

*Jobs, Care and Justice:
A Fair Work Regime for Australia*

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Professor Barbara Pocock

*Director, Centre for Work + Life
University of South Australia*
<http://www.barbarapocock.com.au> <http://www.unisa.edu.au/bawkeinstitut/cvl/>

Clare Burton was an important Australian. She had a powerful intelligence, a strong commitment to justice, and an exceptional capacity to understand how organisations worked. She saw the bones beneath the skin: the deceitful policy that cloaked the truth of discriminatory structural practice; the well-meaning leader whose unaware actions embedded unfairness or distorted organisational practice. And she was committed to follow-through: to excavating the truth, ensuring that action followed, and then sharing the fruit of her learning through the spoken and written word. She was both a diligent student of the world of work and public policy, and an energetic teacher.

As I remember her - *understanding* was important, but not enough. Overturning unfairness was the goal, and replacing it with systems and people who acted fairly for the better good. She had a glinting, muscular intelligence and she made a difference as single individuals sometimes can – especially where they choose to live amongst a challenging community of activists and intellectuals, as she did. It is an honour to give a lecture that bears her name.

In this lecture I want to explore the connections between work, care and justice. I argue that Australia is currently missing the opportunity to build a better society that is happier and more sustainable for its citizens in the longer term. I argue that Australian governments – of all political colours – are mis-reading the current political and demographic situation of Australians and creating a work and social regime that is a step backwards from what we have had, and very far from what we now need.

I join with other writers in other countries to argue for an ‘ethic of care’ to partner our well-developed ‘ethic of work’, and - beyond ethics or rights - for this to be *made real* – through facilitative public and workplace practice.

I want to argue that work regimes should meet fundamental tests of justice: that, from the perspective of a just society, work regimes should enlarge and assure particular human capacities that can be seen as universally essential for those who labour in a civilized society. Because of significant changes in our social fabric, these are not the basic rights or capacities that our forebears thought necessary a century ago. They are different - but not *so* different that some of our forebears would not recognise them. I describe ten basic capabilities as essential if workers are to work in a just regime and if Australia is to sustain its labour market.

I choose these capabilities against the background of a changing labour regulation framework in Australia, a changing workforce, and a changing international context in which our own labour

market is firmly embedded¹. I aim to show how this context underpins and gives power to my argument, which proceeds in three parts.

- First, I argue that a ‘capabilities’ rather than the more conventional ‘rights’ approach to work and its regulation is necessary and helpful. I use the ideas of Amartyr Sen and Martha Nussbaum and invoke an ethic of care (and the capability to care as well as work) as an essential element in understanding and supporting a fair and sustainable work/life now.
- Second, I explore the ways in which circuits of care and work flow through our labour market, arguing that our growing prosperity is underpinned by a thinned capacity to care, the undervaluation of care (especially its underpayment), and the commodification of care (by which I mean the ways in which we buy and sell care through the market). I illustrate some of these flows through several chains of care, where care degrades down the care chain with important implications for inequality, and the individuals who occupy its lower levels;
- Third I set out the key capabilities that workers in the 21st century need to exercise in order to have a sustainable working life in a sustainable and just society, and some of the public policies this requires. These policies are also necessary if we are to interrupt some of the more pernicious circuits of work and care, which increasingly construct prosperity on the back of those who care.

Along the way I use several examples of Australian workers at work today. Most of these arise from recent interviews and focus groups conducted by the Centre Work + Life by me and my colleagues, Dr Pip Williams, Dr Helen Masterman-Smith and Jude Elton, with the assistance of our partners, The Liquor Hospitality and Miscellaneous Workers Union, the Brotherhood of Laurence, Lend Lease Communities and SAUnions, all of whom I thank and acknowledge for their support – along with Kath Lockett for help with illustrations².

Australia is a very rich country – and becoming richer. Per capita GDP increased by more than 10 per cent in the six years to June 2006, and by \$80 billion overall (ABS Cat No 5206 Time series, table 1). While millions of children labour all over the world, very few of them are to be found in Australia.

We are, on average, amongst the happiest people on earth³. We led the world in the last century in terms of the fairness of our wages system. But we are now amongst those in the developed

¹ Some of this context is explored in my 2006 book *The Labour Market Ate My Babies: Work, Children and a Sustainable Future*: <http://www.federationpress.com.au/bookstore/book.asp?isbn=1862876045>

² These projects are funded by the Australian Research Council (DP0343368, LP0455108, LP0667496), along with industry partners including Lend Lease Communities, the Brotherhood of St Laurence, the LHMU, SAUnions, UnionsNSW the VTHC. Their individual collaborators include Robin May, Susan Oakley, Kelvin Trimper, John Buchanan, Iain Campbell and Daniel Perkins. See: www.unisa.edu.au/hawke/cwl.

³ International studies suggest that Australians score highly on subjective measures of happiness and wellbeing relative to most other countries and this has been so for some decades (Leigh and Wolfers 2006). However, happiness levels have been very stable over the past decade, despite significant increases in gross national product. Massive increases in national wealth have not been associated with increases in happiness. Indeed a poll of 1000 Australians conducted in August 2006 found that more Australians believe that life is getting worse than believe it is getting better. A quarter said the overall quality of life

world who are leading it backwards on key indicators like the length of the full-time working week, precariousness of employment, the hostility of work regimes to mothers and fathers, and the capacity of workers to bargain collectively – whether or not a majority of their co-workers agree or not⁴. We are an increasingly unequal society⁵.

However, our prosperity does not have to be at the cost of our capacity to labour with dignity, and to labour without imposing large hidden costs on children, the aged and those who rely at times on others for care⁶ – care that is so often reciprocated over the life-cycle. It does not have to be at the cost of our social reproduction⁷.

Justice at work: How do we decide what's fair?

What values should inform the work policies that underpin the working lives of Australians? What hand-holds can we create as we think about what would make a fair work regime?⁸

John Rawls, one of last century's most famous philosophers, used the device of an 'original position' to arrive at a theory of universal principles of justice. He invites us (assumed to be adults of roughly equal ability and good heart) to step behind a 'veil of ignorance' and – without knowing where we actually are in life's lottery – to devise basic principles for fairness. Knowing

was getting better, a third said it was staying about the same, and 39 per cent said it was getting worse (slightly more than in a similar poll in 1999) (Hamilton and Rush 2006; Eckersley 1999).

