Regulating Executive Salaries and Reducing Pay Disparities: Is pay disclosure the answer?

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In 2017 it was reported that Ahmed Fahour, CEO of Australia Post – a publicly owned company – earned AUD$10.8 million in a single year. In 2015, he was paid 119 times the annual salary of the average Australia Post employee ($47,000 per annum). Fahour presided over the organisation's greatest decline in company turnover, accompanied by large-scale retrenchments of low-paid workers (Evershed, 2017). Yet as extravagant as Fahour's pay appears, it is far from the largest executive remuneration packages paid to CEOs in Australia. In recent years, some have surpassed $30 million per annum. In the United States (US), CEO pay can be 300 times that of the average wage within the company (Mishel and Davis, 2015). Even after a slight 'correction' in CEO pay, which dipped in Australia during the Global Financial Crisis from an average of $5.5 million per annum to $4.7 million, David Richardson of The Australia Institute has recently found that CEO pay is on the rise again, averaging $5.2 million last financial year (Patty, 2018; Richardson, 2018).

Pay disparities between senior management and workers in the English-speaking global metropole – primarily Australia, UK, and the US – have intensified over the last three decades. At the beginning of the 1980s in the US, pay ratios ran at about 20:1. Management theorists such as Peter Drucker first suggested in 1977 that any increase in a 20:1 ratio would result in 'resentment and falling morale' within companies, eroding the collective effort and trust upon which business depends (Wartzman, 2011). In the UK and Australia at that time, average pay ratios stood at a modest 15:1. Today, that figure in Australia and the UK is 183:1 (Walker, 2016), while in the US some executives earn 373 times the salary of an average rank-and-file worker (High Pay Centre [HPC], 2014; AFLCIO, 2015). Meanwhile, corporate regulation implemented since the 1980s appears to have encouraged, rather than stemmed, pay disparity and lavish executive remuneration.

Pay disclosure regulation is designed to reduce pay disparity. The most common form of pay disclosure – pay ratios – involves a comparison between the salary package of the highest paid company employee (usually the CEO) with the median salary package within the company, calculated by averaging the pay of all workers in the company, including low-paid foreign workers and executive employees (e.g. 15:1). These measurements of income disparity have recently gained popularity across the global north in the wake of the 2007 global financial crisis (GFC). In the US, former President Barack Obama invoked the language of pay ratios to illustrate pay disparity, saying that 'the typical CEO who used to earn about 30 times more than his or her worker now earns 110 times more' (Quigg, 2011). The Obama Administration introduced mandatory disclosure of pay ratios into US corporate law in 2010. Similar regulatory mechanisms involving disclosure of executive pay were implemented in Australia in 2009, but they did not require the formulation of pay ratios. In reducing CEO pay, pay disclosure models rely on the mechanism of public 'shame' to convince shareholders to exercise voting rights within companies to block excessive executive remuneration packages. In other words, the system relies on the will of shareholders. In Australia and the US, current pay disclosure models have resulted in a modest reduction in CEO pay, fractionally narrowing pay disparity from the top down by redistributing wealth to shareholders (discussed in more detail below). These schemes have not, however, increased the real wages of workers. Accordingly, it is claimed here that pay disclosure regulation has not had any significant impact on reducing income disparity.

This argument relies on a number of key terms and distinctions clarified here before further discussion. The distinction between income and wealth, for instance, conceives of the former as a flow and the latter as a stock (of assets) (Stilwell and Jordan, 2007: 46). The distinction between CEO 'salary' and 'remuneration' is also important, given that bonus payments, equity plans, stock options and even private school fees and chauffeurs mean that CEOs receive other forms of payment, significantly exceeding their base salary, that are often standard terms of remuneration packages (HPC, 2015). This broader understanding of pay or remuneration is adopted here. Further, this article is mostly concerned with the pay of CEOs rather than a wider stratum of senior managers, predominantly due to the limited availability of international data relating to senior managers.

This article discusses pay disclosure as a mechanism to regulate pay disparities and explores why this form of regulation has had a limited impact. In doing so, it is acknowledged that pay disclosure does provide some benefit in enhancing accountability, raising social awareness, and supplying policy makers and analysts (such as the author) with data. The article also analyses situations where pay disclosure has worked well to control pay disparity, identifying key factors involved in such an outcome. In doing so, the article locates the discussion of pay disclosure in a field of contestation between shareholder value and stakeholder approaches to corporate governance and regulation. The first of these approaches focuses on corporate governance, while the latter sees its corporate concerns more aligned with regulation. Contributors from the ranks of the former have explained pay disparity in terms of its relationship to corporate shareholder value (Grabke-Rundell and Gomez-Mejia, 2002; Fama and Jensen, 1983; Levinthal, 1988). Those from the latter – largely critical political economists – have identified and represented pay disparity as a significant mechanism in generating social inequality and the adverse impacts it creates for wide-ranging *social stakeholders* – workers, consumers and environmental groups (Atkinson, 2015; Piketty, 2014, Mitchell *et al*, 2005; Blanpain *et al*, 2011; Stilwell and Jordan, 2007; Shields, 2005).

