

FROM CORPORATISM TO LIBERAL INDIVIDUALISM : THE CHANGING CHARACTER OF INDUSTRIAL RELATIONS IN AUSTRALIA AND NEW ZEALAND

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Abstract

A system of compulsory conciliation and arbitration has been the central institutional feature of labour markets and industrial relations in both Australia and New Zealand since the turn of this century. Compulsory arbitration has regulated many aspects of the employment relationship at the workplace level (wages and conditions, grievance settlement, job classification and design). In addition, arbitration has been important for macroeconomic policy, particularly for control of aggregate wage movements. In both countries, industrial relations and labor market regulation has formed part of a broader economic strategy designed to protect the domestic economy from external shocks. By the early 1980s, however, a number of developments in the structure of labor markets and in the economies of both countries had prompted changes in government policy, which in turn, undermined the stability of existing institutions. These changes became the basis for discrete institutional reform consistent with a philosophy of 'liberal individualism'. While there are many characteristics of these changes which are common to both countries, the rate of reform and the extent of reform have differed markedly between them. This paper explores the causes and nature of the changes in labor market institutions and public policy in Australia and New Zealand. It traces the developments in both economies which have given rise to these policy changes, and the types of policy reforms that have been instituted. It highlights historical and institutional processes which help to explain changing labor market institutions in industrial relations, and why the nature of the revolution differs in each country.

Introduction

In both Australia and New Zealand, industrial relations have traditionally been dominated by compulsory conciliation and arbitration which developed universal principles to govern industrial relations practices and outcomes at the workplace, such as bargaining over wages and conditions, grievance (rights dispute) settlement, and work rules. Arbitration had also been important for macroeconomic policy, particularly for control of aggregate wage movements. In both countries, industrial relations and labor market regulation had formed part of a broader economic strategy designed to protect the domestic have from external shocks. In short, processes of wage bargaining and dispute settlement had traditionally occurred at a centralized (national) level, and were marked by a high level of involvement by government agencies, unions and employer associations.

Over the last two decades, however, labor markets and industrial relations institutions have undergone a revolution in both Australia and New Zealand. Although the dynamics and extent of change have differed significantly between the two countries, similar trends of 'deinstitutionalization' and decentralization are observed. The importance and coverage of the formal system of award regulation¹⁾ has declined, and governments substantially redrafted labor laws to provide greater scope for firms to choose between union and non-union bargaining arrangements (MacDermott 1997; Dabscheck 1996). Consistent with trends in most OECD countries over the same period, union membership and influence has also declined significantly (Peetz 1990; Dabscheck 1995; Dannin 1995). The role of employer associations in the conduct of industrial relations has also contracted, although they have become increasingly proactive in attempts to influence political decision-making (Gahan 1993; Boston, Martin, Pallot and Walsh 1991; Carroll 1993). Overall, there has been a decisive shift towards decentralized (enterprise) bargaining in both countries (DIR 1994; Hammond and Harbridge 1995).

This paper is concerned with analyzing the nature of these developments and why they have occurred in Australia and New Zealand. Although it is recognised that similar developments have been occurring in many other developed countries (see Freeman and Katz 1994; Katz 1993), it is argued that an understanding of how and why decentralization and deinstitutionalization has occurred in Australia and New Zealand requires an historically-grounded understanding of these two cases before they can be placed within an international

1) In both Australia and New Zealand the decisions made by conciliation and arbitration agencies (tribunals) have been referred to as awards.

context. This, it is shown, is borne out by the similarities and differences in the industrial relations revolution that have occurred in each of these two countries. The paper will proceed as follows. I describe the traditional model of industrial relations institutions which were identified as distinctive to the Australian and New Zealand cases and the role they have played in a broader public policy regime of 'domestic protection'. Then, I discuss the general constrain on policy makers in Australia and New Zealand, and how these constraints have protected traditional labor market institutions from change. This provides the background for understanding the changes in public policy and industrial relations institutions that have occurred in Australia and New Zealand. I characterise these as a shift from 'Domestic Defense' to a policy of 'Liberal Individualism'. Finally, I conclude with a discussion of the reasons for differences in the changes which have occurred in New Zealand and Australia.

Traditional Models of Industrial Relations in Australia and New Zealand

In the period 1850 to 1889, most Australasian colonies²⁾ experienced a period of relatively uninterrupted growth.³⁾ This period of the 'long boom' generated the conditions under which unions grew significantly, and employers were generally willing, if only grudgingly, to accept their presence. Consequently, from the late 1870s, and particularly during the 1880s,⁴⁾ unions began to emerge on a larger scale than they had been previously able to do. Most importantly, they began to exhibit greater stability and had moved from a position whereby small closed organizations of skilled workers formed the largest number of unions, to a situation where unions covering larger numbers of less-skilled workers had been able to form and achieve some degree of organizational permanence. By the late 1880s, many unions had also begun to successfully employ a range of strategies at both the workplace and in the political arena which reinforced the effects of economic growth on membership growth.

In 1889, however, both Australia and New Zealand experienced severe drought and depression, which was to have a lasting effect on economic and social institutions. Under these new and adverse conditions, employers (and their newly forming associations) demanded the right to

2) Until federation in 1901, Australia and New Zealand consisted of a number of independent British colonies, each of which had their own system of government. Although provisions were made for New Zealand to join the Commonwealth of Australia, it declined to do so.

3) In fact this period consisted of a general trend of relatively high growth which was punctuated by periodic booms and bust (Gahan 1996, Chapter 3).

4) This was particularly so in the 'boom years' immediately prior to the 1889 depression. In the two years to 1890 union numbers increased by 200 per cent (Gahan 1996).

unilaterally determine wages and conditions without union involvement. The social dislocation caused by the ensuing 'great strikes' ⁵⁾, including the almost complete decimation of many unions, provided the primary incentive for both unions and law makers to investigate arbitration as means to prevent strikes and promote industrial harmony (Macintyre and Mitchell, 1989).⁶⁾ Consequently, from 1894, various colonies and (after federation in 1901) the Commonwealth of Australia passed laws providing for systems of compulsory arbitration.⁷⁾ These laws contained all of the essential elements associated with the Australasian model of compulsory arbitration: first, unilateral reference of industrial disputes to arbitration or to a wages board; second, binding awards backed by enforcement mechanisms; third, the registration and regulation of union organizations; and fourth, the prevention of strikes and lockouts in an industry where a tribunal or board had jurisdiction (Mitchell, 1989).

The most important pieces of labor legislation were the Industrial Relations Conciliation and Arbitration Act 1894 in New Zealand and the Commonwealth Conciliation and Arbitration Act 1904 in Australia. While both Acts initially faced considerable employer opposition (Plowman, 1986), by the early 1920s arbitration had become the dominant regulatory institution in industrial relations (Hancock, 1979).

