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ORIGINAL ARTICLE

Regulating precarious work: A paradigm shift

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Abstract

Precarious work, the problems it poses in terms of labour standards/regulation, and remedies to this, have sparked considerable attention from researchers and policy-makers over the past three decades. This paper examines industrial relations (IR) legislation introduced by the Australian Labor government elected in 2022, and which, amongst other things, has addressed precarious work. These initiatives are placed in historical context, noting how essentially similar problems shaped IR regulation a century earlier. The article also examines the more immediate precursors to the legislation, by reviewing state and federal inquiries into precarious work and related issues in Australia from the 1990s onwards. Placing the new legislation into historical context enhances our understanding of the law and surrounding policy debates. The Albanese federal Labor government package of industrial relations laws introduced between 2022 and 2024 marked a paradigm shift from earlier measures. While these reforms are rooted in Australian institutions, law and industrial relations history, they provide an alternative policy template for addressing the problems wrought by neoliberalism on labour standards, especially if accompanied by synergistic reforms in other areas, such as immigration and economic policies promoting manufacturing.

Keywords: decent work; labour relations; labour standards; non-standard employment; occupational safety; precarious work; supply chain; vulnerable workers

Introduction, objectives and methods

Significant changes in jobs and labour markets that began in the late 1970s, notably increasing job-insecurity, precarious/non-standard and informal work, and more recently the growth of digital platform work (the so-called gig-economy) affecting both poor and rich countries, has been the subject of considerable research and policy debate. From the mid-1990s the shift, from relatively secure, waged-jobs as the norm in rich countries to increasingly insecure work arrangements, especially precarious work (including digital platform work undertaken by self-employed workers), has often been labelled as *the new world of work*.

The primary objective of this paper is to examine aspects of the industrial relations legislative changes introduced in Australia in 2022–2024 that sought to address problems arising from the growth of precarious work arrangements, and to put this into historical context. Putting the legislation in historical context is valuable for a number of reasons. First, it highlights not only parallels with an earlier wave of reform but also the policy lessons to be drawn from this including the pivotal role of industrial relations laws, how Australia was able to draw on its historically centralised industrial relations (IR) institutions, and the innovative nature of some new provisions. Second, it examines a series of state and

federal government inquiries into aspects of precarious and insecure work undertaken in four decades prior to the legislation. These inquiries, of which there were dozens, identified problems in terms of occupational health and safety (OHS) and other labour standards associated with these work arrangements. However, with notable exceptions, they examined a narrow set of issues and offered only partial remedies, some ironically reviving earlier regulatory controls that had been abandoned (such as employer/workplace licensing). These inquiries provide important insights into the challenges posed by precarious work (including its association with immigrants on short-term visas). Many of these reviews were connected to complaints from unions and some were associated with strategic campaigns, several of which ultimately helped to shape parts of the new IR legislation. These observations will be expanded upon, below. While the focus of the paper is on Australia, the challenges of precarious work are global, and we refer to this at various points.

The article is divided into four sections. Drawing on research literature, the first section briefly describes the rise of precarious and insecure work from the 1970s and compares it to precarious work arrangements that dominated employment in the 19th and early 20th centuries, including striking parallels in their consequences for labour standards and OHS. This section also points to the central role that precarity played in an earlier wave of legislative reforms (1880–1920) and the importance of IR laws in this, notably the introduction of compulsory arbitration in Australia. It also identifies both strengths and limitations in these earlier laws (and why they were largely appropriate for the time), and how the rise of neoliberalism and associated policy changes exacerbated the adverse effects of precarious work. The second section then examines a raft of government inquiries into precarious work arrangements (broadly defined) according to chronology and theme. These inquiries were identified via a search of Google Scholar, government websites and references in published research. As far as we are aware, this is the first time such inquiries have been examined in a systematic fashion, and it has yielded important insights into the lead-up to a number of the central IR law reforms. Despite their often-fragmented approach to the problems, they provided a body of knowledge and policy debate that informed extensive consultation done prior to the introductions of the IR reforms, especially their more controversial/innovative elements. The third section then examines the aspects of the new IR legislation enacted by the federal Labor government elected in 2022 that directly and indirectly address precarious work. In combination with other policy changes (for example in immigration), these legislative reforms represented not simply a return to the more collectivist framework of regulatory protections that existed prior to the late 1980s but a more coherent package for regulating precarious/non-standard work.

The concluding section draws the findings together and places these in a wider policy context and explains why placing this in historical context provides a more compelling understanding of the reforms and their significance. In broadening the regulation of work in ways that directly address business/work practices, aiming to diminish if not entirely evade critical labour protections, we argue the legislation represents a paradigmatic shift in labour regulation. While far from complete, this reshaping of industrial relations legislation draws on pre-existing institutions, notably the Fair Work Commission ('the Commission' - the Australian federal industrial relations tribunal) to expand the scope for regulating work arrangements where hyper-exploitation and other socially unacceptable practices had become normalised. The innovative Australian reforms, if successfully implemented, could provide a guide for other countries dealing with similar issues.

The 'new' world of work and its regulation in historical context

From the late 1970s Australia and many other countries experienced a significant shift in work arrangements including the growth of temporary and part-time jobs, agency work/labour hire, multiple jobholding and contracting/self-employment and gig/platform work.

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There was also a growing use of foreign workers holding temporary or restricted visas, with the vast majority undertaking temporary work in agriculture, food-delivery and an array of other jobs. Commensurate with the increase in precarious work, there was a relative decline in the proportion of the workforce holding nominally ongoing employment. Many ongoing jobs were also rendered more insecure by repeated rounds of downsizing, privatisation, outsourcing and increased reliance on global supply chains. This significant shift in work arrangements was documented and its effects on working conditions analysed by a growing body of government reports and published research (see for example Kalleberg 2009: Lewchuk 2017; Rosewarne 2010; Stanford 2017). David Weil (2014) coined the term 'fissured workplace', while in the late 1990s/early 2000s, it was commonly referred to in academic/policy conferences as the *new world of work*. More recently gig/platform work has attracted a large literature. Discussion of the digital economy, which often fails to make sufficient links to the broader category of precarious work, or that digitalisation (especially the use of algorithms and artificial intelligence), is also having profound impacts on non-precarious work. To varying degrees these changes undermined existing regulatory regimes – industrial relations, occupational health and safety (OHS) and workers' compensation/social security – which were largely predicated on waged-employment and which presumed (at least in rich countries) that workers had ongoing employment (see for example, Stewart and Stanford, 2017). The impact of these changes was magnified by the rise of neoliberalism which reshaped an array of economic and other policies affecting work (privatisation and outsourcing being but two examples) as well as direct changes to industrial relations laws, all of which decentralised if not actively de-collectivised, the determination of wages and working conditions in ways that disadvantaged unions and the workers they sought to represent.

As was increasingly acknowledged (albeit mainly in passing), after 2010 precarious work was not new and far from constituting a new world of work, it could be more accurately as a re-emergence (Bennett 1994; Kalleberg 2009; Quinlan 2012; Quinlan et al 2001a). Viewed over a longer time frame, the long-term post-war boom (1945–1975), which had been marked by widespread, relatively secure employment (in rich countries at least), was the aberration, unlike precarious/non-standard work which prevailed for over a century before that time and which had been a major impetus for an earlier wave of campaigns and regulatory protection. Employment of limited tenure/security – including regular use of the term 'precarious employment' or variants of it – was the norm for the majority of workers in the old, industrialised countries of western Europe, North America and Australasia from the early 19th century (and in some cases long before) up until world war two, although it had begun to decline from the early 20th century. The period 1870–1930 (somewhat longer in the USA), and more especially 1880–1920, witnessed substantial worker mobilisation in North America, Western Europe and Australasia evident in unions and political parties (such as the Labor Party in Australia and the Social Democrat Party in Sweden). In turn that led to intense struggles (sharpened by the 1890s depression), the introduction of raft of protective labour legislation and the beginnings of the welfare state (such as old-age pensions). The legislative architecture was trifurcated into three realms, industrial relations laws regulating union recognition, bargaining/standard setting and setting legally enforceable minimum wages; laws regulating occupational health and safety (OHS) in factories, mines, construction sites and other workplaces (though not all); and laws affording compensation for employees injured or (to a lesser extent) experiencing disease in the course of their employment (again worker coverage and entitlements were initially quite restricted but slowly expanded).

The exploitative and hazardous nature of precarious employment – extensively documented by unions and allied community movements such as Anti-Sweating Leagues, government inquiries, the press and medical journals like *The Lancet* – was a focal point of these struggles and regulatory reforms. To give but one example *sweating* referred to work

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that entailed very long hours for payment so low that it barely sustained a worker or their family. The vast majority were employed casually/irregularly (including, e.g., wharf labourers/dockers engaged on a daily basis under the 'bull' system – picked by overseers); worked in casual construction or harvest gangs under an intermediary gang master); were engaged on fixed contracts (voyages in the case of seamen); women, immigrants and children in small workshops (like boot and clothing workshops from which the phrase 'sweatshop' is derived) or working from home (including family groups making up clothes, packaging cigars and the like) under a subcontracting arrangement squeezed by 'middle-men'. The resulting destitution/poverty, unhygienic living/working conditions, poor education, inadequate diet and injuries and illnesses, were extensively documented (Quinlan et al 2001b; Quinlan 2013a 2013b). Cramped unhygienic living conditions in tenements and irregular pay (discouraging reporting) were conducive to the spread of infectious disease. Indeed, it was the public health risks to the wider community (such as customers including the rich, buying infected clothing) that helped secure government intervention (Gregson and Quinlan 2020).

