognise some existing rules regarding industrial action, but also make some changes. Industrial action is defined broadly in s 106A to include refusal to attend for work, refusal to work, bans or limits on work, or performing work in a manner different from how that work is usually conducted, with the effect of delaying performance of the work. It includes an employer locking employees out.³¹ Industrial action may either be 'protected' action or 'unprotected' action. It is beneficial that industrial action be protected because during this time, no action may be brought against those involved in such action (apart from personal injury, or theft or destruction of property),³² and an employer cannot dismiss an employee for engaging in protected action.³³

In order to make action 'protected', it must occur during a bargaining period.³⁴ The bargaining period commences seven days after such notice is given.³⁵ It must be after the expiry of the existing agreement. The bargaining period ends once an agreement has been reached, when one party tells the other they no longer wish to make a collective agreement, or if the period is terminated.³⁶ The Commission can terminate a bargaining period on various grounds, including that it is satisfied either party is not genuinely trying to reach an agreement, that the industrial action is endangering life, that the action is adversely affecting the parties to the dispute and third parties.³⁷ The new laws also give the Minister power to terminate a bargaining period.³⁸ If workers

³⁰ Ibid s 104.

³¹ Subject to exceptions involving reasonable concerns about health and safety.

³² Above n 13, s 108L.

³³ Ibid s 108M.

³⁴ This period is initiated by one party giving the other written notice to the other, and the Commission, stating their wish to make a collective agreement with the other.

³⁵ Above n 13, s 107C.

³⁶ Ibid s 107E.

³⁷ Ibid ss 107G, 107J.

³⁸ Ibid s 112, allows this to occur if the Minister is satisfied industrial action is being taken, or is threatened or probable, and such action is or would adversely affect the negotiating parties, provided the action would endanger the life or safety of Australians or damage the Australian economy.

continue to engage in industrial action after such a declaration, they are then engaged in unprotected industrial action, and can be sued and/or dismissed as a result.

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,³⁹ a reduction from the current 20. Some topics are specifically excluded from awards.⁴⁰ These changes will allow a further increase in the number of employees employed on part-time and casual arrangements. Australia already has one of the highest percentages of casualised workforces in the world.⁴¹ During the Howard Government Australia has seen casual positions compared to permanent reach a one in three 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, trading lack of security and entitlements is the increased pay loading.⁴² Under *WorkChoices* this increase will be 20 per cent and subject to change by the Fair Pay Commission.

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 so doing, but these may be negotiated. The Act (as amended by the Senate) allows the employee to refuse the request, and take the day off, if they have reasonable grounds for so doing.⁴³

³⁹ Above n 13, s 116, including ordinary hours of work (including rest breaks), incentive-based payments and bonuses, annual leave loadings, ceremonial leave, public holidays, allowances for employment-related expenses, further skill requirements or site conditions, overtime or shift loadings, penalty rates, redundancy pay, stand-down provisions, dispute resolution procedures, types of employment, and conditions of outworkers.

⁴⁰ Above n 13, s 116B, including union rights to be involved in dispute resolution procedures, the number or proportion of employees that an employer may employ in a particular type of employment (eg casual), prohibitions on an employer employing workers in a particular type of employment (eg casual), maximum or minimum hours of work for regular part-time employees, restrictions on the engagement of independent contractors, and restrictions on the engagement of labour hire workers.

⁴¹ ABS, *Year Book Australia* Cat. No.1301.0 (2006).

⁴² Above n 13, s 90I (1).

⁴³ Ibid s 170AE; Ibid s 170AI, the employer cannot prejudice the employee for so doing. In terms of transitional provisions, the Act lays down special rules for workers who were, at the time the amendments were passed, subject to an individual State employment agreement or a collective State employment agreement. These workers are able to take advantage of any State law conferring rights regarding annual leave, leave loadings, parental or carer's leave, termination notice, redundancy pay, overtime or shift loadings, penalty rates, or rest breaks for either the duration of the agreement, a

Small businesses, defined as those with fewer than 15 employees, are excluded from the need to pay redundancy pay.⁴⁴ Further, the Act limits the application of unfair dismissal rules, by restricting them only to employers of more than 100 staff. The maximum acceptable probationary period, during which time the unfair dismissal rules do not apply, has been increased from three to six months. 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.

