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Author:
Eardley, Tony

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NEW RELATIONS OF WELFARE IN THE CONTRACTING STATE: THE MARKETISATION OF SERVICES FOR THE UNEMPLOYED IN AUSTRALIA

by Tony Eardley

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The series is indebted to Diana Encel for her continuing editorial contribution.

Tony Eardley
Editor

Abstract

A significant feature of the organisation of public affairs in the 1990s in liberal welfare states has been a rebirth of contractualism. In Australia, the provision of social security and employment assistance to unemployed people has been characterised by an incremental shift away from entitlement as of right once certain preordained eligibility requirement are met. Instead, payments are becoming more dependent on compliance with individualised quasi-contractual agreements between the unemployed person and the relevant agency. Moves to create a competitive market in employment services also make it increasingly likely that this agency will not be a public body, but a private or non-governmental provider which itself operates in a contractual relationship with the state and in competition with other providers.

The paper examines the nexus between the contracting-out of services for the unemployed and the quasi-contractual relationships being established with individual job seekers. It considers whether through this process we are seeing new relations of welfare developing which could be shifting Australian social security towards some different model. Supporters of the 'new contractualism' suggest that individual contract status could offer advantages compared to previous forms of paternalistic collectivism. The paper argues that job seekers are in a weak position to assert such status in the quasi-contractual employment assistance regime, and that there will be a need for greater attention to securing clients' rights if the positive aspects of case management and public/private complementarity are to be retained.

1 Introduction

A significant feature of the organisation of public affairs in the 1990s, especially in those countries commonly described as 'liberal' in welfare state typologies, has been a rebirth of contractualism. This new use of 'contract', once mainly limited to the realms of commercial law and liberal political theory, has emerged in public governance in a variety of forms, from individualised arrangements between employer and employee, through 'contracting out' of previously public services and the establishment of corporatised agencies, to the institution of citizens' or consumers' charters and the acceptance of pre-nuptial agreements in family law (Sullivan, 1997).

More recently the notion of contract has also entered the vocabulary of social security in a number of countries both through contracting out of services and through the introduction of 'activity agreements', 'back-to-work plans' and other similar constructs designed to turn 'passive' recipients of unemployment benefit into 'active' job seekers (Eardley and Thompson, 1997).

It is no accident that contractualism in public management and provision has been most advanced in those countries, like the UK, the US, Australia and New Zealand, where governments have been ideologically attracted to a contracting (in the other sense) role for the state and the public sector. However, as Debra Brennan (1996) suggests, what we are currently seeing is more than just a process of cost-saving privatisation, as was a central theme of the 1980s. The language and logics of the market are now also penetrating deeply into public services themselves. In Australia, the development of what Mark Considine (1996) describes as 'market bureaucracy' has been influenced particularly by US writers like Osborne and Gaebler (1993), whose 'reinventing government' project has inspired some of the initiatives of the Clinton administration. Brennan (1996) points out that although Osborne and Gaebler and their followers acknowledge the important differences between government and business - and thus accept that there are things which government does better than the private sector - the main thrust of this trend in governance remains about securing the dominance of market thinking in public administration. In this process, Brennan argues, citizenship and collectivity may become devalued:

> They are about re-constituting citizens as consumers whose primary interests are personal and private. … By means of such thinking government is reinvented but citizenship, together with policies that bind us together in common cause with one another, is circumvented. (Brennan, 1996: 15)

Australia's social security arrangements provide an important test case of the spread of contractualism and market bureaucracy into the provision of social welfare. Both elements - the contracting out of public services and the contractualisation of individual entitlements - have been going on simultaneously but to different degrees under different governments. The first experiments in individualised assistance began in the early 1990s and then Labor's 1994 *Working Nation* strategy introduced both a national system of individualised 'case management' for the long-term unemployed and a limited degree of market competition in its delivery, including a shift towards contractual arrangements. Since then the Liberal/National Party coalition, elected in 1996, has embarked on an ambitious, and some would say hazardous, attempt to create a full-scale 'contestable market' in employment services. Meanwhile, the degree of reciprocal obligation demanded of unemployment benefit recipients has been increasing and is now focused around individual 'quasi-contractual' agreements. The principle of replacing bureaucratic processing of clients with services tailored towards individual needs is one which most people would support, but there is also an argument that the trend towards individualised relationships in social welfare is in danger of undermining rights of entitlement which accrue from generalised citizenship.

