

**INDUSTRIAL RELATIONS**  
**AND**  
**INCREASING GLOBALIZATION**

Country Case Study —  
The Republic of Korea

by  
**Pong-Sul AHN**

# INDUSTRIAL RELATIONS AND INCREASING GLOBALIZATION

## CASE STUDY OF THE REPUBLIC OF KOREA

by Pong-Sul Ahn\*

### 1. INTRODUCTION

Korea has appeared as the best-performing emerging market, experiencing a fast economic growth during the last three decades. Even though such sustainable economic development required institutional and policy adaptability in response to changing global economic trends, traditional legacies of bureaucratism and confrontational industrial relations disturbed such adaptability. Then, the financial crisis started at the end of 1997 brought the most serious challenge to further growth and future prosperity. Since the International Monetary Fund's rescue package, Korea has carried out fullfledged macroeconomic and structural reforms of public, financial, private, and labour sectors. The on-going restructuring programmes have brought about changes to the economic system, the lifestyle of the public, and industrial relations. For example, the unemployment rate had gone up from 2.5% to a peak of 8.7% in early 1999, throwing more than one and half million workers into unemployment. What lessons can be learned from the Korean case, which one day was applauded as an economic miracle, and the other day is shamefully recorded as an economic turnover.

This paper examines the experiences of industrial relations in Korea both in law and in practice, looking back to legal and political developments in history. And it also focuses on finding a new framework of industrial relations, by reviewing economic situations since the financial and economic crisis of 1997.

### 2. HISTORICAL DEVELOPMENT OF INDUSTRIAL RELATIONS, 1948 – 1997

#### 2.1 Politico-economic factors framed industrial relations

The characteristic transformation of politico-economic settings has played a decisive part in framing industrial relations. The great social transformations in Korea had taken place since Independence of 1945. The growth of Korean trade unions has been closely associated with the shift of political power, such as the trusteeship of 1945-48, the Rhee Sung-Man regime of 1948-60, the Park Chung-Hee regime of 1961-79, the Chon Doo-Whan regime of 1980-87, the Noh Tae-Woo regime of 1988-92, and the Kim Young-Sam regime, 1993-97. In a historical perspective, these political power changes created a momentum at which trade unions could start free and independent movement. At the same time, radical and progressive unionists appeared challenging the conservative union leadership. However, after a short period of political power vacuum, the new government had quickly redesigned industrial relations system. In such a political transition, Korean trade unions were kept apart from political power for four decades. In particular, the authoritarian regimes mainly backed by the military had been a significant impact on the pattern of the labour movement. Authoritarian regimes had separated organised labour from decision-making processes by the use of

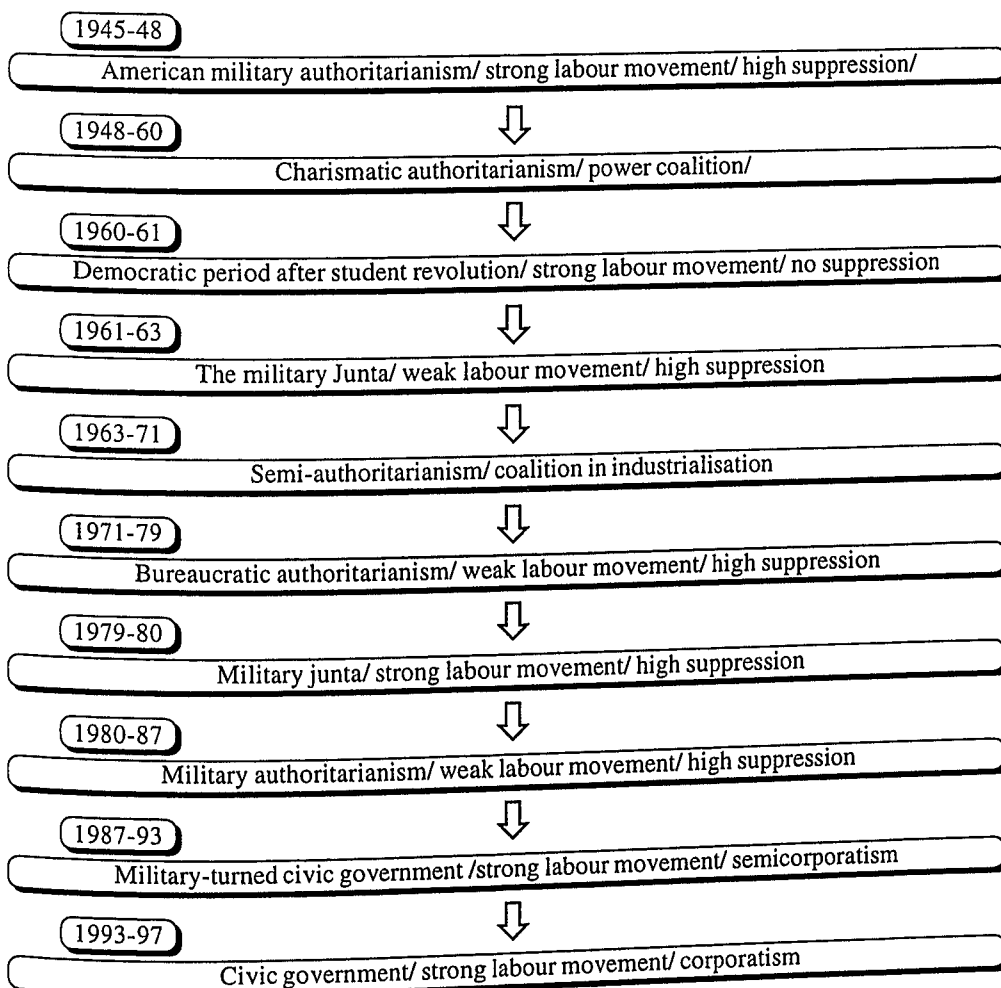
---

\*Pong-Sul Ahn is the Director, International Relations Bureau, of the Federation of Korean Trade Unions

internal control mechanisms such as anti-Communist policy, restrictive labour laws or the coercive apparatus of the state (Ahn, 1997, pp. 103-139).

In addition, the developmental pattern of Korean trade unions has been in line with the specific trends of Korean capitalist system, which include (Ahn, 1997): Firstly, the export-oriented industrialisation has been pursued by a trinity of bureaucrats, military elites, and capitalists of multinational enterprises (MNEs) and chaebol. Secondly, capital accumulation in the process of industrialisation has been pursued by elites controlling the state. Thirdly, a cheap labour force has been a fundamental element of the state's developmental strategy, and labour's autonomous involvement in industrial policy-making processes was thwarted by the state's strong control. Fourthly, an international division of labour has eventually formulated appropriate environments in which the aforementioned conditions could be successful. These specific trends of capitalist development have had a profound impact on shaping the structure of industrial society and also continued to have a pivotal influence on the development of the labour movement. Having excluded both from the process of capital accumulation and the creation of political power, industrial workers gradually became antagonistic toward the authoritarian regimes. It is eventually estimated that Korea has achieved remarkable economic growth, but its political maturity has been relatively retarded. Figure 2-1 describes the relations between political regimes and labour movement from 1945 to 1997.

**Figure 2-1 Labour in the shift of political power**



The state pursued capital accumulation by neglecting wealth redistribution, by underdeveloping social welfare, and by depressing workers' demands on betterment. The supply of cheap labour force to low-technology manufacturing was necessary for international comparative advantage of price. Labour subordination, which could maximise the cost efficiency of labour markets, was a necessary condition for export-oriented industrialisation (EOI). Wages were kept low, above all in the export sector and especially for female workers, and welfare conditions were neglected. Trade unions were given a limited role, within a tightly restricted system of state-dominated corporatism. Labour control in the mass production system was an inevitable element for the stable economic growth. Therefore, the labour movement was categorised as an impure substance threatening economic prosperity and national security, and workers active in the labour movement were frequently punished as Communist sympathisers.<sup>1</sup> The division of Korea and the threat emanating from the North was another crucial factor contributing to the evolution of an authoritarian industrial relations environment (OECD, 2000, p.44). The control policy of organised labour was partly resulted from a strategy of power consolidation for the military regime itself.

## 2.2 From Independence of 1945 to pre-IMF of 1997

### *The trusteeship, 1945-48*

The Japanese defeat in 1945 left workers in a position of considerable power. Soon after the Independence, workers' committees mushroomed in workplaces and a self-management movement by workers was prevalent, occupying over 85% of factories throughout the country (Cumings, 1981, p.77). The American Military Government (AMG) engaged in labour movement by appointing superintendents in all the factories under workers' self-management. The AMG then intervened to prevent industrial actions, which accelerated the mood of tension in conjunction with the demonstration. Unionisation drastically increased in the course of continuous protest against the trusteeship of the AMG. The mainstream of the labour movement was represented on the one hand by the National Council of Korean Trade Unions (NCKTU) respecting Communist ideology, and on the other hand by the Confederation of Korea Independence Trade Unions (CKITU) based on anti-Communist ideology. The key characteristic of the labour movement, 1945-48, was ideological conflicts between NCKTU and CKITU. The AMG began to suppress the NCKTU opposing its general policy and to punish workers defining as leftist sympathisers. The CKITU that was largely based on employees of state-owned companies such as post, train, electricity, etc., took the initiative in organisational hegemony. In the process of Korean state building after Independence of 1948, a small group of bureaucrats, technocrats, and capitalists overwhelmingly monopolised state power, although trade unions had been active through a self-management movement.

### *The Rhee Sung-Man regime, 1948-60*

The CKITU was turned into a loyalist agency of the regime. However, there were some spontaneous labour movement in such industries as harbours, mining, rail-roads, textiles and transportation even during the War of 1950-53. The main issues of these disputes were delayed wages and dismissals. During the periods of 1953-60, there was

---

<sup>1</sup> The National Security Law, which was enacted in November 1948 based on anti-Communist ideology, has been used to punish union activists as Communist sympathisers. As the application of the National Security Law on labour was criticised, the Law on Rallies and Demonstrations was enacted with a view to administrating industrial actions.

a corporatist mechanism in industrial relations, because the regime sought the participation of the organised unions for the purposes of economic recovery and state reconstruction from the devastation of the Korean War. In late 1959 and early 1960, autonomous labour movement began to be active at both national and plant levels. In addition, some newly organised unions set up an independent federation, called the National Council of Trade Unions (NCTU) on October 26, 1959. The Association of Korean Teachers' Trade Unions (AKTTU), which covered school and university teachers, was formed on May 22, 1960. In the face of student demonstration in 1960, the breakdown of the regime brought on a new generation criticising the conservative ideology of the CKITU. On November 25, 1960, there was a national conference for merging the various union factions - CKITU, NCTU, and other independent unions. At last, the Federation of Korean Trade Unions (FKTU - Hankuk Noryon) was founded, affiliating over one thousand unions with 356,692 membership in 1960. Then, workers enjoyed their activities at a moment of freedom from state intervention, but were abruptly again by the coup d'état in 1961.

### *The Park Jung-Hee regime, 1961-79*

The military that took power dissolved all social organisations including trade unions. The military elites who had a very negative view of unions' involvement in politics reorganised the FKTU in August 1961. In 1970, the death of Chon Tae-Il, a male garment worker, who committed suicide in protest against severe violation of labour rights, became an initiative provoking college students' rallies. At the same time, many church groups began to pay considerable attention to labour rights, educating workers to become more conscious of their working conditions and social status. Church groups, such as Urban Industrial Mission (UIM) the Youth Catholic Workers' Association, the National Council of Churches in Korea, and the Christian Academy, played a significant role in encouraging workers and supplying information and education.

And, student-factory workers also equally gave great support for the labour movement. The Democratic Youth Council, which was set up in 1976, activated underground in industrial areas, aiming at achieving broader democratisation in conjunction with religious groups. The strike of the Y.H Trade Union drew a wide range of public attention, particularly from intellectuals and religious figures. Demanding the payment of unpaid salaries as well as opposing the closing of firms, mainly female strikers continued with a sit-in strike at the headquarters of opposition political party. A break-up through force by the police, which resulted in one worker's death and a number of injured, became a political hot-potato. The dismissal of Kim Young-Sam, opposition political party leader, who urged the retirement of the President, triggered the revolts in the cities of Pusan and Masan, which finally brought about the fall of the authoritarian regime in 1979.

The networks between labour and other social groups have been more widespread since the Y.H accident. Along with growing social bonds with church activists and students, workers consistently strived for autonomous union activities. Workers' ties with these social groups helped shape the development of the labour movement in these periods. In particular, the influence of Christians in the workplace and their involvement in labour activities were a cornerstone in the development of the grass-roots labour movement in the late 1970s. During the 1970s, the labour movement was active chiefly in light industries, associated with export-oriented manufacturing and mainly employing female workers.

*The Chon Doo-Whan regime, 1980-87*

Making use of "vacuum of political power" in early 1980, workers organised their own unions and trade unions went on strike demanding the improvement of labour rights. For example, twenty out of eighty-four firms in the Masan export processing zone (EFZ) were unionised or in progress of unionisation. Seven out of fourteen firms in Ulsan Heavy Chemical Industries Zone were organised. Hundreds of illegal labour disputes took place. Thus, the growth and development of independent trade unions in early 1980 had a wide impact on political and economic environments. On April 21, 1981 workers in Sabuk Mining began a furious strike involving around 3,000 miners and their families. The dispute turned into open rebellion as the strikers occupied Sabuk town, and the situation took three days to normalise after violent clashes.

Despite the labour upsurge, the labour movements had little connection with opposition forces, because the scope for wider social mobilisation was severely restricted by the military junta. The new military government resolved the dilemma of labour issues generally followed a strategy of controlling union leadership. According to the "Guideline for Purification of Labour Unions", 12 presidents of industrial federations were dismissed and 191 union leaders such as heads of regional offices, residential staff, and representatives of local unions, were forced to resign their positions. One hundred and six district branches of the FKTU were also disbanded, and more than 70 unionists were imprisoned.

The government launched a series of political reforms in an attempt to win the general elections of 1985. Thus, it implemented many policies such as the release of politicians and the extension of campus autonomy, in order to remove the image of military-authoritarian regime. Political relaxation became a direct initiative for the growth of social opposition organisations among students, journalists, human rights groups, and the urban poor. The ruling Democratic Justice Party failed to achieve 2/3 seats to revise the Constitutional law on the presidential term, which had faced with the people's opposition. In the meantime, opposition parties that won enough seats were able to require constitutional reform called on the revision of law for the direct election of the president. Dissidents and religious activists demanded a wide range of changes in the political structures. Trade unions vigorously participated in social movements calling for the removal of the blacklist and the restoration of human rights. Student demonstrators, who operated labour class or labour advisory centres to teach labour staff, helped to give some legal and organisational advice to newly organised unions. The announcement of the President that self-decided the indefinite adjournment of the discussion of constitutional revision became a decisive incentive provoking civil movement. On the 29<sup>th</sup> of June 1987, Roh Tae-Woo, Presidential candidate of the leading political party, declared an eight point democratisation package, including direct presidential elections and the restoration of civil rights. This political event became a turning point for labour movement.

*The Roh Tae-Woo regime, 1988-92*

Since 1987, Korea had faced a rapid change of political system, as a result of enormous upward pressures from below. All kinds of social forces have played a role in leading democratic transition. Having undergone the pluralistic activity and democratic operation of union organisation, organised labour was one of the strongest independent variables impacting on the transition. As many enterprise unions broke away from the FKTU

and labour activists set out to establish a rival trade union centre, National Council of Korean Trade Unions (NCTU-Chonnoryon) in January 1990, despite the legal restrictions on multiple unionism. Independent unions were generally organised by region, occupation, and a business group. Such organisational distinctions were advantageous to workers' solidarity because of geographical and occupational affinity. The Solidarity Meeting of Large Enterprise Trade Unions, in which 16 large company unions were involved, was launched in December 1990 to seek a new labour movement. In addition, Hyundai and Daewoo group trade unions were organised. Reflecting this labour upsurge, the total membership of trade unions amounted to 1,932,000 in 1989, that is, at its peak. But the membership had been continuously reduced, because of contradictory phenomena of democratic progress and industrial restructuring.

In these transitional periods, the whole labour camp could be categorised into three groups: soft-liners, hard-liners and middle-liners. The FKTU as a soft-line organisation argued for the need for negotiation with the government and capitalists, while the NCTU as a hard-line organisation, argued for rapid reform, emphasizing on direct political participation of trade unions and political struggle. Some newly organised trade unions stood independently from both FKTU and NCTU. However, newly organised unions that belonged to a radical group were critical of existing unions, which affiliated to the conservative industrial federations. Growing union confrontation with the state and capital was a general phenomenon during the periods of 1988-92. The government adopted a tough stance towards organised labour, but suppressive means were not able to pressurise entirely the demands of organised labour. Politicised and militant union activities, reflecting the participatory aspirations of workers, were a serious response to delayed political reform.

Industrial disputes in MNEs had been rapidly widespread. A nationalist attack appeared as a common factor in strikes in such MNEs as IBM, Motorola Korea, Sumida Electronics Co., Pico Electronics, etc. Much of the movement drew its strength from the increasing nationalism in Korea. With a negative experience of MNEs due to poor job security and fringe benefits, some workers recognised that the investment of MNEs caused basic labour problems. The nationalistic sense in workplaces derived from workers' perception that political independence from the USA becomes a key element to solve labour issues. Many activists claimed that US economic, political and military domination was at the heart of Korea's labour problems.

### *The Kim Young-Sam regime, 1993-97*

Along with the emergence of many illegal regional, public, and occupational independent unions, the politicisation and militancy of trade unions were a new pattern of labour movement in the 1990s. The Korean Confederation of Trade Unions (KCTU) was established in 1995 [legalised in December 1999]. In some sense, the competition between FKTU and KCTU had enhanced the efficacy of union activities. The occupational division between manufacturing and services also contributed to the diversification of the labour movement. Workers' class consciousness developed solidarity and union links with other social groups.