IV CASULISATION OF LABOUR

A casual employee is employed on a daily arrangement working varying hours with no guarantee of continuing employment and none of the entitlements regarding leave and other conditions that a permanent employee will attract.⁴⁵ The move to casualisation of the work force is believed to advantage business by providing greater flexibility. However OECD countries are moving away from such arrangements finding that both business and workers requirements can be satisfied by working together rather than in opposition.⁴⁶

Next to Spain, Australia is alone amongst OECD countries in having the highest level of casual employment.⁴⁷ In 2003 the figure reached almost two million workers or 26 per cent.⁴⁸ 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

maximum of three years after the agreement was made, when the agreement is terminated or when a new one is negotiated, whichever is earliest (sch 15). Similar rules apply to those on State awards.

⁴⁴ Above n 13, pt VIAAA.

⁴⁵ The AIRC has made determinations that employees status as casuals may in fact be regular on-going employment and is dependent on the nature of the employment. In *Y.S.B.Cetin re Y.S.B.Cetin v Ripn Pty Ltd t/a Parkview Hotel*, AIRC, 25 September 2003, the AIRC stated: ... 'informality, uncertainty and irregularity of an engagement supports a conclusion that the employment has the characteristic of being casual. Conversely regular and systematic engagements with a reasonable expectation of employment are usually not characteristic of casual employment.'

⁴⁶ Barbara Pocock, 'The Impact of The Work Place Relations Amendment (Work Choices) Bill 2005 (or 'Work Choices') on Australian Working Families' (Paper prepared for Industrial Relations Melbourne, Victoria, November 2005) 5.

⁴⁷ Ibid 10.

⁴⁸ ABS, *Australian Social Trends*, Cat No 41020.0 (2005).

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number of casual employees.⁴⁹ This has particular implications for women, given that ‘participation in casual employment is weighted to women’.⁵⁰

The majority of casual employees happen to be women with 81.1 per cent in part-time casual positions in 2004. This may be considered the only way for women to gain a work-life balance, when presented with little alternative choice: it is noted that 34.3 per cent of women working casually have dependent children.⁵¹

Casual Employees	Percentage	
	Male	Female
Full time	53.9	18.9
Part Time	46.1	81.1

Percentage of male and female casuals working both full-time and part-time in 2004.

Source: Australian Bureau of Statistics (ABS) *Employee Earnings, Benefits and Trade Union Membership* Cat No 6310.0 (2004) 34.

A casual workforce is acceptable where irregular fluctuations in labour demand exist and only short-term labour is required. However, the reality is that positions that do not really qualify as casual positions have nevertheless become labelled as such. It has been demonstrated by the HILDA survey that many people employed as casuals, up to 84 per cent, have been in that position for long periods of time and in terms of wage opportunities casuals have been worse off.⁵² Pocock, Prosser and Bridge in an important study of casual employees in Australia note that ‘65 per cent - have a negative or very negative view of their casual terms’.⁵³ Casual employment benefits

⁴⁹ It has been observed generally that deregulation of the workforce will in most cases lead to increased casualisation: See Peter Dawkins and Keith Norris, ‘Casual Employment in Australia’ (1990) 16 *Australian Bulletin of Labour* 156; Peter Dawkins, Keith Norris and Thorsten Stromback, ‘The Efficiency and Equity Implications of Labour Market Deregulation’ in Fred Argy (ed) *A Long Term Economic Strategy for Australia*, 3 Committee for the Economic Development of Australia (CEDA) Information Paper No 36 (1993) [69]; and Economic Planning and Advisory Commission, *Future Labour Market Issues for Australia*, Commission Paper No 12 (1996).

⁵⁰ Iain Campbell and Peter Brosnan, ‘Labour Market Deregulation in Australia: The Slow Combustion Approach to Workplace Change’ (1999) 13(3) *International Review of Applied Economics* 353, 372.

⁵¹ ABS, *Forms of Employment*, Cat No.6359.0, 9-10 (2001).

⁵² Household Income and Labour Dynamics in Australia (HILDA) *Survey Annual Report 2004*, 26..

