



Inequality and Insecurity

Responding to the challenge of precarious work

The Ron McCallum Debate 2016

Discussion Paper

Prepared by the Australian Institute of Employment Rights Inc.

Authors: Clare Ozich, Mary Lambert and Keith Harvey

Australian Institute of Employment Rights Inc www.aierights.com.au

214 Graham Street Port Melbourne, Victoria, 3207 Tel: +613 9647 9102 Fax: +613 9647 9199 Email: admin@aierights.com.au

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The 6th Annual Ron McCallum Debate 2016

Discussion Paper

Inequality and Insecurity - Responding to the challenge of precarious work

The decline of economically secure, standard working arrangements is a world-wide trend with economic, social and political consequences.

In 2016, the Debate will seek to unravel the linkages between employment insecurity; economic and social inequality; economic instability and business survival.

Note: The purpose of this Discussion Paper is to inform the Ron McCallum Debate. It sets out the approach of the Australian Institute of Employment Rights (AIER) to the issues and proposes discussion questions that speakers and participants may wish to reflect upon and discuss during the Debate. The paper represents the views of AIER and its authors and in no way represents the views of any participant.

About the AIER

The Australian Institute of Employment Rights is an independent, not-for profit organization with the following objectives:

Adopting the principles of the International Labour Organisation and its commitment to tripartite processes, the Australian Institute of Employment Rights will promote the recognition and implementation of the rights of employees and employers in a co-operative industrial relations framework.

The AIER is an organisation independent of government or any particular interest group and seeks implement these objectives with academic rigor and professional integrity. The AIER includes employer and employee interests in its makeup, membership and operation. It is also fortunate to have included in its governance structure and advisory bodies representatives from the academic and legal fraternity.

AIER draws its basis for this paper from its belief that any system of industrial regulation must be founded in principles which reflect:

- Rights enshrined in international instruments which Australia has willingly adopted and which as a matter of international law is bound to observe;
- Values which have profoundly influenced the nature and aspirations of Australian society and which are embedded in Australia's constitutional and institutional history of industrial/employment law and practice; and
- Rights appropriate to a modern employment relationship which are recognised by the common law.

The AIER has developed an instrument, the Australian Charter of Employment Rights¹, based on the three sources of rights identified above. The Charter is both a unique and an appropriate reference tool for examining the rights and responsibilities of employers and employees in Australia, especially when considering the challenges of precarious employment.

INTRODUCTION

“Employment is now the bearer of inequality and unfairness.”

Professor John Buchanan²

For a significant period of the twentieth century, prosperity in industrialised nations was underpinned by economically secure standard working arrangements and a universal social security safety net. Since the 1970s and 80s, both these pillars for prosperity have been undermined and fractured.

The way our economy is structured is no longer working for many people in our society. Economic policies of the last 30 years while providing for economic growth have also led to increasing inequality, growing insecurity at work, low wage growth and more low wage work, and too much unemployment and underemployment.

Employment insecurity is now a feature for many workers across the Australian economy. Businesses are also facing disruption and an unstable economic environment. To now conclude, as John Buchanan has, that “employment is now the bearer of inequality and unfairness” is a stark break with the long-standing narrative that a job is the path to economic security. These features of our contemporary society require examination.

At this year’s Ron McCallum Debate we are exploring the connection between growing economic inequality and the growth of insecure and precarious work.

In this Discussion Paper we examine economic inequality in Australia and the growth in insecure work and its implications for workers, business and the community. We then consider possible responses to addressing precarious work including regulation, collective action, other forms of economic security and business and government leadership.

¹ <http://www.aierights.com.au/resources/charter/>

² John Buchanan, “A new model for fairness in employment”, *Australian Options*, No 76, May 2014.

ECONOMIC INEQUALITY

Increasing wealth and income inequality in Australia and other industrialised countries is now an established fact. The work of economists such as Thomas Piketty³ and Joseph Stiglitz⁴ in recent years has traced the rise in economic inequality and the reasons behind it. The growth in economic inequality, particularly in the last thirty years, is having and will continue to have adverse social, political and economic consequences.

While Australia managed the most recent economic crisis better than most other similar nations and we sit in the middle of the OECD on its inequality index, we are by no means immune from the global trends of inequality and insecurity nor their consequences.

The 2015 ACOSS report, “Inequality in Australia: A Nation Divided”, details income and wealth inequality in Australia, how big the gaps are and who is affected:

“The Report has found that there is a big gap in incomes and wealth between different groups in society. A person in the top 20% income group receives around five times as much income as a person in the bottom 20%. A person in the top 20% wealth group has a staggering 70 times as much wealth as a person in the bottom 20%.

The Report also finds that these gaps are widening. Over the last 20 years the share of income going to those at the top has risen, while the share flowing to those in the middle and at the bottom has declined. The same is true for wealth, with the bottom and middle having lost ground to those at the top. The wealth of the top 20% wealth group increased by 28% over the period from 2004 to 2012, while by comparison the wealth of the bottom increased by just 3%.”⁵

One of the key trends contributing to inequality is the divergence between labour productivity and wages growth. As the Chiefly Research Centre’s recent Report, “Inequality: The Facts and Figures” states:

“Labour earnings are the largest component of income for most Australians, and therefore the most important driver of income inequality. Average wages today are growing more slowly than productivity, contributing to inequality in the short term and threatening future productivity growth.”⁶

This decoupling of real wages from productivity and the significant fall in labour’s share of GDP, down from 62% in 1978 to 52% in 2010, has given rise to household income inequality and has meant that “resources that provide material welfare for the bulk of the population through paid employment have been shrinking.”⁷

³ Piketty, Thomas, (2014) *Capital in the Twenty-First Century*.

