

Towards a New Public Unitarism: Employment and Industrial Relations in the Australian Public Service

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Abstract

This article traces the transformation of the Australian federal public service from an administrative towards a more managerial model of the state. The paper will argue that the process has been uneven and, at times, contested. A particular feature of the paper will be a discussion of the role of organised labour in the process. The paper outlines the central features of the administrative state model and the emerging features of the managerial model of the state. The focus of the paper is on the employment and industrial relations characteristics of public service employment. Comparison will be made between the different paths taken by the Labor government from 1983 and the Coalition government since 1996.

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Introduction

The purpose of this article is to trace the transformation of the Australian federal public service from an administrative towards a more managerial model of the state. One of the important characteristics of employment arrangements in a managerial state, organised along private sector lines, is that public employees should have no more rights or status than private sector employees, even if they remain subject to the sovereign power of government in a manner that other employees do not. Thus the government is both employer of, and legislative regulator of, the conditions of its own employees. Nevertheless, employment and industrial relations are a subsidiary function of managerialism, although they are crucial components in its successful realisation. Dunleavy and Hood (1994) identify the following key aspects of 'new public management':

- More transparent budgeting arrangements with a focus on outputs rather than inputs;
- Viewing organisations as a chain of low cost principal/agent relationships rather than trustee beneficial relationships;
- Desegregating separable functions through purchaser – provider distinctions;
- Opening up competition between and within public agencies and not-for-profit organisations.

Advocates of this new public management model emphasise the similarities between the nature of managerial work in the public and private sectors (Pusey, 1991: 122). They tend to believe that private sector management skills are universal and portable between the private and public sectors (Hood, 1989: 350; Bryson, 1987: 270; Sinclair, 1989: 382). For example, Keating has argued that '... the differences between public and private sector approaches to management are frequently exaggerated' (1997: 128). Supporters of this approach also believe that management techniques and practices imported from the private sector are context free, value neutral and applicable to the effective operation of the public sector regardless of the political aims or objectives of governments (Gray and Jenkins, 1995: 86; Hood, 1995: 173). Proponents of the new managerial model of the state also exhort public sector managers to concentrate on 'managing for results' instead of the traditional concerns of public administrators with processes, inputs and accountability (Gray and Jenkins, 1995: 80). For Yeatman the focus on 'managing for results' reduces the aims of the public service 'to the effective, efficient and economic management of human and financial resources' (1987: 340).

Nevertheless, for some commentators the focus on the tasks of management has the potential to undermine accountability, equity and democratic citizen participation in the policy-making process (Davis, 1997: 209; Pollitt, 1993: 112). For Painter '... most areas of the public service and administration have distinct political, ethical, constitutional and social dimensions which tend to be ignored or even supplanted by private management practices' (1997: 41-2). In addition, critics argue that advocates of the new public management have underestimated the complexity of public sector goals and the inherently political nature of public sector work (Alford, 1997: 155; Halligan and Power, 1992: 4; Hood, 1995: 173). This political context and the limits imposed on the activities of public sector managers by the need to be accountable to parliament for the expenditure of public monies represent key distinctions between the management of public and private sector organisations (Boston *et al.*, 1996: viii). Public sector management is also about more than the operation of individual agencies, it also involves:

... the macro-level management *of the public sector as a whole*. ...[requiring] the fostering of cooperation and coordination among interdependent organisations in the pursuit of collectively determined goals. Steering such a network requires a delicate balance to be struck between shared public interests and the interests of individual public sector organisations and the individuals who manage them (Boston *et al.* 1996: viii-ix).

A further criticism leveled at the new managerial model is that its promise that organisations would be leaner and more accountable have at best been only partly realised and at considerable cost (Considine, 1997: 88). Hood postulates that the managerial reforms introduced into the public sector may merely represent the latest pop management vogue although he concedes that this fails to explain the longevity of a number of the reforms coming under the banner of the new public management. Alternatively, Hood suggests that this model may represent a cargo cult: 'the endless rebirth, in spite of repeated failures, of the idea that substantive success ('cargo') can be gained by the practice of particular kinds of (managerial) ritual' (1991: 6-7).

Whether the new public management represent a 'cargo cult' or the solution to the 'fiscal crisis of the state' remains the subject of ongoing debate (Considine and Painter, 1997), though we argue that its emergence involves a reaffirmation of managerial prerogatives and the need to subject public sector employees to management control and supervision. Proponents of this new managerial model promote the notion of public sector managers as transformational leaders who are entrepreneurial, market-

driven and results-oriented (Osborne and Gaebler, 1992). This emerging managerial world is one where 'objectives are clear, where staff are highly motivated to achieve them, where close attention is given to monetary costs, where bureaucracy and red tape are eliminated' (Pollitt, 1993: 7). These sentiments imply that public sector managers be given increased discretion to manage both financial resources and employees (Hood, 1995: 168).

The ability of Australian public sector managers to organise labour more flexibly was facilitated by the demise of the public service boards that had traditionally imposed external regulations and controls over their ability to manage their subordinates (Considine and Painter, 1997: 4). To ensure that such 'constraints' on managers freedom to manoeuvre were reduced, service-wide employment arrangements and security of tenure were also modified considerably. In addition, there has been a push to ensure that employment and industrial arrangements are negotiated at workplace level instead of via service wide negotiations. Such agency-level bargaining may not always involve trade unions. Indeed in some agencies, for example the Department of Finance and Administration, collective bargaining at agency level has all but ceased and staff are encouraged to negotiate individual employment agreements with their employer (O'Brien and O'Donnell, 2002). In this realm there is little ideological space for negotiated relationships between management and labour.

