PREFACE

‘If you do not tell the truth about yourself you cannot tell it about other people.’
Virginia Woolf

This monograph brings together eight articles, most of which were originally presented as papers at the third annual Women and Work conference at RMIT University. This conference series has a short history, but the articles draw on a much longer history of research in this field.

The major development of research into women and work in Australia dates from the 1970s and the development of feminist and, subsequently, gender studies. And the impetus for this research was related strongly to political developments in women’s movements, such as women’s liberation. From these political movements, alongside campaigns for equal pay, came calls for equal rights for women, for removal of discriminatory policies and practices, for an end to harassment and for attention to equal opportunity and affirmative action to redress systemic inequality.

There is much more to these movements and campaigns and to their goals than can be contained in a few sentences. Yet remembering the beginnings of this field reminds us that this conference series continues a longer tradition in women’s research — presenting findings and papers on women and work, as well as being a place for women researchers to come together and reflect on their work experiences and the ways gender may affect their practice and its outcomes.

This monograph publishes research on women and work that addresses work and family balance, female-dominated occupations and women in male-dominated occupations and roles, gender and sex work, the work involved in negotiating work and welfare, gendered bullying, and the ways we might understand gender and its effects in the workplace. Discussion at the conference strayed at various times beyond the papers, however, and turned the lens on women researchers themselves and their experience of universities.

In the thirty or so years during which issues concerning women and work have been debated, there have been many initiatives taken in universities to increase the number of female academics and students. During those years, the student profile of universities has changed dramatically. Women now comprise the majority of university students — more than 50% of undergraduates and now around 50% of research postgraduates. In the twenty-first century women are now in the majority in every field of university education, with the exception of engineering.

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1 The first Women and Labour Conference was held in May 1978 at Macquarie University in Sydney. Over sixty conference papers were presented, covering women and the labour movement, the experience of work, feminism, sexuality, religion and popular culture and writing.

2 In 2006, 55.1% of university students were female (DEST Selected Higher Education Statistics).
Women are also now the majority of employees in universities in Australia. Yet among the academics of those universities women are still in the minority and congregate in the lower ranked positions. In 2005, women constituted around 21% of the academic staff above senior lecturer but only 12% of all women academic staff were above senior lecturer level, compared to 29.5% of male academics.

There has been progress, but it has been much slower than the dramatic changes seen in the student population. Previous studies have found that women are less likely than men to have a PhD and more likely to have interruptions to full-time employment, which will reduce their research output.

The reasons for this relate largely to the coincidence of women’s early research careers with family responsibilities. Career interruptions and delays in beginning research careers are typically magnified when it comes to promotion to senior academic positions — because threshold expectations for promotion rely not just on the quality but also on the amount of research output. And high-quality research output, from supervision of research students through to conduct and publication of research, requires an investment of time of three and four year increments to produce results rather than simple annual progress towards goals.

Time and the ability to gather sufficient resources for research are then critical factors in redressing the effects of career interruptions and delays. Access to global networks of researchers also requires time and resources not easily found and generally not available in the part-time or contract positions frequently held by women.

Most universities have strong policy frameworks to deal with discrimination and harassment, and Australian universities have a very strong suite of policies supporting work–family balance, including flexible working arrangements, extensive parental leave and the like.

While these policies are important, they have not led to swift improvement in ensuring greater representation of women academics in all categories of academic staff. This shows how important it is to understand context in dealing with issues of gender in the workplace. It shows the differences in the structure of academic careers compared to many others, and the way that professions develop their own expectations and trajectories independent, in many cases, of the organisations in which they work.

While there continues to be room for research on women and work in universities, it is clear that there remains considerably more room for action. As the yardsticks of an academic career become more international and more reliant on research, then we must turn to how we can make sure that we are able to make a place for women to build research careers in universities.

Professor Margaret Gardner
Vice Chancellor RMIT University

1 In 2005, women were 52.9% of all university staff (DEST Higher Education Staff Statistics).
2 One other factor is the high incidence of women in education and nursing fields who come to academic careers after establishing their careers in those professions.
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INTRODUCTION

Women’s work takes place within both the public sphere of the workplace and the private sphere of the family home. From the 1960s and into the 1980s the focus was on achieving equitable occupational opportunities, and hard-won battles in these years opened up more and more workplaces and occupations to women. For many women, however, these victories brought new burdens as workplaces did little to accommodate the day-to-day domestic and family responsibilities women carry to a greater degree than their male colleagues. Many organisations also did little in practical terms to address the often hostile, whether subtle or overt, organisational cultures that made many women’s work lives difficult. Through the last decades of the twentieth century and in the opening decade of the twenty-first, not only women, individually and collectively, but also governments, organisations and industries and the community generally have come to accept as both fair and necessary women’s paid employment. What has remained more problematic is how women are to access equitable employment and career opportunities when governments, organisations and the community still struggle to develop policies and programs to address the complexities that arise when the public and private spheres are no longer separated along strict gender lines. The situation is further complicated when the diversity of family structures is ignored and the punitive nature of many organisational cultures for women is not addressed in meaningful ways.

The research presented in this monograph deals with a range of current research issues that explore in various ways the difficulties and dilemmas confronting women — and governments, organisations and the community — as they attempt to address the complexities arising from women’s increasingly significant and ongoing presence in the paid workforce: work–life balance, including the benefits and limitations of technology; child care; the impact of children on careers; bullying and harassment; the factors that support and encourage, and those that hamper, organisational change towards more women-friendly/family-friendly workplace practices. Underlying all these issues is the way women are perceived in our society, particularly by those who develop and implement public and organisational policies and programs. This is most clearly raised in this monograph in the article that explores how society considers and deals with the violence experienced by sex workers.

This wide-ranging body of work represents the research interests of a number of staff, students and visiting scholars at RMIT University. Many of these articles were presented as papers at the third annual Women and Work Conference held at RMIT in November 2006.

This conference series was begun by Sara Charlesworth and Maureen Fastenau in 2004 in order to bring together RMIT researchers from across the university who were exploring various facets of women’s paid and unpaid work. In 2006, the conference (convened by Sheree Cartwright, Kathy Douglas, and Maureen Fastenau) was attended by an enthusiastic and committed audience of RMIT researchers, and 16 papers were presented at the one-day conference. The success of the third conference was particularly due to the efforts of Sheree Cartwright, from the Centre for Applied Social Research at RMIT.
Introduction

The conference was opened by Professor Margaret Gardner, the present Vice Chancellor of RMIT, and the keynote speaker was Professor Judith Bessant of the School of Global Studies, Social Science and Planning. Fittingly, both Professor Gardner and Professor Bessant discussed and explored the challenges confronting academic women in undertaking research, particularly for those academics whose research focuses on women’s experiences.

The compilation of this monograph was a collaborative effort of researchers in the Social Sciences and Business at RMIT. It is not a publication of conference proceedings: some of the articles in this volume, while presented at the Women and Work conference have been substantially reworked; others were written specifically for consideration for inclusion in this monograph. All have been blind refereed by at least two, and in some cases, three referees; and the editors wish to extend, on behalf of themselves and the authors, their appreciation for the careful and thoughtful engagement, comments and suggestions offered by referees to authors. In an era when peer-reviewing is required for recognition of research for career advancement purposes, but the work of peer-reviewing itself is not rewarded in work plans, the considerable effort of our referees demonstrates significant commitment to the dialogue necessary for true scholarship and the creation of knowledge.

In the first article in this monograph, Sara Charlesworth and Sheree Cartwright explore issues involving organisational change, particularly organisational change designed to address gender issues in workplaces. Their case study explores the attempt to introduce a company ‘right to request’ part-time work policy into an Australian manufacturing organisation. Their research methodology was based on the dual agenda concept/CIAR methodology, which challenges gendered work practices in order both to increase gender equity and work–life integration and to improve workplace performance and organisational effectiveness. The value of this methodology is that it recognises and is prepared to deal with resistance to change. Charlesworth and Cartwright’s research highlights the underlying assumptions regarding the structuring of work and jobs that disadvantage women. It also highlights the frequent failure, in initiating change, to properly inform supervisors, managers and employees and to ensure that system issues that affect the success of an initiative are considered and addressed. This case study offers a rich exploration of the complexities involved in introducing changes to make workplaces more women-friendly and to achieve work–life balance for both male and female employees.

Bullying is experienced by both men and women and is not confined to workplaces in which physical labour dominates. Donna Baines and Ann-Sylvia Brooker examine the emergence of bullying as a major occupational health concern for women in the human services sector. More specifically, their article explores the bullying of women who work in a non-profit organisation that supports people with intellectual disabilities in a small, remote Canadian town. Using an ethnographic approach, Baines and Brooker employ engaging first person narratives to explore the effects of and circumstances that contribute to bullying. They find bullying to be frequent, ongoing, severe and targeted in this workplace. Their broader structural analysis demonstrates that the location of this case study in a geographically isolated and economically depressed region produced conditions that the employer could use to further decrease both the collective and individual power of the workers. The authors’ comprehensive analysis offers a rich exploration of the interweaving of structures of gender, class and location that combine to make these workers particularly vulnerable to abuse.
Maureen Fastenau explores the deeply hidden ways in which organisational uptake of family-friendly conditions may, counter to their intended purpose, actually lead to institutionalising women’s disadvantage. Her article is grounded in extensive research on the gendered nature of Australian workplaces. With this background, she undertakes an analysis of essays written by managers enrolled in an introductory Human Resource Management subject. Her complex and wide-ranging analysis finds that the managers lack both a sensitivity to gender issues and the intellectual tools to analyse the significance of gender in the workplace. For instance, women who maintain a presence in the workplace whilst also taking responsibility for child care and domestic tasks are commonly perceived to be making largely ‘recreational’ choices. In elucidating the assumptions made by student managers, her article points strongly to the need to include gender as a core topic both in management education content and in making genuinely equitable changes to employment culture if organisations are to achieve the advantages of a managing diversity approach.

The absence of gender as a key concept informing policymakers’ considerations may account for the situation described by Elizabeth Branigan in ‘Why Single Mothers Need to be Accountants: The ‘third shift’ of bureaucratic labour under welfare reform’. Branigan argues that while many women in Australia take on the ‘double shift’ of paid work and family work, single mothers are increasingly being asked to do a ‘third shift’ as administrators and accountants in order to meet the requirements of the reformed welfare system. While complex, overlapping and sometimes inconsistent demands from bodies such as CentreLink and Child Support agency create an onerous workload, the extra work does not necessarily result in single mothers being able to move out of poverty, even though the rationale for the third shift is that moving single mothers out of the home and back into the market is the best way to enable them to achieve a decent standard of living.

Policy also figures in the article by Kathy Douglas, which explores the use of narratives, or stories, that shape public policy and decisions in legal cases. While the concept of narratives has wider application to our understanding of how conceptual frameworks operate to constrain and control women, in this article the focus is on how the generally accepted narrative of sex work and female sex workers adversely ‘affect[s] street sex workers’ access to justice’ and maintains unsafe work environments and conditions for sex workers. Using a 1991 Victorian case, R v Hakopian, which caused great community outrage when a sex worker’s horrific experience was deemed less deserving of severe punishment because of the nature of her work, Douglas first presents the legal narrative that underlay the judicial reasoning in this case. She then offers a powerful ‘counter-story, providing another perspective and understanding of the significance of what occurred. The legal narrative approach does not dispute facts, but rather enables other perceptions to be voiced and other viewpoints considered. This article highlights how women’s experiences, and understandings of those experiences, are often neglected or filtered through the lens of male power and experience to the detriment of women.

In ‘Shooting the Messenger’, a small research project involving six mothers, Linda Hadley investigates working mothers’ complex responses to the availability of new communication technologies, in this instance, the mobile phone. She explores with these women the ways in which they use their mobile phones as they carry out the complex activity variously described as ‘juggling’ and ‘balancing’ the demands of paid
work and family life. Mobile phones have been seen by some commentators as unfairly extending the working day and enabling paid work to intrude further into home life. Others argue that mobile phones and other communication devices that blur the boundaries of work and non-work enable a better quality of life for women. The data from the six mothers suggest that mobile phones increased the ways in which they could participate in both paid and family work. It is also clear that the paid work domain is the one which is privileged. The mobile phone may be bringing the message that we are all ‘in the market’ whether we are paid or not.

The final two articles also address issues related to the impact of the market, as well recent changes in legislation, on women’s lives. In Berenice Nyland’s ‘Women who Work for Women to Work’, the focus is upon women who work in child care centres as caregivers. She argues that in recent years, caregivers’ wages and conditions in child care centres have fallen behind those of comparable professionals, and that this has contributed to a shortage of qualified workers in the industry. Caregivers’ work has been undervalued historically due to this workforce being predominantly female and because such work has been constructed as ‘mother’s’ work. The issue of caregiving is discussed by Nyland in the context of the new industrial relations landscape since the introduction of the Workplace Relations Amendment (Work Choices) Act 2005.

Russell Solomon engages with selected issues pertaining to women and human rights. He focuses on women’s increased participation in the labour force and issues relating to the inequitable pay and conditions that many women experience. He argues that women’s rights at work have suffered as a result of the nature and development of international law, with its base in liberal political theory and its emphasis on the individual and formal equality, to the relative neglect of economic, social and cultural rights. He discusses the 1979 Convention on the Elimination of all Forms of Discrimination against Women as an international instrument that may be used to improve women’s experience of work. However, he argues that this instrument suffers from its liberal legacy and presents something of a mixed convention in terms of its effectiveness in implementing and enforcing the rights of women.

The editors, once again, would like to express their appreciation to the referees and to the authors of this stimulating collection of articles. They would also like to thank Professors Gardner and Bessant for their support of the conference and their contribution to the discussion about the challenges facing academic women in pursuing research and developing their careers. The convenors of the conference and the editors of this monograph would also like to thank RMIT's School of Global Studies, Social Science and Planning and the Centre for Applied Social Research for their financial support of the 2006 conference and this monograph.

Maureen Fastenau
Elizabeth Branigan
Kathy Douglas
Helen Marshall

Melbourne, November 2007
Part-time Work: Policy, Practice and Resistance in a Manufacturing Organisation

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In Australia, part-time work is seen as the key strategy for enabling employees, primarily women, to better balance work and care responsibilities. However, while almost half of all employed women work on a part-time basis, the take up of part-time work varies considerably across industries and organisations. In retail and hospitality, for example, a significant proportion of jobs are organised on a part-time (and casual) basis. In contrast, in industries like manufacturing, part-time work remains relatively rare even for female employees, with those seeking to reduce their hours of work often having to negotiate on an individual basis with their line supervisor. This article examines the issue of part-time work in a male-dominated manufacturing organisation, ManuCo, where relatively few female employees work on a part-time basis. While blue collar employees have an award ‘right’ to part-time work after return from parental leave, uptake is highest among white collar workers who are dependent on managerial discretion to access part-time work. This article explores the reasons for this apparent paradox and reports on the development of a formal company-wide ‘right-to request’ part-time work policy. We explore the resistance, both overt and covert, to this initiative and the deeply embedded and gendered organisation of work and working-time that underpins it.

INTRODUCTION

Part-time Work in Australia: Setting the Scene

In Australia, part-time work is seen as the key strategy for attempting to reconcile work and care. In recent decades there has been a large uptake of part-time work in Australia, mostly by women, so that in August 2006, 29% of all employees worked on a part-time basis (ABS 2006a). Most of the growth in part-time work has been among women in their childbearing and childrearing years, which shows the direct link between part-time work and caring/family responsibilities (Pocock 2003, p. 164). In 2002, Australia had the second highest rate of employed women in part-time work, after the Netherlands,
out of the 28 countries in the Organisation for Economic Co-operation and Development (OECD) (OECD 2002a, p. 48; OECD 2002b, p. 69). Indeed, the growth of female employment in Australia is driven by the increase in the number of women working part time. Australian Bureau of Statistics (ABS) data show that at August 2006, 47% of all employed women worked less than 35 hours a week, as did 15% of employed men (ABS 2006a).

The quality of part-time work in Australia has also become an issue. Many part-time employees, compared with full-time employees, find it easier to combine paid work and care responsibilities (Pocock 2003, p. 162). Part-time work can also potentially provide a ‘bridge’ to allow women to re-enter employment or maintain continuous labour force participation, albeit on reduced hours (Fagan & O’Reilly 1998, p. 8). However, available Australian evidence suggests that employees with caring responsibilities often have to trade access to reduced hours for jobs of poorer quality (see Burgess 2005; Chalmers, Campbell, & Charlesworth 2005). Much part-time work in Australia is insecure and many part-time jobs are ‘casual’, lacking basic conditions essential to carers (such as sick leave, holiday leave and paid parental leave). Part-time jobs often have short hours and offer limited access to careers or advancement (Campbell & Charlesworth 2004; Burgess 2005; Pocock 2003).

The take up of part-time work varies considerably across industries. In female-dominated industries, such as retail and hospitality, much of the work is organised on a part-time basis. In July 2006, 47% of all retail industry employees worked on a part-time basis, as did 50% of all hospitality industry employees. For women working in both industries, part-time hours are the predominant working time pattern, with 62% of all female employees in retail and 60% of all female employees in hospitality working part time (ABS 2006b). In other mixed and male-dominated industries such as wholesale trade, manufacturing and mining, work continues to be organised around a full-time norm and part-time work is more typically available only via enterprise policy and/or discretionary ‘grace and favour’ arrangements with line supervisors.

**Part-time Work in Manufacturing**

In August 2006, 13% of employees in the manufacturing industry worked part-time hours. As in other industries, the take up of part-time work is highly gendered, with 29% of female employees in the industry working on a part-time basis compared to 7% of men (ABS 2006b). Within the industry there is considerable variation in the take up of part-time work, with the industry sub-sectors where women comprise a larger proportion of employees generally being the ones with an above industry proportion of employees working part time, as highlighted below in Table 1.
In the most female dominated subdivision — textile, clothing, footwear and leather manufacturing — almost 28% of employees work part time, compared to the most male dominated subdivision — metal product manufacturing — where less than 8% of employees work on a part-time basis. This may suggest that industries that employ larger numbers of women have had to be responsive to expectations of availability of part-time hours. The impact of increased female participation is also suggested in data collected by the Equal Opportunity in the Workplace Agency (EOWA) in an analysis of manufacturing organisations that employ more than 100 employees, which are required to report to the agency on an annual basis (EOWA 2005). In textile, clothing, footwear and leather manufacturing, for example, 32% of managers in reporting organisations were women, compared to 11% of managers in metal product manufacturing. This compared to an average of 20% female representation in manager positions in all the manufacturing reporting organisations (2005, p. 8).

However, an increased willingness to appoint women to managerial positions does not extend to an increased acceptance of part-time work in such positions. The EOWA data points to the relatively low uptake of part-time work in occupations above the shop and
Part-time Work

office floor. Just 4.9% of women managers in reporting manufacturing organisations worked part time, compared to 7.3% of managers of all the organisations that reported to EOWA. Indeed, when the figures for men and women are combined, the manufacturing industry is even more unlikely to employ managers part time. Only 1.3% of managers in manufacturing worked part time, compared with 2.9% for all EOWA reporting organisations (EOWA 2005, p. 8).

Workplace culture, structures and practices have been identified as barriers to the availability of part-time work and in determining the quality of part-time work for employees, particularly in male-dominated industries such as manufacturing (Rapoport et al. 2002; Burgess et al. 2005). While there are examples of ‘good practice’ manufacturing workplaces, such as Autoliv — an auto component manufacturer that provides part-time work opportunities for production line employees (IRV 2003) — such exemplars remain atypical. A recent study provides two contrasting manufacturing case studies, both with similar proportions of female employees (Burgess et al. 2005). With respect to flexible work options, the distinguishing feature of the ‘better’ practice case study, which also had a larger proportion of female managers, was management commitment similar to that at Autoliv: ‘to do all they can’ to support flexible work arrangements, including part-time work. The ‘poorer’ practice case study suggests a self-fulfilling management perception that traditional manufacturing workplaces do not have the flexibility to offer the same sort of arrangements as in other industries (Burgess, Henderson & Strachan 2005, pp. 10–11). This view, together with a conception of the ‘ideal worker’ as someone unencumbered by family responsibilities and available to work full-time and overtime as required (Williams 2000, p. 3), remains strong in manufacturing, despite the slowly increasing number of women employed in it. This attitude underpins and maintains workplace cultures, work organisation practices and the design of jobs that ‘are better suited to the needs and circumstances of male employees and which act as a barrier to the recruitment and retention of women’ (EOWA 2005, p. 20).

Drawing on a recent in-depth case study of a large male-dominated enterprise in the machinery and equipment manufacturing industry subdivision, this article attempts to better understand both support for and resistance to the take up of part-time work in manufacturing. The case study of ManuCo comes out of a larger two-year action research project ‘testing’ the application of the ‘dual agenda’ model of organisational change in two large Australian organisations. The underlying assumption of the dual agenda, and the collaborative interactive action research (CIAR) methodology on which it draws, is that making changes in work practices to increase gender equity and work–life integration can also increase workplace performance and organisational effectiveness (Rapoport et al. 2002, Lewis & Cooper 2005). At ManuCo, patchy access to and implementation of part-time work was identified with a set of work practices impeding both gender equity and organisational performance.

Our focus in this article is on ManuCo and on part-time work rather than the larger research project. In the next section we describe ManuCo and the dual agenda/CIAR methodology employed in the action research case study. We then move to an exploration of part-time work practice and policy coverage in the organisation.

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1 This research project was jointly funded by the Australian Research Council and the two organisations, under the Linkage grant program (LP 0455212).
highlighting a key paradox in practice and policy in the take up of part-time work by blue and white collar workers. We examine several reasons for this apparent paradox and report on the development of a formal company-wide ‘right-to-request’ part-time work policy. Finally, we explore both support for and resistance to this initiative and the deeply embedded and gendered organisation of work and working-time that underpins it.

**MANUCO AND THE DUAL AGENDA/CIAR METHODOLOGY**

**The Organisation**

*ManuCo* is a large, multi-national manufacturer, whose parent company is located in North America. Its Australian workforce is located across a number of sites and at the commencement of the research numbered some 9,000. Three-quarters of the *ManuCo* workforce are blue-collar workers, including those in plant-based and production line positions, while one-quarter of employees work in white-collar positions, including administrative, managerial and professional ones. The distinction between blue- and white-collar workers is broadly reflected in different policies and industrial instruments that cover the different groups of workers. Most of the blue-collar workforce is unionised, while relatively few white-collar or managerial employees are union members. The conditions and entitlements of blue-collar workers and some professional groups, for example engineers, are covered by both an industry award and a union enterprise agreement. The conditions and entitlements of most white-collar workers are covered by various formal company policies and Human Resource (HR) practices.

*ManuCo* is even more male-dominated than the machinery and equipment manufacturing industry subdivision in which it is located. Women comprise only 10% of *ManuCo*’s workforce, compared to the 16% female employment that is the average for the subdivision (see Table 1). There are, however, some variations between white-collar and blue-collar representation at *ManuCo*. Women make up around 20% of the white-collar workforce, compared to only around 7% of plant/production employment. Female representation in senior management is low, with women comprising around 8% of managers at this level. Perhaps surprisingly, at the start of the research women comprised around a third of the company’s Australian board of directors. This may well reflect the impact of ownership by a foreign parent company, a characteristic that the EOWA suggests is associated with an increased push for greater workforce equity and the advancement of women in manufacturing more generally (EOWA 2005, p. 14).

**The Dual Agenda and CIAR Research at ManuCo**

The dual agenda conceptual framework and organisational change approach used in the case study employs an explicit gender lens. The dual agenda concept argues that gender equitable organisational change can only come about by focusing on the way in which work is organised and by re-examining the ideologies that underpin it (Rapoport et al. 2002, pp. 2–3). The CIAR methodology aims to uncover and get below taken-for-granted assumptions about work organisation, including conceptions of the ‘ideal worker’ and ‘ideal work practices’. The framework aims to challenge and make changes to ‘ideal work’ practices so as to increase gender equity and work–life integration and to
Part-time Work

increase workplace performance and organisational effectiveness. The CIAR methodology is underpinned by a close collaborative relationship between the academic researchers and the organisation. A unique aspect of this methodology involves a ‘resident’ researcher being located at the workplace. A research assistant was located at ManuCo two days a week for a total of 15 months gathering internal company statistical and qualitative data and undertaking extensive participant observation.

ManuCo’s specific interest in collaborating in the dual agenda research project was its relevance to the company’s strategic goals, particularly in organisational change efforts driven through its work–life strategy. Another catalyst and associated initiative was the introduction of extended paid maternity leave, which provided the impetus for HR personnel to push the work–life agenda more strongly. The two-year research project followed the four separate but overlapping stages of the dual agenda/CIAR process (see Bailyn & Fletcher 2003, p. 2):

- The organisational scan — identifying work practices and work–life policies that have implications for organisational effectiveness and gender equity
- The organisational diagnosis — organisational feedback for a work culture diagnosis of the organisation, the aim of which is to make the costs and consequences of the work practices for organisational effectiveness and gender equity visible
- Agreement on ‘interventions’ or initiatives — identification of practical ‘small wins’ change that has the potential to provide both employee and organisational benefits
- Implementation and evaluation of initiatives — working with the organisation to implement the agreed initiatives and to evaluate the outcomes.

Data collection during the first three stages involved almost 250 participants in interviews, focus groups, feedback focus groups and other interactions and discussions with a range of blue- and white-collar employees. Research also took the form of ethnographic observations of work practices across the organisation. Interview participants were drawn from across the organisation and included female and male employees working in HR, finance and corporate affairs, engineering, production, product testing and import/export. Participant observation was also conducted in these different work areas. Documentation and data, including the organisation’s employment policies and practices, were gathered and analysed. As discussed further below, one of the ‘small-wins’ initiatives agreed to in the action research process was a decision to examine the uptake and quality of part-time work in the organisation with a view to developing a formal part-time policy covering all employees in the organisation.

As part of the development of this initiative, part-time employees and managers of part-time employees were surveyed about their specific experiences of part-time work across the organisation. The aim was to provide benchmark data against which to evaluate the implementation of a formal policy and to identify specific issues to ensure good quality part-time work was supported in accompanying manager guidelines and training. All ‘active’ (i.e. not on leave) part-time employees were surveyed, with a response rate of 50% for employees and 51% for managers. Following the survey, focus group discussions were held to explore survey findings and to develop a part-time work policy.
PART-TIME WORK AT MANUCO: POLICY AND PRACTICE

In 2005, less than one hundred employees worked in a part-time arrangement, which is less than 1% of the total ManuCo workforce. This is far lower than is the 9% average for the machinery and equipment manufacturing industry subdivision in which ManuCo is located (see Table 1). Only 6% of female employees worked on a part-time basis despite the company’s ‘best practice’ provision of 14 weeks paid maternity leave, a provision that has led to increased retention of female employees in recent years.

Access to part-time work at ManuCo differs for white- and blue-collar workers. Blue-collar workers have an award ‘right’ to part-time work after their return from parental leave. However, this is a limited right that expires when the child turns two. In the latest enterprise agreement there is also provision for employees to apply for part-time hours (no fewer than 24 per week) in order to accommodate family responsibilities or phased retirement, where such requests can be accommodated by the business. There is, however, no obligation on managers to agree to such applications. By contrast, white-collar workers who are not covered by the enterprise award have no formal right to part-time work and there is no formal policy covering part-time work arrangements within the company. In essence, decisions to access part-time work after parental leave, or in any other situation, are left to the discretion of an individual employee’s line manager and are made on a case-by-case basis. Line managers also have the discretion to decide on what basis, and for how long, part-time work will be offered to white-collar workers. Consequently, in these areas, when a woman’s child turns two it is presumed that she is no longer eligible for part-time work and must return to work full time.

In the course of the research, we found that across ManuCo knowledge of the organisation-wide work–life strategy, and the policies and practices underpinning it, was uneven. For example, generally there was a good knowledge of the various flexible work policies applicable to employees in corporate headquarters and HR. However, although employees had the award right to return from parental leave on a part-time basis, both employees and line managers had little awareness of the potential availability of part-time work arrangements. There was a lot of interest in part-time work expressed during interviews and focus group discussions, but information about part-time work — both among employees and managers — was dependent on manager knowledge and discretion, with one interviewee noting: ‘People are too scared to ask about part-time work.’ There was also a broad assumption that part-time work was ‘just’ for women, despite the identification of several men who had been allowed to work reduced hours, with one production line focus group participant commenting that the view in his work area was that ‘real men don’t work part time’. In some areas, particularly those focused on production line work and import/export, there were strong views that the nature of the work carried out precluded employees working part time.

Despite the ageing of the workforce and broad concern among organisations about losing skills and organisational knowledge when employees retire, there was little
serious discussion anywhere in the organisation of phased retirement options. In both blue- and white-collar areas there was a perception that access to and implementation of options to assist employees manage work–life balance depended very much on the knowledge and discretion of individual managers and supervisors.

We also found that part-time work was inconsistently implemented across the organisation. In some areas there were difficulties in negotiating new roles, workloads, hours and flexible arrangements upon return to work from a period of leave. Where it was accessed in the white-collar area a number of issues arose, including work intensification. For example, one interviewee described it as ‘some part-time jobs are really full-time workloads with a pay-cut’. Realistic expectations of the performance of part-time workers were a particular issue in administrative areas. Two interviewees pointed to performance reviews of part-time workers that had benchmarked their performance output against expectations of a full-time workload. Others complained that their managers had reduced their expectations because they assumed that workers were unable to undertake certain work while on reduced hours. We found some resentment expressed towards the take up of maternity leave and part-time work by women. While concerns arose (partly because of resourcing constraints) such as the lack of backfilling when an incumbent was on leave and what was understood as head count restrictions, women on maternity leave or working part time were seen by a minority as ‘creating’ additional work for their colleagues and managers.

We also picked up systems issues that make it difficult for managers and line supervisors to implement and manage part-time work, and for the organisation to assess what arrangements were in place. There was some lack of consistency in the way in which part-time employees were counted in different departments. Some used a pro-rata head count system and others counted part-time employees as a full-head, which was problematic given that departments had to operate within a fixed head count. Traditional understandings of head count persisted in some areas, despite an edict from the parent company stipulating that part-time employees were to be counted as ‘half a head’ regardless of the number of hours worked. As one line manager put it: ‘Even though [employee person] only works three days a week, from a head count perspective they are counted as a full-head, so I am down by 40% of a head.’ Head count is thus as much a symptom as a cause of problematising part-time work at ManuCo. It reflects and contributes to perceptions of part time as ‘other’ and as a headache for line managers. There were also some areas of ManuCo where manual pay systems used for part-time employees created administrative hurdles in implementing part-time work as pay had to be calculated on a weekly basis, even where part-time hours were fixed. As a consequence, some part-time production line employees were not counted on ManuCo’s HR software system.

The Dual Agenda methodology stresses the value of ‘small wins’ and ‘small losses’ change efforts in building understanding and support for larger scale change by demonstrating concrete outcomes on a small scale (Rapoport et al. 2002, p. 107). Based on the organisational diagnosis and feedback to it, ManuCo managers and employees were canvassed as to what would be suitable ‘small wins’ initiatives for the organisation and researchers to pursue. Improving access to and the quality of part-time work emerged as an area of organisational change seen as having potential benefits for the business as well as for gender equity and work–life balance. Agreement was reached on an initiative to address these issues. The initiative around part-time work had three main
elements: firstly, the clarification, dissemination and implementation of a formal part-time work policy covering a broader group of employees and situations than was currently the case; secondly, information dissemination/promotion of ‘best practice’ part-time work, for example, information for employees about negotiating part-time work arrangements (how, when to, who), establishing a new role, support networks, part-time work mentors, options, etc; and thirdly, training for managers to support part-time work, including job design, work organisation and performance management. The rationale for this initiative was creating consistency across the organisation with respect to formal access to part-time work arrangements. It was also focused on making sure that part-time work arrangements were quality arrangements. That is, it sought to ensure that part-time work and part-time workers would be fully integrated into the organisation — that workers would not disadvantaged in terms of career development, training, mentoring or performance management and review.