Current evidence suggests that when pay disclosure is implemented for the benefit of shareholders – that is, in accordance with the dominant shareholder value model of corporate governance – it can reduce CEO pay. Some Australian shareholders appear to have recognised what a number of academic commentators have understood for many years: that CEO 'pay for performance' has only a limited value in enhancing the value of shares (Tyson and Bournois, 2005; Shields, 2005; Kenny, 2017). Further, as this article points out, this form of pay disclosure does not generate any benefit to social stakeholders such as workers, consumer and environmental groups, or the state. Under the shareholder value model, pay disclosure merely reduces the gap between the highest and average paid workers by lowering the pay of CEOs and executives and redistributing the savings to shareholders, *not* workers. Some, however, have supported pay disclosure regulation in what appears to be a false hope that it will have some material effect on wealth redistribution to stakeholders such as higher wages for workers or lower prices for consumers (see, for example, the High Pay Centre, the AFLCIO Mohan *et al* (2015), discussed below). It is hard to see how stakeholders such as workers and consumers could materially benefit from CEO pay restraint. By contrast, stakeholder approaches to reducing pay disparity can include pay disclosure, but applied in combination with taxation or enhanced industrial rights, to redistribute executive pay to social stakeholders, including workers. Such an approach addresses pay disparity as well as the broader problem of social inequality.

There is a political context for these concerns. Inequality has risen as a major political issue in the US, the UK and Australia in the wake of the GFC. This is exemplified by the strength of the Bernie Sanders' bid for the Democratic nomination in the 2016 US Presidential election and the unexpectedly strong showing of Jeremy Corbyn as Labour Party leader in the 2017 UK general election, both of whom campaigned against inequality. In Australia, concern over growing inequality was ignited by the raft of inequitable measures proposed in the Abbott government's 2014 ('Hockey') budget, and the Australian Labor Party went close to toppling the government in the 2016 federal election in a campaign that featured previously 'unthinkable' policies to reduce the capital gains tax and limit negative gearing for property owners. The ALP subsequently announced a more explicit 'Agenda for Tackling Inequality', including reducing tax advantages for discretionary trusts and restoring the penalty rates recently reduced for low paid workers. The proposals suggested here could be considered as complementing that document.

This article is structured in two parts. The first part critically reviews the literature on shareholder value to set the scene for a discussion of the relationship between pay disclosure regulation and pay disparity in Australia, the US and UK. It also presents three case studies demonstrating the consequences of Australian pay disclosure regulation for both shareholders and stakeholders in Australian companies. The second part analyses social stakeholder approaches to pay disparity, before undertaking a review of policy interventions that rely on pay disclosure regulation to narrow pay disparity. Discussion of corporate and regulatory practice in both sections is framed using a political economy approach.

Shareholder Value and Pay Disclosure Regulation in Australia

Scholars of corporate governance tend to represent pay disparity as a function of 'shareholder value'. This embodies the neoliberal principle that the primary duty of corporate management is to enhance the value of the company for the benefit of shareholders (Friedman, 1970). Those who subscribe to it adhere to the 'managerial power' model of corporate governance (Bebchuck and Fried, 2004; Gumbel, 2006: 222) whereby the interests of shareholders are best served by maximising executive remuneration through ‘CEO-pay-for–performance’ (Grabke-Rundell and Gomez-Mejia, 2002; Fama and Jensen, 1983; Levinthal, 1988). It is noted that the lack of evidence linking high CEO pay to increased productivity has led French economist, Thomas Piketty, to see performance pay as part of an ‘apparatus of justification’ within orthodox economics (2014: 330-355). There is, nevertheless, some emerging evidence suggesting that pay disclosure regulation under shareholder value models has reduced CEO pay and, by extension, pay disparity in Australia (Bugeja *et al*, 2016). As the following will explain, however, these reductions in pay disparity have been modest and have had no impact on the redistribution of wealth beyond a narrow legal and social class of shareholders.

The shareholder value model became part of the law in Australia under the Howard Liberal Government’s *Corporations Act* (CA) *2001*. Under this Act, the power to select CEOs and set executive remuneration rests with company managers or boards of directors (Sheehan, 2009: 280; CA, ss. 198A, 201J, 202A, 204F). However, a range of regulatory interventions has strengthened the power of shareholders within companies while challenging executive power. The CA was implemented amidst a range of public policies geared toward the marketisation of social life, the privatisation of publicly owned companies and the encouragement of ‘mum and dad shareholders’. The Act sought to ‘democratise’ the shareholder value model through a range of executive pay disclosure mechanisms, primarily for the benefit of shareholders. Yet these measures proved somewhat limited, prompting the Rudd-Gillard Governments to pass amendments to the Act in 2009 – in particular, to tighten pay disclosure requirements to shareholders (discussed further below).

This era of pay disclosure regulation intensified in the mid-2000s following a range of corporate scandals involving large payments to departing CEOs. Amendments to the Act required listed companies to disclose the complete remuneration packages (including base salary, short-and long-term incentives and other payments and allowances) of all directors and the five most highly paid executives (CA, s. 300A; PC). This information is now required to be set out in a 'Remuneration Report' that forms part of a company's compulsory annual reporting obligations (CA, s. 300A). Remuneration disclosed by these reports is subject to a non-binding, advisory shareholder vote (CA, s. 250R). Further reform to executive pay regulation was precipitated by the GFC in 2007 and the election of a Labor Government that ordered a review into executive remuneration. The review rejected proposals to include workers in the determination of executive pay and to impose salary caps on executive remuneration, claiming that such measures would be difficult to implement in practice and could disadvantage some businesses in relation to others (Fels, 2010). The review did, however, introduce some changes to corporate regulation.