This approach reflects a value and belief system referred to as unitarism, a frame of reference intended to legitimate management authority within the workplace and to emphasise the commonality of interests that supposedly unite management and labour. Fox contends that the ideology of unitarism can be traced back to the master-servant relationship wherein the master sought unswerving loyalty from the servant (1974: 250). Advocates of unitarism also emphasise 'the need for a united structure of authority, leadership, and loyalty, with full managerial prerogative legitimized by all members of the organization' (Fox, 1974: 249). Pollitt observes that:

Historically, management ideologies have sought to justify the authority of one group (the managers) over another (the workers) ... Thus it is very much in the interests of managers themselves to promote a set of beliefs which highlight the special contribution of management and thereby justify management's special rights and powers (1993: 9).

One means by which management seeks to ensure employee acceptance of managerially-defined values, goals and objectives is through the introduction of a new corporate culture (O'Brien and O'Donnell, 2000). This is a central task for the new public sector transformational leader. Cultural change can take the form of a customer-driven strategy such as total quality

management (Osborne and Gaebler, 1992) or by seeking to link the work tasks of individual public servants to the achievement of agency corporate goals and objectives. This is increasingly the primary objective of the burgeoning performance management regimes in the APS (MAC, 2001). Nevertheless, management ideology does not conform to a neat set of prescriptions that are adhered to by all managers and a diverse range of responses from public sector managers and labour can emerge (Pollitt, 1993: 6).

The remainder of the paper explores the extent to which managerial prerogatives have been enhanced by the shift from an administrative to a managerial model of the state. The paper argues that the direction of the reforms has provided agency management with substantially increased discretion at workplace level and increased controls over APS employees. The paper also explores the responses of public sector trade unions to these developments. Comparison will be made between the different paths taken by the Labor government from 1983 and the Coalition government since 1996; although the trajectory of restructuring has been similar the methods followed have diverged.

The Fraser Government and Public Sector Employment Relations

The administrative model of the state is premised on the notion that the public or civil service is a quasi-independent instrument of governance. It is, in theory at least, subject to the policy will of government, but operating with considerable autonomy from government in matters such as the employment status of public service employees. This quasi-independence is underpinned by a number of institutional practices and traditions. These include the institution of a Public Service Board or some other central agency acting as the employer on behalf of the Crown; the relative job security of 'officers' of the public service; and service-wide employment arrangements associated with the concept of a 'career service'. In Australia, however, another instrument of the state, the conciliation and arbitration system, has played a central mediating role in the determination of employment conditions of public servants, although governments possess the sovereign power to determine them unilaterally. This direct power is, nevertheless, reflected in the fact that the work of public employees is likely to be more regulated by legislation than is characteristic of private sector employees (Weeks, 1999). Despite this, in recent times there has been a

concerted attempt to regulate public employees in a manner similar to other employees (McLeod, 1995; Reith, 1996; Kemp, 1998).

The first attack on the security of tenure of public servants came from the Fraser Coalition government in the late 1970s. At the heart of the public servant employment status was the notion of 'office'. Permanent employees of the APS were appointed to specific 'offices' in departments and agencies whose employees were employed under the *Public Service Act 1922*. In a formal sense the employee becomes the holder of the office. Unless the office was abolished or the employee was found guilty of gross misconduct, it was difficult for the employee to be removed from the office. The concept of 'office', then, was at the heart of security of tenure for APS officers (McLeod, 1994: 27-8). On election to office, however, the Fraser government undertook a major restructuring of federal government functions to meet its commitment to 'smaller government'. This involved winding back federal government functions that had been extended during the period of the Whitlam Labor government. The principal form of labour flexibility within the APS had been hitherto, the 'temporary' public servant. The employment of temporary officers could deal with peaks and flows in labour demand; it was less useful for major restructuring purposes. This meant that the government needed the capacity to retrain and redeploy permanent officers and if necessary make them redundant as individuals, rather than abolish the offices they occupied. This objective was achieved through a number of measures: the *Commonwealth Employees (Employment Provisions) Act 1977*, the 'no work as directed - no pay' amendments to the *Public Service Act (1978)* and the *Commonwealth Employees (Redeployment and Retirement) Act 1979* (Simms, 1979: 28-30). Critics of these measures argued that they gave the Commonwealth powers over their employees that private sector employers could not exercise over their own workers (Hawke, 1981: 107-8). Nevertheless, the Commonwealth government was asserting its constitutional rights as a sovereign employer to make unilateral decisions about its own employees and not concede those rights either to a quasi-independent instrument of governance such as a Public Service Board or a semi-autonomous regulator such as the Conciliation and Arbitration Commission. In this sense, then, the government struck at two pillars of the administrative state in Australia: security of tenure for permanent employees and the control of employment conditions by public service boards. While this cannot be characterised as an overt act of managerialism, it nevertheless 'empowered' the government's managerial agents to deploy and dispose of labour with much less procedural complication.

These measures had the effect of shifting the dynamics of industrial relations in the APS. Hitherto the concept of permanence had been a key aspect of the notion of an independent public service. Permanence, professionalism, hierarchy, orderly promotion and appeal mechanisms were posited as central to public service employment. Industrial militancy and political radicalism were not a part of the vocabulary of permanent public servants or the staff organisations that represented them (Hince, 1981; Juddery, 1980). These events in the late 1970s, however, marked the beginning of the politicisation and radicalisation of main federal public service unions: the Australian Public Service Association (who represented non-permanent employees) and more particularly the Administrative and Clerical Officers' Association, the organisation representing permanent officers (Simms, 1989). The status differentiation between temporary and permanent employees was beginning to dissolve. Indeed public servants were feeling the lack of status that has effected other non-manual occupations such as teachers and bank workers and later on nurses and university staff (O'Brien, 1999: 65). The social relations of production were shifting in public service environments: the differentiation between public service workers and their employer and its managerial agents was becoming much more explicit.

