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***EFFICIENCY AND EQUITY AT WORK:
THE NEED FOR LABOUR MARKET REGULATION
IN AUSTRALIA***

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INTRODUCTION

The movement to fundamentally reform Australia's industrial relations system has become more vocal, well organised and influential since the mid 1980's. While the outcome of this process is yet to emerge, it is now clear that basic changes in Australia's industrial relations system will occur.

Driving recent calls for industrial relations reform has been a recognition by the major industrial parties that if Australian industry is to become more internationally competitive, workplaces will need to become more efficient and productive. To achieve this it has been argued that industrial relations institutions need to be restructured (Blandy et al, 1986). The problems of low productivity levels and inefficiency, it is often asserted, are caused by strict demarcation of duties prescribed in award job classifications and work practices that restrict managers' ability to use human and capital resources efficiently. In addition the insensitivity of the wage fixing system to the needs of individual enterprises has been singled out for special attention (Brown & Rowe, 1986). These problems, it is claimed, arise from our industrial relations institutions: the structure of unions, the industrial tribunals and the plethora of industrial regulations and laws that limit employers' ability to organise the means of production as they see fit. It is argued that many of these rules and regulations need to be reduced if the objectives of labour market reform are to be achieved. According to some advocates of industrial relations reform efficiency can only be improved if the shackles of regulations are abolished or at least greatly reduced and replaced with rules that are prescribed by management or management in consultation with their employees or unions. This reform position is widely known as the movement for labour market deregulation.

Casting the debate as a choice between a 'regulated' or 'deregulated' labour market is, however, misleading. Those advocating radical reform are not seeking to deregulate the labour market but rather change how the labour market is regulated. 'Deregulationists' wish to replace regulations that are external to the workplace with rules that are determined within business units. This paper examines the different forms of 'deregulation' that have been proposed. We have called these the 'deregulationist' and the 'managed decentralist' approaches. Both concentrate on the alleged negative affects of external forms of regulation, ignoring the significant flexibility available to managers, unions and employees to negotiate suitable arrangements at workplace level within the present regulatory system. Both positions neglect the role and importance of externally devised regulations for promoting equity and efficiency at workplaces. The paper goes on to examine the role of external forms of regulation in promoting efficiency and equity in the labour market. It concludes by arguing that the debate on equity and efficiency at work should move away from a preoccupation with 'labour market deregulation' and internal forms of regulation. Attention should be devoted to identifying better ways of linking internal and external forms of regulation that promote equity and efficiency in the labour market.

Throughout the paper we refer to both equity and efficiency as objectives to be promoted by labour market regulation. While promoting efficiency is widely accepted as an important reform objective, in recent years relatively little attention has been devoted to equity issues. The pursuit of greater efficiency without taking account of the equity implications runs the risk of producing growing inequality in earnings and working conditions, an outcome which is inevitable given the inequality of bargaining power in the labour market. The paper

argues that there need not be any conflict between pursuing both equity and efficiency objectives.

THE DRIFT TO A 'DEREGULATED' LABOUR MARKET

There has been a long history of advocates calling for a fundamental restructuring of Australia's distinctive industrial relations system. From the introduction of arbitration at the turn of the century until the mid 1980s such proposals had only minor relevance to mainstream research and policy debates. Since the mid 1980s, however, the push for labour market deregulation has grown in intensity and political support.

Increasing organisations' productivity and effectiveness through what became known as labour market flexibility reforms was also a fashionable trend amongst OECD countries during this period (Sarfati, H. & Kobrin, C., 1988, Pollert, A. 1988, 1991). Based on the assumption of a rational free market, proponents of "labour market flexibility" argued that organisations needed to become more adaptable in such things as their hours of operation, the use of their labour resources, in the payment systems used and methods of wage fixing. These proposals, many believed, could only be achieved through fundamental industrial relations reform.

In Australia during the 1980's the most vocal advocates of reform were a number of influential media commentators, business leaders and employer organisations, most notably the Business Council of Australia (BCA). The demand for reform was couched as a call for less external industrial regulation of business. This was made forcefully in the BCA report, *Enterprise Based Bargaining Units; A Better Way of Working* (1989). While ostensibly arguing for a more decentralised system of industrial relations that was more responsive to workplaces' particular requirements there was an assumption that this could only be achieved by reducing the role of external regulatory bodies such as the Australian Industrial Relations Commission. This view was expressed clearly in the 1989 BCA report that stated what was needed was,

a fundamental reorientation of the system away from one largely focussed outside the enterprise and adversarial in nature towards one which is centred on the enterprise (BCA, 1989, p ix).

At the same time the ACTU and the Federal Labour Government detailed plans for restructuring Australian unions, reforming the system of awards and giving collective bargaining a greater enterprise focus. In 1988 the Minister for Industrial Relations, Ralph Willis, issued a blueprint for labour market reform that broadly endorsed the need for greater labour market flexibility as part of the Governments broader microeconomic agenda. The centre piece of this approach was the call for award restructuring which would 'remove obsolete classification, reduce the number of classifications, broadband a range of jobs under a single classification and establish links between training, skills and wages which result in career paths for workers' (Willis, p12). The trend in Government policy changed more noticeably in the early 1990s. In May 1991 the then Treasurer, Paul Keating, was particularly critical of the Australian Industrial Relations Commission following its rejection of widespread calls to promote enterprise bargaining. In an interview with the Australian on 1 May 1991 he made the following points:

"Q: You obviously see this as a fundamental turning point for wage fixation?