Arguably the most effective in relation to reducing pay disparity was the ‘two-strikes’ rule, permitting shareholders to vote to reject excessive executive remuneration packages. The rule ensures that a 25 per cent vote by shareholders against executive pay packages (detailed in the remuneration report at company Annual General Meetings (AGM)) will force a board of directors to reconsider an executive pay package (CA, s. 250U): this is the first strike. Once the board has reconsidered the pay package, a second ‘strike’ (another 25 per cent vote) against a second proposed pay package by the board will result in dissolution of the entire board of directors with all seats vacated for re-election within 90 days (CA, ss. 250V, 250W).

A number of two-strikes-rule votes were delivered by shareholders against Australia’s largest remuneration packages just months after the implementation of the rule in 2011 (Hill, 2015: 67). Since the rule’s inception, around 14 per cent of Australian listed companies have reported shareholder intervention in the determination of executive pay packages at AGMs using the two strikes rule (Featherstone, 2017). In 2016, shareholders within 15 of Australia’s largest companies took advantage of the protest vote laws (Durkin, 2016). A study conducted by the Centre for International Finance and Regulation demonstrated that, after a first strike, CEO pay fell by 20 per cent in the following year, while, after a second strike, it fell by as much as 32 per cent (Bugeja *et al*, 2016). In so doing, these laws reduced pay disparity by redistributing company profits to shareholders

(ASX, 2017). Notably, however, this *internal* corporate wealth redistribution has remained precisely that. There has been no discernible 'trickle-down' increase in income or wealth beyond the corporate sphere (discussed below by reference to widening gaps in social inequality). The following three short case studies demonstrate this pattern.

Case Study 1

In 2011, a first strike was delivered against the remuneration packages at Crown Resorts. The board reacted by cutting CEO pay from $7.7 million p.a. to $6.9 million per annum in the following year (Remuneration Report, 2012: 72; Kitney, 2012). After the vote, earnings per share (as distinct from share-price) more than doubled between 2011 and 2014, to over 90 cents per share and large dividends were issued to the company's largest shareholders (Annual Report, 2014: 13), including a payment of $387 million to James Packer, who will be paid an estimated $1.1 billion over the next three years (Ward, 2017). Packer is also a non-executive director of the company. But these shareholder gains have had only a marginal impact on stakeholders. Since 2011, the casino employee union, United Voice, has managed to negotiate a small 3.75 per cent pay rise for workers (United Voice, 2017); but in 2017, the casino company decided to sack its poker machine technicians, replacing them with contractors who are paid half of what they currently earn - $76,000 per annum (Hannan, 2017).

Case Study 2

Wesfarmers was struck by two separate shareholder votes against executive pay in 2009 and 2011 respectively (Mayne, 2011). Accordingly, the board agreed to reduce CEO pay by $4 million p.a. (Kenny, 2017). The responsiveness of the board to these shareholder strikes has coincided with a 20 per cent increase in the annual price paid per share over the last five years (Annual Report, 2017). Stakeholders did not share the windfall and in 2015, Coles, a major subsidiary of Wesfarmers, underpaid 77,000 part-time and casual workers below award wages by $70 million (Schneiders *et al*, 2016), disadvantaging some low-paid workers by as much as $3,500 per annum each (Toscano and Schneiders, 2016). Coles continues to resist efforts by the relevant union – the Shop Distributive & Allied Employees Association (SDA) – to increase pay for its lowest-paid workers.

Case Study 3

Bluescope Steel suffered a vote against executive pay in 2011 when the company lost $1 billion and the share price fell from $11 to 70c. The following year, executives responded by agreeing to a salary freeze and a 67 per cent cut in bonuses (Tan, 2012). Since then, the share price has steadily increased from earnings per share of 57.50 cents in 2011

(Annual Financial Report, 2010/2011: 2) more than doubling to $1.25 in June 2017, (Directors' Report 2017: 14), while share prices reached $13.70 in July 2017. These shareholder gains followed the pattern identified above, with profits bypassing stakeholders other than shareholders. Workers continued to fare badly: 1000 jobs were axed in 2011, and in 2015 steelworkers agreed to the loss of a further 500 jobs and wage freezes to prevent the closure of the Port Kembla Steelworks (Loussikian, 2015).

These case studies provide evidence of the efficacy of pay disclosure regulation in narrowing pay disparity between stakeholders and executives, as well as the relationship between CEO pay and shareholders. They show that when company boards are responsive to pay disclosure regulation and act to reduce excessive executive pay, shareholders tend to see greater returns. Conversely, these observations also suggest that such returns are not passed onto stakeholders other than shareholders and sometimes come at their expense. While these trends in shareholder gains and other stakeholder losses are unlikely to be exclusively linked to two-strikes votes, findings from a wider study on the relationship between CEO pay and shareholders supports the link presented here (Bugeja, *et al*, 2016). It is noted that this study did not consider the interests of stakeholders.

