NEW ZEALAND LABOR LAW: A BIBLIOGRAPHY OF NEW ZEALAND LABOR LAW
UNDER THE EMPLOYMENT CONTRACTS ACT

NOTES REGARDING SCOPE:

Objective:
To produce a definitive, briefly annotated bibliography so that interested United States practitioners and academics may have access to reading materials surrounding the Employment Contracts Act 1991 (ECA).

Dates:
Covers materials published from dates just prior to the passing of the ECA to the present.

Level:
Materials published for the legal profession and/or legal academics.

Types of Material:
Books, monographs, academic journal articles, seminar and conference papers. Comprehensive or extraordinary articles published in popular journals or newspapers (such as feature articles which contain in-depth analyses such as those which would be published in North & South or Metro).

Focus of Material:
All materials directly focus on the ECA, specifically either on the Act’s sociological, economic, or other impacts.

Country of Origin
All relevant materials originating from New Zealand, with reference to significant articles written internationally.

GUIDES TO THE ACT & EMPLOYMENT LAW


* Because this bibliography’s purpose is to assist general practitioners and academics, the editors have used an inclusive, international citation style, rather than following The Bluebook.
The stated function of this article is to analyze the background to the ECA, identify its central provisions, and explore its implications for the direction of future labor relations reform and the strategies of the parties. The intention is to place the statute in its context and to examine how the parties are acting in an environment which is only partially conditioned by its specific provisions.


Sets out the text of the ECA with thorough commentary and case law relevant to each individual provision.

Examines employer proposals for labor law reform which led to the ECA and, in an appendix, explains how New Zealand labor law operated leading up to the ECA.

Recounts the enactment of the ECA and draws lessons for labor law reform in the U.S.

Considers New Zealand as offering a model for labor reforms based upon freedom of the market and individual contracting. Recounts the history of the Employment Contract Act’s enactment, particularly focusing on lobbying efforts by employer groups and union preparations. Explores the impact of court interpretations of the ECA on unions and draws upon these experiences to analyze how to draft labor law.

An introduction to the provisions of the ECA for businesses. Includes four papers: (1) Main Features of the ECA and Comparison with Previous Labour Rela-
tions Act; (2) Negotiation and Structure of Employment Contracts; (3) Enforcement Procedures and Remedies for Breach of Contract; and (4) Improving Performance and Productivity.

Examines the ECA 1991, outlining the major provisions and discussing the probable impact of the Act on New Zealand industrial relations in particular and New Zealand society in general.

The main purpose of this paper is to provide a brief introduction to, and commentary on, the ECA, with particular reference to the Act's purpose, freedom of association, bargaining, personal grievances, enforcement of employment contracts, strikes and lockouts and the employment institutions.

Describes the requirements and procedures of the ECA with the intention of clarifying the provisions of the act. Also discusses the Employment Tribunal and Employment Court Regulations.

Considers how the ECA impacts the State Sector and its employees. Major features of the Act covered are membership of employees' organizations, bargaining, strikes and lockouts, personal grievances, disputes, enforcement, and changes to other employment-related legislation.

Presents the text of the ECA with historical notes, synopses, relevant cases, and commentary for each provision. Includes sample employment contracts and clauses.

Discusses the intellectual and practical impact of government policies with chapter eight analyzing labor market deregulation under the ECA.

MARSHALL, Steve, Employment Contracts and You: A Speech.
An address to the National Association of Retail Grocers and Supermarkets of
New Zealand (Inc.) to outline the implications of the ECA. Covers the impact on unions, duties and responsibilities of employers under the new regime, the negotiation process and the use of bargaining agents.

Sets out provisions of the ECA and related legislation with commentary and case law for each section. Also includes sections on trade unions, practice & procedure, current developments, minimum code, discrimination, special employment situations, and workplaces.

Designed as a practical guide to employers. Covers some theory about the employment relationship and discusses different types of contracts with particular emphasis on individual contracts (including model forms). Also sets out minimum requirements for contracts, negotiating contracts, recruitment procedures, termination process, dismissal, redundancy, and dealing with conflicts.

