

# Time for a Change in Employment Relations Approach

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## Introduction

Labour believes that collective bargaining and industry engagement are essential components to lifting productivity and wages in New Zealand.

While there were significant changes to the employment relations system under the previous Labour Governments during 2000-2008, this has not resulted in higher rates of collective bargaining or wages, and productivity continues to languish. The International Monetary Fund (IMF) and the World Bank now point to low rates of collective bargaining in countries, including New Zealand, as a contributor to the global financial meltdown (Kumhof and Ranci re, 2010; Aidt and Tzannatos, 2002). Put simply, if workers do not get a fair share through joining together in unions and collective bargaining, they are unable to contribute to the economy and pay their way.

The reforms to the wider New Zealand economy over the last 25 years have seen income at the top end grow by more than 40% in real terms, but workers on low and middle incomes have struggled. More of the same policy will deliver more of the same results: wages lagging, productivity falling behind and people leaving for better opportunities overseas. *It is time for a change of approach.*

This article focuses on employment relations, though it is important to stress that those employment relations changes have to be aligned with wider changes in economic and social policies (where the Labour Party has proposed significant changes recently). In particular, the article focuses on necessary changes to achieve better wage outcomes and protection of employee rights. These changes are closely associated with shifting towards the elusive high wage, high skill and highly productive economy where improved equality and equity are seen a part of the solution (Wilkinson and Pickett 2009). As part of these aims, the Labour Party is proposing new Industry Standard Agreements to be determined by a Workplace Commission as well as measures to deal with more volatile working environments and the rise in non-standard work. Abolishing the 90-day restrictions on personal grievance rights for new employees and rolling back recent changes to the Holidays Act are obvious element of such a new employment relations approach.

## Higher Wages

Labour's wages policy will help lift wages in New Zealand across the board. We will work with employers, unions and sector groups to fundamentally change New Zealand's economy from a reliance on low wages and longer hours to an investment in more productive workplaces where high trust, high skill and high wages are the success indicators of New Zealand businesses and jobs. A critical first step,

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and one which will help the lowest-paid workers directly, is an increase to the minimum wage to \$15 an hour, which Labour has long-signalled.

However, more must be done. The experience of the past 20 years shows that New Zealand's labour market arrangements have led to a relative decline in pay for New Zealand workers. Lower pay means New Zealand business face fewer incentives to lift productivity and investment in the workplace, and in workers' skills and education. It is a vicious cycle – low wages and low productivity - with New Zealand families bearing the consequences. A critical advantage that Australian families – and Australian businesses – have over their New Zealand cousins is a fairer labour market. Stronger rights at work mean decent pay for Australian workers and higher productivity for Australia. Instead of reducing the Australian-New Zealand pay gap, the gap continues to widen.

Since New Zealand's employment relations system was deregulated in the 1980s and early 1990s, wages have grown at a far slower rate than that of the economy as a whole. The share of the economic pie going to workers has decreased over the past three decades. The weakening of workers' bargaining power following the Employment Contracts Act 1991 has been a major factor, along with the growing capital intensity of the economy, according to Council of Trade Union (CTU) economist, Bill Rosenberg.

From 1992 to 2009, the average real output per worker rose, on average, by 2% a year, but real wages rose by at less than half that amount (Guthrie and Gawith, 2011). Australia, which has retained a stronger collective bargaining environment, has seen a far smaller decline in workers' share of the economic pie as shown by the graph below.



Source: Rosenberg, 2011

Economic growth will not be successful in closing the wage gap with Australia unless we also have an employment relations environment that allows workers to gain a greater share of the benefits of that growth.

Slow wage growth has been most evident in a number of low-skilled and largely non-unionised industries. These industries not only have wage rates that are well below the rest of the workforce, but their wages are also rising at a lower rate. This has led to increasing 'wage growth dispersal', so that those with the highest wages are 'pulling away' from the rest at the top end with higher rates of wage growth, while those with lowest wages are falling ever further behind the median.