The primary drivers of change were unions, Anti-Sweating Leagues and labourist politicians, and their efforts resulted in compulsory registration of factories and workshops (to capture small or shifting workplaces evading standards), listing and limits on outworkers per employer, more stringent hygiene and safety laws/enforcement (including the first female factory inspectors), bans on home-work and child labour in some jurisdictions, setting minimum wages and enhancing the ability of unions to implement collective determination of wages and working conditions. In 1896 Victoria became the second jurisdiction after New Zealand to set minimum wages, initially confined to six designated sweated trades (including baking, boot-making and clothing manufacturing) although coverage rapidly spread. By the early 1900s, compulsory arbitration laws were enacted at state and federal level in Australia; these gave unions recognition, provided a strong incentive for employers to deal with unions (because tribunals could still decide claims in their absence), and established legally enforceable awards, setting pay rates, hours and an increasing array of other conditions, such as shift penalties, casual loadings, leave entitlements, meal allowances, notice periods, lay-off provisions (like last in first out or LIFO) and call-back times. Awards covered even the most vulnerable employees (though not the self-employed) and setting minimum rates discouraged a number of exploitative practices, while casual loadings and even direct limits on the number of casuals, placed some restrictions on precarious employment (Anderson and Quinlan 2008). A number of awards such as those applying to clothing included specific clauses/provisions regulating outwork. Union access to the workplace meant they also took an active role in detecting and dealing with under-payment in industries like construction, although there were also arbitration inspectorates policing awards. In the early 1900s, UK and US government representatives visited Australia and New Zealand, determining that there was no evidence that minimum wages had resulted in job losses but it had caused a reduction in child labour (Anderson and Quinlan 2008).

Three critical points need to be made because they are directly relevant to current policy debates discussed later. First, in Australia and other older rich countries, industrial relations, OHS and workers' compensation laws all impacted on precarious employment and its OHS effects but protection was, with few exceptions, confined to employees. Secondly, industrial relations laws setting minimum wages and limiting hours were pivotal because they set a floor of conditions upon which other protections could build. The requirement to register/license particular employers/workplaces under Factory Acts was also important – something that was lost sight of when OHS laws were reformed in the 1980s and these requirements were dispensed with. Thirdly, the introduction of compulsory arbitration in Australia was part of a trinity of federal measures, the other two being immigration restriction (White Australia) and protectionism via tariffs and

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subsequent laws such as the *Navigation* Act requiring local crewing on ships (Kirkby et al 2023). The last, which aimed to broaden the economic and employment base, was given a boost by both world wars and helped Australia avoid the vulnerability of purely rural/resource-based economies like Argentina.

The emergence of what was seen as standard ongoing employment accelerated during the war and long post-war boom, and the socio-political environment was marked by Keynesian full employment and other macroeconomic policies, a significant strengthening of the welfare state, and the related enhanced influence of trade unions. But it still involved struggle. For example, on the docks, the Waterside Workers Federation (now part of the Maritime Union) successfully campaigned for permanency in the 1950s; building unions also mounted a permanency campaign in the 1960s and 1970s, which ultimately secured redundancy/retrenchment funds and portable long service leave provisions (that spread to some other precarious workers, such as cleaners). The growth of standard employment only really affected the old industrialised countries, joined by a few others including Japan and South Korea (though both these countries retained extensive labour contracting). Moreover, during these decades, insecure and precarious work did not disappear even if 'standard' ongoing work was viewed as the norm. Precarious work, like casual/temporary employment and self-employed subcontracting, remained common in industries such as retailing, food-processing and harvest work. For most women, precarious work remained the norm and some informal work (cash-in-hand payment or the 'black economy') also existed in rich countries. From the mid-1970s this regime began to unravel with the rise of neoliberalism/ abandonment of Keynesianism and a renewed attack by capital on organised labour which spread over time. Under neoliberalism the interventionist protectionist role of government was attacked with a raft of policies (including tariff-cuts/free-trade agreements,[1] the abandonment of full-employment as a policy priority, competitive tendering, privatisation and outsourcing, as well as increased use of migrant workers especially those on temporary visas), and a general philosophy which assumed that maximising private sector influence in the economy would lead to greater wealth and efficiency. Changes in corporate business and work practices contributed to the change including offshoring manufacturing and some services (call centres, heavy aircraft maintenance to name but two examples) to lower wage countries and consequent dependence on often elaborate supply chains. The mantra of deregulation including oft-repeated claims that flexibility, innovation and efficiency were being stymied by too much regulatory red-tape, dominated policy discourse by the 1980s, even though 'deregulation' was a misnomer, in the sense that changes amounted less to a removal of regulation than the passage of laws yielding different outcomes. For example, industrial relations laws in Australia were 'reformed' to make them less collectivist and more decentralised, resulting in a more complex plethora of contracts, agreements and standards that were generally more favourable to capital, especially big business, and less favourable to workers and unions. The shift also coincided with a growth of precarious work arrangements. Moreover, repeated rounds of restructuring, downsizing and privatisation that resulted in large numbers of workers losing their jobs or being left in a less secure position. The era of universal 'standard' work, albeit always exaggerated, ended after around four decades. Viewed in this historical light this era was an abnormal interregnum not the norm. In poor to middle-income countries, including those that rapidly industrialised, a standard employment model never emerged. Indeed, in many countries such as Brazil, the informal economy and informal work – work not intrinsically illegal in nature but essentially composed of self-employed workers with little if any legal coverage or protection – grew. Further, the informal sector also grew in rich countries, seemingly facilitated by the greater capacity to disguise its existence where precarious work was common, and where there were often large numbers of especially vulnerable workers, such as refugees and undocumented and short-term visa migrants.

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Recognition of the fundamental shifts occurring in the labour market mostly began in the 1990s and was widely accepted in the research literature and policy debates by the mid to late 2000s. As already indicated, the growth of precarious and insecure work was largely seen as a new development, not a re-emergence or return to the norm of earlier periods of capitalism. There was nothing new about temporary employment or self-employed subcontractors – they were centuries-old arrangements. Others entailed an upsized, bureaucratised and more coordinated iteration of an old idea, with third party employers (gang-bosses, middlemen and serangs in the merchant marine), being succeeded by labour-hire firms, temp agencies and crewing agencies (merchant marine). In addition to the degree of organisation and global nature of some agencies, what was novel was that while contracting out to agency labour had initially been driven by corporations/host employers looking for cheaper labour options keen to increase their business, agencies themselves became an additional driver promoting the contracting out of services. Similarly, platform work or Uber-style arrangements are essentially a form of subcontracting but one digitally enabled so that work is distributed/engagements made via an app or laptop using an algorithm, and where work performance/surveillance can also occur. This permitted a degree of control that was historically a major limitation in using self-employed subcontractors, especially when the work was performed remotely. It has facilitated new services, such as widespread delivery of meals while simultaneously avoiding all manner of employment protection laws because the workers were designated as self-employed, not employees – the traditional focus of protective standards. Other legal categories have been used to evade labour law including franchise and agency arrangements (Johnstone et al 2012). In addition to the platform economy, digital technologies (mobiles, location tracking and the like) were also used with regard to other workers, especially in transport – both self-employed and employees.

In finishing this section, we turn to the effects of the changes in work arrangements just described. The growth of fissured work (Weil 2014) and the shift to more de-collectivist industrial relations had effects that were almost entirely predictable, had anyone looked at the copious evidence pertaining to the late 19th and early 20th century described above. Under-payment/wage theft and other failures to meet statutory entitlements (including newer ones like mandatory superannuation contributions) grew significantly, with striking parallels with the past in terms of the most vulnerable groups, such as rural, construction and retail/hospitality workers (Goodwin 2004). As in the 19th century, some employers could not even abide by conditions they essentially wrote. The 7-Eleven case, where the Fair Work Ombudsman (FWO) prosecuted a group of franchisees for unlawful cash-back and flat rate payment schemes and falsifying records, and 7-Eleven itself had to pay $173 m (*The Age* 11 April 2022), was emblematic that these practices were not confined to small firms and that under-payment was integral to the business model of some franchises (Quinlan and Sheldon 2011 and see special issue of this journal Minimum Labour Standards and Their Enforcement 22(2) – July 2011 (ELRR, 2011 more generally). Many of the victims of this wage theft were foreign workers on short-term visas. As indicated in the third section below, the number of migrants on temporary visas entering Australia grew substantially from the 1990s. The s457 visa was introduced in 1996 ostensibly to meet short-term skill-shortages being imported under employer nomination (and tied to that employer), while the s417 working tourist visa (introduced in 1975) enabled young people to stay up to two years so long as they undertook specified work (including farm/harvest work). Together with a growing number of foreign students studying in Australia (with some rights to work), the growth of foreign workers on short-term visas was a recipe for hyper-exploitation, exacerbated by the scamming of categories (skill definitions and 'education' institutions), by intermediaries, poor regulatory oversight and vulnerability of workers desperate for permanent residency, relying on employer sponsorship for their job and the risk of deportation if this were lost, or students working more than their permitted

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hours. The result was both frequent exploitation, exposure to unacceptable OHS risks and denial of access to workers' compensation when injured (Guthrie and Quinlan 2005; Toh and Quinlan 2009). Again, some parallels with workers introduced under contractual indentures in the 19th century, especially non-Europeans like 60,000 Pacific islanders imported into the Queensland sugar industry, were striking.