A: I saw it as that in January 1990. That's when I saw it. It might have dawned on many other people in April 1991.

Q: What you are really saying is that you're deregulating the labour market?

A: In an evolutionary way, yes."

These calls for deregulation and reform have led to some dramatic policy developments in the area of wage fixation and workplace reform. One of the most obvious affects has been to reduce the role of industrial tribunals in determining movements in wages. As early as 1987 in response to pressures for wages policy to be less prescriptive the system of wage fixation has become far more decentralised and the role of the Australian Industrial Relations Commission (AIRC) more circumscribed. In recent years amendments to the *Industrial Relations Act* have reduced the ability of the AIRC to administer a coherent and workable wages policy. While the arbitration system has never 'controlled' aggregate wage outcomes it has over the years played an important role in managing the growth of earnings. The push for the 'deregulation' of our wages system has been based on a desire to reduce the influence of the long standing comparative wage justice principle in Australian wage fixing. In its place has been the objective of linking wage movements more closely to productivity growth within the enterprise. The assumption is that Australia's system of national wage cases and multi-employer award coverage penalises those employers unable to pay wage rises based on price and productivity increases at national or industry level. Wage determination that is more directly concerned with individual enterprises' "capacity to pay" will, it is argued, improve efficiency.

Another legacy of the push for labour market deregulation has been manifested in an increased demand for workplace reform. Experimentation with work redesign and work restructuring has a tradition in Australia which dates back to at least the early 1970's when industrial democracy or employee participation attracted considerable policy interest, particularly from the South Australian government (Davis & Lansbury, 1986). These 'experiments' saw the introduction of schemes such as semi-autonomous work groups and quality circles in a range of organisations, although it is unclear how widespread these initiatives were in Australian organisations. In contrast, the more recent calls for workplace reform are not essentially designed to democratise work. Instead, current reforms aim to change or eliminate rules that demarcate duties, remove restrictions on work time arrangements and restrictive work practices and remove inefficiencies that are allegedly codified in awards or enforced through custom and practice. Some supporters of award restructuring and workplace change believe a degree of labour market deregulation is a necessary part of this reform process. They believe that the present formal external regulatory framework is too rigid and distant from the needs of enterprises (Niland, 1978; Niland, 1989; Angwin & McLaughlin, 1990). The problem, it is claimed, is that organisations have been forced to live with rules and regulations that have been imposed by external bodies, such as the Australian Industrial Relations Commission, that seek to codify conditions across a range of employers and sometimes across industries. As a result the rules that organisations must live by are not necessarily the most appropriate to their needs or circumstances. Reducing the role of industrial tribunals is therefore seen as a necessary prerequisite for promoting joint or negotiated regulation between employees/unions and employers at the enterprise level. The more strident advocates of deregulation, while supporting workplace change believe that the change should be determined by management unilaterally who are in the best position to decide what is best for their own organisations.

The preoccupation with workplace reform has, in short, resulted in either hostility or indifference to the importance of labour market regulation. Just how well formulated is this

push for change? This question requires a consideration of what labour market regulation involves.

THE DIMENSIONS OF REGULATION

Part of the difficulty in distinguishing between industrial relations reform options is the imprecision of the terminology. The term 'deregulation' as it has been used suggests that industrial relations can, in time, become unregulated. Such an outcome is, however, impossible.

Following Bray we define labour market regulation as "the creation and enforcement of rules which are designed to control the actions of individuals and groups who are a party to the production of goods and services." (Bray, 1990, 1) This definition implies that rules will always be a basic element of any industrial relations system. The production of goods and services require the coordination of activities that transform resources into an activity or product. To achieve these it is necessary to have procedures or rules that will ensure an efficient outcome. In reality then the debate is not about whether there should be rules but about the *source* of rules and what *form* they take.

How rules concerning work are created and enforced has been the central concern of industrial relations research (a fact that may easily be forgotten given the limited role industrial relations researchers and academics have played, to date, in the deregulation debate in Australia). It was Allan Flanders writing nearly thirty years ago who described industrial relations as 'a study of the institutions of job regulation.' (Flanders, 1965, p10). In that seminal essay Flanders distinguished between internal and external sources of job regulation. Internal regulation arises because every business or organisation 'has a structured pattern of relationships which have a permanence and a distinct identity, irrespective of the individual personalities involved'.(Flanders, p15) External regulation derives from 'the external environment in which the enterprise is placed. These limit the freedom of the enterprise and its members in their rule-making activities.'(Flanders, p15). Flanders argued the different sources of rules addressed quite different problems. External forms of job regulation arose to protect workers from 'the devastating and degrading effects of unregulated labour markets'(Flanders, p16) and to keep the 'conflict between unions and employers within reasonable bounds...'(Flanders,p17). Internal forms of regulation, on the other hand, responded to another need. 'Here the principal drive has come from managements seeking to bring the work behaviour of employees under greater control.'(Flanders,pp17-18).

