

# Long Working Hours in Australia: Working-Time Regulation and Employer Pressures

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## Abstract

*In Australia, the proportion of full-time employees engaged in long hours, often very long hours, of paid work is relatively large and has been growing larger over the past two decades. This article describes and explains existing data and discussion in Australia, within a cross-national context. Primarily drawing on official labour force data, it begins by examining the proportion of employees engaged in long hours, trends in long work hours, and selected characteristics of the long hours workforce. It then links the discussion to overtime and the peculiar prominence of what is called 'unpaid' overtime. Growth in unpaid overtime seems to be the main component in the increase in the proportion of full-time employees working long hours. In seeking to explain these developments, the article describes the framework of formal working-time regulation and identifies several channels along which trends to long hours, whether based on paid or unpaid overtime, are able to flow. It then looks at the way in which the opportunities opened up by the deficiencies in regulation are taken up by employees and employers. It suggests that the key factor in explaining the development of long hours in Australia is employer pressure within the framework of weak working-time regulation.*

## Introduction

Long hours of paid work are still a critical issue in contemporary societies. National trade union movements, assisted by other social groups and by sympathetic governments, fought for much of the twentieth century to limit working hours and to protect workers from pressures for long hours. Their efforts achieved at least partial success. As standard working hours were defined and

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then steadily reduced, and as paid leave entitlements were expanded, the hours worked by full-time employees dropped in all advanced capitalist societies (Maddison 1995; Huberman 2004). Though a minority of workers remained outside this historical evolution and continued to engage in long hours well above the standard, it was widely assumed that this minority would dwindle and then perhaps disappear. Recent evidence suggests, however, that this minority — whether small or large — is now increasing in many countries, as part of a broader process of diversification in working-time patterns. Fewer employees are working hours around a full-time standard, while more are working hours that are either substantially shorter or substantially longer than the standard (Lehndorff 2000; Lee 2004). The development of shorter ('part-time') hours is not necessarily a concern, and indeed it is welcome if good quality part-time work is integrated into the mainstream of social protection (Fagan 1999). However, the increased incidence of long working hours is a worry, raising both old and new questions about the implications for protective regulation and the consequences for individual workers, their families and the broader society.

This paper takes up the case of Australia. Australia is usually linked with other Anglophone countries such as the United Kingdom, the United States, Canada and New Zealand as an example of a 'liberal' welfare state regime or of a 'market-based' working-time regime (eg Lee 2004; Anxo 2004: 62–69). This is reasonable as a rough approximation. However, it is important to keep in mind that each nation has distinct traditions, distinct dynamics, and distinct contemporary features. Though it is currently being dismantled under neoliberal policies of 'labour market deregulation', Australia has traditionally boasted an unusual system of labour regulation, which has little in common with the voluntarist systems of collective bargaining found in North America and the United Kingdom (Campbell and Brosnan 1999). The early history of Australia was marked by strong state involvement in the economy, an influential labour movement and innovative social and industrial regulation (Castles 1985; Macintyre 1989). This included early achievements in raising wages and discouraging long hours of work. Working-time data for 1870 to 1913 (Huberman 2004) point to Australia's justified reputation as a 'workers' paradise', with average weekly and annual hours that were well below those in most of Europe and North America.

Australia is better known today for relatively long working hours. The minority working long hours is large, and it has been growing larger since the early 1980s. An increased incidence of long working hours in Australia was first noted by researchers in the early 1990s (Tracy and Lever-Tracy 1991; Dawkins and Baker 1994). Since then awareness of the phenomenon has bubbled away in research and begun to surface in public policy, where long hours have been seen as a problem from the point of view of health and safety and then, more recently, from the point of view of work-life balance and gender equity (Buchanan and Bearfield 1997; Probert, Ewer and Whiting 2000; Heiler 2001, 2002; Pocock 2003; Relationships Forum Australia 2007; HREOC 2007). The issue was tentatively taken up by the Australian Council of Trade Unions

(ACTU), as well as by several individual trade unions, and the unions argued for new limits on long hours in a 'Reasonable Hours' Test Case in 2001. This case sparked a vigorous exchange of views and the presentation of several new pieces of research, but it failed to produce an effective regulatory response (AIRC 2002).

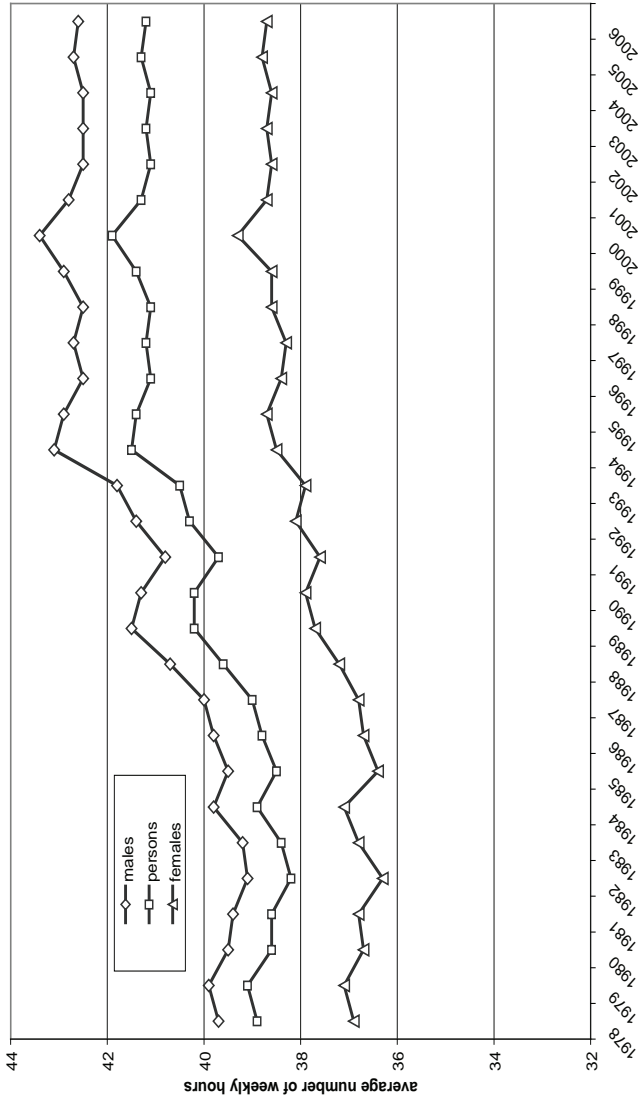
While much of the evidence on Australian working-time patterns is familiar, having already been canvassed in the 'Reasonable Hours' Test Case, it is important to place the rich discussion and data in Australia more firmly within a cross-national context. Primarily drawing on official labour force data, the first section of the article examines the proportion of employees engaged in long hours, trend data, and selected characteristics of the long hours workforce. The second section points out the link to overtime and draws attention to the peculiar prominence of unpaid overtime. Growth in unpaid overtime seems to be the main component in the increase in the proportion of full-time employees working long hours. The article then turns to the challenge of explanation, offering a sketch of the crucial factors. Thus the third section describes the framework of formal working-time regulation and identifies several channels along which trends towards long hours, whether based on paid or unpaid overtime, are able to flow. The fourth section looks at the way in which the opportunities opened up by the deficiencies of working-time regulation are taken up by employees and employers. It suggests that the key factor in explaining the development of long hours in Australia is employer pressure within the framework of weak working-time regulation.

## Long Working Hours in Australia

Long working hours take different forms, but here I concentrate just on employees and do not consider the self-employed. I refer to the working hours of employees as 'long' when they are longer than the current standard for full-time work. The weekly standard is the most common base of comparison. In Australia the weekly standard for full-time work is conventionally identified as 38 hours (around 7.6 hours per working day in a five day working week). From this point of view, a rough (and conservative) definition of *long hours* in Australia would be weekly working hours above 40. However, it is important to go on to differentiate within the broad category of long hours. Particular concern is often voiced in relation to hours that are substantially above the standard (Lee 2004; Kodz et al. 2003: 30). To capture this critical element of the discussion I use a second category of *very long hours*, defined as weekly hours that are over 49.