More generally, there is now extensive evidence (many hundreds of studies) indicating that the global decline of standard employment and growth of precarious work has had significant effects on OHS, with precarious workers commonly experiencing higher injury rates, poorer physical and mental health including vulnerability to harassment and suicide ideation, and less access to regulatory protections (see for example Johnstone et al 2000; Quinlan 2015; Quinlan et al 2001a; LaMontagne et al 2009). Bamford (2015) found immigrant harvest workers in both the UK and Australia were exposed to hazardous chemicals, something exacerbated by cramped communal living conditions. Underhill and Rimmer (2016) showed how the vulnerability of itinerant harvest workers undermined their OHS, including their access to regulatory protection, especially after increasing use was made of undocumented immigrants. A growing body of research pointed to the hyper-exploitation (long hours, low pay and being forced to hold multiple jobs) and poor OHS of gig-workers like those engaged in food delivery – a new category of sweated labour although this historical connection is rarely made (Gregson and Quinlan 2020). Subcontracting has also contributed to workplace disasters (Quinlan 2023) while other research has examined the OHS effects and regulatory challenges of elaborate national and global supply chains (James et al 2007). In combination with more de-collectivist IR laws (affecting union access for example) the growth of contracting, labour-hire and temporary employment also undermined the effectiveness/reach of OHS legislation, including the activities of health and safety representatives (Quinlan and Johnstone 2009; Walters et al 2019, 216). The new model OHS laws introduced into Australia (2011–2013) and followed by New Zealand, did include an important change better addressing changing work arrangements inasmuch as they regulated work, workers and persons conducting a business of an undertaking, rather than employees and employers. While markedly superior to the earlier approach (still found elsewhere) the potential to better regulate the new world of work has only been slightly addressed as yet (mainly through codes and guidance material in a few areas). Finally, formal and effective access to workers' compensation has also diminished because self-employed workers are overwhelmingly excluded while temporary and labour-hire workers have been found to lack knowledge of their entitlements or to fear that making a claim will damage future employment prospects, especially the young and foreign-born workers (Quinlan 2004; Quinlan and Mayhew 1999).

Finally, it is important to note that the effects of precarious and insecure work can affect other workers and the wider community. For example, as the number of subcontract drivers (often working at the bottom of multi-tiered contracts) grew in road transport, it became increasingly common for employee-drivers to be paid according to the kilometres-driven resulting in similar pressures on hours worked and on OHS. Commercial pressures including the intense competition as shippers like large supermarkets drove down rates, increased psychosocial risks and had safety consequences for other road-users (Mayhew and Quinlan 2001; Quinlan 2001; Quinlan and Wright 2008). More generally, the presence of precarious workers could have spill-over workload effects on other workers responsible for their training and supervision and contribute to workplace disorganisation (e.g. communication between employees and contractors. As COVID-19 demonstrated, multiple-jobholding and more crowded households (more common amongst those holding precarious jobs) were conducive to the spread of infectious disease, another echo of the past and a reminder that OHS and public health closely intersect in multiple ways (Quinlan 2021). In terms of understanding how these shifts in work organisation have affected OHS, one model is arguably especially relevant – the economic pressure, disorganisation and

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regulatory failure or PDR model – because it explicitly includes regulation (unlike other work organisation and health models) and spill-over effects (Underhill and Quinlan 2024).

Drawing the foregoing together, the following observations can be made. The decline of standard jobs and growth of precarious work after 1975 is most accurately viewed as a return to working arrangements that had prevailed in the 19th and early 20th century. There were differences largely in terms of scale, global coordination, changes to transport and communication, and the opportunities to refashion jobs using digital technologies. Some differences, notably digitalisation and changes to transport and communication technologies were important because they facilitated the more efficient task allocation, rewarding and surveillance of self-employed subcontracting arrangements. The consequences of this shift for IR and OHS (not so much workers' compensation because this was only introduced in most countries in the early 20th century), now documented by hundreds of studies, echoed the findings of inquiries and research into precarious work during this earlier phase.

While a raft of protective legislation had been introduced since the late 19th century it focused on the employment relationship not work more broadly defined. Further, some provisions dealing with subcontracting (such as workplace registration) had lapsed while the critical IR laws setting wages and other conditions that set a baseline for working conditions and OHS had been weakened under neoliberal policy mantras. It needs to be acknowledged that the early paradigm focused on wage labour, made sense at the time because the then dominant trend in capitalist work organisation (arguably reinforced by the reforms) was towards congregating wage labour into ever larger organisations/workplaces often using mass-production technologies (in factories, offices and like) where work effort could be subjected to systematic surveillance. While subcontracting/contract work offered advantages, it could not be supervised/controlled except by crude reward incentives. However, elaborate supply chains, faster transport/communications and digital technologies facilitated the close supervision and control of worker outside the traditional employment relationship. Some business models/work arrangement like the Uber-style platform economy were deliberately designed to side-step all protective legislation as were other uses of dependent subcontractors in road transport and the like. Using undocumented workers and the growth of the informal economy had the same effect. The growth of precariously employed employees also weakened existing regulatory regimes due to fewer entitlements under IR laws, and perhaps more importantly, because they were less likely to be unionised and had less knowledge or confidence to access entitlements or assert their rights under OHS and workers' compensation laws. Finally, the rise of neoliberalism and growth of precarious work weakened unions. In sum, the protective regime and supportive policy settings (notably Keynesian economics), which peaked in old rich countries during the long post-war boom were weakened by not only changes to law and policy but the re-emergence of precarious work, including forms that effectively bypassed existing regulation altogether.

Campaigns and inquiries promoting regulation of precarious work in Australia

Momentum for a legislative and policy rethink focused on industrial relations, emerged only slowly after over three decades of public inquiries into aspects of the problems. As in other countries, by the late 1980s the problems associated with the re-emergence of widespread precarious work were becoming sufficiently evident to evince a growing but generally fragmented set of responses with unions and others pushing for inquiries and regulatory reforms. Government inquiries and campaigns about precarious work and associated changes (including temporary work visa schemes and migration policy) began in Australia in the 1990s with momentum growing over time. Like other countries,

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inquiries and campaigns were commonly confined to a particular issue and therefore the review process was fragmented, something further complicated by Australia's federal political structure. The aim of this section is to chart the array of relevant inquiries and campaigns, identify some general trends and selectively focus on several successful campaigns rather than examine each inquiry in depth. To our knowledge such a macro-analysis has never been done before. Most importantly, taken as a whole these inquiries provided evidence and momentum for a more far-reaching overhaul of industrial relations laws that went beyond efforts to restore a more collectivist approach.

One of the first inquiries to consider precarious work and on a global scale, was in response to the unravelling of maritime labour standards built up in the 20th century. Those seeking to evade these standards in countries with higher standards (Western Europe, North America and Australia), found they could do this by registering shipping in another country with weak or non-enforced standards. A federal inquiry (Commonwealth of Australia 1992) entitled *Ships of Shame* found evidence of unseaworthy ships, poorly trained and falsely certified crews; deficient safety equipment; beating and abuse of seamen; under-payment (often falsified); inadequate food and poor hygiene facilities; seamen being treated as dispensable; classification societies providing inaccurate information or certifying ships rejected by other societies; careless practices by insurers; and the use of 'flag states'. The report found commercial pressure was the major factor promoting the use of substandard ships, low-cost crews and unsafe practices.

As noted in *The 'new' world of work and its regulation in historical context* section precarious work remained a feature of some industries even during the post-war boom, including construction, but the extent of subcontracting increased from the 1970s with adverse effects on unionisation, labour standards and OHS that led to a series state and federal government inquiries (for a valuable summary see Sutton 2017). One of the first inquiries was established by the NSW government at the behest of unions in 1979, which, while accepting there were problems, refused to recommend an extension of regulation to contract workers. Unions then had to contend with reports that were openly hostile to their efforts notwithstanding some acknowledgement of OHS problems associated with subcontracting. An inquiry (1989–1991) by the federal government's neoliberal reform agency – the Industry Commission (precursor to the Productivity Commission) – into high costs on major construction projects promoted self-employed sub-contracting as a 'panacea'. A NSW Royal Commission (1992) chaired by Roger Gyles into productivity in the building industry concluded that union interference in subcontracting arrangements should be prevented. Similarly, a Productivity Commission inquiry (1999) into Work Arrangements on Large Capital City Building Projects contended self-employment could 'bid down' costs. Over the next decade other significant externalities associated with contracting including sham-contracting and widespread tax evasion were identified in a series of inquiries undertaken by the Senate, the Board of Taxation Review and the Cole Royal Commission (2003) into the Building and Construction Industry and the Australian Building and Construction Commission. A House of Representatives Inquiry into independent contracting and labour-hire arrangements identified problems but avoided recommending any strong remedies (Sutton 2017). While inquiries in other States identified the problems commonly associated with contracting unions, most notably the Construction Forestry Mining and Energy Union (CFMEU), secured little traction whilst also having to contend with the growth of labour-hire arrangements and vulnerable foreign workers on short-term visas like s457 and s417 (Sutton 2017). More so than other unions, the CFMEU faced strident neoliberal interests (including government agencies) and other hostile forces which effectively stymied its campaign.