Brochure that includes guidelines for employers and employees. Covers the following: making contracts, contents of contracts, disputes procedures, changing the contract, enforcing contracts, ending contracts, personal grievances, pay, holidays, parental leave, strikes, and lockouts.

Designed as a basic introduction to what an employment contract is, what it includes, and how to negotiate it. Also includes sections on disputes, personal grievances, and dismissal.

An overview and introduction to the law and practicalities of the formal relationship between employers and employees. Considers aims and objectives of the legislation, negotiation, contents of the contract, setting out the terms and conditions, enforcement, disputes and grievances.

Handbook for unionists covering contracts for employment (with particular emphasis on employee v. independent contractor), custom and practice, wages protection, sexual harassment, holidays, educational leave, part-time/casual work, homeworkers, parental leave, youth workers, and redundancy.


Examines the impact of legislative reform on industrial relations and individual rights in New Zealand and Australia.


Examines the enactment of the ECA and its provisions for bargaining, as well as its impact on unions.

EMPLOYMENT COURTS AND PROCEDURE


An examination of the concept of "freedom of association" in the wake of the ECA, and a discussion of whether the ECA complies with certain ILO conventions.


Contains background information on the legislative framework and types of employment disputes. Covers practical aspects of managing a case at the Tribunal and Court level, including forms, fee, costs, submissions, witnesses, appearance, and appeals.


Outlines the definitions, remedies, and procedures under the ECA. Concerned with how to use these procedures from pre-tribunal to court. Includes sections on court proceedings and protocol, enforcing a judgment, and the language of the courts. Also contains section on situation and law prior to the ECA as relevant background.
   This article criticizes New Zealand’s specialized employment courts, and judicial intervention and enforcement of employment contracts. It also examines the negative economic impact of lawsuits resulting from unjustifiable dismissal.

   This article traces the development of the New Zealand Trade Union Federation and describes its commitment to the advocacy of workers’ rights. It also ponders the usefulness of the Employment Court.

   This article overviews the creation, role, and duties of the Employment Court and Employment Tribunal. It also discusses the efficiency of each institution.

   Examines Employment Tribunal and Employment Court, pointing out that the ECA has not created a unified employment law jurisdiction and the roles of the Tribunal and Court are not entirely clear. Also highlights some aspects of the law of contracts as it has been modified by the Act.

   A comparison of specialist institutions in New Zealand and the United States which assesses the appropriateness of each, and argues the benefits of a more generalist approach.

   Considers debates as to whether a specialist jurisdiction for labor law is appropriate in increasingly deregulated industrial relations regimes, in the context of the ECA in the period since its introduction.

   A critique of Professor Richard Epstein’s arguments supporting the abolition of a specialist jurisdiction. This article also asserts that the ECA has had adverse consequences on social equity in New Zealand.

Considers the argument against adoption of a general law model to govern the processes of contract management and enforcement, as well as the process of contract negotiation. Argues that such amendments would reduce employment security, enhance employer prerogative, and comprise a fundamental attack on the protections available to workers in employment.

PERSONAL GRIEVANCES, REDUNDANCY, DISMISSAL,
LOCKOUTS & DISPUTE RESOLUTION


An examination of the new-right criticism of the Employment Court's interpretation of the ECA sections relating to collective bargaining representatives and unjustified dismissals.


Article draws on interpretations and current understandings of the right to terminate an employee under the ECA to explore how radical law reform in advance of a country's social mores is likely to perform.


Examines the concept of redundancy in personal grievances. Comments on the decision, G.N. Hale & Son Ltd. v. Wellington etc. Caretakers etc., IUW, and its implications. Summarizes the legislative background to redundancy situations, and redundancy provisions, and personal grievances in light of the ECA.


