MIGRANTS, INDUSTRY POLICY
AND DECENTRALISATION: FROM THE
ACCORD TO THE WORKPLACE RELATIONS ACT

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The Prices and Incomes Accord was the centrepiece of Labor’s social and economic policy. Through its multiple phases it underpinned the Government’s reform strategy, including the decentralisation of industrial relations. While the original Accord affirmed a commitment to immigration and multiculturalism, the welfare of migrant workers was never an explicit concern in this or subsequent versions. However, the early provisions for centralised wage fixing and the social wage offered major benefits to vulnerable groups such as migrants. Later phases of the Accord, framed within the context of economic deregulation and industry restructuring, helped accelerate the loss of lower-skilled ‘migrant’ jobs, and introduced decentralised bargaining. With the election of a Coalition government in 1996, the Accord is defunct and more ‘reforms’ are foreshadowed in the Workplace Relations Act.

From the Accord to the Workplace Relations Act, the ongoing decentralisation of bargaining poses dangers for migrant workers, whose bargaining power has been eroded by long-term structural changes in the manufacturing industries.

INTRODUCTION

In 1983, when the Hawke Labor Government was elected, the Australian economy was in difficulties. Australian manufacturing industries were well into a ‘long period of decline’, which had commenced in the early 1970s (Webber et. al. 1992). There was also the persistent problem of ‘stagflation’, characterised by low economic growth, high unemployment, and high inflation. The Accord partners (the Federal Government and the ACTU) hoped to tackle these problems through the adoption of centralised tripartite interventions, which included industry planning, centralised wage fixing, wage restraint, and improvements to the social wage. As observed by Bell (1993), the Accord strategy “embraced a wider policy agenda which stretched beyond traditional distributive policies by attempting to engage key problems of industrial and economic management” (130).

However, the strategy very quickly foundered when the fragmented Australian business community declined to engage en bloc in interventionist planning.
leaving the Accord as a largely 'bipartite affair' between government and unions, although manufacturers had traditionally supported active government policy in this area (ibid: 131). While a significant degree of industry planning was attempted in the early years of the Labor Government, through the establishment of industry councils, and in particular, plans for the heavy metal, motor vehicle and textile, clothing and footwear (TCF) industries, by the mid-1980s Labor's economic rationalist agenda had come to the fore (ibid). Amidst growing concerns about the trade crisis and structural imbalances in the economy, the government began to place considerably more prominence on market forces and industry deregulation. In 1988 it announced a broad ranging program of tariff reductions, which was greeted with surprisingly little opposition (ibid: 149).

For migrant workers, the fortunes of the manufacturing industries were of vital importance. Since their arrival in large numbers after the Second World War, migrants found their greatest source of employment in relatively low paid, low skill factory jobs in the protected import-substituting industries. Indeed, some writers (Morrissey & Jakubowicz 1980; Collins 1991; Webber et al. 1992) have argued that Australia's decision to simultaneously embark on a mass immigration program and a major program of industrialisation were closely linked. Migrant labour was needed to fuel industrial growth by staffing the factories and consuming the products generated by them. Accordingly, when the manufacturing workforce began to decline from the 1970s, migrants found themselves exposed to disproportionately high levels of unemployment. In the recessions of 1974-75, 1982-83 and again in 1991-92 (all featuring widespread job loss in manufacturing), migrants suffered considerably higher rates of unemployment than the Australian-born, from which they recovered more slowly (Murphy 1994: 6).

These circumstances formed the backdrop to the shift towards decentralised bargaining arrangements under later phases of the Accord, from the two tier wages system of 1987-88, to award restructuring in the late 1980s and the introduction of enterprise bargaining in late 1991. With a stated emphasis on multiskilling, team work and career paths, the onset of productivity bargaining at enterprise level offered much to lower paid workers. However, it also threatened the interests of those migrant workers with poor English skills, who many employers considered to be less receptive to retraining, and allowed less enlightened employers to pursue crude cost-cutting strategies in a recessionary environment. Before turning to examine these developments, it is worth recalling the very different policy agenda prevailing in the early years of the Accord.

