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# Wage fixing in a period of change: The New Zealand case

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## Introduction

The current debate on wage fixing in New Zealand foreshadows what seem certain to be the most significant changes in this field since 1973, when a reshaped Industrial Relations Act began to shift the emphasis away from conciliation and compulsory arbitration towards free collective bargaining. The intent behind that change of emphasis was not fully realised in practice, and the present trends – towards further deregulation and greater flexibility – must be seen very much as moves in the same general direction.

The 1973 legislation borrowed heavily from American labour law and practice, establishing a clear legislative distinction between *disputes of rights* and *disputes of interest* and distinct procedural mechanisms for each type. Disputes of interest were to be handled by negotiation, either privately or within the framework of a conciliation council. Compulsory arbitration was available as a final resort. The requirement to register voluntary collective agreements with the Registrar of the Industrial Commission (now the Arbitration Court) was introduced as a response to the growth of informal bargaining, and in an attempt to bring it within the formal system. A mediation service had been established in 1970, and the 1973 legislation assigned it the primary responsibility for assisting in disputes of rights. Grievance procedures were to be incorporated in all awards and collective agreements, and a separate statutory procedure for handling personal grievances (primarily dismissal cases) was established.[1]

## Wage fixing: Theory and practice up to 1984

A survey carried out by the New Zealand Employers' Federation in 1983 estimated that roughly 25 per cent of workers employed by its members were covered by registered collective agreements. The commonest type of agreement is the "voluntary settlement collective agreement" covering (usually) a single employer and a group of workers in one locality: 921 such

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agreements were registered in 1983. A few lay down a comprehensive code of wages and other conditions of employment, but most merely supplement the relevant national award (especially in respect of wages and allowances). The characteristic feature of these agreements is the process of free negotiation without recourse to conciliation or arbitration. Composite agreements are a variant of the voluntary agreements, involving one or more employers and a number of unions. Registered agreements of both types are enforceable under the Act but are binding only on the parties to them. Other employers can, however, take steps to become parties too.

Despite the prevalence of such collective agreements, the central feature of wage fixing in New Zealand is the making of awards by a process of conciliation and, if necessary, arbitration. Currently 383 awards are in force but only a small proportion, estimated at fewer than 5 per cent, have been subject to arbitration and then usually only for one or two outstanding matters. Major pattern-setting awards are nearly always fully negotiated without recourse to arbitration. Awards are negotiated by the parties in a conciliation council with the assistance of a conciliator acting as chairman. Access to conciliation councils and the award system is subject to union registration (of both employers' and workers' unions).[2] National awards establishing occupational rates dominate the award system. This has been a major factor in creating and maintaining tight wage relativities.

Informal house agreements are occasionally negotiated at the local level, but they cannot be registered and they are not enforceable under the Act. Such agreements are always supplementary to the main award and are usually limited to additional wage and allowance adjustments. Local labour market conditions – excess labour demand or union pressure, for example – may lead to such arrangements.

General wage adjustments altering, in absolute or percentage terms, all award levels, can be and from time to time have been made. Such adjustments were once the province of the Arbitration Court, and were made on application by one or more of the parties, but more recently the Government has pre-empted the use of this mechanism. A national minimum wage can also be established by executive decision under the Minimum Wage Act of 1945.

One major issue in the current debate is the role of each of these elements in the wage-fixing process and the balance between them. Another is the appropriate degree of centralisation/decentralisation. Underlying the whole debate is the basic question of what wage-fixing process and what wage policy should be endorsed by a Labour Government that is pursuing market-oriented policies, a reduction in direct regulation, strict control of the money supply within a context of high unemployment and inflation, and a reduction of both internal and external deficits.

During the 14 years between 1971 and 1985 statutory wage controls of one kind or another were in force for at least nine; and of the remaining five only eight months can really be regarded as a period of free collective bargaining (December 1972-August 1973): during the rest of the time the

Government sought, by every means short of statutory intervention, to restrain the growth of nominal wages.[3] The most recent and, in the light of subsequent events, the most significant restrictive measure was the imposition of a wage freeze by the National Party Government in June 1982. A freeze on prices, rents and professional charges was introduced at the same time, and an upper limit set on home mortgage interest rates.

While the freeze was in force a tripartite group representing the unions, employers and the Government met to identify shortcomings in the wage-fixing system and to discuss ways of solving them. The group completed the first stage of its work, a detailed paper on current practice, in late 1983,[4] but an unexpected early election and change of government occurred before any final agreement on reforms could be reached.

