

Workers' Compensation and Social Security Expenditure in Australia: Anti-Social Aspects of the 'Social' Wage

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SOCIAL WELFARE RESEARCH CENTRE

DISCUSSION PAPERS

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'SOCIAL' WAGE?**

Don Stewart and Jennifer Doyle

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ABSTRACT

This paper focuses on undercompensation among the work injured and the substitution of public welfare pensions for workers' compensation payments. It is argued that the costs of work-injury are transferred to the individual and the state as personal and social costs. Utilising Australian Bureau of Statistics, Department of Social Security and other data the importance of the Invalid Pension, especially among male migrants, is demonstrated. It is also evident that women, in particular migrant women, receive less workers' compensation and for shorter periods of time but are less likely to be on the Invalid Pension. These groups are consequently more likely to experience personal costs. It is argued that the substitution of pensions and benefits acts as a market subsidy and ultimately legitimates unsafe work practices. This contradictory outcome of social welfare expenditures challenges the assumption that pensioners and beneficiaries derive sole, or even greatest, benefit from social welfare expenditures. As a case study this paper illustrates the need to consider industrial relations and labour market aspects when assessing income maintenance policies. More generally, it is suggested that the analysis of public expenditures or the 'social wage' must incorporate the impact of policy on the labour market and the interaction of the public and private sectors.

1. INTRODUCTION

Despite the fact that compensation for many work-related injuries was traditionally available at common law in the nineteenth century the many inefficiencies of this remedy ensured that compensation was costly for employers and employees alike. Gaining compensation through litigation was time consuming and actions were restricted to a limited proportion of all injuries.¹ It was these problems that Australian reformers were seeking to address when, using British legislation as precedent, they enacted on a State by State basis the initial statutory no-fault compensation schemes which emerged during the first few decades of this century. Despite numerous modifications to these original Acts and a broadening of the scope of common law actions in certain respects, common law/statutory compensation schemes remained problematic.

Recently, with the exception of Queensland which has had a form of administrative workers' compensation scheme since 1917, all Australian States and Territories have instigated reforms introducing a less adversarial and more administrative approach to workers' compensation. These reforms, however, while influenced by desires to achieve certain social outcomes were not initiated until financial pressures (typified by dramatic increases in the unfunded liabilities of individual State compensation schemes) and associated administrative crises threatened to undermine the financial viability of many of the schemes in the early 1980s. Actuarial matters have therefore predominated and in combination with wide ranging concerns about access to compensation and associated services, and the costs of medical and legal services, have precipitated one Federal and several State inquiries from 1974 to the present (see Woodhouse 1974 and Cooney 1984 for examples).² Subsequent to the inquiries, revised workers' compensation models have recently been introduced in several States. Craigie et al (1986) document many of these inquiries and recent legislative changes.

This paper is not so much concerned with compensation for work-related injuries, however, as with those occasions when compensation is not provided, or is inadequate, and where social security pensions and benefits, particularly the Invalid Pension and

¹ The inability of common law negligence actions to provide timely compensation (Phegan 1985), and the requirement that a relationship between employment and ill-health be proved as part of the general process of establishing negligence, fault and liability on the part of an employer contributed to their problematic nature. See Ison (1967) Harris (1985) Brown (1982) and Stapleton (1986) for more discussion of this point.

² Some of these arguments have been summarised previously in Stewart (1986).

Sickness and Unemployment Benefits, are used as proxies for workers' compensation payments. Empirical and anecdotal data from several sources indicate that the use of the social security pensions and benefits system in this way, i.e. as a replacement mechanism for non-compensation or insufficient compensation, has been and still is quite common. The primary effect of the integration of these two systems is the sharing of costs between the public and private sector. Cost sharing ensures that some costs are redistributed to the public sector and the individual to be absorbed as social costs and personal costs respectively. These personal costs are, however, additional to those normally incurred by adequately compensated work-injured persons.³ When costs of injury are transferred to the public sector and the community at large they are arguably not reflected in increased workers' compensation insurance premiums. As a result total labour costs are reduced and employers on this basis are effectively subsidised.⁴

2. UNDERCOMPENSATION, THE SOCIALISATION OF COST AND THE ROLE OF SOCIAL EXPENDITURE

The process of dispersing operating costs to the public sector, of which the informal integration of the social security and workers' compensation infrastructures is but one example, has been referred to as 'cost socialisation' by O'Connor (1973:141) and by Offe (1984:48-58). Patterns of interaction between the public and private sectors (i.e. of social expenditures operating as a market subsidy), have been noted by many researchers from disciplines including social policy, social administration and economics. However, they are often measured and discussed in attitudinal terms - for example, how social benefit levels can operate as incentives for people to enter or leave the labour force.

Despite the general recognition that uncompensated costs are inevitably dispersed to the social welfare system and that injured people effectively bear some of the costs of

³ It is recognised that the notion of full or adequate compensation is fairly arbitrary (see Stewart 1986:5-13 for discussion of this point). However, it is also clear that additional personal costs occur when injured persons are dependent on social security for all, or a major part, of their income rather than on wage related compensation. In such cases they experience real income declines relative to those persons who obtain or remain in receipt of pre-injury wage-related workers' compensation payments. Externalising compensation costs to the public sector therefore produces costs (in the form of economic, social and psychological effects of personal injuries and disabilities) for some persons which are additional to those incurred by individuals who receive either wage-related regular workers' compensation payments, other employment-based disability insurance benefits or compensation obtained at common law at a level deemed sufficient to meet future losses.

⁴ Gross national or total workers' compensation premium income was estimated to be in the order of \$1,750 million in 1983-84 by the Advisory Committee on Prices and Incomes (ACPRI 1986:51) or, alternatively, by the Australian Bureau of Statistics in 1986-1987 to be 2.9% of total major private sector labour costs (ABS 1988b).

employment injuries as personal costs, poor documentation of this phenomenon arguably reinforces other popular perceptions to the contrary: namely that social welfare agencies are separate from the labour market, that costs once socialised remain within the public sector and that costs are not transferred to individuals and households. At the political level these perceptions are perhaps typified in statements about how unemployment benefits which are too generous foster sloth, 'dole bludging', or act as disincentives for people to seek employment or how the Invalid Pension provides an 'easy ride' for malingerers, and so on. Unfortunately, because such analyses are directed at individual actors, personal incentives and disincentives, the approach is unidimensional. It focuses on the most obvious users of social security, the clients, who, perhaps because of their social visibility, are assumed to be the sole or major beneficiaries.