Explains the process of dispute resolution under the ECA. Discusses the separation of the mediation and adjudication processes and looks at the methods of formal and informal mediation. Explains the structure of the tribunal. Examines the process of mediation, outlining the responsibilities of the parties, the strategy, bargaining power, and preparation of the client for mediation.


Explains in detail the process of adjudication before the Employment Tribunal under the ECA. Describes the physical setting, the adjudication format, cross ex-
amination, and the presentation of evidence.

This article examines the development and creation of the Coalition Agreement and analyzes areas of contention under the ECA: recognition of representatives, personal grievances, and fixed-term contracts.

Outlines general grievance procedure and dedicates sections to specific grievances such as unjustifiable dismissal, discrimination, sexual harassment, and duress. Also covers possible remedies and alternatives to the personal grievance procedure.

Examines the case law on lockouts under the ECA and investigates whether the bargaining environment of the ECA has made the lockout a more powerful weapon.

Discusses the implications or the rule in Addis v. Gramophone Co. [1909] A.C. 488, which denies damages for the harshness and oppression accompanying a dismissal from employment and any loss sustained from the discredit thrown upon that employee. This limit is inconsistent with the general principles of the law of damages, creating uncertainty about the application of the rule.

Compares U.S. at-will employment and its exceptions with New Zealand employment legislation and proposes the adoption of a "just cause to terminate" requirement for all U.S. employment contracts.

This article traces the historical development of rights dispute legislation in New Zealand, examines the role of the Employment Tribunal, and contrasts the Tribunal with the development of grievance procedures in the U.S.

Updates the commentary contained in Dismissal and Redundancy Procedures to take account of the ECA.

BARGAINING & TRADE UNIONS


Outlines Nash's axiomatic approach to wage bargaining and argues that under the ECA employers have less to lose from organized work disruptions than do employees. Wage levels will likely decline under the ECA unless it results in strong productivity growth. The ECA, it is argued, will have significant implications on monetary policy.


Outlines the statutory framework of wage determination as well as conciliation and arbitration procedures prior to the ECA. Suggests changes in wage determinations and union involvement in bargaining as a result of increased wage flexibility under the ECA.


Records a study of the impact of the ECA on unions and non-union bargaining agents. Discusses both trade unions and non-union agents, alternative worker agents, and employer agents.


Analyzes some cases interpreting the provisions of Part II of the ECA which relate to wage bargaining. Discusses the issues of authorization for collective bargaining and ratification of contracts.


This set of documents relates to the NZCTU's complaint to the Freedom of Association Committee of the International Labour Organization on February 9, 1993, regarding allegations of infringements of trade union rights in New Zealand.

Investigates the impact of the ECA on trade union membership. Two separate surveys were conducted in Dunedin, on the eve of the legislation and one year later.

Considers how much pressure labor law can allow to be used to force an employee to agree to an employer’s terms.

Compares how two statutes founded upon opposing principles as to the purposes of labor law have dealt with the problem of resolving impasses in bargaining when the statutes fail to include impasse procedures.

Explores the question why New Zealand union Density has declined under the ECA. Canvasses the ways in which law and its interpretation has contributed to this decline.

Intended for union educators, workers and members, this book focuses on union membership, bargaining and terms and conditions employees must include when negotiating employment contracts.


Argues that the primary impact of the ECA on labor law has been to abolish the legal status accorded trade unions. Discusses the achievements of the Council of
Trade Unions, the absence of the term union from the Act, and the work of the Employment Court.


Examines changes in collective bargaining and employment relationships with the introduction of the ECA. Analyzes bargaining outcomes of over 1,100 collective employment contracts which cover about 100,000 private sector workers.


Sees the ECA as responsible for the final demise of conciliation and arbitration as a means of resolving disputes. Considers collective bargaining under the new regime and presents data on union membership to illustrate the decline in union participation since the implementation of the ECA.


This article examines the effects of decentralization of collective bargaining in exchange for individual contracts, specifically focusing on trends in collective bargaining coverage and outcomes, union membership and density, and disputes and industrial disputation.


