

# Why workplace flexibility matters: A global perspective

*Two steps forward, one step back*

*Government policies supporting workplace flexibility: The state of play in Australia*

Sloan Foundation and University of Chicago Sloan Centre Conference

18 May 2006

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# Overview

1. Framing the discussion
2. How policy is made
3. Inferring Australia's policy position
4. Industrial, structural and legal supports

# 1. Framing the discussion

- The debate around workplace “flexibility” – ie flexibility for employers or employees or both?
- Key indicators of flexibility policies which are supportive of work/family:
  - Promote access to flexible work practices and leave (without disadvantage) at employee and employer
  - Ensure reasonable and predictable hours
  - Provide a legal safety net for non-compliant conduct
  - Ensure sufficient structural support to provide real choice.
- Policies inferred from governmental statements, industrial framework, legislation and structural supports
- Australian context
  - Work/family coming from a history of gender equity
  - Historical industrial framework supportive of collective bargaining and centralised arbitration
  - Part-time work perceived as a key enabler of work/family integration for women
  - Companies responsive to business and legal drivers

## 2. How is policy made?

- Ideas:
  - Proactive (generated by election promises) and
  - Reactive (responsive to external pressure groups, expert reports, departmental consultations/papers, parliamentary inquiries)
  
- Federal and State processes:
  - Departmental policy paper/draft legislation circulated to the community for comment
  - Minister makes submission to Cabinet, approved by Cabinet, if necessary Government legislation drafted and Bill introduced into Parliament. Cabinet submission must include a Family Impact Statement
  - Alternatively a Private members Bill introduced into Parliament
  
- Bill amended in one house of Parliament, voted upon, sent to second house for voting.

## 2. Inferring Australia's policy position

- No Governmental work/family policy vision statement, but Ministerial statements indicate flexibility is on the agenda
  - Federal Government statements identifying the
    - *"importance of workplace flexibility in promoting balance between work and family" and providing for the "right of workers to chose the employment which best suits their needs, be it casual, part-time or full-time employment" (Minister for Employment and Workplace Relations, 2005)*
    - *WorkChoices will "provide greater opportunities to balance work and family responsibilities" and "the best news for families is that their wages are higher, their jobs are more plentiful and their children are finding it easier to get jobs than they did 10 years ago" (Prime Minister, 2005)*
    - *"Flexible work practices will help attract and retain the best people in a fiercely competitive market" (DEWR, 2006)*
- Recent Federal initiatives: Welfare to Work reforms, Employer Readiness Strategy/Workforce Tomorrow, Reducing income tax and *WorkChoices Act 2005*, Budget 2006 focus on families
  - *"Helping families is one of the highest priorities of this Government" (Treasurer, 2006).*

# 3. Industrial, structural and legal supports

- Federal industrial supports
  - Legislated minima (minimum wages, parental leave, annual leave, personal/carer's leave and maximum ordinary hours of work)
  - Awards and agreements negotiated individually or at the enterprise level
- Structural framework
  - Maternity payment
  - 30% rebate for child-care costs
  - Funding of childcare places
  - Information =eg industry research/flexibility tools, awards and case studies
  - Federal Government Workplace Flexibility policy unit
- Broader legal supports
  - Discrimination laws (Federal and State) protecting carers in the workplace

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## 4. A critical analysis: what is “flexibility” delivering?

- Industrial legislation
  - Built on the assumption of equal bargaining power (*“The reality is that we do live in a workers’ market”*, PM 2005) and a partnership approach to benefit distribution
  - Conflation of any flexibility with family-friendliness
  - Reduction of gains made in the 2005 *Family Provisions Test Case* (ie right to request part-time employment after parental leave and to request a variation in hours)
  - Limited review by AIRC (a major force in creating work/family rights eg to maternity leave (1979), adoption leave (1984), parental leave (1990), family leave (1994), personal/carers’ leave (1995), parental leave for casuals (2001), reasonable hours (2001))
  - Job insecurity in smaller workplaces (because of removal of unfair dismissal rights)
  - Sole parents required to look for 15 hours work when youngest child turns 8
  - No systemic review process

## 4. A critical analysis

- Structural supports
  - Focus is on a narrow definition of caring responsibilities
  - Maternity payment not linked to workforce earnings or available to men
  - Inadequate access to, and financial support for, care
- Discrimination laws
  - No Federal legislative expansion in “family responsibilities” protection since 1992 (even though intended as a first stage when introduced)

## 4. A critical analysis

- In terms of the indicators (ie access to flexible work practices (without disadvantage); reasonable and predictable hours; a legal safety net for non-compliant conduct; and sufficient structural support to provide real choice) ....
- Government measures: formal access
  - Increased inclusion of work/family provisions in Certified Agreements between March 1997 and June 2005
- NGO critiques: outcomes
  - AWAs focus on time flexibilities that advantage employers in terms of cost and control, but result in lower pay for employees and less autonomy
  - Concerns that WorkChoices may exacerbate current issues with quality part-time work, casualisation and long work hours
  - Legal safety net now relies more heavily on individualised discrimination complaints, no review of Certified Agreements to ensure family friendly before approved
  - TOCC: quality, affordable and accessible care issues

## 5. Taking away the best of ...

- Acknowledge divergent frameworks of reference – and therefore policy initiatives
  
- Federal Government:
  - Legislated minimum for parental leave and carers' leave
  - Child-care rebate and maternity leave payment
  - Information focus: Employer Readiness Strategy, Workforce of Tomorrow breakfasts, awards and modelling (eg retail sector project)
  - Initiation of Senate Inquiry into Balancing Work and Family
  - Promotion of part-time work
  
- Other:
  - *State based initiatives:* eg Victorian Government Work and Family Balance Action Agenda (2003) and Report card (2005), WA Work-Life Survey 2004
  - *Considered research:* HREOC *Striking the Balance Discussion Paper* 2005
  - *Increasing legislative protection at State levels* for carers' responsibilities discrimination, and robust legal interpretation in Federal and State jurisdictions
  - *Strong NGO voices* filling the gaps, eg academics, EEONA and TOCC