⁴ For example, the refusal of employees' choice to enter collective agreements breaches ILO conventions 87 and 98 (on freedom of association and collective bargaining) and the 1998 ILO declaration on the *Fundamental Principles and Rights at Work* (McCallum 2006). As Professor McCallum (2006) recently summed up: 'Work Choices laws have diminished the rights of employees especially by narrowing the safety net of minimum terms and conditions of employment and through the taking away of unfair termination rights from many workers. In my opinion, the Work Choices laws elevate managerial prerogatives to new heights over and above fair outcomes'.

⁵ There are many ways to look at this and some debate over it (Saunders 2005). Long term analysis of income tax data shows how the top end of the income scale has pulled away with the income share of the top ten per cent of Australians higher in the early years of this century than at any point since 1949 (Atkinson and Leigh 2006, p 12). Much of this momentum arises from the rapid rise in CEO pay since the early 1980s. In 2005 the average pay of Australian chief executives was 63 times that of average workers, compared to 18 times in 1989/90 (based on the Chief Executive of listed companies that are members of the Business Council of Australia (Shields 2005)). This compares to similar growth in the multiple in the UK and much greater growth in the US: in 1979 UK executives earned around 10 times the pay of typical British workers but by 2002 executives of a FTSE company earned 54 times the pay of such workers (Froud, Johal, Leaver and Williams 2006). In the US, CEO pay in 2002 was 281 times the rate of ordinary workers, up from 50 times in 1980 (Elliot 2006).

⁶ I recognise that not all care is the same. We need to distinguish commodified care in the private market, from familial care and care provided through the public sphere (by governments or charities for example). I also recognise that not all care is benign. We need to distinguish care that is patronising, disempowering or harmful, from care that is marked by – in Joan Tronto's words - attentiveness, responsibility, competence, and responsiveness, and which gives those cared for choice and control (See Tronto 1993, Williams 2001).

⁷ By social reproduction I mean not only biological reproduction of oneself (food, clothing, sleep) and of children, but also the reproduction of our larger society and community through wider social and care relations, civil life and citizenship.

⁸ Many scholars are turning their attention to these questions at present in Australia. See for example, Ron McCallum's Julian Small Lecture at the Law Society of NSW in Sydney on the 3rd of October 2006, a discussion paper prepared by Bromberg and Durbridge ("[A Charter of Employment Rights](#)"), and Joe Isaac's Foenander Lecture [Reforming Australian Industrial Relations?](#)

that we could be borne into any pair of shoes, he thinks we would arrive at two *general* principles: that we would insist on basic liberties (like political and religious freedom) and that we would – more controversially – ‘prefer a distribution of basic goods that would tolerate inequalities (because inequalities provide incentives to production) *only when those inequalities raise the level of the least well off*’ (Nussbaum 2001, p 3). It is worth noting that over the past twenty years globalisation has not passed this basic test, with the UN reporting that sixty countries were worse off in 1999 than they were in 1980 (*New York Times*, September 1, 2001, A8).

Rawls’ theory has been much debated. His conception that all citizens are equal and independent denies ‘the more asymmetrical forms of dependency’, he ‘naturalises’ the nuclear family (and thus diminishes women’s rights within it), he privileges income and wealth over other sources of well-being and inequality, and he is inattentive to questions of global distribution: he has been criticised for all of these (Nussbaum 2001, p 5). However, the veil of ignorance is a useful device for considering what *people of good heart* – surely Australians? – think basic rights should be. Placing ourselves behind a veil of ignorance, knowing we could end up anywhere, doing any job under any circumstances, what would we think were basic rights?

But are ‘rights’ enough?

Amartya Sen and Martha Nussbaum have – between them and not always in agreement - argued that the Rawls’ ‘social contract’ and ‘rights’ approach to justice misses an important point: firstly, that rights do not assure just outcomes. To do this we must go beyond *rights* to talk about *capabilities*: we must go from one’s right ‘to do or be something’, to one’s *capability* ‘to do or be something’ (Sen 1999; Nussbaum 2003)⁹. These are very different things. The capability approach emphasises ‘*substantial freedoms*’ such as the ability to politically participate or to live to old age. Not everyone needs the same resources to achieve the same capabilities, but it is the reality of the latter that is the measure of justice, rather than the distribution of the former. In the capabilities frame, poverty deprives people of their practical capacity to exercise rights, as does education or oppression. What is more, a capabilities approach makes the *necessity of care to creating capability*, transparent. In this way, the capabilities approach offers the prospect of fundamental justice for women in a way that contract theory – with its dis-embodied competent individuals and emphasis upon the public not the private sphere of social reproduction - does not. The question of justice cannot be resolved only in the public sphere if we are interested in what people ‘are actually able to do and be’. Our gaze must now penetrate the home – one of the primary sites where capability is made or restrained.

Beyond arguing for the notion of capabilities over rights, Nussbaum has gone further to advocate a list of central human capabilities – humbly suggested, evolving and open-ended, as she puts it - which she argues individuals (not households or families) must exercise to achieve a ‘minimal’ social justice (2003, p 40). Her list includes: life of normal length; bodily health; bodily integrity; senses, imagination and thought; emotions; practical reason; affiliation with others; being able to live with other species; play; and control over one’s environment (2003, p 41-42). Several of these connect to the world of work, which I return to below.

Rights or Capabilities?

The limitations of the rights approach is well illustrated in the work realm on the issue of child labour. In 2004, the ILO estimated that 218 million children around the world engaged in child

⁹ Sangheon Less and Deirdre McCann have recently applied the capability approach to analysis of working time (Lee and McCann 2006, p 65-92).

labour (ILO 2006, p 1). More than half of these - 126 million - were working in hazardous jobs¹⁰.

The global community has agreed since 1919 on the *rights* of children not to engage in child labour - since the earliest days of the ILO and its first conventions. But ending child labour is of course about much more than international expression of opposition through the formal black letter of convention and rights. It is about much more, even, than strong national law and powerful enforcement mechanisms. Its realisation requires new capabilities for poor children and their households, especially education and poverty eradication measures that create alternatives and alleviate the powerful economic drives that send children to work. Such measures create the *capability* of living without child labour, and it is this *capability* that is so essential to the world's children.