⁴ Stiglitz, Joseph, (2012) *The Price of Inequality*.

⁵ http://acoss.wpengine.com/wp-content/uploads/2015/06/Inequality_in_Australia_FINAL.pdf p. 8.

⁶ http://apo.org.au/files/Resource/inequality_facts_and_the_future_aug_2016.pdf p. 16.

⁷ Buchanan, “A new model for fairness in employment”.

Wage growth is staying persistently low, hitting an all time low this year. The Reserve Bank of Australia has noted Australia is currently experiencing the longest period of low wage growth since the early 1990s recession and that the “decline in wage growth since late 2012 appears to have been unusually large relative to the increase in the unemployment rate.”⁸ The question is being posed - is low wages growth a new normal?⁹ If so, income inequality will continue to pose problems for our society and economy.

As the ACOSS report states:

“Excessive inequality in any society is harmful. It is harmful to the ability of people to participate in social and economic opportunities, and it undermines social cohesion. Excessive inequality is bad for the economy. When resources are concentrated in fewer hands, there is a reduction in economic activity. Fewer people are starting up businesses, buying houses, and purchasing goods and services. More people become dependent on government intervention. Excessive inequality is ultimately unhealthy for democracy. Money and power matter in terms of who in society gets heard, who can participate, and whose interests are adequately protected.”

A paper prepared by the OECD, IMF, ILO and World Bank for the G20 meeting in September 2015 conceded that “The new body of evidence contrasts with an earlier view that inequality was a price that had to be paid for higher growth. In fact the evidence shows that the effect can run in the opposite direction, with more equality leading to higher growth.”¹⁰

In *The Spirit Level: Why More Equal Societies Almost Always Do Better*, Kate Pickett and Richard Wilkinson¹¹, highlighted the “pernicious effects that inequality has on societies: eroding trust, increasing anxiety and illness, (and) encouraging excessive consumption.”

Insecure and precarious work goes hand in hand with the development of a low wage economy and economic inequality. Joseph Stiglitz¹² reminds us that inequality is a choice. He argues, “Widening and deepening inequality is not driven by immutable economic laws, but by laws we have written ourselves.” In this discussion paper we are concerned with the policy choices and regulations as they relate to workplace relations and its intersection with growing inequality.

Discussion Questions:

1. What are the implications for Australian society of growing inequality?
2. What are the consequences for our economy and businesses if as a society we do not address inequality?

⁸ <http://www.rba.gov.au/publications/bulletin/2015/jun/pdf/bu-0615-2.pdf>

⁹ <https://www.theguardian.com/business/grogonomics/2015/aug/13/is-australia-stuck-in-a-new-normal-of-low-wages-growth>

¹⁰ <https://www.oecd.org/g20/topics/employment-and-social-policy/Income-inequality-labour-income-share.pdf>

¹¹ <https://www.equalitytrust.org.uk/resources/the-spirit-level>

¹² <http://opinionator.blogs.nytimes.com/2014/06/27/inequality-is-not-inevitable/>

INSECURE AND PRECARIOUS WORK

There is no doubt that the workplace has undergone massive changes in recent decades for a myriad of reasons. The drivers of this change: innovative technology, new management theories, social change, globalisation, competitive business pressures, outsourcing, etc. have led to the emergence of new types of work. While these changes have been beneficial for some workers – largely professional or IT workers – these drivers have also led to the emergence of a class of workers dependent upon insecure or precarious work with little or no security.¹³

The “Lives on Hold” report from the Independent Inquiry into Insecure Work defines insecure work as “poor quality work that provides workers with little economic security and little control over their working lives.”¹⁴

In our submission to that Inquiry, the AIER noted the various ways that insecurity can impact on workers from employment insecurity to income insecurity, working-time insecurity, functional insecurity.¹⁵ For the purposes of this paper we are focusing on the insecurity linked to non-standard and contingent forms of employment.

There are many forms of insecure or precarious work including:

- Casualisation
- Uberisation of work
- Labour hire
- Contractors
- Fixed term contracts
- Internships

Insecure work in any of the above forms can provide decent employment for individuals. As the Productivity Commission’s Report into the Australian Workplace Relations Framework noted, “People in non-standard jobs are highly heterogeneous. Such jobs can suit people’s circumstances well.”¹⁶ However, our concern in this discussion is the systemic replacement of secure work with forms of insecure work.

As David Weil argues in *The Fissured Workplace*,¹⁷ many jobs that once provided reasonable incomes are now ‘fissured’ and broken down into insecure forms of employment. This same situation is found in Australia.

¹³ Weil, David, (2014) *The Fissured Workplace*, Harvard University Press, Cambridge Massachusetts

¹⁴ Inquiry into Insecure Work, “Lives on Hold: Unlocking the potential of Australia’s workforces”, 2012, <http://www.actu.org.au/our-work/independent-inquiry-into-insecure-work-in-australia/report>

¹⁵ <http://www.aierights.com.au/wp-content/uploads/2015/12/AIER-Submission-to-the-Insecure-Work-Inquiry-190112.pdf>

¹⁶ Productivity Commission (December 2015) Report of the Inquiry into the Workplace Relations Framework, <http://www.pc.gov.au/inquiries/completed/workplace-relations/report>

¹⁷ Weil, *The Fissured Workplace*.