## The Labour Government and wage fixing: 1984-85

The industrial relations platform of the Labour Government elected in July 1984 called for a return to free collective bargaining. By December the tripartite discussions on long-term reform had been reconvened, agreement had been reached on a package of reforms which had been incorporated in the Industrial Relations Amendment Act, 1984, and the first round of wage bargaining since 1981 had begun.

Both employer and union representatives agreed that the Government had a stake in the wage-fixing process, and recognised that it could and would intervene if it felt that its broad economic objectives were in jeopardy. It was acknowledged by all three parties that since government tax, welfare and spending policies were bound to affect workers' living standards, workers and employers should contribute to the formulation of those policies. It was agreed that a formal tripartite conference, prior to the wage round and the adoption of the budget, was the best way to reconcile the needs of the parties. Adoption of a wage guide-line following such discussions could also help, even if it had only moral or persuasive force. Similarly, consultations associated with the tripartite conference were seen as the best approach for deciding how the needs of the low paid should be met: through adjustments to the national minimum wage by executive action, through tax and welfare policies, through negotiation of minimum rates to be incorporated in national awards, or through some combination of these.

Employers and unions both endorsed the objective of greater flexibility, but, as we shall see later, their motives were different, as were the specific policies they advocated. One step in the direction of greater flexibility was the part of the tripartite agreement reached in late 1984 that sought to break with the historical role of the Arbitration Court in preserving wage relativities. The 1984 Industrial Relations Amendment Act gave the Court a wider range of criteria for arbitrating in wage disputes,[5] and established that it was not to be bound by past precedent or practice; the reasons for its decisions were to be written and published.

Another major change, accepted by all the parties, was that recourse to arbitration would henceforth be *voluntary*. The employers had held that the conciliation and arbitration process was unbalanced since the unions had the choice, in the event of an impasse, of referring a dispute to the Court for arbitration or of withdrawing their claim and pursuing the matter through industrial action. Arbitration, they argued, was therefore voluntary for the applicant (the union) and compulsory for the respondent (the employer). The unions accepted, *pro tem*, that employers should be able to refuse to submit to arbitration, provided the unions could monitor the consequences of this change, particularly the effect on weaker unions.

The 1984 wage round began as soon as the legislation incorporating these agreed changes had been passed. Timing, and a generally felt need for immediate action on the wage front, did, however, create some unforeseen distortions. No guide-line was agreed upon at a formal tripartite conference, but the Government made its expectation that increases would remain within the 4-6 per cent range widely known, and it brought strong pressure to bear on the parties, both in public and in private, especially during the early trend-setting negotiations.

Conciliation council meetings for all awards were tightly scheduled for December, January and February, and additional temporary conciliators were appointed. Negotiations were limited (in general) to the amount of wage increase. A norm of 7.2 per cent soon began to emerge, with settlements in the range of 6-11 per cent. Second-tier bargaining (house agreements) continued after the main round and resulted in higher rates for specific firms or sites. In some cases substantial wage gains were made, leaving a legacy of labour market disturbances to be dealt with in the 1985 wage round. Public sector rates were increased by the norm of 7.2 per cent, effective from 10 January 1986.

## The Labour Government and wage fixing: 1985-86

### The tripartite conference

On 9 May 1985 an advertisement appeared in national newspapers announcing the Minister of Labour's intention to convene a tripartite wage conference under section 16 A of the 1973 Industrial Relations Act, as inserted by the 1984 amendments. The Act requires consultations to be held about the economic environment in which wages are to be fixed. The idea is that information and attitudes coming to light during the conference should be taken into account during the bargaining process; the fact that most of this information is made public heightens and improves public debate. Participants are appointed by the Federation of Labour, the Combined State Unions, the Employers' Federation and the State Services Co-ordinating Committee. The chair is shared by the Minister of Labour and the Associate Minister of Finance. The Minister of Finance attends all sessions. The

conference is spread over three months, although the participants can agree to extend its duration. Working parties can be set up.

In the second quarter of 1985 inflation was running at an annual rate of 16.6 per cent and was expected to continue at that rate at least during the third quarter. Unemployment was falling, but at 3.7 per cent aggregate remained at a socially unacceptable level.[6] More significantly, structural issues were becoming more prominent: unemployment was increasing among young people, ethnic minorities and the unskilled, while at the same time there were marked sectoral skill shortages. First mortgage interest rates of banks and building societies were in the range of 19-22 per cent, with other interest rates at about the same level.

