



11th annual

Ron McCallum Debate

**Are we still the
lucky Country?**

The future of workplace
relations in Australia



**Debate participants
background paper**

11th annual

Ron McCallum Debate



2021 Keynote Speakers



Ron McCallum AO
Emeritus Professor
University of Sydney

Ronald C McCallum AO is widely recognised as one of Australia's leading labour law academics. He was the foundation Blake Dawson Waldron Professor in Industrial Law in the University of Sydney Law School from January 1993 until 30 September 2007. This professorship was the first full professorship in industrial law at any Australian university. Ron is the first totally blind person to have been appointed to a full professorship in

any field at any university in Australia or New Zealand. Ron was Professor of Labour Law at Sydney Law School from 1 February 2008 until 31 December 2010. In January 2011, he was appointed to an Emeritus Professorship in Sydney Law School. Ron is a past Chair of the United Nations Committee on the Rights of Persons with Disabilities and was named Senior Australian of the Year in 2011. Ron is Patron of the AIER.



Michaelia Cash
Attorney-General and
Minister for Industrial Relations

Senator Cash was elected to the Australian Senate as a Liberal Senator for Western Australia in 2007. She commenced her term on 1 July 2008. She was re-elected as a Senator for Western Australia in 2013 and 2016.

On 30 March 2021, Senator Cash was appointed the Attorney-General and Minister for Industrial Relations - the Coalition's first female Attorney-General.

On 30 October 2020, Senator Cash was appointed Deputy Leader of the Government in the Senate.

Since entering public life Senator Cash has held a number of Ministerial appointments. In 2019, Senator Cash was appointed the Minister for Employment, Skills, Small and Family Business; in the newly re-elected Morrison Cabinet.



Tony Burke
Shadow Minister for
Industrial Relations

Tony Burke is the Shadow Minister For Industrial Relations, shadow minister for the arts and manager of opposition business in the 46th Australian parliament.

Tony grew up in a small business family, later ran his own small business and also worked as the local organise up for retail workers. Tony's portfolios reflect his lifelong commitment still working people, the environment and to the arts.

In government, Tony Burke was responsible for resolving 100 years of conflict in the Murray-Darling Basin, place in Tasmania's Forest on the World Heritage list comma making the second largest conservation decision in the history of the planet by protecting our oceans and implementing the comprehensive Creative Australia Arts and Culture Policy.

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2021 Keynote Speakers



Greg Vines

Deputy Director-General of the International Labour Organization

Greg Vines is Deputy Director-General of the International Labour Organization (ILO).

Mr Vines has had an extensive career in strategic and executive management within Australia and internationally. The focus of his work has been on labour relations, organization and workplace change, governance, and human resource management.

Mr Vines has also held senior executive appointments with the Australian and Timor Leste Governments, and leadership positions with Australian trade unions. He is admitted to practice as a lawyer and has studied law, management and labour relations in Australia and the USA.

Debate Moderator



Justice Iain Ross AO

President of the Fair Work Commission

On 1 March 2012, Iain was appointed a Judge of the Federal Court and President of the Fair Work Commission.

Prior to his appointment, Iain was a Judge of the Supreme Court of Victoria and President of the Victorian Civil and Administrative Tribunal.

Iain has also served as Chair of the Council of Australasian Tribunals, inaugural Chair of the Mediator

Standards Board, a Judge of the County Court of Victoria, partner of a major law firm and a Vice President of the Australian Industrial Relations Commission. He was made an Officer of the Order of Australia on 13 June 2005 and elected a Fellow of the Academy of the Social Sciences in Australia on 25 September 2019.

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2021 Debate Panellists



Michele O'Neil
President of the Australian
Council of Trade Unions

Michele is the President of the Australian Council of Trade Unions. She began her working life as a waitress, went on to work in the community sector with homeless young people and to then work in the clothing industry.

Before being elected as ACTU President in 2018, Michele represented workers in the textile, clothing and footwear industry as an organiser and then Branch and National Secretary of the TCFUA

(Textile Clothing and Footwear Union of Australia). She represented her union Nationally and Internationally and led campaigns to win world leading rights for workers throughout clothing supply chains. A model of supply chain accountability for workers which increased pay and conditions for some of Australia's most exploited workers.

Following the amalgamation of the TCFUA and the CFMEU Michele was CFMEU Vice President.



Andrew McKellar
Chief Executive Officer
Australian Chamber of
Commerce and Industry

Andrew McKellar joined the Australian Chamber as CEO in August 2021. He is an experienced international executive who specialises in public policy, advocacy, and leadership of member-based organisations.

Prior to joining the Australian Chamber, Andrew was CEO of the Australian Trucking Association.

Andrew returned to Australia in early 2021, following a six-year tenure as Secretary General for Mobility at the Federation Internationale de l'Automobile (FIA), based in Paris. The FIA is the governing body for world motor sport and the leading international network for mobility and touring organisations, representing around 240 member organisations in more than 140 countries.



