



Welfare reform?

Following the ‘work-first’ way

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Job first, labour market first

The job-first rationale underpinning the latest, and by far the most sweeping tranche of Australian welfare reform, is a both very radical and a largely undebated position.

The job-first rationale was clearly enunciated by the relevant government ministers during the committee stages of parliamentary debates in late 2005; and it was spelled out at some length for the OECD in 2003 by the Department of Employment and Workplace Relations (DEWR 2003), the department to which the reform package now entrusts carriage of all social security programs for people of workforce age, except for family tax benefit payments (Carney 2006a). It is a policy deliberately designed to widen the pool of workforce 'participants', as Minister Andrews outlined to the Sydney Institute in early 2005 (Andrews 2005). It forms an integral part of the Government's approach to demographic (structural) ageing (Costello 2004; Treasury 2004) by aiming to increase the workforce to support a growing cohort of dependent citizens.

The policy expressly adopts the strong form of this reform rationale, best expressed as requiring acceptance of 'any job, of any duration or quality', selecting that option ahead of softer versions which would prioritise the goal of finding either a sustainable or a quality job. As such it is a very significant departure from the policy model of 'individualised activation with extensive supports', previously canvassed in the 'McClure Report' of the Government's own Reference Group on Welfare Reform (McClure 2000). It is a policy shift which carries significant social policy implications (Smith 2006), depending on the answers to questions such as what does (or should) qualify as 'work' (Zatz 2006).

This prioritisation of welfare-through-work is by no means unknown in Australian history, of course. Indeed, until World War 2, the trade union movement and the Labor Party had maintained a very robust preference for work-based forms of welfare, vigorously opposing 'insurance' models of welfare unsuccessfully promoted for nearly half a century by conservative governments (Carney 2006a). Old industrial welfare, however, sought to preserve full-time and well-paid work, on good conditions, backed by a residual welfare net for those unable to find work.

What is new for Australia about these work-first policies is that they are now pursued within a *deregulated* industrial relations environment (McCallum 2005; Peetz 2005, 2006). That is the feature which makes for such a radical rewriting of the Australian welfare settlement (see Carney 2006b) and makes the 2005 reforms such a watershed in both the form and the politics of the welfare state, as explained further below.

Markets and de-legalisation, rather than a 'welfare settlement'

The historic welfare settlement in Australia had as its centrepiece the 1907 ruling of the centralised industrial arbitration system in the famous Harvester case. That case laid down the principle that minimum award rates should provide a reasonable standard of living for a (male) breadwinner, and his family (Carney 2006a), later tweaked by separating out the 'social wage' during the Hawke government and abandoning in 1993 the pursuit of 'equity' through awards (Smyth 2005; Howe 2006, pp.153–56). That is to say, in the 1990s

awards slowly began to take on a new role—providing a minimum safety net rather than a general standard—and industrial relations began to shift towards the 'enterprise' level. Prior to their erosion in the 1990s, the breadth and strength of the welfare principles of wage fixing under industrial law could be offset by the narrowness and residual character of (belated) social security provisions, as characterised by the label of the 'workers' welfare state' (Castles 1992, 1993).

More than that, the principle of a 'living wage' for the then standard family (a dependent partner and three dependent children), was robust enough to survive for nearly three-quarters of a century, to serve as one of the key assumptions in the construction of the 'poverty line' adopted by the report of the Henderson Inquiry into Poverty in 1975. The longstanding principle of wage fixing thus became the key ingredient in setting the boundaries of welfare protection.