Like building, contracting had been a long-term feature of the mining industry but grew substantially from the 1990s. The use of contractors in the mining industry was addressed in a number of state government inquiries including the Western Australian Prevention of

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Mining Fatalities Taskforce (1997) and the NSW Mine Safety Review (Wran and McClelland 2005). Extensive research commissioned by the Mine Safety Advisory Committee as a result of bonus and other issues raised in the NSW Mine Safety Review, identified contracting as a problem in terms of hazardous practices and incident reporting (Shaw et al 2007). The growth of contracting including labour-hire was associated with other shifts in work practices, including increasing use of fly-in-fly-out (FIFO) and drive-in-drive-out (DIDO), whereby rather than living in a nearby mining town, workers live remote from the mine, and then, while they are on site, live in barracks (sometimes hot-bedding). In addition to undermining unionism (mining towns are typically a union hub) DIDO was associated with fatigue-related road crashes and FIFO was linked to work/family imbalance (resulting from long periods away), while fatigue and psychosocial hazards including the sexual harassment of female workers on remote sites, were documented by a number of inquiries undertaken in Western Australia (Education and Health Standing Committee 2015; Parker et al 2018; Community Development and Justice Standing Committee 2022). A Queensland report into FIFO and DIDO (Infrastructure Planning and Natural Resources Committee 2015) identified similar issues, including the quality of accommodation (including food and hot-bedding), rostering/fatigue and mental health. Safety concerns associated with the growing use of contractors (including labour hire) were prominent following a methane explosion at the Grosvenor coalmine in Queensland in May 2020 where five miners (all labour hire) were seriously burned. The subsequent Board of Inquiry (2021) investigating the incident commissioned a report on the available evidence on the contractor/safety connection and also emphasised concerns in this regard in its report, including regulatory recommendations.

The adverse OHS and labour standard implications of growing use of self-employed subcontractors also drew attention in other industries. The re-emergence of significant home-based work mainly for the fashion sector of the clothing industry and entailing exploitation (wages, hours and OHS) of the predominantly migrant workforce working in multi-tiered subcontracting arrangements was the subject of a number of state and federal government inquiries from the 1990s (see, for example Family and Community Development Committee 2002; Senate Economics References Committee 1996, 1998). There were federal award provisions dealing with outwork (an outcome of the earlier period described in *The 'new' world of work and its regulation in historical context* section) but these were deemed inadequate as were codes of practice introduced in Victoria and NSW following more recent inquiries. The Textile, Clothing and Footwear Union of Australia (TCFUA) launched a community, industrial and political campaign for mandatory regulatory coverage of outworkers' wages and hours, OHS protections and workers' compensation entitlements. This was supported by research indicating they were commonly underpaid, harassed and experienced higher rates of injury than workers doing the same tasks in factories (a declining sector due the abolition of tariffs). As in a number of other countries, the campaign involved community groups like Fairwear, Ethical Clothing Trades Councils and religious bodies such as the Brotherhood of St Laurence. However, unlike other countries this campaign secured passage of the *Fair Work Amendment (Textile, Clothing and Footwear Industry) Act* (2012) by federal parliament, notwithstanding the dominance of neoliberalism in policy circles. This enabled the setting of enforceable minimum wages and conditions for outworkers, addressed supply chain issues via obligations, enabled union access to information and a contractual tracking mechanism so those at the top of the chain could not evade responsibility for breaches in payment. The legislation (along with parallel State legislation) also sought to bridge the divide with OHS and workers' compensation laws (Nossar, Johnstone, Macklin and Rawling 2015). Despite reviews, the federal legislation has remained in place.

Following a number of highway blockades by owner-drivers protesting exploitation in the late 1970s, a number of state and federal government reports referred to the impact of

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commercial pressures on owner-drivers supported by a growing body of research. A NSW government report which took evidence from other jurisdictions (Quinlan 2001) focused on this issue and made a number of recommendations including the establishment of a 'safe-rates' regime for owner drivers (contract determinations for some short-haul owner drivers already operated in NSW). This inquiry occurred in the midst of a concerted community, industrial and political campaign coordinated by the Transport Workers Union (TWU). The National Transport Commission (2008) affirmed evidence attesting to a pay-safety connection, which ultimately led to the creation of a specialist tribunal, the Road Safety Remuneration Tribunal (RSRT) in 2012 by the then Labor government. The RSRT was abolished in 2016 following a change of government and a concerted campaign by vested interest groups including those representing major retailers and users of road transport. However, an inquiry by the Senate Standing Committees on Rural and Regional Affairs and Transport (2021) reaffirmed the evidence and the need to regulate. Bolstered by almost complete unanimity amongst transport operators and support from other interest groups, the 'Closing the Loopholes' legislation discussed below, included empowering the Commission to make determinations with regard to owner-drivers.

The TWU also initiated a community, industrial and political campaign on behalf of gig-workers and in particularly food-delivery workers (predominantly recent immigrants, many under short-term visa regimes), highlighting the low-wages and long hours they worked, problems of underpayment, intense pressures, hazardous work (including fatalities) and inability to access workers' compensation. Some state OHS regulators like WorkSafe Tasmania and Safe Work Australia had begun to issue guidance material on gig-work but this was usually fairly generic and focused on duties, obligations and access to PPE, and did not recognise any connection between insecurity, low payments and OHS (Johnstone et al, 2023). The Senate Select Committee on Job Security (2021a) produced an interim report on the on-demand platform work which looked at both IR and OHS aspects, state level initiatives and the circumstances of platform workers in different sectors (such as food delivery and disability care). This report and pre-legislative consultations formed the basis of provisions extending protection to some platform workers (healthcare was excluded). Gig work and the gig economy have also been the subject to state government inquiries, notably in Victoria (Industrial Relations Victoria 2020) while a South Australian Legislative Council inquiry was established in 2023 (incomplete at the time of writing). In April 2024 the House Standing Committee on Employment, Workplace Relations and Education initiated an Inquiry into the Digital Transformation of Workplaces.

Another sector which was a focus for inquiries into changed work arrangements, was harvest and seasonal work. A Coalition-government Senate Inquiry (Standing Committee on Employment, Workplace Relations and Education 2006) facilitated the introduction of a special visa category for importing harvest workers, but dismissed concerns about over-staying by the Department of Immigration, noted growers' commitment to paying award rates, and ignored OHS altogether. A specific scheme was established for importing seasonal workers from Pacific Islands (the Pacific Labour Scheme and then Pacific Australia Labour Mobility (PALM) scheme), something that became an important source of jobs and revenue for these small countries. But growing reliance on short-term visa workers had begun before this, with the s417 backpacker category (who were required to work on a farm as one of their jobs) and the industry had transitioned from a predominantly domestic seasonal workforce to heavy reliance on foreign workers, most with short-term visas but with a growing number of undocumented migrants in some regions. Union campaigns and media exposés resulted in a number of inquiries which found widespread exploitation in terms of wages (generally based on piecework pay), use of illegal contractors/labour-hire firms, few OHS safeguards, and poor working and living conditions (Joint Standing Committee on Migration 2016). As a hazardous industry (in terms of injury rates and chemical exposures) agriculture has been the subject of a number

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of reports (see for example WorkSafe Commissioner 2023) that identified both its dependency on short-term visa workers and their vulnerability, especially when the visa is dependent on the employer. OHS regulators produced guidance material with some targeted (low-level) enforcement but wage theft and other exploitative practices remained widespread, as regular reports from the Fair Work Ombudsman (2018) attested. The most significant change occurred in 2021 when a union campaign resulted in test-case before the Commission that established a harvest award setting minimum hourly rates of pay (Underhill and Quinlan 2024).

Another focal point for inquiries which overlapped with several already mentioned, were the circumstances of workers employed under short-term visa categories such as working holiday-makers (originally s417 visa), skills in demand (initially s457 the TSS visa) and foreign students working. As noted, until the 1980s Australian immigration overwhelmingly targeted permanent migration (including refugees) but after this time a number of shorter-term options were developed (backpackers, skilled shortages and foreign students). This expanded rapidly until in aggregate they dwarfed permanent migration. This growth was occasioned by some category 'fudging', businesses built around offering access to residency and evidence of exploitation of workers rendered vulnerable by their visa conditions. Union campaigns and media reports of exploitation of working holiday-makers (popularly referred to as backpackers) and foreign students working in Australia led to a number of federal inquiries which identified serious problems relating to IR and OHS (see for example Senate Education and Employment References Committee 2016). The s457 (temporary skilled migrant) category, ostensibly intended to fill temporary skilled shortages, was subject to some scamming of categories, became a go-to recruitment category, and effectively put workers under a form of 'indenture' whereby their stay (and potential for permanent residency) was dependent on employer-nomination. Similarly, many foreign students were seeking permanent residency and depended on income earned in Australia by supporting themselves, which resulted in 'accommodating' education institutions like some English language colleges; many such workers were rendered vulnerable to exploitation because they were exceeding their allowable hours. Though some protective legislative provisions were introduced, and the visa category and controls tweaked (as with s457) recommendations and reforms were rather anodyne, such as the Joint Standing Committee on Migration (2020) which recommended better information provision and inter-government agency cooperation. The federal Migrant Workers' Taskforce (2019) report did provide an overarching review of different categories of migrants, including illegal migrants and students, often deployed in the same industries and workplaces. It found underpayment/wage theft was widespread (and sometimes highly organised) along with unacceptable exposure to health and safety hazards, poor accommodation conditions, problems accessing legislative entitlements including workers' compensation, and association with a raft of other breaches in legislation (including tax evasion). It further found that some remedial measures including legislative changes and more especially enforcement were not proving effective. Academics Stephen Clibborn and Chris F Wright (see for example Wright and Clibborn, 2020) extensively documented the abuses of labour standards under these regimes and made submissions to federal government inquiries which led to a number of regulatory changes by the Labor government, elected in 2022 and already committed to moving Australian immigration back to a traditional focus on permanent migration (Underhill and Quinlan 2024). This point indicates the importance of recognising a broad set of policy settings in addressing the problems posed by precarious work, not just labour protection legislation.