Michael Kaine
TWU National Secretary

Michael has been fighting for the rights of transport workers for over 20 years from the TWU NSW branch legal team right through to national leadership. Michael drives the union's national campaigns, bringing together workers from all sectors of road transport and aviation to fight for safe rates of pay and conditions and to lift

standards in transport. A leading figure in the union movement, Michael has also led the charge to kick banks out of super as well as daringly taking on multinational giants in the gig economy such as Uber and Amazon to protect Australia's hard-earned workers' rights.

2021 Debate Panellists



Innes Willox
Chief Executive
Australian Industry Group

Innes Willox is Chief Executive of the Australian Industry Group, a leading industry organisation representing businesses in a broad range of sectors including manufacturing, construction, transport, defence, ICT and labour hire.

Innes was appointed Chief Executive in May 2012.

Innes is Deputy Chair of Australian Super, Chair of the Migration Council of Australia and President of the Global Business Coalition.

Prior to joining AiGroup in 2008 he served as the Australian Consul General to Los Angeles from 2006 to 2008, Chief of Staff to the Australian Minister for Foreign Affairs, Alexander Downer, from 2004 to 2006 and earlier was Manager of Global Public Affairs for Singapore Airlines based in Singapore (2000-04).

Innes began his career as a journalist. His positions included Chief of Staff at The Age newspaper in Melbourne and Chief Political Correspondent for The Age in Canberra.



Emma Walsh
Founder and CEO
of Parents At Work

Emma Walsh is the Founder and CEO of Parents At Work – an employer membership organisation established in 2007 to champion work and family policy reform. The aim: to support people to thrive at work and at home.

Emma provides work + family education, research and expertise, consulting widely to organisations, leaders and government on how to create family friendly workplace practices.

As a social impact organisation, Emma partners with UNICEF and other human rights agencies to improve gender equality and work life wellbeing outcomes. In May 2021, Emma was instrumental in developing a set of National Work + Family Standards providing employers with a benchmark to foster a family friendly culture. She led the charge in launching the Family Friendly Workplaces Certification program to recognise employers who meet the Standards.



David Peetz
Professor of Employment
Relations at Griffith University

David Peetz is Emeritus Professor of Employment Relations at Griffith University. He was recently an adviser to the review of the Queensland Industrial Relations Act. David is a co-researcher at the Inter-university Centre for Research on Globalisation and Work in Canada.

He was recently a Distinguished Visiting Fellow at the Advanced Research Collaborative in the Graduate Center of the City University

of New York, was once a manager in the Senior Executive Service of the Australian Government's Department of Industrial Relations and has undertaken work for unions, employers, the International Labor Organisation, the OECD, and governments of both political persuasions in and outside of Australia, including a statutory report on the Queensland workers compensation scheme. He is a Fellow of the Academy of Social Sciences in Australia.



Sanushka Mudaliar
AIER Executive Committee

Sanushka Mudaliar is the Director of the Red Cross Red Crescent Global Migration Lab and serves as a member of the AIER Executive Committee in her personal capacity. Sanushka previously worked in program management and policy roles for international NGOs and academic think tanks, and as a specialist

consultant to the ILO, IOM and UN Women focusing on human rights and humanitarian protections for migrant workers. Sanushka recently completed a review of Pacific Labour Mobility schemes in Australia and New Zealand for the Labour Migration Branch of the International Labour Organization.

About the Australian Institute of Employment Rights Inc.

The Australian Institute of Employment Rights (AIER) is an independent, non-partisan not-for-profit think tank 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. Our work and our tripartite structure are inspired by that of the International Labour Organization. Our Executive Committee is made up of representatives from unions, business and independent academics and legal practitioners.

Our approach to workplace relations is outlined in our Charter of Employment Rights. The Charter identifies the fundamental principles on which fair workplace laws, policies and relationships should be based. The extent of our work can be viewed on our website at www.aierights.com.au

About the Ron McCallum Debate

The annual Ron McCallum debate is the pre-eminent industrial relations debate in Australia, bringing the leaders of unions, industry and government together to debate the most important industrial relations issues of the moment. Each year since its inception in 2005, the AIER has held a public debate regarding important issues in workplace relations. It is part of AIER's commitment to promoting public discourse around the fundamental rights and responsibilities of workers and employers.

This, the eleventh annual Ron McCallum debate, marks eleven years since we were honoured to have then Senior Australian of the Year Emeritus Professor Ron McCallum become a Patron of AIER and also agree to lend his name to our annual debate. Our debate has thus assumed responsibility for promoting important ideas and discussions that are consistent with Ron's own commitments to respect the rights of all working citizens in our democracy. One overarching theme for all debates is therefore "Justice at Work".

Welcome from the President and Executive Director

We at the AIER welcome you to the 11th Ron McCallum debate. Over the years, the debate has become an important institution on the national calendar of industrial relations events. It is our hope that through forums like this, that bring business, unions, the legal profession, academia, government and interested members of the general public together to delve into the fundamental workplace relations issues of the day, new insights, possibilities and space for co-operation will emerge.

