

Chapter Eight

Why Regulate the Labour Market?¹



8.1 The Distinctive Character of Labour

The labour market is a metaphor. There is in fact no market place for labour of the classic form, where buyers and sellers come to transact over reasonably homogeneous goods. And the employment relation is much more complex than is implied by the market metaphor. Labour is different from computers or fruit. The employer buys not a specific skill or contribution to output, but worker time and the right to command the application of that time. Hence the employee relation is inherently one of subordination. The quality and quantity of work done by an employee depends on her or his motivation as well as abilities. Society has a legitimate interest in whether high levels of motivation are accomplished by a climate of fear or by engendering willing co-operation. The experience of work has consequences also for the development of the skills and personality of the worker. As Alfred Marshall put it 60 years ago, “... *the business by which a person earns his livelihood fills his thoughts during by far the greatest part of those hours in which his mind is at its best: during them his character is being formed by the ways in which he uses his faculties at work*”. (Alfred Marshall, 1938:1-2.).

Workers also have an acute sense of what is fair treatment (including that people doing similar work should receive similar pay) and an appreciation that pay levels signify social status as well as providing purchasing power. Finally, society cares about the physical well-being of workers and hence limits the power of employers to command workers to do things which may be injurious to them.

None of the characteristics of workers which are presented above is true of machines or of goods and services purchased in other markets. These

distinctive characteristics provide good reasons for expecting that the best form and extent of regulation of the labour market will differ from that for other markets.

8.2 Problems in the Labour Market

fallen from 88 per cent in 1960 to 62 per cent in 1995);

- rising extremes of working hours— both very long and very short;
- rising insecurity in employment, through growth of part-time/casual/contract work in place of continuing full-time jobs; and
- a substantial rise in the inequality of wages, which is particularly pronounced for men.

Because of the unique features of labour, regulation of the terms and conditions of employment is ubiquitous among Western nations. The employment relation is not just a private matter; but the role of regulation and its optimal design are under challenge. Regulation of the employment relation has evolved over time in response to changing social values about the rights and equality of ordinary people, the nature of the economy and the consequences of the tussle for power between labour and capital. It continues to evolve, with contemporary pressure for fewer restrictions on the employers' rights unilaterally to determine the terms and conditions of employment, often referred to as deregulation.

8.3 Protection of Vulnerable Workers

Regulation has primarily (though not always) been used to enhance the position of the worker. There has also long been recognition that the competitive pressures of supply and demand may generate inefficiently low wages and investment in the development of worker skills. But even if unregulated labour markets were efficient, they need not thereby be fair. As Amartya Sen (Nobel Prize winner in Economics) put it so pithily, market outcomes may be both perfectly efficient and perfectly disgusting.

Four hundred years ago, workers in Britain who felt that the pressure for lower wages had become intolerable called on the government “... *to appoint certain grave and discreet persons to view the straitness of works, [and] to assess rates for wages according to the desert of their works*”.²

The Australian industrial tribunals can be seen as the contemporary embodiment of such grave and discreet persons.

An alternative to regulation as a way to take care of workers is the development of trade unions. These seek to limit the extent of employer power by confronting it with worker power. The subsequent clashes of two powerful groups can be costly and even dangerous, not only to the parties involved but to citizens at large. As with any locus of power, that power is constantly at risk of being abused, and in the case of both employers and unions, has been abused. Regulation is a means to protect workers from the consequences of unequal power which does not require them to collect equivalent power in their own hands.

Whether by design or by evolution, during the course of the twentieth century Australia developed a system for the protection of workers' incomes and other interests which, with hindsight, appears to have been integrated and quite effective. The system has been characterised by Castles and Mitchell (1993) as 'the workers' welfare state'. Its key features were:

² A Petition to Fix Wages Addressed to the Justices by the Textile Workers of Wiltshire, 1623, quoted in Bland, Brown and Tawney, 1914: 357.

- legal minimum wages which varied with the demands of the job (and, for much of the period, with the sex of the worker);
- hours of work and other minimum conditions of employment determined by independent tribunals;
- a substantial positive role for trade unions;
- tariff protection, which provided an opportunity for firms to pay these wages and remain profitable;
- wages which were sufficient to enable a full-time male employee to maintain himself and his family adequately according to the standards of the day (but were inadequate to enable a woman to maintain a family);
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other conditions of employment, of low paid workers.