Evidence on long and very long hours in Australia can be obtained from the labour statistics produced by the Australian Bureau of Statistics (ABS). The best available source for tracing changes over time is the data for *actual weekly hours in all jobs* from the Labour Force Survey (LFS).<sup>1</sup> Previous discussion has focused on the mean for full-time employees (Campbell 2002a). After the partial success of trade union campaigns in the late 1970s, which installed the new weekly standard of 38 hours in most sectors (and 35 in a few such as coal min-

**Figure 1:** Average actual weekly hours for full-time employees by sex, Australia, 1978 to 2006 (number of hours) \*



\* August figures

Source: Figures for 1978 to 1984 are from ABS, The Labour Force Australia: Historical Summary 1966 to 1984, Cat. No. 6204.0; figures from 1985 on are from ABS data cubes, 6291.0.55.003, Labour Force Australia, Detailed, Quarterly, Table e04.

ing, the waterfront, oil and power and parts of the public sector) (BIE 1984), average actual hours for full-time employees in all jobs dropped to a low of 38.2 hours per week in 1982 (Figure 1). Since that time, however, the long-term historical process of decline has stalled and indeed moved into reverse, with the relevant figure jumping by more than three hours to 41.5 in 1994 and 41.9 in 2000, before falling back to 41.2 hours in 2006.

Though changes in the average are dramatic, data on the distribution of workers into specific bands of actual weekly hours are more illuminating, because they stand closer to the real historical processes. Figure 2 summarises the changes for all employees for selected years since 1985. It suggests a strong process of diversification (or polarization) of working-time patterns over the period since the mid-1980s. Fewer employees are now working around the standard; instead, more employees are working hours that are either shorter or longer than the standard. On the one hand, an increasing proportion is working reduced (part-time) hours. This is a powerful development, which points to the crucial place of part-time work, often with very short hours, in Australian labour markets. On the other hand, an increasing proportion is working long, and often very long, hours.

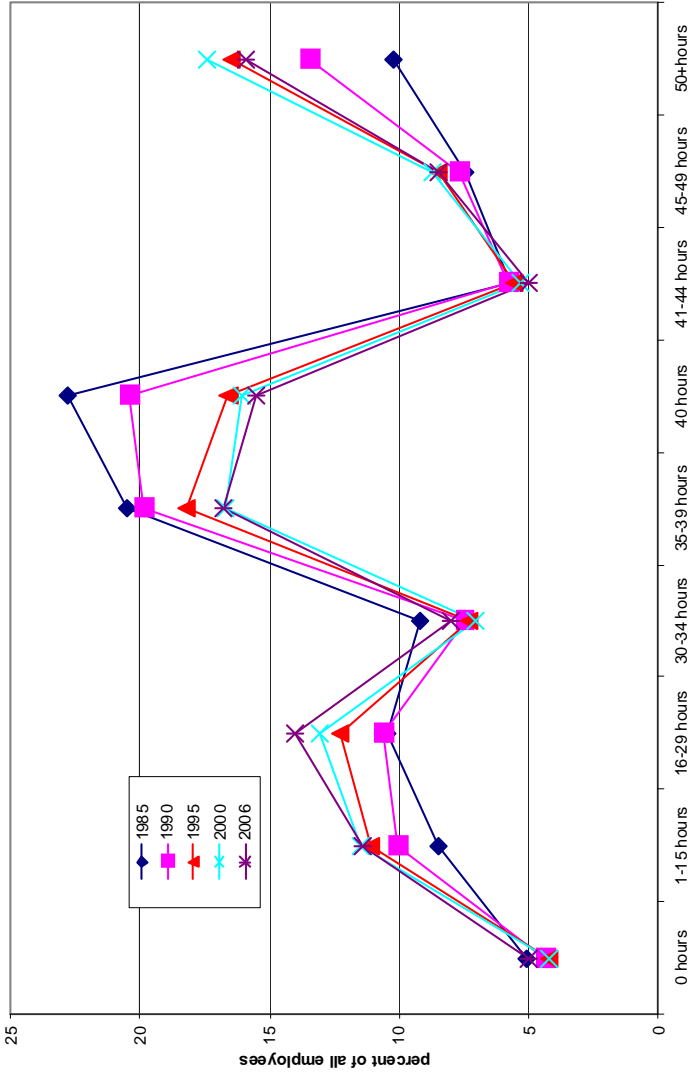
Figure 2 suggests that the group working very long hours (50+) is a crucial group. The size of this group rose from 10.2 percent of all employees in 1985 to a peak of 17.4 percent in 2000, before falling back to 15.9 percent of all employees (22.2 percent of all full-time employees) in 2006. This group is likely to be responsible for the major part of the increase in average actual hours for full-time employees.

These data point to three broad conclusions about the Australian case. First, the group working long hours is large. It included over two and a half million employees in August 2006 — almost 30 percent of all employees (or 41 percent of all full-time employees). Second, over half of this group are working *very* long hours. Third, both groups have grown substantially over the past twenty years (though with some evidence of a slowdown in growth and even stability in the period since the mid-1990s).

Who are these employees? We can just note a few points. As could be expected, long hours tend to be a stable feature of working life, with evidence from longitudinal data of 'persistence' from year to year in the group of workers engaged in long hours (Drago, Black and Wooden 2005). There is a strong gender division. Men constituted three quarters of the group working long weekly hours, with women constituting just one quarter, although women were the faster growing component. Employees in both the private and public sectors were involved. The group working long hours could be found in many industries, but with concentrations in industry divisions such as finance, property and business services, mining, and construction. It included employees from all major occupational groups, but with the highest proportions amongst managers and administrators, professionals and associate professionals (Buchanan et al. 2001).

So far we have been considering long hours on a weekly basis, but long hours can also occur at other temporal scales. It is also important to look at

**Figure 2:** Distribution of actual weekly hours for employees, Australia, 1985, 1990, 1995, 2000 and 2006 (% of all employees) \*



\* August figures  
 Source: ABS data cubes, 6291.0.55.003, Labour Force Australia, Detailed, Quarterly, Table e04

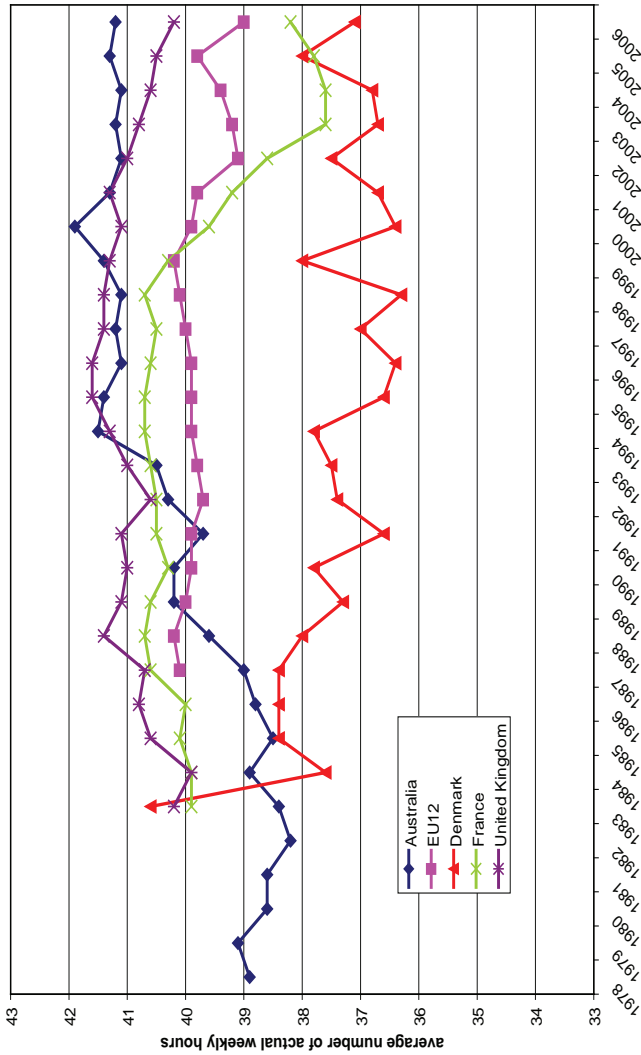
*annual hours*, taking into account the impact of absences, in particular absences due to public holidays and annual leave. In Australia, the number of public holidays is generally around eleven, and the standard for annual leave is four weeks. Long annual hours can arise separately from long weekly hours, when full-time employees fail to take public holidays and annual leave. This can happen in two main ways. First, it can occur when full-time employees lack entitlements to such leave and are obliged to keep working in their job through the entire year. This is the case for some full-time employees classified as 'casual' (Pocock, Prosser and Bridge 2004). It is hard to be precise, but around four percent of all full-time employees are casual workers with at least twelve months tenure in their current job (ABS 2000; ABS 2002). Second, it can occur when full-time employees have formal entitlements to paid leave, but they encounter difficulties in *using* their entitlements and feel obliged to keep working. The size of the group that has difficulty accessing paid annual leave is likely to be large (Denniss 2004).

