WHAT IMPACT HAS WORKCHOICES HAD ON THE WAGES, WORKING CONDITIONS, WORKING LIVES AND WELL-BEING OF VICTORIAN NON-UNION MEMBERS?

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Abstract
This paper reports on the outcomes of survey research conducted between March-September 2007 into the experiences of 554 workers and jobseekers after the introduction of the WorkChoices legislative amendments. The sample was drawn from a Victoria-wide data base of approximately 12,000 callers to a community legal advice centre, JobWatch Inc. Survey data were supplemented with qualitative data from 30 focus group participants in Melbourne and a regional centre.

Over a quarter of survey respondents had experienced a change in their employment arrangements, with a significant shift towards more individualised arrangements. Within this, there were some pay and conditions changes, with base pay rates increasing and working hours also generally increasing. However, the most significant findings relate to a heightened sense of job insecurity, fear of speaking up at work and general dissatisfaction with work culture and WorkChoices. There were strong indications that workers now had less choice in their working arrangements, and any employment changes had largely been driven by employers or the labour market environment.

INTRODUCTION
In this paper we examine data collected through a telephone survey and focus groups of a group of largely non-unionised Victorian workers and job seekers in order to consider what impact WorkChoices had on the wages, working conditions, working lives and well-being of these workers before the introduction of the Fairness Test in May 2007. The work was commissioned by JobWatch Inc, an employment rights community legal centre based in Victoria which operates a telephone advice service and the survey and focus group population were drawn from their caller-base. Rather than being simply concerned with changes to their concrete conditions, we enquired into the attitudes of this group of vulnerable workers and job seekers to the labour law changes and whether they perceived any changes in work culture. We were also concerned to discover whether WorkChoices has affected some groups more than others, for instance, whether different age groups have responded differently to the legislation.

The unfolding impact of WorkChoices came at a time when social and economic conditions in Australia appeared to be particularly good. Official unemployment figures are low and average weekly earnings increased in the decade 1996 to 2006 by

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1 Unemployment in August 2007 stood at 4.3 per cent, having generally fallen continuously since its peak of 10.7 per cent in 1992: see Australian Bureau of Statistics, Labour Force, Aug 2007 (ABS Cat 6202.0) and Barrett, Burgess and Campbell (2005) 133; ABS Catalogue 1301.0, Yearbook Australia 2006, ‘Chapter 6: Labour’.
54 per cent for men and 57 per cent for women (ABS 2007). These indicators of apparent prosperity have been associated with contrary, less favourable trends for Australian workers. For instance, the official unemployment rate does not take account of low labour market participation rates, the large numbers of underemployed and hidden unemployed. Australia has one of the longest full-time working hours per week in the Organisation for Economic Cooperation and Development (Campbell and Burgess 2001). The incidence of full-time employees working extended hours has increased considerably over the past two decades (Barrett, Burgess and Campbell 2005). Research suggests much of this work is unpaid and the result of employer pressure and a weak regulatory framework (Barrett et al 2005: 139-145).

Significant concerns therefore arise about the operation and likely impact of WorkChoices in the context of these underlying social and economic trends. The existing literature on WorkChoices shows that its impact (in so far as it can be measured) on income is mixed. According to the ABS, average weekly earnings increased after the introduction of WorkChoices (ABS, 2007). Using May 2006 data from the Australian Bureau of Statistics to examine the impact of WorkChoices based on wages in different types of agreements, Peetz reported that the average weekly cash earnings of AWA employees were 9 % higher than workers on collective agreements. However, this increase was accompanied by an increase in the number of hours worked. Workers on AWAs worked for 13% more hours (an extra 4.1 hour per week) than those on collective agreements, and consequently averaged 3.3 % less pay per hour than AWA workers (Peetz 2007: 27).

A range of sources indicate a clear negative trend in relation to the formal entitlements protected by post-WorkChoices agreements. For instance, in May 2006, the Employment Advocate presented information to a Senate Committee regarding a sample of 250 AWAs registered in April 2006 which showed that all excluded at least one award protected condition; 16% excluded all protected award conditions; 64% excluded leave loadings and 63% excluded penalty rates. Based on data from the Australian Bureau of Statistics, the Department of Employment and Workplace Relations, private surveys, media and web reports, Peetz found that over three fifths of new AWAs have abolished penalty rates, whilst four fifths of AWAs have abolished or reduced overtime pay, meal breaks and public holiday payments, shiftwork loading and other allowances (Peetz 2007: 15). These findings need to be interpreted in the light of data showing that AWAs currently comprise only 6 per cent of all employment instruments, but the strong growth of these arrangements since the introduction of WorkChoices would suggest significant trends into the future if the legislation remained (van Wanrooy et al., 2007:vi).