The Labor model: overt managerialism and incorporation of labour

One of the pre-conditions of the application of managerialism to the public sector is that government re-asserts its control over the continuing institutions of governance: the public service. One of the first actions of the newly elected Labor government in 1983 was to issue a White Paper on the Australian Public Service. The White Paper stated that the 'balance of power and influence has tipped too far in favour of permanent rather than elected office holders' (Commonwealth of Australia 1983). The amendments made to the *Public Service Act* in 1984 emphasised the setting of priorities by Cabinet, Ministerial control of the public service and the desirability of input from partisan as well as official sources. The principal output of the public service – policy advice – was to be more contestable: the policy community surrounding executive government was thus expanded. In doing this government was asserting the primacy of government over the civil service. This fitted well with notions of social democratic accountability that had been most forcefully articulated by Peter Wilenski when he reviewed the New South Wales public service in 1978 (Wilenski 1979, 1980, 1982). The instrument of this 'social democratic' model of

government administration, however, was to be – in the first instance – financial reform.

The White Paper on the Australian Public Service identified the following pressing requirements for budget reform:

- The processes of decision-making on budget priorities by the Government itself;
- The information base for public and parliamentary scrutiny of budget processes and subsequent program implementation; and
- The financial management programs in all agencies (Commonwealth of Australia 1984: 1-2).

Democratic accountability was to be enhanced by a greater focus on 'results'. There needed to be a 'shift in management emphasis from "compliance" to a greater degree of performance control' (Public Service Board and Department of Finance 1984: 37). The assertion of political control, as well as the enhancement of financial accountability, was to be underpinned by the redesignation of permanent heads of government agencies as 'secretaries'. This was associated with the creation of a senior executive service designed to provide a more mobile, but less secure, stratum of senior officials – the Senior Executive Service (Power and Halligan, 1992). The secretaries and SES were to be the 'commissioned officers' of managerialism: more consciously separated from the rank and file of career public servants. While there always been a senior elite of the APS – the first and second division – this recast elite was to be the instrument of a new model of 'democratic' accountability: a conception that separated public service workers from the senior managerial agents of government. From 1984 until 1987 extensive changes were made to budgetary processes designed to enable 'Ministers to involve themselves in the allocation of resources' (Commonwealth Public Service Board 1983-4: 4). These reforms were driven in part by neo-liberal assumptions, but justified in social democratic terms of enhanced accountability of public employees.

Two initiatives, also taken at the time, were designed to reinforce the notion that the financial changes were more than exercises in crass managerialism: the promotion of industrial democracy and the promotion of equal opportunity in employment. In his review of the New South Wales public service Wilenski argued that the recruitment and training of under-represented groups such as women was not only an exercise in social equity, but also an enhancement of the pool of people to carry out public management roles (Wilenski, 1977: 179, 245). To this end, all APS agencies were required to develop equal opportunity plans to enhance the participation of

designated groups in public management. Associated with this initiative was the requirement to develop industrial democracy plans to encourage more active participation of public servants in work processes. This initiative built on the joint union – management consultative mechanisms that had been developed in the Whitlam Labor government period. This latter initiative was treated with some caution by public service unions. They successfully insisted that they remain the single channel of formal communication with management.

While most departments developed industrial democracy plans, the approach implicit in this model of work organisation was only taken up with alacrity in the large processing agencies: the Tax Office and Social Security. In those agencies managements used the industrial democracy model to incorporate organised labour into the extensive work restructuring that took place in the 1980s, partly as a consequence of the adoption of sophisticated technology to simplify large scale processing. On one level these initiatives could be characterised as the application of a social democratic labour incorporation approach to work restructuring (Mathews, 1989, 1992; Fairbrother, 1997, 1998). On the other hand, the Public Service Board saw industrial democracy processes as just another channel for unions to pursue traditional industrial objectives instead of a new model of participative management (Public Service Board 1987: 15). Public sector unions, however, complained that most agency managers conceived industrial democracy mechanisms as operating outside the mainstream of decision-making processes (Kiers, 1987). Except in one or two isolated instances the enthusiasm for industrial democracy waned both within the government and the public service. The Green Paper on Industrial Democracy and Employee Participation issued by government in 1986 was never followed by a White Paper, in part because of great private sector employer hostility to the concept having any more substance than a vague notion of greater employee involvement in work processes. Even in the APS, where the government had the power to require its managers to promote the concept, there was only rather patchy implementation. The hard-edged financial reforms undertaken the APS were much more enduring than ‘soft’ notions of employee involvement. Employees were to be ‘empowered’ by exercising greater financial responsibility, not through structured consultation mechanisms. Certainly they were far more significant in the process of shifting from an administrative to a more explicit managerial model of public service employment relations. Indeed, by 1987 the government had moved to use another means of incorporating labour into its state restructuring processes.