The trajectory of welfare reform in the last decade has steadily broken away from these assumptions, in particular Polanyi's (1944) or TH Marshall's (1963) assumption that the role of welfare is to mitigate the excesses of the market. This change had been presaged in US policy in the late 1960s, when the then Aid for Families with Dependent Children (AFDC) program, pioneered in 1935 as an answer to the hardship of the Great Depression, was transformed to encourage workforce participation. As Howard Karger (2006, p.3) explains: 'The transformation of US public assistance policy into labour policy began in 1967 when newly enacted AFDC amendments pressured recipient mothers into working'. He goes on to observe: 'With that change, US public assistance policy was reduced to a short-term, transitional step in the march toward the full labour market participation of the poor' (p.6). This journey culminated in the passage of the Clinton Administration's *Personal Responsibility and Work Opportunity Reconciliation Act 1996*, hailed as ending 'welfare as we know it', by making participation in the labour market the 'key index of whether a poor person deserves help from the state' (Rougeau 2006, p.163).

While this transformation from welfare policy to labour policy began several decades later in Australia, the same trajectory has been followed (Carney, Ramia & Chapman 2006, 2007).

From the social to the 'personal' and the 'economic'

Job-first policies privilege *economic* policy analyses over *welfare* policy analyses. They emphasise the role and actions of individual citizens over the distributive or protective role of the state, which was the leitmotiv of the traditional 'welfare state' model. In terms of values, these policies privilege individual freedom/responsibility and state market liberalism over collective responsibilities for social integration and capacity building for vulnerable citizens or the victims of economic forces (Rougeau 2006).

The state role of mitigating the excesses of free play of market forces is replaced by an emphasis on *individual* agency and individual *responsibility* for developing individual talents and social capital by way of participation in the paid workforce (Jayasuriya 2000, 2001).

As Béland writes of the 'new' politics of the welfare state:

This politics is characterized by the enactment of fiscal cutbacks and cost-control measures, but also by the instauration of work requirements (workfare) and personal savings schemes meant to increase the level of self-reliance and personal savings (Béland 2005, p.35).

It is not that social expenditures have been markedly reduced (though welfare rolls did dramatically shrink in the US as lifetime capping and other measures took effect), but rather that the composition of expenditure changed (ibid.), and its conditions of receipt also altered.

Among the most important of these changes are those which altered the 'symbolism' of welfare receipt from a status dialogue about claiming a benefit 'as of right', once predefined 'conditions of eligibility' are satisfied, into a dialogue about personally negotiated 'contracts', carrying reciprocal responsibilities and an ongoing requirement for the recipient of welfare to meet their 'mutual obligations'.

As Charles Reich (1964) memorably observed when founding what we call the 'legal rights' era of welfare, social security entitlements became a form of 'new property' with the same stability and security of vesting as traditional property rights or the new forms of government largess (such as taxi licences) which came to be protected under public (or 'administrative') law. By contrast, the rhetoric and form of welfare reforms from the 1990s became that of a personal 'contract' (Carney & Ramia 1999). While still formally located in the public law sphere rather than in the private law of contracts, the introduction of the need to 'negotiate' and then comply with 'activity agreements' as the centrepiece of social security compliance markedly altered the atmosphere of welfare.

This was, however, pure symbolism without substance, in all those countries which adopted this model, in that the state retained absolute power to impose the terms of agreements on unwilling or protesting 'contractors' (Collins 1999; Seddon 1999; Yeatman 2000). Even so, in terms of the politics of welfare reform, it was then a comparatively small and easy political step to overlay the rhetoric of 'mutual obligations' (Moss 2000; Brennan, Cass & Gatens 2001; Wilson & Turnbull 2001; Carney & Ramia 2002b), despite the one-way-street character that only individual welfare clients, and not the state, actually assumed any 'obligations' (McClelland 2002).

Implications of job-first welfare reform

A job-first policy effectively transforms social security to become an 'individual responsibility gateway' into labour market exposure. Because the Government decided to exempt most existing welfare recipients from its 1 July 2006 welfare-to-work reforms, their effects will mainly be felt by new claimants for sole parent and disability payments, along with those people covered by phased impact arrangements. These changes require participation in at least part-time work by sole parent (and partnered) recipients of Parenting Payment once their youngest child reaches 'school age' (varying between 6 and 8 years), and by disabled people assessed as able to work between 15 and 30 hours a week. Moreover both groups switch from 'pension' conditions to the lower rates and activation requirements of 'enhanced' Newstart payments for the unemployed. Participation in part-time or non-standard labour markets tends to be associated with lower wages and conditions, and reduced career prospects (especially for carers); and, although Australia is

one of the few countries to prohibit discrimination in failing to reasonably accommodate the needs of carers, studies show that equal opportunity laws are a particularly weak reed in protecting part-time workers (Kelly 2005).