⁵³ Barbara Pocock, Rosslyn Prosser and Ken Bridge, *Only a Casual... How casual work affects employees Households and Communities in Australia* (2004) 44.

employers by placing less restrictive requirements on them in regard to their obligations to employees.

Campbell and Brosnan⁵⁴ see the general effect of deregulation as increasing casual employment given three factors:

1. It widens the gap in protection as a result of exemptions and special provisions (NB the new laws specifically exclude casual workers from unfair dismissal protection);
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.

Surveys have also pointed to the lack of control or influence that casual workers can feel towards their employment,⁵⁵ or lack of job security.⁵⁶ Casual employment may mask a problem of underemployment.⁵⁷ While it has been called flexible the reality is that casual work does not provide choice or flexibility for the worker. Women in casual employment are faced with

- unpredictable, unsociable and long hours
- barriers to individual bargaining
- uncertainty in relation to childcare arrangements
- uncertain income

⁵⁴ Campbell and Brosnan, above n 50, 374.

⁵⁵ Australian Workplace Industrial Relations Survey 1995, with 35 per cent of fulltime employees satisfied with their influence over workplace decisions, compared with only 22 per cent of casual employees. See also Richard Hall, Bill Harley and Gillian Whitehouse, 'Contingent Work and Gender in Australia: Evidence from the 1995 Australian Workplace Industrial Relations Survey' (1998) 9(1) *Economic and Labour Relations Review* 55.

⁵⁶ John Burgess and Iain Campbell, 'The Nature and Dimensions of Precarious Employment in Australia' (1998) 8 *Labour and Industry* 5.

⁵⁷ Mark Wooden, 'Underemployment in Australia' *Labour Economics and Productivity* (1993) 5, 95. On underemployment more generally see John Burgess and William Mitchell, 'The Australian Labour Market' (2001) 43(2) *Journal of Industrial Relations* 124.

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- regular notification requirements with Centrelink and penalty provisions
- minimal and uncertain superannuation payments
- no holiday, sick leave or carers leave entitlements
- lack of job security and the ability to forward plan
- lack of skill training and advancement opportunities
- issues of self-worth and significantly greater health and relationship issues.

Australia compares unfavourably with many other OECD countries in its balancing of work and family. Jaumotte noted in a comparative study that most other OECD countries have higher participation rates for women in paid work and far less in part-time positions.⁵⁸ As of August 2004 the part-time participation rate of Australian women was 46 per cent compared to OECD countries being around 25 per cent.⁵⁹ An inflexible labour market with unsatisfactory tax incentives and childcare support has shown a correspondingly low engagement of the female workforce in OECD countries.⁶⁰ In 1999 Australia rated seventeenth out of twenty countries studied by Jaumotte when comparing family support mechanisms. Only Spain, New Zealand and Mexico were lower.⁶¹

A Unpredictable, Unsociable and Long Hours

Australians generally work among the highest number of hours in a given week in the

⁵⁸ Florence Jaumotte, 'Female Labour Force Participation: Past Trends and Main Determinations in OECD Countries' (OECD Economics Department 2004) 12-5.

⁵⁹ ABS, *Labour Force*, Cat No 6202. O (2004).

⁶⁰ OECD, 'Strengthening Growth and Public Finances in an ERA of Demographic Change' (Ministerial Council background paper 13-14 May 2004) 10.

⁶¹ New Zealand has since introduced a system of parental law as; *Parental Leave and Employment Protection Act 1987* (NZ): Either parent, including same sex couples, where they have been in paid employment for 10 or more hours with the same employer for a full year before the birth or adoption of their child are eligible for payment up to 13 weeks. Currently, this is NZ\$357.30 per week (or NZ\$18 579.60 per year) before tax or 100 per cent of their previous weekly earning whichever is lower. They can take the remainder of the 52 weeks on unpaid leave. While some steps toward this had occurred in Australia at the state level the new *WorkChoices* legislation grants a minimum entitlement to twelve months unpaid maternity leave, no doubt due to its obligations under the ILO Declaration on Fundamental Principles and Rights at Work.

world.⁶² Given that the legislation removes statements about maximum and minimum hours of work from awards, provides for an ordinary working week of 38 hours per week averaged over one year, allows for the removal of penalty and overtime rates from agreements, and allows employees to cash out up to half of their annual leave entitlement, it is fair to assume that one of the results of these changes will be to increase the number of hours that employees find themselves at work. Indeed, one of the stated objectives of the legislation is to improve productivity, and it might be assumed that increasing the number of hours that a worker is at work will achieve this. How will these affect women?

