

The Strange Return of the Industrial Relations Club

**A New Report from
the IPA Work Reform Unit**



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The IPA Work Reform Unit was formed in 2001 in response to a vacuum in the debate over work reform issues. At that time the view seemed to be that ‘the reform job had been done’. The IPA proceeded to case study industries and situations to see what was happening on the ground. We developed the Capacity to Manage Index. Rather than indicating that the job was finished, the IPA identified a job not even half done. In many areas the ‘progress’ seems to be going backwards.

This latest report from the Unit is far-reaching in that it brings together all the elements that show why the formal industrial relations system is systemically failing Australians. All the players have dropped the ball. The system is pulling Australian workplace relations back into a regressive era which is already affecting the ability of workers and business to compete in a global world. This report suggests a revitalising way forward.

1. Summary: Reform success has reverted to reform regression

- 1997: The last serious attempt to reform the national industrial relations system.
- Subsequent Commonwealth reform policy has gridlocked in the Senate.
- A new regressive agenda has emerged—driven by the States—and proposed to be implemented if and when government changes federally.
- Decisions of the AIRC have acted to undo the national reform policy of 1997.
- Business has fallen silent and compliant.
- Unions have rationally acted to regain the initiative of the industrial agenda.

- The national skills training system remains in contradiction of national industrial relations policy.

The report’s recommendations state that a complete re-construction of the legislative framework for industrial relations is required which would involve four separate pieces of legislation to:

- Establish a more effective means to address low income issues.
- Administer the law governing trade unions.
- Establish an effective bargaining process.
- Provide employee protection.

In addition, reform of Australia’s skills training system is needed to free it from industrial relations constraints.

2. The economic context

The reforms made to labour market regulation, especially the regulation and practice of industrial relations, have been a very significant source of Australia’s economic success over the past 20 years.

The regulation of industrial relations has undergone a revolution.

Traditionally based on the need to guarantee wage equity both horizontally and vertically, industrial relations regulation in Australia fed the mechanisms that transmitted wage increases quickly across the economy. If it was considered at all, the need for enterprises to be competitive ran a long second, with daylight in between. Preserving these characteristics of the industrial relations system in a globalizing economy would have been a sub-

stantial threat to the very objectives that broader economic policy was intended to serve: inflation management, the reduction of unemployment, our external economic relations, efficiency and competitiveness in private and public enterprises and utilities.

Instead, the industrial relations reforms of the Hawke, Keating and Howard Governments dulled the effectiveness with which Australia's industrial awards transmitted wage increases across the economy, making a significant contribution to the management of inflation. They also created opportunities for private and public businesses to improve performance by fixing poor work practices and freeing up managerial leaders to focus on building high standard businesses rather than managing the interference of third parties in their day-to-day activities.

The opportunities and threats due to globalization remain. International competition is now even more intense than it was in the 1980s. There is a continuing need and opportunity for improvements in Australian competitiveness and business performance. The last thing the Australian economy needs is a return to the 100-year-old assumptions that underpinned industrial relations law until overturned by successive Labor and Coalition governments.

Yet that is exactly what is happening. The developments in legislation over the past three years, the decisions by the Australian Industrial Relations Commission (AIRC) that are inconsistent with the policy of the *Workplace Relations Act*, and the poor management of industrial relations by at least some parts of Australian business, are shifting the industrial relations framework towards the old wage-equity model and ignoring the competitive imperative.

This relapse in policy and practice risks undermining some of the key factors on which Australian economic success has been built.

3. The policy context

The drift towards the past is being orchestrated largely within the labour movement, as trade unions take advantage of their leverage in the Australian Labor Party to shape State industrial relations legislation, with an eye to doing the same at the national level.

The current approach represents a failure of trade union policy since the mid-1990s to reverse the decline of trade union membership and influence. That policy has been based largely on appeals to an outdated set of collective values. These appeals have fallen on the deaf ears of young Australians who have no interest in participating in someone else's class war. Acknowledging that failure, trade union policy-makers have returned to the traditional Australian way—entrenching narrow, sectional influence through government.