The ACTU has noted: ¹⁸

“Today, the reality is that up to 40 per cent of Australians (2 million) are in some kind of insecure work, employed as casual, independent or fixed term contractors or on other precarious employment arrangements.

Many have no paid sick leave, no annual or long service leave and no right to ongoing work. They may have worked the same shifts for years but can still be sacked at short notice, with no entitlement to redundancy pay. Many have no recourse if they are injured at work – often having to pay their own workers’ compensation premiums.”

A more recent manifestation of insecure work has emerged as part of the growing “on-demand” economy. In reporting upon current workplace developments Corrs Chambers Westgarth believe there is a likelihood of negative employment outcomes arising from enterprises utilising new technological changes. The law firm comments: ¹⁹

“A major shift in the nature of ‘gig’ or peer-to-peer work noted by the Productivity Commission is that it is mainly task based, with consequent potential to change the nature of the employment relationship. Platforms offer considerable benefits to workers, including flexible hours and the opportunity to supplement income. However, this may come at the cost of employment security, stability of income and health and safety protections, which may not apply to some forms of task-based work. Further, workers may need to accept engagement as an independent contractor in order to remain in their chosen industry (e.g. journalists, designers).”

Insecure employment is found throughout the economy. Its very ubiquity is one of its defining features. Areas of the economy contributing to jobs growth such as health, caring work and education are becoming sectors of low paid insecure jobs. The retail, hospitality and accommodation industries have always been industries with high levels of casualisation. The growth in the use of labour hire is adding another dimension to insecure work across a range of industries. The recent example of workers losing their jobs at the Carlton United Brewery in Melbourne only to be offered their jobs back on significantly reduced pay demonstrates the insecurity associated with labour hire.²⁰

Universities are now places of insecure work. The NTEU reports that one in two university jobs are casual or fixed term and four out of five new jobs in the last decade are casual or fixed term. Over 80 per cent of teaching-only staff are casual and over 80 per cent of research-only staff are on fixed term contracts.

¹⁸ Australian Council of Trade Unions, (26 August 2015) Building a Better Future- A Strong Economy for All. Response to the National Reform Summit 2015, <http://www.actu.org.au/our-work/publications/building-a-better-future-a-strong-economy-for-all-actu-response>

¹⁹ Corrs Chambers Westgarth (4 August 2016) 2016 Workplace Mid-Year Review, See <http://www.corrs.com.au/thinking/insights/workplace-mid-year-review-2016/>

²⁰ <http://www.smh.com.au/business/workplace-relations/staff-picket-cub-factory-as-sackings-stall-production-20160712-gq3zxs.html>

The rise in unpaid interns in professional work is another example of the trend. Unpaid internships have become a prominent feature of the youth labour market as young people strive to overcome the paradox of not being able to acquire experience without a job, and acquire a job without experience.²¹ The lack of regulation concerning unpaid internships also has the potential to undermine established provisions in the broader employment system.

The Workplace Ombudsman, Natalie James, has noted particular industries where insecure work and exploitation are more common including Cleaning, Security and Supermarket Trolley Collection.²² These are industries that use procurement and outsourcing with frequent breaches of workplace entitlements. The Workplace Ombudsman noted that often employees in these areas were less educated or migrants.

The exploitation of migrant workers has attracted attention recently. Migrant workers in Australia are particularly vulnerable to insecure work arrangements. As Joanna Howe writes:

“Australia’s official temporary migration program ties migration status to employment. This entrenches the precarious status of migrant workers because their right to remain in Australia is contingent upon the employer’s continuing demand for their labour.”²³

Such precarity has consequences. In a recent article concerning seven Chinese migrant workers brought to Australia to install machinery, Howe states that these employees,

“...were underpaid and their lives were put in danger because of their lack of knowledge of Australian workplace safety law.”²⁴

A lack of appropriate regulation is allowing migrant workers and international students to be victims of insecure and illegal employment practices. The extent of such a vulnerable class of employees is revealed by Howe and Reilly:²⁵

“It is important to acknowledge, then, that there are well over 500,000 temporary migrants with the right to engage in unskilled work currently resident in Australia. Their work rights are not subject to the same regulatory controls as skilled temporary workers. For example, they do not need to be paid market wages, they are not limited to employment in specified industries in which there is a shortage of workers, and their

²¹ http://www.aierights.com.au/wp-content/uploads/2015/07/Colleen_Chen_Clare_Ozich_2015_Getting_ahead_or_exploitation_-_a_comparative_analysis_of_the_rise_of_internships_and_collective_actions_to_advance_the_labour_rights_of_interns_.pdf

²² James, Natalie (Workplace Ombudsman), (29 August 2014) Risk, Reputation and Responsibility, (Speech to the Australian Labor and Employment Relations Association National Conference, Gold Coast, Australia.

²³ Australian Institute of Employment Rights, *Employment Rights Now*, 2015, p. 29.

²⁴ Howe, J (6 June 2016) NEW visas threaten Australian jobs, *The Sydney Morning Herald*

²⁵ Howe, J & Reilly, A (2014), ‘Submission to the review of skilled migration and 400 series visa programmes’, Public Law and Policy Unit, University of Adelaide.

employers are not required to demonstrate that they have attempted to employ Australian workers to fill the position.”

Certainly, it is concerning that there exists such a significant number of people likely to be subject to precarious employment conditions.

