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Governance of the Labour Market

The Declining Role of the State

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This chapter explores changing patterns of governance of the Australian labour market. Apart from a long history of protectionism, as well as various forms of intervention and subsidy in the rural economy, the Australian 'liberal' state was rarely responsible for direct or detailed forms of intervention in the economy. Against this background, it is one of the great anomalies of Australian political life that, since Federation, the state achieved an unprecedented degree of institutional intervention in the national system of industrial relations. Governance via the state not the market was central to industrial relations and the labour market for most of the twentieth century.

In the last several decades, however, major changes have been underway. In the 1980s, in an effort to exert more *control* over the system, state centralism, together with corporatist forms of wage bargaining between the government and the unions, received a renewed emphasis. In the 1990s, there was an even more radical shift; this time toward diminishing the role of state and corporatist institutions and placing a much greater reliance on forms of market regulation and governance. Instead of centralism, the shift was towards decentralisation and deinstitutionalisation. A central part of the focus in this chapter is thus about the rise and *decline* of the state as the key agency of labour market and industrial relations governance; a change that has been an important aspect of the wider shift in the *regime* of economic governance in Australia towards neoliberalism (see Argy this volume: ch. 2). This decline in the centrality of the state has seen markets and agreements determined at the level of the enterprise or workplace become more important elements in regulating the labour market and industrial relations. Public and private sector managers have now been accorded a much larger role in the system of industrial relations.

A second focus of this chapter is on the institutional ramifications of the above changes. For the first eight decades of the twentieth century, the prevailing statism and centralism of governance in this arena helped create an important independent and judicial arm of the state, which, in turn, had significant institutional effects on the organisations and organisational strategies of labour and capital. The industrial relations framework provided an historically embedded structure of incentives, roles, obligations, and discourses that shaped the structural form, decision-making arrangements, and day-to-day processes of the key industrial relations actors. In turn, the recent shifts towards the market and enterprise forms of governance have also had a number of significant implications for institutional development, and these are also discussed.

A third focus of this chapter is on the way in which the new market regime has created new sets of problems. One, in particular, concerns the capacity for wage regulation within the new decentralised system. It is apparent that this capacity, especially regarding wage moderation, has been achieved under the new patterns of market governance mainly through high unemployment and growing job insecurity. If these conditions are ever moderated and, in particular, if anything approaching full employment is ever again achieved, the problem of how to reconcile full employment with wage moderation (with a view to curbing wage push inflation) will return with a vengeance.

Statism and centralised arbitration

Australian policy-makers at the beginning of the twentieth century erected an elaborate institutional framework intended to facilitate national economic development while protecting the key economic protagonists. The Depression and bitter workplace conflicts of the 1890s helped usher in a highly regulated system of wage setting and industrial relations in Australia (Macintyre & Mitchell 1989). The conflict and market anarchy of the 1890s had forged a consensus amongst a coalition of labour and industrial interests as well as middle-class reformers in favour of state regulation of industrial conflict. The market was to be held in abeyance. The President of the Arbitration Court, H. B. Higgins (1922: 13–14), described the system as providing 'a new province of law and order' that would be 'substituted for the rude and barbarous processes of strike and lockout', wherein the 'might of the state is to enforce peace between industrial combatants'.

The system became firmly established from the first decade of this century and was centred on the arbitration system; particularly in terms of the power of industrial tribunals at both state and federal levels to arbitrate legally binding settlements to industrial disputes. Over time, arbitral tribunals produced a complex series of

decisions that spelt out a system of enforceable rights in the workplace and set wage rates and employment conditions across the economy. The system was unique to Australia, and, as a form of governance, was decidedly centralised and statist in nature (Gardner & Palmer 1992). For most of the twentieth century, the system gave rise 'to prolonged periods of highly centralised national incomes policies' (Whitfield et al. 1994: 321).

The arbitration system formed a third pillar, alongside tariff protectionism and immigration controls, that constituted Australia's 'domestic defence' model of economic development, and shielded the Australian economy from unwanted market perturbations (Castles 1988). Hence, industrial protection through tariffs facilitated manufacturing growth, immigration barriers protected the wages of industrial workers, and the arbitration tribunals distributed the benefits to Australian wage earners. The Commonwealth Conciliation and Arbitration Commission (later the Australian Industrial Relations Commission) was to become a central custodian of Australian wage justice. For example, the decision by the President of the Arbitration Court in the 1907 Harvester judgment saw the adoption of the 'living wage ... based on the normal needs of the average employee as a human being living in a civilized community' (Higgins 1922). Higgins' clear intent was to determine the wages of unskilled labour on a needs basis rather than solely on market criteria (Watts 1987). Another principle that developed over time was the notion of 'comparative wage justice', whereby equivalent forms of work were deemed to receive similar pay rates and awards across the economy.

Australian industrial relations legislation and practice has also been a predominant factor in shaping not only wages and conditions of employment but also the direction of social policy development for much of the past century (Bell 2000a; Smyth & Wearing this volume: ch. 11). For decades, Australia was able to maintain a residual and selectivist social policy regime precisely because the Australian labour movement and the Commission were able to determine a common wages principle based on a national minimum level of needs fulfilment, with the criterion for inclusion being status as a wage earner rather than as a citizen (Castles 1985: 103). As Castles argues, the Australian welfare state model is substantially predicated on these strategic conceptions that informed the industrial and political wings of the labour movement (1985: 103). For well over half a century, relatively high wage levels offered greater security and protection than more universal welfare state interventions available in other advanced capitalist democracies. Only those outside of the labour market were in a position of comparative disadvantage (Boreham et al. 1996). The Australian 'wage earners' welfare state', as Castles termed it, focused on the protection of the wage earner

(Castles 1989). It has now, however, become a somewhat less adequate instrument for social amelioration and egalitarian social policy delivery, especially given the dramatic rise in long-term unemployment and the shift towards non-standard hours of work that have been witnessed during the past three decades (ACIRRT 1999; Bell 2000a; Boreham 2000).