Another leading British industrial relations researcher, Hugh Clegg, has argued that is important to note the different forms work rules can take. Writing for the Donovan Commission in the late 1960's he argued;

Britain has two systems of industrial relations. The one is the formal system embodied in the official institutions. The other is the informal system created by the actual behaviour of trade unions and employers' associations, of managers, shop stewards and workers. (quoted in Clegg, 1990, p4)

Even though Clegg referred to two 'systems' of industrial relations, the concepts of 'formality' and 'informality' can also usefully be applied to the nature of rules. Formal rules can arise from the authority of official institutions such as government agencies or managers in the workplace. Informal rules may come about as the result of custom and practice at the workplace and may be based on no more than a shared understanding between the parties or the culture of a workplace. Equally the behaviour and actions of

groups such as unions and employer associations beyond the workplace may result in the application of informal rules that regulate activities within organisations. A shared understanding between employers about wage rates and wage movements is an example of this type of informal rule making. Differences in the degree of formality of rules is also associated with how rules are enforced. Formal rules are most often sanctioned by law or authorities with legal standing, eg industrial tribunals, executive government agencies. Informal rules on the other hand are not usually enforced by official institutions but rather by actions of the parties such as threats of non-cooperation where there has been a breach of workplace customs or 'norms' and ostracism in the case of workers or employers who breach the 'rules' or understandings of their peers. The informality of the sanctions does not necessarily make them any less real or effective.

There are, therefore, two key dimensions to labour market regulation: the sources of rules (internal and external) and their status (formal or informal).

It has long been recognised in Australia that there is a role for external forms of regulations in a number of areas that affect the way organisations are run. It is generally accepted that sometimes decisions based on self interest or profitability may not be in the best interest of consumers. In the interest of fairness and equity the market may not be the most effective mechanism for achieving national objectives. In Australia external regulation takes a variety of forms. The industrial tribunal system is probably the most visible and best known. In addition, there are numerous federal and state statutes that regulate aspects of employment and business organisation. These cover issues such as Equal Employment Opportunity (EEO), Occupational Health & Safety and training, discrimination in employment and long service leave. While the popular perception of external regulation is of prescriptive legislation, external regulation can also be voluntary. Multi-employer arrangements such as industry or occupationally based wage agreements are examples of this form of extensive and effective regulation. Training arrangements such as group apprenticeships can also sometimes involve both formal and informal externally generated rules regulating aspects of workplace activity.

The internal dimension of regulation can also be formal or informal in nature. The most prevalent and obvious formal regulations found in organisations are rules and procedures devised by managers and codified in personnel manuals. These specify employees' obligations and rights and often deal with matters such as the handling of grievances and procedures for disciplining employees. Where these matters are not codified the rules that prevail are usually determined by employers unilaterally as a matter of management practice. Rules within organisations can also be devised on a joint basis. Such rules can be very informal and simply prevail on the basis of custom and practice. They can, however, be more formal, such as enterprise agreements negotiated and registered under S134 of the *Australian Industrial Relations Act* or Enterprise Agreements under State legislation. Should the use of individually negotiated contracts become more prevalent this would be another example of the increasing importance of internal formal regulation.

The key dimensions of labour market regulation and examples from the Australian industrial relations system are summarised in Table 1.

Advocates of deregulation seek to increase the significance of internal regulation at the expense of external modes. Under such a system managers, unilaterally or in consultation with their employees, would determine the rules. Rules arising from outside an organisation are regarded as insensitive to its particular needs and are therefore seen as a source of inefficiency. There is no suggestion in the deregulation literature that rules made by management for individuals or groups within organisations should be removed. If some form of regulation is an inevitable and necessary requirement for organisational efficiency,

what deregulationists are demanding is a change in the source of rules and/or the form they take. Essentially the call for deregulation is a call for less external regulation and the consequential increase in the importance of internal regulation by organisations. The key issue that any policy debate about equity and efficiency at work should address, however, is not *whether* to 'regulate' or 'deregulate', but rather *how* to regulate the labour market.

TABLE 1: DIMENSIONS OF REGULATION

Source of Rules		
	External	Internal
FORMAL	Industrial Tribunals Training Guarantee Act OH & S Acts EEO & Anti-discrimination legislation	Registered Enterprise Agreements Personnel and Disciplinary procedures codified in manuals
INFORMAL	Union/Employee notions of fair relative wage rates Tacit agreements amongst employers on going rate of pay	Workplace Customs & Practices Unregistered & Unwritten Workplace Agreements

APPROACHES TO LABOUR MARKET REGULATION

Three approaches to labour market regulation can be readily identified in the current policy debates on industrial relations reform. First are those who argue for the total deregulation of the labour market. These we call "free market deregulationists". A critical assumption of this approach is that so called "unregulated" labour markets will produce optimal social and economic outcomes. The role of Government is to provide only a minimum framework that will facilitate the operation of market forces ie the external regulatory environment merely provides the framework for internal regulation. In this way the legal system through contract law provides organisations with the framework that makes possible contracts within the enterprise. Most importantly the legal system provides the mechanism to ensure that formal rules determined within organisations are honoured and, if necessary, enforced.

Supporters of this approach believe the market for labour is no different to any other. It is assumed that suppliers of labour (workers) sell their product to the highest bidder (employers). Competition will ensure full employment and the efficient allocation of workers to different jobs. Workers and employers must be allowed to reach individual agreements free of 'interference' by external regulatory agents such as unions and government bodies. Such agreements should only be regulated by the common law of employment. To this extent "Free Market Deregulationists" acknowledge a limited role for external regulation, primarily through the rule of law, but the law only provides a framework for facilitating and enforcing rules determined within organisations. This view of the labour market has a long tradition and informed nineteenth century labour law.