It is seven years since any significant advances in industrial relations reform. The last step forward was made at the beginning of 1997 with the commencement of the *Workplace Relations Act*.

Arguably, the length of time since the last reforms represents a political failure by the Coalition Government on two fronts over that period.

First, it has failed to achieve parliamentary support for the many legislative changes it proposed over the last seven years. In the main, these changes have not been epoch-making. For the most part, the proposed changes have been intended to clarify aspects of the Act, or to remedy deficiencies thrown up by practice, or to address attempts by the Australian Industrial Relations Commission and some courts to read the law down or to read it up, depending on what best suited at the time.

The minority parties in the Senate, especially the Greens and the Democrats, share some of the blame for this failure. However, the

Labor Opposition has been the major sponsor of the legislative paralysis.

Second, and perhaps more fundamentally, there has been a failure to innovate on policy, to take the legislative framework into different territory. For example, it is possible to imagine a framework for workplace relations based on the assumption of overlapping interests between businesses and their employees, or of a framework, untainted by industrial relations, for income equity based on a combination of wage, tax and welfare policy.

One of the reasons for the Coalition's failure to articulate a more innovative position has been the absence of business from the debate. The policy reform agenda from 1983 to 1996 was largely articulated and advocated by business, especially the Business Council of Australia (BCA). Business has gone missing from the debate since. It has declined to build a case for further reforms and to argue for those reforms.

Business has been 'missing in action' on industrial relations reform since the period shortly after the 1993 election, when the Keating Government shut it out of policy-making forums in revenge for the support business gave John Hewson's 1993 election campaign.

The silence of business has left a vacuum filled by the ACTU, trades hall councils, individual unions and their acolytes in the universities and the media.

As a result, all recent policy and legislative change has been reactionary—returning us to a worse past—and driven by State ALP governments (with the exception of Victoria). These governments are unconcerned about the implications for national competitiveness.

An 'ALP industrial relations model' has emerged. It is based on restoring wide powers to tribunals, strengthening union bargaining power, restricting the capacity to make non-union and individual agreements, and enabling tribunals to arbitrate more easily

when unions cannot reach the agreements they want. The recent legislative changes in Western Australia are a good example. One result has been a flight by WA-based companies to the Federal domain, a move which may only provide temporary relief should an ALP federal government be elected.

ALP State Governments have also given legislative support to union agendas on safety, hours of work and the contracting environment. With respect to the last of these, it is now also evident that ALP Governments are targeting individual contractors and attempting to treat them as employees for the purposes of industrial legislation. This is a significant extension of the role of industrial laws.

One of the principal drivers of this reaction has been the efforts by the ACTU to forge common ground between ALP State Governments on key policy issues, including legislation and wages policy.

In the wake of this, the conservative stance on industrial relations policy taken recently by the Federal Opposition should be no surprise. The key features of Federal ALP policy are:

- The abolition of Australian Workplace Agreements without replacement.
- The re-empowering of the AIRC to enable it to deal with any industrial matter, to enable it to prevent and resolve industrial disputes, and to award increases in wages and conditions usually only available through workplace-based collective bargaining.
- The introduction of good faith bargaining, including requiring employers to negotiate a collective agreement with a union and to regulate the bargaining process itself.
- An increased role for trade unions, including enhanced rights to organize and take industrial action.

The scheme of the 1996 Act was that union, non-union and individual agreements had equal standing, that agreements once made should be adhered to during their lives with-

out industrial action and that the Commission's power to arbitrate was heavily and clearly circumscribed. The role of 'public interest' considerations was further confined and the scope for unions to force businesses to make agreements they did not want was reduced.

The strategy underpinning this regime was to give employers and individual employees greater choice about the way their relations were regulated by confining the power and influence of the Commission and the unions. The purpose was to facilitate improvement in the performance of enterprises by reducing the external barriers to modernizing work practices.