While projections vary, ACOSS estimates that 30,000 sole parents and 20,000 disability claimants will be affected by these changes each year (Davidson 2006, p.12). Some existing sole parents will join the new regime due to losing eligibility and thus exiting from a 'preserved' payment status, due to failed reconciliation with a partner, failed re-partnering, or acceptance and later loss of full-time work. Not only are there substantial inequities applying between the two welfare cohorts (the preserved group and new claimants), but the costs of the reforms also bear disproportionately on some people, such as the mentally ill (Cowling 2005). These inequities take the form of both sharp differences in the levels of social security payments and effective marginal tax rates on part-time earnings between disability or parenting payment pensions, and 'enhanced' Newstart (Harding, Vu & Percival 2005), and unequal access to labour market and other support services (including earmarking most of the 21,000 extra Disability Open Employment Places over the next three years for new 'disability' Newstart applicants, at the expense of nearly 700,000 existing DSP recipients (Davidson 2006, p.12)).

From social security policy to labour market policy for the working poor

One of the important implications of adopting the jobs-first policy setting is that it lessens the load borne by social security as an instrument of social protection, and shifts that burden to the lower reaches of the job market by bringing downward pressure on minimum wages through shoring up jobs of marginal viability (Karger 2006). Because Australia's WorkChoices legislation effectively allows the deregulation of work conditions and allows the minimum wage to fail to keep pace with future productivity or cost of living increases, the same, if more gradual, trend can be expected in Australia (Peetz 2005, 2006), since the Fair Pay Commission carries the potential to shield employers from pressure to lift wages for low-paid workers who would otherwise be able to win larger gains in the marketplace (Barry, Michelotti & Nyland 2006, p.65). That Commission's initial ruling, handed down in October 2006 (AFPC 2006), surprised commentators by awarding inflation-matching adjustments just a fraction of a percentage higher than those of its predecessor (the Industrial Relations Commission), but, unlike the IRC, its governing legislation requires that attention be paid to the impact of its rulings on labour competitiveness and the rate of unemployment.

Another implication from the US experience of coupling job-first welfare reform with 'lifetime capping' of the duration of benefits (at 5 years, 2 years or less), and providing working age tax credits, was that, while poverty increased only marginally (and then due mainly to economic slowing), there was a significant expansion in 'fringe economy' services for the working poor, such as pawnbrokers, payday lenders and dubious home financing (Karger 2006).

While Australian experience will certainly not be so harsh, the terms of political debate will shift from discussions about welfare policy to consideration of policies for the working population. At best this might clear the path to a more constructive engagement with working tax credits, but at worst it may add to the pool of 'hidden poor', or encourage

application of other US reforms, such as greater reliance on NGOs (if not time limits on welfare). The recent resistance by the non-government welfare sector to tendering for contracts (to case-manage provision of 'basic' support to retain housing, utilities and food for people subject to 8-week non-payment penalties) may make government leery of the NGO route, but the initiative itself may be indicative of government thinking.

Certainly the shift from welfare to working poor is more predictable. Karger graphically demonstrates this when describing the extent to which US welfare reform shifted people from the welfare rolls into poorly paid retail and services sectors, where wage rates for nearly 60% of all former recipients fall short of the poverty line (Karger 2006, p.14).

Social security as handmaiden of labour-forcing policies: the interface between industrial relations and social security compliance

Under the recent welfare-to-work reforms, the 'dampeners' (or protections from the extremes of labour market forces) have been weakened or removed (Boucher 2006) and/or converted to speak more clearly the language of a free labour market.