The processes and institutions set the framework for a centralised industrial relations arena that differentiated Australia's labour market and employment practices from the rest of the world. In the subsections below, the main institutional dynamics that encompassed the central actors in the industrial relations era are outlined.

Institutional actors: the industrial tribunals

The institutional framework for the Australian system of industrial relations and labour market governance was constructed between 1896 and 1910. A Court of Conciliation and Arbitration was established in 1905 by legislation under the auspices of the 1901 Federal Constitution. One of the 'chief objects' of the Act, under Sec. 2, was 'to facilitate and encourage the organization of representative bodies of employers and employees and the submission of industrial disputes to the Court by organizations'. The Court was to make laws to prevent and settle industrial disputes extending beyond the limits of any one state ... 'through the exercise of the jurisdiction of the Court by equitable award'. Arbitration was to be compulsory and the awards binding. In the words of Higgins, the Conciliation and Arbitration Act empowered the Court 'to dictate terms of employment *compulsorily*—practically to *compel* the parties to make a collective agreement' (Higgins 1922: 152).

Before its enactment, the original conciliation and arbitration bill was one of the most contentious pieces of early legislation. Attempts to change the bill encountered strong opposition, bringing down a number of coalition governments in the period to the 1920s. Reform efforts by the Hughes and Bruce governments also led to electoral defeat. Indeed, Higgins resigned his position because of his view that the creation of special tribunals by Prime Minister Hughes would adversely affect the independence and authority of the Commission (Dabscheck 1980: 212). However, from that time until the 1980s, arbitration was a sacrosanct institutional feature of Australian political economy largely insulated from comprehensive legislative intervention.

Under this mode of governance the role of the state in the Australian system of industrial relations was more complex and diverse than in any other similar regulatory jurisdiction. The system comprised an array of institutions linked

within a dynamic network of pathways relevant to specific events and actions (see Dabscheck 1980: 202). The institutional arena was the site for conflict and compromise between the state and federal industrial tribunals, the state and federal departments of industrial relations, other key federal agencies regulating industry and labour markets, political parties, trade union peak bodies, and employers' associations. The arena was contoured by the decisions and actions of a range of associated economic, labour market, and social welfare agencies within whose ambit the industrial relations institutions were embedded.

Both arbitral and judicial functions were initially the province of the Commonwealth Court of Conciliation and Arbitration, but in 1956 the judicial functions were ceded to the industrial division of the Federal Court, while non-judicial functions were carried out by the Commonwealth Conciliation and Arbitration Commission. Awards made in the federal system tended to set the pattern for other tribunals, resulting in a high degree of uniformity across the various industrial institutions (Davis & Lansbury 1998: 112). The basic framework of this system was strongly supported by the 1985 *Report of the Committee of Review into Australian Industrial Relations Law and Systems* (the Hancock Report), in what was probably the last major statement of this centralising position. The Commission was renamed the Australian Industrial Relations Commission (AIRC) in 1988 as part of the provisions of the *Industrial Relations Act 1988* introduced by the then Labor Government.

Arbitral decisions may be interpreted as institutional rationalisations of the best way to preserve institutional legitimacy and survival in often turbulent political and economic circumstances. For most of the twentieth century, the tribunal has operated in a relational context with governments, employers, and unions, and this has had an impact on the practices and role of all of these parties. But institutional autonomy is limited, and the Commission has needed to retain the support of the key stakeholders (Dabscheck 1980: 211). The interaction between these institutions is therefore critical, as the negotiated practices and normative principles set the tone of government policy responses across a range of key policy areas.

The Australian arbitral tribunals slowly developed norms and traditions sometimes abruptly reversing their position, but building a repertoire of responses to industrial matters and situations. Moreover, to a larger extent than in any other jurisdiction, the substantive issues that could be considered, the vocabulary used to describe issues, and the strategies employed to seek their resolution were an outcome of the rules and practices adopted by the tribunals. The industrial relations tribunals have quasi-judicial status, and this is a key element of the discourse of industrial relations in Australia. Both the process and the outcomes of industrial

relations decision-making have a legalistic status which has strongly influenced the tactics, practices, and structures of the key actors. Indeed, the institution has played a significant role in shaping both the organisational form of the actors themselves and the core elements of what issues could legitimately be accepted as the subject of industrial relations.

Institutional actors: trade unions

The original conciliation and arbitration legislation provided for the official registration of trade unions and employer associations, and gave them 'standing' in the judicial system. As Higgins, wrote 'the system of arbitration adopted by the Act is based on unionism. Indeed, without unions, it is hard to conceive how arbitration could be worked' (Higgins 1922: 15). This was crucial for the union movement, as it provided an important institutional prop and conferred legitimacy on them as respondents to the court's awards. It also enabled unions to submit claims to vary awards covering all employees in an industry or occupation without being required to gain recognition from employers on an enterprise-by-enterprise basis. Unions extended the tribunal's reach, and partially acted as its agents within public- and private-sector employment realms.

Hence, the system of conciliation and arbitration has helped construct the organisational framework of the trade unions themselves. As Rawson (1987: 68–9) has argued, Australian trade unions are more subject to the regulation of their internal affairs than unions in any other advanced capitalist country. The legal regulation of internal union government, greatly extended from the 1950s, has met the general acquiescence of trade unions to the point where, as Rawson suggested, 'they would find it difficult to operate as truly autonomous bodies' (1987: 69). Unions owe not only their protected status to recognition in the provisions of the Act but also their decision-making structures. In accord with the general principle that unions are promoted and supported by the state, the state has assumed an obligation to ensure that unions are governed according to democratic processes (Boulton 1982).

