

Employer Attitudes toward Collective Bargaining: Surveys of employers' role and attitudes in New Zealand.

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INTRODUCTION

In the post 1984 period, New Zealand has arguably had more public policy changes in the employment relations area than any other OECD country. These changes have initially been driven by employers and their associations as they have sought more decentralised and individualised employment relations practices. The pinnacle of this approach – the Employment Contracts Act 1991 – has been described as an 'employer charter' (Anderson, 1991).

Following the decline of unionism and collective bargaining in the 1990s, the Employment Relations Act 2000 has taken a very different approach. One of the objectives of that Act and its amendments is to promote collective bargaining. It has also prescribed new bargaining rules – including a good faith obligation – and has increased union rights. Despite the Act's intent, there has been a substantial decline in collective bargaining density in the private sector. It has naturally been questioned what the reasons have been for this unexpected decline. So far research has tended to focus on the legislation, union activities and employee attitudes to collective bargaining (Rasmussen 2009). There has been much less focus on employer behaviour and perceptions (Waldegrave et al. 2003). The main exception has been the debate over employers' role in 'passing on' collectively agreed terms and conditions to non-union employees.

This paper reports on survey research of employers' attitudes to collective bargaining, why they hold these attitudes and what would make employers take a more positive view. The surveys are part of a national study of employers' attitudes to collective bargaining and are also part of a wider study of employer behaviour and attitudes towards employment relations in New Zealand, including the role of employer organisations in influencing public policy. The surveys investigated: whether employers see collective bargaining as providing a positive impact on performance; how decisions to engage or not engage in collective bargaining are made; who makes these decisions; what factors are instrumental in the decision not to engage or not engage in collective bargaining. Furthermore, the surveys try to establish: what factors make the individual bargaining an acceptable alternative; what factors would have to change or improve in order for employers to view collective bargaining more favourably?

The surveys demonstrate that the preferred method of pay and conditions settlement was through individual bargaining. This was especially so for organisations that had less than 50 employees. Frequently, these smaller organisations saw no perceived benefits from collective bargaining and felt it was irrelevant to their business. Interestingly, even organisations that had a history of collective bargaining saw little in the way of perceived benefits. Overall, this is in line with numerous other research findings on employer attitudes (eg. Freeman & Medoff 1984, Geare et al. 2006).

These findings suggest that the future of collective bargaining in New Zealand looks grim. Furthermore, public policy changes have already been foreshadowed by the new centre-right government elected in late 2008. Such changes could further

marginalise unions and collective bargaining with a return to the non-union workplace agreements of the 1990s and a rise in individual agreements.

THE ATTEMPT TO REBUILD COLLECTIVISM

Under the conciliation and arbitration system (1894-1990), the New Zealand employment relations system was characterised by well-established institutions, a comprehensive set of terms and conditions (awards) for most employees, a high level of union density and well-organised employer organisations. This changed dramatically with the Employment Contracts Act 1991 which abolished the award system, union bargaining and access rights and prescriptions about bargaining behaviour (Rasmussen, 2009). The Act also covered *all* employees whether on collective or individual employment contracts and all employees were granted an individual personal grievance right and easy access to mediation or adjudication. These changes facilitated a shift towards individual and workplace bargaining which was associated with a dramatic fall in collective bargaining and union membership (union density was halved in just five years - from over 40 percent in 1991 to 20 percent in 1996). Besides undermining the unions' ability to function, the Act took away the traditional bargaining role of employer organisations and they had to adjust significantly their organisational structures and functions (see below).

During 1999-2008, the Labour-led coalition governments pursued different economic, social and employment relations policies inspired by 'social democracy' and 'third way' philosophies. This included an emphasis on bipartite and tripartite policy formulations and implementation, workplace partnerships, increased investments in industry training and a considerable expansion of statutory minima. The Employment Relations Act 2000 and its associated Amendment Acts promoted explicitly collective bargaining and made numerous changes to facilitate union membership growth (Rasmussen 2009): union registration was re-introduced, collective agreements could only be negotiated by unions, the ability to strike in connection with multi-employer bargaining was re-introduced, 'passing on' of union-negotiated improvements ('free-riding') was constrained, unions' workplace access was improved and bargaining behaviour was influenced by 'good faith' requirements.

However, despite the Act's intent, there has been a substantial decline in collective bargaining density to less than 10 percent in the private sector. In an overview of existing research (Rasmussen 2009: 129-133), it has suggested that the following explanatory factors are important: employer resistance or lack of support, employee apathy or lack of interest, the unions' inability to gain ground on multi-employer collective agreements, the existence of a 'representation gap'. Thus, employer resistance or antipathy can only be seen as one of several factors in a rather complex decision-making process surrounding collective bargaining. Employer attitudes are linked, however, to a number of issues which have figured prevalently when the reduction in union density in private sector has been discussed.

