



## *Chp. 3: ER history*

- ⊕ ER history – a few general remarks:
  - ⊗ What is told, how is it told and what do WE focus on?
  - ⊗ Focus on 'turning points': complexity versus popular, often simple, explanations
  - ⊗ Re-interpretation/hindsight versus the political and economic reality at the time
    - Public policy and unanticipated outcomes

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“...two key things are missing in such a skeletal coverage. One is the 'flesh and blood' of these historical events – the personalities and characters, the strife, gossip, intrigue and factionalism that bring the colour and drama of the country's employment relations history to life. The second is a detailed analysis of the rich textures of the economic, political and social conditions that gave rise to the events themselves.” (p. 42).

There is a tendency to focus on 'big' events and that overlooks the underlying causes. There is also – as in media reporting – a tendency to look at dramatic events such as strikes, lockouts, war, recession, key legal decisions and above all, legislative changes.

While a kind of re-interpretation is difficult to overcome it is important to look at the situation at the time of the decision-making and whether the decision makers had a pre-disposition for a particular type of 'solution'.

Unanticipated outcomes are important in the evaluation of legislation but can also be used when looking at government intervention, bargaining outcomes, etc. For example, what were the expected outcomes in connection with the ECA (see chp 4). A similar question could be raised with the ERA.



## *ER history – four phases?*

- ⊕ Pre-IC&A Act
- ⊕ IC&A Act 1894-1991
  - ⊞ 1936 Labour Government
  - ⊞ 1973 Industrial Relations Act
  - ⊞ 1987 Labour Relations Act
- ⊕ 1991 Employment Contracts Act
- ⊕ 2000 Employment Relations Act

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The phases can be used to get an overview. The long reign of the IC&A Act provides NZ with a particular approach to ER (only Australia is similar).

Why do we stress 1936, 1973 & 1987?

What is significant about these ‘shifts’ and could we have chosen other significant events?

The ECA 1991 is clearly a major shift in ER. Could the ERA (2000) be viewed as similar to the Labour Relations Act? That is, as a limited change to the ECA as LRA was a limited change to the long-running IC&A system (see chapter 6).

What criteria would you use to evaluate such a question?



## *Walsh (1993) & history phases*

- ✦ The cycles of arbitration
  - ▣ consolidation of the system, 1894-1951
  - ▣ arbitration in decline, 1951-1968
  - ▣ searching for new solutions, 1968-1984
  - ▣ deregulating industrial relations, 1984-1992
- ✦ Phases always tend to shorter at the end – why is that?
- ✦ Besides an overview, what do we learn?

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Walsh (1993) – see the Bibliography.

After reading the chapter, how would you explain the phases by Walsh?

Explain the significance of 1951, 1968 & 1984. And why not other major 'shifts'?

Have you made a timeline over the most important shifts in ER?

Is the world and the ER environment moving faster or do we just think that our own time is so much more important than the past?



## *Pre-IC&A Act period*

- ✦ Early UK legislation implemented
  - ✦ Master-servant law v/s egalitarian attitudes
  - ✦ Early legislation has no enforcement
    - Employment of Females Act, 1873, -74 & -75
- ✦ The long recession (1876-1890) & deterioration in work conditions
  - ✦ Public outcry & 1890 Sweating Commission
    - What were the main issues & the 'solutions'?

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There was a tension between the tradition of the immigrants and the environment in which they settled. While legislation and some ER thinking was modelled on British examples there was also a different labour market – eg. Parnell's demands in 1840 – and a different social and economic context (see pp 46-47).

There were concerns about the working conditions already in the 1870s. The main focus was to restrict abuses of women and children. What about men?

The issues surrounding enforcement lead to the formation of Dept. of Labour

Note the involvement of the church in the debates about working conditions around 1890. Compare with the criticism of various churches of the first Bolger government in the early 1990s.



## *Unions: solidarity & obstacles*

- ✦ Mainly craft unions (UK roots), few semi-skilled unions (Oz roots)
- ✦ Unions weak in 1860-1890 period (see 6 points on pp 46-47)
  - ✦ Space & land factors: labour force mobility, individual independence, parochial society and small workplaces
  - ✦ Egalitarian ethos, limited class identity

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The difference between craft unions and semi-skilled unions is important in terms of their strength and thus strategy and, in some cases, how they reacted to the conciliation and arbitration system.

Why do the 6 points indicate union weakness?



