The Twenty Second Kingsley Laffer Memorial Lecture

The University of Sydney Business School

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"Australia in a Globally Competitive Workplace – Challenges and Opportunities"

Peter Wilson [i] [ii]

Thank you to Professor Braden Ellem, Professor Marian Baird and their colleagues from the Employment Relations group of the Sydney University Business School, for the opportunity to present the twenty-second annual Kingsley Laffer Memorial Lecture.

I would also like to begin by paying my respects to the Gadigal people of the Eora nation, on whose traditional lands we meet today, and to all their elders past and present and any other elders of the other great indigenous nations of Australia, who are with us today.

Associate Professor Laffer joined Sydney University in 1944 when the Conciliation and Arbitration Court was first providing for a 40 hour week in federal awards. The 40 hour week was the first of many 'lines in the industrial sand' that followed, and we all know it's a journey that's far from finished.

Kingsley Laffer pioneered the teaching of industrial relations at the University of Sydney for the next three decades prior to his retirement in 1976, and then became active in industrial relations teaching at what is now the University of Western Sydney.

I am very proud of the opportunity to present this lecture and to join the company of those who have made this oration over the last twenty two years, including Bob Hawke, Mr Justice Michael Kirby, Bert Evans, Kim Beazley, Julia Gillard, Tim Costello, Tom Kochan, Helen Conway, Heather Ridout, Sharan Burrow, Jennie George, Deidre O'Connor, Quentin Bryce, Sue Bussell, and Iain Ross last year, as well as eminent Sydney University Emeritus Professors Russell Lansbury and Ron McCallum.

The inaugural Kingsley Laffer Lecture was held in 1993. The first speaker was Bob Hawke, who presented a speech titled 'Industrial Relations in Australia: A Turbulent Past - an Uncertain Future'. And it included this remark:

> "*We are now witnessing one of the most dramatic periods of change in Australia's industrial relations system"*

I believe that comment is as true today as it was then.

Over the last two decades, the definitive term 'industrial relations' itself has evolved into 'employee relations', and thence to 'workplace relations'. 'Industrial relations' is still used as a sub-descriptor within the modern field of 'workplace relations'. From the perspective of the human resources profession, 'industrial relations' relates to legislative practice issues with our industrial employment laws. The primary national regulatory entity has also changed its name a number of times from the Commonwealth Conciliation and Arbitration Commission when Kingsley Laffer began his teaching, to the Fair Work Commission body we have today. The steps between each institutional form reflected both changes to workplace laws and also to the evolved forms that industrial relations practices took within a broadening and globally exposed set of business and people practices for workplace relations.

In the tradition of Kingsley Laffer's own work, a number of seminal articles have been written over the last fifteen years concerning the often contentious state of contemporary industrial relations, in terms of its impact on the economy, as well as labor market outcomes and equity. Howe (2010) provides an excellent analysis of why labour laws exist, and notes that their reform has always "been under pressure to cope with factors relating to … time and place" (P 9), and have necessarily been caught up with other policy domains – trade and protection, industrial development, social security, and immigration, to mention a few. Bray and Stewart (2013) have given us a rigorous analysis of the current Fair Work laws and their antecedents, but also noted some of the reasons why there is still significant polarity in opinions about their value and impact. They note a general consensus that reliance by the Howard and all later Federal Governments on use of the Corporations power under Section 51 (xx) of the Constitution, has been positive and enabled a major tidying up of labor laws into the Commonwealth jurisdiction, and away from the States. Further Bray and Stewart note that one of the two Achilles heels of WorkChoices – AWAs, foundered because of the perception (at least) that such individual agreements were introduced through employer duress. Bray and Stewart further conclude "The role of the Fair Work Commission looks more like that of the AIRC between 1993 and 1996" (p 15) and "there is a renewed emphasis on collective agreement making..... with the FWC being able to make a majority support determination that effectively requires a recalcitrant employer to negotiate an enterprise agreement where most workers want that" (p 16). One gains a sense from this research that material aspects of our IR laws have gone backwards in time, like Merlin himself advanced by 'looking backwards towards tomorrow'. Gahan and Harcourt (1999) have argued labor market regulation has had little effect on efficiency, but their analysis needs to be materially updated and conclusions rechecked for relevance in today's new global economy, with its quite different worker perspectives and workplace conditions. A number of articles have taken similar or complementary approaches to review and assess regimes, aspects of the law, comparative period equity, and the impact of globalization: viz Lambert and Webster (2010); Dias-Abey (2008); Frazer (2008); McCallum (2005); Sadler and Fagan (2004); McGraw and Harley (2003); Frenkel (2002); Karunaratne (1999); and Mitchell and Rimmer (1990);

As Chair of the national institute for the HR profession (AHRI) and given my new executive responsibilities on the World HR board (the World Federation of People Management Associations), my address today aims to update, extend and where necessary contest some of this recent research in the IR field. As you might expect, it will reflect the national and global perspectives of human resource practitioners and research results in both local and international domains.

My central thesis is that both generalist workplace relations, and specialist industrial relations practitioners must assess and evolve their perspectives on labour laws and practices by reference to the contemporary labor market, the nature of global competition shaping that, and also to the aspirations and expectations of the today's generation of workers. All of these phenomena are dramatically different from what they were ten, or even five years ago.

Our industrial law regimes will only move onto a sustainable platform when they result from inclusive political and business leadership actions and philosophies in order to advance the national interest fairly, rather than partisan efforts to reward particular stakeholders with imbalanced statutory advantages (for a time). The last two sets of amendments to industrial laws since 2009 reflect more of the latter characteristics than the former, and aren't sustainable - just as the WorkChoices model of 2006 was not sustainable.

Accordingly, my address today will cover four topics:

The world of work and global workplace challenges. The rapidly changing workplace environment sets the scene for what we can do, or are likely to be able to succeed in doing, with our workplace relations laws and practices on the job.

New globally sourced demands on business leaders and employees will also place new expectations on both parties that must be responded to in future. Within this context, the profile of the modern worker has also evolved rapidly as have his or her hopes and fears, and this will undoubtedly continue its metamorphosis in the decades ahead.

