The 'Death' of Comparative Wage Justice in Australia

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Abstract

This paper examines the concept and application of comparative wage justice in the transition to a more decentralised wage bargaining system in Australia. Although it is widely assumed that comparative wage justice now has little or no role in the system, the paper demonstrates that it continues to be major factor in the adjustment of wage rates within and between awards, particularly as a result of the national wage case decisions of 1988-89. The question still to be determined is whether it will also have an application to the growing disparities between the award wage structure on the one hand and the outcomes of enterprise bargaining on the other, which are addressed in the ACTU's 1996 'New Living Wage Case'. The conclusion of the paper is that failure to apply the concept to these disparities will transform awards and tribunals into a 'low pay ghetto' with diminishing relevance to the overall dynamic of wage fixation.

1. Introduction

> There is a nostalgic illusion which seems to be held by some economists that one day economic forces will reassert themselves and the Market Theory of Wages will once more begin to operate. I hope this will never be so. We must seek to achieve a position where any employed person is paid wages that are consistent with the level of work which he is doing regardless of whether there is surplus or shortage of the sort of work which his ability represents. This is what I mean when I use the phrase, 'equitable wages'. (Brown 1973, p. 76)

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David Plowman (1995) has drawn attention in this journal to an apparent puzzle in the recent history of Australian wage fixing. While this puzzle arose most immediately from the August 1989 National Wage Case decision by the Australian Industrial Relations Commission (AIRC), it has much wider significance for the future of the system. Referring to the framework of minimum award wage rates established in the decision, Plowman made this comment: 'Despite the fact that the Commission had repeatedly set its face against comparative wage justice claims over nearly two decades, it accepted the concept [of minimum rates adjustment] proposed by the ACTU' (Plowman 1995, p. 282). Moreover, with the submission of the ACTU's 1996 claim for a 'Living Wage', the Commission is now being asked to take the further step of addressing a growing disparity between the new award framework on the one hand and the outcomes of enterprise bargaining on the other. How is this possible or justified when the decentralisation of bargaining was supposed to have eliminated once and for all the doctrine of 'comparative wage justice' (CWJ) from Australia's wage fixing system?

The purpose of this article is to assess the resilience of CWJ in Australia against a backdrop of increasingly elaborate arrangements made for its demise. By CWJ is generally meant the mechanism and criteria by which pay is determined according to (i) the content of the work itself and (ii) fair comparisons with pay for similar work in the same and in other industries (Rees 1993). Internationally, the concept is referred to as 'comparability', 'comparable worth' or 'equal value' in wage setting, sometimes with specific reference to gender equity (Bennett 1988) or fair comparisons in public sector pay (Green 1992). It arises from the well researched but little understood tendency of workers and trade unions 'spontaneously to evaluate their own position relative to groups doing jobs at a similar broad occupational level' (Daniel 1976, p. 119). There are few countries where it has not been subject to challenge in recent years from the deregulationist thrust of government policy and labour legislation, and Australia is no exception to the global trend. In the UK, fair wages were promoted through a variety of statutory provisions, including the Fair Wages Resolution, Schedule 11 of the Employment Protection Act and the Equal Pay Act, as well as bodies such as the Wages Councils and Comparability Commission. These were abolished or restricted by Conservative policy after 1979 (Brown and Wadhwani 1990). In Sweden, where productivity based pay increases in the trade exposed manufacturing firms set the pace, the term 'solidarity wages' was traditionally used to depict the mechanism by which wages in domestic industries and services were adjusted accordingly. This

mechanism was called into question by the shift to industry and enterprise bargaining after 1983 (Ahlen 1989).

In Australia, CWJ has operated historically through a complex array of national wage cases, 'work value' decisions, award adjustments and overaward bargaining. Here, as elsewhere, the public rationale for labour market reform and the decentralisation of wage bargaining was stated as the need to improve national productivity and competitiveness. However, the underlying justification is the desire on the part of employers to link wages more closely to the productivity of individual enterprises and workplaces and, correspondingly, to decouple pay rises from any notion of a centrally determined, award based 'going rate'. Curiously, on the premise that if something is never mentioned it will cease to exist, there is now a widespread assumption that CWJ has been removed from the institutional structure of wage fixing as a result of the implementation of labour market reform since 1987. This article seeks to demonstrate that such an assumption overstates the actual position, since the industrial parties and AIRC have remained attached to a 'backdoor' form of CWJ through industry 'framework agreements', periodic market comparisons, safety net adjustments and, in particular, minimum rates adjustments in awards.

The article also suggests that while there is evidence that wage dispersion has increased in Australia in recent years, some form of CWJ will always have a presence in the wage fixing system. Contrary to the 'economic rationalist' view of the operation of the labour market, 'fairness' is a force that can only be suppressed to secure short term efficiency gains at the cost of major system-wide efficiency losses and disruption in the longer term. The real question is not *whether* CWJ should be allowed to operate, but rather *how* it is to be accommodated within the overall structure of enterprise bargaining and workplace reform to achieve stable and orderly pay determination. In this respect, the article builds upon the continuing need for regulation in the labour market identified by Buchanan and Callus (1993). The article is set out as follows. It begins with a brief discussion of the nature and origins of CWJ in the context of debate in economics and industrial relations, it then examines the tension between the process of decentralisation and the struggle to maintain CWJ and, finally, it discusses the significance of the ACTU's current Living Wage Case application in the AIRC.

