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WORKCHOICES AND WOMEN WORKERS

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There is no question that Australia's industrial relations system needs to continue adapting to international and national circumstances. Responding to the changing characteristics of Australian workers and their caring responsibilities, for example, is a central challenge. Moreover, as the feminisation of work reflects increasing pressure on women's ability to balance work and non-work commitments, the imperative for family-friendly workplaces and a living wage mounts.

Significantly, four in ten Australian workers (mostly female) have responsibility for the care of someone else. Nonetheless, male and female labour force participation rates continue to converge (Australian Bureau of Statistics 2005b: 39). The rate of return to work amongst mothers of very young children has increased rapidly in recent years. The average maternal age at the first birth is now just over 30 years, so that women have often spent many years earning before having children. Their households depend on their earnings, and they are firmly attached to working around or through their years of intensive familial care. At the same time, Australia's workforce is aging rapidly and there are pressures to increase labour market participation. Trends in family forms, such as predicted growth in sole parent/worker and dual earner households, suggest these concerns are set to intensify (Australian Bureau of Statistics 2002-2004, 2005b). It can be expected that a disproportionate share of these imbalances in Australia's work/care regime will continue to fall on working women.

This article argues that the Howard Government's *WorkChoices* package provides no prospects of ameliorating the impacts of low pay and the work/life collision on women workers. In the Government's neo-liberal view, this is simply the desirable playing out of market forces in the free

exchange of human labour. People are, however, more than the sum of their labour. The dignity and living wage that generations of working people have struggled for, and are entitled to in a democratic society, are under serious threat from the current industrial relations proposals. These 'reforms' may well unravel decades of struggle for workers rights and gender equality.

Women's Work and Family in Australia

Though women workers comprise 45 per cent of the labour force, they continue to occupy an inequitable and less secure position in the labour market compared to men (Australian Bureau of Statistics 2005b: 108). Nonetheless, their participation rate increased from 52 per cent in 1994 to 56 per cent in 2004. Many OECD countries have higher levels of labour force participation amongst prime-aged women (Jaumotte 2004). Moreover, a relatively large proportion of Australian women use part-time work to find some kind of work/life balance. The proportion of women working part-time in the OECD area is around 25 per cent; in Australia this figure is 46 per cent, an increase of 4 per cent in ten years (the male figure for 2004 was 15 per cent) (Australian Bureau of Statistics 2004c). Nonetheless, women's share of part-time work has declined from 75 per cent to 71 per cent since 1994.

The growth in part-time work has occurred within a regulatory regime that has contributed to two-thirds of such work being precarious in nature. In 2003, 26 per cent – or almost two million Australians – were casually employed compared to 22 per cent ten years earlier (Australian Bureau of Statistics 2005b: 125). 31 per cent of female workers were employed on a casual basis, compared to 21 per cent of men (Australian Bureau of Statistics 2005b: 125). Australia is now an international standout on employment insecurity. As women figure heavily amongst these workers, the Government's workplace agenda has significant implications for women's wages, their job security and their work/life balance.

Australian studies suggest that insecurity in employment is associated with deferral of family formation (Australian Bureau of Statistics 2001;

Birrell, Rapson and Hourigan 2004). Qualitative research indicates that where casual employees have a source of back up income (from a partner, parent or pension, for example) as well as a reciprocal negotiating relationship with their employer or supervisor, casual work can assist them achieve work/family balance (Pocock, Prosser and Bridge 2004). For many casual workers, neither condition applies and so casual work reduces flexibility as well as many conditions of employment like security, and access to training and promotion.

The growth in casual, part-time and service sector work, traditionally female areas of employment, has contributed to women's predominance amongst the low-paid (Harding and Richardson 1999; Buchanan and Watson 2000: 22; Dunlop 2000; Austen 2003; Watson 2004; Australian Bureau of Statistics 2005a; Lucifora, McKnight and Salverda 2005).¹ In 2004, although they comprised 47 per cent of total employees, women made up 65 percent (1.5 million) of those earning less than \$500 per week (Australian Bureau of Statistics 2004a: 10). Similarly, women comprised 36 per cent of full-time employees, yet accounted for 45 per cent of those earning less than \$500 per week. This means the incidence of low pay among female full-time workers is 13 per cent, compared to 10 per cent for all full-time workers. The incidence of low pay for all female workers is 41 per cent, compared to 29 per cent for all workers (Australian Bureau of Statistics 2004a: 10). This data reflects broader gender pay inequities: women earned 85 percent of male full-time adult ordinary earnings in 2005 (Australian Bureau of Statistics 2005c: 6). Clearly, any industrial relations changes that promote the expansion of low pay are going to severely effect women, and those they care for.