## *IC&A Act 1894*

### ✦ Prompted by:

- ✦ Working conditions, Maritime strike 1890, election of Liberal Government
  - Note OSH legislation is a 'precursor'

### ✦ Features of IC&A Act

- ✦ Conciliation & binding arbitration (District Conciliation Boards & Arbitration Court)
- ✦ Union registration: rights & obligations

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Note that Reeves was disenchanted with strikes and lockouts and he thought that a regulatory framework could produce better outcomes. Thus, Reeves thought that efficiency and equity could be balanced over time.

The Industrial Conciliation and Arbitration Act 1894 provided 4 changes:

- strengthened the unions as employers had to negotiate with them
- compulsory arbitration could always be called upon to settle disputes
- settlement was legally binding and 'blanket coverage' secured similar terms and conditions across an industry or occupational group
- strikes and lockouts were curtailed as legal means of solving disputes

It is unclear whether the Act was initially a plus for employers; it became so in times of high economic growth & labour shortages. "The system also provided employers with a predictable and orderly framework for dealing with labour. It removed the ambiguity and risk that employers generally dislike. Because of its tendency to centralise wage negotiations, it also eventually removed, for many employers, the need to bargain directly with their staff – a feature that pleased employers, especially those in small businesses. The conciliation and arbitration system also eliminated the unfair competition of sweatshop employers who endeavoured to undercut their competitors by underpaying staff and rigging the apprenticeship system." (p. 53).



## *Same system – frequent changes*

- ✦ Over 20 crucial IC&A Amendment Acts
  - ✦ Changes in arbitration (1932, 1936, 1984)
  - ✦ Changes re: union membership (1932, -61)
  - ✦ Legislation re: minima (holidays, minimum wages, shop & office hours, etc.)
- ✦ 1973 Industrial Relations Act
  - ✦ Registration of voluntary agreements
  - ✦ Disputes of interest & disputes of rights

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“Although arbitration was practiced in other parts of the world, the New Zealand system was unique because of the power of the Arbitration Court to make a final and binding decision settling wages and conditions in an industry.” (p. 52).

Does this slide miss anything regarding union membership?

The changes mentioned above – as well as the two next slides – indicate the key areas of ER under the IC&A system.

Do you understand why the 1973 changes were important? Otherwise ask!

Why is the distinction of disputes of interest and disputes of rights still of interest to current ER academics and practitioners?



## *IC&A Act – key issues*

- ✦ Difficulty in dealing with instability:
  - ✦ Inflationary or deflationary periods
    - 1912, 1913 & 1951 disputes: market or arbitration?
  - ✦ Based on a 'closed', quite stable economy
- ✦ Public sector ER
  - ✦ Separate ER system until 1986 & 1988
  - ✦ 1912, 1962, 1969 & 1977 Acts
  - ✦ Key issues: relationship with private sector & the ability to recruit, promote and retain good staff

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It is important to understand why inflationary or deflationary periods are problematic for the arbitration system and why it was based on a 'closed', stable economy.

“One dispute looms larger than all others in New Zealand’s labour history – the 1951 waterfront dispute.” (p. 58). It had major implications for the conciliation & arbitration system, for the internal unity of the union movement, and for the links between unions and the Labour Party.

The major disputes in the last century all led to major defeats for the unions involved. What are the key explanatory factors for that?

For short descriptions of some key trends in public sector ER (see chapters \* & 12).

Is the last point mentioned above still a major problem in the public sector?





## *IC&A Act - legacies*

- ✦ See overview on pp 62-64.
- ✦ Specialised employment institutions
- ✦ Legalistic, adversarial approach to ER
  - ▣ Limited direct (workplace) bargaining
  - ▣ Dealt only with collective arrangements
- ✦ Union registration process
  - ▣ Many weak unions with little workplace presence
- ✦ Legally binding documents
  - ▣ 'blanket coverage' (non-organised are covered)

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It is important to understand what each legacy is about and why it became a problem over time. The legacy of specialised employment institutions and the enforcement of Department of Labour is still there. And the union registration process has returned under the ERA 2000, though it is still debated what the impact has been on union structures and membership.

Why is the issue of a legalistic, adversarial approach still latent under the ECA & the ERA?

Some regard the inclusion of individual arrangements under the ECA as one the key changes to New Zealand ER.