At the same time, the legislation retained mechanisms for protecting the interests of employees, including provisions to address low wage issues. The equity objectives of the legislation were not diluted by the more liberal approach to employment relations generally.

The Federal Opposition's proposals would undo the scheme, strategy and purpose of the 1996 Act.

Under the ALP's proposals, the scheme of the law would be one in which union agreements would be favoured, industrial action would be tolerated in more circumstances than at present, the Commission's power to arbitrate would be widened, 'public interest' would be fashionable again and unions would be able to force unwanted agreements on employers. The ALP strategy is to re-empower the Commission and unions at the expense of businesses and individual employees.

The ALP's proposals appear to be based on the assumption that the current Act is a recipe for unfairness to employees. This is a problematic assumption. In any case, there are means to address perceived unfairness that do not require a reversion to a worse past. At the very least, the ALP's proposals will raise the cost of doing business. At worst, they will create a framework for employee-employer

relations that is inconsistent with the liberal macroeconomic framework that has progressively been put in place since 1983.

The ALP would take the industrial relations framework back to at least the 1993 position and, depending on the detail, possibly as far back as the 1988 position.

4. The AIRC's performance since 1997

Since the commencement of the *Workplace Relations Act* in 1997, decisions of the AIRC have consistently reinterpreted and undermined its key principles and provisions. The Commission's decisions have also helped undo the scheme, strategy and purpose of the Act.

Specific examples of departures from the policy of the Act resulting from decisions of the Commission include:

- the interpretation of dispute-settling clauses to include the power to arbitrate disputes during the life of agreements even beyond the definition of 'allowable matters';
- an expansive view of the nature and purpose of 'exceptional matters';
- the attempts to discover a legislative duty to 'bargain in good faith' when the Parliament clearly removed such a provision from the law in 1996;
- the intense scrutiny given to non-union agreements compared with those involving unions; and
- expanding the scope for unions to take industrial action during the life of agreements.

The main effect of the Commission's decisions in these examples has been to re-instate to the Commission powers that it lost under the 1996 amendments.

The Commission's decisions have been complemented by those of the Federal Court. For example, in a series of cases including the *Belandra* case (*Australian Meat Industry Employees' Union v Belandra Pty Ltd* [2003] FCA 910), decisions of the Federal Court have seriously compromised the ability of employers and employees to choose Australian Work-

place Agreements. The current position appears to be that offering AWAs to existing employees entitled to an award or agreement may contravene the freedom of association provisions.

There is a need for remedial legislation to correct this drift away from the policy of the Act, including by:

- ensuring agreements automatically cease on their expiry date;
- simplifying and clarifying the freedom of association laws;
- remedying the problem whereby certified agreements covering one business are transmitted to another business even though no transmission has occurred.
- preventing the Commission arbitrating about non-allowable matters under section 170LW (arbitration of disputes over certified agreements).

5. Australian management of industrial relations has been patchy

Australian human resources management can be as good as anywhere in the world. There have also been some outstanding successes in the management of industrial relations and the reform of poor work practices during the last decade. Mining, in particular, has been the stand-out example.

The paradox, however, is that there are many more examples of the failure of managements to take advantage of the opportunities available to improve performance by better management of industrial relations. Good human resource practice has been constrained by poor industrial relations practice.

This is largely because co-operation and agreement with unions, not leadership of employees and business success, is the single most identifiable aim of the way in which Australian businesses manage their relations with unions.

The assumption underpinning the search for co-operation appears to be that sharing decision-making will align unions with company

goals or help the business avoid being damaged by union behaviour.

This strategy is deeply flawed. It has never delivered.

In contrast, Australian trade unions are usually clear about what they want to achieve, they know what their leverage is and they are prepared to use their leverage. That is the single most identifiable characteristic of the way in which unions manage their relations with Australian businesses.

Inviting unions to share decision-making does not deflect them from their goals. Unions co-operate as long as it helps them achieve their goals. When it ceases to yield returns, unions stop co-operating. Past co-operation does not align unions with organizational goals on a continuing basis and does not immunise against industrial action.

