

# Productivity: Legislate for workplace democracy and employee ownership.

The Abbott Government has launched an Inquiry into Workplace Relations to be conducted by the Productivity Commission. To that end the Commission has just circulated an Issues Paper. Some of the specific issues to be examined are:

**Providing safety nets**

**The Federal minimum wage**

**National Employment Standards**

**The award system and flexibility**

**Penalty rates**

Commentary in the media already suggests that the traditional zero tug-o-war game, abandoned by Mr. Abbott after the failure of Work Choices, is back in town. That may well be so but one would hope that, at long last, the Productivity Commission now uses the opportunity to include workplace democracy and employee share ownership, as productivity drivers. After all, in the background paper, the Australian government claims that:

“Workplaces are important to our economy and society. Higher living standards, better pay and more jobs all depend on having fair, productive, and effective workplaces. The prosperity of tomorrow is driven by what happens in our workplaces today and this is why it is in our national interest to make sure that the Fair Work laws are balanced and effective.

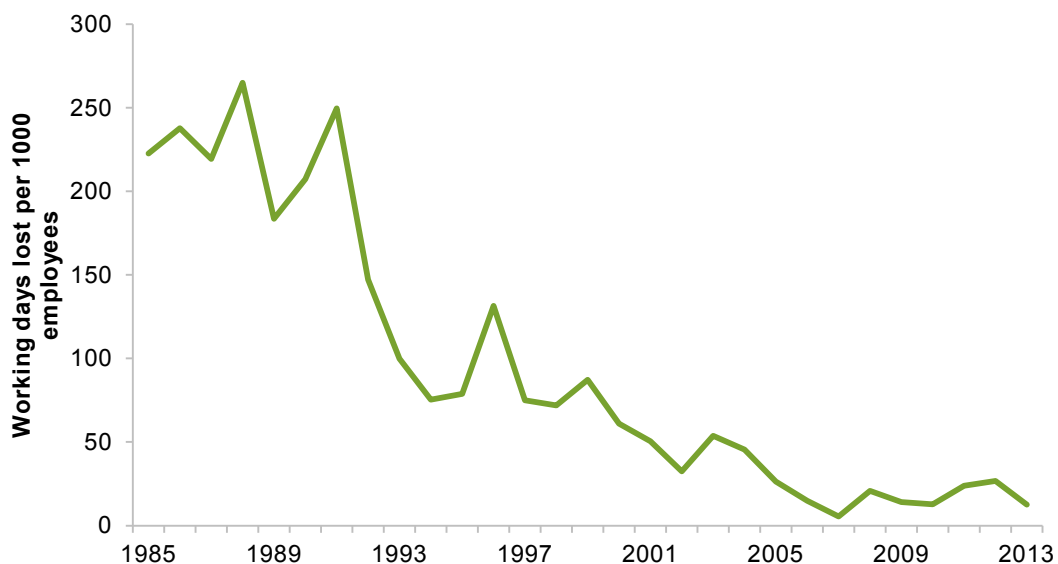
The Australian Government’s objectives in commissioning this Inquiry are to examine the current operation of the Fair Work Laws and identify future options to improve the laws bearing in mind the need to ensure workers are protected and the need for business to be able to grow, prosper and employ.

The Productivity Commission will assess the performance of the workplace relations framework, including the *Fair Work Act 2009*, focussing on key social and economic indicators important to the wellbeing, productivity and competitiveness of Australia and its people. A key consideration will be the capacity for the workplace relations

framework to adapt over the longer term to issues arising due to structural adjustments and changes in the global economy.”

Fine words. A long list of aspects to be examined follows, among them productivity, something that has been declining in the last 20 years while executive salary packages have skyrocketed!

Remarkably, the PC does provide evidence that industrial action has been declining considerably after the introduction of enterprise bargaining (1993), a first small step towards workplace democracy. Surely, the need for the participation by employees is to be taken much more seriously than has been done in the past. It is a far more important issue than most of the others to be examined now. As far as I could determine the PC has never researched these aspects of workplace relations. Why not I ask.



“As typically measured (days lost per 1000 workers), industrial action is now very uncommon (figure 3.1). In part, this is likely to reflect changes in WR arrangements, such as the emergence of enterprise bargaining processes where industrial action is only protected once the negotiation of a new agreement has commenced. Changes in industry structure, increased competitive pressures on businesses and lower rates of union membership may also have contributed to lower rates of industrial action”

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Figure 3.1     **Industrial disputes have been declining**  
1985 to 2013

Data source: ABS, *Industrial Disputes, Australia*, Cat. No. 6321.0.55.001.