Joanna Howe, writing in *The Drum*, emphasises the dangers in this situation:²⁶

“The presence of such a large and vulnerable migrant workforce, that is unregulated outside domestic labour law, risks creating an underclass of workers who are invisible to the law.”

Discussion questions:

3. Is employment now the bearer of inequality and unfairness?
4. What are the factors driving increasing insecure work?

WHAT ARE THE IMPLICATIONS OF INSECURE WORK FOR WORKERS?

For the majority of workers employed under insecure arrangements, the implications are adverse.

The ACTU states:²⁷

“Insecure work means that a large section of the workforce does not share in our national economic prosperity. They have inferior rights, entitlements and job security to their counterparts in ongoing employment. It makes it tough for working families to plan for their future when they cannot rely on regular incomes, yet have rising household costs and are shouldering increasing household debt.”

Researchers agree that lower wages are found with insecure work. David Weil comments:²⁸

“Since the contracted activity is often labor intensive, the pressure to reduce labor cost is severe. The result may be violations of federal and state minimum wage and overtime standards and other workplace laws.”

Weil also believes there are other factors involved in dampening wages in this area:

²⁶ Joanna Howe (6 May 2015) ‘Backdoor’ working visas are leaving migrants at risk, *The Drum*, <http://www.abc.net.au/news/2015-05-06/howe-backdoor-working-visas-are-leaving-migrants-at-risk/6448272>

²⁷ ACTU – Australian Council of Trade Unions, (26 August 2015) Building a Better Future- A Strong Economy for All. Response to the National Reform Summit 2015.

²⁸ Weil, *The Fissured Workplace*

“In a fissured workplace, wage-setting is undertaken in many different orbiting tiers surrounding the lead business. And that tends to lower how much of the value created by the lead business is shared via the compensation of the people who do the work.”

Health and safety is often a casualty of precarious employment. Workers are exposed to greater physical and psychosocial risks. As reported by Johnstone and Stewart:²⁹

“Research clearly demonstrates the negative impacts that precarious work in fissured workplaces has on the health and safety of workers, as measured by injury rates, disease and hazardous substance exposures, mental health problems and work health and safety knowledge and compliance.”

Likewise, Weil states,³⁰

“ ... splintering work activities across companies, often with ambiguously defined responsibility for safety, leads to holes in coordination. This can trigger workplace injuries and fatalities as documented in a variety of industries ...”

There are also significant gender implications of insecure work. Women are more likely to be insecure employment with ramifications for the gender pay gap and superannuation inequity. Julie Warren, NUW Victorian President, comments on the adverse impact of precarious employment upon women workers. In discussing this she states,³¹

“It’s the work that takes us back to a time before the eight-hour work day, before sick leave, holiday pay and carers entitlements. It’s these kinds of jobs that more than half of Australia’s working women have.”

There is a growing division between workers in stable employment and those with insecure jobs. This applies not only to wages but also to employment conditions. Insecure work is creating two classes of workers – the ‘haves’ and the ‘have nots’. Quak and van de Vijzel make the point:³²

“The formal labour market is seen as being divided between better-off workers protected by national regulatory frameworks and a ‘legion’ of precarious workers with no job security.”

²⁹ Johnstone, Richard & Stewart, Andrew (2015) Swimming against the tide? Australian labour regulation and the fissured workplace. *Comparative Labour Law & Policy Journal*, 37(1), pp. 55-90.

³⁰ Weil, The Fissured Workplace.

³¹ Warren, J (13 March 2013) Insecure work: the new attack on working women, Lip Magazine, online <http://lipmag.com/featured/insecure-work-the-new-attack-on-working-women/>

³² Quak, E & van de Vijzel, A (26 November 2014) Low wages and job insecurity as a destructive global standard, The Broker, <http://www.thebrokeronline.eu/Articles/Low-wages-and-job-insecurity-as-a-destructive-global-standard>

The Productivity Commission predicted these adverse employment factors when it reported: ³³

“Without regulation and an ability to act collectively, many employees are likely to have much less bargaining power than employers, with adverse outcomes for their wages and conditions.”

Certainly it is unlikely that those in precarious employment have any ability to act collectively. There is a challenge here for trade unions. The union movement has traditionally found it difficult, if not impossible, to organize collectively amongst workers in this type of employment. In discussing this challenge Bowden says: ³⁴

“The standardised pattern of employment conditions that characterised Australia twenty years ago has broken down. This has exposed even the best organised sections of the union movement to destruction as employment is outsourced to lower-cost suppliers.”

If these marginalized workers are to be able to collectively act to obtain decent wages and conditions then trade unions must find new and innovative ways to organise this growing sector of workers.

Discussion questions:

5. What are the connections between insecure work, low pay and vulnerability to exploitation?
6. What are the implications of a workforce divided between those with the entitlements that attach to secure employment and those relying on precarious work?

WHAT ARE THE IMPLICATIONS OF INSECURE WORK AND GROWING INEQUALITY FOR BUSINESS?

Business and employer representatives have long argued for workplace regulation to allow for more flexible forms of work. Arguably the purported benefits for business from the use of insecure and precarious employment are short-sighted. Indeed, a number of negative outcomes for businesses can be identified.

As described earlier, when insecure work helps create a more unequal society there are likely to be adverse economic implications, including for consumer demand.³⁵ As the IMF has indicated:

³³ Productivity Commission (December 2015) Report of the Inquiry into the Workplace Relations Framework

³⁴ Bowden, Bradley, (2009) “The Organising Model In Australia: A Reassessment”, *Labour & Industry: a journal of the social and economic relations of work*, Vol 20, Issue 2, Pages 138-158.