**An Interventionist Industry Policy**

In 1982 the Accord partners, the ALP and the ACTU, clearly declared in the *Statement of Accord* that an ALP government would eschew laissez faire economic policy. Not only would wages and working conditions be centrally determined,

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1 The team 'migrant' is used to denote persons who were born overseas in a country where English is not the main language spoken.
but there would be a range of supportive policies built around centralised and tripartite planning mechanisms across wide sectors of the economy. Indeed, the union commitment to wage restraint and cooperative industrial relations was predicated on a quid pro quo of an expansionary, interventionist government role in relation to industry development in particular, along with other, social wage type initiatives, in areas such as health, social security, and occupational health and safety. Development and Technological Change was one of these supporting policies, and it seems significant that a full two pages (or one eighth of the statement) was devoted to this aspect of the Accord, which immediately followed the section on Industrial Relations.

The Accord emphasised that the “paramount objective of economic policy is the attainment of full employment” and went onto criticise “the hopelessness of policies which seek to attain full employment by use of market forces alone” (ALP/ACTU 1992: 8). It promised a comprehensive range of interventionist strategies, contrasting markedly with Labor’s later fixation with the dominance of market solutions and a reduced role for government. These strategies included:

- a national planning mechanism (subsequently established as the Economic Planning and Advisory Council, or EPAC)
- industry level sectoral councils (which were created as tripartite consultative bodies), coordinated by a reformed Australian Manufacturing Council
- maintenance of tariff protection
- greater availability of government financial assistance
- development of job creation programs, and
- a comprehensive policy on training and retraining “as part of a social safety net to reduce the negative effects of change” (ibid: 10-11).

Combined with a commitment to wage restraint and centralised wage fixing, these industry measures contributed to a relatively harmonious and cooperative economic environment in the early Labor years, which saw significant growth in productivity and subsequent increases in profitability and employment.

While most of the industry policy elements were implemented soon after the 1983 election, the overall thrust was nevertheless more conservative than radical. The Government soon found itself having to appease the right wing elements of the Canberra bureaucracy, particularly Treasury, and those sections of industry, such as the Business Council, which stridently supported free market policies (Bell 1993: 135). In any case, the shift to deregulation had already begun in the first days of the Labor government, with the decisions to deregulate the financial system and accede in some measure to Treasury’s demands for a reduction of the budget deficit (Langmore undated: 5-6). These steps were the prelude to a general paradigm shift within government in the mid to late 1980s, which saw an increasingly vigorous attachment to the whole panoply of economic rationalist strategies, such as spending cuts, privatisation, deregulation, and cuts in industry protection (Bell 1993: 146).
As part of this paradigm shift, a phased program of cuts in industry protection began in 1984-85, generally in the context of tripartite, negotiated industry plans supported by the Accord partners (Alcorso 1993:2). The industry plans represented a concerted attempt to arrest the decline of the manufacturing industries, which had begun in the early 1970s and contributed to an estimated 13% drop in employment between 1972 and 1984 (Webber et. al. 1992). Manufacturing employment improved slightly during the mid to late 1980s, however, the onset of recession and the impact of further tariff cuts led to major job losses in the 1990s. Between 1990 and 1993, the manufacturing industries had shed 116,400 jobs (Committee on Employment Opportunities, 1993: 110). This had a profound impact on migrant unemployment, since migrants continued to be over represented in manufacturing relative to their proportions in the workforce, and particularly within declining occupations, such as trades, crafts and labouring jobs (ibid; Webber et. al. 1992:91). Well before the recession, however, there was evidence that industry restructuring had occurred at the expense of migrants. Between 1982 and 1987 the total employment of migrants in manufacturing fell by 52,500, yet in the same period the employment of Australian born persons rose by 10,900 (Castles et.al. 1988: 16). It was therefore not surprising that in the recessionary period of the early 1990s, migrant unemployment rates soared to levels well above those for the Australian born (Murphy: 1994). It seemed that in expansionary times firms had shown a preference for employment of the Australian born, while in times of retrenchment it was predominantly the migrants who were displaced (Castles et.al. 1988: 16).