The Political Economy of Labor Market Institutions

These developments need to be considered within a broader political economy context. The institutions established through arbitration laws emerged as one element in a broader set

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- 5) The industries in which these strikes occurred is important to note: shearing, mining and the maritime industries; all three were key industries. Mining and wool formed the staple exports for both Australia and New Zealand, and given the geographical isolation of both countries, shipping formed the only transport and communication link with the outside world during the nineteenth century (Waters 1982).
 - 6) Interest in arbitration was in fact evident from the 1860s in many colonies as a means to confront the horrors of the 'sweated trades' such as the clothing and boot-making trades. The first Australasian Act was introduced in NSW in 1867. This act only provided for voluntary arbitration and proved to be a complete failure (Gahan 1996).
 - 7) Some colonies, such as Victoria and South Australia did not. Instead, they established systems of wages boards which did not rely on many of the mechanisms associated with systems of compulsory arbitration found in most Australasian colonies before 1901, and in both state and federal legislation after that date. Wages boards were usually established for individual occupations, and consisted of an equal number of employer and employee representatives and a chair, who would vote on a binding settlement. There were, therefore, some of elements of compulsion associated with arbitration (Gahan 1996, Chapter 6).

of public policy choices designed to manage the economic constraints faced by small economies dependent on world trade.⁸⁾ The effects of this dependence on world trade were, in the Australasian cases, exacerbated by a number of other factors. First, both Australia and New Zealand remain dependent on a relatively small range of primary products (wool and wheat in the Australian case, wool, timber and dairy in New Zealand) and mineral extraction (in the Australian case). This, combined with the unstable nature of commodity prices, implied that both Australia and New Zealand experienced a high degree of economic vulnerability or exposure to external economic shocks, and have experienced an ongoing (and worsening) terms of trade problem.⁹⁾ Second, both countries have low national savings-ratios and remained dependent on international capital for economic expansion and domestic investment. Third, the small size of domestic markets in Australia and New Zealand¹⁰⁾ have made it difficult for domestic producers to attain a size which generated economies of scale. Thus, the manufacturing sector has generally not been competitive in world markets.

These factors have informed policy choices made by governments in both countries. The general policy orientation of successive governments in both Australia and New Zealand has been a policy regime of domestic defense, and has formed the basis for continuing social consensus (Castles 1988).¹¹⁾ The essential feature of this policy was the establishment of a set

8) Use of the word 'designed' is not intended to imply a set of conscious policy choices whose structure and effects were foreseen by policy makers. However, the policy decisions which established the rudiments of this particular institutional structure were established over a relatively short period (immediately after federation in the Australian case), and were consciously linked together as a broad policy setting.

9) It is worth noting that a degree of difference is evident. In the case of New Zealand, reliance on primary exports has been considerably higher; in 1995 raw and processed pastoral and wood products accounted for 70.2 percent of all exports (Evans, Grimes, Wilkinson and Teece 1996); while agricultural products accounted for 28.6 per cent of Australian exports (and just 3.3 percent of GDP) in the same year. In contrast the service sector in Australia accounted for 74 percent of GDP. Nonetheless, the significance of primary products and resource commodities means that the long run decline in the relative prices for these exports places both countries at a disadvantage.

10) In 1995 the Australian population was 18.1 million, compared with 3.5 million in New Zealand, while GDP was (\$US) 347.5 billion and (\$US) 59.3 billion, respectively (compared with \$US 7250.4 billion for the US). See Evans et al. 1995, and EIU 1996).

11) Castles contrasts domestic defense with a policy regime of domestic compensation, which has been employed by small European (particularly Scandinavian) countries who, given the similarly small size of domestic markets, are also dependent on world trade. Rather than protecting the domestic economy from international fluctuations, a policy of domestic compensation leaves the domestic economy exposed to international markets and external shocks. This strategy involves compensating groups within the economy adversely affected by external shocks. In relation to industrial relations and labor market policy this involves the maintenance of high wages, without not protecting jobs in declining or low productivity industries. Instead, active labor market policy is employed to facilitate structural change in the domestic economy and re-allocate labor from low productivity to high productivity industries (Castles 1988; also see Crouch 1993 and Katzenstein 1985 for a similar perspective on small European states).

of specific arrangements designed to protect the domestic economy from external shocks or fluctuations in the world economy. In both countries a relatively high level of tariff protection and subsidies to domestic firms have been used to protect the domestic economy from sudden shocks originating in world markets, and to foster the formation of a domestic manufacturing sector. In conjunction with these, a number of other policy measures have been used to redistribute wealth from the resources and commodities sectors (which employed a decreasing proportion of the labor force, but generated the largest portion of national income), to the manufacturing sector where employment growth had historically occurred. Limitations on immigration were designed to regulate aggregate labor supply and its skill composition, while the system of compulsory arbitration was designed to maintain high wages and compress wage occupational and industry relativities. A system of social welfare policy (unemployment benefits, pensions, income maintenance and so forth) was implemented to deal with inequality. In both countries, these institutions were developed in the first decades after 1900¹²⁾ and, until recently, have only experienced evolutionary change.

Differences in Political and Labor Market Institutions

So far, this outline of the political economy of labor market institutions suggests a relatively high degree of uniformity in the institutional structure and political processes found in New Zealand and Australia. This is not case; a number of differences have proved to be important determinants of differences in the process of labor market regulation and deregulation. These differences are found in the nature of political and labor market institutions.

Australian Political Institutions

Australia consists of a federation of states formed in 1901, governed by a written constitution. The Commonwealth Constitution determines the powers of the federal parliament to make laws; all other legislative powers reside with the states, each governed by its own

12) In the Australian case, the rudiments of the welfare state had emerged in the first decade after 1900 (Plowman 1992, Macintyre and Mitchell 1989b), while in New Zealand similar provisions were not created until the 1930s (Evans et al. 1996).

constitution.¹³⁾ Like many legislative powers, industrial relations and labor law powers are shared between state and federal parliaments. The industrial relations power in the Constitution (section 51(xxxv)) allows the federal parliament to make laws that provide for conciliation and arbitration to prevent and settle interstate industrial disputes. This has meant that federal governments have been restricted to establishing autonomous tribunals for this purpose. While this provision has historically limited the ability of federal governments to intervene directly into industrial relations,¹⁴⁾ the last two decades have witnessed a more liberal interpretation of this provision, along with the application of other constitutional powers to intervene into industrial relations (see Dabscheck 1996). As a consequence, the federal parliament now has an extensive ability to regulate industrial relations more directly by use of mechanisms other than arbitration (such as legislating for a minimum wage and equal pay for work of equal value, and the regulation of unfair dismissal). As will be discussed, these constitutional changes have been relied upon to substantially reform the traditional model of labour law.

Historically, however, these constitutional limitations have been significant, and have plagued governments of all persuasions. Moreover, the constitutional limits on the capacity of the Australian federal parliament to reform the dominant model of labor law has been reinforced by the nature of the political party system and the structure of parliament itself.

Three major political parties dominate the Australian scene. The Australian Labor Party (ALP), a social democratic party, enjoyed continuous political success in the federal parliament from March 1983 until March 1996. During this period it had attempted to implement a neo-corporatist policy regime (see Dabscheck 1996). The Liberal Party of Australia (LP) and the National Party (NP) form a coalition of conservative political parties which currently holds office.¹⁵⁾ While both conservative parties had adopted a liberal welfare policy during the post

13) The constitutions of the states, however, are subordinate to those contained in the Commonwealth Constitution; that is, if state and federal constitutional provisions (or laws) are in conflict, then to the extent of that conflict, federal provisions prevail (section 109). For a more complete description of constitutional issues, see Dabscheck (1996).

14) Two exceptions to this statement are worth noting: first, the federal government may legislate more directly to regulate terms and conditions for its own employees; and second, war time provisions contained in the constitution which allow for more extensive government control of the economy were used for more direct and more comprehensive intervention into labor markets and industrial relations during World War II. Some of these interventions were to have a lasting impact (see Dabscheck 1996).