While survey and case study research has found limited evidence of overt employer hostility to collective bargaining, there have also been indications that the employer's attitude to collective bargaining can have some influence on employees' interest in pursuing collective bargaining (Waldegrave et al., 2003). One of the major issues under the Employment Relations Act has been 'free-riding' or the 'passing on' of union-negotiated improvements to non-unionised employees. This may make sense for the employer in terms of transaction costs, workplace harmony and fairness considerations but it can clearly undermine the benefits associated with being a union member. There is also the well-known employer hostility to multi-employer

bargaining which has effectively blocked the unions' interest in moving away from enterprise-based bargaining arrangements.

There have been two other contextual factors which have probably undermined the benefits of union membership. In a tight labour with extensive skill shortages, employers have been keen to attract and retain skilled staff and this has coincided with above-inflation average pay rises and individualised rewards and employment conditions. The government's attempt to lift employment standards through higher and more encompassing statutory minima may also have undermined the perceived relevance of unionism. In many low-paid sectors (which frequently have relatively low union density, anyway) the statutory minima often constitute a clear guideline for actual wage rates and employment conditions. This raises the question of why paying union fees when there may be few perceived benefits.

EMPLOYER ORGANISATIONS AND THEIR ROLE

Since the neo-liberal economic and social reforms of the 1980s, there has been strong employer support of individualised and/or workplace collective bargaining. Employer organisations voiced their criticism of the conciliation and arbitration system in support of a more deregulated and flexible bargaining system. As such, employers were more in favour of the bargaining arrangements under the Employment Contracts Act in the 1990s (except that the right-wing pressure group the Business Roundtable was seeking even further liberalisation).

However, the widespread changes also altered the context in which the mainstream employer organisations had to operate and there were major adjustments of organisational strategies, structures and functions (Rasmussen, 2009). Regional employer organisations moved towards being service organisations and the peak employer organisation focused on being a lobby group and general voice of employer interests. There were also several amalgamations which streamlined representational structures. This included the formation of Business New Zealand in 2001 through a merger of the New Zealand Employers' Federation and the Manufacturers Federation, as well as similar mergers at regional level.

Since the 1980s, employers' general philosophical position has supported neo-liberal economic and labour market policies, with an emphasis on limited state intervention in employment relations at industry and firm level. However, there have been some adjustments: there has been a rise in the importance of mainstream employer 'voices' with the right-wing Business Roundtable having hardly any public policy influence; there has been a shift in favour of less extreme employment relations positions; and bipartite and tripartite collaborations have again featured on the employers' agenda.

While the key employer organisation – now Business New Zealand – has always attempted to be in dialogue with the current government, its major public policy role and publicly acknowledged collaboration with the union movement have been a difficult balancing act. There has been an uneasy tension between employer interest in influencing and participating in public policy changes and the well-publicised antagonism towards many parts of the Labour governments' employment relations thinking. Business New Zealand has made this antagonism clear through its critique of the various pieces of legislation, the rise in statutory minima and increased public sector activities. It is a question, however, whether this critique has been strong enough for many employers.

EMPLOYERS' ATTITUDES TO COLLECTIVE BARGAINING

In New Zealand, there has been limited research into the employers' attitudes to collective bargaining. Studies of South Island employers' attitudes 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 (McAndrew and Hursthouse 1991). For 14 years, there were no studies of employers' attitudes. However, in 2004 researchers at Massey University decided to investigate private sector employers' attitudes and the overall results from the three subsequent surveys are reported on below.

Methodology

In investigating the decline in institutionalised employment relations in New Zealand, three surveys provided a national coverage of organisations employing 10 or more staff, focusing on employer opinions. This was done by using a cross sectional survey design involving the development of a self administered postal questionnaire in two regions (in the Lower Half of the North Island and the South Island) and an online survey covered The upper half of the North Island. These surveys sought information on employers' attitudes to a range of issues including the relevance, motivation, interest in, and transactional costs of collective bargaining, and also perceived benefits of the collective bargaining process to the business.

The surveys matched the sample demographics used by previous NZ studies (McAndrew 1989, McAndrew and Hursthouse 1990) and allowed the entire population of employers (6823 individual firms) to be surveyed. Employers within all 17 standard industry classifications used by previous researchers (e.g. Blackwood et al. 2007,) were included.

Participants were also asked if they wanted to partake in semi-structured interviews so as to extract any underlying issues that could not be gleaned from a questionnaire. We received 120 acceptances and 60 were selected; ensuring that the participants covered the various regions of New Zealand and an equal number of participants who were involved in collective bargaining against those who were not. The interviews were all conducted by telephone and taped.

