

THE DECLINE IN COLLECTIVISM AND EMPLOYER ATTITUDES AND BEHAVIOURS: FACILITATING A HIGH-SKILL, KNOWLEDGE ECONOMY?

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The decline in collectivism and employer attitudes and behaviours: facilitating a high-skill, knowledge economy?¹

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Abstract

This paper overviews and explains the fundamental shift away from collective bargaining and industry arrangements to individualised and workplace based employment relations in New Zealand in the last two decades. While researchers have pointed to many explanatory factors ‘driving’ this shift away from collectivism, this paper will overview the changes in legislative frameworks and then focus on the role played by employers and their associations. This is partly because the role of employers has been under-researched in New Zealand employment relations and partly because it allows us to draw on several recent research projects and their empirical research findings. The paper suggests that the decline in collectivism may have serious unanticipated outcomes which have yet to feature prominently in employer discourses on employment relations. In particular, it is argued that it may jeopardise a move towards a high-skill, high-wage economy as tripartite efforts in training and education are undermined and a low-cost, low-skill equilibrium is becoming embedded.

Introduction

In line with many other OECD countries, there has been a fundamental shift away from collective bargaining and industry arrangements to individualised and workplace based employment relations in New Zealand in the last two decades^{i, 3}. In explaining the decline in collectivism in New Zealand, there have been a number of explanatory factors highlighted by recent research, including legislative changes, the so-called ‘representation gap’ because of insufficient union reach, unions’ inability to secure industry or multi-employer collective agreements, employer resistance or lack of support, and employee apathy or lack of interest in collective arrangementsⁱⁱ. In this paper, we will overview the important and turbulent changes to legislative framework and then focus on the role of employers as there has been limited research of employers and their associations in New Zealand.

The paper’s discussion of collectivism and the role of employers highlights that this is an area where there has been little research on New Zealand trends and issues. As such, the paper draws on three research projects. First, individual employers’ strategies, attitudes and behaviours have been surveyed through a national survey of private sector firms employing 10 or more staffⁱⁱⁱ. Overall, the survey found that employers have little interest in collective bargaining and they didn’t think that their employees had an interest either. There appear to

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³ In this paper, footnotes are restricted to comments and detailed explanations while references can be found in the endnotes.

be two distinct groups amongst employers: if employers are involved in collective bargaining they have a more relaxed and positive approach to collective bargaining, as opposed to employers who are not involved. However, the first (positive) group of employers was a relative small minority and they were mainly representing large firms in traditional industries. It is expected that these employers will decline in numbers over the next decade. Second, our research on employer associations indicates that there is a strong opposition to collective and bi- or tripartite arrangements in employment relations amongst private sector employer organisations. For example, the leading employer confederation – Business New Zealand – has been opposed to a development of industry-level collective bargaining. It has also voiced its opposition to the 2000-2007 employment relations reforms, which have favoured collective bargaining and increased statutory employment minima^{iv}. Third, there have been attempts to build tripartite and bipartite support around skill development and industry training. As will be demonstrated, this is one of few areas where employers and their organisations appear to have some interest in tri- and bipartite collaboration but it is also an area where there have been – despite some interesting examples of industry collaborations – an inability to establish a comprehensive and successful approach to skill development. With this strong employer preference for individual bargaining, reduced state intervention and failure to establish tri- and bipartite collaborations, the future of collectivism in New Zealand appears grim.⁴

Under the 1999-2008 Labour governments, tripartite initiatives gained significant headway (at least at the policy level) and several key tripartite initiatives originated in this period; notably the ‘Skill New Zealand Tripartite Forum’ which sought to establish a unified national skills strategy. Our research highlights that skill development and industry training has been an area of overlapping employer and union interests and there are several examples where there have been tripartite collaborations^v. However, doubt is raised whether the collaborations have been sufficient to overcome historically weak skill development and facilitate a high-skill, knowledge economy. Whether such employer-union collaborations can survive public policy changes in the post 2008 period is also questioned with economic, labour market and policy changes adversely impacting upon collective arrangements.

Finally, the outcomes associated with the decline in collectivism will be discussed. The public debate has focused on changes in employment conditions but it has also been suggested that the decline in collectivism could raise serious obstacles for achieving a high-wage, high-skill economy. These obstacles are briefly overviewed and currently New Zealand appears to continue the move away from being a high-wage, high-skill economy. Generally, the so-called New Zealand ‘experiment’ and the evaluation of key employment relations processes and outcomes are internationally important since the recent employment relations have covered two different approaches: one of the most deregulatory public policy approaches to employment relations amongst OECD countries has been followed in the new millennium by a public policy approach inspired by European ‘social democracy’ understanding^{vi}. As such, the paper raises considerable doubt about the efficacy of limited state intervention and decentralised employment relations and it highlights the complexity

⁴ The public sector is an area where the decline in collectivism has been less pronounced though this may partly be explained through a strong positive effect of the 1999-2008 Labour Governments. In fact, public sector employment relations post 2000 has witnessed a number of new bargaining arrangement and attempts to develop workplace partnerships. While public sector employment is currently under political and economic siege several of the new employer-union arrangements have endured during the global economic crisis.

and indeterminacy surrounding the possible role of employment relations in fostering the elusive high-wage, high-skill knowledge economy.