Two of the arguments underpinning the Howard Government's promotion of low pay are: that it provides a stepping stone for young, unskilled workers into the labour market; and that many low paid workers live in higher income households that shield them from financial hardship (Commonwealth of Australia 2005a: 3, 8). On the first matter, it must be recognised that two-thirds of low paid workers were aged 25-65

¹ The low pay definition used here is two-thirds of median full-time earnings. In 2004, this amounted to \$533 per week (Australian Bureau of Statistics, 2004a, 10). These figures are therefore conservative estimates of the incidence of low pay.

years; this figure rises to 69 per cent for low paid women workers (Harding and Richardson 1999: 29). In other words, low paid employees are mainly adults in the prime of their working lives, facing the usual life cycle expenses of raising families, paying off mortgages and saving for their post-employment years.

The second argument turns a blind eye to the increasing numbers of low paid workers that live in households earning at or below the median income level. Table 1 shows the majority of low paid workers are now in this situation.

Table 1: Low Paid Workers and Household Income

	Low paid workers living in households at or below the median income level	Low paid workers living in the lowest household income deciles
1996	40%	20% in lowest 3 deciles
2003	57%	24% in lowest 2 deciles

Source: Harding *et al.* 1999: 39; Commonwealth of Australia 2005a: 49.

Moreover, the assumption of a 'protective effect' arising from residing in multi-income households is disputed by research on growing household turbulence and financial abuse (Australian Bureau of Statistics 1997; Gilding 1997; Fehlberg 2004; Millar and Gardiner 2004: 21, 29; Phillips and Park 2004; Hewitt, Baxter and Western 2005). Many of the post-war industrial relations, welfare and domestic violence policy advances are based on the assertion of the right of workers to an independent, living wage, irrespective of gender.

The Government's position shows a disregard for the harsh reality facing many low paid workers. In one year the proportion of low-income households primarily relying on wages and salaries rose from 15.2 per cent (2001-02) to 20.7 per cent (2002-03) (Australian Bureau of Statistics 2003: 17; Australian Bureau of Statistics 2004b: 15).² A growing number of households are unable to escape poverty through paid work.

² Calculated from those in the second and third income deciles.

Increasingly, these are female headed, and often female lone parent, households (Chant 1997; Gilding 1997). Evidence shows sole mothers are particularly vulnerable to being trapped in a cycle of low pay or no pay (Mosisa 2003: 42-45; Pressman 2003; Richardson and Miller-Lewis 2003). The poverty rate for employed female-headed households in Australia was 27.6 per cent in 1996, 10 per cent higher than for other households (Pressman 2003: 355). Of the twenty-one countries Pressman analysed from the Luxembourg Income Study, only four other countries (the US, Britain, Canada and Germany) produced worse results. In Australia, 'many sole mothers cease working because the low-wage jobs they obtain often make them worse off financially than they would be if they remained on welfare' (Richardson and Miller-Lewis 2003: 43). As discussed below, Australia's substandard work/care regime provides too little assistance to low paid women workers and those who depend upon them.

The next wave of industrial relations changes in Australia occurs against the background of an inferior set of provisions for balancing work and family in Australia, relative to many other industrialised nations. Why is participation relatively low amongst Australian women and so much of their work part-time, as indicated above? Jaumotte (2004) found that the potential determinants of participation include the flexibility of working-time arrangements, the taxation of second earners, childcare subsidies, child benefits and paid parental leave. These are all significant elements in constructing work/care regimes that affect labour supply.