This paper examines the nexus between the contracting-out of services for the unemployed and these quasi-contractual relationships being established with individual job seekers. It considers whether, through this process, we are seeing new relations of welfare developing which could be shifting Australian social security towards some different model, and discusses possible responses to this form of 'new contractualism'. First it outlines the changes which have taken place in the structure of social security and employment assistance for unemployed people in Australia in the 1990s.

2 Social Security and Employment Assistance in Australia in the 1990s

Because the Australian welfare state lacks both social insurance and traditional universalist features, providing only means-tested flat-rate payments, it is commonly characterised as 'residual' and grouped with other liberal states within welfare typologies (see especially Esping-Andersen, 1990).

This interpretation has been disputed by a number of Australian analysts (for example, Castles, 1994; Mitchell, Harding and Gruen, 1994; Whiteford, 1996) on the grounds that it overemphasises the form of payment delivery and fails to capture the outcomes of types of redistribution which occur outside public transfers. An international comparative study of social assistance schemes, in which the present author was involved, also concluded that the special features of social security systems in Australia and New Zealand in the early 1990s set them apart from other welfare states, at least along the dimensions observed (Eardley et al., 1996). This was because, unlike other 'residual' welfare states, they combined a high degree of selectivity and targeting with relatively generous payments (at least before New Zealand's benefit cuts), delivered through nationally uniform and rights-based systems with well-established recourse to appeal.

None the less, provision for unemployed people of working age has in many respects resembled that of the United Kingdom in recent decades, with flat-rate benefits payable for unlimited periods but dependent on means-testing and demonstrated availability for work[1]. Administrative arrangements in Australia have also been broadly similar to those of the UK, with registrations for work, employment assistance and work testing handled by a public labour exchange body, the Commonwealth Employment Service (CES), a sub-section of the Federal Department of Employment, Education and Training, while payment of unemployment benefits has been the job of the Federal Department of Social Security.

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1 An initial period of unemployment in the UK has historically been covered by an insurance-based unemployment benefit, but continual reductions in its scope and removal of the earnings-related element have now rendered this element of provision largely irrelevant.

Until the early 1990s, unemployment payments were available as of right to all those registering with the CES and demonstrating their availability for work, subject to the means test. Tests of compliance with availability for work rules have been fairly rigorous and carried penalties for breaches, but the rules were set out in legislation and applied in a standardised way to all job seekers in the particular demographic category. Over the years, several tiers of review and external independent appeal have developed, which allow clients to challenge decisions both on points of law and on 'merit' (Carney and Hanks, 1994). Access to the appeal system has been at minimal cost to appellants and without requirement for legal representation.

Since 1991, however, Australia (and Britain too) has been moving away from payment as-of-right once preordained eligibility requirements are met. Instead, payments are increasingly dependent on compliance with individual agreements between the unemployed person and the relevant organisation. Furthermore, in Australia there is a growing likelihood that this organisation will not be a public body at all but a private or non-governmental provider, which itself operates through a contractual relationship with government in competition with other providers.

3 From Entitlement to Contract

The economic and political background to the shift from entitlement to contract in unemployment payments in the period up to 1991 has been well documented by Richard Weatherley (1994). After more than eight years of Liberal government, Labor returned to power in 1983, following a recession in which unemployment reached a post-war peak of 8.4 per cent. Just before the election the Labor Party reached an historic agreement (the Accord) with the Australian Council of Trade Unions in which the latter agreed to forgo wage increases and to limit industrial disputes in return for expansion of the social wage. In the following years Labor Governments under Hawke and later Keating pursued a vigorous program of deregulation, privatisation and fiscal conservatism more usually associated with governments of the Right. While real wages fell, employment grew rapidly up to 1990, when fiscal restraint to curb inflation ushered in a further deep recession - famously described by the then Treasurer Paul Keating as 'the recession we had to have'.

Under the Accord, the Hawke Government had undertaken to protect the incomes of social security beneficiaries and low wage earners against the effects of structural change. During this period new evidence was also emerging about the extent of poverty, especially among children (Cass, 1983; Saunders and Whiteford, 1987), while long-term unemployment remained high in spite of overall employment growth. Expansionary pressures also came from increases in sole parenthood and population ageing. The dilemma of dealing with these extra calls on expenditure in the context of budgetary restraint was partly resolved through a major recasting of the social security system. Substantial increases in the scope and value of some payments, especially those for families, were offset by tighter targeting, a stronger focus on administrative efficiency and increased emphasis on client compliance and anti-fraud measures.