Registration under the provisions of the Act recognised the institutional legitimacy of the union and at the same time shifted its focus of activity from industrial strength to judicial decision-making—tribunal advocacy, rather than shop floor activism. Most unions are characterised by a three-tiered arrangement of workplace delegates or shop stewards, state union officials, and federal union officials. The structure of the Australian industrial relations system has empowered central officials and diminished the role of workplace delegates. In the contemporary system of industrial relations, however, the shift towards enterprise

bargaining has provided a new and substantial challenge for most trade unions as they are forced to refocus on workplace organisation and mobilisation.

Institutional actors: employers and employers' associations

Employer associations had their origins in the latter half of the nineteenth century (Matthews 1994). Few such associations operate independently, but are affiliated with state umbrella organisations and industry associations. Indeed, a complex arrangement of interrelationships and affiliations exists, in part to counter trade union influence and in part to service the industrial needs of members (Plowman 1988; Drago et al. 1992). While coverage by employer associations varies according to industrial sector and workplace size, the Australian Workplace Industrial Relations Survey showed that, in 1995, 74 per cent of private sector workplaces employing 20 or more were members of employer associations (Morehead et al. 1997). Thus, employer association coverage is significantly greater than that of unions. The involvement of employer associations in the system of Australian industrial relations consolidated a number of critical dimensions of the employment relationship of great benefit to employers. The most important of these were the 'maintenance of a wide ambit of managerial prerogative' and the removal of minimum sectoral rates of pay from competition from low-wage competitors (Sheldon & Thornthwaite 1999: 3).

There is a significant degree of interdependence between the form of national industrial relations and the structure and practices of employer associations. This was manifest in the results of a comparative analysis of the Australian Workplace Industrial Relations Survey (AWIRS), which suggested that the institutional support offered by the AIRC 'impacts more upon the organisation of management than on that of trade unions' (Whitfield et al. 1994: 335). Australia's centralised industrial relations tribunals tended to reduce the incentive for employers to organise directly against unions—a point elaborated in Freeman's comparative study (1990). On the contrary, where national employer associations negotiate over wages with union peak bodies, there is a tendency, at least for those associations representing large employers, to come to an accommodation with unions in order to diminish the prevalence of expensive localised industrial disputes (see Western 1996).

The network of institutionalised bargaining relationships includes a number of nodal points, change to any one of which will alter the structural arrangements as a whole and the other institutional bodies in specific ways. These include the institutional framework of state regulation; the institutional level at which bargaining takes place; the extent to which bargaining covers the workforce, and the

institutional forms for ensuring compliance; and the range of matters that are subject to bargaining. As argued below, employer associations have been at the forefront of the impetus for change in these institutional networks. The key factors that have driven change reflect a changed ideological agenda (favouring neoliberalism), as well as instability in product markets consequent upon internationalised production regimes and the emphasis now placed on more volatile market signals for product development and production. In these circumstances, employers have sought to manage uncertainty through creating more flexibility, the antithesis of traditional patterns of industrial relations regulation, in the organisation of employment and in practices associated with the labour market. Also, the need for flexibility has increasingly played a role in altering the institutional system of industrial relations (see also Streeck 1987).

Loss of control: market anarchy and the emergence of corporatism

Historically, the system outlined above was not all centralised regulation and state-mandated outcomes. The market had not been wholly banished. Even within their own jurisdictions, the state and federal industrial tribunals could not control actual wages. Generally, 'over-award payments', reflecting market conditions and the bargaining power of particular industrial actors, could be negotiated outside of the formal machinery of arbitration. Those who are dependent for their income on interest rates or self-employment are also outside of the scope of the arbitration system (Yerbury 1981; Niland 1986). An important aspect of the story of Australian arbitration is the ongoing attempt by the industrial tribunals to maintain 'control' and 'hold the ring' against potential market anarchy and the uncontrolled spread of 'over award wage settlements' in the field (Dabscheck 1994). A central tension in the system was thus the potential for loss of control. This began to happen in no uncertain terms from the late 1960s. A key outcome of the Keynesian policy decades of post-war full employment was the strengthening of labour interests *vis-à-vis* employers and an outbreak of distributional and industrial conflict that began in the late 1960s and which continued in bouts through the 1970s into the early 1980s (Bell 1997: 89–94).

During 1974, for example, amid a pattern of industrial conflict and steeply rising wages, only about one-fifth of pay increases were officially mandated by the tribunals and the centralised system. The bulk of the pay increases and other changes occurred through bargaining and pressure in the market. Essentially, the institutionalised centre had lost control of the system. The lack of substantive

compliance and diminishing arbitral authority throughout the 1970s led to the almost universal belief that collective bargaining would replace arbitration. However, the contrary proved to be true, as the response in 1975 was to usher in a highly centralised period of wage fixing under the auspices of the Commission's wage indexation commitment through National Wage Case decisions (see Dabscheck 1995). Moreover, the Act was amended by the Fraser Government in 1976 to require Full Bench proceedings to consider specifically the effects of its decisions on inflation and employment. Most governments have stressed the desirability of the tribunals acting consistently with the government's own economic policy objectives. However, the strategic and institutional necessity has been for governments to work with tribunals and to ensure that both parties are broadly in accord with the rules and conventions of the centralised wage determination system (Yerbury 1981: 233).

Amid renewed industrial conflict in 1981, the abandonment of wage indexation marked a retreat from attempts at centralised control. In desperation, the Fraser Government announced a wages freeze in 1982: a wages policy that starkly revealed the lack of a workable wages policy. The anarchy and turmoil apparent in industrial relations during this period provided the ALP with an opportunity for institutional innovation and a new departure in governance. This was a view strongly in accord with the Hancock Committee, which argued firmly for the retention of the existing conciliation and arbitration system largely on the grounds of its efficacy in the implementation of wages policy: 'The present system affords the mechanism of a wage policy. This, we believe, is a useful instrument of economic policy particularly for the pursuit of macroeconomic objectives' (Hancock Committee of Review: Australian Industrial Relations Law and Systems 1985).