15) The LP has traditionally represented business interests, while the NP (formerly the Country Party of Australia) has represented farming interests. In reality, the interests of these two groups have not always coincided, and relations between the coalition parties has been acrimonious at times. In some states, most notably Queensland, relations have seen the coalition dissolved for periods of time.

war period, since the mid-1980s, conservative politics has been dominated by a liberal-individualist agenda (see Dabscheck 1996). Two minor parties (the Australian Democrats and the Greens) and independents hold the balance of power in the Senate.¹⁶⁾ As a house of review, the Senate has rarely been controlled by the government of the day. Thus, the presence of minor parties has acted as a limit on more radical change.¹⁷⁾ Most important in historical terms has been the dominance of conservative parties at the federal level. Between 1901 (the year of federation) and 1972, the ALP held office for just sixteen years. The majority of those years in which the ALP held office were either years of war or economic depression, which constrained the capacities of Labor administrations to significantly alter policy directions. The ALP did not hold office at any time in the post-WWII period until 1972. It has been the two post-WWII periods of ALP government (1972-1975 and 1983-1996) which witnessed significant shifts in government policy. The dominance of a conservative coalition through much of the twentieth century has thus tended to ensure that the policy regime established in the first decade after federation remained unchanged - or 'locked-in'.¹⁸⁾ This has also been reinforced by the very nature of a federalist system in which both state and federal governments share legislative powers over the same policy areas. This was the case, it was noted above, in respect of many policy areas, including industrial relations.

Political Institutions in New Zealand

In the case of New Zealand, political economy constraints have been very different. While a similar lock-in feature is found in terms of the general policy orientation, the New Zealand

16) More recently, the One Nation party has emerged as a threat to conservative parties, particularly the NP. At the time of writing, however, it had not contested a federal election, but opinion polls suggest it is likely to gain seats when an election is held. For a useful description of One Nation's policy agenda, see Yu (1997).

17) The Australian federal parliament is, like the Japanese Diet, a bicameral system derived from the British parliamentary system. The House of Representatives (the equivalent of the Shugi-in) is responsible for initiating laws, while the Senate (the equivalent of the Sungi-in) acts as a house of review. Each house is elected under different electoral rules, which explains why minor parties have been able to capture the balance of power in the Senate, and why the government of day rarely controls both houses. The House of Representatives is constituted by members who represent individual geographical electorates (seats). They are elected through a system of preferential voting and hold office for the term of a government. The members of the Senate are elected as State representatives, and are elected through a system of proportional voting. Each Senate election is for half of all members, and senators hold office for a maximum of six years.

18) For a theoretical discussion of the nature of this 'lock-in' phenomena see Arther (1988).

political structure gives its national parliament the means to introduce significant policy shifts over a relatively short period of time.

New Zealand, also a former British colony, was given its own parliament in 1852 (the New Zealand Constitution Act); however, the British parliament was still able to write laws which applied to New Zealand until the Statute of Westminster was passed in 1931.¹⁹⁾ None of these Acts, including the 1852 Act, specified the constitutional limits of power possessed by the New Zealand parliament; these limits were governed by a set of parliamentary conventions which were also adopted from Britain. These conventions were general principles and unenforceable in any Court. This situation changed in 1986, however, with the passage of the Constitution Act, which codified many of these conventions for the first time. Nonetheless, this Act was limited and vague in terms of the powers vested in the national parliament. To this extent, the constitutional conventions remain unwritten and evolutionary.

In contrast to the bicameral system of Australia (and Japan), the New Zealand parliamentary system is unicameral: it consists of one house of parliament (the House of Representatives) with complete law making powers.²⁰⁾ Until electoral reform in 1993, members of the House of Representatives were elected to represent two types of electorates (single member electoral districts and four Maori electorates) on a simple 'first-past-the-post' (FPP) voting system. Members were (and continue to be) elected for a maximum three year term. This voting system generated political outcomes in which single political parties were able to form governments with an absolute majority. In 1993, however, following the recommendations of a Royal Commission, New Zealanders voted in a referendum to adopt a 'mixed member proportional' (MMP) electoral system. In contrast to FPP, the MMP system more adequately represented minority parties and independent candidates. This was borne out in the last national election in 1996 where no party was able to win a majority of seats or form a government in its own right; for the first time, New Zealand has a government formed by a coalition of political parties. Arguably this makes radical change far more difficult than the previous system allowed for.²¹⁾

New Zealand now has three major political parties. The National Party, a conservative

19) This law provided the New Zealand parliament with exclusive legislative control, unless at the request of the New Zealand parliament. Curiously, the New Zealand parliament did not adopt this statute until it passed the Statute of Westminster Adoption Act 1947 (Palmer 1987).

20) The house of review, the Legislative Council, was abolished by Act of parliament in 1950. For a Bill to be passed it must achieve a simple majority of one.

21) Compare the election results for 1990 and 1996. In 1990 seats were distributed as follows: National (67), Labour (29), NewLabour (1), Total (97). In 1996, under the MMP rules, seats were distributed as follows: National (44), Labour (37), NZF (17), Alliance 13, ACT (8), United NZ (1), Total (120).

party, now holds government. Until recently, the National Party had formed a coalition government with New Zealand First (NZF), a centre party which was formed in the early 1990s as a break-away party consisting of former members of the National Party. Along with NZF, a second party minor party, the Alliance Party, has begun to enjoy electoral success under the new electoral rules. The Labour Party (NZLP) has been in opposition since 1990 after its worst electoral defeat in over 60 years. Unlike the Australian Labor Party, which only held government for short periods of time until the 1980s, the NZLP had enjoyed extended periods of office (most notably 1935-1949) and was able to bring about significant reforms.²²⁾ 203 Notwithstanding this, the NZLP has held office for less than half the period 1935-1996. Thus, National has dominated the political scene and, until its own transformation in the late 1980s, was the defender of the policy of domestic defense. During the late 1980s, National transformed its own political position and embraced a strong neo liberal agenda based on privatisation and deregulation.

Differences in Labor Market Institutions

While the general characteristics of the 'Australasian model' of compulsory conciliation and arbitration are shared in common, the constitutional and political economy constraints which were just discussed have meant that there are a number of significant differences in labor market institutions, both before and after reforms during the 1980s and 1990s.

In the Australian case, Section 51(xxxv) has limited the capacity of federal governments to intervene directly into labor markets; instead it required federal governments to establish third party tribunals to do so. These tribunals were required to be conciliation and arbitral tribunals aimed at preventing or settling inter-state industrial disputes. The role these tribunals could play, and how they could be constituted, has been subject to more constitutional disputes than any other section of the Australian constitution. Traditionally, the High Court has interpreted this section of the constitution in such a way as to limit the powers of the federal parliament and the tribunals it created.²³⁾ Moreover, state governments have been willing to establish tribunals

22) Other periods of NZLP rule are: 1957-1960, 1972-1975, 1984-1991. These reforms were, nonetheless, consistent with the regime of domestic defense. The most important of these reforms was the reform to social welfare, which had been introduced in Australia almost two decades earlier.

23) The exact wording of Section 51(xxxv) are: 'The parliament shall have the power to make laws... (xxxv) For the prevention and settlement of industrial disputes extending beyond the limits of any one state'. The major disputes concern questions of: What is a dispute? Who are the parties to a dispute, and who therefore, is covered by a settlement? What is an industrial dispute? What is an industry? What is an interstate dispute? What is prevention? What is settlement? These words, seemingly simple and ordinary, have proved more troublesome than their authors could ever have imagined possible! See Dabscheck (1996) for a discussion of these issues.

of their own which have made the system of labor market regulation even more fragmented. In contrast, the political freedom granted to the NZ parliament by the unitary system of government and the absence of a written constitution, have ensured a more complete system of arbitral regulation. In short, national governments in New Zealand have been able to intervene more directly and establish tribunals with complete coverage.