The main function of social security law is now to create the 'space' within which market forces can set the terms and conditions of work (Carney, Ramia & Chapman 2006, 2007), or establish the 'disciplinary' framework to nudge people into compliance (Carney 2006b). As Simon Smith observes:

The changes to the industrial relations framework under WorkChoices will specifically affect those moving from welfare to work. Changes to the compliance system will essentially compel people moving from Welfare to Work to accept jobs that might be below award conditions. Under the Welfare to Work legislation, and consistent with a 'work first' approach, income support recipients who do not accept a 'suitable' job will have their payment suspended for 8 weeks. However, a 'suitable' job no longer has to meet the relevant award and only has to meet the [fair pay standard] (Smith 2006, pp.7–8).

There are various ways in which this transformation is being effected:

- firstly, by stripping out the protections formerly found in social security legislation to protect the minimum conditions, pay and standards of work required to be undertaken by social security recipients as a condition of payment (Boucher 2006)
- secondly, by intensifying the power of the historic 'labour-forcing' provisions of welfare law (voluntary unemployment, refusal of a job offer and misconduct as a worker), through increased 'immediacy' and impact of penalties, and by stripping away some former 'reasonableness' defences (and by applying these penalties to a far wider cohort of social security recipients) (Boucher 2006; Carney 2006b)
- thirdly, by 'de-legalising' (Diller 2000) most of the social security rules and norms previously found at the intersection between social security and labour law (Carney 2006a). This process is effected both by converting former rule-based norms into discretions and by shifting the location of governance from the legislation itself into executive instruments or policy manuals and complements the more radical 'privatisation' route (Gilman 2001). Although the welfare sector had some success in

convincing the Senate Committee and Government to at least enshrine some areas of policy in disallowable instruments, other sensitive areas now lie squarely within the province of internal policy manuals, at the cost of reduced transparency, accountability or ease of administrative redress.

The net effect of these various strands of reform is that the 'rights' of social security clients are significantly weakened, marking the passing of the former 'legal rights' agenda and the explicit emergence of the 'new public management' era (Carney & Ramia 2002a). Australia is now witnessing the mature form of 'third' era welfare programs, following the eras where professional discretion (social work), and the later rights-protection (bureaucratic-legalism) models were the dominant forms of governance. This has seen the emergence of 'managerial' approaches ('new public management' and contracting-out Diller 2000, p.135–37)).

The pace of that transformation has varied from one part of Australian social security to another. It was effected at a cracking pace when the World War 2 institution of the 'public employment agency' (the Commonwealth Employment Service) was abolished in 1998 and replaced by a fully privatised Job Network (Ramia & Carney 2003; Carney 2005a).

To all intents and purposes, the welfare rights model of social security had been eroded in all but name by mutual obligation and workfare measures (such as 'work for the dole') introduced in the second half of the 1990s (Braithwaite, Gatens & Mitchell 2002; Carney & Ramia 2002b; Green 2002; Moss 2002; Carney 2005b). So in one sense the latest 'de-legalisation' measures contained in the welfare-to-work reforms simply bring this into the open, and take the process towards completion (Carney 2006a), a social security law end point which Anthony O'Donnell has recently speculated may even culminate in:

a single payment, and its underpinning administrative and juridical arrangements, [which] would be the next phase in a fundamental reconstitution of the labour market and of who is 'in' and who is 'out', carrying forward the assumption, as never before, that all people of workforce age are potentially, indeed continuously, participants in the labour market (O'Donnell 2006, p.363).

But for the purposes of the present paper, I would suggest that we are witnessing a watershed both in the form and the politics of the welfare state, and the welfare 'settlement' it enshrines. As mentioned earlier, WorkChoices really brings an end to what was left of functional welfare through industrial policy, rendering the welfare-to-work reforms much more draconian than otherwise would have been the case.

The new politics of welfare?