Shareholder Value and Pay Disclosure Regulation in the US and Britain

Shareholder value models have dominated corporate governance and regulation in the United States and Britain since the aftermath of the Great Depression, when shareholders were first given the capacity to vote on certain decisions proposed by company boards of directors at company meetings. Since the emergence of 'pay-for-performance' ideology, predominantly in the US in the 1980s, however, shareholders have failed to act to alleviate large scale and rapid growth in executive remuneration (Zylberstajn, 2011). This sustained trend has seen pay disclosure strategies to regulate CEO pay, such as pay ratios, gain popularity. As discussed, the US has recently implemented pay ratio disclosure, while British measures to introduce mandatory reporting of pay ratios are gaining momentum. Within these respective national regulatory contexts, pay disclosure strategies are designed to enhance shareholder power and 'value'.

Following the GFC, the US Government imposed a new regulatory framework on corporate America through the *Dodd-Frank Wall Street Reform and Consumer Protection Act 2010* (or '*Dodd-Frank Act*' (Pub.L. 111-203, H.R. 4173)). Many of the regulations imposed by the Act would have been unthinkable in the pre-crisis era. Accomplished through the bipartisan draftsmanship of Republican Senator Barney Frank and Democrat Senator Chris Dodd, the Act aims to achieve 'financial stability' through greater corporate regulation. As well as benefiting the market, the Act was designed with workers and consumers in mind, with the peak US union body circulating a petition to have CEO-to-worker pay ratios written into law (AFL-CIO, 2012). Together with a range of other disclosure mechanisms requiring CEOs to justify their pay by reference to firm performance (like the Australian reforms discussed above), the Dodd-Frank Act requires companies to disclose CEO-to-worker pay ratios as well as the frequently substantial inequalities between them. To this extent, the Act has been acclaimed by both labour unions and then President Obama as a win for the labour movement and social equality more generally (Quigg, 2011; Milligan, 2015). Accordingly, the new law might disclose wider social inequalities associated with the gender pay-gap which, at the time the law was passed in the US, saw women in full-time employment earning 77 cents for every dollar earned by men (De Navas-Walt, Proctor and Smith, 2011: 5, 12). The Act takes the progressive step of requiring that the pay of casual and part-time employees, as well as companies' 'offshore' workers, is calculated when determining the average pay of employees on one side of the pay ratio (USSEC, 2015).

Nevertheless, US pay ratio laws remain entrenched within the shareholder value model of corporate governance. American finance commentator, Michael Hiltzik, suggests that these laws merely enhance disclosure of CEO pay and encourage greater self-regulation. In doing so, they 'further chisel the myth of shareholder value in the rules of corporate behaviour'. Without a public enforcement mechanism, the US experience of pay ratios suggests that disclosure alone is not enough to both decrease and redistribute CEO pay to stakeholders. Hiltzik points to elements of the Act's shareholder value framework and the performance-for-pay rule as leading to an increase in 'predatory pricing, skimping on product quality, mistreatment of suppliers, and the manipulation of local communities to extract tax breaks and subsidies for factory locations', all of which 'reflect the drive to upstream all corporate returns to the shareholders' (Hiltzik, 2015).

The US study of Mohan *et al* (2015), perhaps misleadingly entitled, 'Paying Up for Fair Pay', has documented the effect of pay ratios on consumer behaviour. It shows that disclosure of pay ratios in relation to US products does in fact change patterns of consumption by empowering consumers with knowledge to make 'ethical' consumer decisions (Mohan, *et al*, 2015). In this way, the study concludes that pay ratios might be seen as a competitive market mechanism to drive down CEO pay from the supermarket aisle up. Even so, there is no evidence that such 'ethical consumerism' leads to any discernible material advantage or benefit being passed onto consumers or workers. It is conceded that evidence linking falling CEO pay to median pay increases or consumer savings is difficult to gauge. Nevertheless, the case studies of pay disclosure regulation and the intensification of worker-stakeholder exploitation, discussed above in respect to Australia, provide a compelling insight into the division between pay disclosure regulation and material improvements for stakeholders.

Other critiques point to the fact that these laws fail to adequately define executive remuneration, omitting certain types of equity-based performance pay that accrues over time. Executive pay-watch expert Rosanna Landis Weaver suggests that these forms of payment mean that 'if an executive has just received a massive options grant, he might look underpaid this year, but overpaid in 10 years when he cashes it in' (Weaver, quoted in Anderson, 2016).

The British High Pay Centre (HPC, 2015) claims to have addressed some of these failings of the US pay ratio system in proposals for a pay ratio regime in Britain. The calculation of pay ratios under the British model, for instance, is more comprehensive than under the existing US model and involves two salient points. First, the employee side of the ratio must reflect the average pay of all workers within the company (including overseas workers and those reclassified as 'independent contractors'). Such a method is used by British retail firm John Lewis, which deploys the term, 'non-management partners' to describe workers and others whose pay is accounted for on one side of the ratio (HPC, 2015:24). Second, CEO pay on the other side of the ratio must include their total remuneration, not merely single figure or realised pay, as in the case of the US Dodd-Frank Act (HPC, 2015). As mentioned above, such a figure accounts for future bonuses and a lengthy list of non-taxable benefits, ranging from the provision of free chauffeurs to private school fees.

