

The Ron McCallum Debate 2012: Background Briefing Note

Theme: Justice at Work – Workplace relations is
productivity the imperative? At what cost?

Prepared by the Australian Institute of Employment Rights Inc.

Prepared by: Keith Harvey – AIER Researcher
Lisa Heap - AIER Executive Director

Date: 1 August 2012

Overview

This briefing note was prepared to inform the discussion at the Australian Institute of Employment Rights' 2012 Ron McCallum Debate 2nd August 2012. It is a brief summary of current and past thinking about productivity in Australia. AIER will continue to support the dialogue about this important issue over coming months.

The Australian Institute of Employment Rights Inc.

The Australian Institute of Employment Rights ('AIER') is an independent, not-for-profit organisation that works in the public interest to promote the recognition and implementation of the rights of employers and workers in a cooperative industrial relations framework. AIER works in a variety of ways.

A respected think tank, it is a leader in the development of informed, contemporary and balanced ideas in the area of workplace rights. It is place of research, working with a team of leading academics, legal experts and industrial relations practitioners to undertake substantial research and analysis that aims to offer new ideas and models for decent and efficient workplaces.

AIER is an influential and sensible voice in the area of workplace legislation, contributing significantly to the development and improvement of Australian policy and towards legislative reform.

As a trainer, educator and moderator, AIER works on-the-ground with organisations, workers and their representatives to create more positive and efficient workplaces. AIER collaborates with like-minded organisations to develop and implement programs that educate and empower. It is also a resource for community organisations, educational institutions, the media and the general public.

AIER is an advocate and agitator, championing the fundamental rights of employers and workers and the public interest, and arguing for the importance of cultural change in workplaces to ensure decent and fair conditions for all.

The Australian Charter of Employment Rights

The *Australian Charter of Employment Rights* ('the Charter') lies at the heart of AIER's work and philosophy. The Charter defines and articulates the pre-eminent rights of employers and workers by identifying the universally accepted fundamental principles on which any legislative system of

industrial relations should be based. It has become a blueprint for assessing government policy, for legislative reform, for company practice and for education about workplace rights.

The Charter is based upon three sources of rights: rights enshrined in international instruments that Australia is a party to; egalitarian values embedded in Australia's constitutional and institutional history of industrial/employment law and practice; and common law rights appropriate to a modern employment relationship.

The Australian Standard of Employment Rights

An explanation of how the Charter applies in practice can be found in the *Australian Standard of Employment Rights* ('the Standard'). It provides a tool for Australian businesses to assess their compliance with the Charter.

This Debate: Workplace Relations – Is Productivity the Imperative? At What Cost

In preparation for this event the AIER explored the sub-themes that fall from the topic and developed the following questions to inform the debate discussion:

- What is productivity? Why talk about it? Why is it important to the economy and to Australia as a whole?
- How is productivity best understood? Is it just labor productivity that is important or are there other factors at work?
- What drives changes in productivity? What can we do about these drivers?
- How are the benefits of increased productivity best transmitted to society
- Are all Australian workers benefitting from productivity growth? Are the benefits of productivity within the economy being distributed to low income workers?
- Are labour laws and systems relevant to productivity? Can we tell whether changes to the law have an impact on productivity?
- What is the relationship between employment rights and productivity? Do they play a role?
- Some argue for increased workplace flexibility to boost productivity. Do increases in productivity flow from flexibility? What is flexibility?

THEMES FOR EXPLORATION

Theme 1 – What is productivity? Why talk about it?

“Productivity growth is important; however it is not an end in itself. Productivity growth is desirable to maintain or achieve higher living standards. This means we need to be cognisant of the importance of sectors of the economy within which productivity growth is static. Some areas of the economy, which, by their very nature have low productivity growth, are vitally important to producing quality outputs that feed into the inputs of production. An example is education and skills training.

It should also be noted that productivity growth alone is not a good measure for evaluating public policy because productivity is not the sole determinant of community wellbeing. Notwithstanding this, nations with high living standards are more likely to display higher levels of community wellbeing.”

Inquiry into raising the productivity growth rate in the Australian economy, Report of the House of Representatives House Standing Committee on Economics April 2010

In June 2012, the Treasurer Wayne Swan said:

“Now we are having a debate in Australia about productivity growth. We should have that. There's been a long-term structural decline in productivity growth in Australia. We do need to lift it. But when it comes to our underlying productivity, we're in the top 12 nations in the world when it comes to overall levels of productivity and these figures show today that the productivity discussion needs to be more nuanced than it's been so far.”¹

Why is productivity important? According to the Productivity Commission, it is important because:

“Productivity growth is a crucial source of growth in living standards. Productivity growth means more value is added in production and this means more income is available to be distributed.”²

¹ Swan W (2012) Interview with Leigh Sales, 7.30 ABC 7th June 2012.

² Productivity Commission (2012), *Productivity Primer*, <http://www.pc.gov.au/research/productivity/primer/importance>, accessed June 29 2012.

Respected US economist Richard Freeman summarises the issue as follows:

*“Productivity growth is the penicillin for most economic illnesses – the magic bullet that allows economies to produce more with less. In a competitive economy, higher productivity translates into lower prices and better living standards for all...Higher productivity in a competitive economy should translate into higher real wages”.*³

Another US economist Paul Krugman says;

*“Productivity isn't everything, but in the long run it is almost everything. A country's ability to improve its standard of living over time depends almost entirely on its ability to raise its output per worker. ...”*⁴

Theme 2: Understanding Productivity

Productivity is a measure of how efficiently an economy or an enterprise produces a certain level of goods and services. Traditionally, it is a measure of the rate at which output flows from the use of given amounts of the factors of production, that is, capital, labor, natural resources and land.

Defining productivity is relatively simple. Measuring it is more complex. According to the ABS:

“Productivity is generally defined as the ratio of a volume measure of output to a volume measure of input. The single-factor (or partial) measure of productivity includes only one type of input. For example, labour or capital inputs correspond to labour or capital productivity measures. When it includes two or more of the inputs to production, the corresponding productivity measure is called multifactor productivity (MFP) (or total factor productivity, TFP, when all inputs are included). This definition of productivity is quite simple. However, the measurement of productivity is not straightforward. There are various complex issues involved in the measurement of output, input and other components used for deriving the MFP estimates. In fact, the reliability of an aggregate MFP measure for the whole economy is determined by how well the aggregate output, capital and labour, and factor

³ Freeman, R B (2007), *America Works*, Russell Sage Foundation, New York, 2007, pp. 32-33

⁴ Krugman P (1992) *The Age of Diminished Expectations: US Economic Policy in the 1980s*, MIT Press, Cambridge, p. 9

incomes are measured; these aggregates in turn depend on almost every aspect of the national accounts.”⁵

Often, labor productivity⁶ or capital productivity is the focus of productivity discussion however, enterprise and economy-wide productivity is the end result of a considerable range of factors, including:

- general education levels
- vocational education and training effort
- capital investment
- technological, systems and process change [innovation]
- managerial effectiveness including human resources management
- workplace culture
- industrial relations policies and practices
- enterprise capacity and willingness to innovate
- adequacy of infrastructure
- access to efficient financial services
- political stability and the rule of law.