Collectivism and legislative framework changes

For many decades, New Zealand employment relations was rather stable with various iterations of the Industrial Conciliation and Arbitration Act constituting the core legislative framework and the legislative based award system dominating collective bargaining.⁵ This stability started to slowly evaporated around 1970 and New Zealand employment relations has now been in turmoil for nearly three decades with major changes in the 1980s, the 1990s and post 2000. Currently, it is a concern whether a solid consensus can be build again and there is much speculation when further changes will be fostered on employers, workers and their organisations.

In the 1980s, there were considerable changes to the political, industrial and social context as the Labour Party opened the economy and various industrial sectors to international competition, drove through tax and social reforms and implemented radical public sector changes^{vii}. It was these changes, more than attempts to reform employment relations, which started to facilitate fundamental changes in employment relations and bargaining patterns. There were several important public policy interventions in employment relations in the 1980s – the abandoning of compulsory arbitration in 1984, a new legislative framework in 1987 (The Labour Relations Act), and a raft of adjustments to legislative minima – but these changes had rather limited effects. The narrow adjustments to social welfare and employment relations have been underlined by many researchers^{viii}.

Instead the Employment Contracts Act 1991 (ECA), introduced by a right-wing National Government, heralded an employment relations ‘revolution’ in the 1990s as the traditional conciliation and arbitration system was abandoned, the award system abolished, union promotion exchanged with non-prescriptive ‘bargaining agent’ status and individual bargaining was elevated in status. Often described as an ‘employers’ charter’^{ix}, the ECA constituted probably the most radical public policy shift found amongst OECD countries with a non-prescriptive approach to bargaining and union activity. The limited regulation of bargaining facilitated a sharp shift from industry and occupational based bargaining to workplace and individualised bargaining, a steep decline in union density and new forms of employee representation^x. Within 5 years, union density was halved to around 20% and collective bargaining became ‘ghettoised’ to a few traditional sectors where large workplaces tended to be prevalent (see Tables 1 and 2). During the 1990s, unions entrenched, restructured and accommodated employer demands while ‘collective contracting’ became a major part of collective bargaining.

Tables 1 and 2 here

The shift towards workplace and individualised bargaining/contracting was also encouraged by individual employment rights and new employee attitudes. There was a remarkable expansion of individual employee rights in terms of human rights, privacy and personal grievance rights^{xi}. The Employment Contracts Act abandoned the distinction between collective and individual employment contracts – with the pre-1991 legislation only dealing with collective arrangements – and this allowed employees on individual contracts to pursue

⁵ For a brief historical overview, see chapters 3, 4 and 5 in Rasmussen 2009, op. cit.

their grievances through the low cost, easy accessible employment institutions.⁶ While the rise in individual employment rights fitted well with the National Government's anti-union strategy, it became less popular as managerial and professional employees started to enforce their employment rights, particularly testing the procedural obligations of dismissals, and obtaining compensation within and outside (out-of-court settlements) the employment institutions.⁷

With a new Labour Government elected in late 1999, it was expected that a strong focus on collectivism would occur. The Employment Relations Act 2000 (ERA) has a professed emphasis on enhancing collective bargaining and developing 'productive employment relationships'. It was implemented subsequent to a major wave of employer criticism of its new protection of union activity, supporting collective bargaining and overcoming the individualism of the ECA.⁸ There were several measures to bolster unions: better workplace access, exclusive bargaining rights for registered unions, 'good faith' bargaining obligations, and abolishing strike restrictions on multi-employer bargaining. The ERA also outlawed 'collective contracting' as only registered unions could conclude collective agreements and thus, employers who had previously relied on 'collective contracting' had only two choices: either to negotiate with unions or implement individual employment agreements. On the other hand, the ERA continued the strong individual employment rights found in the ECA and associated legislation. In particular, the ERA continued to cover both individual and collective agreements and the emphasis on a low cost, easy accessible personal grievance right for all employees was strengthened. There was also a considerable increase in statutory employment minima – both in terms of their level and number (see below).

“The ERA has been a bit of enigma. Its main aims in terms of building productive employment relationships and promoting collective bargaining have yet to be achieved but it has also ensured that its other aims –protection of individual choice, the promotion of mediation and reduction of judicial intervention –have been embedded.”^{xii}

Personal grievance rights have become an important, contested feature of New Zealand employment relations (see below) and act as a crucial counterweight to collective bargaining rights. There have also been a string of other new or enhanced individual employment rights in the new millennium: paid parental leave and a fourth week of annual leave have been introduced, statutory minimum wage increased by nearly 70% during 1999-2008, flexible working hours can be requested and the compulsory retirement age has been abolished. The importance of these employment rights have to be considered in a context where union and collective bargaining coverage of low paid workers are normally very patchy or non-existent. This considerable extension of individual employment rights has undoubtedly had some influence on employee interests in union membership. For many people in the lower end of the labour market their employment conditions have mainly been improved by either market forces or statutory minima prior to the global financial crisis. On that background, Rasmussen

⁶ Instead the key distinction became between employees and contractors and this has continued to today.

⁷ The new importance of individual employment rights and legal precedent is discussed by several articles in *California Western International Law Journal*, vol. 28, no. 1.