Against this background, employer pressures for a more decentralised system of wage bargaining increased, later to be acceded to and reflected in various legislative ‘reform’ from the late 1980s awards.

Migrants and Structural Change

The Accord had clearly acknowledged the major structural changes facing Australian industries, “due to a number of domestic and international factors”, and the importance of maintaining “a diversified manufacturing sector”, not least to “minimise the adverse effects of fluctuations in the values and volumes of our mineral, energy and rural production” (ALP/ACTU 1982: 8-9). Within the range of measures proposed, including consultation with the industry parties, maintenance of protection, and availability of finance, was a commitment to employment training and retraining policies to be integrated into national economic planning processes (ibid: 9). Despite the importance of migrant labour to the manufacturing industries, the link between immigration policy and industry policy was not made explicitly within the original Accord document. However, the implicit tension between a commitment to continuing immigration and full employment could be read between the lines.

The Accord said very little about migration, although a short section on this subject immediately followed that on industry development. It affirmed the importance of “policies relating to population and immigration” in the context of
economic and social development, and reaffirmed Labor's commitment to a multicultural society (ibid: 11). At a time of high unemployment, it is not surprising that the Accord warned against using immigration "as a substitute for labour resource planning and employment policies" (ibid). The labour movement had traditionally held an ambivalent attitude towards migration, both accepting its benefits for economic development and fearing the consequences of increased competition for jobs during periods of recession. With the promise of a continued system of centralised wage fixing, however, the threat of migrants 'bidding down' wages was to be avoided, leaving unions to focus on labour supply issues, such as the filling of skilled labour shortages. The ACTU was concerned to ensure that unemployed workers, including skilled workers laid off during the 1982-83 recession, were given the opportunity to retrain and access employment, rather than seeing labour gaps filled by immigration intakes. Accordingly, the Accord maintained a commitment to family reunion and refugee programs, but sought a review of the skilled labour intake and temporary workers schemes, such as the Employer Nomination and the Working Holiday Scheme.

Nothing explicit was said about the actual meaning of the commitment to a 'multicultural' society, nor about the threat to migrant employment of broad structural changes in the labour market. How migrants were to be assisted to adjust to such changes, such as retraining for jobs in the expanding services sector and/or increasing their skills in manufacturing, was not explored. There was no commitment to consultation with migrants, either within the union movement or through migrant organisations, about ways to ensure their capacity to regain jobs and/or retain an equitable foothold in the labour market. Consideration of the impact of structural change on migrant workers was to come later, in the context of sectoral 'adjustment' programs, such as the TCF Labour Adjustment Package (LAP). However, migrants had little or no voice in the establishment of broad policy frameworks such as the original Accord, or the later iterations, which reduced tariff protection and led to further, large scale job losses in industries where they were concentrated.

This lack of representation and the lack of any conscious policy geared to the specific needs of migrants reflected both Labor and the ACTU's tendency to view the Australian working class as one undifferentiated mass. The original Accord document refers frequently to the interests of 'wage and salary earners', as compared to other 'income groups', such as professionals and businesses, and 'non-income earning sectors' (such as pensioners), but consistently fails to recognise the diversity of conditions and difficulties experienced by fractions of the working class. A number of theorists have argued that the Australian working class is segmented along gender, racial and ethnic lines, with non-English speaking

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2 It is acknowledged that the ACTU has produced numerous policy documents on migrant workers, however, in the mainstream policy areas, such as wages and bargaining arrangements, the needs of migrants are rarely explicitly covered.
background (NESB) men and women occupying the lower strata of Australian society in terms of access to jobs, earning power and living standards (c.f. Collins 1991).