Other, market factors may drive productivity including exposure to strongly competitive forces in the marketplace.⁷

As the Australian Business Foundation has noted:

“Traditional measures of productivity centered on hours worked and output per hour are just the indices, not the determinants of productivity. That is, they are the numbers that show the

⁵ Zheng S Estimating Industry-Level Multifactor Productivity For The Market-Sector Industries In Australia: Methods And Experimental Results, ABS Catalogue no. 1351.0.55.004

⁶ “Movements in chain volume estimates of GDP per hour worked are commonly interpreted as changes in labour productivity. However, it should be noted that these measures reflect not only the contribution of labour to changes in production per hour worked, but also the contribution of capital and other factors (such as managerial efficiency, economies of scale, etc.)” See ABS Cat. No. 5206.0, Australian National Accounts: National Income, Expenditure And Product, Glossary.

⁷ See ABS/Productivity Commission: *Competition, Innovation and Productivity in Australian Businesses*-Leo Soames and Donald Brunner Productivity Commission Australian Bureau of Statistics. ABS Catalogue no. 1351.0.55.035

*productivity outcome of an economy, but not what actually drives these results. We need to ask what actually causes productivity improvements in the economy.”*⁸

Broadly described, changes in productivity are the result of many factors and cannot be easily ascribed to just one of the inputs, although labor productivity is an economic measure frequently used in the context of wage fixation.

It is easier to measure and describe changes in productivity in particular industries and sectors than in others. The volume of agricultural production or outputs from manufacturing processes measured against inputs is a relatively straightforward calculation.

Determining productivity in industries providing human services including sectors such as community services, education or in respect of public services is more difficult and economists often effectively assume the outcomes in these industries. Australian ‘productivity’ statistics include only the market related sectors and exclude the non-market sectors such as public administration and safety, education and training and health care and social assistance in the measurement of productivity.⁹

In the modern economy, how are we to compare or even measure the productivity of a company like Facebook, an enterprise which effectively creates little more than advertising opportunities but which listed on the US stock exchange with a ‘value’ of \$100 billion with the productivity of a vehicle manufacturer?

An alternative view of productivity has been advanced by consultants Ernst and Young who have developed a productivity scale for enterprises. This does not measure outputs as such but introduces an assessment of productivity based on asking workers what percentage of their work day is spent on productive and non-productive or time wasting activities.

By this measure, Ernst and Young estimates that 16% of the average Australian workday is wasted. The greatest contributor to this waste is *“people who can’t get on with their work because of delays from a higher authority to review a decision or waiting for input from other parties”*.¹⁰

⁸ Australian Business Foundation (2010) *Innovation and Productivity*, February 2010,; abfoundation.com.au/research, accessed 19th June 2012

⁹ See ABS Cat. No. 5206.0, Australian National Accounts: National Income, Expenditure And Product, notes and glossary.

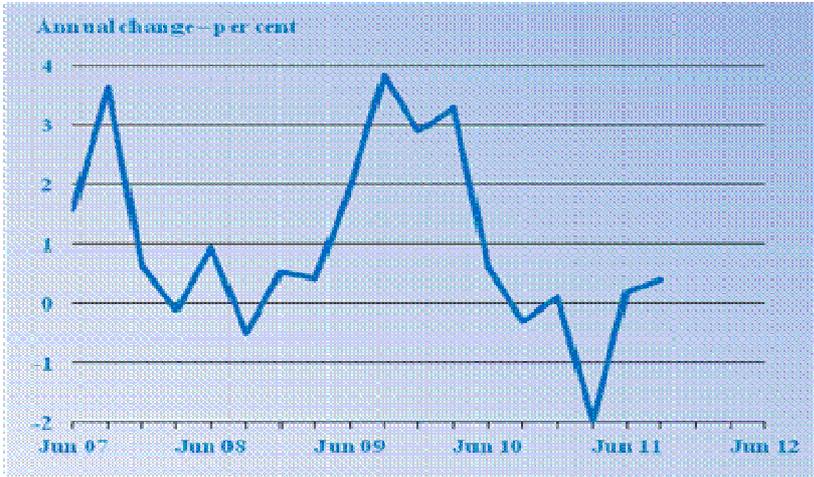
¹⁰ Ernst and Young (2012) *Productivity Pulse Wave 2*, May 2012. Page 7

The most productive workers according to this study – that is those who felt that they wasted the least time – were in the health care and social assistance sectors. The least productive workers were in mining. Motivation, not money and job satisfaction was a key productivity driver in this study. Older workers were also more productive. Economic uncertainty was a drag on productivity.¹¹

Labour cannot be seen simply as an economic input, like all other inputs. Labour has intrinsic value because it is performed by human beings. The purpose of economic activity is to benefit individuals and society as a whole. Economic activity must be directed to this purpose, not the other way round.¹²

Productivity: What’s happening?

According to the Australian Parliamentary Library’s Research Service, labor productivity increased by 0.6 per cent in the December quarter 2011. The annual change in labor productivity for the 12 months to December 2011 was 1.8 per cent. Over the last 20 (financial) years, labor productivity has grown at an annual average of 2.1 per cent. However, it has been significantly below this level over recent years, as the chart below shows.¹³



¹¹ Ibid., pages 4, 8.

¹² Stieglitz, J. E. (2002), *Employment, social justice and societal well-being*, International Labour Review, Vol 141 (2002), No. 1-2 pp 9-29

¹³

http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/MSB/35

The new Australian Workforce and Productivity Agency, in its initial discussion paper, notes:

"Measured as the increase in output per employee, Australia's labour productivity growth has been weak over the last decade... Labour productivity grew at an annual rate of 3.3 per cent per annum between 1993–94 and 1998–99, the fastest sustained growth on record. In the 2000s, however, productivity rates have been volatile, and generally lower."¹⁴

Theme 3: What drives changes in productivity?

As previously identified the changes in productivity levels in any economy are likely to be the end result of changes in a number of factors. The equation is complicated and the contribution of various factors may be difficult to separately identify.

Improvements in the overall level of education and with regard to particular occupational and industry desired skills will influence productivity, as will the availability of an application of investment in new technologies, systems and processes which allow for the more efficient production of goods and services.

Many economies, including some resource rich ones, are inhibited by lack of access to investment or by inadequate physical infrastructure or financial systems despite having relatively cheap labor forces by world standards.

Successive Australian governments have attempted to drive improvements in Australian productivity by tackling a wide range of productivity-related factors.