Reports on two empirical studies on the impact of the ECA, one on the collective bargaining system and the second on the changes in structure and membership of trade unions. Considers the collapse of collective bargaining and changes for those retaining collective coverage. Identifies the extent of the decline in union membership and union density.


Considers labor market relations in Australia, New Zealand, Asia, and the South Pacific in terms of two extreme strategic approaches: (1) The Unitarist Approach-based upon individualism and total acceptance of the free-market ideology and (2) Pluralist Collectivist Approach which continues to see a positive role from the collective, both at the macro and micro level, and continues to explore areas of mutuality in that relationship.

This article investigates the effects of labor market deregulation on unions and workers and identifies the pressures currently facing unions as a result.


Reports, through presentation of research data from case studies and a survey, on the structure of bargaining and associated contract structures emerging under the ECA. Surveys firms throughout New Zealand about their experiences in developing new contracts.


Examines how negotiation behaviors have changed since the advent of the ECA. Reviews the bargaining provisions of the Act and the influence of unionization in the determination of employment conditions.


This publication is intended to outline briefly the New Zealand Council of Trade Unions' contribution as a union movement to the goal of a fully employed, high-skilled, high wage economy. Argues trade unions are a legitimate part of the modern economic framework of New Zealand.


Examines factors that may influence employees in exercising their bargaining options. Suggests that collective bargaining and collective contracts, especially in the State Sector, will continue to be of central importance for many employers, but some groups of employees with special bargaining strengths will negotiate outside the main structures.


Details the key elements of a job which should be clarified on the outset of a working relationship. Defines the good employer concept and the requirement for contracts to provide effective procedures for the settlement of personal grievances and disputes. Discusses Alternative Dispute Resolution by arbitration, mediation, arbitration-mediation, and mini-trial. Explains grievance procedures stipulated in the ECA.
Part-time Employees


Argues that ECA disempowers those workers who most need assistance in employment bargaining. Recorded interviews and published research show the only factors which enable them to negotiate the terms and conditions of employment are education, financial status, and collective action.

People with Disabilities


Canvasses some issues that surround the employment of workers with disabilities under the ECA. Looks at ability of employees with disabilities to negotiate contracts from less comparable positions of strength and the underlying reasons for this imbalance. Discusses use of bargaining agents as mechanism for addressing this imbalance in power.

Retail Workers


Detailed account of the effects of the ECA on retail workers, setting out how the ECA has systematically undermined the pay and conditions of retail workers.

Women

BERI, Suzi, Bread, If We’re Lucky, But Roses are in Short Supply for Women in the Employment Contracts Regime, Wellington: Women’s Legal Group, Faculty of Law, Victoria University of Wellington, 1993.

Considers how women are faring in the employment regime. Undertakes analysis of women's experience from feminist perspective focusing on the bargaining regime and the situation for European, Maori, and Pacific Island women. Argues that the ECA formula will entrench inequality for women in employment.


Focuses on the impact of the ECA on retail workers, as a group of predominantly women workers, and the impacts on their union. Discusses impact of ECA in terms of unionization and bargaining power.

HAMMOND, Suzanne & HARBRIDGE, Raymond, The Impact of the Employment Contracts Act on Women At Work, Wellington, New Zealand: Industrial Relations
Examines the hypothesis that a legal regime based on principles of freedom of contract has no advantage for women workers and that women are in fact less well off in such a system. Presents analyses of empirical data on effect of ECA on collective bargaining coverage and content of collective contracts.


Studies a discrete and relatively homogeneous group of women workers who were located in the same segment of the labor market, to assess the impact of the ECA on their wages and working conditions, and to provide a fuller picture of the ECA’s impact across the New Zealand workforce.


Studies union organizing of occupations in which women are typically employed. Examines variety of ways in which the ECA has impacted the unions which cover predominantly female occupational groups.


Outlines the changes to the Equal Pay Act 1972 and other relevant legislation made at the time of passage of the ECA. Discusses what meaning and coverage remain. Suggests that the legal uncertainties and accentuation of previous difficulties in using the legislation, in the current economic and industrial relations climate, render it almost useless.


