

Individualism, Collectivism and Awards in Australia

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ABSTRACT

A central element of state regulation in Australian industrial relations since the turn of the 20th century is the award system. Indeed awards – which are the documents that record the decisions of arbitration tribunals, setting legally binding rules on the parties to the employment relationship – have long represented an iconic component of Australia's unique compulsory arbitration system. It is a system which has intrigued (and mostly mystified) foreigners. Eminent American labour economist, Professor Richard Freeman, for example, recently claimed:

'When I first learned that Australia and New Zealand used an awards system to determine wages, I had the same kind of reaction that early settlers must have had on seeing the platypus or emu – utter disbelief!' (Freeman 2006, p. 200).

Despite their oddity, understanding awards – their role, scope, and coverage as well as the processes by which they are made and enforced – is vital for an understanding of Australian industrial relations in general. This is especially the case because awards are more than an historical curiosity. They survived the Liberal-National Party Coalition governments of the 1990s and 2000s, albeit with significant changes, and they are even regaining some of their iconic status under new laws passed by the Labor government in 2009.

This paper explores the changing form and role of awards in Australia by focusing on the concepts of individualism and collectivism. These concepts are briefly discussed in first major section of the paper, drawing on recent literature (eg. Deery and Mitchell 1999; Bray and Underhill forthcoming).

The second section of the paper presents a (macro) legal and institutional analysis of awards in the national system of industrial relations. This macro analysis begins with the traditional compulsory arbitration system in Australia before the 1990s, where it is argued that awards performed two important roles. First, awards set legally-binding wages and working conditions for individual employees. In most cases these conditions represented minima, above which improvements could be negotiated, but in other cases (such as 'paid-rates' awards) the provisions were what employees actually received. The substantive provisions of awards thereby gave employees individual, legally-enforceable rights, in much the same way as minimum wage laws in many other countries. Second, awards also served to support unions and a collectivist system of industrial relations. Unions enjoyed a monopoly on employee representation in the making of awards. As well, many procedural provisions in awards gave great institutional support for unions, for example, through preference in employment to union members, leave entitlements for union representatives to attend training, and entrenched union representation in grievance procedures and in the event of redundancies (Martin 1960;

Weeks 1995). Unions also played a key role in enforcing compliance with award provisions (Goodwin and Maconachie 2007)

During the 1990s, however, legislative changes implemented by federal (both Labor Party and Liberal-National Party Coalition) governments had the effect of enhancing the individualist role of awards, but diminishing (indeed almost eliminating) their institutional support for unions. As a result of the 1993 *Industrial Relations Act*, awards became 'safety nets' only, thereby ending their role in determining actual (as opposed to minimum) employment conditions for workers in industries with strong unions. The process of 'award simplification' introduced under the 1996 *Workplace Relations Act* effectively removed from awards most procedural provisions which had previously supported the role of unions; these features of awards became 'unallowable matters' and were excised. This trend has been partially reversed in 'modern awards' introduced by the new Labor government elected in 2007, in that some collectivist supports have been re-introduced, although these supports are generally modest and the individualist character of awards largely remains.

The third section of the paper focuses on more disaggregated (micro) analysis, through illustrative case studies of changes to two individual awards. These awards are not presented as representative of all awards in Australia. Rather, they are different types of awards (one an industry award and the other an enterprise award) from different industries (one being the weakly-unionised hospitality industry and the other the highly unionised aluminium industry). We compare the provisions contained in each of these awards at three periods in time (ie. immediately pre-1993, post 1996/pre 2007, and 2009), revealing trends that support the macro analysis of the previous section.

Overall, the paper makes two main contributions. First, by locating awards in a relatively well known theoretical framework, it allows observers who are unfamiliar with the Australian system to better understand what has often been a peculiar antipodean institution. Second, the recognition of the individualist role of awards before the 1990s and the more systematic analysis of their role in the decline of collective (union) organisations after the 1990s provide novel insights even for those who are more familiar with awards and the Australian system.

References

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