The Australian Business Foundation notes:

"Australia's productivity growth has declined in the last decade to 1.4%. This compares unfavourably with the Hawke/Keating reforms of the 1980s-1990s where productivity growth hit 2%. ... The 'big-bang' productivity reforms of the Hawke/Keating government featured the floating of the dollar, tariff cuts and a concerted microeconomic agenda. These prescriptions have run their course and can't just be repeated today."¹⁵

¹⁴ Australian Workforce and Productivity Agency (2012) Future focus: Australia's skills and workforce development needs. A discussion paper for the 2012 National Workforce Development Strategy. July 2012, p. 5

¹⁵ Australian Business Foundation (2010) op. cit,

The Hawke/Keating Governments in particular sought to improve productivity in a variety of ways:

- education: raising school retention rates; transforming higher education
- increased emphasis on vocational education and training through extending the scope of nationally recognised skills training to a wide range of industries and occupations beyond the traditional trades – this push was intended to be led by industry through industry training advisory bodies identifying skill needs
- changes to the financial services industry, improving competition and access to services
- floating of the Australian dollar
- micro-economic reform, including certain industrial relations changes

The objectives of the Hawke/Keating changes were to drive changes in Australia’s economy which would mean that, in an increasing global market, Australia could remain economically competitive while retaining reasonably high levels of real household income through a high productivity economy based on high skills and relatively high wages, rather than a low productivity, low wages path.

For many years, changes in labor productivity rates were the main drivers in improving incomes in Australia, but according to key Treasury officials this is no longer the case:

“..., it is now widely recognised that growth in Australian labour productivity—output per hour worked—has slowed since around the turn of the century, notwithstanding stronger data in the past few quarters. Labour productivity growth explained less than half of the growth in average incomes since the turn of the century, compared to an average of around 90 per cent of income growth over the four previous decades. Multifactor productivity—the output produced from a bundle of labour and capital inputs—has scarcely grown at all this decade. While the deterioration in performance is partly due to unusual developments in mining and utilities, the slowdown from the 1990s is broadly evident across most industries.”¹⁶

¹⁶ Doleman B & Gruen D (2012) *Productivity and Structural Change*, Australian Treasury 41st Australian Conference of Economists 10 July 2012

Since productivity is multi-factorial, many methods for improving productivity can be advanced:

- Through innovation: “The equivalent ‘big bang’ agenda to lift productivity today is innovation...the kind of innovation that counts is actions that transforms Australia’s business capabilities, skills and competitiveness” ¹⁷
- By creating high performance organisations – by recruiting competent workers, involving them in extensive training and creating or re-designing jobs which will provide them with challenge, responsibility and control...” ¹⁸
- By changes to industrial legislation: "With the Federal Government expected to shortly release the findings and recommendations of the Fair Work Act Review, it is extremely important that improvements are made to the Act to achieve greater flexibility and boost productivity..." ¹⁹
- Through investment: “*The issue is we can’t have high wages and low productivity and remain strong. We don’t want to limit our wages so we must lift our productivity and increase the economic pie. This is why the Business Council of Australia (BCA) has highlighted the importance of delivering an investment pipeline of almost \$1 trillion in current and prospective projects in the resources and energy sectors, and in economic and social infrastructure. ...*” ²⁰
- Through improved workplace culture: “Much harder ...is adding value to the production process. For this to occur, a positive workplace culture must be in place, which gives all employees a voice and allows good ideas to be heard and implemented”. ²¹
- By improving the skills of managers: “The debate about management development is by far the most neglected aspect of what drives productivity:” ²²
- By improving skill levels in the economy. ²³
- Through increased competition. ²⁴

¹⁷ Australian Business Foundation (2010), op. cit.

¹⁸ NCVET (2012) Report for the Australian Industry Group, quoted in High Performance Organisations: Maximising workforce potential – Workplace Productivity Tool, Education and Training, The Australian Industry Group, February 2012.p. 1

¹⁹ Media Release, Australian Industry Group Chief Executive Innes Willox, 27 June 2012.

²⁰ Westacott J (2012) , *Productivity Lift Overdue*, The Australian Financial Review , 28 June 2012

²¹ Gollan P, Address to AMMA conference, quoted in WorplacelInfo, 25 May 2012, accessed 19 June 2012.

²² Vamos S (2012), quoted in the Australian Financial Review 12 July 2012, accessed on line 16 July 2012

²³ Australian Workforce and Productivity Agency (2012) op cit.

²⁴ See ABS/Productivity Commission: *Competition, Innovation and Productivity in Australian Businesses*-Leo Soames and Donald Brunner Productivity Commission Tala Talgaswatta Australian Bureau of Statistics. ABS Catalogue no. 1351.0.55.035

Treasury officials Dolman and Gruen strongly support the need to boost the performance of Australian managers as a means of lifting productivity outcomes:

*“Moreover, the differences in management practices appear to matter for productivity levels: better managed firms are more innovative and have higher productivity. Regression analysis suggests that lifting management practices in Australian manufacturing firms to the average level in the US would raise the level of productivity in Australian manufacturing by around 8 per cent (Bloom, Genakos, Sadun, and van Reenen 2012).”*²⁵

Theme Four: How are the benefits of increased productivity best transmitted to society?

How does our economy and society benefit? As noted by the Productivity Commission, productivity gains can be distributed in a number of ways:

“At a firm or industry level, the benefits of productivity growth can be distributed in a number of different ways:

- *to the workforce through better wages and conditions;*
- *to shareholders and superannuation funds through increased profits and dividend distributions;*
- *to customers through lower prices;*
- *to the environment through more stringent environmental protection; and*
- *to governments through increases in tax payments (which can be used to fund social and environmental programs).”*²⁶

Australia’s wage fixation systems and wages policies are part of the mechanism by which productivity growth is distributed to workers.

Throughout the 100 plus years of centralized wage fixing in this country, consideration of productivity growth has been a constant theme, although it has been applied in various ways and means across the years.

²⁵ Dolman and Gruen (2012) op cit., p. 11

²⁶ Productivity Commission (2012), op. cit.

Wage fixation through the various courts and tribunals has been based on a number of factors of varying importance over time including

- the living or needs wage
- maintenance of real wages through wage indexation
- capacity to pay
- margins for skill and work value
- comparative wage justice
- productivity growth.

The history of the development and application of a productivity principle by successive arbitration courts and tribunals is beyond the scope of this briefing paper. Suffice to say that at times, productivity has been the focus of various wage fixing principles and decisions, including special cases solely looking at levels of productivity change either on an annual or less regular basis. At other times, maintenance of the real value of wages through regular wage indexation has been the focus.

For much of the history of wage fixation in this country however, one principle in relation to productivity was clear: that it should be distributed on an economy wide basis through movements in minimum award wages. In other words, wages increases based on national aggregate productivity growth ought to be flowed evenly to all workers in all industries and sectors, whether or not productivity levels in particular industries were above or below the national average.

This can be seen from the decisions of the Conciliation and Arbitration Commission in the Holden case of 1965-6²⁷ and the 1970 oil industry case²⁸. In the former case, the Commission held that to grant the Union's claim for wage rises for workers at General Motors Holden only "*would in our opinion amount to irresponsible promiscuity*" and undermine the notion of comparative wage justice.²⁹

This position changed during the mid-1980s and early 1990s when as a result of agreement between some key industrial relations players, including the ACTU, a move was initiated to allow for enterprise bargaining, effectively a form of productivity bargaining, by which employees and employers could create and distribute between themselves at the enterprise level gains from

²⁷ (1965), 115 CAR 931-968

²⁸ (1970), 134 CAR 159

²⁹ (1965), 115 CAR 931-968 at 948 and 968

increased productivity. Workers without the ability to bargain effectively or where productivity gains could not be achieved or demonstrated were to rely on minimum award rates of pay and conditions of employment.

