

## EMPLOYMENT AND UNION ISSUES IN NEW ZEALAND,

### 12 YEARS ON

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New Zealanders have always liked to see themselves as leading the world. In the 1890s, New Zealand became the first country to grant women the vote, unions were incorporated into the state industrial relations machinery through the Industrial Conciliation and Arbitration Act 1894, and old-age pensions were introduced. The Labour Party was founded in 1916 and, constitutionally linked to the union movement, grew steadily as a political force. The first Labour government, elected in 1935, institutionalized the embryonic welfare state with subsidized housing, free education and health care, and more generous income support. This model of welfarism topped up the income of the “working man and his family,” a policy which assumed the existence of full employment and two-parent families led by men.

In the 1950s and 1960s, a corporatist style of welfarism continued under the (conservative) National government. Substantial state investment in transport, electricity, and communications infrastructure—and in projects such as forestry—was designed to support domestic production for domestic consumption, provide jobs, and foster regional development. This delivered a high standard of living for most Pakeha (non-Maori), but it also fostered a dangerous degree of complacency and political and intellectual laziness. As a result, the “left” was badly placed to anticipate and resist the neo-liberal tide that began sweeping the country in 1984.

The union movement had particular problems. The hierarchy was overwhelmingly white, male, and politically sectarian. Although there was an upsurge of militancy in the later 1970s, sustained campaigns were rare and generally unsuccessful. Virtual compulsory unionism had fostered a false sense of power and an accompanying neglect of the rank and file constituency, while pre-occupation with the Labour Party as the conduit robbed the union movement of political imagination.

Maori relationships to the interventionist welfare state were ambivalent. The colonial state offered a palliative and a means for survival; at the same time, it continued to destroy the rights to tribal political, economic, and

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cultural self-determination which the Treaty of Waitangi in 1840 had guaranteed. Maori political responses had become constrained by what they considered possible for an indigenous minority within a system of colonial majority rule. While Maori comprised a significant number of the unionized working class, they remained just as invisible and powerless in the union hierarchy, which paid little heed to specific Maori concerns. As Maori politics became more radical in the 1970s, focusing on land rights, racism, and sovereignty, relations with the unions were often fraught.<sup>1</sup> The potential forces of cooperative resistance were weakened even further.

The radical structural adjustment program begun by the Labour government in mid-1984 was extended by National from 1990 to 1996 and, despite the introduction of proportional representation, continued under a coalition of National and New Zealand First during 1997.<sup>2</sup> Over those twelve years, the New Zealand economy was systematically exposed to the forces of global capitalism, the guarantee of full employment and a living social wage was withdrawn, and the welfare state was seriously eroded. The cheerleaders for this revolution claimed New Zealand was once more leading the world. These voices represented the winners, a combination of the old and new elite. The costs they imposed on Maori, women, paid and unpaid workers, the elderly, the young, the poor—and the political and ethical crisis this provoked—were conveniently ignored.

These have been turbulent, destructive, and depressing years for New Zealand workers and unions (and many others). This Article examines the combined impact on them of labor market deregulation and other key elements of the restructuring. By locating these developments in their political context, the Article seeks to identify some challenges which unions must address if they are to play a meaningful political role in the years ahead.

### THE LABOUR GOVERNMENT

The fourth Labour government was elected in 1984, following nine years of economically conservative and politically authoritarian rule under National, led by Prime Minister Robert Muldoon. Labour's election campaign promised to restore compulsory unionism, which Muldoon had abolished the year before;<sup>3</sup> remove a wage freeze imposed in 1982; re-establish

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1. Some unions did, however, play a significant role in the anti-apartheid movement from the 1960s to 1980s, which began with protests over exclusion of Maori from the 1959 rugby team to tour South Africa. A number of unions also provided significant support during several high-profile land occupations in the late 1970s and early 1980s.

2. New Zealand First, the minority partner in the coalition government, campaigned on an anti-privatization, anti-foreign investment, and anti-immigration platform that was highly critical of the structural adjustment program. Their Coalition Agreement with National imposed some constraints on privatization of a few remaining strategic assets, such as the state-owned electricity corporations, New Zealand Post, and Television New Zealand, although even these were progressively undermined.

3. Industrial Relations Amendment Act § 5, 1983 (N.Z.).

tripartite wage and incomes conferences; and consult on economic policy. These promises were largely honored, at least in form.<sup>4</sup> But their effect was neutralized by the deregulatory agenda which the Treasury technocrats, Labour's Finance Minister Roger Douglas and their political and private sector allies, relentlessly pursued. Treasury's initial blueprint for restructuring the New Zealand economy, set out in their 1984 post-election briefing papers,<sup>5</sup> insisted that "labor market flexibility" was necessary to deal with rising unemployment—then just above 3 percent. This concern with unemployment receded as the official rate rose. Settling for a "natural" unemployment rate of around 6 percent, Treasury insisted instead that labor market deregulation was critical to economic growth. The targets were consistent throughout: the national award system, occupation-based bargaining, centralized arbitration, government wage-fixing, and compulsory union membership.

Dismantling such a centralized and highly regulated labor regime would never be easy. Given the Labour Party's historic alliance with the trade union movement, any direct move to deregulate the labor market and de-unionize the workforce would be divisive and provoke resistance. Furthermore, the unions had some supporters in the Cabinet, although not among the powerful Finance Ministers. The Labour government opted instead to "modernize" the unions by redesigning the labor laws so unionism could survive in the deregulated marketplace: compulsory arbitration was withdrawn,<sup>6</sup> unions were required to consolidate to secure recognition,<sup>7</sup> and employers were given the option of enterprise agreements in larger work-sites.<sup>8</sup>

At the same time, however, Labour created the conditions in which radical labor market deregulation could occur. Market deregulation, trade liberalization, state sector restructuring, and strict monetary policy saw a

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4. The wage freeze regulations were revoked in 1984, and the Economic Stabilisation Act was repealed in 1987. Economic Stabilisation Act Repeal Act, 1987 (N.Z.). The Industrial Relations Amendment Act § 3, 1984 (N.Z.) made provision for a tripartite wage conference and, potentially, for consultation on economic policy. An unqualified preference clause was reintroduced in the Industrial Relations Amendment Act § 4, 1985 (N.Z.).

5. NEW ZEALAND TREASURY, ECONOMIC MANAGEMENT (1984).

6. Industrial Relations Amendment Act § 13, 1984 (N.Z.). Labour was offering to introduce a mild version of final offer arbitration when it lost the 1990 election.