⁸ For overviews of the ERA and its associated outcomes, see Rasmussen 2004, 2009, 2010, op. cit.

et al.^{xiii} asked why employees should become union members if employment gains were provided through government intervention?

In late 2008, there was a political power shift when a National-led government gained office. Interestingly, employment relations was hardly discussed⁹ and the National Party announced explicitly that it would keep the Employment Relations Act though with some modifications. However, it has been suggested that “the National Party’s policy would involve considerable change to the existing public policy platform.”^{xiv} ¹⁰ as it would seek to implement the following changes:

- Removing the union monopoly bargaining rights for collective agreements, to allow non-union workers to enter into collective agreements;
- Reviewing personal grievance procedures;
- Introducing an optional ‘probationary period’, where new employees would not have access to personal grievance provisions;
- Reducing compliance costs, and in particular, removing ACC’s monopoly over workplace injury insurance;
- Revisiting the Holidays Act.

Some of these changes have already been implemented, some of them are still being considered and further changes have started to be discussed. As discussed below, most of the changes point in the *opposite* direction to a high-wage, high-skill economy. For example, are reducing statutory minima the way to encourage employers to improve wages and other employment conditions? It also appears a short-term solution to allow people to ‘sell’ one week of annual leave when most people only have 4 weeks annual leave entitlements and when long working hours have become a well-recognised problem^{xv}. As Rasmussen and Anderson^{xvi} have illustrated, the policy changes promoted by the National Party have clear links to the defunct policies of the 1990s. The main difference is that the envisaged changes come into play in a piecemeal fashion and thus public policy changes appear less of a frontal attack on collective bargaining, unions and employee conditions, compared to the policies of the 1990s.

This link to the 1990s policies has become more obvious following the government’s announcement of 32 proposed policy changes in August 2010 which further undermined employee and union rights. This approach to employment relations has become a part of government strategies to overcome the fall-out from the global financial crisis and the earthquake devastation of Christchurch during its second term. Still, there are few public policy analyses which link employment relations changes to the wider economic debate about

⁹ It was a deliberate strategy to keep employment relations off the election agenda, as it also was in the 2011 general election, as the announced changes would impact negatively on many voters.

¹⁰ The importance of these changes has been debated in New Zealand with some researchers arguing that the current government’s labour law reform is not that substantive (see eg. Hodge 2010). Hodge, B. (2010). ‘What’s all the fuss about the 90-day trial period?’ *Sunday Star-Times*, 22 August 2010, p. A6.

New Zealand's relative decline.¹¹ Instead there appears to be an attempt to facilitate more productive employment relationships through increased 'flexibility' (read a relative decline in employee protection and employment rights) and by facilitating employer prerogatives through a sharper focus on employee and union rights.

This attack on collectivism under the post 2008 National-led governments can be ascertained in several recent changes. First, there have been public clashes between unions and the government and government threats of removing union bargaining rights and access to workplaces have featured in media reports. This has included the stand-off over the 'Hobbit case' where workers in the film industry had their employment status changed from employees to contractors,¹² the lack of consultation over changes to industry training (see below) and the quiet abandoning of the Decent Work programme. Second, the National-led Government has abandoned explicitly the partnership approach which was developed between the previous Labour Government and the Public Sector Association (PSA). This policy shift has coincided with a much tougher approach to collective bargaining and employment in the public sector. It has also impacted on the Partnership Resource Centre which was heavily involved in public sector partnerships and after funding cuts during 2009-2010 and it has now been totally abolished. Third, new employees have no longer a guaranteed personal grievance rights during their first 90 days of employment. This is a significant departure (prior to the 2008 general election) from the general rule that all employees have a personal grievance rights. While it is still unclear what the actual effects have been,¹³ this could exert downward pressure on employment terms and conditions and on employment experiences for many new employees in a national labour market where labour force mobility is high.

Collectivism – trends and issues

While the introduction of the ERA prompted a halt to the decline in union density and has seen union membership rise above level of the late 1990s, it has not shifted unionism and collective bargaining to a higher level. As can be seen from Table 1, union density has hovered around 20%-22% as initially the growth in the labour force impacted negatively during the 2000-2008 period. This has meant that a relatively strong growth in actual union members – around 25% during the 1999-2009 decade – has had limited impact on union density levels. While the moderate effects on collective bargaining and employment relationships prompted further adjustments to the ERA in late 2004 these adjustments have had very limited impact and, as mentioned above, the tide has turned post 2008. These limited gains – particularly the inability to establish new major growth areas – has made unions and collective bargaining vulnerable in a situation where employer resistance has combined with political pressure to curtail collectivism.

¹¹ Though see the discussion in Haworth (2010b) where employment relations is aligned with attempts to overcome unsatisfactory productivity levels. Haworth, N. (2010b). "Fire at will' measure damaging to labour performance and economy.' *Sunday Star-Times*, 29 August 2010, p. A6.

¹² The controversy over the film industry changes has been discussed in detail in the special issue of the *New Zealand Journal of Employment*, 36(3).

¹³ The New Zealand Work and Labour Market Institute has just started a regional research project to investigate the possible effects (for more information, please contact the Institute: www.walmi.aut.ac.nz).