Further concerns have been raised about the likely impact of WorkChoices, and the Act which it reformed, on work culture. Unions and other social organisations such as churches have been particularly vocal in raising concerns that increasing individualisation in condition setting, coupled with less security in work, is eroding the moral codes which have framed social relations in the Australian workplace. Additional concerns have been raised about the impact of job insecurity on stress

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levels and the flow on effects for family relations, as well as the possible material effect of increased difficulties in obtaining loans and mortgages. Little empirical work has been conducted to assess the validity of these concerns, however.

The remainder of this paper is structured as follows: In Part 2 we outline our methodology and consider what distinguishes our study from other studies thus far carried out on the impact of WorkChoices. The nature of the legal changes affected by WorkChoices have been well rehearsed elsewhere, and will not be repeated here (Bertone et al 2007). In Part 3, which constitutes the major part of this paper, we report on our findings. In the final section of this paper we draw conclusions from these findings, considering, in particular, the policy implications.

METHODOLOGY
The survey (including questionnaire, sampling frame and pilot trial) was designed by researchers at Victoria University and the University of Melbourne in consultation with JobWatch Inc. The aim of this research was to find out what impact the WorkChoices legislation has had on JobWatch’s caller base. JobWatch Inc is an employment rights community legal centre based in Victoria and it operates a telephone advice service. In the first year of WorkChoices, it assisted 11,964 callers, or approximately 997 callers a month, and received 17,253 enquiries (which includes follow up calls). The callers are both workers and job seekers.

Before conducting the research we knew JobWatch callers had in common two primary characteristics: the fact that an incident at work or during job seeking had led them to call JobWatch for information and assistance, and low union membership. The sample of 554 survey respondents was randomly selected according to a structured sampling frame designed to reflect the JobWatch caller population. The telephone survey looked specifically at any changes in pay or working conditions and general perceptions of the effect of WorkChoices on those people’s work or job search experience, prior to further legislative amendments that took effect on 7th May 2007.

The survey achieved approximately 60 per cent response rate, with 356 respondents indicating they were happy to provide further assistance, such as participating in focus group discussions about their experiences. Five focus group discussions were held, four of them in Melbourne and one in Shepparton, covering a total of 30 JobWatch callers. Participants were selected so as to ensure a broad spectrum of occupations, industries, and employment arrangements (full-time and part-time, casual, permanent, fixed term, labour hire and apprentices); an even balance of men and women, different countries of birth and members of different age groups, as well as a significant regional participation. An analysis of the gender, occupations and industry location of survey respondents also suggests that the JobWatch sample widely reflects the broader Australian workforce in most other respects, with a few exceptions.3

Our research adds to the existing body of data by combining both quantitative (survey based) and qualitative (focus group) techniques. As such, structured data was able to be collected from a large number of survey respondents, and more in-depth, descriptive data through direct discussions with a smaller sample of survey respondents who volunteered to talk with the researchers. Second, our research is

3 Details of the sample can be found in Bertone et al, 2007.
distinct from other research because it focuses on workers and job seekers who could be considered to be vulnerable as they are less likely to be union members than the national workforce, some of whom would have recourse to a trade union for advice. Against these strengths, the limitations of the study were as follows: the survey sample can only reflect the experiences of JobWatch callers per se; it is possible that focus groups were more likely to comprise a vocal minority of callers who had experienced negative consequences at work; and JobWatch callers are by definition a group which is likely to have had a bad work or job seeking experience, for which they are seeking advice or assistance.

FINDINGS – THE DISPOSABLE WORKER TREND

Our findings can be understood under a series of key themes, broadly characterised as the ‘disposable worker trend’. The notion of workers having become ‘disposable’ was articulated by a large number of focus group participants, and seems to best summarise the survey findings across various questions. We begin by discussing this aspect of the findings as it was the area which elicited the most distinct and significant responses.