This growing gap between wage earners and employers and investors (who are the main beneficiaries of the drop in workers' share of income), and in particular, the growing wage gap between different industries, not only makes life a struggle for low and middle income wage workers but also destabilises the wider economy.

As the wage gap grows, those in the lower and middle parts of the income distribution are encouraged to borrow more to keep up with society's standard of living expectations. This excessive borrowing is unsustainable and eventually results in defaults which mean investors lose money, lending constricts and the economy shrinks.

The former Labour Government sought to deal with this issue of 'wage growth dispersal', not through wages policy, but in part through redistributive government policies (e.g. 'Working for Families'). Such policies delivered real income gains to families who were eligible for them, but there is now a growing recognition that there are political and practical limits to what can be achieved through after-the-fact rebalancing of market incomes in this way. It risks becoming a never-ending treadmill, which fails to deal with the underlying causes of inequality.

Efforts to increase union density and bargaining power under the Employment Relations Act 2000 (ERA) have had a limited impact. Union density is very low, with just 9% of the private sector workforce in a collective agreement and several industries with no union representation (Towner, 2011). There are only three multi-employer collective agreements (MECAs) in the private sector and it has proved almost impossible for unions, particularly in lower paid industries such as Aged Care and Retail, to set standards across industries in this way.

Labour's policy will implement Industry Standard Agreements, which will be a new and different form of agreement under the ERA. It would join the existing individual, collective and multi employer collective agreements that the Act already provides for. Industry Standard Agreements would stem from the collective agreements already in place in an industry; the "norms" of these collective agreements would be determined by a Workplace Commission and become the minimum standards that those in the defined industry must at least meet. The provisions of Industry Standard Agreements will extend to all workers covered by them (i.e. within the industry the Agreement covers) where a collective agreement does not exist. Employers and workers will continue to be able to negotiate terms and conditions that exceed those set out in Industry Standard Agreements, but they will not be able to agree to terms that are less than those in the applicable Industry Standard Agreement. With the Industry Standard Agreement framework in place, the norms in an industry will become a floor through which nobody's terms and conditions can fall. The gains that workers make through collective bargaining will be shared with all those covered by these new Agreements.

Labour will provide for a six month transition period to occur after the ERA amendments gain Royal Assent in which no Industry Standard Agreement applications may be made. During this period, the Government will provide resources to assist employers and unions in understanding the new law and

building capability for negotiations. Employers and union organisations will be encouraged to discuss potential standards, build up understanding of key issues and agree on scope of the industry, so where possible common ground can be reached before negotiations begin.

We expect that there will need to be substantial changes to the ERA and we will work carefully through the process of amending the law, but it is necessary to face the fact that New Zealand workers are not paid enough. This is about putting some rules in place to make sure they can be.

## **Better Jobs**

Labour supports international labour standards and their effective implementation in New Zealand, including the promotion by the ILO of decent work for all and raising labour and social standards.

The outcome of good labour law should be that any worker who wants to be represented at work, to have a voice through a union and to be able to influence the wages and conditions applying in their industry and at their workplace, should be supported to do so. While Labour is committed to extending collective bargaining to more workers as the preferred means of setting wages and conditions, we will also continue to build on a floor of safety net rights for all workers.

Labour will repeal the National Government's unfair laws where workers can be fired without cause in their first 90 days of employment and the restrictions on the access for workers to their unions in the workplace. We will also restore reinstatement as the primary remedy when an employee has been unjustifiably dismissed, along with the test of justification. Labour will also amend the Holidays Act to 2008 settings to protect the rights of workers to time off for rest and recreation, and ensure that all New Zealand workers have access to 11 days off with pay for recognised public holidays, including Anzac and Waitangi Day.

Labour will strengthen collective bargaining by amending the ERA to provide for greater legislative support, including multi-employer collective bargaining and we will also enable unions and employers to set up systems in which all workers contribute to the benefits of enterprise and multi-enterprise bargaining.