Benefits that others, for example individual employers and in more general structural terms the economy as a whole, might derive from social expenditures or from having social security programme(s) linked closely with the labour market are often ignored. Too often too little attention is paid to the structural effects of social expenditures, their impact on the labour market, or the incentive effects these benefits can have on employers and the private sector, in addition to social security clients. Therborn (1986) for example, in contrast to much of the research in this area offers a somewhat more objective analysis of the interaction of social expenditures and the structural impact of labour market programmes on unemployment and argues that social expenditures in the form of labour market programmes and job creation programmes have had a positive impact on reducing unemployment in certain countries. Unfortunately these sorts of relationships, other than the analysis of the economic impact of targeted social welfare programmes on the Australian labour market perhaps, receive little attention. The relationship between social security pensions and benefits and the labour market is neither well documented nor understood.

The historical basis of the market subsidy which social welfare expenditures provide rests on the financial nexus between social security payments (primarily Unemployment Benefit, the Invalid Pension and Sickness Benefit), non-wage costs of employment (on-costs) over time, and the relative exclusion of female workers from workers' compensation coverage. Collectively these reduce the proportion of labour on-costs which are derived from all deemed employers' legal obligation to provide workers' compensation insurance for all employees. Cost socialisation therefore effectively decreases employers' financial obligations by reducing workers' compensation insurance premiums. This, in turn, cheapens the cost of labour, reduces operating costs and inevitably allows for increased potential profit margins. Socialisation of a proportion of

injury costs therefore acts as a potential means for workers' compensation insurance systems (and thereby employers) to reduce operating costs.

Examining the dispersal of work-injury costs to the public sector is helpful in explaining several inter-related phenomena. Firstly, undercompensation or non-compensation of work-injuries⁵ promotes the development of social security dependency and personal costs. Secondly, because a proportion of the costs of injury has historically been externalised and the economic effect of injuries correspondingly reduced, socialising some of the costs of injury may well contribute to overall injury levels by ultimately acting as a disincentive to the introduction of alternative, safer working environments. Thirdly, if evasion of on-costs (including compensation premiums) occurs in the underregulated sector of the labour market as some research suggests (TNC 1985) then the subsidy derived from social security expenditures in all probability contributes to the continued existence of the unsafe work-practices often found there. Cost avoidance amongst individual employers may therefore promote the adoption and use of unregulated employment practices. Finally, and more generally perhaps, cost socialisation effectively subsidises the overall maintenance and reproduction of industrial social relations thereby contributing to overall incidence of ill-health within the community. Ironically, regardless of whether certain injuries and illnesses are recognised as being industrial in origin or not, social security expenditures, through the formal and informal integration of social security income maintenance and workers' compensation systems, appear to impinge on general health levels in the community.

The effects of undercompensation then can manifest themselves at both personal and social levels. At the personal level replacing work-injury costs with social security pensions and benefits promotes personal costs. More generally, because income maintenance, health services, preventative and regulatory services and post-injury treatment and rehabilitation entail formally budgeted public expenditures the integration of the welfare sector with workers' compensation systems produces a variety of social costs. However, the effects of cost socialisation are more pervasive, extending beyond the costs of public sector regulation and (minimal) income support and maintenance. It appears, for example, that major secondary or derivative costs occur primarily because social security payments represent an alternative source of income maintenance in lieu of compensation payments and so provide a real financial incentive for employers to avoid compensation premiums and other labour on-costs.

⁵ Undercompensation and non-compensation represent a real loss to personal incomes in many instances i.e. an economic cost among work-injured persons which in turn may contribute to the development of associated personal costs. This point is discussed in more detail below.

More specifically, it appears that cost avoidance facilitates the development and use of employment practices which are not in accordance with formal contract of employment legislation, regulations and associated occupational health and safety standards. Cost-sharing thereby impacts on the general industrial relations environment. The paper therefore concludes that in addition to generating social costs, personal costs and cost avoidance practices, the socialisation of costs (a) reinforces the implementation and use of unsafe work-practices, particularly in high risk/low status occupations and (b) promotes the development and use of employment in underregulated and unregulated sectors of the labour market (also known as the informal economy).⁶

3. DATA

Research into workers' compensation is necessarily limited for reasons associated with the non-reporting of injuries, the collection of industrial injuries data and poor standards of record keeping by individual States. Until very recently detailed comparisons between States were impossible because national standards had not been established for these statistics. In 1985 Worksafe Australia (NOHSC 1985) documented a range of inadequacies associated with the reporting, measurement and recording of industrial injuries which, in concert with incomplete records held within the Department of Social Security's case-files, obscure the relationship between industrial injuries, workers' compensation insurance and social welfare dependency.⁷

Despite these limitations, however, considerable empirical and anecdotal examples indicating the informal integration of workers' compensation schemes and the social welfare system do exist. Formal recognition of this process in Australia can be traced at least as far back as the 1974 Royal Commission on workers' compensation (Woodhouse 1974) which noted aspects of the transfer of responsibility. Subsequently, the 1979 Survey of Invalid Pensioners (SIP), which more correctly was a survey of the medical records of 11,900 Invalid Pension recipients, estimated that of the 214,000 invalid pensioners in Australia at the time, some 19,040 or 8.9 per cent were disabled as the

⁶ The desired outcome of employment practices such as these is to present an employer-employee relationship as self employment and not as a contract of employment arrangement (Hill and Bingeman 1981). By lessening the direct control of employers in this way these employment practices simultaneously decrease labour costs and increase potential profit margins (see TNC 1985).

⁷ In one of its own publications for example the Department notes that the ability to provide disaggregations of causality in respect of type of accident from individual invalid pensioners' case records 'has seriously been affected by the large number of cases where the type of accident was not specified on the medical report' (DSS 1981:57).

result of an accident. Of these, an accident at work was found to be the 'underlying cause' of invalidity in 'at least' 5,240 or 27.5% of cases. This figure represents some 2.5% of all invalid pensioners. By their own admission the researchers felt this figure to be an underestimate (DSS 1981:57). It is almost certainly one which may have been drastically altered had a methodology been used similar to that of the 1981 ABS Survey of Handicapped Persons, which estimated there to be at least three times as many people in this circumstance two years later.