Unions speak the language of co-operation. Yet they are prepared to stop co-operating when they judge that it is strategically necessary to do so.

Unions are unabashed about this. When it comes to the crunch, they are prepared to inflict damage, perhaps quite a lot of damage, on a business in order to achieve their goals, even when there is a history of co-operation and joint decision-making.

Unions explain their unco-operative behaviour by transferring responsibility for it to the employer. Unions withdraw co-operation because employers are being 'provocative', or are 'attacking workers', or because of 'safety issues', or because an employer is behaving 'ideologically'. This is code for 'the employer has the upper hand'.

There is a standard, predictable, identifiable union approach. No-one should criticize unions for this. They are part of the legitimate social activist tendency that any pluralist, democratic and free enterprise society should be able to absorb happily.

Unions usually behave in their own interests and in what they believe are the interests of their members. They are recognized at law in Australia, they represent 1.8 million employees and they are authentically part of the Australian democratic process. They do what they do because of what they are. They are entitled to decide what they are. This is a very business-like approach. There is no point complaining about it.

Yet complaint, rather than strategy, is what is heard too often from Australian businesses. The complaint is that unions are 'irresponsible' or 'punishing customers' or, the political perennial, 'damaging the economy'. Complaints like these have never changed a single union strategy and serve instead to provide a union with confirmation that it is on the right track to an easy win.

Many businesses do not behave in a comparably professional or strategic a fashion when it comes to relations with unions. The prevailing orthodoxy in Australian industrial relations is that it is not acceptable for employers to behave in an unco-operative way in their interactions with unions, whatever the circumstances. This is why businesses still profess their wish to co-operate as they are being taken apart.

The prevailing orthodoxy leads to the classic situation where managers decline to act because they cannot get union co-operation. They may decline despite the fact that managers usually have the capacity to act, without further recourse to the union, in accordance with the award and agreement on which the union had signed off.

6. Training policy has been a drag on the modernization of industrial relations

A recent report prepared by the Allen Consulting Group for the Business Council of Australia¹ observed that:

There are major changes in the dominant model of work organization, with a greater role for generic knowledge, updating skills over time, and an increasing emphasis on skills driving competitive advantage. There are unanswered questions about the future of the role of the AQF (Australian Quality Framework), competency based training and training packages as currently applied. Consideration needs to be given as to whether these are still the tools to support effective skill formation in the next decade. (page 10)

There are very good reasons to believe that these tools are not the tools needed to support skill formation and, indeed, have not been since the national training system was created in 1992—either for the members of the BCA or for small- and medium-sized enterprises.

Again, as the BCA report observes:

This system was developed ... in response to the need for training policy to be integrated into strategies for industry growth and national economic development ... (page 6)

The national training system has always been about *the economy* and *industries* and not about *enterprises*. The difficulties that the BCA report identifies with the national vocational education and training system (for example, how training packages are developed, their content and how they are delivered; the small number of national enterprises that have seen it worth their while to become Registered Training Providers) are sharp reflections of that overarching problem.

The issue not so clearly identified in the report for the BCA is how the national and industry focus of Vocational Education and Training (VET) is applied to enterprises through the industrial relations system. In ad-

1 *The Vocational Education and Training System: Key Issues for Large Enterprises*, The Allen Consulting Group, March 2004.

dition to the reasons Allen Consulting identifies, it is this linkage which brings into question some of the key constructs of the national training system.

To understand this linkage, it is first necessary to understand the origins of national training reform.

In response to the risk that it was losing control over the direction of national wages policy in the late 1980s, the ACTU launched the award restructuring agenda. Manufacturing unions, especially the AMWU, were key ideological and political drivers of the agenda.

The ACTU launched that agenda because it needed an alternative to the wages policy developments then in train. Those developments ran the risk for the ACTU of giving momentum to enterprise bargaining when the ACTU neither wanted it nor was prepared for it. Award restructuring was a way of bringing wages policy back under centralized control.