The disposable worker trend had a variety of facets or manifestations which were articulated during focus group discussions and in survey findings, namely:

- fear and vulnerability (around speaking up at work, losing one’s job)
- lack of bargaining power (either at the point of job-seeking, or once in the job)
- social isolation from colleagues (competitive and individualistic work culture)
- loss of choice e.g. over pay and conditions
- confusion over work rights and avenues of redress
- general job insecurity (a sense that job loss could come at any time, for any reason)
- arrogance’ or ‘bullying’ by employers/managers
- a sense that, despite the strong job market, it was still an employer’s market.

Other features which stood out in our findings were the expectation for many that they work longer hours for the same pay (although a reduction of hours was also problematic for some), and a loss of control over working hours generally. There were also some effects, at the margins, on pay, and working conditions, such as meal breaks, bonuses, incentive payments and so on. Overall, the survey sample (well supported by rich data from focus groups) reported that they were considerably less satisfied and more anxious about their working arrangements post-WorkChoices, than they were before the introduction of the legislation.

We were surprised to discover that these findings were consistent across occupations, genders and ages. Professional and managerial employees expressed as much insecurity and fear as retail assistants and labourers. Older workers were more likely to feel insecure than younger workers, however, both groups exhibited high levels of concern about job insecurity.

The following sections summarise some of the data that emerged around these key issues or findings.
Fear and insecurity
The most striking findings on this issue came from responses to Question 20 on the survey form, and the stories provided by focus group participants to illustrate their experiences at work. Question 20 offered a Likert scale of responses from ‘strongly agree’ to ‘strongly disagree’ with regard to ten statements following upon the preamble: ‘In the period since 27th March 2006, I now feel that:…’ All but one of the response statements were framed in a positive mode, and these ranged from ‘I have more choice about my wages and conditions’ to ‘I have more say over my working hours’. The one negative statement was: ‘I am more concerned that I can be dismissed without warning’.

More than three out of five respondents (62 per cent) agreed with the negative statement *I am more concerned that I can be dismissed without warning*, of these 38 per cent strongly agreed. In contrast, a minority (20 per cent) disagreed or strongly disagreed that they more concerned about being dismissed. Consistent with these data, more than half the survey respondents (53 per cent) disagreed that they had more job security, 35 per cent of them strongly disagreeing. So it appears, whether the statement was framed in a negative or positive way, a majority of respondents expressed feelings of being less secure in their jobs and more fearful of dismissal after the introduction of *WorkChoices*.

Older respondents (35-44 and 45-59 years of age) were significantly more likely to disagree that they felt they had more job security (68 per cent and 70 per cent respectively) than younger people (19-24 and 25-34) at 52 per cent and 56 per cent respectively (Pearson Chi Square .026). However, there were no significant differences for gender and country of birth in relation to job security, suggesting that these groups were fairly evenly concerned about this aspect.

We elicited some very clear suggestions from the focus groups about why people might have responded in this way. While we cannot infer that focus group participants were representative of all survey respondents, their very detailed and often graphic explanations illustrate the issues that may be motivating survey respondents to answer in this way. The following quotations provide a sample of the stories we were told by the 12 workers (approximately 40 per cent of focus group participants) who had been affected by job loss. All names are fictitious and country of birth is indicated where the person was born overseas:

‘I was told I had overstepped the mark and my supervisor said no more shifts. I was only a casual employee and there were less than 100 employees, so it was see you later’ (Jean, aged 35, gaming attendant in the recreation industry).

‘There were some health concerns on the site. I spoke up about occupational health and safety issues, such as the lack of material safety data sheets . . . I spoke about it and they made me redundant on the spot’ (Michael, 35-44 age group, workshop engineer for a manufacturer employing 52 employees).

‘When *WorkChoices* came in they reduced the pay rates. Then when I went on maternity leave they gave me the sack. They did the same thing to another
employee who’d been there nine years’ (Colleen, aged 33, educator for an employment service provider employing less than 100).

One focus group participated summed up the mood of many in her focus group when she stated:

‘It’s heaps more insecure in the marketplace. WorkChoices has made workers more expendable. There’s greater leeway for employers to get rid of employees’ (Jane, aged 24, administration worker in a small accounting firm).

Older people (particularly those in the 50+ group) voiced concerns that they were particularly vulnerable to job loss or difficulties securing employment in the labour market, reflecting the stronger findings from this group both in the survey and focus groups.

