

How Union Campaigns on Hours and Casuals are Threatening Low-skilled Jobs

Kayoko Tsumori

EXECUTIVE SUMMARY

For several years now Australian unions have been waging campaigns to limit working hours and the growth in casual employment in the name of improving workers' well-being. Yet these campaigns are little more than an attempt to impose uniform rules on the entire workforce, thereby discouraging workers from opting out of collective bargaining by preventing them from individually negotiating their own pay and conditions. Moreover, the evidence used to support these campaigns does not stand up to closer scrutiny.

The campaign to limit working hours ('the hours campaign') is based on the claim that an increasing number of Australians are working longer hours to the detriment of their family life, health and safety. But although the incidence of longer working hours has grown in recent years, studies demonstrate that long hours *per se* do not adversely affect family life and general well-being. It has also been shown that if working hours were capped, labour costs for employers would most likely increase, forcing them to cut jobs. For low-paid workers, shorter working hours would erode their income by reducing their overtime earnings and destroying their jobs.

The casuals campaign aims to give casual employees the right to convert to permanent employment after six months with the same employer. The assumption is that casual jobs are 'inferior' to permanent jobs. But casual employees seem just as satisfied with their jobs as permanent employees while the growth of casual employment appears to reflect workers' preference for flexibility. Moreover, for the less educated and less skilled, casual employment can serve as a stepping stone to other job prospects. If such a regulation were introduced, employers might stop hiring casuals or replace casuals with fewer permanent employees. The low-skilled unemployed would therefore be further deprived of employment opportunities.

There are, of course, some workers who struggle to balance work and non-work commitments and/or have trouble moving from casual into permanent employment. But introducing uniform regulations to cater for this minority would affect the majority who are currently satisfied with their hours or casual employment arrangements. A less collectivised approach is necessary. Unions must allow individual employers and employees to work out their respective problems at enterprise or workplace levels.

Introduction

Workers negotiate their pay and conditions in two main ways. One involves collective action, whereby they join together in a trade union and seek higher wages, shorter hours, longer holidays, and so on for everybody. The other possibility is individual bargaining, whereby workers individually negotiate their pay and conditions with their employers. Compared with collective bargaining, the latter allows greater flexibility. For example, one worker might want to put in a lot of overtime to boost earnings while another might want to forgo annual leave entitlements and instead receive higher wages. Such individualised arrangements would be impossible under a collective agreement that limits overtime hours and prohibits the cashing out of leave entitlements.

In practice, many workers engage in both types of bargaining at the same time. But the importance of collective bargaining tends to diminish in inverse proportion to individual bargaining. For workers who discover they are capable of successfully negotiating individual agreements, union membership becomes less attractive. This weakens the influence, and even the *raison d'être*, of unions.

To discourage workers from opting out of collective action, union leaders can use either positive or negative incentives.¹ Positive incentives are rewards for remaining loyal to the union. They may include, apart from the successful outcome of collective bargaining, special home loan offers, cheaper health insurance, exclusive membership of recreational facilities, and so on. Negative incentives can involve peer pressure and intimidation. Less obvious but just as pernicious is to set up a closed shop, which excludes the employment of non-union workers.

The most effective negative incentives are those that impose uniform rules on the whole workforce, thereby preventing workers from individually negotiating their own pay and conditions. Two of the campaigns currently being waged by Australian unions provide a good example of this. The first, which seeks to limit hours of work, is based on the claim that an increasing number of Australians are working longer to the great detriment of their family life, health and safety.² Unions thus want hours of work reduced by law.

For workers who discover they are capable of successfully negotiating individual agreements, union membership becomes less attractive.

Low skills are a major cause of joblessness

Australia's unemployment rate fell to a 22-year low of 5.6% in October 2003.¹ Unemployment—or more broadly, joblessness—nevertheless remains a pressing issue.² There are alarmingly large sections of the population that simply do not or cannot move out of joblessness. These include the long-term unemployed, some young labour market participants and members of jobless households—all of whom are more likely to lack skills:

- In October 2003, nearly 40% of the unemployed had previously held an occupation that is considered low-skilled ('elementary clerical, sales and service workers' or 'labourers and related workers');³
- While the long-term unemployment rate (the proportion of those unemployed for over a year to all those unemployed) in recent years has declined approximately in tandem with that of unemployment, more than one in five unemployed persons still had spent more than a year out of work.⁴ A large proportion, 43.8%, of the long-term unemployed were low-skilled, although this is probably a reflection of the fact that the low-skilled are overrepresented among the unemployed to begin with;
- Young labour market participants almost by definition lack education, experience and skills. The unemployment rate is accordingly high among youth. In October 2003, 14.3% of labour force participants aged 15 to 19 were unemployed in spite of the very low overall unemployment rate;⁵
- In 2001, nearly 15% of households had no adult members in paid work. Some 10.9% of adults and 14.6% of children lived there.⁶ Of adults in jobless households who had no qualification beyond primary school, 45.6% were in jobless households in 2001, whereas the corresponding figure for those who had completed secondary school was just 9.3%.⁷