Pocock argues unsocial working hours which in 2000 were around 64 per cent of workers working overnight and on weekends,⁶³ impacts 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.⁶⁴

Predictability of work hours is one of the things families need. Anyone who has had children knows the basic necessity for routine. Families are being placed second in the demand for their lifestyle to change to fit business cycle demands and business and government have not done sufficient to accommodate this imbalance. Campbell, Chalmers and Charlesworth⁶⁵ note the number of hours worked is a shallow gauge and much more attention needs to be paid to schedules and flexibility of hours. They note night work still present's risks to health through its effects on the circadian rhythms.

⁶² Australia is placed in the top category with the United States, United Kingdom, New Zealand and Canada: Iain Campbell, 'Long Working Hours in Australia: Working-Time Regulation and Employer Pressure's (Centre for Applied Social Research Working Papers, 2005) 2; See also David Peetz, Keith Townsend, Bob Russell, Chris Houghton, and Cameron Allan, 'Race Against Time: Extended Hours in Australia' (2003) 29(2) *Australian Bulletin of Labour* 126.

⁶³ Pocock, above n 46; ABS, *Australian Social Trends*, Cat No 4102.0, 132 (2002).

⁶⁴ *Ibid* 11.

⁶⁵ Iain Campbell, Jenny Chalmers and Sara Charlesworth, 'The Quality of Part-time jobs in Australia: Towards Assessment' (Paper presented at the Transitions and Risk: New Directions in Social Policy Conference, Centre for Public Policy University of Melbourne 23-25 February 2005) 12.

B Barriers to Individual Bargaining

As indicated, at the heart of the changes in the *WorkChoices* legislation is the further encouragement to be given to individual workplace agreement making at the expense of collective bargaining. Individual agreement making has been encouraged since 1996, however the Federal Government has been concerned at the low take-up, and hence the 2006 changes are designed to make it easier to make individual agreements by reducing the steps involved in having such an agreement registered and by removing the need for an individual agreement to pass the no-disadvantage test.

There is evidence that this change is likely to impact on women to a greater extent than men. Research on wage changes during the 1997-2000 period (eg. just after the formal introduction of individual agreement making) has found a positive correlation between wage rises of six per cent or above during that time and gender, specifically maleness.⁶⁶ Further, there was a much higher likelihood of wage rises for full-time employees than part-time or casual employees. As will be seen, women tend to be more highly represented in those categories of employment, so the change will also indirectly impact women. A Canadian study (supported by the work of Pocock and others)⁶⁷ 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.⁶⁸

Another issue is the extent to which workers feel comfortable bargaining their workplace rights with employers. It is argued that women are not as assertive in

⁶⁶ Elizabeth Webster and Yi-Ping Tseng, 'The Determinants of Relative Wage Change in Australia' (2002) 35(1) *Australian Economic Review* 70.

⁶⁷ Barbara Pocock, 'The Impact of the Workplace Relations Amendment (Work Choices) Bill 2005' (Paper prepared for Industrial Relations Victoria, November, 2005) found that 'casual workers fare worse under AWAs than collective agreements, compared to more permanent workers with a gap of 15 per cent; See also David Peetz, 'The Impact on Workers of Australian Workplace Agreements and the Abolition of the No Disadvantage Test' (Department of Industrial Relations, Griffith University, Brisbane 2005).