The 'managed decentralism' of employment relations in the APS

In 1984 the Public Service Board embarked on a major review of the public service classification system that had developed in the Commonwealth sector. The structure was highly complicated and had the effect of preventing mobility within the structure for lowly graded employees such as clerical assistants and keyboard staff (Preiss, 1989; Dorington, 1992; O'Brien, 1994). The system was a monument to the notion that the concept of a career service did not apply to all employees in the APS. The system was consistent neither with equal opportunity principles nor more basic notions of efficiency. Such a major restructuring process would require the compliance of, if not the active agreement of, public sector unions. Such a task was consistent with the changes that had been made to the structure of the management elite of the service. In the first instance, at least, the project would need to be undertaken on a service-wide basis, although the changes could be implemented more flexibly at an agency level. Moreover, many of the personnel functions that had hitherto been the province of the Public Service Board had been transferred to Departmental secretaries, although staff establishments remained under the control of the Department of Finance; and industrial relations was still the province of the Department of Industrial Relations. The task was enhanced by changes in the broader industrial relations environment and, to some extent, by occupational health and safety considerations arising out of the widespread adoption of computer technology in government departments.

Broader changes in the regulation of industrial relations presented the opportunity to the public service management to pursue its restructuring of the classification system. In 1987 and 1988 the Conciliation and Arbitration Commission developed a new set of wage principles linked to productivity enhancement in industries and occupations. The second tier and structural efficiency wage principles required unions to negotiate with employers on issues of efficiency and productivity in the workplace in exchange for access to arbitrated wage adjustments (Dorington, 1992: 168-171). By tying management-initiated organisational changes to the wages system it was more possible to incorporate unions in management restructuring objectives while at the same time placing some limitations on management from making changes unilaterally. In the Australian Public Service the reclassification exercise was facilitated by the industrial relations system, unions had little choice but to cooperate with the process. And with the breaking down of some of the barriers between temporary and permanent employees, there was an important impetus for the two principal public

sector unions, as well as the Commonwealth Professional Officers' Association, to amalgamate into the Public Sector Union covering a wide range of clerical, administrative and professional occupations in the Australian Public Service and in other areas of Commonwealth employment.

A Labor model of enterprise bargaining

The changes that took place as a consequence of these structural initiatives permitted a more flexible deployment of labour in the APS. Nevertheless, it left largely intact service-wide salary and employment conditions. The government and the ACTU were keen to pursue models of workplace bargaining that would enable well-organised unions to pursue higher wages at the level of the workplace. On the other hand, elements in the business community, and the opposition parties, were beginning to articulate a model of enterprise-based relationships that relied on the development of cooperative 'employee relations' rather than more conflictual 'industrial relations' (Business Council of Australia, 1989; O'Brien, 1994). This was code for marginalising the role of unions in enterprise-level workplace relations. The Labor government supported a model of enterprise-based labour-management relations that retained a central role for unions while making wages much more dependent on workplace level productivity. The Australian Public Service then was the appropriate place to demonstrate that the Labor/ACTU model was more productive than the union-marginalising alternative.

The public service unions, however, were not keen on a system that might break down service-wide employment arrangements in the APS. The Public Sector Union went along with the policy direction without any great enthusiasm. Indeed, the opponents of enterprise bargaining within the union were sufficiently well-organised to cause the leadership constant difficulties that arose from its reluctant support of the new wage system. Both the union leadership and its opponents argued that making wages contingent on productivity within agencies would disadvantage those agencies that had little capacity to demonstrate productivity enhancement. It, moreover, potentially threatened the maintenance of wage equity and employment conditions across the service. To accommodate these concerns the government developed a wages system that permitted agencies that were unable to strike a bargain at the workplace to access a fund that would be created by the savings in agencies where productivity improvements could be made more readily (O'Brien, 1996). Not only did this approach cause discontent among unions, but it was less than satisfactory for many APS senior

managers who believed that agencies that who were unable to make productivity-linked wage agreements could rely on more productive agencies to maintain a level of wage equity across the service (Halligan *et al.*, 1996). There was particular resentment that the Department of Finance and the Department of Prime Minister and Cabinet were unable to reach agreements with the unions, while at the same time playing a significant role in ensuring that other agencies made real productivity gains. Given the level of opposition within both unions and management elements, it is hardly surprising that the government returned to a more centralised wage bargaining system in the APS after it was re-elected in 1993. Nevertheless the idea of agency level productivity-linked wage agreements was firmly established as a concept – at least in the minds of the opposition parties.

Refining the legislative model of public service employment: the McLeod Report

Changes to the formal industrial relations regime was not the only avenue for modifying the employment arrangements in the APS. While the industrial relations system had been used to modify employment arrangements in the APS, the legislative basis of the model remained in the Public Service Act. The institutional guardian of the legislative framework – the Public Service Board – had been abolished in 1987, as part of a major recasting of the ‘management of government’ structures. Its functions had been redistributed among the Departments of Finance and Industrial Relations and the Public Service Commissioner acting as the prime representatives of the government as employer, but much more firmly under Ministerial control. Routine personnel matters such as recruitment and selection were largely carried out within agencies. The power hitherto possessed by the Public Service Board was now diffused. One of the bulwarks of the administrative state had passed into history, even though its powers were still exercised by the government directly or by its managerial agents in various guises. These changes had been largely imposed by the government without much consultation with agencies or with public service unions. Still the legislative basis of public service employment remained in the form of the *Public Service Act* 1922 and associated regulations and determinations that had been added over the years. In 1994 the government chose the mechanism of the public enquiry to attend to that matter. The group was headed by a Deputy Secretary of Defence, Ron McLeod, and included union representation. A labour incorporation approach was considered preferable to

the unilateralism that had characterised other major changes to the administrative structure of the state.