While there can be no doubt that the union hostile legislation of 1990s contributed to the decline in collectivism it is less obvious why union density stagnated in the new millennium (including a drop in union density and membership in the private sector). This is rather paradoxical considering that the legislation had and still has explicit objectives about supporting collectivism. It has already been mentioned that the legislation could be stronger in supporting collective bargaining and it has continued and enhanced the emphasis on individual employment rights. There have been other factors mentioned ^{xvii} and we will briefly discuss them before we focus on employer attitudes and behaviours:

- the existence of a ‘representation gap’
- the unions’ inability to gain ground on multi-employer collective agreements
- employee apathy or lack of interest
- employer resistance or lack of support.

The work by Haynes et al. ^{xviii} and Charlwood and Haynes ^{xix} have attempted to explain the reasons why there is a ‘representation gap’. In particular, Charlwood and Haynes found – on the basis of analysing the New Zealand Election Study surveys – that ‘receding union reach’ (ie. a ‘representation gap’) was a core explanation of union decline during 1990-2002. As this alludes to awards and ‘blanket coverage’ being abolished by the ECA 1991, this is probably not surprising. In fact, unions have clearly stated that in terms of organising efficiency and limited resources they would mainly consider large workplace and existing organised workplace. With a plethora of small workplaces, there are many workplaces where unions are totally absent and they can’t provide effective representation. While there have been some successes in the fast-growing service sectors ^{xx}, the reality is that union density in fast-growing sectors is low and the vast majority of workers are without any connection to unions, union membership and union representation.

It was expected that unions would try to foster multi-employer or industry-level collective agreements under the ERA. However, unions have continuously complained that it was very difficult to establish such agreements ^{xxi}: the prescribed bargaining process was rather cumbersome, unions lack sufficient muscle and employers were unwilling to enter into multi-employer agreements. Besides the public sector and few key multi-employer agreements, there has been no significant progress under the ERA and some union leaders still rue that lost opportunities. Instead they have made multi-employer agreements and some kind of extension mechanism – an *erges omnes* extension – for industry or organisational groups of employees ^{xxii}. Coverage of so-called dependent contractors has also become a representation issue as many dependent contractors are now receiving incomes around or below the statutory minimum wage ^{xxiii}.

There have also been several suggestions that unions are less relevant and employee apathy or lack of interest can explain some of the decline in collectivism. For example, many employers have claimed their employees are not interested in joining unions and this appears to have some validity (see below). It is interesting that Waldegrave et al. came to the conclusion – based on very comprehensive survey and qualitative research – that employee apathy was a contributing factor to union decline ^{xxiv}. While this is the opposite explanation to the ‘representation gap’ hypothesis, it can draw on several traditional explanations of union decline, including that societal changes have prompted a reduction in class and union consciousness, that generational and occupational differences – and especially union membership not being an ‘experienced good’ – can contribute to employee apathy, and that

cost-benefit evaluations may play a role. This is clearly an area where more New Zealand research is necessary.

Employer attitudes to collective bargaining

Above we pointed to some of the key explanatory factors which have appeared in the New Zealand debate of the decline of collectivism. Thus, although we focus on employer attitudes in the following, employer antipathy (or employees' perception of negative employer attitudes) can only be seen as one of several factors in a rather complex decision-making process surrounding collective bargaining and union membership^{xxv}. Still, employer attitudes, behaviour and strategies have become crucial in influencing the employment relations outcomes and processes in New Zealand as employment relations have been decentralised, union presence has declined, and individualised employment arrangements and rights have increased. Unfortunately, there has been limited research into the employers' attitudes to collective bargaining or even to employment relations matters in general.

The sparse available research on employer roles, attitudes and behaviours indicates that there has been an attitudinal shift in favour of individualism and unitarist employer opinions in the last couple of decades. For example, a 1986 survey found that pluralist ideology was prevalent amongst managers^{xxvi}. Likewise, McAndrew and Hursthouse^{xxvii} concluded that employers preferred national agreements as opposed to enterprise agreements because of the increased costs and greater chances of conflict associated with the latter. It seems obvious to many observers that the Employment Contracts Act shifted the context in which employers made decision and it probably also facilitated a stronger employer animosity towards collectivism and this has continued under the Employment Relations Act^{xxviii}. This interpretation is also supported by recent surveys of employer attitudes which have concluded that managers have become more unitarist in their opinions about employment relations in their workplaces^{xxix}. Recent research conducted by the Department of Labour^{xxx} has further buttressed the idea that employers are quite happy with conducting direct bargaining/negotiations/discussions with their employees but, as a group, they have limited time or trust in unions and collective bargaining.

On that background, researchers from Massey University and Auckland University of Technology decided to survey employer attitudes to collective bargaining. This would explore how much employer attitudes had shifted since the above mentioned survey of McAndrew and Hursthouse^{xxxi}. It would also investigate whether there were a range of employer attitudes and, if so, what factors were influential in explaining difference. Three surveys were carried out providing a national coverage of private sector organisations which employed ten or more staff.¹⁴ These were undertaken using a cross-sectional survey design where the surveys matched the sample demographics used by previous New Zealand studies^{xxxii}. The three surveys involved a self-administered questionnaire; in two regions (the lower half of the North Island and the South Island) and in the third region (the upper half of the North Island) an online survey was used. The response rates ranged from a disappointing 8%

¹⁴ A more detailed description of the applied methodology can be found in Cawte 2007; Foster et al. 2011. Cawte, T. (2007). *Employers Attitudes Toward Collective Bargaining: a Comparative Study*. Honours Degree Dissertation. Massey University, Palmerston North. Foster et al. (2011), op. cit.

for the online survey to 19% and 21% respectively for the two postal surveys. The survey information was also supported by in-depth interviews with 30 employers.