Jaumotte asserts that improving various work/care support³ would increase the labour force participation rate of women by an average of ten per cent in OECD countries (2004: 12-15). Her analysis confirms that Australia currently exhibits an inferior policy and regulatory regime for working carers, and that this inhibits their labour market participation. The absence of a national general entitlement to paid maternity leave is a noteworthy shortcoming. Jaumotte's (2004) analysis ranks Australia seventeenth out of twenty countries in terms of its overall support for

3 That is, the neutral tax treatment of second earners, high tax incentives to share paid work between spouses and an increase in public childcare spending per child to the highest level obtaining in the OECD.

working women with children (including childcare, paid leave and child benefits). This places Australia on a par with New Zealand, Turkey and Mexico and well towards the delinquency end of support for working carers.

This inferior work/care regime has resulted in part from significant changes in institutional regulation of work in Australia since the late 1980s. While there has been a shift to enterprise agreements and individual contracts, regulated industry norms remain significant to many workers (especially women and those at the bottom of the labour market) (Watson, Buchanan, Campbell and Briggs 2003; Australian Bureau of Statistics 2004a; Department of Employment and Workplace Relations 2004; Australian Bureau of Statistics 2005d). As discussed below, these standards have been the framework underpinning any sense of workplace security and progress on workers rights, especially for women.

Implications of *WorkChoices* for Women Workers

The Howard Government's *WorkChoices* package seeks to fundamentally alter the cornerstones of Australian workplace relations (Commonwealth of Australia 2005b). Predictable trends for the Australian industrial relations system include: growth in the coverage of individual agreements; more minimalist and family unfriendly agreements; more minimalist awards with less coverage; lower work and family standards for those in the federal system; no prospect of general advances in family friendly conditions; and widening dispersion in earnings and access to other conditions (including different rates for workers working alongside each other). The package undermines the democratic and egalitarian principle of equal pay for equal work, which the women's movement and others have long struggled to secure.

Under *WorkChoices*, awards will wither in coverage and content (Commonwealth of Australia 2005b: 8-9). Given the higher rate of female award-dependence, this reduction in award application and scope will have a stronger effect on women workers and their ability to manage caring commitments. Simultaneously, Australian Workplace Agreements (AWA) will expand, constituting the re-commodification of labour on

terms where economic survival is contingent upon accepting employers' terms for work (Pocock, Prosser and Bridge 2005). The power these changes will hand to employers is reminiscent of the eighteenth century 'master and servant' arrangements, under which employer decisions indelibly affected employees non-working lives and their families (McCallum 2000). The coercive effects of such an arrangement are especially intensive where a worker has economic responsibility for the welfare of others, like children. For example, many mothers or carers returning to work, who may be single parents or recently divorced, face strong welfare demands to take any job on any terms. Their working standards will be *as strong as prevailing minimum legal standards and no stronger*, given their weaker capacity to bargain and their pressing need to provide for their families. In this system, family responsibilities suppress bargaining power and the 'care-less' are advantaged.

Working families need living wages, along with some predictability and stability of earnings. Rates of pay under AWAs are generally lower than in collective agreements for non-managerial workers, their level of pay increase is slower, and their level of compensation for work at unsocial times is lower (Peetz 2005: 7). The proposed 'fair pay and conditions standard' is a much lower minimum standard for individual agreements. Most AWAs fix the rate of pay for a lengthy period, up to five years under the proposed changes, resulting in significant falls in real wages. This provision and the operation of the "Fair Pay" Commission (FPC) will be the main mechanisms through which low pay will expand. They will leave women workers, particularly sole parents and carers, very vulnerable to employers' whims in the low skilled labour market.

Women, who are most likely to have responsibility for family care and occupy low paid jobs, are most disadvantaged by individual agreements. Women on AWAs in 2003 were paid 11 per cent less than women on collective agreements. Moreover, the gender pay gap was widest between those on AWAs: women on collective agreements received around 90 per cent of male hourly wages, compared to 80 per cent amongst those on AWAs (Peetz 2005).

It is notable that casual workers (disproportionately women) are also financially worse off under AWAs than collective agreements, compared to more permanent workers. Interestingly, Peetz (2005) finds that

permanent part-time workers are especially disadvantaged compared to permanent full-time workers (25 per cent gap) whether they were covered by collective agreements or even awards (8 per cent).