The reasoning of the government was articulated by the Assistant Minister for Industrial Relations and the Minister responsible for the APS, Gary Johns, who argued that the review would enable the rethinking of 'the interaction between enterprise bargaining and the statutory framework for determining APS pay, classifications and conditions'. This would 'open up many of the matters *protected* in the APS' (Johns, 1994: 10). The discourse of protection is notable here. In Johns' view the legislatively-based employment conditions were lagging behind the new public service 'ethos' that had been developed during a decade of public service reform. Similar sentiments were expressed by the secretary of the Department of Prime Minister and Cabinet, Michael Keating (1994: 263).

The McLeod committee picked up the signals. The committee reported that public service managers had sought considerable simplification of processes associated with recruitment, probation, deployment and discipline. The existing processes were seen as a consequence of the concept of 'office' that underpinned permanent employment in the public service. The concept had been developed to ensure an independent and apolitical public service, but it had become a barrier to the flexible disposition of labour in the service (McLeod, 1994: 27-8). Public service unions were wary of modifying the concept because it was seen as legislative bulwark against management-initiated retirement or redeployment because an 'officer' would no longer hold an 'office' in a formal sense. Nevertheless, the majority of the committee recommended that the concept be abolished and employment be protected in subordinate legislation and in relevant industrial agreements. The public service should consist of continuing (rather than permanent) employees and temporary employees taken on for specific tasks or for periods of time (McLeod, 1994: 31, 36). In addition, matters such as probation, discipline, promotion, transfers and separation should be the prime responsibility of agency management, without the detailed regulation hitherto exercised by the Public Service Commissioner.¹

The CPSU was concerned about abandoning the concept of 'office'. It indicated that it would only agree to such a recommendation if there was a guarantee that displaced officers would be transferred to an equivalent classification level in another agency. Employees would need to be protected against arbitrary transfer and substantial changes in duties by management fiat (*Our Voice*, October 1994: 9). These concerns were expressed when the public service unions and the government were in negotiations about a new framework agreement covering the next round of pay negotia-

tions in the APS. Indeed, the government offered to return to a more centralised pay bargaining system if the unions would agree to a freeing up of the legislatively-based 'rigidities' in the APS labour market. After some argument, including a formal withdrawal from pay negotiations, the unions agreed to major changes in the public service employment framework in exchange for a return to service-wide pay negotiations (O'Brien, 1997). It is not clear why the unions made such a choice. Legislative change, however, required the agreement of the Senate, where the government did not have a majority. The union leadership could satisfy its members' strong demands for a return to a centralised pay bargaining system, while at the same time giving themselves time to lobby for a more benign package of legislative changes to the employment framework. In any case, the government was slow to introduce the changes into Parliament. Its proposals lapsed when an election was called for early 1996. It would be left to the incoming government to introduce its changes to the APS employment framework in an industrial relations climate far less favourable to the unions than the one that had prevailed under the Labor government.

The Coalition employment framework: increased government control or enhanced managerial prerogative?

By the time the Coalition parties came to office in 1996, many of the key elements of the employment framework of the administrative state had disappeared. The Public Service Board had gone, a reconstituted management elite had emerged, and managers at all levels had increased responsibilities for the management of financial and human resources. What had not changed was the employment framework itself, nor the locus of bargaining in the APS, despite the flirtation with workplace bargaining in the early 1990s. On the other hand, workplace change initiatives across the public sector prior to 1996 were perceived by many public sector employees who participated in the Australian Workplace Industrial Relations Survey 1995 (AWIRS '95) to have resulted in more intensive workloads, increased stress levels and reduced job satisfaction. For example, a majority of public sector employees perceived that their effort levels had increased (61 per cent) over the 12 months prior to the survey (57 per cent for private sector employees), while some 57 per cent believed that their stress levels had increased (45 per cent for private sector employees). In addition, a higher proportion of public sector employees perceived that their work/family balance had worsened (31 per cent) than private sector employees (24 per cent). A higher proportion of public sector employees also reported that their satisfaction

with their job had declined (35 per cent) than their private sector counterparts (25 per cent) (O'Donnell *et al.*, 2001: 94-5). One of the earliest initiatives undertaken by the Coalition government, beginning in April 1996, was to engage in a substantial downsizing exercise across the APS that resulted in workforce reductions of the order of 28,000 employees by the end of 1997-98, or some 12 per cent of APS employment levels (Yates, 1998: 84). Such workforce reductions are likely to have done little to improve employee concerns regards workloads and work-related stress.

The Coalition government also made it clear that it would create a new employment framework for the APS and institute a 'real' model of workplace relations. The new Minister for Industrial Relations, Peter Reith, declared that the government's approach to the APS was that 'industrial arrangements should be essentially the same as those for the private sector'. Indeed, he declared

The thrust of contemporary reform policies (in public administration) has been to unleash the creative potential of people in organisations. The watch words are 'flexibility' and 'innovative human resource management'. This could not be achieved while the APS remained bound in red tape. It is too ready to control the workplace through process and regulations rather than managing people and treating them with respect (Reith, 1996).

These sentiments informed the attempt to recast the Public Service Act. Its principal objectives were to:

- devolve employer responsibilities from central to agency level;
- 'mainstream' employment relations along private sector lines; and
- 'streamline' legislation to strip it of 'unnecessary prescription and arcane detail in favour of an approach which was 'enabling' and 'principles based' (Reith, 1996: 6-7).