Aside from industry/sector specific inquiries other inquiries examined specific types of precarious work more generally. Most prominent was labour-hire/agency work which was the subject of repeated state, territory and federal government inquiries and reports, sometimes in conjunction with consideration of contracting (see for example Finance and

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Administration Committee 2016; Forsyth 2016; O'Neill 2004; Senate Select Committee 2021b; Standing Committee on Education, Employment and Youth Affairs 2018). These reports painted a picture with a familiar ring to the exploitative practices identified in other investigations into precarious work including low wages/underpayment, intense job insecurity (labour-hire workers can be removed from site without any reason given), poorer OHS (including capacity to raise OHS safety concerns and regulatory oversight) and problematic access to workers' compensation when injured.

Reports also pointed to the particular vulnerability of recent migrants, especially those under short-term work visas (consistent with research identifying instances where some overseas-based agencies required works to sign contracts that breached industrial relations laws, Toh and Quinlan 2009). A number also referred to the blurring of the line between independent contractor and employee and the need to better integrate IR, OHS and workers' compensation protective regimes. These findings were based on submissions, testimony (including experts) and a large body of Australian research which in turn was entirely consistent with global research (see for example Strauss-Raats 2019). The Victorian inquiry (Forsyth 2016) was especially strong in its use of evidence and in making a range of well-argued recommendations for regulatory change. The most common response to the problems identified was the preparation of detailed guidance material and targeted enforcement by OHS regulators, and ultimately after strident resistance, the licensing of agencies – echoing forgotten strategies for regulating precarious work a century before (Office of Industrial Relations 2017). Labour-hire received particular attention from the Senate Select Committee (2012), which together with subsequent stakeholder and expert consultations, set the context for key provisions in the Closing the Loopholes Legislation.

A number of reports prepared by state and federal governments (including their agencies) examined labour market changes more generally. WorkCover NSW (the agency then regulating OHS and workers' compensation) commissioned a report on the challenges and remedies for both OHS and workers' compensation by work changes (Quinlan 2002). The report which considered other state jurisdictions documented that precarious work undermined OHS and coverage of injured/ill workers under existing compensation regimes, canvassing an array of regulatory responses but deeming most existing ones to be fragmented and inadequate. The weakening of workers' compensation regimes due to the growth of precarious work was identified in a number of other state and federal government inquiries, and this had flow-on effects to OHS statistics derived from compensation claim records (see for example Safe Work Australia 2009). The more general IR and OHS effects of changed work arrangements received attention in other venues, including a test case on casual employment heard by the NSW Industrial Relations Commission (2003). In 2021–2022 a Senate Select Committee on Job Security (2022) considered the IR, OHS and worker compensation effects of a wide array of precarious work arrangements including gig work, contracting and labour-hire. The inquiry did not ignore earlier learning, considering a considerable amount of research evidence as well as submissions, and asking those making submissions to address lessons that could be drawn from COVID-19. It also canvassed the broader policy remedies including encouraging industries like manufacturing that were more likely to be characterised by secure work than large parts of the service sector (like tourism and hospitality) which had become increasingly important in terms of overall employment. The report also made a number of recommendations pertaining to IR, OHS and workers' compensation regulation and policy, a number of which formed a focus for extensive consultation that preceded the introduction of the Closing the Loopholes legislation (Fair Work Commission n. d.).

Summarising the foregoing, this section indicates that over 50 state and federal government inquiries examined the impact of changed work arrangements on labour standards, OHS and (to a lesser extent) workers' compensation, most focusing on either a particular work-arrangement (including specific short-term visas) or a specific sector.

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Taken together, these inquiries made consistent findings on the effects, namely that labour, OHS standards and worker rights and entitlements, were undermined. The sheer number of public inquiries and their unanimity is remarkable, although consistent with Australian and overseas research. It is also worth noting in passing that their findings were confirmed by the observations of other inquiries which touched on changed work arrangements as well as an inquiry undertaken by ACTU and reports prepared by NGOs. Some inquiries which considered work arrangements as part of a wider brief resulted in important recommendations/changes, especially in the light of COVID including minimum staffing requirements, discouraging multiple jobholding in aged care, and minimum nurse ratios in hospitals – something the nurses' union had been pressing for well over a decade on both public health and OHS grounds.

What is also remarkable is that while some reports drew on the findings of previous inquiries and the extensive body of research, most adopted a narrow focus and recommendations, rather than seeing the shift as whole, which amongst other things weakened the value of their policy prescriptions/recommendations. Nonetheless, the sheer number of inquiries and their detailed documentation of problems created circumstances in terms of public awareness, policy debates and the like which could be used to justify more fundamental reforms. Further, several more broad-ranging inquiries and associated union campaigns (on gig-work for example) had influenced the thinking of the incoming Labor government. Critically, this knowledge was used to shape two rounds of extensive consultation with academic experts, industry and union representatives on how legislation could best address particular problems (for example with regard to job insecurity and labour hire and regulating contract truck drivers), The result was that considerable and informed deliberations preceded the legislative package, including elements that effectively amounted to a paradigmatic shift to regulating work (or at least for those that are employee-like), not just wage-employment. As well, this shift was legitimised by ensuring these workers were now assigned as a responsibility of Australia's central industrial relations tribunal – the Fair Work Commission. As the next section indicates, industrial relations legislation and a number of associated changes (notably to migration policy) highlighted a significant shift. These changes not only addressed many of the problems identified by the earlier inquiries in a more systematic/integrated fashion – as part of a more general shift back towards the more collectivist that had prevailed for much of the 20th century – but also included new and novel features.

The re-regulation of work in Australia

The rise of neoliberalism (including IR laws more hostile to unions and containing union-weakening practices like outsourcing and privatisation) together with sectoral shifts in employment (especially the decline in manufacturing) led to a substantial decline in union density in the three decades from 1975 (Peetz 1999). The Rudd Labor government's Fair Work reforms from 2008 to 2009 wound back some of the worst aspects of the prior neoliberal Work Choices laws, but failed to rebuild collectivism or significantly improve wages and conditions (especially for precarious workers). However, precarious work arrangements both within employment (e.g. casual employment; low paid employment in female dominated industries) and beyond the employment relationship (e.g. dependent contractor arrangements) continued to be marked by significantly inferior pay and conditions. This in turn undercut the wages and conditions of employees in more secure continuing employment arrangements (Clarke et al 2007, 325) and blurred the boundary between precarious work and continuing employment, particularly when factors such as degree of job uncertainty, and absence of control over the labour process including lack of control over wage rates, conditions and pace of work, are considered (Bernstein et al 2006,

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214). In retrospect, the bargaining regime established by these Fair Work reforms limited worker capacity to improve their wages and conditions by largely restricting bargaining of collective agreements to the enterprise level. This made it difficult for unions to negotiate agreements in sectors with low bargaining coverage (Wright 2024). Further, employers (not unions or workers) were given a central role in the agreement-making process, and there have been considerable restrictions on collective power including a very limited capacity for workers to engage in industrial action (Forsyth and McCrystal 2023, 1105, 1107). This all added up to very limited union powers to restrict or regulate precarious work arrangements.

The 'model' Work Health and Safety (WHS)[2] laws in Australia were introduced in 2013 to better address complex work arrangements by broadening coverage to 'workers' and by broadening a range of other duty-holders including employers under a more encompassing term which was 'persons in charge of a business or undertaking' or 'PCBU' (Quinlan and Walters 2023, 56). WHS laws also afforded workers the power to elect health and safety representatives and to form Health and Safety Committees in order to assess, plan for, monitor and enforce workplace health and safety risks (e.g. Work Health and Safety Act (Cth), Part 5). As such these WHS laws offered the dual benefits of broad coverage and the capacity to boost industrial democracy at the workplace level. Nevertheless, their efficacy remains under indirect threat (see Anderson and Quinlan 2008) due to the separation of WHS laws from workers' compensation and pay and conditions law which, up until the very recent changes discussed in this article, continued to focus mainly on regulating the employer-employee relationship. This lack of integration of these three artificially separated areas of labour law is particularly problematic in industries where low pay can be hazardous (Quinlan and Walters 2023, 56). For example, in road transport work as well as in platform work, low pay underpins a number of other problems – including poor WHS. (Bluff, Johnstone, and Quinlan 2023; Quinlan 2023, 1). Thus, whilst of some use, WHS laws (especially in their application to some industries such as the transport sector) do not get to the nub of the problem because the underlying cause of poor OHS can be traced to remuneration levels and methods (Quinlan 2023, 6).

Upon being elected in 2022, the Albanese Labor government embarked on a number of tranches of industrial relations reforms including Secure Jobs Better Pay reforms in 2022 and two rounds of the Closing Loopholes reforms passed in 2023 and 2024 (which amended the Fair Work Act 2009(Cth) (FW Act). The then federal minister for industrial relations, Tony Burke, played an instrumental role in devising and shepherding the regulatory reforms, including initiating several rounds of extensive consultation with industry, unions, academics and other interested parties. Unions also played a further critical role. For example, as noted in the last section, the TWU had conducted a decades-long campaign in relation to the pay/commercial practices/safety connections on trucking and was able to secure the support and engagement from the bulk of the road transport industry for tribunal determinations which learned lessons from the earlier Road Safety Remuneration Tribunal. This success also reflected splits in capital occasioned by both elaborate supply chains and neoliberalism. A similar campaign with regard to food-delivery workers also won sufficient 'buy-in' to secure legislative coverage of these and other platform workers. While other groups of platform workers (notably those in healthcare) were excluded, an important precedent has been set. Both these campaigns and others connected to understaffing in healthcare, wage theft, and the hyper-exploitation of migrants (especially temporary visa holders) entailed widespread media coverage and aroused community concern sufficient to assist the introduction of new protections including muting the effectiveness of opposition from neoliberal interests.