The three most influential schools of thought informing this approach to labour market reform are *laissez faire* economics, the common law tradition and more recently some elements of mainstream human resource management (HRM) theory. The influence of *laissez faire* economics has fluctuated over the years. In the early phases of industrialisation in England the policy was strongly supported by a number of influential social philosophers, as well as parliament and the judiciary (Atiyah, 1979). Following the second world war interest in more active Government involvement in economic regulation received extensive legitimacy with the emergence of Keynesian economics. From the early 1970s the Keynesian challenge came under attack from a resurgent *laissez faire* movement. Supporters of the free market solution still remain influential in the economics profession (Neville, 1990, Pusey, 1991). Many elements of a *laissez faire* outlook still inform the common law. This is especially the case with the law of employment and the law of trade unions. Common law notions of freedom of contract and restraint of trade provide a powerful complement to *laissez faire* economics. More recently some of the human resource management literature has also argued for a reduction in state and union influence at the workplace.

The primary supporters of this "Free Market Deregulationist" approach to labour market reform have been the Liberal-National Party Coalition at federal and state levels and employer organisations such as the Business Council of Australia, Australian Chamber of Commerce and Industry and the National Farmers Federation. Influential pressure groups include the HR Nicholls Society and the small business lobby (Dabscheck, 1989, 1990). Within the Federal bureaucracy significant and persistent support for this position has come from Federal Treasury and the Industry Commission.

The second approach to labour market regulation is what we call the "Managed Decentralisation" approach (McDonald and Rimmer, 1989). Supporters of this position see the critical issue as the need to decentralise the system of industrial relations. Some reduction in the extent of external forms of regulation is believed to be a necessary pre-

condition if a more responsive and effective decentralised industrial relations system is to emerge. Advocates of this position claim that the economy's performance can only improve if individual workplaces and enterprises are restructured. It is assumed that the external industrial relations regulatory system has hindered the workplace change process.

The intellectual traditions informing this position are diverse. Industrial psychology has played a large role in influencing reforms such as job redesign and work reorganisation and improving the performance of teams within the workplace (Berg et al, 1978, Rose, 1988, Rose, 1990). Industrial psychologists have largely been silent on the role of external regulation. However, implicit in their analysis is an assumption that workplace reform that requires a restructuring of work relations and the provision of jobs that are more challenging and intrinsically rewarding and that this cannot be achieved within the restrictions of prescriptive awards and regulations that have been determined externally. To the extent that the external regulatory system, through awards, imposes restrictions on organisations' ability to restructure work there is a need to reduce such forms of regulation. Some advocates of flexible specialisation argue that the critical issue is improving the responsiveness of organisations to an increasingly volatile external environment (Piore and Sabel, 1984). It is argued that markets based on mass production have become satiated and that the traditional tools of macroeconomic management can no longer work effectively to improve economic performance. Only business units responsive to change will perform well and, it is argued, that co-operative forms of work organisation within enterprises are needed to provide the responsiveness needed for competitive success. Employee participation and individual or collective bargaining between employers, employees and unions at enterprise level are regarded as essential to solving our current economic problems. Recent developments in wages policy, most notably the award restructuring and enterprise bargaining principles, have been informed by these concerns. As Curtain and Mathews (1990) put it

Award restructuring, by linking wages with new job structures based on skills acquisition, will free up the external constraints which have reinforced Taylorist forms of work organisation. (Curtain and Mathews, 1990, p436)

While 'Free Market Deregulationists' advocate the wholesale dismantling of the award system, supporters of 'Managed Decentralisation' believe the current system still has a role to play - particularly in maintaining minimum standards for wages and conditions.

An extensive array of forces and interest groups are clustered around this position. It includes the federal Labour Government and parts of the union movement. Arguably the most vocal advocates of this position have been industrial relations and workplace change consultants (Ewer et al, 1991).

Finally there is the position we call "Co-ordinated Regulation". Supporters of this position believe that external forms of regulation are important to redress inequalities and inefficiencies that may emerge where too much reliance is placed on internal modes of regulation. Matters of particular concern are gender and ethnic based inequalities and the effect workers' notions of fairness about wages and conditions earned by employees undertaking similar work for different employers can have on relative pay and work performance. Such issues can have major implications for efficiency as well as equity within the labour market.

The intellectual underpinning's of this group come from a number of sources. Keynesian and post-Keynesian economists have long argued that it is erroneous to analyse the labour market on the basis of the simple price auction model. For them problems such as unemployment can only be addressed by regulating the labour market on an economy-wide

basis (See, for example, Layard et al, 1991). Labour market segmentation theorists, building on the insights of earlier generations of institutional labour market researchers, have noted that there is not one labour market but a myriad of groups based on occupation, industry and organisational structure (See for example, Villa, 1986). Moreover, social customs such as attitudes relating to women, often have a powerful influence on the way individuals and firms perform in the labour market. Much classical industrial relations research and many labour historians have examined institutions associated with labour market structures and argued for the importance of understanding the wider context within which workers and workplaces operate (Marsden, 1986, Brown and Nolan, 1988). For many in this tradition, regulation is only one factor influencing the labour market and it is often required to redress some of the inefficient and inequitable results that arise from market forces.