Even though labour failed to participate in party politics, trade unions appeared as a crucial political actor. The state and management could no longer clamp down labour upsurges by their previous control mechanisms. The state eventually introduced a labour strategy of carrot and stick. The FKTU as a legal national centre was guided

with "carrots" by the government towards participation in a state-framed system, while the NCTU and independent unions as illegal bodies were deterred with a more painful application of the "stick". In the meantime, the government could not but accept the demands of labour, offering piecemeal policies to stabilise political unrest. The growth of welfare was part of government's carrot and stick policy to institutionalise industrial relations. Increasing union bargaining power also brought workers a variety of economic benefits such as wage rises, the reduction of working time, better company and state welfare provision, improved job security and protection.

Since 1991 when Korea became a member of ILO, the government faced tremendous external pressures urging international labour standards. In addition, as Korea joined as a member of the OECD in 1996, the concerns of international labour organisations on Korea's labour standards increased. Accordingly as the OECD requirement of market opening, Korea would have adopted the system of open society. At the same time, the preservation of international labour standards emerged as a critical subject, as Korea exported its goods to international markets. At the Presidential elections in December 1997, the FKTU adopted its policy alliance with Kim Dae-Jung, candidate of opposition political party, while the KCTU nominated Kwon Young-Kil as its own candidate. Consequently, making use of politico-economic variations at home and abroad, labour appeared as a politically influential actor in practice.

### 3. DEVELOPMENT OF LEGAL FRAMEWORK

The basic pillars of the Korean industrial system was made by the 1948 Constitution, which guaranteed workers the right to organise, bargain collectively and engage in industrial action. The laws enacted in 1953 were detailed as the following four acts: the Trade Union Act, the Labour Dispute Adjustment Act, the Labour Standards Act, and the Labour Relations Commission Act. The Labour Standards Act, which applies to companies employing over five workers, is the main piece of legislation which regulates working conditions and employment contracts. Followed the liberal tradition of Western industrialised economies, these laws were far advanced, as regarded that the Korean economy was still largely agrarian. This legal development describes the historical background behind Korean industrial relations. Labour laws consist of three categories: individual labour laws, collective labour laws, and employment policy and administration laws (Koliaf, 2000, pp.24-27) .<sup>2</sup>

**Table 3-1 History of the Relations between political affairs and legal development**

Year	Legal development
1953	The Trade Union Act, the Labour Dispute Adjustment Act, the Labour Standards Act, and the Labour Relations Commission Act
1963	- prohibition of unions' political participation, - the establishment of labour-management council, - the extension of cooling-off periods
1973	- prohibition of third party involvement

<sup>2</sup> Individual labour laws can be described as the body of rules concerned with the individual relationship between employers and employees. Collective labour laws are a body of rules governing the collective relationship between employers' and workers' organisations. Employment policy and administration laws stipulate the role and duty of the government, enterprises and employment service agencies in employment security, promotion and vocational training.



1980	<ul style="list-style-type: none"> <li>- a shift from union shop system to open shop</li> <li>- transformation of the industrial union system to the enterprise union system</li> <li>- restricting the rights of union representatives</li> <li>- ban on industrial disputes in the public services and the defence industry.</li> </ul>
1997	See Table 3-2
1998	<ul style="list-style-type: none"> <li>- introduction of labour flexibility, legalising layoffs, dispatched work</li> <li>- recognition of civil servants' work council</li> <li>- legalisation of teachers' union</li> <li>- allowing the political participation of trade unions</li> </ul>

Table 3-1 demonstrates the legal developments in line with political affairs. On 13 March 1963, the revised law on Labour-Management Councils forced every company with over one hundred employees to form a government-sponsored labour-management council. Emphasising the need for cooperation and harmony between management and labour, the functions of the councils were substituted for the role of trade unions. The councils were made up of an equal number of both labour and management representatives, but workers representatives were mostly selected, or approved by the company. Crucial matters for discussion were how to improve productivity and to solve complaints. The Labour Dispute Adjustment Law required a cooling-off period of 20 days in the private sector and 30 days in the public sector. And then, in order to make a strike difficult, the law initiated a provision of three-stage settlement of conciliation, mediation and compulsory arbitration, giving the state enough time for intervention in the strike. The Laws regarding Trade Unions, Labour Dispute Adjustment, and Labour Committees were also revised in April 1963, when liberal unionists attempted to set up a nation-wide independent federation, and several union leaders were intended to establish a labour party. Faced with a big challenge, the military government revised the labour law prohibiting any political activities by trade unions. The Trade Union Act severely restricted union freedom in this respect: Article 12 Clause 1 – trade unions should not collect membership fees for political purposes; Clause 2 – trade unions should not support or join any political party; Clause 3 – union leaders should not be elected as candidates for political office. The law, banning union political activities, effectively excluded labour from any influence upon the state's policy/decision-making.

The revision of the labour laws in 1973 were a reflection of increasing labour militancy against employers and the state. In early 1970, secret activities by religious activists and students were very widespread. The government, which realised the political influence of extra-labour organisations, enacted a law prohibiting third parties from involving in labour issues.

Reflecting the socio-political factors, labour legislation was amended in December 1980, with a view to ensuring labour peace and minimising the influence of trade unions. It is estimated that the labour laws placed further restrictive regulations on the activities of trade unions. The revised labour union laws can be summarised as follows: a shift from union shop system to open shop; transformation of an industrial union system to the enterprise union system; prohibition of collective bargaining; more stringent official investigation before approving a new labour union, and restrictions on union representatives according to their qualifications. In addition, the Trade Union

Law limited union membership fees to less than 2 percent of total wages, in order to reduce the unions' financial base. The cooling-off period of a labour dispute was increased from 20 days to 30 days in the private sector, and from 30 to 40 days in the public sector. The Trade Union Law reinforced bureaucratic control by giving the authority to license a union or to remove a union leader from the union, if the union or the leadership were deemed to harm the public interest. Civil servants and teachers were not allowed to organise their own union, and industrial disputes were forbidden in almost all public services and the defence industry. In contrast to restrictions on freedom of association and collective bargaining, the government strengthened protective labour regulations to protect working conditions. For example, occupational safety and health requirements and industrial accident insurance were expanded, the scope of application of the Labour Standards Act was progressively widened to small enterprises, and a Minimum Wage Act was adopted, applying to all firms with ten and more workers (since 1999, five and more).

Starting in 1987, the political system moved towards democratic forms of government. In the late 1980s, the revision of labour laws was actively discussed in the political circle. The National Assembly in 1989 passed a progressive labour bill, which was later vetoed by President Roh, Tae-Woo. Industrial relations entered a new phase when Korea became a member of the ILO in December 1991. The Committee of Freedom of Association of the ILO recommended the Korean Government to allow union pluralism, trade union activities for school teachers and civil servants, political activities of trade unions, and the intervention of third party in labour disputes. In response to the recommendation of the ILO, the Government set up a "Working Party for the Revision of Labour Laws" to make a report to the Labour Minister. However, the working party failed to submit the report to the Minister and ended its role.

As the demands of labour concerning the reform of labour laws exploded, the government established the so-called Presidential Advisory Commission on Industrial Relations Reform in May 1996.<sup>3</sup> It was designed to promote the nation's prosperity and the public interests. In the discussion, trade unions called for more freedom and autonomy in the collective industrial relations law, while the employers challenged for more flexibility and deregulation in labour market. Following several months of strenuous deliberations on these matters, the Commission successfully agreed to a wide scope of issues. Then, the Commission submitted its proposal to the President in November 1996, before submitting to the National Assembly for the adoption as a bill. Although labour strongly opposed to passing the draft bill accommodating the interest of the employers, the ruling party passed the bill at dawn of December 26 without the present of the opposition parties. Thanks to the nationwide strike of labour from December 27 to 31 and the continuous public struggle, the adopted bill was returned to Parliament for the proper discussion and agreement between leading and opposition parties. Finally, the single proposal by political parties was passed in March 1997 at Parliament. They include, as can be seen in Table 3-2 the following:

---

<sup>3</sup> The Commission was comprised of 30 members, appointing 10 persons from public interests, 10 persons from acadennia, 5 persons from labour, and 5 persons from management. The major objective of the Commission was to draft a bill for the reform of industrial relations which will be reported to the President and filled it to the National Assembly for the revision of labour law. For the effective running of the Commission, it then established a sub-committee consisting of 9 members; 5 persons from public interests and 2 persons from labour and management respectively, in a view to producing a draft bill based on the agreement of all parties concerned in principle.

**Table 3-2 Major contents of the new labour laws in 1997**

Major field	Details of change
Collective bargaining	<ul style="list-style-type: none"> <li>- Allowance of multiple trade unions (enterprise level will be allowed from 2002)</li> <li>- Lift the ban on the third party intervention</li> <li>- Enhanced autonomy in financial management of union</li> </ul>
Labour market	<ul style="list-style-type: none"> <li>- Introducing flexible working hour system</li> <li>- Employment adjustment for managerial reasons (from March 1999)</li> <li>- Introduced an interim clearance system of retirement pay</li> </ul>
Industrial practices	<ul style="list-style-type: none"> <li>- Prohibiting remuneration of wage by employer to full-time union officers</li> <li>- Application of 'no work, no pay policy' during the strike period</li> </ul>

Source: Ministry of Labour, Labour Administration, 1997, p.38

Establishment of multiple trade unions was first allowed at the national level and will be then recognised at the enterprise level from 2002. Trade unions were allowed to participate in political activities, such as political campaigns, collection of political funds, and nomination or endorsement of candidates. The law allowed replacement of striking workers with other workers of the business concerned during disputes, while it restricted any new subcontract for breaking the strike. And strikes were prohibited from violence or occupying major production lines and important facilities [Since then, strikers have been commonly charged of business interruption]. Full-time union officers were banned to receive payments of any kind from employers and the payment of wages was defined as an unfair labour practice. A flexible work hour system on a biweekly or monthly basis was introduced under the condition that the average weekly hours do not exceed a 44 working hour.

On the eve of the economic crisis in late 1997, the laws were reformed in order to allow the individual and collective dismissals of regular employees. It is characteristic that the Tripartite Commission played a major role to come to an agreement on critical labour issues in early 1998. Civil servants who are below 5 degree out of 9 degrees were permitted to organise work council in order to consult only on their working conditions. Teachers' unions, which had been illegally activated, were recognised.

**Table 3-3 Laws regarding labour market flexibility**

Names of relevant laws	Regulations of relevant laws
Layoff on the managerial reason	Possible in situations such as transfer, acquisition, and merger of businesses in order to avoid financial difficulties
Dispatched workers system	Available, after labour-management consultation, for jobs requiring specific skills, experiences, etc
Flexible work-hour system	Possible for workers and employers to work out a variety of flexible work-hour schedules

As Table 3-3 shows, new laws enacted in 1997 focus upon expanding labour market flexibility, by introducing systems of layoff, dispatched workers, and flexible working hours. The legislation allowed any company to lay off workers in case of urgent managerial needs as well as transfer, merger and acquisition. However, corporation's self-rescue efforts to avoid layoff is strongly stated as a compulsory regulation. The management should give a 60 days advance notice to the representatives of workers on the measures taken to avoid dismissal. Rational and justifiable criteria in selecting the to-be laid off should be made, and sexual discrimination is prohibited. In case of dismissing over 30 workers, the management should notify the Ministry of Labour before carrying out dismissal. The so-called recall system, re-hiring dismissed workers is obligated, when the company employs anyone within 2 years. Dispatched workers are also available in cases where workers are needed on a temporary basis. As a way to enhance the efficiency of personnel management in business, dispatched workers were available for jobs requiring specific skills, experience, etc. Flexible work hours and interim clearance system on retirement were also introduced.

Since the early 1990s, the Korean government has tried reforms in the areas of industrial relations and labour law. The purposes of these reforms were different from the previous cases of labour law revision, which were aimed at the political needs for regime stability and economic growth. It has been pursued in principles of designing autonomous bargaining between labour and management, rational procedures of labour disputes and dispute adjustment, flexibility of labour market, and participatory and cooperative industrial relations. Substantial changes have been witnessed, in improving labour standards on the one hand and enhancing labour market flexibility on the other hand.

#### **4. CHANGES OF INDUSTRIAL RELATIONS IN AN INCREASING GLOBALISING MILIEU**

##### **4.1 Impacts of globalisation on industrial relations**

Korea experienced the financial crisis of 1997. The crisis was caused by Asia-regional and domestic factors, which mainly include large companies' bankruptcies, the breakdown of Asian financial markets, the lack of liquidity by corporate short-term over-loans, crony capitalism, and chaebol's octopus-type management. Along with the IMF conditionalities, Korea has carried out significant and comprehensive reforms for economic and financial stability. The aims of reform are to improve corporate governance; enhance flexibility in the labour market; privatise corporations, and recapitalise the financial sector.

The overall structural adjustment programmes brought about a mountain of problems rather than solutions. In particular, having fixed 2.6% of the low economic growth, over 20% of high interest rates, and only one million unemployed, the 1998 IMF policies were distant from the real economy. The IMF prescription had focused upon recapitalising the troubled financial market through high interest rate, 8% of the capital adequacy ratio, and tight budgetary policy. Such IMF policies have resulted in unpredicted economic repercussions like high unemployment, liquidity crunch, and decline of purchasing power. Liquidity crunch, accompanied by a number of healthy small & medium sized enterprises' unnecessary bankruptcies was a direct cause by the belt-tightening budget policy. And, corporate bankruptcies had a close connection with high unemployment, because companies in a state of managerial crisis made use

of the layoff system as a first aid self-rescue measure. The losses of households' real income, which were linked with the decline of purchasing power, gave rise to the weakness of domestic markets.

KLI statistics show the evidence that household's expenditure including consumption and non-consumption expenses declined from 13.8% in 1996 to 4.6% in 1997, and further down to -8.4% in 1998 (KLI, 1999b: 133). The shrinking of consumption was a direct contributor to the sharp decline of domestic markets, which resulted in about -5.8% of economic downturn in 1998 [even though it recovered remarkably, recording 7.8% of economic growth in 1999]. The government has spent a total 64 trillion won to recapitalise financial institutions as of July 2000. Table 4-1 demonstrates the reform of the financial sector in detail through closing and merging. Sixteen merchant banks and five commercial banks were forcibly shut down. And the two commercial banks, Seoul Bank and Cheil Bank, were sold to foreign capitals, in the name of introducing advanced skills of banking management of Western institutions.

**Table 4-1 Post-crisis status of Korea's bank and non-bank financial institutions**

Banks	Total institutions end 1997	Resolution		Total institutions end 1998
		Closed	Merged	
Commercial banks	26	5	3	18
Merchant banks	30	16	-	14
Insurance companies	50	4	1	45
Securities companies	34	6	-	28
Investment trust companies	8	3	-	5
Leasing companies	25	10	-	15
Mutual savings	230	18	-	212
Credit unions	1653	40	-	1613

Source: *Financial Supervisory Commission, 1999; readopted from EAAU, Korea Rebuilds, 1999, p.176.*

However, over 40 trillion won of additional public funds will be raised to assist further reforms of commercial banks, which are below 10% of the Bank for International Settlements (BIS). Eventually, the maltreatment of the IMF brought about consequences contracting the economy, producing over-unemployment, and widening the income gap between the rich and the poor. Over the past three years, average incomes of the poorest 20% of households have declined by over 8%. In 1999, 8 to 10% of Koreans were officially estimated to live below the poverty line. According to OECD standards, 65.7% of Korean households in 1998 were classified as middle class, earning around 1.82 million won per month, with 11% and 23% of lower and upper class respectively. With the advent of the economic hardship, the middle class became thinner from 68.5% in 1997 to 65.7% in 1998.

## 4.2 Employment and employment security

Since the mid-1990s, changes in the employment structure have taken place due to decrease of youth labour force, femalised labour force, and aging of workers

(Uh, 1993, pp.40-44). In addition, labour flexibility introduced in 1998 has been a decisive element in framing the current pattern of employment structure. The total population in Korea has increased by 1.2 million from 45.1 million in 1995 to 46.3 million in April 2000. The economically active population has enlarged from 20,853,000 persons in 1995 to 21,966,000 persons in April 2000. The employed population has steadily increased by 633,000 persons from 20,432,000 persons in 1995 to 21,065,000 persons in April 2000. However, due to the crisis the total of the employed sharply fell down 6% to 19.9 million in 1998. As a result of the economic recovery, the employed people have grown upto 2% with 20.2 million in 1999.

As analysed employment trend by industry in Table 4-2, the employment in agriculture, forestry and fishery steadily decreased from 12.5% in 1995 to 11% in 1997, but up to 12.2% in 1998. The increase of employment in the primary sector in 1998 was caused by the migration of the unemployed to rural areas. The population in the same sector has started decreasing again since 1999. However, the number of the employed in the tertiary sector has been gradually up to over 68% as of April 2000. The population of the secondary sector had been relatively reducing until 1998, and it has slightly increased since 1999. It is evaluated that the economic crisis had been a major impact on the changes of employment.

**Table 4-2**                      **Employment trend by industry**                      (Unit: 1, 000 , %)

Year/ By industry	EAP* (000)	Total employed (000)	Employment by industry		
			Agriculture & fishery(%)	Manufacturing & Mining(%)	SOC & others (%)
1995	20,853	20,432	12.5	23.5	64
1996	21,243	20,817	11.6	22.6	65.8
1997	21,662	21,106	11	21.4	67.6
1998	21,456	19,995	12.2	19.6	68.2
1999	21,634	20,281	11.6	19.9	68.5
Apr 2000	21,966	21,065	11.4	20.2	68.4

Source: Ministry of Finance and Economy, *Monthly Economy*.