The legislative amendments to mainstream pay and conditions laws now align industrial regulation more closely to the WHS model of regulating work. The package of interconnected reforms is intended to rebuild unions, expand tribunal powers and better

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protect precarious workers (including gig workers). Overall, the reforms represent a shift away from neoliberalism and back to collectivism. Part of the strategy to rebuild collectivism through state intervention, is to broaden the scope of industrial regulation by regulating more closely work arrangements both within and outside the employment relationship so that gaps in the system are plugged, unions and government regulators have improved scope to enforce labour laws, and employers are forced to the bargaining table. In combination, these measures make the collective system more difficult to evade and avoid. A central element of this collective system is that the powers of a responsive industrial tribunal to hand down tailored standards and/or facilitate bargaining (especially in relation to categories of precarious workers including labour hire workers, low paid employees, digital labour platform workers and contractors in the road transport industry) are significantly boosted, bringing the regime closer to one which regulates 'work', not just employment. Thus, this system of Australian regulation in its intent, scope, institutions and processes compares favourably to labour laws in some other countries, especially to those which are largely still focussed on regulating the narrow category of employment. By coupling laws to protect precarious workers labouring outside the employment relationship with a recalibration of the balance of power within the employment relationship (through greater tribunal intervention and a more central role for unions in the tribunal and in bargaining), the system of industrial regulation as a whole is geared towards better job and income security not only for continuing employees but importantly, also for more precarious workers including low paid employees, casuals, those on fixed-term contracts, and digital labour platform workers as well as some other vulnerable contractors. This is particularly so given that there is less scope for employer avoidance of more secure arrangements in the reformed system.

Regulating precarious work arrangements

As discussed above, the rise of gig work since the 2010s and the focus of the main existing regulatory regime on employment led to the avoidance of existing legislative protections and ushered in a new era of sweated labour (Quinlan and Walters 2023, 56). Indeed, legal studies on the court-decided boundary distinguishing employees from independent contractors have highlighted deficiencies in that law which have contributed to the undermining of the regulation of precarious work across time (see for example Stewart 2002; Sutherland, 2022). In light of this, it is notable that the new Closing Loopholes No.2 laws considerably expand the scope of legislative protections. Firstly, new statutory interpretation principles have been enacted on the issue of determining whether a worker is an employee and whether a business is an employer. This involves "ascertaining the real substance, practical reality and true nature of the relationship" between a worker and a business (s15AA(1) FW Act). In determining this question, the statutory provisions state that the totality of the work relationship must be considered and regard must be given, not only to the terms of the contract between the parties, but also to how the contract is performed in practice (s15AA(1) Fair Work). These provisions were enacted in response to prior Australian High Court cases (High Court of Australia 2022a, 2022b) which made it easier for businesses to engage workers as contractors by holding that the written contract (and the circumstances only at the time the contract was made) determined whether a work relationship was one of employment (see Schofield-Georgeson and Riley Munton 2023). The new provisions will provide guidance to courts and tribunals when deciding whether a worker is an employee, and should have the effect of categorising more vulnerable workers within the employment category.

Secondly, given that many vulnerable, low paid, gig workers (and vehicle owner-drivers) do not fall easily within the employment category (even after the enactment of the above provisions, broadening the category of employment because of the nature of the

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work relationship with their work provider), new parts have been inserted into the FW Act which will extend minimum labour standards to gig workers and owner-drivers engaged as contractors. Importantly, this mandatory regulation will raise standards for these contractors and reduce the incentive to use contractors as a cheap but flexible, precarious labour alternative to employees.

There are two categories of contractors covered by these new legislative provisions. The first category are those 'employee-like' digital labour platform workers engaged under a services contract by a digital labour platform operator (i.e. all gig workers economy wide provided that they are employee-like). Secondly, there are road transport contractors engaged by road transport businesses (i.e. all road transport contractors – there is no requirement for them to be employee-like).

For a platform worker to be considered employee-like, two or more of the following criteria need to be satisfied. These criteria are that the worker: has low bargaining power, pay at or below comparable employee rates, a low degree of authority over their own work, and any other criteria to be added by the Minister through executive regulation (s15P(1)(e) FW Act). On-demand road transport platform workers such as ride-share drivers and food delivery riders are likely to be covered.

Under a new Part 3A-2 of the FW Act, the Commission will be able to make minimum standards orders that will apply to employee-like gig workers and road transport contractors and the businesses that hire them. These orders can be made in response to a union (or business) application, an application by the Minister or at the initiative of the Commission. The orders can include payment terms and a range of other conditions of work including cost recovery, consultation, representation and delegates' rights (but not overtime rates, rostering arrangements, commercial matters and terms that would make a contractor an employee) (s536KL, 536KM FW Act). If the commission is satisfied it is appropriate to do so, orders applying to digital labour platforms and their employee-like workers can also include penalty rates, payment for time before an engagement or in between engagements, minimum periods of engagement, or payments for a minimum engagement (ss536KMA(1) FW Act).

Having an industrial tribunal set remuneration levels for gig workers can assist to remove incentives to seek an advantage by cutting remuneration. It will provide the basis for a more sustainable industry into the future including by lowering workforce turnover (which adds to induction and training costs) (Quinlan 2023, 3).

An expert road transport industry panel is now empowered to deal with both awards for employees and minimum standards orders for road transport contractors (FW Act s617(10A). This is a cleaner, simpler and more efficient solution than establishing a separate tribunal (Quinlan 2023, 5). The members of that expert panel have considerable road transport industry expertise and can quickly further develop that expertise. The panel could mandate comparable wages and conditions for employee and owner-drivers. It is necessary to equalise earning levels between the two groups of workers in a sustainable manner so as to not price one worker group out of the market. Owner drivers have long been a significant part of the road transport industry and will be into the future because of the flexibility they offer in certain situations. Better remunerating them will avoid a costly and unsustainable race to the bottom which has been occurring in the industry for some time (Quinlan 2023, 6). On the day that the legislation commenced, the TWU applied for orders for the protection of precarious food delivery riders and parcel couriers. At the time of writing the Fair Work Commission had not yet fully considered these applications.

The new FW Act provisions also enable collective agreements to be made between a digital labour platform operator and a union entitled to represent the interests of employee-like workers or between a road transport business and a union entitled to represent the interests of road transport contractors (Fair Work Commission 2024a, 12). Such a collective agreement can include terms and conditions on which employee-like

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workers or road transport contractors covered by the agreement perform work under a relevant services contract (Fair Work Commission 2024, 12). These agreements are required to specify terms and conditions more beneficial than those in a relevant minimum standards order (s536MR, FW Act). The collective agreements can be registered with the Commission (s536MR, s536MS FW Act) and put in place legally enforceable obligations (s536JJ, FW Act). When registered, one of these agreements must pass a public interest test which requires that the agreement has been fairly consented to, and provides fair terms and conditions (ss536MS(3A) FW Act).

The new minimum standards and collective agreement provisions both envisage a central role for unions. A union can apply for a minimum standards order which can contain a number of collective matters including (those relating to representation) and the relevant union is a party to a collective agreement. Thus, these new laws may assist in achieving higher union density workplaces which have been proven to be safer than non-unionised workplaces (Biggins et al 1991; Morantz 2013; Walters et al 2016).

Prior to the introduction of the new legislation, digital labour platform operators within Australia possessed the power to deactivate gig contractor workers such as Uber drivers. (Western Australian District Court 2016 [85]). It is important then, that the new statutory provisions contain the ability of an employee like worker to challenge in the Commission, an unfair deactivation from a digital labour platform. A road transport contractor is able to contest an unfair termination of their services contract by a road transport business as well (Part 3A-3 FW Act). These rights can operate to allow workers to object to unsafe working conditions or underpayment with less fear of being dismissed (Rawling and Riley Munton 2024, 66).

The relevant union (and the government inspectorate, the Fair Work Ombudsman) are both empowered to enforce minimum standards orders, unfair termination or deactivation orders and collective agreements (ss539(2) FW Act). This is consistent with 20th century tripartite arrangements in Australia whereby unions played a major part in enforcement activity (prior to the impact of neo-liberalism on labour law) (Hardy and Howe 2009, 336.)

As mentioned above, a growing body of research has documented adverse effects of supply chain outsourcing for workers at the bottom of supply chains across a range of industries including the cleaning, apparel, construction and road transport industries (Quinlan 2011, 7; Walters and James 2011, 989). Of particular relevance are the findings that the commercial influence of road transport industry clients contributes to unsafe payment levels and working conditions for road transport workers at the bottom of the contracting chain (Mayhew and Quinlan 2006; Quinlan 2001, 117, 124, 130, 152–153, 162, 164, 180; Quinlan and Wright 2008, 21–23). It is particularly of note then, that the new legislation empowers the Commission to make binding road transport contractual chain orders that can set standards for the protection of road transport employee-like workers and road transport contractors (FW Act ss 536NP, 536PD). Definitional sections ensure that a broad range of commercial road transport supply chain and business parties to those chains (including those at the top of the chain that require the delivery of freight by road) are captured by the legislative regulation (s15RA FW Act). A relevant union (or business) and the federal Workplace Relations Minister can apply for such a contractual chain order which can include a non-exhaustive list of terms such as those relating to payment times, fuel levies, rate reviews, termination and cost recovery (ss 536PE, 536PQ FW Act).