⁶⁸ Andrew Jackson and Grant Schellenberg, 'Unions, Collective Bargaining and Labour Market Outcomes for Canadian Working Women: Past Gains and Future Challenges' (Research Report No 11, Canadian Labour Congress, 1999) 7.

standing up for their workplace rights compared with men⁶⁹ (as a general proposition). There is some evidence to support this. A recent United States study 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 also more confident about their talent, with three quarters believing they were the best in a group, compared to about 40 per cent of women.⁷⁰

A study of overtime arrangements in Australia found that males doing overtime were paid about 45 per cent of the time; women doing overtime were paid about 26 per cent of time.⁷¹ 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.⁷²

The progressive reduction in importance of awards heralded by the new legislation should also be seen in the light that the award 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.⁷³ Individual agreements as opposed to collective agreements have been shown to put women at an 11 per cent disadvantage with individual agreements fixing wages for a longer time, up to five years.⁷⁴

Decisions of AIRC have through the test cases provided some of the greatest advancements in gaining equality for women and families. The independent

⁶⁹ Deborah Kolb, Carol Frohlinger and Judith Williams, 'Why Don't People Get Paid What They're Worth? (And Some Ideas About What To Do About It)' (January 2003) *The Negotiator Magazine* <<http://www.negotiormagazine.com/article43.html>> at 20 March 2007.

⁷⁰ Muriel Niederle and Lisa Vesterlund, 'Do Women Shy Away from Competition? Do Men Compete Too Much?' (Draft Working Paper, Department of Economics, Stanford University, June 2005).

⁷¹ ABS, *Working Arrangements Australia* (August 1995); Campbell and Brosnan see above n 50.

⁷² NSW Premiers Department Office for Women, 'Women and Employment' (Fact Sheet 2, 2006) <www.women.nsw.gov.au/PDF/FS2Employment.pdf> at 20 March 2007 produced a survey of 5 000 younger workers (under 25) which revealed half of the workers could not tell the difference between casual and permanent work and a quarter have never received a pay slip. Ignorance was higher among young women employees than young men.

⁷³ Gillian Whitehouse, George Lafferty and Paul Boreham, 'From Casual to Permanent Part Time? Non-Standard Employment in Retail and Hospitality' (1997) 8(2) *Labour and Industry* 33.

⁷⁴ Peetz, above n 67, 1.

arbitration role of AIRC, which is removed by the *WorkChoices* legislation, provided a balance for the vulnerable with limited bargaining power against corporate employers and the Government who opposed most of the rulings in the test cases run before AIRC.⁷⁵ The independence of the arbitrator is lost with the Government directly appointing members to the Fair Pay Commission.

C Uncertainty in relation to childcare arrangements

Almost one quarter of Australian families are sole parents and the predictions are of a continued growth in sole parents and dual income/carer families.⁷⁶ Male and female participation in the paid workforce is becoming equalised and the rate of young mothers returning to work has also risen. This is placing heavy strains on childcare. The Government in its last budget recognised this by making provision for A\$266 million in expenditure on childcare. However, the cost of childcare has risen 50 per cent since 2000 with access to the rebate of 30 per cent restricted.⁷⁷ While government policy is trying to accommodate childcare needs the outcome seems haphazard and variable in its success rate. Further the policy does not address psychological and other health effects of long-term day care for children.⁷⁸

OECD countries are recognising the need to provide flexibility for workers with children. The *Employment Act 2002* (UK) gives parents with children under six the right to request flexibility in their work hours where they have 26 weeks or greater continuous work. Employers must consider these requests but can refuse on various

⁷⁵ Important test cases before AIRC: 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 to request variation in work hours (2005).

⁷⁶ ABS, *Social Trends: Pathways from School to Work*, Cat No 4102.0 (2005).

⁷⁷ Tanya Plibersek, 'Speech to Childcare Associations Australia Annual Conference' (Paper presented at Childcare Associations Australia Annual Conference, Melbourne, 21 October 2005) <<http://www.alp.org.au/media/1005/speccwomwfcyou210.php>> at 20 March 2007.