Notes

- ¹ Australian Bureau of Statistics (ABS), *Labour Force, Australia*, ABS Cat. No. 6202.0 (Canberra: ABS, October 2003), Table 2.
- ² Unemployment is not necessarily synonymous with joblessness. The unemployed refer to those who are out of work and are looking for a job. The jobless are also out of work but may or may not be looking for a job. They consist, in other words, both of those unemployed and of those 'not in the labour force'.
- ³ See Note to Figure 3, p.5.
- ⁴ Derived from ABS, *Labour Force, Australia*, ABS Cat. No. 6203.0 (Canberra: ABS, February 2003), Table 25.
- ⁵ ABS, Australian Bureau of Statistics (ABS), *Labour Force, Australia*, ABS Cat. No. 6202.0 (Canberra: ABS, October 2003), Table 7. This figure, however, may somewhat overstate the extent of the problem, because unemployed youth are much less likely to remain unemployed over a long period of time than their adult counterparts. An estimate by the ABS shows that, while around 39% of adults (aged 25 to 54) who had been unemployed in one month were no longer unemployed in the following month, the corresponding figure for unemployed teenagers (aged 15 to 19) was about 48%. A large proportion of these teenagers (29.3%) left the labour force rather than moved into employment. This arises from the fact that the ABS monthly Labour Force Survey includes those who are in full-time education but are actively looking for part-time work. They may, for instance, only seek work during breaks just to leave the labour force upon returning to study (ABS, 'Labour Market Transitions of Teenagers', *Australian Labour Market Statistics*, ABS Cat. No. 6105 (Canberra: ABS, October 2003), 14).
- ⁶ Rosanna Scutella and Mark Wooden, *The Characteristics of Jobless Households in Australia: Evidence from Wave 1 of the Households Income and Labour Dynamics in Australia (HILDA) Survey*, a paper presented at the Australian Social Policy Conference (Sydney: Social Policy Research Centre, The University of New South Wales, 9-11 July 2003), Table 2.

The other campaign is directed against the growth of casual employment. Casual employees, it is argued, suffer from ‘greater insecurity’ and ‘economic stress’ due to irregular hours of work and lower earnings than their permanent counterparts.³ The unions argue that one way to improve the conditions of casual employment is to provide an entitlement for casual employees to convert to permanent employment after six months with the same employer.⁴

These campaigns are intended to improve workers’ well-being. But that is only a half-truth. The unions are, in the name of shielding workers from the allegedly adverse effects of long hours or casual work, closing off opportunities for individuals to make their own decisions about their own working lives according to their own needs and preferences. Moreover, the claims underlying both campaigns are supported by evidence which does not stand up to closer scrutiny. The hours and casuals campaigns would also end up further increasing the risk of joblessness among the low-skilled (see box).

Limiting hours worked

In 1998 the Australian Council of Trade Unions (ACTU) launched the Reasonable Hours campaign, which sought to introduce into the awards system a uniform definition of ‘unreasonable hours of work’. Its centrepiece was a claim that two extra days paid leave be provided for workers who have worked given numbers of days or hours over given periods of time.⁵ A test case was subsequently opened in November 2001 and concluded eight months later. The Australian Industrial Relations Commission (AIRC) accepted employees’ right to refuse ‘unreasonable’ overtime—overtime that might pose a risk to health and safety or have a negative effect on family responsibilities—but otherwise rejected the ACTU’s claims.⁶ The campaign is far from over, and the ACTU is now considering calling for a cap on the number of hours worked per week, which was not among its original claims.⁷ In a separate campaign, the Australian Manufacturing Workers’ Union in early 2003 sought a 36-hour week across the manufacturing industry, though it was unsuccessful.⁸

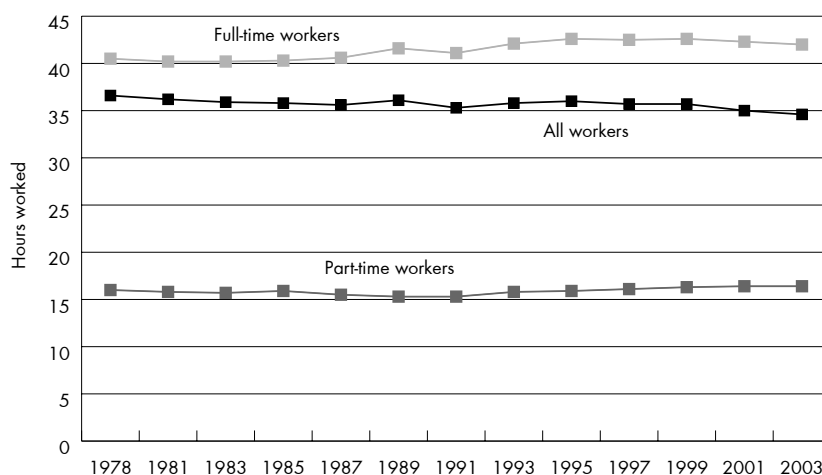
These campaigns by Australian unions follow similar initiatives by the European Union, whose Directive on Working Time limits the total of ordinary and overtime hours to 48, and particularly France, which introduced a law capping weekly working hours at 35 in 1998.⁹ The law—sometimes called the Aubry law after Martine Aubry, the former labour minister responsible for it—was touted as an effective way to restore work-life balance. It was also claimed that it would help cut the country’s chronically high unemployment by enabling workers to share work. Yet the French government is now under pressure to repeal the law, as will be discussed later.