Recent national and international workplace research findings which shed light on specific workplace relations challenges now being confronted by practitioners and also by workers themselves within Australia.

A set of suggested but also perhaps some controversial ***workplace policy and practice options for change*** that I believe capable of lifting both national and enterprise productivity, and also workplace harmony and engagement within Australia's public and private businesses.

1. Seven Global Workplace Challenges

Three recent mainstream research studies have identified critical drivers to the modern workforce and workplace, which are shaping the conditions under which business leaders and the HR profession need to acknowledge in undertaking their roles. The first was published in 2010 with AHRI's White Paper on the Future of Work, entitled *people@work/2020* (Wilson 2010c). Two years later, AHRI, The Society for Human Resource Management Foundation (known as the SHRM Foundation) in the USA, and the Economist Intelligence Unit (EIU) in the UK cooperated in the production of a Global Index of Workplace Performance and Flexibility (AHRI – SHRMF - EIU 2012). The latest critical contribution to this theme is a research study commissioned by the US SHRMF Foundation, and undertaken by the EIU, entitled *Evolution of Work and the Worker* (EIU 2014).

Synthesising these three studies provides us with seven trends and challenges that are affecting the shape of work and the workplace, and also how workers will need to go about pursuing their daily livelihoods.

First, ***Global Competition*** amongst almost all firms, in every country, is the new normal. This means employers and employees are seeing themselves as global players in product, capital and human resource markets. The *Australian Financial Review* competes online every day with the UK *Financial Times*; Coles and Woolworths compete with globally sourced and supplied Aldi supermarkets; Dymocks bookstores face the American behemoth, Amazon, 24x7x365. And all because consumers are flexing their purchasing muscle globally. Similarly Facebook, Apple and Google are recruiting top Aussie talent for the promise of a more highly engaged career in Palo Alto, rather than Pyrmont. We are also seeing more 'co-opetition', where firms compete in some spaces and co-operate in others. For example this is the case with my Institute, the Australian Human Resources Institute, the Chartered Institute of Personnel and Development (CIPD) in the UK and the US based Society of Human Resource Management (SHRM).

Demographic shifts are constantly changing workforce patterns. The most prominent contemporary aspect is the ageing of the population, which raises two concerns: the potential loss of organizational memory and intellectual property when ageing workers finally decide to retire, and also their subsequent dependence for post-retirement incomes and pensions, and public health and welfare services drawn from the incomes and taxes of a proportionately smaller future generation of workers.

Education has been identified as a common policy response to ageing, not only to re-engage older generations to keep working into their seventies and eighties, but also to help younger and older people to work smarter, partly in order to bear a bigger financial load from ageing in future.

The other demographic pattern of concern is the emergence of a new younger 'lost generation' – those neither in education nor employment, and for whom prospects appear quite dismal, and where the attractiveness of counter causes, including terrorist and other criminal pursuits, has been elevated in their minds and regrettably into our own as well.

On top of these demographic shifts, the *structure of the workforce* is changing too. Because of the power of IT and more sophisticated and intelligent machinery, we are seeing a permanent loss of jobs in the middle tier and at the first-job entry levels. So graduates and school leavers are having a tougher time, but so are those with narrow industry specific skills that are becoming outmoded (for example, in the motor vehicle industry) and where the future re-education burden is higher, especially without a harmonious and co-ordinated connection on this between government and employer groups. At the recent SHRM Global Thought Leaders Conference in Las Vegas, it was estimated that global crowd sourcing would comprise 7% of all world service sector employment in five years. Attempts to ban or control this trend by national employment laws is likely only to breach a country's WTO free trade obligations.

Technological innovations provide both threats and opportunities to workplace management. Fewer people now need to work in a central office location, and are able to do their jobs remotely. Similarly customers can be better engaged through IT, and on a wider geographically distributed basis. On the other hand, these trends are increasing workplace diversity through the growth of a multi-generational, flexibly skilled, cross cultural and more often crowd sourced workforce, which is requiring much more sophisticated people management practices to ensure their productive use at or above their marginal revenue product, or MRP, to use the economist's jargon I learned forty years ago and that remains relevant today. The McKinsey Global Institute sees half the world's current jobs disappearing by 2030 due to 12 disruptive technologies like driverless cars; 3D printing; advanced materials; mobile technology; new energy sources and technology; internet integration; the cloud; and advanced robotics. Two examples will illustrate the impact – (a) driverless cars will revolutionise the need for workers in both transport and personal services industries; (b) automation of knowledge and work will impact both repetitive manual labour, and also knowledge workers eg Big Data filters can now be applied in the legal profession to screen for all relevant case law on a matter, and rank critical issues from that review into a barrister's brief; this will dramatically cut down the need for para legal work. Similar applications are entering accounting and financial services, to remove semi professional skills and work.

Whilst education responses are common solutions to demographic challenges, the ***traditional education sector*** is becoming a workplace challenge of itself. Business practitioners are finding the 'educational divide' between acquired formal professional qualifications on the one hand, and workplace learning needs on the other, is getting wider. Educational institutions constantly face a bureaucratic crush of internal and external compliance driven by remote supervising bureaucracies, whose incessantly rising demands take time away from productive teaching and research.

Further the modern award for the educational sector is about the worst imaginable for such a potentially dynamic economic sector, and it is an albatross around the neck of future progress. On 1 January 2010 Fair Work Australia issued the Education Services (Post Secondary Education) Award to regulate employment conditions in the post-secondary educational services industry. The new award was a hybrid of many state and federal awards.

Since then, the industry has faced tremendous difficulties in interpreting and understanding the new award. This is compounded by the fact that industry bodies, including unions and the Australian Council for Private Education and Training, were insufficiently involved in settling the terms of the award.

The award contains new regulations for ordinary working hours and calculation of casual hourly rates. On one view, these have the apparently unintended effect of affording casuals overtime rates, capping the number of contact hours a teacher or tutor/instructor could deliver each week and preventing annualising of working hours. Overnight, my own rapidly expanding private education and training sector faced a new challenge in meeting the demand from students, employers and government to deliver flexible educational services on site. The industry was then required to deal with these uncertainties through intensive lobbying of the Fair Work Ombudsman, a body which was itself understandably reluctant to make any conclusive determinations as to what the award meant in these areas. These difficulties could have been avoided if there had been a more careful and considered process involving greater input from industry.