These theses are borne out by a compelling accumulation of empirical data which show that NESB men and women consistently earn lower average pay rates, suffer significantly higher unemployment rates than the national average, are over represented in lower skilled blue collar jobs, receive less work related training, and experience particular difficulties with recognition of skills and qualifications (Bertone 1996). Even those from the opposing school of liberal economic thought agree that NESB migrants occupy a disadvantaged position within the labour market, although they dispute the reasons for such outcomes. These writers emphasise the role of ‘human capital’ attributes, such as Australian work experience, English language competence and qualifications, which they argue explains most of the differences in outcomes (Foster et. al. 1991). Whatever one’s theoretical rationale for the poorer socioeconomic outcomes experienced by migrant workers, it might have been hoped that the various Accords, and the industrial relations changes they facilitated, would address the challenges of structural adjustment for this group, on both efficiency and equity grounds. This was not, however, the case.

It was symptomatic of the power relations within the labour movement itself that non-Anglo Saxon minorities should generally be omitted from the industrial relations policy agenda, as were women and Aboriginales. In the early 1980s, all three groups were grossly under represented in party and union decision making structures, relative to their numbers on the shopfloor (Bertone & Griffin 1992; Collins 1991; Lever-Tracey & Quinlan 1988). Union policy had only begun to move away from an assimilationist stance in the mid 1970s, under pressure from migrant activists, academics, and church groups, who highlighted the particular hardships experienced by migrant industrial workers. Despite this official policy shift, no major reorientation in union practice had occurred by the time of the first Accord: unions were dominated and preoccupied with mainstream Anglo-centric concerns and practices (Nicalau 1991; Bertone & Griffin 1992). Moreover, those unions with large migrant membership had no direct say in the Accord negotiations, which were a highly centralised affair coordinated by the ACTU, as the peak union body. Although the metalworkers’ union had a significant role in renegotiations of the Accord, particularly in relation to award restructuring and enterprise bargaining, there was little conscious attention paid to women, migrants or other groups who were under represented within the influential ranks of the union’s skilled tradespersons. It was little wonder then that the dramatic shift from centralised bargaining structures to decentralised arrangements was made in a manner that gave merely tokenistic acknowledgement to the particular needs of such groups.

It is also characteristic of a corporatist approach to policy development that only the broad sectional interests of capital, labour, and the state are given a direct voice, while other groups - such as pensioners, young people, racial and ethnic
minorities - are largely excluded from direct representation or consideration. No doubt these interests were considered to be 'covered' by the labour component of the triumvirate, in practice they were submerged in the general wash of homogeneity and monoculturalism projected by the labour movement at that time.

THE FORTUNES OF THE MIGRANT PROLETARIAT

Some would question the need to focus on migrants at all, given that they are a very diverse and generally unorganised minority. Comprising 13% of the workforce, NESB workers form a significant but relatively small interest group, compared to other groups such as women and non-wage earners or pensioners (with which they have overlapping membership).

The strongest argument for separate identification and study is linked to the recognition of real and enduring differences in the structural situation of migrant workers, as compared to the Australian-born and those from English speaking backgrounds (ESBs). These differences have been consistently observed by a range of researchers over the past two decades (Webber et. al: 10) and are closely related to (but not completely explained by) the over representation of migrants in the ailing manufacturing industries. Since the mid 1970s, migrants have provided over 40% of employment in manufacturing industries, with the percentage of migrant labour being far higher in Melbourne and in particular manufacturing industries, such as clothing (ibid). By 1990, the proportion of migrants had declined to about a quarter of all those employed in the manufacturing industries as a whole, however, these industries continued to be the biggest employers of migrants (293,700), followed by wholesale and retail trade (166,500), and community services (157, 100) (Foster et al. 1991: 52). At that time, approximately 26% of all migrants were employed in manufacturing, compared to 13% of all Australian-born (ibid). This employment has generally been at the lower paid operator or process worker level. Further, as previously noted, migrants have lost jobs at greater rates and regained paid work at slower rates than the Australian born and ESB migrants. This has placed them in a highly vulnerable position with respect to structural change and changes in the determination of wages and conditions.