Labor's response to the circumstances of the early 1980s was to introduce a corporatist system of governance whereby industrial relations (especially wage bargaining) would be negotiated and jointly managed by the ALP government and the peak union body, the Australian Council of Trade Unions (ACTU). The new system, implemented in 1983, became known as the Prices and Incomes Accord. We can define a corporatist policy system, in procedural terms, as one in which notionally private-interest associations (such as unions) become involved with state institutions in making and implementing public policy; a classic blurring of public and private authority. Under such an arrangement, the peak union body is required to work with government as a 'social partner' and to unify a diversity of membership views in support of decisions determined in corporatist forums.

The Accord reflected the arrival of an enforced consensus. Before this, the state and federal industrial tribunals had sought to encourage the parties towards a consensus approach to industrial issues, but things clearly worked better when the labour movement joined in a *formal* relationship with the federal ALP

government under the auspices of the Accord. The essence of the bargaining was to provide incentives for the unions to cooperate with wage restraint by arranging offsetting forms of compensation, such as improvements in the 'social wage' through tax breaks and improved health and social policies. For the government, the Accord had important macroeconomic management advantages, particularly the capacity to coordinate wage-based distributional claims in response to wider macroeconomic adjustment imperatives (Boreham et al. 1999: 205). The advantage of the Accord was that anti-inflationary policies, together with policies designed to spur growth, could be pursued simultaneously, thus avoiding the deflationary bias and direct confrontation with the unions entailed in the Fraser Government's neoliberal 'fight inflation first' approach.

The Accord marked a fundamentally new departure in Australian macroeconomic management, involving an unprecedented level of formal cooperation between the political and industrial wings of the labour movement and an escalation of the level of 'politics' involved in wage setting. As Kelly (1992: 73) put it: 'Labor had found the missing link in Australian economic policy—the mechanism that allowed wages to be used as a policy tool.' Not surprisingly, the Accord was premised on a return to a centralised wages system overseen by the Arbitration Commission, together with an agreement (which lasted until 1987) that wage movements would be indexed to inflation (Dabscheck 1994; 1995: ch. 2). In practice, the central thrust of the Accord was to moderate real wages growth in order to reduce labour costs and spur employment, and more broadly, to shift national income more towards profits in order to try and encourage investment and longer-term economic growth.

For the unions, the Accord offered greater influence over public policy. The Accord also became electorally popular; so for the corporatist partners, keeping Labor in power also became part of the Accord equation. Australia was able to embark on the corporatist track, in part, because the ACTU had by the 1980s (and in contrast to its earlier weaker capacities) developed sufficient organisational capacity and representational coverage to be able to lead the union movement. In this sense, the ACTU became by the 1980s much more of an 'encompassing association', one able to negotiate and *deliver* on centrally negotiated wages deals (Keating & Dixon 1989; Matthews 1994). Although an important innovation in governance in this arena, the Accord process nevertheless represented a further step along a well-worn path: the attempt to *centrally control* the wages and industrial relations system using the central authority of the state and a negotiated order amongst the parties, especially the government and the unions.

In practice, the Accord was an evolving process of bargaining and compromise. In all, eight different Accord agreements were reached (Accords Mark I to VIII) over the period from 1983 to 1995 (Bell 1997: 188–200). The Accord partners would

negotiate a joint agreement, present similar submissions in national wage case rounds to the federal Commission, which, in turn, generally rubber-stamped and helped implement them through its wage determination procedures. Hence, for the Labor government, lack of constitutional authority over price and wage regulation required the Commission's compliance in the Accord agreements. In arbitrating each national wage case the Commission was potentially brought into conflict with the ACTU and the Labor Party. Nevertheless, the Accord agreements cemented into place through the National Wage Cases, amounted to 96 per cent of all wage increases between 1983 and 1987. The Accords had helped restore 'order' and return a degree of authority to the Commission (Hancock 1987; Isaac 1989).

However, the Accord (as with any institutional system) must also be analysed as a set of relationships embedded in a wider system of institutional and structural power (see Boreham & Hall 1994). From this perspective, several issues, and problems for the Accord, are raised in stark relief.

First, the institutional arrangements of industrial relations outlined above coexisted with other institutional complexes. In the wages and labour market arena, probably the most salient was the power and role of the Reserve Bank of Australia (RBA), particularly the powers of short-term macroeconomic management it had come to increasingly wield in the wake of financial market deregulation in 1983 (see Bell, this volume: ch. 6). In this context, the industrial relations apparatus and the negotiated system of wage restraint under the Accord did not prevent a major policy-induced recession in the early 1990s; one wrought by the Reserve Bank's high interest rate policies and aimed, as the RBA saw it, at a once-in-a-decade chance to 'break the stick of inflation' (Macfarlane 1992). Such an orthodox and painful deflationary policy was exactly what the Accord had aimed to banish!

Second, the wider system of structural power in which the Accord existed played a major role in limiting its governance capacities and sealing its fate. The problem was that the Accord partners may have controlled wages but they did not control the economy, especially the all-critical investment process—business did. In such a context of restraint, the formal Accord partners acted on the understanding, bordering on hope or faith, that wage moderation would help stabilise the economy, help boost business confidence, help induce business investment, and pave the way for industry renewal, employment growth, and job security. But there were no guarantees, and certainly, business could not be held accountable if it failed to invest or if investment went into the wrong areas; which is essentially what happened (Bell 1997). In this sense, the structural power of business prefigured the terrain on which the Accord was played out (Bell 1992c). It was business control over investment and its broader control over the economy that ensured that business needs (especially wage moderation) would be served by the Accord

(see Boreham & Hall 1994). Ultimately, in a changing economy, the evolution of the Accord revealed where power lay: it was the government and unions, not business, that made most of the concessions. Indeed, such was the shift in power relativities that from the late 1980s key sectors of business felt confident that a turn to market-based industrial relations and a new framework of bargaining at the enterprise level was desirable and could be workable, especially given the growing bargaining power of business in the context of rising unemployment and growing union weakness. Growing business disillusionment with the Accord was a key feature of Australia's corporatist experiment.