As with last year's debate, it is with concern that we witness the social and economic devastation of the Covid-19 pandemic still unfolding around us and the deep inequities it has highlighted. At the same time, it is with cautious optimism that we greet the possibilities for 'building it back better' and the renewed focus on tripartism attending some post-pandemic IR reform efforts. This spirit of tripartism is to be encouraged, as is a focus on ensuring that Australia's IR reform efforts help us uphold international and fundamental labour standards. At this year's debate, we interrogate Australia's image of itself as the lucky country and our preparedness to ensure fair and prosperous workplaces for a fair and prosperous society. May it be a useful, insightful and entertaining debate for all. Your contributions are most welcome.

– Michael Harmer, President, & James Fleming, Executive Director, AIER

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Introduction

This background paper is presented to aid speakers, panellists and participants in considering the issues for this year's debate. Below we provide the synopsis and draft questions for the debate and some background discussion in relation to each question. Of course, the discussion is not intended to be a comprehensive treatment of the issues. We expect that participants will have other issues in mind and other perspectives and, hopefully, suggestions as to how these might be best addressed in the interests of all Australians – business owners and workers alike. The Chair of the debate is free to depart from the questions during the debate.

A short program for the debate is also provided below. In the Appendix to this background paper, we highlight our forthcoming book project, *A New Workplace Relations Architecture* (working title, Hardie Grant: 2022), which presents the AIER's vision of the future of workplace relations in Australia.

Debate Topic

“Are we still the lucky country? The future of workplace relations in Australia.”

Synopsis

There is a common perception in Australia that ours is “*the lucky country*”, a land with broadly shared prosperity that has avoided many of the problems faced by other nations. However, when Donald Horne coined that phrase to describe Australia in his influential 1964 book of the same name, he meant it ironically as a rebuke and a wakeup call – as an indictment of our society. Horne warned Australia’s success was based on luck, not merit; that Australians were complacent, that their leaders lacked vision and Australian institutions and industries lacked innovation. Although his book triggered much enduring debate, Horne cautioned before he died in 2004 that his warning had still not yet been fully heard or heeded.

Has Australia’s luck finally run out? In 2020, the Covid-19 pandemic brought a 30-year run of continuous economic growth in Australia to an end, heavily disrupted society, and continues to highlight and exacerbate a number of concerning trends threatening Australians’ wellbeing and shared prosperity. These include stagnant wages, gender inequality and discrimination, precarious and insecure work, including in the growing gig economy, the decline of collective bargaining, as well as endemic workplace bullying and sexual harassment. A spate of heat waves and extreme weather events in 2020 and 2021 also forewarned of pending climate catastrophe, and the increasing global geopolitical instability we see around us means greater uncertainty for business.

Each year, the Emeritus Professor Ron McCallum debate brings the perspectives of the main industrial relations stakeholders – business, unions, and government/independents – to bear on the most pressing industrial relations issues of the moment. The shock of the pandemic and the climate emergency is an invitation for Australia to face social realities and critically assess the trajectory we are on and our preparedness for the future, as we rebuild society and try to ‘build it back better’. This year’s debate asks, ‘Are we still the lucky country?’ Are we complacent in the face of urgent and significant issues? If we are lucky, lucky for whom? What role has the workplace relations system played in Australia’s luck and shared prosperity? Is it up to the task in its current form? Are the IR stakeholders fully equipped to fulfill their role in facing Australia’s challenges? Or what workplace relations reforms would help Australia make its own luck and to face both the pressing challenges of today and those on the horizon?

Debate Questions

1. Is Australia still the lucky country?

While acknowledging that Donald Horne used the term ‘the lucky country’ ironically, many Australians consider the statement to be true at face value. Australia is a relatively wealthy country and achieved that status early in its development thanks to its ability to export its food and fibre products as well as its natural mineral resources. Australia’s top 20 export earners are still dominated by these types of exports. Education-related travel and personal travel services came in at number four and six in 2019-20 – but have been among the hardest hit sectors during the global pandemic which forced the closure of Australian’s international borders. Iron ore dominates Australian export earnings by value, followed by coal and gas. These last two exports are most vulnerable to climate change concerns and international responses to it – and both fell in value in 2019-20 [while iron ore continued to grow].ⁱ The primary sector export industries, while contributing very significant value to the Australian economy, provide relatively few jobs today (less than five per cent). Nearly 90% of jobs are now found in the services sector.ⁱⁱ

Apart from its natural resources, Australia has many other advantages, including political stability, strong adherence to the rule of law, high education standards, low levels of corruption, a strong financial services sector and good corporate governance standards which should translate into economic strengths.

In its early days, Australia’s economy ‘rode on the back of a sheep’, and today to some extent floats in a bulk ore carrier. Is this a sufficient basis for a modern economy in the 21st century? If not, what needs to be done? Can Australia leverage its other attributes to build a modern, diversified and resilient economy?

a. What does ‘lucky’ mean? Lucky for whom?