How does Australia compare with other countries? Cross-national comparisons are difficult because of national differences in data categories and processes of collection. However, we can make some rough judgements by using reasonably standardised data on average actual weekly hours, the proportion of employees working very long hours, and average annual hours.

An approximate match for the Australian data presented in Figure 1 can be obtained from Eurostat data for *average number of actual weekly hours of work in main job for full-time employees*. These data cover the EU12 countries from around 1983, and they include other countries as they have joined the European Union (EU). They show that the Australian pattern of strong increase in average hours is not reproduced in any of the countries of the EU12 (or EU15). The overall EU12 experience since the mid-1980s has been one of stability in the average, succeeded by a slight decline in the last few years (Figure 3). The average in most EU countries was relatively stable, but a few countries where collective reductions in standard full-time hours continued to be debated and implemented revealed evidence of a sharp decline. For example, in Denmark, the Netherlands and France average actual hours declined by around two to three hours per week over this period. The United Kingdom is perhaps the closest comparator to Australia. It shows some evidence of a rise from the early 1980s to the late 1990s, but the rise was much smaller than in Australia and it was followed by a decline that returned the average back to what it was in the early 1980s.

The Eurostat data also allow a rough comparison of the level of average actual hours. At the beginning of the 1980s the level in Australia (38.2) was lower than in any of the EU12 nations, but by 2006 it had risen to be higher (41.2) than in any of the EU 15 nations (and higher than for most of the new member or candidate states, other than Latvia, Romania and Croatia). This is a remarkably sharp turnaround in just two decades. Australia seems to have shifted from a country marked by relatively low working hours for the majority of its workers in the early 1980s to a country with relatively high working hours today.

**Figure 3:** Average actual weekly hours for full-time employees, Australia, EU12 and selected EU countries, 1978–2006 (number of hours) \*



\* Australian data are for August. French data are for the first quarter of each year; all other countries (and EU 12) are for the second quarter of each year. Source: Australian data are from ABS data cubes, 6291.0.55.003, Labour Force Australia, Detailed, Quarterly, Table e04; EU data are from the Eurostat database, Table lfisq\_ewhais.



Researchers at the ILO have compiled data for *the proportion of employees working 50 hours or more* in eighteen OECD countries (Lee 2004: 42). The proportion in 2000 ranged from 1.4 percent in the Netherlands to 28.1 percent in Japan, with Australia and the United States level at around 20 percent. Lee (2004: 41–43) suggests that it is possible to identify three groups of countries. In countries such as the Netherlands, Sweden and Austria very long hours ‘hardly exist’. In a second group of countries, including France, Germany, Portugal and Spain, very long hours exist but only concern a small minority of employees. Australia is in the third group, also including the UK, the US, New Zealand and Japan, where the incidence of very long hours is more substantial. The ILO study also includes data on the change from 1987 to 2000. Amongst the countries where very long hours exist, all but Ireland and France showed increases in the proportion working very long hours over this period. However, the increases were generally from a small base and involved only a small group of workers. Australia and the US seem to stick out in this company, both because the rate of growth in the proportion working very long hours was strong and because the numbers involved were substantial.

Data on *average actual annual hours* are readily available each year from the OECD (2006, see also the decomposition of these hours in OECD 2004: 34–36). Unfortunately, they are not directly useful as an indicator of long hours for full-time workers, because they incorporate part-time as well as full-time workers. The 2005 figure for all employed persons in Australia was 1811 hours worked per year (OECD 2006: 265; but cf. ABS 2006). This was broadly comparable with the United States (1804), Japan (1775) and New Zealand (1809) but ahead of the UK (1672) and well ahead of many other EU countries such as France (1535), Denmark (1551) and the Netherlands (1367).

In the discussion of long hours, Australia is most conveniently grouped with the US, the UK, New Zealand, and Canada. The current working-time regime in Australia most closely resembles that of the UK (Rubery, Smith and Fagan 1998). Both countries show a similar pattern of long hours of full-time work (for men and a small minority of women) accompanied by a large amount of part-time work (largely for women with dependent children). Nevertheless, several differences remain. In particular, as Figure 3 indicates, the direction and rate of change in the UK seem different. The UK has traditionally been seen as a country with relatively long full-time working hours, but in the most recent period this orientation appears to be slipping, partly under the stimulus of the regulatory changes linked to EU membership. Australia appears embarked on a journey in the opposite direction.

Cross-national comparisons of working-time duration point to divergent patterns of change amongst industrialised nations. Australia seems most unusual if we concentrate just on the data for average actual weekly hours for full-time employees, which reveal a surprising reversal of the historic trend to shorter hours. However, as the discussion intimates, it would be wrong to over-emphasise the peculiar position of Australia. One important contemporary trend in working hours is towards an increase in the proportion of employees engaged in long (and very long) hours of work. Though particularly strong in Australia, this is not a trend that is confined just to this country or indeed just to the Anglophone countries.

## Overtime

Long hours can result when employees work more than one job. But they most commonly occur when individual workers have just one full-time job and they work *extra hours* in that job. Following the conventional terminology in Australia, I refer to these extra hours that go beyond the standard number of hours for a full-time job as *overtime*.<sup>2</sup>

Overtime can take different forms. In particular, it is useful to distinguish paid and unpaid overtime. Paid overtime occurs when extra hours are measured and directly remunerated with extra money (often at premium rates of pay). I use 'unpaid overtime' to cover all the other cases of extra hours. To say that overtime is not directly remunerated in these other cases does not mean that there is never compensation for the extra hours (Wooden 2001). Genuine time-off-in-lieu (TOIL) systems, where workers are compensated for extra hours with entitlements to time off from paid work (and where these entitlements are 'practically available'), resemble systems of paid overtime. More broadly, though not directly paid for their extra hours, employees may enjoy compensatory benefits such as a higher base salary and performance bonuses. Discussion of compensation could also include more diffuse rewards such as the favour of the employer, perhaps expressed through priority in promotion or, more brutally, simply through retention in employment. In short, paid overtime is transparent, but unpaid overtime is more opaque, drawing our attention to the complex nature of the underlying exchange between employer and employee.

The proportion of full-time employees working overtime in Australia is high. In one survey from 2000, 60.6 percent of full-time employees (62.2 percent of men and 57.9 percent of women) stated that they had worked 'extra hours' in their main job in the past four weeks (Table 1). Most of these employees, though not all, would be working long hours. This survey allowed a clear distinction between paid and unpaid overtime. Some full-time employees (27.9 percent) stated that they had worked paid overtime in the past four weeks, but a much larger group (37.7 percent) stated that they had worked unpaid overtime or other unpaid hours. The pattern varied according to the occupational group. Amongst some occupational groups extra hours primarily took the form of paid overtime. On the other hand unpaid overtime was more prevalent than paid overtime for managers and administrators (68.2 percent of whom had undertaken unpaid overtime in the previous four weeks), professionals (65.6 percent), associate professionals (49.2 percent), advanced clerical and service workers (46.7 percent) and intermediate clerical and service workers (34.3 percent). This confirms that, although unpaid overtime is most prevalent amongst managers and administrators, it is by no means confined to this group. On the contrary, unpaid overtime is widespread and has a foothold in all occupational groups.