As noted above, a survey of part-time workers and their managers was undertaken as the first part of the initiative, followed by focus groups for interested survey respondents. The survey and focus group findings indicated that for many employers and supervisors, part-time arrangements at ManuCo were working well. Both employee and manager respondents pointed to a range of benefits for employees and for the organisation, particularly the retention of skilled employees, increased productivity and job satisfaction. However, the survey also confirmed what had previously been identified in the organisational diagnosis: that the way part-time arrangements were implemented varied widely. Particular examples of poor quality part-time work were raised. For example, some part-time employees reported having to work in positions at a lower level than their original positions in order to secure reduced hours, while a large number of employees and managers agreed that part-time employees did not have the same development and promotion opportunities as full-time employees.

The Take up of Part-time Work at ManuCo: A Paradox?

While they made up only a quarter of employees at ManuCo, white-collar workers were much more likely to be working part time than blue-collar workers. Two-thirds of those working part time were white-collar employees and only one-third were blue-collar. Of those identified as blue-collar part-time employees, more than half were employed as canteen workers, whose work had always been organised on a part-time basis. This differential take up of part-time work appears paradoxical. There is a very low uptake among blue-collar workers who have an award ‘right’ to part-time work after parental leave and who can apply more generally for part-time hours under the enterprise agreement, subject to managerial discretion. In contrast, there is a much higher uptake by non-award white-collar ManuCo employees who have no similar ‘rights’ to part-time work and whose access to part-time work is on a case-by-case discretionary basis not covered by any formal company policy.

There are several reasons for this apparent paradox. One is that generally, blue-collar workers at ManuCo earn less than white-collar workers, and those returning from paid parental leave with an award ‘right’ to part-time work may not be able to live on a part-time income. This is supported by ManuCo data that indicates that while paid maternity leave is available to both blue- and white-collar workers, blue-collar workers tend to return to work earlier, suggesting that financial issues may add not only a pressure to
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return to work but also a pressure to return to work full time. Another explanation might be found in the different female density of white- and blue-collar work at ManuCo. It was the view of one union official who was interviewed that ‘a mass of women’ is needed to drive any change around the demand for and uptake of part-time work in production line areas. With the representation of women in the production line and other blue-collar areas hovering around 7%, as indicated above, any mass of women, critical or otherwise, is a long way off. Despite the insertion of the right to part-time work provision in the enterprise award, which represents a consent agreement between ManuCo management and the relevant unions, the provision is a limited one and its link to parental leave underscores a view of its use as for women only. Given the very few women at ManuCo who are covered by this provision, its use remains exceptional. This is hardly surprising. Even in the white-collar areas, where the representation of women and the uptake of part-time work is higher, the overall low representation of women, together with the dominant organisational understandings of part-time work as being only for those with family responsibilities, reinforces such gendered perceptions. Where mainly women access flexible working time policies, such as part-time work, uptake can be seen as only for the organisationally uncommitted or as special dispensation from organisational working time norms for the deserving. This reinforces gendered perceptions in the workplace about women’s organisational competence and interest in the organisation as compared to men’s relatively time-unbounded availability and commitment.

Further, there is active discouragement of part-time work at ManuCo from many line managers in production areas where part-time work has been described as ‘too difficult to organise’. This view was reinforced by systems issues with head count and payroll difficulties, outlined above, and a strongly gendered perception about who should work part time and who should work full time. At ManuCo traditional blue-collar union norms have also influenced the acceptance and availability of part-time work for award-covered employees. The main union at ManuCo is generally unsupportive of part-time work, as it is seen as potentially undercutting full-time permanent employment. This position has led to some confusion among delegates and workers on the production line regarding the differences between casual and part-time work. One of the union officials interviewed in the course of the research suggested that the main problem with part-time work at ManuCo was that the ‘rest of the full-time job is not covered’. The official also expressed concern that part-time arrangements were often ad hoc and the ‘loss of the remaining hours means other workers have to take on additional work’. This concern with work intensification has increased over time with the implementation of the model of lean manufacturing characteristic of work organisation in the industry. Indeed, the concerns expressed by the main union at ManuCo are consistent with union views in the industry more generally — that part-time work and other flexible work arrangements have the potential to threaten employees’ permanent full-time status and overtime access, and to create a risk of work intensification (EOWA 2005, p. 21).

Finally, another explanation for the comparatively lower take up of part-time work by blue-collar workers resides in the different ways in which work and working time is organised in different areas within ManuCo. Blue-collar workers on the production line have much more restricted access to variations in working time and leave flexibility than their white-collar colleagues. The way production and operations work is organised tends to be accepted as fixed and immutable and it is very difficult to shift this mindset — amongst managers and unions alike. While there are some practical realities
underpinning this view given the very different nature of work on the production line compared to that of most white-collar administrative and professional workers, the case of Autoliv, noted in the introduction, suggests that traditional ways of organising work on production lines can be rethought. It is interesting to note that at *ManuCo* the view that part-time work does not suit the nature of the work undertaken is not limited to production areas. In the import/export area, part-time work is similarly viewed as simply incompatible with the work demands of the work unit. Employees work long hours, making conference phone calls late in the evening and early in the morning with company colleagues located in North America, Europe and the Asia Pacific. The time-unbounded demands of the work undertaken by this unit are as great an impediment to consideration of part-time hours as the fixed and time limited nature of production line work. While the ideal worker and ideal worker practices have different manifestations in these two very different work areas, reflecting different ideas about commitment to work, both preclude reduced hours.

**THE PART-TIME WORK POLICY PROPOSAL**

As noted above, one of the small-wins change efforts to come out of the dual agenda action research process at *ManuCo* was an initiative around part-time work. One of the most important components of this initiative was the development of a formal part-time work policy to cover a broader group of employees and situations than was currently the case. The rationale for this initiative was to provide for transparency and consistency across the organisation in terms of formal access to part-time work arrangements. The focus group consultations after the survey enabled us to further explore employee and manager views on what a part-time policy and organisational guide might look like, and to seek additional advice within the organisation about how to develop and implement the policy.

Perhaps surprisingly, given that many company policies on part-time work in manufacturing, and more generally, involve managerial discretion, it was accepted from the start that the formal policy should follow a ‘right to request’ model. That is, where all employees have the right to request part-time work, and supervisors or managers have a duty to seriously consider such requests in the context of operational requirements. This ‘right to request’ model had been a subject of debate leading up to and following, the Australian Industrial Relations Commission (AIRC) Family Provisions Test Case decision in 2005 (PR082005).¹ Informed by the experience of ‘right to request’ legislation in the United Kingdom, the main advantages of this essentially individualised and procedural (rather than substantive) right were seen to be the development of some consistency in enterprise practice around part-time work and provision of a decision-making framework for supervisors to follow. The ‘right to request’ underpinning of the proposed policy was also seen as assisting the organisation to meet its obligations, under both federal and state anti-discrimination laws that,

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¹ This test case decision provided, among other things, that employees could request part-time work on return from parental leave up until the child was five. Employers are obliged to consider such requests, having regard to the employee’s circumstances, and may only refuse on reasonable grounds related to the effect on the workplace or the employer’s business, e.g. cost, lack of adequate replacement staff, loss of efficiency and impact on customer service. Unlike many other test cases on carers leave and unpaid parental leave, this decision was not included in the ‘Australian Fair Pay and Conditions Standard’ introduced in the WorkChoices changes to the *Workplace Relations Act 1996* in March 2006.
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arguably, require that workers with family responsibilities be ‘reasonably accommodated’ in the workplace (although see Gaze 2005). The policy was to apply to all employees, both award-covered and non-award covered, although it was emphasised that the formal policy would not provide any additional entitlements, but rather would simply formalise and raise awareness of current best practice around part-time work within the organisation.

The development of the policy had the support of the HR Director. It was initially anticipated that the new draft policy would be piloted at one of the main sites and would cover both blue- and white-collar workers. This was seen as enabling an assessment of the practical utility of the policy and the accompanying managers’ guide and training material. On the basis of this assessment there was to be further refinement of the policy and accompanying material before it was rolled out across ManuCo. However, a high degree of concern was expressed by representatives of the main production areas in the company, as outlined below. The part-time policy reference group then decided it would be more effective to have the formal endorsement of the company’s Board of Directors so as to ensure that the policy was accepted and implemented throughout the organisation. After some delay a presentation was made to the Board. Developed by the researchers and the reference group, it emphasised that a formal policy would have benefits for both the organisation and employees and pointed out the costs of ‘doing nothing’. An in-principle agreement was given by the Board to a formal company part-time policy.

Resistance

The development of a formal ‘right to request’ part-time policy clearly had broad support at the senior levels of the organisation and within the HR and legal compliance departments. However, during the process of developing the policy both overt and covert resistance was encountered. The dual agenda/CIAR methodology anticipates such resistance. A key part of the methodology is to challenge underlying gendered assumptions in organisational work life. This means engaging with and honouring resistance to change so as ‘to find creative solutions for existing problems that integrate different ways of thinking and doing’ (Rapoport et al. 2002, p. 109). Resistance is considered both a consequence and a key part of the organisational change process. For example, Rapoport et al. point out that ‘if there is no resistance, CIAR researchers should begin to question whether they and their organisational partners are on the right track’ (2002, p. 108). They note many sources of resistance, including concerns about performance, resistance at a structural level and individual concerns, which often only emerge as attempts are made to change work practices (2002, p. 109–10).

At ManuCo the two main expressions of resistance to the part-time policy proposal were an argument that certain work could only be carried full time, and assertions that a formal policy would lead to ‘the floodgates opening’. One of the main concerns expressed in the production areas was that the policy would encourage the uptake of part-time work in work environments that were ill-suited to it and that implementing part-time work would place unnecessary pressure on the organisation at a time when it was trying to meet production deadlines for a new product. Interestingly, while the focus was on production areas as the main source of resistance to part-time work and a formal part-time policy, resistance soon emerged in a number of white-collar areas,
including the import/export area. In the context of the ‘long hours’ culture and demands for time-unbounded availability, the prospect of reduced hours in this area presented a direct threat to work organisation and traditional understandings of productivity based on presence in the workplace. While the focus of the proposed policy was part-time work, the research uncovered deeply held gendered assumptions about full-time work, assumptions that make it very difficult for organisations like ManuCo to consider more effective and sustainable forms of work organisation, including part-time work. These assumptions were reflected in the resilience of traditional understandings of head count within the company, as outlined above, which in turn make any move to alternative work organisation extremely difficult to implement (Rapoport et al. 2002, p. 110).

In both blue-and white-collar areas the belief that certain work was not amenable to alternative work organisation or job redesign was also linked to fears that once there was a formal part-time policy ‘everyone would want to work part-time’ and that providing information about the availability of part-time work would exacerbate matters. As one production area member of the part-time policy reference group put it, ‘If you let everyone know about it you will have everyone wanting to do it’. The fear of the floodgates opening is a common response of line managers to employees requesting change in working time arrangements (Hegewisch 2005). However, such fears are not supported either at the labour force level — for example, in respect of the implementation of ‘right to request’ legislation in Europe (2005, p. 1) — or by actual organisational experience (Bailyn 2006, p. 137). Indeed, given the paucity of women within ManuCo and the persistence of a broader societal gendered work/care regime in Australia (Pocock 2003), any significant uptake of part-time work is highly unlikely. Bailyn argues that such fears are underpinned by a basic mistrust with respect to the willingness and ability of employees to take responsibility for the work of the organisation while also giving priority to their personal lives, as well as an organisational culture that presumes a necessity for set procedures applied in uniform ways (2006, pp. 136–7).

At a less overt level, we also encountered some resistance to the part-time policy proposal evidenced in the waning support of some members of the reference group and the fact that the proposal kept slipping off the Board agenda. It took approximately eight months for the part-time policy to be formally agreed to by the Board. Consideration of the policy was scheduled for consecutive monthly Board meetings. However, there were a number of changes in direction and emphasis, as well as delays, which saw the proposal being bumped at the last minute from Board agendas. It required the persistent effort of key people within the organisation and the academic researchers to keep the organisation focused on this small-scale change effort. Reasons for the delays were not clearly articulated. On the one hand, it could appear that the initiative was simply unimportant in the business context in which ManuCo operates, including competitive and global pressures and ongoing concerns about possible downsizing. However, if this were so it is not clear why the board sign-off on what could be viewed as a mere formalisation of current practice was delayed. On the other hand, it appears, especially given the active resistance of the production area managers, as outlined above, that a formal part-time policy was viewed as potentially undermining or disruptive of the traditional way of organising work around full-time jobs and overtime in blue-collar areas, as well as a threat to the newer but no less embedded ‘long hours’ culture in some of the white-collar areas.
CONCLUDING COMMENTS

Currently, the formal ‘right to request’ part-time work policy is being implemented as a pilot policy at ManuCo’s main organisational site. It is too early to tell if the presence of a formal policy will make any difference to the limited uptake and limited quality of part-time work at ManuCo. However, the process of policy development and the debate it has generated within the organisation has brought to the surface not only gendered assumptions about the divide between work and care but also assumptions about the gendered way in which work is organised in both blue- and white-collar settings around the ‘ideal’ full-time norm.

Organisational change is always uneven (Lewis & Cooper 2005, p. 105). Perhaps the most successful part of the dual agenda approach to part-time work at ManuCo was the way it encouraged the clear articulation of the benefits of a formal part-time policy for organisational effectiveness and workforce sustainability. The benefits include the link between part-time work and attraction and retention of staff with caring responsibilities in a shrinking labour market, increased employee satisfaction, and realising the full potential of paid maternity leave through having part-time work as a return to work option. Where the action research was perhaps less effective was in surfacing the gender equity aspect of the dual agenda — support for both male and female employees to assume care responsibilities, and the career progression and advancement of those with care responsibilities. While several men spoke in focus groups about wanting to be more engaged parents, the male full-time breadwinner assumption is deeply embedded in the organisation of manufacturing work around a full-time template, and around long hours, fixed rosters, overtime and 24/7 operations (EOWA 2005, p. 21).

The challenge highlighted in this article for ManuCo and other male-dominated manufacturing organisations is to find ways to begin to chip away at the ideal worker norm, an organisational norm that leads to poor outcomes not only for employee work–life balance but also for gender equity and organisational effectiveness. A focus on part-time work leads to questions about the quantum of hours worked and the way in which hours are scheduled, which in turn leads to re-thinking the design and organisation of work. As Bailyn says, ‘asking challenging questions of existing practices is critical if the organizational world is to allow people to attend productively not only to their employment but also to the rest of their lives ’(Bailyn 2006, p. 132).

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Bullying and Power:
Manufacturing Vulnerability in a Remote Canadian Town

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Workplace bullying has emerged as a major concern in the human services sector in industrialised countries. Using data (13 interviews and four participant observations) drawn from a larger study (41 interviews and 11 participant observations) of three agencies providing services to adults with intellectual disabilities in Ontario, Canada, this article explores bullying uncovered in one of the three study sites, an agency located in a small, remote town. Findings from the small, remote site identified links between bullying and broader socio-politico-economic relations, including gender; welfare state and workplace restructuring; depressed labour markets; the labour extraction process; and geographical isolation. In short, bullying seemed tied to unequal power relations in the workplace and larger society and, further, bullying appeared to be a specific tactic used by management to reduce worker power in a general context of unequal power in which the ongoing dominance of management is assured.

INTRODUCTION

Workplace bullying has emerged as a major occupational health concern in the human services sector in industrialised countries. One UK analysis suggests that workplace bullying has replaced pay as the top concern among British workers (Ananova 2002). In a recent multi-site ethnographic study, we had the opportunity to explore bullying in one of the three non-profit social services workplaces involved in the study. Unlike the other two workplaces involved in the study, the bullying workplace was located in a small, geographically isolated and remote town in one of Canada’s richest and most populous provinces.¹ Under the current system of production, workers have less power in the workplace than management, generating conditions in which bullying and other arbitrary misuses of power can flourish. In the small town work-site we studied, multiple factors operated together to position the workers as having particularly low power and, therefore, being especially vulnerable to management bullying. In the case study which is the focus of this article, although bullying was a local expression of the greater power of employers, it was also intimately tied to broader socio-politico-

¹ The exact dates and location of the study have been concealed to protect worker confidentiality.
economic relations, including gender; welfare state and workplace restructuring; labour
markets; and geographical region.

The data reported in this article is drawn from a larger, three-site study of workload,
stress and violence in the social services (for further articles on the larger study see
existed in all three study sites, bullying was rampant in only one site. This site was not
notably different from the other two in the type of services provided, funding received,
clients served or workers employed. The site was significantly different from the other
two primarily in that it was located in a geographically isolated and economically
depressed region, which contributed to conditions that the employers used to their
advantage to further decrease the collective and individual power of the workers. The
richness of the data collected at the remote site and the emergence of bullying as an
unexpected finding within the larger finding, compelled us to take a closer look at the
data and to develop particular arguments to explain this phenomenon. Drawing on
appropriate literature and qualitative data gathered as part of this study, the specific
conditions that seemed to generate and sustain management bullying of workers, and
the workers’ experience of these conditions, form the main focus of this article.

REVIEW OF RELATED LITERATURE

A rich literature exists on the interconnections between social structures, ideology,
culture, region and health (Coburn et al 2003; Raphael 2003; Navarro 2004, 1986).
These articles and others have established a materialist approach to the study of how
health and well-being are shaped by structural forces and relations, rather than by the
bad habits or by the psychology of individuals or communities. Contemporary debates
concern the role of neo-liberalism and global restructuring in producing local health
experiences (Coburn 2000a, 2000b; Lynch 2000; Wilkinson 2000, Tarlov 2000;
Hertzman 2000). This tradition in health studies permits the exploration of the linkages
between the everyday experiences of average people and the larger activities of the
economy, political formations, ideologies and global realities.

Similarly, the notion that management control contributes to worker stress has been well
theorised and documented. Sociologists and others influenced by the work of
Braverman (1974) and the labour process tradition have theorised the link between
workplace stress and macro-level structures. Most researchers in this tradition have
focused on understanding how capitalism has produced conditions in which workers
have lost control over the labour process and their own immediate work tasks. This
produces alienating working conditions, such as repetitive or monotonous work, which
in turn contributes to lowered psychological and physical well-being (Lewchuk &
Robertson 2000; Schwalbe & Staples 1986; Navarro 1982; Garfield 1980). However,
Peterson (1999) argues that this research has tended to restrict its focus to control at the
point of production rather than operationalising a wider notion of control such as
bureaucratic processes, workplace culture and social interactions. Further, Brooker and
Eakin (2001) have argued that this literature tends to neglect social-symbolic pathways
to health. This article explores some of these gaps by examining the ways that
management control over the social environment, including the climate of attitudes and
values in a workplace, contribute to worker stress via a bullying work environment.
Work-related bullying, or mobbing, is defined in the literature as ongoing incidents in which groups or individuals are subjected to unfair, arbitrary or abusive treatment (Mayhew et al. 2004; McCarthy 2000). As influenced by case law on the related areas of racial and sexual harassment, bullying is generally defined in terms of the negative effect on the person and its persistence over time (Zapf et al. 1996). Zapf et al. argue that the following factors characterise a bullying work environment:

- changing work tasks or making them difficult to perform
- social isolation
- personal attacks or attacks on one’s private life by ridicule, insulting remarks, gossip or the like
- verbal threats where an individual is criticised, yelled at or humiliated in public, and
- physical violence or threats of violence.

These factors must occur over a period of time rather than as a single event.

As noted earlier, stress was one of the three major themes explored in our three-site study. The literature establishes bullying as a major source of workplace stress in which both the target of abuse and bystanders (Vartia 2001; Mayhew & Chappell 2002; Mikkelsen & Einarsen 2002) can experience symptoms, including headaches, back pain, stomach ailments, insomnia, depression, post-traumatic stress disorder, chronic fatigue syndrome and suicidal feelings (Mayhew et al. 2004; Lewis et al. 2002; UNISON 1994; Zapf et al. 1996). A number of studies suggest that bullying environments produce more work-related stress than all other work-related stressors put together (Vartia 2001; Niedl 1996; 1999 Tehrani 2001). Although this article only explores management bullying of employees, bullying work environments can foster harassment by managers, co-workers, or both (Rayner 2004; Matthiesen et al. 2001; McCarthy 2001).

Most of the work-related bullying literature focuses on the individual characteristics of either the bully or the bullied (Sutton et al. 1999; Munakata 1999; Quine 1999). Some studies measure the frequency (Lewis et al. 2002; Adams 1997; Jackson, Clare & Mannix 2002), others focus on the effects on the victim (Briggs et al. 2004; Hoel et al. 2001; Vartia 2001), or describe organisational determinants of the behaviour (Leifogohe & Davey 2001; Einarsen 1999). Namie & Namie 2000; Rayner 2004 consider the costs to business and provide ways to bully-proof oneself and suggest interventions to prevent and redress workplace bullying (Namie & Namie 2003, 2000).

The existing research on bullying is useful in describing and analysing many aspects of this phenomenon. However, these analyses appear to be restricted to the individual and organisational levels of analysis and the relationship between workplace bullying, and the broader social, political and economic context is under-theorised. In this article we will address some of these limitations by analysing how socio-economic contexts, such as isolated, small, rural labour markets, gendered care work and welfare state restructuring shape power relationships in the workplace and thus produce conditions where workplace bullying can flourish. In addition, we show how bullying by management can be used as a means to reduce worker power.
METHODS

The data discussed in this article are part of a larger, three-site, ethnographic study of workload, stress and violence in the restructured social services. The sites were developmental service agencies, a group of non-profit organisations, largely funded by the government, that provide community services to people with intellectual disabilities. The three agencies studied were fairly typical for the sector in that they were non-profit, unionised and provided a range of services for people with intellectual disabilities.

Data collection involved 41 interviews (13 at the study site discussed in this article), 11 participant observations (four for this case study), and a review of agency documentation. The interview sample was predominantly female (67%), with an average age of 37.1 and an average of 9.9 years employment in the agency. All the managers at the agency and, consequently, those participating in the study, were female. The majority of the workers had qualifications from community colleges (usually six-month diplomas in community care), although a minority had college (two-year) or Bachelor (four-year) degrees in social work. Responses did not differ significantly between or among those with different levels of education.

In the remote, rural agency discussed in this article, a purposive sample (Lincoln & Guba 1985) was built for the key informants such as the executive director, union president and management. Using a staff list supplied by the Executive Director and at her request, starting at a completely random point in the list, every ninth worker was contacted and asked to participate in the study. This process continued until a full sample was achieved. Following an interview guide, interviewees were asked to comment broadly on changes in their workplace over the last five years, including health and safety issues, workload, stress and job satisfactions. Interview transcripts and participant observation and field notes were read multiple times for similarities and differences until themes could be developed and patterns emerged. In some cases, minor changes have been made in reporting the data in order to protect individual identities.1

A MACRO-CONTEXTUAL FRAMEWORK

An analysis of macro-contextual factors sheds light on the bullying phenomenon and helps explain why workers remain in situations that spiral into long-term abuse. Unlike analyses that locate the source of bullying in individual cruelty, psychological motivations or failings of the victims or perpetrators or both, our analysis emphasises that the context of the labour extraction process (Tucker 1978) sets up contested and restrictive conditions under which bullying can occur. As Namie and Namie (2003) note, ‘when pressure is on to meet profit goals or efficiencies (especially with fewer staff), managers are expected to deliver results without regard for human consequences’ (p. 9). Under capitalism, workers must sell their labour power to the highest bidder with the best working conditions, and managers must extract labour in order to generate profits (private sector) (Tucker 1978) or to meet budget goals (public and non-profit sectors). Where labour markets are restricted and opportunities for better wages and

1 The exact dates and location of the study have been concealed to protect worker confidentiality.
working conditions do not exist, workers are compelled to remain in employment where their labour may be poorly reimbursed and their working conditions pathogenic.

We are not arguing that bullying is inevitable in situations where workers have very little power. We recognise that there is infinite variation in how managers and directors wield their power within the constraints of the system, and that the system flexes and adapts in innumerable ways to meet regional, cultural, religious and social differences, as well as the resistance strategies of workers. Indeed, these factors explain why bullying is not found in every workplace. In addition, we are not ruling out the existence of managers and co-workers with psychopathic tendencies towards abusive behavior. Psychological variables are useful for understanding why some managers resort to bullying tactics in a given situation, while other managers, in the same situation, do not. But, a psychological analysis is not useful for understanding why bullying is pervasive in certain workplaces and not others. However, a sociological focus permits an exploration of the multiple levels of relations and structures that can inhibit or encourage the existence of workplace bullying. Given the conflictual positioning of managers and workers within the labour extraction process and the restrictions inherent in the labour process itself, we argue that bullying is a very possible scenario in workplaces where numerous factors come together to create workers as having very low power.

Within the labour extraction process there are few mechanisms to protect those who are subject to abuses of power. Mechanisms such as unions or regulatory policies that potentially balance the power of managers are sharply resisted by employers, shareholders, private market pundits and others who demand the right to operate enterprises free from outside restrictions. Further, the worker protection systems that exist in Canada are generally oriented towards physical hazards at work rather than to psychosocial hazards like workplace bullying (Storey 2004). Currently, cries for greater employer freedom are echoed in popular discourse (Glasbeek 2003), further undermining those in low power positons within the labour extraction dynamic. Unlike everyday circumstances in which bullying individuals can be avoided, confronted or both, abuse and indignities in the workplace operate within a context in which individual movement and expression are constrained by the conditions of the labour market and the power differential between worker and management (Brooker 2006). The power differential between worker and management, as manifest in management’s capacity to fire and discipline workers, means that workers are unlikely to retaliate against insulting or abusive behavior unless they have the power to defend themselves against workplace discipline (such as through union grievances) and/or the power to easily gain new employment or other sources of income. In contexts of low unemployment or ready access to unemployment insurance and the like, workers can leave jobs they find to be unsafe, stressful or disturbing, thus stopping abuse before it becomes long-term bullying.

In contexts of high unemployment and poor access to unemployment benefits, employers have even more power than usual, as workers are much more likely to remain in jobs regardless of working conditions and health hazards. Workplace bullying is a health hazard that can flourish in contexts where workers feel unable to leave their employment or to resist indignities, and instead quietly endure abuse and insult. Some employers use this dynamic to their benefit in order to increase their power in the workplace. Indeed, it may be that the well-documented increase in public sector
bullying (Boyd 1995) can be partially explained by the twenty-year constriction of employment opportunities in that sector coincident with the onset of neo-liberal reconstruction of the welfare state. This long-term constriction of employment opportunities bears a striking similarity to those in the small, remote town in which our study occurred.

FINDINGS AND OVERLAPPING CONTEXTS

As noted earlier, our larger, three-site study focused on stress, workload and workplace violence. While research participants in the remote site confirmed that stress, violence and workload were concerns for them, and we collected a rich data base on these issues, research participants told us that bullying was their main source of workplace stress. Given the exploratory design of our study, we followed their lead and broadened our exploration to include the experience, dynamics and determinants of bullying. According to the workers who participated in our study of the small, isolated work site, bullying was a common occurrence, with all respondents confirming its existence and all but one respondent (male) claiming either to have been a direct target of bullying by a supervisor or bullied when they intervened in a bullying situation to support a friend or colleague. While workers at our other study sites complained of low morale and arbitrary and unfair management practices, ongoing bullying was not present in that data. Geographic isolation emerged as a pivotal factor only at the bullying site.

There are several contextual factors that appear to contribute to the bullying phenomenon in this study. They include:

- restructuring within the Canadian social services sector
- small towns as potential health hazards
- agency governance and low management accountability
- gendered care and volunteer labour
- unions and women’s triple burden.

In the final theme in this section we present data showing that research participants’ experiences of bullying were consistent with Zapf et al.’s (1996) definition of bullying as frequent, severe, ongoing and targeted. Data, in the form of direct quotes from the research participants, are woven into the next sections exploring the contexts which permitted bullying to occur.

The Restructured Canadian Social Services Sector: Bullying Hidden under the Guise of Restructuring

Since the mid-1980s, the Canadian social services sector has been subject to intense downsizing and restructuring pressures (Baines 2004a, 2004c; Cohen 1997). Some contend that restructuring has served largely ideological goals and its varying manifestations reflect the relative strength of national political forces ‘rather than economic pressures brought on by globalization’ (Navarro, Schmitt & Astudillo 2004). Complementing this analysis, others emphasise the role that restructuring has played in opening public services to private market interests and removing barriers to corporate infiltration and domination of markets and regions (Stanford 2004; Esping-Andersen
In the last couple of decades, Canadian governments have taken dramatic steps to restructure their welfare state in line with the smaller, residual social state operating in the United States, which itself has undergone a process of downsizing and pro-market restructuring (Cohen 1997; Teeple 2000).

Using funding cuts and restructuring as the justification, employers, including the one we studied, reorganised social service workplaces using job designs initially developed in the private sector (Baines 2004a). These models emphasise flexible workforces, lean staffing and increased efficiency. In the agency that we studied, the upheaval associated with broader welfare state restructuring provided an opportunity for management to exert further control by using the threat of more ‘reorganisation’ and funding cuts to keep workers in line. As one worker claimed, ‘it’s always thrown in your face, the cuts, you have to do this or they’re going to cut us...it is thrown in your face a lot’. Work reorganisation also provided the pretext to weed out undesirable workers. By threatening further lay-offs, managers gained compliance with plans to reduce working hours and increase workload. Workers were understandably sceptical of the ongoing waves of restructuring and wondered if they were merely excuses for management to enact vendettas against particular workers: ‘We didn’t know if restructuring was for the right reasons or to punish somebody again. Because, sometimes, the ones who were the complainers ended up with not such desirable positions to be in.’

The purportedly immovable force of restructuring also provided an excuse to bully workers into doing unpleasant and hazardous work. For instance, after a strike, management introduced the requirement that the overwhelmingly female staff shovel snow during solo overnight shifts, regardless of weather conditions, neighborhood crime rates, or whether anyone in the small town actually used the sidewalks during midnight shifts. Rather than a light and easy task, snow shoveling in Canada’s northern regions can be onerous and time consuming. In this case study, workers often spent hours outside, very late at night, in bitterly cold weather, piling snow on drifts that could be shoulder high or more, leaving clients entirely unattended and other duties unfinished. Indeed, prior to the strike, snow removal was provided by a specialised crew supplied with snow removal equipment and a truck.

The frequency of falls, slips, strains and back injuries that occurred during snow shoveling, particularly during the ice storms and heavy snowfalls characteristic of the region, were attributed by management to staff being ‘overweight’ or ‘out of shape’ rather than to unsafe working conditions, inadequate equipment and inappropriate work assignments. One manager suggested to us that the most appropriate response to these injuries would be to enroll employees in a fitness club, taking mandatory weekly deductions from pay cheques to cover the cost of membership fees. This solution makes light of the workers’ low incomes, which preclude fitness club memberships, is contemptuous of the workers’ attempts to accomplish difficult tasks, and belittles workers’ concerns and injuries. It offers a response that blames the victim, rather than addressing the dynamics surrounding this spurious requirement and the difficulties workers encountered trying to fill it.

Restructuring was also used to refuse lighter duties to an injured worker returning to work, despite clear legal precedents establishing the employer’s duty to accommodate. When faced with a tripling of worker compensation costs associated with the unprecedented number of illness and injury claims, the employer used restructuring as
Bullying and Power

the justification for threatening further lay-offs rather than improving workplace safety. As a result of this announcement workers held back or refused to submit claims when ill or injured citing fear of serious reprisals as an explanation for their inaction. Coupling the threat of further lay-offs with high levels of reported injuries erected a major barrier between injured workers exercising their workplace right to compensation. As such, it served as a denial of legal rights in the workplace and a blatant abuse of management power.

Remote, Small Town Labour Markets as Potential Health Hazards

Rural and isolated small town labour markets experience conditions that are markedly different from their urban counterparts in a number of ways (Schucksmith 2000). Employers frequently have a relatively captive workforce due to geographical isolation and a lack of other employment opportunities (Higgins 2001). In urban environments with larger labour markets workers have greater anonymity. It is impossible for every employer in a city to know the reputation of any given worker. In small towns, such as the one we studied, workers had little anonymity, which gave employers another mechanism through which to indirectly discipline the workforce.

The social service agency we studied employed almost a hundred people (45 full- and 40 part-time service workers, 3.5 office staff and 7 management team members, totalling 95.5 employees) and was the third largest employer in a town of eight thousand people. As is typical of a region in recession where very little private sector employment exists, the two biggest employers were public sector establishments, the third largest being the organisation we studied, a non-profit agency providing care to adults with intellectual disabilities.