Without these, the declaration of a right is ineffective. In some cases, it is worse than ineffective: it provides cover for high levels of child labour. What children need is the household and personal *capability* to live as children without labour. This requires sources of sustenance that are beyond the child and are vital to give a right real meaning.

How to fit 'care' in a just society?

There is a second significant problem with the notion of rights as a basis of justice, which it is important to recognise in relation to the world of work in Australia.

Behind Rawls' conception of a veil of ignorance live only able-bodied, independent citizens, existing in the public sphere. What values would we consider essential if we allow that many of us live for many years in other states of varying dependency or care responsibility?

The social contract and rights framework developed by Rawls does not recognise dependency. If justice is designed to exist between people of competent equality, how do the dependent fit and what are their rights? If we leave the issue of care until *after* people are assured basic rights, we construct a system with particular implications for both those who need care and those who give it. This touches on the basic human rights of many citizens: women, children, sick people, the aged, and the disabled. Many of us will be in these groups over our life-course. For this reason, Nussbaum adds 'the need for care in times of extreme dependency' to the list of Rawls' list of 'primary goods' like political and religious freedom – and she implies it in her list of central human capabilities. As she puts it:

Any real society is a care-giving and care-receiving society, and must therefore discover ways of coping with these facts of human neediness and dependency that are compatible with the self-respect of the recipients and do not exploit the caregivers. This is a central issue for gender justice. (2003, p 51).

¹⁰ Fortunately, child labour has been falling in recent years (by 11 per cent between 2000 and 2004). However, despite international conventions against it since 1919, one in seven of the world's children aged between 5 and 17 remain engaged in child labour. And a much higher proportion in regions like sub-Saharan Africa where HIV/AIDS and very rapid population growth are driving high levels of child labour, including as child soldiers (ILO 2006). Of course not all child labour is bad. Indeed I believe that children should be strongly encouraged to participate in domestic labour and some forms of non-domestic labour under particular circumstances. This participation is a vital element of a child's education and development. However, learning the value of cooking and cleaning in an Australian household, is very different from the forms of child labour that the ILO is combating.

It is not enough to be invested with primary political rights: these must be realisable and they must recognise that there are times over the life cycle when these rights cannot be deferred as minority or secondary concerns. Doing this confers second-rate rights upon those who require care or give it in ways that constrain their independence – who must defer their freedoms, political citizenship and capacities while they receive or give care.

Several of Nussbaum's central human capabilities have implied forms of care. For many citizens the absence of care, *or the incapacity to combine work and care*, will deny them life itself (Nussbaum's 1st capability), health (2nd), bodily integrity (3rd), emotions (5th), affiliation (7th), or control over one's environment (10th).

In many ways the capability approach, which specifies the essential role of being able to live and care for others, and to have health and relationships, meets some of the concerns of those – like Fiona Williams - who have advocated an 'ethic of care' 'to balance the past century's fixation with the ethic of work' (2001, p 489). Williams' challenges the Blair Government to adopt strategies that are attentive to a more just care regime 'as the basis of welfare citizenship' (2001, p 486). The same is required in the world of work and the labour market.

Capabilities, care and a just labour market

The problems with social contract theories of justice – of real capability and of dealing with dependency - are first order problems in thinking about a fair labour market. But they figure all too little in usual discussions about labour market standards or rights. Even Nussbaum's list of central capabilities, says little about work itself beyond the fact that basic capabilities should include 'adequate working conditions' (2003, p 53).

A just and sustainable labour market must deal with these two problems. Rights must take life as *capabilities*; without this possibility they are mere theory. And labouring must be possible *alongside* the giving and receipt of care; without it, the labourer is a fiction, since without care he cannot be born, he cannot survive illness and incapacity, he will probably die early, and he cannot be reproduced to make the next worker. The disembodied worker is a fake construction of masculinist philosophy, as well as neoclassical economic theory and market-driven industrial relations law and practice. In the words of Kittay he is captive 'of the myth of the independent unembodied subject - not born, not developing, not ill, not disabled and never growing old – that dominates our thinking about matters of justice and question of policy' (Kittay et al 2005, p 445). He functions as convenient cover, veiling the embodied work of social and physical reproduction.

To build labour standards around this fiction is to create injustice on four fronts:

1. to those who need care
2. to those who give it (and these first two are not of course separate groups)
3. to the quality of society that is diminished by threadbare care, and
4. by the inequality that is given momentum through the commodification of care that favours those with high levels of market power, and who prosper at the cost of those who provide cheap care labour and those who cannot afford to buy quality care at market rates.

Prosperity Built on Care: Some Illustrations

I'd like to illustrate what I am getting at with some examples.

The Nanny Care Chain: Susan, James, Jennifer, and Casper

Susan¹¹ is a 57 year old mother of three who works as a nanny to James, the toddler son of a senior executive – lets call her Jennifer – who works in a large, profitable company. Jennifer's husband also works fulltime, and Susan spends more time with James than either of his parents. Jennifer is 'never' home before 6.30 pm. Susan gives a great deal of warm responsive care to James and builds relationships in the local park and playgroup, meeting many grandmothers there. She constructs much of the local social connection that surrounds James and his playground friends.

Susan has been employed from the time James was born. She works on average 40 hours a week for exactly \$13 an hour. She loves her job and the child she cares for – and is very grateful that she gets a paid holiday when Jennifer takes leave, and gets sick pay – although she is rarely sick – and she is glad she does not work in a childcare centre which she has found 'exhausting' in the past.

However, she does not love the careful budgeting she has to do to live on her wage of \$520 a week, and the fact that she is not paid superannuation, penalties or overtime, though she regularly works more than 10 hour days and on Saturday nights. She finds her job tiring, and has not had a pay rise in two years, has no contract of employment or any workers compensation insurance¹². She keeps a buffer of \$3000 in the bank in case things go wrong. She feels her pay rate is very low for the 'huge responsibility' of looking after James. Her three children – which she raised as a single mother - have now left home. She is a qualified teacher who emigrated from Scotland 33 years ago, but has not worked as a teacher for many years. Her earnings over her working life have been on a downward slope as she has sought a job she likes and can fit her life around over a high pay rate, and she now believes that at her age she has no employment choices or career prospects.