These figures indicate that unpaid overtime is the most important form of overtime in Australia. More full-time employees are involved in unpaid than in paid overtime. Because employees working unpaid overtime tend to work longer hours than employees working paid overtime, the predominance of

**Table 1:** Extent and form of overtime amongst full-time employees a), by occupation, Australia, April to June 2000 (%)

	A	B	C	D	E	F	G	H	I	All ee
Extra hours b):	72.4	70.9	62.9	59.6	57.7	52.1	60.7	52.3	45.3	60.
Paid	6.2	10.7	20.3	50.1	17.2	22.4	54.3	35.1	39.9	27.
Unpaid	68.2	65.6	49.2	15.3	46.7	34.3	11.2	21.0	8.4	37.
total ('000)	331.4	1013.7	644.5	703.8	178.3	809.4	523.8	271.3	361.8	4838.

a) excludes owner managers of incorporated enterprises. 'full-time' is defined here as "usually works 35 or more hours in main job".

b) extra hours = "worked extra hours in last four weeks in main job". 'paid' comprises those who answered yes when asked whether they worked any paid overtime in the last four weeks. 'unpaid' comprises those who answered yes when asked whether they worked unpaid overtime or any other unpaid hours in the last four weeks. Employees may have worked both paid and unpaid extra hours.

Key: A - managers and administrators; B - professionals; C - associate professionals; D - tradespersons and related workers; E - advanced clerical and service workers; F - intermediate clerical, sales and service workers; G - intermediate production and transport workers; H - elementary clerical, sales and service workers; I - labourers and related workers; all ees - all employees.

unpaid overtime is even more marked if we turn to the volume of extra hours. A rough calculation for 2000 suggests that unpaid overtime amounted to around 6.2 hours per week for every employee who usually worked overtime, while paid overtime amounted to around 3.1 hours per week for every employee who usually worked overtime (Campbell 2002b: 118).

Data on paid overtime suggest a pattern of stability since the early 1980s, although growth may have occurred in select industries. On this basis, many researchers have argued that unpaid overtime is the factor that is most likely to underpin both the rise in the proportion of employees working very long hours and the rise in the average actual hours of full-time employees (Dawkins and Simpson 1994: 42–47; Wooden et al. 1994: 5–9; Campbell and Brosnan 1999: 380–381). Though data on unpaid overtime do not stretch back to the early 1980s, we now have data for the ten year period from 1993 to 2003, derived from another ABS survey that asks about regular overtime and that distinguishes ‘paid’ overtime from a variety of other forms of overtime (which I group together as ‘not paid’ overtime). These data support the argument concerning the growth in unpaid overtime. Table 2 indicates that the proportion of full-time employees working overtime on a regular basis increased from 39 percent in 1993 to 46.1 percent in 2003. There was a small rise in the proportion work-

**Table 2:** Full-time employees a), whether overtime worked on a regular basis and whether overtime is paid or not paid, 1993–2003 (%)

Year b)	Males	Females	Persons		
	Full-time employees working overtime (%)	Full-time employees working overtime (%)	Full-time employees working overtime (%)	Paid for overtime (%)	Not paid c) (%)
1993	41.9	33.5	39.0	15.6	23.5
1995	46.3	36.8	43.0	17.2	25.9
1997	44.2	35.5	41.2	15.4	25.8
2000	43.5	35.9	40.8	NA	NA
2003	49.1	40.7	46.1	17.3	28.8

a) includes owner-managers of incorporated enterprises.

b) August for 1993, 1995 and 1997; November for 2000 and 2003.

c) ‘not paid’ comprises all those who stated that their most recent period of overtime was ‘included in salary package’, ‘time off in lieu’, ‘unpaid overtime’, or ‘other arrangements’. In 1993 the category of ‘included in salary package’ was not offered.

Source: ABS *Working Arrangements Australia* cat. no. 6342.0 August 1993, 1995 and 1997, November 2000 and 2003.

ing paid overtime, but the bulk of the increase was in the proportion working overtime that was not paid. Though women were less likely to work regular overtime than men, the growth in overtime working affected both female and male full-time employees.

Case studies and surveys in particular industries offer another source of evidence. Several recent studies (Heiler and Pickersgill 2001; Heiler 2001, 2002) document a rapid expansion of paid overtime in metalliferous mining and then in coal mining. In spite of the existence of a 35-hour week as the standard in coal mining, the majority of employees in 2001 were working more than 40 hours per week, and 40 percent were working 50 or more hours per week. Other studies draw attention to the prominence of unpaid overtime. For example, in a study of nurses in Victoria for the Australian Nursing Federation (Considine and Buchanan 1999), the majority of respondents (65 percent) worked overtime, but fewer than in one in five said that they were paid to do so (another one in five said that they were sometimes paid to do so). This points to the importance of unpaid overtime, which is described as “the glue that is currently holding the Victorian health system together” (Considine and Buchanan 1999: 6). Similarly, in a national survey of Finance Sector Union members in banks and credit unions (Sayers 2000) almost four in five full-time employees stated that they were working overtime, primarily on an unpaid basis. Though unpaid overtime was most common amongst the higher-level grades, it also extended deep into the ranks of clerical and sales workers. Again, a recent study of seventeen organisations in Queensland found a substantial proportion of employees working long hours, most of whom were not remunerated either in overtime pay or time off (Peetz et al 2003; see also Peetz and Allan 2005).

Such case studies are particularly useful for describing the diverse forms of unpaid overtime. We tend to think of unpaid overtime as the hours spent working late at the workplace after a normal working day (or perhaps the hours after an early arrival at the workplace). Though this is indeed common, unpaid overtime can also take the form of working through meal breaks, working during travel to and from work, taking work home at night, working on public holidays or weekends (either coming in to the workplace or working at home), attending compulsory training courses out of work hours, and not taking leave entitlements such as annual leave and rostered days off (RDOs). Many of these examples depend heavily on the ‘portability’ of the basic work tasks and the willingness of workers to choose to use this portability in order to devote longer hours to their job.

Is overtime, and in particular unpaid overtime, more significant in Australia than in other OECD countries? Comparable data are difficult to find. Recent Eurostat data (Van Basterlaer and Vaguer 2004; Vaguer and Van Basterlaer 2004) suggest that 18 percent of male and 13 percent of female full-time employees in the EU15 were engaged in overtime in 2001. About half of the male full-time employees working overtime were engaged in unpaid overtime, and amongst the women the majority were engaged in unpaid overtime. The UK and the Netherlands seem to have had the highest proportions of their

waged workforce involved in unpaid overtime, but Austria and France were also prominent. In the EU as a whole most unpaid overtime hours were worked by senior officials and managers and by professionals.

These data suggest that unpaid overtime is more widespread in Australia than in Europe, both in the raw sense of more people and in the sense of a wider range of occupations. Even in the UK, where unpaid overtime has attracted attention as one component of the long hours culture and has been the target of a forceful campaign from the Trades Union Congress (TUC), its prominence in the workplace does not appear to match the prominence reached in Australia (Cully et al. 1999: 156–158; Kodz et al 2003). Nevertheless, again it would be wrong to overemphasise the distinctiveness of Australia. As the Eurostat data show, unpaid overtime is present in many countries, and it appears to be the factor that, as in Australia, is responsible for the increase in the proportion of employees working very long hours in many countries (OECD 1998: 157–160; Fagan 2003: 13).

