

Labour Market Efficiency and Fairness: Agreements and the Independent Resolution of Difference

John Buchanan *

It is now settled that we need to get beyond *WorkChoices* by *Moving Forward with Fairness*. But what does this mean? In particular, what does it mean if we are interested in improving efficiency, effectiveness and equity in the Australian labour market? As an election manifesto, the ALP's policy on labour law was, understandably, strong on rhetoric and light on detail. A paper this length cannot overcome the 'details' problem. Instead, it clarifies the key issue of institutional design that should guide the impending legislative changes. This is:

facilitating dynamic agreement making supported by a strong system of independent resolution where agreement cannot be reached and which also sets national labour market standards.

The argument is straight forward. Any effective system of labour law must engage with the two asymmetries at the heart of the employment relationship: inequality of *bargaining* power before a worker is hired and *uncertainty* of performance once they are engaged. The former favours the employer, the latter the worker. These inequalities change over time. Differences arising from these asymmetries underpin the need for ongoing agreement making. Not infrequently, however, agreement cannot be reached. While each of the plenary papers differed, all four agreed that, over the last century, Australia has devised a dynamic system for independently resolving such 'deadlock' situations. These tribunals have succeeded because they have kept most industrial or workplace relations issues out of parliament and the courts.

This argument is developed by answering the following connected questions:

- What are the fundamental problems any system of labour law must deal with?
- What does the latest research on labour market arrangements and economic performance tell about institutional design?

* Director, Workplace Research Centre, University of Sydney.

- What guidance do the plenary papers offer in moving the debate on labour law reform forward?
- What do recent experiences with enterprise bargaining reveal about problems to avoid?

The Fundamental Problem: Labour as a Factor Production

Labour law was once regarded as an arcane area of interest to only a small group of specialists. In recent times, however, it has become a matter of intense public interest. If policy debate is to mature we must move beyond rhetorical claim and counter-claim. Instead, analysis must be built on clear conceptual foundations. These can be traced back to the distinctive nature of labour as a factor of production. As Brown and Nolan have noted, what underlies industrial or workplace relations 'is the inherently controversial nature of the employment transaction (Brown and Nolan 1988: 340). This arises from two asymmetries (Fox 1974: 190). The first arises from the *inequality of bargaining power* between the parties before the contract is made. While many employees have few options to them other than to sell their labour, employers are, generally speaking, not so constrained (Fox 1974: 190). The second asymmetry arises from the peculiar nature of labour as a commodity (Biernacki 1994). An employer hires a worker's potential to perform, not the actual performance of work itself. This *inequality of uncertainty* means that while workers are sure of their wages once hired, the output an employer receives is open-ended because only workers know how diligently they apply themselves on the job (Braverman 1974: 52–58; Fox 1974: 183–189; Brown and Nolan 1988: 340). For the sake of brevity, the first inequality will be referred to as the 'external inequality', and the second the 'internal inequality'. While the first tends to disadvantage the employee, the latter creates major problems for the employer.

Labour law as a distinct realm of jurisprudence primarily emerged to redress the inequality of bargaining inherent in the open labour market. Initially this took the form of limited recognition for unions by granting them immunity from suit for civil and criminal conspiracy (Deakin and Wilkinson 2004: ch 4). In Australia, this evolved into a more elaborate system of conciliation and arbitration. All systems of labour relations, however, grapple with both internal as well as external inequalities. For example, in dealing with employers in the late nineteenth century, leading British unionists conceded management's right to manage as it saw fit in the workplace in return for management's recognition of unions for the purposes of bargaining minimum wage standards that operated across an industry (Sisson 1988; Gospel 1992: 79–103). In Australia, recognition rights for unions under conciliation and arbitration were closely associated with industrial tribunals which actively supported management prerogatives in the workplace (Wright 1994). Interestingly, in more recent times, labour law has devoted greater attention to issues of enterprise level activity — that is, issues concerning the internal inequality. This push has, however, been accompanied with a concern over labour standards. Understanding the reality of these connections is important. Much recent debate on labour law reform is

couched in terms of 'regulation' versus 'deregulation', and 'centralisation' versus 'decentralisation'. The reality has always been — and remains — more nuanced. Levels of bargaining are connected, and how they are connected is shaped intimately by the regulatory environment. It is impossible to have 'regulation'-free bargaining — someone, somewhere, has to set the rules (Buchanan and Callus 1993). What does the latest literature tell us about which types of rules are best for promoting desirable economic performance?