Workers were very conscious that their lack of employment opportunities in the region reduced their power relative to management. One long-time front-line employee who had been demoted and harassed by her supervisor spoke of ‘that desperation of wanting to get out’, as well as the awareness that ‘there’s no other opportunity here. There’s nowhere else for me to go in this place...if you want to live in this town, you have to pay the ransom.’ Many of the female employees were the sole income earners in two-parent families as recession conditions in the town meant that their husbands were among the long-term unemployed. The lack of a male wage or benefit package within the family, for many women, ensured a strong attachment to the job and removed any possibility of a cushion to fall back on. Single parent families also felt particularly trapped by the need for income and the lack of other opportunities.

Agency Governance and Low Management Accountability

As is typical of most non-profit organisations in the social service sector, the agency we studied used a governance model that emphasises the separation of the Board of Directors and the staff. The Board was charged with policy decisions, while the Executive Director was responsible for the day-to-day operations of the agency (Frumkin 2002; Harold 2004). In this model of agency governance, the Executive Director is answerable to the Board. However, since the Executive Director acts as the sole conduit of information to the Board, there is a possibility that the Board receives distorted information. Moreover, Board members were almost exclusively nominated by
existing Board members, in close consultation with the Executive Director, which created a closed, low accountability system. Challenges can be mounted only at an annual general meeting, although workers, community members and family members of clients told us they feared retaliation should they speak up against some of the most powerful people in the town, who comprise the Board. Due to the remoteness of this location and the small size of the town, workers or clients and families who raised concerns were labeled trouble makers and did not have the wider labour market anonymity others experience within larger towns and cities. This further constrained the power that workers had to demand change, and represents a further example of the convergence of the power of small town elites in situations where workers as employees and as townspeople have little power and few pathways to demand accountability.1

This model of Board governance has been widely criticised among workers, unions and in the popular press for its lack of accountability to service-users, communities and employees (Harold 2004). It operates in a particularly self-serving way in the small, out-of-the-way town we studied, where those who might question Board direction, such as families of clients or groups of workers, lack other options for service or employment and fear they will lose jobs or services if they speak out. Thus, an overall low accountability culture existed within this agency, in which systems that could have provided checks and balances on employer power, such as clients, families of clients, Boards of Directors and the union, were rendered less powerful or unwilling to act in the context of gendered care work, the small, remote town in which the agency operates, and the specific, local expression of welfare state restructuring.

Bullying — Frequent, Severe, Ongoing, Targeted

In the data gathered at the rural site, a few of the more blatant examples of bullying included:

- senior workers who were demoted to permanent, solo midnight shifts after they launched health and safety complaints or raised concerns about restructuring (points 1 and 2 of Zapf et al.’s typology, presented earlier in this article)
- managers who repeatedly drew attention to female workers’ weight and body size in a demeaning and humiliating manner (point 3 in Zapf et al.)
- explicitly linking body weight to alleged poor work performance with implicit threats to job security (point 4 in Zapf et al.)
- managers who repeatedly made derisive comments about ugly, lazy, unemployed husbands (point 3 in Zapf et al.), and
- a manager who repeatedly drew co-workers’ attention to a worker’s disability in demeaning ways (point 3 in Zapf et al.), coupling her diagnosis with allegations of poor work performance and the probability of discipline and/or that the particular individual would ‘crack up’ or commit suicide (points 3 and 4 in Zapf et al.).

1 A full description of ‘elites’ has not been provided in order to provide confidentiality to a vulnerable workforce.
In the agency we studied, workers were generally targeted for bullying in the following situations: when they raised issues that did not have management as their sole focus; raised issues that did have management as their focus; filed sick claims; and had a work-related disability. Environmental and community concerns were widespread in this decentralised workplace due to problems originating with the extraction-based industries that, until recently, dominated the local economy. A number of research participants drew our attention to the way in which one worker, a community activist, had been ‘hounded by management’ for bringing to light serious concerns in a group home inhabited by ageing, non-ambulatory clients. The worker confirmed ongoing harassment by management although, strictly speaking, the health and safety concerns did not emanate from any intentional action undertaken by management, but rather by a lack of action on behalf of various elites in the town.

After raising concerns within the agency, the worker in question was demoted, put on the least desirable shifts, had her hours cut, and experienced ongoing ridicule for a disability she had acquired on the job. After more than once taking unpaid stress leave, she argued that the bullying existed because ‘they are trying to break you’. Despite eventually winning a major award for her community activism, the worker voluntarily took a residual role in continued action on the issue. As a result of her own experiences of ill-health and stress, she believed that negative reverberations were too high a price for other activists. Interestingly, the worker had strong support and respect from her co-workers for having made the difficult decision to reduce these activities. In large part their sympathy for her endured because of her co-workers’ awareness of the abuses she had experienced at the hands of management.

In a related but separate form of targeting, workers who complained directly about management actions or direction (as distinct from the indirect concerns raised in the above example), also reported high levels of harassment. As one young employee noted, if a worker raised a concern or launched a grievance,

all you know is that now your job’s going to change. They’re going to make you work evenings, they’re going to take that client away from you and give you this client or they’re gonna change your workplace to something we know is not going to be desirable, it’s not going to be something you enjoy doing. So our motto is never tell them what you like because you’re going to lose it. And never tell them what you don’t like because you’re going to get it.

In one instance a worker fell out of favour with management for advocating on behalf of a client who had been incorrectly diagnosed with intellectual delays and institutionalised for years when in fact her disabilities were physical. With the full support of her physician, the client wanted to drive a car in order to reconnect with physically distant family members. These activities and the worker’s support of the client posed a challenge to management’s power, because they challenged earlier management decisions. Management retaliated by making decisions that caused both the client and worker to suffer. Having experienced a back injury years before, the worker’s doctor had placed her on permanent light duties. Following a protracted struggle, in which the worker advocated with management for recognition of the aforementioned client’s rights, the worker was transferred away from the client and assigned to heavy lifting duties. A lengthy arbitration finally restored the worker to light
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duties although not anywhere near the client in question. Indeed, she was never assigned to work with her again.

According to provincial law, and reinforced by a specific clause in the collective agreement, employers are responsible for ensuring that workplaces are safe. However, there was little evidence that this employer took this issue seriously. Instead, workers were discouraged from filling reports or claims of any kind, thus removing the possibility that action could be taken or that progress and change could be tracked over time. Research participants told us that those who reported work-related injuries and illnesses became targets for abuse, to the point where they would work while ill or in pain rather than seek redress. As one worker noted:

a lot of the staff members are afraid to report a (workers compensation) claim in case they are targeted for harassment. And a lot of people don’t want to deal with harassment. They’ll deal with their pain and issues regarding the pain instead of dealing with management and being harassed.

Research participants reported the widespread existence of workplace injuries, including falls from stairs, sidewalks and chairs, and cuts from sharp metal objects. They described work-related illnesses such as adult onset allergies, asthma, migraines, neurological damage and other respiratory difficulties in a group home contaminated by industrial waste.

In addition, workers who encountered violence from clients, a frequent health hazard in this sector, were discouraged from reporting the incidents or their injuries. The following interchange underscores the workers’ aversion to filing the kinds of injury and incident reports that are standard across this sector. One worker described how she is often badly scratched and bruised by clients, explaining that once she had a client ‘grab my hair so hard I thought my hair was going to fall out of my head’. The interviewer asked to whom she reported such injuries:

Respondent: Who do you report it to? They don’t want to hear that.
Interviewer: O.K. You mean management doesn’t...?
Respondent: Management doesn’t want to hear it. ‘Deal with it, figure it out for yourself.’
Interviewer: And you worry that if you reported those kinds of things then there would be negative…
Respondent: Oh, there is negative impact.
Interviewer: Really?
Respondent: Oh, there is. (emphasis in the original)

Our data confirm that these negative impacts included the kinds of actions described in Zapf et al.’s typology, mentioned earlier: reassignment, insult, isolation and undesirable or dangerous duties.

Workers reported that those who provided help and support to injured co-workers could also become the target of arbitrary workplace discipline. In one example, a worker encountered a colleague who had fallen off a chair while cleaning a ceiling lamp. When the worker saw her colleague crying, she urged her to get medical help and file a
Bullying and Power

compensation report. The injured worker replied, ‘If I do that they’re gonna nail me with something’. The first worker replied, ‘Barbara [not her real name], your back is your life, if you don’t have a back, you can’t work...What’s worse, not being able to work, or dealing with harassment with management?’ Experiencing a delay in starting her duties because of the incident, the first worker received a formal disciplinary letter on her employment file and was told by her supervisor that ‘it’s not your job to deal with medical issues with the staff members. You are to deal with medical issues with clients.’

Finally, workers who experienced work-related disabilities were also bullied by management in the form of insulting behavior, changes in work assignments, isolation and reduced working conditions. One informant with a work-related disability showed us a formal reprimand she had received from management when she went home from work ill, even though she had followed the proper procedures in reporting her departure to her supervisor and ensuring that her duties were covered. In other cases, workers from an environmentally contaminated group home claimed that they were denied requests for transfers to other work sites, regardless of the severity of their symptoms and illnesses. Workers also told stories of a co-worker who was laid-off after taking a management approved of, unpaid leave of absence, to deal with her work-related disability. In all these examples, those who tried to have some control — by raising issues or by exercising their rights to file incident or compensation reports — were dealt with by being bullied.

Neither the bullying nor the targets were random. They were coercive responses by management, directed at reducing the power of those who attempted to reclaim or use power in the workplace. Central to the argument presented in this article, in all these cases, bullying was used as an instrument of management control of the workforce.

Gendered Care Work and Volunteer Labour

Paid care work is often assumed to be a natural extension of the kinds of physical and emotional tasks women perform in the household, rather than a refined set of skills and knowledge (Aronson & Neysmith 1996; Meyer & Storbakken 2000). Almost all of the workers reported close and caring relationships with clients as the major source of meaning and satisfaction in a difficult and stressful job. This highlights how caring ‘for’ and ‘about’ their clients (Baines, Evans & Neysmith 1998) provided great meaning in the lives of the workforce in this agency. As one employee with more than two decades of employment with the agency reported, ‘the only satisfaction I get is knowing that I am making a difference in these lives’. The assumption that anyone can do care work makes it easier for employers to justify lower wages for workers and to use alternatives to paid staff (Baines, Evans & Neysmith 1998) provided great meaning in the lives of the workforce in this agency. As one employee with more than two decades of employment with the agency reported, ‘the only satisfaction I get is knowing that I am making a difference in these lives’. The assumption that anyone can do care work makes it easier for employers to justify lower wages for workers and to use alternatives to paid staff (Baines 2004a; Glazer 1993). Since the beginning of formalised social service work, a combination of paid workers and volunteers has provided services to people in need. In the agency we studied, paid and unpaid care work spilled into each other in uneven ways as employees were pressed to perform unpaid overtime, take clients home with them or on vacations, and undertake ongoing fund-raising for the cash-strapped agency. In an extreme example of this growing dependence on the unpaid care provided by paid staff, the Executive Director told us that 99% of her volunteers were members of her own staff, by her calculations, representing more than three thousand hours of unpaid work per year. She further stated that employees make better
volunteers because they are more dependable and ‘you can do something about them’ if their work falls short of expectations. The Executive Director is clearly implying that for her employees workplace discipline extends beyond the working day into the unwaged care hours that sustain and extend service delivery.

At the agency we studied, the extensive use of volunteers was coupled with the very real possibility that increasing amounts of paid work would be transferred to unpaid work. The union president drew our attention to grievances about the issue: ‘We’ve had some (instances) where workers want to do volunteering work [that is] really bargaining unit work, so we’ve had some grievances because we don’t want workers volunteering their work away.’ As one worker noted, ‘If they could replace this whole workforce with volunteers they would, you know...and it’s a threat, having someone volunteer’.

A number of research participants also noted that following a recent strike and the staff reductions that ensued, a significant number of tasks were reassigned from paid to volunteer workers. In short, the transfer of paid to unpaid care (Baines 2004a) in this agency was not a hollow threat. It was a decisive move that further positioned workers as vulnerable and less likely to resist managerial misuses of power, such as bullying.

Unions and Women’s Triple Burden

Unions, which can act as an antidote to some kinds of worker disempowerment, require the unpaid labour and goodwill of workers. Social service work is dominated by women workers who continue to be responsible for the double shift — paid labour in the workplace and unpaid domestic work in the home. At this workplace, workers were coerced or compelled to perform volunteer work in their places of employment, meaning that women carried a triple burden, leaving very little time for other kinds of activities (Baines 2004a, 2004b). Given this heavy workload, female workers are unlikely to have time available to be involved in the union, which constitutes, in many ways, a fourth form of work in the lives of its female membership.

Despite this pessimistic scenario, the union maintained a high level of activity, during and prior to the period of the study, including a two-and-a-half-month strike in which the major strike demand was the establishment of a retirement pension plan, a benefit that most workers in the Canadian public and non-profit sector tend to take for granted. Retirement pensions hold special saliency in an environment in which women no longer have access to male benefits packages and pensions, due to record rates of long-term, male unemployment. As the first ‘women’s strike’ in a post-industrial town, the women received harsh and punitive treatment on the picket line at the hands of police and agency Board members, including criminal charges. Representing a convergence of small town elites, wherein Board members could pressure police to lay charges on little or no evidence, while union members received no protection from irate and violent Board members, the power relations of the workplace were reproduced on the picket line.

Attempts such as the strike and the numerous grievances launched by members have met with fierce resistance from management and drained immense amounts of time and energy from the already overburdened workforce. The current union president told us that she would need to step down soon, due to family obligations, and she was
concerned that they would not find a successor, a not unrealistic concern given the level of activity seemingly required to resist arbitrary expressions of management power in this agency. Lacking an appropriate, or possibly any successors means that the ability to resist (and reduce power differentials) is at risk, while management’s power to subdue collective resistance will encounter one less constraint.

**IMPLICATIONS AND CONCLUSIONS**

In this article we have argued that bullying can occur because of unequal power relations in the workplace, and that bullying, in turn, also alters that power structure to the disadvantage of workers. We also showed how workers’ power can be appreciably eroded by circumstances such as those found in isolated locales with small town labour markets in regions experiencing economic recession. In many ways, the existence of bullying in remote, rural work sites, such as the one we studied, highlights some of the failures of welfare state regulation and distribution policies. Despite Canadian social welfare policies emphasising redistribution and regional equalisation, the small, isolated town in which our case study occurred contained large enclaves of workers who were poorly protected and very vulnerable. The workers were positioned as having very low power and were vulnerable, in large part due to labour market policies that failed to provide full-employment. These policy failings were magnified by depressed local economies and by very limited local job opportunities. The workers’ lower power was further exacerbated by the gendering of care work, which (despite its centrality to the welfare state with its emphasis on equality) remained a low wage, low power, overwhelmingly female occupation in which volunteer work always supplemented and, sometimes, supplanted paid care. These conditions worsened under neo-liberal restructuring and the emergence of the residual welfare state, including the erosion of unemployment insurance benefits and other income supports; the lack of job creation programs regionally, provincially and federally; the expanded social dependence on women to fill gaps in the care economy created by the downsizing of human services; and the significant weakening of workplace regulation and union protection legislation (Storey 2004; Snider 2001). In other words, the form and emphasis of welfare state restructuring in Canada has produced conditions under which bullying is even more likely to occur and in which workers are much less likely to have ways to resist, confront or curtail such bullying.

The analysis presented in this article underscores the reality that lower power can be based on geographical location. It shows the ways that the interlocking structures of gender, class and geographical location work together to make certain populations of workers particularly vulnerable to abuse. Thus, workers in small town or rural locations may be more likely to experience abuses of management power such as, but not restricted to, bullying. The complicity of co-workers and their inaction due to fear of being targeted requires further study, as does the possibility that those predisposed to abuse power, as well as those who would normally eschew such practices, are more likely to participate or tolerate bullying in contexts in which workforces are captive and resources are scarce. In this study, workers’ lack of other options for employment, the ongoing transfer of paid care work to unpaid volunteer work, the triple burden of the largely female care workforce, and the difficulties that the heavy workload imposed on those trying to take up a militant stance within their unions, added to the low accountability culture within the agency. This meant that few protections stood between
the workers and the egregious health impacts associated with their long-term exposure to abusive working environments. The power of workers vis-à-vis management can be enhanced by policy changes that reshape social and economic conditions to provide for better labour and occupational health rights in the workplace, as well as an improved social safety net and regional development and redistribution. However, the only way to equalise power between these two groups is through changes in the labour extraction process itself, so that participation, equity and fairness become the yardsticks by which organisational success is measured, rather than by profit and the bottom line.

REFERENCES


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Male and Female Managers’ Awareness of Gender and Desire for Family-Friendly Practices in their Own Lives and in the Workplace: A Preliminary Consideration of Self-examined Lives

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The introduction of family-friendly policies and practices facilitates women’s ability to maintain a workplace presence while meeting daily responsibilities for child care and domestic tasks. Organisational accommodation of employees’ family responsibilities may, however, result in the institutionalising women’s disadvantage — the ‘mommy track’ — rather than producing the equitable employment opportunities envisioned by the managing diversity approach to human resource management (HRM). This article presents a preliminary consideration of assignments submitted by 93 managers enrolled in an introductory graduate level HRM subject. The assignment asked the male and female managers to reflect on the impact of gender on their work lives and the implications of gender for organisational policies and practices. The observations of these managers suggest factors that will need to be considered if diversity management policies and practices, particularly those addressing work–family or work–life balance, is to facilitate women’s access to equitable employment and career advancement, rather than deflecting women’s careers to a ‘mommy track’ of limited opportunities.

INTRODUCTION

Increasing numbers of women, as a matter of choice and necessity, are making a commitment to long-term workforce participation and careers. In compliance with equal employment and affirmative action legislation, as a pragmatic response to changing workforce demographics, and perceiving possible organisational advantage, an increasing number of organisations are developing a variety of policies, practices, and programs to facilitate women’s workforce participation. A number of these organisational policies and practices recognise that many employees, and particularly female employees, must balance their work commitments with their family responsibilities. However, without corresponding societal and organisational culture change, the development of family-friendly initiatives designed to facilitate women’s long-term workforce participation can consign women to the ‘mommy track’ of limited career opportunities (see, for example, Burke 1999; McGrath, Driscoll & Gross 2005).

Ninety-three managers (47 women, 46 men) enrolled in an introductory Human Resource Management (HRM) subject as part of two graduate diplomas in business programs were asked to consider, in an assignment, the role gender played in their own
Male and Female Managers’ Awareness of Gender and Desire for Family-friendly Practices in Their Own Lives and in the Workplace

careers and to reflect on how gender was addressed or could be addressed in staff management practices. Their recognition of gender issues in the workplace focused almost exclusively on women’s significantly larger role in meeting day-to-day child care and family responsibilities as restricting their career opportunities. The observations of both male and female managers offer important insights into factors which will need to be considered by providers of management education and organisations themselves if family-friendly initiatives are to contribute to equitable employment and career development opportunities for women and achieve the advantages of a managing diversity approach.

WOMEN’S WORKFORCE PARTICIPATION, 1986–2006

Snapshot of Women’s Workforce Participation, 1986–2006

In 1986, the Australian Government enacted the Affirmative Action (Equal Employment Opportunity for Women) Act. It (and its successor, the Equal Opportunity for Women in the Workplace Act 1999 (EOWW Act), sought to improve women’s employment opportunities by requiring organisations employing one hundred or more employees to develop policies and practices to address forms of discrimination that limited women’s employment opportunities. Twenty years after the enactment of the Affirmative Action Act, women make up approximately 45% of the Australian workforce, having risen from 39.2% in 1986 (ABS 2007), and 60% of women aged 15–64 are in paid employment (Baird & Todd 2005, citing ABS data).

Women’s workforce participation, however, continues to be characterised by occupational and industrial segregation as well as by the glass ceiling (see, for example, Preston & Whitehouse 2004). Table 1 shows the occupational distribution of the Australian workforce by sex. However, this aggregated data obscures the hierarchical barriers (glass ceilings) and occupational segregation (glass walls) that characterise women’s employment in these categories. For example, women managers tend to be clustered at the lower and middle ranks of management, even in those industries and occupations where women predominate (see discussion below). Similarly, within occupational classifications, men and women tend to cluster into different areas. For example, while women today hold slightly over 50% of professional positions, women are more likely to be teachers and nurses than engineers; women in management are clustered in staff management positions rather than in the line management positions, which lead to executive management roles; women hold almost 50% of HR management positions, but only 12.3% of production manager positions, only 6.8% of engineering manager positions, and only 16.5% of production manager positions (ABS 2006).
Table 1 Distribution by sex by occupation of employed persons aged 15 years or more, Australia (percentage)

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<td>Professionals*</td>
<td>38.9</td>
<td>61.1</td>
<td>51.8</td>
<td>49.2</td>
<td></td>
</tr>
<tr>
<td>Para-professionals</td>
<td>42.9</td>
<td>57.1</td>
<td>45.7</td>
<td>54.3</td>
<td></td>
</tr>
<tr>
<td>Tradespeople</td>
<td>10.1</td>
<td>89.9</td>
<td>9.6</td>
<td>90.4</td>
<td></td>
</tr>
<tr>
<td>Clerks**</td>
<td>74.0</td>
<td>26.0</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Salespersons &amp; personal service workers</td>
<td>62.9</td>
<td>37.1</td>
<td>72.2</td>
<td>27.8</td>
<td></td>
</tr>
<tr>
<td>Plant &amp; machine operators, drivers</td>
<td>16.5</td>
<td>83.5</td>
<td>12.1</td>
<td>87.9</td>
<td></td>
</tr>
<tr>
<td>Labourers &amp; related workers</td>
<td>33.4</td>
<td>66.6</td>
<td>36.3</td>
<td>63.7</td>
<td></td>
</tr>
</tbody>
</table>

Source: data derived from ABS 1993; ABS 2006a.
*The dramatic increase in the percentage of women categorised as professionals can be attributed significantly to the inclusion of Nursing and Teaching, two occupations heavily dominated by women, which were previously included in the para-professional category.
**The two categories of Clerks and of Salespersons and Personal Service Workers were combined in 1998 and then divided into advanced, intermediate, and elementary; they have been combined into one category in this table.

Table 2 shows the occupational distribution of the male and female Australian workforces. The decline in the percentage of both men and women employed as managers/administrators is likely to reflect the ongoing impact of the downsizing and flattening of organisational hierarchies that characterised the 1990s. The dramatic increase in the percentage of women in the Professional category may be attributed to the re-classification by the ABS of Teaching and Nursing, female-dominated occupations, from the Para-professional to the Professional category. The significant increase in the percentage of both men and women employed as Para-professionals may reflect the creation and demand for new white-collar occupations requiring formally qualified skilled labour in technical, health and administrative fields. While these changes have occurred, women still tend to be crowded into a narrow range of
Male and Female Managers’ Awareness of Gender and Desire for Family-friendly Practices in Their Own Lives and in the Workplace

Occupational categories, particularly clerical and sales/service occupations, while men are much more evenly distributed across the categories.

Table 2 Occupation of employed persons aged 15 years or more, Australia (percentages)

<table>
<thead>
<tr>
<th>Occupation</th>
<th>1986</th>
<th></th>
<th></th>
<th>2006</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Women</td>
<td>Men</td>
<td>Women</td>
<td>Men</td>
<td></td>
</tr>
<tr>
<td>Managers &amp; administrators</td>
<td>6.3</td>
<td>14.0</td>
<td>5.2</td>
<td>11.0</td>
<td></td>
</tr>
<tr>
<td>Professionals*</td>
<td>11.9</td>
<td>12.1</td>
<td>22.3</td>
<td>17.3</td>
<td></td>
</tr>
<tr>
<td>Para-professionals</td>
<td>6.4</td>
<td>5.5</td>
<td>12.6</td>
<td>12.3</td>
<td></td>
</tr>
<tr>
<td>Tradespeople</td>
<td>4.3</td>
<td>24.8</td>
<td>2.7</td>
<td>21.2</td>
<td></td>
</tr>
<tr>
<td>Clerks**</td>
<td>32.6</td>
<td>7.4</td>
<td></td>
<td>48.0</td>
<td>15.2</td>
</tr>
<tr>
<td>Salespersons &amp; personal service</td>
<td>22.0</td>
<td>8.4</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>workers</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Plant &amp; machine operators, drivers</td>
<td>3.3</td>
<td>10.8</td>
<td>2.2</td>
<td>13.3</td>
<td></td>
</tr>
<tr>
<td>Labourers &amp; related workers</td>
<td>13.1</td>
<td>16.9</td>
<td>6.8</td>
<td>9.8</td>
<td></td>
</tr>
</tbody>
</table>

Source: data derived from ABS 1993; ABS 2006a.
*The dramatic increase in the percentage of women categorised as professionals can be attributed significantly to the inclusion of Nursing and Teaching, two occupations heavily dominated by women, which were previously included in the para-professional category.
**The two categories of Clerks and of Salespersons and personal service workers were combined in 1998 and then divided into advanced, intermediate, and elementary; they have been combined into one category in this table.

Glass Ceilings and Walls

The Affirmative Action Agency and its successor, the Equal Opportunity for Women in the Workplace Agency (EOWA), have documented the glass ceiling effect for women in various industries. In 1995 the Affirmative Action Agency (1995, p. 20) found that women were underrepresented at all levels of management, even in those industries where female workers predominate. For example, the Agency found that in 1995
women held only 8% of executive management positions and only 15% of senior management positions. In such industries as Education, where 65% of the workforce is female, women held only 7% of senior management positions; in Retail, where 53% of its workforce is female, women held only 12% of executive management positions; and in Hospitality, while holding 48% of junior and middle management positions, women held only 29% and 20%, respectively, of senior and executive management positions. (See also Doherty, 2004, which documents a similar pattern of promotional ceilings for women in the UK hospitality industry.)

Since 2002, EOWA has conducted a census of women in leadership positions based on a study of women’s participation in management in the Australian Stock Exchange top 200 companies (ASX200). The most recent survey (EOWA 2006) reported that while women make up 44.8% of the Australian labour force and hold 44.2% of managerial and professional positions in the ASX200 companies, this data hides both glass ceilings and glass walls.

There is an important distinction between line and staff management roles, with line management roles (those responsible for profit-and-loss or direct client service) being the stepping stones to top organisational positions. Women are disproportionately sequestered in staff management roles and hold only 7.4% of line management positions. This undoubtedly contributes to the low number of women in executive management positions: 12% (222 of 1856) of executive management positions are held by women (EOWA 2006). Further, the EOWA (2006) noted that in 39.5% of the companies, there are no women at executive management level, and in only 18% of the companies do women hold 25% or more of the executive management positions. This record is even worse for positions on Boards of Directors: women hold only 8.7% of board seats, and half of the companies did not have even one woman on their board, while only 13.5% had two or more women on their boards. (Similar patterns are found in other countries; see EOWA, 2006, which reports results of sister studies conducted in the United Kingdom, Canada and the United States; see also Straub, 2007, who reports on the participation of women in management in various European countries.)

There are, of course, numerous reasons why women have not broken through glass ceilings and broken down glass walls in numbers equivalent to their participation in the workforce. These include stereotyping (see, for example, Schein 1973, 1975, 2001; Heilman, Block & Martell 1995; Powell, Butterfield & Parent 2002; Yim & Bond 2002; Fernandes & Cabral-Cardoso 2003; Sczesny 2003; Catalyst 2005, 2006); gender socialisation (see, for example, Fels 2004, 2004a); and hostile organisational environments (see, for example, Acker 1990; Stephenson & Krebs 1993; Maier 1999; Vianen & Fischer 2002). Another factor which can hinder women in their careers and in the workforce is their family responsibilities.

**Family-friendly Policies and Practices**

Many organisations have adopted family-friendly/worklife balance policies and practices to address — or at least give the appearance of addressing — employees’, and particularly female employees’, need to balance work requirements and family responsibilities. Family-friendly practices include flexible time arrangements (e.g. flexitime, part-time), work arrangements (e.g. job share, work from home), and leave
arrangements (e.g. carer’s leave, access to unpaid leave). In many organisations these practices are referred to as ‘practices designed to enable employees to achieve worklife balance’, and are thus presented as equally available to male employees. However, men are less likely to access them than their female counterparts (see, for example, ABS 1997, 2003; Trifiletti 1999), and when they do they tend to access them for different reasons (e.g. flexitime or part-time in order to further professional studies rather than to meet child care or other family responsibilities, or to observe a child’s accomplishment or milestone, rather than to stay home with a sick child).

The occupational and industrial segregation which characterises the Australian workforce may also disadvantage women in the workforce with regard to family-friendly policies and practices. Women employed in female-dominated industries and organisations may be less likely to be working for organisations that offer family-friendly practices (see Pocock 2005, p. 27). On the other hand, women who work in male-dominated or more gender-balanced industries and occupations may be employed by organisations offering family-friendly practices, although these organisations may then penalise the women who access them, derailing them to the ‘mommy track’ of reduced career opportunities.

Research by Glass (1990) suggests that industries and occupations dominated by women are not characterised by employment conditions that accommodate women’s family responsibilities. Nursing is an example, with many female nurses choosing agency or nurse bank employment rather than ‘permanent’ employment with a hospital. The former allows them to select shifts compatible with family responsibilities whereas ‘permanent’ positions offer little flexibility.

Glass (1990) also suggests that employers in women-dominated industries and organisations may fear offering family-friendly practices, believing it will attract more women and thereby reduce, rather than enhance, competitiveness. In this view, organisations and industries that rely heavily on women’s labour — which maintains competitiveness and profit through reduced labour costs as women generally earn less than men for comparable work — would find any employment practice that potentially increased labour costs (e.g. family-friendly practices) undesirable.

Other research suggests that the introduction of practices generally identified as family friendly may actually offer little flexibility to employees with family responsibilities, instead allowing the organisation to address its flexibility requirements and thereby creating further work–family conflict (Strachan & Burgess 1998; Sheridan & Conway 2000; Pocock 2005, pp. 28–30). The introduction of supposedly family-friendly practices like flexible work hours has been found not to provide women employed in the female-dominated retail and financial services industries with the flexibility required to balance work and family commitments (Deery & Mahony 1994; Charlesworth 1996; Still 1997). Women who opt for part-time work as one strategy to cope with competing work and family demands are often denied training and promotion opportunities as well as facing effective or actual demotion.

The decentralisation of the Australian industrial relations system in the 1990s although accompanied by a government work and family agenda has proved to be more rhetoric than results oriented for many workers. Strachan and Burgess (1998) argue that increased casualisation of work, declining union membership and the push for
individual agreements rather than awards have hampered and will continue to hamper efforts to secure effective family-friendly arrangements in workplaces.

The changes under the Work Choices legislation in 2005, which continue and intensify the decentralisation and individuation of employee relations begun in the 1990s, suggest that employees (i.e. female employees) will face increasing disadvantage in their attempts to balance family responsibilities with employment requirements (Pocock & Masterman-Smith 2005, pp. 136–8; Pocock 2005; Watts & Mitchell 2006, p. 13; Jefferson & Preston 2007). Employees are under increasing pressure to enter into Australian Workplace Agreements (AWAs), and research indicates that these agreements are particularly damaging for women.

Women on AWAs earn less than those employed under collective agreements, and other changes to industrial relations regulation since the mid-1990s have increased job insecurity (Pocock 2005, pp. 23–5; Pocock & Masterman-Smith 2005; Preston, Jefferson & Guthrie 2006, 2007). With the high cost of child care, low pay rates make child care unaffordable for many women and therefore may discourage participation in the paid workforce, with adverse effects for their future employability and career development (see Baird & Todd 2005, pp. 3–4). Further, AWAs have been found to be less likely than awards to include provisions for paid (or even unpaid) maternity leave and paid sick leave (which many mothers use to enable them to care for sick children) (Pocock & Masterman-Smith 2005, pp. 133–6; Baird & Todd 2005).

AWAs have been promoted as offering opportunities for employees to negotiate terms and conditions of employment that would allow them to meet their family responsibilities. However, the most common family-friendly leave or working arrangement provision in AWAs was found to be bereavement leave, with only approximately 25% of AWAs containing parental leave and/or family/carers leave provisions (HREOC, SDU 2005, p. 91, citing a DEWR report). While many AWAs include provision for flexible hours, the Office of the Employment Advocate, which is charged with reviewing AWAs, has observed that ‘AWAs were being used less to enhance work and family balance than to extend working hours so that enterprises’ trading hours could be increased’ (cited in HREOC, SDU 2005, p. 91).