Discussion of long hours in the US tends to focus just on paid overtime (Schor 1992). However, in Japan unpaid overtime ('service' overtime) is frequently cited as a factor underlying long hours (Shimada 2004). A promising analysis of unpaid overtime is developing in Europe (Aronsson 1999; Wagner 2000; Anger 2006; see Boulin and Plasman 1997; Julkunen and Nätti 1999: 164–168; Kodz et al. 2003). At first glance this discussion seems too narrow, because it tends to be couched in terms of the distinctive working patterns of professional and managerial workers. However, it includes some valuable arguments concerning the reasons for the emergence of unpaid overtime and the conditions for its spread beyond the confines of just professional and managerial work.

For some writers, unpaid overtime amongst professional and managerial workers is anchored in technical exigencies of the work, such as organization in terms of tasks and high levels of task discretion. In addition, it is often argued that professional and managerial work can be highly portable, with the result that extra hours can be undertaken in the workplace or somewhere else (at home, on the train) and can be joined to the standard hours or undertaken in a block at another time (at night, on the week-end, during a public holiday). In this view, the spread of unpaid overtime will come through structural change favouring these occupations or perhaps through the diffusion of technologies, such as mobile phones, pagers and laptops, which extend portability of work tasks to a wider range of workers (Kalleberg and Epstein 2001: 1065).

These technical aspects should not be torn from their institutional context (Rubery and Grimshaw 2001). For example, the connection between task discretion and unpaid overtime is clearly mediated by working-time regulation (the exemptions for managerial and professional staff) and by the distinctive forms of work organisation and management practices. The link with management practices can be seen if we examine the apparent paradox of much professional and managerial work — that workers who seem to possess the highest degree of autonomy in their work seem under most pressure to work long hours. One common answer starts from the evidence of a link between

unpaid overtime and future returns such as pay rises and higher probabilities of promotion and retention (Pannenberg 2005; cf. Anger 2006). This draws attention to managerial systems of pay and career advancement. Another common answer appeals to the fact that workers may have extensive discretion in relation to the performance of work (where and when, the pace, the methods, etc.), but they have much less discretion over work loads, which are generally set by higher-level managers (Perlow 1998). The workers are subject to indirect controls associated with factors such as deadlines, targets, teamwork and new technologies. The work is defined as 'results-based' rather than 'time-based', and this is linked with new forms of pressure on employees, bound up with the subtleties of job design rather than direct control (Rubery, Ward and Grimshaw 2006; van Echtelt, Glebbeek and Lindenberg 2006).

This analysis starts to point to new (and old) managerial practices that need not be confined just to professional and managerial workers, but can be extended — where conditions are right — to other groups of workers. Lehn-dorff (2002) argues that these practices are based on a *market-based governance of labour*, whereby employers rely on indirect controls that confront the employee with numerical indicators drawn from market relations rather than on more traditional command-and-control systems. He argues that in areas of highly-skilled work this takes the form of 'professional autonomy', whereby employees are given extensive discretion over many aspects of their work, including their working-time, within a framework that prescribes intense workloads. The result is intensification and longer hours that are 'self-organised'.

## Working-Time Regulation

The previous sections describe the development of the Australian pattern of long working hours, based on the growing membership in the large minority working very long hours, much of it in the form of unpaid overtime. Why is this development occurring?

Few researchers have taken up the challenge of explanation. One exception is Wooden (2003; see Wooden et al, 1994), who draws attention to the timing of the main surge of growth, from the early 1980s to the mid-1990s. He rejects the argument that the trend can be linked to labour market deregulation. He also rejects the argument that it has anything to do with employer pressures. Instead he suggests that the explanation that best fits the periodisation is a 'supply side' explanation, couched in terms of increased worker preferences for goods and services, stimulated by product marketing and advertising, within a context of real wage restraint imposed by the federal ALP-ACTU Accord during the 1980s and early 1990s. He argues that workers responded to the closing off of the option of real wage rises by "rely[ing] on other mechanisms, such as sending other family members into the workforce and seeking additional working hours, in an effort to support desired consumption patterns" (2003: 269). This emphasis on real wages and consumption demands is useful, but as an explanation of the trends in working hours it does not succeed. The explanation founders on many rocks. In particular, it founders on the fact that the

main component of the increase in long hours is unpaid overtime, which has little direct connection to increased consumption patterns. In addition, the explanation fails to descend to the level of real causal processes. Thus it fails to acknowledge that the development of long hours is a differentiated phenomenon, which only affects some groups of workers. It offers no evidence that the groups that swelled the long hours workforce can be identified with those that suffered real wage restraints under the Accord (or suffered the predations of the marketeers) and that responded by deciding to pursue increased income through long hours.

In explaining patterns of long hours, it is best to start with *working-time regulation*. Some researchers, drawing on assumptions from economic literature, downplay the importance of understanding the institutional framework in Australia (Drago, Black and Wooden 2005, 5–6). But the structure of working-time regulation is critical, because it helps to define the *opportunities* for very long hours, in the form of either paid or unpaid overtime, to emerge. This is often the key to understanding cross-national differences.

I focus here on formal legal regulation. In most industrialised countries, working-time is formally regulated through some mix of legislation and multi-employer collective bargaining, usually aimed at protecting employees, preserving health and safety, and ensuring adequate time for life outside of paid employment (Bosch, Dawkins and Michon 1994; Bosch and Lehdorff 2001; Freyssinet and Michon 2003). Though legislation provides a floor of protective regulation in most other countries, it plays almost no role in Australia (McCann 2005). Common features of working-time legislation, including in particular the specification of maximum hours and the provision of rest periods, are absent from the statute book in Australia. At the state level, some legislation can be found on entitlements to paid leave (public holidays, annual leave, long service leave). But such legislation is far from comprehensive, omitting basic forms such as paid parental leave, and it is usually framed to allow exemptions, for example for ‘casual’ employees.

Working-time in Australia has been regulated mainly through the system of awards (now increasingly supplemented by ‘agreements’). The *award system* is best seen as the distinctive institutional form through which Australians sought to establish a floor of minimum labour standards for employees. It was a system with peculiarities, primarily as a result of the fact that awards were set by quasi-judicial tribunals armed with powers of compulsory conciliation and arbitration (Creighton and Stewart 2005). For example, the system was like a patchwork. Individual awards, which could be based on occupation, industry, enterprise or region, numbered in the hundreds and contained dozens of clauses. Though reasonably comprehensive, covering an estimated 80 percent of all employees at the latest count in 1990, the award system contained several important gaps, which had grown wider and wider in the last decades. Apart from a hole as a result of lack of coverage, lack of enforcement created another hole, especially amongst small firms. Moreover, even within the effectively regulated sector, it was common to find rules and regulations that allowed exemptions from basic standards for certain types of employees. The most com-



mon exemption was for 'casual' employees, who could be deprived of almost all the rights and benefits set down for permanent employees in awards (Campbell and Brosnan 1999; Campbell and Burgess 2001).

Apart from the issue of gaps, the award system was deficient in other ways. Though it contained some working-time regulation, much of this was surprisingly thin and primitive, covering little that was directly pertinent to the duration of work (Heiler 2001; cf. AIRC 2002: 70). There is no reliable survey of the content of working-time regulation in awards (and agreements). But it is possible to make a few comments, framed in terms of five key features of overtime regulation that are identified in a recent European study (Freyssinet and Michon 2003; see McCann 2005 Annex 1):

*Definition of a threshold.* The definition of a threshold marking the beginning of overtime is in effect a definition of standard (or 'normal', 'contracted' or 'ordinary') hours. Such a definition cannot be found in legislation in Australia, but it is common in awards (and agreements). Most awards offer a definition of 38 hours per week as the standard, though it may be fewer in some and may be as high as 40 in others (Creighton and Stewart 2005: 338-340). However, at least some awards, such as for academics, fail to specify a clear standard for weekly hours, and this may also be true in awards and agreements for other professional groups who are seen as working according to 'task performed' rather than 'time served' contracts. Moreover, some agreements have begun to drift away from a weekly standard by defining varied forms of 'averaged' hours, sometimes with a component of extra hours.