Table 3 here

As discussed in other articles^{xxxiii}, there were many different opinions amongst employers but we also could ascertain two distinct groups of employers. This is highlighted in Table 3 above which illustrates how the attitudes of employers *who are engaged* in collective bargaining differ from the attitudes of those employers *who are not engaged* in collective bargaining. The table highlights those variables that are of significance to employers' attitudes toward the process of collective bargaining (such as, the interest of employees in the process, its relevance to the business, and whether collective bargaining has been considered at all). Taken as a whole, those variables showed marked differences between the two groups of employers. Of those engaged in collective bargaining, only 21% believed their employees lacked interest in the process. Of those not engaged, the proportion is reversed with 70.1% arguing that their employees lacked any form of interest in collective bargaining.

The differences in employer opinions were confirmed by the interviews, though a strong individual approach clearly *prevailed*:

"Our staff have had no desire to negotiate collectively. To be honest, the staff are not interested".

"The employees at my place prefer to deal with me face to face rather than being represented by a third party. There is ability for them to discuss their individual performance rather than being locked into a collective agreement".

Furthermore, while the negative attitudes to collective bargaining appeared rather firm amongst employers who were not engaged with collective bargaining, it appeared that the positive attitude amongst employers who were engaged with collective bargaining was tinged with some reservations. In the interviews, some employers involved in collective bargaining found that it was not relevant because of the quality of the relationship with the union or because the workplace had no major problems (according to the interviewed manager). There were also some of the employers who were engaged in collective bargaining who either found the bargaining costs too high or didn't think that it added much to the business. Again, this would depend on the ongoing relationship with the union but it was also associated with transaction costs: could a comprehensive 'package' covering many employees be obtained without a lengthy and costly negotiation process?

Overall, it is important to note that the employers who are engaged in collective bargaining constitute a clear minority and even amongst these employers there is criticism of bargaining processes and associated outcomes. Generally, employers have a negative attitude towards collective bargaining and unionism and they would prefer to conduct their employment relations affairs in direct discussion with individual employees.

Fostering a high-skill knowledge economy through collectivism?

It is well recognised that industry training and skill development have been weak in New Zealand for a long time.¹⁵ The tradition of importing skilled labour as soon as labour markets become tighter is well-established. Prior to the late 1980s, this was partly compensated through a very large public sector which trained many young people who were then often poached by private sector employers. The post 1984 public sector reforms put a stop to that and thereby increasing the underlying skill development problems. These problems were further enhanced by the propensity to opt for radical reforms as the Industry Training Act 1992 moved towards a different training system. While there were many positive features associated with the new training system, it was based on a problematic assumption that employer should invest and drive industry training and skill development and thus, government co-ordination and investments were woefully lacking. In the late 1990s, it was widely recognised that there had been insufficient government and employer investments and that skill shortages had become a major ‘bottleneck’. The Labour Party’s suggestions of massive investments, new apprentices and a more collaborative approach attracted widespread support, even amongst some right-wing media commentators.

Under the 1999-2008 Labour governments, there was a much stronger focus on training and education which was partly driven by significant skill shortages. It was a key feature that tripartite initiatives gained significant headway (at least at the policy level). Initially, reports from Business NZ were very encouraging about the partnership approach. In a 2003 news release, Simon Carlaw^{xxxiv} (the CEO at the time) said “I am delighted that with our partners of the CTU and the Government.....we will be breathing new life into...the development of workplace learning”.. This was in response to the Labour Government pledging millions of dollars into workplace learning. Several key tripartite initiatives originated in this period; notably the ‘Skill New Zealand Tripartite Forum’ which sought to establish a unified national skills strategy. The Skill New Zealand Forum was a partnership between Business New Zealand, the Council of Trade Unions (CTU) and the Minister of Labour to work jointly on the promotion of skill training.

However, even in this area of overlapping interests the aspirations have not been fulfilled. While the Minister of Social Services and Development Steve Maharey^{xxxv} believed in 2002 that it was possible to build an effective training culture this was already questioned by Ross Wilson, the leader of the CTU union confederation, in 2004^{xxxvi}. These concerns were based on wide-ranging skill shortages pre 2008 and concerns about the propensity to ‘free-ride’ amongst small and medium sized employers. In a survey of employers’ perspectives on skill shortages, Baron and McLaren^{xxxvii} found that employers were openly pessimistic about the prospects of any improvement in the supply of skilled labour (especially qualified trades people) over the medium to long-term future. Importantly, Baron and McLaren found that *employers were split on how to rectify the situation*. Employer opinions ranged from suggesting a more active role, supporting existing vocational training schemes or expressing support for the old industry training system that was disestablished in the early 1990s. And this didn’t allude to the underlying problem: that many employers had not invested sufficiently or at all in vocational training or lacked well-defined career paths^{xxxviii}.

¹⁵ An overview of the industry training and skill development trends and issues can be found in Rasmussen, 2009, op. cit., pp 248-262.