Presents a feminist critique of recent events in New Zealand. Chapters four through six focus on employment and the impact of the ECA.


Discusses women at work in terms of (1) the nature of the employment contract, (2) the history of the development of labor law, and (3) changes caused by the ECA. Examines the necessity of a minimum code for employment and suggests its content and enforcement.

SAYERS, Janet Grace, Women, The Employment Contracts Act and Labor Flexibility, Palmerston North, New Zealand: Department of Human Resource Management, Faculty of Business Studies, Massey University, 1992. A working paper discusses some of the implications of “labor flexibility” under the ECA for women workers, particularly in the areas of part-time work, union organization, and skill levels. Discussion uses a post-fordist model which visualizes three tiers in the labor market: core workers, peripheral workers, and external workers. Author concludes by suggesting future research projects.

WILSON, Margaret, Contractualism and the Employment Contracts Act 1991: Can They Deliver Equality For Women? New Zealand Journal of Industrial Relations, 1994, 19(3):246-74. Considers whether employment equity for women will ever be possible under the ECA. Reviews the inequality of women’s lack of bargaining strength under the past and present frameworks and discusses the relationship between women’s political power and contractual bargaining strength.

WRIGHT, Frances M., Equal Pay and the Employment Contracts Act 1991, Auckland University Law Review, 1993, 7(2):501-08. Claims that the philosophy of the ECA and the institutional system within which an equal pay claim would now have to be brought are so different that the Equal Pay Act 1972 is virtually useless. Looks at the English Equal Pay Act 1970, which was designed to operate in an individual contract environment.

**Effects of the Employment Contracts Act**

*Economic Effects*

BAIRD, Charles W., The Employment Contracts Act and Unjustifiable Dismissal: The Economics of an Unjust Employment Tax, Wellington: New Zealand Business Roundtable, 1996. Argues that the principle deficiency of the ECA is the imposition of an unjustifiable dismissal restriction which, in effect, reassigns job property rights away from employers to employees. It is argued that this constitutes a tax on employers and a benefit (increased job security) for employees. Reference is made to two empirical studies in the United States.

This article criticizes the ECA as promoting minimal economic benefit and poor productivity growth, based on empirical evidence and systematic analyses.


Considers the economic outcomes of the ECA by looking at empirical evidence. First part of the paper reflects on how the period since 1991 measures up in terms of economic performance—with particular focus on labor market outcomes and extent to which ECA can be linked to improved performance. Second part of paper reports on firm level, which provides micro-perspective.

**Employment Levels & Wage Rates**


A study estimating the effects of the ECA on employment levels and average wages rates in New Zealand. Argues that these results are related to the decline of unionization evident in New Zealand since the passing of the ECA.

**State Sector**


Considers what the changes brought by the ECA have signified in the state sector. Highlights three historical moments in New Zealand's employment history: 1912, 1962 and 1968. Warns that the ECA will increase state sector disruptions in industrial relations in the medium term and Government will in time significantly change employment law.

**Types of Work**


Defines 'non-standard' as other than permanent and full-time employment. Concludes that the ECA has not yet facilitated a pronounced shift to non-standard employment, but employers may expect it to increase.

**Work Stoppages**


Analyzes the main stoppage statistics 1960-1993, examining the size, duration, and monetary cost of work stoppages, and considers reasons for the trends in these data and some implications arising from these developments.
General Studies


Surveys labor market adjustment under the ECA and indicates adjustments have occurred, particularly in terms of employment contracts structures and several important bargaining issues.


Findings on the effects of the ECA reported in terms of attitudes towards the Act and its effects on workplace relations, unionism, and use of bargaining agents, youth and female employees, wages and conditions, productivity, level of employment, labor market efficiency, and international competitiveness.


A statistical analysis that attempts to determine whether, under the ECA, employers' pursuit of individual contracts, rather than collective agreements, resulted in increased organizational performance.