Even with the best natural advantages, countries must make their own luck. Exploiting our economic advantages fully demands vision, skill and perseverance. Governments, employers, workers and their representatives all have a part to play. Moreover, even if we do consider Australia to be lucky economically, wealth needs to be shared equitably if it is to benefit society.

Australia’s reputation as an egalitarian society has been under challenge. In recent years, wealth has improved for those on high and middle incomes, but not for those on low incomes. Over the past 10 years or so, a new class of workers has emerged – gig economy workers, for example, who usually have none of the employment protections and entitlements of employees. Migrant and visa holder workers have been exploited.

Well-educated and higher income employees have been relatively insulated from the effects of the pandemic. Are they the inheritors of the ‘lucky country’ today? Who is missing out and what should be done to remedy these equality deficiencies?

b. Are we complacent in the face of urgent and significant issues?

Donald Horne's 1964 book was intended as a wake-up call to Australia, to cease trading on its luck and to become creative and innovative in its economic and industrial activities. Australia did embark during the 1980s and 1990s on a bold program of micro-economic reform seeking to transform higher education, vocational and further education, skills acquisition, industry policy, management and industrial relations. These reforms had broad social support and greatly benefitted the Australian economy and society, delivering a long period of economic growth. Australia's economic performance endured despite the GFC and although a recession occurred because of the pandemic, unemployment is low [although partly because participation rates have fallen]. Australia can grow strongly in future years, although high levels of government debt will remain a drag on the budget for many years.

Australia ranks poorly on measures of innovation. On the Global Innovation Index issued annually by the World Intellectual Property Organisation, Australia ranks 25th in 2021, down two places on the previous year and behind many similar OECD countries. ⁱⁱⁱ Australia ranks only sixth in our region for innovation behind South Korea, Singapore, China, Hong Kong and Japan. The report notes that other countries in our region are making great strides:

Five SEAO [Southeast Asia, East Asia, and Oceania] economies are world innovation leaders: the Republic of Korea (5th), Singapore (8th), China (12th), Japan (13th), and Hong Kong, China (14th). Among these leaders, China, the Republic of Korea and Japan have made the greatest advances up the rankings in the past 10 years...

Thailand (43rd), Viet Nam (44th), the Philippines (51st) and Indonesia (87th) have moved up between 5 and 40 GII ranks over the past decade. Thailand and Viet Nam rank among the top 30 worldwide in Market sophistication, as does the Philippines in Knowledge and technology outputs. They are now leaders in key innovation indicators, too. For instance, Thailand ranks 1st in R&D financed by business; and Viet Nam and the Philippines are world leaders in High-tech exports.^{iv}

What more needs to be done to ensure Australia's future economic performance?

c. Has Australia's luck run out?

The Productivity Commission in its *Productivity Insights 2021* report noted that 'the past decade of economic growth marks the slowest in at least 60 years on a per person basis':

The past decade of economic growth marks the slowest in at least 60 years on a per person basis..., both in output per person (GDP per capita) and income per person (gross national income, GNI, per capita). This is the case whether or not one includes the latest year of data (which includes the effect of COVID-19). Examining the level of Australian incomes over the past few decades demonstrates the consequences of this slow growth on the typical household. In figure 27 it can be seen that GNI per capita grew strongly between 1999-00 to 2011-12 but then fell until 2015-16 before then growing (at a reduced rate) until 2018-19. If pre-2011-12 growth rates (1959-60 to 2011-12) had persisted until 2019-20 ('counterfactual GNI' in figure 26), then GNI would have been about \$11 500 per person in 2019-20. That is, average incomes would have been about a tenth higher than they were had this faster growth persisted.^v

Moreover, the Commission observed that:

Considering that Australia's poor economic performance in the 1970s was a key justification for the economic reforms of the 1980s and 1990s, the fact that the last decade of growth was even worse warrants further reflection.^{vi}

What needs to be done to re-invigorate Australia's productivity performance? Whose job is it: government's, business or unions?

- 2. What role has Australia's IR system played in Australia's success and is it continuing to perform that role?**
 - a. How adequate is Australia's IR system to face the challenges of the post-pandemic recovery, climate change, geopolitical instability and the digital revolution?**

As the Productivity Commission has noted, Australian's poor economic performance of the 1970s was a motivation for previous micro-economic reforms. Those reforms included the decentralisation of wage fixing through the introduction of statutory enterprise bargaining in an attempt to both promote productivity growth and share its benefits with the employees whose labour contributed to it. However, the decentralisation of bargaining seems to have lowered productivity growth whilst contributing to rising inequality.^{vii} The attempt of the Howard government to promote individual workplace agreements did not endure but its use of the Corporations power to seek to build a national industrial relations system replacing six State systems largely did. Under the Rudd government's *Fair Work Act*, the Fair Work Commission created about 130 Modern Awards to replace thousands of pre-existing State and federal awards.

The operation of the Fair Work Act has been reviewed twice in its lifetime; firstly, by a panel appointed by the Rudd Government and secondly by Productivity Commission at the request of the Abbott Government. Neither review recommended major changes to the Act.