This change derived in part from the Prices and Incomes Accord between the ACTU and the new federal Labor Government at the Economic Summit of 1983. The Summit Communique which was endorsed by the ACTU and various employer groups including the then Confederation of Australian Industry, noted among other things: *"It is a legitimate expectation that income of the employed shall be increased in real terms through time in line with productivity"*.³⁰

Part of the decision of the tribunal, flowing from union claims for superannuation (and from decisions of the Hawke Government flowing from the Economic Summit and the Accord Mark II), endorsed the position by which an employer contribution of 3% into occupational superannuation could and should be made; initially by agreement or consent variations to awards and later by arbitration.

The basis on which this claim was advanced by the ACTU was that wage claims based on productivity improvements were to be discounted by 3% and this amount taken as deferred pay in the form of superannuation.³¹ This decision applied national productivity gains in the form of superannuation for workers who had previously not had access to retirement income other than through the pension.

The Commission had to review its approach to productivity sharing before it could endorse formal enterprise bargaining. It was still concerned about this as late as 1991 when it rejected full scale moves towards enterprise bargaining in the 1991 Wage Case:

"The enterprise bargaining proposals challenge a long established principle of wage fixation in Australia, namely, that the benefits of increased productivity should be distributed on a national, rather than an industry or an enterprise, basis. We referred, in a question directed to all parties and interveners, to the two leading cases, namely, the General Motors-Holden Case of 1965-66 and the Engineering Oil Industry Case of 1970, which affirm this principle. Some of the answers disputed that the proposals were, indeed, a departure from these decisions; but we have no doubt that they are. ...It is an inevitable consequence of departing from the national distribution of productivity and relating wage increases to employee

³⁰ Communique quoted in National Wage Case Decision, 23rd September 1983, Print F2900, p. 10.

³¹ Print G3600

*contributions in particular enterprises or workplaces that increases based on productivity will vary from enterprise to enterprise.*³²

Theme Five: Are all Australian workers benefitting from productivity growth?

While the tribunal later endorsed formal enterprise bargaining³³ – and successive Governments have legislated for it - the concerns of the Commission in 1991 remain valid, especially for workers in certain industries and occupations and for women workers generally.

Enterprise bargaining is designed to promote the creation of more productive workplaces by allowing the parties to create additional productivity and share that outcome between the workers and their direct employer only in the form of higher wages for workers and to the employer through reduced costs and increased profits. This productivity gain is not shared with other workers.

Clearly, some industries have greater opportunities to productivity bargain – those in the male-dominated manufacturing and building industries in particular – than others. The ‘others’ category includes many in the non-market sector of the economy, including public service, education and training, health and community services. In these sectors it is often difficult to measure productivity, let alone increase it. Nevertheless, these sectors are vital to the economy and society.

Moreover, enterprise bargaining does not take place in a vacuum. Parties do not sit down in an ideal world and rationally and logically consider how to improve productivity and distribute the benefits fairly.

Enterprise bargaining takes place in the context of the power relationship between workers and their employers. This relationship normally determines the outcome of the bargaining process. Economically stronger and better organised groups of workers will tend to do better than those in weak sectors who are not organised.

This position is further worsened when bargaining is done on an individual basis, as during the Workplace Relations Act and WorkChoices periods. While some workers, with particularly strong

³² J7400 , p. 40

³³ There is a brief history of the development of enterprise bargaining in Isacc, J and Macintyre, S (2004), *The New Province of Law and Order – 100 years of Australian Industrial Conciliation and Arbitration*, Cambridge University Press, at pp 304-309

market power, can benefit from this [and always have], the mass of ordinary workers are simply likely to have ‘unequal treaties’ forced upon them with no real bargaining, productivity or otherwise. It is compounded for many in the education, health and community services sectors where funding is dependent on the purchasers of services who have normally been only prepared to fund at the level of award wages thus severely limiting the potential for bargaining.

Economically weak and unorganised workers have in many cases done poorly from bargaining: often, in order to obtain wages increases little better than movements in minimum wages, they are required to productivity bargain or trade off terms and conditions of employment leaving their overall position little better or even worse off than before.

Since many of these sectors are caring professions dominated by women, women as a group may fare poorly from enterprise bargaining, a point that was made from the outset of the process³⁴. The inability of the largely female workforce in the social and community services sector to bargain effectively if at all was a significant factor in both the Queensland Industrial Relations Commission decision around equal pay and work value for community sector workers, and the decision of Fair Work Australia to make an equal remuneration order for this sector in 2012.³⁵

Is productivity being distributed to low income workers?

“Nearly all, if not all, of the labour productivity dividend from one of the most prosperous periods in Australian history has not been distributed to safety net workers. This means that there has been a massive transfer of labour productivity gains from the workers who have generated those gains (about one-sixth of the workforce) to the owners of the businesses in which they are employed”.

ACCER Submission to Minimum Wages Panel at para 375

Productivity considerations remain an important factor in minimum and award wage setting. In determining the level of the minimum wage each year, the Minimum Wage Panel of FWA is required by the Act to have regard to a number of factors – including the Minimum Wage Objective.

³⁴ Bennett L, *Women and Enterprise bargaining: the legal and institutional framework*, JIR 36, 191-212

³⁵ *Queensland Government Industrial Gazette*, 15 May, 2009, Vol. 191, No. 2, pp19-59 ; [2012] FWAB 1000 AND [2011] FWAB 2700

In the 2012 Minimum Wage case, one of the parties – the Australian Catholic Committee for Employment Relations [ACCER] – specifically argued that one per cent of its proposed increase in minimum wages should be based on productivity gains in the national economy.³⁶ The submission of the ACCER noted that there had not been an increase in minimum wages on account of productivity over the previous seven years

“Second, a further increase of 1% on account of productivity increases. It is sought as an interim amount because estimated annual productivity increases in recent years have been more than 1% and because there has been no compensation for productivity increases over the past seven years. ACCER proposes that further adjustments of wage rates on account of these productivity increases be considered in subsequent annual wage reviews.”³⁷

ACCER also submitted that

“Since 2000 substantial productivity gains across the economy have resulted in substantial wage increases across the national economy; but safety net workers have not benefited from those gains. Unlike other workers, safety net workers have been denied the benefit of the increases in their own productivity.”³⁸

Chapter 3 of the ACCER submission details the lack of access to either their own or national productivity for lower paid workers not part of the formal enterprise bargaining processes since 1997.³⁹

Shares of the national income: wages and profits

One indicator of the relative share of the national wealth between workers and their employers is the share of GDP going to profits and wages. Currently, the profits share is at historically high levels.