While awards will retain provisions for penalty rates, shift and overtime loadings, there is no requirement that AWAs do so, or that overall pay rates in AWAs compensate for their loss. Table 1 shows over half of existing AWAs lack any penalty rates, and significant proportions lack direct compensation for shift work (18 per cent), other allowances (41 per cent) and other payments (32 per cent).

Table 1: AWAs Without Specific Loadings, 2002 and 2003

Type of Loading	Per cent of AWAs where no specific loading exists
Penalty rates	54
Shift rates	18
Allowances	41
Annual leave loading	41
Other payments (e.g. redundancy, severance, bereavement, LSL)	32

Source: Department of Employment and Workplace Relations 2004: December, 91. This analysis is based on content analysis of 500 AWAs randomly selected from those for 2002 and 2003 (250 in each year).

The existing evidence on AWAs suggests that workers' access to advances beyond the 'fair pay and conditions standard' is likely to be minimal, and that many on individual contracts will be constrained to these minima. For example, while 71 per cent of the total population of Australian workers have access to annual leave, only 59 per cent of those on AWAs have such an entitlement. A ten percentage point gap also exists in relation to sick leave, with only 61 per cent of those on AWAs having access. In the case of long service leave (LSL), the gap is wider again with only 42 per cent of workers covered by AWAs having access to LSL, compared to 63 per cent of all Australian workers (Australian Bureau of Statistics 2004a; Department of Employment and Workplace Relations 2004: December, 94-96, Column 2).

Gender inequalities in access to family friendly provisions under AWAs are stark. Just over half of all women covered by AWAs had access to some kind of general work and family provision, compared to 66 per cent of men (Department of Employment and Workplace Relations 2004: December, 101). Table 2 shows almost half of all women on AWAs do not have access to annual leave. Overall, women on AWAs have lower rates of access to most forms of leave than men.

Table 2: Access to Leave and Hours Provisions in AWAs by Gender, 2002, 2003

Leave and Hours Provision	Per cent with entitlement	
	Women	Men
Annual leave entitlement	51	62
Sick leave entitlement	46	59
Long service leave entitlement	33	48
Span of hours provisions	35	31
Averaging of hours provisions	30	23

Source: Department of Employment and Workplace Relations 2004: December, 101.

Individual contracts also result in much lower access to specific industrial supports for work and family. Between 1995 and 2000 only 12 per cent of AWAs had work and family provisions compared to 14 per cent of enterprise agreements (Whitehouse 2001).

Table 3 shows just 8 per cent of AWAs had paid maternity leave (10 per cent of collective agreements), 5 per cent had paid paternity leave (7 per cent) and only 4 per cent provided for unpaid purchased leave. A quarter of all agreements had some form of parental leave, compared to 27 per cent amongst all Australian employees (Australian Bureau of Statistics 2004a: 30).

For workers with family responsibilities the opportunity to take a holiday, and to use sick leave for one's own or family sickness and LSL, are important provisions. Holidays are an opportunity for common family time. They are also commonly used at childbirth for parental leave. Sick leave is vital for working carers and recent decisions of the

Australian Industrial Relations Commission (AIRC) have recognised the important role that sick leave (or personal carer's leave) can play when a worker's family are ill and need care. This suggests deterioration in the number of family-friendly workplaces will occur alongside the expansion of individual agreements.

Table 3: AWAs with Specific Work and Family Provisions in 2002, 2003

Provisions	Per cent with provision
Family or carer's leave	25
Paid family or carer's leave	24
Sick leave can be taken as family leave	17
Parental leave	24
Paid maternity leave	8
Paid paternity leave	5
Paid adoption leave	4
Option for additional maternity leave	1
Purchased leave scheme	4
Bereavement leave	49
Paid bereavement leave	47

Source: Department of Employment and Workplace Relations 2004: December, 101. This analysis is based on content analysis of 500 AWAs randomly selected from those for 2002 and 2003 (250 in each year).