Leads From the Literature: A New Openness About Policies Concerning Work²

In the 1980s and 1990s, labour law reforms inspired by 'free market' doctrines of decentralisation and deregulation were introduced in several advanced market economies, especially in the English-speaking world. Places like the United Kingdom now provide over two decades of experience to reflect on. Studies of the impact of these policies have found that they often delivered less than originally claimed. Institutions which once actively propagated such doctrines have, in recent years, become far more circumspect. In 2006, for example, leading analysts from the World Bank noted in a key IMF publication that free-market reform prescriptions had serious problems. In particular, they noted that '... expectations about the impact of reforms on growth were unrealistic...' and that 'governments should abandon formulaic policy-making in which "any reform goes" ...' (Zagha et al 2006). They concluded:

our knowledge of economic growth is extremely incomplete. This calls for more humility in the manner in which economic policy advice is given, more recognition that an economic system may not always respond as predicted, and more economic rigor in the formulation of economic policy advice.

OECD researchers have reached similar conclusions about labour market regulation in particular. For example, several studies have examined the association between levels of employment protection and employment/population ratios (OECD 2003, 2004 cited in Browne 2005). These data revealed that countries with amongst the highest levels of employment protection, such as Denmark, Norway, Sweden and the Netherlands, also had the highest employment rates. OECD researchers have also examined the connection between high minimum wages and unemployment rates for unskilled workers. This work has been based on their own econometric analyses and a literature view of studies using micro-level data. Their findings were clear:

It appears that the majority of international studies using micro data to test whether the relative employment performance of low-skilled workers was worse in countries where the wage premium for skill was more rigid have not verified this (OECD 2004: 142).

The OECD has also examined studies and undertaken its own work on the macro-economic performance of so-called 'liberal market economies' (with, inter alia, weak labour market standards and fragmented bargaining) and compared this with 'coordinated market economies' (with, inter alia, multi-employ-

er industrial arrangements and strong labour standards). The OECD has noted that a 'considerable' number of studies found that 'intermediate' systems of 'co-ordinated flexibility' have delivered superior outcomes. Its own original work found no strong relationship between type of economy and macroeconomic performance. It did, however, find 'one robust relationship': uncoordinated, deregulated labour markets are associated with high levels of inequality and 'equity effects need to be carefully considered when assessing policy guidelines related to wage-setting institutions' (OECD 2004).³

What about research on the impact of different labour arrangements internal to the workplace and their impact on firm performance? Seeking an answer to this question has become something of the holy grail amongst some labour researchers. The most recent comprehensive Australian study to generate data and analyse how firm performance was associated with workplace industrial relations found no conclusive relationship (Wooden 2000: 173–176). An even more comprehensive study has been recently released in the United Kingdom (Kersley et al 2006). The British Workplace Employment Relations Survey (WERS) examined the connection between workplace practices and firm performance. Its consideration of robust data provided by workplace-level accountants as well as subjective perceptions of workplace managers makes it one of the most comprehensive studies of its kind. Its primary finding on how workplace relations variables such as union recognition affected productivity were modest. Where unions were recognised there was a weak negative association with managers' subjective ratings of labour productivity. When more robust measures were examined (eg value added per worker relative to industry average), no statistically significant relations could be found at the 10 per cent level (Kersley et al 2006: 286–303).

Like all good research, definitive leads for policy are scarce. What is clear, however, is that assumed certainties about the superiority of free market structures and non-union arrangements have not been validated. Indeed, the one factor that has been highlighted by the research is that while systems of labour standards are not necessarily associated with either superior or inferior economic performance, systems based on lower standards and weaker unions are associated with significantly inferior outcomes in terms of equity.

Where does this leave us in the current debate on the re-shaping of Australian labour law?

The Current Australian Policy Situation: Plenary Paper Insights and the Kirby Doctrine⁴

It is clear that recent research on labour relations and economic performance provides, on the most general of findings, especially negative protocols on what *not* to do. On matters of the detail of institutional design — the crucial issue for labour law — we must turn to other forms of knowledge for guidance. Prime among these are qualitative understandings of how labour markets work and how institutions of labour law both shape and are shaped by them. The four plenary papers prepared for this volume are very helpful in this context. These authors are outstanding researchers. More importantly, they have also had

years of experience in endeavouring to change reality by advising reform of industrial relations systems at both State and Federal levels.