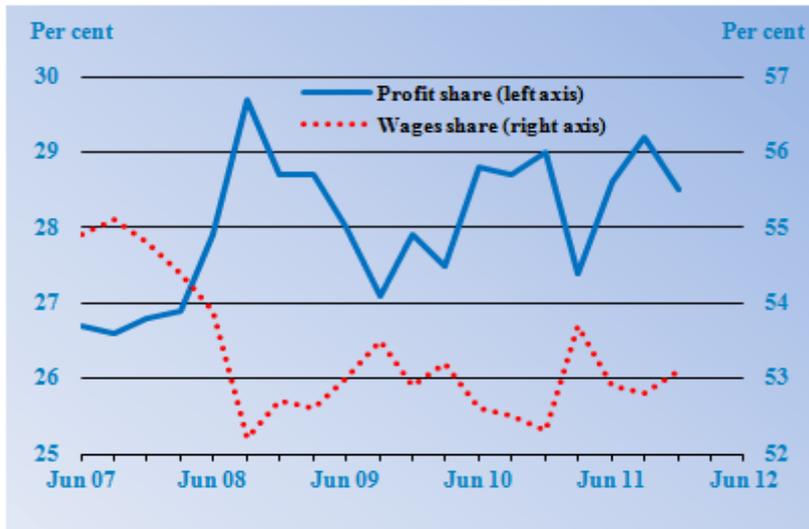
According to the Australian Parliamentary Library the wages share peaked at around 63 per cent in 1974 while the profit share bottomed at just over 15 per cent at the same time. In 2012, the wages share was 53% and the profits share was 28.5%.⁴⁰

³⁶ [2012] FWAFB 5000 at par 45

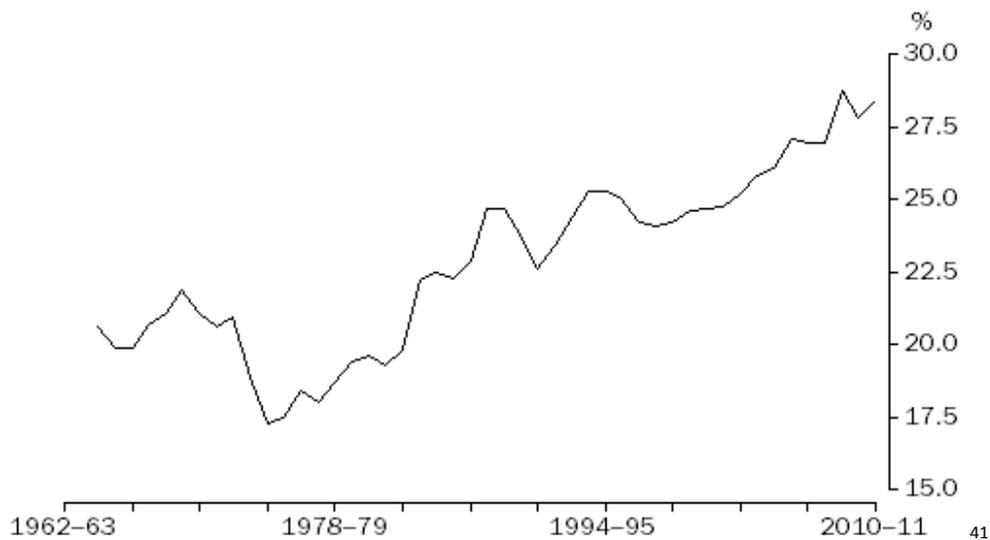
³⁷ ACCER (2012) Submission by the Australian Catholic Council for Employment Relations March 2012, p 4-5

³⁸ Ibid, page 53

³⁹ Ibid, pages 52ff



Over the longer term, the profit share has been trending upwards, as the following ABS table shows:



Theme Six: Industrial relations law and systems and their relevance to productivity

In public discourse the view that Australian labour law has a major impact on productivity levels is often promoted. This has been a focus of successive governments of both persuasions over the past 25 years or more. This is not an uncontroversial position as the direct link between labour law and productivity has never been proven.

40

http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/MSB/33

⁴¹ ABS 5204.0 - Australian System of National Accounts, 2010-11

Some employer organisations, economists and commentators state that productivity hinges in large part on what the law says from time to time, taking an institutional and single factor approach to productivity. This debate has again emerged in the context of the Review of the Fair Work Act currently under way.⁴²

The Australian industry Group has argued:

“Gains in productivity require, among other things, flexible and effective workplace relations. However, on the basis of the real experiences of our Member companies in trying to implement and work within the Act, we present in this submission a body of evidence that shows that, in recent years, workplace flexibility has diminished and industrial disputation has increased markedly.

We are not asserting that workplace relations is the only contributor to productivity and competitiveness, but it is a major driver in its own right and is integral to successful adoption of other drivers of productivity. Workplace relations is a vital part of the economic and regulatory framework.”⁴³

In this argument, productivity is hindered by labor market regulation, including employment protections [e.g. unfair dismissal laws], and a range of minimum standards including minimum wages and minimum award terms and conditions with regard to certain forms of work, e.g. part-time, casual and temporary employment as well as contractors. Also criticized are laws with regard to union rights with respect to collective bargaining, including greenfields agreements especially with regard to resource projects.

Earlier in this background paper we identified that productivity, including labor productivity, is an outcome of many factors and is therefore very unlikely to be determined simply by one factor.

The efforts of the Hawke/Keating governments to promote micro-economic reform and productivity included a number of efforts to change industrial relations practices and outcomes. For example, reforms included enterprise bargaining [as noted above] preceded by the two tier wage system [the second tier of which was related to productivity ‘tradeoffs’] and was followed by a concerted effort

⁴² See for example, submissions by the AiG to the Review:
<http://www.deewr.gov.au/WorkplaceRelations/Policies/FairWorkActReview/Documents/AustralianIndustryGroup.pdf>

⁴³ Ibid

to promote skills enhancement through changes to awards such as classification broad-banding and the introduction of skills based classification structures to encourage and reward the acquisition and use of higher levels of skill.

These measures were supported by a range of reforms in vocational education and training designed to replace time-served apprenticeships with competency based training and to introduce traineeships with the same features to all other sectors of the workforce which had not had access to formal vocational education and training. Linked with the concept of recognition of prior learning and lifelong learning these new policies were designed to continually update the skills of Australian workers to make them more productive and to ensure the success of a high productivity, high skill economy.

These reforms were supported by both employers and employee organisations and driven in part by leading unionists such as Laurie Carmichael [AMWU and later ACTU Assistant Secretary and then Chair of the Employment and Skills Formation Council] as well as by governments both in Canberra and the States and Territories.⁴⁴

Vocational training arrangements dating from this period are still in place today, as are, in effect, many if not most of the award classification structures that award restructuring put in place.

The incoming Howard government in 1996 retained some of these changes [especially in the area of vocational education and training] but radically altered industrial laws moving as far as possible towards a system of individual employment contracts and weakening the power of unions to influence industrial outcomes. Awards were pared back and – under WorkChoices – minimum standards drastically reduced.

Supporters of this approach argued that it was intended to boost productivity – “to bring forth the next wave of productivity improvement”⁴⁵; while critics saw it as simple cost-cutting and an effort to move the national income split in favor of profits rather than workers⁴⁶.