The unions’ case for shorter hours is based on two claims. The first is that Australians are spending more and more hours at work and that limiting hours by law would boost employment as has allegedly occurred in France.¹⁰ The second is that longer hours of work are undermining health and safety as well as family life.

Can workers share hours?

Figure 1 shows that the number of hours worked per week, on average, has hardly changed since 1979 in Australia. Part-time hours have remained more or less constant, although full-time hours have somewhat increased. In 2003, an average full-time worker was working 1.2 hours a week longer than in 1979.

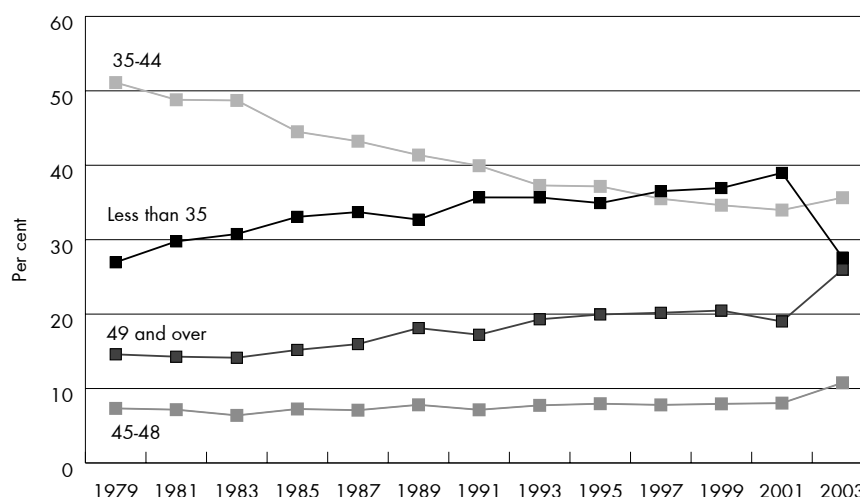
Figure 1. Average Hours Worked Per Week, 1979-2003



Source: Australian Bureau of Statistics (ABS), *Labour Force, Australia*, Cat. No. 6203.0 (Canberra: ABS, various issues); ABS, *Australian Labour Market Statistics*, ABS Cat. No. 6105.0 (Canberra: ABS, 2003).

These campaigns are intended to improve workers’ well-being. But that is only a half-truth.

Figure 2. Distribution of Hours Worked, 1979-2003 (%)



Source: Australian Bureau of Statistics (ABS), *Labour Force, Australia*, Cat. No. 6203.0 (Canberra: ABS, various issues); ABS, *Australian Labour Market Statistics*, ABS Cat. No. 6105.0 (Canberra: ABS, 2003).

The incidence of very long hours has risen sharply, however. Figure 2 indicates that between 1979 and 2003 the proportion of Australians working more than 49 hours per week has increased nearly twofold—from 14.6% to 26.0%. Very long hours are twice as common among the self-employed (own-account workers and employers in unincorporated businesses), compared with employees.¹¹ Nonetheless, a significant number of employees—almost one in four—were working 50 hours or more in 2001.¹² Figure 2 also shows that the incidence of employees working less than 35 hours per week has increased. This may reflect the growth of underemployment, where the employed want to work more hours but cannot find such opportunities.¹³

From Figure 2, it is easy to see why the unions claim that limiting, and thereby redistributing, hours of work could reduce unemployment and underemployment. But as leading French economist Jean-Paul Fitoussi puts it, the claim that a cap on hours will create jobs stems from an ‘arithmetical illusion.’ It is not possible for eight people working six hours each to produce the same results as six people working eight hours each, because workers are not perfectly homogeneous.¹⁴

In Australia, there is a skill mismatch between those working short hours and those working long hours. In 2001, 59.2% (1.2 million) of those working more than 50 hours per week were in high-skilled occupations (‘managers and administrators’, ‘professionals’ or ‘associate professionals’).¹⁵ Cutting their hours might create more work for the 28.0% (0.8 million) of those working less than 35 hours in these categories. But the remaining 72.0% (2.0 million), including 33.0% (0.9 million) in low-skilled occupations (‘elementary clerical, sales and service workers’ and ‘labourers and related workers’), would probably miss out. So would most of the unemployed who are low-skilled.

Furthermore, hours currently worked are largely consistent with workers’ preference.¹⁶ Table 1, derived from the Household Income and Labour Dynamics in Australia (HILDA) survey, Wave 1, shows that the majority of workers are satisfied with their hours. Even the 43.3% working more than 49 hours indicate that they want to work about the same hours.