Reviews the effects of the ECA through primary data such as actual employment contracts gathered from a wide range of businesses and unions.


An update to paper by Harbridge & Moulder (1993): reviews the effects of the ECA through primary data such as actual employment contracts gathered from a wide range of businesses and unions. Considers the structure of collective contracts and content of contracts—especially with respect to wages and working time arrangements.


Focuses on the impact and outcomes of the ECA on the New Zealand labor market, using selected companies as case studies. Argues that similar or better economic outcomes, with less social divisiveness, could have been achieved by an
alternative strategy.


Comments on employment law developments since the ECA. Primary emphasis on legal developments but also considers political, social, and economic aspects. Considers debate as to whether the main aim of the ECA, to restore the contract as the central feature of the employment relationship, is being thwarted by judicial and quasi-judicial interpretation.


This article describes the beneficial impact the ECA has had on employers, employees, and the New Zealand economy, while also addressing the inevitable implications of such substantial legislation.


This article traces the historical development of New Zealand industrial relations legislation. It praises the ECA due to its positive contribution to the economy, improved unemployment rates, and better labor market relationships.


Collects the conference proceedings which address a wide range of labor and employment issues since the enactment of the ECA.


Published as part of role to monitor the practical effects of the ECA for members. Argues that six months have been sufficient to identify positive outcomes of the legislation and isolate areas of concern for employers.


A survey of over 10,000 Employers' Federation members of the four regional associations to determine not only what has taken place as a result of the ECA but how the process occurred.


A second survey of labor market adjustment. Comprises two surveys of employees and enterprises. Objectives of the studies were to investigate the size and
coverage of employment contracts, the method and selection and type of representation used in the bargaining process, the process by which contracts are concluded (including dispute resolution), and the effects on overall market flexibility.

This article attempts to settle frequently disputed issues regarding productivity, unemployment, and the economic impact of the ECA through a statistical analysis.

A firm-level survey to investigate the impacts of the ECA. Looks at changes to industrial relations, employment contracts, labor market outcomes, and the firms surveyed.

Brief speech notes and OHPs of discussion of the achievements of value for employers in light of the ECA. Outlines economic performance, employee satisfaction, stoppages, employment figures, and wages.

Reports on the second of two surveys, conducted by the Heylen Research Centre in late 1993, contracted by the Department of Labour to assess labor market adjustment.

MODEL CONTRACTS


GENERAL

Focuses on the changed nature of bargaining, the role of trade unions, and the
change to a contract-based system of labor law brought about the ECA. Explains that the emphasis is not on individual workers confined to their own workplace and the fundamental relationship is between employer and employee. Assesses the importance of the Employment Court and the retention of personal grievance and dispute procedures.


Explores the case for expanding and improving the minimum code of employment protections. Argues that recent changes to these protections, in particular the ECA and the decline in social welfare entitlements, have left many people vulnerable to exploitation and poverty. Explains that adequate minimum code encourages more efficient use of labor.


Notes that the intention of the ECA was to "break the mold" in the area of industrial relations and human resource, and argues that this has occurred. Looks at the role and function of the employment tribunal, roles and opportunities for lawyers, redundancy, and recent developments with respect to partial lockout and implied terms.


Outlines objections the New Zealand Labour Party has to the ECA and outlines proposed new legislation of the Labour Party—The Labour Relations Act.


Outlines distinction between dependent and independent contractors and uses the social dividend model to establish access to employment law protection. Considers the position of dependent contractors in New Zealand and recommends including them in an extended coverage of the ECA.


Relates experience with the ECA to current issues in Canada.


Examines employer proposals for labor law reform which led to the ECA and considers the nature of the campaign to promote the Act.

An introduction to the ECA and its effects on unions and collective bargaining in New Zealand, as well as its possible impact on other countries.


Contains a variety of papers and abstracts including: An Assessment of the Impact of the ECA on Bargaining Arrangements; Changing Patterns of Employment Relationships; Disputes and Grievances under the ECA; Common Law v. Labour Law: The New Zealand Debate; Labour Market Deregulation and the State Employer.