Two differences are noteworthy. First, the two systems differed in terms of the privileges given to unions. Although both systems include provisions for union (and employer) registration and the granting of exclusive coverage to a union for a particular class of workers (occupation or industry),²⁴⁾ in contrast to the Australian legislation, the New Zealand system included provisions for automatic compulsory unionism. In the Australian case, tribunals have generally restricted the use of closed shop clauses to the 'sweated' industries or cases where it had previously been established by private agreement (Mitchell 1983). In contrast, the New Zealand system compelled union membership and payment of dues.

Second, each system differed in terms of how awards were applied. The constitutional intricacies of the Australian system required that unions cite individual firms as parties to a dispute (that is, it required unions to have individual employers 'roped-in' to a given dispute) to be covered by award regulation (Dabscheck 1996).²⁵⁾ While in many cases this did not prove to be difficult or an ongoing cost, in those industries where firm turnover was significant, unions could not simply rely on existing award coverage. In contrast, the New Zealand legislation bound all unions and employers engaged in the covered industry (a 'blanket clause'²⁶⁾) to abide by awards; they were 'common rule' awards.²⁷⁾ This also meant that while single-firm awards were possible (and sometimes significant) in the Australian case, they were non-existent in New Zealand until legislative changes in 1987 (Dannin, 1995).

These two differences were important in creating very different union movements. While both the Australian and New Zealand union movements benefited considerably from arbitral regulation, the provisions of exclusive coverage and compulsory unionism contained in New Zealand legislation made for a far more dependent unionism. The relatively costlessness of

24) In the Australian case, this exclusive coverage provided that a new union could not be registered if they could 'conveniently belong to' any existing registered union. That is, any unions whose rules of coverage would cover that employee (Dabscheck 1995).

25) This was not the case in state jurisdictions where tribunals had the capacity to establish common rule awards.

26) This provision was introduced in 1937.

27) There were means in the Australian case to create a common rule award, but this was not the case for many industries.

establishing a union and the ease with which unions could recruit membership, reduced the incentives for membership involvement and workplace organization. Although this was also true for some Australian unions, many had fostered workplace unionism and strong membership involvement as alternative sources of resources critical to their capacity to function (Gahan 1996). The relative weakness of New Zealand unions is evident in the decline experienced in response to the dismantling of the arbitral framework after 1991.

The Changing Nature of Labour Markets and Labour Market Institutions

Notwithstanding these differences (they are important - this will become clear later), the dominant mode of labor law in both Australia and New Zealand relied on the existence of relatively stable labor markets and strong labor market institutions. The most important of these was unionism. The arbitral legislation in both countries explicitly sought to encourage the formation of representative unions, and in some respects arbitration was reliant on the existence of unions to carry out many functions associated with arbitration, such as policing and enforcing awards, and bringing new claims to the tribunal. Moreover, the vast majority of awards and conditions determined by industrial tribunals have assumed that most workers were full-time employees (Gahan and Mitchell 1995). However, over the last two decades, the Australian and New Zealand economies have experienced considerable structural adjustment which has undermined many of the conditions upon which arbitration depended. Not only has the industry structure of each economy altered, but a number of important sectors of these two economies have been deregulated, and the privatization and corporatization have been more recent policy initiatives in the public sector.²⁸⁾ Consistent with these trends the labor markets of both countries have been subject to considerable change over the last two decades.

The Australian Case

Shifts in the structure of industry and employment. Employment growth has been strongest in the production of services, such as tourism and personal services, while employment declines have been strongest in traditional manufacturing industries (Table 1). In addition employment growth has tended to be stronger in small firms. Consistent with the nature of the 'point of consumption' production requirements associated with service industries, employment has been increasingly part-time and casual. Table 2 shows that

28) For useful studies of the Australian experience see Morishima (1993, 1994, 1995).

Table 1 Employment by Industry (percent), 1970 - 1996

INDUSTRY	1970	1980	1990	1992	1995	1996
Agriculture, Forestry, Fishing & Hunting	8.2	6.4	5.5	5.2	5.0	5.1
Mining and Quarrying	1.4	1.4	1.2	1.2	1.0	1.1
Manufacturing	26.5	19.5	15.3	14.4	13.6	13.5
Electricity, Gas & Water	-	-	1.3	1.4	1.0	0.8
Building and Construction	8.9	12.6	7.5	6.9	7.2	7.3
Wholesale & Retail Trade	17.7	20.4	20.6	20.8	20.7	20.0
Transport and Storage	5.5	5.5	5.1	4.9	4.6	4.7
Communication	2.4	1.9	1.9	1.5	1.8	2.0
Finance, Property & Business Services	5.9	8.2	11.6	11.7	—	—
Finance and Insurance	3.8	3.8				
Property and Business Services	9.6	9.8				
Public Administration and Defence	3.8	4.5	4.6	4.5	4.6	4.5
Community Services	6.3	16.2	28.8	19.3	—	—
Education	—	—	—	—	7.1	7.1
Health and Community Services	—	—	—	—	9.1	9.2
Recreation, Personal and other Services	3.3	6.2	7.2	8.2	10.8	10.5

NOTE: Estimates are percentage of total employment in industry classification.

SOURCES: ABS Cat No. 6101.0 and 6203.0.

Table 2 Part time Employment, 1970-1998

YEAR	Males (percent)	Females (percent)	All Employees (percent)	TOTAL ('000)
1970	3.1	26.0	10.6	569.7
1975	4.0	31.8	13.6	794.4
1980	5.7	36.0	16.7	1056.2
1985	6.2	37.3	18.2	1206.9
1989	7.8	40.0	20.9	1586.8
1990	7.9	40.1	21.3	1665.2
1992	10.5	43.3	25.4	1873.3
1993	10.3	42.3	23.9	1820.5
1994	10.9	42.6	24.4	1923.9
1995	10.5	42.0	23.9	1930.7
1996	10.6	42.1	24.1	1992.0
1997	11.9	43.2	25.4	2133.2
1998	12.0	42.9	25.5	2188.1

Note: Estimates are for the percentage of all gender employed part-time; estimates for all employees is the percentage of all employees employed part-time.

SOURCE: ABS Cat. 6203.0.

Table 3 Participation rates (percent of adult population) 1970-1998

YEAR	Total	Males	Females
1970			
1975	61.6	80.5	43.0
1980	61.0	77.9	44.7
1985	60.3	75.2	45.7
1990	63.2	74.9	51.9
1991	62.6	74.0	51.6
1992	62.5	73.7	51.6
1993	61.9	72.9	51.3
1994	62.9	73.6	52.5
1995	63.7	73.8	54.0
1996	63.5	73.5	53.8
1997	63.1	73.0	53.5
1998	63.5	73.1	54.1

SOURCES: ABS Cat. No. 6202.0 and 6203.0.

Table 4 Part-time Employment by Age, 1989-1998

Age Group	15-19	20-24	25-34	34-44	45-54	55-59	60-64
Males:							
1989	27	8	4	3	3	7	12
1992	45	15	6	5.5	5	10	18
1993	44	14	5.6	5.1	5.3	10	17
1995	45.9	13.1	5.8	5.2	5.3	12.7	16.3
1996	47.7	14.4	6.2	5.5	5.6	8.6	17.4
1998	52.7	18.2	6.6	5.6	6.8	10.6	19.6
Females:							
1989	46	17	36	44	44	51	51
1992	66	28	38	47.4	43	53	57
1993	68.5	26	37	45	31	47	56
1995	68.6	27.8	35.1	45.6	41.2	48.1	56.7
1996	68.7	28.9	36.5	45.1	39.4	48.5	53.9
1998	74.6	31.7	32.3	45.5	41.7	47.6	64.7

NOTE: Figures are for percent of employees in age group working part-time. All figures for August, except for 1998 (February).