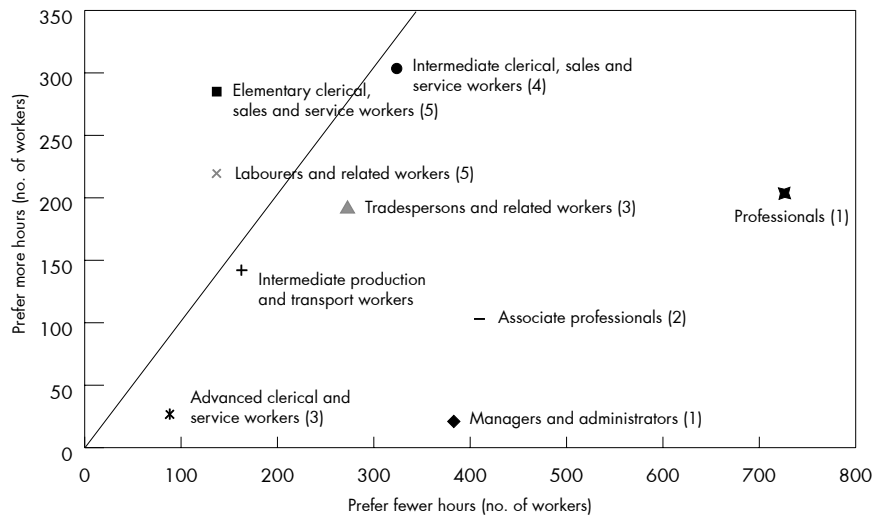
Table 1. Preference With Regard to Hours of Work (%)

Current hours of work	Prefer to work:			Total
	Fewer hours	About the same	More hours	
Less than 35	8.8	57.0	34.2	100.0
35 to 39	22.9	59.8	17.3	100.0
40 to 44	27.6	62.2	10.2	100.0
45 to 49	42.9	51.3	5.7	100.0
More than 49	54.2	43.3	2.4	100.0
Total	28.8	54.9	16.3	100.0

Source: Derived from the Household Income and Labour Dynamics in Australia (HILDA) Survey, Wave 1 (2001), Release 1, Confidentialised Unit Record File.

In Australia, there is a skill mismatch between those working short hours and those working long hours.

Figure 3. Preference of More or Fewer Hours of Work



Notes: The number in the parenthesis by each occupation denotes the skill level required for that occupation. An occupation with a lower number is considered to require a higher skill level. Occupations and skills are classified in accordance with the ABS, *Australian Standard Classification of Occupations*, 2nd Edition, ABS, Cat. No. 1220.0 (Canberra: ABS, 1997).

Source: Derived from the Household Income and Labour Dynamics in Australia (HILDA) Survey, Wave 1 (2001), Release 1, Confidentialised Unit Record File.

It is true that as the number of hours worked increases, the preference for fewer hours grows significantly stronger, and vice versa. But this does not mean that a mandatory limit on hours of work would enable those wanting fewer hours to share their work with those wanting more hours. Figure 3 plots, occupation by occupation, the number of workers who prefer fewer hours on the *X* (horizontal) axis and the number of workers who prefer more hours on the *Y* (vertical) axis. Also drawn is a line that connects points where the values of *X* and *Y* are equal. The point representing an occupation will be exactly on this line, if the number of workers wanting fewer hours and the number of workers wanting more hours are exactly the same within that occupation. Redistributing hours from the latter group of workers to the former, then, could help eliminate underemployment.

There are two conditions that need to be met. One is that workers within an occupation are completely substitutable with one another, and the other, that the number of extra hours sought by an underemployed worker is exactly the same as the number of hours that his or her 'over-employed' counterpart is willing to give up. Neither is realistic. Even if these conditions were somehow met, the underemployment problem would not be solved, as is clear from Figure 3. High-skilled occupations—'managers and administrators', 'professionals' and 'associate professionals'—are located far below the oblique line. This indicates that, although a cap on working hours could generate a significant number of additional high-skilled jobs, there would not be enough underemployed workers to fill them. What needs to be created are low-skilled jobs—'elementary clerical, sales and service workers' and 'labourers and related workers'—but in these occupations, there are more workers who prefer more hours than workers who prefer fewer hours. Jobs generated by capping hours would elude many of the low-skilled underemployed.

Unintended consequences

Shorter hours may also destroy rather than create jobs. In a September 2002 survey, a significant proportion (49.2%) of employers indicated that if the ACTU's Reasonable Hours claim had been accepted by the AIRC, there would have been substantial cost implications.¹⁷ Respondents who were able to provide an estimate of the cost put it, on average, at \$182,348 per company, which would have translated into \$3,187 per federal award employee.¹⁸ Asked what would have been the primary source of the possible cost increase, 54.2% pointed to an increase in labour costs. Higher labour costs could mean job losses. Low-skilled workers would be disproportionately affected, because the demand for low-skilled labour is particularly susceptible to the price of that labour.¹⁹

France's persistently high unemployment demonstrates that a cap on hours would be of little help.²⁰ While the 35-hour week initially generated 200,000 jobs (equivalent to 0.5% of the population aged 15 to 64 in 2000),²¹ Fitoussi points out that 0.2% economic growth would have had the same effect and that dropping interest rates by one point would be more effective in boosting employment.²² With the economy contracting, French job market prospects remain grim.