The thrust of government policy favoured a move away from direct regulation of the economy, to allow a freer play of market forces. Foreign exchange markets, financial markets, transport and international trade (dismantling of import licensing) were all major targets for deregulation, while public service charges were to be geared more closely to market conditions. Taxation reform, including the introduction of a goods and services tax, was a key policy initiative.

The government view that wage restraint was essential to the success of long-term economic policies – lower inflation, higher employment and sustained growth – was expressed both at the conference and in public. A figure of 10 per cent for the target increase announced by the Prime Minister very early on was, however, forgotten in more general pronouncements about the need to maintain a tight money supply. The Government emphasised the need for flexibility: wage levels should be related to productivity, and to the ability of employers to pay. Free collective bargaining was also a stated government objective (it had been a campaign promise to the labour movement), but it was to be "free" within the above-mentioned constraints. The Government refused a union request for a general wage order on the ground that it was not its intention to regulate all aspects of the economy. Critics pointed to the legislation reintroducing compulsory unionism[7] (another campaign promise) as a significant interference in the labour market. The Government soon saw that an agreed guideline was unlikely to emerge from the talks, but remained committed to controlling wage settlements via exhortation and the money supply.

A family care package providing supplementary income for low-income families, both those receiving benefits and those in employment, had been introduced in late 1984, pursuant to the government position that low-income groups should be assisted through social welfare policies. The Government maintained that position at the 1985 conference, but agreed that a working party should meet to discuss the broad issues raised in this connection. The unions' position was that the recycling of taxes paid by workers in the form of benefits, i.e. as a substitute for wages, meant an implicit subsidy for employers. The general consensus was that a more appropriate mix of social welfare (the family care package, for example) and

wage policies should be worked out, and that the minimum wage ought to be increased. No agreement was reached on an actual figure.

The primary objective pursued by the employers was flexibility in wage settlements. To them this meant the development of industry bargaining at the expense of national award and occupational bargaining, so that settlements would more closely reflect productivity, ability to pay, and local labour market conditions. Large employers, faced with a multiplicity of bargaining units, also looked for benefits stemming from reduced tension at the workplace. Similar benefits were expected from a consequent reduction in second-tier bargaining. In addition, from the employers' viewpoint, less emphasis on national awards and tight occupational relativities would increase the potential for downward wage flexibility in surplus labour markets (particularly in regional and rural labour markets, for lower skill categories, and for younger workers).

The union movement also endorsed flexibility as a goal, but it was thinking of a different kind of flexibility. For the unions the national award system of occupational minimum rates was the cornerstone of wage determination. As they saw it, voluntary agreements could operate within the system to take account of sectoral or inter-firm differences (and were the chief instrument of upward flexibility). Informal house agreements could also provide upward flexibility, and facilitate variations in rates according to the ability to pay.

The employers' concern that the existing procedures and structural imbalances in the labour market would lead to high increases in national awards *and* high levels of second-tier settlements was reflected in their initial bargaining stance. They argued that a wage rise of 5.5 per cent would be in keeping with wage movements in New Zealand's trading partners, but that rises of 8.5-11 per cent would be inflationary and would lead to increased unemployment. More significant was their position on procedural change. What they sought was a realignment of awards and collective agreements so that the latter would have the same status as awards rather than merely supplementing them; and they called for the setting up of industry or establishment bargaining agents and negotiation procedures.

The Federation of Labour also had hopes that a broad resolution of issues other than wages could be achieved in the 1985 bargaining round. Agreements relating to the introduction of new technology and to health and safety issues were at the top of their list. The basic union objective of maintaining purchasing power (defined as the level of real wages prevailing at the time of the 1984 election) was held back for the bargaining table.

## The bargaining

The actual wage bargaining round in the private sector began in September 1985 with separate negotiations in electrical contracting, metal trades, road transport and the meat industry. The unions stuck consistently to

their aim of establishing trend-setting settlements in these key awards, and the employers' initial objective of "flexible" settlements evaporated under the pressure of selective industrial action. Nor were government exhortations, made in private and in public, heeded. A settlement norm of 15.5 per cent was soon arrived at. A "plus" factor (boosts to allowances and access to second-tier bargaining, for example) was also included in the settlement packages. The "pattern" was established and, with few exceptions, it held.[8]

Public sector pay rates have traditionally been closely linked to wage levels in the private sector. The Annual General Adjustment provides the first link, aligning public sector rates to the average change that has taken place in the private sector wage round. Public sector unions and the Government therefore agreed that an annual adjustment factor of 15.5 per cent should apply to all public sector pay rates as from November 1985. Marginal adjustment reviews provide the second link: their role is to try to establish and maintain wage relativities within the public sector that reflect changes in rates in comparable private sector employment so that the public sector can compete with the private sector in recruiting and retaining staff for specific occupations.