Like corporate regulation in the US, the *Companies Act 2006 (UK)* adopts a strong 'shareholder value' approach, affording shareholders a range of decision-making power about the governance of the company and the removal of directors. Interestingly, however, in its most recent report, the HPC states that the objective of amending the *Companies Act* to include pay ratios is not necessarily to enhance shareholder value or rights within the company (HPC, 2015: 49). According to the HPC, the objectives of pay ratios are to provide an accountable framework for the calculation of executive pay by: (i) holding executives to account to shareholders and stakeholders alike for 'rent-seeking' behaviour and differential treatment; (ii) altering existing market-based formulations in which companies simply compare the pay package of their CEO to those of CEOs in similar positions (resulting in a zero-sum game which, over time, has ratcheted-up CEO pay and increased managerial power); (iii) calculating CEO pay, not on the basis of market equivalencies, but for value to the organisation; (iv) comparing the work of CEOs with other stakeholders within the company; (v) measuring pay in terms of creativity, competence, responsibility and their ability to add value to the company. These discursive or 'behind the scenes' aspects of pay ratios, say the HPC, mean that pay ratios value the work of all company employees, not simply senior managers, improving fairness in the way that CEO pay is calculated.

These measures may result in a small reduction to CEO pay and a redistribution of company resources to shareholders, as in the case of Australian pay disclosure regulation. But, like the Australian and US regulatory context, these proposed British laws do not appear to actually effect a redistribution of company resources to stakeholders (and in fact contradict pay disclosure models recommended by a 2014 HPC report, discussed below). The HPC's latest claims in respect to redistribution of company resources are speculative, to say the least, suggesting that 'money distributed to executives … could of course (be) retained for investment, for example in technological advances…(or) training', leading to enhanced 'productivity'. The HPC nevertheless concedes that, 'in most cases … this is not so' (HPC, 2015: 38). That is, the HPC now concedes that pay disclosure will probably not redistribute executive pay to stakeholders. Such a concession appears to acknowledge the limited capacity of pay disclosure regulation to narrow pay disparity.

Another problem with the UK pay ratio proposal is that it lacks a clear mechanism of enforcement, even to merely enhance shareholder value. British researchers have argued that pay ratios operate through powerful social motivators such as shame, embarrassment and humiliation, arising from relationships between CEOs, shareholders and stakeholders (HPC, 2015) and that, rather than relying on a vote of shareholders, executives will be shamed into rescinding some of their earnings. As evidence of the embarrassment that surrounds high pay, the HPC points to the reluctance of the business lobby to share remuneration details of their wealthiest executives (HPC, 2015: 46-47). However, as some trade unionists have argued, even if executives are required by law to disclose their earnings in the form of a pay ratio, ‘how do you shame people who are shameless?’ (cited in Moore, 2017). Indeed, the brief experience of mandatory pay ratio disclosure in the US shows that pay ratios alone have led to little change in executive remuneration practice. In Australia, where pay disclosure within the largest companies has been required by law for at least five years, CEOs have not been stirred by shame to sacrifice their pay. Rather, where pay disclosure has worked to reduce CEO pay, it has done so in coordination with other regulation (discussed below) or strong binding votes by shareholders to reduce CEO pay and redistribute the proceeds among themselves.

Accordingly, the British proposals do not overcome the problems inherent within the US and Australian models, derived from a shareholder value regulatory framework. In this sense, pay disclosure regulation does not take a ‘stick’ to pay disparity: rather it appears to wave a magic wand. It merely *suggests* redistribution to stakeholders rather than actually requiring it.

The social stakeholder approach to pay disparity: concentration of wealth, globalisation and wage stagnation

Shareholder value approaches to pay disparity have been challenged primarily by social stakeholder theorists from within the fields of corporate law, industrial relations and business management. Beginning with Lord William Wedderburn in the early 1980s, their solutions to pay disparity have been less concerned with corporate governance than with the redistribution of power and material resources from the owners and managers of capital (CEOs and shareholders) to other 'stakeholders' such as workers and their unions as well as and consumer and environmental groups (see, for instance, Mitchell *et al*. 2005 and Blanpain *et al*. 2011). This group have been joined in their opposition to shareholder value models by political economists, who have contested the political legitimacy of corporate governance and understood pay disparity as an issue of social inequality and inequity. Their heterodox approaches, such as those taken by Thomas Piketty (2014), Anthony Atkinson (2015) and, in an Australian context, Stilwell and Jordan (2007), have explained pay inequality as being entrenched within the prevailing form of neoliberal globalisation and the dynamics of capital. At the heart of this reinvigorated stakeholder perspective is an emphasis on the dispersion of wealth, rather than income, and the role it plays in enduring and intractable social relations of inequality, including corporate pay disparity. Piketty, for example, suggests that the extent of pay disparities between executive management and most paid workers may be understood as a telling indicator of a global historical dynamic in which 1 per cent of the world's population own 50 per cent of the world's wealth. Using the same methodology, Oxfam has recently shown that the world's eight richest men own the same amount as half of the world's population (2017).