The option of 'cashing out' up to two weeks of annual leave under the new standard will make workers vulnerable to employer pressure to do so. Yet, this time is crucial to healthy family relationships. Recent research shows that many children, including those living in low-income areas, place greater value on more time with parents than more money, and many especially value common family time (Pocock and Clarke 2004). Holidays are also an important opportunity for working carers to recover from the effects of work. Against the background of weak or non-existent unfair dismissal rights and more restrictive workplace access and other rules for unions, along with changes in the welfare

regime (which especially affect single mothers), this proposal represents a substantive change in Australia's industrial regulation.

Moreover, the new IR 'reforms' overturn and repudiate the AIRC decision in May 2005 supporting the rights of employees to request to shift to part-time work and request extended unpaid parental leave by a further year, and a longer period of simultaneous paid leave for parents. These were 'climate shifting' measures that, as well as giving new rights, signaled support of a greater say for carers over working time, as is occurring in many industrialised nations.

On the matter of working hours, the key issues for women and their families are: the overall length of working hours, the rewards and disincentives for work at unsocial times, the incidence of unsocial working time, the extent of say over how hours are configured, notice about changes in hours, and the predictability of working time so that care can be organised. Family schedules cannot easily be matched, nor should they be, to production and service cycles. The absence of rights for employees in these proposals to negotiate their working time or be compensated for unsocial working time is a serious diminution of their ability to achieve personal and family well-being.

One of the main means of containing long hours, and rewarding those who do them, is overtime premiums. A quarter of all existing AWAs in 2002 and 2003 did not include provision for overtime penalties (Department of Employment and Workplace Relations 2004: 91). Under the proposed arrangements overtime rates are no longer included in the minimal safety net. Hence, growth in longer and unsocial hours of work through an expansion in overtime and their negative consequences can be expected.

Recent years have already seen a significant increase in the proportion of Australians working unsocial times. In 2002, 64 per cent of Australian employees worked either sometimes or regularly outside standard hours (Australian Bureau of Statistics 2002: 132). The proportion of Australian employees working more than 50 hours a week increased from 15.3 per cent in 1987 to 20 per cent in 2000 (Lee 2004: 42). Australia stands out in the industrialised world for its high proportion of employees who work long hours. Only the US and New Zealand matched this trend. Many

countries are taking active steps to reduce long hours recognising their negative effects on individuals, families and societies. Carers returning to work, including those who are required under new welfare rules to take *any* job, will have difficulty refusing AWAs that include provisions to give up loadings for unsocial work.

International evidence underscores the likely impacts of unstable, unsocial and long working hours (Anxo, Fagan, McCann, Lee and Messenger 2004: 198; McCann 2004: 26). The flow on effects included higher divorce rates and a diminished capacity for 'responsive' care, which is a key element in the well being of infants and young children (McCain and Mustard 1999; Presser 2000; Shonkoff and Phillips 2000; Pocock, Strazzari, van Wanrooy and Bridge 2001; La Valle, Arthur, Millward, Scott and Clayden 2002; Strazdins, Korda, Lim, Broom and D'Souza 2004: 1519). A recent article in *Child Development* reports:

Prior research has found negative effects of working nonstandard hours on an adult's psychological (e.g., depression), social (e.g., marital instability), and physical (e.g., fatigue, quality of sleep) well being...For example, working rotating shifts or irregular hours has been significantly associated with problems related to health, sleep and individuals' psychological performance...Working at nights may alter the body's circadian rhythms, leading to sleep disruption, fatigue, digestive disorders, and a greater risk of cardiovascular disease...Such adverse impacts on maternal well-being raise concerns about the potential impact – directly or indirectly – of mothers' non-standard schedules on their children's well being (Han 2005: 138).

Parents of young children are more likely than others to work unsocial hours. This means that negative effects arising from such hours are likely to have a higher incidence in families with children (Han 2005: 138).

In Australia, national workplace advances in gender equality and work/family provisions since the 1979 maternity leave case have relied upon the AIRC's capacity to run test cases. The existing AIRC is required to 'take account of the principles embodied in the Family Responsibilities Convention, in particular those relating to: (a) preventing discrimination against workers who have family responsibilities; or (b) helping workers to reconcile their employment

and family responsibilities'. It seems that this overall objective and function is to be effectively lost in the new machinery of industrial regulation in Australia.

