This paper reviews New Zealand's experience of lockouts over the last near-two decades. It employs published and unpublished official (Statistics New Zealand) data plus unofficial data on the following, hitherto ignored, dimensions of lockouts: (i) employees involved in lockouts, (ii) person-days lost due to lockouts and (iii) the average duration of lockouts. The patterns of lockouts are compared for different New Zealand politico-legislative eras from 1986 to 2004. It is found that there has been, over time, a declining trend in the incidence of person-days lost due both to strikes and to lockouts in New Zealand. But the relative incidence of person-days lost due to lockouts vis-à-vis strikes rose quite sharply during the 'middle' years of the operation of the union-hostile Employment Contracts Act, 1991. Comparisons are made with Australian experience. There are some notable similarities in the pattern of lockouts in both countries, including the tendency for the average duration of lockouts to be considerably longer than the average duration of strikes.

Introduction

In many countries, including New Zealand and Australia, neo-liberal labour market reforms have been introduced in one form or another in recent years. These reforms are designed to enhance the role of individual contractual arrangements between employees and employers and reduce the role of unions and other third parties in determining workplace arrangements. A number of studies have pointed to the rise in the relative importance of lockouts as a possible consequence of these reforms (Macfie, 1992; Anderson, 1994; Sheldon and Thornthwaite, 2001; Briggs 2004, 2005). This paper further explores this issue with reference, principally, to New Zealand experience. It departs from earlier studies and commentaries by
analysing official unpublished estimates of lockouts in New Zealand in conjunction with official published data plus certain unofficial data. These data, available in a restricted form for the period 1986 to 2004 only, give estimates of workers involved in lockouts and person-days lost due to lockouts. These data have not to date been employed anywhere else in analysing the characteristics of lockouts and strikes in New Zealand. The use of these data provides a fuller understanding of the shape of lockouts (and strikes) than that offered by officially published data that is confined to reporting only the number of lockouts while making no reference to the number of workers involved in lockouts or the number of person-days lost due to lockouts.

Accordingly, this paper sets out (i) to examine the relation, if any, between recent labour market reform and lockouts in New Zealand and (ii) to compare New Zealand experience with that of Australia. To address these issues the next section reviews New Zealand's labour market reforms. This is followed by a discussion of New Zealand's statistics on lockouts and strikes, noting in particular some of the limitations of both the published and unpublished data employed in this study. The penultimate section investigates the possible impact of neo-liberal labour market reforms and lockouts in New Zealand and then compares New Zealand's experience with that of Australia. Conclusions follow in the final section.

New Zealand Labour Market Reform Background

For close on a century New Zealand operated under a system of conciliation and arbitration quite similar to the one subsequently established in Australia in 1904. The system of conciliation and arbitration was initially set up in New Zealand under the Industrial Conciliation and Arbitration Act 1894 (Holt, 1986). There were of course numerous amendments and refinements to the system established in 1894, but the basic system of centralised and legalistic dispute settlement procedures remained largely intact until 1991.

New Zealand’s reformist Fourth Labour Government, in office from 1984 to 1990, did dramatically reduce the role of government in the economy by cutting subsidies to agriculture, privatising state-owned enterprises, reducing tariff protection and placing much greater reliance on market forces in general (Wooden and Sloan 1998). It also sought to encourage enterprise bargaining and, accordingly, introduced numerous legislative reforms designed to inject greater flexibility into the determination of workplace arrangements. In spite of these initiatives, as Deeks and Rasmussen (2002, p. 62) point out: '...the formal — that is, the structural and institutional — aspects of employment relations did not change very markedly.'

During the 1970s and 1980s New Zealand’s economy and especially its labour market came under increasing strain as the performance of the economy progressively deteriorated. The economic difficulties are well illustrated by New Zealand’s unemployment rate. Up until the late 1970s New Zealand enjoyed an unemployment rate below - and at times well below - 1 per cent. From around 1978 to 1991, the unemployment rate rose, with only occasional respite, to a little over 10 per cent in 1991. Of course, most Organization for Economic Cooperation and Development (OECD) economies experienced difficult times during these years; but the relative deterioration of the New Zealand labour market was considerably more pronounced than the deterioration that occurred on average for other major OECD economies.