⁴⁴ See for example: The Australian Vocational Certificate Training System [Carmichael report], [National Board of Employment, Education and Training. Employment and Skills Formation Council \(ESFC\)](http://www.voced.edu.au/content/ngv34192) <http://www.voced.edu.au/content/ngv34192>

⁴⁵ Howard, J (2005) Media Release: **WorkChoices: Howard Announces Details Of Industrial Relations Changes Oct 09, 2005** <http://australianpolitics.com/2005/10/09/howard-announces-workchoices.html>

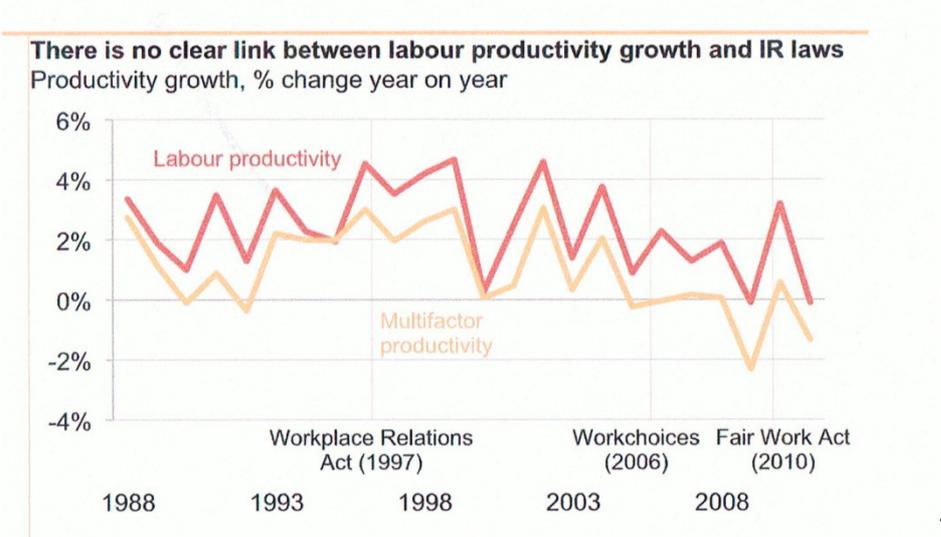
⁴⁶ Wooden M (2006), *Implications of Work Choices Legislation*, Agenda, Volume 13, Number 2, 2006, pp 99-116

In any case, this approach was dramatically rejected by the Australian people at the 2007 election and the Fair Work Act of the Rudd/Gillard government rejected individual contracts but continued some features of the previous regime. The Rudd/Gillard Government argued that by removing State IR systems and awards and agreements, employer costs would be reduced and productivity boosted.

Theme Seven: Can we tell whether IR law changes have an impact on productivity?

A recent paper by the Grattan Institute “Economic reform Priorities for Australia” suggests not:

“Direct attempts to correlate historic changes in industrial relations regimes with economic outcomes are either inconclusive or unconvincing. Most of these studies try to correlate industrial relations reforms with changes in labour productivity. However, as illustrated in Figure 2.6, too many other things affect labour productivity — particularly micro-economic reform, education, technology, and infrastructure. These factors usually swamp the impact of industrial relations on Australian labour productivity.”⁴⁷



This is also true at the level of the firm, according to the Grattan Institute study.⁴⁹

⁴⁷ Daley J (2012), *Game-changers: Economic reform priorities for Australia*, Grattan Institute June 2012
⁴⁸ Ibid Table 2.6, page 24
⁴⁹ Ibid, *Game-changers: supporting analysis*, p. 13

The same can be said for wages growth:



There is often an unstated assumption that labor market deregulation always improves productivity. The tables above taken from the Grattan Report suggest that this cannot be demonstrated.

It has also been noted that:

“Since 1970 the period of the highest levels of labour productivity growth occurred under the centralized award system under the McMahon and Whitlam Governments.”⁵¹

Theme Eight: Employment rights and productivity. Do rights play a role?

The Australian Institute for Employment Rights has taken the strong view that the existence of employment protections and rights do not undermine productivity. Rather, it is likely to be the absence of such protections and rights that reduce productivity. In its submission to the Review of the Fair Work Act, AIER noted the debate on the existence of employment protection and the level of employment and the experience in which the OECD, formerly a strong supporter of deregulation has now accepted the evidence that deregulation does not lead to growth..⁵²

⁵⁰ Ibid, p. 13

⁵¹ Parliamentary Library (2011), *Industrial relations reforms: boosting productivity?*, September 21, 2011, accessed 21st June 2012.

⁵² Heap, L, Irving, M and Howe, J (2012) *Fair and Just: A Submission by Australian Institute of Employment Rights Inc. to the Fair Work Act Review Panel*, pp 6-9 and Kriesler P and Neville J (2007), *Economic Perspectives on Workers Rights, in Australian Charter of Employment Rights*, Hardie Grant Publishing, Melbourne.

Further, in respect to productivity, the AIER submission notes:

“Income inequality and other undesirable social effects that may flow from increased flexibility may reduce productivity. This is particularly the case as empirical evidence suggests that workers care about social justice and that their incentive to work is influenced by their perception of how they are being treated.

More generally, casualisation is likely to reduce the commitment of workers to firms and hence reduce productivity. This may have serious effects on international competitiveness, so “it is likely that [freedom of] association rights would increase output and competitiveness by raising productivity” .There is a large body of evidence supporting the association between stronger workers’ rights and higher economic growth as well as improved distribution of income. There are many reasons for this, including improved possibilities for the development of human capital, reductions in industrial unrest, improved firm loyalty and reduced labour turnover.⁵³

This viewpoint that employee rights, participation and involvement and access to education and training boost productivity and firm performance is well supported in the literature.⁵⁴

A related question which is often poorly discussed and debated is the role of unions in enhancing or inhibiting productivity growth. Many free market economists consider that unions distort the market and create outcomes that would not prevail if the market was left to itself. By introducing and supporting restrictions on how enterprises run their businesses unions “must” inhibit productivity and productivity growth.

This view has been challenged by a group of predominantly US based labor economists who have identified and studied the positive influence of union for productivity at the enterprise level. In their seminal work “What do Unions do?” Richard Freeman and James Medoff conclude:

⁵³ AIER (2012), *op cit.*, p.9

⁵⁴ See for example Huselid, M, *The Impact of Human Resource Management Practices on Turnover, Productivity, and Corporate Financial Performance*, Academy of Management Journal, 1995, Vol 38, No.3. 635-672

*“The new quantitative studies indicate that productivity is generally higher in unionized establishments than in otherwise comparable establishments that are non union, but that relationship is far from immutable and has notable exceptions”.*⁵⁵

Freeman and Medoff identified what they called the “voice/response” face of unionism, whereby unions reduce workforce turnover by allowing the voices of workers to be heard by management who can deal proactively with issues that arise rather than facing the costs of staff turnover, hiring and training of new workers.