Results

The response rate from the cross-sectional survey was 15%. Even though this is a relatively low figure and the results must be interpreted with caution, this rate for a self-administered postal questionnaire is accepted by comparative studies. While the study divided the respondents into two groups, those currently involved in collective bargaining with unions, and those not currently involved (hereafter 'involved and non-involved employers'), the overall results showed a strong correlation between each group's responses with key exceptions. Areas of commonality were found in respondents' attitudes toward collective bargaining such as transactional costs and their views on factors that would increase its coverage such as, the introduction of compulsory unionism. It was in relation to the perceived benefits of collective bargaining that the responses differed significantly.

Employers' attitudes to collective bargaining

Table 1 compares the two groups of employers: how do the attitudes of involved employers compare with those who are not involved? Amongst variables of significance to employers' attitudes toward the process of collective bargaining are: the interest of employees in the process, its relevance to the business, and whether it has been considered show marked differences. 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 their employees lacked any form of interest in collective bargaining. This certainly came out in the interviews and this was a typical response;

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

Table 1 – Employers’ 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)

Similar differences were found in the proportion of respondents who agreed that collective bargaining was not relevant to their business, 15.9% of those involved agreed versus 74.1% of those not involved. In the interviews, some involved employers found that it was not relevant because of quality of the relationship with the union. This was a typical comment:

With our current one I wouldn't say that it offers any benefits or is of relevance. I believe that if you have a good union who works with you in partnership then it can be very productive.

Further strong differences were found when employers were asked if they had considered engaging in the collective bargaining, with 74.8% of non-involved employers having never done so against 6.2% of involved employers. It is interesting to note that both type of employers agreed with the point that individual bargaining offers greater benefit. This also featured strongly in the interviews. This is a typical example of opinions amongst employers involved in collective bargaining:

I don't think they got anything through collective bargaining that we would not have if they were on individual agreements. We only go through the motions as the ERA requires us to negotiate with the union.

Even those involved in collective bargaining found that the transactional costs were high (50.1% agreed). Unsurprisingly, this was the overwhelming case across all employers. As one employer said:

There is a huge cost in the bargaining process. Our team consists of the HR manager and advisor, chief commercial officer and an EMA person. It costs us loss wages and time and the administration process of costing out the claims is considerable.

Employers' views on factors that would increase collective bargaining

Table 2 illustrates the factors that our respondents believe would contribute to an increase in collective bargaining coverage, again comparing involved employers and non-involved employers. Only one factor attracted the votes of a majority of non-involved employers. In their collective view, only business groups endorsing collective bargaining would be effective in spreading collective bargaining coverage.

Table 2 – Employers' views of the factors that would increase collective bargaining coverage

Variable	Engaged in CEA, n (%)			Not engaged in CEA, n (%)			(P<0.000)#
	Agree	Disagree	Unsure	Agree	Disagree	Unsure	
Workers showing more interest	195(62)	84(26)	38(12)	253(38.4)	274(41.6)	132(20)	***
Key firms adopting CB	139(43.7)	111(34.9)	68(21.4)	177(26.8)	259(39.4)	223(33.8)	***
More unions operating in industry	83(26.1)	194(61)	41(12.9)	195(29.6)	292(43.3)	172(26.1)	***
Higher level of interest shown by unions	140(44)	140(44)	39(12)	221(33.5)	268(40.7)	169(25.6)	***
Govt promotion of CB	146(45.8)	130(40.6)	43(13.5)	212(32.3)	285(43.4)	159(24.2)	***
Research showing value of CB	181(56.9)	87(27.4)	50(15.7)	321(47.4)	170(25.8)	167(25.4)	**
Business groups endorsing CB	151(47.5)	111(34.9)	56(17.6)	268(40.8)	221(33.6)	168(25.6)	*

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

There is quite a different profile on this issue amongst employers involved in collective bargaining. Whereas few of the non-involved employers thought that workers showing more interest would result in the spread of collective bargaining, a majority of the involved employers credited worker interest with making a difference. This group was also more inclined to believe in a demonstration effect – if credible research attested to the value of collective bargaining to business, then collective bargaining would be likely to spread to more workplaces.

In the interviews, when asked the question who they would prefer to get information from on collective bargaining, there was little support for government information from an independent source was preferred (such as their employer associations). Interestingly, some employers got valuable information from the unions they negotiate with.

Perceived benefits of the collective bargaining process

Table 3 shows the perceived benefit or not of the collective bargaining process by employers with or without CEA's.