A disparate range of people and institutions have expressed concerns about the emerging consensus in favour of reducing the importance of externally determined rules. In contrast they argue that there is a critical role for some form of external regulation if equity outcomes are to be an objective of the economic reform process. Many women's groups and welfare organisations have expressed concern about the possible detrimental affect on their constituents if external modes of regulations are reduced and a preoccupation with enterprise performance diverts attention from other labour market issues. Amongst industrial groups, and for different reasons, the Metal Trades Industry Association (MTIA) has persistently supported an active role for Australia's industrial tribunals in regulating the labour market. The MTIA's interest in regulation arises from its experiences in the 1970's and 1980's that saw a form of over-award enterprise bargaining result in a wage break out in the metals sector. The MTIA is concerned that too great a reliance on internal modes of regulation may lead to excessive wage increases in the recovery phase of the business cycle. External forms of regulation that assists in co-ordinating wage movements can be important for preventing this problem or minimising the extent of wage movement when recovery begins. A number of arbitration commissioners have also noted the importance of the tribunals for efficiency and equity (Hancock, 1985; Isaac, 1982). They argue the tribunals play an important role in rectifying labour inefficiencies and inequalities such as unfairness in male/female earnings relativities.

Table 2 summarises the key elements of the different views on regulation.

THE LIMITATIONS OF THE CURRENT POLICY OPTIONS

Both the 'free market deregulationists' and 'managed decentralists' over estimate the gains that may come from significantly reducing the extent of external regulation of the labour market. Their case for reducing external regulation rests on a belief that this form of regulation significantly limits the ability of organisations to internally regulate their own affairs.

There is now a body of evidence that suggests that the formal external regulatory environment, particularly the tribunal system, does not greatly inhibit firms strategic choices. The Australian tribunal system has been shown to allow a large degree of flexibility within a broad framework of minimum conditions (Isaac, 1990, Green and MacDonald, 1991). The Australian Workplace Industrial Relations Survey (AWIRS)¹

¹

This survey involved personal interviews with union and management representatives from over 2,300 workplaces in all industries except Agriculture and Defence. It was undertaken throughout Australia

indicated the degree of flexibility and diversity at workplaces that were operating within the award system. Indeed in terms of payment systems 52 per cent of workplaces with twenty or more employees paid overawards, and nearly one third (32 per cent) of workplaces operated performance related payment schemes. Profit sharing schemes (8 per cent) and share ownership schemes (13 percent) were rare but were still possible under the regulatory system. It would seem that the incidence of these 'flexible' payment schemes has more to do with management and employee attitudes than any prohibition or difficulty arising from the external regulatory system.

Historically, the external regulatory system has preserved management's prerogatives against an encroachment of union demands over a range of issues. As Carroll states the tribunals recognise 'that subject to employees not being prejudiced or their rights affected management should have the right to regulate its operations in the most efficient manner' (cited in Dufty & Fells, 1989, p36). Indeed for management a further reduction in external modes of regulation may mean that issues that have previously not been regarded by the tribunals as legitimate industrial issues may become legitimate bargaining issues between the parties, particularly if the tribunals no longer have a role in determining what issues are 'negotiable' and which are not (Callus, 1992).

There is reason to believe that the alleged negative effects of the external regulatory system has been over estimated. Indeed, it appears that organisations may be more

TABLE 3: REASONS WHY MANAGERS FEEL THEY CANNOT MAKE EFFICIENCY CHANGES AT THEIR WORKPLACE

	% of workplaces		
	Private	Public	All
Lack of money or resources	32	24	29
Management or organisation policy	14	32	20
Unions	14	14	14
Government rules and regulations	9	18	12
Awards	6	9	7
Other	28	15	24

Population: Australian Workplaces with at least twenty employees, where the general manager felt an efficiency change was needed but could not be made. Figures are weighted and are based on responses from 891 general managers. Some managers gave more than one response.

Source: Callus, R et.al. (1991) p.204

influenced by management culture, product market conditions and management initiated 'restructures' than the regulatory environment in which the organisation operates. For example, when asked about the major barriers to efficiency in their organisation workplace managers interviewed in AWIRS rarely mentioned industrial relations matters. While 57 per cent felt no change was needed, around 80 per cent of those facing serious constraints indicated that non-industrial relations issues were the problem. Their responses are summarised in Table 3.

The belief that reducing the importance of external modes of regulation will result in significant and sustainable productivity improvements appears to be quite unfounded. According to workplace managers sustained productivity improvement is far more likely to arise from investment in new capital equipment and more effective management practices.

EFFICIENCY AND EQUITY: THE IMPORTANCE OF EXTERNAL REGULATION

In recent times contributors to the analytical and policy debate on industrial relations reform in Australia have largely ignored the positive role external and formal modes of regulation can play in achieving a more efficient and equitable labour market. As noted, supporters of 'free market deregulation' believe that the operation of market forces will deliver economic efficiency. A key assumption is that the market for labour is the same as any other.

Relations within it, they believe, are settled by a myriad of individual buyers and sellers exchanging services (labour) for money (wages) regulated on the basis of the law of contract.