## **Changing Working Environments**

One of the consequences of the global financial crisis and the changes to work over the past 20 years is that good jobs have been too easily discarded in the quest for great business efficiency, cost containment and profit. No worker should be deprived of their economic livelihood without proper consideration of the consequences, and good jobs should not be simply handed over to the whims of the market and "flexibility". Labour will defend decent jobs against outsourcing and reduced terms and conditions by providing for the right to strike when a collective agreement is in force where the employer makes a significant proposal for restructuring or outsourcing that in effect renders the collective agreement ineffective.

Labour will also provide certainty for employers and employees in situations of redundancy by implementing the recommendations of the 2008 Ministerial Advisory Group report on redundancy and

restructuring. It has also been announced that we intend to improve on pay and employment equity which has been neglected under the National-led Government (Hyman 2011). Finally, we will consider possible improvements to Paid Parental Leave.

## **Non-Standard Work**

Labour believes that all workers should be protected against harms and risks that are broadly seen as being unacceptable and below a necessary floor where people should not be required to provide their labour. We are concerned at the growth in non-standard work, where large numbers of contractors, casual and temporary workers effectively have no rights.

We will ensure that workers employed in precarious forms of employment (such as labour hire, casual employment and contracting) are given similar rights to those in more traditional forms of employment. We will also investigate and implement best practice statutory support and legal rights for dependent contractors, including minimum wage protection and other rights. As a minimum, Labour will extend the right to organise and collectively bargain to contractors who are primarily selling their labour as well as ensuring an effective and cheap disputes resolution procedure.

Finally, Labour will repeal the National Government changes to the ERA with regards to workers in the film and video production industries.

## **Health and Safety**

The level of work related injuries, illness and deaths remains unacceptably high. Labour is committed to creating safer workplaces and ensuring that injured workers are entitled to compensation and assistance. In general, we intend to elevate public awareness and responses around workplace deaths and injuries to where they are taken as seriously as our Road Toll.

Labour will establish a Commission of Inquiry into New Zealand Workplace Health and Safety, which would be tasked with examining why New Zealand's record of workplace accidents and injuries is not improving, what measures are needed to improve them, how other comparable countries are able to have a lower per worker rate of injury and death and how changes should be implemented.

This could mean moving to a regulatory framework where legislated standards are required, but as a minimum, worker participation, involvement of recognised health and safety delegates and effective enforcement in the workplace will be fundamental to any change.

Labour will also ensure that any regulatory framework provides for a properly resourced occupational health and safety inspectorate that has the technical expertise to enforce the legislative requirements.

Labour has already announced its Mine Safety policy which will seek to align the current mining safety legislation with the Queensland State legislation within a New Zealand context. We will also reinstate check inspectors.

## Concluding remarks

The continuous search for more ‘flexibility’ in employment relations has undermined job security, protection of employee rights and decent wage packages for many people. It has yet to bring about any sustainable improvement in our productivity levels and the relative decline in living standards – particularly compared to Australia – has become a brutal reality for many workers struggling to meet ends. No wonder the ‘grass seems greener on the other side’.

The Labour Party proposes a different approach, symbolised in a lift of the statutory minimum wage to \$15 an hour to overcome the vicious circle of low wages and low productivity. It wants to facilitate investments in New Zealand workers by restricting low wage and employment conditions through strengthening collective bargaining coverage by having a Workplace Commission determining Industry Standard Agreements. In particular, Labour wants to ensure better protection for employees in precarious forms of employment. It also wants to address the poor record of workplace accidents, injuries and illnesses by improving worker participation and by properly resource inspection and advice functions.

In line with a new approach to employment relations, Labour will repeal several of the National-led Government’s recent public policy changes. That includes the 90-day restriction on personal grievances of new employees, restoring holiday entitlements and abolishing changes to employment in the film and video production industries. It is definitely time for a change of approach!

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