Nor was the fate of Australian corporatism in these terms an isolated affair. Business mobilisation against corporatism has also occurred in the advanced social democracies of northern Europe (Gerlich 1992; Pontusson 1992; Notermans 1993; Kurzer 1993). Contrary to earlier theories, which posited that instability under corporatism would be driven by labour defection (Panitch 1979, 1981), more recent revisionist approaches now point to the central role that business interests (whether formerly incorporated or not) have played both in the rise and decline of corporatist politics (Streeck 1984; Streeck & Schmitter 1991; Kurzer 1991, 1993; Gobeyn 1993; Thelen 1994). As Gobeyn (1993: 3) argues, business interests are 'no longer viewing corporatist arrangements as beneficial due to certain domestic structural economic changes and to transformations in the global capitalist system'. Here Gobeyn points to the structural weakening of labour and growing resistance of business to regulatory controls, but he also adds (as does Kurzer 1991) that globally mobile sectors of business have become less interested in the constraints and restrictions imposed by 'national' structures of wage bargaining. Accordingly, Gobeyn (1993: 3) describes corporatism as a 'fair weather friend', a strategy supported when labour is strong, but a strategy soon reviewed when, as in the current era, labour is weakened. As (Gobeyn 1993: 6) argues, 'the benefits that corporatism created for capital such as working class wage demand moderation and relative union docility are now perceived as realisable through less restrictive, market-based, decentralised forms of labour-management relations'.

Employers were not alone in their opposition to corporatism and the Accord agreements. In 1989, the Australian Council of Trade Unions largely abandoned its recently agreed high-skill, high-wage blueprint for redesigning awards and began to plan a more decentralised system. The motivation for this change was a vehement view by some unions that the Accord wages policy, as implemented by the Commission, had prevented them from extracting over-award payments (see Campbell 1997 quoted in Briggs 2001: 34; Isaac 1989). Thus, the advocacy of enterprise bargaining in the 1990 Accord was viewed as a safety valve for reducing wage pressure in key areas of the labour market and restoring the viability of

unionism at the workplace. As Briggs notes, 'the ACTU drive for enterprise bargaining in 1990–91 was calculated to reduce the influence of the AIRC' (2001: 36). Further confrontations between the ACTU and the Commission in 1991 were to see the reluctant endorsement by the Commission of an enterprise bargaining principle in 1991. The scene was set for the introduction of a new wages system, but in an ideological framework that accorded very little with the values of the trade union movement (Mitchell & Rimmer 1990; Purcell 1993).

This unholy alliance, as it has been referred to, was also supported by the increasing neoliberalism of the government in the push for more market-orientated modes of governance, especially for enterprise bargaining; a move that many unions grudgingly accepted (Bell 1997), and one that reflected a wider neoliberal shift in favour of 'labour market deregulation' and greater labour flexibility in virtually all western economies (OECD 1986, 1990, 1992; Streeck 1987).

For its part, in 1991, in something of a final showdown, the federal Commission unsuccessfully attempted to resist the forward march of enterprise bargaining. Fears of an outbreak of market anarchy and a loss of control worried the Commission's central controllers because the Commission's institutional ethos had long emphasised *order*, based on a framework of established rules and wages centralism. Moreover, the traditional Australian industrial relations had been dominated by a relatively closed policy network (featuring unions, employer associations, governments, and the state and federal tribunals) that critics had dubbed the 'industrial relations club' (see Hendersen 1985). The Commission had long stood at the centre of the club, but the shift towards enterprise bargaining directly challenged this position.

So, in December 1990, the Industrial Relations Commission began considering Accord Mark VI as part of the national wage case. In handing down its findings in April 1991, the Commission dropped a bombshell on the government, unions, and business (Tingle 1994: 294–7). In a major departure from previous practice, the Commission failed to endorse the Accord proposals, particularly the accelerated shift to enterprise bargaining. It claimed that progress towards award restructuring and effective enterprise bargaining under its 'structural efficiency' principle had been tardy and uneven, that a consensus on what enterprise bargaining meant had not emerged, and that a number of issues involving the more precise measurement of productivity (the anchor for wage increases under enterprise bargaining), the future of national wage cases, and the protection of weaker workers in a less regulated wages environment needed more attention. The AIRC (1991: 38) indicated that it would consider the issue again at a later date, and in a strongly critical tone suggested 'the parties to industrial relations have still to develop the maturity necessary for a further shift to enterprise bargaining'.

However, condemnation of the Commission's April decision was universal. The ACTU secretary, Bill Kelty, described it as 'a sickening decision'. For its part, the government issued guidelines for enterprise bargaining, and foreshadowed legislation to allow workers and employers to enter formal enterprise bargaining agreements, a move essentially designed to bypass the Commission. The Commission had attempted a last stand, but it was beaten. In October 1991 it reluctantly endorsed enterprise bargaining, but added a parting shot to the effect that the new system was likely to lead to inequality and be unstable. The union movement remained largely oblivious to the dangers that it had set in train. It was only in 1993, after the federal election, when Prime Minister Keating announced his government's intention to introduce legislation to allow enterprise agreements to fully substitute for awards, that the dangers became manifest. The industrial tribunals were relegated to the background of the increasingly decentralised industrial relations system (Hancock & Isaac 1992; Ludeke 1992, 1994).