In 1998, Sheridan reviewed the adoption of affirmative action policies and practices in 288 Australian organisations required to report under the Affirmative Action Act. She found that the second most frequently mentioned policies and practices in these reports addressed work–family issues (23%). However, while these policies and practices may facilitate women’s ability to maintain a workforce presence while meeting family and domestic responsibilities, they appear also to serve to derail women’s careers to the ‘mommy track’. This leads not only to reduced access to promotion and other career development activities, but also to jobs of lower status and lower earnings (Rimmer & Rimmer 1994; McGrath, Driscoll & Gross 2005; Straub 2007).

**Family Responsibilities’ Adverse Effects on Women’s Careers**

A major factor identified as hampering women’s career and work opportunities is the heavier burden women carry for day-to-day family responsibilities, including child care and domestic tasks. While many organisations have adopted family-friendly policies,
the implementation of family-friendly practices is problematic. The discretion and attitudes of managers, female as well as male, has been found to present ‘significant barriers’ to effective implementation (Bond & Wise 2003, p. 60; see also Bond & McCracken 2005; Wise 2005). Further, the development and implementation of family-friendly practices is rarely accompanied by the organisational culture change required if the relevant employees, usually women, are not to be penalised for accessing such practices (Fastenau 2006; Burgess, Henderson & Strachan 2006; Wise & Bond 2003; McDonald, Guthrie, Bradley & Shakespeare-Finch 2005; Lewis 2001; Burke 1997; Bruce & Read 1994; Wood & Newton 2006).

The Association of Professional Engineers, Scientists and Managers Australia (APESMA 2007) recently published results of a survey of its women members who are employed as scientists, pharmacists, engineers and workers in the computing industry. Over 60% of more than 2,000 women respondents indicated that balancing work and private life commitments had affected their career advancement. Almost 50% of female APESMA respondents reported that their employer did not offer paid maternity leave, and over 80% of respondents did not have access to employer-provided on- or off-site child care. For those women apparently fortunate enough to work for organisations with family-friendly practices, it could be argued the offer of such benefits was a poisoned chalice: almost 60% of the women respondents with children believed that family responsibilities or accessing maternity leave had been detrimental to their careers.

Family responsibilities have also been detrimental to the careers of women lawyers. In the mid-1990s, studies of women lawyers’ careers in Victoria, New South Wales, and Tasmania (cited in Trifiletti 1999, pp. 8–9), found that women were significantly underrepresented in partnership positions given the number of women in the profession. For example, in Victoria, women comprised 39% of lawyers in the experience bracket from which partners are drawn, but women held only 12% of partnership positions. More recent data reveals limited progress: women lawyers in 2006 held 14% of partnerships in Victorian law firms (280 women cf. 1684 men) (LIV & VWL 2006, p. 2; see also Strachan & Barrett 2006).

The Law Institute of Victoria’s Survey Report of Legal Practitioners (1999, cited in Trifiletti 1999, p. 9) considered the career paths of male and female law graduates in the first five years of professional practice. It found that family responsibilities, particularly the birth of a child and child care responsibilities, had a more significant impact on women lawyers’ careers than on those of their male counterparts. Almost a quarter of the female survey respondents (cf. 1% of males) reported that the birth of a child interrupted their careers, and child care was cited by 24% of the women (cf. 1% of the men) as affecting their careers. Further, 94% of the female lawyers indicated that they were very involved in child care (cf. 22% of males), and male lawyers were more likely to report that their partner had a higher involvement in child care than their female counterparts (97% cf. 20% of females).

A more recent study (LIV & VWL 2006, p. 4) found that while more firms were providing options for flexible work arrangements, these were principally accessed by women. The study also found that there was a cost to employees — usually women, as they were more likely to access flexible work options — in accessing these options: less likelihood of promotion and other career development opportunities. The report
concluded that for those employees (i.e. for women) ‘the overall effect is that having a
family is not good for your career.’

Another study into flexible work arrangements in the legal profession concluded that
those lawyers accessing flexible work arrangements, as well as their colleagues and the
partners in their law firms, ‘all perceived that working flexibly negatively impacts
career progression’ (VWL 2006, p. 5). The assumption was that those who access
flexible work options ‘manifest a lack of ambition’. It was also observed that ‘the status
quo rewards lawyers who prioritise work over family’ (p. 5).

The adverse impacts of accessing flexible work arrangements are not restricted to
scientific, technical and legal occupations. Rimmer and Rimmer (1994) found that
family responsibilities, including, but not limited to, child care, adversely affected
women’s careers regardless of whether they were employed in professional or non-
professional occupations. They found that women employed in non-professional
occupations generally took a backward step with regard to job status and earning
capacity when returning to work after a period of absence to meet family
responsibilities. Women professionals were less likely to find their careers taking a
backward step, but Rimmer and Rimmer found they were much less likely to progress.

A more recent study undertaken in the United States (McGrath, Driscoll & Gross 2005)
reported similar findings. The subjects of their study all held advanced qualifications
(usually MBAs) and all had held high-level management or professional positions
before ‘stepping out’ to meet family responsibilities. Many of the women maintained
their skills while out of the paid workforce by undertaking significant volunteer or
community projects that used their management and/or professional skills and expertise.
But on returning to the workforce, they found their previous employers had little
interest in rehiring them, and all were forced to take positions at a lower level than they
had held previously.

While access to family-friendly practices is not restricted to women employees, it is a
rare man, in most organisations, who would access them. The adverse impact of the
decision to do so serves as an additional deterrent to men assuming greater
responsibility for domestic and child care tasks (Bittman, Hoffman & Thompson 2004).
A 1996 Australian Bureau of Statistics (ABS) study revealed that while 69% of mothers
in the paid workforce accessed various flexible work arrangements, only 26% of fathers
did (ABS 1997, p. 10). A subsequent study in 1999 (ABS 2003, p. 6) found that 66.9%
of fathers in families with children under 15, where both parents were employed, did
not use any family-friendly work arrangement, while 69.2% of mothers accessed at least
one family-friendly work arrangement. Almost half (49.1%) of employed mothers were
in permanent part-time work (cf. only 6.3% of fathers) in order to meet child care
responsibilities. And this pattern of married women with children under 15 remaining in
the workforce on a part-time basis continues in the twenty-first century: in 57% of
families with children under 15 both parents were in the paid workforce. However, in
approximately 60% of these families the mother was employed part time while in less
than 10% of these families was the father employed part time (ABS 2003).

The recent Human Rights and Equal Opportunity Commission (HREOC) discussion
and final papers on work and family issues (HREOC 2005 and 2007) recognise that as
long as work–family/work–life issues are seen as a woman’s concern only, ‘women will
Male and Female Managers’ Awareness of Gender and Desire for Family-friendly Practices in Their Own Lives and in the Workplace

continue to face discrimination in the workplace’ (HREOC 2005, p. ix). As long as employers continue to penalise employees who access family-friendly practices, employees who can more easily avoid doing so (i.e., men), will not only allow women to carry the heavier burden of day-to-day family maintenance, but will also be under little pressure to change organisational cultures to pay more than lip service to work–family/work–life balance.

MANAGERS’ REFLECTIONS ON THE EFFECT OF GENDER ON CAREERS

The Assignment and the Managers

Ninety-three managers (47 women, 46 men) enrolled in an introductory HRM subject were asked to submit essays exploring gender issues. The managers were asked to consider three topics in their essays: (1) explore their own employment experiences, including how childhood experiences and family background contributed to their choice of occupation and their employment history; (2) consider how their employment experiences, including career choice and development, may have been different if they had been born a member of the opposite sex; and (3) consider how HRM policies and practices could address gender issues which affected women’s employment.

The managers were enrolled in two graduate diplomas of business programs that were offered solely via distance education. They were provided with study materials that guided their consideration of weekly topics as well as with assigned readings for each topic. Diversity, particularly issues of gender, was an organising theme for this subject. The second study guide focused on managing diversity, and study guides on the HR functions (e.g. Recruitment and Selection, Compensation, Performance Appraisal, etc.) raised gender issues. For some weekly HR topics there was assigned reading that considered gender issues related to the specific HR function considered in that study unit.

Students were advised at the beginning of the semester to quickly read through all of the study guides to gain an overview of the subject, and it was suggested that before commencing the gender issues assignment, which was to be submitted about mid-semester, they read the study guide and assigned readings for the Managing Diversity unit (the second study guide topic). The issue of family-friendly policies was only raised in passing in the study materials (reference to child care in the study materials for the topic on Compensation/Reward Systems), and none of the assigned readings specifically addressed family-friendly issues. In other words, students were not ‘guided’ to address work–family balance or family-friendly initiatives in their consideration of HR responses to gender issues in the workplace.

Most of the 93 managers enrolled in this subject were middle managers. Several of the older managers had recently assumed their first senior management position, while the younger female managers were usually in junior or first-level management positions. The managers ranged in age from mid-20s to mid-50s, with most in their early 30s to mid-40s. Only one student was unemployed, although, as a recent immigrant to Australia, she had held management positions in her country of origin. All of the men were married while several of the younger women were single. All of the managers in their mid-30s and older had at least one child. Those managers, both male and female,
who did not have children indicated that they planned to have at least one child ‘one day’.

The discussion below is based on a preliminary and largely impressionistic consideration of the contents of the students’ essays.

The Essays

The essays were largely descriptive, particularly the first and second parts, in which the managers provided an account of their own lives with regard to occupational choices, work experiences, career advancement and the like, and considered possible differences to their lives had they been born a member of the opposite sex. While the managers identified aspects of difference (e.g. boys and girls played different games; different expectations regarding acceptable behaviour for boys and girls, etc.), they apparently had no analytical framework for identifying and understanding how gender might affect their own or other people’s occupational choices, workforce experiences or career opportunities, or how organisational policies and practices, informal and formal, might affect men and women differently, often advantaging men and disadvantaging women.

Given the widespread availability of discussions on gender in the popular media over the past twenty years, it was surprising how little either female or male managers knew about gender issues. The lack of conscious awareness of gender issues, and the absence of any analytical framework for organising and understanding gender experiences, suggests that managers lack both sensitivity to gender issues and the intellectual tools to consider and analyse the significance of gender in the workplace.

Many of the managers indicated in conversations with me that this was the first occasion on which they had considered gender as a facet in their own lives or as a factor structuring the society in which they lived and the organisations in which they worked. Neither management educators nor organisational change agents should, therefore, assume that managers, either male or female, have even a general awareness or understanding of gender issues. If gender issues are to be effectively addressed in organisations, management education must explicitly raise and discuss gender not only as an isolated specialised subject but as an integral part of every management subject. Similarly, organisational change programs must contextualise initiatives within an analysis of gender. The failure of educators and academics to recognise the importance of gender in employment practices is demonstrated in an otherwise fine article by Bond and McCracken (2005) in which they discuss the importance of managerial training for effective implementation of family-friendly practices, but do not even once consider gender as a factor in managerial decisions authorising access to such practices, or as a factor that should be addressed in managerial training.

Manager Observations: Childhood Experiences

A number of the managers reported that their mothers had, as a matter of economic necessity, been in the paid workforce, usually in blue-collar jobs. All of them stated that they were aware as children that a mother in the paid workforce was not the norm. Several of the men clearly indicated that as a result of their childhood experience they
Male and Female Managers’ Awareness of Gender and Desire for Family-friendly Practices in Their Own Lives and in the Workplace

wanted a full-time mother for their children, yet none of the managers apparently gave any consideration to a father being a full-time parent.

The managers indicated that their mothers, whether they were in paid employment or were full-time homemakers, had principal responsibility for child care and domestic tasks. The father’s role was that of the family’s (sole or principal) breadwinner. Even in families where the mother had been in paid employment, traditional family and domestic roles based on gender persisted. Parents continued to model traditional gender roles for their children. The managers who wrote these essays also perpetuated, or indicated that they planned to maintain, this gender division of responsibilities in their own families. This lived experience undoubtedly has, and continues to have, implications for the development and uptake of family-friendly programs and practices and the development of women’s careers. (See Striking the balance, HREOC, SDU 2005, Chapter 3, for a current ‘snapshot’ of women’s significantly heavier burden of responsibility for family maintenance.)

A number of the managers, both male and female, asserted that there was no difference in the way they had been raised or educated as boys or girls. They reported that neither their parents nor their teachers discriminated of the basis of gender. Boys and girls, they insisted, could freely choose the toys they played with and the games they played — although they then described girls and boys generally playing games and with toys that are usually associated with their sex. Some women managers recalled a preference for playing boys’ games, but none of the male managers indicated any desire to play with girls’ toys or join in girls’ activities. Several students observed that girls had greater freedom, at least as young children, to choose boys’ toys and games but that this was seriously discouraged by puberty.

Although the managers described differences in the toys and games chosen by boys and girls, they returned to their assertions that there were no differences in their treatment by parents or teachers. They stressed that they had made their career and employment choices as individuals — ignoring, unaware, or denying that gender socialisation may have constrained their choices even if they had been unaware of it at the time, or that employment or career outcomes may have been positively or adversely affected by gender discrimination embodied in organisational policies and practices.

This denial of difference possibly arises from a conception of equality as process rather than as outcome: everyone must be treated the same rather than everyone being given an equal chance to achieve the desired outcome. Not only did the managers assert that they had not been socialised differently — treated differently — by teachers and parents on the basis of sex, they repeatedly indicated that they themselves ‘treated everyone just the same’, without questioning that in doing so they may possibly have advantaged some people and disadvantaged others. These managers certainly presented an unsophisticated notion of equity, which suggests that management education programs need to present alternative views and approaches in this area.
Managers Observations: Organisational Policies and Practices

In the third part of the essay, the managers were asked to consider HRM policies and practices which might reinforce gender discrimination and what policies and practices might be developed and implemented to create equal employment opportunities for women. All of the managers identified women’s disadvantage in employment as arising from their childbearing and childrearing responsibilities. (Only a few suggested any other gender issues which could result in disadvantage for women in the workplace, but they did not explore the HRM implications of these.)

Unsurprisingly, the only HRM policies and practices considered were the development of family-friendly initiatives. While both male and female managers saw it as desirable for organisations to develop family-friendly policies and practices, these were seen by both as principally, if not solely, for the benefit of female employees. While some of the male managers commented that they would like to spend more time with their families and that, therefore, such policies and practices were desirable for men as well, it is clear that they saw family-friendly policies and practices as facilitating a lifestyle preference rather than as a practical necessity.

The female managers indicated that as adolescents they had planned to work between completing their education and the birth of their first child. (Most of the managers had indicated that parents and teachers had conveyed an expectation that boys and girls would enter the workforce.) Only the younger female managers in the group indicated that as adolescents they had been interested in a career (as opposed to a job), but they too, like the older female managers, recognised the tension between work and family.

The older women apparently accepted that the ‘solution’ to the tensions created by work and family demands was to leave the workforce to care for children, some not imagining they would want or need to return to it later in life. The younger women expressed greater awareness — and greater stress — about the demands of work and family, most expressing the hope of resolving this tension by establishing themselves in a career before having children and then either returning to full-time employment after maternity leave or keeping their hand in through part-time work. None of them indicated any awareness that accessing maternity leave and family responsibilities was likely to have an adverse effect on their careers.

The male managers recalled that, as adolescents, they had expected to enter the workforce after completing their education and to continue in employment until retirement. They had also assumed that they would marry and that their wives would have principal responsibility for children and domestic matters. The unspoken assumption in many of their essays was that their wives would not continue in the paid workforce or that paid work would be a secondary role for their wives, especially once they had children.

In their essays, both male and female managers realised and apparently accepted that women would have principal day-to-day responsibility for child care and family and household maintenance. Their expectations became their reality. Only one of the managers indicated that this was the product of a considered discussion between him and his partner: after discussion, they had determined to maintain traditional male and
female roles with regard to family responsibilities based on economic circumstances, as he earned twice his partner’s income.

The managers without children indicated that they expected to follow in traditional gender roles when they had children. The younger women expressed awareness that having children could have a detrimental effect on their careers, but they believed they could minimise any adverse effects by establishing themselves in their careers before having children. None considered negotiating a more equitable distribution of child care and family responsibilities with their husbands. This could be the result of an unexplored recognition that their partners were more likely to have the higher paid position or an unwillingness to challenge, at the personal relationship level, the gender disadvantage of traditional family roles.

These managers experienced a domestic division of labour in their birth and marriage families that arguably coloured not only their expectations about their own roles and those of their partners, but also their understanding and expectations regarding their employees and work–family matters. Family-friendly policies were welcomed by both the male and female managers because they were seen to enable women to continue to fulfill their traditional family commitments while participating in the paid workforce. The issue of work–family balance was not addressed in terms of redistributing family responsibilities more equitably between the partners, nor were the implications of women alone accessing family-friendly programs considered with regard to such issues as career development, promotion, recruitment and selection or training opportunities. In other words, neither female nor male managers considered the possibility that because family-friendly policies would generally be accessed by women rather than men, such policies could work to stigmatise women in the workplace (see Schwartz 1989).

The older women managers (late 30s–50s) and the younger female managers (mid-20s–early 30s) reported somewhat different experiences and expectations with regard to combining family and work responsibilities. The older female managers expected that they would leave the workforce upon the birth of their first child. Some had considered working part time or returning to the workforce when their children were older. In other words, they saw work and family as serial experiences rather than as concurrent ones. They did not, however, connect their experiences to such HRM issues as re-entry and retraining, promotion, job design (e.g. job sharing), evaluation of experience and skills gained in the non-paid workforce and so on.

The younger female managers were more likely to expect to combine family and career. They had expectations that various family-friendly initiatives are or will be in place to assist them meeting their family responsibilities while maintaining their presence in the paid workforce. They indicated no awareness of the fact that few employers provide any assistance with child care, that many employers are reluctant to actually provide flexible work options, even when they have policies in place, and that accessing maternity leave and flexible work options often relegates a woman to the ‘mommy track’, sidelining them from career development and advancement opportunities.

A number of male managers indicated that they wanted to spend more time with their families. They expressed support for family-friendly initiatives that would enable them to do so. Only two of the male managers, however, had made career decisions that
allowed them to achieve this. Both noted that they had ‘sacrificed’ career opportunities as a result, although neither seemed particularly regretful. It should be noted that, based on their comments, their wives apparently continued to bear the heavier burden of day-to-day child care and housekeeping: neither wife (at least on the evidence provided in her husband’s essay) seemed to gain a corresponding benefit to her career as a result of her husband’s ‘sacrifice’. (Interestingly, none of the female managers considered women’s family responsibilities in terms of ‘sacrifice’ nor did they observe that women’s heavier responsibilities for family maintenance not only enhanced their partners’ careers but that of their male colleagues generally.)

It is important to note that male and female managers saw the benefits of family-friendly practices in balancing work–family responsibilities differently. The female managers indicated that flexible work arrangements would enable them to meet their day-to-day responsibilities for child care, errand-running and housekeeping. Men desired flexible work arrangements to increase their leisure activities, either personal activities or those involving their children. For women, family-friendly initiatives allowed them to meet the demands of family care, in other words, for handling their ‘second job’. For men, family-friendly initiatives allowed them to increase their leisure time, whether for personal or family activities. Men saw family-friendly practices, particularly flexible time arrangements, as allowing them to see their child perform in a school play or to take them on a camping trip; women, on the other hand, saw flexible time arrangements as allowing them to take a child to the dentist or attend a parent–teacher conference, or to run errands for the benefit of husbands and children, or to do the grocery shopping and prepare meals and do the housework.

While male and female managers identified the advantages for themselves of family-friendly practices, none demonstrated any awareness that men and women saw family friendly initiatives differently: women as facilitating the balancing of two competing jobs (paid work and unpaid family labour) and men as facilitating greater leisure, whether for personal pleasure or to engage in social activities with their children or to witness their accomplishments.

As none of the managers recognised that men and women perceive the concept ‘family-friendly’ differently, they did not explore its significance for perceptions of male and female employees in the workplace. Given that men see family time as a leisure choice, it is reasonable within this context for male managers to see employees who do use family-friendly opportunities (usually women) as less committed to their careers and to offer them fewer opportunities for career development and advancement. The failure of both male and female managers to consider men’s and women’s different understandings of the purpose of family-friendly practices also means that they lack the awareness that would cause them to question the meaning that organisational cultures ascribe to those who access these options.

This lack of awareness also results in organisational failure to address the HR implications involved in creating and implementing family-friendly practices. Unless the ramifications of the flexibilities required to balance work and family commitments are addressed — for both individual employees and managers — there will be resistance from both quarters. A male manager agreed in principle with the introduction of family-friendly programs, but he thought they posed difficulties for managers and supervisors who still worked within time, budget and staffing constraints that had not been adjusted
Male and Female Managers’ Awareness of Gender and Desire for Family-friendly Practices in Their Own Lives and in the Workplace

to accommodate the ramifications of family-friendly practices. In other words, while family-friendly initiatives supposedly offer flexibility to employees, organisations often do not consider the implications for managing work units with regard to meeting unit performance objectives when arrangements are not made to accommodate flexible work options. It is therefore not surprising that in practice many managers and supervisors, female as well as male, are hostile towards the introduction of family-friendly initiatives or deliver politically correct statements in support of them while proving reluctant to actually implement them.

Family-friendly initiatives were seen as generally beneficial to female employees in terms of allowing them to combine work and family commitments. None of the managers asked about the exercise of opportunities like flexitime or part-time work and might be detrimental to women if appropriate changes were not made to organisational culture (and thus the organisation’s interpretation of their actions or in organisational practices with regard to various HR functions). For example, are women working part time to be offered access to career development programs and promotions? Is a woman who must take a day off to look after a sick child seen as equally committed to the organisation and her career compared with a male colleague who is able to avoid such responsibilities because of his wife’s flexibility? Family-friendly policies and practices may actually work to further stigmatise women in the workplace unless organisational cultures change to recognise and accommodate employees’ private lives and cease penalising those who access them.

None of the managers asked how consideration of family–work balance might provide opportunities to develop more effective HR practices. For example, might re-designing jobs to permit job sharing as a family-friendly initiative not only facilitate work–family balance, but also enable better customer service? Could addressing the question of the significant amount of unpaid overtime expected of many managerial and professional staff reduce absenteeism and turnover? Might some of the long hours put in at work be more for ‘show’ than necessity? Might some of the late hours really be because employees are re-organising their eight-hour day: for example, male employees taking a long lunch to play a game of squash or have an extra glass of wine at lunch, then putting in a few hours after 5 pm to ‘pay back’ for their midday leisure time? Their female colleagues, on the other hand, may have worked diligently through the normal workday in order to leave promptly at 5 pm to pick up children from day-care and prepare the evening meal. Are male managers’ patterns of work supported by the unspoken continued organisational reliance on employees’ domestic support systems (i.e. a wife) to provide the necessary flexibility to accommodate their particular work commitments? What happens, then, to employees who are also the domestic support system? Do careers require an uninterrupted straight-line trajectory? How could organisations accommodate the re-entry of people into the workforce or facilitate career change?

Although several of the male managers recorded their recognition and appreciation of their wives for taking principal responsibility for child care and domestic matters, they did not, even when they seemingly had the opportunity, assume a more equal share of day-to-day family maintenance in order to assist their wives in balancing their work and family commitments. Women did not seem to expect that this would occur, although when imagining what it might have been to be a man, they expressed a wistful hope that they would have assumed greater responsibility than their real-life husbands for day-to-day child care and domestic tasks. Neither the male nor the female managers seemed to
recognise that organisations that offer family-friendly practices, but which have organisational cultures that penalise employees for accessing them, may make it difficult for both women and men to re-negotiate arrangements for family maintenance in the private sphere.

CONCLUSION

Family-friendly initiatives hold the promise of enabling women employees to balance work and family responsibilities. This promise will only be realised, however, if individual, social and organisational barriers to work–life balance are addressed. The essays on gender issues in employment written by managers in an HRM subject suggest some of the difficulties that are likely to be encountered in developing and implementing family-friendly programs as effective means for managing diversity. Family-friendly programs cannot be implemented without appropriate modification of other HRM policies and practices to ensure that employees accessing them are not disadvantaged in their employment. For example, part-time employees need to have access to training and promotion opportunities. Additionally, managers and supervisors cannot be expected to be supportive of family-friendly practices if they are required to accommodate employee flexibility without corresponding organisational support that enables performance objectives to be met.

While organisational practices alone do not determine the decisions individual employees make about their private lives, it is to deny reality to suggest that organisations’ employment practices do not influence those decisions. While there are numerous reasons why men may seek to avoid assuming a more equitable share of childrearing and domestic responsibilities, they certainly will not be willing to do so until organisations cease penalising, passively and actively, the employees, usually women, who access family-friendly practices. As these managers revealed, organisational cultures will need to change — not just organisational practices. Similarly, as these managers revealed, the failure of management education to address gender issues means that both men and women lack the analytical tools and necessary information to consider the impact of gender on their own work lives and workplaces. Until gender becomes a core component in management education content and a core consideration in the development and changes to organisational culture, family-friendly practices may contribute more to institutionalising women’s disadvantage in the workforce than to providing them with equitable employment and career advancement opportunities.

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Why Single Mothers need to be Accountants:  
The ‘Third Shift’ of Bureaucratic Labour under Welfare Reform

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Many Australian women labour under the ‘double shift’ of employment in the workplace and domestic responsibilities. For single mothers, however, the phenomenon of the ‘third shift’ is becoming increasingly prevalent. With the advent of the 2006 welfare reforms, new workforce ‘participation’ and ongoing bureaucratic requirements take up an increasing amount of single mothers’ time and effort. Moreover, the complex, overlapping and inconsistent requirements of Centrelink and the Child Support Agency (CSA) mean that what little money is earned by single mothers is often soon eroded. Income, the ages of children, shared care rates and child support fluctuations are all monitored and tested by the government, functioning effectively to keep many of these families’ incomes on the poverty line. In this article I offer ‘an introduction to accountancy’ for single mothers, examining some of the accountability that is required of single mothers if they are to receive ever-diminishing income support payments. This ‘third shift’ is shown to add to the burden of labour borne by single mothers without necessarily providing the pathway out of poverty the reforms promise.

INTRODUCTION

The welfare reforms introduced on 1 July 2006 represent the most significant downgrading of income support in the Australian social security system since the Social Security Act was introduced in 1947. The reforms are based on the belief that employment provides the best pathway out of poverty. Towards this end they enforce compulsory job searching requirements for those people who have previously been marginalised from the labour market, including sole parents, people with ‘minor’ disabilities and the long-term unemployed. In this article I explore some of implications of these changes for single mothers and their families.1

Single parent families are one of the most common family types in contemporary Australia, now constituting 22% of all Australian families with children under 15. The Australian Bureau of Statistics (ABS) recently counted 542,600 single parent families in Australia, and 87 % of these families are headed by women (ABS 2007, pp. 1–2). Single parent families are also widely acknowledged as being among the poorest in the

1 See Australian Council of Social Services 2006; Carney 2006 and National Association of Community Legal Centres 2007 for analysis of the broader impact.
country, with government pensions and allowances the largest single source of income for 61% of these households (ABS 2007, p. 4). They frequently survive on incomes on or close to the poverty line (ABS 2007, p. 4; ACOSS 2006, p. 2; Bray 2001; Lloyd et al. 2004; Weston & Smyth 2000).

Women constitute the overwhelming majority, and the poorest cohort of, single parents. Men who parent alone may also face many challenges but their circumstances are different: they are generally older and caring for teenagers rather than younger children; they tend to have higher incomes and generally haven’t moved in and out of the paid labour market as much as women who parent alone (ABS 2007, p. 2; Gray et al. 2003). In spite of these important distinctions, dominant contemporary work, welfare and family discourses tend to situate discussion in the de-gendered terms of ‘parenting’ or ‘sole-parenting’. A strong case has been argued for identifying the specific needs of single mothers, as these women are in danger of being rendered invisible through such de-gendered language and policies pertaining to income and child support (Branigan & Keebaugh 2005; Stanley & Permezel 2005). Therefore, I confine my arguments in this article to discussion of the plight of single mothers under welfare reforms, rather than the broader population of sole parents. It is predominantly women who devote most time, cost and labour to parenting following relationship breakdowns.

In spite of the care and responsibility involved in being a mother, the welfare reforms act to entrench single mothers in the role of worker, the goal of the reforms being to move single mothers away from ‘welfare dependence’ and into employment. In the argument to follow, I examine the extent to which the reforms fail to adequately address the barriers that single mothers face in being able to use employment as the sole route to financial independence for their families. I problematise the notion of giving primacy to paid employment as the only pathway to financial success for single mothers and their families, questioning whether it adequately considers the complex needs and realities of their lives. I argue that many single mothers already work and are still poor, and that the welfare reforms simply add a ‘third shift’ of bureaucratic labour to their burden.

Mothers are Entrenched as Workers under the Reforms

As already mentioned, 61% of sole parent households rely on government pensions or allowances for the majority of their income (ABS 2007: 4). The main income support payment for single mothers is Parenting Payment (Single) or PPS, which is administered by Centrelink. Income support payments for single mothers were first introduced in 1975, and were paid at the same rate as the aged pension until the reforms, when they shifted in most cases to the lesser rate of the Newstart job-seeker allowance.

At the time the reforms were introduced on 1 July 2006 there were 450,000 single parents on Parenting Payments across Australia. Of these 110,000 (around 45%) had jobs and 130,000 (around 55%) were jobless. Two hundred and forty thousand had school age children only (i.e. their youngest child was over five) (ACOSS 2006: 1). The

1 See Swain and Howe (1995) and West (1991) for engaging accounts of the activism and advocacy that led to the introduction of income support payments for single mothers.
The welfare reforms focus on enforced participation in the labour market in the belief that the opportunities and advantages offered by employment will lift single mothers and their families out of poverty. There are, however, two critical realities for which this approach fails to adequately account. Firstly, many single mothers are already active in the labour market yet their families continue to live in, or close to, poverty.

1 Chalmers (1999) found that 46% of those who left the sole parent pension in 1996 did so because they partnered, yet 39% returned to the sole parent pension within 12 months. In her (2006) study of instability among low income families, Rawsthorne established that the majority of women in such circumstances had re-partnered with their child’s father.

2 However, sole parents who are offered jobs but are not able to secure appropriate schooling or outside school hours care at the times they are expected to undertake this work, or if cost of this child care makes the paid work financially unviable, should not have to accept these jobs or be punished for not doing so. Similarly, where a job requires travel time of more than 60 minutes between home and work (and vice versa), sole parents should face no punishment for refusing to accept these jobs. Where travel costs are likely to exceed 10% of their gross wage, the job also does not have to be accepted (NCSMC 2006).
Secondly, single mothers face considerable barriers to increasing their labour market participation due to their parental responsibilities.

### Table 1 Comparison of Parenting Payment Single (PPS) payments vs. Newstart payments

<table>
<thead>
<tr>
<th>Type of payment</th>
<th>Parenting Payment Single</th>
<th>Newstart Allowance (with child)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current payment amount</td>
<td>Up to $512.10 per fortnight</td>
<td>$455.30 per fortnight</td>
</tr>
<tr>
<td>Income test (amount you can receive before reducing your payment)</td>
<td>$152.60 + $24.60 each additional child pf</td>
<td>$62.00 pf</td>
</tr>
<tr>
<td>Taper rate (the percentage the government takes off your earnings)</td>
<td>40 cents in the dollar</td>
<td>Over $62 – $250: 50 cents in the dollar Over $250: 60 cents in the dollar</td>
</tr>
<tr>
<td>Cut-out point (for single parent with one child)</td>
<td>$1447.35</td>
<td>$852.17</td>
</tr>
<tr>
<td>Indexation</td>
<td>Average Weekly Earnings</td>
<td>Consumer Price Index</td>
</tr>
<tr>
<td>Tax offset (amount you can earn before tax is payable)</td>
<td>Allows private earnings of $288 p/fortnight</td>
<td>Allows private earnings of $62 p/fortnight</td>
</tr>
</tbody>
</table>

(These figures were correct as at November 2006)
Table produced by the National Council of Single Mothers and their Children (NCSMC 2006)

### Single Mothers are Already Active in Paid Work

Single mothers are already extremely active in the Australian labour market, engaging in full-time employment at a rate almost comparable to that of partnered mothers.