Across the waves, China and India are predicted to have 40 per cent of the world's tertiary qualified workers by 2020. Many from that supply source will compete for roles well outside their countries of birth. Further the quality of tertiary and technical qualifications held in many countries, including this one, varies enormously across both institutional providers and geography. Finally competitive pressures are entrenching the need for public and private organizations to have their own continuous learning programs both to secure minimum acceptable worker standards on entry, and also to meet their competitive growth needs by seeking to extend a worker's life with that organization. Governments from different parts of the world are also being placed under continuous pressure to allow greater levels of skilled migration in order to meet unsatisfied demands for well-educated labour, and as part of that we see many of Australia's best graduates leave for careers offshore.

Smart work in the services sector, which comprises 70% of jobs now, will continue to dominate employment growth patterns, as will the demand for greater work-life balance. The McKinsey Global Institute (Frey 2014) predicts 2 billion jobs we know and see today will disappear by 2030. Some will be replaced by roles we haven't yet contemplated; others will be performed by a machine or a piece of IT capability. This momentum is also driving relative reductions for labour required in the agriculture and manufacturing sectors, where traditional union membership has been strong, and the social and political resistance to this shift is finally crumbling. That said, we still have an ever increasing world population that desires cleaner food and agriculture solutions, which Australia is well placed to help provide to a hungry world.

Not all our global changes are simple net positives. Many connote serious tensions. Our society's standards for greater equity are ***intensifying demands for better income distribution*** and benefit sharing between wages and profits, and also to even out regional growth disparities both within Australia and internationally.

2. Global Impacts on Workers, Workplaces and Leadership

A first core priority focus for leaders in the workplace is towards the newly emerging but vastly changed profile of the modern worker.

In the next decade, many more millions of women will be pouring into the workforce, which is also becoming multi-generational as older workers stay on the job for longer, or seek to, and workplaces become extraordinarily diverse and more cross cultural. Older male and female workers are carrying on both for reasons of engagement linked to their longer life expectancy, and also to redress under-provisions in their retirement incomes. Training and retraining them to maintain and sustain application of their corporate knowledge will be a stronger HR priority in future, as will making their work arrangements more flexible.

New workplace youth are more mobile, and the HR profession's job will be to find innovative ways to keep them more highly engaged, and so reduce their job turnover and thereby avoid the flow on and replacement costs that come about with recruitments, inductions and unnecessary 'repeats' to core training efforts.

Further, the greater female participation rates will drive needs for more flexible working arrangements to retain female talent, and also to search out and secure more female mentors and role models, so the careers of younger women can achieve their full potential.

We constantly hear that some organizations talk about the need to adopt greater diversity, when this is something they already experience. A cross section of any Australian business of 200+ people will usually look like a microcosm of our diverse society already. As one of my Institute's senior professionals said "diversity is like going to the dance, inclusion is being invited to participate on the dance floor, and learning how to dance." At the dance happening in our workplaces at least one in five people are drawn from the following groups - LGBTIQ, a mixture of ageing workers, those with disabilities and a wide range of multicultural groups. All require positive inclusion and engagement support.

Whilst some positive progress has been commenced on a range of diversity fronts, an area of concern is the relative lack of progress on disability employment. AHRI's own active engagement on disability employment goes back to a 2004 speech by then Treasurer Peter Costello, notable for one dominant theme: 'welfare-to work'. Its pivotal message was that national prosperity was suffering from a productivity malaise, the genesis of which was a two-part problem: a large proportion of the population who could be active participants in the workforce were not working, which negatively affects total factor productivity, GDP growth and also commonwealth tax revenue; and a considerable number of those Australians, around 800,000-900,000 in round numbers, were drawing disability support pensions (DSPs) from the Australian welfare system. That number consisted of Australians who suffer from a permanent or temporary disability but were officially looking for work. In summary, the issue was identified by the then Treasurer as an economic problem that was deemed worthy of its own budget theme. And successive Treasurers have taken the same view.

It's now ten years since that Costello budget and 2015 is now almost upon us. So what's happened in the interim? In raw numbers, the short answer is nothing. Australians who collect DSPs and are looking for work still number in the magnitude of 900,000+, significantly more than the 650,000 on unemployment benefits. Around $9.5 billion is spent by government on DSPs each year and billions more are spent on government-funded disability support services designed to get participants 'job-ready'. In 2004 around 68,000 people enrolled in those services. By 2013 more than 170,000 participated. That looks like success of sorts. But the test of success finally is moving people from DSPs into jobs, and that largely continues not to happen. So the stoppers are not government inactivity or lacklustre motivation of job-seeker. The stopper was and still is employer engagement, a conclusion AHRI research confirms. Employers with a few notable exceptions are either unaware of the issue or see it as none of their business. That inactivity and inertia simply isn't good enough.

Among the exceptions are companies such as Westpac, ANZ, Microsoft, IBM, Telstra and the like who see the issue as an opportunity to widen its talent pool and have special entry programs to get the best talent.

To advance efforts on disability employment, AHRI asked the ASX Governance Council to do for disability employment what it's done for gender equity. While our approach is merely a call for a 'recommendation' to report, we believe that a light-touch intervention has the potential to change the game. A recommendation to report mean that publicly listed ASX companies would need to state what they've done, if anything, by way of drafting policies, implementing practices or recruiting people from the disability employment cohort of the Australian population. There is no requirement to have done anything but there is a requirement to report on the basis of "if not, why not". Boards would need to consider making the recommended action a KPI for the CEO, an action that would result in knock-on KPIs down the management line.

I am not calling for hard-line quotas or targets, but employers can and should be pressured to engage in recruiting more from the pool of 900,000 employees with a disability, the majority of whom are employable.