Susan's boss, Jennifer – like Susan herself - is one of the thousands of women whose paid work underwrites the steady increase in GDP and female participation rates in Australia, especially amongst mothers of young children. She is exceptional, however, in her pay rate and executive level employment. All of Susan's negotiation around James' care is with Jennifer – her husband is not mentioned by name in the interview.

Jennifer's labour market participation, and that of her ghostly husband – lets call him Casper – is underpinned by the low paid labour of Susan. In that sense, the rising rate of female labour participation has two supports: it depends on both Jennifer who in turn depends on Susan. Who else is caught in this chain of care?

¹¹ Susan was interviewed by Helen Masterman-Smith in September 2006. Real names are not used in this paper and some identifying details have been modified. Susan is one of 86 low paid workers interviewed through the 'Low paid employment in the services sector project' in 2005/6. These interviewees were randomly drawn from union membership lists and from public advertisements inviting low paid workers in the childcare, luxury hotels and cleaning industries for interview in Sydney, Melbourne and Adelaide.

¹² Like so many workers we interviewed, she internalises responsibility for these gaps: 'I'm in the wrong there. I should have insisted on [a contract]'

In giving love and care to Jennifer and Casper's household, Susan denies it to herself – and to her own loved ones. She is part of a chain of care where care flows ever upward. Her low pay rate and inflexible hours have significant effects on her life. These days she hesitates to go to the doctor because her last 'gap' payment was so high, does not go to the dentist and rarely goes out with friends – both because she cannot afford to and because she is too tired. Her self-care is going to be further affected into retirement because Susan has 'no superannuation as such' and Jennifer does not pay any: she will be poor in old age.

However, the 'care deficit' in her household, reaches beyond her own self-care. Susan has a very elderly father, Des, for whom she is the only relative in Australia. Susan can only have a day off when Jennifer does, and because of this inflexibility she has had to give up taking her father, to his fortnightly hospital visits. She is very grateful that Jennifer did not hesitate to let her have a week off a few months ago when Des was hospitalised with heart problems ('Jennifer was actually very good') – though she was not paid for it. She says:

I don't have enough time to spend with my Dad. I need to work fulltime to support myself...I feel very guilty sometimes that it is my Dad's neighbours who are taking him to his doctor's appointments ... I should be the one. I want to be the one because my Dad has helped me out a lot, even looking after the children because they moved over to [my city] and helped me a lot... and I feel I would like to repay that a lot and I would like to be the one that takes him to do his shopping and takes him to his doctor's appointments but I'm just not able to do it because I have to work to keep a roof over my own head.

Down the work/care chain that begins with Jennifer and Casper, are James, Susan, Des and Des's neighbours. They carry the care deficit. In a sense they *all* underpin the labour market participation that our prosperity is built upon. But some reap larger rewards. The companies Jennifer and Casper work for are primary winners, as is their personal prosperity and the larger labour market, along with the state through their taxes. The outcomes for James are unknown. However, there is no uncertainty about Susan's relative situation. She gains much less and her gains are offset by her own shrinking social circle, constrained by the time and money she does not have, as well as guilt and concern about Des. Susan's father also misses out, as Des's friends and neighbours step into the gap. As we move down the care chain, the quality of care deteriorates with quality care at the top for James, and a loss of care for those at the bottom like Des.

What is more James' quality care is not available to all the children of the thousands of women who have joined the labour market in the past ten years. Shortages of formal childcare restrict childcare choices. For others, care is expensive. Finally, the quality of care is variable across centres, with important questions now arising around corporate childcare provision in particular (Rush 2006a,b).

In the past six years of continuous economic growth in Australia, the number of women entering the labour market has outnumbered men: 621,600 to 580,400 (ABS Cat No 6202 August 2006). Increasing numbers of women are joining men in their paid work, and our leaders want more women to do so as our working population ages – especially sole mothers on benefits. At the same time, our leaders want women to increase their family size.

Many women who have joined the labour market in the past twenty years are part of the kinds of care cascades and time/income trades that Jennifer and Susan's chain illustrates. At the bottom of the chain are those who depend on the workers who look after the workers up the chain. Without decent pay, decent conditions (especially access to flexibility around working time), and

quality, affordable, accessible care options, the lives of the second tier of working carers, as well as the dependents of both the first and second tier of workers are potentially seriously damaged. This includes many children at present, and it will include many more aged baby boomers in the not too distant future. Women like Susan do not hire a nanny to look after their children or a carer to look after their father. Without good public care systems, and decent labour standards, their labour market participation pushes the work/care deficit down the chain onto those who cannot speak for themselves¹³.

Sometimes the larger neighbourhood is asked to pick up the slack – a neighbourhood that is itself thinned by the sucking force of paid work.

Care and Work in Luxury Hotels

This chain has many faces. Let me illustrate with another Australian and then an international example. Consider room attendants in Australia's five star hotels. For example, Nina who works in a luxury hotel coordinating room attendants in one of Australia's largest cities. She has worked there for 13 years. She is very happy to have been promoted coordinator of room attendants, because room attendant work is 'very hard' but she is still earning the same rate: less than \$15 an hour. She is Filipino and was trained as an accountant. Like many low wage workers she works long hours (more than 50 a week) and on weekends to boost her pay rate, but this means she cannot see her 15 year old daughter, Ria, very much, which she greatly regrets. Her long hours are compounded by a daily round trip commute of about two hours. Her husband also works but beyond paying the rent he does not support Nina or her daughter who must live on her earnings of less than \$30,000 a year. She left her husband recently for a time, because of the pressures in her life she says, and her health has suffered. Nina is essentially, one of her city's 'key workers' as they are called in London: a luxury hotel cannot function without room attendants. But Nina and her kind are unlikely to receive help with housing or higher pay to keep them at their jobs. Instead competition for their jobs is strong and they must commute a long way each day in order to find suitable housing – rental in Nina's case. She will never own her own home.

For workers like Nina – and a number of other Filipino hotel workers we have interviewed – their workplaces have become more uncertain with 'WorkChoices'. They say they feel less secure at work, more pressured and have less predictable hours. The climate in their workplaces has changed.