In this new world the regulator was to be public service 'values', rather than prescriptive regulation. These values included: impartiality; professionalism; accountability; responsiveness; results-orientation; timeliness; and performance-focus. These values were to be the 'new moral order' in the APS (O'Brien and O'Donnell, 2000). The new 'moral guardian' was to be the Public Service Commissioner who is to be responsible for the behaviour of public servants and for maintaining the 'ethos' of the public service. The government unsuccessfully submitted the Bill to the Senate in December 1997 and April 1998. After lengthy negotiations with the Labor opposition and the Democrats, the government's legislation was passed in late 1999, with most of the prescription removed but with some greater

protections for employees enshrined in the Act. Between 1997 and 1999, the government had to rely on the bargaining system to deliver the new public service management model to the nation. This contrasted with the Labor government's decision to forego enterprise bargaining in the APS in exchange for a significant recasting of the employment framework. The Coalition government's advocacy of a new world of flexible managerialism contrasted with substantial regulation of process and outcome that characterised the parameters for agreement-making that the government imposed on its managerial agents in relation to workplace bargaining.

The Coalition 'loose-tight' model

The tensions between the government's roles as financial controller, policy generator, regulator and employer is, perhaps, more starkly demonstrated in the positions taken by the Coalition government elected in 1996. On the one hand, the government is clearly responsible for the cost of government. This is exercised primarily through the government's control of appropriations to Departments and Agencies. In a real sense, then, any bargaining about pay takes place within that central constraint. On the other hand, the government had a policy to further decentralise the processes of industrial relations, although it preferred the phrase 'workplace relations', in contrast with the Labor government's term 'workplace bargaining'. The linguistic turn here is significant. Bargaining implies a formal and structured relationship between employers and the collective identity of employees mediated through a union. The Coalition's industrial relations policy was, however, to reduce the role of 'outside' bodies such as industrial tribunals and unions in the workplace relations processes, thus enhancing more 'direct' (i.e. less mediated) relations between employees and employers. So there was a policy imperative to both decentralise and restructure formal workplace relationships, while at the same time insisting that the 'freedom' exercised by its managerial agents did not challenge the government's financial control, nor its broader policy objectives. The solution, then, was to decentralise the processes of industrial relations, while maintaining overall financial and policy control by government as the 'ultimate employer' of public servants. Thus government enhanced managerial prerogative, if it was exercised in accordance with government policy, restricted the capacity of its managerial agents to exercise their new 'freedom' in a manner that might deviate from that policy. This occurred even if that variation better suited the specific situation of the employees and management within a particular agency. The substantially centralised nature of APS industrial relations

under the Coalition can be illustrated with reference to three of the requirements that all agencies had to fulfil in the agreement-making process viz:

- The requirement that the 'freedom of association' provisions are adhered to in the workplace relations processes;
- The requirement to develop of performance-based classification system;
- The requirement to permit salary flexibility (Reith, 1997).

Tensions arising from the government's insistence on central oversight and the desire among agency management for greater devolution of responsibility are perhaps best illustrated by the debacle that unfolded following the government's efforts to impose a centralised approach to information technology (IT) outsourcing. In 1997, the Coalition government announced the adoption of a whole-of government approach to IT outsourcing that would cluster together a range of agencies. Central oversight of the process was to be maintained by the Office of Asset Sales and Information Technology Outsourcing (OASITO). This approach was expected to generate \$1 billion in savings over seven years and increase the ability of agencies to streamline and standardise their IT requirements (Audit Office, 2000: 11-12).

However, the Audit Office believed that such anticipated cost savings 'were overstated'. Its own financial model of the cost of the IT outsourcing initiative '... resulted in no savings being identified at either the agency level, or after the application of notional competitive neutrality adjustments' (Audit Office, 2000: 14, 21). In addition, it believed that smaller agencies had experienced greater transaction costs relative to larger ones and that there had been a considerable underestimation of the complexities involved in the process of contracting out the IT services of a number of agencies. The Audit Office recommended that future control over the outsourcing initiative should be devolved to agencies. It also wanted increased transparency and accountability throughout the tender process and in the evaluation of outcomes (2000: 24-26).

In the aftermath of the Audit Office report, the Minister for Finance, John Fahey, commissioned Richard Humphrey to undertake an independent review of the tendering process. He found that there had been considerable inertia within the bureaucracy to the centralised whole-of-government approach adopted by the government. Humphrey also recommended the full devolution of responsibility for IT outsourcing to agency heads, with specific targets to be written into their performance agreements (Humphrey,

2000: 6). In January 2001, the Coalition government provided agency heads full responsibility for IT outsourcing.

Freedom of association or freedom not to associate?

In practical terms 'freedom of association' meant that agency management should not give unions any special 'privileges' in the development of workplace agreements. During the Labor government period bargaining took place with unions, whether on a service-wide basis or at an agency level. While the government's Workplace Relations legislation did not preclude negotiations with unions, it encouraged the making of agreements with employees directly, rather than with unions, on either an individual or collective basis. So one of management's first actions was to decide the extent to which unions were to be involved in the agreement-making process. In agencies where union density was low, such as in the Department of Finance and Administration, management was 'empowered' by the legislation to marginalise unions further. In that agency union officials and delegates played some role in the discussions with management, but the elected employee non-union representatives were expected to 'sell' the management's agenda rather than act as an independent voice of employees (O'Brien and O'Donnell, 1999). Moreover, management chose to make an agreement with employees rather than with the union. Union density was so low (c 20 per cent) that the attempt to persuade employees to reject the draft agreement failed. The marginalisation of the union was so complete that the agency management has declined to renegotiate a collective agreement in the second round of agreement-making when many agencies are in the process of negotiating their third round agreements (Senate, *Hansard*, 23 June 2000: 200, 209).