³⁵ See for example: IMF, Causes and Consequences of Income Inequality: a global perspective, 2015, <https://www.imf.org/external/pubs/ft/sdn/2015/sdn1513.pdf>

“Higher inequality lowers growth by depriving the ability of lower-income households to stay healthy and accumulate physical and human capital Increasing concentration of incomes could also reduce aggregate demand and undermine growth, because the wealthy spend a lower fraction of their incomes than middle- and lower-income groups.”

Consumer confidence in a ‘brand’ can be weakened or destroyed, in part, by public exposure of exploitative actions towards employees. For example, Corrs Chambers Westgarth explains: ³⁶

“The 7-Eleven underpayment episode and allegations of sham contracting at Myer / Spotless (among many other examples) highlight the social, legal and ‘brand’ risks for businesses if this conduct is occurring in their supply chain.”

There are other reasons that insecure employment is not good for business. The skill levels and intimate job understanding of employees are not protected by such arrangements. The quality of the work and services rendered must suffer. The probability that the business will be liable for something going wrong increases. As Johnstone and Stewart point out: ³⁷

“ ... arrangements, especially those introducing third parties or creating multi-employer worksites, lead to fractured, complex, and disorganized work processes, weaker chains of responsibility and ‘buck-passing”, and inadequate specific job knowledge (including knowledge about work health and safety) among workers moving from job to job.”

Employers can mistakenly believe that by outsourcing work, etc. their business is no longer legally responsible for employees. Corrs Chambers Westgarth explain that this is an incorrect assumption which can cost a business large amounts: ³⁸

“Businesses sometimes establish workforces that are principally comprised of independent contractors and labour hire workers on the basis that there is no requirement to take reasonably practical steps to ensure their health and safety. That flawed assumption exposes the company to significant financial penalties for breach, and places its directors and officers at personal risk of custodial sentences and significant fines.”

Businesses can also lose their ability to govern the processes and outcomes that they want, when they engage in such employment practices. David Peetz points out: ³⁹

“ Contracting is a way of reducing costs, increasing profits and avoiding accountability, but it is not effective for maintaining control ... “

³⁶ Corrs Chambers Westgarth (4 August 2016) 2016 Workplace Mid-Year Review.

³⁷ Johnstone, Richard & Stewart, Andrew, Swimming against the tide? Australian labour regulation and the fissured workplace, pp. 55-90.

³⁸ Corrs Chambers Westgarth (4 August 2016) 2016 Workplace Mid-Year Review

³⁹ Peetz, David, (13 May 2016) Why the death of employment is a dead idea, The Conversation, <https://theconversation.com/why-the-death-of-employment-is-a-dead-idea-58736>

While the Uber model of work may appear contemporary and fashionable, it is not sustainable for all enterprises. According to David Peetz:⁴⁰

“Bear in mind also that many US firms following the Uber model — like Cherry (car washes), Prim (laundry), SnapGoods (gear rental), Rewinery (wine) and HomeJoy (home cleaning) — have failed.”

Indeed, the disruption from these new forms of enterprises is unsettling for more traditional businesses. Small businesses in particular already struggle to survive. The churn of new enterprises starting and ending outside existing regulatory arrangements places even more pressure on businesses that provide decent wages and working conditions.

The use of insecure employment types by some businesses in an attempt to maximise profits may result in pressure on other businesses to do the same. The consequence is a race to the bottom for workers’ wages and conditions. This has been noted by Natalie James, the Workplace Ombudsman:⁴¹

“It may also give them a competitive advantage over lawful operators within industries that frequently have highly competitive tendering processes. This can drive others in the sector to follow suit – pushing the market rate of labour below the minimum legislated standards.”

The ultimate outcome of this type of employment is not good for business. Engaged and happy employees are far more productive and deliver better outcomes for their employers. As Robert Vance states in his book, *Employee Engagement and Commitment*:⁴²

“Employees who are engaged in their work and committed to their organizations give companies crucial competitive advantages—including higher productivity and lower employee turnover.”

Discussion questions:

7. What do businesses gain and what can they lose from utilising insecure forms of employment?
8. To what extent do the negative aspects flowing from insecure work pose a threat to the economic and business environment in Australia?

⁴⁰ *Ibid*

⁴¹ James, N (Workplace Ombudsman), (29 August 2014) Risk, Reputation and Responsibility, (Speech to the Australian Labor and Employment Relations Association national Conference, Gold Coast, Australia.

⁴² Vance, Robert J, (2006) *Employee Engagement and Commitment*, SHRM Foundation. Alexandria, VA, United States of America.

WHAT ARE THE IMPLICATIONS OF THESE TRENDS FOR SOCIETY?

The social implications of insecure and precarious employment are many. Lack of income stability for workers and their families give rise to a number of issues. As discussed earlier, there is also the problem of lower wages. Wage inequality as promoted by this type of employment is becoming pronounced in Australia, and has serious social consequences.

In talking about inequality ACOSS has stated: ⁴³

“A key factor working against a reduction in income inequality between the early 1990s and mid- 2000s was the increase in wage inequality among those who were employed. Wage inequality has increased over the past three decades”

As ACOSS says: “We cannot effectively resolve our other economic and social problems unless we deal with the inequality challenge at the same time.” Insecure work impacts on peoples living standards, access to housing, health, education and ability to engage and contribute to the community.