Despite coming from different disciplinary backgrounds and policy preferences, what is striking about these papers is the degree of consensus about the key issues. All argue that we are, potentially, on the verge of a new labour law settlement. The essence of this will be one in which employers enjoy considerably more power than has, historically, been the case in Australia. This point is made most strongly by Ron McCallum (2008). And as Keith Hancock argues: '[t]he questions now confronting policy makers are whether and how these enhancements of employer power should be reversed' (Hancock 2008: 8). Employer ascendancy has come at a price. The rise in inequality and labour market fragmentation has been documented elsewhere (acirrt 1999, Watson et al 2003). Procedurally, too, there has been a cost — an unstable industrial relations policy environment. After a decade and a half of major legislative change, all players are coalescing around a new consensus on the fundamental features of our industrial or workplace relations system. As all the plenary writers note, the core elements of this looming settlement are:

- (a) collective agreement-making, not arbitration, will be at the centre of the system; and
- (b) a safety net of publicly-defined standards will provide the context for bargaining and protection for those unable to reach agreements.

What the papers also highlight is the key issue on which agreement is yet to be reached — namely how these two elements of the system will co-exist. In concrete terms, it is still unclear what role the new public agency — to be known as Fair Work Australia — will play in both parts of the system. What is remarkable about the plenary papers is the extraordinary consensus among them about the need to keep a core part of the old system — strong, independent industrial tribunals — within the new arrangements. The spectre of politicians or bureaucrats setting labour standards holds no joy for any of the contributors. In reflecting on impending changes, Keith Hancock (2008: 13–14) concludes his paper by noting that his:

... principal regret is the risk of politicisation of the process of determining the safety net. Governments come and go, and it will be a pity if minimum standards become a subject of political contest (as they have in some European countries and, in respect of the minimum wage in the United States).

Even the elder statesman of the anti-arbitration school, John Niland (2008: 19), notes:

The experience in the United States suggests that minima set and varied through legislation is a fraught process and should be avoided in Australia. Just how the role is best assigned between tribunals and special agencies is an important design feature.

Thoughtful consideration what these design features might be come from Margaret Gardner. Her paper lucidly outlines how our system has moved from

one centred on arbitration to one where agreements now occupy centre-stage. While not questioning the primacy of agreement making, she notes that industrial tribunals still have a vital role to play. As she argues, if labour standards are to keep pace with rapidly changing circumstances there is a need for their determination 'to be at one remove from government...' (Gardner 2008: 39). More than any of the other plenary contributors, she also sees them having a role in bargaining as well, resolving problems where negotiations breakdown. As she concludes (Gardner 2008: 40):

No system where interests collide can proceed without a means to break deadlocks in negotiations or redress major asymmetr[ies] of market power. Here an independent tribunal has form and reason...

The profound nature of these basic insights requires emphasis. All these writers argue that, in moving forward, it is vital that Australia nurtures its unique institutional framework which keeps the determination of labour standards out of parliament, and differences arising at work away from the courts.

Space constraints clearly limited the ability of the plenary contributors to elaborate much more on this fundamental issue of system design. Further elucidation of the key issues at stake, however, have been provided by Justice Michael Kirby in his dissenting judgment in the High Court's *WorkChoices Case* (2006). While much of this decision was concerned with technical questions of constitutional law, Justice Kirby provided many powerful insights into the Australian tradition of 'independent resolution' where differences at work become intractable. Until 2006, industrial relations had been governed in a distinctive way as prescribed in the Australian Constitution. Section 51 (xxxv) limited the Federal Parliament to making laws concerning only interstate disputes, and only by means of independent resolution. There was no general power to regulate work as such. This nurtured a century of practice that meant, in matters concerning work, where differences between the parties emerged, they could rely on 'the intervention of independent decision-makers who hear[d] both sides' (*WorkChoices Case*, per Kirby at [647]). Thus according to Kirby (at [565]), these independent decision-makers:

were obliged to take into account not only economic considerations but also considerations of fairness and reasonableness to all concerned and the consistent application of principles of industrial relations in Australia. [This] ... imposed a 'guarantee' for employer and employee alike that their respective arguments would be considered and given due weight in a just and transparent process, decided in a public procedure that could be subjected to appeal and review, reasoned criticism and continuous evolution.

Kirby noted that this approach to industrial law was compatible with people taking responsibility for their own affairs at work. Indeed, he showed that bargaining and Australia's long-standing system of independent resolution of differences at work are compatible. As he observed (at [562]), that system:

obliges the persons affected, usually through representative organisations, to take responsibility for negotiating, settling or resolving their own disputes in a collective way. This was a much more decentralised procedure than a federal legislative *fiat* would be. By the facility of conciliation and through the procedures of arbitration, workplace agreements have come, in recent years, to play an increasing role. They have done so without removing the protective machinery of conciliation and arbitration which the Constitution contemplates.