Whether such employer-union collaborations can survive public policy changes in the post 2008 period is also questioned with economic, labour market and policy changes adversely impacting upon collective arrangements. Since 2008 there has been little collaboration between the parties and this was borne out with Business NZ statement to the incoming government in 2008 where they wanted the monopoly of unions curbed with regards to collective bargaining and access to workplaces^{xxxix}. A lot of what Business NZ asked for has been implemented or is about to be. This does not bode well for future collaboration. In 2011, the government initiated a review of industry training to determine the skills needed to maximise the productive potential of New Zealand industries and the employment and earnings of people in the workplace^{xl}. The discussion document was focusing on government initiatives and employer trainee based initiatives with no mention of collaboration with unions. It is also noticeable that the Business NZ website has now very little in the way of collaborative language though such language was present in the pre 2008 period.

It is necessary to mention a particular problem in terms of skills and capabilities: there have been widespread concerns about management capability in New Zealand, especially having sufficient competent and inspirational leadership of organisations. This issue has been clearly signalled by the research sponsored by the New Zealand Institute of Management's research on management capabilities^{xli}. That research has wide implications since, if organizations in New Zealand want to compete nationally and internationally, then they need to be effective in areas such as employee engagement and focus on innovation. As New Zealand Trade and Industry^{xlii} has argued: "Businesses are only as successful as their owners and managers. In an ever-changing world it is essential that you actively build your management capabilities." However, the NZIM research has shown that implementation of these ideas is weak in New Zealand, compared to other countries who see these measures as a priority^{xliii}. Several possible reasons have been advanced for this problem with management capabilities and leadership^{xliv}. It may be the smallness of the economy and organisations where budgets and resources can be tight which may comprise efforts to enhance management capabilities. It is often argued that 'quick fix' measures prevail. Another impediment to insufficient capabilities and the lack of leadership can be the culture of the organization. Whether suggested insufficient management capability can partly explain the relatively poor record of training and skill development amongst New Zealand business it still to be researched.

Collectivism and New Zealand's low productivity growth

Comparatively slow productivity growth has been a long-standing problem in New Zealand, refer to Figure 1. From having one of the highest living standards (measured in gross domestic product per head) in the 1950s, it has recorded a persistent relative decline and is currently being ranged below number 20 amongst OECD countries. This relatively decline has influenced the so-called New Zealand 'experiment' and has prompted radical public policy changes. The decline has also influenced the thinking behind employment relations reforms. The Employment Contracts Act tried to create an 'efficient labour market' through facilitating employer-driven flexibility and the Employment Relations Act sought to facilitate 'productive employment relationships'. Neither of these legislative frameworks has brought about the anticipated improvements in productivity growth. It is still debated in New Zealand why and to what degree this has happened^{xlv}. In respect of the Employment Contract Act, it has been suggested that the policy prescription may have been wrong and/or the context was not supportive enough (for example, in terms of infrastructure investments). In case of the Employment Relations Act, the emphasis on collectivism and collaboration did not manifest

itself and there was considerable catch-up investment in, for example, infrastructure, education and social problems. However, some commentators – including many employer organisations – have also disputed the employment relations approach of the ERA.

Whatever the explanations, the comparative decline in living standard and productivity growth has now become a mainstay of news reports. As mentioned above, there can be doubts whether the current employment relations approach is putting New Zealand on the track towards a more productive economy and thus breaking the relative economic decline seen in Figure 1.

Figure 1 here

The leading employer organisation - Business New Zealand - has clearly voiced the employer opposition to many of the employment relations changes under the previous Labour-led governments in 2000-2008. This has been supported by various other employer organisations and ‘think tanks’, including the high-powered Business Roundtable. For example, in response to New Zealand’s lowest growth in productivity in 31 years, Business New Zealand argued in a press release that New Zealand should implement a Productivity Commission (as in Australia) and needed “things like more flexible employment law, lower taxes and a smaller compliance burden...”^{xlvi}¹⁶ These arguments are in line with Business New Zealand’s briefing to incoming government in 2008 where it advocated more flexibility and freedom in the workplace. There appears to be two problems with this argument: first, it is difficult to associate the higher Australian productivity growth with ‘flexible employment law, lower taxes and a smaller compliance burden’. Second, the implied suggestion that legislative support of more individualism may encourage greater competitive flexibility and innovation which would then drive higher productivity appears to have little empirical basis. For example, the productivity experience of the 1990s, where employers had a remarkable free hand in terms of establishing their preferred employment arrangements^{xlvii}, doesn’t provide a convincing scenario.

Generally, it is unclear how employer preferences for workplace and individualised employment relations can be part of a successful attempt to build a sustainable route to a high-wage, high-skill economy in New Zealand. As discussed below, there seems to be at least *three types of issues* associated with this approach.

1. There are few major New Zealand owned firms (except Fonterra) and industries which have shown substantial growth recently and arguably too few industry-level collaborative solutions exist which can establish a sustainable economic growth path.
2. There is a distinct lack of a broadly based ‘plan’ of how to inform and persuade employers to adopt more productive employment relations approaches.
3. Employer aversion to mandatory minima and/or collectively agreed minima facilitates a low cost, low skill ‘equilibrium’ where mainstream employers have to compete with employers who have rock-bottom employment conditions and invest little in their staff.