The major weaknesses of this conception of the labour market derives from the assumption that the labour market can be treated the same as any other. Generations of industrial relations and labour researchers have questioned the validity of this abstraction. Labour is not a tangible commodity - what is traded is a worker's ability to work, not the work itself. Trade in this potential service cannot be analysed in the same way as trade in tangible commodities such as second hand sports cars or antique clocks. Labour supply is primarily determined by demographic trends and social customs - such as the changing role of women and young people in the workforce. Labour demand is primarily a function of anticipated demand for output. The price of labour is most strongly influenced by notions of acceptable living standards. While conditions of supply and demand have some influence they are not the critical factors determining pay rates. Consequently, while in theory adjustment in the labour market can involve changes in wages or employment, most change occurs in employment levels. (Schultz, 1985, Villa, 1986, Marsden, 1987, Kaufman, 1988, Kruger and Summers, 1988, Groschen, 1991)

The labour market, far from being a potential clustering of harmony and order, arising from free choices made by isolated individuals, is in fact highly structured. Segments of the workforce do not compete with each other for jobs. Instead the workforce is divided into a myriad of groups on the basis of industry, firm/enterprise and occupation. The precise nature of segmentation in any one sector of the economy varies on the basis of production technology, industrial structure and product market conditions. Within these constraints the outcomes of strategies pursued by employers, employees, unions and state agencies also influence the nature of labour market segmentation. (See Villa, 1986 and Groschen, 1991)

The importance of rules made beyond the workplace has often been neglected or overlooked by those advocating workplace change and managed decentralisation of the current system. Their concern with organisational performance, workplace change and enterprise bargaining has meant that little attention has been given to examining and improving the structure of the current institutional environment. Given the nature of labour market structures it is obvious that many equity and efficiency problems cannot be solved on a workplace by workplace or enterprise by enterprise basis. The problems involve practices and arrangements that are common to many business units. These problems require strategies involving external modes of regulation that promote consistent standards across business units.

For example, if the importance of the external regulatory environment is reduced then the outcomes from workplace bargaining will depend largely on the relative power of the parties. The market mechanism or even workplace bargaining under such a system cannot ensure that outcomes are equitable or fair. Those with most bargaining power will do best. If fairness of outcomes is to remain an important consideration in evaluating the operation of our industrial relations system then externally generated rules which are applied to all organisations may be the only way of guaranteeing such an outcome.

Additional benefits of external methods of regulation can be shown by considering a number of problems that regularly occur in the labour market. These range from macroeconomic issues such as unemployment to microeconomic issues such as training and labour mobility and long standing equity issues such as a male/female wage relativities.

The problem of *unemployment* is a recurring one. While it is important to acknowledge that labour market factors are not the only ones having a bearing on it, they do have some

affect. As Soskice (1990) in particular has argued informal co-ordination between employers has often underpinned the superior performance of Swiss and Japanese labour markets². This research indicates that informal, external modes of regulation such as tacit multi-employer agreements produce better outcomes than those based on uncoordinated enterprise bargaining where only factors internal to the enterprise or workplace are taken into account. Some form of external co-ordination appears to be associated with superior employment outcomes.

The issue of *relative pay* is another recurring source of concern in the labour market. 'Free Market Deregulationists' have argued that wages should only be related to internal factors such as individual performance and enterprise capacity to pay. It has been noted for some time now, however, that the maintenance of consistent wage standards for workers in similar occupations across workplaces has important efficiency and equity benefits. As long ago as the 1930's the US labour economist Paul Douglas noted that it was unhelpful to link an individual's pay to their productivity (Douglas, 1934 cited in McNulty, 1980, See also Oswald, 1992). For example, if wages were strictly linked to productivity the pay of labourers in industries with slow productivity growth (eg road maintenance workers) would drop significantly relative to those where productivity growth was strong (eg process workers in chemical manufacturing). Over time no one would apply for jobs in road maintenance and there would be an over supply of applicants for positions in the chemicals sector. Such a wage system would also reduce the profits available for further investment arising from productivity growth. Relating wages to internal factors encourages neither efficient labour allocation or investment. It is far more efficient to have a stable relative wage structure that is based on skill content and quality of labour rather than the luck of where a worker is placed in the economy as far as productivity growth is concerned. Externally agreed benchmarks for pay (like award rates or industry wide industrial agreements) help maintain stability in the labour market and prevent inefficient movements in wages and workers that would arise with enterprise based wage arrangements.

A related issue is *occupational mobility* and the transferability of skills. Major efficiency gains can arise from multi-employer training arrangements underpinning common occupational structures that are used by a range of employers. The benefits of such arrangements have been identified by a number studies (Daly et al, 1985, Steedman et al, 1987 and 1989, Prais et al, 1989). A comprehensive study of German and French manufacturing involved comparing the performance of a series of factories in the chemicals and metals industries of similar size and production technology in the two countries (Maurice et al, 1984, 1986). The researchers identified how firms' practices were intimately related to their operational environment, especially education, training and wage determination systems. For instance, the well developed vocational training system in Germany ensured that a steady supply of technically competent workers was available to employers. These workers could easily be deployed as work requirements changed. France's generalist education system meant that employers had to rely on internal labour markets and closer supervision arrangements to ensure work was performed at an efficient level. The study highlighted the importance of multi-employer arrangements (ie external modes of rule making) for improving efficiency. Increased reliance on internal modes of regulation is likely to promote enterprise based training systems and is likely to reduce the number of workers with transferable skills, as each employer seeks to limit the mobility of

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Note in referring to the 'success' of Japanese labour market we are only referring to its relatively impressive aggregate unemployment performance. We do not believe that other features of its labour market such as its large sub-contractor sector or the increasing differential in male-female earning is desirable either for Japan or anywhere else. See for example, Itoh 1990 pp192 - 198 and Rowthorn, 1992

workers that are trained. This in turn is likely to result in skills bottle-necks as the economy expands. Osterman (1988) and Mitchell (1992) have documented problems such as these arising from the inflexibilities of internally based employment systems in the US.