- Single mothers have a 49% participation rate in the paid labour market (28% part-time and 21% full-time)
- Partnered mothers have a 63% participation rate (37% part-time and 26% full-time) (Gray et al. 2003, p. 3)

The Australian Institute of Family Studies estimates that this participation rate may actually be significantly higher, that up to 60% of single mothers may be undertaking paid work in any year in the form of multiple episodes of casual work, which will not be truly represented in these figures (Gray et al. 2003, p. 3). McInnes has also argued that single mothers have been the most economically active of all income support claimants, estimating that over 70% were involved in either study or paid work over a 12 month period in 2005, without any enforced compliance or punishments (McInnes 2006, p. 5).¹

¹ In the current policy environment, partnered mothers are rewarded for mainly staying home with their children (with FTB payments and tax rebates) while single mothers are penalised for the same thing (McInnes 2006, p. 2).
Compelling single mothers to increase their labour force participation beyond this level, however, does not take into account the extent to which the competitive labour market fails to offer the flexibility to simultaneously work and meet the needs of families. Probert has noted that recent trends of work intensification, long hours and unpaid overtime make juggling family and career even more difficult (Probert 1999, p. 61). She argues that contemporary labour markets are dominated by ‘masculinist’ career patterns within which reducing workforce participation to part-time or casual levels diminishes career prospects and the likelihood of promotion, and reduces superannuation and long service leave entitlements. Probert employs Manne’s definition of ‘hypercapitalism’ as the underlying force driving work conditions and social culture in a direction ‘inimical to a flourishing family life’ (Manne 1999 cited in Probert 1999, p. 61). Participation in such a labour market is difficult for any woman with a family to care for, let alone those who are the only ones available to manage their family and domestic lives.

There are other significant structural barriers constraining single mothers’ ability to negotiate paid work. These include the common industrial relations provision of four weeks annual leave (when school holidays are 12 weeks long); lack of access to affordable long day child care, after school care and school holiday programs; lack of proximity to public transport or ability to afford a car and petrol; limited extended family support; and paid working hours and leave conditions that do not fit in with childrearing responsibilities. For women in rural and regional areas the combined impact of distance, travel time and availability of work can make paid work logistically impossible (see statistics on rural single mothers, ACOSS 2006). Similarly, accessing a place in a child care centre can be an extraordinary challenge. Many centres have two-year waiting lists that require parents to book in early and be on multiple lists in order to get a place. When a place becomes available it rarely dovetails neatly with a job offer. If a place comes up while the mother is still job seeking, there is the added quandary as to why she might put a small child into the care of others unnecessarily.

The welfare reforms go some way towards addressing some of these needs, including a significant investment in both after school hours care and on a new careers counselling service, yet it is unclear where, and how extensively, these will be offered.

A further barrier is that the majority of single mothers are engaged in the bottom end of the labour market, with positions in the hospitality, retail and service sectors. In 2006, 60% of single parents in receipt of PPS had only completed education up to Year 10 (NACLC 2007, p. 8). While under the previous system they would have been entitled to income support to complete a diploma at a Technical and Further Education Institute (TAFE) or a degree at a university, under the reforms training is to be limited to short courses of study or training (NACLC 2007, p. 8). This lessens these single mothers’ chances of improving opportunities for their families and establishing a career path for themselves.

In their study of low income women’s experiences of social exclusion in Australia, Cook and Marjoribanks found that some of their research participants viewed winning the lottery as a realistic strategy to move out of poverty. For the authors, ‘this suggests that for at least some low-skilled workers, getting out of poverty by winning the lottery is just as likely as it is through working’ (Cook & Marjoribanks 2005, p. 17).
Single Mothers are Already Active in Unpaid Work

In addition to their paid work activities, single mothers tend to be extremely busy with the unpaid work of sole domestic and parental responsibility. Over thirty years of feminist and labour studies research has clearly indicated the double shift that most women labour under as they combine paid work with the bulk of the unpaid labour of housework and parenting (in relation to Australia specifically, see for example, Bittman et al. 2004; Grace 2001; Pocock et al. 2004; Pocock 2006; Probert 1999). Bittman and Wajcman have studied time use across a number of nations, finding that even when married women and men both work full time, women retain on average 72% of the unpaid domestic work (2000, p. 174). Grace found that women with young children undertake more than a full working week’s unpaid labour, regardless of whether they are employed or partnered (Grace 2001, p. 47). Cook and Marjoribanks argue that conceptualising welfare recipients as ‘people of workforce age’ is problematic from a feminist perspective, as such categorisation relies on a narrow definition of work that fails to acknowledge the value of unpaid and caring work that is still largely undertaken by women (Cook & Marjoribanks 2005, p. 17).

A small but significant body of work has identified an intensification of this labour for single mothers. For single mothers, caring responsibilities create a range of barriers increased labour force participation and sometimes even to consistently maintaining paid work. In many cases they have little assistance with caring for their children from their ex-partners, they commonly face high ‘care-replacement’ costs (in particular, long day child care, after care and school holiday care), and often face the additional burden of the stress of parenting alone (Dodson 2007; Edin & Lein 1996; Gordon 1994; McInnes 2006). The next section will explore the ways in which the welfare reforms require single mothers to work an additional third shift of bureaucratic labour.

The Bureaucratic Burden of ‘Risk Management’

One of the major disadvantages of the new system is the increased complexity of calculating one’s entitlement to income support payments. Single mothers, who have no choice but to engage with the income support system due to their poverty, face a complex web of income tests, reconciliation processes and reporting requirements. These bureaucratic demands add an additional pressure that can create debts, generate financial insecurity and consume large amounts of their increasingly precious time.

The ages and needs of children create complexity and may intensify income precariousness. As outlined earlier in this article, the age of children is used as a trigger for Centrelink to activate job search activity agreements with single mothers. However, a child’s needs do not necessarily diminish or even decrease in direct correlation with their age. While mothers, partnered and single, tend to return to work in greater numbers as their dependent children grow up, the ability of each individual mother to access paid work relies on her own child(ren)’s specific parenting needs. Children recovering from a recent divorce and possibly from related family violence or family law proceedings, children with disabilities and children with other special needs may require more intensive parenting at different times. Children commencing secondary school may need a parent around during this transition and children of all ages need care during the school
holidays. Single mothers, like all mothers, juggle such pressing responsibilities against their opportunities for paid work.

Under the welfare reforms, provisions have been made for temporary, case-by-case exemptions in situations of child disability, domestic violence, stressful relationship breakdowns and additional care responsibilities (Centrelink 2007, p. 5). Nevertheless, these are only temporary; even the parent of a child with a permanent disability must apply each year for an exemption from the activity test for up to 12 months. Furthermore, even if they are granted an exemption, they will still not receive the higher rate of PPS, but must remain on Newstart (NACLC 2007, p. 7). The onus is on low income single mothers to argue, at best, for a time-limited exemption from a job network provider and Centrelink rather than be able to make these work–life decisions on the basis of their children’s needs at different points in time.

Reconciliation Adds to Income Precariousness

Centrelink carries out an annual reconciliation process at the end of each financial year to ensure that income support recipients have received the correct payments over the preceding 12 months. What single mothers must declare or ‘prove’ includes: estimated earnings on a Centrelink designated day; taxable income at end of year; child support payments, including non-agency payments (e.g. children’s school fees and medical expenses); assets; any lump sums or regular financial gifts (even from family); children’s ages; care rates for each child and any change in the pattern of care; the hours of child care used for work purposes; and the status of any relationship with any non-relative adult male in the house as, unless proved otherwise, it is assumed the male is supporting the woman and her child(ren) financially.

At the core of the complex and often confusing bureaucratic requirements made of single mothers is the fact that they are required to engage with three quite different bodies of legislation. Family assistance rules (Family Tax Benefit [FTB] and Child Care Benefit) operate on annual taxable income and involve ‘reconciliation’ (and possible debts) at the end of each annual reconciliation period. Parenting payment (and Newstart), instead, work on concepts of gross income and an annual or actual rate of income over the fortnightly payment period, with ongoing obligations to report all relevant ‘changes of circumstances’ within 14 days. Child support operates on assessment periods of 15 months or more, and is calculated either by reference to a statutory formula, or by consent or administrative order as a ‘variation’ from that formula. Each of these systems provides for ‘splitting’ of payments/obligations between parents in the event of shared care. Retrospective establishment of care proportions at odds with the basis of payment, or establishment of incomes at variance with that used to calculate prior social security or family assistance payments generates a debt. It is managing the ‘risk’ of such a debt that gives rise to the ‘third shift’ burden of bureaucratic administration borne by single mothers.

This risk can be like Russian roulette for single mothers. At best, it may result in a Centrelink payment being made after the end of the financial year, when struggling families would benefit from having it earlier. At worst, it may result in a significant debt to Centrelink at the end of the financial year. There is not only an arduous level of
accountancy involved in reconciliation; it actually increases the precariousness of how much income can be relied upon for a family’s needs.

**Calculating Care Rates Increases Complexity and Precariousness**

At a time when increasing numbers of Australian children are growing up in blended families and across dual residences, Centrelink rules assess children by percentage rates. Reforms to Family Law based on ‘shared parental responsibility’ and shared care arrangements, which in their ideal form are about creating constructive relationships in the best interests of children, are in danger of becoming another tool to generate government savings. For single mothers, the new care testing provisions add a new realm of bureaucratic labour — proving you are parenting — and ideally doing so according to a percentage rate. Only one of the separated parents is eligible for PPS. Even if parents share care equally, only one may be designated as the primary parent and receive the payment (see, for example Schembri vs Centrelink, cited in Keebaugh 2003).

FTB can be split between separated parents when non-resident parents undertake a minimum of 10% of the care of their children (36 nights a year). This redirection of a percentage of the money that had previously been directed to single mothers undermines adequate support of these women and their children (Keebaugh 2003, p. 164). However, as Denham argues, ‘reducing a resident parent’s contact from 100% to 80% does not result in a proportional reduction in their cost of caring. Indeed costs may remain constant or increase’. (Denham cited in HSCFCA 2003, p. 144).

This split care rate is reconciled at the end of the financial year, accounting for what was projected against what actually occurred. If a child unexpectedly spends some extra nights or a couple of weeks of the school holidays with their father, the mother may end up with a Centrelink debt. It is hard to fathom how this complex web of policy can be in the best interests of positive shared parenting for low income families. It has the potential, rather, to add to the precariousness of their financial situation and make it virtually impossible to calculate in advance how much money a family will have to live on.

**The Bureaucratic Burden of Child Support Calculations**

Many single mothers are also reliant on, and accountable to, the CSA. The Child Support Scheme was established in June 1988 as a public policy response to the identified problem of economic iniquities following divorce. As a central part of this process, the CSA was established as the bureaucracy that would apply a formula to estimate the amount of child support that a non-resident parent or ‘payer’ was liable to pay to a resident parent or ‘payee’. The formula is based on the number of children of the former relationship requiring support, as well as the non-resident parent’s capacity to pay (Weston & Smyth 2000, p. 11). On the basis of the report of the Ministerial Taskforce on Child Support, the Australian Government is currently reforming the CSA in an attempt to focus more on the needs and costs of children. These changes are being rolled out in three stages, from July 2006 to July 2008. (See Parkinson 2006 for a full explanation of the changes to the Child Support Scheme.)
For the purposes of the argument here, I will give a necessarily brief overview of the additional bureaucratic burden caused by the CSA systems at the time the welfare reforms were initiated. There is little indication to date that the reforms have reduced the burden.

Child support payments are extremely unreliable. Child support is of minimal assistance for many, as 41% of single parents receive no child support. According to the CSA, mothers constitute 91% of parents who are entitled to child support. Of these mothers, only 4% have incomes over $50,000 per annum and 75% raise children on incomes below $20,000. Related information on child support payers\(^1\) demonstrates that:

- 40% pay $5 or less a week
- 16.2% pay between $5 and $40 a week
- 22.3% pay between $40 and $100 a week
- 21.4% pay over $100 a week child support

(HSCFA 2003, pp. 14, 127, 128)

Nevertheless, in order to even be entitled to receive payments the CSA requires an additional layer of reporting and accountability from both its ‘payees’ and its ‘payers’. Payments that are made directly by the ‘payer’ parent (‘non-agency payments’) rather than through the CSA, require women to make a list of and obtain receipts for expenditure items to which they contribute, such as children’s school, dental and health costs. Women must also document any ‘change in circumstances’ for both themselves and what they know of the lives of their children’s other parent. Some women walk away from the money because it is too hard to fulfil these bureaucratic requirements, or as detailed earlier, may incur an overpayment from Centrelink if child support payments come in late.

**Welfare Reforms may Increase Poverty**

As outlined earlier, single mother-headed families are amongst the poorest in Australia. In May 2005, the year before the welfare reforms were introduced, the total family income of a jobless single parent with two primary school-age children was just $415 a week. This average single parent family will spend half their income on rent, bills and food, compared with under a third of other families’ budgets (ACOSS 2006, p. 2). The welfare reforms are proving to have unintended consequences that may lead to further hardship for single mothers and their families. Initial modelling undertaken by the National Centre for Economic Modelling (NATSEM) has demonstrated that payment of income support has become increasingly financially disadvantageous for women (Harding et al. 2005). Their case study shows how much the government benefits financially by the income lost to single mothers.

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\(^1\) ‘Payer’ is a CSA term for the parent who is liable to pay child support. A ‘payee’ is the CSA term for the parent entitled to receive child support.
COMPARING THE TWO SYSTEMS — A CASE STUDY BY NATSEM

- Helen, a single mum with one child, works 15 hours a week and is paid $13 per hour. This totals $195 per week in private earnings.
- Under the previous system she would keep $144 of her $195.
- Under the new system she will keep $81 per week, and the government will take $114 p/w through reduced Newstart and increased income tax.
- Helen’s take-home weekly income under the previous system would be $529, compared to $437 per week under the new system, thus her family is $91 worse off each week.
- NATSEM concludes that ‘the Federal Government will be the major beneficiary of this sole parent being required to undertake 15 hours of paid work a week’ (Harding et al. 2005, pp. 13–17).

The Australian Council of Social Services (ACOSS) has estimated that over the first three years of welfare reform 77,000 parents will go onto lower payments such as Newstart. Whilst ACOSS has expressed its support for the federal government’s objective of helping single mothers into employment, after their analysis of the likely effects of the reforms they found that to be better off under the changes a single parent would have to be employed full time and earning over $700 a week. ACOSS points out that very few single parents earn this much. They found, therefore, that the reforms contained significant work and study disincentives for single parents (ACOSS 2006, pp. 1, 12–13).

Under the welfare reforms the government expects single mothers to accept a job if it will make them $25 a week better off, after child care and transport costs, regardless of how many hours they may have to work to make this amount. The National Association of Community Legal Centres estimates that: ‘If a parent accepts a job of 15 hours a week which leaves them with just $25 after their extra costs are taken into account, they would be, in effect, working for just $1.66 per hour’ (NACLC 2007, p. 4).

McInnes also argues that the reforms increase poverty as well as levels of both paid and unpaid labour:

Single parents in Australia with school aged children are being forced into the paid workforce with the promise that they should be at least $25 per week better off after childcare and transport costs, income tax, rent increases and payment reductions. Coincidentally, the weekly difference between Parenting Payment Single and Newstart Allowance rates is $27.75. The net effect is that parents are to be forced into paid work to make up the cut in income support payment, while their children are forced into childcare. Single parents can be required to work for net one dollar per hour, for 25 hours per week, just to hold onto the same income they were eligible for before their youngest child’s 8th birthday. The savings from cutting payments are instead re-directed to the job network system of control and coercion. (McInnes 2006, p. 9)

The government has consistently argued that the reforms are not geared to cut social security spending. ACOSS comments that if this is so, ‘then the proposed cuts to future
payments are unnecessary. They will not help single parents get jobs and they will only make them poorer’ (ACOSS 2006, p. 9).

The Stress on Single Mothers of the Third Shift

The bureaucratic burden of the ‘third shift’ may cause a great deal of stress for low-income families. Rawsthorne (2006) has researched the causes of instability among low income families receiving income support. She found that women moving between benefits tended to be extremely diligent about their ‘third shift’ labour and that this created an additional burden of stress:

Moving from one benefit type to another was a source of anxiety and stress for most participants. They were all very mindful and diligent in reporting to Centrelink any change in circumstances, although they knew this could result in protracted dealings with Centrelink. A number spoke of delays in payments, cumbersome administration and sudden changes in status (with little notice). Most were keenly aware of the importance of their relationship with Centrelink and were at pains to ‘do the right thing’. (Rawsthorne 2006, p. 27)

Stanley and Permezel (2005) have also written of the stress induced by the third shift. They cite correspondence from a single mother to the advocacy organisation, the Council of Single Mothers and their Children, to illustrate the potentially negative effects of the reforms:

The additional stress of living under the constant threats and harassment from Centrelink combined with the strain of juggling work and family demands could result in an epidemic of mental illness in the parents. The children will be overtired, underfed and stressed whether in approved care or home alone. The families’ nutritional status may decline as exhausted parents resort to take away food. Parents will be too tired to supervise homework and the children’s education will suffer. Stressed and exhausted parents will not have the emotional strength to provide high quality nurturing, bonding and emotional support for the children. (Stanley & Permezel 2005, p. 5)

McInnes (2006) describes the reforms as ‘mean, deceitful and counter productive’:

Mean in that mothers are expected to undertake paid work for practically no return. Deceitful in that Centrelink clients have been subjected to months of misinformation about requirements, and deceitful also in that the government line is that it is not cutting payments — just changing the conditions of eligibility. The forced labour policy is counter productive in that the social fall out of stressing vulnerable families will be distributed to crisis services at even greater cost. (McInnes 2006, p. 12)

The positioning of single mothers as workers under the welfare reforms not only fails to offer women clear pathways into employment, it also burdens them with bureaucratic
‘busyness’. This can lead to increasingly precarious and unreliable income support payments as well as to stress on women, their families and services.

CONCLUSION

I have argued throughout this article that most single mothers in Australia are reliant not simply on work or welfare but on an increasingly precarious mix of the two. This relates to a range of circumstances, including their primary caring responsibilities, reliance on poorly paid casual and part-time work, low levels of educational opportunity, lack of access to child care and a desire to be at home with children when needed. The welfare to work reforms simply flip single mothers from the category of parent to worker and deal with them thereafter through the employment focused bureaucracy of Centrelink’s Newstart system. Unfortunately, such policy development fails to account for the contemporary reality that many single mothers have simultaneous commitments to both the paid workforce and the family.

For those single mothers who would like to have the choice to be able to increase their paid workforce participation, the reforms must be expanded and developed alongside significant changes in industrial relations. These need to encourage the development and uptake of truly flexible, family-friendly work conditions; include systems to protect parents from the long working hours that are becoming increasingly common; improve both pay and security for casual workers; offer universal paid maternity leave; and establish good quality, affordable on-site child care and school holiday leave provisions. From the point of view or industrial relations, new cultural norms and policies must be established that systemically recognise the work of caring for children and the corresponding value this adds to our society’s human and social capital. The government needs to develop industrial relations policies that fully engage with and are supportive of a correspondingly coherent family policy.

A critical outcome of the reforms has been increased complexity and invasive scrutiny that may undermine single mothers’ ability to understand their entitlements and pursue their rights. Single mothers whose youngest child is over eight will soon become either invisible or extremely difficult to account for as they are merged with all other Newstart recipients. Once single mothers are rendered invisible statistically, it will be even more difficult to identify their needs and to further analyse the effects of the reforms on these families.

For the welfare reforms to genuinely offer single mothers and their families a pathway out of poverty through employment, they must respond to the complex realities of these families’ lives. Given the stress experienced and labour expended on the third shift, the welfare reforms may serve to further increase the incidence and severity of child poverty in single mother-headed households across Australia.

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Women, Street Sex Work and the Law in Victoria: Stories of Injustice in relation to Sexual Assault

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Women sex workers in Victoria face a heightened danger of sexual assault because of the continued illegality of street-based prostitution. In this article I argue that the theoretical approach of legal narratives, applied to the sentencing decision of R v Hakopian, highlights some women street sex workers’ experience in regard to sexual assault. Dissemination of alternative narratives throughout the community using legal narrative techniques might encourage empathy towards street sex workers and promote awareness of the dangers they face. This sparking of empathy could lead to policy initiatives and legislative change to better protect street sex workers in Victoria.

INTRODUCTION

Policy initiatives in relation to sexual assault have recently received renewed attention in Victoria. Following the release of a report into sexual assault by the Victorian Law Reform Commission (VLRC 2004) there have been significant legislative changes made to the offence of rape. Additionally, there have been policy initiatives such as the development of a specialist sex offences prosecution unit within the Office of Public Prosecutions (OPP); specialist lists dealing with sexual offences in the Magistrates and County Courts; the provision of additional counselling services for victims and the establishment of two new sexual assault centres in Frankston and Mildura (Editor 2006); and the release by the Judicial College of Victoria of a new online manual dealing with sexual offences (2007). However, none of these initiatives specifically address the issue of sexual assault against street sex workers. Since the unsuccessful effort to introduce a tolerance zone in the Melbourne suburb of St Kilda five years ago, no new policies have been developed to deal with this area of concern (Cannold 2007). The sexual assault of street sex workers and other concerns of street sex workers appear to have been placed in the ‘too hard basket’ by the present state government.

Women (and other) street sex workers in Victoria are at risk of sexual assault because of the lack of protection provided by our legal and justice system. Street sex workers, as the title suggests, do not work in legalised brothels, but instead contract with clients in the street. In Victoria this practice remains illegal. Although there have been important initiatives to improve the safety of sex work in Victoria, such as the Prostitution
Control Act 1994 (Vic), they have been limited largely to brothels. The Prostitution Control Act provides for a licensing system for brothels and allows for sex workers practising as small operators. Small operators must be registered with the Business Licensing Authority to operate without a licence (Crofts & Summerfield 2006, p. 279). A report dealing with prostitution in Victoria (Neave 1985) recommended the passing of by-laws to allow street sex work, but successive Victorian governments have not taken this option up (Rowe 2003, p. 25). If a change of policy direction is to be achieved, the issue will have to be framed in such a way as to garner public support (see generally Bessant, Watts, Dalton & Smyth 2006).

Present legislation means that street sex workers operate in an unregulated environment that poses health and safety risks, most notably the risk of sexual assault (Rowe 2006). The attempt to provide a degree of protection for street sex workers through the introduction of a tolerance zone failed due to forceful lobbying against the proposal by sections of the community (Rowe 2003, p. 24). This initiative followed the recommendations of a government-sponsored advisory group (Attorney-General Street Prostitution Advisory Committee 2002), which advocated the establishment of geographically defined areas (tolerance areas) where police would not target those involved in loitering and soliciting for the purposes of prostitution. Police would, however, target those loitering and soliciting for the purpose of prostitution outside of the designated tolerance areas (Attorney General Street Prostitution Advisory Committee 2002, p. 6). The proposed pilot tolerance zone was to be established in an area of St Kilda where significant street sex work already occurred. However, following the public outcry and negative comment from some media, the government shelved all plans for such zones (Rowe 2006, pp. 17–22). This kind of reaction to changes in the control of sex work is not uncommon. For example, Tasmania’s recent attempt to change prostitution laws failed due to a public backlash (Crofts & Summerfield 2006, p. 279).

Public perception seems to be a major factor in blocking change in this contentious area (Rowe 2003). We need, then, to explore ways to inspire greater empathy for street sex workers. We especially need to convey their vulnerability to sexual assault to members of the public, as well their relative powerlessness vis-à-vis government, the judiciary, police, prosecutors and the media. Street sex workers’ voices continue to be marginalised in any debate regarding the need to make street sex work safer for workers, although attempts have been made to give voice to autobiographical accounts of street sex work (see, for example, Delacoste & Alexander 1987; Nagle 1997) and research has been undertaken to provide qualitative data relating to the experiences of workers (see, for example, Rowe 2006). Research into this area must guard against painting street sex workers, and sex workers more generally, as a homogenous group (Shaver 2005). The lived experience of sex workers is diverse, as is their experience of violence.

The focus of this article is upon women street sex workers and although male and transgender workers have their own particular concerns (Scott, Minichielo, Mariño, Harvey, Jamieson & Browne 2005), parts of this discussion may also apply to these groups. I argue that one way to hear the voices of street sex workers is through the use of legal narratives. An increase in empathy for the experience of street sex workers who are sexually assaulted may encourage legislative reform to protect these workers. What form these reforms should take is open to debate (see generally Campbell & O’Neill...
2006), but importantly, as I argue in this article, there needs to be government commitment to implement change in this area.

The theory of legal narratives will be explored through the notorious decision in *R v Hakopian* (County Court of Victoria, 8 August 1991). The sentencing decision in this case, which related to the rape of a female street sex worker, caused consternation amongst the public and the legal community, as the judge determined that the sex worker had been less traumatised by the sexual assault than other women would have been because of her history. Using legal narratives, I will trace the history of this case, endeavouring to show the ‘stock story’ of how street sex workers are perceived. An alternative story, garnered from the sub-text of the judgement, is then presented to provide a different perception of women street sex workers. This alternative story is proffered as a way of eliciting greater empathy for street sex workers.

Although more than a decade old, *R v Hakopian* provides an insight into the way that street sex workers can be constructed. The decision provides a rationale that sex workers suffer less from rape than other victims of sexual assault. Due to the resultant public condemnation of the decision it is a precedent that is unlikely to be followed in Victoria, although no court has as yet overruled the decision in this jurisdiction. The case still has relevance today as it provides us with an example of the way that courts, politicians and the public can construct street sex workers as the undeserving ‘other’. Marginalised groups in society can be constructed as undesirable and undeserving by sections of our community (see generally O’Neill & Harindranath 2006). In the context of sexual assault, arguably street sex workers are constructed as undeserving of specific protections due to the nature of their work.

**SEXUAL ASSAULT AND STREET SEX WORKERS**

Over the last fifteen years or more in Victoria there has been substantial legislative change regarding the substantive offence of rape. Through amendments to the *Crimes Act 1958*, contained in the *Crimes Rape Act 1991*, changes were made in the areas of victims’ consent and the kinds of acts that could be considered rape. More recently, and in response to an extensive inquiry and report by the VLRC into sexual offences (VLRC 2004), the *Crimes (Sexual Offences) Act 2006* and the *Crimes (Sexual Offences) (Further Amendment) Act 2006* were passed. Another legislative initiative, the *Crimes Amendment (Rape) Bill 2007*, is presently before the Victorian Parliament. Collectively, these initiatives attempt to address short falls in the original amending legislation. The recent legislation attempts to further strengthen the objectives of the right of women and men to be free from sexual assault; to address issues relating to consent; provide procedural and evidentiary changes to hearings of sexual offences, including making it easier for vulnerable witnesses to give evidence; and to prevent alleged sexual offenders from personally cross-examining complainants in court. The changes are aimed at relieving many of the negative experiences of victims in the courtroom, and seek to address many of the concerns that feminists and others have raised regarding sexual assault and procedural protections to victims.

Although legislative change has progressively occurred in Victoria, one of the important findings of the recent VLRC report was that attitudinal change is still needed in the justice system and that constructions of women affect the prosecution and sentencing of
offenders. Significantly, the VLRC (2004, pp. 103–82) found that police, police prosecutors, OPP staff and the judiciary need to be more sensitive to the victim’s experience when deciding upon the prosecution and final hearings of sexual assault offences. These victims include street sex workers (Bindel & Kelly 2003). In the raft of recent changes to sexual assault, the issue of street sex workers and their particular vulnerability to rape is not addressed. This may be due to the fact that for those in power in our society, street sex workers, and prostitutes generally, are not a high priority (Phoenix & Oerton 2005).

The debate regarding prostitution and the need for regulation is longstanding. Scott (2005) traces the emergence of differing stories of prostitution. He notes the following stories: (i) the construction of prostitution as a phenomenon that sits with pre-Christian views of sexuality, (ii) post-Christian and particularly Victorian constructions of prostitution as sinful and corrupting, (iii) the liberal feminist construction of prostitution as an exploitative but established form of employment (thus the change of the label to ‘sex worker’), and (iv) cultural feminists’ view of prostitution as part of oppressive patriarchal practices. These stories are not linear and many exist concurrently. Scott himself analyses prostitution from a post-modern Foucauldian perspective, telling a story of practices that exist within shifting power constructions and highlighting the agency of female, male and transgender prostitutes.

The stories told about sex work affect the legal and public discourse and influence the degree of regulation of the sex industry. Progressively, public health and harm minimisation stories have been privileged (Scott 2005). For example, Bindel & Kelly (2003, p. 11) highlight the violence endemic in the industry thus:

\[
\text{the majority of those involved in prostitution experience violence at some point from a customer. Additional layers of violence are perpetuated by boyfriends/pimps and of those involved in street prostitution, passers-by and local residents. There is also an elevated mortality rate for women in prostitution — through both murder and drug overdoses — both of which disproportionately affect those working on the street.}
\]

Arguably, from the point of view of public health discourse, these workers are unsafe because danger is heightened for those who work on the street. This approach to violence has sometimes been framed as a human rights issue. For instance, violence against women may breach the UN Declaration on the Elimination of Violence Against Women. By keeping the practice of street sex work illegal there is an increased danger of sexual assault. As Bridgett & Robinson (1999, p. 4) argue:

\[
\text{These legal restrictions work in a way to keep the industry hidden and unsafe for the people working in it. For example, street sex workers are forced into back lanes, poorly lit and abandoned areas which means they are often pressured into quick negotiations with their clients. This prevents SIW’s [sex industry workers] from ascertaining whether the client has a weapon or if they appear to have the potential for violence.}
\]
In recent research, Rowe (2006) interviewed street sex workers in the St Kilda area who had been sexual assaulted. Commenting generally on street sex workers’ poor working conditions and lack of access to public health services, Harcourt, Egger & Donovan (2005, p. 124) state that:

Street-based sex workers are among the most vulnerable in the industry and their position is exacerbated when brothels are licensed or tolerated but street work is prohibited...Further, Victoria is estimated to have a larger street-based sex industry than in decriminalized New South Wales, providing further evidence of inadequate legal sex work options in Victoria.

Victoria might be said to have been at the forefront of introducing legislative change to regulate the sex industry but, significantly, the approach of successive governments to the issue of sexual assault against street sex workers has failed to address this issue adequately. The hope that legalisation might reduce the size of the sex industry and bring street sex workers into the ‘safer’ working conditions of brothels has not occurred. According to Bindel and Kelly (2003, p. 15):

legalisation has not reduced street prostitution. There has been a significant increase in street prostitution in Victoria, especially in St Kilda, along with [an] increased level of rape and violence.

As indicated earlier, attempts to deal with sexual assault against street sex workers through the introduction of tolerance zones was not successful. The loss of amenity for residents adjacent to a tolerance zone can be significant (Bindel & Kelly 2003) and would appear to be the main reason for the failure of this policy initiative. Resistance to street sex work is still strong in parts of St Kilda. Cannold (2007) summarises this in the following manner:

Competent adult women (and men) should be free to sell their bodies, however strongly some in the community object. However, like other choosers, when the consequences of the selling choice restricts the capacity of fellow citizens to exercise their freedoms, the state is obligated to restrict their activity. (p. 2)

Bindel and Kelly (2003, p. 10) see tolerance zones as unsatisfactory as this approach does not necessarily deal with issues like the involvement of organised crime or the trafficking of women into prostitution. Nor do tolerance zones necessarily deal with drugs and alcohol, homelessness or other issues of concern to street sex workers. (Notably, the model proposed for Victoria had included the provision of safe houses and links with services (Rowe 2003, p. 29) in an attempt to deal with some of these concerns.)

Bindel and Kelly (2003, p. 9) note that referral schemes within the criminal justice system can assist in exit strategies from street sex work. They can help with housing, drug rehabilitation and the building of self-esteem. In the Melbourne Magistrates court a street sex workers’ specialised list operates, allowing these workers to attend in the afternoon, a more convenient time for a hearing as street sex workers will often work until the early hours of the morning. Adopting a holistic approach, a Magistrate can
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attempt to minimise harm in her sentencing decisions and link street sex workers with housing, health, drug and alcohol, and Centrelink services (Popovic 2006, pp. 15–16). This type of approach has some appeal, and is in keeping with wider trends in criminal justice in Victoria, instanced in Neighbourhood Justice Centres, drug courts and family violence courts. Such initiatives are often categorised as problem-solving courts and seen as operating under the philosophy of therapeutic jurisprudence (Douglas 2007). However, importantly, this sort of approach does not offer increased protection from the threat of sexual assault.