Further and probably least well understood is that the workforce will soon have five different age generations working alongside each other from 2015 – the traditionalists (born before 1945 seeking work into their seventies); and baby boomer (1946-61) generations, as well as Gen X (1961-80), and Gen Y (1980-95). Soon school and tertiary leavers from Gen Z (post 1995) will join the workforce in large numbers. Each of these five generations has different attitudes and preferences. Understanding these cross generational differences will assume increasing importance with enterprise and individual employment contract bargaining, and general work organization. Piaget's psychology findings are that early adolescent experiences shape a person's mind and expectations as an adult. Tamara Erickson (2010) and AHRI research is based on Piaget's reasoning as to how differently these five generations are thinking, behaving and acting at work today. They can be summarised as follows:

Traditionalists – experienced economic deprivation, and were driven as adults for ordered growth and respect for traditional tripartite hierarchies; for example, business, government and union power structures. They are motivated by economic self-sufficiency and directly providing for their children's futures. They have shown acceptance of relatively closed economic and regulated social systems, and are strong believers in procedural fairness and administered outcomes.

Baby boomers – a generation exposed to global unrest and discontent, and that developed cynicism towards authority structures during the Vietnam War. They believe that revolutions and protests could re-write society's rules to be fairer for a broader range of human interests. Experience of recessions broke the 'job for life myths' their parents held. Greater economic and social access enabled 'individuals' to perform and grow under performance and pay systems that rewarded individual achievements in an increasingly competitive international economy that saw the rise of Japan, South East Asia and then China and India. Boomers became highly mobile and left the home village permanently, and they demonstrated a willingness to relocate many times for job advancement.

Generation X – were affected by turbulent world events and societal disorder such as Tylenol tampering, Chernobyl and Three Mile Island melt downs, space shuttle explosions, test tube embryos and a sheep called Dolly, recessions taking permanent jobs away forever, and increasing family and marriage break ups. A concern for global goodwill became a renewed reason for living. We can all remember Band Aid, Live Aid and Bono, to mention a few, as well as celebrated international human and civil rights cases. All these decimated belief in the wisdom and value of many remodelled government and business structures, but also it drove Xers to greater independent financial prudence – always trying to have a bit saved up 'just in case'. Young Gen X women saw their mothers needing to have independent careers to survive in an increasingly independent 'live alone later' world, and they got the message for themselves. Xers will also consider employment mobility options, but unlike Boomers, will not jump at them without plenty of prior consideration 'in family'. They believe saying 'no' to the boss is okay.

Generation Y - grew up in a world struggling to understand terrorism, 9/11, and Olympics, London and Tokyo subway massacres. They believe in the 'me' generation and are fascinated by IT revolutions and devices, and circles of advisors and friends, rather than parental or authority guidance or rulings. They prefer to download their own answers, set up their own networks, and eschew efforts at binding them into official collective actions. They are fearless and blunt at work. They have given up being a personal capital collector (for example, buying a family home) and see income being fully absorbed by spending and living for now. They believe in flexible working, but one life, many careers and many more employers, but also underestimate the role and importance of saving for their post retirement income needs.

Generation Z - have absorbed all the lessons of economic and employment uncertainties of the previous X and Y generations. They are not fascinated by technologies, but see them as useful supporting devices to help them manage their careers and lives. They are realistic but also have high expectations for sustainability and ethical behaviour, but also feel let down by older adults, although they are generally friendlier towards them than Gen Y. They expect the trade-offs which have to be made in society between growth and social order, are hard and uncompromising, and their outlook is conservative. They understand terrorism to be borderless from the global reach of ideologies such as Islamic State, and that drives them to aspire for more within our own national borders. Gen Z attitudes are developing into somewhat of a national fortress mentality at home within our globalized world economy, but also for individual flexibility and independence to apply for them, within that. Gen Y and Z thinking also underpins the longer term importance of sustainable well managed pay-as-you-go superannuation systems.

One of the biggest impacts of these five generational differences will be on workplace bargaining and outcomes. Whilst traditionalists respect regulated structures, and boomers continuously look for them to be remodelled - Gen X, Y and Z are sceptical of them *in toto*, and seek their own individual fair treatment and outcomes outside a formal collective.

By way of example, my Institute has received reports of the order of 15-20 bargaining agents attending separate enterprise bargaining rounds, despite as few as only two-to-three unions being represented within that number. In response to union efforts to recruit the latest three Gens, words like this are often heard: “I don’t need to trust and rely on your union. I can google the award and find out for myself, and besides I want my own flexible work outcome, iPad / smartphone allowance, rostered holidays, and my own incentive bonus, etc., and not just a uniform award-wage outcome.” Whilst multi-bargaining agents are providing a headache for employers, they also demonstrate that we seem headed back to strong preference for a set of options described in the 1996 Workplace Relations Act, ie union collective, non-union collective and individual employment agreements which give people a choice. The simple reason is that the emerging consensus majority seem to want that (albeit subject to some form of basic safety net), I believe mainstream politics will inevitably fall into line with it, out of a sense of inevitability.

On top of the workplace diversity entailed in five generations, my Institute has further estimated that most medium to large workplaces have at least 50 different subcultures that go well beyond national origins (for example, 133 languages are spoken at the big ASX listed insurance firm, IAG). The future workplace will not be one that can be characterised any more by leadership through older male Caucasians only. According to the 2013 Bureau of Statistics Migration Report, 28% of the Australian population was born overseas. The Diversity Council of Australia *Cracking the Cultural Ceiling* report (August 2014) reveals that nearly 10% of the Australian workforce is Asian-born. Additionally, the 2012 Deloitte Access Economics Report, *Increasing Participation among Older Workers,* reveals that participation rates, for both men and women, start to decline from age 45. By the age of 65, the combined participation rate is 15%, which reveals that Australia’s participation rate for older Australians is below comparable countries, including the US, UK, Canada and New Zealand. My Institute’s survey of older workers reveal that this participation rate will turn up towards and possibly above the international average, as re-engagement in the workforce becomes a stronger priority for this demographic group.

Accordingly intensification of both cross cultural and workplace diversity characteristics will require both innovation in workforce planning, and astute management by those leading their workplaces.