Has the current legislation reached the end of its useful life? If so, what are the most important changes that should be made?

3. Are the IR system's stakeholders fully equipped to fulfill their role in meeting the challenges Australia faces?

Business

a. To what extent will employers require ongoing support and flexibility post-recovery and are we generally giving enough support to SMEs?

National employer organisations have called for ongoing financial support as the Australian economy emerges from the pandemic-induced lockdowns, as well as continuing 'flexibilities' in employment laws and the operation of the Fair Work Act. Employers have also stressed the need for a resumption of migration to address post-pandemic labour shortages and population growth. ^{viii}

ACCI, AiG and other national employer organisations have argued that:

The 2020 Fair Work Act flexibilities were well thought out, contained appropriate safeguards negotiated in consultation with the Union movement, and are already familiar to industry. They included measures to reduce hours, partially stand down workers, perform different duties, work from home or other locations and take annual leave.^{ix}

Small business organisations have called for greater support for SMEs in the post-lockdown phase, arguing that smaller businesses can be harder hit and find it more difficult to respond to obligations imposed on them by the test, trace, isolation, and quarantine (TTIQ) requirements of State Governments. ^x In addition, COSBOA has called for a 'Business Rebuilder' package of reforms to assist small business on the exit from lockdowns.

b. Is the quality of Australia's management keeping up with the challenges of the global economy?

It has been argued that the quality of Australian management lags that of comparable companies. In 2018 a Report by the Australian Government's Chief Economist examined this proposition. In his introduction the CE stated that:

“...rates of entrepreneurship are falling, occupations within the economy are changing more slowly, and the spread of innovation has slowed...”

“... Australia can improve its productivity performance. Up to half the productivity gap between Australia and the US is explained by differences in management capability. Productivity is typically described as the way that labour and capital are used together in production. Clearly managers, and their capabilities, sit at the heart of productivity... Our best managed firms are about 20 per cent more productive than firms with the least structured management practices. Better managed firms also innovate and collaborate more frequently. Companies systematically overestimating their management practices suggests a role for government in improving management capability.”^{xi}

Workers and their representatives

c. What role do unions have to play in addressing the above issues and do they have adequate room to operate?

AIER has long supported the principles of freedom of association and the need for and the importance of strong representative bodies of workers. That role remains relevant today, but union density has been declining steadily for many years. In the private sector less than 10% of workers are union members challenging the ability of unions to adequately represent workers. Union members are more likely to be covered by an enterprise agreement than non-union members and that agreement will provide significantly better wages and conditions than workers employed only on awards but as few as 14% of private sector workers are covered by agreements.

The ability of unions to both represent existing members and to recruit new members has been increasingly restricted. Beginning with the Workplace Relations Act, restrictions on Right of Entry and a range of other union support measures have been eroded. Many of these have been continued under the Fair Work Act. The ACTU has called for significant reforms to legislation to enable unions to operate effectively in the industrial relations system.^{xii}

d. Is the voice of workers sufficiently heard in the IR system and at work?

In many workplaces unions are not present, especially in the private sector and in SMEs. Where non-union agreements are made, they often lack any element of bargaining at all – they are just ‘take it or leave it’ agreements. Non-union agreements often lack binding dispute settling clauses and there is no binding arbitration of award-related disputes for award-covered employees.

Frequently, matters coming before the Fair Work Commission are individual disputes rather than matters involving unions and employer organisations. This represents a

challenge for the Commission in dealing with these disputes but also for the parties to ensure that a proper voice is given to individuals in these proceedings.

The same may also be said for employee voice at work. Traditional forms of management often lack effective employee involvement and worker voice. AIER considers that the most effective and productive workplaces are those which value a participatory and inclusive culture.

Wage theft remains a serious problem in non-unionised workplaces. COSBOA – representing small business employers – has noted the unfairness of wage theft not only for the workers themselves but also for other businesses who pay the correct rates of pay. ^{xiii}

Government

e. What more do business and unions require of government to address the above issues?

The ACTU and major national employer groups have expressed a range of views on what the Government should do in response to the pandemic and ongoing issues with Australia's industrial relations framework. During this year's Debate, it is anticipated that these concerns will be addressed by contributions from panellists as well as via contributions from the Minister and the Shadow Minister.

f. What role is there for greater co-operation between business and unions, and also government in these times of emergency and instability, and beyond?

During the initial months of the pandemic in 2020, there was a high level of cooperation between the industrial parties and the Government seeking to find common ground on a response to the health crisis. The Fair Work Commission was also pro-active in seeking to accommodate changes to Awards to facilitate, amongst other things, working from home arrangements and other award flexibilities.

During the 2020 Ron McCallum Debate, a high level of co-operation and common interest between the industrial parties was evident. However, little of significance emerged by way of changes to the Fair Work Act and the Government failed to legislate some of the changes that had been agreed. Employers have called for some of this legislation to be re-introduced while the ACTU has expressed concern that several of the legislative proposals were not as agreed during the Roundtable processes in 2020.