Despite the introduction of legalised brothels, violence in Victoria’s sex industry has not decreased. Many reports of violence are made to the Prostitutes Collective of Victoria, and it is understood that workers in illegal brothels are reluctant to report assaults (Bindel & Kelly 2003, p. 16), as are street sex workers.

*R v Hakopian* provides an insight into the construction of the ‘sex worker’. Arguably, sections of our community, including elements of the judiciary, construct prostitutes, and in particular street sex workers, as less deserving of protection from sexual assault than other women. It has long been argued that ‘ideal’ victims, those who are married and chaste, fair best in the criminal justice system in relation to complaints about rape (Stevenson 2000). Although recent research seems to establish that the more assertive the victim the greater likelihood of the success of her complaint (Larcombe 2002), complainants’ experience in rape trials can be unpredictable and sometimes re-traumatising. In the case of street sex workers, such trauma may be further compounded because they have little confidence in the ability of the criminal justice system to understand their stories or experience of life on the street. Hearing street sex workers’ stories could mean that their concerns were placed higher up on the ‘policy agenda’ (Rowe 2006, p. 22) and that initiatives could be taken to address such concerns.

It is in this context that I will explore the particular story of Mary Paul in *R v Hakopian*. A creative re-telling of this well-known story may assist the feminist endeavour of attempting to achieve social justice for women like Mary Paul (Richardson 2005). However, it is important not to paint all street sex workers as uniformly vulnerable (Richardson 2005, p. 290). Indeed Larcombe argues that, according to her research, the successful complainant in a rape trial is no longer necessarily the middle-class woman of good repute. Larcombe’s analysis of cases brought by women complainants found that the ability to be articulate, discuss sexual activities in a forthright manner and not be overwhelmed by cross-examination were more important predictors of success than constructions of the ideal victim. Larcombe suggests that that prostitutes could well present in this manner in court (2002, p. 144).

**LEGAL NARRATIVES**

Everyone likes to hear a story. Whether it be at a party chatting while nibbling food, or in the changing room after playing sport, or in the corridors of power rushing from one important meeting to another, we like to hear what other people are doing and what they are thinking. We like to know how and why things turned out a certain way. We like to glimpse other people’s lives and compare them to our own — to feel relieved we are not like them, compassionate about their suffering, or condemnation of their actions. Stories can change us. If we properly hear another’s story we may be able to feel a degree of
sympathy that changes our attitudes, and thus our actions. This is the hope of legal scholars who advocate the telling of legal stories, known as legal narratives (Delgado 1989, p. 2411). By relating people’s lives, not just as a collection of facts about a legal problem but as a narrative that is an imaginative creation, Delgado and others hope to change the attitude of those in power in our legal system. Stories shape us because they take us from our isolation and put us in a world of shared contexts and meanings. (Massaro 1989, p. 2099). Advocated by some parts of the feminist and critical race movements too, legal narratives are presented as a way of demonstrating to the predominantly white, Anglo Saxon men who control the legal system that other, suppressed voices should be heard and heeded.

It is a tall order. Not least because it may be argued that although we all like to hear stories, some of us only like to hear stories that reinforce our views and make us feel safe. Nonetheless, stories can be powerful instruments for change. Previously held exclusionary beliefs can be exposed in a non-coercive manner, facilitating change, rather than polarising belief (Delgado 1989, p. 2415). It is in the nature of the law to be involved in stories and it is the role of legal scholars to use storytelling in imaginative ways to facilitate change. Law and narrative are inseparable, and narrative can be subversive of the established order by providing new stories and new ways of viewing legal texts that can bring about change (Cover 1983, p. 4). Dominant storytellers, or the ‘ingroup’, see their stories as the natural and just operation of the legal system. Their mindset and value system justifies the exclusion of other voices, other ways of seeing. Telling the ‘ingroup’ tales of the ‘outgroup’, in compelling and touching ways, may create sympathy and shared understanding (Delgado 1989, p. 2413).

Storytelling which gives another version of events, counter stories, can ‘quicken the imagination and conscience’ in a way that traditional academic writing cannot (Delgado 1989, p. 2415). It is not, then, just the telling of another version of ‘the facts’ but showing, through the imaginative engagement of others in a story, that another, perhaps more compelling version of the facts exists. Delgado uses narrative to demonstrate flaws in the stock story (the dominant story) in relation to American racial issues. He acknowledges that there is no single true version of events, but states that the stock version has been privileged in most discourse on race issues (Delgado 1989, p. 2417).

Legal narratives differ from other methods of pointing out deficiencies in current legal thinking because they allow the reader to ‘enter into the mental set of the teller’ (Delgado 1989, p. 2434). The reader is seduced into at least considering alternative versions of the facts, and is imaginatively caught up with and affected by compelling storytelling. This is a non-coercive method of bringing about change in attitudes, and the reader is not put on the defensive. In fact it is not telling, but showing. Storytelling assists both those who hear, the ingroup, and those who do the telling, the outgroup: ‘The storyteller gains psychically, the listener morally and epistemologically’ (Delgado 1989, p. 2437). Stories help to include the dominant group in the process of change, providing the possibility of a shared agenda. Presumably, there is no way to force the dominant group to listen to the stories of those who have traditionally been silenced, but Delgado (1989, p. 2440) maintains that they should do so because it would enrich their lives, taking them out of the narrow, exclusive world they presently inhabit. The benefits of doing so will be reciprocal.
Many people agree with Delgado but some reject such a wholehearted endorsement of narrative. For instance, Massaro (1989) has expressed doubt that legal narratives are of any real use in effecting change in the law. While acknowledging the possibility of the indeterminacy of language allowing judges to use their own value systems to come to a decision, ‘As a practical matter, therefore, our rules often are ambiguous and fluid standards that offer substantial room for varying interpretations’ (Massaro 1989, p. 2111). Massaro doubts that the voices that Delgado refers to will necessarily be heard. Empathy and sympathy are fine concepts, but they are not divorced from a political agenda or a view of the world, and there is no reason that this view rather than another, perhaps the dominant one in favour, should prevail (Massaro 1989, p. 2113). There are many voices for a judge to listen to, and it may be that a concentration on stories will actually impede the social agendas of those who would improve the lot of the oppressed in society. Proponents of storytelling will be too busy trying to engender empathy to direct their energies to political strategies, based on abstract principles, which are the effective means of achieving change. Empathy can be of assistance, but alone it is not enough (Massaro 1989, pp. 2116–25).

In rape trials, narratives have been used to demonstrate the negative construction of women by the legal system. For example, Kaspiew (1995) used legal narrative theory, drawing upon six case studies of prosecutions of sexual assault, to demonstrate the distorted stories regarding rape created by the legal system. Sarmas (1994) used legal storytelling to deconstruct dominant narratives about gender and class as evidenced in the majority and minority judgements relating to a case dealing with the doctrine of unconscionable dealing. Importantly, counter-stories can take a number of forms, including the use of ‘stories, parables, chronicles and dialogues as a means of persuasion in their work’ (Sarmas 1994, p. 702). In this example, the imagined dialogue between a lecturer and members of a contract law class was provided to assist in understanding the stock stories of judges in unconscionable dealing cases. Counter-stories regarding legal judgements can influence legal decision makers and, in the long term, they may ‘contribute to change in less direct ways, for example through empowering outsider groups and through influencing public opinion generally’ (Sarmas 1994, p. 703).

Achieving social justice through the use of biography has been argued for in relation to asylum seekers. In some recent work O’Neill and Harindranath (2006) trace the categorisation of the asylum seeker as an undesirable ‘other’ in parts of the media and by some politicians. They argue that the use of biography by asylum seekers, explored through creative endeavours such as poetry and art, provides an opportunity to disseminate alternative discourses and a better understanding of the lived experience of marginalised groups. The legal storytelling approach also offers alternative stories and the opportunity to re-imagine the marginalised ‘other’. For instance, Delgado (1989) demonstrates the existence of racial prejudice in university hiring practices in the United States. He tells the imagined story of a black lawyer’s efforts to be employed in a law faculty through five different perspectives or ‘voices’, so as to promote understanding of black academics’ marginalisation, and to encourage empathy.

In this article I will creatively re-tell the story of Mary Paul, the rape victim in the R v Hakopian decision. As a creative endeavour this re-telling risks being seen as ‘imaginary’ and therefore of little merit. However, it is based upon a close reading of the judgement and draws upon the approach of legal narratives to spark empathy. This
approach might also be seen as exploitative of Mary Paul’s story. Salverson (2001) warns against a voyeuristic approach to the stories of the marginalised. She criticises creative endeavours, such as theatrical productions, that indulge in an ‘erotics of suffering’: hoping to spark empathy, they may simply be exploiting the stories of vulnerable members of our community. However, this creative re-telling of Mary Paul’s story is offered here in the hope that an increased empathy, through storytelling, will help the reader understand the injustices experienced by some street sex workers. If sections of our community were to gain a better understanding of the lived experience of street sex workers who have experienced sexual assault, it could bring about social change and consequent policy initiatives.

**R v HAKOPIAN: HISTORY OF A DISTORTION**

*R v Hakopian* was a decision of Jones J. in the County Court that went on to appeal as regards conviction — brought by the defendant — and as regards sentence — by the prosecution. In the original decision the jury found Hakopian guilty of rape with aggravating circumstances, indecent assault with aggravating circumstances and kidnapping. All these offences were committed upon a sex worker, Mary Paul, after she had been involved in consensual oral sex with the defendant for payment. After meeting Hakopian on a street in St Kilda, Mary Paul negotiated with him for oral sex and then agreed to accompany him to his brother’s. However, Hakopian instead took Mary Paul to Carlton where they engaged in consensual oral sex. When Mary Paul desisted due to Hakopian’s failure to ejaculate, offering to refund part of the money, he became enraged, produced a knife and forcibly held her head down to continue with the oral sex. He also groped and digitally penetrated Mary Paul. Jones J. sentenced the defendant to a total of three years and four months gaol, with a minimum term of sixteen months. The part of the judgment on which I wish to focus, is the reasoning of Jones J. in deciding upon the sentence in relation to his view of the suffering of the victim.

Explicitly following an earlier decision of the Court of Criminal Appeal (see *R v Harris* unreported, Court of Criminal Appeal in Victoria, 11 August 1981), Jones J. enunciated the view that where the victim of a rape is a prostitute, there is less culpability attaching to the actions of a defendant. In the earlier decision of *Harris*, it was held that while ‘prostitutes’ were never to be treated as second-class citizens, a prostitute would not suffer the same degree of psychological harm as a ‘chaste’ or ‘happily married woman’ (*R v Harris* 1981, p. 7). This was because, in the view of the court, a prostitute would not experience the same ‘reaction of revulsion’ as someone who was not engaging in sex for payment (*R v Harris* 1981, p. 6), or indeed any woman who had had a number of sexual partners.

On appeal, this point was not pursued by the prosecution as it was conceded that Jones J. was bound in his decision to follow *R v Harris* (see *R v Hakopian*, Court of Criminal Appeal, Victoria, p. 11). Scutt posits that the court would have indicated that it was not prepared to overrule the earlier decision, and therefore the point was conceded (Scutt 1993). As previously noted, at present the decision of *R v Hakopian* has not been overruled in Victoria, although it seems unlikely that a court would articulate the same reasoning in a subsequent case, given the degree of negative comment the decision received (Senate Standing Committee on Legal and Constitutional Affairs 1994, p. 11).
Scutt (1993) traced the reports in the media relating to the case and the many letters to the editor deploring the decision. Some few letters supported the court’s approach. Public criticism of the decision was made by the Prostitutes Collective of Australia (Gilbert 1993).

In the context of the decision of *R v Hakopian*, it is not difficult to point out the fundamental misconception at the heart of Jones J.’s ready acceptance of the view expressed in *R v Harris*. He seems to be saying that for Mary Paul the sex she experienced prior to the rape, oral sex for payment, was no different than the sex she experienced when forced to have oral sex at knife point — it was just that the second time she didn’t get paid. There was violence, through the kidnapping, the various struggles and the use of the knife, but this violence, in the view of the court, did not affect the sexual act. The defendant Hakopian should be punished, but not as severely as someone who rapes a sexually monogamous woman who is unused to sex with strangers, and who would therefore be traumatised by the sex. In his judgement Jones J. states

> As a prostitute, Miss Paul would have been involved in sexual activities on many occasions with men she had not met before, in a wide range of situations. She had, for money, agreed to have oral and vaginal intercourse with you, and had very shortly before these offences occurred, had oral intercourse with you on a consensual basis.

> On my assessment, the likely psychological effect on the victim of the forced oral intercourse and indecent assault, is much less a factor in this case and lessens the gravity of the offences (*R v Hakopian*, County Court of Victoria, 8 August 1991, p. 8).

In other words, Mary Paul did not suffer in regard to the sexual activity because she was used to sex of this kind. This view distorts Mary Paul’s experience and shows a failure to understand the nature of rape. In Estrich’s analysis of rape she states that:

> In rape, the male standard defines a crime committed against women, and male standards are used not only to judge men, but also to judge the conduct of women victims (1986, p. 1091).

In the case of *R v Hakopian* Mary Paul has been judged. She has been judged for being a street sex worker and the forced nature of the sexual act — the knife, her head pushed down to Hakopian’s penis — is regarded as of no consequence. She is not acknowledged as having an emotional reaction to forced sex because, the court reasons, she is used to sex with strangers. But rape is *not just* about a sexual act that has not been paid for — it is about lack of consent. It is about lack of control over safety, losing autonomy over one’s body and feeling afraid that you will be killed. Sexual experience does not preclude any of these feelings (Brown 1992 in Coss 1992, p. 162) and the experience of street sex workers does not place them in a different emotional landscape to that of other women (Gilbert 1993). Rape is a violation of the body which, of its very nature, is different to an assault. As Estrich (1986) puts it:

> But what makes the violent rape different — and more serious — than an aggravated assault is the injury to personal integrity involved in forced
sex…In a very real sense, what does make rape different from other crimes, at every level of the offence, is that rape is about sex and sexual violation. (p. 1185)

Even the use of the word ‘chaste’ should alert us to the fact that the original judgement in *R v Harris*, and Jones J.’s agreement with that judgment, is tainted by dominant discourses about women. Our system of law has ‘traditionally celebrated female chastity and frowned upon sex outside of marriage’ (Estrich 1986, p. 1129). Our laws have protected males’ access to women while prescribing female sexuality and the right of women to say ‘no’ or ‘yes’. It is significant that such an emphasis is placed, in *R v Hakopian*, on the fact of sex with a stranger when statistics support the view that the majority of rape victims know their assailant (see Naffine 1992, p. 762; VLRC 2004). Mary Paul, Jones J. seems to say, is used to sex with strangers therefore she is not traumatised when she is raped by a stranger.

As previously indicated, the VLRC (2004) has recently emphasised the continued need to change attitudes in the community in relation to sexual assault. The premise of this article is that one way to do so may be through the using legal theory to create alternative legal narratives that work to raise consciousness and encourage empathy. Richardson (2005) argues that theory can permeate into legal discourse and bring about change. Initiatives might include communicating alternative stories to engender change in attitudes. For example, legal narratives of the *R v Hakopian* decision could be presented to the judiciary as part of their education. The Judicial College of Victoria could provide an opportunity for judges to hear street sex workers’ stories. The legal profession could more widely experience such narratives as part of, for instance, continuing legal education. Significantly, parliamentarians and the public might hear these narratives through a number of outlets, including the media.

**LEGAL NARRATIVES APPLIED TO HAKOPIAN**

The following is a version of the stock story of Mary Paul’s experience, followed by a counter-story. These accounts are confined to the events of the night dealing with the rape.

**The Stock Story**

You are in the car with this man because you chose to be. This is a financial transaction, one you make with men, many men, *strangers*, hundreds of times every year. You have let yourself become addicted to heroin and now this is your job. It’s not a pleasant job. It’s a job that other women, normal women, could not bring themselves to do and you have been changed by it. You are different now. On this night you needed money. Again you plied your trade. Mr Hakopian is a man who came to this country with nothing and who built himself a healthy business and established himself in the community. He came to you for what you were selling. You drove off together and you put yourself in his power because that is the nature of your job, but this particular transaction went wrong. Instead of completing the agreed action you became impatient and said that it was impossible to finish the job. You told him that he was sexually deficient. He got angry. Anyone in this situation would get angry. You had failed to do your part and you were blaming him. What followed was wrong, everyone knows what
Mr Hakopian did was wrong, but it was more about his misunderstanding of what we in our society require than a premeditated, evil attack. Mr Hakopian got angry, behaved badly and then he panicked. He was in a situation that was embarrassing to him. He didn’t know what to do.

We’re going to punish him (mainly for the knife, we didn’t like the knife), but we’re not going to say that this incident hurt you as it would other women. You have made your choices in life. This is just sex for you, sex without payment. In any business there are bad debts.

**Counter-story**

It’s not your night Mary Paul. This man who’s chosen you (you’ve chosen him?), has taken you to a place, a dark place, different from where he said he would go. Now he's looking at you with such hunger, the way they all look, waiting for you to give him pleasure. You put your head down to start, move your mouth, your tongue, in the way you know will please. You keep at it and at it, working hard, the minutes ticking by, and you start to wonder why it’s taking so long. Your mouth is beginning to feel sore. Finally you’re sick of it and you lift your head up. ‘That’s enough,’ you say. ‘I’ve done enough. You should be finished by now.’ His face! God, what a change in his face. You should have known this guy was a ‘nutter’. He starts to shout at you, screaming, he says you owe him, you owe him sex. You say, ‘Hey, I’ll give you your money back. No need to go wild.’ But his face screws up, spittle flies from his mouth, something flashes in the corner of your eye and you know he’s got a knife. He’s a madman and he’s got a knife. Then his hand is behind your neck, pushing you down, and his penis looms large. You have to open your mouth, take him inside, he pushes so hard you gag. Up and down you move your mouth, all the while thinking, ‘Am I going die. Is this guy mad enough to kill me?’ You want to spit him out, you want to tell him to leave you alone, but he’s calling the shots, he’s got control of your body, you are just an open hole to stick himself through. The one thing you know is you don’t want to die. You want to vomit. You want to scream. But you don’t want to die.

The creative re-telling of stories, such as a re-working of the story told in *R v Hakopian*, can invoke sympathy or shock the hearer into an understanding of a particular reality. Here, the reality is that Mary Paul did suffer through the rape. It was not merely sex without payment. Further, it is an example of the way that street sex workers can be constructed as ‘undeserving others’. If legal narratives, by engaging the imagination, can disturb entrenched views of street sex workers as ‘undeserving’, it is arguably a step towards achieving policy initiatives that will better protect them against sexual assault.

**CONCLUSION**

*R v Hakopian* is an example of an explicit discriminatory practice that, because of the resultant outcry, few judges would be prepared to articulate in cases today, but it is still relevant because it demonstrates the attitudes that affect street sex workers’ access to justice and their right to a safer working environment. The use of legal narratives may assist in telling the stories of street sex workers who have been the victims of sexual assault and may change perceptions in our legal and justice systems and in the political
domain. If we creatively engage with the stories of street sex workers, it may be possible to increase empathy towards them and, through the exploration of policy initiatives, achieve a safer working environment.

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Shooting the Messenger?  
The Role of Mobile Phone Use in Work–Family Balance  

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Recent commentary has suggested that communication technologies such as mobile phones and e-mail have had the effect of extending the working day. This is likely to have a negative impact on work–family balance. However, other commentary has suggested that by weakening the boundaries between work and other domains, communication technologies enable a better, more authentic navigation of work and non-work life. This article focuses on the mobile phone, which could be viewed as facilitating a reduction in structure and predictability. The study explored the mobile phone use of six employed mothers in Melbourne. It was concerned with how their mobile phone use fitted into their daily routines and the implications for their time management and work–family balance.

INTRODUCTION

The boundaries between paid work and other areas of life have recently attracted attention. Contemporary technologies have enabled greater flexibility in the execution of work and other responsibilities. Some authors argue that new technologies such as the mobile phone are changing the boundaries between paid work and home life. The nature of this change and its implications for work–life balance are points on which authors differ. For many Australian employees, mobile phone use plays a significant role in both work and family life.

In 2001, Pocock, van Wanrooy, Strazzari and Bridge pointed out that work-related mobile phone and e-mail use can represent an insidious form of unrecognised overtime. As part of research into extended working hours, these authors discovered workers speaking on their mobile phones for long periods, in their cars and at home, effectively extending their working time. However, other authors view the breaking down of traditional locational boundaries as beneficial for work–family balance. This is because it increases the potential for flexibility in the times and locations of work and family activity. For example, Sheinheit (2005) explains that by expanding the range of ways to engage with work, communication technologies can increase individuals’ control over their work–family balance.
Mobile phone use seems to have enabled a new way of navigating work and family life. Plans can be more flexible, as changes can be made at short notice. A greater number of interruptions in work and family tasks are also likely. Additionally, work from one domain (e.g. work or home) can increasingly be executed in the other domain.

The concepts of work–family balance and the boundaries between work and home are particularly relevant to women workers. It can be argued that women remain at the coalface of work–family balance, with many being the primary caregivers for their children. Everyday work–family dilemmas, including management of role boundaries, may be experienced by women in a relatively sharper way. As a result, they are likely to have ready insights that could inform discussion of this topic for all stakeholders.

**BACKGROUND**

Much of the contemporary literature reviewed uses the term ‘work–life balance’, presumably in acknowledgement of the individual’s right to pursue activities outside the work and family domains. This article focuses on the area of work–family balance; it is concerned with women’s ability to manage work and caring roles. Work–family balance represents a major part of work–life balance, so insights related to work–life balance presumably apply to work–family balance.

The notion of work subtly impinging on non-work time through technologies such as mobile phones and email was a catalyst for this study. Pocock et al. (2001) drew attention to mobile phone and e-mail use as a form of unrecognised overtime occurring from the home or car. Recently, UK research discussed in *Computing Canada* (2005) found that almost two-thirds of employees check their e-mail outside the office, including on holidays. In its 1999 review of Australian workplace issues, the Australian Centre for Industrial Relations Research and Training (ACIRRT) noted the effect of communications technology in blurring the boundaries between the workplace and the home.

Other authors have argued that the overlapping of work across temporal and geographical boundaries can be positive for work–life balance. In a brief commentary Federico (1997) discussed organisations providing innovative, family-related personal benefits to employees at work, such things as concierges and a space for children when they cannot attend school or child care. He also discussed unique, individual work schedules that could include work from home. Su (2003) suggests that the compartmentalising of work and other areas of life is a cultural attitude emerging from industrialisation. To view work as inherently disagreeable and separate from the rest of life, he contends, is outdated and does not fully acknowledge the value of work in life. Su suggests that individuals should navigate their ‘work-life’ in a more imaginative and less dichotomous way.

Sheinheit (2005) follows this line of reasoning, praising the scope that communication technologies create for individuals to deal with work issues from a range of locations. Certainly, given the complexity of parental life, it is likely that mothers value opportunities for flexibility during the times and in the locations at which they perform their work roles. Given this, a rigid view of work as confined to certain times and places is unlikely to advance women’s potential to achieve work–family balance.
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The competing perspectives on the relationship between work and non-work life highlight the complexity of the contemporary navigation of work and family time. Scholarly research by Olson-Buchanan and Boswell (2006) examined individual boundary strategies, which the authors termed ‘integration’ and ‘segmentation’. These authors were primarily concerned with the potential for activity from one domain to enter or be dealt with in the other domain. Integration refers to high permeability of boundaries: a high level of overlap between the workplace and the home. Examples include agreeing to take work calls at home, or voluntarily performing work at home. Segmentation, by contrast, refers to the maintenance of rigid boundaries and a low level of permeability between domains.

Olson-Buchanan and Boswell found support for a hypothesis that people who integrate work and non-work domains are more likely to experience stress in maintaining their different life roles. They related this to a reduction in certainty and role clarity when individuals attended to two domains simultaneously. For Olson-Buchanan and Boswell (p. 436) this included

increased confusion about what role to enact at a given time, and
little opportunity to fully disengage from another role to immerse oneself in a current role.

The former point in particular is likely to arise as an issue when activities are not routinised. While integration between domains may provide exciting opportunities for re-negotiation of our time, scholarly research is cautious and even pessimistic about its current effects.

Communication technologies have also led to increased accessibility and responsiveness, interruptions and flexibility in day-to-day planning. These further interests, particularly related to media and technology, which are driving the research, are not often dealt with in popular discourse, though they have been visited in sociological research. Geser (2004) notes some key features of the mobile phone which differentiate it from past modes of communication. It serves to eliminate the need to be in a specific space in order to communicate. It also increases the ability to target communications to a specific person rather than a household or fixed location.

Geser identifies a wide range of implications of mobile phone use for individuals and social systems. He notes that for both, mobile phone use enables greater spontaneity and reduces the need for planning. He also points out that while the mobile phone may increase employees’ accessibility to employers, it also increases their ability to deal with non-work matters in the course of their work.

By their instantaneous nature, communication technologies seem to have increased the number of interruptions in employees’ daily work routines. The reduced need for planning also raises questions about how employees are managing their time and creating routines. UK research discussed in Computing Canada (2005) found that almost half of all employees responded to e-mails within an hour, and one in five used communications devices during meetings. In addition to creating a challenge for workplace etiquette, these trends suggest that employees are managing their work in a
more ad-hoc way. This could be related to the reduced necessity for planning observed by Geser (2004).

Traditional time-management literature urges the individual to focus on only one task at a time, and to minimise unplanned incursions on their time (for example, see Collis & LeBoufe 1995). From this perspective, communication technologies appear to precipitate an increasingly fragmented and underplanned work day. The research discussed in Computing Canada (2005) involved a simulation of a work environment with constant interruptions. Although the participants were instructed not to act on the interruptions, they had the effect of reducing participants’ effective IQ levels. This result has parallels with the Olson-Buchanan and Boswell (2006) study, which concluded that a lack of clarity about time being spent could lead to reduced enjoyment and role conflict.

In contrast to these pessimistic views, Medved (2004) invites us to redefine the concept of work–family balance through an examination of parents’ daily routines and activities. These activities, rather than representing trivia or diversions, play a vital role in parents’ negotiation of work and family responsibilities. They include phone calls between family members, others’ requests (e.g. supervisors, child carers) and flexible actions such as planning to meet a family member after work on the same day. Medved explains that rather than affecting some abstract notion of work–family balance, these actions create and constitute work–family balance. In a context of unprecedented connectivity and increased pace of activity, Medved’s article portrays parents daily negotiating their work and non-work lives. They do this in ways that are flexible, responsive and rational.

In general, research into mobile phone use points out the mobile’s capacity to increase people’s contact with their families or home communities when they are away from them (Pertierra 2005). Pertierra’s research was based in the Philippines and centred on text messaging rather than phone calls. Yet recognition of the mobile’s potential to reduce spatial barriers has important implications for women employees generally. Pertierra suggests that increased ability to communicate from remote locations serves more than instrumental purposes; it plays a role in relationships themselves, and mobile phone use becomes part of relationships. It also plays an emotional role, helping people to feel connected to communities with which they would not otherwise be able to connect.

Research has also been conducted into women’s use of fixed-line telephones (see Moyal 1989). But the mobile phone has a number of features that distinguish it from the fixed-line phone. These mean it can be used in different ways and for different purposes. For this reason, the literature on fixed-line telephone use was not explored in this study.

The foregoing discussion highlights the impacts of communication technologies across the board, yet it is worth considering how specific groups are affected. Gender has been touched upon in relation to mobile phone use in the work of Wei and Lo (2006) and Geser (2004). In a study of Taiwanese college students, Wei and Lo looked at the social relational aspects of mobile phone use. These included the mobile phone user being accessible to, and able to access others at a distance and using the mobile to show affection or regard for close relations. They found that women were relatively more likely to use their mobiles for such relationship purposes. Men were relatively more
likely to use them for instrumental purposes, such as seeking information. Geser (2004) suggests that women’s uptake of mobile phone technology has exceeded expectations, and this is related to its wide range of potential uses for them.

Women with school-aged children are a group to whom work–family balance is particularly relevant. It is also relevant to fathers as they come to play more of a role in family life in the move away from traditional gender expectations. However, a significant difference remains in the experience of work and non-work time across the genders (Bittman & Wajcman 2000; Sirianni & Negrey 2000). With reference to family time in particular, a study by Fastenau (1997, cited in Fastenau 2006) found that men perceived family time as the opportunity to participate in leisure activities with their children, while for women it represented core unpaid work tasks essential to children’s care. This alludes to a significant and continuing difference between men’s and women’s domestic experience, which in turn translates into a fundamentally different experience of work–family balance.

While it has received significant popular attention, it should be noted that the impact of mobile phone use is not necessarily relevant to all workers. Professional and office-based workers are likely to be the most affected. Examples of the impact on engineers (Pocock et al. 2001) and supervisors in hospitality (ACIRRT 1999) demonstrate the breadth of this matter’s relevance. Some types of workers, however, are likely to face different work–family challenges; for example, those in factory or manual labour environments.

Communication technologies such as mobile phones and e-mail have changed work for many employees, to the extent that their impact on work–family balance is being increasingly questioned. Researchers have examined mobile phone use in relation to lifestyles and social relationships, yet there does not seem to be a significant body of research with a workplace focus. The research that is the focus of this article aimed to begin to fill this gap through a small-scale, interview-based exploration of mobile phone use. The key debates emerging from the literature formed reference points for this study. These concern the increased potential for interruptions in both work and family time; overlap between the work and home domains; and fluidity and changeability in daily routines.

**METHODOLOGY**

The study was not funded or formally auspiced by any organisation. Rather, it was undertaken in the author’s time and with her own resources, over a four-month period. It is limited in scope, but as the impact of mobile phone use on work–family balance is a relatively unexplored field, a small-scale study was expected to generate preliminary insights into the question.

The population of interest was Australian women in office-based roles with school-aged children. This reflected the prediction that office-based workers are likely to be relatively more affected by the issues in question. The population also represented a group likely to have particularly salient experiences in the pursuit of work–family balance.
The study involved six participants who had similar characteristics. Given the scale of the study and its exploratory character, it was thought that a relatively homogenous participant group would be most appropriate. If the small number of participants had very different lives, it may have been difficult to establish cohesive themes relevant to the research question. The study aimed to generate tangible insights while avoiding complexities in the results that may have overwhelmed its scope.

Instead of hypotheses, a set of research objectives guided the design of the interviews. The key areas of interest underpinning the study were:

- The new ways of working that seem to be emerging from mobile phone use, particularly reduced use of planning and increased flexibility
- Integration of work and non-work lives
- The apparent increase in the number of interruptions to activities in both the work and family domains.

Given these interests, the study aimed to:

- Explore how participants use their mobile phones day to day for work purposes and family purposes
- Discover how these communications fit within participants’ broader work and family routines
- Explore the extent to which participants’ mobile phone use helps or hinders their management of work and their management of family life.

Participants were found through e-mail-based networks located in Melbourne. A single invitation to participate in the study was sent to each network. It requested participants who had a child or children under sixteen, were in the paid workforce, and used a mobile phone. A small number of networks were activated, some of which related to the same or similar organisations. All of the mothers who participated had some relationship to a university, and some of them were in similar job roles or organisations. This had the effect of generating a relatively homogenous participant group.

The interviews were expected to generate insights about how the participants used their mobile phones and how this affected their work and family routines. A list of questions was created for use in all interviews. There were three groups of questions. Firstly, participants were asked about their family and work characteristics, such as the number of children they had and their employment status. Second, they were asked about family-related mobile phone use in their day-to-day routines, both during and outside work. This discussion included the timing, purposes and frequency of family-related calls, and how they impacted on the boundaries between work and outside life. It also included consideration of how the mother might use mobile phone discussions to remotely support family members and deal with family issues. Finally, participants were asked about work-related mobile phone use, both at work and outside work. Discussion included how this use fitted into the work routine and how it related to time outside work.

In both the work and family discussions participants were asked about interruptions in one domain by calls from another and how they managed them. They were also asked about any increased ability to change plans or leave plans open in relation to home and
work activities. They were asked whether they used their mobile phones to make plans more flexible and, if so, how this affected their routines. Ideas about mobile phone use were also raised and participants were asked whether they were relevant to their experience: for example, the image of the employee constantly on-call to respond to work issues, and the proposition that interruptions arising from mobile phone use could negatively affect performance and enjoyment of tasks. Participants were also asked whether after-hours calls were part of a reciprocal relationship with their employer in which they enjoyed flexible hours or other privileges in return.