2. Background

There has always been theoretical tension between the economic rationalist or free market neoclassical analysis of wage determination on the one hand and the range of approaches based on industrial relations and 'institution-

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alist' economics on the other (Isaac 1981; Green 1995). This tension is reflected, as we shall see, in the contrast between their policy prescriptions. Essentially, in the perfect competition model of neoclassical economics, prices and quantities are determined simultaneously in all commodity markets, including those for factors of production such as labour. When these markets are at their equilibrium position, wage levels are said to correspond with the marginal productivity of labour, and wage disparities are accounted for by differential rates of investment in human capital, especially education and training, or in the more recent literature by the operation of 'efficiency wage' criteria (Ackerloff and Yellen 1986). This equilibrium position is then claimed to produce optimal outcomes for the economy in terms of both efficiency and welfare, with any 'interference' in the market prescribed by assumption to result in sub-optimal outcomes.

In the neoclassical world, the economy is a self-adjusting mechanism, which has no need for institutional arrangements to ensure fair wages and comparability, because the very notion of fairness is defined and circumscribed by market outcomes (Peterson 1990). Trade unions and wage fixing tribunals have no place in this world. Indeed, to the extent that unions are successful in increasing wages above so called 'market clearing' levels, they are depicted as rent seeking cartels, as 'impediments' to the operation of markets, and hence as a primary source of unemployment, low investment and poor productivity growth. This is the approach, essentially a return to the 1920s Treasury orthodoxy, that underpinned the Thatcher-Reagan attack on union bargaining power in the 1980s, including the machinery for supplementing bargaining through minimum wage regulation and comparability. Then as now real wage reductions were cast as the neoclassical policy response to unemployment, bearing out Marx's analysis of the role of the 'reserve army of labour', and it was left to Keynes to point out in the context of the 1930s depression that such reductions would have the effect of accelerating job loss by reducing effective demand in the economy as a whole. He had earlier warned that, 'we stand mid-way between two theories of economic society. The one theory maintains that wages should be fixed by reference to what is "fair" and "reasonable" ... The other theory – the theory of the economic Juggernaut – is that wages should be settled by economic pressure, otherwise called "hard facts"' (Keynes 1925, p. 261).

In the modern context, the neoclassical approach would be unlikely to succeed in reducing wages across the board but only for vulnerable groups in the workforce, such as women, young people and 'non-standard' employees. The international evidence suggests that it has reinforced the trend to a two tier labour market, consisting of a core of well organised, relatively high status workers and a growing periphery of insecure, low status part

time and casual workers (Rubery and Wilkinson 1994), though not necessarily the widely debated model of the 'flexible firm' (Burgess 1995). In the Australian context, the approach is based on the premise that the economy's future lies in low wage competition rather than in a high skill, high productivity path, focussing on value adding, knowledge-based manufactures and services. Nor is it just trade unions that constitute market impediments, for wage fixing tribunals are also claimed to set minimum wage standards at variance with market outcomes. This then invites their abolition or restriction since they are portrayed as inimical to the interests of the low paid workers they are supposed to be protecting. For the neoclassical orthodoxy, such a conclusion does not seem to be altered by the fact that the role of tribunals is primarily to generalise outcomes otherwise confined to core workers and hence to maintain a stable and integrated labour market.

The industrial relations view of wage determination is very different from the neoclassical approach and is based not only upon the institutionalist tradition in economics but also upon the 19th century classical political economy which preceded it (Brown and Nolan 1988). Whereas institutionalists such as Commons, Mitchell and Veblen in the US and the Webbs in Britain were limited to challenging the abstraction of the perfect competition model, classical economists and their more recent successors developed an alternative theoretical approach. In the first place, these economists, including Adam Smith, David Ricardo and Karl Marx, understood that the fundamental nature of the employment relationship in a capitalist economy was not one of free and equal individuals in the process of exchange but a relationship of production characterised by domination and subordination. This became the starting point for industrial relations analysis which recognised the legitimacy of unions as collective organisations with the essential purpose of limiting competition among individual employees and redressing the imbalance of power with employers. The analysis was able to address the inherent conflict in the employment relationship as well as the scope for cooperation in supporting business viability.

Secondly, the classical economists were also able to demonstrate theoretically the inverse relationship between wages and profits, since wages were not just a cost but an income for workers and could therefore be treated as a datum for analysis. For these economists, the analysis of wages was based on the notion of an 'irreducible minimum' (Smith) or a 'subsistence wage' (Ricardo) into which entered an 'historical and moral element' (Marx). This notion also influenced industrial relations analysis, and in particular the formulation of Australia's 'basic wage' by the Conciliation and Arbitration Court in 1907, which was governed by the competing

criteria of the needs of employees on the one hand and the capacity of employers to pay on the other. This is not the place for an historical account of the development of the basic wage, but it may be noted that as a matter of logic and equity its application to a particular case was generalised to all cases in the process that became known as CWJ (even in the absence of the constitutional power to enforce a 'common rule'). The content of the basic wage together with the 'margin' based on additional skill, effort and responsibility changed over the decades and was ultimately incorporated into a 'total wage' (Plowman 1995). This was expressed variously as paid rates in paid rates awards, which was the actual amount paid to employees, and minimum rates in minimum rates awards, which could be supplemented by overaward payments.

