

Editorial note

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This is the second instalment of the special issue of the *New Zealand Journal of Employment Relations* which showcases some of the best papers presented at the Fourth Biennial Labour Law Conference of the New Zealand Labour Law Society held on 17-18 November 2017 in Christchurch. The conference focussed on labour law in transition in a global and technological world, with the theme intended to encompass new developments and emerging areas in labour law. The presentations covered a wide range of topics including de-regulation of the workplace and competitive attitudes towards employment issues; aspects and implications of the recent amendments to health and safety laws; workplace stress, bullying and harassment; restructuring, redundancy and redeployment; modern workplace environments and cyber-work; and equality, human rights and precarious work. The conference attracted a large number of participants from within New Zealand, including academics, practitioners, judges from the Employment Court and members of the Employment Relations Authority as well as government and parliamentary officials and union members. A good range of Australian speakers attended the conference, as the New Zealand Labour Law Society has built good relations with the Australian Labour Law Association. Participants from Europe and Asia were also present.

A large number of excellent papers were presented at the conference and submitted for publication to a special issue of the *New Zealand Journal of Employment Relations*. As a result, two special issues have been published. The first special issue 43(2), published in September 2018, focussed specifically on the impact of technology on labour law and the relationship between human rights and employment law. This second special issue includes papers broadly concerned with health and safety and matters related to employment agreements.

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There are six articles in this second special issue and a summary of this content is provided hereunder.

Dawn Duncan – “A Battle for Hearts and Minds: New Zealand’s Legal Response to Work-Stress-Related Depression and Cardiovascular Disease”

As patterns of work change, so do the resulting patterns of work-related ill health. While medical thinking on stress-related illnesses has shifted enormously in the past decades, the law has not. This paper will explore New Zealand’s legal response to work-stress-related illnesses, especially depression and cardiovascular disease. It will outline the current interaction of the Health and Safety at Work Act 2015, the Accident Compensation Act 2001 and the personal grievances regime in cases of work-related depression and cardiovascular disease, and highlight key areas of reform needed. The law, as it stands, is failing to provide either adequate protection from, or compensation for work-stress-related illness. With heart disease as New Zealand’s leading cause of death, and rates of mental illness on the rise, addressing the more complex relationships between work and health becomes an urgent task for the future of New Zealand labour law.

John Goddard – “Adopting a Health and Safety Framework for the Assessment and Remediation of Earthquake Prone Buildings”

The key question for this paper is whether the revised and recent updated changes to the regulatory regime for managing earthquake prone buildings will prevent loss of life which occurred as a result of the CTV and PGC building failures during the Christchurch Earthquake and whether this would have happened to Statistics House (in Wellington) but for the fortuitous timing of the Kaikōura earthquake.

David Beck – “Resolving Workplace ‘Bullying’”

This Article provides a brief definitional overview of the current law on what is popularly known as the problem of workplace bullying and comments on how to avoid and/or resolve matters from the perspective of a practising employment lawyer, perspective confronted with finding an adversarial legal solution to what is often a breakdown in workplace communication.

Susan Robson – “What if Voters Wanted a Less Flexible Labour Market?”

In the event of a public recognition of the connection between flexible labour markets, wage stagnation and high social inequality ratios, an option for redress in government policy is the re-collectivisation of employers and employees.

The implications for labour law traditions that emerged following the enactment of the Employment Contracts Act (ECA) 1991 (and that were reinforced by the operation of the Employment Relations Act 2000) include dispute resolution mechanisms, currently (in New Zealand) fundamental to flexibility. Analysis of the factors that influenced the transition from collectivist to individualist labour relations suggests a means by which this transition might be reverse engineered. Returning personal grievance resolution, the foundation of the ECA transition, to collectives will be crucial to the success of any reverse transition.

Jonathan Sale – “Labour Law and the Labour Market: A Case Study of Malaysia”

This paper aims to provide some plausible answers to these questions through systems analysis and case study of labour law and regulation in Malaysia and their links to the economy, including the variety or varieties of capitalism, labour market formation and outcomes.

György Kiss - Transition of a Contract of Employment: From the *Locatio Conductio* to the *Relational Contract*

This article displays the correlation between economic background of a given era and legal regulation of labour. It aspires to answer the question: what legal construction suits global economy the most at the moment. The author shows the effect of locatio conductio on the employment contract of today and sketches out three possible scenarios regarding future labour law. One such scenario is the maintenance of the current, traditional concept that strives to secure a balance between security of the employee and flexibility of employment. The second scenario entails possibilities provided by the so-called gig economy. It deconstructs almost all limitations provided by labour law and, at the same time, annuls the structure of labour law as it is today. The third scenario proposes an adaptation of a specific interpretation of long-term contract – relational contract – to labour law.

It is perhaps opportune to note here that the Fifth Biennial Labour Law Conference of the New Zealand Labour Law Society will held on 15th and 16th November 2019 at Rutherford House, Victoria University of Wellington. The official call for papers and registration information will soon be available at <http://www.newzealandlabourlawsociety.nz/>.