These views have been recently supported by management expert Jeffrey Pfeffer in *“In praise of organized labor”* in *“What were they thinking? Unconventional wisdom about management.”*⁵⁶

Pfeffer also notes that unions raise wages, but that this has several positive outcomes for firms:

- Higher wages attract better workers
- Higher wages decrease turnover – which is expensive
- Higher wages leads to more investment in capital, training and work methods

Pfeffer concludes:

*In many cases, the productivity advantages that come from a more highly skilled experienced and effectively deployed workforce with more capital equipment completely outweigh the extra wage costs, leaving total costs unaffected and productivity actually higher in the unionized settings”.*⁵⁷

The Grattan Institute report comments on this matter in an Australian context

“Unionised firms in similar industries tend to have higher labour productivity, probably because unionised firms hire higher-value employees (because they tend to be higher-cost and use more capital), and because unions focus their organizing efforts at more productive firms (where there tends to be more ‘surplus’ to share with workers). The Australian

⁵⁵ Freeman R and Medoff J (1984), *What do Unions do?*, Basic Books, New York, 1984 at p. 180. See also Mishel L and Voos, P, *Unions and Economic Competitiveness*, Economic Policy Institute 1992.

⁵⁶ Harvard Business School Press, 2007

⁵⁷ Ibid, at pp 176-7

*Workplace Relations Act in 1996 effectively reduced the power of unions. So if union involvement is in fact a drag on productivity, one would expect that labour productivity would have accelerated in unionised firms relative to non-unionised firms. However, a detailed study did not find a consistent trend across sectors and firm sizes. The productivity increase in medium sized unionized mining-manufacturing-construction-transport firms that was identified did not lead these firms to increase production or to expand exports. Overall, the study did not find a 'smoking gun' to link the industrial relations reforms of the Workplace Relations Act with economy-wide improvements in productivity that can lead to economic growth.*⁵⁸

Freeman and Medoff note that:

*"An important implication of the voice/response model is that productivity is likely to depend on the state of labor-management relations in shops. When those relations are poor, management is likely to have trouble getting high productivity. When they are good, workers and management may pull together for the benefit of the firm."*⁵⁹

This view is supported by Belman:

*"Another finding is that it is the handling of conflict, not unions, which affects productivity changes. Managers and employees have shared interests, but also legitimate differences in interests...The institutions and procedures for managing conflict that govern employee and managerial behavior thereby regulate firm performance. Low trust/high conflict environments...are not conducive to employees doing more than is required to earn a paycheck and avoid dismissal. ..Conversely, high trust/low strife environments provide a foundation for improving efficiency..."*⁶⁰

Resistance to technological change has frequently occurred in a workplace context in which workers had little job security and no say in the running of the enterprise for which they worked. For many years Australian even 'permanent' workers could be dismissed on as little as a week's notice with little or no compensation.

⁵⁸ Daley op. cit., p 24

⁵⁹ Freeman R and Medoff (1984) J, op. cit, page 176

⁶⁰ Belman, D (), *Unions, the Quality of Labor Relations, and Firm Performance, in Unions and Economic Competitiveness*, op. cit., page 41 ff at p. 71

Developments over the past 30 years have given workers some additional protection against unfair dismissal and compensation in the case of redundancy. In some workplaces, genuine employee involvement in decision making exists but it is still relatively rare.

Workplace culture would appear to be critical to the successful and continuing introduction of changes which might lead to productivity improvements. More rights, not fewer would appear to be the key to more productive workplaces.

In the late 2000s, the New Zealand Department of Labor sponsored a series of workplace productivity enhancement exercises in industry, using 'trusted partners', government seed funding and external consultants to work with enterprises to bring about productivity enhancing changes. Twenty-eight enterprises were involved and the report of the outcomes was published in 2009.

The 'trusted partners' were in the main employer organisations but also included two NZ trade unions.

Amongst other things, the report concluded that the existing workplace culture was a key element in the success or otherwise of the projects:

"There was some form of improvement across all twenty-eight workplaces. These improvements ranged from those which had an impact across the entire workplace, to relatively isolated and minor ones. Improvements included increased worker participation, increased knowledge and skills, and improved business planning and work processes...The common thread across all twenty workplaces was a relatively good culture to start with. Management were generally ready, willing and had the capacity to make changes –including the willingness to contribute both time and money to the process. Also there was usually a positive employer-employee relationship that the consultancy approach could build on. Managers were prepared to fully engage with the process for a number of reasons, including a realisation they had to change; reinforcement of their prior commitment to continuous improvement; or seeing the direct value to their workplace."⁶²

⁶² New Zealand Department of Labour, 2009 , *WORKPLACE PRODUCTIVITY PROJECTS EVALUATION REPORT AUGUST 2009* page 30-31

Theme Nine: What is flexibility? Are there costs in increased flexibility?

As noted above, some commentators view workforce flexibility as the key to productivity. The Australian workforce is rapidly becoming increasingly 'flexible' if measured by the number of workers now engaged in precarious forms of employment as casual, part-time, or temporary employees or as self-employed independent contractors. While some see these workers as a benefit to the economy, others are concerned not only for the social implications of these hiring practices but for their productivity implications as well.

There is little incentive or reason for employers to train or otherwise develop the skills of precarious employees who they consider that they can engage and dismiss at will. The long term productivity implications of this short term employment practice is emerging as major concern for Australia.

The recent Inquiry into Insecure Work in Australia (the "Howe Inquiry") summarised the extent of precarious employment in Australia

"Almost one quarter of all employees in Australia (23.9% or 2.2 million workers), and one fifth of the total workforce, are engaged in casual employment. The proportion of Australian employees engaged in casual work has grown significantly over the past decades: from 15.8% in 1984 to around 27.7% in 2004, before declining slightly and remaining relatively stable at around a quarter of all employees since then. This decline is partly explained by the growth of alternative forms of insecure work such as fixed-term contracts, labour hire and independent contracting, which have given employers other options for minimising costs and shifting risks on to their employees."⁶⁴

The Report also noted that

"Workers also experience insecure work in the form of working time insecurity. For many workers, this takes the form of too few or irregular hours of work. There are over 850 000 workers Australia who work like to work more. Working time insecurity in the form of irregular or fragmented hours is common in industries and sectors such as retail, hospitality and health services, where employers have sought to enhance flexibility and reduce costs by reducing or removing restrictions on working time arrangements: widening the span of

⁶⁴ *Lives on Hold : Unlocking the Potential of Australia's workforce: The Report of The Independent Inquiry Into Insecure Work In Australia*, p.14

ordinary hours, averaging working hours, removing or reducing penalty payments for extended or unsociable hours, and reducing minimum periods of engagement. Lack of predictability of scheduling (on a daily and weekly basis) has further eroded job quality. ⁶⁵

Amongst a number of findings and conclusions, the Report noted the impact of insecure work on skills formation [a key productivity driver]:

“Our workforce has been transformed, as we’ve replaced jobs in production industries with jobs in service industries that rely on workers constantly updating their skills to keep track with changing technologies. The “use-and-throw-away” mentality of many employers, however, means that these workers can no longer rely on their workplaces to provide the training that they need. If their skills are low or outdated they are not offered training through work. As a result if they are retrenched they are more likely to find themselves shifting between periods of unemployment and underemployment that destroy their ability to save money than finding a stable, ongoing job...” ⁶⁶

The Report rejected calls for increased flexibility:

“It has been argued by employers that increasing labour market flexibility in a manner that increases levels of insecure work is assisting Australia to address productivity. Contrary to this, it is our view that the most critical problem facing our labour market is the mismatch between the shortage of skilled labour and the substantial excess supply of people with low education and low skills.” ⁶⁷

The Howe Report detailed the human cost of ‘flexible’ or insecure work. Even if these forms of work could be clearly shown to be necessary for improved productivity [which is not demonstrated] their existence and use must always be weighed against the social cost.