The 1981 Survey of Handicapped Persons (HPS) (ABS 1982), unlike the Department of Social Security's SIP, generated Australian estimates from interviews conducted with some 33,000 households Australia-wide. It found, in contrast to the former survey, that of the estimated 67,000 'handicapped persons in households whose major cause of disability was the result of an accident at work', 15,794 (23.6% of the total in this group and 7.4% of all invalid pensioners in 1981) were in receipt of the Invalid Pension. These figures do not include the 150,000 handicapped persons identified in the survey whose condition was non-accidental but still due to 'working conditions, work or overwork', a category which would include deafness, forms of overuse injury and many other industrial diseases. Of these some 16,500 were also in receipt of the Invalid Pension, although some double counting might have occurred here and it is not clear whether some 'accident' cases were included in this group as well.⁸

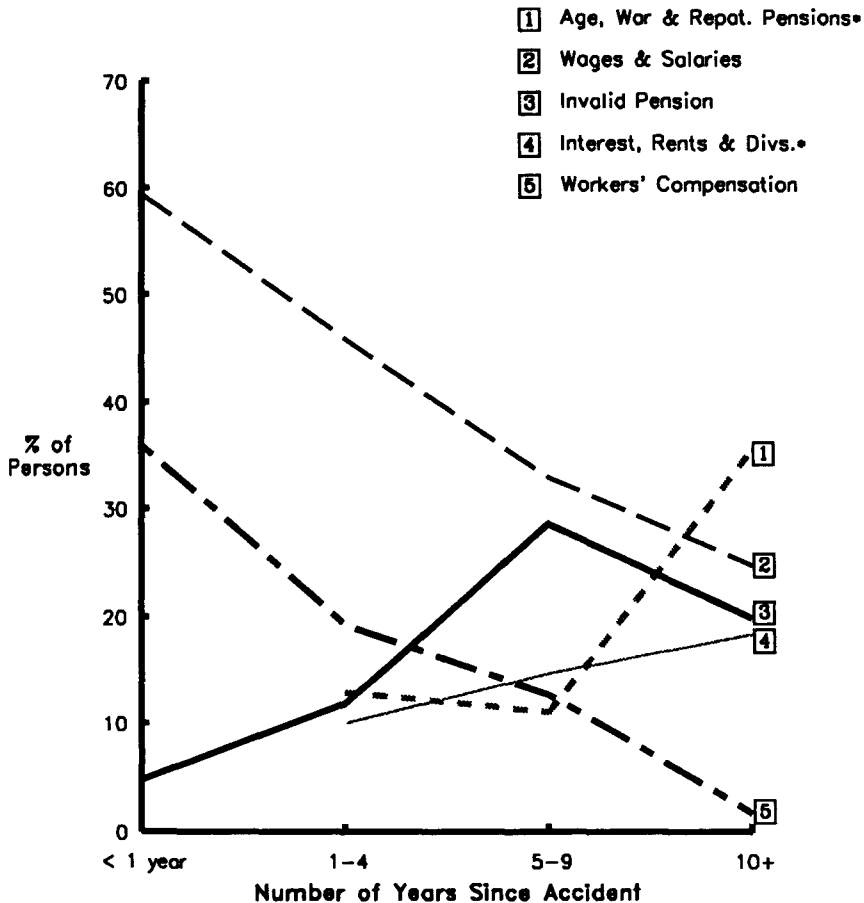
Nevertheless, the HPS estimates are interesting not only because the absolute estimate of invalid pensioners in this survey is three times greater than the Department of Social Security's estimates in the SIP (which were based on departmental case-records and not on personal interviews with pensioners), but also because the HPS was conducted on a time-since-accident basis thus allowing for time-series disaggregations.

HPS rate-of-transition from workers' compensation to Invalid Pension data for **work-accident** cases only is presented in Figures 1 and 2. Both indicate changes in the reported income sources of persons whose primary disabling condition resulted from an accident at work. Both indicate the increasingly important role of Invalid Pensions and the

⁸ The fact that the SIP was based on Department of Social Security records while the HPS questionnaire was administered on a national basis may have contributed to the discrepancy in the two surveys. It is however, likely that the HPS is the more accurate of the two, particularly if it is accepted that the difference between the two surveys (1979 and 1981) is unlikely to have been produced by a real difference in the total number of invalid pensioners or a sudden influx of work-injured invalid pensioners. (DSS records indicate that there was little difference in the total number of invalid pensioners in Australia in 1979 and 1981 although the total number of invalid pensioners did rise between 1979 and 1980 and decline again in 1981.)

Figure 1: Selected Sources of Income By Number of Years Since Accident

(Expressed as a Percentage of Total Reported Sources of Income)

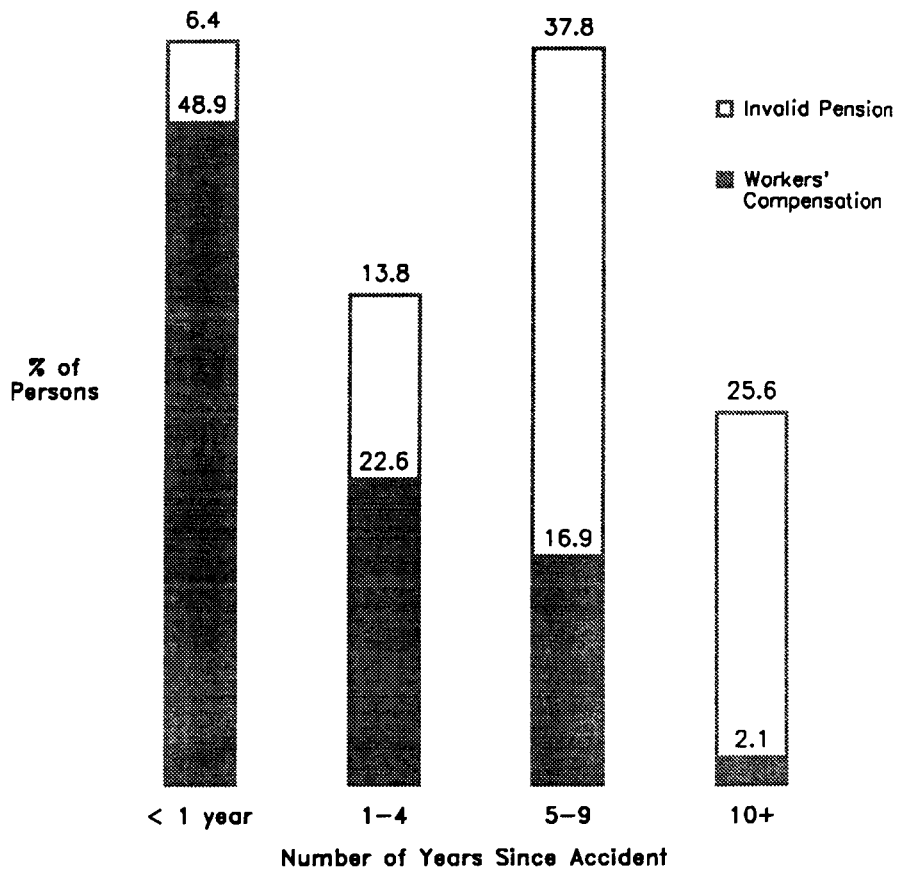


* Indicates no data available for '< 1 year'

Note: Persons may report more than one income source.