The divide between qualifications obtained and the skills needed by organizations will drive somewhat different skills into the business leadership and HR professions themselves. First of all, vigilance in search and recruitment has intensified – to confirm both formal qualification validity and value, especially across an increasing number of geographically diverse sources for formal education. The learning and development function will also increase in importance within HR, as continuous education to maintain relevance in an organization becomes more critical as employers seek to maintain and enhance their global competitiveness.

Worker engagement is the continuing Achilles Heel of modern organizational life. A 2011-12 Gallup survey shows that internationally only a paltry 13% of workers are engaged, and about 63% are not engaged, whilst the rest (24%) are actively disengaged, Australia does better than most with 24% being engaged but we still have 60% neutral and 16% turned off. As Elliot Jacques (1996) researched and concluded in his landmark book ‘The Requisite Organization’, higher engagement leads to greater productivity, performance, growth and profitability. These results have been confirmed by the performance of leading organizations in the annual surveys by *Fortune magazine* of the ‘World’s Most Admired Companies’, and AON Hewitt’s Best Employers. Accordingly, any business professional or leader who can make investments in their people that lift active engagement scores above 50% will pay for these investments many times over.

Some of the solutions are to be found in reward and incentive systems, particularly those that can relate fairly in future across a global workforce, but this is where the greatest anomalies are likely to occur. Active internal talent management programs, innovative workplace flexibility schemes and use of new technology and techniques to introduce more effective workplace flexibility, and more modern leadership management models, are the other keys to success on this front.

Finally technology and globalization have seen a greater use of multinational teams and virtual team work models. The key challenges for practitioners among my human resource colleagues are threefold: optimizing global incentive and performance systems, improving communications training for teams, whilst actively and deftly managing the risks entailed.

So mastering these new challenges will serve any organization well, especially as it's predicted that more mergers and acquisitions with greater global reach will occur in future.

3. Major Australian Workplace Research Findings

Many in this audience may now ask which of these global workplace and modern worker features do we see in Australia? And how relevant are they to the shape and practices of our industrial laws? The short answer to each is "most of them" and "very high relevance."

Let me give some brief elaboration on this.

a) Global Index of Workplace Performance & Flexibility 2012

In late 2010, the Australian Human Resources Institute and the United States Society for Human Resource Management agreed to combine forces and sponsor a joint research program designed to develop a Global Index of Workplace Performance and Flexibility (AHRI-SHRMF-EIU 2012)

The global-index ranking of all 51 countries surveyed was supported by three sub-index rankings in the fields of economic performance, operating environment, and workplace policy and regulatory framework.

Australia's operating environment was ranked as 8th best in the world, but our policy and regulatory framework was placed down at number 19. Economic performance was ranked at 34, and highlights Australia's stuttering productivity record over the last ten years relative to our global competitors. In a globalized competitive world our regulatory framework stands out as overly restrictive and conducive neither to optimal performance nor social equity. The knock-on effect of poor regulation is seen in the economic-performance numbers. Our trans-Tasman cousin, New Zealand, out-ranked us on all three indices and overall. Whilst New Zealand is a smaller and narrower economy, it has clearly worked harder to get the most out of its own economic potential. While Australia sat well below New Zealand on the index, its overall rank was not significantly different from those of France and Germany - but given the Eurozone's economic woes, that's hardly a source of compelling comfort.

An area of debate in many countries centres around the issue of productivity, including labour productivity and total-factor productivity, and the role played by workforce flexibility in that regard. That is particularly the case against the backdrop of increasing global business competitiveness.

Australia's high ranking in operating environment was based on a strong educational foundation, improving workplace equity, enlightened telecommuting practices and moderately satisfactory childcare services.

However, the flexibility rankings in both the policy-and-regulatory-framework and economic-performance areas were both relatively poor and can be traceable in part to a legislative environment that emphasises prescriptive and regulated work options, at the expense of the economic need to have a flexible workforce driven by simple clear general principles and not burdensome bureaucratic piecemeal rules and interventions.

At the same time the Fair Work Act requires employers to engage in 'good-faith bargaining' with their employees in negotiating employment arrangements. In the bargaining process unions are entitled under law to participate in negotiations with a number of regulatory restrictions on what can be put on the bargaining table that are widely seen to favour employees. This is one of many areas where legislatively prescriptive panaceas preside. As Heather Ridout, then AIG Chief Executive, stated to a 2009 Parliamentary Inquiry – "the legislation contained 60 provisions that boosted the power and role of unions, and virtually none that did the same for employers."

Under the Act there are employer restraints on the employment of workers, especially on the employment of independent contractors, and employers are required under the 'transfer-of-business' provisions to transfer all workers with their conditions intact in the event of a business outsourcing a part of its operations to a subsidiary or another employing body, regardless of the appropriateness of the employment conditions with respect to the new entity. In addition, the Act makes the dismissal of underperforming employees difficult and prevents under penalty a wide range of so-called 'adverse actions' being taken by an employer with respect to an employee's entitlements with a reverse onus of proof applying against the employer. The current legislative provisions for greenfield sites are also likely to inhibit growth of new projects. It is argued these are callous rights that sit poorly with a need to compete globally, and actually serve as a disincentive to grow employment.

In AHRI's 2012 national survey of the Fair Work laws (AHRI 2012a), nearly one thousand business respondents replied as follows

- 47% of respondents believed that operating under the Fair Work Act will decrease their organisation's willingness to employ people over the next three years;
- 51% believed industrial relations costs would increase further in a year's time;
- 65% reported taking more time to formulate employment contracts;
- 47% reported spending more time bargaining over employment contracts;
- 46% reported the negotiation of employment contracts was more difficult.

Regrettably these predictions have proven to be substantially accurate.

Further, while employees are given ample opportunity to adopt flexible-work options, employers in many cases are complaining of difficulty in managing their own workforces in the interests of improving productivity and global competitiveness. Thus it was not a surprise to note the EIU data showed Australia's weakness in the larger flexibility context with respect to both policy and regulatory framework and economic performance.

Many business commentators argue that government regulation of the Australian workforce is costly to business in terms of the increasing need to seek legal advice and to cope with the record-keeping burdens imposed by the Act. They also maintain that the balance has shifted too far in favour of employee flexibility and entitlement, at the expense of the economy with total-factor productivity flat for nearly a decade as reflected in the very low score on that item.