What are the opportunities for greater cooperation at the end of 2021 as Australia emerges from the lockdowns and looks forward to a brighter 2022?

4. What fundamental changes to Australia's IR system are necessary to ensure that Australia's success continues, including to ensure fairness, prosperity and environmental sustainability? e.g.:

a. to ensure decent work for all and inclusive, family-friendly, high-functioning workplaces?

AIER has long supported the International Labour Organisation's call for 'decent work' for all workers. This is a broad agenda encompassing all aspects of work and is increasingly important as economies – developed and emerging - recover from the pandemic. Part of a decent work agenda necessarily involves the creation and maintenance of inclusive, family friendly workplaces and work practices.

The pandemic itself has shown that flexible work practices previously thought impractical or undesirable by some employers – such as working from home – are not only possible but can be highly productive. However, the pandemic has also highlighted a divide between those workers for whom working from home is both possible and attractive [the demands of home schooling notwithstanding!] and those essential workers for whom it is not.

The pandemic has also highlighted and intensified a range of problems relating to insecure, casualised and part-time work – for example in aged care and a range of other sectors. Intensification of work through remote access to work systems via the internet has also placed great strain on many working parents, juggling long hours, blurred work/life balance and their family responsibilities. Child care support and access to paid parental leave for parents in Australia remain below the standards in comparable countries.

Often overlooked in the 2020s is the need to foster high functioning workplaces, that is, those which fully utilise and enhance the skills and input of all employees, managerial and non-managerial workers alike. AIER believes that the collaborative workplace is the most productive, efficient and satisfying work environment.

b. to protect gig workers and other insecure workers, as well as migrant workers and workers with disabilities?

Insecure work continues to be a significant issue for Australian workers and society. The COVID-19 pandemic has thrown up many systemic issues with casualised work especially in the health and aged care sectors. Several inquiries into 'gig' economy work have been held without leading to decisive action by Governments to address the inequities brought about by the 'Uberisation' of many forms of work. Safety, income security and workers' rights are at risk.

In the UK, a Court ruling determined that Uber drivers were employees and similar cases are working their way through the Courts in Australia. Migrant and visa holder

workers, despite the closure of Australia's borders during the pandemic, continue to suffer abuses of both worker and human rights. The challenges facing workers with disabilities have been exacerbated by the pandemic.

c. to finally close the gender pay gap?

According to the Workplace Gender Equality Agency:

Australia's national gender pay gap has hovered between 13% and 19% for the past two decades. There has been an increase of 0.8 percentage points (pp) to 14.2% in the gender pay gap since November 2020 (13.4%).

Between November 2020 and May 2021, average weekly ordinary full-time earnings increased more for men than for women. This is due, in part, to the growth in earnings in the Construction industry, a male-dominated sector of employment...^{xiv}

The gender pay gap is but one indicator of the equality gap between men and women in the Australian workforce and several other indicators have a significant role in creating the pay gap. Other gaps also exist, for example in superannuation and retirement incomes. Australia also lags many comparable countries in access to paid parental leave and measures to ensure that both men, as well as women access that leave. ^{xv}

The inclusion of the new 'comparable worth' provisions in the Fair Work Act in 2009 promised a new era for pay equity for women workers but this has not eventuated. The gender pay gap has proved persistent. What needs to be done to finally close this gap?

d. to address sexism and sex discrimination in the workplace and toxic work cultures?

Sexism and sexual harassment in Australian workplaces have been major political and workplace issues over the past 18 months, again highlighting poor workplace cultures and behaviours that women have faced for many years.

In 2021, the Australian Parliament passed the Sex Discrimination and Fair Work (Respect at Work) Act which implemented certain recommendations of the Australian Human Rights Commission report - *Respect@Work: National Inquiry into Sexual Harassment in Australian Workplaces* which was released following the National Inquiry into Sexual Harassment in Australian Workplaces conducted by the Sex Discrimination Commissioner, Kate Jenkins. The Act strengthened provisions of the Human Rights Commission Act, the Fair Work Act, the Sex Discrimination and other federal Acts.

However, the Act did not implement all the of the *Respect@Work* report's recommendations and, while the passage of the Act was welcomed by some, others, including the ACTU, described it as a missed opportunity.

What more can and needs to be done to eliminate sex discrimination and harassment in Australian workplaces?

e. to address high levels of wealth and income inequality?

Inequality in Australia as measured by the ABS using the internationally recognised Gini coefficient measure has declined since 2007-8. In that year, the Gini coefficient for equivalised disposable household income was 0.336 and in 2017-8 [latest available data] was 0.328, a decline of 2.4%.^{xvi} However, it continues to subsist at high levels, higher than the OECD average.^{xvii}

High- and middle-income earners have experienced growth in wealth over the past 14 years, while low-income earners have not. According to the ABS:

"Middle and high wealth households have experienced a real increase in average net worth over the 14 years. Middle wealth households had an average net worth of \$564,500 in 2017-18 compared to \$415,800 in 2003-04 (adjusted for inflation). High wealth households increased in real terms from an average net worth of \$1.9 million in 2003-04 to \$3.2 million in 2017-18.