Nina is *time* as well as *income* poor. She *sells* care to her community in the form of coordinating cleaning services. At the same time, she needs to *give* care to Ria. The terms of the former, determine her capacity to do the latter. And it is not just her pay packet that shapes the quality of care she can give (though that is very important). It is also the amount of time she has for care, the predictability of that time, and her state when she gets home. If she is not paid well she cannot provide basic care (food, housing, clothing). If she has unpredictable hours, she cannot give her child secure care. If she is cranky, tired and stressed she cannot give good care. If she is unable to be part of her community, to share a meal with friends – which she cannot afford – it is diminished. The labour standards that Nina needs to sustain her workplace, herself, reproduce

¹³ It is striking how tentative Susan is about her rights and how she takes personal responsibility for her absence of contract – despite the fact that she is working in a tight labour market, with a three year qualification and 32 years work experience. She wants an extra dollar an hour and knows that her colleagues are receiving it. Nonetheless, she does not ask her boss – with whom she has a good relationship – for a pay rise.

her child and contribute to her neighbourhood, require minima that include a pay packet but go beyond it.

What is more Nina lives in an unstable relationship, partly shaped by her employment circumstances. She does not have access to her husband's higher income except that he pays the rent and 'occasionally puts some things in the cupboard'. The gender contract in Nina's household leaves her with the care responsibilities alongside her long hours of paid work.

Nina's care chain creates significant gain for a highly profitable luxury hotel sector and the people who make use of her services. However, her child's care is compromised (because she cannot be there for Ria when she feels she should be) along with her own social relations. She says she won't be able to retire but will need to work until 'I [will] die... I won't reach that retirement level'.

Increasingly, low paid workers can only reproduce themselves through the hefty underwriting of the state through family allowances, rental subsidies, and other tax-payer supports that are essential to make up for an unsustainable wage. The bottom line of corporations, like those running luxury hotels and others who benefit from the work of low paid workers, is nicely boosted by these public subsidies - as well as by the underpaid efforts of low paid workers.

Many Filipino workers send money home to their relatives, passing on some of the gains they have achieved to people on much lower income at home, some of whom are maintaining the local Filipino communities which they have left. They are part of an international chain of work and care which has both positive and negative sides.

International circuits of work and care

A 'global care economy' exists, underpinning labour markets in every country and Australia is wired into these circuits. This is not some remote artefact of esoteric interest. Rising dependency ratios in every OECD country speak to its significance. Dependency ratios (defined as the ratio of those of non-active age to those of active age in a given population¹⁴) are predicted to increase significantly over coming decades especially after 2010 and particularly in the European Union and Japan. This reflects the declining birth rate and increasing life expectancy. Across the OECD the ratio is expected to double by 2050 (Visco 2001). Thinned care capacities and emaciated social ties, do not speak well for the future of care in some wealthy OECD countries. As a result many are entering new international care trades with poorer countries.

Rapid population growth in poorer countries accompanied by high levels of national poverty is accelerating immigration to countries facing a shortage of carers. This has important implications for global care and work flows. Lets consider an example in the US. Like Nina and many of her colleagues working in luxury hotels, Vicki Diaz was also born in the Philippines. She has five children. (Vicki was interviewed by Rhacel Salazar Parrenas in the late 1990s and I'm drawing on her 2001 book, *Servants of Globalisation*.) Like 6.5 million other Filipino immigrants now residing in over 130 countries – she left her home and children in the 1980s to work as a domestic worker, cleaning and caring for children first in Taiwan, then in Beverly Hills. In her first nine years in the United States she saw her own family for a total of three months.

Trained as a teacher, she has gone from the Philippines' middle class in her own country (earning US\$40 a week) to join the US working poor, earning US\$400 a week, and sending most of it

¹⁴ This is far from an accurate measure of dependency, of course, as at any one time many people of working age are dependent on others because of maternity, illness, disability or other infirmity, and many of non-working age are very independent of the support of others.

home, like so many Filipino immigrant workers. She has no immigration papers. Her relationships with her own children are sad, remote and commodified: clothes, computers and other goods substitute for a maternal presence, and her love for her own children is displaced onto the white, wealthy children of her Beverly Hills employers. She is just one small cog in the international hierarchy of global work and care flows. She is explicit about displacing love for her own children onto those she cares for:

Even though it paid well, you are sinking in the amount of your work...It was also very depressing... The only thing you can do is give all your love to the child [you are caring for]. In my absence from my children, the most I could do with my situation is give all my love to that child. (2001, p 87)

These international circuits of care are racialised. Rich white nations (like the US, Canada and the EU – and in Australia as our interviews with hotel workers show) draw on mostly women and some men of colour from Asia and Africa to do their care and dirty work, usually at very low pay. Unfortunately this creates an international distributional care injustice, as care is drawn ‘upward’ and away from the country of origin where a local care deficit is created.

This has important personal implications in the family networks and dependents in families, where poor workers of colour give care to the white rich at the cost of caring for their own families who may miss out on adequate care as a result (Kittay et al 2005, p 459). Salazar Parrenas describes a three tier transfer of reproductive labour, as women in the First World move into paid work, their children are cared for by immigrant women who leave their own children behind to be cared for by a third tier of the lowest paid carers. As a result, the quality of care – and certainly its rewards - often deteriorates as ‘care is passed down the international transfer of care taking’ (2001, p 73) and the Third World takes on a share of the reproductive work essential to labour participation in First World countries.

Freed of household constraints, those on top can earn more and consequently afford better-quality care than the domestic workers whom they hire. With their wages relatively low, these domestic workers cannot afford to provide the same kind of care for their family. They in turn leave them behind in the Philippines to be cared for by even lesser paid domestic workers. Relegated to the bottom of the three-tier hierarchy of reproductive labor, domestic workers left in the Third World have far fewer material resources to ensure the reproduction of their own family. (Salazar Parrenas 2001, p 73-74)

In Arlie Hochschild’s words, a ‘care drain’ thus enjoins a ‘brain drain’, as private acts of immigration are undertaken to meet the public problem of a First World care deficit – at great emotional cost arising from what she calls ‘global heart transplants’ (Hochschild 2005, p 190). At the bottom of the international hierarchy of reproductive care are the children of the end-carers in the Third World. We know all too little about how they fare, although what we do know reveals social and material injuries (Arlie Hochschild 2005, p 4).