Other Closing the Loopholes No.2 reforms also alter the statutory definition of casual employment such that the real substance, practical reality and true nature of the employment relationship is considered when determining whether an employee is a casual or ongoing employee. Post-contractual conduct can also be considered when deciding this question. (Stewart 2024, 11). These later reforms also created the right for employees to disconnect from the demands of their job when not at work (Stewart 2024, 38), allowing

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workers to make a clear separation between work and non-work spheres – which is an important right given the advancement of communication technologies over the past two decades (*Workplace Express* 2024a). Finally, contractors with earnings below a high-income threshold will be able make unfair contracts claims in the low-cost Commission jurisdiction (Part 3A-5, FW Act).

Reforms that rebuild collectivism

We note at this point, although the extensions of labour law to regulate kinds of work outside employment are important, it is somewhat artificial and narrow to focus exclusively on those types of legal changes in isolation from broader reforms (including multi-employer bargaining for employees and greater tribunal powers). These latter IR reforms also directly influence standards for certain categories of precarious workers such as casuals and low paid employees, and either indirectly or directly regulate the use of other precarious work (e.g. through site rates agreement clauses and same job same pay orders discussed below) and/or indirectly improve standards for precarious workers through flow on effects to the whole labour market (via increased union and worker power). In other words, the mainstream reforms to bargaining in themselves enhance the regulation of precarious work by making it harder to fragment work (and as we shall see also make it riskier to underpay workers).

For Peck (1996, 126) to fully understand precarious work is to investigate the complex interrelationship between the social organisation of production (including the power balance between labour and capital), the political context, the regulatory context (including labour laws) and the technical organisation of production. Hyman (1987) also endorses this type of "macrosocial" understanding of regulating precarious work. In this way the re-emergence of precarious work in the latter half of the twentieth century can be understood by studying a number of social factors including successful attacks on worker and union power, employer evasion of employment standards, and the demise of welfare state regulation (Peck 1996, 126; Quinlan 2006, 38). Taking this approach in Australia at this point in time, the converse may also apply: that is, an interrelation might be posited and/or observed between cracking down on employer evasion and avoidance of standards, more closely regulating precarious work and boosting collectivism and tribunal intervention in the system more generally. Although, such an interrelation cannot be fully explored in this article, our focus on the whole IR reform package tends to be consistent with/supported by the macro-social approach. Hence, we examine above not only the extension of labour laws to further categories of precarious work (including road transport contractors and digital labour platform workers) but also (in a brief section below) the extent to which the mainstream IR reforms boost union and tribunal power and complement extensions of labour laws beyond employment. The Albanese Labor government has reformed law regulating employment that will rebuild collectivism, potentially changing the balance of power between labour and capital thereby producing a flow on effect to whole labour markets in Australia. As such, in time, if not wound back or repealed (and absent major economic downturns and increases in unemployment) these reforms may improve job and income security for all Australian workers including precarious workers. These reforms include improvements to bargaining laws, most notably expansion of multi-enterprise bargaining, the ability of employees to take protected industrial action in support of a multi-enterprise agreement and the Commission's power to arbitrate protracted industrial disputes. We first discuss the key changes expanding the ability of unions to make multi-enterprise agreements which concern the supported bargaining stream and the single interest employer agreement (SIEA) (which is in effect a form of multi-enterprise agreement).

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The supported bargaining stream replaces the low paid bargaining stream which had very limited impact due to the very high threshold employees and unions had to meet to get multi-employer bargaining authorised in a low paid sector. The provisions were therefore under-utilised and there was only one low paid authorisation under the FW Act (which did not result in a multi-enterprise agreement being made). In any case protected industrial action could not be taken in the prior low paid bargaining stream.

Although unions will still need to get authorisation from the Fair Work Commission to engage in such multi-enterprise bargaining in low-paid sectors, the legislative provisions allowing these authorisations are much easier to satisfy than the previous low-paid bargaining scheme (see s242-243, FW Act). Also, a union can apply to the Fair Work Commission to get a supported bargaining authorisation to apply to another employer, and it is more difficult for employers to opt out of supported bargaining once an authorisation is made (new s172(7), s244, FW Act).

If a supported bargaining authorisation is granted, then the Commission will be able to issue bargaining orders (ss229(2) FW Act). The Commission can also facilitate bargaining vertically up a supply chain by requiring a head contractor or funding body to attend conciliation (s246 FW Act). Moreover, the low paid employees will be able to take protected industrial action (ss413(2) FW Act) and intractable disputes can be arbitrated (s235 Fair Work A).

As such, the supported bargaining stream directly boosts the bargaining power of a category of precarious workers, i.e. low-paid employees. It offers these employees and their unions a much more viable method of achieving multi-enterprise agreements across all or part of an industry in sectors such as the aged care, disability care and early childhood education involving workers who may have difficulty bargaining at the single enterprise level because they lack skills, resources and power (Forsyth and McCrystal 2023, 1121–1122).

The next major reform to bargaining was the introduction of single interest employer bargaining, another form of multi-employer bargaining. Prior to the Albanese government amendments, aside from the low paid bargaining stream discussed above, multi-enterprise agreements were basically voluntary given that employers had to agree to the multi-enterprise arrangement, no bargaining orders could be made in regard to them, and no industrial action could be taken in support of them. As such, no mechanism compelled employers to enter into multi-enterprise bargaining and agreements.

However, under the new system, upon application by a union, the Fair Work Commission can issue a single interest employer authorisation in circumstances where a number of large employers have common interests, are 'reasonably comparable' (there is a slightly tougher application process for unions where a business has 20–50 employees) and there is majority employee support (s249 FW Act). Then a new type of multi-employer agreement known as a single interest employer agreement can be negotiated. Protected action can be taken in relation to this type of agreement (s413(2) FW Act). Also, the Commission can issue bargaining orders (s229(2) FW Act) and if there is protracted bargaining, step in to arbitrate. These features may make these multi-employer agreements attractive to employees and unions.

At this stage it is difficult to determine how widespread the use of these multi-employer agreements will be (aside from the fact that they will not be used in the construction sector because they are not allowed in that sector (s243A(4), s249A, FW Act). The requirement to show majority support amongst the employees of each employer to be covered by a multi-enterprise agreement reinforces the 'atomised approach' of enterprise-level bargaining (Forsyth and McCrystal 2023, 1124). However, although falling short of industry-wide bargaining, the concept of identifiable common interests could allow for horizontal expansion of these multi-enterprise agreements across parts of industries and could involve a considerable number of large employers (*Workplace Express* 2023a). For

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example, it could allow a union to bargain with a group of 'brand-owned and franchised stores in a fast-food or convenience store chain' (Forsyth and McCrystal 2023, 1120). But vertical expansion up and down a supply chain is much less likely; this form of multi-enterprise bargaining might be difficult to achieve because the businesses may not be 'reasonably comparable' or have common interests due to the different nature of the business operation compared to the other businesses up or down the supply chain (for example consider the difference between a manufacturer and a retailer in the same supply chain). Furthermore, unions may take time to operationalise this form of multi-employer bargaining in a horizontal manner.

Another notable aspect of these reforms was the expansion of Fair Work Commission powers. Previously under the FW Act to get a bargaining dispute (not involving industrial action) resolved by the Fair Work Commission a party had to successfully apply for a serious breach order, which, when not complied with, allowed the Commission to make a bargaining related workplace determination. In the recent changes, provisions relating to both serious breach orders and bargaining related workplace determinations were repealed as there was such a high threshold for granting these orders that none were ever made (although there have been quite a few industrial action workplace determinations).

The new rules broaden the circumstances where compulsory arbitration is available regarding bargaining for a collective agreement. The new intractable dispute arbitration provisions can be exercised whether or not industrial action has been undertaken (s235, FW Act; Forsyth and McCrystal 2023, 1130)

The arbitration of intractable disputes is arguably a game-changing reform. The compulsory nature of arbitration will bring the parties together – even if the aim of resolution is not mutual because the Commission will direct the parties and impose a resolution (*Workplace Express* 2024a). In particular, the new arbitration provisions open up the possibility of arbitrating where bargaining has stalled but no industrial action has been taken where for example, there is no history of robust worker campaigns or where the campaign has stalled due to complexities complying with the protected action provisions in the FW Act (Forsyth and McCrystal 2023, 1130).

The Closing Loopholes No.2 reforms added to these bargaining resolution improvements by requiring the Commission to ensure that any workplace determination set down to address a matter that is unresolved by bargaining between the parties apart from pay matters are no less favourable to employees and the relevant union than any term in the existing industrial instrument including a previous agreement (s270A FW Act: Stewart 2024, 29).

The Secure Jobs Better Pay reforms also made some small but significant changes to single-enterprise agreement making. The most important change here is that union officials who represent employees to be covered by a proposed enterprise agreement, can initiate bargaining where a previous enterprise agreement has expired in the last five years. This does away with the need to once again prove majority support, overcoming the problem unions and employees face where an employer refuses to negotiate a new enterprise agreement when an existing agreement has expired (Forsyth and McCrystal 2023, 1113).

In addition, the reforms included curtailing employers' rights to terminate agreements during bargaining. Under previous FW Act laws there were a number of high-profile agreement terminations during contested bargaining including at Griffin Coal, Peabody Energy, Murdoch University, and AGL Loy Yang. At the Griffin coal mine dispute the agreement was terminated during bargaining and employees' pay and conditions reverted to the relevant award which compared to previous bargained agreement, reduced wages by 40%, and increased working hours. This changed the bargaining dynamics of the dispute and the result was a new agreement that reduced wages by 20% compared to the last agreement. Partly as a result of such circumstances, the Secure Jobs Better Pay reforms

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made changes to the rules about when the Commission can terminate an enterprise agreement. The effect of these amendments is to limit the ability of employers to terminate expired conditions that provide wages and conditions in excess of awards much more so than the old laws. The new laws effectively abolish the ability of employers to access agreement termination as a bargaining tactic (s226; Forsyth and McCrystal 2023, 1129).