The Higher Salaries Commission forms part of this framework: its task is to adjust the salaries of politicians, judges, senior public servants, senior local government officers and academics, bearing in mind changes in the pay of senior executives in the private sector. Significant increases sprang from this source in 1985 (up to 40 per cent in the case of politicians and senior public servants), as tight ceilings had been kept on public sector rates during the wage freeze, while a substantial wage drift had taken place in comparable private sector employment. The freeze seems to have had a limited restraining effect on wages and fringe benefits in the private sector and, because of the link between private and public sector pay levels, only a temporary effect on public sector rates. After the freeze there was a need for adjustments of internal pay relativities in many areas of public sector employment, including civil servants, medical and hospital staff, police and teachers.

## Summary and conclusions

The lifting of the wage freeze and the restoration of wage negotiations by the Labour Government in late 1984 led to a controlled wage round in 1984-85 and a wage increase of approximately 7 per cent in both the private and the public sector, but they left many expectations, especially as regards the maintenance of purchasing power, unfulfilled. Rising prices, high interest rates, sectoral labour market shortages, a slight easing of unemployment, and the climate created by a Labour Government pursuing deregulatory and open-market policies brought matters to a head in the 1985-86 wage round.

The choice facing the union movement was whether to go all out for the largest possible wage increases or to adhere to implicit government guide-

lines. Government policy was aimed at controlling the money supply in such a way as to encourage the growth of output, but it could not accommodate excessive wage settlements, and it counted on organised labour to show restraint and "social maturity"; indeed, some union leaders, as well as government spokesmen, saw adherence to the guide-lines as politically necessary for the survival of the Labour Government.

In the end the unions chose to go all out. High expectations, fuelled by the large catch-up increases announced by the Higher Salaries Commission the week before bargaining on the pattern-setting awards began, were undoubtedly the main reason for that choice, though it was certainly reinforced by the rapidly mounting pressure from the rank and file in the early stages of the negotiations (not only in the more traditionally militant sectors of metal trades and road transport, but in the less militant clerical and hotel industries).

In the foreshortened 1984 wage round lack of time had meant that little attention was given to the negotiation of non-wage matters. Even so, some marked advances – a sexual harassment clause included in the Clerical Workers Award, for example – were made. The pressure in 1985-86 came from an overriding need to protect the real wages of all workers, and to increase the real wages of the low paid. Again non-wage issues received little attention.

A structural shift away from key national awards and tight occupational relativities (including skill differentials) and an increased emphasis on decentralised enterprise and regional negotiations were fundamental to the employers' position on the reform of wage fixing. They sought flexibility in wages and other conditions of employment, both upwards and downwards from national award norms. A key requirement was the ability to establish wage rates geared to local labour supply and local ability to pay. What the employers really wanted, then, was bargaining structures that specifically took account of their needs and interests.

Though the Government was in broad agreement over the need for flexibility, these structural issues were not resolved in the tripartite conference, nor in the direct bargaining itself. In the face of strong union support for the status quo, the employers backed down and decided not to press for fundamental long-term change. The militancy and resolve of the unions were partly due to the great importance they attached to the national award system and the maintenance of traditional wage relativities, and partly to the immediate need to maintain real wages in an economic environment of rapidly rising prices and interest rates, and increased expectations.

In the final analysis the employers were not prepared to take the initiative, preferring to wait on the Government. Lobbying by employers to persuade it to bring the labour market within the scope of its deregulation policies is being stepped up as the debate develops around a recent government Green Paper, *Industrial relations: A framework for review*.[9] In the 1985-86 wage round the employers were left to seek wage flexibility

responding to local labour market conditions and the ability to pay in second-tier bargaining.

In the main negotiations the employers had also tried to secure flexibility by increasing the extent of split shift working and casual work and by reducing rates for younger workers. They achieved virtually no gains in these areas, however, and quickly withdrew from their initial position. The Government, for its part, stuck to its policy of no direct intervention in private sector bargaining, relying instead on warnings about the consequences for employment and economic growth of high levels of wage settlements.

Several key circumstances contributed to the outcome of the 1985-86 wage round in the private sector: the uneasy aftermath of the wage freeze; continuing price rises that were eroding real wages and betokened further rises and hence additional pressure on real wages; and the enhanced expectations brought about by the decision of the Higher Salaries Commission. If significant change is to take place in the process and structure of wage bargaining in the private sector in New Zealand, the Government must view these circumstances as reasons for delaying a further move in the direction of more decentralised bargaining, but not for abandoning the idea of change altogether.