First, under the Labour-led governments a number of initiatives were taken to developed industry growth paths and there was direct support for several ‘sunrise industries’^{xlviii}. These

¹⁶ The Productivity Commission was enacted by the National-led government in December 2010.

efforts have had some success but they were limited in funding and coverage and have had insufficient impact across the economy. Employer organisations have been involved in some of these initiatives and they have set out alternative growth strategies. For example, Business New Zealand^{xlix} set out a wide-ranging 50 points plan to lift productivity levels in 2009 but there have been limited government action in many of the suggested areas of policy change. This may come, however, with another National-led government after the 2011 general election and with the Productivity Commission appearing to have sympathy for similar ideas. Overall, the action plans suggested by Business New Zealand build on the assumption that private sector initiative will drive the lift in productivity growth. This is probably problematic since low private sector investments have become a major issue. In light of the absence of industry ‘locomotives’ and comprehensive government growth plans, it is unclear whether the Business New Zealand approach will overcome the current issues surrounding productivity growth.

As outlined above, the one area where government, employer and union interests overlap is in training and education and this is an area where attempts to foster tri- and bipartite arrangements have fallen flat. While unions are still active in many Industry Training Organisations but unions appear to become more and more peripheral to government and employer initiatives and plans. If these attempts could not work under an ideologically aligned government and with tight labour markets then there probably isn’t much change of a resurrection under the current government and with soft labour markets.

Second, there is a distinct lack of a broadly based ‘plan’ of how to inform, persuade and make it easy and cost effective for employers to adopt more productive employment relations approaches. Again, the many small and medium sized businesses constitute a thorny problem. This is despite that this is an area where there has been considerable effort in the new millennium. Employer organisations have been active in their provision of information and services. They have also been involved in and supportive of government initiatives^l. For example, Department of Labour now has a raft of on-line information and application options, there have been a string of workplace ‘demonstration case studies’, the Partnership Resource Centre and Workplace Productivity Group have promoted workplace change initiatives^{li}. Still, there appears to be ample room for improvement. In the survey of employer opinions discussed above, we asked employers about the quality of information and the practical value of the information on collective bargaining and good faith which they received from their business organisations. The majority of respondents found the information either poor (25.4%) or just adequate (38.8%). We also asked employers what they thought of the advice from government and the results were similar. Interesting, there was greater concern amongst small to medium sized enterprises than amongst larger organisations. As larger organisations will often have specialist staff or can afford consultants who can advise them, this leaves the many small and medium sized employers in the lurch. If these employers are not receiving good advice then what do they do?

Third, the preference for workplace and individualised employment arrangements and, in particular the constant criticism of statutory minima changes, opens the gate for low paying and low productivity employers (as McLaughlin^{lii} has argued). This has clearly been the trend under the post-2008 National-led government (see above), where both collective and individual employment rights have been seen as barriers to more ‘flexible’ employment arrangements. It is puzzling that there has been pressure from employer organisations to reduce employment standards as this makes it easier for mainstream employers to being undercut by ‘cheap labour’ employers. If neither collective bargaining nor statutory minima

are seen as suitable ways of lifting employment standards then higher employment standards can only happen through employer competition for staff. Although such competition has been driving up employment conditions in the new millennium (until the post-2008 economic crisis) it has also been associated with labour market ‘bottlenecks’ and insufficient productivity improvements. This is exactly the ‘low skill, low wage equilibrium’ that McLaughlin talks about. Again, it is difficult to see how such an approach can establish a sustainable basis for the elusive high skill, high wage economy.

Conclusion

It has been a hallmark of New Zealand employment relations since the early 1980s that each new government implements changes – and often rather radical changes – to the legislative framework. While the 1990s has been the most turbulent period in that respect, the legislative ‘adjustments’ keep happening and *there is a distinct lack of consensus surrounding employment relations*.

The current Government are clearly hostile to collective bargaining and employee rights and its legislative changes have tried to roll back employee rights and the Government has abandoned any pretence of collaborating with unions. Employer organisations have pursued opportunities to enhance employer-driven flexibility though there are clearly many employers – according to our survey evidence – that would like a much tougher approach. On the other hand, the union movement has indicated that legislative change to support collective bargaining and unionism is high on their agenda. This has included calls for some kind of extended bargaining coverage, though the traditional terms of awards and blanket coverage are yet to appear. “A new approach to the law would also enable collective bargaining results achieved by unions to be available to all workers across industries, including those enterprises not directly involved in the bargaining.”^{liii} This emphasis on industry and multi-employer collective bargaining clearly cuts across the attitudes of the vast majority of employers.

Our paper raises at least three questions which will be important for the immediate future of New Zealand employment relations. First, the development in collectivism under the Employment Relations Act presents a bit of a paradox since the legislation didn’t meet its aim of supporting collectivism and there are many, complex and diverse explanations of why the union and collective bargaining decline has been so steep in the private sector. It must be asked whether the union approach to improving union density is realistic – can it secure sufficient political backing – and will it be effective? Second, the attempts to create a high-wage, high-skill economy have clearly been unsuccessful and there appears to be many barriers to move in the right direction. With a neo-liberal ideology and with workplace based and individual employment agreements firmly embedded, it can be questioned whether there is a convincing alternative and what kinds of employment relations changes such an alternative would demand? Third, changes in employment relations in the last three decades have been driven by an assumption that employment relations changes were needed to obtain ‘productive labour markets’ or ‘productive employment relationships’. This clearly hasn’t happened and it may be that the assumption is too strong and that the link between employment relations and economic prosperity (higher productivity) is weaker and more tenuous than assumed?