In much the same way as Jennifer relies on Susan in the account above, rich nations can meet the ‘care deficit’ created by women’s entry into paid work and men’s failure to do enough of it, by drawing on imported carers, but only by creating a care deficit down the global care chain – one that poorer communities are least equipped to meet (Kittay et al 2005, p 464). ‘A labour of grief’ is also created both for the mothers who leave their children behind and the children who plead for their mothers to come home (Salazar Parrenas 2001, p 149). As another of Salazar Parrenas’ interviewees, Rosemarie Samaniego, describes:

The work I do here is for my family, but the problem is they are not close to me but are far away in the Philippines. Sometimes, you feel the separation and you start to cry. Some days, I just start crying while I am sweeping the floor because I am thinking about my children...If I had wings, I would fly home to my children. Just for a moment, to see my children and take care of their needs, help them, then fly back over here to continue my work (2001, p 119).

Kittay et al argue for a global ethic of care to meet this problem which creates obligations for those who draw on the care of the poor immigrant and drain the quality of care in the country and family network of origin (2005, p 454). The argument that these trades benefit poor countries of origin has to be weighed against international measures of inequality with a widening gap between rich and poor countries. While this trade might have some 'trickle down', it has a much greater 'trickle up' effects with the wealth of the white wealthy rising much faster than at the bottom (Kittay et al 2005, p 461).

The international character of care chains creates a strong argument for international cooperation around decent work standards, the fair remuneration of care and good national public systems of care to underpin the growing labour market reliance on the paid work of traditional carers, mostly women.

The Australian approach to a fair and reasonable work standards

Returning to Australia, recognition of the necessity of allowing for care and social reproduction in the regulation of work is not new in Australia. It had a very early life in Australia in the wages system through the decisions of Justice Higgins. At the beginning of last century Higgins used the analogy of a horse in one of his early wage fixing decisions. Essentially he said that an employer had a duty to employ on terms that allowed employees to reproduce themselves and frugally support their households including their children, in the same way that someone who borrows your horse must give that horse 'proper food and water, and such shelter and rest as they need' (Rickard 1984, p 172)¹⁵. Higgins' anticipated that a living wage rate that achieved this would be above the market rate¹⁶.

¹⁵ Higgins defined 'fair and reasonable' wages as 'the normal needs of the average employee, regarded as a human being living in a civilized community' (Rickard 1984, p 172). For him, being a civilised being contained the proposition that one should have the *capability*, through work, of being able to reproduce oneself, saying – with echoes of the Pope Leo XIII's *Rerum Novarum* reference to 'frugal comfort':

If A lets B have the use of his horses, on the terms that he give them fair and reasonable treatment, I have no doubt that it is B's duty to give the proper food and water, and such shelter and rest as they need and, as wages are the means of obtaining commodities, surely the State, in stipulating for fair and reasonable remuneration for the employees, means that the wages shall be sufficient to provide these things, and clothing, and a condition of frugal comfort estimated by current human standards' (Rickard, 1984, p 172).

¹⁶ This reflects the fact that Higgins saw an imbalance between workers and their employers, which labour standards were a response to. For example, in the 1912 case in the shipbuilding industry, he spoke of the:

general helplessness of individual employees as against employers...Th[e] power of giving or refusing employment – of giving or refusing bread – is a tremendous factor in the bargain, an unfair weight thrown into the scale...and no one who fails to recognise this position can appreciate properly the forces which have impelled our Australian parliaments to interfere...with contracts between individual

Higgins imagined this worker – a man - would reproduce himself through a family of about five – the size that a worker had ‘a right to plan for’ – and coincidentally the same size as our Treasurer wants all Australians to aim for.

Higgins’ notion - at the root of Australia’s wage fixing system until relatively recently - *anticipated and supported* the capability of social and personal reproduction by means of a living wage and working conditions. However, the care chain that he envisaged began with the husband who worked, and ended with the wife who cared – for her husband, herself, the children, extended family and presumably the larger community.

There are some difficulties with Higgins’ approach from the point of view of fairness – as there were from the moment of its inception. It will certainly not do now. Firstly, Higgins’ believed men needed a ‘reproductive’ wage¹⁷ – that is, one that sustained the worker and his wife and children - while women did not. And when this principle was finally set aside in the overdue equal pay decisions of the nineteen-seventies, the ‘capacity-to-reproduce’ element of fair wage fixing was lost amidst the win.

A decent working time regime

There is a second problem with the approach of Higgins’ time. As we have seen the capacity to work as well as care relies on more than a decent wage: it relies crucially on a decent working time regime. Five elements of working time are critical if workers like Susan and Nina are to *both work and to sustain* themselves, their households and their communities and to minimise the damage done on the lower links of the care chain:

1. time off from work – the opportunity to not work when care needs are intense
2. the opportunity to work short hours
3. appropriate configuration of working time around common household and community ‘time’
4. predictable working time
5. some say for the worker over working time.

And it relies on some other capabilities beyond a wage level and working time. I want to return behind Rawls’ veil of ignorance, with our stance of ‘good heart’, to consider the other working conditions essential to a just basis of work. However, before I do so, I’d like to consider three other emblematic accounts of working life with implications for what those conditions might look like.

employers and employees. The contracting parties are not standing on the same level. The contract is not free...

¹⁷ By ‘reproductive wage’ I mean the capacity to reproduce *oneself and one’s household and to be part of a sustainable society*. Individuals are reproduced not only through their own children, but through their labour to care for others - beyond children - to create a reproducing, sustainable society. This includes self-care and care for others like the infirm, sick, aged and disabled, and capacity to participation in civil society. By this definition, a labour market that allows reproduction is as relevant to men as women.

Labour Markets Eating into Care

Margaret and her husband Max live together. Their children are grown up. Margaret works as a low paid carer in a private aged facility, earning \$20,000 a year or less than \$15 an hour. Her aged father is a resident in the home where she works: 'that's what keeps me there'. Her husband Max works as a press operator in a car plant earning between \$35,000 and \$48,000 a year, depending on overtime. They share their income – unlike Nina and her husband – but they struggle to make ends meet.

However, their struggle is not just over money. It is also about time. Like Nina, Margaret has to work a lot of hours to get decent weekly pay. While Max's hours are predictable and his overtime is paid a loading - at least 'until Howard gets his bloody way', as he puts it - Margaret is not so lucky. She is not paid penalty rates, her hours change unpredictably and she feels she can't say no to extra shifts – to keep her supervisor happy, to keep her job, and to maintain her income. She travels up to two hours a day, depending on traffic, and she doesn't have much social life, 'can't afford to go out for meals or to bingo'.