Source: Derived from ABS (1982) Handicapped Persons
Australia 1981

Figure 2: Invalid Pension and Workers' Compensation Recipients as Percentage of All Work-Injured



Source: Derived from ABS (1982), Handicapped Persons Australia 1981

progressive decline in the incidence of workers' compensation. It is evident that while both males and females are unlikely to receive compensation in the long term for serious injuries the incidence of women receiving compensation is lower than that for males (Table 1). Also, the duration for which women receive compensation may be shorter than that for males (Table 2). Table 3 indicates that the incidence of Invalid Pension uptake among women (either ESB or NESB) is lower than for males. It is quite possible that the under-representation of women as social security recipients is indicative of inequities present within social security eligibility criteria. This is discussed in more detail below. However, the general lack of comprehensive Department of Social Security data in this area, particularly in respect of non-traumatic injuries, compounds the problems of undertaking systematic research. Data bases, for example, do not include the dollar value of compensation settlements or provide conclusive time-series source of income information. Information of this sort is essential if the relationships between the social security system and workers' compensation schemes are to be tested or documented in any detail, and the magnitude of the transfers quantified with any degree of certainty.

It is not suggested that all workers' compensation claimants will inevitably progress to the Invalid Pension (indeed the data for women indicate that this is not the case) but rather that the data clearly illustrate the increasingly important role of both the Invalid Pension for work-injured persons during the first seven to nine post-injury years and of the Age Pension thereafter. For 50% of all invalid pensioners in Australia the transition from Invalid to Age Pension occurs, on average, after seven years (6.3 and 9.0 years for males and females respectively) (DSS 1987a, Table 25). It is worth noting also that invalid pensioners typically have a high mortality rate and that in 25% of those cases where the Invalid Pension is terminated, death is the reason (DSS 1987b, Table 7).⁹

When the respective proportions of both workers' compensation and the Invalid Pension are compared, as in Figure 2, the relative importance of each over time becomes apparent. Systematic income loss represented in this way indicates something of the personal cost development which might accompany a serious work-related injury. The apparent decline in the importance of the Invalid Pension as a source of income is most probably

⁹ It should be noted that this figure relates to all invalid pensioners and that mortality is not therefore an accurate representation of the injury trajectories of 25% of all invalid pensioners with a work related injury. As such it cannot be inferred that 25% of all work-injured invalid pensioners will die as the result of that same disability or even that the mortality rate of work-injured invalid pensioners is 25% after seven years. However, the generally high mortality rate of invalid pensioners does suggest that the mortality of work-injured invalid pensioners should be examined in order to establish whether or not this sort of extreme personal cost development (i.e. a causal relationship between work-injury, invalidity and death) exists for this group also.

TABLE 1 : SELECTED SOURCES OF INCOME BY SEX, AUSTRALIA

Work Accident Cases Only
(‘000 Persons)

Sources of Income (persons)	Accident at Work					
	Males (N = 56.0)	(%)	Females (N = 11.0)	(%)	Ratio M:F	Persons (N = 67.0)
Wages and Salaries	24.6	28.7	5.9	34.1	4.2:1	30.5
Workers' Compensation	9.0	10.5	1.6	9.2	5.6:1	10.6
Invalid Pension	14.1	16.4	1.7	9.8	8.3:1	15.8
Interest, Rents, Dividends	9.2	10.7	2.4	13.9	3.8:1	11.6
Aged/Widows/ Repatriation Pension	13.4	15.6	3.1	17.9	4.3:1	16.5
Other	15.5	18.1	2.6	15.0	6.0:1	18.1
Total*	85.8	(100)	17.3	(100)	5.0:1	103.1

* More than one source of income may be reported.

Source: Derived from ABS (1982), **Handicapped Persons Australia 1981**, Cat. No. 4343.0.
Unpublished data.

TABLE 2 : SOURCE OF INCOME BY NUMBER OF YEARS SINCE ACCIDENT OCCURRED, AUSTRALIA

Work Accident Cases Only
('000 Persons)

Source of Income	Years Since Accident									Total		
	Less Than 1 Year			1 - 4 Years			5 Years or More			Male	Female	Persons
	Male	Female	Persons	Male	Female	Persons	Male	Female	Persons			
None	*	*	*	*	*	*	*	*	*	*	*	*
Wages and salaries	*	*	3.8	9.6	*	11.7	12.8	*	15.0	24.6	5.9	30.5
Self employment	*	*	*	*	*	*	*	*	*	4.6	*	5.7
Unemployment benefits	*	*	*	*	*	*	*	*	*	*	*	*
Superannuation	*	*	*	*	*	*	*	*	*	*	*	*
Workers compensation	*	*	*	4.3	*	4.9	3.0	*	3.4	9.0	*	10.6
Interest, rent, dividends	*	*	*	*	*	*	7.5	*	9.0	9.2	*	11.6
Invalid pension	*	*	*	*	*	3.0	11.2	*	12.5	14.1	*	15.8
Handicapped child's allowance	*	*	*	*	*	*	*	*	*	*	*	*
Family allowances	*	*	*	4.5	*	5.2	5.4	*	5.8	10.9	*	12.4
Age/widow/repatriation pension	*	*	*	*	*	*	10.6	*	13.2	13.4	3.1	16.5
Other income	*	*	*	*	*	*	*	*	*	*	*	*
Aged 0-14 and parent not available	*	*	*	*	*	*	*	*	*	*	*	*
No income level or source stated	*	*	*	*	*	*	*	*	*	*	*	*
TOTAL	3.2	*	4.7	17.9	3.7	21.7	34.8	5.8	40.6	56.0	11.0	67.0

* Data suppressed due to high relative standard error.

Source: ABS (1982), **Handicapped Persons Australia 1981**, Cat. No. 4343.0. Unpublished data.

TABLE 3 : INCIDENCE OF INVALID PENSIONERS, SELECTED GROUPS

Persons	NESB		ESB	
	Males	Females	Males	Females
a) Total Population (1)	338 952	218 225	1 159 047	892 527
b) Invalid Pensioners (2)	51 768	9 923	122 949	38 653
b/a (%)	15.27	4.55	10.6	4.33

1. Males 45-64, Females 45-59

2. Males 40-60, Females 40-59

Source: ABS (1986), **Census of Population and Housing**, Unpublished data.
DSS (1987c), Unpublished data.

attributable to the transfer of invalid pensioners to the Age Pension, and to the high mortality rates of invalid pensioners referred to earlier.

4. UNDERCOMPENSATION AND SOCIAL SECURITY INCOMES

Were it the case that everybody who missed out on compensation could receive social security at pre-injury earnings or at a living wage level then we might be inclined to say that being on social welfare rather than workers' compensation was satisfactory because personal economic losses were minimal. However, social security payments, including the Invalid Pension and Sickness Benefit, are paid at set, low levels and not at pre-injury income levels (see Table 4). The Invalid Pension at the Standard Rate plus Rent Assistance (adult, no dependents) in March 1988, for example, was \$131.10 and the Combined Rate (couple, no dependents) was \$208.50 per week. \$131.10 is 105.3% of the March 1988 Henderson poverty line income level for single adults 'not in the workforce' while \$208.50 is 118.3% of the poverty income level for a married couple with no dependents where the head of the income unit is 'not in the workforce' (these amounts being \$124.50 and \$176.30 respectively). As at March 1988 these amounts (i.e. \$131.10 and \$208.50) were 27% and 42.9% of adult male average weekly ordinary time earnings respectively (\$485.70) (ABS 1988a). While such payments might counter the development of dissaving over a short period, they are not sufficient to counteract the development of poverty over the longer term.