Jobs generated by capping hours would elude many of the low-skilled underemployed.

**France's
35-hour week
has arguably
undermined
workers'
well-being.**

Are long hours a problem?

A 2001 survey of 50 Australian families, commissioned by the ACTU, concluded that the majority are being adversely affected by unreasonable hours.²³ But this finding is at odds with other studies based on larger-scale surveys. One, using the results of a survey that ran from 1984 through to 2001, found no significant conflict between long hours and family life.²⁴ Long hours did not adversely affect satisfaction with family or with life in general. Financial satisfaction was higher among those working longer hours, and so was job satisfaction.

Another study, which focused on male full-time workers who lived with a partner and had at least one child under 15, similarly concluded that long hours *per se* had little to do with subjective well-being.²⁵ Rather, it depended on the way in which people viewed their working hours. Fathers who enjoyed working very long hours were coping as well as, or even better than, fathers who enjoyed working 'standard hours' (35 to 40 hours per week). Neither did fathers who did not enjoy long hours appear pervasively worse off than fathers who did not enjoy working standard hours. A similar analysis of a wider variety of families also concluded that working more than 48 hours per week had no sizeable adverse effects on family life or general well-being.²⁶

France's 35-hour week has arguably *undermined* workers' well-being. A recent survey shows that 36% of the French want the 35-hour week scrapped while 18% want it suspended.²⁷ In total, 54% are opposed. Ironically white-collar workers in large businesses are the ones enjoying longer holidays and occasional four-day weekends, and appear to be among the most enthusiastic supporters of the law. Poorer workers are frustrated because they have lost much of an important source of extra income, that is, overtime earnings.²⁸ Others are stressed, for they never have enough time to get their work done. The adverse effect of the law is most visible at hospitals, where the waiting lists are growing longer. Some blame the 35-hour week for contributing to 15,000 heatwave deaths in the summer of 2003.²⁹

Summary

The unions' hours campaign is based on evidence that is at best weak. Long hours may have become more common, but they have not necessarily undermined workers' well-being. A cap on hours would not create jobs where they are needed. It could even destroy jobs by increasing labour costs and/or weakening the economy as a whole. The plight of the low-skilled would worsen, with their income declining and their jobs disappearing.

Casual rights

Casual employment, as opposed to permanent employment, is now increasingly common. In August 2002, over 27% of Australian employees were casuals.³⁰ This represents a 8.4 percentage point increase compared with 1988, the earliest year for which data is available. While the term 'casual' suggests temporariness, casual employment today is not necessarily temporary. In 2001, 57% of casual employees had been in their current jobs for more than a year, and the average duration of casual employment was 2.6 years.³¹

Casual jobs are often regarded as 'inferior' to permanent positions, and employers who hire casual staff are sometimes seen as simply trying to cut corners. Unions have therefore been attempting to give casual employees the right to convert to permanent employment after six months with the same employer. In early 2003, the New South Wales Labor Council launched a test case seeking this, and the ACTU is pursuing a nationwide campaign.³² The federal Labor Party is developing a similar platform.³³

Casual employees, with a few exceptions, have no leave entitlements.³⁴ Federal and state industrial relations regulations exempt them from a number of leave provisions, such as sick leave, annual leave and parental leave. Casuals are also exempt from unfair dismissal laws. Under the Commonwealth Workplace Relations Act 1996, for example, a casual employee is not eligible to make an unfair dismissal application before completing 12 months of service (s170CBA (3)(a)). In short, casual employment implies less onus on employers.

The lack of leave entitlements is sometimes seen as a way for employers to save on labour costs. But according to one study based on a 1995 survey, cost-cutting was not the primary motive for employers who hire casual staff.³⁵ Casuals usually receive, in lieu of leave entitlements, a 'loading' of 20% to 30%. The saving made on leave provisions is offset, sometimes more than offset, by these loadings.³⁶ Many employers indicated that the rigidity of labour market regulations was a more important determinant of their recruitment practices, pointing particularly to unfair dismissal laws. Unfair dismissal laws make it more cumbersome and costly for employers to fire employees—even for legitimate reasons.³⁷ Casual employment is one way of avoiding this.

How do casuals feel about their jobs?

The growth of casual employment appears to reflect not only employer preferences but also the needs of many working-age individuals for more flexible arrangements than those offered by permanent, full-time employment. A total of 28% of casual employees are studying full-time (13.3% at school and 14.8% studying full-time in higher education) while 17.1% of women with dependent children also work casually. This explains why three-quarters of casual employees work part-time (less than 35 hours).³⁸

Job satisfaction among casual employees, moreover, is more or less on a par with permanent employees. The HILDA survey, Wave 1, asked its employed respondents to rate their job satisfaction on a scale of 0 to 10. The higher the score, the higher the satisfaction. As shown in Table 2, female casual employees were just as satisfied with their jobs as their permanent counterparts. They also rated flexibility particularly highly. Likewise, overall job satisfaction among male casual employees was fairly high. Their job security rating was significantly lower than that of male permanent employees, but this high level of job dissatisfaction among male casuals was restricted to those working full-time (a mere 4%).³⁹

Overall, casual employees were content with their pay as well. While their earnings (\$16.45 per hour) were lower than those of permanent employees (\$19.80 per hour), this reflects the fact that many were relatively less educated and less skilled.⁴⁰ More than 42% of casual employees at the time of the survey had no post-school qualifications, and about the same proportion was in low-skilled occupations ('elementary clerical, sales and service workers' or 'labourers and related workers').

