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Introduction: workplace relations in Australia

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INTRODUCTION

Our field of study was for a long time referred as industrial relations or labour relations, and in Australia these designations remained unchallenged until the early 1980s, when employer organisations – particularly the then newly formed Business Council of Australia (BCA) and later right-wing think tanks, such as the HR Nicholls Society – challenged what they regarded as the anachronistic and obstructionist collectivist/class conflict paradigm of the ‘industrial relations club’ (Stone 2006). In Australia, possibly the most influential and coherent critique was that provided under the auspices of the Business Council of Australia (BCA) (1989). The BCA posited a model of employee relations that looked very much like an Australian version of strategic human resources management (SHRM) (Beer et al. 1984), and this led the BCA to advance two key propositions: first, that the key to enterprise success is in finding competitive advantage; and second, that in the relationship between employer and employees, there is no room for third parties. In other words, in employment regulation unions, industrial tribunals – and even employer associations – were a distraction, or at worst an interference. While the term ‘employee relations’ continues to have currency in the Australian academic literature, its usage does not imply endorsement of a particular reform agenda; rather, it emphasises the shift in focus to the employment relationship. In Australia more recently, the term ‘workplace relations’ has emerged to describe the changing field of study to which this book is devoted – for example, issues associated with monitoring and surveillance and employee voice are very much workplace relations issues rather than institutional aspects of the workplace in the twenty-first century. Significantly, the term ‘workplace relations’ has also found favour with both of the major political parties.

A useful feature of terms such as ‘employee relations’ and its derivative, ‘employment relations’, is that they explicitly place our study in an international context, and thus open the way to a consideration of the impact of both international competition and the financial sector. Indeed, far from international political economy being peripheral to the study of workplace relations, Chapter 1 demonstrates the centrality of the global economy. Another attribute of these newer usages is that they place employment relationships at the centre of the study – though this focus increasingly has to be recast, as we explain a little later, and this opens the way to a consideration of the literature on the nature of work and work organisation. Such studies are truly cross-disciplinary, being informed by the disciplines of politics, sociology and even anthropology.

Returning to the issue of the employment relationship and its limitations, it has widely been acknowledged that, while most people in Australia still perform paid work under the terms of a contract of employment, self-employment – whether genuinely on ‘own account’ work or as a ‘dependent’ contractor – is an increasingly common form of paid activity in Australia and many other places. Indeed, in many developing economies, waged (time-based) work is not the dominant form of employment relationship. For example, in Vietnam – a country with close connections to Australia – it is estimated that the informal economy accounts for more than 82 per cent of all jobs (Cling, Razafindrakoto & Roubaud 2010). While many people

working in Vietnam are employees, they are not bound by a contract of employment and may even be unpaid workers.

Taking these considerations into account, in this book we have adopted the term 'workplace relations' in order to encompass the field of study. While it could be said that the term is somewhat controversial, as it recalls the divisiveness of the Howard Liberal-National Coalition government's *Workplace Relations Act 1996* and the later Work Choices amendments, this is precisely its value. The policies of this government represent just one phase in the evolution of the Australian workplace relations system, from what was arguably a centralist model to one focused on regulation of relationships at work. This process of decentralisation, which commenced in the 1980s and has continued through successive governments, has shaped the policies of the major participants in the Australian workplace relations system. What distinguished the period of the Howard government were the aggressive attempts to marginalise trade union influence and to erode employee rights at work. These issues recur throughout this book, but receive particular attention in Chapters 5 and 8.

In choosing to describe the field as workplace relations, it is not necessary to reject terms such as 'industrial' or 'labour relations', but it is necessary to recognise that these terms emerged in a particular historical context in countries such as the United Kingdom, the United States and Australia. At the same time, we do not reject the more recent ways of describing our field; rather, we want to build on the analytical advances they embody. The choice of workplace relations provides an anchor in the contemporary development of our field in Australia, and reinforces the policy context while providing a sense of continuity with the earlier terms. From industrial and labour relations, we are able to draw an understanding of the importance of institutions, processes and politics, as well as the role of the state. From employee and employment relations, we draw into our analysis consideration of employment regulation in its widest sense, an understanding of the international and economic contexts, and a recognition of the salience of strategy.

In this book, we have attempted to provide a comprehensive statement of the elements that constitute workplace relations in Australia. The work contained here is consciously cross-disciplinary, in order to place the study of workplace relations in the most meaningful context possible. In so doing, it is necessary to give considerable attention to the implementation of the *Fair Work Act 2009*, because in the eyes of most commentators – for better or worse – this was the most significant set of changes to the legislative framework since the enactment of the *Conciliation and Arbitration Act 1904*. Certainly, the earlier Work Choices legislation constituted a fundamental break with the historical system of conciliation and arbitration, which was premised on the centrality of unions and employer associations, in attempting to radically shift the balance of power in the employment relationship to employers and to advance market-based mechanisms in regulating the employment relationship. The still new and evolving system partly reverses this direction, implementing a national system of regulation that places tribunals and governments at the centre of the system. What makes the *Fair Work Act* stand out is the provision of a comprehensive system of

INTRODUCTION

minimum employment standards, as well as the attempt to entrench a form of collective bargaining as the centrepiece of employment regulation. Of course, from the outset, this model came under challenge from a variety of ideological and economic interests, and whether these interests will be able to coalesce and secure a retreat from the reforms of the *Fair Work Act* remains to be seen.