3. Wage Fixing System

While it is sometimes claimed that Australia's national wage fixing system did not take sufficient account of the productivity imperative, the reality is that it did so in two important respects. To begin with, national wage increases had to be justified not only on cost of living grounds, as a proxy for the needs of employees, but also on the grounds of national productivity growth, as a proxy for the economy's capacity to pay the increases. Indeed, the AIRC explicitly rejected increases on the basis of firm-specific profitability or productivity gains, such as in the 1966 GMH case and 1970 Engineering Oil Industry case, though these were always available through informal overaward bargaining.[1] Secondly, as a result of CWJ, national wage increases flowed on to all occupations and sectors according to carefully established relativities and differentials within and between awards. The uniformity of the increases not only contributed to the public policy emphasis on equity in the labour market but also provided an incentive for firms to gain a competitive edge through investment in new skills and technologies rather than wage undercutting. While this was a powerful incentive, it was nevertheless confined to domestic competition in those sectors which were protected from global forces by the tariff structure.

If any single factor was decisive in the shift to decentralised wage bargaining in Australia, it was tariff reduction policy, which became a key ingredient of the globalisation trend along with integration of the economy into world capital markets. Just as tariff protection had played a major role in the development of the compulsory arbitration system earlier in the century, primarily through the Excise Tariff Act of 1906, so the unravelling of tariffs delivered what appeared to be a fatal blow to the system. It

provided the scope for relating wage increases more closely to the performance of individual firms and organisations, which were now required to match not just domestic but world competitive standards (Green 1996). In addition, to the extent that the significance of national wage increases was diminished, firms might be better insulated from the operation of CWJ. Whereas traditionally overaward bargaining was based on labour market as well as product market pressures and was then reflected as a 'community movement' in national wage increases, enterprise bargaining would be based solely on productivity considerations and would not be permitted to flow on to other firms or sectors. That was the theory.

The reality is more complex and is not susceptible to meaningful interpretation through the distorting models of neoclassical economics. While the evidence suggests a greater diversity of pay settlements than in the past, the pressures for uniformity and comparability have persisted in spite of the emphasis on decentralised bargaining arrangements.[2] The source of these pressures is not ideological but institutional, and it may be found both in the nature of the decentralised arrangements themselves and the process by which they evolved. For example, most recently and in contrast with some other countries, Australia did not opt for a 'big bang' approach to deregulation of the labour market, but instead embraced a 'managed transition' to enterprise and workplace bargaining (McDonald and Rimmer 1989). This transition was supported by the AIRC's wage principles and accompanying rounds of industrial relations legislation, and it was anchored by a continuing commitment on the part of trade unions, key employer groups and the Australian electorate to the award system and, where appropriate, 'framework agreements'. Indeed, it may be argued that there was something of a paradox in the stridency of the criticisms of CWJ being matched by the urgency of steps to retain its role within the system.

The initial departure from centralised wage fixing was the two tier system devised in the national wage cases of December 1986 and March 1987. This provided for a flat rate increase in the first tier and a percentage increase in the second tier based on a new 'Restructuring and Efficiency Principle'. Most discussion has focused on the linking of the second tier pay increase to productivity improvements at workplace level, but the wage cases also considered the ACTU's proposal for the removal of the existing prohibition on supplementary payments in awards. In December 1986, the Australian Conciliation and Arbitration Commission (ACAC) stated that 'this method of addressing the situation of low wage earners might prove more efficacious than an updating of the minimum wage which has for all practical purposes proved ineffective, at least in recent years' (ACAC 1986b, p. 10). Moreover, in the March 1987 case, the ACAC approved

supplementary payments as 'a separate amount in a minimum rates award' which would be 'in addition to the minimum rate and which together with the minimum rate becomes the award rate below which no employee may be paid'. The Commission went on:

> We are also prepared to allow the level of supplementary payments to similar classifications of employees in other minimum rates awards to be taken into account both in deciding whether a supplementary payment should be prescribed and to assist in determining the level of any payment that should be made provided that such payment shall not exceed the limit prescribed for the second tier ... [T]here will need to be a complete and total commitment to the absorption of overaward payments up to the level of the supplementary payment. There must also be an acceptance of that the introduction or adjustment of a supplementary payment may lead to relativity changes and should not give rise to claims for the restoration of historical relativities. (ACAC 1987a, pp. 18-19)

This was a clear indication by the ACAC that it saw no inconsistency between its role in promoting workplace productivity on the one hand and in protecting the interests of the low paid on the other in the context of a structured approach to the determination of relativities between occupational categories in awards, including paid rates awards. This role was confirmed in the national wage case decision of December 1987, where employer concerns about the cost impact of the supplementary payments principle were dismissed (ACAC 1987b, p. 9), and was further developed in the crucial wage decisions of 1988 and 1989 in the wider context of award restructuring. Again, while the commentary surrounding these decisions has focused primarily on the broadbanding of job classifications, multiskilling and the formulation of career paths in awards, an equally important dimension of the process was the adjustment of minimum rates within and between awards to ensure fair relativities and differentials not just for the low paid but at all levels of the wage structure. It was an unprecedented opportunity to impose genuine, lasting coherence on this structure after piecemeal award and overaward variations had disadvantaged many groups in the workforce, especially women and the low paid, and had produced successive rounds of disruptive wage leap-frogging.