Job satisfaction among casual employees, moreover, is more or less on a par with permanent employees.

Table 2. Job Satisfaction, Male and Female (Mean scores)

<i>All males</i>	<i>Casual</i>	<i>Fixed-term(a)</i>	<i>Permanent</i>
Pay	6.63	6.98	6.79
Job security	6.77	7.26	7.92
Work itself	7.02	7.93	7.56
Hours worked	6.85	7.04	7.10
Flexibility available to balance work and non-work commitments	7.42	7.24	7.15
Overall job satisfaction	7.18	7.75	7.46
<i>All females</i>	<i>Casual</i>	<i>Fixed-term(a)</i>	<i>Permanent</i>
Pay	6.92	6.60	6.63
Job security	7.32	7.28	8.31
Work itself	7.30	8.01	7.69
Hours worked	7.24	7.28	7.36
Flexibility available to balance work and non-work commitments	7.97	7.47	7.38
Overall job satisfaction	7.68	7.90	7.72

Notes: (a) Fixed-term employees refer to those who may have leave entitlements but are on fixed-term contracts.

Source: Mark Wooden and Diana Warren, *The Characteristics of Casual and Fixed-term Employment: Evidence from the HILDA Survey*, Melbourne Institute Working Paper No. 15/03 (Melbourne: Melbourne Institute of Applied Economic and Social Research, June 2003), Tables 5 and 6.

Casual employment can also serve as a stepping stone to other job prospects. This is particularly pertinent to the less educated. Those who lack a secondary school qualification do not fare well in the labour market no matter what. Beyond that, a low level of education decreases an unemployed person's, but not a casual worker's, chance of finding a permanent job. Thus, the less educated are likely to experience difficulty moving from unemployment to a permanent position, but landing a casual job brings them relatively closer to permanent opportunities. The longer the time spent in casual employment, the greater the probability of transition to permanent employment, though not necessarily with the same employer. This points to the importance of experience and a network of contacts acquired through casual work.⁴¹

Do casuals want or need permanent jobs?

Under the federal Metal, Engineering and Associated Industries Award, casual employees have had the right to convert after six months to permanent employment since 2001.⁴² According to one source, not a single casual employee had chosen to do so as of April 2002.⁴³ They did not see any

Unions must allow individual employers and employees to work out their respective problems at enterprise or workplace levels.

immediate benefit in having paid annual leave, sick leave and public holidays. They preferred the extra pay from casual loadings and the flexibility of casual employment arrangements.

A number of industries need casual employees for a period longer than six months but shorter than 12 months. Consider the pharmaceutical and sporting industries.⁴⁴ Many temporary assignments in the pharmaceutical industry involve complex tasks. The lengthy and costly training that is needed will not be cost-effective unless the trained casuals are employed for more than six months on a casual basis. In the sporting industry, the AFL season lasts longer than six months but not a whole year. In these cases, it would not make economic sense to require employers to grant casual workers permanent status after only six months of employment.

Summary

- The demand among casual employees for conversion to permanent employment is likely to be small. Although the spread of casual employment, including long-term casual employment, points to managements' willingness to circumvent strict labour market regulations, it also appears to reflect the preference of a section of the labour force for such jobs.
- Many casual employees are content with their existing employment arrangements, and for disadvantaged labour market participants (the less educated and less skilled), casual employment can provide valuable experience which improves their future job prospects.
- Regulation of casual employment would put many jobseekers and casual employees at a disadvantage. Employers, faced with the prospect of having to eventually offer casual employees permanent status, might stop hiring casuals or begin to replace existing casual employees with a smaller number of permanent employees.⁴⁵ Either way, jobs would be destroyed. Because a large number of casuals are low-skilled, the destruction of casual employment opportunities would exacerbate low-skilled unemployment.

Conclusion: Individualisation, not collectivisation

Union membership has significantly declined over the past three decades. In 1982, close to 60% of Australian workers belonged to unions. By 2002, the figure was just above 23%.⁴⁶ Unions, in a bid to bolster their relevance, are trying to impose union-negotiated conditions and reduce the benefits to workers of pursuing individual agreements, as illustrated by the hours and casuals campaigns. Despite their claims to the contrary, both campaigns are likely to harm rather than help the majority of workers—including, importantly, those most disadvantaged (the less educated and less skilled). Shorter working hours would erode low-paid workers' income by reducing their overtime earnings and destroying their jobs, while the regulation of casual employment would further deprive the low-skilled of employment opportunities.