Weekly income for a married couple receiving the Invalid Pension and having no additional income in March 1988 was \$208.50. For an invalid pensioner couple with two children under 13 years of age the total weekly income from benefits was \$ 252.50 (additional pensions for children are \$22.00 p.w. for each child under 13 or \$28.00 between 13 and 15) or 52% of male average weekly ordinary time earnings. In a case in which a pensioner family of this type has no income from other sources (except Family Allowance payments for the two children of \$12.74 p.w.) total household income will be about \$265.24 which is marginally greater than the March 1988 Henderson poverty line figure (\$259.30) for a couple with two children where the head is 'not in the workforce' and 92% of the estimated poverty line income for a family where the head of the household is employed.

**TABLE 4 : COMPARISON OF INVALID PENSION RATES AND THE HENDERSON POVERTY LINES,
MARCH 1988**

	Max. Pension* (\$ pw)	Poverty Line A (Head not in Workforce)	Pension as % of Poverty Line A	Poverty Line B (Head in Workforce)	Pension as % of Poverty Line B
Family Type					
Single	131.10	124.50	105.3	153.50	85.4
Couple	208.50	176.30	118.3	205.30	101.6
Couple + 2 dependents	265.24	259.30	102.3	288.30	92

* Includes Rent Assistance and Family Allowance where eligible.

Source: Australian Institute of Applied Economic and Social Research (1988).

Exclusion of women from social benefits

The means-testing of the Invalid Pension on the basis of both pensioner and spouse incomes means that where combined income exceeds the threshold, an injured person is eligible for part pension only. Where this income exceeds the pension cut-out point, they receive no pension. Two effects are evident here. Firstly, the internalisation of costs to families which arises from a social security incomes support policy which, in contrast to the personal income taxation system, treats combined income as assessable income and not just the income of the individual is apparent. Secondly, males eligible for the Invalid Pension have a greater chance of receiving some payment than a female spouse. Given that average male full-time earnings are greater than average female earnings (\$485.70 compared to \$402.20 in March 1988 [ABS 1988a]) a female spouse's earnings are more likely to be less than the cut-out point where payments are extinguished (e.g. \$457 p.w. for a couple). Similarly it is more likely that a work-injured female spouse will be denied part payment of a pension because male earnings are more likely to exceed the cut-out point.

Clearly, differential access to the Invalid Pension on the basis of gender (reflected in Table 3)¹⁰ is symptomatic of an income support system which is structurally biased against women. This suggests at the very least that in the event that full wage replacement is not provided some additional or supplementary benefit may be necessary to compensate work-injured women for their lack of access to social benefits.

Despite the central role of the Department of Social Security in this process there are no conclusive departmental or other estimates of the magnitude of these transfers, nor have the mechanics of the process been explored in any detail. Some Department of Social Security data do, however, indicate that undercompensation or inadequate compensation can contribute to social security dependency for **any** work-injured person (DSS 1984). Other independent studies indicate that NESB migrants and NESB women especially are more affected by factors which contribute to undercompensation (i.e. differential recognition of similar injuries, selective compensation coverage, differential claim-rejection rates and variable redemption sizes) and the possible development of social security dependency to a greater extent than their Anglo (ESB) counterparts.¹¹ This is in

¹⁰ Table 3 refers to male invalid pensioners aged 40-64 years and female invalid pensioners aged 40-59 years. These groups were selected because most male invalid pensioners qualify for the Age Pension at age 64 while females qualify at age 60.

¹¹ In this paper the abbreviation ESB refers to all persons born in either Australia, New Zealand, UK/Eire, Canada, USA, or South Africa. All others were classified as being NESB.

contrast to a tendency for NESBs to be employed in those occupations which carry greater risks of injury (Morrissey and Jakubowicz 1980; Kreigler and Sloan 1984; Alcorso 1988). On this basis it is speculated below that access to workers' compensation and associated services is a selective process, one in which ethnicity, gender and labour market status influence compensation outcomes.

Interestingly, despite a high take-up rate of the Invalid Pension by NESB migrants this overrepresentation is not sustained among women when Invalid Pension uptake rates are disaggregated on the basis of gender (Table 3), probably largely because eligibility criteria for pensions and benefits are based on combined income. This effectively discriminates against all work-injured women whose spouses are in employment regardless of ethnicity. It should be noted that incidences of Invalid Pension uptake do not necessarily indicate the actual level of invalidity within sections of the community (Morrissey 1984:53,73). The combined effect of both processes (undercompensation and benefit exclusion) is that women, and NESB women particularly, have proportionately greater potential personal cost burdens as a result of employment injuries than their male counterparts and it is this as much as anything else which is reflected in female NESB underrepresentation amongst invalid pensioners. These points are discussed in more detail below.

Whichever spouse is seriously injured social security dependency will, in all probability, result in personal costs to individuals and families. For income eligibility reasons mentioned above this situation is not one which is remedied by having a previously non-earning person replace their spouse in employment as a means of preventing income loss. Not only can these arrangements in practice deny income replacement from the social security system on a personal or individual basis (in lieu of workers' compensation) to the injured party but they also introduce a new series of costs into the household by causing alterations to the lifestyle of that household.

5. PERSONAL COSTS

Compensation for work-related injuries while a universal right for all employees is not automatically awarded for all injuries. Inadequate compensation or non-compensation can occur for a diversity of reasons, not least of which is the simple non-reporting of injury, which in itself may be indicative of more complex underlying factors. People may not report injuries, for example, for fear that a reported injury may jeopardise current employment, future employment, or future promotion prospects or simply because an employee does may not want to attract the stigma of being labelled a 'compo bludger', and so on. In other instances people waiting for a common law case to go to court might

receive the Invalid Pension, Sickness Benefit or Unemployment Benefit as an interim income source. In contrast to the rhetoric of a 'golden handshake', receiving compensation is not a guarantee of long-term economic security, and instances where people have received a lump sum damages settlement at common law or through having had their cases redeemed, only to run out of money have been well documented (see for example Casey and Charlesworth [1984]). Whatever form it takes, inadequate compensation in many instances renders injured people dependent on the social security system and liable to incur greater economic and psychological personal costs (Mendelson 1984:203-204) in either the short or long term, or both.