Also included in the Secure Jobs Better Pay Reforms was a prohibition on fixed term employment contracts of two years or more (ss333E-333L FW Act) which incentivises continuing employment arrangements and a prohibition on pay secrecy clauses in employment contracts (ss333B-333D FW Act), a transparency measure designed to allow employees to share pay information and assist employees to negotiate higher wage rates. Additionally, the first round of Closing Loopholes reforms empowered the Commission to make same job same pay orders to allow labour hire workers to earn the same pay as core employees for performing the same work, which has already encouraged the insourcing of work at one major employer (*Workplace Express* 2024b). The principle is also being progressively rolled out in mining industry enterprise agreements – a considerable achievement given the multi-million dollar Minerals Council advertising campaign against this change (*Workplace Express* 2023b). Of course, same job same pay has implications for wide range of other industries using labour hire.

It has been known for some time that the bulk of workers both historically and today who are subject to wage theft are precarious workers such as young workers and migrants (Bennett 1994, 133). It is notable then that, the reforms impose criminal liability for deliberate employee underpayments (including those relating to superannuation) (which had already been recently criminalised in Victoria and Queensland) (Nikoloudakis and Ranieri 2013). These criminal laws may well function as a deterrent to underpaying workers. Such enforcement matters are important. It is one thing to pass legislation and quite another to ensure that the new rights and entitlements in that legislation are actually received by workers.

Finally, the legislation creates new rights and protections for union workplace delegates (shop stewards) (Stewart 2024, 2, 31) which could assist to facilitate more union workplace organising and remove some barriers to delegates speaking out against dodgy bosses and inadequate workplace standards.

Concluding observations

It is no coincidence that the Labor government reforms combine changes to rebuild collectivism and better regulate precarious work. As was noted there are striking parallels with the past whereby widespread precarious work and the problems associated with it, played a pivotal part in the introduction of significant IR reforms over century ago, including in the case of Australia's arbitration system and central wage fixing tribunals. The regulatory model focused on employment rather than work but was arguably right to do so, given the dominant capital strategies of the time. This protective architecture was severely weakened by neoliberalism and the associated problems then documented in numerous government inquiries (and academic research), which while fragmented in their approach to the problem, did provide a base for a more coordinated assessment of the problem and detailed consultation that informed the Albanese government's IR law reforms. While innovative in several ways, an outstanding element was giving the Fair Work Commission the power to make determinations of non-employees (such as Uber drivers and owner-truck drivers) in employee-like arrangements. While not entirely without precedent this amounts to a paradigm shift in IR regulation and one that directly addresses the challenges posed by the new wave of precarious work, many in

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subcontracting arrangements where they can nonetheless be subject to close surveillance and control digitally. This shift also entails a recognition that precarious work and workplace change are best addressed at industry/sector level rather than at the enterprise where any determination risks being undermined by a less scrupulous competitor.

Taken as a whole, the reform package could restructure Australian labour markets and simultaneously improve working conditions for continuing employees and most types of precarious workers. In particular, there is much greater capacity in the system to improve standards across entire industries and better address precarity in work arrangements. The direct extension of labour laws to gig workers and certain contractors and improvement in standards for casual, fixed-term and low-paid employees, is augmented by the rebuilding of conciliation and arbitration powers, the facilitation of more collective bargaining both at a particular enterprise and across multiple enterprises, and by giving unions a greater platform to lift standards for all workers, whether precarious or otherwise. The Australian union movement (which has been motivated to build collective power through addressing precarious work for some time now) (see for example ACTU 2011) may be able to better do so through this increased platform (and possibly by way of more funds gained from more financial memberships).

In 1944 the International Labour Organization declared that labour was not a commodity. Three decades later, the rise of neoliberalism ensured labour would be increasingly commodified by precarious work where labour was engaged on a short-term, insecure and transactional basis, including growing global shifts of temporary migrants (Rosewarne 2010; Wright and Clibborn, 2020), epitomising this 'new' world of work. The rise of the fissured workplace (Weil 2014) has been marked by a belated and equally fissured regulatory response. The Albanese government legislation represents the most systematic attempt to deal with some of the problems and entails elements of a paradigm shift because it regulates 'employee-like' arrangements, a step towards regulating work rather than employment. As noted in *The 'new' world of work and its regulation in historical context* section this was a weakness in the early wave of labour laws enacted over a century ago and one that has become more pressing given how digital technologies have facilitated Uber-type arrangements and other forms of subcontracting. This shift to regulating work not just employment already occurred with regard to Australian OHS laws (Tooma & Johnstone, 2022). These developments warrant global attention because they begin to address the already large, deliberately manufactured and growing gaps in pre-existing regulatory protections, overwhelmingly confined to employment arrangements.

The legislation and related campaigns also will assist industries who have long struggled with exploitative subcontracting arrangements like construction while also having implications for the use of labour-hire at lower wages in mining. Nonetheless, these reforms depend on effective enforcement (including industry-focused FWO staff who would 'know' the rorting/evasive practices most common in that industry) especially as new evasive measures emerge like illegal transport operations issuing of ABN numbers to vulnerable workers in trucking and elsewhere.

Early signs are that the bargaining reforms have boosted the collective power of employees to bargain more and better pay and conditions deals. There has been increased use of Commission conciliation to resolve high-profile disputes including those involving large companies such as Chevron, Switzer, Woodside, Virgin, Esso and DP World. As at the time of writing this article in 2024 four intractable bargaining declarations had been made including one in the aviation sector, two in the road transport industry and one for fire-fighters, with another application in relation to a dispute involving fire-fighters being refused (Stewart and Rinaldi 2024). One supported bargaining authorisation (in the child care industry) had been made. Finally, in the financial year 2023–2024, there were only 13 applications for a single interest employer authorisation (Fair Work Commission 2024, 63). Therefore, the efficacy of single interest employer authorisations in broadening multi-

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enterprise bargaining is not yet fully evident. However, enterprise agreement approvals were 16% higher over the last year than the previous year and included higher wage rates than the previous year (Stewart and Rinaldi 2024).

Given the legislation specifically regulates gig work and road transport contractor arrangements outside the employment relationship it will prove difficult to avoid and could therefore operate to spread compliant business behaviour across industries. A growing number of studies indicate that regulating entire supply chains in hierarchically organised industries can improve working conditions of workers at the base, provided the legal framework is actively enforced by a regulator (Rawling 2014, 206–207; Rawling et al 2021) In light of this evidence (which is from both the cleaning and apparel sectors) we are optimistic that the road transport contractual chain orders can have a similar positive effect. The ability of the relevant union as well as the FWO to enforce these contractual chain orders (ss539, 536PM, 536NS FW Act) in the road transport industry increases the chances of successful implementation, (provided the legislation lasts for a considerable period of time for this to occur). This road transport regulation may then be able to serve as a model for the appropriate adaptation and expansion of mandatory supply chain regulation for employment policy purposes to other Australian industries characterised by supply chains as well as to supply chains in other countries.

In terms of precarious/non-standard work more generally, the legislation contains a number of mutually reinforcing measures including increasing the scope for multi-employer bargaining/determinations, significantly strengthening provisions relating to award evasion/wage-theft and the 'same work same principle' (echoing the historic comparative wage justice principle) which can apply to labour-hire/agency work arrangements which unions like the Mining and Energy Union have rapidly utilised. In short, the innovative nature of the legislation is confined to particular features but the integrated package of reforms both address specific problems connected to non-standard work/contracting and problems with work more generally. Another important aspect is how these reforms are reinforced by other government policy changes in the area of immigration (returning the focus to permanent migration), bolstering local manufacturing, staffing requirements in the aged care sector, and (in sharp contrast to its predecessor) the Labor government's strong support for increases in the minimum wage.

The legislative changes also signify a reversal of the attack on arbitration, which began in the 1970s. Indeed, the reforms may see a return to the centrality of conciliation and arbitration whereby the industrial tribunal sets legally enforceable standards for the majority of the Australian workforce (see Anderson and Quinlan 2008, 122, 126) and resolves collective disputes. This may assist in a return to the delivery of a 'measure of social justice' and the maintenance of industrial peace without unacceptable economic consequences (see Anderson and Quinlan 2008, 123). Overall, the Albanese Labor government changes to federal Australian IR law represent a major shift in policy by providing an integrated set of reforms to pay and conditions law. Nonetheless, it will take time to fully implement these reforms and further change is required including a shift to regulating work and working conditions in all its spheres and reconciling the challenges posed by the ongoing trifurcation of law regulating work. There are also the challenges posed to any single jurisdiction/country by the global nature of some practices and the corporations promoting them. While the International Labour Organization's (ILO) Decent Work agenda has clear applicability to precarious work, it has limited regulatory powers that nation-states routinely ignore and the ILO refused to formally publish a comprehensive report on the OHS effects and policy remedies associated with supply chains following objections from employer representatives. On a more optimistic note the International Transport Federation (ITF) is promoting a global 'safe-rates' campaign supported by a research experts' network. Hopefully, positive developments in countries like Australia will reinforce the reform push in other countries and globally.

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Notes

1 In Australia tariff cuts began under the Whitlam Labor government (1972–75) but their impact was magnified by a series of free-trade agreements.
2 Although OHS is used previously in this article, WHS is used here when referring to relevant Australian legislation because this is the most commonly used term in that legislation.

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