In the early days of the Accord, it is possible to argue that migrants benefited from a range of solidaristic policy measures, such as the restoration of centralised wage fixing and wage indexation, universal health cover, increases to pensions and family allowances, improvements in occupational health and safety and the general improvement in macroeconomic indicators, including growth and employment levels. While migrants continued to be under represented in union power structures and their issues treated as afterthoughts or special welfare interests, they, like other low income earners, benefited from the protection of a centralised industrial relations system and expanded social safety net.

The real onslaught on migrants' jobs and conditions came in the recession of the early 1990s, which saw a large peak in unemployment and widespread
redundancies across various industry sectors, including manufacturing. Once again, migrants experienced higher unemployment rates than the Australian-born, with the average rate for NESB migrants rising to 16.1% in August 1993, compared to 9.2% for ESB migrants (Murphy 1994: 7). In addition, migrant workers suffered significantly higher rates of long-term unemployment, 46% compared to 35% of those from Australia and English speaking countries (ibid). Their re-entry into paid work was complicated by the onset of award restructuring, team work, and multiskilling, which had changed the 'goal posts' for recruitment into traditional factory jobs (Pearce et al. 1995). The successful re-integration of migrants in the workforce was hampered by slow recovery, continued high levels of unemployment, and a growing tendency for employers to discriminate against NESB applicants who lacked demonstrable English language skills. As Murphy noted in 1994, industry restructuring during the 1990-2 recession had "led to a high level of retrenchment and job loss in the construction, manufacturing and agriculture industries. In August 1990, these first two industries had the highest proportions of workers who were immigrants, at 37.4 per cent and 30.3 per cent respectively" (ibid: 8). Murphy concluded that the slow recovery rate of migrant workers was partly due to their being concentrated in these declining industries.

In those industries which had been targeted for tariff reduction, such as vehicles and TCF, the Accord partners agreed on comprehensive structural adjustment packages, which included income support, retraining and relocation assistance to retrenched workers, most of whom were migrants (Bell 1993; UniMelb Ltd. 1995). While these did not encompass the demands of all sections of the union movement, or the more radical interventions articulated in the ACTU's 'policy manifesto' of 1987 Australia Reconstructed, they did meet a significant proportion of union concerns.

The reality was that by this time, the Government's economic policy was firmly anchored in economic rationalist views of the crisis, which had been generated by a severe tightening of monetary policy in 1989 (Langmore undated: 6). The ACTU did not challenge the dominant economic arguments about ways out of the crisis, such as calls for further deregulation of the economy, the creation of an enterprise culture, and decentralisation of wage fixing. Instead, it chose to promote economic restructuring consistent with these arguments, while seeking 'protections' for low income earners, in the form of structural adjustment packages, safety net increases for those with lower bargaining power, and the continuance of federal award standards. In relation to industry packages, the evidence has shown that the LAPs were beneficial, and certainly those migrant retrenches who took advantage of such assistance recovered more quickly than those who missed out. High proportions of migrants, however, remained out of work and this group continues to experience disproportionately high unemployment rates to the present (Webber et. al 1992; Unimelb 1995; Pearce et al. 1995).

In the meantime, the industrial relations reforms promoted by the Accord and various legislative initiatives in 1988, 1993 and 1994 (through the enactment of
the Industrial Relations Act 1988, followed by various amendments and the Industrial Relations Reform Act 1994), had a mixed impact on migrant workers. While the more ‘positive’ reforms were accompanied by widespread union claims for English on the Job training, recognition of prior learning and equitable access to training, the actual outcomes did not always match the rhetoric. As the economic environment deteriorated, employers became increasingly less willing to invest resources in training for low paid workers (Bertone & Griffin 1992). Few unions had the resources or inclination to ensure that migrant workers were fully informed of the threats and opportunities inherent in the restructuring processes, and the accompanying trend towards decentralised bargaining. Evidence from employee surveys and case studies in the early and mid 1990s clearly indicated that migrant workers were significantly less well informed about award restructuring and enterprise bargaining than other groups (Bertone & Griffin 1992; EMD Workforce Development 1994; Stephens & Bertone 1995).