Tables and figures

Table 1. Unions, union membership and union density

	Number of unions	Membership	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
December 1996	83	338 967	19.9
December 1997	80	327 800	18.8
December 1998	83	306 687	17.7
December 1999	82	302 405	17.0
December 2000	134	318,519	21.6
December 2001	165	329,919	21.6
December 2002	174	334,783	21.4
December 2003	181	341,631	21.4
December 2004	170	354,058	21.1
December 2005	175	377,348	21.9
December 2006	166	382,538	21.7
December 2008	141	384,777	21.2
March 2009	159	387,959	21.5
March 2010	157	379,649	20.9
March 2011	145	384,644	20.9

Sources: Crawford, Harbridge & Walsh (2000); Blumenfeld & Ryall (2010); New Zealand Department of Labour's database, various years.

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Table 2. Collective bargaining coverage and density, 1990–2007

Year	Public sector Coverage	Private sector Coverage	Bargaining density (%)		Ratio
			Public sector	Private sector	Public/private
1990	307,800	413,600	97	48	2.0
1995	156,100	217,000	59	21	2.8
2000	175,700	244,800	69	21	3.3
2005	176,000	124,700	61	9	6.8
2006	195,000	126,100	68	9	7.5
2007	176,600	133,300	61	9	6.8

Sources: Blackwood et al., 2007: 14.

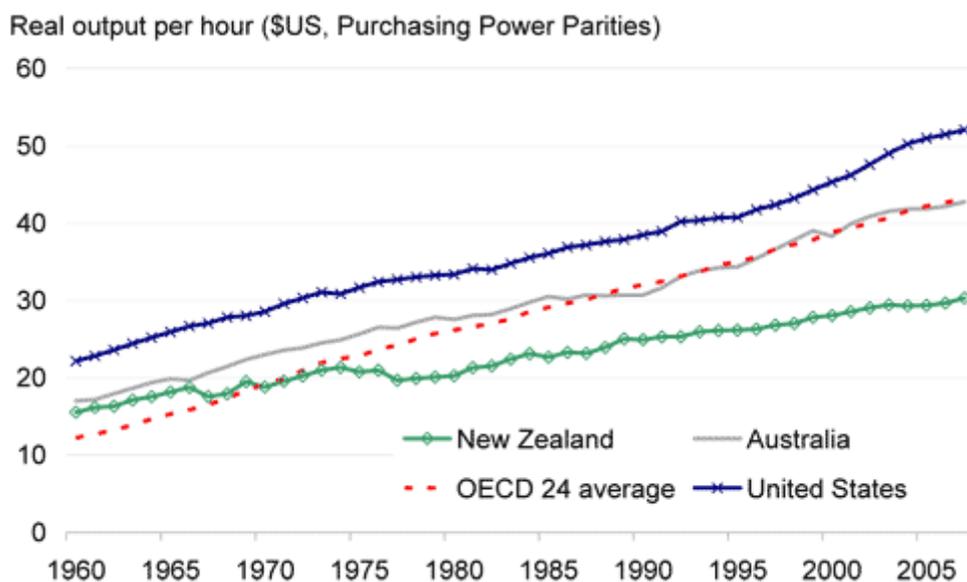
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Table 3. Respondents' attitudes to collective bargaining

Variable	Engaged in CEA, n (%)			Not engaged in CEA, n (%)			(P<0.000)#
	Agree	Disagree	Unsure	Agree	Disagree	Unsure	
Takes too long to bargain	127(39.4)	165(51.2)	30(9.3)	265(40.8)	99(15.3)	284(43.8)	***
Transactional costs too high	101(31.8)	165(50.1)	51(16.1)	227(35)	81(12.5)	340(52.5)	***
Employees not interested	67(21)	215(67.2)	38(11.9)	457(70.1)	41(6.2)	154(23.6)	***
CB not relevant to business	51(15.9)	252(79)	18(5.6)	487(74.1)	94(14.3)	76(11.6)	***
CB never considered	20(6.2)	292(91)	9(2.8)	489(74.8)	117(17.9)	48(7.3)	***
Lack of info on how to bargain	51(16)	219(68.4)	50(15.6)	214(33.1)	190(29.4)	243(37.6)	***
Unsure what to bargain about	16(5)	296(92)	10(3)	195(29.9)	367(56.2)	91(13.9)	***
CB adds nothing of value to business	98(30.5)	183(57)	40(12.5)	515(78.3)	51(7.7)	92(14)	***
Individual bargaining offers greater benefits	152(47.2)	119(36.8)	51(15.8)	485(73.8)	68(10.4)	104(15.8)	***
Unions has never approached us about CB	49(15.3)	265(82.8)	6(1.8)	578(87.7)	52(7.9)	29(4.4)	***

Chi-squared test for differences in more than two proportions. *** (P<0.000)

Figure 1.



Source: Treasury, 2008

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