7. Labour Relations Act § 6, 1987 (N.Z.).

8. Labour Relations Amendment Act § 16, 1990 (N.Z.).

massive rise in unemployment<sup>9</sup> and seriously undercut the union base, which had never recovered from the brief spell of voluntary unionism from 1983 to 1984. The removal of subsidies and tariff protections, in particular, devastated the industrial and agricultural workforce. Labour transferred tens of thousands of state employees to aggressively commercial state-owned enterprises (SOEs), most of which were later privatized. The workers lost their public service status, and many were made redundant. The remaining public service was converted to run on entrepreneurial lines as the equivalent of private firms. The legislation which achieved this, the State Sector Act 1988, was introduced without any prior consultation with the Public Service Association (PSA).

Union response to Labour's restructuring was muted. The main private and public sector union organizations consolidated in 1988 to form the New Zealand Council of Trade Unions (CTU) in an attempt to strengthen their voice. Rather than tackling "their" government directly and publicly, union leaders chose to work for change from within. Attempts to secure a tripartite "compact" between government, unions, and employers met with limited political support from government, skepticism from many unionists, and employer intransigence. At the end of six years of Labour rule, the unions were weak and deeply compromised.

9. Labor market composition 1985-95 (thousands):

	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995
Total civilian employment	1329	1544	1557	1508	1468	1481	1461	1467	1496	1559	1632
Agriculture	148	167	161	156	151	157	157	159	158	162	158
Industry	430	444	425	393	372	364	343	334	351	390	410
(Other services)	751	933	965	956	941	955	957	971	985	1006	1064
Unemployment	51	65	66	89	113	125	168	169	157	138	110
Unemployment rate as % of civilian labor force	4.1	4.0	4.0	5.6	7.1	7.8	10.3	10.3	9.5	8.2	6.3

OECD ECONOMIC SURVEY: NEW ZEALAND, 183: Table D (1996).

THE EMPLOYMENT CONTRACTS ACT 1991 (ECA)<sup>10</sup>

The conservative, and traditionally anti-union, National Party became the government in October 1990. Within two months, the Employment Contracts Bill had been introduced and NZ\$1.3 billion of benefit cuts announced. The ECA came into effect on May 15, 1991, as the country struggled through a deep recession and official unemployment rose towards its March 1992 peak of just over 11 percent.<sup>11</sup>

The ECA abandoned national award coverage and compulsory unionism in favor of individual employment contracts. The new employment game was to be played out on the "level playing-field" of the labor market, between an individual employer and the individual worker. They each could represent themselves in these dealings, or choose their own negotiating agent, who might be a union member, a private sector consultant, a lawyer, or almost anyone else.<sup>12</sup> One worker or his or her agent had no right to know what another had negotiated. A contract had to be filed with the Secretary of Labour only when it covered 20 or more people, and even then it would not be a public document.<sup>13</sup> Contracts with state employers were excluded from disclosure under the Official Information Act 1982. Collective contracts would be allowed only if the employer agreed.<sup>14</sup>

Unions lost all special privileges, including their tax-exempt status. Indeed, except for a transitional clause, the legislation no longer referred to trade unions. They became "employees' organizations" with the narrow role of furthering the employment interests of their members.<sup>15</sup> No employment contract could require workers to join, or not to join, such an organization. Instead, unions were required to compete with one another and with outside consultants who touted their services, sometimes with employer support, to potential worker clients.

Behind the veil of neutrality, the Act was stacked against workers and unions in favor of the employer. Unions had no automatic right to represent their members in negotiations; specific authorizations had to be secured in every new negotiating round.<sup>16</sup> Nor was there any right for unions or anyone else to access a workplace to seek the authority to represent workers on that site.<sup>17</sup> That allowed employers to determine which potential bargaining agents would gain access to their workplace and workforce. Once authorized, the bargaining agent had the right to enter the workplace at any reasonable time to discuss negotiations with those they had authority to repre-

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10. Employment Contracts Act, 1991 (N.Z.) [ECA].

11. STATISTICS NEW ZEALAND, KEY STATISTICS 35, Table 3.01 (June 1992).

12. ECA § 10.

13. ECA § 24.

14. ECA § 20.

15. ECA § 2.

16. ECA § 12.

17. ECA § 13.

sent.<sup>18</sup> But even then they could not compel the employer to negotiate—or if they did negotiate, to do so in good faith.

Rules relating to industrial action also changed. Strikes became legal only in connection with negotiations for a collective contract, after the existing contract had expired,<sup>19</sup> and in limited circumstances for health and safety.<sup>20</sup> As a result, employers could let the contract lapse and play off market conditions against the threat of industrial action. Strikes aimed at multi-employer coverage were prohibited, even where firms fell under the same corporate umbrella.<sup>21</sup> While the Act imposed some restrictions on harsh and oppressive tactics and agreements,<sup>22</sup> the status of common law remedies relating to unfair or unconscionable bargains remained unclear.<sup>23</sup> The concept of contributory fault was introduced in personal grievance claims.<sup>24</sup>

National made other changes to employment law. The Employment Equity Act, passed just before the 1990 election to provide equal pay for work of equal value, was one of the first to be repealed.<sup>25</sup> The Trade Union Education Authority was abolished, along with paid time for education and training of union officials and delegates.<sup>26</sup> The Shop Trading Hours Repeal Act, passed by Labour in 1989, had retained some protections for workers; these protections disappeared under the ECA. There was no minimum youth wage until 1994 when, after repeated exposés of gross exploitation, it was set at around 60 percent of the adult minimum wage.<sup>27</sup>

Occupational health and safety became increasingly self-regulated through performance-based incentives.<sup>28</sup> The comprehensive, no-fault accident compensation system was redesigned, eligibility was cut, and pay-out levels reduced.<sup>29</sup> Lump sum compensation was abolished, as was the right to free medical treatment for workplace injuries and full payment of burial costs.<sup>30</sup> Family income-related compensation after death was limited to five

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18. ECA § 14.

19. ECA §§ 63(a), 64(1).

20. ECA § 71.

21. ECA § 63(e).

22. ECA § 57. These have proved to be of limited practical effect; see *Adams v. Alliance Textiles (N.Z.) Ltd.* [1992] 1 E.R.N.Z. 982; *Roche v. Urgent Medical Services Home-care Ltd.* [1995] 2 E.R.N.Z. 159.

23. See Peter Kiely, *Employment Law Update*, in RAYMOND HARBRIDGE ET AL., EMPLOYMENT CONTRACTS: BARGAINING TRENDS AND EMPLOYMENT LAW UPDATE 1995/96, at 63-64 (1996).