Where companies adopted the high skill, high wage strategy promoted by the Government and unions, it was evident that lesser skilled workers, of which migrants formed a disproportionate share, would become redundant unless they were assisted to retrain. On the other hand, those employers who preferred the cost cutting approach would find it easiest to extract productivity concessions from the lower skilled, in the form of longer working hours and reduced conditions. In the meantime, many companies in the TCF industries were engaged in a mass conversion of factory jobs to outwork (ATCFITB 1994: 22). This meant the loss of many thousands of factory based jobs which had been predominantly filled by migrant women, with an accompanying loss of award wages, conditions, health and safety protections and collective representation by unions. While the plight of outworkers was eventually taken up, under pressure from unions in the last days of the Keating Government, the Government chose to adopt an educative, public relations approach rather than intervening against unscrupulous subcontractors.

**Enterprise Bargaining**

By the early 1990s, concerns about the effect of enterprise bargaining on vulnerable groups, such as migrants and women, were being widely aired. These concerns were the rationale for a number of protective clauses inserted into the Industrial Relations Act via the Industrial Relations Reform Act in 1994. Specifically, the Act: prohibited discrimination in awards and agreements on a range of grounds, including race and ethnicity:

- required the Australian Industrial Relations Commission to review existing agreements to ensure they did not include discriminatory provisions;
- required the parties to consult with all employees at the workplace, including NESB workers, before an enterprise agreement could be registered; and
- provided that an annual report to Parliament be prepared on the effects of enterprise bargaining on NESBs, women, young people and part-timers (NMAC 1995: 28).
Similarly, the maintenance of a centralised award system as a safety net, the promotion of collective rather than individual bargaining and the no disadvantage test were all intended to guard against the downgrading of wages and conditions through enterprise bargaining and especially to protect more vulnerable workers.

But what does the evidence on enterprise bargaining tell us about the effects on migrant workers? No definitive answers can be given, as there were only two annual reports to Parliament before the passage of the Workplace Relations Act 1996 and a smattering of research and consultancy reports based on limited empirical evidence. The data on which the annual reports were prepared has yet to be thoroughly examined; this is the aim of a separate PHD project being undertaken by the author. Nevertheless, some general statements about the impact of enterprise bargaining, particularly between 1994 and 1995, can be made, and overall there are more negative than positive aspects for migrant workers.

In brief, these can be summarised as follows:

- considerable dissatisfaction amongst migrant workers with both the processes and outcomes of enterprise bargaining (DIR 1995; Bertone et. al. 1995). However, EMD Workforce, 1994 give evidence contradicting this view, based on three case studies where migrants did not report feeling aggrieved by enterprise bargaining. Similarly the most recent annual report suggests that migrants were more dissatisfied with the workplace and workplace relationships than with their agreement per se (DIR 1996: 197):

  - migrant workers were generally poorly informed about enterprise bargaining, more so than other workers (Bertone & Stephens 1995; EMD Workforce Development 1994; DIR 1996; Bertone et. al. 1995)

  - more migrant workers reported they had not been given an opportunity for a “fair say” in enterprise bargaining (DIR 1995), although the 1996 annual report suggested that the difference between NESB and ESB groups had narrowed significantly

  - where consultation did take place, migrants reported this usually occurred after signing of the agreement, rather than before (Bertone et. al. 1995)

  - migrants reported feeling vulnerable, powerless or lacking in confidence in relation to enterprise bargaining (Bertone et. al. 1995)

  - a number of employers failed to take special measures to ensure migrants were properly involved in enterprise bargaining (Bertone et. al. 1995; Bertone & Stephens 1995; EMD Workforce Development 1994) and this is reflected in earlier literature about the degree of attention paid to migrant issues in industrial relations generally (Bertone & Griffin 1992; Nicolaou 1994)
- Migrants tended to be excluded or under represented in the groups which negotiated enterprise agreements (EMD Workforce Development 1994; Bertone 1995); again, this is consistent with what we know about the under representation of migrants in industrial relations institutions and processes generally (Bertone & Griffin 1992; Nicolaou 1991; Callus & Knox 1993).