*Enhanced payment and/or time off in lieu.* This is relatively common in awards (and agreements). The rate varies, but most common is a generous rate of pay of 150 percent for the first two or three hours and 200 percent for all hours thereafter (Creighton and Stewart 2005: 341). However, these provisions are not found in all awards and agreements. Moreover, even where they exist, many higher-level workers regarded as working under 'staff conditions' are excluded from the formal entitlement to payment for overtime. The usual mechanism for exclusion is to prescribe exemptions and exclusions for all workers who are above a certain cut-off point in either salary scales or classification structures. Payments for overtime can also disappear under 'averaged' hours arrangements. Formal time-off-in-lieu (TOIL) schemes remain relatively rare (though informal arrangements that rely on the grace and favour of employers may be more common).

*Conditions for use of overtime.* Such conditions (procedures, justifications) are hard to find in Australia. Most awards and agreements that specify a standard number of hours for full-time work also state that employers may require employees to work 'reasonable' overtime. This has the effect of making overtime according to employer needs more-or-less mandatory. The Reasonable Hours Test Case (AIRC 2002) led to the introduction in awards of clauses that specified the right of the employer to "require an employee to work reasonable overtime at overtime rates" together with the right of the employee to refuse overtime when this would result in the employee working 'unreasonable' hours.

This was seen as making explicit what was already implicit in awards. Conditions such as notice are relatively rare in awards and agreements.

*Maximum overtime limits.* Specific maximum overtime limits are missing in Australia, both from legislation and from most awards and agreements. The notion of 'reasonable' overtime mentioned above could be interpreted as a weak version of a maximum. But one obvious problem is the vagueness of the term 'reasonable'. It depends for its specification on the resolution of individual cases before the industrial tribunals, and this is a haphazard process. In practice, when disputes were brought before the courts, 'reasonable' overtime was interpreted to mean arduous schedules and extensive amounts of overtime (Heiler 2001). Though the Reasonable Hours Test Case (AIRC 2002) listed factors that could be taken into account in assessing reasonableness, this has not cleared up the vagueness.

*Maximum limits on working time on a daily or weekly basis.* These maximum limits are also missing in Australia, both from legislation and from awards and agreements. Common award provisions for rest periods between each day's work can have an indirect effect in limiting daily hours. But these are often narrowly conceived and accompanied by numerous opportunities for deviation.

In comparison with most other industrialised countries, formal legal regulation of overtime in Australia has been weak as a vehicle for protecting employees.<sup>3</sup> The deficiencies are partly to do with the existence of conventional gaps and partly to do with the flimsy substance of the provisions aimed at direct regulation of long hours. This can itself be understood as another type of gap. Thus, regulation does not include any effective controls on long hours. The crucial maxima found in most other regulatory systems are missing (McCann 2005). Some scholars point to indirect limits, as a result of provisions for 'reasonable' overtime, payment of overtime at premium rates, and 'duty of care' under occupational health and safety legislation (Heiler 2001), as well as other provisions such as premium payments for work at non-social hours or rostered days off (RDOs) (Peetz et al 2003). But most of these are too vague and indirect to be effective substitutes for direct limits on long hours (Heiler 2001).

Neoliberal reforms since the early 1990s have cut back the power and reach of the award system. This has weakened an already weak system of working-time regulation, strengthening the power of the employer. The latest step in this process stems from the federal *Workplace Relations Amendment (Work Choices) Act 2005*. 'Work Choices' came into operation in 2006, and it is still being bedded down. However, it is already clear that it has significant implications for working-time regulation. The role of federal awards in underpinning agreements has been broken. In return, a new platform of five minimum conditions, the 'Australian Fair Pay and Conditions Standard' (AFPCS), has been directly introduced via legislation. As many scholars point out, the appearance of the AFPCS as a set of minimum standards is deceptive (Stewart 2006; Cooney, Howe and Murray 2006: 231–237). It contains provisions for unpaid parental and personal leave as well as (weakened) provisions for paid annual leave,

but the provision most relevant to our purposes has been described as a guarantee of a 'maximum' of 38 hours per week. Closer inspection shows that the 38 hours refers to 'ordinary' hours. In practice it does not function as any sort of maximum, because the legislation specifies that it can be 'averaged' over a longer period (but no more than 12 months) and that it is possible to add on any number of 'reasonable additional hours'. It is hard to see the 38 hours even as a definition of a standard, since its function as a threshold for overtime (and overtime compensation) seems to have been pushed aside.

Work Choices also amplifies the ability of employers to use new types of agreement, including registered individual agreements, to alter working-time provisions in existing awards and agreements and thereby to reduce the employment conditions of employees (so long as the result does not breach the requirements of the AFPCS). The provisions in existing awards and agreements, already weak, are now vulnerable to redefinition according to the needs of the individual employer, with little requirement for any agreement by employees, either collectively or individually (Cooney, Howe and Murray 2006). In this way, Work Choices extends an already-lengthy history in which employers have sought to use enterprise agreements to recast working-time provisions to suit their needs (ACIRRT 1997; Heiler 1998; ACIRRT 1999; Buchanan et al. 2006).

The failures of formal regulation were partly counter-balanced in the past by informal regulation. Social norms of decent treatment and adequate time for leisure, sustained by economic prosperity and tight labour markets, were widespread in the post-World War II period. Australian trade unions, though weakly organised at the workplace in most industries, were strong in certain sectors such as the waterfront, mining and the metal trades, and the forms of labour regulation developed in these key sectors exerted a broader influence. At the same time the unions exercised a strong voice in national economic and political debates. However, the impact of such informal regulation was eroded by structural changes and the poorer labour market conditions that emerged in the mid 1970s. Moreover, the 'disorganized decentralisation' that began in the early 1990s shifted the locus in bargaining away from the central level towards the individual workplace. In the absence of good workplace representation for employees, this had the predictable effect of enhancing the power of the individual employer to determine working-time conditions according to what s/he sees as fit. As the gaps in the system have grown wider, and as public policy has become more hostile, trade union strength and influence has ebbed away (Campbell and Brosnan 1999).

In short, working-time regulation in Australia, both in the past and in the present, offers many opportunities for long, often very long, hours to emerge. We can describe these opportunities in terms of *channels* for paid and unpaid overtime. The channel for paid overtime is straightforward. It is easy to see how an absence of maximum limits allows paid overtime to spill over into very long working hours, when this is in the interests of the employer.

Unpaid overtime is messier and more difficult to understand. Campbell (2002c) distinguishes three main channels. Unpaid overtime emerges in Australia:

1. where provisions for paid overtime are present in the regulation but are ignored in practice;
2. where there is an official standard but certain employees are exempted from provisions for paid overtime; and
3. where no effective standard is present (e.g. because the workers are outside regulation, because the regulation does not specify a standard, or because poorly designed averaging arrangements have eliminated a standard).

These channels for unpaid overtime can cover a surprisingly wide range of workers. Amongst those workers who have complained that they are swept up in the first channel are nurses, police, public servants, technical workers and bank clerks. Workers in the second channel include managers, professional engineers and technicians but also many clerical and administrative staff and even — in the case of some new enterprise agreements — all occupational grades within a firm. Workers in the third channel include teachers, academics, real estate agents and high-level managers, but they can also include production workers, truck drivers, and any occupational group liable to be employed as 'dependent self-employed' or liable to poorly-designed 'averaged' hours arrangements.

Unpaid overtime is a factor of instability, which tends to undermine the remaining elements of formal working-time regulation. It threatens the definition of standard hours for full-time work. For example, where employees are exempted from normal provisions for paid overtime, the standard that is prescribed for them in the award or agreement becomes increasingly nominal and tends to be replaced by new, more informal norms about the number of hours expected from employees.