\*EAP: Economically active population

As Table 4-3 below shows, of the total 21,391,000 employed as of June 2000, the self-employed are 6,063,000 persons (28.3%), family workers 2,059,000 persons (9.4%), and wage earners 13,269,000 persons (62.1%). Out of 13,269,000 paid workers, regular workers account for 6,256,000 persons (47.1%), and the number of irregular (temporary and daily) workers stands at 7,013,000 persons (52.9%). The numbers of temporary workers who maintain jobs less than one year has increased by 1.02 million (77.7%) from 3,545,000 persons in 1995 to 4,561,000 persons in June 2000. The daybased workers, working less than a month, have been went up 543,000 persons (73.8%) from 1,809,000 persons to 2,452,000 persons during the same periods. According to the evaluation of the OECD on the trend of Korea's labour market (OECD, 2000), job precariousness remains relatively high by the standards of other OECD countries, while the employment protection of regular workers is still one of the strictest among its member countries.

**Table 4-3 Employment by status**

Year	Employed	Self-employed	Family workers	Paid workers			
				Total	Regular	Temporary	Daily
1995	20,432	5,694	1,955	12,784	7,429	3,545	1,809
1996	20,817	5,811	1,941	13,065	7,401	3,860	1,804
1997	21,106	5,981	1,899	13,226	7,151	4,182	1,892
1998	19,995	5,776	2,028	12,191	6,457	3,998	1,735
1999	20,281	5,841	1,918	12,522	6,050	4,183	2,289
June '00	21,391	6,063	2,059	13,269	6,256	4,561	2,452

Source: KLI, *The Profile of Korean Human Assets: Labour Statistics 2000, 2000*; National Statistics Authority, June 2000.

Compared with an average 2.6% of the unemployment rate with 556,000 unemployed in 1997, the unemployment rate soared up to 6.8% with 1,461,000 unemployed in 1998. This figure went up to 8.6% at a peak with 1,780,000 unemployed in February 1999. It again fell down to 3.6% with 793,000 unemployed in April 2000. In the process of restructuring, workers have been redundant in all sectors of industries, but particularly in construction, financial services, public sector, and informal sectors. A report of the Korea Federation of Financial Industry Union claims that over 50,000 financial workers, equivalent to one third of the total workers working in financial industries, have been redundant from 1998 to May 2000. Table 4-4 proves the fact that massive layoff has been committed in the financial sector. About 33.2% of workforce at five national banks such as Foreign, Chohung, Hanvit, Seoul, and Peace have been laid off from the end of 1999 to August 2000.

**Table 4-4 Employment figures at banks considering layoffs as of August 2000**

Name of banks	End of 1997	End of 1998	August 2000	Layoff (%)
Foreign Exchange Bank	8,188	5,558	5,386	34.3%
Chohung Bank	8,998	5,803	6,884	23.5%
Hanvit Bank	17,232	11,526	10,898	36.8%
Seoul Bank	7,139	4,734	4,584	35.8%
Peace Bank	1,818	1,315	1,224	22.7%
Total	43,375	28,956	28,976	33.2%

Source: *Maeil Business Newspaper*, August 11, 2000.

About 27,740 workers of nearly a total of 163,000 workforce at 19 state-owned enterprises have been retrenched from 1997 to June 1999 (Chosun Ilbo, July 8, 1999). From 1998 up to August 2000, ten out of eighty corporations run by local governments have been privatised, merged or closed, laying off 5,527 workforce (Hankyereh, August 9, 2000). According to the data of Table 4-5, the numbers of workers of year 2000. As a state-run enterprises come to 67% of the workforce by the end of year 2000. As a consequence of the crisis, the economically active participation rate (EAP), hovered

around 62% until 1997, remained around 60% since 1998. Curiously, the EAP of male workers has declined 2.1% from 76.5% in 1995 to 74.4% in April 2000, while that of female counterparts has been relatively growing up 1.2% from 48.3% in 1995 to 49.5% in 1997. Male workers' EAP has been more than 26% higher than female workers' during 1995-2000. However, during the crisis periods, the figures of the female unemployed have been relatively lower than those of the male unemployed. It is because the unemployment rate is proportionally calculated by the EAP. As seen the employment structure of female workers by industry in 1999, 13% work in the primary sector, 18.5% in the secondary one, and 68.5% in the tertiary one.

As work becomes casualised, a great number of female workers' jobs have become more insecure. According to the Woman Bureau of Ministry of Labour, the numbers of total female paid workers are 3,047,000 persons. Out of them, 866,000 persons (24.8%) are employed at companies with less than 5 workers (figures estimated by Ministry of Labour in May 2000 based on the figures of 1999). However, some argue that over 60% of female workers are working in small enterprises employing less than five workers. Workers at small companies employing less than 50 persons were severely hit by the economic impacts. New job seekers who graduated from high schools, colleges, and universities were driven into despair of unemployment. Other vulnerable groups, such as the unskilled, migrants, and the aged, suffered from the influence of rapidly increased unemployment.

**Table 4-5 Major employment indicators, 1995-June 2000** (Unit: 000, %)

Year	Labour force	Employment	Unemployment(000)	Unemployment rate (%)	Participation rate (%)		
					Total	Male	Female
1995	20,853	20,432	420	2.0	62.0	76.5	48.3
1996	21,243	20,817	426	2.0	62.0	76.1	48.7
1997	21,662	21,106	556	2.6	62.2	75.6	49.5
1998	21,456	19,995	1,461	6.8	60.7	75.2	47.0
1999	21,634	20,281	1,353	6.3	60.5	74.4	47.4
Apr 2000	21,966	21,065	901	4.1	60.9	74.4	48.4
June	22,185	21,390	793	3.6	61.4	74.4	49.3

Source: KLI, *The Profile of Korean Human Assets: Labour Statistics 2000*, p. 10- 11.

There are several aspects to the lowering of the unemployment rate. As the first aspect, information and technology (IT) industry that gained a strategic support of the government has led job creation. Having had a positive impact on the growth of relevant industry as well as service business, the rapid development of IT industry has absorbed college graduates and young people who are looking for jobs. As the second aspect, the policy of labour market flexibility has been effective on the creation of temporary and daily jobs. Finally, the expansion of investments in SOC has helped to reduce the number of unemployed. However, the major problems of employment are related to long-term unemployment, increasing irregular employment, and the impacts of restructuring.



### Wages

As Table 4-6 describes the wage rises, the demands of labour on wage rise have maintained two digit figures of 10-15% during the 1995-2000 periods except for 1997-98. The demand of the KCTU has been nearly always 2% higher than that of the FKTU. This is interpreted that the KCTU affiliating many large company unions have demanded high wages, while the FKTU organising state-run corporation unions has restrained wage hikes. On the contrary, the responses of management to labour demands have been much cooler, offering below 5% of wage increase during the survey periods. Especially, from 1996 to 1998, employers had made proposals to reduce labour costs by freezing or cutting down gross wage. It is, however, seen that the wage bargaining usually ended with an agreed amount which is almost half of that of labour demands in general. The nominal wages have been slightly higher than the agreed wages, as considered extra-wage payment such as special bonuses and corporate welfare.

As the impacts of the economic crisis, nominal wages decreased by -2.5% in 1998, compared with the previous year of 7%, while real wages, adjusted after a 7.5% inflation, shrank by -10% in the same year. Workers who are working at small firms employing less than 10 persons are reported to have received much lower wages than those at large enterprises. The reduction of overtime work and bonuses were the main element dragging down wages. As companies, which gained a high level of profits along with a high economic growth of 7.8% in 1998, paid performance-based wages, nominal wages hiked by 12.1% in the same year.

**Table 4-6 Proposed increase rates and agreement rate in wages, 1995-2000**

(Unit: %)

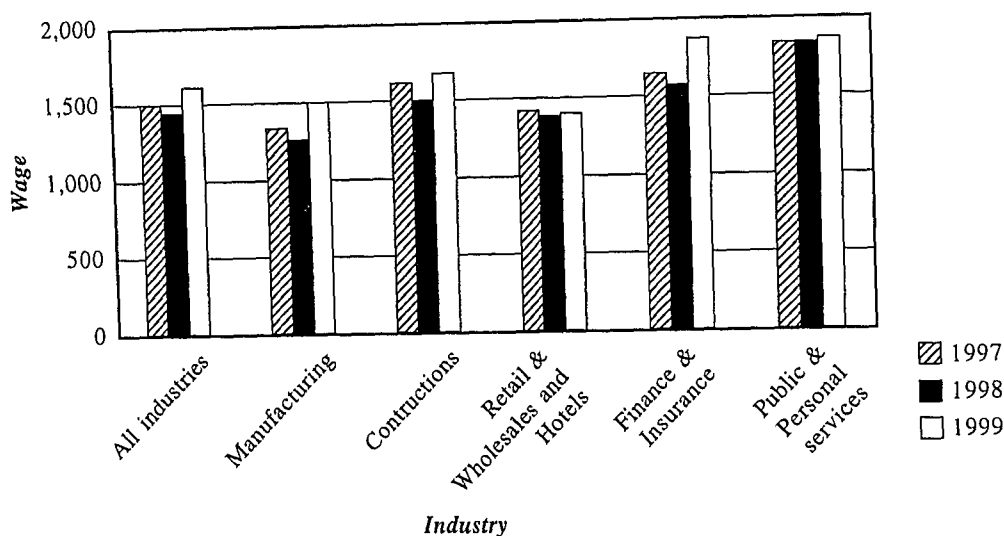
Year	Labour		Management	Wage increase by agreement	Nominal wage increase	Inflation
	FKTU	KCTU				
1995	12.4	14.8	4.4-6.4	7.7	11.2	
1996	12.2	14.8	4.8	7.8	11.9	
1997	11.2	10.6	Freeze gross wage	4.3	7.0	4.5
1998	4.7	5.1-9.2	Decrease by 20% of labour cost	-0.7	-2.5	7.5
1999	5.5	7.7	Freeze or cut down	2.1	12.1	
2000	13.2	15.2	5.4	7% expected	over 10%	

Source: KLI, *KLI Quarterly Labour Reviews* 13:1, 2000, p. 6.

Note: Real wage = Nominal wage + Consumer price index  $\times$  100

Figure 4-1 compares monthly wages by industry. Wages in all industries have decreased by -2.5% from 1.46 million won in 1997 to 1.42 million won in 1998. The wage rise rate in 1999 was 11%, compared to that in 1998. A total wage of a worker in manufacturing reached 1.32 million won in 1997, down to 1.28 million won in 1998, and up to 1.47 million in 1999.

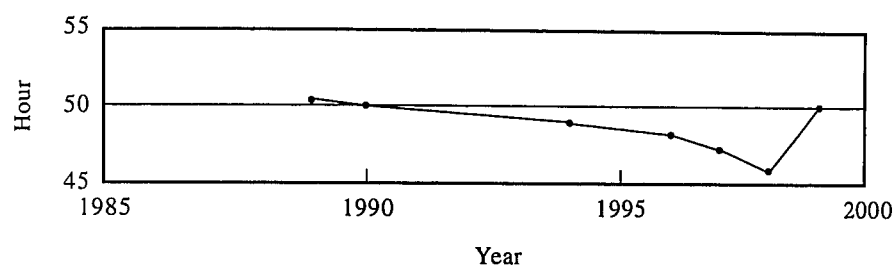
Figure 4-1 Comparison of monthly wage by industry



A worker's wage in construction in 1997 has decreased from 1.62 million won in 1997 to 1.5 million won in 1998, and upto 1.69 million won in 1999. A worker who earned 1.39 million won at retail & whole sales and hotels in 1997 received 1.36 million won and 1.36 million won in 1998 and 1999 respectively. A worker who is employed at finance & insurance and at public & personal services jobs received 1.64 million won in 1997 and 1.81 million won in 1998. Those who are working in construction, finance & insurance, and public & personal services have relatively earned better wages than workers at manufactures, and retail & whole sales and hotels. It is generally estimated that the wage gap between sex, educational levels, skills, and occupations has been wider. A female worker's wage in non-agricultural industries has gone up from 56% of a male counterpart in 1993 to 62.7% in 1998 in the same area (KLI, 1999:39). Although the wage gap between male workers and female ones has been gradually improved since 1993, the wage gap between genders still exists widely.

### Working hours

Statutory working hours are now eight hours a day and 44 hours a week regardless of the type of business. Overtime work is possible for up to 12 hours a week. The average working hours in all industries have been gradually decreasing, reaching 45.9 hours per week in 1998, and it has again increased to 47.9 hours per week in 1999. The monthly average working hours in all industries totalled 202.8 hours in 1999, a 3.8 hour increase over 199 hours of the year 1998. According to Statistics Authority, a worker's weekly work hours in manufacturing have gradually decreased by 4.6 hours from 50.7 hours in 1989 to 46.1 hours in 1998. However, as a consequence of the economic recovery as well as labour flexibility, a weekly work hour in manufacturing went up to 50 hours shown by Figure 4-2. Thus, on the basis of the 1999 figures, Korean workers' weekly work hours in manufacturing have relatively been 10-12 hours longer than its counterparts' such as German (37.5hrs), Canadian (38.7hrs), American (41.7hrs), English (41.8hrs), and Japanese (42.7hrs).

**Figure 4-2 A worker's weekly work hours in manufacturing**

### *Labour disputes*

As Table 4-7 demonstrates the numbers of strikes, workers involved, working days lost and production loss, industrial relations have been stabilised in the 1990s, maintaining below 100 cases of industrial disputes until 1997. However, the number of labour disputes again increased to 129 cases in 1998 and to 198 cases in 1999 respectively, as industrial relations became aggravated due to overdue wages, illegal dismissals, corporate restructuring and layoffs. The number of disputes with 129 cases in 1998 has nearly doubled, compared with 78 cases in 1997. The number of strikes involved has tripled from 43,000 persons in 1997 to 146,000 persons in 1998. Working day losses in 1998 became three times higher in 1998 than in 1997. However, production losses had a sharp rise in 1997 when workers took industrial actions against the IMF bailouts. As the numbers of strikes have increased, the figures of workers involved, working days lost, and production loss have relatively gone up. As regard workers' demands such as better job security, more economic compensation, opposing government's unilateral restructuring, and so on, the occurrence of labour disputes in 2000 is predicted to be much higher.

**Table 4-7 Strikes, workers involved, working days lost, and production loss**

Year	No. of strike	Workers involved	Working days lost	Production loss(won bn)
1995	88	50,000	393,000	1,076
1996	85	79,000	893,000	1,798
1997	78	44,000	445,000	29,929
1998	129	146,000	1,452,000	16,363
1999	198	92,000	1,366,000	18,908
May 2000	51	87,000	606,000	----

Source: KLI, *The Profile of Korean Human Assets: Labour Statistics 2000, 2000*.

### *Unionisation rate*

There are two registered national centres of trade unions – the Federation of Korean Trade Unions (FKTU) and the Korean Confederation of Trade Unions (KCTU). They have industrial federations, regional headquarters and branch offices under their respective umbrellas. Most unions are organised at the enterprise levels, although there are single trade unions organised at the industrial and national levels such as

train, electricity, tobacco & ginseng, subway, hospital, finance, research. The Korea Finance Industry Union was formed as an industry-based single union in March 2000. Federations such as broadcasting, public service, taxi, chemistry, and metal, have already taken a decision to transform from enterprise unionism to industry unionism. A discussion of transforming trade unionism has been rapidly developing at the federation level, even though local trade unions have not seriously responded to this matter. Although local trade unions agree to the need of industry unionism for strong labour movement, the main reasons that local trade unions have been inactive are the degrading of local union presidents' status, deprivation of member dues, and governance of upper trade unions. Teachers' unions have been legalised and civil servants have been permitted to organise work councils from July 1999.

The numbers of union membership have decreased due to the changes of employment structure from regular jobs to irregular ones. In contrary to the membership loss, trade unions have also organised workers, facing with job insecurity and worsening working conditions at non-unionised enterprises. As seen Table 4-8, the unionisation rate reached 19.8% at a peak with 19.3 million workforce affiliated to 5,598 unions in 1989. The unionisation rate has gradually decreased from 15.6% with a membership of 1.66 million affiliated to 7,147 local unions in 1993 to 12.2% with 1.48 million members affiliated to 5,733 unions in 1997. As of December 1999, a total number of union membership come to 1,480,666 persons, accounting for 11.9% of the unionisation rate. There are 45 industrial federations [28 FKTU affiliates and 17 KCTU affiliates] affiliating 5,637 local trade unions. Out of 1,480,666 organised workers, male members are 1,173,239 persons and female members are 307,427 persons. Thus, the ratio of organised female workers to total organised labour comes to 20.7%. The numbers of local trade unions in 1999 remained the same as in 1989, which demonstrates that the size of a trade union has become smaller and smaller.

**Table 4-8 The unionisation rate, 1985-1999**

Year	Nos. of Federation	Nos. of unions	No. of Memership			Unionisation
			Total	Male	Female	
1985	16	2,534	1,004,398	691,911	312,487	16.9
1987	16	4,086	1,267,457	900,129	367,328	18.5
1989	22	5,598	1,932,415	1,402,106	530,309	19.8
1991	22	7,656	1,803,408	1,341,745	461,663	17.2
1992	22	7,531	1,734,598	1,323,521	411,077	16.4
1993	27	7,147	1,667,373	1,265,859	391,514	15.6
1994	27	7,025	1,659,011	1,285,627	373,384	14.5
1995	27	6,606	1,614,800	1,254,133	360,667	13.8
1996	27	6,424	1,598,558	1,259,626	338,626	13.3
1997	41	5,733	1,484,194	1,194,414	289,780	12.2
1998	43	5,560	1,401,940	1,148,435	253,505	12.6
1999	45	5,637	1,480,666	1,173,239	307,427	11.9

*MOL, Organisation Figures of Trade Unions throughout the Country, 1999, p.6.*

As labour's counterparts, there are four main employers' associations at the national level: the Korea Employers' Federation (KEF), the Korea Chamber of Commerce and Industry (KCCI), the Korea Federation of Small Business (KSB), and the Federation of Korean Industries (FKI). Among these organisations, the KEF has been mainly responsible for industrial relations.<sup>4</sup>

**Table 4-9 Major controversial issues of industrial relations in 2000**

Division	labour perspective on major issues
Government's policies	-Opposing government' unilateral adjustment
Improvement of institution	-Maternity protection and sharing of relevant costs -Enact of laws for protecting irregular workers -Reduction of weekly working hours -Protecting migrant workers' basic rights
Industrial relations	-Protecting the effectiveness of collective agreement -Payment of full-time union officers' salary -Multiple trade union representatives -Union status of disn-dssed workers

Table 4-9 lists the main issues that trade unions have raised. There have been several controversial issues in industrial relations. The government and the employers have addressed the need for continuous restructuring, while workers have demanded appropriate compensation for their burden-sharing during the crisis. They include the reduction of working hours, compensation for the fast economic recovery, payment of full-time union officials' salary, objection of restructuring accompanying layoff, etc. The law on multiple unionism at the enterprise level will be in effect in the year 2002. With respect to the payment of union officers, the current law and practices prohibit the payment of trade union officials. The law only stipulates the non-payment of wages to those who do not show up at the workplace at all.