As he concluded (at [649]) on the issue of '*preserving industrial fairness*' (emphasis in original):

As history has repeatedly shown, there are reasons of principle for preserving the approach of our predecessors. The requirement to decide industrial relations issues through the independent process of conciliation and arbitration has made a profound contribution to progress and fairness in Australian law on industrial disputes, particularly for the relatively powerless and vulnerable. [To move away from this principle by basing laws on the corporations power] inevitably alters the focus and subject matter of such laws. The imperative to ensure a 'fair go all round', which lay at the heart of federal industrial law (and the State systems that grew up by analogy), is destroyed in a single stroke. This change has the potential to effect a significant alteration to some of the core values that have shaped the evolution of the distinctive features of the Australian Commonwealth, its economy and its society.

The issues identified by Justice Kirby are crucial. While his opinion about constitutional authority for Federal labour law was in the minority, his insights about the nature, operation and legacy of the tradition of independent resolution of differences are still profoundly important. Clearly the Federal Government can rely on more than s 51 (xxxv) in its reformulation of Australia's industrial relations framework. In doing so, however, it would be well advised to build on the legacy of previous industrial law. This is not an argument for 'going back', an option that is clearly neither possible nor necessarily desirable. It is, however, an argument for constructive engagement with our institutional labour market inheritance. Thus, while Keith Hancock (2008: 11) notes in his plenary contribution that '[t]he pre-eminent weight traditionally given to *dispute resolution* no longer accords with the realities of industrial relations'. The fact that disputes no longer figure as much as an issue does not mean that *differences* at and about work have disappeared. The need for independent resolution of differences will therefore continue. Ideally, parties to an employment relationship should be able to work through their differences and reach agreement. But it is important that labour law recognises this will not always be the case. Legislative decrees that the parties must bargain in 'good faith' will not solve this problem. The experiences of the United States, United Kingdom and especially New Zealand are unambiguous in this regard (Briggs 2007). Unless there is an effective mechanism of enforcement, such 'rights' are not worth the paper they are written on. Australia's tradition of having specialised bodies capable of

‘independent resolution’ of irreconcilable differences at work has a vital role to play in improving and maintaining the integrity of the bargaining system.

There is also much to be learnt from the State systems. Gardner’s (2008: 37) suggestion that we learn from the Queensland experience is particularly useful:

The legislation that became the *Industrial Relations Act 1999* (Qld) accepted the premise established in the 1990s that negotiation of agreements by employers and unions or employees, rather than variation of awards through a tribunal, was at the core of industrial relations. Although bargaining arrangements were its centre, it retained a clear role for the arbitral tribunal in updating minimum conditions and resolving disputes where negotiations had broken down and for arbitration as a last resort.

Beyond Arbitral and Bargaining Mindsets: Having the Capacity to Engage with Reality

For too long industrial relations policy debate has been characterised by unhelpful, binary modes of reasoning: ‘enterprise bargaining good/arbitration and industry bargaining bad’. It is important that we learn from the strengths and weakness of all potentially relevant arrangements. The ascendancy of the arbitral model was broken in 1993 and agreement-making entrenched in 1996. But that does not mean ‘agreement-making’ is the only show in town. We now have two decades of enterprise bargaining to reflect on. The outcomes have been less than inspiring. The clearest example concerns working time. Despite the strongest economic growth in a generation, with many labour market segments experiencing labour shortages, hours of work remain a problem for around a third of the workforce (van Wanrooy et al 2007: 81–83). Despite having had over 20 years to work out solutions at enterprise level, none of any note has emerged. The reality has been that ‘enterprise bargaining’ has not customised employment conditions nor nurtured workplace dynamism in the ways that its proponents envisioned in the late 1980s. If anything, as ‘bargaining’ has matured, the ‘bargaining agenda’ has narrowed and become more uniform — especially in its assault on working-time standards (Bretherton et al 2002; Buchanan et al 2006; Evesson et al 2007). Interestingly too, assumed protections such as the ‘no disadvantage test’ appear to have been of little substantive help for workers (Mitchell et al 2005). Clearly the problem of working time is systemic — not just individually — and enterprise-based.