High levels of unpaid overtime tend to undermine paid overtime, since they offer the powerful lure to employers of cost saving by substituting one for the other. It is readily apparent that formal arrangements for paid overtime have been extensively eroded in recent years, in particular through use of new agreements (non-union collective agreements, individual agreements) that have been encouraged as a substitute for awards (Creighton and Stewart 2005). In a few cases these agreements may reduce overtime payments by lifting the full-time weekly standard to 40 hours (or more), but usually employers have favoured other approaches that could be seen as converting paid to unpaid overtime. Thus agreements have been used by employers to expand the groups defined as 'staff', and indeed some agreements for mining or tourism resorts have transferred the entire workforce onto 'staff conditions', primarily in order to establish an expectation of 'extra hours as required' (ACIRRT 1999: 7). Similarly, 'averaged' or 'annualised' arrangements have proved popular in sectors such as financial services, wholesale and retail trade and recreational services, with most lacking controls on the extent of fluctuations and the total number of hours. Also common has been the reduction of overtime rates and/or the conversion of payments to time-off-in-lieu. Though time-off-in-lieu can be advantageous to workers, these new arrangements are often informal, and in practice workers may receive very little time off, either because they are not entitled to much or because high workloads impede their access to the entitlements. More formal arrangements for time-off-in-lieu seem to have retreated

in recent years. Thus, the formal system of 'flexitime', introduced into the public sector in earlier decades, has withered in the wake of privatisation and new methods of public sector management (Campbell and Brosnan 1999: 378–380; Buchanan et al 2006).

The erosion of paid overtime represents the fraying of one indirect restraint on long hours in the regulatory system. It has been accompanied by changes in other indirect restraints. For example, premium payments for work in non-social periods are disappearing as the spread of ordinary hours is redefined. Similarly, the proportion of full-time employees entitled to Rostered Days Off ('RDOs') has declined, dropping from 35 percent in 1993 to 26.1 percent in 2003 (ABS 2003a).

This account of working-time regulation helps to define the differences between Australia and other countries. All countries have 'gaps' that weaken their regulatory system. Scholars note that overtime regulation in European countries is undermined by 'illegal practices' as well as the widespread use of special rules and exemptions for certain sectors, types of company and occupational categories such as managers (Freyssinet and Michon 2003). However, the number and the size of the gaps seem particularly large in Australia. In addition, the substantive content of working hours regulation is thin, and has become even thinner as a result of neoliberal reforms. As a result formal legal working-time regulation appears particularly weak in Australia. Certainly, it appears weaker than in any EU country, including the UK, given the existence in all EU countries of legislation that conforms to the 1993 Working Time Directive (but cf. Barnard, Deakin and Hobbs 2003; Murray 2001). The difference is not so much in opportunities for long hours *per se*, since all countries permit overtime and therefore can be seen to permit long hours. The crucial difference seems to lie in the opportunities for *very long* hours and for unpaid overtime.

## Employees and Employers

Weak working-time regulation establishes the opportunities for long hours, and in particular very long hours, to emerge. However, opportunities are not identical to outcomes. Actual outcomes depend on how employees and employers respond to the opportunities associated with weak regulation.

We can start with individual employees. It is sometimes suggested, especially in popular commentaries, that participation by individual employees in long hours is voluntary. Participation in paid overtime is explained in terms of a choice to pursue money. Participation in unpaid overtime is more puzzling, but it may be explained in terms of a commitment to the job, a pursuit of overt or covert rewards, a fascination with the intrinsic demands of the work, or as a simple expression of a particular workplace, religious or national culture. In this perspective, the growth of a minority working long hours is traced back to the diversified needs and preferences of individual workers, perhaps facilitated by the removal of 'rigidities' associated with external labour regulation and trade union action.

It is true that most employment decisions involve choice, with the precise degree of choice varying from the expansive to the narrow, according to the circumstances of the individual's work and life. Nevertheless, the common viewpoint that invokes a 'free' choice to work long hours assumes that employees are able to exercise complete control over their working hours. This is hard to reconcile with most available evidence. It conflicts not only with the evidence of the mandatory nature of much overtime in Australia, but also with the direct testimony of workers themselves. Though data on working-time preferences are slippery because of the familiar problems of measurement, of understanding the social context for stated preferences, and of allowing for adaptation to circumstances (Golden 2006), they confirm the existence of a substantial amount of 'overemployment', based on a mismatch between actual hours and preferred hours. Numerous surveys in Australia, as in other countries, point to a large proportion of long hours employees who express a clear preference for fewer hours (Watson et al. 2003: 88–90; Peetz et al, 2003; van Wanrooy 2006; Drago, Wooden and Black 2006; see Thornthwaite 2004; Bielenski, Bosch and Wagner 2002).

Even more powerful are the responses to direct questions on the causes of long hours. Employees were asked about the main reason for working unpaid extra hours in a 2000 ABS survey (Table 3). The overwhelming majority (73.5 percent) of full-time employees who worked these extra unpaid hours referred to the fact that 'there is too much work' or that they needed to do the extra hours 'to get the work done'. A further ten percent stated that the 'employer expected it'.

**Table 3:** Main reason for working unpaid extra hours, full-time employees, Australia, April to June 2000 (%)

	male	female	persons
Too much work/to get work done	72.6	74.8	73.5
Employer expected it	10.9	9.4	10.3
Not enough staff/ short of staff	3.5	5.9	4.5
Needed to prepare business for opening or closing	2.3	1.6	2.0
Other reason	10.7	8.3	9.7
Total working unpaid extra hours ('000 persons)	1050.9	771.7	1822.6

Source: unpublished data from ABS, *Employment Arrangements and Superannuation Australia*, April to June 2000, Cat. No. 6361.0.

These responses point to feelings of obligation and even compulsion, which allow unpaid overtime, somewhat parallel to paid overtime, to appear as more-or-less mandatory. We can note that full-time employees working extra hours of *paid* overtime were asked a similar question, which elicited a surprisingly similar result. When asked for the main reason for working extra hours of paid overtime, only 11.8 percent stated that they 'wanted more income'. The

majority, as in the case of those working unpaid overtime, referred to 'too much work/to get work done' (ABS 2000, unpublished data). Similarly, a recent survey of full-time employees explored why many full-time employees failed to use their full entitlement to annual leave. Many stated that they were saving their leave up for later use, but an equal number complained of work-related impediments, including being too busy at work and not being able to get time off that suited them (Denniss 2004). In a later survey, employees identified work barriers such as a lack of resources to cover for people on leave and the increased workloads before and after leave (Tourism Australia 2005, 10). In contrast to the presumption of free choice, these answers testify to strong feelings amongst many employees of external constraints over their decisions.

The perspectives of employees are most clearly revealed in case studies. There are now several case studies that touch on unpaid overtime in Australia, amongst groups ranging from contract cleaners to academics (for a brief review see Campbell 2002c: 37–39). These studies testify to the complexity of employee motivations, which can include commitment to the job, commitment to colleagues, desire for promotion, supervisory pressure, desire to complete workloads and commitment to clients and customers. These studies are also useful in pointing to crucial differences in the intensity of the compulsion experienced by workers. In some cases unpaid overtime may well be highly voluntary when the employee is involved in some particularly stimulating project, as in some research work or in the start-up of new media companies. At the other end of the spectrum, unpaid overtime may be directly demanded from employees, for example by scheduling meetings outside of ordinary hours or by insisting that tasks such as set-up before a shift or cleaning up after a shift be done in the worker's own time. However, most cases of unpaid overtime fall in a grey zone between these poles. Workers in the studies felt there was at least an element of choice, but they also felt highly constrained in the way they exercised their choice. As one nurse explained, unpaid overtime was 'voluntary but expected' (Considine and Buchanan 1999). Compulsion was stronger amongst lower-skilled groups such as contract cleaners and administrative workers in law and accountancy firms, while a sense of working-time autonomy was more likely amongst higher-skilled workers such as public service managers. Some of these workers were covered by trade unions, but it seems clear that unions are still struggling to work out ways to respond to long hours and unpaid overtime (Campbell 1997, 2002b).