Australia is by no means alone in our region in its adoption of the jobs-first policies pioneered in the US and supported by the OECD, with Japan recently characterised as following our lead (Gaston & Kishi 2005). This is just one option (and an extreme one) on the spectrum of contemporary policy options espoused for the new social and economic conditions of the 21st century. This spectrum, however, no longer includes a return to 'welfare as we have known it'—or rather, as the baby boom generation has known it, and known it during what has been an exceptional era in the longer span of welfare history.

Why welfare-reform is the 'new black'

Flexible labour markets characterised by frequent changing of jobs, the return to prominence of the 19th century 'non-standard' forms of labour market engagement accorded pariah status during analyses of the causes of the Great Depression, the loss of support for standardised terms and conditions of employment (Quinlan 2006), and declining confidence in command and control regulatory forms of labour market governance (Gahan & Brosnan 2006)—all these changes spell doom for any return to the centralised 'living wage' pillar of the old Australian settlement.

In similar vein, the fluidity and diversity of social preferences in a postmodern world—along with the passing of the (temporary) unifying force of imminent national and social catastrophe in the aftermath of World War 2 and the Great Depression—have spelt doom for the 'old welfare settlement' which called for strong unconditional state 'security' against the risks of unemployment, sickness or old age, and joined that with the elevation of 'social' rights of citizenship. Passive social security, as a right of citizenship, lent itself to a legal or legal-bureaucratic model of welfare, aptly labelled a system of 'social security'. It is, I suggest, no coincidence that Clinton's 1996 US welfare reform bill was labelled the *Personal Responsibility and Work Opportunity Reconciliation Act*, since this both tapped into the politically popular rhetoric (Karger 2006, p.6) and was emblematic of the shift from social security to personal responsibility.

However, even if a return to the pre-workfare social rights of citizenship model is no longer a realistic political option, the goals and aspirations of the old welfare settlement can still find expression through new, contemporary forms of welfare reform, or welfare 'activation'.

Contemporary options for welfare reform

Van der Ah and van Berkel (2002) map the main alternatives as four policy quadrants, created by choices made on two intersecting axes: one axis representing the choice between individual independence/responsibility and state paternalism; and the second, the choice between an optimistic and a pessimistic view of individual human potential.

Optimists are characterised either as 'autonomy optimists' who promote economic and social autonomy through measures like the guaranteed minimum income scheme proposed by Australia's Poverty Inquiry (1975), or as US-style 'independence optimists' who instead argue for the total abolition of welfare and its (supposedly inevitable) culture of dependence.

'Activation paternalists', who currently hold sway over Australian and US welfare reform (as represented in the writing of Lawrence Mead (1997, 2000, 2004)), argue that reintegration needs to be imposed on citizens for their own good (Carney & Ramia 2002b):

The state imposes some 'inclusion routes', not only as part of a set of reciprocal rights and obligations of the state and its citizens, but also because these routes are considered to be of emancipatory value. According to the paternalism optimists, enforcing activation upon people who are unwilling to make use of participation opportunities available to them is considered to be in the interest of those upon

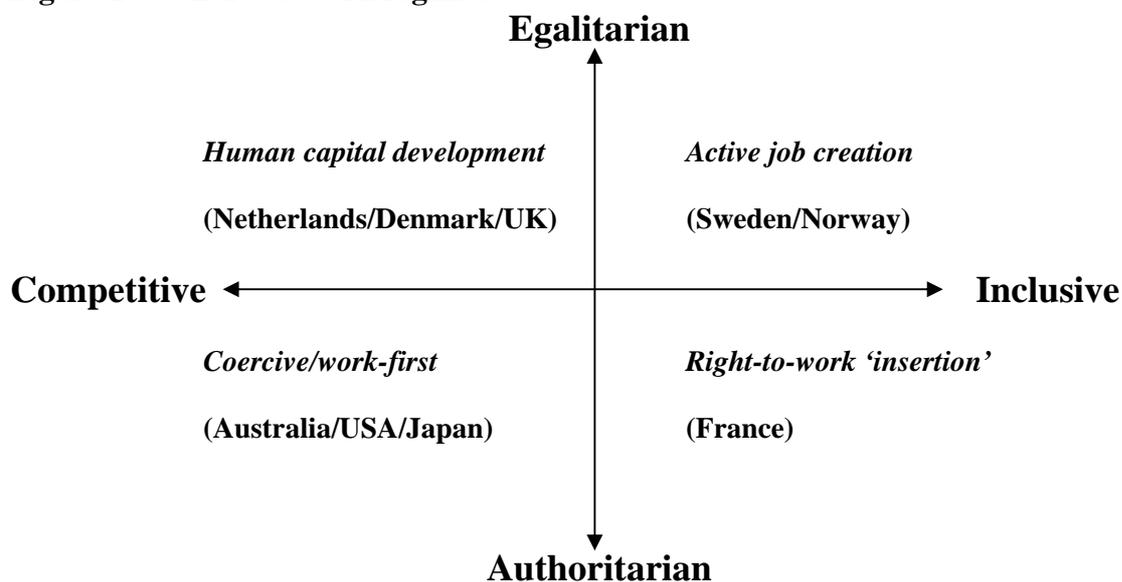
whom the measures are being enforced and, eventually, of society in general (van der Ah and van Berkel 2002, p.130).