On many other issues, industrial advances have flowed across the workforce, to workers unable to bargain alone, after considerable action and bargaining through the Commission. However, this has been much less the case with respect to work and family provisions, with much less industrial activity and bargaining in their support. This reflects three important factors: the weaker industrial power of working carers, their feminisation, and the fact that work/family needs arise at particular moments in the life cycle, rather than being pervasive general needs. Nonetheless, the Commissions decisions have been especially significant for lower paid employees with limited personal bargaining power: working carers, women and those experiencing acute needs at particular times (for example, when having a baby). Under the new regime 'upward-flexibilities' – conditions above and beyond the minimum – will ironically be more possible for those who need them least: that is, men without care responsibilities. It is hard to see how general advances in community standards on working women's rights and work/family issues will be achieved in the AIRC's diminished capacity. The Fair Pay Commission's 'primary objective of promoting the economic prosperity of the people of Australia' will crowd out attention to the fairness or liveability of minimum wages.

Conclusion

Workers with family responsibilities need a living wage, with some predictability and security and the opportunity to live free of financial stress; security of employment which is vital to family formation; adequate, predictable and common family time; flexible working conditions that allow workers to deal with family needs, including the opportunity to change working time (i.e. to part-time work); the avoidance of excessive working hours; adequate paid and unpaid leave to deal with personal and family sickness, birth, early parenting, death and other times of intensive family care or incident; and quality, accessible, affordable childcare.

While other industrialised nations are embracing female and family friendly workplace changes, the *WorkChoices* package is taking the Australian industrial relations system entirely in the wrong direction. The Howard Government is embarking on a program that will exacerbate insecurity, low pay and the work/life imbalance, that women are particularly battling to cope with. Working women will bear the brunt of the Government's anti-worker campaign.

The ramifications of the Government's plan will however spread well beyond women workers. The *WorkChoices* agenda will intensify inequality amongst wage earners (Watson *et al.* 2003; Saunders 2005). The shift to enterprise bargaining and individual contracting, alongside rapid growth in earnings amongst the top deciles of Australia's workforce, has seen a widening gap between the top and the bottom rungs of Australian society.

The paucity of family friendly workplaces, appropriate childcare services, and the commodification of care has contributed to widening gender income inequality. Research conducted by the National Centre for Social and Economic Modelling (NATSEM), found that between 1982 and 1997 '...women at the top increased their salaries by 22 per cent, or \$218 a week in real dollar terms, while women at the bottom actually slipped backwards by 9 per cent or \$4.40 a week' (Hickman and Gunn 2000: 1).⁴ This kind of inequality is hidden by focusing on average earnings, which also conceals growth in working poor and jobless low-income households. Growing inequality creates a significant, hidden social cost arising from weaker and lower safety nets, with implications for all levels of society (Wilkinson 2005).

The Howard Government argues that the *WorkChoices* package is necessary if Australia is to build a strong and sustainable economy. Indeed, many countries share Australia's changing labour market and social conditions and face the same global markets as Australian enterprises. However, many such countries are taking a different road in response to these challenges, attempting to increase support for working

⁴ The gap between men was a 12.4 per cent (\$169/week) improvement for high income earners compared to a 6.3 per cent (\$14 a week) improvement for low income men.

carers, ensuring their workforce participation is underpinned by minimum standards, and by providing essential infrastructure like paid leave, and quality, affordable and accessible public childcare. Many countries also apply legal limits to the length of the working week, provide greater protection and rights to part-time workers, and address unsocial working hours (Pfau-Effinger 1998; Rubery 1998: 151; Fagan and Lallement 2000; Fagan and Burchell 2002; Bosch 2003: 17; Fagan 2004: 135-136; Fagnani and Letablier 2004; Lee 2004; Messenger 2004; Burri 2005: 56). Elsewhere equitable, family-friendly industrial conditions have not been seen as necessary trade-offs for economic growth, but as *achievable joint objectives, the one supporting the other*. The Howard Government appears unable or unwilling to strike such a balance.

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