24. Employment Contracts Act § 40(2), 1991 (N.Z.).

25. Labour Relations Amendment Act (no. 2) § 4, 1990 (N.Z.).

26. Union Representatives Education Leave Act Repeal Act, 1992 (N.Z.).

27. Minimum Wage Regulations cl. 2, 1994 (N.Z.).

28. Health and Safety in Employment Act, 1992 (N.Z.).

29. Accident Rehabilitation and Compensation Insurance Act, 1992 (N.Z.).

30. In December 1993, the Minister of Labor acknowledged the government was in breach of Article 9 of ILO convention No.17, relating to medical treatment costs for work injuries. The CTU has complained to the ILO of additional breaches relating to Conventions

years. The funding burden for non-workplace accidents was shifted from employers to workers and other individuals, reversing a trade-off agreed to by employers in the original scheme. Despite these changes, the right to take civil action for personal injury, which had been abolished when the scheme was introduced in 1972, was not restored.

### THE EFFECT OF LABOR MARKET DEREGULATION

All these were logical consequences of an ideology that celebrated the unfettered expansion of capital in the national, and global, marketplace. The ECA had two immediate goals: to destroy the power of unions and to subject pay and conditions of employment to market (employer) demand. It initially succeeded with both.

#### *The Unions*

The Act's impact on an already weakened union movement was devastating. In December 1985, some 43 percent of the workforce was unionized under 259 unions. By September 1989, the density was the same, although the number of unions more than halved as a result of minimum membership requirements introduced in the Labour Relations Act 1987. When the ECA was passed in 1991, membership density was still 41 percent or 38 percent, depending on the measure used. By December 1995, that figure was down to 21.7 percent and only 82 unions remained.<sup>31</sup> However, the rate of decline had slowed. The number of unions with fewer than 1000 members had in-

12, 17, and 42. COALITION ON ACCIDENT COMPENSATION, Policy Proposal No. 1, Policy Proposal to the Minister in Charge of Accident Compensation Corporation, The Honourable Bruce Cliffe (April 1994).

31. Unions, membership, and density 1985-1995:

	Unions	M'ship	Density
December 1985	259	683,006	43.5%
September 1989	112	648,825	44.7%
May 1991	80	603,118	41.5%
December 1991	66	514,325	35.4%
December 1992	58	428,160	28.8%
December 1993	67	409,112	26.8%
December 1994	82	375,906	23.4%
December 1995	82	362,200	21.7%

Aaron Crawford et al., *Unions and Union Membership in New Zealand: Annual Review for 1995*, in 21 N.Z. J. INDUS. REL. 188, 189, Table 1 (1996).

creased dramatically, while the proportion with more than 10,000 members remained fairly constant.<sup>32</sup>

More men than women appeared to have left unions. The fall in membership was spread unevenly across sectors, and a number of unions even ceased to exist. Union membership fell more than 60 percent in the five years to 1996 in the retail, wholesale, restaurants, cafes, and accommodation sectors; agriculture, fishing, and hunting sectors; mining and related services; and in the construction and building services. Those most severely affected were in the productive sectors where industry deregulation, trade liberalization, and exposure to export markets hit hardest, and those where women predominate and are traditionally unorganized. Those which survived best were in the growth areas of services, communications, energy, and residual public services.<sup>33</sup>

The shift from national awards to collective and individual contracts and the burdensome authorization requirements meant a massive increase in union workloads. In 1992, for example, the Department of Social Welfare required the Public Service Association (PSA) to provide 6,200 written authorizations then still refused to negotiate, as it was legally entitled to do.<sup>34</sup> The National Distribution Union went from 55 negotiating rounds to

32. *Id.* at 190.

33. Union membership by industry 1991-1995:

<u>Industry</u>	<u>Dec 1991</u>	<u>Dec 1995</u>	<u>% Decline</u>
Agriculture, fishing & hunting	14,234	4120	71
Mining and related	4730	1593	66
Manufacturing	114,564	76,714	33
Energy	11,129	11,312	(2)
Construction	14,596	5372	63
Trade	64,335	17,559	73
Transport., commun.	52,592	49,156	7
Finance	32,219	26,241	19
Public services	205,925	170,133	17
TOTALS	514,324	362,200	30

Aaron Crawford et al., *Unions and Union Membership in New Zealand: Annual Review for 1995*, in 21 N.Z. J. INDUS. REL. 188, 191, Table 3 (1996).

34. *Bureaucratic DSW Tactic Backfires*, PUB. SERVICE ASS'N J., June 1992.



700. Most unions stopped organizing in workplaces of less than 10, effectively abandoning a quarter of the workforce. Under these conditions, the style of union also changed. Traditional union strategies and class perspectives were pressured by new entrepreneurial, corporate unions that competed for members, engaged in mergers and takeovers, allegedly poached from other unions, and viewed their members as assets on the corporate balance sheet. The activities of the Engineers Union (which, following a 1996 merger with the Printing and Manufactures union, spanned energy, aviation, forestry, telecommunications, and publishing) were especially controversial.

The position of the main umbrella group, the CTU, attracted mounting criticism. For reasons that remain incomprehensible to many, the CTU decided there was not enough support to mount an effective nation-wide campaign against the introduction of the ECA in 1991. Instead of confrontation, it espoused a style of corporatism whereby government, employers, and unions would cooperate within the deregulated market to make the economy grow. In 1993 the CTU defined tripartism as follows:

... a complement to political democracy and a market economy. Tripartism introduces a social dimension into structural adjustment policies through active dialogue and consultation. Tripartism can help the social partners meet their economic objectives through cooperation.<sup>35</sup>

While the decline in CTU union affiliations was due mainly to mergers, dissatisfaction with its position and performance became more overt over the years. Offering itself as an alternative was the fledgling Trade Union Federation (TUF). TUF membership included many unions most severely hit by trade liberalization, and it was an active critic of the General Agreement on Tariffs and Trade (GATT) and the Asia Pacific Economic Cooperation forum (APEC), as well as the tariff reduction program. Its activities during 1996 included a mobilization against the privatization of forestry, working alongside local Maori, and a campaign to raise the minimum adult wage to \$7.50 an hour. In 1996 about 80 percent of union members belonged to unions affiliated with the CTU, while around 7 percent belonged to unions affiliated with the TUF.<sup>36</sup>

Industrial action fell dramatically after the ECA was introduced, due largely to the deep recession and union disorganization. By 1995 it was rising again, as some unions finally took a stand. Teacher and public sector unions were especially active, refusing to accept an effective real wage freeze at a time of growing government surpluses. Major industrial action hit court administration, the Inland Revenue, Department of Survey and Land Information, polytechnics, and Housing New Zealand—all threatening

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35. CTU, *Industrial Relations Policy: A Summary of Main Points*, Address to Special Affiliates Meeting of the NZCTU (May 1993).