SOURCE: ABS Cat No. 6203.0 & 6204.0

between 1970 and 1998, the percentage of all employees in part-time employment increased from 10.6 percent to 25.5 percent. The proportion of workers in part-time employment differs significantly by gender: while 12 percent of males are employed part-time, almost 43 percent of women are in part-time employment. Female and youth participation in the labor market has also changed dramatically. This in part reflects changes in participation rates and household labor supply decisions. Table 3 reveals that over the period 1970 to 1998 female participation continued to increase, while male participation rates have declined. While youth participation rates have not changed, increases in school retention rates have contributed to youth being increasingly employed in part-time employment (see Table 4).

Unemployment and Hours of Work. Like most OECD countries, unemployment escalated in the late 1980s and 1990s. Table 5 shows that between 1970 and 1998 unemployment had increased from 1.6 percent to 8.1, reflecting a substantial rise in the Non-accelerating Inflation rate of Unemployment, or NAIRU (Kurunaratne 1994). Long-term unemployed had also

Table 5 Unemployment Rate, 1970-1998

YEAR	Unemployment Rate	Long Term Unemployed	Very Long Term Unemployed
1970	1.6	—	—
1975	4.4	—	—
1980	6.0	—	—
1985	7.9	4.0	2.4
1986	8.0	3.6	2.1
1987	7.8	3.7	2.1
1988	7.1	3.3	1.9
1989	5.7	2.2	1.4
1990	6.9	2.6	1.4
1991	9.5	4.1	1.7
1992	10.5	6.3	2.7
1993	10.9	6.8	3.6
1994	10.2	8.7	5.0
1995	8.3	6.3	3.7
1996	8.5	4.4	2.3
1998	8.1	1.2	1.4

NOTES: Long term unemployed is defined as the percentage of the labor force unemployed for 52 weeks or more, and very long term unemployed is the percentage of the labor force unemployed for 104 weeks or more. Estimates for 1998 are for the year ending July 1998.

SOURCES: ABS Cat. 6350.0, 6101.0 & 6202.0.

became a serious problem in the 1990s, peaking at 8.7 percent in 1994. The reasons for the dramatic rise in unemployment and the problem of long-term unemployment has in part been attributed to existing industrial relations institutions, particularly the regulation of unfair dismissals, which have been viewed as increasing the potential (non-wage) costs of making new hires (a discouragement effect) have contributed to hysteric processes. Other factors contributing to these phenomena have been associated with changing hours worked. Paradoxically, as unemployment has increased, for those with work, hours of work have also increased. Between 1990 and 1998 average weekly hours for all employees have decreased, reflecting the rise in part-time employment. Average weekly hours of full-time workers have, however, increased. Table 6 reveals that the average weekly hours for full-time male workers increased from 42.6 to 45.0 hours, while for full-time female workers the increase was from 38.8 to 40.7 hours. On average, the weekly hours worked by both male and female part-time workers increased approximately two hours per week. Multiple job holdings have also

Table 6 Average Weekly Hours, 1975-1998

YEAR	MALES		FEMALES	
	Full-time employees	Part-time Employees	Full-time Employees	Part-time Employees
1975	41.2	15.2	37.9	15.7
1980	41.5	16.4	37.9	15.4
1985	41.3	16.1	37.7	15.8
1990	42.6	14.8	38.8	15.6
1991	42.3	14.9	38.6	15.5
1992	43.0	14.9	39.2	15.6
1993	43.5	15.5	39.2	15.8
1994	43.6	14.8	38.5	14.2
1995	44.0	15.6	39.2	14.2
1996	43.6	15.3	39.4	16.5
1998	45.0	17.2	40.7	17.2

Source: ABS Cat. 6203.0.

increased substantially since 1983. Between 1983 and 1995 (the last available data), the proportion of all wage and salary earners who held more than one job had increased from 2.9 per cent to 5.9 per cent.

Unionization and Industrial Action. Table 7 shows that since 1970 the number of unions has more than halved. The decline in this number is particularly evident between 1989 and 1994. This reflects the policy of the Australian Council of Trade Unions (ACTU) to reduce the total

number of unions and restructure along industry lines, and supportive legislation enacted in 1988. The fall in the number of unions has also been in response to a growing crisis in union membership. Table 7 reveals that between 1975 and 1996 (the last available survey data) union density had declined from 51 per cent to 31.1 per cent. At the same time, the pattern of industrial action has changed dramatically, as Table 8 shows. Between 1976 (a peak in the level of strike action) and 1998, working days lost (WDL) per 1000 workers has fallen from 717 days to just 76. Along with this decline in WDL has been a fall in the number of workers involved in strike action, and the average length of any given strike. Reflecting a high degree of changes in industrial relations at the workplace has been a marked change in the composition of industrial disputes by cause. Table 8 also reveals a dramatic increase in strikes over managerial policies and practices, particularly during the 1980s.

Table 7 Unions and Unionization, 1970 - 1996

YEAR	Number of Unions	Union Density
1970	347	—
1976	317	51.0
1980	325	—
1982	322	49.0
1984	329	—
1986	326	45.6
1988	308	41.6
1990	295	40.5
1992	227	39.6
1994	157	35.0
1995	—	32.7
1996	—	31.1

NOTE: Union density is calculated from supplementary questions administered as part of the monthly Labor Force Survey. This series commenced in 1976 and from 1986 has been administered biennially.

SOURCES: ABS, Trade Union Members, Australia, Cat. No. 6325.0; ABS, Trade Union Statistics, Australia, Cat. No. 6323; and ABS, Weekly Earnings of Employees (Distribution), Australia, Cat. No. 6310.0.

The Coverage of Awards. Awards embody the decisions made by industrial tribunals. They set out the terms and conditions which firms have been ordered or agree to observe. Over the period 1970 to 1990 (the last year from which reliable statistics are available) award coverage has decrease from 87.4 to 80.0 percent of all employees. Although this decline does not appear to be that significant, and is certainly not consonant with the decline in union density, a

Table 8 Industrial Disputation (Working Days Lost per 1000 Employees) By Cause, 1975-1998

Cause of Dispute	1975	1980	1985	1986	1988	1990	1992	1993	1994	1995	1996	1998
Wages	33.7	21.5	23.1	40.0	29.6	11.3	2.5	-	12.5	-	39.2	12.2
Hours	1.1	4.5	3.8	1.0	1.8	0.4	0.0	-	1.1	-	0.3	0.5
Leave, pensions & Compensation	1.1	1.8	3.2	10.8	2.9	1.5	1.6	-	2.7	-	1.5	0.3
Managerial Policy.	34.4	39.7	24.8	35.6	52.4	73.5	23.7	-	35.3	-	31.4	40.5
Working Conditions	15.4	19.6	14.9	6.9	9.2	7.7	2.9	-	4.4	-	4.2	1.9
Unionism	9.3	10.0	16.5	3.3	2.0	3.9	5.0	-	2.2	-	2.8	1.5
Other	5.0	3.0	13.7	2.4	2.0	1.8	64.3	-	41.6	-	20.6	19.1
WDL/1000 Emp.	717	649	228	242	269	217	158	108	74	86	101	76

NOTES: Figures for 1996 are for year ending June. WDL/1000 Emp. = Working days lost per 1000 employees.

SOURCE: ABS Cat No. 6203.0, 6315.0 and 6323.0.

decomposition of award coverage by private and public sector separately reveals an emerging divergence in award coverage. Award coverage of all private sector employees has fallen from 84.9 per cent to 72.4 per cent; in the public sector, award coverage has actually increased from 93.0 per cent to 97.8 per cent. Moreover, while no significant difference in coverage is evident between males and females in the public sector, in the private sector far fewer males are covered by awards compared with females (68.4 and 77.6 per cent respectively in 1990). One would have expected that these differences have become more pronounced since 1990 given the changes in legislation and enterprise bargaining. This is discussed in detail below.