8.4 Arguments About Deregulation

The reasoning behind the call for more deregulation of the labour market in Australia includes the increasing product and capital market competition referred to above. It also includes the disappointing productivity performance of the Australian economy in the period from 1975 to the early 1990s. It is argued that regulation of the labour market imposes a set of restrictions which make it difficult for firms to respond rapidly and in innovative ways to changes in the product market. Despite the wide support for this view, there is in fact very little evidence to support it as an important phenomenon. Among OECD countries there is no correlation between the degree of regulation of the labour market and overall economic performance. Guy Standing's views on this matter apply, in my opinion, with equal force to Australia:

“An influential variant of the supply-side school has postulated that Europe has been suffering from a virulent disease known as “Eurosclerosis”— a tightening of the arteries, a

compression of the wage structure, they have caused unemployment among the unskilled and among youth. The various Australian estimates of the wage elasticity of demand for labour, both in aggregate and for particular groups, all find it to be positive but the range of estimates is large and no single result can be accepted with confidence. Even if the relatively high elasticity estimate of -0.75 is adopted (and many would argue that this estimate is too high), research by Borland and Woodbridge (1999) concludes that adoption of US style minimal regulation of wages would increase employment of low wage workers by only 25,000 to 50,000 (at a time when unemployment stood at 800,000).

Who are the low wage workers whose wages may be increased by the work of the tribunals? There are several types of low wage worker. One type has her or his foot on the bottom of the wage ladder and is preparing to climb it. These tend to be young people who are in the process of becoming established workers. A second type is on the snake coming down. These workers are often middle aged and male and many have trade qualifications. They are likely to have lost relatively well paid jobs in manufacturing and to have accepted low wage jobs as better than nothing at all (others of their type have indeed found nothing at all and have left the workforce). The third type of low wage worker (probably the majority) is on the merry-go-round. They are of prime age, not very well educated and are not going anywhere, in a wage sense. They are typically, but not exclusively, married women. Thus one cannot dismiss the low pay of workers at the bottom end of the wage distribution as unimportant, because they go predominantly to young people who are just getting established in the labour market and will be only a short-term experience.

8.5 Alternatives to Regulation

The question should be asked whether the object of regulation, such as a floor to wages, can be accomplished in a better way. One alternative is to ensure that all workers are sufficiently productive so that the market will generate wages which are above the floor. A second is that the social welfare system may provide an alternative source of income which enables workers to refuse to accept wages which are below the floor.

Chapman (1999) looks closely at whether, through targeted skills enhancement of the long-term unemployed or through an extension to their general education, it is possible to increase their employment substantially, within the prevailing wage structure. He concludes that some labour market programs work better than others. When the most effective programs are used, they can make a substantial difference to total unemployment and employment. A program targeted on the long-term unemployed could feasibly halve their number. But labour market programs are unlikely on their own to provide a full solution to delivering jobs to the unemployed, especially to the long-term unemployed. It is inescapable that the overall level of demand for labour has a strong impact on the job prospects of the unemployed.

If everyone of working age were able to receive an acceptable income regardless of whether or not they were employed, then employers would not be able to entice anyone to work for less than this income (unless substantial skills development was offered as part of the employment). Such an alternative income would provide an effective floor below which wages would not fall, even if there were no external regulation of wages. Does the social welfare system in Australia provide such a floor? Gregory

et al (1999) answer this question. They conclude that for some groups of workers, specifically, parents with dependent children on medium level wages, the interaction of the personal income tax and the income tests on social welfare payments are such as to

State equivalents, are kept secret, revealed only to the Workplace Advocate. It is also regrettable that employee ombudsmen and advocates can, at least in some jurisdictions, act only upon the complaint received by an individual.

But the employment relation is about more than wages. A second reason for regulation is to enhance the dignity of the employee, by reducing the extent of the employer's power to direct. The master: servant relation, or one where the employer has a wide domain over which arbitrary power may be exercised, has no place in a decent and socially egalitarian society. Unless trade unions are strong, it is the State which must place limits on the employers' power over workers.

8.6 Conclusion

for the workers. The market needs a hand.

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