4. Minimum Rates Adjustment Process

In the national wage case decision of August 1988, the Commission announced a 'fundamental review ... to ensure that existing award structures are relevant to modern competitive requirements of industry and are in the best interests of both management and workers'. The new 'Structural

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Efficiency Principle' which was to govern this review included 'creating appropriate relativities between different categories of workers within the award and at enterprise level', and 'properly fixed minimum rates for classifications in awards, related appropriately to one another, with any amounts in excess of these properly fixed minimum rates being expressed as supplementary payments' (ACAC 1988, p. 6). In this context, the ACTU prepared an ambitious national framework or 'blueprint' to 'facilitate major and sustainable award reform on a general basis, with a clear understanding of award relationships one to another and with the necessary level of control by the Commission' (ACTU 1989, p. 3), which it submitted to the February 1989 review of the wage fixing principles. While employers again opposed the ACTU submission, the renamed AIRC responded that 'there is no doubt that the current award wage system contains irregularities in rates of pay which must be dealt with'. It defined the problem in the following terms:

> There exist in federal awards widespread examples of the prescription of different rates of pay for employees performing the same work but this is only part of the problem. For too long there have existed inequitable relationships among various classifications of employees. That this situation exists can be traced to features of the industrial relations system such as different attitudes adopted in relation to the adjustment of minimum rates and paid rates awards; different attitudes taken to the inclusion of overaward elements in awards, be they minimum rates or paid rates awards; the inclusion of supplementary payments in some awards and not others; and the different attitudes taken to consent arrangements and arbitrated awards. (AIRC 1989a, p. 6)

The Commission went on to suggest a 'further dimension' to the problem, which indicated how far the wage structure had already departed from traditional award relativities through informal enterprise based overaward arrangements, including a wide variety of production bonuses and payment by results schemes, despite the formal commitment to CWJ under the centralised system. Significantly, the Commission saw the fluidity associated with the transition to decentralised bargaining as a chance not to *eliminate* CWJ but to *reestablish* it more coherently and consistently than in the past. In endorsing the ACTU's general approach, though not the 'particular award relationships submitted in this case', the Commission stated:

> Employers have introduced and will continue to introduce wage relativities both as between employees employed under the same award and employees covered by other awards in a particular establishment. These relativities can vary from workplace to workplace and may bear no resemblance to the relativities set in the award or awards concerned. In

> turn, this has inevitably caused feelings of injustice leading to industrial disruption, unwarranted 'flow-on' settlements and leap-frogging in particular cases. This has ... led to economically unsustainable general wage increases, particularly when attempts have been made to move away from a highly centralised system, which have severely affected the state of the national economy. (AIRC 1989a, p. 7)

It remained for the AIRC to attach specific wage rates to the new classification structures determined as part of the structural efficiency implementation process. While the Commission was prepared to adopt the minimum classification rate and supplementary payment for a metal industry tradesperson and building industry tradesperson proposed by the ACTU and Federal Government as 'a firm base for sustainable relationships across federal awards and ... a stable base for wage fixation', it did not accept the specific wage relativities that were also encompassed by the proposal. Instead, the Commission appeared to go some way to meeting the employer argument that it should not adopt 'unilateral, arbitrary assessments put forward by the ACTU as to appropriate relativities between the classifications in key awards', and it devised ranges of relativities as a percentage of the tradesperson rate in the context of a new 'Minimum Rates Adjustment Principle' (AIRC 1989b, pp 11-12) (See Table 1).

Table 1: Relativities for Key Classifications

	% of the tradesperson rate
Metal industry worker, grade 4	90-93
Metal industry worker, grade 3	84-88
Metal industry worker, grade 2	78-82
Metal industry worker, grade 1	72-76
Storeman/packer	88-92
Driver, 3-6 tonnes	88-92

Source: AIRC (1989b)

The ACTU subsequently made known its dissatisfaction with the caution evident in this aspect of the Commission's decision, but it had nonetheless secured a strong commitment to CWJ in the determination of individual award relativities. This was a significant breakthrough for the unions, which would later give them a firm foundation for the 1996 Living Wage claim. From the Commission's point of view, minimum classification rates and supplementary payments in awards would now be set in individual cases in relation to the tradesperson rates 'on the basis of relative skill, responsibility and the conditions under which the particular work is normally performed'.

Furthermore, it confirmed to the parties that it would 'only approve relativities in a particular award when satisfied that they are consistent with the rates and relativities fixed for comparable classifications in other awards' (AIRC 1989b, p. 12).

The Commission concluded its discussion of the minimum rates adjustment exercise with the observation that it provided an opportunity to overcome 'wage instabilities' and to take 'an essential step towards institutional reform which is a prerequisite to a more flexible system of wage fixation'. To consolidate this reform, it was first seen as necessary to ensure that 'minimum classification rates will not alter their relative position one to another unless warranted on work value grounds', though it was noted that supplementary payments might vary between industry sectors, individual employers and geographical areas. A second, equally important requirement was that the 'inclusion of supplementary payments in awards is a concomitant of the no extra claims commitment' (AIRC 1989b, p. 14). This requirement was intended to reinforce the rationale of supplementary payments as an additional payment for low paid workers, with little or no access to overaward payments, and to keep a tight lid on overaward bargaining in the buoyant and potentially unstable labour market of the late 1980s. However, the problem from a union viewpoint was that it restricted wage bargaining just at the point when the emphasis of union strategy was shifting to the promotion of workplace activism and organisation.