The Policy Environment. These developments have occurred during a period in which the policy of domestic defense has been undermined. There has been considerable debate amongst scholars concerning the relative importance of a number of factors in contributing to this. Some have hypothesised that ideology has been the key motivation for a general policy shift. Pusey (1991), for example, has argued that an ideology of 'economic rationalism' which favors deregulation and privatization has predominated in debates over policy change. Most political advisers and senior public servants, he argues, have been trained in neo-classical economics, and believe free markets will provide the most efficient economic outcomes. Other writers have similarly argued that the application of a narrow economic framework which does not recognise the importance of social capital and social costs have been pursued by both policy makers and firms. The ideology is said to favor less state intervention to compensate for the social costs of firm-level decision making, particularly in the case of economic restructuring (Rees and Rodley, 1995). This hypothesis, however, does not explain the shifts in policies

pursued by Labor governments during the 1980s. The early 1980s were dominated by attempts by Labor to establish a quasi-corporatist state, and to effect a shift in the policy regime from domestic defense to what Katzenstein (1985) has called a policy 'domestic compensation'. However, economic problems during the 1990s (particularly the problem of unemployment), saw the abandonment of this policy shift to a regime which more closely traditional liberal welfare capitalism (Esping-Andersen 1990). Thus, it is difficult to sustain the proposition that ideology was the only factor - political economy considerations were more important.

Other scholars have contended that a trend towards globalization and the internationalisation of the Australian economy has created a more uncertain environment in which firms are required to be more flexible (Hilmer 1989). This argument has been linked directly to many of the changes noted previously (such as the growth of part-time employment), and has become a key argument employed by both unions and employer associations who advocate a more decentralised system of wage determination, and less regulation of employment decisions made by firms (Gahan, 1993). These views were reflected in the end of bipartisan support for existing institutions, with some major employer associations seeking to reduce the role of arbitration and unions.²⁹⁾ Again, however, the relative importance of the globalization hypothesis is difficult to establish, particularly given the historical dependence of Australia on international trade. The argument may hold for individual sectors; the most important of these would be manufacturing and the provision of personal services. In the former case, the evidence does not seem to be strong, while in the later case the importance of service exports has increased substantially (such as tourism).

Responses to Economic Crisis. Whatever their merits, these arguments have exerted considerable influence over government policy during the 1980s and 1990s. To understand this a brief description of the foundations of government policy since 1983 is required. Prior to its 1983 election win, the ALP negotiated a compact over wages, taxation and social policy with the Australian Council of Trade Unions (ACTU). This Prices and Incomes Accord (the Accord) became a cornerstone of government policy, which allowed it to implement a significant shift in economic and industrial relations policy. The central element of the Accord was a wage-tax trade-off: in return for limiting their wage claims, unions were guaranteed that the real social wage would be maintained (that is, income net of taxation and social welfare payments would be maintained in real terms).³⁰⁾

29) The Business Council of Australia (BCA) and the Australian Chamber of Commerce and Industry (ACCI) being the most important of these.

30) For a more complete description, see Dabscheck (1996).

This arrangement provided unions with significant influence over taxation and social welfare. The first Accord agreement maintained a commitment to a centralised wage fixing system in which wages would be adjusted to the Consumer Price Index. The significance of the Accord lay in the transformation of the policy making process and the nature of the policy regimes pursued by the Australian government. The Accord was one element in an attempt by the ALP to establish a corporatist style of political decision making. While it was essentially an agreement between the industrial and political wings of the labor movement, the post election period saw both informal and formal attempts to incorporate business associations into the decision making process. Most notably, the 1983 election was followed by an 'economic summit' in which a general agreement between major interest groups was established in a 'joint communiqué' and the establishment of a number of tripartite institutions intended to provide a mechanism to resolve policy disputes and advise government agencies and ministers. Consistent with the pursuit of neo-corporatism, the ALP government also sought to orchestrate a policy shift from the traditional policy of domestic defense to a policy of domestic compensation. This involved a gradual process of deregulation and the dismantling of the established system of protection for domestic firms. Industry policy and active labor market policies were adopted as a means to ensure a more efficient process of micro-economic restructuring.

Since 1983, however, the Accord agreement was renegotiated several times. Subsequent Accord agreements moved away from a highly centralized system in which compulsory arbitration and National Wage Cases (NWC) dominated total wage movements, to a relatively decentralized industrial relations system in which collective bargaining at the workplace (enterprise bargaining) became the predominant process through which wage rises have occurred (Dabscheck 1996). The evolutionary process by which this has occurred has been described as 'managed decentralism'. In addition, any pretensions to the policy being 'corporatist' in nature have gradually been abandoned, and elements of industry policy and active labor market policy were abandoned or substantially diluted. Active industry and labor market policies were replaced with policy initiatives which focused on a reduction in the size and functions of the public sector, privatization and corporatization, and (partial) labor market deregulation.

For much of the 1980s both unions and a number of employer associations reasserted the legitimacy of the Accord and were supportive of the ALP's reform program. This was particularly so in the case of the metal sector, which has traditionally acted as a wage-leader. Until the early 1990s, the Metal Trades Industry Association (MTIA) continually supported the Accord and its aim of managed decentralism. By the late 1980s, however, this support had

declined considerably. The most important shift from this consensus occurred after the formation of the BCA in 1983. Representing Australia's largest employers, it challenged existing employer groups and the Accord process (Mathews, 1994). By 1986, the conservative parties had reformulated their own industrial relations policies and called for labour market deregulation in line with the BCA's position (O'Brien, 1994). In 1986 the first signs of a move towards a more decentralized wage bargaining system emerged in response to a worsening terms of trade problem (Dabscheck, 1995), which was then reflected in subsequent NWC decisions which required productivity trade-offs in return for wage increases.³¹⁾

From Quasi-corporatism to Liberal Individualism. Since the late 1980s the dominant institutions regulating industrial relations - particularly arbitration tribunals and unions - exerted less influence over the conduct of industrial relations at the workplace level. Much of this was reflected in legislative change. *The Industrial Relations Reform Act* (1993) introduced major changes to the regulation of industrial relations including:

1. The elevation of collective bargaining and non-union bargaining as the central processes by which wages and conditions are determined.
2. The diminution of the power of the Australian Industrial Relations Commission (AIRC) to impose an arbitrated settlement.
3. The inclusion of a number of minimum conditions based on International Labour Organisation conventions.
4. Stronger protection against unfair dismissals.³²⁾
5. Other legislation, which is based on individual employment law, has also exerted an increasing role in the regulation of employment relations. These include occupational health and safety, anti-discrimination, and affirmative action legislation.

These reforms have been extended by reforms introduced by the new (conservative) coalition federal government, which won office in March 1996. While forced to make some compromises with minor parties holding the balance of power in the Senate, the new coalition

31) The first of these decisions involved a two tiered wage system: the first tier consisted of a flat wage increase; the second tier was a percentage wage increase to be negotiated at the firm or industry level. This wage increase had to be offset by demonstrated productivity gains. Subsequent rounds of productivity bargaining focused on a wholesale restructuring of job classifications contain din awards designed to increase functional flexibility (award restructuring). By 1991, this had become enterprise level productivity bargaining.