Returning to the classical arbitral tools will not work either. The Australian working-time problem commenced under the Accord when centralised wage fixation was at its height (acirrt 1999: ch 5). In designing a new industrial relations framework, we will need to have the institutional capability to engage with an increasingly complex reality. Certainly agreement making will be important, but this need not necessarily be at the enterprise level (Gardner 2008: 39). Equally, some advanced institutional capability for independently resolving differences at enterprise level and beyond will also be important. For

that to be effective, such tribunals should have significant (indeed quasi-judicial) independence. This will be vital to signify their relevance as a source of authority, such that recourse to parliament and the courts on most employment matters would be a rarity. Equally, their capacity to arbitrate should be for them to decide. Any notion of 'voluntary' arbitration is really code for leaving it up to the strongest party in an employment situation to determine whether arbitration is the preferred option.

Conclusion

Labour is a distinctive factor of production. The asymmetries of power and uncertainty associated with its use mean that differences are an ever-present possibility between workers and those hiring them. Ideally, and most of the time, differences can be managed by agreement. But, some of the time, and on the key issue of prevailing national standards, there will be a need for the independent resolution of differences. Australia is lucky in having a set of institutional arrangements for performing this function. This has kept most problems arising from work out of the courts and parliaments. These institutional arrangements could, ironically, ensure Australia develops a system of agreement-making that avoids the problems of other bargaining-based systems — abuse of bargaining power by those who outwardly display 'good faith.' It remains to be seen whether Australia's leaders have the courage and imagination to build on the best of our past traditions, or whether they merely accommodate to the new employer ascendancy that is now so overwhelming that it is just taken for granted.

Notes

1. This article draws on insights into the nature of current working life uncovered in research I have undertaken jointly in recent times with Gillian Considine, Brigid van Wanrooy, Sarah Oxenbridge, Michelle Jakubauskas and Justine Evesson. Justine, in particular, played a crucial role in clarifying the key issue needing attention examined in this article — the status of awards and industrial tribunals in the emerging system. I have also gained very useful observations about the importance of this through discussions with John Robertson and Matthew Thistlethwaite. The journal issue editors have sharpened up the drafting. All errors of presentation, fact and judgment are mine alone.
2. This section draws heavily on insights I have gained by working with Brigid van Wanrooy et al 2007 and Chris Briggs (2004) on the safety net adjustment submission.
3. I am indebted to Chris Briggs for his assistance in drawing my attention to this literature and assisting with the drafting of this and the previous paragraph.
4. This paper is primarily concerned with the priority matters to consider when reforming Australian labour law in a post-WorkChoices environment and within the general ideas spelt out in the ALP's *Forward with Fairness* policies, Versions I and Mark II. I recognise that the Australian labour market suffers from a host of other challenges. I have summarised my assess-

ment of what these are and how they could be more effectively addressed elsewhere (Buchanan and Pocock 2002; Buchanan et al 2006; Buchanan et al 2008).

References

- accirt (1999) *Australia at Work: Just Managing?* Prentice Hall, Sydney.
- Biernacki, R. (1995) *The Fabrication of Labor: Germany and Britain, 1640–1914*, University of California Press, Berkeley.
- Braverman, H. (1974) *Labor and Monopoly Capital: The Degradation of Work in the Twentieth Century*, Monthly Review Press, New York.
- Briggs, C. (2007) 'After the Storm: Union Renewal and Good Faith Bargaining in New Zealand in Comparative Perspective' (under review).
- Brown, P. (2005) 'Government IR figures only tell half the story', *Australian Policy Online*, November 3, available: <http://www.apo.org.au/> .
- Brown, W. and Nolan, P. (1988) 'Wages and Labour Productivity: The Contribution of Industrial Relations Research to the Understanding of Pay Determination', *British Journal of Industrial Relations*, 26(3), pp. 339–361.
- Buchanan, J., Bretherton, T., Considine, G. and van Wanrooy, B. (2006) 'Longer and Irregular Hours: Employers, Decentralised Bargaining and Working Time Standards in Australia since the late 1970s', Paper presented at *Conference on New Standards for New Times: The Eight Hour Day and Beyond*, Centre for Social Research, RMIT University, Melbourne, 22–23 June.
- Buchanan, J. and Callus, R. (1993) 'Efficiency and Equity at Work: The Need for Labour Market Regulation in Australia', *Journal of Industrial Relations*, 35(4), pp. 515–537.
- Buchanan, J. and Pocock, B. (2002) 'Responding to Inequality Today: Eleven Theses Concerning the Redesign of Policies and Agents for Reform', *Journal of Industrial Relations*, 44(1), pp. 108–135.
- Buchanan, J., van Wanrooy, B., Oxenbridge, S. and Jakubauskas, M. (2008) 'Industrial relations and labour market reform: time to build on proven legacies', *Economic Analysis and Policy (Journal of the Economics Society of Queensland)* [forthcoming].
- Buchanan, J., Watson, I., Briggs, C., and Campbell, I. (2006) 'Beyond Voodoo Economics and Backlash Social Policy: Where next for Working Life Research and Policy', *Australian Bulletin of Labour*, 32(2), pp.183–201.
- Deakin, S. and Wilkinson, F. (2005) *The Law of the Labour Market. Industrialization, Employment and Legal Evolution*, Oxford University Press, Oxford.
- Evesson, J., Buchanan, J., Bamerry, L., Frino, B., Oliver, D. (2007) 'Lowering the Standards: From Awards to WorkChoices in Retail and Hospitality Collective Agreements: Synthesis Report'. Report prepared for the Queensland, New South Wales, and Victorian Governments, Workplace Research Centre, Sydney.
- Fox, A. (1974) *Beyond Contract: Power, Trust and Work Relations*, Faber and Faber, London.