Much of the intellectual and policy underpinning for these changes came from the Social Security Review, carried out between 1986 and 1989 and directed by the prominent academic Bettina Cass. In the context of persistent long-term unemployment and family poverty, the approach taken in the Review emphasised the positive opportunities offered by the 'active society' concept promoted by the OECD, whereby unemployment beneficiaries would be aided and encouraged to maintain their links with the labour force rather than being relegated to permanent welfare dependency (Cass, 1988). Some critics argued that Labor's strategy was primarily a pre-election response to more stringent proposals from the Liberal opposition, and certainly the selective implementation of proposals from the Review took place in context of budgetary constraint and electoral prudence. Nevertheless, the changes to social security over this period were largely successful in protecting the most vulnerable groups from the impacts of increasing wage inequality and deregulation in the wider economy (Johnson, Manning and Hellwig, 1995; Saunders, 1995).

The activisation of social security programs for the unemployed arising from the Review included changes of nomenclature such as the replacement of 'unemployment benefit' with 'Job Search Allowance' for the short-term unemployed and 'Newstart' for those unemployed for over a year. The initial Newstart strategy from 1989 introduced intensive interviews for long-term unemployed clients, conducted jointly by staff

from the Department of Social Security and the Commonwealth Employment Service (CES). Both job placement activity by the CES and the levels of job search activity required of clients were expanded, as part of a broader concept of 'reciprocal obligation' between recipients and the state. Most of the features of the initial strategy were incorporated, from 1991, into the second Newstart package, which introduced the two-tier payment structure and more intensive employment assistance, including elements of individualised 'case management'.

4 The Green Paper and *Working Nation*

Following its re-election to office in 1993, by which time unemployment had reached more than ten per cent, the Labor Government set up the Committee on Employment Opportunities (CEO), with members drawn from academia, public service and the trade unions, to canvass potential solutions. Its report, *Restoring Full Employment: A Discussion Paper* (hereafter referred to as the Green Paper) was published in December 1993 (CEO, 1993).

The Green Paper explicitly advocated a commitment to full employment, identifying two elements as central to its restoration: first, a substantial increase in Australia's rate of economic growth and secondly a set of specific policies to reduce the numbers of the long-term unemployed. Case management was proposed as one such policy. The Green Paper highlighted the complexity of existing program structures and the CES's tendency to process rather than actively assist clients, its overly bureaucratic program administration and its inflexibility towards the services offered by non-governmental sectors.

However, as Michael Wearing and Paul Smyth (1995) have noted, the Green Paper did not propose a major injection of competition into the provision of employment services, even though the influential Hilmer Report (1993) on national competition policy had already called for the introduction of the competition model into public service delivery. Rather, the Green Paper argued for the CES to build on the existing, limited arrangements for contracting certain specialised training and labour market program delivery from community sector and private providers, according to a principle of 'complementarity'. This was based

on the view that non-government providers could be more effective in helping unemployed people with special needs, at coordinating services and job opportunities through the community sector at local level, and at meeting the needs of people who found it especially difficult dealing with officialdom.

Complementarity, however, according to the Green Paper, had its limits. Bringing community sector providers into high-volume service delivery, for example, might weaken those features which allowed them to offer a distinct service, such as 'their sense of mission, their advocacy role on behalf of disadvantaged people, and their capacity to innovate and be flexible' (CEO, 1993: 153).

What subsequently emerged in the White Paper *Working Nation* (Australia, Prime Minister, 1994) was significantly different. *Working Nation* accepted the proposals for extending case management, but inserted a competition model for delivering it which went well beyond the Green Paper's notion of complementarity and partnership between sectors (Wearing and Smyth, 1995).

Wearing and Smyth have argued that the debate in government leading to the White Paper was 'captured' by the economic rationalist approaches to public service management which informed the Hilmer Report and, more particularly, proposals from the Department of Social Security (1994). The latter advocated a full-scale restructuring of employment services along private sector management lines as the only effective way to harness the benefits of case management suggested by the Green Paper. To some extent this view was supported by the Department of Employment's own assessment of the CES's capabilities. An official evaluation of Newstart (Sakkara et al., 1994), for example, suggested that problems of coordination between the CES and DSS, and deficiencies of internal organisation within the CES itself, were tending to undermine program efficiency. The report indeed questioned whether CES staff possessed the appropriate skills for case management.

The *Working Nation* package covered a wide range of initiatives to deal with unemployment. These included liberalisation of the income test to improve work incentives and the partial disaggregation of payments between couples. The introduction of a new Parenting Allowance acted

to shift further the basis of support for people with children from a concept of spouse dependency to one of caring responsibility. The activity test was also widened to include part-time and voluntary work, engagement in education and start-up of community businesses and cooperatives.