Under Labor, Australia's Accord partners managed to cling to a system of centralised wage coordination. This was no easy task. It required substantial discipline within the union movement, and continual painstaking negotiation and bargaining between the government and the unions. It is also clear that, towards the end, the wage coordination power of the Accord was weakening in the face of market-based enterprise bargaining. By 1995, the Accord Mark VIII document admitted that neither of the Accord partners could fully control wage claims in an increasingly deregulated system (*Australian Financial Review*, 23 June 1995). Now that the Accord has been jettisoned, any system-wide capacity for directly regulating aggregate wage outcomes has been lost. What remained, in many cases, appeared to be a much looser system of coordinated 'pattern bargaining' at the industry-wide level. On this note, Short and Buchanan (1995: 133) saw the evolving system in Australia as one that combined 'flexibility' through enterprise bargaining with 'coordination' through awards, tribunals, and pattern bargaining. Yet the strength of the politico-legal arrangements that enabled the 'coordination' to stay in place was to be critically tested during the coming years.

Neoliberal economic governance of the labour market

Neoliberalism and the shift to enterprise bargaining implied, above all, a reduction in the active engagement of the state in the labour market and industrial relations arena and a shift in governance towards the enterprise level (Fairbrother et al. 1997a). The new system envisaged a shift in bargaining over wages and conditions to individual enterprises, the theory being that gains for labour would need

to be based on improvements in productivity (Fairbrother et al. 1997b). Such developments are often presented as operational reforms to facilitate innovative practices by private sector management (Campbell 1993). A variant of this view would see political and economic conflict being transferred more systematically away from the state or corporatist arenas of governance towards the enterprise level, or what Fairbrother refers to as the 'depoliticisation' of labour-management relations (1998).

These strategies tend to take various forms. The economics literature focuses on the ability of the labour market, if unfettered by government regulation, to clear the surplus of labour. The aim, essentially, is to reduce unit labour costs. The policy vocabulary is one of flexibility for management to redeploy labour outside of the constraints of custom or legal convention. Microeconomic reform also concentrates on intervening in the social and historical structures that have determined how work is done and the social relations through which it is collectively organised. Both of these developments are fostered by a deregulation of employment and labour market conditions and an accompanying shift from more centralised regulatory structures for the control of wages and industrial relations to unregulated bargaining at the workplace level (Boreham & Hall 2000).

Business interests, especially the Business Council of Australia (BCA), pushed hard for these reforms. In 1987 the BCA established an Industrial Relations Study Commission, which produced a series of major reports (BCA 1987; Hilmer et al. 1989, 1991, 1993) that examined the merits of an enterprise-based industrial relations system. The reports championed enterprise agreements in place of industry awards, a reduction of the number of unions within enterprises, and a more assertive leadership role for management in leading workplace change (Quinlan & Rimmer 1989: 444–5; Thornthwaite & Sheldon 1993). The reports also argued that the traditional industrial relations system was too centralised, lacked sufficient flexibility, and impeded skill formation, productivity, and competitiveness. Pointing to the complexity of multi-union coverage and diverse awards in workplaces, the reports argued for a new system of enterprise-based bargaining units. 'The biggest single impediment to more efficient, competitive Australian workplaces is the antiquated structure of our trade union movement ... Ideally, what is needed is one bargaining unit at each workplace' (Hilmer 1989: 13).

The reports also argued for an improved managerial focus on employee relations and for legislative changes to facilitate the move to enterprise bargaining. The latter were designed to let enterprises opt out of the existing award system and allow workers to choose how they would be represented in workplace bargaining. Indeed, it is clear that the award system had been targeted, with the BCA's former executive director, Paul Barratt, describing the system as 'outdated and increasingly irrelevant' (Barratt 1994). Overall, the call for labour 'flexibility' emerged as a major theme of the reports. Central also was a 'unitarist' perspective on industrial relations: namely an insistence on 'managerial prerogative' and the right of managers to manage (Dabscheck 1990; 1995: 85). This represented an attempt to increase the level of 'internal' or company-centred regulation of labour at the expense of 'external' regulatory controls, such as the award system (Buchanan & Callus 1993). In this respect, the game was not so much about labour market 'deregulation' but more about how the labour market was to be regulated and governed (see Frenkel & Peetz 1990).

Paving the way for the introduction of a more market-orientated flexible system, the *Industrial Relations Act* of 1988 introduced provision for enterprise bargaining through Certified Agreements. In repealing the 1904 *Conciliation and Arbitration Act*, this Act abolished the Australian Conciliation and Arbitration Commission and replaced it with the AIRC. The next major piece of legislation, in the form of the *Industrial Relations Reform Act 1993*, considerably extended the grounds for enterprise bargaining and simultaneously downgraded the role of the Commission in line with the declining significance of awards. Following the election of the Howard coalition government in 1996, the free-market, deregulationary blueprint was in the ascendancy with the passage of the *Workplace Relations Act 1996*. The provisions of the Act constrained the range of issues that could be governed by awards to a narrow range of 'allowable matters', while further extending industrial negotiation to the workplace level through the introduction of individual contracts of employment in the form of Australian Workplace Agreements (see Harley 2000). A range of other measures in the Act restricted the rights of unions to enter workplaces and to be included in negotiations, in what Quinlan has described as 'an ideological reinterpretation of the employment relationship' (1998: 85).