External regulation of wage rates can also promote the growth of a "*high wage, high productivity*" economy. If a company increases market share for its products by reducing costs through wage cuts, this pressures other firms to do likewise. In time segments of the economy reliant on low wages can emerge, drawing capital away from other possible uses and as a consequence low wages can retard economic development in the long run. This was one of the reasons why Australia established a minimum wage. In 1909 Justice Higgins argued that if a company could not pay fair wages it did not deserve to remain in business (Higgins, 1922). He saw no reason why employees should subsidise the inefficiencies of their employers. The rationale was that wages policy should assist in determining the structure of the economy by preventing the emergence of a low-wage sector³. One of the legacies of the conservative governments in the UK and US of the 1980s appears to be the establishment and growth of such low wage sectors.(Brosnan & Wilkinson (1989) and Bluestone and Harrison (1990)).

The equity implications of external regulation can be seen in the case of *women's pay*. It is recognised amongst labour economists that Australia achieved one of the most extensive and rapid changes in male-female earnings ratios in the world because of the very extensive nature of Australia's labour market regulatory institutions (Gregory et al, 1981; Whitehouse, 1990)⁴.

Finally, employers do not always have the motivation or initiative to undertake efficient labour management practices. It is now well recognised in management research that better communication, information and consultation between management and employees can lead to a more productive, stable and efficient labour force. Yet while the methods of communication and management-employee communication remains almost completely free of external forms of regulation the majority of Australian workplace managers do not communicate or consult with their workforce on key issues. This was clearly demonstrated by the AWIRS finding that at the majority of workplaces management did not consult with their employees about the introduction of a major organisational change that was going to affect employees. Figure 1 indicates the role of different groups in the decision to introduce major changes at the workplace. Consultation was not the normal practice in most workplaces. In many workplaces managers did not even bother to inform, let alone involve, their employees in decisions concerning the most significant changes.

In this case it appears that an environment free of external regulation does not necessarily produce more efficient practices.

FIGURE 1: WHO DECIDES SIGNIFICANT WORKPLACE CHANGE

³ A more developed theory along these lines was devised by the Swedish labour movement in the 1940s and 1950s and underpinned the high wage, high productivity economy that developed there in subsequent decades. See for example R Martin, 1985.

⁴ The Equity problems associated with more enterprise based industrial relations systems in Canada, Japan and US are considered by Bray, 1993.

Source: Callus, R et.al. (1991) p.204

It is clear that the underpinnings of the deregulationist and 'managed decentralist' approaches have significant limitations. A preoccupation with informal and internal modes of regulation means insufficient attention is devoted to the problems that arise from the labour markets' spontaneous tendency to segment. Many of the problems of segmentation can only be avoided where effective minimum standards are maintained across the labour market.

Having established the importance of the formal and external modes of regulation, the question remains, how should the twin objective of equity and efficiency at work be promoted?

LINKING EXTERNAL AND INTERNAL MODES OF REGULATION: THE CRITICAL ISSUE FOR LABOUR MARKET REFORM

Supporters of 'deregulation' believe that the only role for regulatory bodies beyond the workplace is to enforce agreements reached internally within organisations. The assumption is that substantive rules about how work should be regulated are best settled between individuals in organisations. The role of the common law is to uphold these agreements if they are not honoured.

The previous section has attempted to establish that there is a role for external rules beyond this very limited, procedural function. Specifications for actual (minimum) rates of pay, agreed definitions concerning occupational skills and agreements concerning principles of general movements in wages were all shown to have potentially positive efficiency implications. The findings of overseas studies of comparable workplaces from different countries also highlight the importance of factors external to the workplaces for improving efficiency within them. This research indicates that the critical factors determining positive economic performance are neither internal or external to the workplace, but come from linking both forms of regulation.

This issue has recently received some attention from labour researchers working at the OECD and ILO. For example, the Manpower and Social Affairs Committee of the OECD has argued in its *Labour Market Policies for the 1990s* (OECD, 1990) that labour market efficiency depends on ensuring there is an appropriate balance between internal and external flexibility. It expressed particular concern that too great a reliance on internal modes of regulation could tie workers to the particular needs of firms and limit their mobility to other parts of the labour market. It was particularly concerned that 'this could easily lead to a situation in which external market transactions and market pricing of particular skills could disappear.' (OECD, 1990 pp 78 - 79). And it noted:

For these reasons some minimum level of regulation or provision negotiated between the social partners should ensure flexibility in both internal and external labour markets. In particular this will be indispensable when old job boundaries are removed and broader job classifications are introduced. (OECD, 1990 p 79)

The OECD Manpower and Social Affairs Committee has shown the importance of external regulation whether it be formal or informal in status. Guy Standing, research co-ordinator at the ILO, has identified the need for external regulations that are formal in nature. Standing has considered these issues in the context of research into alternative routes to flexibility and the emergence of what he calls social adjustment. He argues,