In the Australian Bureau of Statistics, where union density is approximately 50 per cent and where there is a history of rank and file organisation in the agency, the management could not ignore the union. Rather, it attempted to construct an employee consultation process that by-passed both the union and the activist employees. Managers at all levels were 'empowered' to monitor employee concerns without conceding a formal bargaining process. This was essentially an information service for management negotiators, rather than an alternative structure for expressing 'employee voice'. As it happened, this did not prevent employees from rejecting the first draft agreement submitted by management. Indeed, the agreement was finally accepted after additional negotiations with the union, although the management claimed it conceded very little other than a more

extended period for trialling a new performance-based classification system (O'Brien and O'Donnell, 1999).

The processes in these agencies are interesting to contrast with the arrangements in three more highly unionised agencies: the Department of Employment, Education and Training, the Department of Workplace Relations and Small Business and Centrelink. In the former, the secretary insisted that an agency-wide election be held to determine the employee representatives in the agreement-making process. The union ran a ticket (that included the union official responsible for the agency) and won all positions. Formal negotiations took place between management and the group of elected union members. In this case the secretary attempted to adhere to the freedom of association principles by insisting that all employees have an opportunity to select their representatives, while failing to minimise the role of unions in the bargaining process. In the Department of Workplace Relations and Small Business, the secretary attempted to establish a consultative structure for non-union members, but was informed that such an arrangement would be in breach of the 'freedom of association' principles as it excluded union members. An employee consultation mechanism was established that included union members (O'Brien and O'Donnell, 1999). As such, it was hardly an alternative source of employee voice meant to leaven the contribution made by the unions in the formal bargaining arrangements. In these two agencies, the senior management attempted to establish an alternative employee voice. In contrast, in Centrelink, one of the most highly unionised agencies, the management negotiators accepted that there would be little point in by-passing the union (interview with management negotiator, Centrelink 1999). So negotiations between the management and the unions proceeded in the usual manner, although the management thought that its task was made much easier because it was much more difficult for unions to impose selective bans without loss of pay that had been a characteristic of negotiations within Centrelink's predecessor, the Department of Social Security (interview with Centrelink management representative, 23 February 1999).²

If the prime purpose of the freedom of association principles was to marginalise the public sector unions in the agreement-making process, it could not be argued that it was an overwhelming success. The Community and Public Sector Union and other unions with membership in the APS were direct signatories to agreements covering nearly 70 per cent of APS employees. Most of the non-union agreements are confined to smaller agencies where unions are less likely to have a significant presence. This is not to suggest, however, that the unions had demonstrated a capacity to resist

overall management demands. All it says is that unions had sufficient organisational presence to insist on being the prime negotiating party on behalf of employees. Nevertheless, union presence was a factor in the differential outcomes of more substantive bargaining issues. We will look at two of them now.

Performance-based classification systems and performance-based pay

The traditional classification system that operated in the APS applied to all agencies. Over time, however, the APS classification system became a complex network of arrangements designed to capture the diversity of administrative, professional, technical and 'manual' work done within the APS, although some considerable simplification had occurred during the structural efficiency phase of the Labor government's managed decentralisation of industrial relations. While progress through the incremental grades was predicated on continuing satisfactory performance, for most employees this was a largely benign 'tick and flick' arrangement. The government wanted classifications to be more agency-specific but also much more performance driven. Underperformance could be reflected in an employee being denied salary progression; a high performing employee could be given additional rewards either through more rapid progression or, perhaps, in the form of bonuses. The government required that all agencies develop such a performance-related system (Reith, 1997). The divergences among the various systems were more about issues of procedural and substantive justice rather than the shape of the systems themselves.

The Department of Finance and Administration developed a system that maximised managerial prerogative and minimised employee procedural justice. The management saw the agreement-making process as a means of inculcating a particular corporate culture of 'high performance' in the organisation manifesting itself in the willingness of employees to be 'action oriented', to 'go the extra mile' and to develop a 'will to win'. Employees would be assisted 'to adjust' to the new environment. If they could not adjust their departure could be facilitated. Employees could best demonstrate these new cultural attributes if they abandoned the collective agreement and accepted individual contracts in the form of Australian Workplace Agreements. For those who were willing to do this the rewards could be well in excess of the maximum 15 per cent bonus available to those who adhered to the collective arrangements. For those employees who did not accept the logic of the new individualised working arrangements, there would be little in the way of appeal rights if they failed to earn even the rewards available

to those who remained with the collective arrangements (O'Donnell and O'Brien, 2000).

In contrast, in the much more highly unionised Centrelink, the management took a cautious approach in establishing a performance-based classification and pay system. Indeed, in the first agreement it only sought to obtain union agreement to develop such a system. In the subsequent agreement a new classification system was established, but employees were able to access much more elaborate review and appeal mechanisms that were not available to employees in many other agencies (Centrelink 1999: 65-6). Even in more moderately unionised agencies, such as the Department of Foreign Affairs and Trade, the level of dissatisfaction with the performance pay system that developed after the first agreement became a source of union and employee complaint that was used to negotiate a more procedurally fair system of review and appeal in the subsequent agreement (O'Donnell and O'Brien, 2001).

Public Service 'values' and a performance-related pay system

The important variable in the differing arrangements between agencies was the degree to which the unions had sufficient organisational capacity to modify the new arrangements. Another important constraint, however, were the public service values that were now the centrepiece of the Public Service Act. Of key importance here is the need for accountability for the expenditure of public money. While agencies are obliged to report on the number of people who occupy each pay band, there is no obligation to reveal the extent of performance-related remuneration. Under the old regime of a service-wide classification system, it was not difficult to map the pay arrangements in any agency. When there are unspecified performance bonuses and a growing incidence of Australian Workplace Agreements there is inevitably a greater level of opaqueness about the overall labour costs of an agency. In this context the enhancement of managerial prerogative at the agency level seems to have encouraged a growing diversity of arrangements in agencies. In Defence the requirement to have a performance driven classification system has been met, but the Secretary of Defence has made it clear that a reward structure that includes arrangements for performance bonuses will never occur in the Agency while ever he is responsible for its operation. He regarded such bonuses as inimical to the public service values of accountability and transparency (Senate, *Hansard*, 5 May 2000: 144).