The personal costs of injury therefore can have diverse origins and manifest themselves in a variety of ways. Perhaps the most common form of personal cost onset can be seen in short-term wage and salary losses and/or permanent reductions in personal long-term earning power which can accompany injury. In other instances undercompensation, non-compensation or delayed compensation precipitates reliance on social security benefits which do not offer wage related income, but rather provide subsistence level payments for short and long term dependents (Castles 1987). Severe or permanent injuries may in turn precipitate the development of other less tangible forms of personal cost - a decrease in the physical and psychological quality of life of injured persons, perhaps deriving from the stresses associated with coping with injury-related pain and suffering or from the loss of self esteem for example. These and similar 'heads' of damage have long been the basis for the assessment of compensation through common-law damages claims. As noted earlier departmental benefit eligibility criteria, based as they are on combined incomes, promote the exclusion of female spouses from social benefits (Edwards 1983:177-182; Kirkwood 1986:155-160; DSS 1988:109-111). Gender specific factors therefore appear to compound personal cost development.

Migrant workers and personal costs

Labour market power and status relations are reflected in the availability of access to certain conditions of employment including access to workers' compensation. For NESBs employment is often found in high risk occupations and in under-regulated areas of the labour market i.e. those less likely to have award wages and conditions (including compensation coverage). There are strong grounds for arguing that the labour process is one which has typically discriminated against low status and peripheral areas of the labour market i.e. those in which employment for women and NESB migrants predominates. Furthermore, it appears that the integration of the social security system with the labour market contributes to and reinforces these arrangements.

Research undertaken in Victoria prior to the introduction of Workcare in 1985 concurred with anecdotal suggestions and earlier empirical studies suggesting that NESB migrants had a greater likelihood of receiving smaller redemptions (Nye 1978:462) and experienced greater dissatisfaction with compensation procedures (Encel and Johnston 1978). Female migrant workers have generally featured as the most disadvantaged group in this respect being found to be 'almost six times as likely as Anglo-Saxon men to have their claims rejected' (Blackett-Smith and Rubenstein 1985:22-25). Among other findings brought down by the Cooney inquiry in Victoria, prior to the introduction of Workcare it was noted that certain elements of compensation schemes imposed 'special disadvantages upon women' (Cooney 1984 12.8. quoting Rubenstein 1983). Recent research (Alcorso 1988) indicates that NESB workers also have less access to rehabilitation and other post-injury support services. Casey and Charlesworth (1984) suggested that the generally diminished status of female-dominated sectors of the labour market, in conjunction with the tendency for 'womens' work' to be seen as less demanding, make it more likely that injured women will be classified as fit for 'light duties' and not as totally incapacitated. This, they argue, contributes to a high claim rejection rate for women and to their relative undercompensation.

Although many of these studies were conducted with limited samples, their importance lies in the fact that they indicate some of the many factors which can seriously reduce the size of compensation payments. The full impact of these elements acting in combination with higher rates/incidences of work injury and with 'victim blaming' (Quinlan 1988) has not been explored in sufficient detail. Rather, their impact tends to be passed over in departmental research which suggests that the overrepresentation of NESB migrants is principally due to the demographic ageing of certain sections of the migrant population (DSS 1988:117).

Systematic undercompensation promotes the development of associated personal and social costs and results in a disproportionate incidence of welfare-dependence among specific social groups. Characterisation of a particular injury as 'Mediterranean back' or 'Lebanese back' and of the injured as 'compo bludgers' are symptoms of this and have contributed to the stigmatisation of migrants generally.¹² It is suggested that these factors in combination with proportionately higher levels of employment in high risk

¹² See for example Rubenstein (1982); Watson (1985:88-90); Pearse (1985); Willis (1986); Quinlan (1986;1988); Layman (1987); Alcorso (1988) each of whom describe aspects of the complex social, medico/legal and technical processes involved in recognising and compensating work-related injuries. Arguably social stigmas tend to diminish the social legitimacy of certain injuries. A recent example of this is the scepticism which surrounds the class of non-traumatic diseases known as overuse injuries of which Tenosynovitis is an example (see Quinlan 1988:194).

occupations, employment in the informal labour market where compensation insurance and other aspects of regulated employment do not exist, and inadequate access to rehabilitation services mean that migrant workers, and migrant women particularly, are more likely to incur greater personal costs from employment injuries than males and that NESB women probably incur the greatest costs.

6. IS THE INCIDENCE OF SOCIAL SECURITY DEPENDENCY AMONGST THE WORK- INJURED ABOUT TO INCREASE?

Such an event would be contingent upon compensation schemes shifting more costs onto the social security system. In New South Wales at least there are indications that this is occurring. Recent reforms introduced in Division 2 of the NSW Workers' Compensation Act of 1987 (NSW 1987), for example, have effectively tightened eligibility criteria and restricted maximum benefits payable under the system to such an extent that, in combination with the abolition of common law remedies against one's employer (an example of which is also found in section 149 of the 1987 Workers' Compensation Act), they may act as a disincentive for persons to apply for compensation. Recent reforms in New South Wales have replaced Sections 9 to 11(2) of the earlier New South Wales Act (1926) with Sections 33 to 38 inclusive. These effectively restrict compensation payments for partial incapacity and increase the complexity of the compensation system. As a result people may elect to apply for the Invalid Pension or Sickness Benefit rather than (a) pursue a compensation claim, or (b) appeal against a disputed claim, as they might have done previously.

Ironically, despite recent attempts by the Federal Government to lessen their costs in this area, there are indications that reliance on social security amongst the work-injured may increase in future. If this is the case recent Federal cost saving reforms in respect of integrating eligibility for pensions and benefits more closely with compensation payments may be weakened as more people seek the Invalid Pension rather than workers' compensation.

If individuals (in New South Wales) receive compensation payments at a reduced level in cases of partial incapacity and this payment is topped up from Social Security, either in the short term from Sickness and Unemployment Benefits or over the longer term from the Invalid Pension, then there is little to be gained financially from submitting oneself to the rigorous and often adversarial procedures used to determine one's degree of incapacity when at best such payment will only be equal to the current rate provided by the Invalid Pension. Realising this, insurers may seek to increase cost-shifting to the public sector by promoting the use of the social welfare alternative for injured employees.

This is, of course, speculative but it does highlight the dynamic nature of the linkages between social welfare and workers' compensation schemes and the vulnerability of individual claimants to policy changes in either system.

Income from other sources can exclude pensioners and beneficiaries from the fringe benefits associated with health concessions cards (the monetary value of which is estimated to be about \$25.00 p.w.). The threat of being excluded, coupled with the fact that individuals may be worse off financially (due to the fact that income from workers' compensation will exclude them from the health card and associated benefits), may act as an incentive for persons to apply for a pension rather than workers' compensation. Exclusion from the health card occurs at present when weekly income from other sources is greater than \$81.00 for a single person or \$138.00 for a couple.