Expenditure on labour market programs was substantially increased, and a major innovation was the introduction of the Job Compact, which guaranteed an offer of a job placement of between six and 12 months to all people in receipt of an unemployment allowance for more than 18 months. According to the reciprocal obligation principle, in return for this guaranteed job placement, the long-term unemployed were obliged to accept any reasonable offer, or lose their income support for a period which escalated according to length of joblessness and the number of previous 'breaches' of activity agreements.

The arrangements put in place to oversee contracted-out case management have been discussed in detail elsewhere (see Eardley and Thompson, 1997). Case management within the public sector was undertaken by a separate wing of the CES, named Employment Assistance Australia (EAA). Although it attracted separate funding and was administered independently, it operated through CES outlets at this stage. Once unemployed clients had been assessed by the CES as eligible for assistance they were, at least in theory, offered a choice of organisations operating in their area to approach for case management, but EAA had to operate as the agency of last resort.

The *Working Nation* policy package as a whole received some support for its overall aims of tackling long-term unemployment from a fairly wide spectrum of opinion, but elements of the strategy met criticism from both the political Right and Left. The then opposition Coalition parties, for example, attacked it as bureaucratic and expensive. From the employers' perspective, the Business Council of Australia (1994), while welcoming the elements such as the new training wage, rejected the wage subsidy approach and argued that little could be achieved without substantive reform of the industrial relations and wage determination systems. Many within the academic and community sectors, while supportive of the declared aims, were sceptical about the details. A number of critics (for example, Junankar, 1994; Pixley, 1994; Quiggin,

1994; Stilwell, 1994) were disappointed in what they saw as an abandonment of any real commitment to full employment through job creation and demand management, and sceptical about the reliance on economic growth - a ‘panacea’ according to Stilwell (1994). They also argued that wider problems resulting from structural changes in the labour market had been narrowed down to a question of personal adjustment by long-term unemployed and disadvantaged people. Thus they saw the White Paper as tending to redefine the problem of long-term unemployment in terms of job seekers’ personal characteristics.

Few commentators opposed the idea of case management *per se*, although the community sector expressed serious misgivings about the competitive framework. David Thompson (1995), for example, questioned the assumption that service providers were motivated by self-interest and profit. Similarly, from the perspective of church-based providers, Clarke (1995) expressed discomfort with the philosophy of competition, advocating cooperation and collaboration instead, and arguing that there was no evidence for the effectiveness of competition in the arena of unemployment. In general there was a fear that competition among providers would inhibit productive collaboration and the development of best practice. Concerns about the possible coercive uses of case management were also raised by community sector and welfare rights groups, who opposed the plans to increase the level of sanctions for breaches of the activity test. On the whole, however, it is fair to say that in spite of anxieties about the consequences of contracting services out to non-government agencies, there was widespread support for the principles underlying the case management approach.

As it turned out, there were clearly many practical difficulties (Eardley and Thompson, 1997). The assessment instruments used to allocate funding levels to individual job seekers had many shortcomings, while the use of outcome measures which included placement in another program led to accusations of ‘churning’. Client choice of case manager turned out often to be highly circumscribed. Difficulties in achieving outcomes for people facing multiple disadvantages led to Departmental calls for time limits to the duration of case management, whereas many community sector case managers argued that outcome measures needed to be adjusted to recognise progress achieved in these cases.

Philosophical conflicts over the nature of case management itself were played out over issues such as the sanctioning of clients for breaches of their activity agreements.

Problems with the competitive structure emerged in several areas, including attempts to compare of the cost of assistance provided in different sectors and assessment of the relative effectiveness of community and private agencies as against public sector case managers. In the early days at least contracted case managers also faced some disadvantage in placing clients in labour market programs and job vacancies because of Employment Assistance Australia's (EAA) privileged access to the CES network. On the other hand, EAA case managers tended not to have the same level of professional skills and qualifications as among the non-governmental providers. Both official and community sector studies found problems with training and expertise in EAA and some client perceptions of an inferior service from the public agency. As the agency of last resort, however, the EAA often had much larger caseloads than the contracted agencies and public sector case managers were thus subject to intensive pressures of work.