A significant reason for this inequality is the material difference between income and wealth. Whereas income is a flow of wealth over time, usually exchanged for work or services and consumed by daily expenditure, wealth is the capacity to derive income from the ownership of assets without the need to work for other people. (Pen, 1973; Stilwell, 1993; 2007; Piketty, 2014; Atkinson, 2015). Where the overwhelming majority of stakeholders earn income, the overwhelming majority of shareholders are wealthy. This has been confirmed by several significant studies since 2002,showing that the wealthiest 10 per cent of Australian households own 61 per cent of liquid assets, such as shares (Headey *et al*, 2005: 165; HILDA, 2002, Sheil and Stilwell, 2016). The bottom line is that, where enhanced executive pay disclosure has benefited shareholders, it has not redistributed wealth, but rather reorganised ownership of wealth among the wealthy. Additionally, high executive income has intensified ownership of liquid wealth by the wealthiest one per cent (Piketty, 2014: 355, 658).

It is in the context of these larger historical global trends of social inequality that high managerial incomes have made an impact. As mentioned previously, high incomes have increased extremely rapidly and in a short time, permitting CEOs of large companies to amass a significant share of the functional distribution of income, compared to other workers, with seemingly little justification. Writing in this journal, John Shields, showed within the 16 year period 1989-2005 Australian executive pay increased by 564%. In the same period, the wages of full-time adult male employees increased by 85%. To describe this relationship, Shields deployed a pay ratio between CEO and average earnings, showing that the ratio increased from 18:1 to 63:1 (Shields, 2005: 302). As discussed at the outset of this article, ratios of over 100:1 are now commonplace in Australia's largest companies. Today, where minimum salaries for members of the 1 per cent start at around $227,534 per year, salaries of the 0.1 per cent begin at around $600,625 per year (Martin, 2015).

These trends in pay inequality, identified by Shields over a decade ago, have continued into the present. While profits soar, real wages stagnate and wage growth is at an all-time low. In the December quarter of 2016, profits surged by 20.1 per cent while wages fell by 0.5 per cent (Janda, 2017). Australian rates of jobless poverty are the second worst in the OECD (OECD, 2015). So too are rates of underemployment which continue to grow as the creation of new part-time and casual employment outstrips the creation of full-time jobs by two-to-one (ABS, 2017). At the bottom of the waged hierarchy, workers earn a minimum wage of $34,980.40 per annum, before tax, for a 38-hour week across most

Australian industries (FWO, 2017). In 2017, the Fair Work Commission announced a cut in 'penalty rates' – the minimum pay for overtime and irregular working hours, usually associated with the work of the lowest paid workers in the hospitality and miscellaneous employment sectors.

The work of UK economist, Anthony Atkinson, echoes Shields' findings and also brings to the debate a practical list of regulatory proposals to minimise inequality, primarily through heterodox and Keynesian economic policies (2015: 151-153; 302-304). In emphasising the importance of workers as stakeholders in the running of private firms, Atkinson (2015) and the HPC (in 2014) proposed a range of measures involving pay disclosure within large companies. Unlike examples of pay disclosure allied to shareholder value, discussed above, their proposals are linked to policies designed to redistribute corporate wealth to stakeholders (2015, 153). Taken together, these measures include policies such as: (i) pay limits or maximum pay ratios, meaning that executives cannot earn more than a certain multiple of their lowest-paid employee; (ii) representation for workers on company boards and remuneration committees; (iii) increasing the top-rate of income tax; (iv) company-wide profit sharing; (v) and a new Companies Act with legally-binding provisions to ensure equal pay for equal work. Each of these measures is examined in turn below. Such proposals are supported by the work of other stakeholder theorists, such as Mitchell and his colleagues (2005: 419), who have suggested that both corporate and industrial interests are interconnected and that companies must be regulated in a manner that reflects this complementarity through a regulatory coupling of corporate and labour law. The work of these stakeholder theorists indicates that pay disclosure is more likely to be effective in lowering pay disparity between workers and CEOs when linked to other regulatory strategies that change the social relations of production.

Pay limits or maximum pay ratios

The practice of using pay ratios to structure limits on executive pay and set wages relative to the earnings of executives existed long before the use of pay ratios as a mere disclosure mechanism that benefits shareholders. In fact, the use of pay ratios to enforce fair pay has a significant history over the course of the twentieth century, evolving in Europe at the same time as shareholder value regulation was commencing in the US and UK. Its origins can be traced to the Basque region of Spain in the 1950s. It was here that a federation of worker co-operatives, together with the Catholic Church, established the Mondragon Corporation, a collectivist (sometimes called 'anarcho-syndicalist') manufacturing corporation in which a form of pay disclosure – pay ratios – has been relied upon to constrain pay disparity in the workplace by redistributing profits to workers. Such use of pay ratios, central to the corporate structure of Mondragon, is often cited as the reason for the company's continuing success (although one commentator has noted a recent decline in certain overstretched multinational arms of the company (Errasti *et al*, 2017)). Ratios within the company are decided periodically, not by shareholders, but by workers through a democratic vote. In these circumstances, ratios between the highest and lowest paid workers range from around 3:1 to 9:1, but frequently average around 5:1 (Herrera, 2004). On this basis, employees at Mondragon earn comparatively more than workers with similar skills at other companies in Spain and globally (Flecha 2011: 161). The system of industrial democracy at Mondragon also means that, when the market takes a downturn, workers vote to decrease wages in the interests of maintaining full employment within the company (Tremlett, 2013). The Mondragon model has been transplanted to other centres of industry around the world, including the US where it has been embraced by the United Steelworkers in 2009 resulting in the Ohio Employee Ownership Center (OEOC), a co-operatively run union steel workshop in which pay ratios are central to the organisation of the business.