36. RAYMOND HARBRIDGE & KEVIN HINCE, *A SOURCEBOOK OF NEW ZEALAND TRADE UNIONS AND EMPLOYEE ASSOCIATIONS* 14 (1994).

to bring the core functions of government to a standstill. In the year up to July 1996, the official number of stoppages was 74, the highest since the ECA was introduced.<sup>37</sup>

Reflecting this trend and the increased role of contract law, the ideological battle between labor and capital moved from the worksite into the courts. Initially, the Employment Court and the Court of Appeal took a pro-employer line in interpreting the Act, especially on legality of lockouts,<sup>38</sup> and attempts to go behind the unions in negotiations.<sup>39</sup> This line changed around the time that the International Labour Organisation (ILO) was considering a CTU complaint that New Zealand was in breach of the conventions on collective bargaining and freedom of association.<sup>40</sup> Subsequently, a serious split in judicial positions appeared between those who adopted what is often termed a "fairness" approach and others who advocated a "law and economics" line which intrinsically favored employers.

This tension came to a head in two 1996 cases in the Court of Appeal alleging employer breach of section 12(2) requirements to recognize an authorized bargaining agent. In both the *New Zealand Fire Commission v. Ivamy*<sup>41</sup> and *Airways Corporation of New Zealand v. Airline Pilots Association*<sup>42</sup> cases, a majority rejected an earlier decision that employers' freedom of expression to impart information took second place to workers' objections to receiving it. They found that authorization of a bargaining agent did not prevent attempts by the employer to provide factual information, or to establish the reasonableness of their stance on a particular issue which all parties knew was the subject of negotiations. In a strongly worded dissent, Justice Thomas warned that the decision would seriously reduce the effectiveness of collective bargaining: "[I]t is not to be unexpected that employers and employees alike may conclude that collective bargaining in the form recognized in the Employment Contracts Act is largely vitiated."<sup>43</sup> Raymond Harbridge suggests that the implications of these cases might be restricted to small workplaces or new employers setting up greenfield sites who are able to deny access to unions to recruit. In workplaces where a union culture is well established, he believes circumventing the union would be more difficult.<sup>44</sup> That remains to be seen.

Fueling these internal tensions were strident and personalized attacks

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37. STATISTICS NEW ZEALAND, KEY STATISTICS 38, Table 3.09 (January/February 1997).

38. See, e.g., Paul v. New Zealand Soc'y for the Intellectually Handicapped [1992] 1 E.R.N.Z. 65.

39. Adams v. Alliance Textiles (N.Z.) Ltd. [1992] 1 E.R.N.Z. 982.

40. For a discussion of these developments see JANE KELSEY, THE NEW ZEALAND EXPERIMENT 188-201 (2d ed. 1997).

41. New Zealand Fire Service Comm'n v. Ivamy [1996] 2 N.Z.L.R. 587.

42. Airways Corp. of N.Z. Ltd. v. New Zealand Air Line Pilot's Ass'n [1996] 2 N.Z.L.R. 622.

43. New Zealand Fire Service Comm'n v. Ivamy [1996] 2 N.Z.L.R. 587, 621.

44. RAYMOND HARBRIDGE ET AL., EMPLOYMENT CONTRACTS: BARGAINING TRENDS AND EMPLOYMENT LAW UPDATE 1995/96, at 51 (1996).

on judges adopting the “fairness” approach from the Employers’ Federation, Business Roundtable,<sup>45</sup> and the business media,<sup>46</sup> supported by the newly appointed editor of the *New Zealand Law Journal*, and by law-and-economics icon Richard Epstein.<sup>47</sup> Claiming that the Employment Court and Justice Thomas were distorting the unambiguous intention of the ECA, they called for the abolition of the Employment Court, and for labor contracts to be treated the same as any other commercial transaction in the ordinary courts. The proposal enjoyed support from National’s leadership, as discussed below.

### *Wages and Conditions*

The impact of the ECA on earnings was felt as soon as the one-year rollover of existing awards ended. Between May and August 1992, average weekly earnings fell by \$5, mainly through reduced penal rates and the pressures of recession.<sup>48</sup> From mid-1993 to the end of 1995, wages remained unchanged for almost one-third of jobs, despite CPI increases of 6.5 percent.<sup>49</sup> Between December 1994 and December 1995, the official Real Wage Rate Index fell 1.2 percent.<sup>50</sup> The public sector faced serious real wage declines. Contracts monitored by the Industrial Relations Centre (IRC) at Victoria University showed increases in the year up to December 1995 of 2 percent overall, but only 1.4 percent for core government and 0.6 percent for government trading enterprises.<sup>51</sup> The inflation increase was 2.9 percent. While average total weekly earnings of employees were 2.5 percent higher, this number nonetheless reflected a significant increase in hours worked.<sup>52</sup>

During 1996 the situation improved slightly. The minimum adult wage was increased to \$255 for a 40-hour week, at \$6.37 an hour (still \$20 less in real terms than in 1990), and the youth rate was \$153, or \$3.82 an hour. Pressure from industrial action and workers’ refusal to tolerate further real pay cuts saw average total hourly earnings increase by 3.3 percent in the May 1996 year (with the CPI increasing 2.2 percent). This was the largest annual increase since August 1991. Ordinary time hourly earnings grew by 3.4 percent, although female ordinary hourly earnings were still only 80.6

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45. BERNARD ROBERTSON, *THE STATUS AND JURISDICTION OF THE NEW ZEALAND EMPLOYMENT COURT* (1996).

46. *Roundtable Lashes Judges for Being Judicial Activists*, NAT’L BUS. REV. May 17, 1996; *Courts Too Slow for Employers*, NAT’L BUS. REV. Oct. 25, 1996; *Dump the Employment Court*, NAT’L BUS. REV. Jan. 31, 1997.

47. RICHARD EPSTEIN, *ECONOMICS AND THE JUDGES. THE CASE FOR SIMPLE RULES AND BORING COURTS* (1996); *Courts Should Not Play With Employment Act*, N.Z. HERALD, May 21, 1996.

48. STATISTICS NEW ZEALAND, *KEY STATISTICS* 56, Table 4.04 (Dec. 1992).

49. STATISTICS NEW ZEALAND, *KEY STATISTICS* 47, Table 4.04 (Apr. 1996).

50. STATISTICS NEW ZEALAND, *KEY STATISTICS* 43, Table 4.01 (April 1996).

51. *THE EMPLOYMENT CONTRACT* 5 (Dec. 1995).