Accordingly, it's hard to accept the view that our industrial laws aren't a problem. They should be subject to review, amendment and streamlining to maintain relevance in today's modern global digital business world. Through astute changes and improvements to industrial laws and business regulatory environments, Australia could be re-ranked as one of the world's top five performing and most flexible economies, rather than currently struggling to achieve a top 15 finish. Excessive regulation and industrial bureaucracy are critical root causes of this malaise, and a prime driver of the associated national employment and income growth opportunities being foregone.

b) Australia's Modern Worker Mindset

AHRI research over the last five years has demonstrated that modern Australian workers are much more knowledgeable about the global workplace and its implications on their job and their future. The evidence is that Australians are content to work hard, but wish to be treated fairly and flexibly by their employers as a *quid pro* quo for the former.

Looking to the future, Australians expect a much more diverse workplace, as they do with the mix of their co-workers. Our countrymen and women have shown the following characteristics:

They are relatively GFC resistant (AHRI 2009). 90% of professionals surveyed by AHRI after the GFC accepted the need for significant workplace change and appropriate downsizing when global competitive pressures are intense. On the other hand those workers also expect downsizing of scarce talent to be a last and not a first resort, and only to occur after extensive, transparent and detailed analysis by management. Information transparency is much greater these days, and a majority of workers believed flawed executive remunerations policies were major GFC cause contributors. Nearly two thirds of workers surveyed stated they are looking for employers to set higher ethical standards as a core enabler of credibility behind any future change programs.

They expect a diverse group of co-workers to have equitable access to gainful employment, and also be treated fairly (AHRI 2010a, 2010c, 2011a, 2012b, 2012c, 2013b, 2014). There is an expectation that gender ratios will move towards 50/50 at management, executive and board levels in the next 20 years, and that approximately 20 %, or at least one in five of all workers will reflect an equitable spread of the following subsets of society – LGBTIQ, disabled, Indigenous, mature-age, and of broad ranging multicultural backgrounds, primarily from our various neighbours in the Asia Pacific region. Many employers reporting successful progress on diversity activity also reported positive business outcomes as a result. In another survey (AHRI 2013), respondents saw a greater level of pro-activity will be needed to support an increasing cohort of jobless youth, and that a failure to achieve a successful remedy will cause increased social and economic costs to society. Further survey evidence shows a mismatch between high expectations of the benefits gained from engaging older workers, females, and disabled workers compared to the actions the same employers have put in train to reap these benefits. Clearly corporate Australia has more work to do in order to capitalise on its own rhetoric.

They see higher rates of employee turnover as the norm (i.e. 15-20% p.a.) (AHRI 2013a), and that this should not be obstructed by excessive bureaucracy impeding individual workers from moving on to their next job opportunity. On this scenario, the modern co-worker of 2015 and beyond is more likely to, and indeed expects, to experience 8-10 different employers during a 40-plus year career. Westpac Chief Economist Bill Evans has estimated that 400,000 Australian workers, or about 3% of the workforce change jobs each month, both with their current employer and/or new ones. The HR profession is the quiet achiever in enabling that, in the interests of maintaining employment and competitiveness today.

They expect flexible working to be a core part of a future career, especially in services which will account for 70-80% of future jobs. Survey respondents (AHRI 2014) expect the vast majority of service workers to be covered by working-anywhere-anytime work provisions, and that up to 40% of their total work can be done independently from home or remote locations. Whilst employers are providing for this, three quarters of survey respondents advise training and support for remote working is minimal and inadequate, for both current and future needs.

They are demanding their workplace employment and bargaining arrangements cater increasingly for individual rather than collective needs (AHRI 2010b, 2012a, 2012b, 2012c, and 2014)

They believe worker engagement is critical to future business success, and that imports of skilled workers will also be mandatory in order to realise higher potential economic growth rates in future (AHRI 2013a).

4. Workplace Policy and Practice – Conclusions and Recommendations

Notwithstanding the comprehensive array of research data brought together for this lecture on the global economic environment, on workplace competitiveness, and on modern worker profile analysis, the central conclusion is quite simple. The world economy is now highly interconnected, and consumers and producers have extensive choices on how to satisfy their needs, and also how and where to offer their services, and to compete. The modern worker is becoming a very discerning person, particularly in this country, who is prepared to work hard but also seeks flexibility in their lives and 'work choices' (if I can use those two words in their broadest possible sense). All these parties have the capacity to vote with their feet in a nano second, every day they go to work. That said, Australia will always wish to be and be seen as a mature, developed, competitive and compassionate society that has and maintains sensible minimum standards for work and life.

It is in this context that I believe Australia's industrial laws and workplace practices are still in need of significant change, upgrading and modernization to reflect current and emerging economic and worker expectations of this new millennium, and I would recommend changes in the following areas:

Reducing Workplace Bureaucracy in Education

Many of the challenges we face in our economic and industrial future can be better dealt with by more positive applications of resources and improved outcomes in the educational sector. Education is a key solution for:

- maintaining educational standards and competitiveness for all workers
- retraining from outmoded to new and relevant skills
- new challenges in the workplace from all sources of diversity, and also the requirement for fairer treatment at work
- the increasing share of work that is smart and services based
- adapting to, and incorporating new workplace and home technologies;
- supporting the rise of, and potential benefits from, more female, older, and diverse worker sources
- becoming a more innovative and adaptive workforce that finds its way around all obstacles.

Against these requirements and opportunities from education, dialogue with any of our leading educational experts will reveal that bureaucracy is the bane of our educational institutions. Many estimate one third of their productive time at work is devoted to a bureaucratic outcome or process, and that impost comes at the expense of productive teaching and/or research. Deregulation should become a major policy priority in education to lift this burden.

Further the basic award covering the education sector, the Education Services (Post Secondary Education) Award, is impeding the task at hand. As a priority, this modern award in the educational sector should be reconsidered and dramatically restructured to provide greater flexibility in resourcing the professionals within it, and to assist in re-establishing the sector as a major global service provider, business and employment enabler and also enhance its position as an export competitor in its own right.