The decision in *Working Nation* to include a Job Compact and to go for a high volume of client throughput in case management had a number of negative consequences. The strains placed on administrative systems were exacerbated by the problems with the assessment instruments, which led to higher than anticipated numbers of people being assessed as being 'at risk' of long-term unemployment and therefore in need of early intervention[2]. Ironically this bulge in the assessment process often led to delays in entry to case management, so that some of those assessed as needing early help would have automatically been entitled to it by the time they actually received assistance

Long-term unemployment did fall over this period as a result of the concentration of CES's resources on this group, but another less positive outcome was a deterioration in mainstream labour exchange services for employers and other job seekers. According to a Senate report, the CES

2 It is worth noting that similar problems have been identified in some trials of case management in community care, especially in the United States (Fine and Thomson, 1995).

share of the job vacancy market fell sharply during this period to as low as 16 per cent (Senate Reference Committee on Employment, Education and Training, 1995). Private agencies were then able to fill the gap (Boreham, Roan and Whitehouse, 1995). This erosion of the CES's effectiveness at job placement undoubtedly provided ammunition for the those wishing to see labour exchange services privatised.

Contracted-out case management itself was only operating in full for just over a year before the Liberal government was elected and dismantled much of the *Working Nation* structure, arguing that it was an expensive failure. The justification for this view was mainly based on early Employment Department evaluation data (DEETYA, 1996a; EPAC, 1996), which suggested that the programs into which the majority of clients were directed were most expensive and the least effective. However, the DEETYA evaluation did conclude that the increase in labour market program places was a contributory factor in a reduction in the level of long-term unemployment and that participation did tend to increase the chances of finding a job afterwards - an effect which tended to persist for at least a year, irrespective of the type of assistance.

There was little evidence at this stage as to what specific contribution case management had made to the wider outcomes. Owen Donald and Fiona Kelley (1997), from the Employment Services Regulatory Authority (ESRA), have argued that in spite of the initial problems of implementation, case management was beginning to prove of value to both job seekers and employers. In their view the evaluation evidence based on average impacts obscures the important lessons to be learned from organisations which performed particularly successfully. On the other hand, it also appears that many clients' main experience of case management was of coercion, with pressure to take up any placement offered irrespective of its suitability, backed up by increased penalties (Welfare Rights Centre, 1996).

As Dan Finn (1997) has observed, the Australian experience provided a number of both positive and negative lessons for other countries attempting to tackle long-term unemployment. Some of the lessons were already being learned by the end of 1995 and major adaptations were being introduced. It was clear, however, that the incoming Government was ideologically opposed to high levels of expenditure on labour market

programs. Shortly after taking office they announced a further major restructuring of employment assistance which cut resources for labour market programs by $1.8b over four years (28 per cent), compared to forward estimates, and laid plans for the creation of a contestable market in employment services

5 From Managed Competition to the Contestable Market

The Coalition Government's proposals for this restructuring were outlined in the 1996 Budget Statement *Reforming Employment Assistance: Helping Australians into Real Jobs* (DEETYA, 1996b). The market is being created by turning Employment Assistance Australia into a fully corporatised 'Public Employment Placement Enterprise' (PEPE), which will compete for the provision of employment assistance with an expanded sector of private and community Employment Placement Enterprises (EPEs). The various employment services will compete for the delivery of a tiered range of assistance known as FLEX (Flexible Labour Exchange). Funding will come from cashing out most of the remaining labour market programs. The residual registration and referral functions of the old CES are being merged with the DSS payments network into a new 'one-stop' Service Delivery Agency (named 'Centrelink').

The highest level of help - 'intensive employment assistance' (combining case management and program assistance) - will be available only to those unemployed for 12 months or more, or assessed as being at risk of long-term unemployment. Job seekers will also have to undergo a test of their 'capacity to benefit' from intensive employment assistance, and those excluded will only have access to lower-level help. Mainstream labour exchange services will also be contracted out and restricted to unemployed people receiving certain benefits and to young people, while other clients will receive only self-help services or low-level assistance and could face a fee.

The Government invited comments and submissions on aspects of the Budget proposals, although it suggested that the main outline of the new package was set. In spite of only a short period of time being allowed for

comment, the consultation provoked considerable interest, attracting submissions from over 230 organisations and 120 individuals (DEETYA, 1997). The consultation report indicated that certain aspects of the proposals met with fairly widespread backing, particularly the increased flexibility available to case managers to develop individually-focused support and the amalgamation of income support and employment functions in the new agency.