32) This provision was quickly amended in response to employer criticisms of it (see Reitano, 1995 and 1996).

government's *Workplace Relations Act 1996*⁸³⁾ has overturned many of the collectivist assumptions of Australian labour law. The changes introduced by the new act can be summarised as follows.

1. A new set of objectives which emphasises economic efficiency rather than equity considerations.
2. A further diminution of the role of awards. Rather than being a comprehensive set of conditions, the Act provides that awards will cover 20 'allowable matters' only (see Dabscheck 1996). Enterprise agreements are expected to include other provisions not contained in awards.³⁴⁾
3. The new legislation gives priority to non-union or individual agreements (Australian Workplace Agreements). These are, however vetted by a new agency established under the Act (The Office of the Employment Advocate) and the AIRC to ensure they are fair and do not disadvantage workers.
4. The Act has removed disputes involving secondary boycotts from the jurisdiction of the Industrial Relations Court. Under provisions contained in the *Trade Practices Act 1974*, unions will be liable for any economic loss caused by secondary boycotts.
5. Consistent with the philosophy of liberal individualism, provisions which protect the status of unions were substantially weakened. In addition, the legislation provides for 'disamalgamation' or for the establishment of enterprise unions.
6. The new legislation further weakens the provisions regulating unfair dismissals.
7. The AIRC is prevented from regulating minimum weekly hours or the number of part-time workers a firm may employ, but it is allowed to regulate minimum hours

Although these represent significant changes to the current legislation, they do not represent an outcome which could be described as 'labor market deregulation' (a term I will apply to the New Zealand case), which was certainly the original intention (Dabscheck 1996). Nonetheless, the general policy direction is consistent with the trend of decentralisation and deinstitutionalisation which had commenced under the previous Labor administration. Overall, the general trend has been towards a withdrawal of regulation aimed at determining industrial outcomes towards a greater emphasis on the regulation of processes and procedures by which

33) This Bill, like the Industrial Relations Reform Act before it, is an amendment to the Industrial Relations Act 1988.

34) Awards may remain important for two reasons: first, many workers not covered by unions will not be capable of engaging in enterprise bargaining; second, they will remain operative even when an enterprise agreement expires. Nonetheless, the intention is that firms and workers learn to live without awards.

wages and conditions are determined. This process of *jurudification* implies that, within the limits of minimum standards enshrined in law, substantive outcomes are determined by parties themselves (see Bellace, 1992).

The New Zealand Case

Although New Zealand shared Australia's distinctive system of compulsory arbitration, it has already been noted that there were differences in the nature of the compulsory arbitration system which had evolved over the course of the twentieth century. In short, the New Zealand model was more complete and more direct in the style of regulation employed. The constitutional limitations on the Australian federal parliament and the federalist nature of its system of government prevented a more complete or more direct set of labor market interventions. This is also true of other aspects of government regulation and activity. For instance, public ownership was more widespread, and regulation of capital and markets and firms was more pervasive in New Zealand than Australia.³⁵⁾ For the same reasons, more extensive deregulation of industrial relations and labor markets was also possible. Thus, despite the existence of a Labour government for the period 1984 to 1990, legislative reforms of industrial relations were more extensive in New Zealand than was observed in the Australian case. Arguably, this was also in response to more pressing economic problems.

For much of the twentieth century, New Zealand functioned as Britain's farm: its production of dairy, sheep and timber was largely for the UK markets. Until the 1960s, this economic function served to provide New Zealand with a relatively high growth rate and standard of living. However, since the 1960s, productivity growth has been low by OECD standards and it has consistently fallen on OECD rankings of GDP per capita (Kelly, 1995).³⁶⁾ Foreign debt rose precipitously in the 1970s, rising from 11 per cent of GDP in 1974 to 95 per cent of GDP in June 1984 (Evans et al., 1995), while inflation averaged 15 percent a year over the period 1976 to 1982, falling dramatically during the price 1982-84 price freeze, only to rise again to 18 per cent

35) Some economies have agreed that New Zealand was 'over-regulated' and this was the primary reason for New Zealand's declining economic performance over the last two or more decades (Evans, et al., 1995). Castles and Pierson (1996, p 240) note that, 'By the early 1980s, it was possible for critics (on both sides of politics) to see New Zealand's economy as the nearest thing to a command economy outside the Eastern bloc.'

36) In 1938 New Zealand GNP per capita stood at 92 percent of the US ; by the mid 1970s it had fallen to about 50 percent of the US equivalent GNP per capita (Evans, et al. 1995). A selective comparison with other OECD countries is instructive. The GNP per capita (\$US) in 1995 for New Zealand was \$ 16,905, Australia (\$19,240), the United States (\$27,523), and for Japan ((\$40,079) (figures from EIU 1996).

in 1986 (Harbridge and McCaw, 1990). Just as the ALP gained office during a recession, the NZLP won office in 1984 in a period of extreme economic crisis. During its first term (1984-87) the NZLP introduced a range of economic reforms. The New Zealand currency was floated, agricultural subsidies were removed, most import controls were removed and tariffs were significantly lowered, tax rates were reduced, and an ambitious program of 'corporatization' and privatisation of public sector utilities was commenced.³⁷⁾ These reforms were similar to those introduced in Australia in the same period.

During this first term limited reforms to labor laws was introduced voluntary arbitration for disputes of interest (Hammond and Harbridge, 1995). More extensive reforms occurred in 1987 and 1988. Although the 1987 *Labour Relations Act* (LRA) maintained many aspects of the traditional arbitraion system (union preference, exclusive coverage and awards), it also contained a number of important new elements (Hammond and Harbridge, 1995, Kelly, 1995), which included the following.

1. The retention of voluntary (rather than compulsory) arbitration for interest disputes.
2. The ability for unions to 'opt-out' of award coverage and engage in enterprise bargaining. This option removed the 'safety net' features associated with award coverage.
3. 'Over-award' bargaining could not occur if unions wanted to retain award coverage.
4. Firms employing more than 50 workers were able to initiate an employee ballot for the right to initiate negotiations for an enterprise agreement. This required a simple majority.
5. Unions with less than 1000 members were to be deregistered.

These changes, many of which parallel the changes described in the Australian case,³⁸⁾ had an immediate effect on industrial relations; the most notable effect being a dramatic decline in union membership. However, employer associations, particularly the New Zealand Employers Federation (NZEf) and the New Zealand Business Roundtable (NZBR), actively opposed the legislation claiming it did not provide adequate flexibility to a highly reified labor market. Moreover, the economic conditions did not improve in the aftershock of the 1987 stock market crash. The immediate response of the New Zealand Labour Government was to introduce more significant reforms in public sector employer, intended as a forerunner to more fundamental change in the private sector. The *State Services Act* 1988 introduced far-reaching

37) For a complete, if partial, description of these reforms see Evans et al. 1995).

38) One commentator has argued that these changes were more consistent with the Wagner framework upon which collective bargaining is based in the US (Boxall 1990). In many respects both the Australian legislation introduced in 1993 and the Labor Relations Act imported US style collective bargaining into the labor law framework. However, the continued importance of arbitration points to important differences between them.

changes to the traditional institutions which governed public sector employment (Kelly, 1995), including, the replacement of permanent tenure with fixed term contracts; the appointment of directly by the minister rather than by department committees; and decentralization of the responsibility of industrial relations to the departmental level and the introduction of *de-facto* enterprise bargaining.