The crucial difference between the current [free market] orthodoxy and a social adjustment view is that the former sees protective regulations as costs and barriers to growth, whereas

a social adjustment view is that they express social objectives in themselves and are also instrumental in pushing firms to be more dynamic and co-operative in nature. (Standing, 1991 p34)

A comprehensive consideration of issues related to these matters has been undertaken by Paul Osterman who argues that the operation of internal labour markets can only be understood in the context of wider dynamics occurring across the labour market more generally (Osterman, 1988). According to his analysis, internal labour markets in the US are experiencing severe strains because of independent changes in the nature of labour supply and demand. (Osterman, 1988, pp 46 - 47). While difficulties arising from these changes afflicted many organisations, they are not unique problems, but part of deeper structural changes occurring across the labour market. For Osterman, the only way to address these problems is to develop a range of public institutions to implement a comprehensive labour market policy that engages with firms' internal employment practices. The key elements of such a policy would involve government agencies

acting as a midwife to the reform of internal labour markets to help them provide both employment security and labour that can be flexibly deployed to meet changing conditions (Osterman, 1988, pp 149-151).

Such proposals would obviously involve the better linking of internal and external modes of regulation.

Recent research on industry development and parts of the management literature have also highlighted the importance of linkages between firms as a factors contributing to their collective competitive success (Pettigrew and Whipp 1992 especially pp 25 - 34, Sayer and Walker, 1992, especially Chapter 3). This literature indicates that the choices available within firms increase when they co-ordinate activities with other related firms and relevant government agencies. External modes of regulation, be they formal or informal, can play important roles in promoting and facilitating such linkages.

Just how external and internal modes of regulation are best balanced will vary on the basis of workplace size, industry and on the matters being regulated. As a start, however, far more attention needs to be devoted to identifying ways of improving the current linkages between external and internal modes of regulation. On the basis of recent experience it would seem possible that general movements in wages should ideally be regulated by national wage cases. Training arrangements, skill standards and many employment conditions (eg maternity level, long service leave) are probably best regulated on an industry, occupational and/or regional basis. Issues such the span of hours worked in the workplace, on-the-job training arrangements and allocation of overtime are however best handled at enterprise or workplace level. Some of this co-ordination already occurs in the industrial relations system. Current arrangements, however, have been developed in an ad hoc manner. The challenge is to put these arrangements on a more coherent basis.

An example of how better linkages are being built between internal and external modes of regulation is provided by the extensive changes that have occurred in the Australian metals industry. Reforms have included the restructuring of award job classification to promote both flexibility on the job and career opportunities for individual workers. In addition a whole range of issues can now be negotiated at workplace level, provided basic award entitlements are respected (Metal Trades Industry Association et al, 1990). Recent rounds of wage negotiations in the sector have involved the development of an industry framework agreement with unions and employer associations that have provided a context for negotiations at workplace level. The balance between external and internal modes of

regulation has produced more workplace agreements over the last twelve months in this industry than in any other part of the economy (Maklin, Goodwin and Docherty, 1993).

Practices and procedures that work in one part of manufacturing are not necessarily ideal for the rest of the labour market. What the metals experience establishes, however, is that by promoting internal and external modes of regulation dramatic levels of change at both workplace and industry level can occur.

CONCLUSION

Equity and efficiency at work are vital issues affecting both the creation of national wealth and the quality of working life. To date, both academic and policy debate has been preoccupied with the issues of 'deregulation' or reducing the role of external regulation and improving workplace performance. Little attention has been given to the important role of external modes of regulation. To this extent the policy debate has, we would argue, been partial and misdirected.

The fact that the industrial relations policy debate has been cast as a choice between regulation and deregulation, in part reflects the dominant role economists have played in this process. The *laissez faire* economists that saw the necessity for 'deregulating' the finance market in the 1980's took the next logical step and began focussing on the 'need' to 'deregulate' the labour market. Why the industrial relations research community, which has had a long standing interest in the modes of labour market regulation, has been so marginalised in this debate is unclear. It may, in part, reflect the preoccupation amongst many industrial relations researchers to document changes that are occurring within a framework set by the policy initiatives of the labour movement and Federal Government. External forms of regulation have a vital contribution to make in improving equity and efficiency at the workplace. Implementation of 'deregulation' as it is popularly perceived would simply result in internal modes of regulation (usually only involving management) becoming the dominant form of rule making.

If we are to achieve the twin objectives of improving efficiency and equity the central issue must be: how is an appropriate balance to be struck between internal and external forms of regulation? Calls for the total dismantling of the external formal mechanisms of regulation would exacerbate, not resolve our labour market problems. Concentration solely on workplace reform and enterprise bargaining will only segment the labour market even further. If labour market reforms are to make a positive contribution to improved efficiency and equity within Australia, current regulatory arrangements need to be improved so that there are better linkages between internal and external forms of regulation. The nature of the linkages will vary on the basis of industry, workplace size and the issue concerned. Industrial relations researchers have an important responsibility in contributing to the development of such initiatives and critically assessing simple panaceas that purport to 'roll back' the frontier of regulation or promise economic salvation through a 'workplace change' lead recovery. The basic ingredients for better economic outcomes revolves around investment decisions, external product market factors and developing trust between management and employees. The external regulatory system provides a minimum floor successful firms rarely fear, as they invariably provide their employees with more than the required minimum. Moreover their performance, and that of other not performing so well, can only be enhanced if there are better linkages between external and internal modes of regulation.

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