Commencing in 1999, the federal coalition government signalled its intentions to further target the institutional framework of the system by removing the custodianship of the Industrial Relations Commission (Reith 1999). This would be achieved through moving away from the conciliation and arbitration powers of the constitution and relying instead on its corporations powers. Further institutional changes favoured by the Federal Government, and strongly supported by the Business Council of Australia, involve the establishment of a national unitary system of industrial relations in place of the present six jurisdictions. The Federal Government's proposals concerning awards were contained in the *Workplace Relations Legislation and Amendment (More Jobs, Better Pay) Bill 1999*. The essence of the reforms is that awards will be subject to a further simplification process, with a further reduction of allowable award matters to 16. The proposed role for the Commission is to maintain awards, which are to 'act as a safety net providing basic minimum wages and conditions of employment in respect of appropriate

allowable award matters to help address the needs of the low paid'. Such awards 'do not provide for wages and conditions of employment above the safety net' (see Pittard & McCallum 1999; Teicher & Van Gramberg 1999). These reforms increase the potential for a stronger managerial prerogative as more issues are forced into the realm of negotiation—a realm where the bargaining strength of the low paid is likely to be relatively weak. It also diminishes the bargaining position of those outside of awards through its implications for the no-disadvantage test, where the conditions in the relevant or designated award reflect a diminished range of employment conditions (see Alexander & Lewer 1998: 231).

The various reforms, embodied in this series of legislative changes by both the former Labor government and the Howard government, have led to the development of a system originally characterised by McDonald and Rimmer as 'managed decentralism' (1989: 37). Industrial relations has been a highly contested area of public policy, with 99 separate bills introduced in the period from 1956 until 1999. Twenty-three per cent of these bills were concerned with the composition, functions, and structure of the institutions that exercise arbitral and judicial powers and the economic consequences of judicial decisions (Fox & Pittard 1999). Legislative changes to industrial relations have been introduced to facilitate new employment regimes in which the influence of institutions was severely curtailed. Thus, the *Workplace Relations Act 1996* was designed to decollectivise Australian labour law and individualise the employment relationship (Van Gramberg & Teicher 1999). Federal policies have been directed at decentralised bargaining over such matters as flexible work practices, skill formation, and flexible labour market arrangements with respect to hours and security of employment. The role of the centralised tribunals has been substantially restricted, and now mainly involves a role in the safety net bargaining rounds for weaker sectors.

Labour market governance in the new century: sustaining the industrial relations system

Reflecting wider trends, especially in the relatively *liberal* capitalist economies, the pattern of wage bargaining in Australia has displayed two fundamental changes: first, the demand by business for greater 'flexibility' and a shift towards enterprise bargaining; and second, a shift in wage bargaining away from macroeconomic regulation towards greater emphasis on supply-side and production issues. These changes reflect both the pressures of economic adjustment and a wider neoliberal policy agenda. They have altered the landscape of labour politics. Union attitudes and structures have been transformed, and, in important respects, this has been reflected in a shift from labour's traditional distributional concerns towards

employers' firm-level concerns with productivity, efficiency, and flexibility. As Regini (1992: 7) argues: 'there has been a shift in the "centre of gravity" of economic and industrial relations systems from the level of macroeconomic management to the micro-level of the firm; and management, rather than the state, has become the central actor in the process of economic adjustment ...' (see also Thelen 1994: 108).

The AIRC has been placed in an invidious and contradictory position throughout much of the 1990s. Responding to the institutional constraints on its decision-making power and conscious of its broader obligations at the centre of a network of policy-making, it has assumed a pragmatic and reactive role. In the words of the Commission, the new system heightened the 'tension between the goals of managing wage developments for macro-economic purposes and the aspiration to devolve wage determination to a lower level' (Australian Industrial Relations Commission, National Wage Case 1991). In resisting the new deregulatory environment, the Commission vacated the stage at a time when a more proactive stance might have helped to restore its authority (Dabscheck 2001: 283).

Both the Coalition and the Labor Party have, through legislative intervention based on the corporations and external powers, accelerated the decline of the discretionary autonomy, authority, and influence of the Commission. The main parties subject to Commission rulings have removed their support and other regulatory instruments and agencies, such as the Employment Advocate, have established themselves on the Commission's terrain. While for most of the past century the commission set the rules for industrial relations, it has now been relegated to the role of administering functions defined by the *Workplace Relations Act*. The new focus of industrial relations is on bargaining at the workplace. Awards have been relegated to the status of 'safety nets'. The final demise of the institutions established under the conciliation and arbitration powers of the Constitution could come with a universal safety net of minimum entitlements founded instead on the corporations power in the Constitution, as has recently advocated by the Minister for Employment, Workplace Relations and Small Business. This would entail a 'unitary' system of industrial relations able to diminish the role of the remaining set of industrial institutions established under State legislation. What remains to be seen is whether the decline of the Commission is complete or whether political and economic forces in its operating environment will dictate a new attempt at reconstructing forms of representation and systems of collective negotiation.

Although the government has overseen a loss of control of social welfare and wages policies with the downgrading of the Commission (McCallum 1996), it has sought to regain some control through proposals for incorporating elements of the social security and tax systems into the safety net arrangements. The Commission

has also been encouraged to defer to the Reserve Bank as the custodian of anti-inflationary monetary policy. Indeed, it explicitly acknowledged the Bank's analysis of the cost of safety net adjustments in coming to its decision in 1997 in the Safety Net Review—Wages (Ludeke 1998: 866). These circumstances are manifested in the evidence concerning various wage measures in the period since the introduction of enterprise bargaining (Wailes & Lansbury 1997; Callus 1996). An analysis undertaken by Campbell and Brosnan (1999) demonstrates that, while average weekly ordinary time earnings have been increasing, earnings for those dependent on awards have been falling behind, with only modest nominal rises in real terms since 1990. Clearly, the government's ability to control only award wages has tended to create a 'low pay ghetto' for those who remain reliant on award wages (Campbell & Brosnan 1999: 42–3; see also Bray & Waring 1998).