Table 3 – Perceived benefits of the collective bargaining process

Variables	Engaged in CEA, n (%)			Not engaged in CEA, n (%)			(P<0.000)#
	Agree	Disagree	Unsure	Agree	Disagree	Unsure	
Improve productivity	68(21.3)	206(64.6)	45(14.1)	32(4.8)	464(69.7)	170(25.5)	***
Improve managerial freedom	76(23.8)	217(47)	26(8.2)	52(7.8)	457(68.7)	158(23.8)	***
Reduces conflict	141(44.3)	160(50.3)	17(5.3)	83(12.5)	429(64.8)	150(26.7)	***
Improve firms ability to restructure and design jobs	84(26.3)	196(61.8)	38(11.9)	56(17.6)	457(68.8)	151(22.7)	***
Ease into new technology	78(24.5)	198(62.3)	42(13.2)	61(9.2)	429(64.7)	173(26.1)	***

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

Again there is a significant difference in the profiles of the two sub-samples, although only minorities in both groups saw any benefits at all from being involved with collective bargaining. For both groups, reducing conflict between employer and employees in the workplace was the most often cited advantage to be gained from collective bargaining and, in both absolute and relative terms, this was particularly pronounced with the group of employers presently involved in collective bargaining.

Only very small minorities of the non-bargaining sub-sample saw any benefits to them at all from becoming involved with unions and collective bargaining. In the bargaining group, just under half endorsed collective bargaining as reducing conflict, while there were quite substantial minorities (in the neighbourhood of one-quarter) endorsing each of the other listed benefits – improving productivity, assisting management's ability to manage, and facilitating restructuring and modernizing of production technologies.

CONCLUDING REMARKS

What we have presented in this short paper are the views of 'mainstream' New Zealand employers on collective bargaining and its impact or likely impact on their organizations. We have presented the data in aggregate form in two sub-samples – those employers who presently are engaged in collective bargaining and those who are not. Several points stand out quite clearly.

First, employers who are not engaged in collective bargaining are almost unanimously rejecting of collective bargaining. They believe that their employees have no interest in unions or collective bargaining. Second, employers, who are involved in collective bargaining, are more favourable towards collective bargaining, though they are still not convinced that collective bargaining assists productivity, improves managerial freedom, facilitates organizational change, or reduces workplace conflict. Third, many of those employers who participate in collective bargaining appear to be quite comfortable with the process. While close to half think that it takes too long, most are relaxed about the transactional costs of the process, and they believe that they know how to bargain and what to bargain about. They are, as a group, considerably more relaxed about the process than those employers who are not involved in it. They take, as a group, a more flexible and pragmatic view of collective bargaining than those employers who are not presently involved in it.

There are factors other than employer resistance credited with the decline in unionization and collective bargaining coverage. Worker apathy, legislative regimes, labour market conditions and union strategies and flaws are among them. However, our focus has been on where New Zealand employers stand on collective bargaining, and assessing the role of employer resistance – initially at the attitudinal level – in limiting collective bargaining under the Employment Relations Act.

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ABSTRACT

This paper focuses on attitudes amongst New Zealand employers towards collective bargaining and unionism under the Employment Relations Act 2000.

Following the decline of unionism and collective bargaining in the 1990s under the radical neo-liberal Employment Contracts Act 1991, the Employment Relations Act 2000 has taken a very different approach. One of the objectives of that Act and its amendments is to promote collective bargaining. It has also prescribed new bargaining rules – including a good faith obligation – and has increased union rights. Despite the Act's intent, there has been a substantial decline in collective bargaining density in the private sector. It has naturally been questioned what the reasons have been for this unexpected decline. So far research has tended to focus on the legislation, union activities and employee attitudes to collective bargaining (Rasmussen 2009). There has been much less focus on employer behaviour and perceptions (Waldegrave et al. 2003). The main exception has been the debate over employers 'passing on' collectively agreed conditions to non-union employees.

This paper reports on survey research of employers' attitudes to collective bargaining, why they hold these attitudes and what would make employers take a more positive view. The surveys are part of a national study of employers' attitudes to collective bargaining and are also part of a wider study of employer behaviour and attitudes towards employment relations in New Zealand, including the role of employer organisations in influencing public policy. The surveys investigated: whether employers see collective bargaining as providing a positive impact on performance; how decisions to engage or not engage in collective bargaining are made; who makes these decisions; what factors are instrumental in the decision not to engage or not engage in collective bargaining. Furthermore, the surveys try to establish: what factors make the individual bargaining an acceptable alternative; what factors would have to change or improve in order for employers to view collective bargaining more favourably?

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These findings suggest that the future of collective bargaining in New Zealand looks grim. Furthermore, public policy changes have already been foreshadowed by the new centre-right government elected in late 2008. Such changes could further marginalise unions and collective bargaining with a return to the non-union workplace agreements of the 1990s and a rise in individual agreements.

