the longest period for which a university could be committed to the employment of any individual would be twenty years — as against the present forty years. Furthermore, the same rule could apply whether the appointment were to a tutorial, a lectureship or an associate professorship; it is, rather oddly, often assumed that, if the proportion of tenured positions were reduced, tenure would be retained by the holders of the higher ranks but, plainly, if tenure does create a problem, the higher the rank involved, the greater the problem.

One problem that immediately presents itself with the minimum age suggestion is that it would not disperse tenured staff proportionately through departments; there could well be departments with tenured heads and all other members ineligible for tenure whilst other departments had wholly tenured staff. But overall normality of this kind should not, in practice, present major problems. The important thing is that the general ethos of the universities is not changed towards authoritarianism and, provided department heads and a reasonable proportion of tenured staff is not disperse, tenure may be worth seeking at the expense of other staff, those more senior in years though not necessarily in rank or academic experience, enjoy the security which tenure gives, there would be little need to fear such a change.

My aim in this paper has been to show that, whilst the practice of making appointments with tenure undoubtedly has its disadvantages, far more would be lost than would be gained by the abandonment or the drastic reduction of tenured appointments and that strategies are possible, both to provide further safeguards against the abuse of tenure and to increase the flexibility of universities by reducing the proportion of tenured appointments, without real threat to universities capacity to fulfil their time-honoured role.

I certainly do not claim that the specific suggestions made exhaust the possibilities and are not subject to further argument. I do claim that they indicate the most fruitful approach to the question, especially in the light of present-day problems.

Tenure relates to the length of time assuredness of employment is given to an individual within an enterprise unit. It may convey highly specific commitment, or merely strong intent, perhaps backed by previous. If the employing unit is not assured of continuity with adequate funding beyond the date implied or stated, that in itself creates doubts as to the nature of the labour employment relationship.

In a sense every employee enjoys tenure, differences across individuals relate to the length of binding commitment, or at least to the likely expectation of length. Tenure is one element entering into job choice in the eyes of a would-be employee, and one element entering into the content of a job package offered by a would-be employer. Each party considers it a desirable attribute at least to some degree, otherwise we would find the average periods of tenure extremely short, rather than in practice quite, or very long. For workers, within limits, longer tenure may be worth seeking at the expense of higher pay; for firms the offer of longer tenure imposes higher fixed of labour costs for which they will tend to seek offset by offering lower payment for services rendered per sub-unit of time.

In a freely competitive market would-be workers of given skill will spread themselves across employment opportunities until there is seen to be no advantage from rearrangement, and reassessment of skills. That is to say there is no move by any individual that can be made which gives longer tenure without say an offer of that degree of reduction in pay, which is considered a balanced offset. Of course not all workers operate in such a competitive situation in the short-run, but it is entirely reasonable to assume that in the longer run they do and hence glaring gaps in the total emoluments from employment packages will be eliminated save where there is strong control on entry (and hence queueing costs must be accounted for).

This enables us to make two points. Firstly, tenure is a sought after element of a pay package. Secondly, an element of some degree, its length relates not only to the skill on offer but also to the viability of an enterprise unit to offer such a duration of employment — that is the second point. Clearly a Federal Government organisation with the flat of the state is in a stronger position to make such an offer than is a state or local government and these in turn than enterprises in private hands whether single owner, charity or joint-stock company.

Thus it is not surprising to find longer tenure arrangements applying in the public sector than in the private sector, at least in explicit form. Moreover those types of job opportunities for any given pattern and quality of skill will draw towards them persons whose relatively stronger preferences are towards job security rather than higher pay. They cannot have both as that would make that type of job unduly appealing, and a lingering of tenure or a lowering of pay offered in order that the market clear. Thus any attempt by an employer to lower the previously operating period of tenure will, other things being equal, tend to lead to a lessening of the number of would-be applicants unless offsetting rises in pay are included in the job package. Not everyone is a marginal worker who would get up and go if tenure were lessened, or if pay were reduced for given tenure but, given time, more and more would be on the margin of transference, and recruitment of fresh workers would become much more difficult.

It is extremely important to be clear about these principles before we address the issue of academic tenure. Tenure is by no means confined to the academic group; indeed it is the more true of higher branches of the public service, especially in the departments of our paymasters, the Treasury and the Reserve Bank. It is also interesting enough a much admired quality of the Japanese manufacturing employment scenes, the so-called lifetime employment system. Yet in certain respects our most well known public companies also tend to operate similar arrangements. Banks and insurance companies immediately come to mind and firms such as Shell, CRA, BHP, to name but a few, use the same employment patterns at least in the more senior job categories.