This model arguably overstates the capacity of all citizens, irrespective of their needs and backgrounds, to seize (on pain of penalties for non-compliance) opportunities for self-activation through the labour market if given the opportunity, without any ‘helping hand’ of state services and supports (Bonvin & Farvaque 2006). That flawed assumption is the point of departure for the fourth policy quadrant: that occupied by the ‘activation optimists’ (van der Ah & van Berkel 2002, p.130), who advocate investment in extensive support services to assist vulnerable clients to build capacity by way of collective activity (Jayasuriya 2000; Jayasuriya 2001; Braithwaite, Gatens & Mitchell 2002, p.235).

Dutch ‘reintegration services’ offer an example of how labour market activation might be done in accord with the ‘activation optimist’ model of welfare reform (Grubb 2003; Struyven & Steurs 2003). Activation in that country was achieved through a series of localised measures pioneered and tested in programs for the long-term unemployed, the socially isolated, and people with multiple problems in addition to unemployment, such as drug or psychiatric co-morbidity (van der Ah & van Berkel 2002, p.134). This model recognises that, on its own, a ‘social investment’ model of welfare reform may still expose the most vulnerable members of the welfare population (further: Perkins, Nelms & Smyth 2004, 2005).

Hartley Dean (2006) maps these contours in more abstract (and insightful) ways in a recent paper (see Figure 1: Welfare-to-work regimes).

Figure 1: Welfare-to-work regimes



Source: adapted from Dean (2006), figure 2

While highly stylised, this classification draws out important philosophical differences between the assumptions made by Australia’s welfare-reform model and the British and

European approaches which favour human capital development, or a 'social investment' model of the contemporary welfare state.

As Perkins et al. recently wrote:

[Social] investment imposes responsibilities on individuals *and society* to transform and enhance [individuals'] economic competitiveness. Rather than being provided with *direct security* through mechanisms of financial redistribution, citizens are equipped through this process of investment to negotiate their own integration into the market. The new form of security provided by the social investment state is the capacity to face these risks in the market (Perkins, Nelms & Smyth 2005, p.36 [emphasis added]).

The social investment state may still not adequately protect the most vulnerable, but unlike the current Australian reform, it does seek to 'make work pay' and it also invests in active labour market programs (ibid., p.37). And it does envisage a more prominent role for regulation of market forces in order to better protect the vulnerable.

While it is true that the current welfare-to-work programs for the long-term unemployed and the disabled do provide some 'pump-priming' subsidies to encourage employers to employ people who would otherwise not be engaged, too little weight is given to such measures (meeting just 14 per cent of the needs of the long-term unemployed for instance). Indeed the very modest annual average additional investment of \$330 million over each of the next four years is offset by tightening access to the most intensive level of Job Network assistance, at a saving of \$450 million (Davidson 2006).