The rhetoric of award restructuring was that it was intended to provide the skills basis on which the Australian economy could become more competitive. It required a thorough overhaul of the classification structures in awards, which could only be done by agreement between the 'owners' of awards—national trade unions and national employer associations.

While the rhetoric was one thing, the ACTU's marketing strategy was another. The ACTU marketed training reform to its constituency on the basis that it would create career paths for employees, guaranteeing them wage increases as they moved up the career ladder on the basis of the skills they acquired. And it would guarantee the roles of the Commission and national trade unions when they otherwise would have been threatened.

While the ACTU did not appeal directly to national employer associations, they have always been pre-disposed to national level policy-making, especially when they are in-

involved. Under pressure of competition from the BCA and others, the traditional employer associations grabbed the opportunity that the ACTU presented to re-invent themselves.

The pre-existing national industry training advisory bodies, on which unions and employer associations were represented, were ideal for the task of policy-making.

Award restructuring adopted a competency-based approach to training. While competency was not universally supported (either in practice or theoretically), it had the advantage of matching trade union values: all workers doing the same job could be treated the same or, a fitter is a fitter is a fitter.

The model to which the ACTU's strategy gave rise operated like this:

- National trade unions and employer associations decided what jobs their industries required and what training was needed to do the jobs. They negotiated the new award classification structures needed to reflect their agreements.
- In parallel, within national industry training advisory bodies, the same unions and employer associations negotiated the training framework and sought government funding for it.
- A usual result of industrial negotiation was that employees were entitled to training and employers were required to provide it. The volume of training was an agreed item, not a business-driven one.
- The completion of training qualified an employee for a higher level job at a higher rate of pay.

This is essentially the model operating today.

The problems with this model are:

- It encourages less than optimum performance and effort by employees because employees are paid for skills they have acquired rather than how well they use their skills.
- It leads to poor labour and capital utilization across the economy. The training

model is a manufacturing model applied across the economy. It is not even necessarily a good fit with manufacturing enterprises' needs. Work becomes heavily demarcated at relatively fine points of distinction between jobs and employees can only move between jobs when they obtain the necessary qualification.

- It is unfair. Employees doing the same job are paid the same no matter how well or badly they do it.
- It is a poor use of community resources. Competency Based Training (CBT) is an inadequate strategy in a labour market, such as Australia's, not characterized by whole-of-life job security. The notion of job-based training for a structured career path (another central concept) fits poorly with an increasingly diverse set of employment arrangements and labour market attachments. The underlying philosophy of CBT is about 'economy' and 'industry', not about enterprise. The link with industry awards implies a specific industry-based version of workforce organization for diverse enterprises.
- Policy-making is dominated by union activists and the minority of businesses that deal with them to make training policy. They have considerable Australia-wide influence despite their minority status.

The Australian National Training Authority (ANTA) supports and fosters this system. Its budget for Australia's training system is over \$1 billion annually—in fact, it was over \$1.2 billion in 2003–2004.

As Allen Consulting observes:

...the policy framework, regulatory and administrative processes and training practices of the VET system fall short of serving the future complex skill development needs of large enterprises.

As one CEO observed somewhat more colourfully of the National Training Agenda in a Business Council survey conducted in

2000, 'It's just this 4,000 pound marshmallow that's out there.'²

It is time to re-assess national training policy.

7. There is a forward agenda

Going backwards, being conservative, is not the only reform agenda. There are several areas of potential progressive reform that go beyond just fixing the problems apparent in the existing legal framework. The need is not for re-regulation or de-regulation but for better regulation; regulation that is common sense in a twenty-first-century economy and which remains consistent with the broader economic framework in which employment relations occur.

7.1 Union representativeness. Notwithstanding their political, legislative and industrial power, unions' representative legitimacy is questionable.

Union membership has been falling steadily for 25 years in absolute terms and as a proportion of the workforce.