### *Welfare system*

There are four types of social welfare systems – Medical Insurance, National Pension, Industrial Accident Compensation Insurance, and Employment Insurance, as can be seen in Table 4-10.

**Table 4-10 Four national insurance schemes**

Type of social insurance	Source of funds	Benefits	Basic laws	Years of legal development
Medical Insurance	-50:50 from Employees and employees -All people	Benefits in-kind	-Health Insurance Law 1976	-July 1, 1977
			-Civil Servants and Private School Teachers Law 1977	-Jan 1, 1979
			-Health Insurance Law 1987	-July1, 1989
National Pension	-Insured persons and government	Benefit in cash	-Civil Servants Pension Law 1960 -Military Personal Pension Law 1962	-1960 -1963

<sup>4</sup> The KEF was established in 1971. Playing an influential role in industrial relations, the KEF has functioned to provide general, special, and regional members with information and advice regarding labour legislation, wages, and collective bargaining. It has participated in a number of tripartite committees. In the meantime, the FKI has represented the interests of large conglomerates (chaebol).

## Case Study of the Republic of Korea

	-self-employed included from Apr 2000		-Private School Teachers Pension Law 1973 -National Pension Law 1986	-1975 -1988
Industrial Accident Compensation Insurance	Contribution by employers	Benefits in-kind and benefits in cash	Industrial Accident Compensation Insurance Law	-1964
Employment	50:50 from employee and employer -All employees	Benefits in cash, training etc.	-Employment Insurance Act 1993	-July 1, 1995

According to the Ministry of Labour, the Systems of Medical Insurance, National Pension, Employment Insurance apply to all citizens, while the Industrial Accident Compensation Insurance is applicable to companies employing over 5 employees in all industries. The Medical Insurance System was designed to provide benefits to the insured in 1977. The first-round consolidation of the system was achieved in 1998, and the medical insurance programme for employed workers and the regional medical insurance programme was merged in July 2000 to launch a fully integrated national health insurance system. The National Pension System was introduced in 1988 to protect the aged against poverty. From October 2000, the Pension System will be extended to even temporary, part-time, daily workers who continue to work for more than one month on the 50:50 basis of premium. The Industrial Accident Compensation Insurance System has been supporting the medical treatment and rehabilitation of workers injured by industrial accidents. The Employment Insurance System was introduced in 1995 to secure a systematic device to deal with increasing unemployment. It covers employment adjustment support, livelihood of the unemployed and vocational training. Employment Insurance is a comprehensive labour market policy as well as a social security system. Including a traditional function of social security as an unemployment benefit, the social security policy aims at the promotion of industrial restructuring and employment and vocational ability development activities for workers.

Although most of enterprises reduced welfare benefits in recent years on the wake of the economic slowdown and downsizing, the KEF claims that social insurance contributions impose a heavy burden on enterprises, stating that the contribution by enterprises to the four major social insurance schemes amounted to 8.89% of the total wages for 1999 (BIAC, 2000, p.3). Again, mentioning that the enterprises' burden on social security has been far greater than that placed on the government, the KEF recommends that the government and workers should share the responsibility for social security in an equitable manner. In fact, government expenditures on social safety net programmes increased from negligible levels in 1997 to 2.25% of GDP in 1998 and 3.25% in 1999. Saying that the government's recent reforms of the social insurance system are aggravating the situation by increasing enterprises' premium, employers are still critical to the government policy.

In order to introduce an effective social assistance programme, the National Basic Livelihood Security Law is going to take effect as from October 1, 2000. The law is to improve the coverage and level of social assistance and to introduce productive welfare. However, the matter that secures the participation of employees' and employers'

representatives in the fund management is inevitably considered to improve the transparency and efficiency of management.

### 4.3 Multinational companies and EPZs

#### *Multinational companies*

The inward foreign direct investment (FDI) has been sharply increasing since 1997 in terms of the cases and amounts, as Table 4-11 shows.<sup>5</sup> The depreciation of local the currency, which devalued around 50%, has directly contributed to the increase of FDI. The amounts of FDI were 8.8 billion US\$ with about 1,400 cases in 1998 and 15.5 billion US\$ with 2,098 cases in 1999. Recent foreign investments are concentrated on M&A and short-term investment.

**Table 4-11 Cases and amounts of investment by year, 1995-April 2000**

(Unit: million dollar, %)

Year	1995	1996	1997	1998	1999	April 2000
No. of Cases (%)	873 (35.1)	967 (10.8)	1,055 (9.1)	1,400 (32.7)	2,097 (50.1)	1,228 (-----)
Amounts (%)	1,947 (47.8)	3,203 (64.5)	6,971 (117.6)	8,852 (27.0)	15,541 (75.6)	3,737 (-----)

Source: KLI, Labour Statistics, 2000.

Note: (%) is the ratio of increase and decrease, compared with the previous year

As of March 2000, the FDI comes to a total of 1,244 cases, while the numbers of workers working at such establishments are 143,178 persons. As can be seen in Table 4-12 showing the case of investment by country, Japan having 409 cases is the biggest investor, followed by USA with 351 cases, Germany with 89 cases, Britain with 45 cases, and others with 350 cases. The employed population are larger by order of American, Japanese, German, and British firms.

**Table 4-12 Figures of foreign firms by country and workforce as of March 2000**

Division	Total	Figures by country				
		Japan	USA	Germany	Britain	ETC
No. of workplace	1,244	409	351	89	45	350
No. of workers	143,178	45,653	47,454	9,521	4,798	35,752

Source: Provided by International Cooperation and Planning Team, MOL, 2000

Table 4-13 describes the trend of FDI by industry and employment. The cases of the FDI are focused by order of manufacturing with 642 cases, wholesale and retail with 268 cases, other services with 268, and finance & insurance with 66 cases, while the level of employment in the FDI is followed by manufacturing, other services, wholesale & retail, and finance & insurance.

<sup>5</sup> The outward foreign investment by Korean firms has been decreasing from 6.3 billion in 1996, 5.8 billion in 1997, 5.1 billion in 1998, to 4.3 billion in 1999. As reviewed the trend of Korean firms' foreign investment in the first half of the year 2000, the investment by large companies has been reduced, while that by small firms has been gone up (Naeway Economic Daily, August 19, 2000).

**Table 4-13** Trend of investment by industry (As of March 2000)

Division	Total	Figures by industry			
		Manufacturing	Finance & Insurance	Wholesale & retail	Other services
No. of workplace	1,244	642	66	268	268
No. of workers	143,178	101,526	4,211	16,970	20,471

Source: Provided by International Cooperation and Planning Team, MOL, 2000

As reviewed Tables 4-11, 4-12, and 4-13, there are some trends in FDI. Investment is concentrated on Japan and USA, sharing 760 cases (6 1.1%) out of 1,244 cases, and the working people are also concentrated in American and Japanese firms, hiring around 83,107 workers (58.0%) out of 143,178 workers. The investment is mainly in the manufacturing sector, which also employs 101,526 persons (7.4%) out of the total employment in FDI.

**Table 4-15** Nos. of foreign companies and workers in foreign firms.<sup>6</sup> (As of Sept 1999)

Division	Total	Nos. of company by country				
		Japan	USA	Germany	UK	Etc
No. of company	1,278	419	370	90	41	358
No. of union (%)	113 (8.8)	54 (12.8)	25 (6.7)	13 (14.4)	3 (7.3)	18 (5.0)
No. of workers	136,906	44,220	49,213	9,567	4,438	29,468
No. of unionists (%)	35,119 (25.6)	13,895 (31.4)	14,358 (29.1)	4,798 (27.6)	4,798 (11.0)	35,752 (12.6)

Source: FKTU Research Centre, MOL, Figures of foreign companies, 2000.

According to a survey of the FKTU Research Centre in September 1999 which focused upon the unionisation rate at the foreign firms of the manufacturing sector only, there are 113 trade unions (8.8%) out of 1,278 foreign firms [The company numbers of 1,278 as of the end of 1999 are inclusive of new investors and withdrawals, while 1,244 companies as of March 2000 are figures that include cases of investment only, excluding the numbers of foreign companies withdrawn]. The 8.8% unionisation rate in foreign firms that is relatively lower than 11.9% of the total unionisation rate in Korea in 1999 tells that organising workers in foreign firms is more difficult than in domestic firms. The survey results point out that the foreign managers are likely not to recognise the existence and representatives of trade unions. In fact, making policy suggestions to the Korean government on labour-related issues, the councils of foreign firms, such as American Chamber of Commerce (Amcham), European Chamber of Commerce, and Seoul Japan Club, have played as lobby groups representing the interests of business. In particular, the annual reports of Amcham requiring institutional revision on working conditions and industrial relations have frequently given rise to the strong reaction of trade unions (Amcham, 1998, pp.77-84). In the meantime, trade unions have welcomed the influx of foreign capital, one of the greatest sources of employment opportunities, firmly stating their position that they will provide certain cooperation

<sup>6</sup> The term "foreign firm" is defined as a workplace that foreign capital owns either over 50% of company stocks or is able to implement managerial right.



for any foreign companies, promoting humanitarianism of work as well as respecting customised labour practices and institutions (Ahn, 1999, pp.93-96). As of September 1999, workers employed at foreign firms of the manufacturing sector are 136,906 persons and organised workers are 35,119 persons (25.6%).

**Table 4-15 Labour disputes, 1993-2000**

Year	1993	1994	1995	1996	1997	1998	1999	June 2000
Cases	20	10	16	11	5	2	9	23

Source: MOL, *Figures of foreign companies, 2000*.

Table 4-16 presents the cases of labour disputes in foreign firms from 1993 to 2000. Compared with the fact that a number of total labour disputes in Korea have drastically increased in 1998 and 1999 (see Table 4-7), the occurrence of labour disputes in foreign firms has relatively decreased in the same years. This phenomenon is interpreted that during the crisis periods, workers in foreign firms preferred job security to improvement of working conditions. However, an extreme rise of labour disputes in foreign firms of 2000 reflects workers' high expectation of compensation for the rapid economic recovery. An average duration of a strike in foreign firms are as same as in domestic firms. A strike in foreign firms has lasted for 21 days in 1999, while that in domestic firms has continued 19.2 days in the same year.

### **Export processing zones**

There are two export-processing zones (EPZ) in Korea – Iksan and Masan&Changwon. The operation of the EPZs was at a peak in the late 1980s, when the operation rate of manufacturing in Korea was at maximum as well. A high wage period that was resulted from strong, frequent labour movement emerged in the late 1980s. The sudden rise of production costs was inevitably accompanied by rapid restructuring in EPZs, which included downsizing, shutdown, and withdrawal. As a result, the working population in Masan EPZ decreased by nearly 45% from 36,411 in 1987 to 20,142 in 1990. The number of workers employed in Changwon EPZ decreased by about 6,300 persons from 80,200 workers at the end of 1991 to 73,900 workers at the end of 1992.

**Table 4-16 Nos. of firms and workforce in EPZs As of March 2000**

Names of EPZ	Nos of firms in operation	Nos. of workers
Iksan EPZ	21	1,600
Masan & Changwon EPZ	70	12,800
Total	91	14,400

According to the data of Industrial Complex Corporation surveyed in March 2000, there are 99 firms with the employment of 14,400 persons in the two EPZs, as shown in Table 4-17. In the meantime, there are around 924,703 workers who are hired by 18,864 firms operating in 485 industrial complexes (including the two EPZs) across the country as of March 2000. Among the figures on the numbers of firms and workforce in the EPZs, the detailed data on foreign firms are not verified yet. It is, however, estimated that the level of wage and working conditions in the EPZs are the same as those in the private sector. Since the crisis, no labour disputes have been found in the EPZs.

#### 4.4 Corporate governance

The problem of corporate governance has been cited as one of the causes of the crisis. The debt-to-equity ratio of 30 largest groups averaged 510% in the time of the economic crisis of 1997, compared with average 200% of debt-burden in developed countries in the same period. As part of the IMF rescue plan, the government has undertaken reforms regarding corporate governance. In order to improve management transparency, consolidated financial statements of the chaebol were presented in 1999. Management responsibilities for the failure of business was clearly indicated. In order to strengthen the rights of minority shareholders, listed corporations have to appoint external directors at the executive board. In order to reduce the ties between different parts of the conglomerates, intra-group debt guarantees have been phased out since April 1998. In June 1998, the government's policy was announced to reform business, by closing 55 insolvent companies. And also, a number of heavy debt-ridden large companies have been exposed to the integration of global market. Thus, the indebtedness of large companies has been substantially reduced. Corporate reform must begin with the principles, which can improve transparency, accountability and labour participation.

### 5. LABOUR STANDARDS AND SOCIAL PROTECTION

#### 5.1 International labour standards

Since 1991 when Korea became a member of the ILO, the government has ratified 11 ILO conventions, including 3 core conventions on prohibition of sexual discrimination and child labour. Table 5-1 describes the numbers and titles of conventions in details. However, Korea has not ratified other four core conventions such as freedom of association (No.87), collective bargaining (No.98), forced labour (No.29), and abolition of forced labour (No.105). The numbers of ILO conventions ratified by the Korean government are comparably lower than an average of 38 conventions ratified by OECD member states as of the end of 1999. Some OECD countries, such as France (115), UK (80), Germany (76), and Japan (42), have ratified more than 40 conventions. The principles of autonomy and equality should be respected by laws and practices among social partners concerned, but labour laws in Korea have not really met international standards in many ways.

**Table 5-1** Eleven ILO conventions ratified by Korea as at the end of 1999

No. of convention (Year of adoption)	Title of convention	Date ratified
No 73 (1946)	Concerning the Medical Examination of Seafears	Dec 1992
No 81 (1947)	Concerning Labour Inspection in Industry and Commerce	Dec 1992
No 122 (1964)	Concerning Employment Policy	Dec 1992
No 142 (1975)	Concerning Vocational Guidance and Vocational Training in the Development of Human Resources	Jan 1994
No 100 (1951)	Concerning Equal Remuneration for Men and Women Workers for Work of Equal Value	Dec 1997
No 150 (1978)	Concerning Labour Administration: Role, Functions and Organisation	Dec 1997
No 160 (1985)	Concerning Labour Statistics	Dec 1997

## Case Study of the Republic of Korea

No 111 (1958)	Concerning Discrimination in Respect of Employment and Occupation	Dec 1998
No 138 (1973)	Concerning Minimum Age for Admission to Employment	Jan 1999
No 144 (1976)	Concerning Tripartite Consultations to Promote the Implementation of International Labour Standards	Nov 1999
No 159 (1983)	Concerning Vocational Rehabilitation and Employment (disabled persons)	Nov 1999

*MOL, "Programme for the Ratification of ILO Conventions", 2000, p.20.*

When Korea joined the OECD in October 1996, the government made its commitments "to reform existing laws on industrial relations in line with internationally accepted standards, such as freedom of association and collective bargaining". Then, the government has paid more attention to adopting international labour standards, by ratifying one to three conventions every year since 1997, but such efforts have not reached the international levels. Thus, the attention of international labour society has centred on such labour issues as trade union pluralism, third party intervention in collective bargaining, the right to organise public servants and teachers, the right to strike in the public sector, trade union membership of dismissed or unemployed workers, and the payment of full-time union officials by companies. The technical assistance of the ILO has sometimes encouraged the Korean society to further promote basic labour rights. In April 1998, an Advisory Team of the ILO provided the government with a technical assistance on the procedural matters of ratifying core ILO conventions. The Freedom of Association committee of the ILO has also monitored the preservation of labour standards in Korea. As a consequence, having recognised the need to upgrade domestic labour standards, the government has tried to ratify another seven ILO conventions within the year 2000 as can be seen in Table 5-2.

**Table 5-2 Seven ILO Conventions to be ratified by December 2000**

Nos. of Convention	Title of Convention	Numbers of countries ratified
No 19 (1925)	Equality of treatment for national and foreign workers as regards workmen's compensation for accidents	119 countries
No 135 (1971)	Protection and facilities to be afforded to workers' representatives in the undertaking	66 countries
No 182 (1999)	Ban on worst forms of child labour	27 countries
No 26 (1928)	Creation of minimum wage-fixing machinery	101 countries
No 131 (1970)	Minimum wage fixing, with special references to developing countries	42 countries
No 88 (1948)	Organisation of the employment service	82 countries
No 156 (1981)	Equal opportunities and equal treatment for men and women workers: workers with family responsibilities	29 countries

*MOL, "Programme for the Ratification of ILO Conventions", 2000, p. 21.*

## 5.2 Development of tripartism and social dialogue

In the wake of the economic crisis, the opinion gap between labour demanding the reforms of the corporate and public sectors at first, and management and the government considering the labour flexibility system as a top discussion subject was apparent. Thus, the Tripartite Commission<sup>7</sup> was established at the initiative of the social partners, to formulate a national consensus for overcoming the crisis. Composed of representatives of workers, employers, and the government, the Commission was launched on January 9, 1998. Being exhausted and overnight negotiations, the Commission reached an agreement on January 21, which could be a guideline of reform: including the government's budget saving, reducing civil servants through merger and downsizing of government authorities; effectiveness and accountability of corporate governance and accounts; expansion of social protection to deal with the rising unemployment and management's self-rescue effort to avoid indiscriminate layoffs; and a moderation of wages and working hours of labour to minimise unemployment at troubled companies. In addition, ten main agenda covering 37 detailed issues were agreed.