The interviews were conducted face to face. Their duration ranged from thirty to sixty minutes and were designed to be flexible. In each interview, most of the planned questions were asked. Further questions were asked and issues explored where responses suggested it was warranted. Conversely, where the participant indicated that an issue was not relevant to them, discussion about it was not pursued any further. Each interview was tape-recorded. After each interview, the tape was played back and notes were made. Participants’ responses to each question were compared and overall themes arising from the interviews were discerned.

RESULTS

The six participants differed, particularly in their family arrangements, yet they also had commonalities. Two participants had one child, three participants had two, and one had five children. Three of the mothers were in joint custody arrangements with former partners and/or other extended family members. Of these, two were caregivers to step-children. Four of the participants lived with another significant caregiver and two did not. Four had children of primary school age. Among these, two also had teenage children. The remaining two participants had teenage children only.

A number of themes emerged in the interviews. Some of them reflect existing observations in the literature, while others build upon them. Overall, participants identified a range of benefits to their work and family situations resulting from their mobile phone use. They were positive about its role in their navigation of work and family lives. Some participants spoke of having problems with excessive phone calls, particularly work-related ones, but also with family-related ones. They spoke about how they had personally managed these problems.

Participant Profiles

Amy was a mother of two sons: one eighteen, the other eleven. She worked part time in a city office and part time at a university. Her partner was generally in a better position to collect her younger son from school. Yet on days when Amy could finish work early she used her mobile to call her partner and arrange to collect her son herself. This enabled her to spend extra time with her younger son. Many of Amy’s calls were for routine reminders or questions to family members. While short in duration, they represented an opportunity to socialise briefly and maintain social contact.

Amy reported using the mobile in one-off family situations involving accidents or illness. At such times it was used for logistical and practical purposes, as well as for emotional support and reassurance. She found that the mobile played a key role in both family and business relationships. Amy used her mobile phone for family and social
purposes while at work, but did not feel that this significantly interrupted her work routine. At a previous job, she had begun to feel constantly on call via her mobile phone. She found that clients and contacts did not hesitate to call her outside work hours. She subsequently left that job and commenced in her current role, where she described phone communications as ‘more controlled’. She felt that structure in daily routines played a role in this.

Peta was a mother of two boys in secondary school. She did not live with a partner, but shared custody of her sons with her former partner. She worked in a full-time, office-based role within a large organisation. Peta did not use the mobile phone on a daily basis with her family. Her family routine was well-established and the mobile was only used for out-of-routine events and questions. Family mobile contact occurred a few times a week. In both the family and work arenas, Peta avoided changing plans unless it was absolutely necessary.

Work-related mobile phone use was very frequent for Peta. She had responsibility for a large number of employees who worked shifts and she frequently attended meetings. Most of her work-related mobile contact was during work hours, when staff contacted her for assistance in dealing with situations. Peta did not feel that this had a negative impact on her work routine. Calls outside work hours were occasional only.

Kim lived with her husband and two children of primary school age. Both partners worked full time and used the mobile phone to communicate with each other as part of their family routine. However, they did not use it to negotiate their children’s care day to day; this was planned in advance. Kim noted that she had previously planned tasks relating to the children on a same-day basis, but found it too ad-hoc. She and her partner used the mobile to address small questions, give reminders and maintain social contact. They also used it to deal with unexpected situations, such as their nanny being ill and unable to collect their children. Kim kept her mobile on a silent setting in work meetings, and when calls came through, she checked the caller ID so that if it was a family member, she could respond.

When unexpected family situations arose, Kim used the mobile to change plans while in transit, negotiating issues while walking down the street or in a lift. She found this beneficial and did not feel that having a mobile caused her to change plans unnecessarily. However, she did feel that work-related mobile phone use was interrupting and creating a strain for routines in her work team. Kim did not feel that her family-related mobile phone use had unduly affected her work routine, although she had held discussions with her children to place limits on unnecessary calls to her.

Mobile calls outside work generally were not frequent, yet there were some weekends when Kim was assigned to be on-call to colleagues. She discussed this in advance with her family. Sometimes she wished to make work calls while spending time with her family. On these occasions she would explain what she was going to do before making the call.

Olga was sole parent to a child of primary school age and worked full time in a technical support role. She found the mobile phone valuable in assisting with the care of her child and had used it to support him emotionally at a time when he had difficulties at school. She also used it to make any necessary plans for her week while on public
transport, and to deal with unexpected situations. Most aspects of her family routine were well established but she contacted the people caring for her son in order to maintain relationships with them. As Olga’s role included direct client contact, employees at her workplace were not expected to be seen making family calls. However, she was allowed to respond to calls from her son’s school.

Olga frequently took work-related phone calls outside work time. This sometimes had an impact on family and personal life when phone calls interrupted meals. However, she explained that these calls were always from staff members who genuinely needed her assistance with a technical matter. With this in mind she did not view the calls negatively or see them as a significant concern. She suggested that her family — just two people — might be better able to absorb such interruptions than some other family types. On the whole she felt that the mobile was a very useful tool in helping her to combine work and family responsibilities.

Julie worked full time in a research and writing role. She lived with her partner and his teenage daughter whose care they shared with the daughter’s mother. She enjoyed significant variety and autonomy in her work and generally worked at home one day a week. She found her mobile phone very useful for family and social contact, and also to enhance business relationships. Julie noticed different views towards the use of the mobile phone in her own family. While it enabled she and her stepdaughter to leave plans relatively open ended and to refine them at short notice, her partner disliked the uncertainty associated with this. He chose not to carry or use his mobile much.

Julie found the mobile phone very valuable for logistical purposes and for brief social contact. She frequently used text messaging to communicate with her stepdaughter and took brief calls from work acquaintances. These could occur at any time during her work day, and she was not concerned about interruptions to her work routine. Julie felt that the notion of interruptions being detrimental to productivity was ‘old fashioned’. She believed that it was important for most office-based workers to be capable of managing diversions. Her calls with work contacts related to business and social issues. She found that the calls enabled workers to debrief and express themselves about particular issues and that this added value to her business relationships. She did not use the mobile for discussions of any great length.

Eddy worked as a university lecturer and had arranged flexibility in her work times, including some work from home. She lived with her partner and five children, including step-children and an extended family member. There was one pre-schooler; the other four children were between 9 and 14. Eddy used the mobile phone very frequently for daily contact with family members and also in order to be accessible to her students. She contacted family members while travelling and in her lunch break. While the calls were not particularly long, they enabled her to ‘check in’ with family members and maintain a sense of presence and solidarity with them. Eddy described this as particularly important to her relationship with her partner; while both were busy with their jobs they could maintain frequent contact during the day.

Eddy felt that she was on-call for her job, but did not feel that this significantly impacted on her non-work time. She had explained to her children that talking on the phone at home was part of her flexible job and that this enabled her to spend relatively more time at home. Working remotely via the mobile phone meant that Eddy did not
feel guilty about leaving work early and it added flexibility to her overall daily routine. She felt that being responsive via the mobile phone ‘justified’ her use of flexible working hours and strongly agreed with the proposition that her mobile phone use was part of a reciprocal relationship with her employer in return for which she enjoyed flexibility in how, when and where she worked.

All participants expressed optimism about the mobile phone as a tool in their negotiation of work and family life. They attributed this primarily to its potential for overcoming the barriers formerly created by location-specific communications. Prior to mobile phone use, market and family work were more location-specific and, by extension, time-specific. The ability to overcome geographical constraints (to an extent) enabled greater time flexibility for the mothers in performing their market-based work. It also enabled them to perform family work and engage with their families from a wider range of locations. The participants’ gains from mobile phone use were not particularly related to the performance of specific tasks, but were linked to maintenance of relationships, in both work and family arenas.

Family-related Mobile Contact

Family-related calls were generally short, but they provided opportunities to socialise with partners and children. For Amy and Eddy, they had become a familiar part of the daily routine. Olga contacted the child care centre frequently, maintaining a relationship with its staff. Julie frequently used text messaging with her step-daughter. Calls to and from family members generally had some purpose, yet they also enabled participants to ‘check in’ with family members socially. This provided tangible emotional and relationship benefits and was cited by participants as the main aspect of the calls. While some participants’ family-related mobile use was less frequent, all valued being accessible to their children. Eddy explained the emotional benefit of brief calls to the family home when she was at work or in transit:

> They’re perfectly okay, it’s more a staying in touch, feeling like I’m part of the family even though I’m not here.

Eddy described these calls as ‘checking that everyone is okay’. In a similar vein, Olga described her calls as ‘calling to make sure’ (of planned events and commitments).

All participants described using their mobile phones to deal with unexpected situations relating to their children. Some participants were faced with unpredictable circumstances, which meant they frequently made phone calls to change plans or deal with issues as they arose. For example, Olga worked across more than one customer service site. For this reason she used her mobile on the train in the mornings to cement her son’s child care around her work and travel schedules.

The combination of practical and personal value from mobile phone contact also applied when participants experienced emergencies or family difficulties. Amy recounted an occasion when her son had had an accident at school and several mobile calls were made between her and her partner. These initially centred around logistical coordination but they ultimately facilitated emotional support and reassurance between the parents. All of the calls were relatively short, yet they constituted important social contact. One
of Eddy’s children had difficulties and became upset while in someone else’s care. Despite being overseas for work at the time, Eddy responded to her child’s phone call and provided the emotional support he needed. She reflected:

While I was thinking, ‘Why am I here?’ it was still great to be able to calm him down instantly.

Olga had used her mobile phone from a remote location on more than one occasion to assist her child when he was distressed.

Work-related Mobile Communications

All participants described some form of work-related mobile communication as part of their routines. Olga, Kim and Eddy all took mobile calls outside their standard work times to provide assistance to employees, students or colleagues. Julie and Amy also engaged in mobile communications outside work. While they discussed business, their calls were primarily to maintain relationships, rather than to perform specific tasks. Amy observed:

Mobiles for mothers are great because I could get a business call and I could be shopping at Coles.

At first glance it could be suggested that by receiving the call at the supermarket, Amy was not in a position to resolve the caller’s issue. Yet, she pointed out, this was not the central element of taking the call: by taking the call and discussing the issue she was primarily a responsive and accessible contact for business. She pointed out that this contributed to a positive and modern image for her employing organisation. Similarly, Julie explained that by talking with contacts about current affairs and social issues she was maintaining relationships which would benefit her research pursuits.

The participants valued highly the ability to be responsive for work matters. Considering this, it could be suggested that communication technologies are stimulating a shift in work ethics. This shift of focus seems to be away from traditional time-management values, such as predictability, punctuality and methodical work routines, towards flexibility, responsiveness and social engagement. For example, social skills would be required to assist work colleagues with complex problems over the phone as Olga did. Further research on this is a question would be valuable and potentially quite telling.

Three of the participants agreed with the proposition that they were constantly on-call, but they generally did not view this negatively. They explained that when they received work calls outside work time it was usually for reasons that were unavoidable as far as work was concerned. Participants were sympathetic to the work imperatives driving the caller; they felt that for them to be called outside work hours, the work matter in question must be particularly important. Significantly, four of the participants could relate to the concept of being constantly on-call; they spoke of past times when they had felt this way, or said that they knew of others who felt this way. Amy had changed positions because she had felt harassed by work-related phone calls in her previous job.
Julie recounted an experience from a previous position in her organisation. She worked full time, regular office hours, and when she received a mobile call in the evening she asked to postpone dealing with the issue until work time. The caller disagreed. Julie referred the matter to her manager, and her view that she should not have been contacted was vindicated. Participants recognised that out-of-hours calls could represent an intrusion on non-work time, and some had experienced this directly. Yet, they seemed to have dealt with it in various, individual ways. Julie and Peta knew of others who were negatively affected by work-related calls in other organisations. Julie noted that the industrial protection in her sector, and its overall culture, meant that she was in the relatively privileged position of being able to question out-of-hours phone calls.

Participants were asked whether their mobile phone use out of hours represented a reciprocal relationship with their employer in which they enjoyed flexible working hours or other benefits in return. For three participants there was no formal acknowledgement of the mobile work done, yet they felt they had the autonomy in their work to deal with family issues when necessary. For example, Kim suggested that if she needed to access work at home or make use of other flexibilities, this would be allowed in her employment relationship. For Olga, the work she did on her mobile was not reciprocated by her employer in terms of providing her with extra time or location flexibility.

Eddy routinely enjoyed flexibility in hours and suggested that her work-related mobile phone use was instrumental to this. Julie enjoyed significant time autonomy in her work, but she did not wish to characterise her work in terms of exchanges with the employer. She framed her work as a series of qualitative responsibilities rather than a series of obligations and trade-offs:

I don’t see teaching as something I do in time blocks, I see it as very core to who I am, it’s (an) identity. I’m not stopping being a teacher because it’s nine-o’clock or because it’s November.

Clearly Julie had a well-defined concept of her work role, which was not congruent with maintaining a rigid time routine.

**Implications for Work and Family Routines**

Participants generally did not believe that their mobile phone use unduly affected their work routine or that work-related mobile phone use affected their routines outside work. Some participants who dealt with work calls outside work explained how they negotiated this within their families. They spoke of giving their families notice that they would be on-call, or explaining that they needed to make an important call.
The participants’ responses to the concept of an increasingly fluid and changeable routine were intriguing. Participants did not identify reduced structure or less predictability as a negative aspect of working with communication technologies. Julie spoke of this in some detail, explaining that while she enjoyed the opportunity to defer plans and leave plans open, her partner disliked this. She said that he had a mobile phone, but:

he never takes it out of the house, he never turns it on, um, in fact he tries to avoid it as much as possible. It’s a real kind of political point with him.

It would be of some value to research this aspect of the topic further, particularly using a sample of men or non-parents. Given that none of the participants expressed concerns with reduced structure and predictability, it might be speculated that working mothers’ experiences predispose them to relatively greater flexibility and responsiveness in their daily routines. This is not to say that men and women have innately different attitudes towards structure and predictability. Rather, it is to suggest that the different work and family experiences of the genders may have led mothers to be more tolerant of change and fluidity in their daily activities.

The results of this study are consistent with the image of working parents developed by Medved (2004) who wrote of parents daily performing a range of tasks to balance work and family, many of these being communication tasks. While their days were dynamic in nature, and certainty about how time would be spent could not always be counted upon, the parents acted rationally and managed their time in intuitively logical ways. The women in this study seemed to be similar; their days involved mobile phone communications which, while not always planned or tied to a specific purpose, still generated tangible benefits. Medved’s assertion that daily communication tasks are a constituting component of work–family balance, rather than something instrumental to it, is supported by the results of this study.

**Limitations**

While the data suggest that participants were not worried about reduced certainty and structure, it was difficult to stimulate discussion on this complex point. The women were asked if they used their mobile phones to make plans ‘on the run’, and most agreed that they did. However, this was a subjective notion that could have generated different interpretations among participants. Some spoke clearly about the concept that the research aimed to address. For others the discussion did not lend itself to conclusive observations. This aspect of the topic appears not to have been sufficiently developed in the study’s planning stage.

The women’s positive responses about the role of mobile phone use in their lives may have been coloured by a subconscious privileging of the work domain. Indicating that they were not concerned about receiving work calls, participants explained this in terms of work imperatives and how they managed interruptions with their families. When addressing this question, they did not speak of how these calls fitted into their work relationships or how the work relationship justified this imposition. Their responses suggested that they did not particularly question their colleagues’ right to contact them outside work time. The exception to this was Julie, who escalated the issue by talking to
Shooting the Messenger?

her manager. As Julie pointed out, the culture of her industry had contributed to her confidence in doing this.

This privileging of the work domain was also apparent with two participants who described work-related mobile communications as ‘justifying’ their needs for flexibility and family-friendliness at work. The dialogues in this study appear to have featured taken-for-granted understandings about the role of work in life, in which work was somewhat privileged. While participants were positive about their mobile phone use, it should be noted that this took place in a context of constrained choice. The primary concern of this study was how the participants achieved work–family balance in that context.

It is unlikely that the participants represented a cross-section of Australian employees, particularly with regard to their positions and their organisations’ cultures. Five of the six participants seemed to enjoy relatively privileged work situations. Of the six, only one worked in the private sector. Four worked in connection with a university; two as academics, one as a manager, and one in technical support. The other participant worked in local government. The similarities among participants enabled clear themes to emerge, yet this also meant, by definition, that the participant group did not reflect a wide range of office-based employees. Further research could potentially compare the experiences of specific employee groups.

CONCLUSION

The overlapping or ‘blurring’ of traditional boundaries between work and home has been widely acknowledged. This overlapping justifies speculation about whether individuals and organisations are managing time efficiently and acting in a sustainable way. Certainly, some authors have pointed out that interruptions caused, and an increasingly fluid environment facilitated by communication technologies may lead to role conflict and negatively affect work performance. Yet other authors have suggested that the breaking down of traditional work/non-work boundaries is a positive development.

The six interviews with mothers suggested that their mobile phone use enhanced their experience of work and other areas of life. It seems to have increased the number of ways for them to participate in both market-based and relational work. The mothers used their mobile phones comfortably to effectively cross temporal and geographical boundaries. There was no significant indication that the new ways of working facilitated by mobile phones were leading to increased role conflict or difficulties managing time. The participants valued their ability to be more responsive and accessible in both the work and home domains.

The interviews also raised additional issues. One was the apparent privileging of the work domain by participants. They seemed reluctant to question in depth the need to be called by work and to deal with issues in non-work time. Yet some seemed inclined to question their own use of time flexibilities, suggesting that their remote work effectively ‘justified’ this. The flexibility of the women’s routines and the value they placed on responsiveness suggest that a shift in time-management values may be underway. Previously, emphasis was placed on punctuality, presence in the workspace, and a
methodical work routine as the hallmarks of a productive employee. Now, different skills seem to be valued. These include the ability to respond instantly or quickly to issues, and to fully engage with others in spite of geographical dispersion. This is another potential topic for further research.

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Women who Work for Women to Work: Care Work and the Cost of Giving

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This article examines the experiences of women who work in child care centres as care-givers. In recent years, the wages and conditions of care-givers in child care centres has fallen behind those of comparable professionals (Short 2002; ASU 2003). This has caused a shortage of qualified workers, as many leave the industry to seek better opportunities elsewhere (CSMAC 2006). Unions argue that the work of care-givers has been undervalued historically. It is a workforce that is predominantly female and the work is seen as ‘mother’s’ work. This discourse of care has a double sting. The first is that mothering is granted neither respect nor status in the world of paid work. The second is that many believe child care belongs in the private arena of the home and family. The issue of caregiving is discussed in the context of a new industrial relations landscape and an industry — once a cottage industry within the community sector — that is rapidly becoming corporatised and globalised. Two discussion papers produced by the Australia Institute, ‘Child Care Quality in Australia’ (Rush 2006) and ‘ABC Learning Centres: A case study of Australia’s largest child care corporation’ (Rush & Downey 2006) provide information about care-givers’ views of their work. I argue that care work occupies a special position in social policy. Carework is complex: while it is usually thought of as operating at the interpersonal level, it also plays out at a macro level, supplying an important workforce support and a significant workforce in its own right. The costs of and access to child care are robustly debated during election time. What about the increasingly vulnerable workers (Baird, Cooper & Oliver 2007; Masterman-Smith, May & Pocock 2006)?

INTRODUCTION

Over the past 25 years Australia has developed a comprehensive child care industry as a workforce support. In the 1990s Australian child care underwent enormous change, including privatisation and corporatisation, a redirection of funding through the Child Care Benefit, and the introduction of quality improvement strategies implemented for the federal government by the National Childcare Accreditation Council (Taylor 2005). The new century has seen the corporate sector become a major provider of childcare (Rush & Downie 2006), with one corporation owning over 20% of centres (ABC
Learning Centres 2006). It has been argued that none of these changes have benefited the sector and that there is an identified need to refocus discussion on high-quality, economically and culturally accessible early childhood services that allow for differing needs of children, families (Heckman 2006) and child care workers (Moss 2002). However, while government policy emphasises competition, market forces and demand-side funding, services cannot provide high-quality care for children or adequate working conditions for staff (OECD 2001; OECD 2006). Using data from two major child care studies (Rush 2006; Rush & Downey 2006), I will provide a brief summary of child care in Australia and a profile of those who work in the industry. Many are exploitable and vulnerable. This industry has a predominantly female workforce (Peetz 2007a, 2007b). With many of its workers employed on a part-time or casual basis and the majority unqualified, there are few pathways for career advancement. If, as the economists argue, we are to invest in our children (Heckman 2006), we need to provide high-quality experiences in the early years. Educationalists argue that learning is social and is made possible through relationships (e.g. Baxter 2001). It can be argued that the work conditions and social status of care workers may be threatening the individual well-being of children and the workforce of the future. It is not surprising that as overworked, underpaid workers with overly intensive workloads, because of regulated child–staff ratios, child care workers may find it difficult to establish positive relationships with children and families (DHS Children’s Services Regulations 1998; CSMAC 2006). Ratios are highlighted because they are listed in the quality literature as one of the most important criteria for high-quality education and care (e.g. Doherty-Derkowski 1995; Burchinal et al. 2000; Phillips et al. 2000).

CHILD CARE AND CHILD CARE WORKERS IN AUSTRALIA

In Australia the federal government has pursued a policy of subsidising what were once public services. In 1991 the Labor government extended child care subsidies to the private sector. Over the years the funding model changed. By 2001 a voucher system of funding had been installed, meaning that Australia had its first corporate child care companies listed on the stock exchange. A number of concerns have been voiced related to funding changes (OECD 2006). Jokovitch (2002), for instance, criticised the government for neglecting to undertake an impact analysis, and for a lack of consultation and long-term social planning. The concerns raised to date have been restricted to care choices (Wannan 2005), pressure on regulatory and licensing bodies (Wannan 2005), rising costs (Willis 2006; AIHW 2006), shortfall in supply (Willis 2006), minimal staffing in relation to qualifications, and child–staff ratios (Wannan 2005). As well, a recent survey of child care workers has indicated that the quality of daily experiences in corporate child care centres was lower than in community and private centres (Rush 2006). Indeed, the Child Care Quality in Australia survey, also carried out by the Australia Institute, states:

Corporate chains offer the lowest quality of care on all aspects of quality surveyed, and in some cases it is markedly lower than that provided by community-based long day care centres. (Rush 2006)

One corporation now owns over 20% of Australian child care centres, receiving 45% of its annual turnover in 2005 of $128 million (Hills 2006) from the public purse. This has implications for employment relations and requires attention from policy and regulatory
bodies, as well as from trade unions. Following the national child care quality report (Rush 2006), which supported anecdotal reports appearing in newspapers (e.g. Dowling 2005; Hills 2006) that the quality of child care in centres run by corporate chains was not as high as in the community sector, a second study, conducted through interviews, targeted staff in the main corporate chain. These interviews, also carried out by the Australia Institute (Rush and Downey 2006), indicated concern among workers who believed that work conditions had adverse impacts on their ability to provide high-quality programs for children.

**Voices from Everyday Experience**

Child care staff perceived many shortcomings in their workplaces. 

On child-staff ratios:

‘I believe under 2 with these ratios is unfair.’ (ABC Learning NSW)

‘Child ratio to staff is too high, children cannot achieve the individual and quality care they need.’ (ABC Learning Qld) (Rush & Downie 2006b, p. 11).

On food:

‘Parents always say their children are starving when they get home and, being a professional, you can’t say “that’s because the food is crap”. You have to say, “Oh yes, they use up so much energy” — put the positive spin on it … In comparison to other places where I’ve worked, the food is garbage (Rush & Downie 2006, p. 22).

Interviewees reported that strict budgets, $1.50 a child per day, and poor pay for cooks, $14–15 an hour, exacerbated such problems (Rush & Downey 2006b). With almost a quarter of all child care centres in Australia now owned by one corporation, there are enormous ramifications for working conditions and job satisfaction.

Job satisfaction for child care workers has been linked to the time available to work directly with children (Cornille et al. 2006). The report notes a common view among staff that ‘children received less attention as a result of staff paperwork’. For instance:

‘ABC always cover themselves … they definitely have an overload of paperwork … the time it takes on the floor is incredible.’ (Rush & Downie 2006, p. 28)

‘… the children are missing out … Some days you don’t get the time to do art and craft … it just concerns me because you are there to look after the children (when parents ask what we did for art and craft, we say we did not get time.)’ (p. 28)

**Profile of Child Care Workers in Australia**

These quotes from interviews with child care staff working in centres run by Australia’s main corporate provider add an everyday perspective to the data gained in the original quality survey, which accidentally exposed differences between providers (Rush 2006).
Women who Work for Women to Work

Such insights into care-givers’ views about their work come at a time when state and federal governments are becoming increasingly concerned about industry staffing levels and skills overall. In 2003 the federal Community Services Minister’s Advisory Council funded the National Children’s Services Workforce Project (CSMAC 2006) to collect, for the first time, reliable and consistent national child care workforce data. The motivation for this was a reported inability, across all states and territories, to recruit sufficient numbers of staff. Three surveys were conducted. In September 2004 staff and management/employers from 11,043 children’s services were surveyed, with 24,859 staff responding. An on-line survey was conducted for students. Information from the surveys was collated and made public in July 2006. There were an estimated 99,275 people working in children’s services in 2004.

Findings from the National Children’s Workforce Study

The workforce study identified direct links between staff experience and qualifications and the quality of service offered. This was an important finding for an industry that has a high staff turnover and many young and mainly unqualified workers. If quality is important and retention of qualified staff is an issue, such issues are a focus for workforce planning.

A snapshot of the early childhood workforce in Australia from this data indicates that:

- 97% of the workforce was female
- long day care and out of school hours care (OSHC) had the highest proportion of younger staff
- the most common job was unqualified contact worker, with 40% of staff employed in that role
- 38% of staff working in children’s services in 2004 did not hold any qualifications
- the most commonly held qualification was a diploma or advanced diploma (28%), followed by Certificate 111 or IV (17%)
- preschool staff were the most highly qualified staff
- 64% of staff were employed on a part-time or casual basis
- the average length of service for staff was 7.3 years, with trainees averaging 2 years
- job turnover per year was 29%
- retention strategies prioritised by respondents included higher wages (96%), pay for in-service training (87%), raising the profile and status of workers (86%), and an allowance for preparation time away from children (84%)
- in Victoria in 2004 350 vacancies were not filled.
And on workforce supply and demand:

- In 2004 new staff entering children’s services were predominantly unqualified (38%), new graduates (22%) and people who had returned to work in the previous 12 months after an unpaid absence (19%). Of the new entrants, 14% had moved from interstate and 6% were migrants.
- Overall a national shortfall of 7,320 staff by 2013 was predicted.

The pattern that emerges from these findings is indicative of the problems the states are facing in the recruitment and retention of qualified child care staff. Cameron, Mooney and Moss (2002) asked whether the situation was sustainable. In September 2006 the Australian Government added child care to its Migration Occupations in Demand list, a solution considered problematic by some. The Australian Council of Trade Unions (ACTU), for instance, argued that going offshore would worsen the situation:

First it will reduce the already limited opportunities for Australian workers looking for promotion and career advancement in childcare and second it will increase downward pressure on wages in an industry that is already struggling to attract and retain enough workers. (Burrows 2006)

CARE-GIVING, INDUSTRIAL RELATIONS AND THE GLOBALISATION OF CARE

Women working in child care are low-paid and the major employer is now a large multinational corporation with centralised systems that presumably impact negatively in an industry where job satisfaction is associated with levels of autonomy, opportunities to form relationships and a belief that service provided needs to be of a high quality. Women working in child care centres also feel vulnerable to changes in industrial relations (Rush & Downie 2006). Peetz (2007a) has noted that many female workers believe they have experienced extra discrimination since the introduction of Work Choices. As the discrimination protections are unchanged by Work Choices there may be other explanations for this such as a perception of increased employer power. The perception of the child care staff who were surveyed and interviewed in the two Australia Institute studies was that their work conditions had been adversely affected by Work Choices. In the Rush and Downie report (2006) a number of staff believed their jobs had changed under Work Choices:

As another interviewee put it, at her centre, staff had to clean everything ‘from ceiling to floor’ ... To be set up for a 6.30 am opening time staff had to be there at 6.00am, and they were not paid to clean up, set up, or go to evening staff meetings. She felt that with the introduction of the Work Choices legislation, ‘it’s probably going to get harder [for staff]’. (p. 25)

One staff member directly related lack of remuneration for setting up, cleaning and meetings to the introduction of Work Choices, saying the staff had been told ‘they were no longer permitted even to claim time-in-lieu for these necessary tasks’ (p. viii). But even before changes to the industrial relations system, it seems that corporate sector employment conditions may have afforded them few rights. One of the most vulnerable
groups in the workforce are part-time and casual workers. This is the case for many in the corporate child care sector.

It appears some staff are employed as ‘permanent part-time’ which means they can work up to 37.5 hours a week, but can also be sent home if child numbers drop. When this happens they receive less pay or have time taken out of their annual leave. Some interviewees pointed out that ABC Learning’s practice of distributing shares to staff only assists those who are employed full-time; the many staff who are employed permanent part-time or on a casual basis are not eligible to receive shares. (p. viii)

As the authors of this report point out, the workers with the least income also suffer from income insecurity as hours worked are unpredictable.

These views are supported by a qualitative study undertaken by the Women and Work Research Group at the University of Sydney (Baird et al. 2007), which recorded changes of circumstances experienced by women in low paid occupations in identified industries under Work Choices. Four of the 25 interviewees were child care workers. Other categories included clerical, retail, hospitality and manufacturing process workers. The report details the same kinds of uncertainty about work and employment rights as seen in Rush and Downey’s interviews (2006).

Child care workers reported losing their jobs — one for joining a union (p. 22), another dismissed without an explanation (p. 24). Not being paid for work done was also commented upon (p. 22). Changes to hours and rosters without warning occurred (p. 27) and such actions by employers led to feelings of insecurity. For these workers, changes in the unfair dismissal law were noted as one of the most controversial aspects of Work Choices. During the study, ten of the 25 interviewees were dismissed. Two child care workers mentioned being dismissed and a third suspected she lost her job because she was pregnant (p. 32).

The same story is told in a similar study undertaken in Victoria (Charlesworth & Macdonald 2007). This qualitative research project investigated the experiences of 30 low paid workers under Work Choices. Two were child care workers. Once again dismissal without warning was considered a major impact. One child care worker, named Helen in the report, was escorted from the premises by her employer after attempting to re-negotiate an individual contract to reflect the demands and responsibilities of her work. In a similar vein, changes without notice to work hours and rosters were also reported.

As suggested in these four studies there appears to be a view amongst employees that Work Choices has given employers carte blanche in the employment relationship. This perception may be more damaging than the reality for workers who already feel insecure.

As well as Work Choices and child care provision by multinational corporations, another international influence on child care workers has been an almost identical public policy approach across western countries. Public policy has been directed towards supporting workforce participation, and this emphasis has seen early childhood services receive little attention, in their own right, until recent years. Even then the focus has
been on the young child and the importance of investing in human capital for the future (Heckman 2006). This interest in the early years has taken a number of forms across the developed world, and internationally the demand for ECEC services are expanding (Readings in Dahlberg & Moss 2005). Moss (2001, 2002) has suggested that we need to consider why there is continuing marginalisation of children in the years before school. Would further training, professionalisation and integration with other children’s services, like schools, lead to a higher status? Moss acknowledges that the largely female workforces in other gendered occupations — like primary school teaching, nursing and social work — suffer from poor conditions, as well as recruitment and retention problems. He asks: ‘Who will do this “women’s work” in the future? And how will we understand and structure the work?’

**SUMMARY AND DISCUSSION**

This article has discussed a marginalised and disadvantaged part of the workforce. Not only do child care industry workers suffer from being members of a largely female workforce, they are also disadvantaged because they are seen as working for women and doing “women’s (mother) work”. It can be suggested that under *Work Choices* they are now worse off. There is strong evidence to suggest that employment in community-based child care centres would afford higher job satisfaction, when government has supported corporate sector child care, with just one corporation being the primary child care provider and employer of child care workers in Australia. That this is a global corporation, and the biggest child care corporation in the world, also has significant implications.