Organizations will continue to develop their learning functions internally, and stronger alliances are required with educational institutions to improve synergy, but this won't happen fully until the latter is enabled to clean up its own unnecessary bureaucracy. Business can see this sector's challenges but is unwilling to get caught up in them, until they are fixed.

Reducing Workplace Bureaucracy

In contrast to Creighton (2014) and for the reasons described above, I believe the current Fair Work industrial laws do need a very significant restructure. Only the specialist IR practitioners seem happy with them. Our employment legislation should be reconstructed around the following characteristics:

- A stronger set of governing minimum safety net principles
- More flexibility given to individual enterprises and smart workers to make their own arrangements
- More flexibility of employment agreement forms to match the individual preferences of employees
- A collective bargaining framework that facilitates equitable access to collective agreements by non-unionised labor

The main provisions in need of legislative overhaul are the general protection provisions including the use of adverse action, unfair dismissal, contracting provisions, the right to opt for individual agreements, greenfield agreements, third party representation clauses, and protection of low paid and unskilled employees.

Fair Work Commission

For over a century our national employment tribunal has played an important role in our country's economic life. Notwithstanding that, the time has come to review its position against not only changing global economic circumstances but also the fundamental separation of powers in a democracy between parliament, the executive, and the judiciary.

The present commission of nearly 60 Presidential office holders, Commissioners, and other Members has played a joint role across two of these normally separated democratic powers; namely, as an administrative and policy making unit under the executive, and as a quasi-judicial entity headed by a judge. These two roles have driven its image and indeed its self-image to where it is today.

In the relatively protected economic environments of the past, such a mixed administrative, policy making and quasi-judicial role made some sense. In this increasing globally competitive world of greater individual and business freedoms, rapid changes and increasing needs for workplace flexibility, having these joint roles served by a single institution with its current modus operandi, looks to have outlived its usefulness.

Australia has many well-structured and highly valuable economic policy making institutions (for example, the Reserve Bank, the Productivity Commission, the Australian Competition and Consumer Commission).

The time has come to reconsider the appropriateness and value of the current structure and *modus operandi* for the Fair Work Commission (FWC). My Institute will be recommending that the forthcoming Productivity Commission review of industrial relations laws and practices consider substantive alternative models for the work of the FWC. New Zealand and the United Kingdom have recently reshaped their industrial laws and processes comprehensively, and with considerable success. Both these and other models should be considered for their value and applicability in Australia. Having a modern employment law body led by a streamlined Board of say 10-12 Commissioners supported by a professional executive policy making and administrative group to review the statutory safety net of wages and conditions imposed by legislation and awards and default superannuation would make considerable sense. Processes used by FWC could also be reshaped and enhanced. For example, using the Productivity Commission's own two stage public discussion and transparent consultation process for modern awards and basic employment law frameworks would provide significant advantages over the status quo. For example modern awards could be the subject of draft determinations, and subsequent consultation prior to a final determination. Such an approach may well have produced a superior result with the critical Education Services (Post Secondary Education) Award.

This field of public policy making needs to see a modern collegiate model at work, based on best available international practices, and not further piecemeal amendments to the present but increasingly outdated legislative model.

It is with significant regret that the Productivity Commission review into industrial relations laws has taken so long to commence. It is extremely important that this review begins soon, and with a focus on identification and analysis of a set of comprehensive alternative approaches to administering our industrial relations laws, rather than tinkering at the edges with further incremental reforms laid across the top of an already complicated legal mosaic.

Our national government should ensure there is sufficient time for public exposure and discussion of a preferred modern approach to administering employment laws that can be put to the people, prior to the next Federal election in 2016.

The Role of Trade Unions

Australia's trade union movement has played a rich and valuable role in many aspects of Australia's economic and political history.

Notwithstanding that, any business analysis that sees a market share fall from about 60% (of all workers) in the 1960s to under 13% today knows they have seriously declining product value. Trade union membership is predicted to contract further to parts of the public sector, and selected private industries like building, construction and resources.

That said, if they are to maintain a role in industrial life, trade unions will need to reshape themselves as value-added third party service providers to workers, and ones that are able to rely less on statutory protections to guarantee their value and longevity. Major untapped opportunities exist for unions to represent workers in the fields of post retirement incomes, basic safety net protections, and also to promote greater workplace diversity and safety outcomes.

Industry Superannuation – a Major Governance Upgrade is Needed

Research into the modern worker shows that all generations are living longer and that Gen X, Y and Z in particular, are going to struggle more than traditionalists and boomers to provide for their own post retirement income needs. Thus will continue to be the case as the average retirement age gets pushed out for all of us.

The Keating Government was right to establish fundamental provisions for the establishment of portable basic superannuation coverage, and also with the establishment of industry superannuation funds (ISFs) as trustee bodies for workers to manage their own retirement income growth.

Whilst ISFs occupy a position of current political controversy, the simple fact is that industry super funds have consistently outperformed retail super funds (banks, and private fund institutions) over time. Their direct vesting is with the members whose superannuation funds are being managed; their affairs are conducted on not only a not for profit basis, but also without conflicted pressures to sell their own products and services to members on a 'for profit' basis, that retail super funds have. Nor are industry super funds driven by risky and potentially harmful remuneration and incentive systems for employees – as is the case with retail super funds.

To move the playing field rules, and goal posts to enable these industry super funds to be demutualized and then progressively taken over by large diversified retail fund managers would be harmful to the national interest. The present situation enables members to have both fund choice and product choice, and for ISFs and RSFs to compete head on. If any political move began to facilitate retail institutions taking over industry super funds, a second best alternative to the status quo would be to nationalise the current 170 or so industry super funds into a single national superannuation scheme overseen by a body that operated somewhat like the Future Fund, in order to protect workers retirement benefits from conflicted retail super fund profit making and pay practices. Further having workers' superannuation funds sitting primarily within big retail financial institutions keen to tell the world that are 'too big to fail' the next time we have a global financial crisis, is a cooee-distant third best situation that should be completely avoided.