⁷⁸ Virginia Knox, Andrew London and Ellen Scott, 'Welfare Reform, Work, and Child Care: The role of informal care in the Lives of Low-Income Women and Children' (Manpower Demonstration Research Corporation (MDRC)) <<http://www.mdrc.org/publications/353/policybrief.pdf>> at 20 March 2007.

grounds relating to the business needs.⁷⁹ The Netherlands has even more stringent legislation in this regard.⁸⁰

D Uncertain income

Peetz has noted that in 2005 casual workers on AWAs received 15 per cent less income and women on AWAs received 11 per cent less income than those on registered collective agreements.⁸¹ It is important to note that the earnings of women over their lifetime shows much greater inequality due to time spent out of the workforce in unpaid carer roles.⁸² Breusch and Gray have calculated that women with average education levels forgo the following potential incomes: A\$247 000 for the first child, an additional A\$130 000 for a second child, and a further A\$70 000 for a third child.⁸³

Not only do uncertain income levels lead to a general state of insecurity but life becomes a day-to-day affair with no ability to make future plans. The treadmill of a daily existence prevents women from improving their outcome. They cannot access loans to secure mortgages, or for education and self-improvement. The possibilities of leisure are reduced leading to a less than satisfactory existence. This reality has resulted in a trend towards 'downshifting' or 'sea changes' where the desire to lead a happier more fulfilling life outweighs monetary desires. Such people often opt out of being an employee in favour of self-employment or subsistence living.⁸⁴

⁷⁹ *Employment Act 2002* (UK).

⁸⁰ *Working Time Adjustment Act 2000* (Netherlands); See also AIRC Family Provisions Test Case 2005..

⁸¹ David Peetz, 'Lies AWA's and Statistics' (June 2005) *Workers Online* <http://workers.labor.net.au/features/200506/b_tradeunion_awas.html> at 20 March 2007.

⁸² Bruce Chapman, Yvonne Dunlop, Matthew Gray, Amy Liu and Deborah Mitchell, 'The Impact of children on the lifetime earnings of Australian .. evidence from the 1990s' (2001) 34 *The Australian Economic Review* 4.

⁸³ Trevor Breusch and Edith Gray, 'New Estimates of Mothers' Forgone Earnings Using HILDA Data', (2004) 7(2) *Australian Journal of Labour Economics* 125, 144.

⁸⁴ Tanya Plibersek, Employers must support families, not harm them, *The Age* (Sydney) 31 December 2003 <<http://www.theage.com.au/articles/2003/12/30/1072546526568.html>> at 20 March 2007..

E Regular notification requirements with Centrelink and penalty provisions

Along with the extra demands these reporting requirements place on women's time is the complexity caused by a constantly changing income and often, for the vulnerable low skilled worker lacking in education, considerable oversight can occur. Regular changes in income require regular reporting to Centrelink such interactions and demands can eventually deter employees from claiming any benefits.⁸⁵

Further research is needed in Australia to determine the effect sanctions have on families. In the USA more stringent enforcement and harsher penalties have been found to be a destructive experience disproportionately affecting the most vulnerable families.⁸⁶

F Minimal and uncertain superannuation payments

Superannuation Guarantee Scheme payments are not made on behalf of casuals who earn less than A\$450 a month, are over the age of 65 years or under the age of 18 and work less than 30 hours a week. Women have a longer life span on average than men⁸⁷ making savings in retirement more essential as it has to last longer and yet women tend to spend less time in the paid workforce due to child rearing and they earn less than men on average. Women therefore need to make extra contributions to their super, closer to twice that of men to have a modest retirement income. Rice Walker Actuaries argue young women have to have a 5.6 per cent contribution and women in their late 50s a 34.3 per cent contribution to maintain a basic lifestyle in retirement.⁸⁸

There exists inherent uncertainty with casual employees in regard to superannuation. Often with casuals moving from job-to-job maintaining track of superannuation

⁸⁵ Dan Bloom and Don Winstead, 'Sanctions and Welfare Reform', *Welfare Reform and Beyond*; Policy Brief No 12 Brookings Institute (2002).

⁸⁶ Ibid.

⁸⁷ ABS, *Deaths Australia*, Cat. No. 3302.0 (2004), with the median age at death for women 83 and men 78 years.

⁸⁸ Rice Walker Actuaries, *Women In Retirement... Face an Up Hill Battle* (2004) <http://www.ricewalker.com/FileLib/analysis_09october04_women_and_retirement.pdf> at 20 March 2007.