One of the more surprising aspects of the current debate about wage fixing in New Zealand has been the slowness of the Government to question the close link between the private sector and the public sector. In fact, it is arguable that, but for the timing (and not necessarily the amount) of the determination of the Higher Salaries Commission, this debate would not have occurred at all.

Belated government intervention in public sector bargaining sought to contain the flow of marginal adjustments to public sector groups. However, actual or threatened strike action by salaried doctors, nurses, police and teachers, among others, forced a retreat; the effect on the deficit was accepted grudgingly, and attention turned instead to the future.

A consultative committee, with public sector union representation, has now been established to review the principles and procedures governing pay fixing in the public sector. Its terms of reference reflect the issues of concern to the Government, which are similar to those relating to wage-fixing procedures in the private sector. The committee is to consider, inter alia, the need for flexibility in public sector wage fixing in response to changing needs and circumstances.[10]

At present, as in the private sector, these procedures and principles have not yet been modified. But in both sectors the broad directions of desired change have been made explicit by the Government. Though the 1985-86 wage round in the private and public sector did not really alter the status quo, significant questions were raised in the debate, and the positions of the parties were enunciated. The question for speculation now is not so much whether change in the structures and processes of wage bargaining will occur as how soon it will come and how radical it will be.

## Notes

[1] See J. Seidman: "New Zealand's Industrial Relations Act, 1973", in *International Labour Review*, Dec. 1974, for a detailed account of the changes introduced under the 1973 legislation. Note, however, that a subsequent amendment abolished the Industrial Commission and recombined both dispute settling and judicial powers in the Arbitration Court. The Industrial Relations Council has fallen into disuse.

[2] Registration makes the union and its members subject to the Act. Not only does registration provide access to disputes procedures and institutions established to assist in dispute settlement and give the union bargaining rights for the class of workers covered but a registered union enjoys protection against poaching from rival unions and can secure enforcement of awards and collective agreements.

[3] J. Boston: *Income policy and the 1985-86 round: From non-market failure to market failure?*, Paper for a seminar organised by the Institute of Policy Studies and the Industrial Relations Centre, Victoria University, 17 July 1985 (mimeographed). Boston refers, inter alia, to moral persuasion, threats to reintroduce wage regulations, and offers of tax cuts as examples of such government interference. See also idem: *Incomes policy in New Zealand* (Wellington, Victoria University Press, 1984), p. 8. It should be noted that during the period from 1971 to 1985 National Party Governments were in office up to November 1972 and from November 1975 to July 1984. The short period of "free bargaining" occurred in the early months of a Labour Government that was in office from November 1972 to November 1975.

[4] Long-Term Reform Committee: *A description of wage fixing and industrial relations in the private sector, September 1983*. Another important contribution to the debate at that time was R. Campbell and A. Kirk: *After the freeze* (Wellington, Port Nicholson Press, 1983).

[5] In addition to relevant wage relativities, the Court was now required to have regard to the supply of and demand for the skills in question, the need for fairness and equity in rates of pay and conditions of employment, any changes in job content or in the skills required, the duties or responsibilities attaching to the positions, and any changes in productivity.

[6] The rate of unemployment in New Zealand had remained below 1 per cent until 1978, and did not exceed 2 per cent until the first quarter of 1980.

[7] On this question see J. M. Howells: "For or against compulsory unionism? Recent ballots in New Zealand", in *International Labour Review*, Jan.-Feb. 1983.

[8] One significant exception was the slaughtering and meat freezing industry which had experienced a long period of higher than average wage and cost increases and excessive manning levels. Intense international competition, and the removal of government-subsidised price schemes for meat surplus production, led to a rapid fall in "on farm" prices, and a markedly reduced ability to absorb wage increases. The processing companies were undergoing a period of rationalisation and technological upgrading.

[9] The Green Paper raises issues related to the possible reform of industrial relations law, structure and procedures. It was published on 17 December 1985, and submissions were called for by 30 April 1986. A further paper and legislation are planned.

[10] The committee was established in February 1986 and is to report in July 1986. Under its terms of reference it is required to consider the need for flexibility in wage fixing in response to changing needs and circumstances, the public sector wage-fixing machinery (including the role of tribunals and the Higher Salaries Commission), and the implications of wage-fixing procedures for other parts of the public sector such as corporations and local authorities.