Notwithstanding the value of industry super funds, their governance systems are in need of significant upgrades, as is the case with all significant not-for-profit businesses (for example, RACV, AICD, CPA, AHRI); most private health funds, trade unions, as well as industry super funds themselves. These are all large and significant national businesses, and yet they have lower levels of formal public disclosure than private entities. Accordingly the risk is there for serious abuse of their resources for private benefit – particularly at board and executive management levels. The recent cases within the Health Services Union East are examples of this risk.

Stronger governance rules should be established for larger ISFs / NFPs (indicatively those with above $5m turnover and 5,000 members). There should be requirements for greater transparency and public reporting to members on individual Board CEO and SEO remuneration and benefits, all CEO & director development expenditure, plus travel, accommodation, hospitality, and general expenses.

To confirm such transparency, there should be an ability of say 50 or possibly 100 members of an ISF / NFP to anonymously petition the regulator (for example, APRA or a revamped Australian Not For Profit Commission) to undertake audits / forensic audits on any perceived non-core activities of Board / CEO / SEO that appear structured for primary or pecuniary benefits to a senior executive or director, rather than the membership.

Further industry super fund boards need to move to a structure of 'three one thirds' for each of employer representatives, employee representatives and independent members. Elections of board trustees should move to a 'directly elected by members' model for employer and employee representatives over five years, with both representative associations and members to nominate candidates. This will strengthen member equity, commitment and engagement with their own industry funds and improve their competitive resilience against retail fund providers.

Whilst industry super fund boards themselves should supervise recruitment and selection of independent members, they should do that subject to clear criteria on independence set by the regulator (APRA). Finally board members should serve for no more than three four-year terms (that is, 12 years), subject to variation due to exceptional circumstances being demonstrated, and also APRA approval of same.

Diversity in Business Leadership – Towards a Balanced Set of Positive Targets

The recent evidence of workplace research demonstrates that our business leadership also needs to dramatically lift its game. Progress towards sensible diversity on the job has been painfully slow – especially on gender. There are a number of positive exemplars on establishing a modern and more diverse workplace; for example, the four big banks and Telstra, as well as the Male Champions of Change group operating under the sponsorship of Federal Sex Discrimination Commissioner, Elizabeth Broderick. Nevertheless a significant majority of ASX200 boards have no female director, and none in significant executive roles.

The boards of our corporations and larger public entities must do more to resemble the society in which they operate.

50/50 gender diversity targets should be adopted for all major public and private entities, and driven into their core HR processes from job entry to the roles of CEO/Chair – as the four banks and Telstra currently do.

To facilitate these changes, all major boards should adopt the '3 in 3' rule – with one existing (male) director to step down annually in order to make way for a new director from the groups mentioned above that achieves greater gender diversity. The evidence from the 'World's Most Admired Companies' (2014) is that a close to 50/50 mix of men and women in senior positions will facilitate a greater series of moves to achieve general diversity, whereby an organization will looks more like the employees and customers it serves.

Additionally, I recommend that major public and private entities undertake an annual (or bi-annual) diversity census of their workforce, and include the results within their annual reports. Such a census would capture the key areas of diversity, including LGBTIQ, race, disability, gender, indigenous and age. This vital information will ensure that organisations are fully aware of the full range of background, talent and skills among their employees. Organisations which have undertaken a census find them valuable in identifying special needs and skills of their employees, as well as being confronting, when or if the census reveals a monocultural and non-diverse workforce. I encourage organisations to undertake a census, from which they could develop initiatives, including targets where appropriate, to better reflect the communities, customers and society they serve. Within each census, a particular focus should be taken on providing more employment opportunities to LGBTIQs, Indigenous Australians and also for

people with disabilities. Across these three groups, employer resistance to employ and/or treat employees fairly is the greatest.

All these recommendations on achieving greater workforce diversity are best achieved by positive voluntary targets, and not by quotas. However a failure of progress against positive targeting is highly likely to lead to significant pressures for quota introduction, and more inefficient regulatory interventions into the workplace.

Inclusive National Political Leadership

Whilst the majority of business leaders have let down Australia with a failure to move more rapidly to a more diverse set of directors and senior executives, our political leadership has also fallen short on industrial law making over the last ten years since the introduction of WorkChoices.

During recent times, our mainstream political leaders have driven industrial law changes to primarily meet the needs of partisan interests within their own party or factional group. Like Newton's Law, each action of that type inevitably drives an equally opposite and powerful reaction when Governments change. We need more genuinely inclusive political leadership of the ilk that we had with:

- Hawke (national economic reforms, summits, regular and genuine consultation with business and labour leadership)
- Keating (industry superannuation; proactive business, political and social engagement with Asia)
- Howard (initial 1996 workplace relations laws - but not WorkChoices, gun laws, GST and general tax reform, balanced approach to sustainability e.g. Northern Tasmanian timber workers).

Such an inclusive leadership mantle is required to usher in updated industrial laws that operate fairly and sustainably in the national interest. At such a future time, those that wish no change in our industrial laws can rest peacefully, but for the reasons outlined above, that's highly unlikely to be the case in the near term, and for good reasons.

Thank you.

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[ii] **(2) Peter Wilson**

Peter Wilson AM is Chairman of the Australian Human Resource Institute and Chairman of Yarra Valley Water Limited. He is non-executive director of the Vincent Fairfax Ethics in Leadership Foundation; a director and immediate past Chair of Vision Super, and now chairs its Audit Risk and Compliance Committee.

In October 2014 Peter was elected as Secretary-General of the World Federation of People Management Associations (WFPMA), based in Washington DC. The WFPMA is the world governing body for nearly 700,000 human resources professionals across 95 countries.

He is also an Adjunct Professor in Management at Monash University, and since 2010 is a member of the US Society of Human Resource Management's Global 100 HR Thought Leaders. He recently completed a research fellowship role under the Prime Minister's 'Australia–China Climate Change Partnership'. Peter was Program Director for the Business Council of Australia's Mentoring Program for senior executive women. He authored the AHRI White Paper entitled people@work/2020 and the 2012 book *Make Mentoring Work* (Major Street Publishing).