

THE ROAD TO WORK

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Freeing Up the Labour Market

Kayoko Tsumori

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Foreword

If a democratic government wants to bring about some widely-desired objective, there are two ways it can go about it.

The first is to try to take control of as many as possible of the factors that are likely to influence what happens and change them in the desired direction. At first sight, this seems like the obvious strategy, and it is one that governments are constantly tempted to adopt. The logic is that if you can control the causes, you should be able to bring about the effects you want. The problem, however, is that you can never control all the causes, which is why government grand plans always end up producing outcomes that nobody anticipated, and which all too often nobody even wanted.

The alternative strategy is for politicians to relax their controls and try to leave people to work things out for themselves. The logic here is that voluntary co-operation between people is likely to generate positive outcomes (otherwise aggrieved parties will break off the relationship and try something else). To politicians with their hands poised over the levers of power, this may seem a most unlikely strategy for success, for how can desirable outcomes eventuate if nobody imposes their will to make it happen? They are also likely to see it as a very unattractive option, for where is the point of spending years climbing the greasy pole only to do nothing when you get to the top? Yet experience teaches us that, provided certain ground rules are clearly laid down and enforced, leaving people to make their own deals often results in outcomes which, though unplanned

and unforeseen, are nevertheless broadly in line with what most people want.

The superiority of the flexible and open-ended strategy over the rigid and deterministic one is essentially the lesson to be drawn from Kayoko Tsumori's timely book on Australia's industrial relations morass. For 100 years, this country has sought to regulate the relationship between employers and employees through a heavy-handed, centralised, legalistic and bureaucratic set of mechanisms which were always cumbersome, and which in today's flexible and globalised economy have become hopelessly archaic. Through the agency of the Australian Industrial Relations Commission (AIRC), government-appointed commissioners stipulate what wages people will be paid, how much holiday they can take, the conditions under which they may be dismissed, overtime rates, their sick leave entitlement, their superannuation, and much else besides. At state level it's even worse; one NSW award, for example, specifies which culinary items may be included in meals cooked for employees (potatoes, onions, beans, split and blue peas...)¹ For a century, it seems, employers and employees have been considered too immature, irresponsible or helpless to determine these things for themselves. Instead, like schoolkids squabbling over marbles in the playground, they have been separated at the first sign of trouble and dealt with by a higher authority whose decision has been binding on them both.

Although recent reforms have limited the scope of the federal award system and have reduced the number of workers directly subject to the decisions of the AIRC, Tsumori shows that millions of employees are still indirectly affected, for decisions handed down in respect of one group of workers set the framework for many others. As for employers, they have grown so accustomed to having their affairs decided for them by outsiders that some seem to have lost faith in their own ability to organise these matters for themselves. Here, as elsewhere in the public policy arena, lack of responsibility has bred a fatalistic culture of dependency and complacency, for workers and employers alike have become habituated to the

idea that they need other people to tell them how to manage their relationship with each other.

And what has been achieved by this sacrifice of our liberties and abdication of responsibilities to a centralised system of economic planning? Tsumori shows that all too often, the results are quite the opposite of those intended.

When they hand down their decisions on minimum award wages, for example, the AIRC commissioners think they are alleviating hardship among the low-paid, but what they are actually doing is increasing the scale and severity of the poverty problem. Not only are many of the workers on award minimum wages living in relatively prosperous households, but most 'poor' people in Australia are not in paid employment, and by driving up minimum wages, the Commission is making it even more difficult for them to find jobs. Furthermore, Australia's absurd tax and welfare system ensures that most of a minimum wage rise disappears before workers ever see it. Discussing the record 2004 settlement, Tsumori shows how the principal beneficiary was not low income workers but the Federal government (which saved on welfare support payments and gained increased income tax receipts).

It's a similar story with employment protection laws. Tsumori shows how, by making it more difficult for employers to get rid of unsuitable employees, our unfair dismissal legislation is making it less likely that other, more suitable, workers will get taken on. Critics of reform in this area often point to the United States to show how less rigid laws result in much higher rates of worker turnover, but what they ignore is that Americans also find it much easier to find jobs. What we have created in Australia, by contrast, is a set of laws and institutions that protect and support 'insiders' (those who have a job), but which exclude and disadvantage 'outsiders' who are trying to get a first foot on the employment ladder. As Tsumori points out, this is not only inefficient—it is also very unfair.