Other elements, however, were much more controversial. There was evidently considerable hostility, for example, towards the contestable market approach, with doubts and anxieties expressed by both public and non-governmental agencies about whether such a model can work to the benefit of clients, especially once funding moves from a fixed-price to a price-competitive format. Concerns were also expressed at the apparent lack of quality control or monitoring built in to the proposed regulatory structure for EPEs and at the consequent possibilities of corruption. Thus greater flexibility and control over resources by case managers were generally welcomed, but expansion in competition was held to be based on unproven value.

One of the questions which attracted the highest level of critical attention in the consultation was that of the ‘capacity to benefit’ test. This was widely interpreted as giving up on people who may be in need of the most assistance. Terry Carney (1996) has described it as a form of ‘social triage’. Many submissions expressed strong views that people excluded from intensive assistance under such a test should have access to acceptable alternative help, should have clear rights of review and appeal and should not be marked for life as unemployable (see, for example, ACOSS, 1997).

The timetable for full implementation of the new system remains uncertain, as the Bill was blocked for some time in the Senate (the Australian Parliament’s upper house). The Government has now taken steps to by-pass the Senate and has introduced the legislation under existing powers. Nevertheless, the tendering process for employment services has been delayed several times and only started at the beginning of August 1997. Thus the full program of contracted-out services will not begin until March 1998 at the earliest. In the meantime, some of the

community sector agencies which provided case management under *Working Nation* are struggling to survive.

The tender documents indicate that the Government has reduced its own expectations for the success of the new system. In order to fulfil basic performance standards, private employment services will only have to place 50 per cent of their clients in full-time, permanent jobs, implying that part-time and casual work will be sufficient for the rest. The threshold for what constitutes a job sufficient to attract an outcome payment has also been lowered from the 20 hours earlier proposed (based on average estimates of the earnings needed to float a recipient off income support) to only 15 hours over a five day week (DEETYA, 1997). Thus there is a strong possibility that many of those recorded as successfully placed in work under the new scheme will in fact still be in receipt of partial unemployment payments.

6 Australia in a Comparative Perspective

Ulrich Walwei (1997 forthcoming) has recently compared the structure of job-placement and employment services in OECD countries and concluded that there are three basic models. The first is that of public monopoly, where private employment agencies are either banned or heavily restricted. In its strictest form the monopoly system requires that all vacancies be notified to and filled through the public employment service, though in moderate monopolies private agencies may be allowed to operate for certain occupational groups or types of employment. A second model is the pure market system, whereby all job vacancies and labour exchange services operate through private agencies. The third model is that of 'coexistence', which takes regulated or unregulated forms. Under unregulated coexistence, public and private employment services can exist side by side, without restriction of the latter's sphere of operations and without any special licensing requirements. In regulated coexistence systems, licensing and quality standards requirements may be placed on private agencies.

Although in 1994 Walwei did not find the pure market system operating in any OECD country, he did identify a strong trend towards liberalisation in employment services. He placed Australia, together with

New Zealand, the USA and Denmark, as among the most liberal, in the 'free coexistence' category. This was before the introduction of even partial competition in employment services under *Working Nation*. Once the proposed new system is in place Australia will arguably have gone further in the direction identified by Walwei than perhaps any country in the world, even though the UK and the US make extensive use of the private sector in their training and enterprise programs.

Australia has also gone further than most if not all countries in attempting to tailor its employment assistance and compliance regimes to the circumstances of individual job seekers. In the Nordic countries, especially Sweden, there has long been a strong emphasis within public policy on the maintenance of high employment levels through labour market policies - the so-called 'work line' (Kossonen, 1997). Yet it is only recently, as a result of the experience of higher unemployment, that activisation policies in Nordic and northern European countries more generally have begun to take the form of individualised agreements with unemployment beneficiaries. Thus in Denmark, Individual Action Plans (IHPs) were introduced in 1994 for recipients of unemployment insurance (Arbejdsmarkedsstyrelsen, 1993) while a similar program was launched in Finland in 1997 (Kossonen, 1997). A number of smaller-scale or experimental programs of individualised assistance have been introduced in other countries including Belgium and the Netherlands (Eardley and Thompson, 1997).

Among the liberal welfare states, the United Kingdom introduced back-to-work plans and individualised intensive interview arrangements in the early 1990s as part of the menu of active job seeking programs through which unemployed people have to go at various stages of unemployment, and the new Labour Government has been looking with interest at the Australian experience in drawing up plans for further reform. New Zealand too has drawn on Australian lessons in introducing forms of case management into its unemployment programs. Recent welfare reforms in Canada have also emphasised the active labour market policy approach, though mainly in practice within provincial social assistance arrangements rather than national unemployment insurance programs. Thus the Provinces are taking somewhat different approaches. Deena White (1997) has found that in Quebec, which has notionally moved

most quickly in this direction, both provision of and access to active employment measures have in practice been limited. This, she argues, suggests an ambivalent attitude towards such provision among policy makers, who often find it convenient to blame assistance recipients for their passivity in not engaging in more active job search.