## Workplace democracy not an issue?

It is heartening that the PC has been asked to study industrial relations in OECD countries. We have to go back to the ACTU/TDC mission to five European countries that resulted in the remarkable *Australia Reconstructed* Report (1986). Amazingly, the visionary and logical recommendations in their Report were rejected by Bob Hawke on the grounds that “it was not our culture”. Cultures can change of course. They are not static.

If Australia is to achieve greater workplace productivity vague talk about “greater cooperation between management and employees”, “fairness” and “balance” is not enough and will remain just that, fine words, talk. Both in the areas of workplace democracy and employee share ownership plans (ESOPs) other countries have specifically legislated to provide institutional frameworks for participation and a range of financial arrangements to facilitate employee share ownership. Being a co-owner of a business motivates employees in several ways. It means that they part-own their jobs. This is particularly true of medium-sized businesses. From Mondragon in Spain to Ricardo Semler’s Semco in Brazil this policy has proved convincing as a productivity driver. The evidence is simply overwhelmingly positive.

In terms of participation in decision-making a large number of European countries have introduced legislation since the mid-1950s and in most cases have widened the application of these acts repeatedly, especially in Germany, the Netherlands, the Scandinavian countries and others. Enterprise Councils, with far-reaching advisory powers, and staff representation on corporate boards have been common in Europe, studied, reported on and

advocated regularly by at least a dozen well known Australian scholars.

The range of financial participation schemes legislated for in the US since 1984 has also grown in many European countries, including the UK. Plenty where examples there available as well (advantages: improved business performance; increased economic resilience; greater employee engagement and commitment; driving innovation; enhanced employee well-being; and reduced absenteeism). In the recent *Nuttall Report*, July 2012 the *Right to Request* ESOPs is strongly advocated.

For the most part this has remained mostly of academic interest in Australia with a few notable exceptions, as for instance Fletcher Jones and Staff and Lend Lease, and the Nelson Report "*Shared endeavours*" (2000). In individual cases the enlightened entrepreneurs' personal philosophies drove the development. Most of the examples overseas, with some exceptions, e.g. John Lewis & co, have been introduced following appropriate legislation. If the Australian Government, employers' organisations and unions are serious about progressing productivity in the workplace, as distinct from continuing the customary adversarial tug-o-war, **effective legislation is what is required now.**

The Abbott government has announced that it will relax arrangements around existing employee share programs, which have been a concern for Australia's startup companies since the legislation was introduced under Labor in 2009. A tax deferral of 15 years has been mentioned and criticised.

However, other criticism about this move is that it is not combined with participation in decision-making. In an article by Georgia Wilkins (SMH 16/1/2015) political economist Professor David Peetz (Griffith Business School) comments as follows:

share ownership on employee behaviour, it tends to be where those employees have also had some role in decision making," he said.

"If you do see ben

The success of participation - and certainly not only in IT start up companies - came out of the extensive research done by UNSW in 2011

on this subject. The study group at UNSW published an excellent Report entitled: Leadership, Culture and Management Practices of High Performing Workplaces in Australia: The High Performing Workplaces Index. It demonstrated the enormous importance of participation by employees in decision-making in the workplaces (p. 62). Surely, the PC must be familiar with this work.

Indeed, it is the combination of share ownership schemes and *effective* voice that provides the productivity boost in particular. The US Professor Joseph Blasi, addressing a conference organized by the Australian Employee Ownership Association in Sydney (November 2010) made this point emphatically.

New *additional* tools, to emphasise the reality that management and employees need to cooperate to achieve greater productivity and rewards, surely can be added to the Fair Work Act as options that are meaningfully encouraged by the Government. Do unions need a new “fighting fund” to protect their rights or should they also campaign for more intensive participation in the business by adult employees who are well educated and would want to exercise their democratic and economic rights in the workplace?

Of course, as a number of politicians and commentators have pointed out just recently, productivity is indeed a complex issue comprising multiple factors: superior technology, efficiency, education, management attitudes and competence, wage levels and their relationship to executive salary packages, employee motivation, etc. Some of these factors are beyond direct workplace legislation but many can be addressed. To simply argue for more flexibility and management prerogative, as free marketeers still tend to do, hasn't worked particularly well at all in the last 20 years of economic rationalist ideological dominance. One would have to ask what kind of motivation is achieved with the average employee when executive salaries go through the roof and are in some instances between 50 and 100 times average employee rewards. The bonuses that are paid to some CEO's, who have not even performed well, can hardly result in productive attitudes by employees. As a matter of fact the Productive Commission's Inquiry into these scandalous reward practices, in 2009, only resulted in some very modest limiting recommendations to strengthen the power of shareholders. The entire notion of Fair

Work in such a situation is completely laughable I would say, and thoroughly demotivating as well. Interesting to note that productivity has declined over the same period as executive salaries have risen and risen, virtually unchecked even by ALP Governments.