The problem of insufficient compensation and increasing incidences of social security dependency applies **not only** to people who might have received some compensation in the past **but also** to those who sustain one of the many injuries which are not recognised as work-related or for which compensation is particularly hard to get. Injuries in this category include or have included in the past RSI and other over-use injuries, asbestosis and a variety of other dust related diseases, cancers from coke oven emissions and the side-effects of exposure to chemicals.

7. SOCIAL COSTS

Apart from the costs of welfare, health and other social services, which include income support for social security dependent individuals and the funding of disability-related social welfare agencies, there are additional costs associated with maintaining preventative agencies and with the enforcement of preventative legislation. Secondary economic costs also arise from the discontinued participation of individuals in the labour force, from the lost value of 'arrested productivity' which accompanies wasted social investment in the development of work skills (Donzelot 1981:25), from the non-productive diversion of economic and social resources to those medical and legal professionals who have traditionally provided expensive services in this area (Cooney 1984 Appendices 1 and 2) and from environmental degradation (Rom 1983: 865-924).

Government application of safety standards and the prosecution of employers for breaching health and safety regulations is comparatively rare. Yet the immediate costs of industrial and personal injuries, of environmental degradation, and the derivative or secondary social costs of these same externalities are great. It is even more rare for penalties and fines when they are imposed for individual breaches of these Acts to match

the unit-costs of providing the health and safety inspectorates, of personal injuries compensation and of associated welfare services. A distinct double standard is evident in this area, for in social terms the treatment negligent employers receive is considerably more favourable when compared to other groups, particularly other law-breakers (Tubbs 1982:8-10; Wettenhall 1988).

For injuries which do not have an obvious, direct and provable link with an occupation, or employment in a particular factory or industrial process, compensation is much harder to obtain, and the risk of incurring additional personal costs is correspondingly greater. Often it is only when public concern over a particular form of injury is sufficiently great, or the effects of an event are so serious that it is difficult to deny causality for example, that a compensatory response from the public sector, employers or insurers is precipitated - current outrage over the unacceptably high incidence of asbestos-related diseases amongst ex-employees and residents of the blue asbestos mines operated by Micalco Pty Ltd (a wholly owned subsidiary of CSR Ltd) at Wittenoom, Western Australia (see *Work Hazards* 33:5) being an example. However the non-compensation of James Hardie and Co. employees at the white asbestos mine at Baryulgil in northern New South Wales (PIAC 1984; McCulloch 1988) and the social disaster following the toxic emissions at Union Carbide's plant in Bhopal, India, in 1984 (*Work Hazards* 25:3) are two graphic examples of the difficulty of eliciting adequate compensatory responses, even when causality is established to the extent that it has been in the instance of Bhopal. The partial compensation of Agent Orange-affected American and Australian Vietnam war veterans, and of women whose health has been affected by the Dalkon Shield contraceptive device, although of a slightly different nature, provide us with other examples. These, however, are arguably just a few examples of the sorts of injuries where (because compensation has not been universally available) social expenditures act as a replacement form of income for workers' compensation or other personal injuries compensation, albeit an insufficient one, for many people.

Were sufficient economic resources devoted to epidemiological research, a great many more connections between the health of the community and industrial injury might be proven to exist. Because of the dearth of epidemiological research, however, the community and personal costs aspects of injury, including the impact of industrial processes on community health, are virtually unquantified at present. These and similar social dimensions of compensation are often overlooked in discussions about workers' compensation, as is the broader issue of whether or not enough funds are diverted from the private sector and directed towards the prevention of employment-related injury (and by implication to the maintenance of appropriate community health standards). At present over half (52.7%) of the Federal governments tax base consists of contributions

from PAYE taxpayers while revenues levied in the form of direct corporate taxes account for only 11.5% (Commonwealth of Australia 1987:312). On this basis one can ask if greater contributions should not be sought from the corporate sector.

8. WHO BENEFITS FROM THE SOCIAL WAGE?

While a case could be made that compensation for work injury can never be 'full' or 'adequate' and that work injury necessarily involves the sharing of costs, this is not at issue here. Rather it is argued that where compensation is in the form of 'subsistence' income maintenance rather than wage replacement, and the costs of income maintenance are assumed by the public sector (i.e. workers' compensation payments are replaced by Social Security payments) or by the family (i.e. no financial compensation is made by either the private or public sector e.g. the case for many married women injured at work), undercompensation is clearly evident.

Via undercompensation and the non prosecution of negligent employers the costs of injury are shared. In this process financial responsibility and costs resulting from work injury are transferred from the insurer to the public sector (in particular the social security system) and to the individuals and their families. Subsequent social and personal expenditures are in fact subsidies to workers' compensation schemes, insurers and ultimately employers. Clearly, it is not only pensioners and beneficiaries who 'benefit' from social wage expenditures.

Uncertainty over who actually benefits from social expenditures makes questionable the various assumptions upon which such outlays are based. Conventional wisdom would have it that social outlays and welfare in particular either redistribute income and resources to those on low incomes, reduce inequality or maintain equity. These beliefs commonly underpin fiscal incidence studies prominent in social welfare research (see for example Harding 1984 and Norris 1985). As demonstrated in the case of workers' compensation, however, social welfare expenditures subsidise the social relations of production. Therefore those who receive pensions and benefits and/or utilise services, while they are the direct beneficiaries, are not the only beneficiaries. In short, those who gain financially from welfare expenditures are not confined to the direct recipients of welfare.

Importantly, this uncertainty questions naive utilitarian claims which are often made in defence of the status quo. For example, it is often asserted that social security expenditures despite being industry subsidies have an overriding welfare function - like other industry subsidies they have a net benefit on the economy at large, on general well-

being and are therefore legitimate. These sorts of claims, however, do not take into account the greater difficulties in obtaining compensation that some sections of the labour force experience. Nor is the possibility explored that Department of Social Security income maintenance policies in addition to their stated welfare role, indirectly reinforce labour market inequities. Possibly these expenditures also subsidise employment within typically high risk, under-regulated areas of the labour market to a greater extent than other areas. In effect these contradictory outcomes undermine claims that government social welfare expenditures, even if they are subsidies, automatically have a welfare function, either generally or for specific individuals. Surely this 'anti-social' effect is contrary to the objectives of welfare expenditures, particularly as stated by Federal policy makers who often emphasise the benefits of the social wage over its industrial counterpart. In combination with the fact that most unregulated and unsafe work practices remain intact under these cost-sharing arrangements, the proposition that social welfare is an adequate alternative income source for wage-related workers' compensation payments is seriously undermined.

Cost socialisation and the labour market: effects on employment practices

In structural terms social welfare expenditures have been responsible for meeting some of the costs of employment injuries. In addition to the personal and social costs already mentioned still other externalities are associated with the greater provision of public and community health services (Medicare and so on). By these and other means the state has subsidised unsafe and dangerous work-practices and contributed to the viability of the private sector market, its institutions and labour market relations.