Describes and analyzes the origins, theory, history and politics of changes in policy, with chapters six and seven focusing on changes in the labor market and unions.


Comprises seven individual papers: (1) An Overview of the Impact of the ECA on Labor Law; (2) Address by the Minister of Employment; (3) Aspects of the Right to Strike and Lockout under the ECA; (4) Personal Grievances; (5) Implications of the Privacy Act; (6) Enforcing Safety Standards; (7) Address of Labour Spokesperson on Employment.


Brief paper which considers what the general attitude to specialized courts (such as the Employment Tribunal and Employment Court) should be, and how an employment contract—particularly a contract designed to terminate at the end of a fixed period—should be viewed. Also includes discussion on the economics of unjustifiable dismissal.


Outlines (1) the important distinction between contracts OF services and contracts FOR services; (2) what should be put into an employment contract and what can be left out; (3) how to conduct an employment-related case, and (4) latest case law on bargaining, partial lockouts, restraint of trade covenants, constructive dismissal, and redundancy dismissals.

Introductory workbook on New Zealand employment relations discussing: (1) system of employment relations; (2) role of each party to the employment; (3) contracts of employment; (4) bargaining process; (5) terms of the contract; (6) enforcement provisions in the employment contracts act; (7) personal grievances; (8) employment equity (EEO); and (9) work organization and workplace reform.


Reprints a number of different papers which are split into three sections: Overview, Effects on Employers, and Effects on Workers and their Unions. Papers include the following: Bargaining and the ECA; An Overview; Collective Employment Contracts; A Content Analysis; Personal Grievances; The ECA in the State Sector; The Process of Developing Employment Contracts; A Management Perspective; Women, The ECA and Labour Flexibility; Organizing Workers; The Effects of the Act on Union Membership and Organization.


Splits into two sections. Section One presents data collected on a wide range of different employees and specific terms of employment (such as wages and leave provisions). Section Two contains an update on case law heard over the last twelve months (such as personal grievances, redundancy, holidays, and health and safety).


Key legal aspects of the ECA are considered, such as the nature of employment contracts, redundancy agreements, creation of an employment contract, formal requirements, dispute procedures, expiration of contracts, the s57 jurisdiction: harsh and oppressive contracts. Also looks at strikes and lockouts and enforcement within the Employment Tribunal and Court.


Examines legal ramifications of the Employment Contracts over first twelve months. Considers cases relating to freedom of association, bargaining, harsh and oppressive behavior, lockouts, and dismissal. Mentions the impact of the Bill of Rights.

HUGHES, John, The Role of Labour Law: The Future of Institutions and Personal Grievances, Wellington: Industrial Relations Centre, Victoria University of Wel-
BIBLIOGRAPHY

Examines the likely legal consequences in relation to personal grievances and institutional arrangements should the Employment Contracts Bill 1990 be passed in its [then] present form.

Canvasses procedural changes and likely changes introduced by the ECA; outlines remedies available to aggrieved parties and outlines the ECA’s relationship to other workplace legislation.

Examines statutory provisions on discrimination, including ECA, Race Relations Act, and Human Rights Commission Act. Outlines remedies available and analyzes grounds for a charge of discrimination and types of behavior constituting sexual harassment under the ECA.

KIELY, Peter & CAISLEY, Andrew, One Year of Practice With the Act, New Zealand Journal of Industrial Relations, 1992, 17(2):233-41.
Outlines topics which have emerged over the first twelve months since the passing of the ECA. Discusses the sanctity of contracts, the “right to manage,” the expiry of collective employment contracts, implied terms, partial lockouts, strikes and lockouts, and picketing.

Discusses common options available to employees when terms of employment change. Concludes that both employer and employee should plan for contractual changes and incorporate terms of redress in the employment contract.