- Few agreements contained any provisions which might directly benefit migrant workers, such as language and literacy classes, cultural leave, cross-cultural communication programs or equal employment opportunity clauses (DIR 1995; EMD Workforce Development 1994; Callus & Knox 1993).

- Migrants were less likely to report obtaining wage increases than ESB employees, although the wage rises gained were slightly higher overall than the average (DIR 1996, p. 197).

On the other hand, there is little or inconclusive evidence as to whether migrants have been disadvantaged by either the content or the implementation of enterprise agreements, with Callus & Knox 1993, EMD Workforce Development 1994 and DIR 1996 suggesting that migrants are probably not worse off, rather that enterprise bargaining has failed to make any appreciable difference to migrants’ working lives. There is also evidence that the existence of a high percentage of migrants in a workforce is not a barrier to workplace bargaining, and that migrant workers enjoy similar access to workplace bargaining to other workers (Callus & Knox 1993; EMD Workforce Development 1994). With regard to training and consequent access to promotion and career paths, there is a good deal of evidence to show that migrants, particularly migrant women, continue to be significantly disadvantaged in their access to training of all kinds. Recent surveys (VandenHeuvel & Wooden 1996) show that the relative disadvantage has not changed at all: notwithstanding the promises of enterprise bargaining and the training reform agenda, to promote multiskilling and training, migrant workers have not experienced increased career opportunities or improved working conditions through training.

Clearly, in recent years, migrants have found themselves fighting a difficult battle on various fronts. With job opportunities drying up in the traditional manufacturing areas, they have turned to small business and service industry occupations. These too, however, have often eluded them due to competition from younger, locally qualified Anglo-Saxon workers (Pearce et. al. 1995). Those migrant workers currently in employment also face continued challenges in keeping up with the pace of technological changes and changes to work organisation, many of them facilitated by enterprise bargaining. At the same time, the wages system has shifted towards bargaining at the workplace and a focus on enterprise productivity measures, both of which demand higher communication and teamwork skills, where migrants are often disadvantaged because of poor English. They remain, therefore, in an extremely vulnerable and tenuous position with regard to employment, as suggested by recent focus group data (Bertone, et. al. 1995) and face increasing challenges with respect to maintenance of working
conditions. Having gained no advantages under the Labor Government's industrial relations and economic policies, how are migrants likely to fare under the Coalition Government's Workplace Relations and other Legislation Amendment Bill 1996 (referred to in this paper as the Workplace relations Act)?

In terms of workplace bargaining, the most significant change introduced by the Workplace Relations Bill, is the provision for individually bargained agreements or Australian Workplace Agreements (AWAs). Employees will now be able to choose between certified agreements (which are collectively negotiated with or without the involvement of a union) or an AWA. The capacity for individual bargaining is the most concerning aspect for vulnerable groups such as migrants, who may be faced with employer demands, either before accepting a job or while currently in employment, to agree to an AWA. Individual migrants who find themselves in a less competitive position in the labour market, for reasons set out earlier in this paper, would be bargaining from a significantly weakened position vis-a-vis the employer and other potential employees. It is true that the negotiations over the Workplace Relations Bill have introduced a range of safeguards, such as the requirement for AWAs to be vetted by the Employment Advocate (EA), to comply with a no disadvantage test, and the right of individuals to be represented by a bargaining agent, including a trade union. In addition, there are numerous prohibitions in the Act against discrimination and the EA is enjoined, in performing its functions, to have particular regard to the needs of workers in a disadvantaged bargaining position, such as women and NESB people. However, similar provisions were in place under the Industrial Relations Reform Act with respect to collective agreements, leading to the generally negative outcomes reported earlier in this section. This experience would raise serious doubts about the efficacy of such 'protections' in relation to AWAs, where the chances of individual migrants being sufficiently empowered to negotiate reasonable outcomes are considerably less.