Low wealth households did not experience any real increase in net worth over this time period with the average net worth of \$35,200 in 2017-18 similar to 2003-04 (\$34,200)."^{xviii}

f. to ensure wages keep up with productivity growth?

By all measures, wages growth in Australia has failed to keep pace with productivity growth, according to the Productivity Commission and a range of other observers and commentators.^{xix} Single enterprise bargaining was intended to be a tool both to boost productivity and to share it more equitably between business owners and workers but both the productivity and equality-promoting effects of high general standards were probably underappreciated at the time of the shift to single-enterprise-only bargaining in the 1990s. Productivity has been lagging in the Australian economy for many years and workers in many sectors – and overall – are failing to benefit from productivity improvements where they do occur. What needs to be done to address this problem? Joe Isaacs has argued that industry bargaining "takes wages out of competition and forces the less efficient firms, rather than being subsidised by lower wages, to operate at greater efficiency in order to survive, thus raising productivity."^{xx} Industry bargaining also ensures high wages across an industry irrespective of the profitability of the firm so helps promote equality between workers doing similar jobs. Could

industry or sector-wide collective bargaining be a part of the solution to lifting wages and productivity and also to promote equality?

g. to restore collective bargaining?

Levels of enterprise bargaining agreements peaked in 2011-12 and have steadily declined since. There are now less than half the agreements in force now as there were in 2010-11 and the number of employees covered is now about 700,000 fewer in an economy that has continued to expand. Bargaining coverage remains significant in the public sector, but as few as 14% of private sector workers are covered by agreements.

The ACTU has an extensive agenda for changes to bargaining as noted above. Employers are also concerned with the decline in bargaining:

“Enterprise agreements should be fundamental to our industrial relations system, driving pay increases, improving job security and boosting productivity and international competitiveness. However, enterprise bargaining has crashed over the past decade,” ACCI chief executive Andrew McKellar said. .^{xxi}

What needs to be done to re-vitalise enterprise bargaining? Is there a need to consider other forms of bargaining?

h. to address the urgent problems of environmental degradation and climate change?

Australia has struggled for more than a decade to adopt sustainable policies in relation to climate change and the means to achieve the Paris Agreement targets. Australia has come under pressure from allies and trading partners to adopt a net zero by 2050 target, as well as stronger 2030 targets.

AIER does not claim expertise on this issue but while it has been decisive in Australia’s federal political processes it is increasingly less so in industry. Recently, the Business Council of Australia, representing larger employers, joined the call for Net Zero by 2050 and for substantially improved 2030 targets of around 46-50%. ^{xxii}

Key industries have recognised the possibilities of major trading partners such as the European Union imposing carbon tariffs and the likely fall in demand for key resources exports as international investors increasingly shun carbon intensive industries. Tourism operators seek to preserve the value of Australia’s key tourist destinations such as the barrier reef, while farmers express concern about the impact of climate change on the weather, the environment and farm output. The National Farmers Federation supports net zero by 2050. ^{xxiii}



Ron McCallum Debate

As this paper is being finalised, the Australian Government is deciding the position it will take to the COP26 Summit in Glasgow. By the time the debate is held in late November, this conference will have occurred and the outcomes of the Conference will be known.

Program

Time	Item	Duration (mins)
5.15pm	Participants attending Sydney studio arrive	
5.30pm	Online Green Room: participants meet online set up and technical tests	
6pm	Introduction and welcome	5
6.05	ILO film on international context	5
6.10	ILO speech	5
6.15	Emeritus Professor Ron McCallum opening speech	5
6.20	Employment Minister speech	5
6.25	Shadow Minister speech	5
6.30	Chair introduces central debate	5
6.35	3-minute speeches x 7	21
6.56	Main debate - Chair's questions	47
7.43	Emeritus Professor Ron McCallum's reflections	5
7.48	Audience questions	10
7.58	AIER wrap up and close	2
8.00	Debate ends.	120

Appendix: AIER's vision for the future – A new Workplace Relations Architecture

The AIER has embarked upon a project to propose to the Australian community a new workplace relations architecture, that is, new rules of the game between workers and business; new rules for a more just society. It aims to present industrial relations practitioners viable policy options for reform but in so doing should serve as an introduction to all those interested as to the crucial relevance of industrial relations to our most significant social and economic problems. AIER hopes to present an insight into the Australian industrial relations system and its flaws, and some inspiring practical solutions.

In a major publication to be released in 2022, AIER will propose a new framework for industrial relations in Australia inspired by the spirit of the 'Robens reforms' that revolutionised workplace safety in the U.K. in the 1970s and in Australia a little later. It will seek to solve the problems of Australia's current industrial relations system by requiring all workplaces to find ways of achieving fair industrial relations outcomes and compliance with mandatory standards.