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payments can be a problem. This is recognised by the Governments changes to the *Superannuation Guarantee (Administration) Act 1992* (Cth) to introduce the Superannuation Holding Accounts Special Account (SHASA) for employers to deposit itinerant or casual workers superannuation contributions. If an employee does not access their account and it remains inactive for 10 consecutive financial years the account is transferred to the Consolidated Revenue. While an individual can claim this amount there is no obligation on the Australian Taxation Office to notify employees, the onus to keep track of these small sums of money is on the individual.

The High Court in *Australian Communication Exchange v DDT* [2003] HCA 55 considered the issue of casual superannuation under the Queensland Clerical Employees Award and determined that under that award superannuation contributions were due only in relation to those hours worked at the base rate of pay. This would have the effect of excluding hours worked where the casual was paid at a rate over the base rate.

Failure to support women in successfully saving for their retirement, when they live longer, will only place a greater burden on the State or leave older women in a destitute state of poverty. As can be seen from the following table women are saving far less than men.

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AVERAGE SUPERANNUATION SAVINGS IN FOUR MAJOR FUNDS - JULY, 2004

FUND	FEMALE MEMBERS	MALE MEMBERS	FEMALE AVGE A/C	MALE AVGE A/C
REST 1,378,168 members	868,245 63%	509,923 37%	A\$3 873	A\$3 621.78
STA 396,702 members	98,786 25%	297,916 75%	A\$7 727	A\$12 889
ARF 581,715 members	274,193 47%	307,522 53%	A\$7 738	A\$10 793
UNISUPER 140,933 accumul. members	79,267 56%	61,666 44%	ICP = A\$55 449.39 APP = A\$13 874.15	ICP = A\$97 969.76 APP = A\$18 560.03

Source: Diana Olsberg, 'Women's Financial Prospects in Retirement' *HREOC* July 2004.

G No holiday, sick leave or carers' leave entitlements

Without leave entitlements casual workers have no option but to attend work when ill, or leave ill children or dependent adults in unsatisfactory circumstances. The choice, if it can be considered one, is to go without income. Added difficulties prevail where a woman is a single parent as most responsible childcare centres exclude sick children. This leaves mothers having to find often unsatisfactory informal care at short notice.⁸⁹ Further research needs to be made on the numbers and age of children being left to care for themselves.

Britain has recognised the need for paid parental leave with the introduction of legislation to allow for 26 weeks paid leave.⁹⁰ New Zealand has recently increased all

⁸⁹ Hilary Winchester, 'Women and Children Last: The poverty and Marginalization of One-Parent Families' (1990) 15(1) *Transactions of the Institute of British Geographers* 70.

⁹⁰ See above n 23; See also n 80.

workers including casuals paid holiday leave entitlements to three weeks with a further increase to four weeks in 2007.⁹¹ And now the AIRC decision in the Family Provisions Test Case on 8 August 2005 gives an employee who is entitled to parental leave (NB not all parents) a 'right to request' their employer to

- simultaneous unpaid parental leave (eg. where both parents are on leave) up to a maximum of eight weeks
- extend unpaid parental leave from 52 weeks to a maximum of 104 weeks, and
- permit a return from parental leave on a part-time basis until the child reaches school age to assist the employee in reconciling work and family responsibilities (NB school-age has been left undefined to accommodate the different ages for commencing school in the different States).

Employers are obliged to consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the employer's business. Grounds such as cost, loss of efficiency, lack of adequate replacement staff and the impact on customer service may be taken into account. Such decisions of the AIRC will be missed under the reformed position.

H Lack of job security and the ability to forward plan

Casual employment presents a combination of circumstances that prevents women from planning their lives and improving their circumstances and that of their children, particularly for single parents. Casuals feel trapped waiting to be called up for work and so don't feel they have flexibility to plan for family events. In Pocock et al's study 32 per cent of casuals saw all flexibility belonging to the employer at their expense.⁹² Women in violent relationships having uncertain job security are more likely to stay even if the relationship is causing them harm. Financial institutions are

⁹¹ See above n 23; See also n 61.

⁹² Pocock, Prosser and Bridge, above n 53, 46.

trying to find creative ways to maintain lending. However, if women have no property ownership they are unlikely to be able to enter the property market while they are in casual employment.