Unlike the positive outcomes at the first term of the Commission, the second term of the Commission commenced on June 2 was adjourned without any agreement, except for finding only a wide opinion gap among social partners. It is because clashes of interest among social partners had hindered progress. The people who were disappointed at the second term activities of the Commission started raising a useless theory on the existence of the Commission. The non-participation of the KCTU in the second term of the Commission became a cause amplifying such a critical voice to its activities. Even so, with a warning of a general strike on June 25, 1999, the FKTU succeeded in reaching agreement on 35 items with the government directly. The third term of the Commission has been working since May 2000, despite the non-participation of the KCTU discrediting the executive capacity of the Commission.

However, labour complains the fact that the Commission had been outmanoeuvred in negotiations by the government and employers. It claims again that, while agreements advantageous of labour have been slowly progressed, the lay-off system had been immediately translated into law. Then, any potential agreements were hampered by the reluctance of the Government and employers to engage in meaningful negotiation. In the meantime, employers complain in a different status that the paralysis of the Commission has been caused by the government's unfair commitment to the trade unions. In fact, under the threat of general strike by trade unions in April and June of 1999, the government, exclusive of employers from the negotiations, agreed to revise labour laws regarding statutory working hours and the payment of wages to full-time union officers. However, the Commission had played a significant role in overcoming the crisis in practice by reaching agreement on the recognition of the teachers' union, on the participation of union's political activities, on the permission of civil servants' work councils, and on the legislation of labour flexibility. The Commission is evaluated to have exerted an important role in relaxing certain shocks from adjustments and market opening as well as in implementing reforms sharing the burden and pains.

---

<sup>7</sup> An instrumental framework are established for the Tripartite Commission, composed of a supreme committee, an executive committee and three standing committees (and two special committees). There are about 20 experts in each committee, with the seats equally divided between the three parties. The law on the Tripartite Commission was enacted in 1999. The Commission held regular and extraordinary meetings and continued to review employment and social issues.



training, in order to constantly upgrade their multi-skills, which will allow companies to compete effectively in the 21<sup>st</sup> century. Unemployment policies should be focused on solving the long-term unemployment. More systematic coordination between labour market policies and job security strategies is required, in reference to the increasing number of irregular jobs.

Some observers define excessive collective actions among different groups and classes of different interests as so-called "Korean disease". Excessive collective actions may lead to the disintegration of the society and the collapse of stability. These social conflicts and confrontation do not benefit any interest group, in the global economy, which is characteristic of knowledge-based, highly competitive markets, and changing technologies. Workers have faced with considerable variation in employment arrangements. Traditional work arrangements provided irregular workers few opportunities to have their voice at work. The traditional system of corporate management has increasingly been seen as failing to meet the needs of the market. In the age of the knowledge-driven economy, workers must acquire multi-skills to create new value of labour for themselves. And also, a reorganisation of business is inevitable to put more decision-making authority in the hands of workers, reducing thereby company owners' governance and organisational hierarchy.

The Tripartite Commission has been instrumental in evolving appropriate responses to the crisis. Eventually, the three social partners have to make efforts to seek resolutions through dialogue and consensus rather than confrontation and conflict. Social dialogue and social partnership can play a significant role in a context of increasing job insecurity, social inequality and worsening poverty. For the smooth operation of the Commission, a legislative system to implement agreements is crucial. And mutual trust and a sincere attitude towards bargaining are important. Social dialogue and social partnership are requisites for sustainable economic development and for the protection of the rights of working families.

Trade unions should play a role in the process of industrial restructuring in order to build the sustainable economic development, consolidate democracy, and minimise the adverse impacts of globalisation. To this end, it is important that the sequencing of reform measures be designed appropriately. Arthur Grimes, Head of Institute of Policy Studies, Victoria University of Wellington, suggests the preconditions for successful reform, as follows: vision, framework, strategies, leadership, marketing, and timing. Finally, Korean society has to listen carefully the commendable remarks of the OECD, saying that "it is more necessary than ever to create a less confrontational and more consensual system of industrial relations if the Korean economy and society is to modernise and prosper". Unfortunately, past confrontational attitudes among the social partners have re-surfaced along with signs and prospects for economic recovery.

## References

- Ahn, Chung-Si, "Economic Dimensions of Democratisation in South Korea", pp.237-258, Laothamatas, Anek (ed.) Democratisation in Southeast and East Asia (Singapore: Institute of Southeast Asian Studies, 1997).
- Ahn, Pong-Sul, Mature Industrialisation and Democratisation: The Role of Korean Trade Unions in a Double Transition (University of Newcastle Upon Tyne, Ph.D Thesis, 1997).
- , The FKTU International Activities since the IMF System (Seoul: FKTU, 1998) Korean.
- , "The Role of Trade Unions in the Economic Crisis in Korea", pp. 1-27. Presented at the international conference on "Calvin vs. Confucian" organised by 'House of Culture', May 7-10. 1998, Berlin Germany.
- , (ad) Labour Problems and Perspectives in Korea (Seoul: FKTU, 1999).
- , "The Impacts of the Economic Crisis and Reform on Labour in Korea", pp. 1-22. Presented at the international conference on "Experiences of Economic Reform within APEC" organised by the Institute of Policy Studies at Victoria University of Wellington, July 12-14, 1999, Wellington New Zealand.
- AMCHAM-Korea, Korea: U. S. Trade and Investment Issues 1998 (Seoul: AMCHAM, 1998).
- Barth, J. R., Brumbaugh, R. D., Ramesh, L., Yago, G., "The Role of Governments and Markets in International Banking Crisis: The Case of East Asia", Policy Briefs Milken Institute, 2000, pp. 1-3 5.  
[www.milkeninstitute.org/pub03/pub03\\_policybriefs3.html](http://www.milkeninstitute.org/pub03/pub03_policybriefs3.html)
- Cumings, Bruce, The Origins of the Korean War: Liberation and the Emergence of Separate Regimes 1945-1947 (New Jersey: Allen & Unwin, 1981).
- EAAU, Korea Rebuilds: From Crisis to Opportunity (Department of Foreign Affairs and Trade: Sydney, Australia, 1999).
- FKTU, Political Activities of Korean Trade Union (Seoul: FKTU, 1990) Korean.
- Grimes, Arthur, "Economic Reform: What do We Learn from Experience?", pp. 1-6. An overview of key themes from an international conference on "Experiences of Economic Reform within APEC", hosted by Institute of Policy Studies, Victoria University of Wellington, New Zealand, July 12-14, 1999.
- ICFTU-APRO, Report of the ICFTU-APRO Survey: On the Provisions of Social Safety Nets in Selected Countries before and after the Start of the Asian Financial Economic Crisis (Singapore: ICFTU-APRO, 2000).
- , ICFTU-APRO/JIL Regional Conference on Trade Union Paradigm for the 21st Century - Industrial Relations, Social Safety Nets, and Financial Architecture (Singapore: ICFTU-APRO, 2000).
- Kim, Yoon-Hwan and Kim Nak-Jung, A History of the Korean Labour Movement [Hankuknodongdongsa] (Seoul: Ilchokak, 1970).
- KLI, The Profile of Korean Human Assets: Labour Statistics 2000 (Seoul: KLI, 2000).
- , KLI Labour Statistics (Korea Labour Institute, 2000).
- , KLI Quarterly Labour Reviews 13:1, 2000.
- KNSO, Monthly Statistics of Korea (Korea National Statistical Office, 2000)
- Kochan, Thomas A., "Employment Practices and Institutions for a Knowledge Based Economy: Lessons from U.S. Experiences", pp.5-24, Industrial Relations in the 21<sup>st</sup> Century: Manufacturing Commitment to Workplace Innovation (Seoul: MOL, 2000).
- Koliaf, Handbook of the Social Agreement and New labour Laws of Korea (Seoul: Kohaf, 1998).

- , Labour Reform in Korea toward the 2 st Century (Seoul: Koliap, 1998).
- , Current Labour Situation in Korea (Seoul: Koliap, 2000).
- Moberg, David, "Is Korea Climbing back from Economic Collapse?", In These Times, July 29, 1999, pp. 1-9.
- , "South Korean Workers Struggle for a Say in the Economy", In These Times, August 22, 1999, pp. 1 - 10.
- MFE, Monthly Economy (Seoul: Ministry of Finance and Economy, 1997, 1998, 1999, 2000).
- MOL, Labour Administration (Seoul: Ministry of Labour, 1997).
- , New Labour Laws (Seoul: Ministry of Labour, 1997).
- , Labour Laws of Korea (Seoul: Ministry of Labour, 1998).
- , Organisation Figures of National Trade Unions throughout the County (Seoul: Ministry of Labour, 1999) Korean.
- , memo, "Programme for the Ratification of ILO Conventions", July 2000, pp. 1-20, Korean.
- National Statistics Office, Economically Active Population Survey (Seoul: NSO, 2000).
- OECD-BIAC, "OECD Review of Labour Market and Social Safety Net Policies in Korea", April 3, 2000, pp. 1-4.
- OECD-TUAC, "Korean Labour Law Reform, 1996-99: Comparison of Key Provisions", pp. 1-9, Meeting of the Enlarged Bureau of OECD ELSA, (June 14, 1999a).
- , "Trade Union Statement to the 1999 OECD Council at Ministerial Level and to the Cologne G8 Economic Summit", (May 1999b), pp. 17.
- , "Industrial Relations and Labour Law Reform in Korea", pp. 1-5, the Meeting of the Enlarged Bureau of OECD ELSAC, (June 14, 1999c).
- Park, Young-Bum, (ed) Labour in Korea (Seoul: KLI, 1993).
- Rasiah, Rajah and Hofmann, Norbert von, (eds.) Workers on the Brink: Unions, Exclusion and Crisis in Southeast Asia (Singapore: FES, 1998).
- Rhee, Jong-Chan, The State and Industry in South Korea: The Limits of the Authoritarian State (London and New York, Routledge, 1994).
- Root, Hilton L., "Korea's Recovery: Don't Count on the Government", Milken Institute: Policy Brief No 14, May 30, 2000,
- , "The New Korea: Crisis Brings Opportunity", Milke Institute: Policy Brief, February 1999.
- Torres, Raymond, "Republic of Korea", Studies on the Social Dimensions of Globalisation (Geneva: ILO, 1998).
- Chosun Ilbo, August 10, 2000.
- Maeil Business Newspaper, August 11, 2000
- Naeway Economic Daily, August 19, 2000.



**INDUSTRIAL RELATIONS**  
**AND**  
**INCREASING GLOBALIZATION**

Country Case Study — New Zealand

by

**Peter Conway**

# INDUSTRIAL RELATIONS AND INCREASING GLOBALIZATION

## CASE STUDY OF NEW ZEALAND

by Peter Conway\*

### 1. INTRODUCTION

A key question faced by many countries is:

*"How can we establish economic, social and political programmes that both protect and enhance the unique qualities and defining characteristics of our nation, and expand our trading opportunities in a global economy?"*

For New Zealand, as a trading nation, this is particularly appropriate. In the context of industrial relations, it means that we need to adopt a set of values, display a perspective, and advocate a set of policies that is consistent both domestically and internationally. Fortunately there are signs of this happening. For instance, the new Government is not only supporting core labour standards in the WTO, but also introducing a new labour law in New Zealand based on ILO principles and concepts of good faith relations.

This means that, as of mid-2000, a case study of New Zealand in the new millennium is a "good news" story. That is because of the election in November 1999 of the Labour/Alliance Government who, with the support of the Green Party, are now starting to implement a very different economic, social and political programme than Governments of at least the last 15 years.

Specifically the Government is addressing: fairness at work issues; economic development; the widening gaps between rich and poor, Maori and European, and; state sector capacity. Ross Wilson (President NZCTU) noted that the first Budget of the new Government "positions New Zealand to develop a high skill and high wage economy. The CTU had been looking for a budget which was 'people friendly' as well as 'business friendly'". He called it "a fiscally responsible budget, but also socially responsible. It addresses some of the major disparities that have arisen because of housing costs, reduced superannuation, and tertiary fees. It invests in skill development and job creation. It invests in quality public services". It represents a new vision of Aotearoa/New Zealand in the context of the global economy. This vision is based on the "high road" to global competitiveness and is fundamentally different from the reductionist, branch-economy, low cost centre approach of those whom since 1984 had a grip on economic and social policy.

The new Government has, since coming to power, reduced the cost of student loans, increased the minimum wage, increased pension payments, increased taxes on income over \$60,000<sup>1</sup> per year, renationalised accident compensation, introduced a Bill which will set state housing rentals for low income families at 25% of household income, increased funding for arts and culture, significantly increased health sector funding, and many other beneficial steps. They have also introduced a new labour law to

---

<sup>1</sup> All figures in NZ dollars (around 46 cents to US\$1).

\* Peter Conway is the Economist/researcher of the New Zealand Council of Trade Unions

abolish the Employment Contracts Act which is predicated on an anti-union, contractualist basis.

But the first period of the new Government has revealed that employer interests are still influential. Employer organisations have campaigned vigorously against these policy changes. This has had the effect of slowing progress on the Employment Relations Bill, and has resulted in amendments to the Bill to meet some employer concerns (without compromising the key features of the Bill). The employer offensive has also slowed down and diminished further labour market reforms of youth minimum wages, accident compensation payments, and paid parental leave.

Nevertheless, it must be said that, from a union perspective, there are many good things happening in New Zealand in the year 2000. However, a case study of New Zealand is also a "bad news" story. This is because: there have been widening income gaps for the last 15 years; NZ has a huge current account deficit of 8% of annual GDP and overseas debt of 106% of GDP; there are structural economic problems that will take many years to reverse, and; there is a "lost generation" of workers including those laid off in the mass redundancies of the late 1980s, as well as those young unskilled workers of the late 1990s in highly casualised work on individual and sub-standard contracts. The economy has been efficient at making sure the sun sets on unprofitable companies but ineffective at helping the sun rise for new firms.

These are significant constraints on the new Government. These mean that although quantum leaps are needed, incremental change is more likely. But in summary, we have a new Government that in economic policy is trying to shift the focus to revenue and innovation from simple cost control. We have a Government that is moving away from unilateralism in trade. We have a government in terms of policy development that is consultative and seeking productive partnerships with a range of stakeholders. In terms of industrial relations policy the Government is pursuing a moderate but nevertheless significant adjustment. Social policy is turning towards addressing disparity and structural poverty.

This creates a positive environment for unions. However, it remains a contestable environment. The Government is sympathetic to a progressive model of unionism, but we will not always agree with positions adopted by the Government, and they will not always appreciate all forms of union activity and comment! They are a centre-left Government and are well aware of the political realities of keeping the support of the electoral centre.

## **2. GLOBALISATION IN THE NEW ZEALAND CONTEXT**

### **2.1 Globalisation**

"Globalisation" has been characterised in many different ways. The ILO describes globalisation as - firstly, the heightening of competitiveness as a result of the liberalisation of trade and financial regimes alongside the integration of markets, and secondly, rapid change in the area of information technology.<sup>2</sup> Some describe globalisation merely in a technical sense as the "death of distance" through falling communication and transport costs facilitating the establishment and monitoring of

---

<sup>2</sup> ILO, 2000, *Global Report under the Follow Up to the ILO Declaration of Fundamental Principles and Rights at Work*, ILO. p. 8.

international production networks, enlarging trading areas, and allowing firms to exploit international cost differentials through fragmentation and relocation of production and global sourcing of materials. Certainly New Zealand has high hopes of maintaining the advantage of tranquility that distance provides, while minimising the costs and missed opportunities due to our remoteness.

A major industrialist<sup>3</sup> has commented that:

*"Since NZ was opened up to the forces of globalisation, we have performed dismally, both economically and socially".*

He urged a focus on not only the spirit of individual entrepreneurship but also the "power of co-operative endeavour".

Others describe globalisation in terms of the new requirements for rules to ensure positive outcomes. Ken Douglas, in his role as President of the NZCTU said on 1 July 1999 in a speech entitled "Free Trade in the New Millennium: Globalisation with a Human Face" that:

*"While the phenomena of global economic integration is crashing through the national barriers of sovereign states it needs to be recognised that it is essentially man-made. It is being driven by subjective influences and has become the objective trend in world development. Importantly it is demonstrating, sometimes with quite disastrous consequences in human terms, that it requires rules and standards, structure and strategies, for harnessing its positive potential, and mechanisms to impose compliance to address the recognition of standards of behaviour that reflect equity and fairness".*

ILO Director-General Juan Somavia says bluntly that "globalisation has yet to pass the test of social legitimacy". Jane Kelsey<sup>4</sup> sees globalisation, not as inevitable in all its forms but subject to significant opposition. She observes that:

*"Globalisation as ideology is the grand vision, a meta-narrative that imagines an interdependent and self-regulating global economy where goods, capital and ideas flow freely, irrespective of national borders, social formations, cultures, or politics. Globalisation in practice describes a highly contested process where the competing interests of people, companies, tribes, governments, and other groupings overlap and collide; alliances form; accommodations and more drastic revisions are made; and new contradictions arise."*

In the New Zealand context, the process of globalisation is contested, but our recent history over the last 15 years, has seen a relatively weak response to a policy platform of market deregulation that has made New Zealand vulnerable to the negative effects of globalisation, while painfully slow at realising the benefits. We are in danger of being simply a "branch economy". Therefore before discussing the history of industrial relations, and more recent developments, I need to set out some more detail on the economic context of New Zealand today as a small trading nation in a global market.