Her low pay puts her health and relationship under pressure. She doesn't buy what she can't afford and, like many low paid workers, is keen to avoid welfare and debt, preferring instead to cut back: 'just tighten the belt, let the food run down, get more hours at work'. Max worries about Margaret: 'She doesn't get as much money as I do, but she works twice as hard'. He says that she is often cranky and tired, and stressed: 'even when she's got days off she's stressing that every time the phone rings, they will want her to work' – and they often call on weekends: 'And she doesn't want to [go] but she knows if they get her she's going to have to work.' For Max, however, 'you walk out the gate, you don't think about it'. Max summarises their lives as 'running to stand still' and Margaret worries about 'passing on' a low-income life to their children who they cannot help with education costs.

Who is responsible? Internalising responsibility, taking the blame

Margaret's father is cared for in the home where Margaret works. The market is now playing an expansive role in our care economy in Australia as a consequence of the diminished capacity in private households - which are thinned or over-burdened - and because of the shrinking capacity of the public sphere to care.

Market-based solutions to the care shortfall in a country like Australia have important implications for inequality with the rising levels of wealth dependent upon the contribution of underpaid carers – those who clean the offices, factories, hotels and homes of the well off, care for their aged and children. Their capacity to bargain their conditions upwards is severely compromised – not least by their caring responsibilities, which make a pay packet so critical to household welfare. They are timid in bargaining, often in close – even intimate - relationship with those they care for, frequently immigrant with English as their second language, and often isolated and ununionised. Many internalise responsibility for their situation, having little knowledge of their formal rights, and little inclination to rock the boat in ways that might compromise say over their working hours, or even their jobs.

Placing Boundaries Around Work

But negative effects arising from the changing nature of work and care in Australia are not confined to the poor, immigrant or to those with dependents. New work patterns also affect the health, relationships and social fabric of the young, able, healthy, highly paid and skilled individual and couple – many of whom also internalise responsibility for chronic over work and struggle to care against the pull of work. I'll illustrate through two examples.

Nick is a young engineer who lives on the perimeter of an Australian city with his wife who is an occupational therapist. He has been working as an engineer for six years since he finished university¹⁸. He travels a long way – two and half hours a day – for a well-paid job he finds exciting. Like most of the young professionals we interviewed, he works long hours: an average of 50 hours a week. But he has worked hard to get these down from even higher levels after wearing his health – and his relationship – out. Nick has ‘clawed back’ his hours and now rarely takes work home because he sees long hours as corrosive. What’s more, if you work them they become an ever-increasing ‘norm’. He has set a new boundary because:

I really want quality of life...I thought about it hard, and I thought at the end of the day what I really want is *ongoing enjoyment* - ongoing time to spend on bushwalks, to spend with my family and have a barbeque on the weekend when I don't have to think about that project due Monday and having to login and spend three hours doing reading. Instead I'll have a few friends over for a beer, just enjoying time. You want to be focused on sitting there, laughing and having a good time. That diminished a lot for me in the last couple of years [of very long hours]. I'm trying to claw some of that back by setting up boundaries.

Like most professional workers we spoke with, Nick has entirely internalised responsibility for his long hours and clawing them back. Managing them is his job – and the individual job of all the other engineers he works amidst – and his exciting job is a powerful opponent to his commitment to his partner and larger life and friends.

Taking Work Cultures into the Home: Cool Modern Women on Men's Terms

In a second example, Annie, a 38 year old professional administrator in the public sector works 60 hours a week, has a full-time partner, two young children in late primary school. She copes with the demands of her job by grafting the work habits of careful time management and self-containment learned in the demanding workplace onto her home. She asks her home, partner, children, and extended family to ‘give’ to work - and to live a household life as scheduled as her workplace:

We talk about [the workplace's] *family friendly policy*, and at home, we talk about the culture of *work friendly policy*. So, just as we expect the workplace will give us time to knock off early or stay home, then we have the same thing at home where it's expected that if work needs me, to stay late for an event, or come in early, or those sorts of things, we give that *the same respect* as if we were asking back from the workplace.

Annie relies on the support of her extended family - who she has had to coach to support her decisions to return to work after eight years at home. She now manages through tight scheduling:

I've scheduled my whole week. Every part of the week from when I wake up to when I go back to bed, it's scheduled. I've scheduled in my free time, I've scheduled in when I'm going to watch TV, I schedule when I'm going to sit down and read a book, I schedule when I'm going to make phone calls, even if they're...

Interviewer: You mean you write it down?

I write it down in my diary. We've got a diary at home next to the phone, and we say the family rule is if it's not in the diary, it's not on. So, everyone can see it, if you're going to be

¹⁸ Nick and Annie – not their real names – are amongst 68 workers and residents we recently spoke with in 14 focus groups conducted by myself and Dr Pip Williams at Mawson Lakes (11 kilometres north of Adelaide) and Caroline Springs (25 kilometres out of central Melbourne).

out of the house for something or other or need to go somewhere, it needs to be written in the diary so people know where you are. We need to communicate very tightly.

Interviewer: Organisation's terribly important?

It's extremely important when you've got people who have got outside commitments and also, neither of us are working straight 9-5 jobs. So we might go 2-3 days where all we're doing is seeing each other as one goes in to watch the kids, and the other's going out to watch the kids, and we'll communicate by text messages to make sure that we know what's happening.

Annie's transmission of work efficiency to home mean that she and her husband can cope with their busy schedules and still maintain a family life and community activity. But only if the demands are contained and managed closely. Her strategies are reminiscent of what Arlie Hochschild describes as the emotionally 'cool modern' woman who applies an 'ascetic self-discipline' to her 'appetite, her body, her love' - and beyond these to her children and extended family - as she adopts 'male rules' of work and love (2005, p 26). Not surprisingly, Annie's family are a 'bit hesitant about her employer's offer to give her a laptop for home'. They are about to move house to be closer to her work. In Annie's view her work challenges 'are all about the individual's ability to balance', in similar vein to Nick's. She works extra hours because she likes to do a good job. And her family is as scheduled as her staff and working life.