Global links present challenges. There is a worldwide demand for child care as workforce demands change. In countries like the United Kingdom and the United States the need for dual incomes has increased due to the increasing prevalence of low paid jobs — caused by re-regulation and a weakening of the pluralism which once saw countervailing forces, like unions, having more influence. Seeking overseas workers to fill child care positions means maintaining child care workers as an underclass within the workforce. This situation arises at a time when research interest is high in relation to the developmental impact of early childhood experiences. Many countries are attempting to establish early childhood services that will support present workforce participation, while also encouraging participation in the future, through high-quality services for children (DCP 2007). Without a major conceptual shift in relation to policy, care work and the value of child care, it is difficult to see change occurring. The present discussion about integration of services, as contained in the Victorian report *Joining the Dots* (PCAC, 2004), the South Australian report *The Virtual Village: raising a child in the new millennium* (2005) and the latest *National Reform Agenda: Victoria’s plan to improve outcomes in early childhood* (DPC 2007), may help to reconceptualise care and education work in ways that fully value the institution of childhood in a restructured industry. Many Nordic countries have gone down this path (Johansson & Cameron 2002), but in Australia there will be demarcation challenges between state and federal governments about power and responsibility, as well as struggles between education and welfare ministries and agencies about which sector can best look after the interests of the child and therefore the workers in the industry.
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In this age of economic globalisation, with its privileging of the market and the weakening of the capacity and will of the state to intervene to fulfil its social obligations towards its people, it has become more difficult for marginalised groups, including women, to have their human rights advanced and protected. The greater participation of women in the labour force masks the reality of the nature of the tasks performed by women, their pay and conditions, and the social context in which they work. Women workers’ rights have also suffered as a result of the nature and development of international law, with its base in liberal political theory and its emphasis on the individual and formal equality, together with the relative neglect of economic, social and cultural rights over this period.

The 1979 Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), sought to remedy this. As the first comprehensive treaty for women it argued for substantive equality and provided a broad definition of discrimination, while also developing and refining rights enunciated in earlier international human rights instruments. For working women, CEDAW remains the most important international instrument with respect to their right to work and rights at work, but suffers from its liberal legacy, presenting something of a mixed convention in terms of its effectiveness to implement and enforce the rights of women.

CEDAW and the other international human rights instruments provide comprehensive and effective guides but are reliant on their States Parties to regulate the market to eliminate impediments to women’s advancement in both public and private workplaces. For progress beyond the current slow and uneven recognition and furtherance of these rights, the international community must improve international human rights enforcement regimes and start to use them in such a way as to encourage a more rights-based approach to domestic policy making. Used in this way, they may help policy makers to see working women’s rights through a gender-sensitive prism. CEDAW’s framework provides a good foundation and this task will be aided by the increasing domestic pressure on governments, at least in the developed world, to ameliorate the work–life balance of the family.
INTRODUCTION

The nature of the global political economy has changed dramatically over the past thirty years. The increasingly dominant economic influence is that of globalisation, which is underpinned by a neo-liberal consensus around free trade, global production and unfettered capital flows. While economic globalisation has, by its nature and operation, largely acted to reduce the capacity of nation-states to act contrary to externally determined economic imperatives, there remains some scope for them to act independently of global forces. The extent to which nation-states can effectively determine their economic destiny is constrained by global capital flows and the internationalisation of production but, as Weiss points out, national responses to the external environment vary (Weiss 1998, p. 5). Just as nation-states vary in the exercise of their state capacity to pursue domestic economic adjustment strategies, so their responsiveness to meeting their socio-economic obligations to their people varies.

Against these dominant changes in the global political economy, in the post-war period increasing attention has been given to the provision of human rights standards, not just in relation to negative rights (such as the right to a fair trial and the right not to be tortured), but in relation to the human rights of workers and members of society. While this has been initiated by western liberal states, increasingly such rights are being developed to be of relevance non-western and developing countries. Under international law, nation-states have remained the agents for the implementation of universal human rights as provided within the UN system. Indeed, it can be argued that states remain ‘front and centre’ of an effective system, with the success of the United Nations’ human rights regime depending upon some relationship between rights, democracy and national law (Evans 1999, p. 42).

The pressure of global economic forces on states to neglect their social obligations, thereby weakening adherence to international human rights obligations, presents a challenge for the maintenance and promotion of states’ responsibilities to their more marginal and vulnerable citizens, including women. This is especially so with respect to workplace-related rights. For an example of this one need look no further than the Export Processing Zones to see how obligations under international human rights instruments for the protection of women are flouted, as companies and states together seek out low wage workers for the production of export goods (Gills 2002, pp.4–5).

In this article I will argue that the maintenance and promotion of women’s rights as workers faces hurdles not merely because of the pressures put on nation-states by economic globalisation and the adoption of neo-liberal ideas. Importantly, I will also discuss how obstacles to furthering women’s rights in international law have been created, especially with reference to how it has been translated into the mixed enforcement regimes attached to international human rights instruments.

WOMEN’S RIGHTS AND INTERNATIONAL LAW

Civil and political rights have been given primacy by western international lawyers and philosophers as they have sought to protect men in their public life. This has effectively constituted men’s relationship with government (Charlesworth & Chinkin 1993, p. 69). This is not to say that the rights that have traditionally been given primacy in
international law and by the community of states are not important to women. The International Covenant on Civil and Political Rights, for example, has adopted a broader position than formal equality on the basis of such rights in relation to women (Hunt 1996, pp. 94–6). What is apparent, though, is that the economic, social and cultural rights that offer the greatest hope for women are considered by nation-states to be difficult to enforce.

International treaties dealing with economic, social and cultural rights are relatively undeveloped in terms of their justiciability (being matters capable of being settled by law or by the action of a court). Whether this is caused by the wording of the provisions of these treaties or their relatively weak international monitoring mechanisms (Scheinin 2001, pp. 30–1), it arguably makes the international system of enforceability a gendered one, with the rights most important to women placed at the lower end of the ‘pecking order’.

The nature and development of international law, highly influenced as it has been by liberal political theory, presents problems for the recognition of women’s rights. One problem has been the distinction it draws between the public and private spheres. The separate spheres approach, as Binion has called it, has effectively removed consideration of much of what women do in the home from public scrutiny and the reach of the political institutions that make policy (Binion 1995, p. 515). Increasingly we have seen a number of countries, such as South Africa and India, showing that economic, social and cultural rights (ESCR) are equally justiciable as civil and political ones. In the case of South Africa, the Constitution enshrines the right to education and children’s rights to basic nutrition, basic health and social services. In India, the Supreme Court has taken a leading role through the application of non-justiciable directive principles (Hunt 1996, pp. 28–31). As well, just as international organisations like Amnesty International have started to move towards considering ESCR as a separate category of rights to campaign around, so many governments have come to see family relations increasingly as the subject of legal regulation. As Charlesworth, Chinkin and Wright correctly point out, it is a myth that state power is not exercised in the ‘private’ realm allocated to women. Rather, the separation of public and private spheres of activity is an ideological construct that rationalises the exclusion of women from sources of power (Charlesworth, Chinkin & Wright 1991, p. 629).

Economic, social and cultural rights — seen by many as secondary to civil and political rights and thus relatively neglected — are especially important for women as a group (although these rights are, of course, framed as individual rather than collective rights in the ICESCR), as women are more often than not the providers and carers, and consequently disproportionately affected by poverty and social and cultural marginalisation. The lack of attention to economic, social and cultural rights has in turn also meant a neglect of areas important for aiding women’s advancement (Byrnes 1992, p. 223). Concern as to how the economic, social and cultural guarantees found in various international human rights instruments would apply to women prompted a group of human rights experts to develop what has become known as the Montreal Principles on Women’s Economic, Social and Cultural Rights. Agreed in December 2002, they aim to be a guide to understanding the obstacles to women’s enjoyment of such rights and to bring together all the rights found in other instruments (notably ICESCR and CEDAW). Women’s poverty is seen as a direct result of women’s lesser social, economic and political power, and this poverty serves to reinforce their
subordination and constrains their enjoyment of every other right (Aurora et al. 2004, p. 761).

For working women, as will be discussed below, the most important of these principles is the one that states that women should be able to freely choose work and to experience just and favourable conditions of work, including fair wages, equal remuneration and protection from sexual harassment and sex discrimination at work. This neglect at the international level (by both governments and non-governmental organisations) of women’s rights as workers, relative to workers’ rights more generally, is a reflection of the lack of attention by state-based decision makers (mostly men) to legislate change to support and reinforce these rights. Some argue that the structures of law making and the content of the rules as so far instituted privilege men and continue to marginalise women’s interests (Charlesworth et al. 1991, p. 615). Indeed, questions remain over the capacity of the international legal system and its concomitant rules to deliver on the promise it holds out.

THE RIGHTS OF WOMEN AS WORKERS

Any discussion of work-related human rights of women cannot ignore developments regarding global labour trends. As Drzewicki (2001, p. 240) reminds us, these developments have substantially determined the content and viability of these rights. Developments include the globalisation of production and employment, technological change, the increased mobility of labour, the growth of the informal sector and structural adjustment policies. In tandem, labour markets have changed, with two significant developments for women’s work-related human rights: the growth of flexible employment practices and the feminisation of labour, both related to the growing number of women entering the workplace in low level jobs. This increased participation of women in the workforce is a result of a range of factors, particularly women taking over many of the jobs traditionally reserved for men and the process of economic restructuring, which has meant an increase in part-time and insecure employment (McDonald 1999, pp. 56–7).

There is no dispute that increased economic globalisation has produced many more employment opportunities for women in the developed world, and even more in the developing world. What is in dispute is the nature of this employment and its impact on the rights and welfare of working women. The feminisation of labour has, in some respects, been a welcome development for women, as many have attained a level of independence from men they had not previously enjoyed, and have thus, at least partially, allowing them to escape the problematic (and often abusive) home environment. However, while increased participation is positive, attention needs to be given to the social context, which reveals that women, particularly in the developing world, may not enter into employment freely as they seek to escape poverty. They may be indeed be trading one form of exploitation for another (McDonald 1999, pp. 56–7; and citing Elson & Pearson 1981, pp. 87–107).

While there have undoubtedly been increased opportunities for women to participate in the paid workforce and for particular women, and categories of women, to advance themselves significantly, these new opportunities have not necessarily translated into advancing women’s human rights. In fact, in many instances the reverse would seem to
be the case. Today, as Human Rights Watch recently reported, human rights are denied women in the labour force across the globe with no effective redress: ‘[G]overnments turn a blind eye to illegal practices and enact and enforce discriminatory laws’ (Human Rights Watch 2007).

Whether women are employed in the home or paid workforce, there has been increased monitoring of the terms and conditions of their employment. At international law there is probably no greater recognition of the need to regulate employment in the home (predominantly done by women) than that found in the International Labour Organisation’s (ILO) 1996 Home Work Convention (No. 177). This followed the 1975 Declaration on Equality of Opportunity and Treatment of Women Workers. However, despite these instruments being in force for some time, the ILO recently reported, in its Global Employment Trends for Women 2007, that while more women than ever before are in paid work, there is a ‘persistent gap in status, job security, wages and education between women and men in contributing to the “feminization of labour”’ (ILO 2007a). Calling for employment to be placed at the centre of social and economic policy, the ILO appealed to policy makers ‘to recognize that the challenges faced by women in the world of work require intervention tailored to specific needs’ (ILO 2007a, p. 2).

THE RIGHTS OF WOMEN AS WORKERS, AND INTERNATIONAL HUMAN RIGHTS INSTRUMENTS

What role, then, might international human rights instruments play in overcoming impediments to women’s full realisation of their rights as workers? The first issue to deal with when considering such instruments is their philosophical basis. One difficulty is that, as a product of the post-war settlement of the late 1940s, they reify traditional liberal legal theory and serve to reinstate the marginalisation of women within international human rights law (Zoelle 2000, p. 33). The work-related rights found in the ICESCR, along with other rights of importance to women (such as to food, housing and education), require positive action by the state and are in conflict with the free market, liberal democratic ideals that have traditionally seen such rights more as private concerns.

Of work-related rights, there are at least seven fundamental ones of relevance to women. These are principally to be found in the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), ICESCR, the Convention on the Elimination of Racial Discrimination (ICERD) and, most importantly, the Convention on the Elimination of all Forms of Discrimination against Women. First and foremost among these rights is women’s right to work and to freely choose a job (UDHR Article 23:1; ICESCR Article 6; CEDAW Article 11a; and ICERD Article 5e [i]). Another right is that of working in fair and safe conditions and being paid enough for an adequate standard of living, supplemented by social protections, if necessary. Women are to have the right to the same working conditions as men, especially equal pay for equal work or work of equal value. (UDHR Article 23 [2,3]; ICESCR Article 7a,b; CEDAW Articles 11,14 [2e]; ICERD Article 5e [ii]). Further rights include the right to form or join trade unions (UDHR Article 23 [4]; ICCPR Article 22; ICESCR Article 8; ICERD Article 5e [iii]); the right to rest and leisure and not to have to work unreasonable hours, as well as the right to have holidays with pay (UDHR Article 24; ICESCR Article 7d); the right not to be dismissed from
employment because of pregnancy, while on maternity leave or because of marital status (CEDAW Article 11 [2a]); the right to maternity leave with pay or to adequate social security benefits without loss of former employment, seniority or social allowances (ICESCR Article 10 [2] and CEDAW Article 11 [2b]); and the entitlement to special protection at work when pregnant (CEDAW Article 11 [2d]).

CEDAW, as the major international instrument dealing specifically with women, is constructed on the two related principles of non-discrimination and equality. Equality is not defined by the Convention but there is a guide to its meaning in both the Preamble and the Articles: the Convention refers to the principle of equality in, for instance, both Article 1 on Discrimination and Article 2 on Policy Measures. The Convention provides the basis for realising equality between men and women through ensuring women’s equal access to and equal opportunities in political and public life. There is no doubt that the Convention’s provisions go beyond formal equality and that they encompass substantive equality (Hunt 1996, p. 91). The Convention does, however, provide a definition of discrimination which ‘shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women…’(Article 1). The coverage is extended to include indirect discrimination through the words ‘effects or purpose’, which effectively acknowledges that formal equality is inadequate.

In the area of employment, the Convention’s broad approach to both equality and discrimination are important in upholding women’s right to work, as well as their rights at work. As to the concept of equality, it seeks to strike a balance between equality of opportunity, based on fair process, and equality of opportunity, defined by relatively equitable outcomes that require differential treatment. Substantive equality is designed to address structural impediments to women gaining equal access to human rights. In general terms, CEDAW involves demands both for women’s rights as human rights and for women’s rights as particular rights (DeLaet 2006, p. 123). Article 11 of the Convention stipulates that states have a responsibility to ‘take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on the basis of equality of men and women, the same rights’, in particular:

The right to work as an inalienable right of all human beings;
The right to same employment opportunities, including the application of the same criteria for selection in matters of employment;

There is potential for an element of tension between the two conceptions of equality in the area of the right to work: one recommending differential treatment, the other saying that having men and women play by the same rules is the most appropriate method of achieving equality of opportunity. Some guidance for resolving this is provided by the Convention’s own Article 5, which requires State Parties to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices, and customary and all other practices based on the inferiority/superiority of either of the sexes (DeLaet 2006, p. 124).

CEDAW, as it seeks to reaffirm that all of the rights specified in the International Bill of Rights (the UDHR, ICCPR and ICESCR) apply equally to women, adopts a more comprehensive approach towards human rights law in that it sees the need to go beyond legal instruments (Ali 2002, p. 62). Indeed, the Convention is written in such a way as
to be capable of recognising and addressing underlying structural impediments to women’s enjoyment of their human rights. The Convention seeks to move beyond national, religious and customary laws and assist women in becoming part of the social, economic and political modernising processes across the globe. This is important in situations where less than obvious obstacles arise that deny women the full benefit of their rights. As a socio-legal tool, it is also helpful because it complements other relevant international human rights instruments (UDHR, ICCPR and ICESCR) that also include sex as a prohibited ground for discrimination in employment.

As well as its broader concept of equality, its brief in covering both indirect and direct discrimination, and the principle that intention is irrelevant, CEDAW has a number of merits. Importantly, CEDAW is unlike other UN covenants in that it covers both civil and political rights and economic and social rights, and recognises that for women the guarantee of the former category of rights is meaningless without attention to the economic, social and cultural contexts in which they are claimed (Chinkin 1999, p. 105). CEDAW has also led attempts to remove the public/private divide that has effectively served to undermine guarantees of women’s rights (Article 1). Liberal political theory has traditionally held that the public domain is properly that of men in paid employment while the private sphere — of family and home — is the proper domain of women (Ali 2002, p. 6). With greater political and economic significance attached to the public domain, this dichotomy effectively acts to marginalise women, given the roles they perform in society and the extensive work they do in the private sphere. The ILO in both its 1981 Workers with Families Convention (No. 156), and the 1996 Home Work Convention (No. 177) recognised that in the area of work, the private/public divide was an artifice which worked to undermine the labour rights of women. In Australia, for instance, the Commonwealth Sex Discrimination Act 1984 does not provide any legislative protection against discrimination where someone is employed purely in a domestic capacity.

CEDAW, with its rights-based, universalist and non-discriminatory framework has provided a departure from the previously protective international approaches have effectively denied women certain employment. It has created a foundation for recent domestic anti-discriminatory legislation. However, the Convention is not without its problems. First and foremost amongst these problems is that it gives States Parties primacy and then provides them with considerable discretion with regard to implementation. As Chinkin points out, they are required to take ‘“all appropriate measures” to eliminate discrimination’ (Chinkin 1999, p. 104). While this may seem quite stringent, individual nation-state decide what is ‘appropriate’. A related problem is that where specific rights are affirmed, they are protective and relate to a special situation such as where women are child-bearers (ILO 2007b).

Like other international human rights instruments, CEDAW has little power to demand compliance from States Parties. Whether or not it is regarded as a convention with teeth, it certainly contains inherent weaknesses (Bunch 1990, p. 496). It is still treated by many governments as dealing with women’s rights and not human rights, and this is interpreted as giving such rights a lower status. This is not helped by the United States not ratifying either this convention or the ICESCR. The Convention’s existence as a specialist human rights instrument arguably has the potential to allow other ‘mainstream’ human rights bodies to ignore or minimise women’s perspectives and to argue that they are being dealt with elsewhere (Charlesworth et al. 1991, p. 632). It has
been argued that discrimination on the basis of sex is not treated with the same consistency as genocide, slavery or racial discrimination and that the regime of non-derogable rights, *jus cogens* is, in practice, gendered and male-biased. Even where these anti-discrimination rights are non-derogable, as under the ICCP, the ICESCR and CEDAW, there is a gulf between the standards and their enforcement (Ali 2002, p. 71).

In an extensive examination of various avenues for enforcing women’s human rights, Byrnes has referred to the fact that the ‘legal efficacy of invoking international standards will vary from country to country’, as will the benefits or otherwise of appealing to an international forum or of seeking to apply international standards. He has argued for a manual that presents a gender-specific approach to how international procedures might be used to advance women’s rights (Byrnes 1994, pp. 220–1). A practical compliance problem that CEDAW procedures share with other international human rights instruments is that procedures for enforcing these instruments are generally slow, partly due to the need to exhaust national remedies before recourse is made to international remedies (Peach 2005, p. 85). This problem is in addition to its weak enforceability regime, which undermines the treaty’s effectiveness.

As well as the primacy given to States Parties, CEDAW allows for broad reservations. Article 28(1) permits ratification of the Convention by States Parties subject to reservations, providing the reservations are not ‘incompatible with the object and purpose of the present Convention’ (Article 28[2]). There is some concern that the pattern of reservations allowed effectively puts the treatment of women back in the domestic jurisdiction, distant from international scrutiny, thus removing the international human rights regime from the leadership position it would otherwise hold (Chinkin 1999, p. 106). This pattern effectively means that ‘individual states are not required to alter patriarchal practices that subordinate women’ despite their formal acknowledgement at the international level, as in the recent ILO report, of the problems of inequality faced by women (Charlesworth et al. 1991, p. 633).

CEDAW has, in the past, had difficulty dealing directly with the question of violence against women as found in the workplace, as well as in the private sphere (Bunch 1990, pp. 495–6). This is partly addressed by Article 5, which calls for the modification of social and cultural patterns, sex roles and stereotyping that are based on the idea of the inferiority or superiority of either sex. Together with the more recent UN Declaration on the Elimination of Violence Against Women (United Nations 1994), CEDAW’s value here would seem to be in the duty it places on States Parties to report, such that it helps to keep them conscious of their legal obligation to eliminate private discriminatory behaviour (Cook 1994, p. 252).

CEDAW is arguably a mixed convention — protective, corrective and non-discriminatory in varying degrees. It is the only comprehensive international instrument dealing with women’s human rights and importantly starts to deal with what Zoelle has called ‘the “private” conditions of women’s lives’ (Zoelle 2000, p. 43). While CEDAW is undoubtedly imperfect and provides something of an ‘ambiguous offering’ (Charlesworth 1991, p. 634) in terms of securing women’s rights globally, it has provided a firmer foundation for addressing women’s rights than if sole responsibility at the international level rested with the ICESCR.
WOMEN AND LABOUR RIGHTS: EQUALITY AND ANTI-DISCRIMINATION

Any discussion about women and labour rights must have at its centre a consideration of the notions of equality and non-discrimination, just as they are at the forefront of discussion about other women’s rights. The basic rationale of these principles is that the human rights, as found in the conventions, should be guaranteed to all people regardless of gender (and of course also regardless of race, colour, language and religion). The problem of the ‘male standard’ for assessing ‘equality’ is one that scholars of women’s human rights have grappled with: for example, Charlesworth et al. argue that ‘equality is not freedom to be treated without regards to sex but freedom from subordination because of sex’, holding that it is evident in documents like the ILO’s 1975 Declaration on Equality of Opportunity and Treatment for Women Workers (Charlesworth, Chinkin & Wright 1991, pp. 631–2).

The ILO is the pre-eminent international body dealing with employment and labour matters and has a number of conventions which affect women, indirectly if not directly. The most important is the 1975 Declaration on Equality of Opportunity and Treatment for Women Workers. Another, more recent ILO convention is the 1998 Declaration on Fundamental Principles and Rights at Work. It focuses on four fundamental freedoms: the freedom of association and the elimination of child labour, forced labour and discrimination. Prepared under this Declaration, a recent ILO report, Equality at Work: Tackling the challenges (ILO 2007b), found a mixed situation in terms of overcoming discrimination in the workplace. It argues that ‘[d]espite major advances in fighting discrimination at work, mounting inequalities in income and opportunities and significant and persistent forms of workplace discrimination are causing growing concern’ (ILO 2007c, p. 1).

The particular identified failings that relate specifically to women include the weak enforcement regimes of a number of countries; higher participation rates in good quality jobs in the upper levels of the public sector and private enterprise, but a persistently low percentage of the total of such positions being held by women; women’s earnings being still, on average, less than men’s; and the fact that it remains difficult for women to reconcile family duties with paid work without affecting their chances of promotion or skill enhancement. As well as women being disproportionately represented in informal employment, the study also found that while ‘the gender pay gap narrowed in some places and stagnated in others, women continue to work, on average, for lower earnings than men’ (ILO 2007b, p. 20). Importantly, the report refers to a number of studies that concurred ‘that discrimination…accounts for a not insignificant portion of the gender pay gap, although it varies considerably depending on the country and the methodology used’ (ILO 2007b, p. 23).

For women as workers, the ILO’s conventions constitute the best reference point for defining internationally recognised workers rights that apply to women. However, as Leary points out, the ILO’s instruments are ineffective in promoting and protecting worker rights (Leary 1996, pp. 40–1). The ILO must rely on the voluntary acceptance of its decisions and, like all other international bodies (other than the UN Security Council), does not have enforcement powers in the way that these are held by national legal systems.
Women at Work

The protective labour treaties of the ILO (such as the Maternity Protection Convention 2000) expose a most problematic aspect of equality between men and women with respect to human rights: accommodating difference (Chinkin 1999, p. 107). These treaties, though well meaning and of lessening importance, effectively exclude women from possibly desirable employment (such as night-work or active combat in the armed forces) and deny them the range of employment possibilities open to men. The problem is the continued use of men as determining the measure or standard for comparison. The standard of equality works best where women are ‘most like men’, such as in the area of public employment. While recent provisions, as in the revised European Social Charter of 1996 and the ILO’s Night Work Convention of 1990, have generally limited such provisions to pregnant women or women who have recently given birth and, while there is periodic review with possible repeal of protective legislation under CEDAW (Article 11[3]), these changes have not dealt with the fact that the standard of difference remains set by men.

Another facet of the debate over the notion of equality is revealed when we consider the principle of equal pay for equal work or work of equal value. It has always been recognised by the ILO under its conventions and by CEDAW and is included in the legislation of many countries. CEDAW calls for job evaluation systems to compare typical female and male work and explicitly stipulates that the evaluation of the quality of work should be based on ‘equality of treatment’ (Article 11[1] [d]). While not denying that formal equality is an important stepping stone, Hunt reminds us that in constructing standards which appear to be neutral, but which are derived from a socially privileged group (in this case, men), formal equality may actually be reinforcing inequality (Hunt 1996, p. 89). It is important that formal equality not be a cover for ignoring the need to address substantive equality.

As to atypical forms of work common among women, such as unpaid work in the informal sector, most notably the family home, CEDAW has in General Recommendations 16 and 17 raised the question of unpaid work, especially in family enterprises and the home. These are only recommendations, and CEDAW’s approach has been to encourage states to make such work visible so as to ensure women who work without remuneration receive some form of social security (Frostell & Scheinin 2001, p. 349). When we consider the disparate roles generally performed in relation to family responsibilities by women and men, and the burden that usually falls on the former, CEDAW’s approach should obviously be supported. This would be best done by securing various means to enforce States Parties’ compliance with CEDAW provisions.

Another problem in seeking to secure women’s rights in the workplace is what has been termed the ‘ghettoisation’ of women’s jobs, that is, that situation where women are concentrated in certain, usually lower paid occupations. In a cross-country comparison of the United Kingdom, the United States and Canada, McColgan referred to women’s under-representation in executive, administrative and managerial occupations in every industry. Even in the public sector, where women have greater representation, they are found predominantly in the lower echelons (McColgan 2000, p. 136). Taken together with the ‘glass ceiling’, which is too rarely broken by women gaining positions in the higher levels of public or private enterprise, this ghettoisation is a matter that the
international human rights instruments feel compelled to refer to States Parties to correct.

The corollary to the push for greater equality is the negative prohibition of discrimination, as embodied in the international human rights instruments (as well as in national legislation). The non-discrimination principle of ICESCR has been interpreted by the Committee on Economic, Social and Cultural Rights as imposing immediate state obligations rather than merely the usual approach to these rights being to allow for progressive realisation (Committee on Economic, Social and Cultural Rights (1990, pp. 83–7). The ICCPR goes further; Article 26 ‘prohibits discrimination in law or in fact in any field regulated and protected by public authorities.’ It can be argued that this gives individuals an autonomous right, meaning that the non-discrimination principle is not to be limited to the rights found in the Covenant itself, and could also be applied to rights found in the ESCR (Frostell & Scheinin 2001, p. 334). CEDAW provides an apparently wider principle of non-discrimination under Article 1, with ‘discrimination against women’ given as:

Any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

The words ‘effect or purpose’ spread the net of prohibited discriminatory conduct to include indirect discrimination, with the intention of the perpetrator deemed irrelevant. This general obligation under Article 1 is bolstered by specific obligations with respect to employment under Article 11(1). Articles 2 and 3 of CEDAW set out the obligations of the States Parties to not only prohibit discriminatory behaviour but also, importantly, to take appropriate measures to ensure the full development and advancement of women in their enjoyment of human rights. CEDAW’s Article 4 ensures that positive discrimination measures (‘temporary special measures’) aimed at trying to advance substantive equality should not be considered discriminatory.

An important refinement of CEDAW’s approach to non-discrimination is in regard to the matter of ‘multiple discrimination’, that is, where women suffer differential treatment not only on the basis of gender but on other grounds as well, most notably ethnicity. In 2000, the Human Rights Committee sought to have parties both address the ways in which instances of discrimination on other grounds affect women in particular ways and include measures taken to counter these effects (Human Rights Committee 2000). The Committee on the Elimination of Racial Discrimination (General Recommendation XXV) in the same year recognised that racial discrimination does not always affect women and men equally and sought to have states address the issues in their regular reports.

As with the notion of equality, the issue is about developing a gender-sensitive interpretation of non-discrimination that removes the need for a male standard and a supposed neutral position on gender. CEDAW has developed a ‘disadvantage’ test rather than a ‘similarity or difference’ test. As CEDAW has said, in defining gender-based violence as a form of discrimination against women, the general definition as found in Article 1 of CEDAW includes ‘violence that is directed against a woman
because she is a woman or that affects women disproportionately’ (CEDAW 1992, pp.1–6).

In exposing discrimination against women in the workplace, there is another, fundamental issue that needs attention. The removal of obvious obstacles to discriminatory policies and practices may not be sufficient to overcome underlying forms of discrimination that have placed women, at least in many countries, at a disadvantage due to the unavailability of basic education and skills necessary for the employment sought (Ali 2002, p. 73). Again, a major barrier to international human rights treaties being effective prohibitions on discrimination is their reliance on legislation by States Parties to meet internationally agreed prescriptions and to act to remove past practices that have stunted women’s social and economic development. To lessen this reliance, attention will need to be directed towards the Convention’s enforcement regime.

CONCLUSION

One of the ironic developments of the late twentieth century was the fact that the global trends that led to the broad policy liberalisation that swept the developed world and encouraged states to liberate women economically and socially, also produced national policies that deliberately focused on the individual, which had a gender-neutralising effect. The forces of economic globalisation, coupled with the push for privatisation and deregulation, have enhanced the position of the market vis-à-vis the state, and while the public sector has generally advanced the employment position of women (most notably in the developed world), it is the market, and its operational imperatives, that have largely produced the disadvantage suffered by women workers. International human rights instruments, by their design, place obligations on the state rather than directly on the market. If these instruments are to advance the rights of women workers, it is up to the state to regulate the market to remove impediments to women’s advancement found in both public and private workplaces.

The extent to which international human rights instruments are capable of helping to bring about social change will, to some extent, depend on a broadening of the scope of international law to include a more conscious acknowledgement of the position and interests of women workers. However, the critical issue will be the extent to which the international community can, through the ratification of the instruments and the development of enforcement mechanisms (at the national level through anti-discrimination legislation, if not globally), encourage a more rights-based approach in domestic policy making, facilitating women’s work rights through a gender-sensitive prism. As the ILO has recently said, employment issues should be at the centre of a state’s economic and social policies, and the challenges facing women require ‘intervention tailored to specific needs’ (ILO 2007a, p. 2). In respect of work-related rights, the rights-based approach involves state agencies not only connecting with relevant groups in civil society and empowering them to promote rights awareness and employer adherence to basic human rights standards, but also developing monitoring
and accountability processes to ensure policy is made and implemented in accordance with these women’s rights.¹

The principal human rights instrument available to women to advance their workplace rights is CEDAW, which aims for substantive equality and a broader definition of discrimination, and develops and refines those rights enunciated within the UNDHR, ICCP, ICESCR and the Conventions and Declarations of the ILO. Importantly, CEDAW addresses the private sphere of women’s work and the informal sector, including the matter of the extensive unpaid work undertaken by women. CEDAW was an achievement in itself and has continued to be updated to address perceived failings.

However, while it remains the primary instrument for addressing women’s disadvantage in the workplace, CEDAW suffers from some fundamental shortcomings that temper any optimism about what more it might achieve, especially in this period of economic globalisation. Foremost amongst CEDAW’s shortcomings are its weak implementation procedures and avenues for enforcement, revealed by its reliance on the goodwill of States Parties to legislate and regulate in accordance with agreed undertakings. That said, there are some reasons to be positive about CEDAW and its possible future impact on the position of working women. The neo-liberal consensus that has promoted the relative withdrawal of the state and the ascendancy of the lightly regulated market is becoming increasingly discredited across the globe. At the same time, civil society groups, with their focus on economic, social and cultural rights for the marginalised, including women, are becoming more assertive and are finding new avenues for getting their voices heard. National governments, at least in the developed world, are finding they must deal with issues relating to the balancing of work and family life and, whether they like it or not, enhance working women’s rights through increasing regulation of the private sphere of the family.

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¹ See Paul Hunt for a recent discussion of how ‘judicial’ and ‘policy’ approaches can complement each other to promote and protect economic, social and cultural rights: Hunt 2006, pp. 121, 152.


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