## *Deregulation overview, 1984-91*

- ✦ Why deregulation?
  - ✦ Negative economic & labour market indicators
  - ✦ Muldoon & excessive labour market interventions give state intervention a 'bad' name
  - ✦ International fashion (eg. Reagan & Thatcher)
- ✦ Avalanche of legislative changes
- ✦ Legislate to deregulate: a contradiction?
- ✦ Both deregulation & regulation
- ✦ Survival of the award system

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Remember the first slide?

It can be argued that to understand the post 1984 period it is necessary to go back to 1984 and look at: what were the problems, what were the solutions being debated, why did people take the positions they did?

There are several documentaries and theatre plays dealing with the situation surrounding the incoming 1984 Labour Government. Consult them if you are interested in this era and the sharp shift in Labour's public policy.

This is still a contentious period and it can be interpreted in several ways.

'Rogernomics' advocated deregulation of the labour market: "In particular, the institutional arrangements of the country's centralised and regulated employment relations system were considered to provide several impediments to economic recovery." (p. 67). (For a broader discussion, see the section in chp 10 on: Employment relations and national economic performance)



## *Deregulation, 1984-91*

- ✦ Voluntary arbitration
- ✦ Government non-intervention
  - ▣ 'Side-line Stan': a reaction to previous period
- ✦ Labour Relations Act
  - ▣ A 'two-handed approach'
- ✦ Public sector reforms
  - ▣ Leading the charge towards workplace barg.
  - ▣ Overlooks 'human capabilities'?

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Voluntary arbitration and the government non-intervention can probably be linked to the long-held belief that government interference in ER tends to create more hassle and political damage than positive political support.

It was probably also a reaction to the extended level of government intervention under the Muldoon governments. Thus, 'Side-line Stan' became the nickname of Minister of Labour Stan Rodgers as he continuously advocated and stuck to a non-intervention approach.

The public sector reforms are 'world famous'. They have probably created more overseas interest than any other reforms in the post 1984 period. (For a comprehensive discussion, see Boston et al 1996, Spicer et al 1996, plus journals dedicated to public sector changes).

As NZ had large-scale government intervention in the economy with the government being a major employer in several sectors, the public sector reforms had a huge impact on ER across the labour market.

It is maintained that "there were marked differences between developments in the state-owned enterprises, the core public sector and the private sector." (p. 70). What were these marked differences?



## *Regulation, 1984-91*

- ✦ Union registration 1984 ('compulsory')
- ✦ Labour Relations Act
  - 1000 member rule, single set of negotiations, Tripartite Wage Conference, Minimum Wage
- ✦ Parental Leave
- ✦ Employment equity
- ✦ Final offer arbitration
- ✦ "Growth Agreement" (~ incomes policy)

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Can you explain why these points all relate to more regulation, more state intervention?

Employment equity is further discussed in chp. 8.

What is final offer arbitration and why was it introduced as an option in the public sector?

Incomes policy is discussed briefly in chp. 10.



## *Survival of award system*

- ✦ Resilience because of flexibility?
  - ❖ Awards incorporated more flexibility & provided low wage rises across the board in late 1980s
  - ❖ Awards provided low transaction costs
  - ❖ However, it is probably political decision-making which saves awards (despite employer pressure)
- ✦ Labour Relations Amendment Act 1990
- ✦ Many unions were reliant on award system
  - ❖ Many unions were 'creatures' of the state
  - ❖ Economic restructuring & downturn

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This section of the chapter is controversial and it also has two arguments rolled into one: on one hand, the award system has some positive feature (despite the negative evaluations of some commentators) but, on the other hand, the conciliation and arbitration system's inability to deal with a turbulent economic and labour market environment was again exposed.

“In spite of the extensive deregulation of the private sector in New Zealand between 1984 and 1990, and in spite of the continuing pressures for labour market reform, the formal – that is, the structural and institutional – aspects of employment relations in the private sector did not change very markedly.” (p. 62). This was clearly an unintended outcome of public policy changes.

“The evidence suggested, in fact, that there was far greater wage flexibility in the national award system than critics allowed.” (pp 62-63). This is controversial: was the liberalisation of hours & the spread of wage rises really that significant in view of the economic turbulence & the new shop opening hours?

“While it was evident that there was some flexibility in the award system, it was never likely to be sufficient to satisfy a radical employer organisation such as the Business Roundtable.” (p. 65). What would have been sufficient to satisfy the Business Roundtable?