5. Enterprise Bargaining

In addition, pressure was building from employer groups, especially the Business Council of Australia (BCA), for the acceleration of labour market reform, including the introduction of enterprise bargaining (BCA 1989). The provision in the new Industrial Relations Act 1988 for 'certified agreements' was seen as a niggardly response to this pressure, given that agreements would still be subject to the AIRC's public interest test. Consequently, the ACTU made a strategic decision to embrace enterprise bargaining while it had the chance to influence the principles on which it would operate. In its February 1990 agreement with the Government (Accord Mark VI), the ACTU proposed a productivity-based enterprise bargaining system with no wage ceiling and where 'restructured awards ... shall continue to be the minimum basis of enterprise agreements' (ACTU-Federal Government 1990, p. 5). However, this proposal was rejected in its totality by the AIRC in its April 1991 national wage case decision, which took issue with the ACTU's submission that 'fundamental award reform has been completed to the degree that an enterprise focus is now warranted'.

For the Commission, the structural efficiency principle had 'not yet been extensively implemented' (AIRC 1991a, pp. 22, 37).

The Commission was also concerned that enterprise bargaining would 'challenge a long established principle of wage fixation in Australia, namely, that the benefits of increased productivity should be distributed on a national, rather than an industry or an enterprise, basis', and that 'no party has suggested any rule for relating the amount of enterprise level wage increases to the achieved increases in productivity or profitability' (AIRC 1991a, pp. 35, 40). If, for example, despite union and employer commitments, wage increases in practice were to be based on labour market rather than product market considerations, 'the system would, in all probability cause industrial disputation and excessive wage outcomes, leading to the system's collapse' (AIRC 1991a, p. 39). Ultimately, the Commission feared a loss of control over wage outcomes, as in earlier overaward bargaining rounds, and an associated downgrading and corruption of awards, including the entire minimum rates adjustment exercise.[3] On the other side of the argument, the merit of the ACTU claim was that it had recognised that some form of enterprise bargaining was inevitable and that a formal AIRC principle could at least provide the necessary structure and linkage to the award system as the 'arbitrated safety net' for bargaining. They saw no necessary contradiction between enterprise bargaining and a fair and stable award framework.

The position of the ACTU and most employer groups was finally adopted in the Commission's October 1991 national wage case decision, which formulated a new 'Enterprise Bargaining Principle', despite the fact that the concerns raised in the April decision had 'not been allayed'. This principle took the step of removing across the board limits on wage increases and made them contingent upon a new set of criteria, including 'the actual implementation of efficiency measures designed to effect real gains in productivity'. Again the Commission noted that all wage earners were entitled to share in 'the general advance of technology and the growth of the capital stock', and that 'distribution of all the benefits of productivity growth at the enterprise level would lead to inequity and, ultimately, to a distorted and unsustainable wage structure. Such a situation is compatible with neither a flexible labour market nor industrial peace'. Indeed, the Commission, having just succeeded in accommodating CWJ within a new award-based pay structure, warned that 'the familiar forces of comparative wage justice and flow-on will assert themselves, giving rise to 'community standards' and generating excessive wage outcomes' (AIRC 1991b, pp. 3-4).

The control and supervision that the AIRC could still exercise over enterprise bargaining outcomes was further loosened by amendments to the Industrial Relations Act in 1992, which replaced the public interest test for certified agreements with a new 'no disadvantage' test, removing much of the bargaining process from Commission scrutiny. Since public policy was now directed to supporting certified agreement-making rather than consent awards through the AIRC, the Enterprise Bargaining Principle was well on the way to becoming a dead letter. In its October 1993 review of wage fixing principles, the Commission effected only minor modifications to what it now titled the 'Enterprise Awards Principle', and returned to a consideration of the future of the award system itself in the light of the latest agreement between the ACTU and Federal Government (Accord Mark VII). Although the Prime Minister had earlier in the year insisted that enterprise bargains should become 'full substitutes' for awards rather than add-ons (Keating 1993), the Industrial Relations Reform Act 1993 was instead drafted to propose a new obligation for the AIRC to *maintain* awards as 'secure, relevant and consistent'. The Act also gave the AIRC new powers over the setting of minimum wages and equal remuneration for work of equal value.

The Commission made use of the October review to reexamine the development both of the wage principles and of legislative support for enterpise bargaining, and it came to the conclusion that there were still major issues to be resolved if a 'rational and equitable system' was to be achieved. In particular, the inevitable diversity of bargaining outcomes could not be permitted to undermine the newly established relationships within and between award-based wage structures insofar as they were based on a consistent application of CWJ. It set out the issues in the following way:

> The award system that currently exists is arguably based on considerations of equity and public interest. Any enterprise bargaining system must, of its very nature, lead to differing outcomes. In our view, the only way they can be reconciled is if within the award system there are awards which provide equitable minimum standards of wage rates and ultimately conditions upon which enterprise bargaining is anchored. To that extent, the two can be complementary. But the stability and viability of those awards can be undermined if the disparate outcomes of enterprise bargaining flow back into them. (AIRC 1993, p. 14)

Whereas the operation of wage principles had given the Commission scope and authority to 'prevent the feedback of enterprise bargaining outcomes into the award system by requiring them to be separately identified', the new certified agreements procedure represented 'little if anything different in outcome from the overaward campaigns of the past'. According to the Commission, the procedure had the potential to 'disturb not only

conditions in minimum rates awards that have been established after the application of public interest tests, but also the stable network of classification rates established under the minimum rates adjustment process'. This would then 'recreate the wage irregularities in minimum rates awards that that process was designed to eradicate'. In this context, the Commission saw little alternative to persisting with the wage principles, but it also foreshadowed a 'periodic review' of the safety network of minimum award rates that had been established in the August 1989 decision to 'ensure its viability' as well as the possibility of 'a general increase to all awards ... at some time in the future'. It would then be able to address 'factors relevant to the adjustment of wages in the different types of awards' (AIRC 1993, p. 25).