52. STATISTICS NEW ZEALAND, *KEY STATISTICS* 46, Table 4.02 (May 1996).

percent of male earnings, down slightly from 81 percent in February 1996. The increase in average weekly earnings of employees was lower, at 2.5 percent. This number reflected the slowdown in the economy, with the average number of weekly paid hours of employees continuing to fall.<sup>53</sup>

Coverage by collective employment contracts (CECs) fell from an estimated high of 721,000 in 1989/90 to around 400,000 in 1996, mainly through the collapse of multi-employer bargaining. According to the CTU, only 23 percent of workers were then in CECs, and only one-sixth of those were in workplaces of less than 100, where three-quarters of workers were employed. Collective coverage was especially low in agriculture/forestry/fishing, accommodation and cafes, construction, property and business services, and wholesale trade where only 10 percent were covered.<sup>54</sup>

However, maintaining collective coverage was no guarantee against the erosion of pay and conditions. The IRC's 1995/96 survey of collective contracts showed that a wide dispersion of wage rates had occurred once the benchmark of leading annual awards disappeared. Those with skills in high demand benefited, while pay and conditions in areas like food retailing, hotels and cafes, education, other retailing, mining, and health declined. There was a significant loss of overtime and penalty rates, especially in the services sector, with almost half the contracts surveyed containing no penalty rates for night or weekend work. Where those rates remained, their levels were frequently eroded. Standard clock hours clauses, above which a premium was paid, applied in just over half of contracts. Limitation on the 40-hour week had gone; although few workers were contractually required to work longer hours, many had to be available to work on any day. Where unions were weak, increases in total wages were generally lower, cuts to overtime were greatest, and more workers were moved onto part-time and casual employment. Negotiating and hiring costs tended to be greater where unions were stronger.

The term of collective coverage had also changed. The traditional 12-month term applied to just 29 percent of employees; 45 percent of employees were on contracts for two or more years. Some contracts did not specify an expiry date. Longer contracts were prevalent in manufacturing, utilities, construction, other retailing, accommodation and cafes, and communication sectors. Raw wage increases tend to be higher the longer the contract, and were nearly twice the annualized wage increase; but the benefits depended on expected inflation rates, and whether increases were backdated.<sup>55</sup>

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53. STATISTICS NEW ZEALAND, KEY STATISTICS 44, Table 4.02 (No. 1996).

54. CTU, *Post-election Priorities—A Union View* 62-63 (1996).

55. RAYMOND HARBRIDGE ET AL., EMPLOYMENT CONTRACTS: BARGAINING TRENDS AND EMPLOYMENT LAW UPDATE 1995/96 (1996).

### *Sectoral Impact of the ECA*

As mentioned earlier, the impact of the Act was compounded by other components of the structural adjustment program—internal market deregulation, trade liberalization, privatization, state sector restructuring, structural unemployment and under-employment, and economic instability due to the Reserve Bank's rigid anti-inflationary strategy. The impact of different policies varied across sectors, as the following examples show.

#### *Retail Workers*

Retail workers were affected by a combination of pressures. The retail sector was extremely competitive, especially following the deregulation of shop trading hours, and faced constant rationalization through international mergers and takeovers. Benefit cuts in 1991 reduced workers' options and depressed retail spending. Unemployment remained historically high among the unskilled, creating intense competition for jobs. Under-employment meant many part-time workers, especially women, wanted more hours, even at lower pay. The sector's unions had prepared for the impact of the ECA by a pragmatic mix of strategies. These included amalgamations, composite union enterprise agreements, extension of union services, concentration on key sites, and ensuring the financial security and modernization of the union.

Once the Act was passed, the National Distribution Union (NDU) moved to secure benchmark contracts with major employers, especially at the national company level. Some were cooperative. Others displayed a range of tactics which became increasingly familiar: refusing to negotiate with unions, preventing access, running anti-union campaigns, pressuring non-union members to sign contracts, threatening mass redundancy or loss of investment, appointing consultation groups in which union was only part, and encouraging the appointment of workplace representatives to speak for all workers, with unions representing only a few. Some began to use off-the-shelf contracts developed by employment consultants who were often former union officials. The employers' explicit goal was to deunionize. Union membership was around 20,000 retail workers when the ECA came into effect. By May 1996, it was 8,400, a drop of 58 percent. The union reported that it survived best where it had good worksite organization.

The effects on retail workers were well documented in a 1996 study by the Northern Distribution Union (NDU), which reported widespread removal of penal rates/overtime; removal of most allowances; greater casualization of labor and insecurity of hours; reduced working hours for many, with long hours for key staff; no recognizable increase in paid hours worked; significant conflict between employers and workers; and new workers employed on inferior conditions. Shocking abuses of young workers in retail and food outlets forced the introduction of youth rates in 1993.

Women, as the majority of retail workers, remained disproportionately on the periphery or in the secondary labor market, and the erosion of clock hours and penal rates created major problems during school holidays, nights, and weekends. Maori workers, especially women, also remained on the periphery, while the language difficulties of Pacific Islands workers—again mainly women—and their customary respect for authority were widely exploited. The union reported some advances during 1996 in youth rates, paid parental leave, and small contributions by employers to superannuation. But overall, retail workers had less bargaining strength, lower levels of unionization, and progressively worse pay and conditions under the ECA.<sup>56</sup>

### *Privatization: Telecom*

Privatization raised different concerns for workers, unions, and poor consumers. The conversion of “commercial” government activities into state-owned enterprises enabled the government to remove preferential employment conditions for state workers and to embark on massive job cuts. In the 1986/87 financial year alone, one quarter of the state sector staff was affected, with 11 percent moved into state-owned enterprises (SOEs), 8 percent into new departments, and another 6 percent taking redundancy or early retirement.<sup>57</sup>

The nine new SOEs created in 1986 had employed around 70,000 people. Five years later only half the original SOE workforce still had their jobs as a result of redundancies, contracting out, and the privatization program. Forestry fell 7,000 to 2,500; rail from 15,000 to 6,000; and Telecom from 24,500 to 16,500.<sup>58</sup> Many of the redundant workers were re-employed on contract, where employers had few obligations and where competition reduced labor costs, especially in rural areas. Other services were terminated. Rural communities whose development had been part of the rationale for establishing these operations were left to wither, and sometimes die. Maori tribes, who had been promised employment and protection of sacred sites in return for use of their land, were peremptorily cast aside and forced to litigate to safeguard their claims over the land.<sup>59</sup>

Among the most contentious of the privatizations was Telecom, which was sold to Bell Atlantic and Ameritech for \$4.25 billion in 1990. (Local corporates Fay Richwhite and Freightways picked up 5 percent

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56. NORTHERN DISTRIBUTION UNION, *SHORT CHANGED. RETAIL WORKERS AND THE ECA* (1996).