There are also provisions for outworkers (who are predominantly migrants) and cultural leave to be included as 'allowable' matters in awards; strengthened provisions for the terms of certified agreements to be explained in ways that are appropriate to the employees' circumstances, such as persons from non-English speaking backgrounds, and significant provisions for genuine consultation over agreements before they are signed.

These amendments to the original Bill all stem undoubtedly from the concerns and the knowledge gained from the operation of the previous legislation, and in some minor ways, go further in dealing with migrants' concerns than it had done. Nevertheless the structural vulnerability faced by migrants, particularly at a time when newly arrived migrants are being denied access to social security benefits, leaves them in an invidious position with respect to any kind of workplace bargaining, and particularly individual bargaining. The 'protections' built in to the Act will only be as effective as the EA and the Australian Industrial Relations Commission make them, and to a certain extent, as migrants' knowledge of their rights when they are invited to bargain.
Moreover, we cannot discount the possibility that the very existence of legislation promoting individual agreements may lead to a more permissive environment in which employers feel they can ‘get away’ with negotiating illegal invididual agreements. If this seems far fetched, we only need to look at the huge growth of individual contracts under the Industrial Relations Act 1994 (which did not provide for individual bargaining) to see how practice can outstrip legislation, once the regulatory reigns on employment are loosened (DIR 1996).

CONCLUSION

Migrants were only a marginal consideration in the Accord negotiations which shaped the industrial relations systems from 1983 to the defeat of the Labor Government in 1996, and consequently in the development of more decentralised bargaining arrangements. Throughout the evolution of the Accords, from a focus on interventionist industry policy and centralised wage fixing, through to the more laissez faire policies of the later Accords, which provided for tariff reductions and decentralised bargaining, migrant issues and concerns were not part of the mainstream policy agendas. Though it is likely that migrants benefited from the earlier Accord policies, such as a solidaristic wage policy and improvements in the social wage, these benefits were largely eroded in later years by the onset of recession, massive retrenchments in blue collar industries where migrants concentrated, and government spending cutbacks. At the same time, migrants bore a disproportionate burden of structural adjustment, which was only partially ameliorated by ‘protective’ policies such as the LAPs and specific provisions for migrants in the Industrial Relations Act 1988 (as reformed in 1994).

With the election of a conservative Coalition government, a new package of industrial relations legislation has emerged which poses more challenges to migrant workers. At the same time, unemployment levels amongst migrants are not significantly lower. The provisions in the legislation for individual bargaining and a choice between collective and individual agreements come at a time when migrants are still struggling to adjust to permanent structural shifts in the Australian labour market, and concurrently, reduced rights to social security benefits after arrival. The pressure to earn any income to survive and the traditional difficulties migrants encounter in the bargaining relationship, such as language problems and non-recognition of overseas qualifications, could mitigate against genuine and fair bargaining, notwithstanding the number of ‘protective’ clauses in the Act. As such protections were not particularly effective in averting much of the dissatisfaction and disenfranchisement experienced by migrant workers under Labor’s enterprise bargaining system, it is hard to imagine how they would be any more effective under a further decentralised system. In most cases, the protections are identical or only slightly better than those provided within the earlier legislation, but the structural goalposts have changed significantly, leaving migrants in a weaker bargaining position overall.
At the same time, the marginalisation of migrant issues within industry (both by employers and unions) continues to be noted (DIR 1995). At the end of the Accord years, and the beginning of a new industrial relations era, migrants still form a significant proportion of the most disenfranchised and disadvantaged section of the Australian working class. Despite the rhetoric of fairness and non-discrimination, it behoves us to watch very closely for the impact of the new bargaining arrangements on this group. After all, the litmus test for the efficacy and equity of any industrial relations system is the effect it has on the working lives of the least advantaged groups.

REFERENCES


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