Corporations that have substantial numbers of employees as shareholders tend NOT to have excessive salary packages for senior executives. There is more transparency and questioning within such business organisations about executive rewards. These employees expect their leaders to perform and if they don't there will be questions especially if there are Enterprise Councils and/or staff directors in place.

In this context we might also consider decisions by corporations to move part of their operations or their entire business to low labour cost countries in Asia to compete more effectively and/or make higher profits. Do their Australian employees have any say in the export of their jobs in this way? If not, why not? Should they have some say in this transfer as the co-creators of the wealth and goodwill up that point? Should they be compensated in some way or share in the benefits of this globalisation? These are the sort of questions that are asked by employees in other countries.

It is instructive to have a look at the Dutch Works Council Act, latest version 2010. This is not a particularly radical Act in the European context as it essentially provides a wide range of advisory, appeal and approval powers to Enterprise Councils; it does provide something that is lacking in Australia where the notion of management prerogative still seems to dominate the workplace culture: it prescribes compulsory consultation and negotiation, within the workplace, not just for an enterprise agreement, *but on a permanent basis*. Management is expected to work with the employees in the Netherlands.

The institution of an Enterprise Council for an enterprise with at least 50 employees is *mandatory*. Such a Council shall be directly elected by the persons working in the enterprise from their own ranks by secret written ballot from one or more lists of candidates. The Council may invite one or more experts to attend a meeting in

connection with the discussion of a particular subject. Such invitations may also be extended to one or more directors of the enterprise or to one or more outsiders. For a specified total number of hours per year, the entrepreneur shall give members of the Council and its committees an opportunity, during working hours and with full pay or remuneration, to meet in mutual consultation and to consult with other persons on matters relating to the performance of their duties and for the purposes of acquainting themselves with the working conditions in the enterprise.

The entrepreneur shall give the Council an opportunity to render advice on any decision he proposes to make with regard to e.g.:

transfer of control of the enterprise or any part thereof; the establishment, take-over or relinquishment of control of another enterprise; or entering into, making a major modification to or severing a continuing collaboration with another enterprise including the entering into, effecting of major changes to or severing of an important financial holding on account of or for the benefit of such an enterprise; termination of operations of the enterprise or a significant part thereof; any significant reduction, expansion or other change in the enterprise's activities; major changes to the organisation or to the distribution of powers within the enterprise; any change in the location of the enterprise's operations; recruitment or borrowing of labour on a group basis; making major investments on behalf of the enterprise; taking out major loans for the enterprise; granting substantial credit to or giving security for substantial debts of another entrepreneur, unless this is normal practice and part of the activities of the enterprise; the introduction or alteration of an important technological provision; taking an important measure regarding the management of the natural environment by the enterprise.

The approval of the Council shall be required for every proposed decision on the part of the entrepreneur to lay down, amend or withdraw e.g.: regulations relating to a pension insurance scheme, a profit-sharing scheme or a savings scheme; regulations relating to working hours or holidays, pay or job-grading

systems; regulations relating to working conditions, sick leave or reintegration; regulations relating to policy on appointments, dismissals or promotion, staff training; and staff appraisals. If requested to do so, the entrepreneur shall in a timely fashion provide the Council and its committees with all the information and data such as they may reasonably be deemed to require in order to perform their duties. The information and data shall, upon request, be provided in writing. A fairly long list of data is provided in the Act.

In order to facilitate proper discussion of the general operation of the enterprise, the entrepreneur shall, at least twice a year, provide the Council, either orally or in writing, with general information concerning the activities and financial results of the enterprise relating to the preceding period.

This Act commenced operations in 1971 and has been amended and expanded several times. The tripartite nature of Dutch politics, with a Government elected on a proportional electoral system, tend to give it a role of arbitrator between employers and employees. That is different from the two party system in Australia, which reinforces the adversarial mode of industrial relations and positions the major parties often as the representatives of labour and capital. If Australia wants to move away from that dated adversarial political culture major reforms of party and electoral systems need to be contemplated as well.

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