Hochschild describes American families as the 'shock absorbers' of a stalled gender revolution where (with the assistance of feminism) care has been commodified and 'lighter and cooler' family and social bonds are the emerging order (2003, p 27). In Hochschild's view 'Instead of humanising men, we are capitalizing women'. In the examples above, Nick is in fact struggling to be human and released from the 'tether' that long hours create (Abrhams 200), while Annie and her household are 'masculinised' and scheduled as she rises to the challenge of a demanding job in a workplace with exemplary flexibilities but demanding workloads which wash away real flexibility. Nick's individualised efforts seem a weak antidote to the powerful cultures of demanding work, while Annie's internalisation of the work clock and her requirement that her family adopt the work clock, and 'give' in an 'understanding reciprocity' represents the forward march of working women on men's terms. In this model, care is managed, sold and contained.

We have to consider the cost of such work patterns to love and care - to the reproduction of children, happiness and social relations. And these habits need consideration as we construct fair standards of work.

Weak Solutions, Strong Solutions

Most workplace-based work/life programs are inadequate to the problems that working life creates for workers like those above. Susan, Jennifer, Nina, Vicki, Margaret, Nick and Annie have work and care issues that are unlikely to be fixed by the most well-meaning locally- or workplace-based work/life program or work and family policy, or their best personal efforts to privately deal with a clash of work and care. Such responses are (as Linda McDowell calls recent UK innovations) timid and inadequate (2001, p 155¹⁹). They are a weak opponent to powerful workplace and individualising cultures that 'hyper-valourise' personal independence, fail to provide basic structural supports (like adequate paid carers leave or a living wage for working carers) and create new and higher standards of intensive work.

¹⁹ McDowell is referring to the recent UK reforms like paid maternity and parental leave, rights to request part-time work and so on. While 'timid' they are far in advance of current Australian formal provisions.

Making a better, more ethical, sustainable work regime: What we need

In his 2005 book, *Liquid life*, Zygmunt Bauman talks about the liquid working life of the 'light sprightly and volatile' winners that inhabit a liquid and changing world 'close to the top of the global power pyramid to whom space matters little and distance is not a bother, people at home in many places but in no one place in particular' (2005, p 4).

Underpinning them are another group whose lives are in contrast *over*-determined and who struggle to 'hold bits and parts together' and stave off uncertainty. Here are Susan, Nina, Vicki, Margaret and even Nick and Annie. They are living in complex circuits of care and work. Arlie Hochschild has described workers with caring responsibilities in the US as 'stuck outside the main show':

When in the mid-nineteenth century, men were drawn into market life and women remained outside it, female homemakers formed a moral brake on capitalism. Now American women are its latest recruits, offered membership in the public side of market society on the same harsh terms as those offered to American men. The result makes for a harshness of life that seems so normal to us we don't see it...[T]he very balance we strike between market and nonmarket forces is itself a stand on care. (2003, p 8)

The above accounts reveal 'a stand on care' which allow it to be degraded, while building an economy on the labour of those who care, without supporting them in their care roles, and allowing the standards of the care of those who depend on them to deteriorate – except if they are prosperous enough to buy their own private solutions like Jennifer and Casper, and not all of these are so great either. But the depredations of a degraded care regime are felt not only in the households of those who give more to work and less to care: they are felt in the larger society as the time available for social interaction, community activities and local connection diminishes, and as inequality grows. And they are felt through the international displacement of care down the work/care chain, and especially on its bottom rungs.

Inequality, wealth and happiness

I started out with the picture of Australia as a very happy society by international comparison. Richard Layard's recent work on happiness suggests that happiness is in part related to the level of egalitarianism of a society. While societies like Australia have been diligently pursuing work, more stuff and greater gross national product, there has been no measurable increase in our society's happiness. However, inequality has grown.

A better society depends on a revaluation of the work of care. We must pay it better in all its forms, and give those who do it more say over when it is done. Men have to do more of it. Australia's labour market is less and less an island. But without socially sustainable labour practices and good universal public care systems to underpin them, our social health and personal happiness are at risk.

We need a new thicker care capability in our society, in our homes and in our workplaces and streets. We are instead thickening up our attachment to work and expanding our economy – *at the cost of care*. This is not sustainable *without* increasing the care deficit down the care chain, both within Australia (as low paid carers meet care deficits in the homes, offices, hotels, workplaces and communities of the more wealthy), and beyond it (as the Third World exports care to the First World – on second rate terms). This care deficit down the work/care chain, with deterioration in quality at each link, especially disadvantages the children and dependents of middle and lower income households and widens inequality. It especially disadvantages women.

In the absence of universal quality public care supports and decent wages for paid carers, *more work* is not possible without increasing commodification of care, in markets where the wealthy can buy good solutions and the poor cannot. At the end of this chain are the cognitive, emotional and social deficits of children who will not recover, in their lifetimes, what their poor care denies them. An economy that counts only paid work, and discounts or keeps invisible care, is a place of growing inequality, immiserisation and dysfunction. We know happiness depends on good care and healthy relationships. We have the resources to become happier and to do so with fairness.

Key capabilities for workers in the 21st Century

If we resume a our position behind Rawls' veil of ignorance - as embodied workers with a lifecycle that is likely to include both the giving and receiving of care - what other capabilities would we, as good hearted citizens, see as essential to a just work regime? What would we think essential if we thought we might work in the shoes of Susan, Nina, Vicki, Margaret, Nick or Annie? Or be born as one of their children or be their mother? I arrive at a set of principles as follows:

Ten capabilities for a fair labour market

1. Being able to work (to have a job)
2. Being able to combine work *and care* over the life cycle (being able to rest, recover, regenerate, recreate, and to personally and socially reproduce, and to maintain a household and contribute to society) - including being able to *not work* when care demands it
3. Being able to affect working time (including total hours of work, their configuration, predictability and time off work)
4. Being able to live – in a civilised way - on one's earnings, over the life cycle
5. Being able to work with security
6. Being able to exercise and accumulate skill and experience
7. Being treated and paid fairly, and being free of discrimination
8. Being able to work in physical safety and remain healthy
9. Being able to combine with other workers to bargain over wages and conditions, including the capacity to withdraw from work in the process of bargaining
10. Being able to have a voice at work

Needless to say these are a skeletal frame. There is a task ahead to fill them out, and then to win them so that they can create the kinds of capabilities that Australian workers and carers need in a just labour market – one in which any of us could see ourselves occupying any position without compromising our ability to labour and care in dignity and fairness.

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