57. Rod Deane, *Reforming the Public Sector, in* ROGERNOMICS: RESHAPING NEW ZEALAND'S ECONOMY 133 (Simon Walker ed., 1989).

58. KELSEY, *supra* note 40, at 123.

59. This was challenged by lengthy litigation which provided nuisance value, but failed to prevent the privatization program. *See* JANE KELSEY, *A QUESTION OF HONOUR? LABOUR AND THE TREATY 1984-1989*, chs. 3-5, 8, 9 (1990).

each.) The predominantly U.S. owners secured an average 28 percent annual return over the next five years through dividends, share sales, and balance sheet restructuring. Telecom's effective monopoly saw its profits rise from \$257 million in March 1990 to \$716 million or almost \$2 million a day in the year to March 1996, with a return on equity of around 30 percent. Net profit for the half year to September 1996 was \$361 million, 6.8 percent up from the year before. Net earnings per share were 9.7 cents, of which 9.5 cents were distributed as dividend, making it a major invisible export from New Zealand. In the process, many telecommunication services for commercial users and toll calls became cheaper and new technologies were introduced. But unregulated domestic prices increased as Telecom stopped cross-subsidizing them from more profitable operations.

Telecom's profitability was sustained largely by continued cuts to its workforce. In six years it more than doubled its profits and almost halved its staff. From 1991 to 1995, wages rose 5 percent, productivity 13 percent, and net earnings 114 percent. Staff numbers were cut from 16,263 in September 1989, to 9,257 in 1994, and 8,568 in 1995. Redundancies continued, even though staff numbers grew by 2.6 percent in 1995/96. The target was 7,500 employees by April 1997. Loss of experienced staff was blamed for a rash of exchange problems and slipping service standards in 1995 and again in 1996.<sup>60</sup>

Leaked internal memoranda showed a concerted strategy to deunionize the workforce and move workers onto individual contracts.<sup>61</sup> In June 1996, when the existing collective expired, Telecom told the Engineers Union it wanted to break the single collective into four. A 24-hour strike of all Telecom workers was followed by technicians refusing overtime or callouts indefinitely. A year later the dispute remained unresolved, and intermittent worker-initiated industrial action continued.<sup>62</sup>

### *Public Service Workers*

State sector restructuring saw the residual public service severely cut back and commercialized. From 71,000 employed in the state sector in 1988, only 32,900 remained at the end of 1996. Some had gone to new Crown entities and SOEs; many had not. The State Sector Act 1988 obliged the State Services Commission (SSC) and government departments to be "good employers." But their practices were often more ruthless than their private sector counterparts, as the government's policy of fiscal restraint and

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60. *Rain Dashes Early Phone Repair Hopes for Telecom*, N.Z. HERALD July 23, 1996; *Phone Fixing Delay Sets New Record for Telecom*, N.Z. HERALD, Aug. 3, 1996.

61. CITY VOICE, Jan. 18, 1996.

62. *Telecom*, in 83 FOREIGN CONTROL WATCHDOG 20, 21-22 (1996); *Telecom Facing Even More Disruption*, N.Z. HERALD, July 20, 1996; *Telecom Staff Lift 7-week Overtime Ban*, N.Z. HERALD, Aug. 22 1996; *Telecom Faces New Round of Protests*, N.Z. HERALD, Dec. 19, 1996; *Telecom Troubles: Two Sides of the Coin*, N.Z. HERALD, Aug. 27, 1997.

its industrial role as employer became intertwined. Former leading unionists were recruited as consultants to advise the SSC and departments on their employment strategy.<sup>63</sup> In theory, chief executives (CEOs) had full authority over their staff, including pay and conditions of appointment. But the SSC, backed by the Cabinet Committee on State Sector Employment, played a highly directive role. The Cabinet's "expectations" for the 1992/93 wage round included fiscal restraint; no additional money for wages; outcomes that are fiscally neutral at minimum, and preferably fiscally positive (i.e., cuts); vigorous negotiations that seek to increase productivity; over-generous redundancy provisions to be reduced; transition costs in any restructuring to be minimized; flow-on effects to other departments to be taken into account; and CEOs to keep the SSC informed.<sup>64</sup>

The SSC argued that the projected budget deficit for 1992/93 required fiscal savings to be made. Yet in 1994/95, when the budget was in surplus, the same expectations and demands to cut costs still applied. The sinking lid on departmental budgets, and performance incentives for CEOs to meet expenditure targets, encouraged nil or negative pay adjustments and reductions in redundancy, overtime, and penalty rates. Low morale and high turnover contributed to deprofessionalization in some state agencies staffed by an increasingly deskilled and casualized workforce. The institutional memory of central government had been jeopardized. A PSA pilot audit of public service staff in 1996 confirmed workers' concerns that qualities of professionalism, loyalty, innovation, integrity, and commitment to public well-being were being subordinated to the goals of efficiency and managerialism. Meanwhile, politicians had distanced themselves from responsibility for the operation and inadequacies of the state sector.

A number of these concerns were confirmed in a report by U.S. academic Allen Schick on the state sector restructuring, which had been commissioned by the Treasury and SSC, and was released quietly in August 1996.<sup>65</sup> While Schick was positive about the impact of increased managerial incentives and autonomy, he expressed strong reservations about the textbook application of new institutional economics, with its underlying assumption that public servants are self-interested and inefficient.<sup>66</sup> The resulting "hard-edged contractualism,"<sup>67</sup> combined with fiscal cuts, imposed stressful workloads on staff, potentially weakened collective values, and undermined departments' institutional capacity to deliver longer-term economic and social goals.

Despite all these concerns, the PSA pilot audit reported that the new re-

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63. *Neutralise PSA Urges Consultant*, PUB. SERVICE ASS'N J., May 1993.

64. KELSEY, *supra* note 40, at 141.

65. ALLEN SCHICK, *THE SPIRIT OF REFORM. MANAGING THE NEW ZEALAND STATE SECTOR IN A TIME OF CHANGE* (1996).

66. *Id.* at ch. 2.