I Lack of skill training and advancement opportunities

Many women are entering tertiary level education.⁹³ However this has implications for childcare when one considers most degrees take three years for completion and single parents put on Newstart when their youngest child reaches six years of age will have to be looking at retraining up to three years earlier when their child is three years old. Campbell et al note that '[c]ontinued access to training is vital in a fast-changing economy... [w]here training is not provided ... the cost both to the worker and to the broader economy can be large'.⁹⁴

Casuals miss out on training and skill development leading to career progression, promotional opportunities and therefore access to greater income. More students on casual contracts are finding they are expected to work at short notice with the threat of dismissal if they don't. This can have an immense impact on their attendance at classes and exams. Further research on the impacts this has on tertiary level study is needed.⁹⁵

J Issues of self-worth, significantly greater health issues and relationships arise

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.⁹⁶ It is thus a reasonable conclusion, based on the 1995 data that one of the effects of the legislative changes will be to increase stress-related illness in women. An ACTU survey conducted in 1999 found at that stage that 41 per cent of respondents reported

⁹³ See above n 12.

⁹⁴ Campbell, Chalmers and Charlesworth above n 65, 17.

⁹⁵ Fred Argy, *Where to from here? Australian Egalitarianism Under threat* (2003).

⁹⁶ Mark Wooden, '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, Melbourne, 2000).

being dissatisfied with the balance between work and family.⁹⁷ That percentage is unlikely to drop as a result of the 2005 and 2006 changes.

Ms Sheridan Dudley, Chief Executive Officer, Job Futures Ltd in her submission to the Standing Committee on Family and Human Services 2006 indicated a need to recognise different work patterns and move away from the category of 'casual' in order to recognise 'periodic employment with one employer'. Such a change would give the employee greater self esteem rather than being seen only as a casual with little entitlements.⁹⁸ Wilkinson 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.⁹⁹

The demands on relationships can be considered twofold. Firstly, women may be forced to remain in violent relationships to save having to face the uncertainties of the new employment climate. An employment climate in which as a casual you may receive a moments notice that your job is terminated places women in further vulnerable positions vis-à-vis their employers and their demands if the women does not want to loose her job. The only remaining protection in this regard is the *Sex Discrimination Act 1984* (Cth). However, one has to have the will and desire to bring a case to obtain the protection. Secondly, it is well documented that casual employment, often involving unsocial hours, is destructive to families, relationships and to children's development.¹⁰⁰

Families in their many forms are still the building blocks of our community; they are the glue that holds societies together. The type of working life that the *WorkChoices* neoclassical economic model imposes can only lead to the demise of the society. The idea of free market forces is based on costing theories and not practical realities.

⁹⁷ ACTU, *Employment Security and Working Hours – A National Survey of Current Workplace Issues* (July 1999).

⁹⁸ Commonwealth, *Family and Human Services, Balancing work and Family: 2006 House of Representatives Standing Committee* (Friday 3 February 2006) 57.

⁹⁹ Richard G Wilkinson, *The Impact of Inequality: How to make Sick Societies Healthier* (2005).

¹⁰⁰ Don Edgar, 'Family Impact Statement: On WorkChoices – The Proposed New Industrial Relations Regime' *Unions* (November 2005) 170.

Realities, such as single mothers forced back into the workforce, with the *Welfare to Work* changes, with little or no skills, expected to negotiate with a corporation a fair and balanced contract in a minefield of complex legislation that many lawyers are finding hard to navigate.¹⁰¹

V CONCLUSION

The Howard Government has transformed the industrial relations landscape overnight. This change together with harsher welfare reforms demonstrates a clear ideological preference for free market forces and a move away from collective bargaining, unionism and the cherished rights of workers. The Australian community is yet to see the impact these radical changes will work on our culture and way of life. The USA style 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. Instead of improving the conditions of workers around the world by leading the way in raising employment conditions we are running the risk of reducing our labour conditions to those of our third world competitors.

With increasing numbers of employees going into casual employment, with little work protection and security for their rights but much flexibility for the employers we see the scales tipped too far to the side of employers in the employment relationship with long term repercussions for families and communities.

¹⁰¹ Ron McCallum, 'A Unique Attack on Workers' Rights' Speech delivered at the National Press Club, Canberra, 16 November 2005) said he had 'never seen such complex legislation'.