As with the Robens-inspired reforms to workplace safety laws, industrial relations outcomes would be prescribed with flexibility as to the means of achieving them. Just as this approach has created a culture of awareness and shared responsibility around safety, leading to safer workplaces, we propose an analogous approach that will create a culture of awareness and shared responsibility around fairness, inclusivity and human and employment rights, leading to better workplaces more generally – ones that ensure a 'fair go all round'. The prescribed outcomes will be informed by fundamental rights and broad social and economic objectives. The system will propose a new tribunal with expanded powers and a labour inspectorate better incentivised to serve vulnerable workers.

This project brings together academics, business owners, and trade unionists who are passionate about labour law and industrial relations as a means for ensuring a fair and just society. Like all the AIER's work, it is inspired by the International Labour Organisation's spirit of co-operative labour market relations between stakeholders, embodied by the ideals of tripartism.

The AIER's Charter of Employment Rights was developed as a moral and legal yardstick by which to assess industrial relations laws and workplace practices. This new project continues to build on that work. It is widely agreed that the industrial relation system in Australia is broken.

The New Workplace Architecture project seeks to rethink the system from the ground up. Inevitably, a project with such an ambitious goal as designing a new industrial relations system will be broad and conceptual. Hence, we will seek to capture the proposed system's main features to stimulate debate. Over time, the details will need to be elaborated by others.

If you wish to keep in touch with this exciting project, stay in touch with the AIER via our website, or by becoming a member of the Institute.

October 2021

Australian Institute of Employment Rights

Endnotes

- ⁱ <https://www.dfat.gov.au/sites/default/files/trade-and-investment-glance-2021.pdf> p 21
- ⁱⁱ Ibid, p 10
- ⁱⁱⁱ World Intellectual Property Organisation, *Global Innovation Index 2021*, p 47
- ^{iv} Ibid, p 27
- ^v Productivity Commission (PC) *Productivity Insights* of 2021, p 44
- ^{vi} Productivity Commission (PC) *Productivity Insights* of 2021, p 48
- ^{vii} Tseng and Wooden, for example, argue the evidence of productivity improvements due to the shift to enterprise bargaining is hard to find and, such that it does exist, is unconvincing, and as Joe Isaac has shown, since the shift to enterprise-bargaining, wage rises have fallen behind productivity increases: see Yi-Ping Tseng and Mark Wooden, *Enterprise Bargaining and Productivity: Evidence from the Business Longitudinal Survey* (Working Paper No 8/01, Melbourne Institute Working Paper No. 8/01, Melbourne Institute of Applied Economic and Social Research, The University of Melbourne, July 2001), and Joe Isaac, 'Why Are Australian Wages Lagging and What Can Be Done About It?', *The Australian Economic Review*, Volume 1(52), June 2018, pp175-190, at p176.
- ^{viii} <https://www.australianchamber.com.au/news/population-numbers-reveal-plan-desperately-needed-for-labour-and-skills-shortages/>
- ^{ix} <https://www.aigroup.com.au/news/media-centre/2021/business-calls-for-ir-flexibilities-to-be-reintroduced/>
- ^x <https://www.cosboa.org.au/post/covid-19-we-need-to-prepare-for-reopening-and-dealing-with-ttiq>
- ^{xi} https://publications.industry.gov.au/publications/industryinsightsjune2018/documents/IndustryInsights_3_2018_ONLINE.pdf
- ^{xii} <https://www.actu.org.au/media/1449749/industrial-relations-2021.pdf>
- ^{xiii} <https://www.cosboa.org.au/post/wage-underpayment-laws-are-essential-for-workers-and-competition>
- ^{xiv} <https://www.wgea.gov.au/publications/australias-gender-pay-gap-statistics#about>
- ^{xv} See Andrew Scott and Rod Campbell [eds.], *The Nordic Edge – Policy Possibilities for Australia*, MUP, 2021, Chapters 4 and 6
- ^{xvi} <https://www.abs.gov.au/statistics/economy/finance/household-income-and-wealth-australia/latest-release#household-income-and-wealth>
- ^{xvii} Australia had the 16th highest income inequality in the OECD out of 38 measured countries in 2020: <https://data.oecd.org/inequality/income-inequality.htm>
- ^{xviii} Ibid
- ^{xix} See for example: Andrew Stewart, Jim Stanford and Tess Hardy [Editors], *The Wages Crisis In Australia - What it is and what to do about it*, (University of Adelaide Press, eBook),
- ^{xx} Joe Isaac, 'Why Are Australian Wages Lagging and What Can Be Done About It?', *The Australian Economic Review*, Volume 1(52), June 2018, pp175-190, at p182.
- ^{xxi} <https://www.australianchamber.com.au/news/enterprise-bargaining-decline-confirms-reform-needed/>
- ^{xxii} <https://www.theage.com.au/politics/federal/business-council-calls-for-46-50-percent-emissions-reduction-by-2030-on-path-to-net-zero-20211008-p58yed.html>
- ^{xxiii} https://nff.org.au/wp-content/uploads/2020/08/2020.08.06_Policy_NRM_Climate_Change.pdf