Existing labour market regulations partly explain the recent growth in casual employment. Similarly, long hours may have arisen in part from employers' desire to minimise risks associated with recruitment. Employing fewer employees may mean, for instance, fewer unfair dismissal allegations, although each existing employee may have to work a bit longer.

There are, of course, some workers who struggle to balance work and non-work commitments and/or have trouble moving from casual into permanent employment. But introducing uniform regulations to cater for the needs of this minority would also affect the majority who are currently satisfied with their hours or casual employment arrangements. A less collectivised approach is necessary. Unions must allow individual employers and employees to work out their respective problems at enterprise or workplace levels.

Endnotes

¹ Mancur Olson, Jr., *The Logic of Collective Action: Public Goods and the Theory of Groups* (Cambridge, Massachusetts: Harvard University Press, 1965).

² Australian Council of Trade Unions (ACTU), 'Reasonable Hours', www.actu.asn.au.

³ Paul Robinson, 'ACTU to Launch Casuals' Test Case', *The Age* (6 August 2003).

⁴ Another campaign component aims to entitle casual employees to unpaid maternity leave.

⁵ The part of the proposed award clause referred to here is as follows:

28.3.1 If an employee works:

- (a) an average of 60 hours per week over a four week period; or
- (b) 26 days over a four week period; or
- (c) an average of 54 hours per week over an eight week period; or
- (d) 51 days over an eight week period; or
- (e) an average of 48 hours per week over a twelve week period;
- (f) 74 days over a twelve week period;

then it is an incident of the employee's employment that he or she will have a 2 day rest break during which time he or she is paid.

See ACTU, *The Reasonable Hours Test Case Background Paper* (Melbourne: ACTU, n.d.), www.actu.asn.au.

- ⁶ 'Abbott Welcomes Hours Decision', *Australian Associated Press* (23 July 2002).
- ⁷ ACTU, 'ACTU Examines the Cap Option on Hours' (Melbourne: ACTU, 29 November 2002), www.actu.asn.au.
- ⁸ Mark Skulley, 'Unions Target Manufacturing in Wage Push', *The Australian Financial Review* (13 January 2003); Australian Industry Group, 'The Unions' Campaign 2003', www.aigroup.asn.au.
- ⁹ ACTU, 'ACTU Examines the Cap Option'; ACTU, *The Submission of the ACTU in the Reasonable Hours Test Case* (Melbourne: ACTU, September 2001), 464.
- ¹⁰ The ACTU, *The Submission of the ACTU*.
- ¹¹ ABS, 'Paid Work: Longer Working Hours', *Australian Social Trends* (Canberra: ABS, 2003), 120.
- ¹² As above, 120.
- ¹³ In 2002, 27.3% of part-time workers were underemployed (ABS, *Australian Social Trends*, ABS Cat. No. 4102.0 (Canberra: ABS, 2003).
- ¹⁴ Henry Samuel, '£11bn Cost of 35-hour Week Splits the French', *The Daily Telegraph* (UK) (4 October 2003).
- ¹⁵ Derived from the HILDA Survey, Wave 1.
- ¹⁶ Mark Wooden and Joanne Loundes, *How Unreasonable Are Long Working Hours?* Melbourne Institute Working Paper No. 1/02 (Melbourne: Melbourne Institute of Applied Economic and Social Research, February 2001), 9.
- ¹⁷ John Benson, *Hours of Work: A Report on a Survey of Ai Group/EEASA/AHEIA Members on Hours of Work and the Implications of the ACTU Claim for Changes to the Terms and Conditions Governing Overtime* (22 October 2001), Table 27, www.aigroup.asn.au.
- ¹⁸ As above, Table 28.
- ¹⁹ Daniel S. Hamermesh, *Labour Demand* (Princeton: Princeton University Press, 1993).
- ²⁰ France's unemployment rate, after having continually grown since the early 1970s, hit 12.3% in 1994. In September 2003, it still remained at 9.5% despite a small economic boom in the later 1990s (OECD, *Labour Market Statistics: Indicators*, www.oecd.org; OECD, *Standard Unemployment Rates*, www.oecd.org).
- ²¹ Derived from OECD, *OECD Labour Market Statistics*, CD-ROM (Paris: OECD, 2001).
- ²² Judith Larner, 'Labouring Over the 35-hour Week', *The Guardian* (11 October 2003).
- ²³ Barbara Pocock, Brigid van Wanrooy, Stefani Strazzari and Ken Bridge, *Fifty Families: What Unreasonable Hours Are Doing to Australians, Their Families and Their Communities*, a report commissioned by the Australian Council of Trade Unions (Melbourne: ACTU, July 2001), www.actu.asn.au.
- ²⁴ Jonathan Kelley, 'Consequences of Working Long Hours', *Australian Social Monitor* 4:4 (December 2001), 99-101.
- ²⁵ Ruth Weston, Matthew Gray, Lixia Qu and David Stanton, *The Impact of Long Working Hours on Employed Fathers and Their Families*, a paper presented at the Australian Social Policy Conference (Sydney: Social Policy Research Centre, University of New South Wales, 9-11 July 2003).
- ²⁶ Mark Wooden, *Balancing Work and Family at the Start of the 21st Century: Evidence from Wave 1 of the HILDA Survey*, a paper presented at the Pursuing Opportunity and Prosperity Conference (Melbourne: Melbourne Institute of Applied Economic and Social Research, The University of Melbourne, 13-14 November 2003).
- ²⁷ 'France's 35-hour Week under Fire as Economy Wanes', *Reuters* (3 October 2003).
- ²⁸ Under the existing rules, a workers is allowed to work overtime even if he or she as a result ends up working more than 35 hours in the course of a week. But the total number of hours worked per year cannot exceed 1,600. This means that a worker who works just 35 hours per week would only work 45.7 weeks per year. The remaining 6.5 weeks are a paid holiday. See 'France: Europe's New Weakest Link', *The Business* (19 October 2003).
- ²⁹ 'France's 35-hour Week under Fire'.
- ³⁰ Derived from ABS, *Australian Social Trends*, ABS Cat. No. 4102.0 (Canberra: ABS, various years).
- ³¹ Mark Wooden and Diana Warren, *The Characteristics of Casual and Fixed-term Employment: Evidence from the HILDA Survey*, Melbourne Institute Working Paper No. 15/03 (Melbourne: Melbourne Institute of Applied Economic and Social Research, The University of Melbourne, June 2003), Table 4. Long-term casual employment is possible because law provides no clear-cut guideline as to what a casual employee is (Rosemary J. Owens, 'The "Long-term or Permanent Casual"—An Oxymoron or "A Well Enough Understood Australianism" in the Law?' *Australian Bulletin of Labour* 27:2 (June 2001), 119-21). At common law, casual work is defined merely as 'intermittent and irregular work', and each engagement of a casual worker is understood as constituting a separate contract of employment.