Ultimately this is a slightly perverse situation, one in which the Commonwealth is allocating social welfare expenditures financed from taxation revenue, over 50% of which is financed from the PAYE tax base, to alleviate some of the negative effects of work-injury. Unfortunately while it is alleviating some of the personal costs of injury, by subsidising employers it is also contributing to the production of further injuries and disabilities, thereby maintaining the viability of the very situations and productive relations which are the primary cause of industrial injury. Those at greatest risk in unregulated sectors of the labour market are the same general groups whose employers receive the greatest effective subsidy by defaulting most of their legal obligation to provide workers' compensation insurance. Similarly, many of those at greatest risk are women who are less likely to qualify for social security pensions and benefits after work-injury than males.

Selective access to various income sources reflects and reinforces those observable patterns of labour market and social stratification present in Australian society. These patterns of selective access to non-wage employment benefits and upwardly selective access to social expenditures which include not only income support but also many of the diverse elements of social welfare we know as the 'social' wage (health, education, child care and so on) (Stewart 1988) are compounded by the attendant inequities associated with gender, ethnicity and race. In essence it appears that persons employed in low status occupations and/or in the more marginal areas of the labour market are less likely to receive wage-related workers' compensation in either the short or long term.

These problems exacerbate the already vulnerable employment position of persons in informal or undeclared employment who often not only have less personal power or control over their employment, but also receive lower wages and fewer of the associated benefits derived from formal employment. As such they often bear the consequences and attendant costs when employers do not fulfil the legal obligations arising out of a contract of employment. Industrial hygiene and accident prevention within these sectors, for example, are adhered to less and workers' compensation coverage is less observed (TNC:1985).

Often it is only by the virtue of government intervention in the workplace through regulation of employment practices that workers in these areas have had the benefit of award wages and the attendant minimum benefits of the contract of employment, including mandatory coverage by workers' compensation insurance. Less regulated areas of employment generally attract individuals with little or no other options of employment for a variety of reasons: perhaps because there is not enough formal employment in a region, area or suburb, or because mothers who are expected to look after children work at home, or because workers' do not speak sufficient English and may be exploited because of this fact, and so on. Clothing out-workers, people working for undeclared income or itinerant agricultural workers' are often cited as examples in this context. The situation is variable, but all too often rights of employment are not enforced. Conditions of employment that many of us would take as a basic right are often provided completely at the discretion or whim of employers.

Also when we bear in mind firstly, that labour market factors determine whether workers' compensation is available or not to all workers on an **equitable** basis and secondly, that social security benefits are not equally available in practice to all injured workers it is clear that the financial effects of injury will inevitably be felt more by some persons than others, particularly low income earners working in unregulated employment not covered

by workers' compensation. Consequently, costs are often borne by those who can least afford them rather than employers, insurers or Social Security.

9. CONCLUSIONS

Several interesting aspects of the interaction of workers' compensation and social security emerge when considered in the context of labour market stratification. It is apparent that people in low status occupations, particularly in informal and unregulated employment, will often bear greater costs of injury, either because they do not declare their injuries for fear of jeopardising current and future employment prospects, or because they are more likely to be under-compensated (i.e. they receive relatively smaller settlements for comparable injuries) or receive no compensation at all. Consequently, social groups which are or have been concentrated in these areas (typically women, persons from non-English speaking backgrounds and especially migrant women) have a greater likelihood of being under-compensated. The fact that migrant workers are typically over-represented in high risk and less regulated areas of the labour market i.e. occupations and industries providing less employee protection, is a compounding factor. In effect it is these groups which are statistically more likely to be injured, less likely to have alternative forms of employment-based welfare such as superannuation or personal insurance coverage, less likely to be fully compensated for work-injury, and, if male, more likely to be invalid pensioners. Arguably they have the greatest chance of incurring personal cost burdens as the result of employment-injury.

Like other forms of employment-based reward which are available largely on the basis of one's labour market status, access to workers' compensation displays labour-market-selective characteristics. The higher one's position or status in the labour market the better, statistically speaking, are one's chances of gaining compensation for a work-related injury, assuming of course that the injury is recognised as being the result of employment in the first place. Compensation may be from salary-based retirement and superannuation packages, workers' compensation, or by default perhaps, from the range of disability and unemployment-related social security pensions and benefits, or a combination of the above.

Recognition of this dual and apparently contradictory aspect of social expenditures calls into question the popular assumption that social welfare expenditures are inherently compensatory, i.e. that through the redistribution of economic resources they necessarily reduce market inequalities and promote social and economic equity.

When the cost socialisation function of social welfare expenditures is ignored the social implications of substituting public sector pensions and benefits for production or market incomes is also obscured. In effect, attention is diverted from the political and economic effects of public sector agencies, including social welfare agencies in corporatist political economies and their impact on the labour process (Burawoy 1983).

The compensatory functions of social welfare in this area mirror the general divisions of power in the labour market and in some ways appear to actively reinforce those divisions. Clearly, other areas of social security policy which overlap the labour market have this or a similar effect, e.g. the Family Allowance Supplement (FAS) in as much as it is a programme which facilitates labour market participation or supplements workers' compensation payments. By providing income assistance to those unable to obtain a living wage in the labour market it provides a market subsidy to employers who (for whatever reason) pay low wages and to compensation schemes which pay low benefits (DSS 1986:15-22).¹³ By apparently sanctioning low wages FAS, for example, may be promoting the development of greater inequalities within the labour market by eroding market incomes.¹⁴

Examining cost socialisation and personal cost development in personal injury illustrates how the interests of the public sector and private sector converge, and how they can, at times, act to the detriment of individual interests. Collectively the many examples of partial and non-compensation suggest that, in fact, workers' compensation has only ever really been available for an unknown proportion of all injuries and that the incidence of personal cost development is, broadly speaking, probably greater amongst migrant employees and probably greatest for female migrant women from non-English speaking backgrounds.

Whatever the dollar amount the subsidy to the private sector may be, several things are fairly clear. Australian injury statistics (which at best are only based on instances of recognisable injury) necessarily understate the incidence of industrial injuries. Public perceptions of the scale of involvement of the public sector are also underestimated. Policy formulation and development must also be similarly affected by the underestimation of the nature and scale of injuries. The resultant general confusion about the scale of employment injuries no doubt also contributes to misunderstandings about the

13 Then known as Family Income Supplement (FIS).

14 In the same way that the Speenhamland decisions of 1795 for example eroded market incomes and reduced productivity at the onset of the industrial revolution and subsequently laid the foundations for the draconian 1834 Poor Law Reform Act (see Polyani 1944 for example).

role of social security as an alternative income source for injured employees. This, in turn, is probably why the social security system, and indeed the public sector, tends to be regarded as something quite distinct from the labour market rather than supplementary to it.

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