In summary, although it is certainly true that Australia is not alone in moving towards contractual arrangements in service provision and in unemployment benefit entitlements, it has been moving much more rapidly and systematically in this direction than most other countries.

The final section of this paper discusses what these developments might mean for the individual unemployed person.

7 New Relations of Welfare?

The new structure for employment services in Australia represents a further move away from the 'producer state' and towards the 'guarantor state' (Naschold, 1995), or in US terms the 'post-bureaucratic state', where the role of the public sector is reduced to that of contractor and purchaser of goods and services, rather than the main provider. The success of the new arrangements will have to be judged on their effectiveness in reducing unemployment. However, the structure seems potentially problematic in a field of activity where success depends heavily on the free availability of information on job vacancies or other placement opportunities, but where the market incentive will be to protect privileged sources. Price competitiveness also seems likely to introduce an incentive for 'creaming' of those easiest to assist, in spite of fee structures designed to counter this temptation[3].

Paralleling the incremental marketisation of employment services has been the shift towards eligibility for benefits based on behavioural compliance with individual, quasi-contractual agreements. The principles underlying the case management approach have received considerable support. But what effect does expanding the legal power of the

3 Recent newspaper reports, however, suggest that some of the largest private employment agencies have decided not to tender for Flex services on the grounds that the contractual arrangements are unfavourable to business.

individualised agreement between a job seeker and a case manager have, especially where these case managers will increasingly be in the private sector?

Carney (1997 forthcoming) argues that payments dependent on compliance with individualised agreements pose a challenge to the claiming of social rights of citizenship. The replacement of the unilateral 'arms-length' relationship by the reciprocal and personalised relationship transforms the income maintenance functions of social security into something more akin to a social work service. Elements of income support in some other countries already have these characteristics, of course. Social assistance payments in Nordic countries like Norway and Sweden, or in a more residual form in Switzerland, depend substantially on both officer discretion and behavioural compliance by clients (Eardley et al., 1996). For Australia, on the other hand, although arrangements for paying unemployment benefits have always included an element of social control, this transformed relationship within the mainstream of social security provision represents a qualitative change.

The practical effects can be seen in the way that access to appeal has become more limited. Social Security Appeal Tribunals cannot now look at the terms of an activity agreement unless an extra request is made specifically to review these terms. The Tribunal also only has the power to confirm, set aside or remit the terms of the agreement, rather than, as in the case of any other appeal, to 'remake' the terms on their merits (Carney, 1997). Under the new system, the Department of Social Security will retain the power of implementing sanctions for non-compliance through benefit reductions. Monitoring and reporting any breaches of agreements, however, are the responsibility of the employment service providers. Thus the disciplinary elements of employment assistance, which are arguably the proper responsibility of the state, will increasingly be administered by private agencies and individuals.

This is what might be termed a welfare rights perspective. A related but somewhat different view, from a post-structuralist or Foucauldian perspective, is that the development of both contracted-out services and individual quasi-contractual relations should be seen not as a withdrawal of state involvement, in line with neo-liberal ideologies, but as an extension or pluralisation of the technologies of government (Dean,

1995, 1997). These technologies seek to engage unemployed people themselves in processes of self-formation as active participants in a society where traditional forms of full employment are no longer an option. Thus the previous 'work test' to establish eligibility is broadened into an 'activity test', to include a variety of other activities, including voluntary work and education. This is predicated on the idea of self-activation and participation in 'ascetic practices', akin to the self-improving rubrics of the Protestant ethic, under the tutelary guidance of the case manager.

One example of how these technologies of governance can be broadened well beyond traditional spheres may be seen in the increasing medicalisation of problems of long-term unemployment. Richard Gosden (1997) reports that the Special Intervention Program, devised in the later period of *Working Nation* to deal with people who were particularly hard to assist through case management, adopted forms of therapeutic intervention, premised on an interpretation of the problems or disadvantages faced by some long-term unemployed people as psychiatric or psychological dysfunctions. Such labelling, Gosden argues, may become a convenient explanation for the 'inadequacies' of people who lose out in the competition for scarce jobs. This view is reinforced by recent UK research, reported in the medical journal the Lancet, suggesting that success in job finding amongst long-term unemployed people can be enhanced by the use of 'cognitive behavioural therapy' (Proudfoot et al., 1997).

