Which way now for Australian industrial relations?

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It may look as if the same old industrial relations tug-of-war is continuing. After all, an avowedly decentralist federal government and its aggressive Workplace Relations Minister are demanding even more deregulation, and unions are opposing them. The Government seems determined to pursue further labour law changes as a central component of its third-term agenda. Their major objectives include removal of unfair dismissal laws from small business, more individual agreements and less union involvement in workplace negotiations and agreement making. These sound like further steps along a well-trodden road to a fully deregulated system. But in fact a shift is occurring, even if few have noticed it.

Throughout its period in office, the Government has called for an industrial relations system that reduces involvement of third parties in workplace relations. Industrial tribunals have seen their powers weakened and life has been made more difficult for trade unions. The standard mantra has been 'governments, and other third parties, have no place in the employment relationship'. They may not have actually said so, but the Government's view is now clearly changing. It seems almost certain that part of its new agenda will be a strong push for greater government regulation of unions and their activities.

Minister Abbott seems irritated by the refusal of many employers to use legal sanctions against trade unions, so much so that there are real prospects of government intervention to do it for them. If this transpires, we may end up with a system that is not so much fully de-regulated as re-regulated to provide for a different form of intervention. Traditional Australian industrial law saw labour market intervention as necessary to reduce the power advantage enjoyed by employers. This new intervention would aim to increase employer power, with Government acting as an enforcement agency against unions. That possibility — and its consequent boost to industrial disputation — is clearly far from remote. Even Australia's peak employer group has called on the federal Government (and unions) to be careful not to inflame and increase confrontation.

At the same time, state governments are moving in the opposite direction. Last month, The Western Australian *Labour Relations Reform Act* became law. It is a strong return to greater centralisation of industrial relations in that state. Individual agreements are to be phased out, the powers of the WA Industrial Relations Commission have been strengthened and minimum conditions of employment will be enforced. The system turns on strong emphasis on collective award and agreement making providing a clear role for trade unions. The underpinning philosophy holds that the system needs to be fairer, with greater protection for employees. Obviously, the views of the federal and Western Australia governments are diametrically opposed. One believes change should strengthen employer power and protection from unions; the other introduces greater protection from employer power.

The changes in Western Australia closely follow those introduced in other states. The Queensland parliament, for example, passed a new *Industrial Relations Act* in 1999. A recent report on its operation makes interesting reading. The proportion of employees now covered by individual agreements has fallen to just 0.5 per cent. Queensland employees have opted overwhelmingly for collective agreements. Greater involvement of the Queensland Industrial Relations Commission [QIRC] in conciliation has accompanied a marked decline in time lost to industrial disputes. Australian Bureau of Statistics data reveal that the strike rate in Queensland is now lower than the national average, despite the importance in that state of the strike-prone mining industry. Working days lost under the Queensland Act average 51.3 days per 1000 employees, compared to 66.5 days under the federal *Workplace Relations Act*. Wage levels in Queensland have grown at the same rate as those regulated by the federal Act. A greater proportion of collective agreements made under the new Queensland Act contain measures to pursue enhanced productivity and efficiency.

All of this suggest that the regulate-or-deregulate policy argument around government's role in industrial relations is now something of a phoney war. Rather, it seems likely that the real battle will rage over the form of intervention. Supporters of the federal Government's preferred system continue to argue that choice, rather than anti-collectivism or trade union bashing, is the basis for their approach. In this model, employees are to be protected against

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coverage by collective union-negotiated awards and agreements and encouraged to form their own individual high-wage arrangements in cosy, collaborative relationships with their employers. Simultaneously, the ability of trade unions to create disputation would be reduced, with better industrial relationships and greater productivity resulting.

The problem with this policy position is not primarily ideological; it is practical and evidentiary. There is no evidence that individual agreements produce higher wages for most employees. The opposite is more likely to be true in most cases. Moreover, there is strong evidence that employees, given the choice between collective and individual arrangements, opt overwhelmingly for the former. After five years under the federal Act, fewer than three per cent of employees are covered by individual agreements, despite huge efforts by the federal Government to promote them. Were it not for the compulsory workplace agreements covering many government senior staff, the figure would be even lower. In Queensland (and other states) there has been something of a stampede in the opposite direction since statutory changes simplified access to collective agreements. Additionally, it is clear and understandable that many employers simply do not want to be bothered with individual agreements for their staff, purely because it means a lot more work for them. And whether a further federal attack on union power will reduce an already modest level of industrial disputes is very much open to question. There are strong arguments to say such action might produce a completely opposite outcome. ■

Sweet victory, again...

ALIA is delighted to report the dismissal by an appeal panel of all appeals by the Wollongong City Council against a NSW Administrative Decisions Tribunal discrimination-in-employment decision in favour of five members of the Association. The original decision in the case, which concerned unlawful behaviour in the allocation of employment benefits, was reported at length in *inCite*, volume 23, page 42 http://www.alia.org.au/incite/2002/01-02/sweet. victory.html.

ALIA has strongly supported its members in this case over a protracted period. On behalf of all members, we offer hearty congratulations to Irene, Rhonda, Joan, Jan and Shivani, five librarians who have given the word tenacity real meaning. ■

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