I do not believe in linking this sort of performance framework to performance pay or to any sort of model that involved notions like that

– pay at risk, bonuses and the like. What we do is: at the end of the 12 month period it is simply a tick in a box if people have performed well, and if they have performed well then they go up to the next increment in the pay scale (Senate, *Hansard*, 5 May 2000: 137).

The Treasury, on the other hand, does not eschew the payment of bonuses, though the secretary of the Treasury made it clear that all employees will know the full extent of the bonus arrangements in the agency (Senate, *Hansard*, 14 April 2000: 65-6). In contrast, the management in Finance and Administration sees no clash between a lack of transparency in pay arrangements and the ongoing requirement for accountability for the expenditure of public money (Senate, *Hansard*, 23 June 2000: 200). Having said that, however, the senior management of APS agencies has both the obligation to follow government directives but considerable scope in implementing those arrangements. Thus managerial prerogative in the ‘modernised’ public service is both constrained and enhanced by government as well as being subject to a limited capacity for organised labour to contest its application in particular instances.

Conclusion

There has been a significant shift from an administrative to a managerial model of the state in the Australian Public Service. Many of the mechanisms of the employment model that characterised the administrative state have disappeared. These include service-wide employment arrangements presided over by a central agency such as a Public Service Board as well as centralised pay bargaining with public sector unions possessing a bargaining monopoly on the employee side. Private sector management practices are now commonplace in the APS, though they are mediated by the need for government to maintain financial and policy control of its own employees and the requirement to promote residual traditional public service values that remain in the system. This takes the form of moral imperatives and values rather than the detailed regulation that characterised the old model of the administrative state. The *Public Service Act* 1999, which articulates the values underpinning the new managerial model for the APS, resembles more a statement of ‘good intentions’ rather than a code for maintaining appropriate behaviour.

The paper has argued that the devolution of responsibility for labour management to individual departments and agencies under the auspices of the *Public Service Act* 1999 and the *Workplace Relations Act* 1996 has facilitated a substantial enhancement of managerial prerogatives at work-

place level. These enhanced prerogatives are evident in the options available to agency management to determine how certified agreements are negotiated. The senior management of agencies have considerable scope for determining whether they will bargain directly with trade unions or, alternatively, seek to negotiate solely with staff representatives. Management also has the option to negotiate AWAs with staff and while some departments, such as the Department of Finance and Administration, had sought to move all employees onto AWAs, in most agencies they were restricted to staff in the senior executive service, the top echelons of the executive level that sit just below the SES in the classification hierarchy and information technology staff. Overall, less than five per cent of the 118,000 full time equivalent APS employees were covered by such arrangements (PSMPC, 2001; Senate References Committee 2000).

A second means by which managerial prerogatives have been enhanced at workplace level is through the introduction of performance-related pay. This occurs in two forms; through the development of classification structures linked to performance assessment and via performance bonus payments. These initiatives in pay and reward systems have dramatically increased the controls exercised by supervisors, and other levels of the management hierarchy, over advancement and the allocation of bonus payments through their ability to determine performance appraisal ratings or the amount of performance-related pay bonuses employees will receive. The subjective nature of this process ensures that those who align themselves with achieving corporate goals, or who demonstrate the required workplace behaviours, can be more easily rewarded. On the other hand, the provision of low performance ratings to employees who do not conform to the new performance-driven regime, or who are perceived by management to be 'underperformers', represents a powerful form of management control that can ultimately be used to remove recalcitrant employees from the organisation. Performance management in the APS therefore fulfils the central unitarist objective of legitimating management authority (Fox, 1974) and of subordinating public service employees to that authority.

Public service unions have struggled to counteract the enhanced prerogatives ceded to agency management in recent years. One reason for this is that the bargaining environment is much tougher than when arrangements were centralised. Although the APS retains a relatively high level of union membership, it is spread unevenly across the service. This means that in some agencies where union density is close to or above a critical mass of approximately 40 per cent of employees, and active delegate structures are in place, public service unions can be effective in forcing management to

negotiate directly with the union. Nevertheless, there are significant areas of the APS where union density is much lower and where agency management has been able to push through its agenda for workplace restructuring with far less collective opposition (O'Brien and O'Donnell, 1999). On the whole, though, unions have retained their position as the dominant representative of employee interests after two rounds of agency-agreement-making, with some 70 per cent of employees covered by the public service unions in the second round. The challenge for public sector unions is to develop delegate structures and union density to the point where they have the level of visibility and workplace legitimacy to secure a central negotiating position over both agency agreement-making processes and performance management practices. While the decline in union membership levels that has occurred in recent years, and the more resource-intensive nature of agency by agency bargaining, have increased the lengths that public sector unions have to go to retain their legitimacy at workplace level, successes to date in voting down management-initiated agreements indicates that the challenge, while difficult, is not insurmountable. As a result, the process of transformation from the administrative state to a managerial state remains contested and rather uneven.

Notes

- 1 When the Public Service Board was abolished in 1987, a new office of Public Service Commissioner was established. This officer was specifically responsible for personnel and developmental policies in the APS as well as the Senior Executive Service.
- 2 Very little overt industrial action has occurred during the three rounds of agreement-making in the APS since 1996.

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Interview

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