6. Arbitrated Safety Net

In the meantime, the AIRC confined itself to flat rate increases in supplementary payments, which 'would need to be absorbed to the extent of any equivalent amount in rates of pay, whether overaward, award or certified agreement, in excess of the minimum rates prescribed in accordance with the August 1989 National Wage Case decision'. This met by a different route the Accord Mark VII objective of providing 'access to arbitrated safety net award adjustments' (ACTU-Federal Government 1993, p. 1) and it was simultaneously 'an approach which protects lower paid employees, maintains the integrity of the minimum award classification structure but which also does not detract from the trend towards enterprise agreements' (AIRC 1993, p. 24). In its September 1994 decision, the Commission approved subject to various conditions a series of three further safety net adjustments to minimum rates and paid rates awards for those unable to achieve a wage increase through enterprise bargaining. The decision recognised that 'there is clearly a practical limit to the utility of using flat dollar increases to adjust the safety net as, over time, such increases will create unsustainable pressures to restore pre-existing relativities'. However, it also noted that 'we have not yet reached that point' (AIRC 1994, p. 34).

This was the context for the submission by the ACTU of its '1996 New Living Wage Case', which made a claim not just for safety net adjustments for those without enterprise bargaining increases, but also for three staged increases in minimum award rates at all levels of the wages hierarchy. The claim, according to the ACTU, 'reflects a view that the fixing of fair and reasonable award rates of pay should be based on a standard which is sufficient for a worker to belong to and participate in the Australian community'. It was committed to the 'integrity and consistency of skill

based classification structures in awards', as established in the AIRC's August 1989 decision, and to 'absorption of the new minimum rate into actual rates'. The new rates would be based on a number of criteria, including 'fair market rates', the 'needs' of workers, equal remuneration for work of equal value and the 'decline in the real value of award rates of pay and the dispersion between minimum award rates and earnings since the introduction of enterprise bargaining' (ACTU 1996, pp. 6-7) (see Table 2). In other words, this was an attempt to extend CWJ on a limited and controlled basis beyond relativities within the award structure to the relativities that apply between that structure on the one hand and the range of bargaining outcomes on the other.[4]

Table 2: Annual Wages Growth: Awards and Enterprise Bargaining, 1995-96

	%
Award Rates of Pay[1]	1.2
Enterprise Agreements[2]	4.7
Executive Salaries[3]	6.3
Average Weekly Earnings[4]	3.9
Consumer Price Index[5]	2.4

Sources: ABS, DIR (1996b).
Notes:
1 Award Rates of Pay Index (ARPI), Adult full time employees, 12 months to August 1996
2 Average Annualised Wage Increase (AAWI), All current agreements, June quarter 1996
3 Average Annualised Salary Increase, Executives in private sector, June quarter 1996
4 Average Weekly Ordinary Time Earnings (AWOTE), Adult full time employees, 12 months to May 1996
5 Consumer Price Index (CPI), Underlying rate, 12 months to September 1996.

The AIRC, it will be recalled, had already anticipated 'feedback' from enterprise bargaining to award rates of pay in its October 1993 review, and had likened it to the effect of an overaward campaign. While there were obvious parallels between enterprise and overaward bargaining, there were also some important differences. In the first place, according to the latest survey evidence, wage increases secured through enterprise bargaining have for the most part (62 per cent of workplaces with Part VIB agreements) been linked to achieved or expected increases in workplace productivity rather than external labour market pressures (DIR 1996a). Secondly, these wage increases have set the going rate for large establishments but have not flowed on to workers in small business due to the well documented reluctance of this sector to negotiate their own enterprise agreements (Isaac 1993). Thirdly, the minimum rates adjustment exercise has given the award system a coherence and integrity that it previously lacked, which would in principle allow the Commission to accommodate a measure of bargaining outcomes in awards without disruption to established relativities. As Will-

man has pointed out, 'A solution to the problem would need to work with rather than against the insitutions of collective bargaining and be compatible with their contiued development' (1982, p. 145). The alternative would be an award system of diminishing relevance as relativities continued to grow between productivity based pay increases at enterprise level, with their tendency to become an exclusive 'going rate' for the bargaining stream, and periodic safety net adjustments for those who did not have the capacity to access those increases.

Apart from the pressure on relativities from flat rate adjustments, the entire structure of minimum award rates would lose credibility if it was confined to the most impoverished groups in the workforce and would correpondingly cease to exert any practical influence over the setting of actual rates. The failure to adjust these minimum rates in a systematic way would almost certainly hasten and institutionalise the trend towards a two tier labour market in Australia, with safety net adjustments able to have only a partial offsetting effect. It would also rekindle interest among unions in economy-wide pay campaigns with only a tenuous link to workplace productivity. As the Commission itself warned in the June 1986 national wage case decision: 'The pressure of comparative wage justice is a real force in industrial relations. The strength of this concept, the place it holds in the thinking of employers and employees, even with high unemployment, together with the institutional characteristics of the labour market ... would ensure that across the board wage increases of similar amounts would occur, and not varying increases based on capacity of individual industries or establishments' (ACAC 1986a, p. 4).