What then is peculiar about academic tenure? If I suppose first and foremost we must note the explicitness of the offer and commitment. Not that it is given without a trial period, an interval which itself varies with the dearth of good candidates, for academics offer skill that is capable of being performed within a variety of academic institutions and the employer will be anxious only to secure, but also to hold, an obviously good person. The 'team' element — colleagues to co-operate with and to build to student — is something valuable, a counterpart to 'goodwill' in business. Once the employer confirms that the employee is such a person, the employer is likely to be eager to consolidate the employment relation speedily and to limit mobility by offering tenure, or speedier advancement, or both. Thus tenure is more readily offered to people who have passed a competence test with strong recommendation. To want to withdraw tenure from such
employees is to admit that one's judgement as to likely performance has been wrong — and there is of course a room in all employ­ment situations (but one does learn from expe­rience) — or because the funding of such employment has been wrongly assessed, generally because of factors beyond control and ones that could not be foreseen. The introduction of a new product, or the advance move­ment of an exchange rate could be such a direct cause in the business arena. Of course mankind might expect changes in the political arena with due assessment as to risk. By and large it might be expected that a single enterprise within an industry might experience difficulties (or enjoy unexpected expansion) but movements with respect to whole industries would be less likely to come as a surprise, and certainly such speedy changes in relation to central government organisations would be thought unlikely. Government enterprise and activity tend to concentrate in the less rapidly innovative areas of output and employment and in areas with less participation directly in international trade.

Even where provisional employment periods before final commitment may have had to surmount a series of such barriers of entry (or because the funding of such employment and in areas with high labour costs may be especially sensitive) — or because the performance has been wrong — and there is some degree of uncertainty about how is it that more hurdles in the promotion system are in possession of much evidence about their by that stage and the multiplying of appointment opportunities. Of course reference is sometimes made to age requirements. The best scholars may not of course want tenure. They can always get a job elsewhere. This argument is partially, but not entirely, true. With a high inflation rate under government control, tightening of conditions is likely to be proceeding in parallel across all institutions and for some whose allocation is typical, one measure is to lower another. University is the alternative place of work. For others, Commercial enterprise could be a suitable alter­native though if it was preferred already it would have been chosen.

The costs of curtailing tenure without offsetting advantage in the absence of dynamic enterprise can be real. If pursued in Australia to a lesser degree than in similar or better, institutions abroad, good scholars and intellectuals may be less strongly induced to come, or remain. The end result could be that there is shorter tenure but with lower quality teaching. This is likely to be a breach of conditions of employment but also spread severe mistrust as to the university's reliability as an employer — and enormous loss in goodwill extend­ing much beyond the issue in question and affect­ing present and possible future staff) then, for the same quid pro quo, applicants, higher rates of pay (or other desired amenities) need to be forthcoming. Otherwise the average of the calling will go down and it is lowered with dire long-run consequences. The introduction of more hurdles in the employment path may be sensible but these do require a more upwardly flexible pay structure. Tenure is after all in part a way in which the employer has chosen to economise on labour costs. For given numbers employed under reduced tenure the employer's paybill will be higher though of course, in some cases, the 'gap' between the employer's paybill and the pay of staff is actually lower than in the case of tenure (less than $10,000). But there is much across­industry competitive bidding for high quality staff at all levels and directly such added funding costs will be substantial. But the system does enable the individual to respond to incentive though perhaps tends to greater neuroses if you have not had so many offers within the last month as usual! Money can be provided to the individual for specific periods of increased pay, or offset for inflation. The staff committee, often working within plans which do not require a more stable times when both employer and employee are prepared to live with a system which has high mobility requirements.

This brings us to another arm of the discussion. Australia has comparatively few universities and they are grouped in a very limited number of urban centres. In rural and in small towns the system for which by American standards is low, and where the facility is less used the costs of securing it tend to be related to the population. Additional staffing provisions are determined by States and at present do not provide for transfer of rights inter-state. To some degree supervisors are well aware of the problem but not similar across States. Staff alone within States. Any revision of tenure for new entrants would seem to carry with it some encouragement of increased transferability of pension arrangements. If anything superannuation arrangements are more specialised by institution and by State so that there is a clear contradiction in policy aims in the interlocking areas of tenure and superannuation.