Productivity is only important if it leads to improvements in standards of living but even standards of living must be viewed in terms of the society and world in which we want to live. Advanced western economies [as well as others] acknowledge that economic growth comes with costs; for example, to

⁶⁵ Ibid, p.16

⁶⁶ Ibid, page 23

⁶⁷ Ibid, page 44

the environment and most acknowledge that unrestrained growth is not acceptable if it degrades the natural environment or leads to adverse climate change.

The same may be said for employment. Unrestrained economic growth through productivity improvements driven by increased insecurity for workers and their families damages the social environment. It does not come without cost and there is a strong rational argument that like the natural environment, the social environment must also be protected from economic damage.

A balanced approach is clearly needed. In any case, the evidence suggests that access to employment rights, secure employment and decent work does not hinder but rather will help deliver and sustain productivity and growth.

Theme ten: Where to now for the future of productivity and society?

In what direction should Australia move in order to remain economically competitive and increasingly productive but also achieve a just and sustainable future for our nation that includes decent work in all its forms?

Our political leaders need to broaden their vision for productivity. No party appears to have a comprehensive approach.

Two years ago, the Treasurer Wayne Swan said:

“Unfortunately, Australia’s productivity performance has slowed over the past decade. Average annual labour productivity growth has fallen from 2.1 per cent in the 1990s, to around 1.4 per cent in the 2000s. We need to do better than this.

If productivity growth were to average 2 per cent per year over the next 40 years, instead of 1.6 per cent, its average over the past 30 years, then:

- *Real GDP growth would average over 3 per cent a year over the next 40 years (compared with 2.7 per cent), and the economy would be \$570 billion bigger by 2049-50 in today’s dollars.*

- *Average living standards (measured by real GDP per person) would be around 15 per cent (or around \$16,000 in today's dollars) higher in 2049-50.*⁶⁸

More recently, the Treasurer said:

"At the end of the day, the key ingredient to higher living standards of all Australians is productivity growth. Only greater productivity can help sectors of our economy make a sustainable adjustment to the pressures of a high dollar. And only greater productivity will make us the winner in the Asian Century, only greater productivity will build the manufacturing, agricultural and service sectors of the future which can compete for the business of the rising global middle class.

It's why we're investing in education, skills training and apprenticeships, delivering faster and more widely available broadband, and improving the delivery of services such as health care and public administration. It's why we're reforming the tax system, improving the competitiveness of businesses through cuts to the tax rate, and driving innovation in areas like clean energy technologies by pricing carbon. All to lift productivity. By fostering gains in broad-based productivity, we will lay the foundations for the long-term prosperity we need to spread opportunity right through our land."⁶⁹

The leader of the Opposition, Tony Abbott has said:

"Finally, there's the Coalition's productivity agenda that Labor is incapable of matching because of its propensity for big government and its symbiotic relationship with the union movement.

*The Coalition will encourage more people into the workforce, make public institutions more effective and responsive, cut red tape, improve competition rules, get greater value from infrastructure spending, and reform workplace relations to encourage higher pay for better work,..."*⁷⁰

⁶⁸ <http://www.alp.org.au/federal-government/news/productivity-agenda-future/>

⁶⁹ Swan W (2012), *If we don't grow together, we grow apart*, Address to the National Press Club, 5 March 2012

⁷⁰ Abbott, T (2012), *Address to the Victorian Employers' Chamber of Commerce and Industry*, 09/03/12

In 2010, The House of Representatives Economics Committee produced a Report in response to a reference to examine productivity in Australia. No specific recommendations on how to increase productivity were made by the Committee. The Report recommended [amongst other things] that

“That at the commencement of the 43rd parliament the federal government convenes a national forum represented by all levels of government, business, unions and non-government organisations to discuss the key ingredients of a national productivity growth agenda..

That in the next eighteen months the Productivity Commission undertakes modelling on various aspects of human capital investment on productivity outcomes in the Australian economy and the likely time-line for returns”.

The Report noted issues with regard to workplace productivity but made no specific recommendations in this area.

Treasury officials Dolman and Gruen conclude:

“The gains in Australian living standards of the past decade were more easily achieved than in the 1990s, but they were achieved in ways that cannot be replicated. The gains of the next decade will rely overwhelmingly on improvements in productivity.

Central to Australia’s economic policy challenges is returning the economy to a strong productivity growth trajectory. Governments can play a number of roles to facilitate improvements in productivity, including through their support for education, science and infrastructure, and the provision of appropriate regulatory regimes. The efficiency with which government services are delivered will also be important. However, it is largely the decisions made by individual firms in the Australian economy, and the interactions between them, that will drive productivity growth over coming decades. Part of the challenge is to allow the pressure currently facing firms in many parts of the economy, due to the high exchange rate and other forces, to encourage the take up of new technologies and work practices, and to allow resources to move to more productive uses.”

Conclusions

AIER believes that the conversation regarding how to improve productivity within Australia is a vital one. AIER is however, increasingly concerned about the emphasis that is being given by some stakeholders and commentators on the need to provide more “flexible” labour in order to achieve this gain. Flexibility in this context often equates in a reduction of working conditions. Advances in productivity will not be derived by reducing workplace rights.

A multi factor approach to improve productivity must be taken. This includes developing initiatives in relation to

- general education levels
- vocational education and training effort
- capital investment
- technological, systems and process change [innovation]
- managerial effectiveness including human resources management
- workplace culture
- industrial relations policies and practices
- enterprise capacity and willingness to innovate
- adequacy of infrastructure
- access to efficient financial services.

The AIER has previously submitted to the Federal Government its concerns regarding the impact of poor workplace culture on the well-being of workers and productivity of organisations in its submission entitled *Preventative Health and Workplace Culture* (2009). A core recommendation of this submission was the establishment of Centres for Workplace Citizenship to support improvements in workplace culture. We call again for the establishment of these Centres.

Immediate attention needs to be given to those within our society who do not receive any benefits from Australia’s economic growth. Strengthening the ability of Fair Work Australia to help in the distribution of these gains is important here.

For industries within which productivity is not an appropriate measure of gain, and where bargaining at the enterprise level is fraught with difficulty, including those associated with the provision of vital

public services, new mechanisms need to be sought. The Fair Work Act should be amended to recognise particular provisions for these industries.

We call on all stakeholders to adopt and promote the International Labour Organisation's Decent Work Agenda as a framework for action in this area.

The AIER is committed to tripartism and is of the view that the loss of a genuine commitment to tripartism in Australian industrial relations is significantly hindering Australia's ability to develop a modern economy committed to industrial fairness and achieving productivity growth. The AIER submits that the industrial parties also need to examine the role that they are playing in hindering the advancement of co-operative and productive workplace relations with a view to significantly overhauling their modus operandi.