**Loss of choice and bargaining power**

The name *WorkChoices* offers the promise that there will be more ‘choice’ in employment matters for both employers and employees. That is, it promised to both overcome the unequal bargaining position present in relations between labour and capital, and to undo the rigidities of the previous industrial relations system. However, our findings suggest that respondents are not experiencing more choice in their work relations. Again, in responding to propositions about their experience (question 20 in the survey), a high proportion of respondents gave negative responses to propositions about choice in the employment relationship and the associated concept of ‘freedom to negotiate’. The majority (3/5 or 60 per cent) of survey respondents disagreed or strongly disagreed that in the period since the introduction of *WorkChoices* they now had more choices about their wages and conditions. Similarly, most (3/5) did not feel they now had more freedom to negotiate with their employer.

Employee voice or the capacity to speak up at work also appears to have been reduced or negatively affected. More than half (52 per cent) disagreed or strongly disagreed with the statement *I have more say in how I work*, 17 per cent agreeing with this statement. And fear of speaking up at work about matters that concern them were expressed in answers to propositions about this aspect. Thus 45 per cent disagreed or strongly disagreed with the proposition that they are less frightened to speak up and raise issues in the workplace, compared to a sizeable group (26 per cent) who agreed with this. Despite the size of the minority who did not feel frightened to speak up at work, the group who suggested they might be more frightened now since *WorkChoices* was considerably larger.

We found a significant gender difference in the responses to the issue of fear of speaking up. Half the women respondents (50 per cent) disagreed that ‘I am less frightened to speak up and raise issues at the workplace’ compared to 40 per cent of men who disagreed (Pearson Chi Square .057), suggesting that women were more likely to feel frightened about speaking up since the introduction of *WorkChoices*. There were also significant differences between those born in Australia and those born overseas, with 55 per cent of overseas-born disagreeing with this statement, compared to 42 per cent of Australian born (Pearson Chi Square .048). Clearly, the experience since the introduction of *WorkChoices* has not promoted a sense among these respondents that they are empowered with a new range of choices at work. On
the contrary, they are expressing a view that they now enjoy less power and less choice. This is consistent with findings reported from van Wanrooy et al. (2007) which indicated that more than half of employees covered by an AWA feel they do not have the opportunity to negotiate their pay with their employer (ibid: vii).

The survey data on any changes in employment arrangements experienced by respondents further reinforces this sense of restricted or non-existent choice. The survey asked (question 8) whether the employment arrangement had changed between 27 March 2006 and 6 May 2007. More than a quarter (28 per cent) answered yes to their employment arrangement having changed. In this regard it is notable that for most, there had been no change in employment arrangements, which goes some way in explaining why only a minority reported any change to their pay and conditions (but more of this later).

A further question (10) explored the reasons for the change that had taken place for the 28 per cent of the sample. Only 1.4 per cent of respondents nominated the answer ‘I chose it’. The more common and dominant reasons given were: I changed jobs (44 per cent), manager or supervisor asked for it (26 per cent) and ‘other reasons’ (23 per cent). When analysed, these ‘other reasons’ generally related to some initiative of the employer or company, such as business restructuring/merger (23 per cent), employer or company insisted on the change (13 per cent), sacked from job/contract expired (10 per cent), the hours changed or took whatever work was available (16 per cent). Ten per cent nominated the introduction of WorkChoices as the impetus for change in employment arrangements, and 6 per cent cited job resignation. None of these reasons suggest that respondents had made an active and informed choice to change their employment arrangement. Rather, they were reacting to external circumstances driven by the employer or the labour market environment. Again, these findings are consistent with those of van Wanrooy (2007) which indicated that most of their respondents (72 per cent) had changed their employment instrument as a result of changing jobs (ibid: vii).

**Longer working hours/control over working time**

Close to 30 per cent of survey respondents reported that their hours of work had changed. Of these, more than half (54 per cent) reported their working hours had increased and 43 per reported their hours had decreased. In about half of these cases (49 per cent), a longer range of working hours was now expected, compared to 22 per cent who were now expected to be available for a shorter range of working hours. More regularity of working hours was reported (42 per cent reporting more regular hours, compared to 22 per cent reporting less regular working hours). Read together, these data suggest that since WorkChoices, more respondents are now expected by their employer to be regularly available to work longer hours. This finding was reflected and amplified in the focus group discussions:

‘When you’re on a contract you have to go to all the night and weekend events so you can improve your chances of getting a contract again. Most teachers are on contracts. New teachers are cheaper than old teachers. You put up with a lot for the welfare of the kids, you put in the hours, watching them in plays, sports and so on.’