---

<sup>3</sup> Fletcher, Hugh, Independent, 12 August, 1998.

<sup>4</sup> Kelsey, Jane (1999), *Reclaiming the future. New Zealand and the Global Economy*", Bridget Williams, Wellington, p.2.



by the acceptance of the theory of dead-weight losses through taxation. The resulting tax cuts boosted consumption. The reduced Government capacity constrained investment in infrastructure, skills and industry development. Our vulnerability was apparent during the NZ drought in 1997/8 combined with the Asian crisis although some ability was shown to switch markets.

It must be said that in the last 6 months there has been the start of a turn around with an emerging growth in exports. But the reliance on private consumption fuelled by high levels of private debt persists. Household savings were positive (e.g. 12% ratio in 1980) until 1998. The decline is largely attributed to post 1992 fluctuations in social assistance and investment income.<sup>6</sup> Household debt as a proportion of household annual income has risen dramatically from 48% in 1990 to 92% by 1999.

Another key problem that has emerged is the relatively low level of R&D expenditure. Although such figures are notoriously difficult to assess because of the different way firms treat such expenditure for tax and other reasons, total R&D was 1.1% of GDP in 1997/98 compared with the OECD average of 2.1%. In particular, business R&D was only 0.32% compared with an OECD average of 1.5%. R&D expenditure as a proportion of sales of manufactured products was only 0.37% compared with an OECD average of 6.6%. This is no doubt due to a range of factors including tax treatment. However, it is also indicative of a "cost-cutting" rather than Innovation" perspective as a driver of economic growth.

In his address to the NZCTU Conference, which was shortly before the general election, Peter Harris concluded by saying that:

*"there is now scope for contesting the new agenda. There is also potential to engage in implementing the new agenda. These conditions for active and constructive unionism have not been as positive since the election of the first Labour Government sixty years ago. In a funny way, that is no coincidence. It was out of the crisis of the depression that a new way forward was found then. It is out of the crisis of ideology and debt that the new way forward will be found now".*

But there is no doubt that the infrastructural base in the economy is weakened both in terms of physical and intellectual infrastructure and government capacity. This, along with the pervasive rhetoric of the new right, means that the reform programme is cautious and long-term rather than bold and immediate. Some more detail on economic problems as a consequence of post-1984 economic programme is set out below.

### 2.3 Privatisation

Since 1987, 40 state-owned commercial assets have been sold for a total of \$19.1 billion. This included the Bank of New Zealand, Petrocorp, New Zealand Steel, Postbank, Shipping Corporation, Air New Zealand, State Insurance, Tourist Hotel Corporation, Telecom, State Railways, and State forests. As at August 1999 these assets had an estimated value of \$35.7 billion, nearly double the original sale price. Remaining Government commercial assets are worth below \$5 billion. The privatisation has been a huge windfall for overseas investors. Just over 79%, or \$13.1 billion, of the increase

---

<sup>6</sup> Some caution is required with savings decline statistics as savings appeared higher in times of high inflation.

in value has gone to offshore interests. The net gain to domestic investors has been just \$1.9 billion. Gaynor.<sup>7</sup> notes that:

*"in the final analysis many of our best and biggest companies have been sold to offshore interests, yet New Zealand's total overseas debt has risen from \$46 billion in 1989 to \$102 billion".*

The debt is now at \$109.1 billion which is 106% of GDP. Gaynor is also extremely critical of the Government for not using the proceeds from asset sales to either invest in new sunrise industries or for dedicated investment funds to finance future pension or superannuation liabilities.

Telecom is one example of a sale that was significantly underpriced. In June 1990 it was sold for \$4.25 billion. Since then Telecom has paid \$5.5 billion in dividends and its total value has risen to \$16.6 billion. In late 1989, there was 16,265 staff at Telecom. By 1998 this had reduced to 8,136.

### 2.4 The New Zealand Sharemarket

In December 1986, many of New Zealand's largest companies were Government owned and the sharemarket was more than 95% owned by New Zealand based companies, managed funds and individuals. However, overseas ownership of the New Zealand stock market (NZSE40) rose from 19% in December 1989 to 61% in August 1997. In the last 2 years foreign ownership has declined to 55%, as international investors became impatient with New Zealand's poor economic performance.

At the end of 1989 retail investors had \$13.5 billion invested in the sharemarket, either directly or through managed funds, and less than \$15 billion borrowed on residential mortgages. But by the end of 1999, although individual investment in the sharemarket had increased to \$19.4 billion, housing loans had leapt up to \$57 billion. The NZSE Capital Index rose only 10.6% in the past decade.

It is also significant to note that the New Zealand sharemarket was subject to considerable deregulation in the post-1984 period. Many believe that this is a contributing reason for the more drastic impact in New Zealand (40% greater cut in value) compared with other countries of the 1987 crash and the slower recovery.

### 2.5 Trade

There has been a recent recovery in the export sector assisted by a lower dollar. The exports trend has been growing faster than the imports trend since October 1999, and exports has resulted in a steady reduction of the deficit in the trade balance trend. Exports increased 12.6% in the year to May 2000. But the outflow on the investment side is still at staggering levels and imports were up by over 17%.

The current account deficit is just over 8% of GDP. The investment deficit was \$7.79 billion, the worst March year in New Zealand's history. This was driven by the remittance of profits to overseas owned firms. Foreign owned businesses remitted 87% of their earnings overseas in the March year.

---

<sup>7</sup> Gaynor, Brian. NZ Herald 02.10.99.

Comparing New Zealand with other countries in the region, Brian Gaynor<sup>8</sup> commented that:

*"New Zealand is the only country where the Reserve Bank Act, Fiscal Responsibility Act, electricity industry reform, a comprehensive privatisation programme, the reorganisation of accident compensation and other secondary issues have been given more priority than export growth".*

Trade policy is however going through a period of subtle change. While the pressures for tariff liberalisation continue due to the recognised advantages for a commodity exporting country, the unilateralist position has been dumped. New Zealand is generally supporting core labour standards, reasonable guidelines on multinational investment, and recently froze internal domestic tariffs on textiles, clothing and footwear for 5 years rather than continue with the scheduled cuts imposed by the previous Government.

There are currently discussions on: a "closer economic partnership" with Singapore; the floating of a possible negotiation with Chile, Australia, Singapore, New Zealand and USA; AFTA/CER discussions by a private group of "eminent persons", and; other bilateral and sub-regional discussions in the context of a post-Seattle hiatus in multilateral discussions.

In the context of globalisation, there are still significant risks for New Zealand given that we have already ceded considerable economic sovereignty. However, there are also new opportunities under the current Government to pursue a more progressive approach to issues which link trade and labour relations.

## 2.7 Labour Market Characteristics<sup>9</sup>

The New Zealand labour market exhibits many characteristics of a small, open economy. However, although there is a presumption that because most NZ firms are very small, then most workers work for small firms. Labour Department figures tell us a more complete story.<sup>10</sup> Of the 260,000 businesses, (if you combine subsidiaries and divisions of companies, it is 160,000) 225,000 (85%) employ fewer than 5 people. But the total number of workers employed by these 225,000 businesses is 332,000 FTEs compared with a total of 542,000 FTEs employed by the 1264 (0.5%) that employ over 100 workers. However, in an international context there are perhaps no New Zealand firms that are not SMEs.

There are major skill shortages in the labour market. The migration to Australia is exacerbating this problem. Particularly hard hit sectors include nursing, doctors and the timber industry. Another trend, which is international, is the growth in service sector employment.

The current rate of unemployment is 6.4%. The "Pakeha" rate is 5% whereas 14.6% of Maori are unemployed and 12.3% of Pacific Islanders. Of our young people (15 - 19 years) 18.3% are unemployed. The overall jobless rate at 10.4% means that one in every ten workers cannot find a job despite skill shortages and migration.

---

<sup>8</sup> NZ Herald, 24/25 June, E2.

<sup>9</sup> See section 3 for more details on the labour market.

<sup>10</sup> Dec, 1999, Briefing to Ministers of Accident Insurance, Immigration, Labour and Social Services and Employment, page 11.



Women are disadvantaged relative to men. Women are less likely than men to be in the labour force across all age groups except for those aged 15-19 years. Childcare responsibilities for women affect work patterns – employed women aged 30-39 are six times more likely than men of the same age to work part-time. The increase in women in employment between 1991 and 1996 was nearly twice that of men. The number of men in full time employment declined by 13% between 1986 and 1991.

Women are over-represented in the lower income quintiles. Moving from the lowest to highest quintile (1996 figures) the relative % of women and men (in brackets) shows a decline for women and an increase for men - 25% (15%), 24% (16%), 23% (17%), 12% (29%). So 29% of men are in the highest 20% income bracket, but only 12% of women. Wages for women are 84.2% of the male wage.<sup>11</sup>

An emerging problem in the labour market is the existence of "sweatshops" operating illegally. Some of these are using illegal immigrants, confiscating passports, and avoiding minimum wage, tax and other liabilities. The Labour Department is currently investigating 61 such sweatshops. This confirms once again the problems of a labour market driven almost entirely by wage competitiveness at the cost of innovation, investment in skill and training, and quality.

This illustrates the importance when analysing labour market trends of going beyond the impact of labour law on the labour market. It is but one factor in a complex set of influences that determine labour market outcomes. This is indicated by a Labour Department December 1999 Briefing to the Incoming Government which made some broad observations about the relationship between the labour market and broad economic policy objectives.

They said that:

*"There is a wide range of areas in which a broader focus on human capability, that includes a labour market perspective, will contribute to better social and economic outcomes:*

- *reducing persistent levels of unemployment*
- *reducing disparities by raising Maori and Pacific peoples' economic and social performance to levels comparable with European/Pakeha New Zealanders*
- *increasing the acquisition of valuable skills and improving the overall levels of educational achievement*
- *reducing social exclusion through participation in employment and community activities*
- *retaining and/or attracting back New Zealanders with valuable knowledge and experience*
- *attracting quality migrants with entrepreneurial skills, innovative ideas and investment capital*
- *reducing the loss of human capacity through illness, accidental injury and death, in the workplace and elsewhere*
- *increasing the growth of sustainable jobs through a strong, innovative business sector*
- *increasing the capacity of communities to support their members and to provide opportunities to participate both socially and economically*

---

<sup>11</sup> This is however an improvement from 1984 where tile ratio was 0.73 (weekly) or 0.79 (hourly).

*Future influences on the demand for labour include:*

- *increasing skill requirements from technological change and globalisation, shifting demand to industries with higher skill requirements*
- *the increasing speed of change leading to greater pressures on adjustment processes*
- *the need to ensure a sustainable level of output growth and productivity growth, sufficient to match the growth in the working age population*
- *changes in the regional distribution of job opportunities, with persistent slow growth in some areas that present special challenges*
- *the increasing variety of work arrangements required to meet consumer and business needs*

*Future influences on the skills, knowledge, and attitudes of the labour force (or labour supply) include:*

- *the ageing of the labour force, with the baby boom generation getting older, and people working longer*
- *labour force participation rates that are lower than in the 1980s, in particular for Maori and Pacific people*
- *increasing participation of the labour force in formal skill acquisition, though concern remains that a large component of the labour force has no formal qualifications."*

In the context of labour market development in a global context, this indicates that Government policy has to adapt and modernise, invest in education and skill, address persistent blockages to participation, and focus on an all-embracing labour market strategy rather than a piecemeal solution.

## **2.8 Current Economic Issues**

Current economic issues (excluding short-term considerations) include: the ageing population; net migration loss; infrastructural problems such as access to broad band width telecommunications, and major transport dislocation in Auckland; low population; GE foods; bio-security; student debt; the relationship with Australia including currency union; ecommerce and e-government; poverty, and; disparity including Maori and Pacific Island relative disadvantage.

The large current account deficit has already been mentioned. There is also a review of monetary policy to be conducted by February 2001. For the purposes of this paper, it is important to note that the various influences on the labour market in the context of globalisation lie at the heart of many of the key economic issues facing the country.

## **3. INDUSTRIAL RELATIONS IN NEW ZEALAND**

### **3.1 A Brief History**

For much of the first 50 years of European settlement, New Zealand was a frontier society. There was little protective legislation for workers and the law of the jungle prevailed. The strongest unions were among skilled tradesmen who had brought with them from Britain years of tradition and experience of organisation. At the other end

of the spectrum there were many unorganised workers who were badly exploited and their plight became a public scandal.

The Liberals, the country's first reformist government, introduced a raft of industrial laws to prevent industrial conflict, stop exploitation and promote fairness. The Industrial Conciliation and Arbitration Act from 1894 prohibited strikes but gave unions the right to negotiate with employers. The system determined outcomes. If the parties couldn't agree, they could go to the Arbitration Court which made an award setting wages and conditions. Awards or agreements usually applied to a number of employers. Another feature of the system was that registered unions had blanket coverage (or monopoly representation) of particular occupations. The economic conditions of a commodity exporting country meant that transport workers (seafarers, watersiders, drivers) and meatworkers had significant economic leverage. In addition, there have been relatively unrestricted labour flows in and out of Australia. This has meant that the IC&A Act combined with a trans-Tasman labour market in order to limit the wage bargaining power of tradespersons based on shortages of skilled labour.

A major development in the conciliation and arbitration system took place after the first Labour Government was elected in 1935. The law was changed to make it easier to negotiate national awards covering thousands of workers across the country. Compulsory unionism was introduced, swelling the ranks of unions. These changes were important steps towards the centralised wage bargaining system that was created after the Second World War. Under this system, wage increases were determined by General Wage Orders granted by the Arbitration Court. The government (usually National), the unions and the employers worked together successfully to use this system to restrain wage increases as part of the policy of full employment.

The more centralised the arbitration system became, the more it relied on a network of wage relativities which linked the wage rates in different awards on the basis of historic comparisons of the levels of skill between occupations. Although the General Wage Order system collapsed in 1968, the network of relativities became entrenched during the wage controls that were in place for much of the 1970s. A labour historian<sup>12</sup> has observed that relativities were the source of inflexibility and conflict. Any one group trying to achieve a breakout from the established wage had to lift the whole wage edifice up. Breakdowns in wage negotiations resulted in nearly two-thirds of the working days lost through strikes between 1976 and 1985 (the decade when the largest number of strikes took place).

A new law, the Industrial Relations Act was introduced in 1973. During the 1980s a number of attempts were made to reform the conciliation and arbitration system. The Labour Relations Act 1987 passed by a Labour Government created limits on second-tier bargaining, set a minimum union size of 1000, allowed urgent access for injunctions and compliance orders in the case of unlawful strikes or lockouts, preserved exclusive union coverage, national awards, and a form of compulsory unionism. Access to personal grievance rights for dismissal and unfair treatment was only via union membership. The State Sector Act 1988 changed the system of public sector wage and salary fixing to that prevailing under the Labour Relations Act, 1987.

The combined effects of these legislative changes and economic deregulation considerably weakened the union movement. Politically there was a sense of betrayal,

---

<sup>12</sup> Franks, P. "Is the Employment Relations Bill a return to the past?", Evening Post, 29 May, 2000.

as the economic programme of the Labour Government in that period was characterised by "rogernomics" named after the right-wing Finance Minister who subsequently formed a far-right political party. Despite these market reforms, there was a clamour from the business community for the deregulation process to go even further and ensure significant changes to labour laws along the lines of a "contractualist" model.

By the end of the decade, employer organisations were committed to a new, radical agenda. Labour supporters were alienated and disenchanted. It was no surprise that the National Party won the 1990 election. The Employment Contracts Bill was introduced shortly afterwards and became law in May 1991.

### 3.2 The Employment Contracts Act 1991

The Employment Contracts Act represented a significant departure from previous industrial laws. Specifically it outlawed strikes over multi-employer agreements. The word "union" was only mentioned once in a transitional provision of the Act. Awards which provided blanket coverage for industries and occupational classes of workers were abandoned. Individual contracts were promoted. There was complete contestability of union coverage. The ECA was the subject of an ILO complaint (see below).

A particularly bad feature of the ECA was that it sanctioned "take it or leave it" bargaining.

A recent publication from the Labour Market Policy Group<sup>13</sup> reporting on research into the effects of employment regulation in the Accommodation, Winemaking and Brewing Industries, found that:

*"the conditions for starting employees in low-skilled positions were often set as a minima and presented on a take it or leave it basis".*

In the case of *Tucker Wool Processors Ltd v Harrison & Ors* [1999] workers at a wool processing plant that was being sold wanted their union to negotiate about their terms and conditions with the new employer. The employer did not negotiate with the union and offered contracts on a "take it or leave it basis. To keep their jobs the workers had to agree to an inferior contract losing many of their old conditions and with many unreasonable new conditions.

The Court of Appeal said that this was what the ECA is intended to do:

*The policy and wording of the 1991 Act make it clear that either party to the negotiation may, in general, proceed on a "take it or leave it" basis.*<sup>14</sup>

But there have been many other cases. The timber worker who in 1993 fell asleep while driving home after several consecutive 17 hour shifts. After his death, the Coroner criticised the employer for structuring shifts in such a way under the employment contract. The major retailer who had consistently refused to negotiate collective contracts, but in order to lock out commission workers initiated collective bargaining solely for that purpose. The employer who during a meeting between the union and

---

<sup>13</sup> New Zealand Department of Labour Occasional Paper Series by Labour Market Policy Group and Centre for Research on Work, Education, and Business Limited) 1999/4, December 1999.