- Gardner, M. (2008) 'Beyond Work Choices: Negotiating a Moment', *Economics and Labour Relations Review*, 18(2), pp. 33–40.
- Gospel, H. (1992) *Markets, Firms and the Management of Labour in Modern Britain*, Cambridge University Press, Cambridge.
- Hancock, K. (2008) 'The Future of Industrial Relations in Australia', *Economics and Labour Relations Review*, 18(2), pp. 7–14.
- Kersely, B., Alpin, C., Forth, J., Bryson, A., Bewley, H., Dix, G. and Oxenbridge, S. (2006) *Inside the Workplace: Findings from the 2004 Workplace Employment Relations Survey*, Routledge, London.
- McCallum, R (2008) 'Australian Labour Law and the Rudd Vision: Some Observations', *Economics and Labour Relations Review*, 18(2), pp. 23–32.
- Mitchell, R., Campbell, R., Barnes, A., Bicknell, E., Creighton, K., Fetter, J. and Korman, S. (2005) 'What's Going on with the "No Disadvantage Test"? An Analysis of Outcomes and Processes under the *Workplace Relations Act 1996* (Cwlth)', *Journal of Industrial Relations*, 47(4), pp. 393–423.
- Niland, J. (2008) 'The NSW Green Paper Twenty Years On', *Economics and Labour Relations Review*, 18(2), pp. 15–22.
- OECD (1999) *Boosting Innovation: The Cluster Approach*, Paris.
- OECD (2003) *Employment Outlook*, OECD, Paris.
- OECD (2004) *Employment Outlook*, OECD, Paris.
- Polanyi, K. (1957) [1944] *The Great Transformation. The Political and Economic Origins of Our Time*, Beacon Paperback, Boston.
- Rudd, K. and Gillard, J. (2007a) *Forward with Fairness. Labor's plan for fairer and more productive Australian workplaces*, Canberra, April.
- Rudd, K. and Gillard, J. (2007b) *Forward with Fairness. Policy Implementation Plan*, Canberra, August.
- Sisson, K. (1987) *The Management of Collective Bargaining: An International Comparison*, Blackwell, Oxford.
- van Wanrooy, B., Oxenbridge, S., Buchanan, J. and Jakubauskas, M. (2007) *Australia at Work. The Benchmark Report*, University of Sydney, October, available: http://www.wrc.org.au/O01P002/A01/V01/_Assets/_Documents/Australia@Work%20The%20Benchmark%20Report.pdf [accessed 06 April 2008].
- Watson, I., Buchanan, J., Campbell, I. and Briggs, C. (2003) *Fragmented Futures — New Challenges in Australian Working Life*, Federation Press, Sydney.
- Wooden, M. (2000) *The Transformation of Australian Industrial Relations*, Federation Press, Sydney.
- WorkChoices Case* (2006) *New South Wales v Commonwealth* [2006] HCA 52.
- Wright, C. (1995) *The Management of Labour: A History of Australian Employers*, Oxford University Press, Melbourne.
- Zagha, R., Nankani, G. and Gill, I. (2006) 'Rethinking Growth', *Finance & Development*, 43(1), available: <http://www.imf.org/external/pubs/ft/fandd/2006/03/zagha.htm> [accessed 07 April 2008].