Focuses on negotiating skills which have become an important feature of New Zealand employment with the ECA, as well as the wider environment. The aim of the text is to enhance the opportunities presented by the new legislation so parties can negotiate from an informed position. Topics covered include resolving conflict and skills for negotiation.

Concludes that judges have not clarified the confusion and philosophical inco-
herence of implied term of trust when applying it to employment law. Suggests that while the courts have focused on the employer’s obligations they can also fruitfully apply the term to employee’s obligations.


Papers: (1) ECA: A Permanent Fixture Celebrates the ECA and its Benefits; (2) What do we Know about the Economic Impacts of the ECA?; (3) Labour Markets that Work (NB: OHPs only); (4) The ECA and Workplace Best Practice; (5) Freedom of the Labour Market—Some Australian Reflections; (6) Small Business benefits of the ECA; (7) Maori and the ECA; (8) Why New Zealand is Doing it Right; (9) Women and the ECA; (10) Deregulation of the New Zealand Labour Market: Things Done and Left Undone; (11) Why Not Full Employment by 2000?


Overviews practical aspects of the recently passed ECA, including, the status of current awards, employment legislation which shall continue to apply under the new Act, negotiation and the use of bargaining agents, occupational health & safety, and the status of unions. Includes a flow-chart of contract negotiation.


Criticizes the labor relations policy of the Labour Party in its proposed Labour Relations Act. Defends the ECA. Compares both policies with the International Labour office.


Describes the debate between government, employers, and unions on the need for the employment contracts legislation. Focuses on the principle of labor market flexibility which underlies the act, whether this will achieve economic development, and if there is sufficient legislative protection from exploitation for workers.


Explores the concept of the collective contract and its relationship to individual contracts. Queries precise legal status of individual arrangements entered pursuant to s19(2) and why these have not hitherto raised conceptual difficulties.
BIBLIOGRAPHY


Author examines the ECA in operation and, while acknowledging that the philosophy of the Act has been compromised by the courts, suggests that this stems from fundamental contradictions and misconceptions apparent in the Act itself, rather than from judicial activism or misinterpretation.


Presents a model of how the labor market works which may be used as a basis for analyzing the impact of the ECA.


Reports on how debate over ECA was conducted in the media, considering different symbolic resources available to capital and labor and structural inequality between them. Explains changes in nature of media organizations and summarizes the findings of the media coverage of the Employment Contracts debate in light of these.


A guide to dealing with sexual harassment claims under both the ECA and the Human Rights Act. Warns that after a claim has been started under one of these Acts it cannot be brought under the other.


Gives brief analysis of recent macro-economic trends in the New Zealand labor market, followed by an assessment of the implications of these developments for sub-labor market groups and for productivity and real wages. Notes changes resulting from ECA and outlines future impact.


This paper indicates the significance of the changes made between the ECA, as introduced and as reported back from the Labour Committee to the N.Z. House of Representatives on April 23, 1991.


Discusses changes in the legislation governing employment. Describes the salient
features of the ECA. Surveys the most important case law in relation to the law of dismissal and the obligations of receivers who take over the running of a company.


Author argues there is a clear need to provide greater protection for workers under the ECA, and that the court is unable to override the clear requirements of the law. He suggests that the Employment Court has been subject to criticism from the Business Roundtable and the New Zealand Employers' Federation whose agenda is to have the Court abolished. Suggests worker's rights are being reduced and calls for repeal of the ECA and substitution of a fairer regime.

ADDENDUM:
Transcripts of interviews conducted by Professor E.J. Dannin are held in Alexander Turnbull library.

This bibliography was prepared by:

AVAILABILITY OF MATERIALS:
For assistance in obtaining any of the materials listed in the above bibliography, contact the Law Library at Victoria University of Wellington (Tel: (04) 472-1000, Fax: (04) 495-5161, E-mail: <Victor.Lipski@vuw.ac.nz>, or the Auckland District Law Society Library (Tel: (09) 303-1040, Fax: (09) 303-3359, E-mail: <Research@adls.org.nz>.)