A recent article in the Age highlighted an adverse social impact of this type of work as a result of a survey by ME bank. This showed there is a fear of a growing number of mortgage defaults in the housing industry due to the effects of insecure work. ⁴⁴ It read in part:

“The share of households who believe they will be unable to service their debts has risen significantly, a new survey suggests, as many struggle to get enough hours at work and wage growth stagnates.”

The unstable income that comes from insecure work also leads to increasing personal debts, including from high interest short-term loan providers. A cycle of indebtedness can lead to being trapped in poverty.

“Research shows that most payday loan customers use the money to pay for basic needs, such as food and rent. It's a world of poverty-level welfare, where people shuffle in and out of insecure jobs.”⁴⁵

⁴³ ACOSS – Australian Council of Social Services (22 August 2014) ACOSS Submission to Inquiry to the Extent of Income Inequality in Australia.

⁴⁴ Yeates, C (1 August 2016) More homes fearing mortgage defaults. The Age.

⁴⁵ 4 Corners, Game of Loans, 1 April 2015, <http://www.abc.net.au/4corners/stories/2015/03/30/4205225.htm>

The health implications for individuals in society have been discussed by BeyondBlue:⁴⁶

“Job insecurity is a well established risk factor for poor health. It has been shown to increase effects of poor mental health (particularly anxiety and depression), self reported ill health, heart disease and risk factors for heart disease.”

In considering the cost to society the ACTU reported: ⁴⁷

“Inequality costs the economy through increased costs of government support services, social and labour market exclusion and dampened household consumption.”

Johnstone and Stewart likewise express concern at the negative effects of wage inequality: ⁴⁸

“As a number of influential studies have pointed out, the increasing degree of income inequality apparent around the world threatens economic progress, not just social cohesion.”

Recent political events around the world such as Brexit, the nomination of Donald Trump and the re-emergence of One Nation have led to commentary on the alienation and growing sense of insecurity felt by many people left behind by current economic policies. The hollowing out of industries such as manufacturing that used to provide secure employment and the resultant lack of economic security for those left behind is having political consequences.

Guy Standing argues the growing number of people in insecure work, what he terms “the precariat”, is alienated, anxious and above all very angry. He suggests that “unless the precariat is understood, its emergence could lead society towards a politics of inferno.”⁴⁹

The implications for society and economic health give cause for serious concern. Certainly, the negative effects of a growing domestic and global inequality of income will become more pronounced with the increase in insecure work.

Discussion Questions:

9. How does insecure work affect our social relations and community?
10. If we do not address the prevalence of insecure work and its connection to inequality, what, if any, are the political ramifications?

⁴⁶ BeyondBlue (December 2011) Insecure Work in Australia Submission to the independent inquiry into Insecure Work in Australia, <https://www.beyondblue.org.au/docs/default-source/policy-submissions/bw0088-policy-submission---insecure-work-in-australia.pdf?sfvrsn=2>

⁴⁷ ACTU – Australian Council of Trade Unions, (26 August 2015) Building a Better Future- A Strong Economy for All. Response to the National Reform Summit 2015

⁴⁸ Johnstone, Richard & Stewart, Andrew (2015) Swimming against the tide? Australian labour regulation and the fissured workplace. *Comparative Labour Law & Policy Journal*, 37(1), pp. 55-90.

⁴⁹ Standing, Guy, *The Precariat: The Dangerous New Class*, 2011.

WHAT ARE APPROPRIATE RESPONSES?

The recent Productivity Commission's Report on the Inquiry into the Workplace Relations Framework stated,⁵⁰

“There are ethical and community norms about the way in which a country treats its employees.”

This raises the question about the right ethical response to insecure and precarious employment.

It is widely agreed that some kind of action is needed to protect workers, and to limit the adverse effects of this type of employment. As Joanna Howe says in relation to migrant workers:⁵¹

“One thing's for sure: the status quo is not working”

There are diverse views on the exact nature of the appropriate response. We consider four areas of response: regulation; collective action; alternative means of ensuring economic security; and business and government leadership.

Regulation

The AIER believes that the current workplace relations system is not sufficient to adequately and fairly address the problem of growing insecure work.

Improved government regulation of the workplace is a solution suggested by many. David Peetz argues that “the core of the problem is the need to find ways to make capital at the top of the food chain accountable.”⁵² There is growing recognition that any solution to the exploitative aspects of insecure work will require a comprehensive legislative response.

The Australian Charter of Employment Rights provides in Principle 8, Fair Minimum Standards, that:⁵³

“Every worker is entitled to the protection of minimum standards, mandated by law and principally established and maintained by an impartial tribunal independent of government, which provide for a minimum wage and just conditions of work, including safe and family-friendly working hours.”

⁵⁰ Productivity Commission (December 2015) Report of the Inquiry into the Workplace Relations Framework

⁵¹ Howe, Joanna (6 May 2015) Backdoor' working visas are leaving migrants at risk

⁵² Peetz, David, (13 May 2016) Why the death of employment is a dead idea, The Conversation, <https://theconversation.com/why-the-death-of-employment-is-a-dead-idea-58736>

⁵³ The Australian Institute of Employment Rights, (2007) The Australian Charter of Employment Rights

The AIER has argued that Australian labour law needs to be recast so that every worker has access to a suite of minimum entitlements and rights; that there should be no ability to contract out of these entitlements and rights; and that these entitlements and rights be based on the Australian Charter of Employment Rights. In our submission to the Independent Inquiry into Insecure Work, we proposed a test for determining who is a worker for the purposes of having access to the entitlements and rights.⁵⁴

ACOSS has noted that labour market regulation including minimum wages and employment security is essential to ameliorate income inequality.⁵⁵

One of the key recommendations to the National Reform Summit from the ACTU is:⁵⁶

“Improve the regulation of the labour market to provide all workers with a universal set of protections and entitlements and jobs that workers and their families can rely on and which can be enforced against their effective employer, their host and any supply chain participant ...”