In the face of continuing economic problems, and a national election during 1990, the NZLP and the New Zealand Council of Trade Unions (NZCTU) signed a Compact in December 1989, which was intended to reproduce the (early) successes achieved through the Accord in Australia. The bipartite consultative body established under this Compact (and in response to growing concerns relating to gender equity after the public sector reforms) prompted the NZ Labor Government to pass the *Employment Equity Act* 1990 in the final months prior to the November 1990 election. However, neither the Compact nor the *Employment Equity Act* amounted to much. The NZLP was defeated in its worst electoral performance in more than sixty years. The incoming conservative government introduced new industrial relations legislation almost immediately. The *Employment Contracts Act* 1991 repealed the LRA, and with it almost 100 years of arbitration and award regulation. Its major reforms can be summarised as follows:

1. The award system was replaced with a system of collective and individual contracts.
2. Single-employer bargaining replaced multi-employer bargaining.
3. Union registration was removed, and a number of union privileges were removed, including tax exemptions.
4. Membership of representative 'employee organizations' was made voluntary. The inclusion of preference ('closed shop') devices was outlawed.
5. Employers were required to 'recognise' any 'bargaining agent' (union, lawyer etc.) nominated by an employee, but were not compelled to bargain with that agent.
6. Voluntary mediation and arbitration would be provided through the Employment Tribunal and a new Employment Court.
7. Strikes during rights disputes were made illegal, except if they involve a health and safety grievance. Strikes aimed at enforcing a multi-employer collective agreement and political strikes were also outlawed.
8. The Act removed the capacity of civil courts to apply common law remedies to bargains deemed to be harsh or unconscionable bargains.
9. 'Complimentary' legislation was also passed to facilitate the transition from the award based system of employment regulation to employment contracts. The *Employment Equity Act* 1990 was repealed, and new legislation reformed social security arrangements which limited

tightened eligibility rules, and lengthened the period of stand-down for eligibility (Castles and Pierson, 1996). This was designed to increase the intensity of labor market search activity.

These reforms go far beyond those which have occurred in Australia, even after the election of the current conservative government, which had praised the reforms implemented in New Zealand. In many respects the ECA deregulated the contractual relations between employers and employees; these changes have certainly contributed to an almost wholesale 'deinstitutionalization' of labor markets and industrial relations in New Zealand. The most significant of these being the decimation of unions over the 1980s and 1990s. Between September 1989 and December 1994 (the last figures available) union density rates fell from 44.7 per cent of the employed labor force to 23.4; over the same period the number of unions has fallen from 112 to 82 (Harbridge and Crawford, 1996). Dannin, however, reports that for some industries where unions have traditionally been weak, union density has not fallen to this extent. Her research suggests that this has been due to some unions more actively preparing for the introduction of new legislation prior to the defeat of the NZLP in 1990 (Dannin, 1995). The emphasis on individual bargaining, and the conspicuous absence of bargaining rights have seen both single establishment and multi-establishment collective bargaining collapsed, although the extent to which this has occurred varies considerably between industries (Harbridge and Honeybone, 1995).

Divergences in Policy Reforms and Institutions

An important question concerns the differences in policy processes and outcomes described in Australia and New Zealand. Although their industrial relations institutions are very similar in many respects this paper revealed that significant differences in the nature of labor market and industrial relations institutions existed both before and after the introduction of the reforms outlined in the previous section. Why have both the processes and outcomes of labor market reform differed between Australia and New Zealand?

The differences in processes of reform were in part linked to the nature of political institutions. In Australia, the more fractured nature of political institutions require the parties to find 'bargained compromises' to initiate change. Federalism, constitutional constraints, voting rules and the bicameral system of Parliament were largely responsible for this. In contrast, the New Zealand political system provides the government of the day with greater control over the policy process. New Zealand governments have not faced recalcitrant state governments, constitutional handcuffs, hostile senators, or a voting system which worked against absolute

majorities. The system of 'elective dictatorship', as it has been referred to (Palmer, 1979), allows for more radical or discrete policy shifts.³⁹⁾

A second difference which explains the divergent policy outcomes relates to differences in political cycles. In the New Zealand case a conservative administration was elected five years prior to the election of a conservative government in Australia. As a consequence, radical labor market reform was far less feasible as political preferences in Australia were influenced by the negative outcomes associated with the New Zealand case. This difference in political cycles, helps explain the alternative path of 'managed decentralism' that emerged in Australia.

However, it does not explain two features of the process we have observed. First, it does not explain why in both cases Labo(u)r governments began the process of decentralization and deregulation of industrial relations - a policy which might be considered unlikely given their natural constituents would be most affected. More puzzling perhaps is the willingness of labour movements to accept these changes. Second, it does not explain the emergence of a quasi-corporatist structure as an intermediate stage of reform in the Australian case, but its absence in the New Zealand case. This is in part explained by the bargained compromise engendered by Australian political institutions.

A third difference between the two cases which explains differences in the policies pursued and the vigour with which this was done, is the magnitude of the economic problems faced. Both countries relied on a narrow range of exports, which meant that external shocks influenced domestic economic activity disproportionately. However, in the New Zealand case, the continued (very) high reliance on primary product exports meant that external shocks were felt in an extreme way (often referred to as 'Dutch disease'). This was exacerbated by the decline in relative world prices for agricultural commodities, and the decline in its traditional trading relationship with Britain. In the Australian case, while structural imbalances were increasingly evident, they were by no means as severe as those faced by New Zealand. This, it could be argued, provided Australian governments with greater scope in policy choice.

Conclusion

The last two decades have witnessed significant changes the characteristics of labour markets in Australia and New Zealand and the institutional arrangements which govern them.

39) Changes to the voting rules described earlier have in fact changed this situation somewhat. AS noted, the MMP system makes it far more difficult for any party to achieve a majority in the House of Representatives.

These reforms could be described as 'revolutionary' in that they been associated with the diminution of the role and influence of the institution of compulsory arbitration and a shift from a collectivist labor law philosophy to an individualist one. In many respects, particularly in the case of Australia, this has involved a shift from a quasi-corporatist policy regime to a liberal individualist regime.

Notwithstanding the general similarities of these changes, this paper has argued that there are substantial differences between the two cases. The New Zealand experience is one of almost wholesale deregulation, while in the Australian case, it has involved a process of 'managed decentralism.' The difference in the path of reform reflects a number of differences in political institutions and the capacity of national governments to implement radical policy shifts. In the New Zealand case, radical reform is facilitated by more unified political institutions and a political structure which has been likened to an 'elective dictatorship.' There are few constitutional restrictions on government, there is no house of review and, until recent changes in voting rules, majority government was always attainable. In contrast, Australian political institutions are far more fragmented. Constitutional constraints, the federal system of government and the presence of a house of review controlled by opposition parties, have all mitigated against radical shifts. Rather, governments are faced with a need to negotiate change and compromise.

The effect of these processes of deinstitutionalisation and decentralisation on labour market outcomes is difficult to ascertain. One major problem relates to the large number of policy reforms which had been introduced simultaneously. This applies in both country cases. To some extent, this problem can be overcome by the employment of more sophisticated statistical techniques (see for example Borland, 1996 who estimates the effects of declining union membership on wage dispersion). A second problem concerns the time period over which we assume the decline of labor market institutions will affect labor market process and outcomes. In the New Zealand case, despite the propensity of some commentators to make pronouncements either way (for example Evans, et al., 1995 give the reforms the thumbs up), the time period over which we are observing the effects of these reforms is still relatively short - less than one business cycle. A consequence any early positive effects of labour market deregulation appear to have evaporated as the New Zealand economy moved into recession in 1996. A third problem with any attempt to assess the effects of these reforms concern the possibility that the effects may be contradictory. The contradictory effects of the New Zealand reforms (employment growth, lower inflation, but increased inequality and diminished workplace democracy) help explain the differences in judgement commentators are willing to make. More time is, therefore, required before any clear judgement can be made.

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