67. Referring, in particular, to The State Sector Act 1988, Public Finance Act 1989, and Employment Contracts Act 1991.



gime had become the accepted norm:

There was an interesting reflection of the new structures as simply being what is there, and what agencies now do. They had assumed an identity quite distinct from the departments they grew out of. This outlook suggests that with time, the new order becomes the established order and there is a loss of an historical appreciation of what used to be and why it was that way.<sup>68</sup>

In another indication of the normalization process, approval of the ECA among PSA members increased from 21 percent approval and 70 percent disapproval in the 1992 survey to 38 percent approval in 1996, mainly among management, higher incomes, and under 30s (up 7 percent on 1995); 50 percent still disapproved.<sup>69</sup> Such radical changes required the PSA to re-think its marketing and recruitment strategy. A 1996 survey of PSA members showed that 20 percent joined for cost-benefit reasons, not because they believed in unions or wanted to be part of a collective. However, members who were collectivist, believed in unions, and were committed to union principles still amounted to 45 percent. The outbreak of industrial action across the state sector in 1996 reflected the strong commitment of many rank and file workers to direct action, despite the more conservative and managerial approach of the union executive. Significantly, however, a massive 84 percent did not want to be actively involved in the PSA, meaning the future direction of the union would rest largely in the hands of the executive.<sup>70</sup>

The PSA also faced significant pressure from Maori to move beyond the rhetoric of bi-culturalism to promote internal processes and external policies that genuinely reflected the rights of Maori self-determination in the Treaty of Waitangi. In response, the PSA eventually established a parallel organizational and decision-making process. While there was some genuine goodwill on both sides, the relationship remained tense and the organization's commitment tenuous.

### *Railways*

The combined impact of unemployment, the ECA, and privatization flowed over into health and safety issues, as exemplified by Tranz Rail. New Zealand Rail was one of the original SOEs under the State-owned Enterprises Act 1986. Between 1987 and 1992, staff numbers were cut from 15,000 to 6,000, as the government prepared it for sale. The SOE was sold to a consortium of Wisconsin Railways, a U.S. bank, and New Zealand investment bankers Fay Richwhite for \$400 million in 1993. Revenue per em-

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68. THE WORKERS' AUDIT: DOWNSIZING THE STATE SECTOR VIEWS AND EXPERIENCES (Mar. 1996).

69. PUB. SERVICE ASS'N J., Sept. 1996.

70. See *infra* note 80.

ployee increased around 14 percent in 1993-95, with personnel costs falling 4.6 percent in 1994 and 6.6 percent in 1995. By 1996 staff levels had been reduced by 11 percent over those of 1993.

Aside from pay and conditions, the main concern for the Rail and Maritime Transport Union was workplace safety. Contracting out, casualization, and redundancies imposed strong pressures on the remaining workers to accept new jobs for which they were not properly trained and to meet tight deadlines. Accident levels predictably increased. Tranz Rail was convicted in November 1996 under the Health and Safety in Employment Act for failing to take all practicable steps to ensure the safety of an employee who died in a shunting operation.<sup>71</sup> Shunting operations had been pared back to one locomotive driver communicating by remote with a lone operator on the ground. The judge held that the accident was a direct result of a business decision to cut costs by reducing staff numbers, inadequate training and monitoring, and pressure on workers to accept jobs from fear of redundancy. The company was fined \$30,000, of which \$20,000 went to the family of the victim—an increasingly common practice used by the court to off-set the abolition of lump sum compensation under the Accident Rehabilitation and Compensation Insurance Act 1992.

In all these sectors, the ECA gave employers vital leverage to increase profits, reduce labor costs, and minimize resistance. In doing so, they built on other components of the restructuring. Despite the apparently irresistible erosion of workers' and union rights, some suggest that this trend is short term. In 1996 Harbridge reflected that employers who made radical changes within two years of the ECA had met little resistance and achieved their goals.<sup>72</sup> Those who waited five years found a different environment: shortage of skilled labor, a residual rump of unionism, and a workforce resistant to further erosion of employment conditions. He doubted whether the original momentum could be maintained—and whether some employers would want to do so. However, this more optimistic prognosis must be seen as relative, given the severely demoralized state of the union movement, its falling membership and resources, and the limited bargaining power of organized labor in an economy where officials deem a “natural” rate of unemployment to be around 6 percent—especially as the economy threatened to slip once more into recession.<sup>73</sup>

### A HIGH-PRODUCTIVITY, HIGH-EMPLOYMENT WORKFORCE?

By 1996 questions were also emerging about whether the ECA would

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71. Department of Labour v. Tranz Rail, District Court, Wellington (Nov. 22, 1996).

72. Awards made to employees represented 40 percent of the fines imposed under the Act in the year to Dec. 1995. RAYMOND HARBRIDGE ET AL. EMPLOYMENT CONTRACTS: BARGAINING TRENDS AND EMPLOYMENT LAW UPDATE 1995/96, at 51 (1996).

73. GDP growth for the first quarter of 1997 was -0.5 percent. STATISTICS NEW ZEALAND, KEY STATISTICS 127, Table 10.07 (Sept. 1997).

deliver the promised long-term gains. Deunionization and reduced labor costs were supposedly means to an end, not ends in themselves. Increased flexibility and lower costs were meant to boost both productivity and employment, and to set the economy on a permanent growth path. The evidence on labor productivity gains is unconvincing. Economist Brian Philpott calculates that the average labor productivity increase between 1992 and 1996 was about 0.7 percent per year, below the long-run productivity growth rate of 1.3 percent between 1984 and 1996, and 1.9 percent between 1978 and 1984.<sup>74</sup> Productivity actually fell by around 1.6 percent in the 1995/96 financial year.<sup>75</sup> Those increases which did occur were mainly non-recurrent gains through reduced direct labor costs, relief from demarcation disputes, and multi-tasking.<sup>76</sup> But more people working for lower labor costs does not mean productivity has increased; it merely shows income transfers from labor to capital.

Nor, despite initial appearances, did the ECA solve the problem of unemployment. Official unemployment (people working one hour or more a week are defined as employed) had risen under Labour from 3.8 percent in December 1985 to 7.7 percent in December 1990, and peaked at 11.1 percent in March 1992. Over the next four years, it fell equally dramatically to 6.2 percent in December 1995. However, in March 1996 employment growth dropped steeply, overtime was heavily reduced, and manufacturers reported staff cuts. Official unemployment statistics stopped falling and remained at 6.2 percent in March 1996, with an unexpected bounce-back in official unemployment to 6.0 percent in June 1996. This was attributable mainly to changes in labor force participation. The seasonally adjusted rate for September 1996 was up again to 6.3 percent. The burden still fell most heavily on Maori, at 15.9 percent, and Pacific Islanders at 14.3 percent, while the European rate was 4.5 percent.<sup>77</sup>

In November 1996, the economic research agency, Business Economic Research Ltd. (BERL), reported a fall of 27,000, or 6.8 percent, in the number employed full-time in tradeable production, processing, and manufacturing during the first nine months of the year.<sup>78</sup> This number had risen from 1,000 in the March quarter, to 8,000 in the June quarter, and 18,000 in the September quarter. BERL described the highly publicized shifts of a number of major companies to Australia as "the tip of the ice-

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74. Philpott, A Note on Recent Trends in Labour Productivity Growth, Research Project on Economic Planning, Victoria University of Wellington (October 1996). See also THE TREASURY, LABOUR PRODUCTIVITY-CAN WE CATCH THE MAGIC BUS? (Internal Working Paper, Aug. 1996).