Hence, the position of the Commission in employment issues has now been substantially diminished. Its remaining role has focused on the maintenance of safety net adjustments to minimum wages and employment conditions. However, the efficacy of safety net adjustments in promoting social goals is now open to considerable doubt, as noted above. It is evident that wage increases as a result of safety net increases have fallen well behind those that are able to be obtained through enterprise bargaining. In other words, there has been a significant increase in wage inequality, as those reliant on safety net increases have witnessed a comparative decline in living standards (Green 1996; McCallum 1997; McDonald et al. 2001). This has occurred despite an increase both in work intensification and in productivity for this group (Peetz 1998a).

Despite the advocacy of the BCA and other employer groups for a more decentralised approach to bargaining and the strategies of individual corporations that have introduced individual contracts, there remains a strong degree of ambivalence among many employer bodies regarding further radical forms of decentralisation and deinstitutionalisation. One of the key issues is that, while decentralisation will undoubtedly increase managerial prerogative at the workplace by moderating the role of unions, there is a significant likelihood that long-term productive efficiency will be *reduced* in this process. As Buchanan and Callus (1993) argue, many factors, such as skill development, labour allocation within occupations, the avoidance of low-wage/low-productivity industry sectors, and technology transfer that influence the economic performance of the enterprise simply cannot be promoted on an enterprise-by-enterprise basis, but require the regulatory oversight of a central institution. An important consequence of enterprise bargaining in Australia has been an emphasis on short-term profitability and cost minimisation rather than on long-term productivity enhancement through capital investment in plant and equipment and research and development

(Boreham et al. 1996). In effect, some of the key industry policy directions favoured by reforming federal governments have been reorientated by the decentralisation of industrial relations.

These conclusions also bear upon the prospects for national or sectoral incomes policies, including social wage policies. Industrial relations institutions provided governments with the capacity to negotiate wage restraint to respond to the possibility of wage-push inflation through social wage trade-offs, as was the case in the early years of the Accord (Chowdhury 2000). For such institutional restraint to work effectively, there must also be an atmosphere of trust by the labour movement that the higher profits born of wage restraint will be reinvested in concert with broadly acceptable industry or national priorities. The demise of both the institutions of industrial relations and the framework of neo-corporatist decision-making provides little hope for any coordinated approach to wages and incomes policies in the near future. This leaves only the blunt instrument of monetary policy and deflationary policies as the final check on any inflationary wage movements (Chowdhury 2000). Moreover, uncontrolled disparities in the growth of earnings between high- and low-paid groups suggest that both responsible social and economic outcomes are likely to be increasingly jeopardised in the new institutional milieu.

The depoliticisation of industrial relations has also had a dramatic impact on trade unions by shifting the institutional terrain of collective organisation into realms rarely traversed in the past. For the first 75 years, unions were incorporated into the centralised system of conciliation and arbitration of claims concerning wages and conditions of employment. In the 1980s, the form that characterised union organisation and action was one focused on macroeconomic issues at a central level through neo-corporatist institutions such as the Economic Policy Advisory Council and National Wage Cases resolved in the AIRC under the auspices of the Accord. With decentring and deinstitutionalisation of industrial relations in the 1990s, and the consequent reconfiguration of interest group representation and intermediation, unions faced the end of direct political engagement with government over industrial relations, economic and labour market policy, and the advent of more direct bargaining on the terrain of the individual enterprise.

Unions are now faced with the prospect of pursuing two contradictory strategies. The first involves a reconfiguration of the institutional framework for engagement at the centre with key aspects of state policy formulation and implementation. While the contemporary climate is obviously hostile to such an approach, unions are obliged to make representations in support of the low paid who are their members while, at the same time, attempting to sustain the award

system. Surprisingly, it may also to be premature to confirm the demise of corporatist structures, particularly in light of some recent relatively widespread European examples of the resurgence of tripartite policy arrangements (see Bordogna & Cella 1999; Grote & Schmitter 1999). The second strategy involves the development of more active forms of unionism focused on the workplace. The degree to which active representative structures are able to be built up and command the scale of support required is yet to be demonstrated. What seems likely in the medium term is the uneasy existence of a hybrid system, with a diverse patterning of trade unionism, depending on the traditions, relationships, and practices within particular unions (Fairbrother 1998; Peetz 1998b).

Conclusion

The network of judicial, administrative, and regulatory institutions that constitute the framework of the state in Australia has been subject to fundamental change during the past two decades. Most of the long-established institutions responsible for political and economic management have been restructured in response to the integration of significant parts of the Australian finance, communications, and manufacturing sectors into international markets. It is important to remember that a deregulated labour market is not one that is free of institutional constraints. It is one where outcomes will reflect individual or collective bargaining power within the enterprise. The institutional forces that determine the strength of workplace protagonists now have to be viewed in the absence of the previous forms of statutory regulation effected through the industrial tribunals. The subsequent changes to the political, industrial, and legal terrain traversed by employees and trade unions and employers and employers' associations encompassed in legislative changes during the 1990s have had a decisive impact on employment and labour market conditions (Treuren 2000). What remains to be determined is the extent of the institutional resilience of established regulatory practices and institutions in the face of the rapidly substituted systems and processes of a deregulated and decentralised industrial relations framework.

While the trend toward deinstitutionalisation of industrial relations evident in Australia has been replicated in many of the major industrial nations, there is no universal imperative toward the short-term, profitability-orientated, cost-reduction model of flexible production that these institutional changes superintend (Boreham et al. 1996). Indeed, the complex social and economic outcomes of industrial relations are likely to require an institutional domain for the representation of interests of large scale, encompassing collective actors to achieve political ends such as anti-inflation targets, equity, and low unemployment. Increasingly, in

such instances, forms of representation and systems of collective negotiation that many observers identify as neo-corporatist have seen a selective resurgence, particularly in Europe as states grapple with forms of intervention they have denied themselves in the contemporary neoliberal environment (see Bordogna & Cella 1999; Grote & Schmitter 1999).