A further point of substance concerns the levels of pay for any grade of staff in different States which we illustrate from Professors. Professors receive a uniform rate of pay in each State but the costs of living including housing differ markedly from one State to another. The real pay for those living in Sydney at the present time is probably at
least 15% lower than elsewhere and it is doubtful if the extra amenities are fully offsetting. The use of more competitive rates of pay carries with it an implication that rates of pay for Professors in different cities will differ not only because of the 'content' of staff but because of location. This has funding implications for universities and for their claims on central apportioning bodies for shares of the total grant.

Conclusion

Tenure is an integral part of any system of employment. It has long since become part of the accepted package of emoluments in relation to career, occupation and job choice. To lower it inevitably involves costs both on employer and employee and especially bears on the attractions of employment for new employees. There is nothing sacrosanct about any conditions of employment in perpetuity but both the benefits and costs of change must be fully assessed. Easing costs in one area increases them elsewhere.

Changes should be made for good and enduring reasons, most advantageously with cooperation of employers and staff, because goodwill should not be dismissed as irrelevant. As the academic standing of institutions is of critical international concern both for schools and for students, due attention must be paid to the international mobility implications of proposed changes as the quantum and quality of university staff are indissolubly intertwined with the whole social fabric and industrial system of the nation.

The implications of educational reform are essentially long-run — hence they must be well thought through. In such a review political expediency should have no place.

Introduction

The Federation of Australian University Staff Associations (FAUSA) has adopted an affirmative action policy for itself and its member associations, and has advocated the adoption of such policies in Australian universities. The Chairman of the N.S.W. Higher Education Commission has called on universities to establish affirmative action programmes to rectify the disadvantages currently suffered by female academics.1 Many universities have recently formed women's groups actively pushing for affirmative action. And individual academic women are beginning to insist on their rights to equal opportunity.

However, in the United States, while affirmative action plans have resulted in an increase in the numbers of women employed, they have not brought about a change in attitude.2 Though it was not at all easy a requirement that women be put aside as the primary basis for selection and promotion, many men nonetheless perceived the "new" women as inferior, asserting that they had been employed through "reverse discrimination", not through merit. In other words the discriminatory attitudes, while perhaps a little more subconscious, were still very much in evidence. It is to the conceptual frameworks which give rise to these attitudes that we must turn our attention if affirmative action in Australian universities is actually to achieve anything beyond a slight increase in the number of women employed and an accompanying increase in negative attitudes towards these women.

This paper sets out to analyse discrimination, drawing on the understanding of the term developed through the enactment of a variety of Anti-Discrimination Acts, and to show, through a case study of one university, how discrimination manifests and perpetuates itself in a systemic cycle of discriminatory attitudes, acts and outcomes.

Discrimination

Discrimination occurs at four levels. These levels are partly historical. At the first level are the more direct, readily recognisable forms of discrimination which were the first to be judged inadmissible and unlawful.3 The more complex forms of discrimination may be neither direct nor intended and are identifiable more in terms of actions and outcomes than in terms of deliberate motives and recognisably discriminatory beliefs. They are, nonetheless, related to a set of understandings about the nature of the world, the effect of which is a discriminatory pattern of outcomes for women. It has taken longer to understand these more complex forms of discrimination and for the law courts to acknowledge discrimination in the absence of intended discriminatory acts.

Direct intended discrimination

This first form has been called "motivation" discrimination, and occurs when the discriminator knowingly acts on the basis of a belief which discriminates against women. The act of discrimination can be identified by all parties as "a series of isolated and distinguishable events,... which have the effect of preventing a particular woman from gaining access to work or to promotion."4 It has also been called "ill-will" discrimination though it may not be experienced by the discriminator as motivated by ill-will. If, for example, a male discriminator fails to employ a young woman who is better qualified than a young man he does employ, on the basis of a belief that the woman will inevitably leave work to have children, he may experience no feeling of ill-will towards the woman in question, though the consequences for her career may be quite damaging. His action may be identified by her as an act of ill-will. Regardless of any wish to do harm, if his intention was to exclude her on the basis of characteristics which he assumes attaches to all females and if he acknowledges the reasons for his decision (if only to himself), then his act belongs in this category of direct intended discrimination.

Direct unintended discrimination

This second form of discrimination occurs when the discriminator treats two people of equal qualifications differently, perhaps not realising that his action is being influenced by invalid assumptions about the nature of the social world. In proving this form of discrimination it is the action rather than the motivation that is the critical defining feature of the discriminatory act.5 Though the person discriminated against may believe that the discriminatory act was motivated by discriminatory intent, it may be equally plausible to believe that the discriminator has simply failed to examine or even take cognizance...