75. Rt. Hon. Bill Birch, PRE-ELECTION ECONOMIC AND FISCAL UPDATE 49, Table 1.6 (Sept. 1996).

76. Raymond Harbridge, Parallels and Contrasts of the New Zealand Experience. Are There Lessons to be Learned? (Paper to the AGSM Executive Development Programme, Sydney, May 1996).

77. STATISTICS NEW ZEALAND. KEY STATISTICS Table 3.06 (Nov. 1996).

78. *Forecasts* (Business Economic Research Ltd. (BERL)) Nov. 1996.

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The official unemployment statistics also disguised significant problems with the quality and sustainability of new jobs. There had been a strong trend away from full-time work in the tradeable sector to part-time work in services. By September 1996, there were still 28,100 or 2.1 percent fewer full-time filled jobs—but 193,500 or 81.6 percent more part-time filled jobs than in February 1987. Almost two-thirds of full-time workers were male and almost three-quarters of part-time workers female. People were also working longer hours and in more jobs than before. As the downturn set in, this trend intensified. Full-time employment increased by 15,000 in the year to September 1996, while part-time increased by 45,000. But in the September 1996 quarter, part-time jobs had increased 25,000, while full-time jobs had dropped by 10,000. Total job growth was below the natural increase in the labor force, and unemployment was reliably predicted to rise.<sup>79</sup>

Prospects for 1997 looked grim. As the economy moved from downturn to incipient recession, the ability of workers to cite economic recovery in support of pay increases had passed. Private sector workers, initially in export and import competing sectors, but later elsewhere, faced renewed threats of redundancy and closures. As the tax take fell and government failed to meet the projected budget surplus, government workers heard renewed calls for restraint. Young people seeking to enter the workforce were pressed by government to pay their own way, or engage in “workfare,” while employers sought to cut costs and length of industry training programs.

### *Looking to the Future*

The structural impact of the Act on the labor market and unions means future governments would find it hard to change tack even if they wanted to. Whichever party was elected to government after the October 1996 election, it was clear that the individual contract base for employment would remain. The National Party was firmly committed to the Act, and favored demands from the Employers’ Federation and corporate allies for privatization of Accident Compensation and abandonment of the Employment Court; it was more reserved about abolishing the minimum wage. New Zealand First talked blandly of creating a more “reasonable” bargaining framework and a better personal grievance procedure. Labour said it would introduce a new Employment Relations Act that would “encourage” collective bargaining, require bargaining in good faith, and provide legal recognition for unions. Their Act would incorporate a minimum code on wages and conditions of

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79. Projections for unemployment in 1998 by the respected NZIER were 6.8 percent in NZIER ECONOMIC UPDATE 4 (June 1997) and 7.0 percent in NZIER ECONOMIC UPDATE 4 (Sept. 1997).

employment. Labour would also increase the minimum wage. This proposal largely mirrored the Alliance industrial relations policy, which, having been announced first, had placed pressure on both Labour and the CTU.

A coalition government between National and New Zealand First proposed only minor changes to the ECA. These included access rights for unions that had been appointed as bargaining agents and a concept of "fair" bargaining. As this required legislation, its implementation could be deferred, perhaps indefinitely. There was also a promise of an ongoing review of the ECA's impact on security of employment and fairness, but no process was proposed. Particularly ominous were proposals to retain the separate jurisdiction of the Employment Court, yet "conduct a formal study of the Court's decisions to establish whether Parliament's intentions have been clearly expressed for the purposes of minimizing judicial activism in the employment area," and to review the Wages Protection Act, Minimum Wage Act, and Holidays Act to bring them under the umbrella of the ECA.

Unions therefore face enormous, unrelenting pressure. Resources are scarce, with many unions laying off their own staff. To survive, they need to focus on organization, retention, and recruitment in the workplace and ensure that they are in tune with their actual and potential members' expectations, which are shifting in many unions. New, young workers under 30—the "children of the market"—have known nothing except the neo-liberal regime and have no historic understanding of, nor commitment to, unionism. For many older workers, individualist, market-oriented attitudes and organizational arrangements are becoming the norm.<sup>80</sup> At the same time, unions have to balance these demands with the need to organize and resist further erosion of pay and conditions, and to engage in broader political struggles. Once they give away that role, they might as well convert themselves into a private consultancy.

It also means meeting the challenge posed by Maori workers that remains largely unaddressed. Some unions have attempted to restructure internally so Maori have a greater voice, but funding pressures and competing priorities could see these hard-fought gains rapidly disappear. Other unions with large Maori memberships, or overlapping interests, have engaged in dialogue and joint political action with Maori, such as over the sale of Forstcorp immediately before the 1996 election. There is a clear commonality of interest and potential for alliances here. But the processes, hierarchies, priorities, and mindset of many unions, including the CTU, remain deeply mono-cultural. The union movement as a whole is no closer to addressing the core issues of decolonization and genuine sharing of power than it was twenty years ago.

Unions play a much more marginal role today than they (believed they)

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80. For example, the PSA's 1996 survey of its members identified a significant trend among its membership: professionals and managerial staff are more interested in services currently provided by the union, but which could be offered by someone else. *PSA Wins High Approval Rating in Annual Survey*, PUB. SERVICE ASS'N J., Dec. 1996.

did in the past. The false security of state patronage and strategic political alliances has been stripped away. They must stake out a clear role, establish a mandate for that role from their membership, and work in collaboration with others to create an environment where people believe there really are alternatives. That requires alliances between unions and with other organizations and communities, which are based on synergies, not on desperation; an end to hostile union takeovers; and less introspection and self-interest from some of the existing union leadership. It also means revitalizing, in a radically different way from the past, the political role of unions in the struggle to deliver human dignity, employment security, and living social wage, which is the right of paid workers and those unpaid workers on whom they and the society depend.