The importance of the post-structuralist perspective, according to Anna Yeatman (1995), lies in its exposure of 'the rhetorical fiction of liberalism, to show how it legitimises a particular regulatory regime even when it is talking the language of deregulation' (1995: 136). Its limitation, however, is in its inability to take a normative stance which might distinguish between individualising practices that support personal autonomy and those which inevitably act to suppress it. Such a normative position is difficult to sustain in the post-structuralist paradigm because the main focus is on the discursive practices or technologies themselves - the *what*, *who* and *why* of governance (Dean, 1995) - and much less on 'the substance of what it means to be an individualised unit of agency' (Yeatman, 1996: 136). To take a normative position thus requires a

decision about whether there are aspects of the individualised contractual relationship which do offer positive opportunities for autonomous action.

Yeatman (1997) argues that that there are possibilities for a 'new contractualism' based on a model which transforms and goes beyond classical liberal theory. These possibilities lie in the reconfiguration of liberal contractualism in terms of an equal opportunity and anti-discriminatory ethos:

> Equal opportunity liberalism makes it impossible to relegitimise a return to the patrimonial-collectivist traditions of state-sponsored protection of those who have been positioned as vulnerable to the assertion of individual contract freedom. In the first instance this creates a regulatory vacuum. Such a vacuum can only deepen the already established inequalities between those who are positioned as stronger and weaker contractual individuals. However, if we cannot return to patrimonial-collectivist forms of regulation, the only way forwards lies in an examination of universal contract personhood.
>
> Thus the question becomes one of identifying new forms of regulation which can specify the status entitlements of persons in such a way as to satisfy their equality as contract individuals. (Yeatman, 1997: 50-1)

Historically the trend in social welfare in most countries has been away from discretion and towards rights-based systems, but Stein Ringen (1997) has recently put the case for a local, discretionary and contractual social assistance. He argues that assistance put on a rights footing tends always to be reduced to questions of cash, often fails to address the real needs of individuals, is target inefficient and generally becomes too limited to offer protection against even technically defined income poverty. He cites the UK as an example of the failure of this type of social assistance. Ringen's vision is of a genuinely flexible, neighbourhood-based service offering a range of support through either cash, employment services or therapeutic support, according to the needs

of the individual, with the rights and duties of the client set out in a contract drawn up with the neighbourhood office.

The problem with this argument is that in the Nordic countries from which Ringen draws his examples of the positive aspects of the discretionary approach, social assistance has, until recently, catered for only a small minority of the population and an even smaller percentage of the unemployed. Mainstream social provision remains largely universal or insurance-based and most recipients are not subject to the discretionary and often coercive practices of local assistance boards. Where the number of assistance recipients has grown, as in Sweden, the pressure has tended to towards less discretion and more rights and uniformity of treatment.

The experience of case management in community care has been that it only delivers what it claims to do in principle where caseloads are small (Fine and Thomson, 1995). Similarly, the Australian experience of case management in employment services suggests that with a high volume of clients the possibilities for genuinely individualised treatment are limited. Some non-governmental organisations may well be able to improve on the kind of service previously offered by the CES. Initial research also suggests that private providers have on average been no more inclined towards coercive approaches such as breaching clients for non-compliance with activity testing than have community sector organisations (Considine, 1997). Yet it is not clear how under the new employment assistance regime the rights of clients, either as individuals or as disadvantaged groups, are going to be monitored and protected.

In the sphere of income maintenance for the unemployed it appears that we are still in the regulatory vacuum referred to by Yeatman. There is a need for greater attention to ways of securing clients' rights if the positive aspects of case management and public/private complementarity are to be retained. There may, as Yeatman suggests, be areas of public policy where new contractualism is fostering participatory citizenship, but job seekers are in a weak position to assert such status in the quasi-contractual employment assistance regime. At present Carney's more pessimistic view seems realistic:

> The gridlock of community prejudice against ‘dole bludging’, the sheer mass of cases to be dealt with, and the influence of fiscal rectitude in shaping programs, give cause for pessimism about the ability of the state to counter the coercive and repressive tendencies of these programs. … The shift from unilateral provision of income maintenance ‘as of right’ into the realm of ‘welfare casework’ appear to magnify that risk. Vulnerable citizens may have more to fear from the ‘coercive case manager (social worker)’ than from the overzealous and rigid bureaucrat. (Carney, 1996, 118-19)

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