Nor is there evidence of sufficient attention in recent Australian reforms to education and skills development generally. Indeed, welfare reform has actively reversed the limited incentives which the pensioner education supplement previously provided to encourage skills acquisition by sole parents (Smith 2006, p.4), and now prevents welfare recipients from undertaking extended training as part of an activity agreement, limiting such elements of activity agreements to short-term assistance with 'presentation', job search or the like.

Of course the 'social investment' state is no utopia. While its harnessing of social and economic objectives has obvious political appeal to an electorate disinclined to spend heavily on passive welfare with its supposed encouragement of dependency, the model has little to say about non-economic types of participation, or the social benefits (or indeed social necessity) of voluntary work and caring 'work', and the implications for overall community 'cohesion'. That wider vision of social capital formation has often been neglected overseas too, as it so manifestly has been in Australia.

Jobs-first welfare reform by default of political leadership by the major parties?

The failure to develop politically viable alternatives to jobs first policies is not for want of advice either from the scholarly research community or from official enquiry reports.

It needs to be remembered that it was the federal Labor government which rejected the Social Security Review's (Cass Report) model of tailor-made, more discretionary

approaches to ‘active society’ decisions about income support for the disabled. And it was the federal Coalition government which consigned to the waste-paper bin the McClure Report’s idea of radically transforming welfare to provide (generously resourced) discretionary packages of income and welfare service supports for social security recipients in general and vulnerable welfare clients in particular. In both cases the cost-cutting agendas developed by economic rationalists from the departments of treasury and finance (and now also DEWR), have prevailed.

That, quite simply, is a story of the failure of political leadership. In this respect, the politics of new welfare is no different from the politics of old welfare. Other countries, such as the United Kingdom, have managed to provide leadership around a model of welfare reform which advances a much more inclusive brand of social citizenship: they do this by combining a new focus on equipping people to participate in the world of work with social investment in human capital formation, and recognition of broader community benefits of social participation outside the market. Australia, by contrast, has embraced a narrow ‘work-forcing’ and disciplinary approach to welfare reform, in order to drive more people off welfare into whatever jobs, of whatever quality, which the labour market can create for them.

Both sides of politics have failed the most vulnerable over the last two decades. It is time that they began to display greater leadership of the debate about welfare reform, not with a view to turning the clock back to ‘old welfare’, but in order to move the debate forward beyond the arid policy settings of the economic purism which underpins work-first policies, with their strong ‘disciplinary’ cast.

Conclusion

This paper provides a brief overview of the radical sectoral shift effected by the Australian Government’s 2005–06 welfare-to-work reforms, a set of reforms which are shown to have transformed both the lines of responsibility for, and much of the content of welfare for people of working age. In effect, this transformation has moved people from being the subject of ‘social security policy’ to become the subject of ‘labour policy’ (or more accurately ‘labour-market policy’).

It is argued that for sole parents, people with partial disability, and most of the unemployed—other than those in ‘protected’ categories (such as disabled people unable to work for more than 15 hours) or ‘transitional’ categories (those on payment prior to announcement of the reform package)—social security is now effectively an individual responsibility gateway into labour market exposure. For these groups, the primary role of social security payments is to impose a set of conditions (backed by a strong compliance regime) which serves to oblige people to accept any job, of almost any duration or terms, which the labour market generates.

This sub-text of a disciplinary regime, where social security is used as a labour-forcing instrument, has always been an element of unemployment payments. What is distinctive about the current Australian welfare model, it is suggested, is the intensity and the purity of that labour forcing objective; the lack of success of that model overseas in doing other than shift the vulnerable from the care of the welfare system and income security into the realm of

the poorly paid 'working poor'; and the lack of Australian debate about alternative policies, such as the 'investment state' or the 'third way' policies of Britain and parts of Europe.

In short, genuine welfare reform requires that attention return to the social rights of welfare recipients (their 'social rights of citizenship') and our reciprocal social responsibilities to ensure that collective state (or governmental) action is taken to ameliorate the risks of participating in an (increasingly deregulated) labour market.

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