■ Exploring the terrain of workplace relations in the early twenty-first century

In developing this book, we invited authors to contribute chapters on some of the major defining questions and themes in Australian workplace relations. Obviously, not all of these questions are addressed in each chapter; however, by asking these questions consistently and requesting that the authors respond to them, we set out to create a connected discourse. By taking a different but related approach in the analytical case studies in the final section of the book, we then provide a space where each of the questions or themes can be revisited in the context of a series of representative Australian employment settings. We can see there how the different themes interact with each other. Accordingly, we now frame the major questions addressed by the book.

The starting point for framing these questions is the role of neo-liberal ideology and globalisation in influencing changes to the model of workplace relations in Australia. Neo-liberal ideology has three major aspects: a focus on smaller government with outsourcing and privatisation of government business activities and lower taxes; minimising government interference in individuals' decision-making; encouraging self-reliance; and reducing the level of government regulation to allow markets to operate in a more unimpeded way (see Chapter 1 for further discussion of this important issue).

Complementing the growth in neo-liberal ideas is the impact of globalisation on the Australian economy. This took the form of opening up the Australian economy under the Hawke Labor government in the 1980s by floating the currency, so that the exchange rate was driven by international market forces and not government regulation. While the dollar was floated, tariff protection for Australian businesses was cut significantly and progressively reduced. These major changes put pressure on companies to either reduce labour costs or innovate by introducing new technology in order to remain internationally competitive.

These changes had significant impacts on various aspects of the Australian employment model, which were mediated by the changing power relations between unions and employers, and the political contest between neo-liberal ideas about the respective roles of the state and the market on the one hand and Labor Party ideas about protecting employees' living standards and wages on the other. This struggle was also played out in the context of structural change in the labour market, with the growth in female employment, the shift to services and the impact of new technology on skills and job design, as we discuss in Chapter 2.

The impact of neo-liberalism and globalisation can be seen in a range of different issues covered in this book: declining union membership and, related to this, unions' role in maintaining wages and conditions, as well as their attempts to develop strategies to increase membership and retain influence over employment regulation and take part in international union bodies to offset the impacts of globalisation; the growth in precarious employment and wage inequality as a result of employers' drive to increase flexibility and reduce labour costs; the politically contested trajectory of change to employment regulation from centralisation to the workplace level, accompanied by the recent growth of minimum standards under the Rudd and then Gillard Labor governments; the impact of international employment regulation in the context of the domestic labour market; and the development of the discourse of human resource management, derived from the United States and United Kingdom, which stresses the importance of individual commitment to management goals (and not the collective of employees) to enhance productivity.

While our focus is essentially contemporary, some chapters have an historical dimension, as it is simply not possible to discuss trade unions (Chapter 3) or disadvantaged workers (Chapter 10), for example, without considering developments over time. Similarly, the nature of human resources management (Chapter 6) and its place in workplace relations cannot be separated from the development of the field in this country. However, the historical dimension has been covered in a range of other works, so in relation to human resources management we ask: *How has the field developed and in what ways?* Similarly, with trade unions, we ask questions like: *In the twenty-first century, have the issues or tactics employed by unions changed or evolved and why?*

True to the evolving nature of the field, the international economy looms large in our discussion, but debates on the nature and causes of globalisation have been well rehearsed elsewhere (e.g. Stiglitz 2002; Bhagwati 2004; Friedman 2005). Of greater interest is the way in which globalisation has played out, and here too we remain consistent in keeping our lens focused on the twenty-first century. A consideration of the Global Financial Crisis (GFC) of 2008 highlights both the intense interconnectedness of nations and the vulnerabilities of individual economies and societies to these fluctuations. As we were compiling this book, there were continuing threats of global economic crises emanating from the parlous state of government budgets and the challenges facing the financial sector in Greece, Italy and Spain. In the case of the GFC, the impact of the financial sector on the real economy was perhaps the most significant fact. As a consequence, in many developing countries the engine of growth stalled and even went backwards, due to declining investment, reduced foreign aid and a deterioration in the balance of trade. In Australia, the pace of growth slowed but did not stop, due to the continued strong natural resources demands from China and India and timely fiscal interventions by the federal government. Notwithstanding, we need to ask: *What consequences did the GFC have in Australia and were they enduring – for example, in the case of disadvantaged workers?*

Also relevant is the way the GFC underscored the need for state intervention, not just to regulate markets but to stabilise the macro-economy; however, these