<sup>14</sup> *Tucker Wool Processors Ltd v Harrison & Ors* Unreported CA 260/98 at p 23

senior management that while they were discussing union claims, staff in 82 branches were simultaneously being shown a video outlining their new contract written solely by the employer and being invited into the office one by one to sign it. The worker in an industrial cleaning company who had 23 years' service and lost all service related entitlements, and had to sign an inferior contract, when the business was sold to a new employer. The Government department where managers called staff and offered them a one-off payment on the basis of leaving the union and signing an individual contract. The home care employer who insists that every new client a worker takes care of is a new contract. To get the client, workers need to sign the contract.

A letter from a supermarket checkout supervisor to the Department of Labour spoke for many workers when it said that:

"As soon as the Employment Contracts Act came in everything changed in this place we were told – now he'd do it his way. First he got rid of the union, and some were threatened that if they belonged to the union they would be down the road. The contracts were never negotiated. We were called in one by one and given this printed document with a place to put your signature. Some of the young ones were not allowed to take their contracts home for their parents to read. The first year all of us who already worked there got penal rates. As people left or were sacked, the new ones went on to a flat rate with no set amount – they were all getting different wages. Within a year there was a 90% rollover of staff. "

The problem with the Employment Contracts Act is that such employer behaviour has become more prevalent. The NZCTU has acknowledged that there will still be "bad" employers under a new law. But the ECA gave such employers licence, encouragement and sustenance. Employer organisations have been slow to criticise such behaviour and attempted to ignore the growing public concern about the treatment of workers under the ECA.

### 3.3 Union Density

Union density has declined significantly since the introduction of the Employment Contracts Act in 1991. This is illustrated by Table 1 which shows a 25% decline in 1991 alone.

**Table 1: Trade Unions, Membership and Union Density 1985-1998 (selected years)**

	No. of Unions	Total Membership	Annualised Decline	Union Density
Dec 1985	259	683,006	-	43.5%
Sept 1989	112	648,825	1.3%	44.7%
May 1991	80	603,118	4.2%	41.5%
Dec 1991	66	514,325	25.2%	35.4%
Dec 1992	58	428,160	16.8%	28.8%
Dec 1993	67	409,112	4.4%	26.8%
Dec 1994	82	375,906	8.1%	23.4%
Dec 1995	82	362,200	3.6%	21.7%

Dec 1996	83	338,967	6.4%	19.9%
Dec 1997	80	327,800	3.3%	18.8%
Dec 1998	83	306,687	6.4%	17.7%

Unions are now reporting an increase in union membership as a result of the change of Government and the impending Employment Relations Act. <sup>15</sup>

### 3.4 Sharp Differences between Employers and Unions over Success of ECA

Many employers supported the ECA because it restored managerial prerogative, reduced union bargaining strength, heralded a period of much greater flexibility in employment conditions, and promoted individual contracts rather than collective bargaining. Employers also proclaimed that the ECA had created a very significant number of new jobs, increased real wages, increased labour productivity, and reduced the number of working days lost through strikes.

Even if this were true, the link between the ECA and employment and productivity outcomes is hard to establish. For instance, between the mid 1950s and 1970s, as already noted, NZ had industrial laws that involved 'compulsory' unionism, exclusive demarcations, fixed wage relativities, national awards, compulsory arbitration and many other features of a reasonably regulated regime. For most of that period, registered unemployment was virtually zero. That compares with registered unemployment figures between 1988 and 1999 of a low of 6% and a high of 10.6%. Looking at actual numbers of people (acknowledging population growth) in 1975 the number of registered unemployed averaged 4,166 people. Today it is around 120,000, with the jobless figure at 205,000.

So it could be argued that NZ could get nearly zero unemployment if there was a return to the more regulated labour market of the Industrial Conciliation and Arbitration Act. But this has not been argued as it is acknowledged by unions that many factors influenced employment levels, economic growth, and labour productivity in that period.

The NZCTU has instead noted that:

- The OECD (Employment Outlook June 1999) found after a major survey that "consistent with prior studies, there appears to be little or no association between employment protection legislation and overall unemployment". There is a business cycle effect that impacts on employment levels and GDP figures and mere coincidence with a particular law does not establish a causal relationship.
- The damaging effects of the ECA have to be seen in the context of the overall policy mix that started in 1984. Many of the income studies show that major income disparities and growth in unemployment started from the late 1980's. Briefing Papers to the Minister of Youth Affairs (November 1999) indicated that median incomes for those in the 15-25 year age group had fallen from \$14,700 in 1986 to \$8,100 in 1996). A study by Stephens, Waldegrave and Frater<sup>16</sup> shows that from 1984 to 1998 the top 10% of households increased income by 43% and the bottom 50% of

<sup>15</sup> This does not mean a surge in density is anticipated.

<sup>16</sup> Ansley, B. "Human Values", N.Z. Listener, 25/3/00

households decreased income by 14%.<sup>17</sup> A recent Treasury Working Paper<sup>18</sup> states that 90% of New Zealanders are worse off in 1996 than they were in 1981. The ECA exacerbated a trend, which started in the late 1980s, The ECA was introduced at the same time as significant benefit cuts. This has resulted in signs of increasing poverty and hardship. For instance, foodbanks in Auckland alone grew from 16 in 1990 to 130 in 1994. Another recent paper<sup>19</sup> shows that the Gini coefficient has increased by 13% since 1986. The reaction of the National Government to these growing disparities was to assert that it was desirable as it provided evidence of reward for effort and qualification.<sup>20</sup>

- The ECA has been damaging for "good" employers as it has focussed on destructive wage competition rather than innovation, investment in skill and training, and managerial effectiveness and quality.
- The ECA has not created, as its authors claimed, an efficient labour market at least as measured by labour productivity.

### 3.5 Employment and Unemployment since the ECA

It is true that around 295,000 jobs have been created since 1991. It is also a fact that unemployment is much lower today than it was when the ECA was introduced, even if it has had some bumps along the way. But unemployment was on average 5.9% for the 5 years before the ECA and 8.8% for the five years after the ECA. The number of jobless followed a similar trend averaging 228,500 in the 5 years after the ECA compared with 156,500 for the 5 years before the ECA. The number of jobless today at 205,200 has grown from 182,600 in March 1996. The Government statistician has noted that the proportion of the working age population in employment dropped sharply between 1987 and 1992. Although the level of employment has recovered since 1993 it is still below that of 1987. The level of underemployment (those in part time work seeking full-time or more hours) has trebled to 148,600 compared with 48,800 in December 1990.

There also has been a major churn effect. This has created instability in the labour market. For instance, one study<sup>21</sup> shows that between February 1987 and February 1996 there was a net total of 58,700 FTE jobs created. But this was made up of 1,451,000 new jobs and the loss of 1,392,700 jobs. This is a similar trend to many other economies (e.g. USA). The churn effect may also be one explanation for the fact that, despite the benefit cuts, the number of beneficiaries is now 100,395 higher than in 1991.

The quality and spread of employment has also deteriorated. Although in 1999 there was significant growth in full time compared with part time employment, statistics for the entire March 1991 to December 1999 period showed there was a growth in full time employment of only 15.5% compared with 36% for part time jobs (a part time job is counted even if it is one hour a week). And, in the last 10 years there is increasing

---

<sup>17</sup> See also Podder, N., and Chatterjee, S. "Sharing the National Cake in Post Reform New Zealand: Income Inequality Trends in Terms of Income Sources" NZAE Annual Conference Papers, 1998

<sup>18</sup> O'Dea, Des, *Disparity in New Zealand*, Working Paper 13/00.

<sup>19</sup> Smith, J. *The Changing Geography of Income Inequality in New Zealand*. NZAE Conference, 12 July 2000, Wellington.

<sup>20</sup> Birch, B, *New Zealand Herald*, 24 July, 1998.

<sup>21</sup> Peter Gorringer, *Business Directory Data Analysis*. 1997.

evidence that poor quality jobs have replaced better quality ones. The extent of casualisation, very part time hours, family-hostile rostering, and contracting out of work has created a significant segment of the labour market in highly precarious employment circumstances. The growth in part-time and casual work has been accompanied by the development of a range of income support and tax credit measures to supplement the incomes of those in paid work.

Despite some improvement, a Maori or Pacific Islander is still three times more likely to be unemployed than a European/Pakeha. There are 81,000 workers in more than one job, an increase of 25% from 1991. There are 167,000 who want a different job, up by 45% since 1991. There are work rich and work poor communities.

Migration to Australia has also been a factor in the labour market. In 1991 NZ had a net gain from Australia of 1,216 people. Since then it has steadily risen to be a net loss of 24,817 in 2000.<sup>22</sup>

It is for these reasons that the NZCTU has said that if the ECA is to get the credit for the rise in the number of jobs, then it should get the blame for the rise in unemployment, the number who are jobless, and underemployment. And it most certainly should get the blame for the increase in precarious employment.

### 3.6 Wages since the ECA

Using the labour cost index, (and its predecessor for the period before December 1992) the NZCTU calculated a 2.8% increase in real wages over the 81/2 years since the ECA. Figures from the Quarterly Employment Survey (which has compositional problems in respect of wages data) indicate a possible 4.7% real wage increase but nothing like the 9.2% increase claimed by the Leader of the National Party (Hansard, 14 March, 00).

The Government Statistician has noted that the impact of the Act has not been uniform. For most of the last 30 years, median incomes of wage and salary earners have increased faster than that of employers and the self-employed. The five years 1991 to 1996 however have seen median incomes for wage and salary earners increasing by less than 10% compared with nearly 16% for the self-employed and more than 20% for employers.

It must also be noted that the real wage increase of 2.8% mentioned above does not reveal the growing gap between the high and low paid. The income studies that show this trend have already been noted. But the hypocrisy about relative returns to the high paid versus low paid continues. Only recently, it was revealed in a salary survey the average executive bonus is 25% higher than 12 months ago at an average level of \$19,650. Chief Executives received on average a 5.4 per cent base salary increase in the 12 months to 1 March 2000.<sup>23</sup> But the latest change in nominal wages as measured by the Labour Cost Index shows that wages moved by only 1.4% in the last year. This is despite high GDP growth in late 1999.

In addition, there is a concern that wage statistics do not capture the total effect of the

---

<sup>22</sup> It should be noted however that this is still lower than the "flight" from NZ to Australia in the late 1980s. In 1989 the net loss was 33,075.

<sup>23</sup> Cubiks Limited, PA Consulting Group "The New Zealand Salary Survey", 11 May 2000.



removal of allowances, and the impact on new employees. Statistics NZ does note that the ECA has affected the level of wages through limiting the increases in rates for overtime and weekend pay and in many cases reducing those rates with nominal overtime earnings growing slower than ordinary hourly earnings.

As an example of an in-depth study of a particular sector, a detailed time series data base of wage rates in the supermarket sector revealed a fall in real wage rates from 1987 to 1997 of 11% for those who worked Monday to Friday, with a 33% real pay cut for those with a proportion of weekend work. Although there were significant "grandparenting effects" in that sector meaning there were intergenerational differences, it indicates that the experience of workers starting a new job in the labour market conditions imposed by the ECA, showed up a trend effect for all workers. New workers were the first affected, but the effects eventually flowed on to all workers.

### 3.7 Productivity since the ECA

The NZCTU has noted that because labour productivity is a measure which divides output by hours worked, it naturally follows that any increase or decrease in output, or increases or decreases in employment will affect the statistic. Many factors influence growth and employment. One factor has been the compositional shift as there has been more employment in noncapital intensive service industries so labour productivity is lower.

But given that the ECA was intended to promote efficiency in the labour market, it must be disappointing to its supporters that aggregate productivity statistics are so woeful. NZ is now 23<sup>rd</sup> out of 26 developed countries in overall productivity. Labour productivity growth in successive years from 1993 to 1998 was -0.9, 1.7, -0.4, -0.7, 1.1 and 2.4. This is an average of 0.5%. Australia managed an average of 3.2% from 1993 to 1998.

The NZCTU has attributed this decline to the ECA only to the extent that it delivered a collapse in social capital – trust, loyalty, and good faith in the workplace. That collapse resulted from employer attitude and an obsession with reducing unit labour costs at the expense of investing in good workplace relationships and skill development.<sup>24</sup> Hazledine argues that "the ECA is above all an instrument for destroying social cohesiveness",<sup>25</sup> and in essence argues that what has been lost is that concept of a "fair day's work for a fair day's pay" which was part of the "social contract" between employers and labour. We also observed that, at the very least, the level of union density does not damage productivity. In fact one economist<sup>26</sup> calculated that labour productivity was a third higher in the most unionised sectors of the economy.

In desperation for statistics to prove that labour productivity has been a success under the ECA, the NZEF, National Party and ACT have turned to a Treasury study of productivity by Denis Lawrence and Erwin Diewert. The basic methodology of Diewert and Lawrence was to argue that labour productivity is too narrow a measure. A more comprehensive measure of productivity should include not just labour and capital inputs, but also land, natural resource, inventory and all other inputs. This leads to a

---

<sup>24</sup> Hazledine, T., 1998 *Taking New Zealand Seriously: The Economics of Decency*, Harper Collins, Auckland.

<sup>25</sup> *Ibid*, p. 111.

<sup>26</sup> Maloney, T., *Five Years After; The New Zealand Labour Market and the Employment Contracts Act*, Wellington, Institute of Policy Studies, 1998 i-xiii+128pp., ISBN 0-908935-29-3

"total factor productivity" measure (TFP).

Their TFP figures on New Zealand show that:

*"Performance during the 1970s was generally poor. This was followed by relatively strong growth in productivity between 1980 and 1985 and a subsequent 'plateauing' of productivity through until 1993. After 1993 there was a productivity surge. This is likely to have been aided by the effects of the labour market reforms of the early 1990s, amongst other things".*

But, the Diewert and Lawrence figures actually show that TFP was stronger in the 1980-85 period than after 1993. This is in spite of the fact that, at that time, the Industrial Relations Act included national awards, compulsory unionism, exclusive union coverage etc etc. In other words, TFP was particularly high during a period of significant labour market regulation.

The report is also biased to the extent that it describes a 20.8% increase in TFP (3.5% a year on average) between 1980-85 as "relatively strong" and the post 1993 period as a "surge" even though TFP grew by 8.5% (1.7% a year on average) from 1993 to 1998.

### 3.8 Strikes and Lockouts

Another statistic often quoted is the decrease in the number of days lost due to strikes and lockouts. It is true that the number of days lost fell significantly from 331,000 in 1990 (or a much lower 193,000 in 1989) to 12,000 in 1998. In fact, there has been a long term decline in the number of stoppages since 1978 some 13 years prior to the ECA. The fall in the number of stoppages was from a high of 562 in 1977 to 137 in 1990. There was a 68% fall in stoppages in the ten years before the ECA. There has been a 74% fall since.

Hazledine notes that it has been highly unusual to have a period of declining conditions of employment alongside low levels of apparent industrial unrest. He calls this "pacification" rather than industrial "peace".

## 4. NEW ZEALAND AND ILO CONVENTIONS

As already discussed, for most of this century New Zealand had a regulated labour market dominated by the principles of collectivism and pluralist theories of law stemming from the Industrial Conciliation and Arbitration Act 1896. The 1991 Employment Contracts Act introduced a fundamental conceptual and legal change to the nature of the employment relationship as part of the wider economic and social reform reflecting the prevailing market driven economic philosophy.

From the International Labour Organisation's inception in 1919 until the late 1980's, successive government's regularly ratified its Conventions. Although New Zealand has ratified 56 Conventions, there have been no ratifications since 1987.<sup>27</sup>

This again reflects the influence of the "new right" philosophy and the prevailing view

---

<sup>27</sup> The new Government has however advised that it will ratify Convention 182 on the "Worst Forms of Child Labour", and supported the Maternity Protection Convention.

in the previous New Zealand Government and employer circles that no credibility should be given to the views of organised labour, and that international labour conventions are an unjustifiable constraint on the "market".

From the perspective of labour the erosion of labour rights in legislation has meant that minimum international labour standards have become of greater significance for workers. The CTU has placed greater reliance on international conventions to promote and protect the rights of workers as domestic legislation fails to comply with the minimum standards laid down by this international law.

It has been the embarrassing duty of the New Zealand Workers representatives to ILO Conferences during the past several years prior to 2000 to call the New Zealand Government to account before the ILO Application of Standards Committee for fundamental breaches of ratified conventions.

The Government has appeared before the Committee in the following instances:

- In 1993 regarding Convention 122 on Employment Policy, the Committee of Experts reminded the New Zealand Government of the Convention's requirement to "adopt as a major goal, full, productive and freely chosen employment" and seriously questioned whether compliance was compatible with the economic policies being pursued by the Government.
- In 1994 regarding Convention 100 on Equal Remuneration when the Application of Standards Committee heard evidence that after decades of slow but steady progress, the introduction of the Employment Contracts Act had resulted in a steady widening of the gap between men's and women's wages as well as effectively rendering inoperative the Equal Pay legislation.
- In 1996 regarding Convention 81 on Labour Inspection when the Committee noted non-compliance, particularly in the low number of inspectors, the confidentiality of complainants and the provision of annual inspection reports.
- In 1997 in relation to Convention 17 on Workers Compensation, the Government was asked to report on progress to rectify acknowledged non compliance with the requirement to ensure that work injuries are treated at no cost to the injured worker. The CTU had first raised this issue in a direct report in 1992 when the Government first reduced the level reimbursed for medical treatment by 20% across the board. Following legal advice the Government had, in late 1993, acknowledged the breach of convention and undertaken to remedy it by amending legislation as soon as practicable. Despite amendments to the Accident Rehabilitation and Compensation Insurance Act on other respects no attempt had been made to remedy the breach when the matter came before the Application of Standards Committee at the 1997 Conference.
- In 1998 regarding Convention 26 on Minimum Wage Fixing Machinery and the Committee of Experts observations on the lack of genuine consultation with worker organisations, the Youth Minimum Wage which breaches the principle of equal remuneration for work of equal value, and the inadequacy of the enforcement provisions in the Minimum Wage Act.