The trades unions, of course, exist to protect the insiders, which is why they remain implacably opposed to making the labour market more flexible and inclusive. Indeed, Tsumori

shows at the end of her book how, if they had their way, the unions would make matters a lot worse for the outsiders through their current campaigns to extend regulation to working hours and casual employment. Just as their defence of high minimum wages, one-size-fits-all industrial awards and rigid employment protection laws has ended up destroying jobs, so too the unions' latest campaigns would hurt more people than they help if they were ever allowed to succeed.

The recorded rate of unemployment in Australia is at its lowest in 30 years, but we should not be fooled by these figures. There may be less than 6% unemployment, but surveys have identified significant rates of 'underemployment' among workers who wish to do more hours, and there are many more people of working age sheltering elsewhere in the welfare system who should be included in the official count. It is important to find ways of generating more jobs for these people, particularly at the lower end of the wage and skills continuum where the shortfall is most pressing.

We know from past experience here and overseas that quick and painless political fixes like wage subsidies, training schemes, and expansion of public sector employment either do not work or turn out to be a hugely expensive way of creating a few new jobs. We also know what does work, which is removing restrictions and regulations so that employers are encouraged to take on more workers. Reform in this area is fraught with political difficulties, however, for the unions make for deeply conservative and dangerous opponents and public opinion too is cautious. But if we genuinely want a more prosperous and socially inclusive Australia, there is no alternative but to press on with liberalising the economy by freeing up the labour market, the last remaining bastion of centralised planning.

Endnotes

- ¹ Gerard Boyce, 'Allowable matters on menu for union interference', *The Australian Financial Review* (23 July 2004).

Executive Summary

- Labour market regulations are intended to protect workers. But in today's complex economy, they are more likely to have unintended consequences of increasing joblessness among the low-skilled, the most vulnerable of all workers. To prevent them from falling into joblessness and hence into poverty, the labour market needs to be adequately deregulated rather than tightly regulated.
- High minimum wages may appear to help boost the living standards of the low-paid, but this is not the case. Many low-paid individuals are not poor to begin with, while over half of poor individuals are jobless and will not be able to enjoy the benefits of a minimum wage increase.
- A minimum wage increase raises the cost of low-skilled workers and discourages employers from hiring them.
- Unfair dismissal laws, which are intended to make firing difficult, also deter hiring. If a new recruit turns out unsatisfactory, it might already be too late for employers to fire them without going through unfair dismissal proceedings which can be costly and cumbersome.
- Unfair dismissal laws have a greater negative effect on hiring and firing in small businesses, which are more likely than larger businesses to lack the financial and human resources needed to cope with unfair dismissal allegations. A number of surveys show that, had it not been for unfair dismissal laws, small business employment would have grown more strongly than it actually has.

- Despite the hype about the spread of enterprise bargaining and the individualisation of employment arrangements since the early 1990s, the award system continues to play a significant role in Australia's industrial relations. This is because awards still underpin many non-award agreements.
- A typical award, applied to employees across an industry or an occupation, embodies a one-size-fits-all approach that does not take into account individual employees' performance or individual enterprises' capacity to pay. For this reason, the award system can result in low productivity and job losses.
- Employers generally acknowledge the negative economic effects of the award system. Except in some industries, however, there is no pervasive desire to abolish it completely. Employers believe that, even without awards, pattern bargaining and statutory regulations could create equally significant onuses.
- Union campaigns, such as the hours and casuals campaigns in recent years, are ostensibly intended to alleviate workers' plight. However, the evidence supporting these campaigns does not stand up to closer scrutiny.
- If the campaign to limit working hours is successful, increased labour costs would be imposed on employers, which in turn will lead to joblessness.
- If the casuals campaign is successful and casual employees are given the right to convert to permanent employment after six months with the same employer, employers might replace existing casuals with a smaller number of permanent employees or even stop hiring altogether.
- To reform Australia's labour market and create more jobs:
 1. Minimum wages should be frozen in real terms. The after-tax income of the low-paid should instead be boosted by raising the tax-free threshold.

2. Exempt small businesses from unfair dismissal law, monitor the results and if the results are positive, extend the reform to cover medium and large businesses.
3. Make the award system more flexible by:
 - (i) Making it easier to access exemption from certain award provisions. In particular, exemption from awards should be allowed on the grounds of **regional differentials**.
 - (ii) Outlawing pattern bargaining; and
 - (iii) Reinforcing the option to opt out of the award system.
4. Negotiation over employment arrangements should be left to individual employers and employees at enterprise and workplace levels without the interference of trade unions. Current union campaigns should be rejected and:
 - i) employers should not be forced to offer permanent positions to casuals after six months;
 - ii) working hours should not be limited by law.