7. Conclusion

We may conclude from this discussion that reports of the 'death' of CWJ in Australian wage fixing have been much exaggerated. As a result of the 1988/89 minimum rates adjustment process, CWJ is a key factor in setting more coherent relativities within and between awards and, depending upon the outcome of the 1996 Living Wage Case, it may also be applied in some form to the growing and ultimately unsustainable earnings disparity between the award and enterprise bargaining streams. This is not just a matter of fairness and equity, though fairness may properly be treated as an important goal in its own right, but it is also a crucial part of the drive for improved workplace productivity. Both theory and experience suggest that '[t]he management of the fairness of pay is of great importance for the achievement of satisfactory labour productivity' (Brown and Walsh 1994, p. 445). At one level, the reason for this is obvious, since fair pay tends to

motivate employees to work more productively, and the effect of unfair pay is to demotivate them. What precisely constitutes fairness in this context is determined as much by the perception of individuals and bargaining groups as by reality, and indeed it is in the nature of the concept that perception often becomes the reality. This elusive, subjective character makes fairness difficult to measure, let alone to incorporate into an economic model, though it is no less powerful a force in wage determination.

At another level, the productivity advantage of enforcing fair pay is to ensure that competition is based on investment and technology rather than low wage costs. This is as much a social as an economic choice, and it will require a policy infrastructure and commitment to a high wage, high productivity growth path for the economy as a whole. The role of CWJ in such an infrastructure is to strike an acceptable balance between the emphasis on productivity related pay on the one hand and the principle of similar pay for similar work on the other. The issue of fairness and comparability is driven less by concern with absolute levels of pay than by the preoccupation with structures of relative pay within and between bargaining groups. That is why the ACTU's Living Wage claim envisaged what amounted to a community 'catch-up' both through a series of flat rate safety net adjustments *and* through minimum rates adjustments in awards. Significantly, the claim recognised that the safety net adjustments on their own could not go very far towards closing the gap between award rates and bargaining outcomes. While few would argue with the principle of targeting wage increases to the low paid, there were limits to compressing still further the carefully established relativities and differentials from the minimum rates adjustment process.

The central component of the ACTU claim was therefore to adjust *all* award rates in accordance with the framework set out in the August 1989 national wage case decision. It was thought that this approach would not only contribute more effectively to closing the gap with the bargaining stream, but would do so in such a way that the 'feedback' of bargaining into the award structure would not result in disruption to the pattern of relativities, with the associated potential for uncontrolled wage leap-frogging. In this respect, the claim could be distinguished from those arising from the traditional overaward campaigns of the 1960s and 70s, which gave grounds for concern on the part of the AIRC in its October 1993 review of wage fixing principles. Since this is being written before the case has been heard, it may be appropriate to observe that a failure by the Commission to adjust award rates to correspond more closely with the 'going rate' set in enterprise bargaining would pose the much greater danger of irrelevance for the entire award and tribunal system. The practical result would be a further step in

the direction of a two tier workforce divided broadly between those able to gain wage increases from the bargaining stream and those in a 'low pay ghetto' reliant upon inadequate and irregular safety net adjustments.

The trend to a two tier workforce would also be reinforced by provisions in the Government's Workplace Relations Bill, which in the absence of the adjustments currently required to maintain 'secure, relevant and consistent' awards, would gradually transform the award system into little more than a US style legal minimum wage. The problem with this is that if such a minimum wage is set too low it has an almost imperceptible effect, but if it is set too high it threatens to compress differentials in a haphazard fashion and, as bargaining groups jostle to restore their relative positions, to 'ratchet up' the wages structure, leaving the low paid no better off than they were in the first place. We are left with the conclusion that there is no rational or civilised substitute in a modern industrial society for the operation of a principle of fairness such as CWJ by a central tribunal on the basis of submissions put to it by the parties. The AIRC has a unique opportunity in the 1996 Living Wage Case to stake out a new, expansive role in accommodating and balancing the considerations of equity and productivity in Australia's increasingly decentralised wage bargaining environment.

Notes

1. An important design feature of paid rates awards that operate at enterprise level in capital intensive industries is that they restrict overaward bargaining and the subsequent flow on of wage pressures from those industries to other sectors and occupational groups. While their main purpose has been traditionally to maintain consistency and mobility in the public sector, this less well known aspect of paid rates awards should not be overlooked by those anxious to secure their abolition.
2. The data points to considerable variability between wage increases between and within industry groups in 1994 and 1995 (DIR 1996a, p. 139), which is reflected in an increase in earnings dispersion (EPAC 1996, McGuire 1994), including gender based dispersion (Lewis and Robertson 1995). Nevertheless, Australia still possesses a more equitable wage structure than many other countries (OECD 1996; Daly and Gregory 1992), especially when viewed in conjunction with the impact of 'social wage' measures (Whiteford 1995).
3. In a further rebuff to the ACTU, the Commission also used the decision to limit structural efficiency adjustments to award rates not actual rates of pay (AIRC 1991a, p. 41).
4. Detailed evidence provided for the Living Wage Case on the construction sector indicated that despite the large number of enterprise agreements in the sector, many providing high wage increases, most employees are still reliant on award increases, especially those employed by small sub-contractors. These increases have fallen behind enterprise bargaining increases which has given rise to a

significant earnings disparity between the bargaining and award streams (ESC 1996).

References

ACAC (Australian Conciliation & Arbitration Commission) (1986a) *National Wage Case Decision*, Print G3600.

ACAC (1986b) *National Wage Case Decision*, Print G6400.

ACAC (1987a) *National Wage Case Decision*, Print G6800.

ACAC (1987b) *National Wage Case Decision*, Print H0100.

ACAC (1988) *National Wage Case Decision*, Print H4000.