Similar proposals have recently been debated in Switzerland where a constitutional referendum on regulating pay disparity resulted in a landslide victory. Proposals to ban compensation and large payouts, or 'golden parachutes', for departing CEOs gained an overwhelming 68 per cent support of the vote (BBC, 2013). A separate referendum proposal to introduce mandatory 1:12 pay ratios within Swiss companies nevertheless foundered, but only by a slim margin (Garofalo, 2013). Meanwhile, British Labour Party leader, Jeremy Corbyn, has recently called on the use of pay ratios to impose a maximum wage law or cap (Elgot, 2017), suggesting that 'pay ratios between top and bottom' would mean 'that the rewards don't just accrue to those at the top' (Corbyn, 2016). These proposals, along with the ratios established at Mondragon, are suggestive of the tolerable limits of pay 'disparity' while clarifying what relative 'parity' might look like.

Enforceable pay limits under the Mondragon model pay ratio model mean that a significant amount of company profit, that might otherwise be paid to executives in excessive remuneration, is reinvested into the company to enhance firm productivity. Similarly, Stilwell and others have suggested that excess CEO salaries might be reinvested in technology and education both within and outside the corporation (Stilwell, 2002; see also, Goldin and Katz, 2008: 29, 141, 320-323).

Representation for workers on company boards and remuneration committees

Perhaps the most favourable option to reduce pay disparity involves enhancing democratic processes within corporations by extending participation in corporate governance to stakeholders in the industrial sphere (Mitchell *et al*, 2005; Ross and Markey, 2002). Allowing workers to set pay by voting, for instance, on a reasonable pay ratio is an effective way for companies to decrease pay inequality between their workforces. Such a model necessarily requires complete transparency in executive pay but connects pay disclosure to possibilities for meaningful redistribution of company wealth to stakeholders. As previously shown, the success of this stakeholder model has been demonstrated at the Mondragon Corporation and its North American subsidiaries. A similar approach to pay ratios is the German model of industrial democracy.

In Germany, since the late nineteenth century, rank and file workers have been appointed to company work councils to assist in the co-determination of company decision-making, including decisions about remuneration. The largest German companies are required to have a dual board of directors – one supervisory and one management board. By law, at least half of the representatives on supervisory boards within large companies (those with over 2000 employees) are required to be workers within the company (Addison, 2010). German workers also sit on corporate remuneration committees, helping to determine executive pay by reference to a range of stakeholder interests (TUC, 2012: 4). The German system of co-determination and similar models in Scandanavian countries have meant that CEOs are paid at least 20 per cent less than their US, British and Australian counterparts (Eurostat, 2007). Further, CEOs in German companies with board-level employee representation are paid half as much as other CEOs (Hans Bockler Foundation, 2017). Draft legislation that is designed to provide dual boards with power to use pay ratios to set pay for both workers and executives within the company is currently before the Bunderstag. These proposed laws provide stakeholders (in this case, workers on supervisory boards) with power to index all pay within the company to CEO pay, by reference to a pay ratio (Shotter and Chazan, 2017).

It must be pointed out, however, that German workers are paid around 11% less than Australian workers (OECD 2017). Nevertheless, German unemployment and underemployment rates are roughly half of what they are in Australia (Eurostat, 2017; ABS, 2017). Effectively, this means that rates of pay disparity and social inequality are lower on a comparative societal basis. Conversely, German and Scandanavian firms have seen higher rates of labour productivity than in Australia, yielding higher returns for investors and shareholders (OECD, 2017). Heterodox economists such as Wolfgang Streek and Joel Rogers (1995) have found that such outcomes are directly attributable to worker participation in internal company strategy to increase productivity. In the face of declining rates of unionisation and participation in the Australian workforce, work councils may prove an increasingly necessary strategy for Australian workers and trade unions to pursue in reducing pay disparity by enhancing industrial democracy.

Taxation

There is a range of taxation interventions that renders pay disclosure more effective in narrowing pay disparity by redistributing company wealth to social stakeholders. One such strategy involves identifying companies with high pay ratios for higher taxation treatment. After disclosure of CEO pay through the *Dodd-Frank Act*, Portland in Oregon (US) has become the first city in the world to tax companies in which CEOs earn more than 100 times their median-paid employee. The tax is 10 per cent of the amount of conventional State business tax. Under this model, a company with a 250:1 ratio would pay a 25 per cent tax. The tax is expected to raise $2.5 million per annum with funds to be redistributed to homeless services within the city (Floum, 2016). This model could certainly be extended to other pay ratio jurisdictions and used more widely to reduce pay disparity by redistributing wealth.