The Chiefly Research Centre’s report on inequality notes that:

“There are two reasons to think about future employment protections now. Firstly, the continued growth in services and technology is likely to drive increases in alternative forms of work. Secondly, there is evidence that those at the higher end of the income distribution can move seamlessly between standard and non-standard work whereas those at the lower end may not.”

The report went onto support “more consistent rights and enforcement across all forms of work as labour markets change. The adoption of such a principles approach should aim to build on and adapt existing standards in the Australian workplace that are currently applied inconsistently or actively avoided in some cases.”

When discussing the exploitation of migrant workers, Joanna Howe states “... this is a systemic problem requiring a strong and new regulatory response.”⁵⁷ She argues it requires reform of our immigration system as well as the work of the Fair Work Ombudsman in enforcing the rights of temporary migrant workers without jeopardising their immigration status.

The Independent Inquiry into Insecure Work made a number of recommendations for improved regulation derived from the principle of universality in labour law. It recommended for example expanding the National Employment standards to create inclusive minimum standards for all

⁵⁴ <http://www.aierights.com.au/wp-content/uploads/2015/12/AIER-Submission-to-the-Insecure-Work-Inquiry-190112.pdf>

⁵⁵ ACOSS – Australian Council of Social Services (22 August 2014) ACOSS Submission to Inquiry to the Extent of Income Inequality in Australia.

⁵⁶ ACTU – Australian Council of Trade Unions, (26 August 2015) Building a Better Future- A Strong Economy for All. Response to the National Reform Summit 2015

⁵⁷ Howe, Joanna (6 May 2015) Backdoor’ working visas are leaving migrants at risk.

employees and redefining “employees” to capture more workers; a licensing system for the labour hire industry; the power for Fair Work Australia to grant “Secure Employment Orders” and determine joint employment relationships; and redefining casual work to be restricted to irregular, intermittent or very short-term work.

Alongside a debate on re-orienting workplace regulation to capture and provide entitlements and rights to all workers, there are other regulatory responses to consider. The ACTU is currently arguing for casual conversion clauses to be included in awards. Casual conversion clauses would provide an avenue for casual employees who have been employed for at least 6 months to request a transfer to permanent full-time or part-time employment. Currently such clauses exist in only a few awards.

Collective action

Workplace relations at its heart is about the relationship between capital and labour. A core principle of industrial relations is that workers must have the right and the capacity to organise collectively against the power of capital. So along with regulation by the state of minimum working conditions, AIER argues we also need a new approach to how workers can organise and exercise collective power in the age of insecure work.

Freedom of association was the topic of last year’s Ron McCallum Debate and a key principle of the Charter of Employment Rights. In that discussion Michele O’Neil, Secretary of the Textile, Clothing and Footwear Union of Australia argued for a “new collective” to address the changing nature of work and its increasing fragmentation.⁵⁸

One of the reasons that a declining share of productivity growth has been shared by workers is due to the decline of the union movement. There are many interlinked factors for the decline in organised labour but one of the most significant is that the destruction of labour’s bargaining power was at the heart of the political project of the last 30 years now known as neo-liberalism. As Paul Mason argues in his book, *Postcapitalism*:

“Because today’s generation sees only the outcome of neoliberalism, it is easy to miss the fact that this goal – the destruction of labour’s bargaining power – was the essence of the entire project: it was a means to all the other ends. Neoliberalism’s guiding principle was not free markets, nor fiscal discipline, nor sound money, or privatisation and offshoring – not even globalisation. All these things were by products or weapons of its main endeavour: to remove organised labour from the equation.”

Research published in 2015 by two IMF researchers has pointed strongly to falling union membership rates as a significant contributor to inequality in income shares in societies:

While causality is difficult to establish, the decline in unionization appears to be a key contributor to the rise of top income shares. This finding holds even after accounting for

⁵⁸ <http://www.aierights.com.au/2015/10/the-2015-ron-mccallum-debate-a-summary/>

shifts in political power, changes in social norms regarding inequality, sectoral employment shifts (such as deindustrialization and the growing role of the financial sector), and increases in education levels... We also find that deunionization is associated with less redistribution of income and that reductions in minimum wages increase overall inequality considerably.⁵⁹

The OECD commented in its Employment Outlook 2004 [Chapter 3]:

High union density and bargaining coverage, and the centralisation/co-ordination of wage bargaining tend to go hand-in-hand with lower overall wage inequality. There is also some, albeit weaker, evidence that these facets of collective bargaining are positively associated with the relative wages of youths, older workers and women. On the other hand, the chapter does not find much evidence that employment of these groups is adversely affected.⁶⁰

Rising inequality and insecure and precarious work is both a symptom of the decline of organised labour and a barrier to organising workers collectively.