ACTU (Australian Council of Trade Unions) (1989) *ACTU Blueprint for Changing Awards and Agreements*, ACTU, Melbourne.

ACTU-Federal Government (1990) *Agreement between the Federal Government and the ACTU* (Accord Mark VI).

ACTU-Federal Government (1993) *Putting Jobs First, Accord Agreement 1993-1996* (Accord Mark VII).

AIRC (Australian Industrial Relations Commission) (1989a) *Review of Wage Fixing Principles*, H8200.

AIRC (1989b) *National Wage Case Decision*, Print H9100.

AIRC (1991a) *National Wage Case Decision*, Print J7400.

AIRC (1991b) *National Wage Case Decision*, Print K0300.

AIRC (1993) *Review of Wage Fixing Principles*, Print K9700.

AIRC (1994) *Safety Net Adjustments and Review*, Print L5300.

Ackerloff G and Yellen J (1986) *Efficiency Wage Models of the Labour Market*, Cambridge University Press, Cambridge.

Ahlen K (1989) 'Swedish collective bargaining under pressure: Inter-union rivalry and incomes policies', *British Journal of Industrial Relations*, 27/3 November.

BCA (Business Council of Australia) (1989) *Enterprise Based Bargaining Units: A Better Way of Working*, BCA, Melbourne.

Bennett L (1988) 'Equal pay and comparable worth: Doctrine and practice in the Federal Conciliation and Arbitration Commission', *Journal of Industrial Relations*, 30/4 December.

Brown Wilfred (1973) *The Earnings Conflict*, Heineman, London.

Brown W and Nolan P (1988) 'Wages and labour productivity: The contribution of industrial relations research to the understanding of pay determination', *British Journal of Industrial Relations*, XXVI.

Brown W and Wadhwani S (1990) 'The economic effects of industrial relations legislation since 1979', National Institute Economic Review 131.

Brown W and Walsh J (1994) 'Managing pay in Britain', in K Sisson (ed), *Personnel Management: A Comprehensive Guide to Theory and Practice in Britain*, Blackwell, Oxford.

Buchanan J and Callus R (1993) 'Efficiency and equity at work: The need for labour market regulation in Australia', *Journal of Industrial Relations*, 35/4, December.

Burgess J (1995) 'Does non-standard employment growth confirm the model of the flexible firm?' ESC Working Paper No. 21, University of Newcastle, October.

Daly A and Gregory R (1992) 'Who gets what? Institutions, human capital and black boxes as determinants of relative wages in Australia and the US', in *National Wages Policy and Workplace Wage Determination: The Critical Issues*, ACIRRT, University of Sydney.

DIR (1996a) *Enterprise Bargaining in Australia*, AGPS, Canberra.

DIR (Department of Industrial Relations) (1996b) *Wage Trends in Enterprise Bargaining*, DIR, Canberra.

EPAC (Economic Planning Advisory Commission) (1996) *Future Labour Market Issues for Australia*, Commission Paper No. 12, AGPS, Canberra.

ESC (Employment Studies Centre) (1996) *Awards, Enterprise Bargaining and the Development of a Two Tier Wages Structure in the Construction Industry*, ESC, University of Newcastle.

Green R (1992) 'Productivity and comparability in public service pay', *Labour Economics and Productivity*, 4/2 September.

Green R (1995) 'Industrial relations legislation: All dressed up and nowhere to go?' in I Hunt and C Provis (eds), *The New Industrial Relations: An Interdisciplinary Approach*, Federation Press, Melbourne.

Green R (1996) 'Productivity: Current trends and prospects', in *Industrial Relations under the Microscope*, ACIRRT Monograph No. 15 (University of Sydney), April.

Isaac J (1981) 'Equity and wage determination', *Australian Bulletin of Labour*, 7/4 December.

Isaac J (1993) *Small Business and Industrial Relations: Some Policy Issues*, AGPS, Canberra.

Keating P (1993) Speech to the Institute of Directors, Melbourne, April 21.

Keynes J M (1925) 'The Economic Consequences of Mr Churchill' in *Essays in Persuasion* (publ 1931), Macmillan, London.

Lewis S and Robertson R (1995) 'Bargaining at the workplace: Issues for women workers', in D Mortimer and P Leece (eds), *Workplace Reform and Enterprise Bargaining*, Centre for Employment Relations, University of Western Sydney.

Mcdonald T and Rimmer M (1989) 'Award restructuring and wages policy', in J Nevile (ed) *Wage Determination in Australia*, CEDA, Melbourne.

McGuire P (1994) 'Changes in earnings dispersion in Australia, 1975-1992', *Labour Economics and Productivity*, 6/1 March.

OECD (Organisation for Economic Cooperation and Development) (1996) *Employment Outlook*, OECD, Paris.

Peterson J (1990) 'The challenge of comparable worth: An Institutionalist's view', Journal of Economic Issues, 24/2 June.

Plowman D (1995) 'Protecting the low income earner: Minimum wage determination in Australia', *Economic and Labour Relations Review*, 6/2 December.

Rees A (1993) 'The role of fairness in wage determination', *Journal of Labour Economics*, 11/1.

Rubery J and Wilkinson F (eds) (1994) *Employer Strategies and the Labour Market*, Oxford University Press, Oxford.

Whiteford P (1995) 'Is Australia particularly unequal?' Academy of Social Sciences Workshop paper, University of Sydney, November 30.

Willman P (1982) *Fairness, Collective Bargaining and Incomes Policy*, Clarendon Press, Oxford.