What lies behind the widespread sense of compulsion? Surveys and case studies gesture towards a range of factors. However, in the first instance, the major factor seems to be pressures that derive from *management policies and practices*. These can be direct pressures to extract extra hours and to discourage workers from claiming payment for these hours. But more common are the indirect effects and indirect controls cited above. For example, workloads can be set that are so heavy (or that involve such tight deadlines) that they inevitably spill out into long hours. Another example is when management establishes payment and promotion systems that encourage long hours to be seen as an indicator of commitment and performance.

As well as deliberate management strategies, management strategies aimed at other outcomes can also have an impact. Decisions on staffing are often central. A common dynamic in Australia, in both public and private sector workplaces, is associated with downsizing, when staff numbers are cut but demand remains stable (or even increases) (Dawkins et al. 1999). Especially in public sector areas such as education, welfare services and health care, this can lead to longer hours by professional workers dedicated to maintaining levels of service. Another indirect effect occurs when unpaid overtime, for whatever reason, becomes widespread in individual workplaces. Unpaid overtime can then become transformed into a norm, a specific element of a workplace culture. It can appear as just a condition or aspect of the job, as part of an implicit contract of employment that employees accept when they enter the job. These workplace cultures are very important. They can easily fan out from individual workplaces until they affect entire industries or occupations. In this way further layers of obligation are laid down, spreading the pernicious effects of long hours and often screening the responsibility of individual managements in creating and nurturing workplace cultures.

The evidence points to the need to look beneath the appearance of employee choice in working hours. For many workers engaged in unpaid overtime, the issue is less to do with their own choices and more to do with acquiescence to choices made by others (Pocock 2003: 157). In particular it is wrong to assume that weak regulation creates the conditions for more choice for individual workers. On the contrary, it generally means that there is more room for the imposition of employer demands, leading in practice to less choice for most employees.

As the discussion above suggests, the mechanism for the production of unpaid overtime and long hours is likely to vary from one workplace and industry to another. In general, however, the decisive factor seems to be employer pressures, and it is this factor — itself often embedded in broader employment and business strategies — that demands careful examination in further research on long hours. Examination of this topic is complicated by the familiar difficulties of analysing employer calculations and choices, which are shaped not only by the opportunities opened up by weak working-time regulation but also by varied other forces, including labour market and product market conditions and even the exigencies of political mobilisation. Familiar background considerations include intensified global competition and new technologies, which encourage employers to pursue more flexible working-time arrangements in order to reduce costs and help to meet changed conditions of demand (Bosch 1995).

There is no room in this paper to develop a full political economy of new management practices. But it is useful to develop one general point that relates to the way in which employer interests and practices in Australia have interacted with the regulatory system. What are the advantages of long hours and unpaid overtime to employers? Paid overtime is a traditional method of obtaining flexibility in the quantity of labour (Freyssinet and Michon 2003). Even with premium payments, it can be cost effective when the fixed costs of hiring



another worker are high. It can also be a favoured option in circumstances of skill shortages or when other avenues of flexibility appear shut off. More generally, it can be a device to maintain labour discipline. Unpaid overtime shares most of these advantages, with the additional merit, from the viewpoint of employers, of contributing forcefully to lower labour costs.

In the 1960s and 1970s, under conditions of full employment and strong trade union presence, weak working-time regulation in Australia allowed systemic overtime in several blue-collar sectors, but unpaid overtime was much less likely to be present. The crucial change occurred from the mid-1970s, as a result of the shift in global competitive conditions and the deterioration in labour market conditions. In Australia, as in many countries, one response in the subsequent decade was a 'flexibility offensive'. Many employers in Australia, supported by employer associations and political groups, called for more flexible working-time arrangements (Campbell 1997; Campbell and Mathews 1998; Buchanan et al 2006). They pursued this aim both through direct initiatives at the workplace and, more indirectly, through pressure on governments to withdraw protective regulation and to impose new rules that would give more autonomy to individual employers ('labour market deregulation'). Bosch (1995: 18–22; Bosch and Lehndorff 2001: 194) distinguishes three main categories of employer interests under the general heading of flexible working-time arrangements: first, extension of operating hours to make better use of existing capital equipment; second, adjustment of operating hours and working-time to fluctuations in demand (itself divisible according to whether the fluctuations are predictable or unpredictable); and third, replacement of expensive forms of organizing working-time with cheaper forms. Each could be found in Australia, but it was the effort to alter cost structures that assumed most prominence. At the workplace level, this entailed efforts by individual employers to encourage longer hours of unpaid overtime where the regulation permitted, to reduce the costs of paid overtime (including by converting it to unpaid overtime), to eliminate penalty rates, to multiply other flexibility options (in particular casual work), and to exclude trade union influence. In many workplaces, these efforts could proceed with relative ease because of the existing gaps in the system of working-time regulation. Only in some workplaces, generally larger workplaces in industries with stronger awards and stronger union presence, were the efforts less successful and more dependent on subsequent initiatives at government level.

In this explanatory approach, the main agency of change is employer initiatives, and the main transition is dated back to the late 1970s and early 1980s. In contrast to Wooden's effort at explanation, this approach does not summarily reject the notion of employer pressures (2003: 265). However, it does agree that the growth of long hours and unpaid overtime cannot be attributed just to labour market deregulation in the 1990s and beyond. This does not of course mean that working-time regulation is disregarded. On the contrary, working-time regulation plays a pivotal role. As competitive pressures on employers in Australia grew, their responses were shaped by awareness of the numerous gaps in the system of working-time regulation. Although these gaps were relatively

inconsequential in the more comfortable conditions that prevailed in previous decades, they proved to be a Trojan horse for employers in the changed circumstances of the late 1970s and 1980s (Heiler 2001). Subsequent changes in working-time regulation, at least up until Work Choices, have not been as significant. However, they have played a role in widening the existing gaps in the regulatory system and in establishing equality of opportunity for all employers to exploit the gaps.

## Conclusion

The proportion of full-time employees working long, and often very long, working hours in Australia is large, and it has been growing larger over the past two decades. This in turn seems related to the emergence of unpaid overtime as a prominent feature of Australian working-time patterns. After describing these developments, the paper sought to explain them. It sketched out an explanation that pointed to the impact of employer pressures within a framework of weak working-time regulation.

Australia may appear as an extreme case. But many of the same working-time trends and dilemmas, albeit in more moderate forms, can be detected in other countries. As such the extreme case of Australia may offer important lessons that need to be absorbed by policy makers in all industrialised countries. The Australian case suggests that the traditional labour movement struggle to limit working hours and to protect employees against pressures for long hours retains its currency in the present period. At the same, however, it is evident that this fight cannot be waged in the old way with the same weapons. The issue of unpaid overtime signals the development of new problems and new needs amongst a more diversified workforce. This in turn calls for refinement of the traditional principles guiding regulation as well as a rethinking and modernization of the structures of working-time regulation. One good starting-point is the notion of 'decent working-time', which incorporates five dimensions — working time arrangements should promote health and safety, be 'family-friendly', promote gender equality, advance the productivity of enterprises, and facilitate worker choice and influence over their hours of work (Messenger 2006: 420). This offers a useful framework for assessing current practices and current structures of regulation and for designing new paths forward in Australia and in other industrialised countries.

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## Notes

- <sup>1</sup> Usual weekly hours are the more familiar measure in most countries. However, regular data on usual hours have only been available in Australia since 2001 (see ABS 2003b). LFS data on long hours can be supplemented with time-use data, in particular in analyses that seek to examine long hours from the household point of view (Bittman and Rice 2002).
- <sup>2</sup> In this definition, overtime is strictly to do with extra hours of work for the employer, irrespective of whether or how these hours might be compensated. Overtime is not equated just with paid overtime. My understanding of overtime is similar to the notion of 'additional hours' used by Freyssinet and Michon (2003).
- <sup>3</sup> I concentrate on overtime regulation. But a similar judgement could be given for rest periods and holidays (McCann 2005, Annex 2).

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