As Table 1 shows, in August 2003, private sector union membership was down to 17.6 per cent. Public sector membership was 46.9 per cent, down half a percentage point since 2000. Less than a quarter of men and slightly more than a fifth of women were union members, down by about 2 percentage points since August 2000. Membership has fallen in most States and Territories, with marginal rises in WA and the ACT.

It is arguable that the few concentrated pockets of union membership remaining are the outcomes of monopoly representation rights rather than superior representation services. ACTU recruitment policies, though more innovative under Greg Combet than under Bill Kelty, have failed to halt the decline in membership.

2 *Managerial Leadership in the Workplace*, Business Council of Australia, September 2000, page 36.

**Table 1 : Employees In Main Job, Trade union membership
August 2000 to August 2003**

	August 2000 %	August 2003 %
Sex		
Male	26.3	23.6
Female	22.8	21.8
State/Territory		
NSW	25.7	23.6
VIC	24.6	22.1
QLD	24.7	23.5
SA	25.9	24.6
WA	19.7	20.0
TAS	31.8	29.4
NT	21.8	21.5
ACT	23.4	23.8
Sector		
Public	47.4	46.9
Private	19.1	17.6

Source: ABS 6310.0

Unions are also still powerful industrially, especially in the ‘old economy’—transport, large-scale manufacturing, construction and in the public sector (including in service provision and utilities). It is arguable that poor industrial relations strategy by businesses in those industries is at least partly responsible for the powerful position unions still hold in them.

There has been no serious public policy

debate about the role of, and legislative underpinning for, unionism—notwithstanding the widespread acknowledgement of the continuing membership decline.

Unions still command considerable political influence. The changes in State industrial and other legislation are directly attributable to the symbiotic relationship between unions and the ALP. That relationship will drive any changes to the *Workplace Relations Act*.

One approach would be to link union representation more clearly to employee preference, removing registration under the WRA as the vehicle by which unions assume a representative status. Representation would be driven by the quality of managerial leadership and of union representative services rather than representative rights created from 100 years of history.

Unions retain monopoly representation rights in law. A union is allowed to write and enforce rules that permit it (and no other union) to represent specified classes of employees. Unions are largely protected from the legal empowerment of a competing representative entity.

The Coalition made only a half-hearted attempt to reform this situation in 1996 and none since.

There is a stark contrast between the non-competitive framework for the provision of union representative services and the competitive frameworks regulating service provision in most other fields.

Creating unions established on a trade or occupational basis as machinery of the Court and giving them exclusive membership rights was the mechanism chosen to give wide effect to decisions.

Not surprisingly, most unions have failed to embrace a service orientation.

7.2 Wage equity. The *Conciliation and Arbitration Act 1904* was intended to prevent strikes in the public interest by establishing wage equity, by bringing greater certainty to wage relativities and by enabling decisions to have wide effect.

Creating unions established on a trade or occupational basis as machinery of the Court and giving them exclusive membership rights was the mechanism chosen to give wide effect to decisions.

The Act was a means to set minimum wages administratively, not a means to regulate bargaining. Inevitably bargaining regulation has been built on to the system's primary purposes.

Australia's system for setting minimum wages by trade and occupation, a system based on contradictory premises, is bound to have a number of fatal defects:

- It runs a major risk of confusing minimum wages and market wages and of allowing an interaction between the two. This was the central problem of wage inflation. While this problem is now dormant, the system can, with little amendment, again become a very efficient mechanism for quickly transmitting wage increases gained by bargaining to all parts of the economy.
- It is a very complex system that has given rise to complex job classifications arrangements which, in turn, have spawned an even more complex training system.
- The system cannot meet its equity objectives because it can only deal with wages and employment conditions. Equity is a matter of tax and welfare (and arguably of budgets for community services) in regard to which the tribunal has little influence. Government is accountable for spending, tax and welfare but not for minimum wages. We can only ever hope to have a second-best public policy outcome while this divided responsibility remains.
- Laws governing union coverage are also a victim of the confusion between equity and bargaining. Currently, one member in a workplace is enough to confer union legitimacy in a workplace and, for new sites, no members are needed. This may be satisfactory for the 'wide effect' objective. It is, however, arguable that there are better ways of ensuring minimum wage equity than to rely on a mechanism whose practical legitimacy is problematic due to declining union membership.