Industrial instruments, such as awards and agreements, typically refer to a casual employee as 'one engaged and paid as such', although there is some variety. There is therefore nothing to prevent casual employment from lasting for an indefinite period of time.

- ³² Paul Robinson, 'ACTU to Launch Casuals' Test Case', *The Age* (6 August 2003).
- ³³ John Kerin, 'Labor Plan for Casuals' Rights', *The Australian* (5 January 2004).
- ³⁴ Some awards may provide leave entitlements for casuals.
- ³⁵ Sally Weller, Jane Cussen and Michael Webber, 'Casual Employment and Employer Strategy', *Labour & Industry* 10:1 (August 1999), 28.
- ³⁶ According to a source, a 25% casual loading would approximately match the cost involved in the provision of leave (Personal communication, 6 November 2003).
- ³⁷ Kayoko Tsumori, 'Poor Laws (1): The Unfair Dismissal Laws and Long-term Unemployment', *Issue Analysis* No.26 (Sydney: The Centre for Independent Studies, 2002).
- ³⁸ Mark Wooden and Diana Warren, *The Characteristics of Casual and Fixed-term Employment: Evidence from the HILDA Survey*, Melbourne Institute Working Paper No. 15/03 (Melbourne: Melbourne Institute of Applied Economic and Social Research, June 2003), Tables 3 and 4.
- ³⁹ As above, 18, 26.
- ⁴⁰ As above, 12.
- ⁴¹ As above, 23.
- ⁴² AW789529.
- ⁴³ Recruitment & Consulting Services Association (RCSA), *Submission to the Senate Employment, Workplace Relations, and Education Legislation Committee regarding Workplace Relations Amendment (Casuals and Fair Termination) Bill 2002*, 12, www.rcsa.com.au.
- ⁴⁴ As above, 8-9.
- ⁴⁵ For example, Garry Brack, Chief Executive of the employer association Employers First, warned that the unions' claim would force employers to axe casual jobs. See Matthew Denholm, 'Union Push for Casuals to Secure Job Status', *The Courier Mail* (6 August 2003).
- ⁴⁶ Jennifer Buckingham, Lucy Sullivan and Helen Hughes, *State of the Nation 2001: A Century of Change* (Sydney: CIS, 2001), Table 10.3; ABS, *Employee Earnings, Benefits and Trade Union Membership*, ABS Cat No. 6310.0 (Canberra: ABS, August 2002).

Publications in the Issue Analysis series are subject to a reviewing process.

© Copyright 2004 The Centre for Independent Studies.
May be freely reproduced provided due acknowledgement is given.



Issue Analysis is a regular series published by The Centre for Independent Studies, evaluating public issues and government policies and offering proposals for reform. Views expressed are those of the authors and do not necessarily reflect the views of the Centre's staff, advisors, directors or officers. *Issue Analysis* papers (including back issues) can be obtained from the Centre for \$5.00 each (including GST) or can be downloaded from www.cis.org.au.

To order, or for a complete listing of titles available, contact The Centre for Independent Studies.

PO Box 92, St Leonards, NSW 1590 Australia
p: +61 2 9438 4377 • f: +61 2 9439 7310 • e: cis@cis.org.au

ISSN: 1440 6306
www.cis.org.au