(Fay, agency school teacher, aged 38 years).
Another focus group participant described the opposite problem of under-employment and how WorkChoices had exacerbated this problem for her:

‘I had no choice over work hours and they could change the hours at short notice. I was on a contract with them...everything comes down to your bargaining power as an individual with a larger entity. Unless you have multiple degrees most of us don’t have a lot to bargain with. So you agree to being called to work for 3 hours or less and paid for half an hour.’

The extension of working hours predates the introduction of WorkChoices and has been a much researched phenomenon in Australia (Campbell and Burgess 2001). However, it appears from these data that a large proportion of respondents feel the pressure to work longer hours has increased since the legislation was introduced. Again, these findings are consistent with other survey-based research, showing that long working hours trends have been further accentuated by WorkChoices (van Wanrooy, 2007: vii).

**Effects on pay and working conditions**

As noted earlier, for more than two thirds of survey respondents (72 per cent), there had been no changes in formal employment arrangements. Most respondents remained covered by their collective agreements, common law contracts or in a small percentage of cases, AWAs created before the introduction of WorkChoices in March 2006. As such, impacts on pay and formal conditions of work, for the most part, related to a minority of respondents.

One third of survey respondents indicated that their base rates of pay had changed since the date of the introduction of WorkChoices. Of these, three quarters stated their base pay had increased. Of that number, 58 per cent were still covered by pre-WorkChoices employment arrangements. In contrast, out of the 25 per cent whose base pay had been reduced, 54 per cent were covered by post-WorkChoices employment arrangements.

Only a small proportion (6.5 per cent) of survey respondents reported any change to their penalty rates, but nearly two thirds of these indicated their penalty rates had been cut or totally removed.

An even smaller proportion of survey respondents (3 per cent) reported any change in leave entitlements, but again more had lost entitlements (36 per cent) than gained (21 per cent). Changes in leave arrangements did not figure prominently in focus group discussions. However, there were a number of people who had been dismissed from their jobs when seeking to access their leave.

**Impact on satisfaction and work culture**

Changes in workplace culture were alluded to in all but one of the focus group discussions, with older participants being more expansive about this topic than the youngest age group (18-24 year olds), who had few reference points for comparison. Many talked about a culture of fear, competition, bullying, arrogance by supervisors and managers, insecurity, casualisation of employment, work intensification, social alienation, young people being ‘career driven’ and a general lack of caring, loyalty and commitment, both by managers and employees.
‘WorkChoices allows egos and people to be capricious, because they can do anything and get away with it...I think that people don’t seem to care anymore. The fear is there, people worry whether their job is there tomorrow. So people don’t care if their employer is like that. Sometimes I say the same thing, if they don’t care, why should I care? There’s no loyalty.’ (Betty, aged 48, Indian-born, manager, insurance and finance industry).

‘No-one really wants to get involved with other workers; they don’t know how long they’ll be there. I didn’t see any networks or friendships there’ (Harris, aged 20, jobseeker, formerly in retail).

In light of these sentiments, it is not surprising that over-all satisfaction with post-WorkChoices work relations was largely low, with 51 per cent of survey respondents reporting they were ‘less satisfied’ with the impact of changes on their current employment or job prospects, while 7 per cent were more satisfied.

CONCLUSION
We conclude by addressing some policy implications of our two central findings. First: a sense of loss of job security was the most striking effect of WorkChoices for both survey respondents and focus group participants. This might not mean that they feel an imminent threat of losing their job. The ‘Australians@Work: The Benchmark Report’, by Sydney University's Workplace Research Centre found that only 9 per cent of respondents to their survey agreed that they are likely to lose their job within the next 12 months (van Wanrooy et al 2007: 75). However, our results suggest that people feel that changes to labour laws have left them more exposed and less protected or ‘disposable’. This has major implications for dignity and empowerment at work, particularly in relation to the capacity to speak up and raise issues at the workplace. The focus group data suggested there had been a significant erosion of a positive or supportive work culture viz-a-viz other work colleagues and managers, with consequent losses of social connectedness and belonging. This aspect is worth exploring in more detail in the future.

Second, a number of our findings suggest that people do not feel that they have control over their employment arrangements. This is an area in which labour law architecture can make a significant impact. Under the current architecture, increases in demand for labour, driven by low unemployment, have not overcome deep-seated inequalities of bargaining power that are still a defining feature of the Australian labour market. Addressing this phenomenon is a proper objective of labour law. The purpose of labour law is not only to increase employment rates, it is also to produce a more confident, capable and empowered workforce.

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