Perhaps the major reason for re-considering how 'equity' can be brought to income determination is that the assumptions which un-

derpin the current system for setting minimum wages are 100 years old.

A different approach would be to establish a multi-partite body to advise the Federal Government on the combination of wage, tax and welfare (and possibly other spending) measures needed to bring about 'equity'. It would then be open to the government of the day to pass laws, based on its consideration of the advice given to it, about the appropriate combination.

7.3 Clarity in legislation. The existing legislation is the product of one of the most amended original pieces of legislation on the national statute books. The original 1904 Act has never been considered afresh.

Currently, the legislation covers at least four different domains. It provides for the establishment of minimum wages. It regulates bargaining. It establishes and regulates trade unions. It provides legislative protection of various types to employees.

The law is administered by a single institution with a very significant bias towards settling disputes.

It is arguable that these functions are so different that they should be covered by separate pieces of legislation administered by separate institutions:

- legislation establishing a body to advise the government on a minimum wage and accompanying employment conditions;
- legislation to establish a body to regulate bargaining, include overseeing bargaining in good faith;
- legislation to establish a body to register and regulate trade unions and to conduct ballots to establish the wishes of employees regarding representation (the only situation in which bargaining in good faith makes sense); and
- legislation to establish, protect and enforce the rights of employees.

The opportunity to clarify should include creating a unified national industrial relations system and remedying the conflict between industrial laws and competition laws, especially the way in which industrial law facilitates anti-competitive behaviour.

7.4 Training reform. There should be no barriers to businesses and employees or unions agreeing on whatever arrangements for training they believe suit them best. As it is now, it should be possible for enterprise bargaining agreements to embody the classification structures, career paths, training content and employer obligations that employers and unions care to agree upon.

It is, however, neither necessary nor desirable for national training policy to provide the platform for that to occur.

It is clear that the existing national policy still has its basis in the ideological and political milieu of the 1980s.

It is also clear that the national infrastructure for defining training content provided by ANTA is in conflict with the national industrial relations policy implemented in 1997. It is in conflict because that infrastructure facilitates the development of industry-based training arrangements, when the thrust of industrial relations policy is collective or individual at the enterprise level.

The tripartite approach is also questionable given the low level of union membership, especially in the private sector.

Moreover, national training policy is at odds with the composition of the Australian labour market and with the way it operates.

A different way forward would be to:

- Dismantle the national infrastructure for deciding training content.
- Take advice directly from business on its needs for training provision.
- Empower individuals to look after their own needs by directing some of the funds cur-

rently committed to supporting national infrastructure and State TAFE systems to individuals. Finance individuals to purchase training provision directly from the training providers of their choice.

- Whether ANTA is the most appropriate mechanism for managing this policy approach is an issue for future consideration.

8. Conclusions

A reversion in industrial relations policy and practice is already happening:

- in State legislation and potentially at Federal level;
- under the influence of the AIRC and the Federal Court;
- by default, through poor industrial relations management in some industries; and
- as a consequence of the failure to re-assess national training policy in the light of national industrial relations policy.

There is a serious risk of labour market laws being taken back 12 to 15 years under a future Federal ALP government. The legislative reversion will probably gain support from the practical application of the existing legislation.

There has been no countervailing policy position. Business and business organizations have largely vacated the public debate. The Coalition has no overall policy or strategy.

Economic and business performance is at serious risk of being undermined in the next three years, especially if a Latham ALP government is elected and implements its foreshadowed revisions to labour laws. Such revisions would have serious consequences for inflation performance, employment growth, interest rates and competitiveness.

There is a progressive alternative to the conservative ALP agenda. The alternative requires a complete reconstruction of the legislative framework for industrial relations and involves four separate pieces of legislation (income equity, regulation of bargaining, regulation of trade unions, employee protection) and a re-assessment of national training policy.