On the positive side, as a result of pressure from the CTU, New Zealand is now in compliance with ILO Convention 42 on Workers Compensation (Occupational Diseases) after at least 23 years of non-compliance.

These cases all concerned non-compliance with conventions which have been specifically ratified by New Zealand. But there has also been a CTU complaint regarding the non-compliance of the Employment Contracts Act with the non ratified, but core conventions, Conventions 87 and 98.

The CTU laid a complaint with the ILO using a special complaints procedure reserved for complaints about infringements to the principles of freedom of association. The complaint was laid with a special committee of the ILO called the Committee on Freedom of Association in 1993.

The basis of the CTU's complaint was that the Employment Contracts Act 1991 was in breach of two core ILO conventions: Convention 87; the Freedom of Association and Protection of the Right to Organise Convention 1948, and Convention 98; the Right to Organise and Collective Bargaining Convention. Both Conventions are recognised as founding ILO conventions that all states are obliged to observe by membership of the ILO itself regardless of ratification. In this sense they have a higher status than other conventions. New Zealand has not ratified either of these conventions, but given their special status, the CTU was still able to lay a complaint.

The key arguments of the CTU's case are summarised below:

1. At a fundamental level the Employment Contracts Act does not promote collective bargaining, as envisaged by Article 4 of Convention 98. For example collective agreements are not "collective" in the true sense but rather an aggregate of individual agreements.
2. The consultation process when the Employment Contracts Bill was passed was inadequate. First, it was not amended despite a majority of submissions critical of the bill. Secondly, the process was contrary to the principle of tripartism which is fundamental to ILO tradition.
3. There is no requirement to bargain in good faith, and, further, the possibility of "good faith" bargaining has been eroded by employer interference in worker organisations and discrimination against legitimately established workers' organisations. The Act enables employers to dominate the appointment of bargaining representatives. Furthermore the ratification and authorisation procedures are barriers to collective bargaining and the right to organise.
4. The legislation does not provide scope for multi-employer bargaining at any level.
5. The right to strike has been limited to during the course of negotiations for a collective agreement or where the health and safety of workers is in jeopardy.

The ILO's Freedom of Association Committee made fifteen recommendations in its interim report.<sup>28</sup> Principally:

---

<sup>28</sup> Case No. 1698 in 292nd Report of the Committee on Freedom of Association (1994)

1. Negotiation between employers and worker organisations should be encouraged and promoted.
2. The Act does not promote collective bargaining and the Government should take steps to ensure that the legislation encourages and promotes collectivity.
3. The Act provides inadequate protection for workers against acts of interference and discrimination by employers in the case of authorisation of a union. Therefore, the Government should take necessary steps to ensure that the legislation lays down explicit remedies and penalties against acts of interference and discrimination on the basis of authorisation of a union.
4. The Committee said that the requirement established by the Act that a union establish its authority for all workers it claims to represent in negotiations for a collective employment contract is excessive and in contradiction with the freedom of association principles as it may be applied so as to constitute an impediment to the right of a workers organisation to represent its members. The Committee requested that the Government take all necessary steps to remove the offending provisions from the Act.
5. The definition of a legal strike under the Employment Contracts Act is too narrow. Unions should be allowed to strike lawfully on issues relating to economic and social policy and in respect of multi-employer negotiations.

As a whole the Freedom of Association Committee upheld almost all of the CTU's complaint except in relation to two issues. The first related to union's rights of access to workplaces, which the ILO concluded were adequate. Second, on the basis of evidence presented, the ILO concluded that the Government did not intervene improperly in negotiations.

The recommendations of the Freedom of Association Committee were a strong attack on the credibility of the Employment Contracts Act. The process did not however end there. The Committee later sent a mission to New Zealand to investigate the matter further and produce a final report after hearing more submissions from the Government and CTU over a period of two days.

The mission's final report endorsed what had previously been said in the interim report – however it chose to do this by summarising its principle conclusions with four recommendations. Noting that the interim report had fifteen recommendations, the Government and Employers Federation appealed to the popular media suggesting that the CTU complaint had failed on the basis that 15 recommendations had been reduced to 4 in the final report. The president of the Employers' Federation said:

*"... the new findings of the ILO are a substantial endorsement of the fairness and value of the Act".<sup>29</sup>*

And further:

*"It is pleasing that the ILO came to recognise that the underlying philosophy of*

---

<sup>29</sup> New Zealand Employers Federation. (Media release) ILO's report on the ECA" 17 Nov 1994.

*the Employment Contracts Act gives equal rights to employees and employers...'*<sup>30</sup>

Alarming, the media accepted the Government's and Employer's Federation propaganda. It reported the final conclusions as an exoneration of the Employment Contracts Act. Indeed as Haworth and Hughes contend the lack of understanding by leading commentators was cause for concern.<sup>31</sup>

It is a sad reflection on the investigative role of the media that it simply accepted and reported the "analysis" which the Government and employers presented publicly without scrutinising it to see whether it was in fact correct.

In reality, the ILO's final report in no way endorsed the Employment Contracts Act. The ILO consistently maintained that the philosophy of the Act does not promote collective bargaining and remains contrary to Conventions 87 and 98. It recommended that the Employment Contracts Act be amended so that it is in line with the conventions.

In 1998, Ross Wilson, now CTU President, noted that:

*"in the last seven years the Government has been touting the success of its economic and social reforms in New Zealand and overseas. Exposing the inconsistencies and flaws in its agenda has become a difficult task for organisations like the CTU. The international stage is becoming increasingly important with globalisation of the economic community and the emergence of new international fora (ie. APEC and WTO) and as reliance can no longer be placed on fundamental democratic structures in New Zealand.*

*The erosion of consultative decision making processes in New Zealand has been developing for some time. Unsurprisingly after almost a decade of unbridled economic reform, MMP was favoured by many New Zealanders in the belief that it would deliver a balance of justice and consultation in parliamentary decision making. The rise of MMP was a manifestation of New Zealanders' frustration with the erosion of democracy.*

*Unions have experienced frustration as the principles of tripartism, a cornerstone of the industrial relations system for most of this century were swept aside by the Employment Contracts Act. The parliamentary select committee process, with all its flaws has become the only formal process that remains for those seeking to challenge legislation. Recent experience suggests that it is not as open to participation and consultation as might have been hoped for under MMP.*

*As a result, the CTU is beginning to place more reliance than in the past on international fora and global common standards embodied in the principles of the ILO and United Nations covenants for guidance and redress. International diplomatic pressure and criticism has become one of the last remaining "checks" on the power of government".*

Today, there is no doubt that although there is controversy over whether the CTU should have been more active in 1991 in opposition to the ECA, the sustained CTU campaign in every available forum since then has made a major contribution to the

---

<sup>30</sup> Ibid.

<sup>31</sup> Haworth, N. and Hughes, S "Under Scrutiny: The ECA, the ILO and the NZCTU Complaint 1993-1995", *New Zealand Journal of Industrial Relations* 20 (1995) 143.

demise of the ECA.

## 5. THE EMPLOYMENT RELATIONS BILL

In March 2000, the new Labour/Alliance Government introduced the Employment Relations Bill, which repeals the Employment Contracts Act and introduces a new law based on freedom of association, promotion of collective bargaining, and good faith concepts. The purpose is to build productive employment relationships through mutual trust and confidence in all aspects of employment. The Bill states the intention to observe the principles in ILO Conventions 87 and 98. The Bill:

- Recognises the need for good faith behaviour,
- Acknowledges that there is unequal bargaining power between employer and employees,
- Encourages collective bargaining,
- Provides for voluntary union membership,
- Protects the right of those employees who wish to choose an individual agreement,
- Promotes mediation as the best way to resolve problems.

Some aspects of the Bill have come under sustained political and employer attack. A lot of this has been based on deliberate misinterpretation of the Bill but the Government has moved to allay some of these concerns. There are a number of issues under review including: dependent contractor's rights to seek employee status; limitations on fixed term contracts; disclosure of sensitive financial information via good faith bargaining mechanisms; employer ability to communicate with employees during bargaining; liability of company directors where there is deliberate avoidance of statutory minima, and; transfer of undertaking provisions.

Although there have been some concerns expressed by unions about slippage in the key aspects of the Bill, it seems clear that the amended Bill will retain core elements of a totally different approach to employment relations from that in the Employment Contracts Act. These core provisions include:

- legal recognition of unions
- mechanisms for union registration
- good access rights to workplaces
- support for collective bargaining by ensuring unions are parties in all collective agreements, giving unions priority rights in some instances to initiate bargaining, introducing a "join the union, join the agreement -join the agreement, join the union" mechanism
- ensuring good faith bargaining obligations in the Act and through good faith codes
- providing for the right to strike in support of multi-employer bargaining
- granting paid education leave
- non-replacement of striking workers

The Bill does not however provide for the right to strike on social, economic and political grounds.

The Government has been consulting extensively with employers as well as the Council of Trade Unions in order to try to find a balance between respective concerns about

the Bill. The CTU is supportive of a process that ensures broad acceptance of the Bill, but is wary of any attempts to water down the Bill. At the time this paper was finalised the Bill was due to be reported back to Parliament from the Select Committee consideration of submissions.

Some employers, with encouragement from sections of the media, are now trying to establish "house" unions in order to register under the new Act. The Bill has reasonably stringent requirements on union registration, but clearly these will be tested at an early stage as some employers try to disadvantage established unions. The NZCTU expects new unions to emerge in any case, but there is concern if some are little more than employer-generated devices to limit rather than promote genuine union rights.

## 6. THE NZCTU IN A NEW PERIOD OF SOCIAL DIALOGUE

We are now in a new period of social dialogue. It is "new" because it is the first time we have had a centre-left coalition Government under the mixed-member proportional (MMP) electoral system introduced for the 1996 election. New Zealand now has a system of Government based on coalitions as the norm rather than one-party "rule". MMP effectively means that the NZCTU must maintain broad relations with a number of parties. For instance, the current Government relies on the Green Party outside Government for parliamentary support on key issues and for votes of confidence and supply. This means that while it is vital and necessary to maintain an open and constructive relationship with the Labour Party it is not sufficient. The NZCTU is an independent organisation not affiliated to any party. There is no doubt that Labour is the major party in the Coalition Government and there are many close links between the union movement and the Labour Party. But links have to be close with other parties as well.

This is one of the reasons, along with the absence of centralised wage bargaining, that it is difficult to establish something similar to an "Accord" such as that which operated in Australia. To some extent the NZCTU is still learning the nature, bounds, form and content of a strategic relationship with Government in this era. Time pressures, issue-based meetings, resource constraints and the fact that there is such a large range of relevant policies to discuss – all militate against a strategic perspective and can result in defaulting to an ad-hoc approach instead.

The current form of social dialogue in New Zealand cannot be characterised as tripartism<sup>32</sup> although there are elements of that. For example, the Government consulted both extensively and intensively with employers in the formation of the Employment Relations Bill. There are also tripartite discussions on "codes of good faith" to emerge from the new Employment Relations Act. There is a degree of employer/union co-ordination on relevant educational issues arising from the new Employment Relations Bill. In the State sector (which is really a bipartite relationship) there are new opportunities for unions with a progressive Government approach to issues such as consultation. For instance, the Public Service Association has signed a Partnership Agreement with the Government.

But on a more general scale the model of engagement is not so much tripartite but based around a multi-faceted partnership model that recognises the legitimate voice of

---

<sup>32</sup> Tripartism had a customary significance in NZ for many years but except for during WWII and a brief period from 1980, no real institutional form.



a range of stakeholders. This includes employers and unions, but also the voluntary sector, local government, Maori – and many other interest groups and constituencies. This means that although there is a special relationship between the union movement and the Government it is in no way exclusive. There are numerous advantages and disadvantages for unions in such a set of circumstances. There are opportunities in the context of "social movement" unionism for new forms of engagement with the wider community.

But there is also the potential for significant fragmentation, particularly if there is a failure to realise that unions have a crucial role in the economy. Issues of productivity, export-led growth, skill development are all areas where social dialogue should occur. Employers are always keen to assert that they alone create growth in the economy. But there is a significant union contribution to be made in creating the conditions for long-term growth. If new forms of tripartism and social dialogue can be established in the context of a pluralistic environment they could be sustainable over a long period.

The new Government is in a situation where it (particularly Labour as the major party) made a number of absolute promises pre-election. The Government is now implementing those promises. There is a range of other policy initiatives, which were clearly signalled pre-election. But there is also a number of reviews (e.g. monetary policy review) and areas of policy development. This means that the NZCTU has to be able to operate effectively over a number of different terrains.

For the NZCTU there is an opportunity to gradually build a sustained policy platform based on (at least) four major areas. These are set out below. But in terms of day to day work this is by no means an exclusive list.

### **1. Fairness at Work**

This includes the Employment Relations Bill, youth minimum wages, accident compensation, paid parental leave, health and safety laws, holidays, and a minimum code.

This policy platform is motivated by the perceived need for a substantive reform of workplace laws. But it is also based on the requirement to set a benchmark for a modern economy that bases its productivity and effectiveness on skill, knowledge, and respect - rather than a complete focus on flexibility and reducing compliance costs for employers.

The Employment Relations Bill has already been discussed above. In the area of accident compensation, the previous Government privatised the workers compensation component of the scheme, but the new Government has essentially reversed this decision and work-related accidents are covered by a national state provider once again. The CTU has campaigned vigorously for such a return.

There is still some significant progress to be made on the other issues in the "fairness at work" cluster. For instance, the Government has paused for reconsideration on the matter of applying the adult minimum wage from 18 rather than 20 years, and increasing the rate for 16 and 17 year olds. A lot more work is required on paid parental leave. There is Government support for at least 6 weeks paid parental leave, but there is a campaign developing for more

like 14 weeks leave. The matter of Government funding versus an employer levy is also unresolved. Ensuring greater worker involvement in identifying workplace hazards is a key issue in the review of health and safety legislation. In addition, the conceptual and practical framework for a minimum code or set of standards is yet to be developed.

These are key issues to be worked through in the context of a broad social dialogue.

## 2. Economic Development

The CTU has for many years advocated a high skill, high wage, and quality economy. That requires a set of Government policies that: invests in education and skill development; nurtures innovation; promotes job-rich policies; lifts regional economic performance, and; takes a strategic role in industry development. We are therefore working closely with Government, local Government, and sections of the business community to implement such policies. But it is a long road. We believe that this is more of a 20-year project than a policy platform designed around the electoral cycle.

## 3. "Social Wage" Issues

Obviously, for any union, it is acknowledged that if (for instance) the costs of health, education and housing go up, our pay packets effectively shrink. Therefore there are policies that affect our "social wage". The CTU supports policies such as the income related rents, lower costs for student loans, higher superannuation payments, and greater access to elective surgery - because they are all policies that directly benefit workers.

We also support the broad thrust of policies based around "closing gaps". These policies will build stronger communities. Apart from the social and human considerations that motivate these policies, we know that we cannot build a strong economy if there are dysfunctional communities. Poor educational achievement, overcrowding, infectious diseases and crime all result from higher levels of poverty. We cannot advance as a country without facing up to those problems.

## 4. State Sector Capacity

The role of Government has been diminished since 1984. The capacity of Government to provide quality services has been eroded through the sale of Government assets, tax cuts instead of investment in services, and a corporate ethic with individual budgets, and individual accountabilities rather than "public service".

The CTU supports policies that gradually improve state capacity. This need not be a return to the past. The Government may operate in partnership with other agencies. The Government is running fairly strong surpluses over the next three years and is also hoping to win cross-party support for a form of superannuation prefunding to cope with a demographic bulge impacting on pension costs from 2025. This constrains the level of social spending and expansion in Government

capacity. But there is no doubt that there is a change of focus. The limits on government involvement are not now ideological but practical and financial.

These are examples of areas of social dialogue. It is important that central government, local government, and progressive sections of the business community can work alongside unions on these issues.

There are also opportunities for the CTU to have a regional approach to industrial relations. One example is the mutual benefits of organising links with Australia given the high incidence of New Zealand and Australian workers sharing the same employer. Such firms as Foodlands, ANZ, Fisher and Paykel and many others imply a logical point of regional co-operation.<sup>33</sup> We also co-ordinate on such issues as fair trade and labour standards. But it needs to be much more than this. A key question for unions in this region is to define how regional collectivism can function. Examples such as the recent action over Fiji illustrate the legal problems faced by unions constrained by custom and law to a national construct whereas capital increasingly operates in a global construct. As borders become less significant in every economic sphere, we need to drive up the issue of regional and international collectivism. In addition, there is a requirement to be more strategic in the SouthWest Pacific. The relations between New Zealand and our Pacific neighbours is based more on issues of aid and immigration than trade, economic development and regional economic strategy.

## 7. SUMMARY AND CONCLUSION

New Zealand is a small trading nation with an open economy. In the last 15 years we have been subject to an "unfortunate experiment" where the theories of a liberal market economy, privatisation, deregulation, individualism, and a minimal state have led to a declining export sector, a huge current account deficit, a large private sector debt, huge disparities in incomes, historically high unemployment, and growing pockets of dysfunctional communities.

There is now a new Government "grasping the nettle". They are developing a "social dialogue" and policy programme based on modernising the economy in the context of globalisation. This involves investing in skills and education, regional and industry development, an end to unilateral tariff reductions, reform of labour laws, and a more active role for the State. But it is not a return to the past.

The NZCTU therefore faces new challenges. Union density levels are low. The bottom line for effective participation in social dialogue is to have an active and growing constituency. There are opportunities to grow even if they are more modest than employers speculate. On the basis of growing membership, new legal opportunities, a campaigning and organising focus, and a Government willing to involve unions as a legitimate social partner, there is now a renewed glimmer of hope and an emerging union confidence.

---

<sup>33</sup> The CER Agreement is one of a number of aspects of a review of trade and economic relations with Australia being considered by a Select Committee of Parliament. The NZCTU has made submissions to this inquiry.