INTRODUCTION

lessons were not learned particularly well in most cases, and there has been a resurgence of the global march of the ideology of deregulation. In the Australian context, there is a need to consider the legacy of these global disruptions for workplace regulation, particularly in the light of the contest between the competing models of employment regulation provided by the major political parties. These debates echo those that have occurred throughout the world, especially in Europe, Scandinavia, the United Kingdom and the United States. At a more fundamental level, this is part of the dynamics of capitalist society, in which advocates of freer markets – who typically are aligned with major business interests – seek to shift the operation of the political and economic system to create a more beneficial regulatory climate and to use that influence to change the pattern and level of public expenditure. In relation to this, we should consider the lengths to which the Republican Party has gone in withholding support for raising the borrowing limit of the US government. Until the Obama presidency, raising government borrowing limits was a relatively routine matter – for example, during the years of the George Bush Sr presidency, substantial increases in government borrowing were necessary in order to finance a regime of lower income taxes. In 2011, the Republican Party was determined to defend low taxes and compel expenditure reduction as a condition of its support for the passage of the budget. In terms of the political dynamics of the United States, this is likely to play out in future years in welfare reductions and the increasing vulnerability of low-wage earners. Whether this will lead to increasing US competitiveness in the global economy is doubtful, but it is a powerful manifestation of how politics and economics impact on employment. This gives rise to the question: *What has been the trajectory of employment regulation and the pattern of social expenditure in Australia in recent years?*

The focus on globalisation and the international economy gives rise to a need to inquire into the impact of international employment regulation in the context of the domestic labour market. *To what extent is international regulation a source of domestic employment regulation and does it shape that model?* Likewise, we need to consider how international regulation plays out in the context of international competition, particularly in terms of the role of international labour standards and trade agreements in regulating competition between developed and developing economies – see Chapter 4. How this plays out will impact Australian workplace relations and the employment system for a long time to come.

Understandably, and in contrast to earlier treatments of industrial relations in Australia, the issue of strikes does not loom large in this book, but we are intensely interested in what has happened to industrial conflict. As is evident in Chapter 8, the decline in the number of strikes in Australian workplaces over the past two decades hides the reality of widespread but less visible conflict. There is ample evidence of the growth of other forms of workplace conflict – for instance, in the number of complaints to the Human Rights and Equal Opportunity Commission (HREOC). Complaints rose by 80 per cent to 2517 between 2006 and 2010, and most of these disputes were from workplaces. Employment-related complaints constituted 88 per

cent of all complaints under the *Sex Discrimination Act 1984*, 65 per cent of complaints under the *Age Discrimination Act 2004*, 44 per cent of complaints under the *Racial Discrimination Act 1975* and 36 per cent of complaints under the *Disability Discrimination Act 1992* (HREOC 2010). At the same time, the Australian Industrial Relations Commission (AIRC) – which became Fair Work Australia, since renamed the Fair Work Commission – reported an increase of disputes referred from failed workplace dispute-settling procedures from 851 in 2004/05 to 1243 in 2009 (AIRC 2009). So, while strikes have subsided, there are still many other forms of workplace conflict. In the Australian context, we investigate the question: *Has the decline in strikes been associated with the growth of alternative expressions of conflict? Is it associated with the decline of unions and is it related to management developing more sophisticated mechanisms for managing conflict?* This raises associated questions about the development of union and non-union voices in Australian workplaces, which is the subject of Chapter 7. The decline of visible manifestations of conflict also prompts us to ask whether the trajectory of employment regulation – particularly more vigorous enforcement of sanctions on industrial action – has driven down the incidence of strikes and other forms of organised industrial action.

■ Case studies of workplace relations

A distinctive feature of this book is the inclusion of integrated case studies of workplace relations in four important sectors of the economy: retail and hospitality; the public sector; motor vehicle components; and health. In some respects, inclusion of the motor vehicle sector harks back to a manufacturing past, but the continuing existence of this sector highlights the pressures to become and remain internationally competitive in an industry that increasingly is becoming dominated by Asian manufacturers employing the latest technologies and methods of work organisation combined with low labour costs. How does the new landscape of vehicle manufacture play out in the Australian industry and how do the institutions of Australian workplace relations accommodate this landscape? These are the sorts of questions that are addressed in the case studies. The other three cases reflect the decline in manufacturing in the rise in service sector industries (extensively discussed in Chapter 2), as well as the ageing of the Australian population. These are important aspects of the study of Australian workplace relations, which this book draws out.

The case studies serve another larger purpose: they are designed to complement the earlier chapters and integrate the book. Unlike standard case studies, which are added to the end of chapters for teaching purposes, or cases developed solely for the purposes of graduate teaching, these cases explicitly address the themes of the book. These analytical case studies provide in-depth considerations of how the ‘topics’ and themes of the chapters play out in real-life situations. Typically, cases are provided to illustrate a point, but these cases illustrate the complex interplay of ideas and so enhance the readers’ understanding of the earlier chapters. Finally, it should be noted that teaching cases and questions have also been included at appropriate points in the text.

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