Such an intervention is similar to recommendations by economists such as Emmanuel Saez (2002; 2012) to use pay disclosure mechanisms to identify a new tax bracket of super-high income earners. As Saez suggests, this would permit the state to recoup and redistribute excess CEO and executive earnings, narrowing pay disparity by progressively reducing the taxation burden on lower income earners. The Australia Institute has also suggested placing a cap on taxable deductions from CEO remuneration above a certain level and requiring a minimum tax rate of 35% for those earning over $300,000 per year (commonly known as 'the Buffett Rule', after its creator, US billionaire, Warren Buffett)

(Grudnoff, 2015). While the plan is supported by the ALP left faction in Australian federal politics, it is opposed by the dominant right faction (Jericho, 2017) and is markedly absent from the current ‘Agenda for Tackling Inequality’ (2017).

Mandatory company-wide profit sharing

Pay disclosure regulation could be enhanced by being coupled with policies of mandatory, company-wide profit-sharing. Such a policy has existed in France since the late 1960s. The current, *Social Security Financing Law 2011-894* (July 28, 2011), applies to companies with more than 50 employees. Where such a company increases dividend payments to shareholders, above the average dividend payment from over the previous two years, the company must compulsorily share profits with workers. The law ensures that when shareholders feel the benefits of company profits, such as those associated with a redistribution of executive pay, workers should prosper too. Under the law, payments to workers must not merely be symbolic. Formulas for the calculation of such payments, however, differ (Law 360 France’s New Legal Framework for Profit Sharing Premiums). The minimum formula for the compulsory profit sharing scheme is calculated as 0.5 x (net profit – 5 per cent of share capital) x total wage bill/value. In 2009, the maximum amount of profit required to be shared to each employee was 25,731 Euros. The amount paid to workers is open to negotiation with unions and workers through a European Work Council model of co-determined industrial relations.

It has been some time since shared profits were measured as a percentage of total income but, on last analysis in the 1990s, shared profits comprised between 4-6% of French wages (Vaughn-Whitehead, 1991: 62; ILO, 1992: 79).

Such a model is, in part, reliant on a shift in the social relations of production that affords stakeholders a meaningful voice within the workplace. Nevertheless, where this scheme is mostly enshrined in law, there is reason to think that such a scheme could be adopted within an adversarial system of industrial relations that operates in a shareholder value corporate regulatory context. Unlike maximum pay ratios and pay limits, which mostly operate in co-operative firms such as the Mondragon Corporation and John Lewis, a key benefit of mandatory, company-wide profit sharing is that it redistributes profit from shareholders to stakeholders more generally. It might therefore operate effectively to reduce pay disparity in firms currently operating under the dominant shareholder value model.

Amending the Corporations Act with legally-binding provisions to ensure equal pay for equal work

Yet another suggestion to narrow pay disparity involves establishing a legally-binding Code for setting pay within companies, extending beyond existing industrial award systems, minimum wages and remuneration committees. As Atkinson suggests (2015:

153), such a Code might determine the pay of both high and low paid employees by reference to a formula involving equal pay for equal work. Further, this formula would not only reduce general pay disparity but also narrow the gender pay gap while increasing the pay of migrant workers (Atkinson, 2015: 153). In 2014, the HPC suggested a similar legally binding Code requiring company directors to have regard to a diversity of stakeholders - including workers, consumers, partners and the wider society - whenever a corporate decision is made, especially those concerning pay (2014: 17).

Such a policy might be thought of as a form of wage regulation, a policy which played a key role in the post-war boom as well as staving-off the effects of recession at the end of the ‘Golden Age’ in the early 1970s. It was at this time that the regulation of wages and prices to combat inflation was a key feature of the British Labour Government of Harold Wilson in 1965, the US Nixon administration in 1971 and the Australian Hawke Labor Government in the mid-1980s. Wage freezes were not uncommon. However, the focus was less on regulating high wages and their growth than with lower paid workers and maintaining productivity. They were also part of a centralised system of wage regulation, rather than a decentralised model, moderated by an external regulator, such as a legally-binding pay Code.

Conclusion

Over the past two decades, Australian corporate regulation has, to some extent, been responsive to economic crisis and public perceptions of pay disparity. However, these responses have relied on shareholders and companies to deliver social change through self-regulation. This self-regulation has been informed by a range of pay disclosure mechanisms. The dominant models of such pay disclosure regulation have claimed to reduce excessive executive pay but this regulation has had no significant impact on increasing the wages of workers, nor benefiting other stakeholders. It appears that the beneficiaries of the pay disclosure regulation, such as that implemented in Australia and the US, have not been all stakeholders but only shareholders. Accordingly, any reduction in executive income has added to the stocks of wealth owned by shareholders.

Serious concern to narrow pay disparity must consider other options to enhance the efficacy of pay disclosure regulation by ensuring a wider redistribution of wealth and pay between stakeholders and shareholders. ALP policymakers currently developing policies to tackle inequality in the labour market therefore face a choice. This is between regulation, on the one hand, that relies on pay disclosure alone to encourage shareholders to reduce pay disparity by enriching themselves or, on the other hand, a system of pay disclosure that reduces pay disparity by redistributing income from the highest to average paid workers and other stakeholders. Taking the latter approach to reducing pay disparity, pay disclosure regulation needs to be linked to more extensive corporate and industrial policy. Strategies allied to pay disclosure, such as enforceable pay ratios, worker representation on company boards, new taxation measures, profit-sharing and binding pay codes are essential to changing power relations within the workplace and society more generally and producing a redistribution of pay and wealth.

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