The AIER has previously argued that changes to collective bargaining to allow for bargaining across industries and along supply chains will be necessary. We note the Chiefly Research Centre agrees that “more could be done to expand the availability of collective bargaining across the sectors, particularly as the structure of the economy changes. For instance, the Fair Work Act emphasises enterprise-level collective bargaining; this may be inadequate as work arrangements change.”

In contrast, the industrial relations bills currently before the parliament are designed to even further restrict workers acting collectively to push back and demand decent working conditions.

Whether it is the union movement as it currently exists or new forms of collective action by workers with a different identity, addressing the inequality that results from insecure work will require collective action on the part of workers.

Economic security

John Buchanan has argued that “limited private sector job growth and deteriorating job security are making employment economically and socially unsustainable”. We are also facing the challenge of technology replacing much paid labour now performed by people. There are estimates that over the next 10 to 15 years, nearly 40 per cent of jobs are at risk of automation.⁶¹

⁵⁹ Florence Jaumotte and Carolina Osorio Buitron, *POWER from the PEOPLE Finance & Development March 2015*, pp 29-31. This article summarises a forthcoming paper from these IMF researchers on this subject.

⁶⁰ Organization for Economic Cooperation and Development (OECD), *OECD Employment Outlook*, OECD Paris, 2004, p. 130

⁶¹ See Productivity Commission Research Paper, “Digital Disruption: What do governments need to do?”, June 2016, <http://www.pc.gov.au/research/completed/digital-disruption/digital-disruption-research-paper.pdf>

If employment can no longer guarantee economic security, what other options need to be considered? The post-war welfare state has been undermined and gutted by the neoliberal policies of the last three decades. The low rates of social security payments and the conditionality that now applies to unemployment benefits means there is no longer a universal social safety net that provides economic security.

The unemployment benefit, Newstart, is well below the poverty line. While even peak business groups have called on governments to increase Newstart, there is no political will in a time dominated by rhetoric of cutting government spending to balance the budget.

The approach of our current government is only making circumstances even worse. It is demonstrating no inclination or capacity to address growing economic inequality in Australia. The recently announced latest round of welfare reforms will feed a cycle of economic insecurity in an economy that is not creating decent work.

One option that is gaining momentum around the world in addressing economic security in the age of precarious work is the concept of a Universal Basic Income. Universal Basic Income is an unconditional cash payment to individuals sufficient to meet basic needs. Finland will be introducing such a scheme next year and trials are planned in communities in the Netherlands and Canada.⁶²

Arguments for a universal basic income have support on both the left and right of politics, although the implementation of any such a scheme will determine if it works to guarantee economic security and relieve the harmful effects of economic inequality. Previous studies of trials of similar scheme have demonstrated they encourage work, provide stability and lead to better health and social outcomes.⁶³

As Godfrey Moase argues:

“Universal income provides the material basis for a fuller development of human potential. Social enterprises, cooperatives and small businesses could be started without participants worrying where the next pay cheque would come from. Artists and musicians could focus on their work. More of us would be freed to volunteer our time for the public good. Some workers would no longer be faced with the unenviable position of having to choose between supporting their families and degrading their local environment.”⁶⁴

⁶² <http://www.abc.net.au/radionational/programs/themoney/money-for-nothing-explaining-appeal-universal-basic-income/7660514>

⁶³ <http://www.smh.com.au/money/should-we-pay-everyone-a-universal-basic-income-20160606-gpcmba.html>

⁶⁴ <https://overland.org.au/2013/06/for-a-universal-minimum-income/>

Business and government leadership

Most immediately, both business and government could show leadership in addressing insecure work. Government, at all levels, both through its own employment practices but also through its procurement and funding of services has the ability to set standards of employment security.

The roll out of the National Disability Insurance Scheme offers an example of how the design of a service funded by Government but delivered by the private sector can promote precarious low paid work.

Professor Sara Charlesworth and Dr Fiona MacDonald have noted in the direct care sector the individualising and 'marketising' service arrangements, high levels of casualisation, working time fragmentation and underemployment and anecdotal evidence of new forms of labour hire agencies. They argue:

“The likely consequences for low-paid care workers are further fragmentation of employment arrangements, undercutting of minimum pay and conditions and further distancing of these vulnerable workers from collective representation and sources of knowledge about their employment rights.”

Governments can design such schemes differently and require service providers to provide secure and decent standards of work.

Businesses, too, have a choice when it comes to structuring their employment relationships and large corporations in particular can work to ensure accountability of supply chains when it comes to working conditions.

John Buchanan argues for a social (or productivity) coalition committed to a better alignment of risks and rewards in economic life. He suggests that “a progressive productivity coalition would need to involve and give voice not just to workers, employers and government but also NGOs covering the disadvantaged and labour market intermediaries.”

The AIER and our Charter of Employment Rights puts emphasis on collaborative approaches to developing fair and decent workplaces. We believe that business, workers and government can work together to address insecurity of work and economic inequality.

Discussion Questions:

11. What are the most effective ways of addressing insecure and precarious work?
12. If employment will no longer provide economic security, should we consider other options?

CONCLUSION

All these possible responses are neither exclusive nor comprehensive. Effective responses are likely to be a mix of all of the above and more. We have primarily focused on the ideas most directly relevant to the work of the AIER and acknowledge that improvements in education and training, economic policies that encourage the creation of decent jobs, tax reform, improved universal social security etc. are all important issues that touch on work, insecurity and inequality.

Insecure and precarious work in Australia requires to be addressed in a just, fair and effective manner to minimise the damage to individuals, their families and society.

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