It was in response to these deteriorating labour-market trends that both minor and major reforms were implemented. As mentioned above, a number of relatively minor liberalising reforms and amendments to the conciliation and arbitration act occurred over the years (Bollard and Buckle, 1987; Olssen, 1988; Boxall, 1990; Deeks and Rasmussen, 2002; Kerr, 2005), but the most significant reform was introduced in 1991 via the Employment Contracts Act, 1991 [ECA] (Dannin, 1997; Kelsey, 1997; Walsh et al., 2004). According to Walsh et al.: ‘Rarely has one labour market regime been replaced by another so fundamentally at odds with its predecessor’ (p. 67). The legislation was introduced by the National Party in May of 1991 under Prime Minister Jim Bolger, Finance Minister Ruth Richardson and Employment Minister Bill (later Sir William) Birch after the defeat of the Labour Party in the 1990 election. The legislation was generally hostile to the interests of unions. The rights and status of unions that had been established under the earlier legislation were demolished. Compulsory union membership became unlawful. Employers could veto unions from entering their workplaces in order to recruit new members. Strikes in support of multi-employer agreements (pattern bargaining, in Australian parlance) were outlawed. Union density — the proportion of employees who are union members — declined sharply particularly during the early years of the operation of the Employment Contracts Act. In 1991, 43 percent of employees were union members. By 1995 — the mid-point of the life of the Act - the density rate was down to 26.7 per cent. Density appears to have more or less stabilised since 1998 at between 21 and 22 per cent (Blackwood et al., 2005). Of course, other factors, such as de-industrialisation, increased female workforce participation and increased part-time employment, contributed to the decline in union density. But there seems little doubt that the ECA accelerated the decline in union power and influence.

There can also be no doubt that the relative bargaining position of unions was
weakened during this period. Not only was there union-hostile legislation in place (Macfie 1992), but also unemployment was at a post-World War II (annual average) high of 10.3 per cent during 1991 and 1992 (OECD 2005). Table 1 column (iii) documents this. Column (iv) in the same table illustrates that New Zealand’s unemployment rate, relative to the overall average unemployment of the OECD’s Major 7, was at its greatest during 1991, the year that the ECA was introduced. By 1996, though still high when compared to New Zealand’s experience of the 1950s, 60s and much of the 70s, the unemployment rate was much improved relative to the OECD average of that time (Table 1, column (iv)). The period 1991 to 1996 can be seen, quite reasonably, as one of considerable improvement in a number of key labour market indicators. Unemployment by international standards had improved. GDP growth increased markedly (column (i)) and inflation (column (ii)) was considerably lower than was the case in earlier years.

Table 1: Selected Statistics for New Zealand: 1986-2004

<table>
<thead>
<tr>
<th>Year</th>
<th>Growth in real GDP (%)</th>
<th>Growth in GDP deflator (%)</th>
<th>Unemployment rate (%)</th>
<th>Unemployment: NZ Rate as % of Major 7</th>
</tr>
</thead>
<tbody>
<tr>
<td>1986</td>
<td>0.6</td>
<td>15.3</td>
<td>4.1</td>
<td>58</td>
</tr>
<tr>
<td>1987</td>
<td>0.8</td>
<td>13.2</td>
<td>4.1</td>
<td>82</td>
</tr>
<tr>
<td>1988</td>
<td>2.6</td>
<td>7.5</td>
<td>5.6</td>
<td>95</td>
</tr>
<tr>
<td>1989</td>
<td>0.6</td>
<td>5.1</td>
<td>7.1</td>
<td>130</td>
</tr>
<tr>
<td>1990</td>
<td>0.5</td>
<td>3.3</td>
<td>7.8</td>
<td>144</td>
</tr>
<tr>
<td>1991</td>
<td>1.9</td>
<td>0.5</td>
<td>10.3</td>
<td>165</td>
</tr>
<tr>
<td>1992</td>
<td>0.8</td>
<td>1.4</td>
<td>10.3</td>
<td>149</td>
</tr>
<tr>
<td>1993</td>
<td>4.7</td>
<td>3.0</td>
<td>9.5</td>
<td>133</td>
</tr>
<tr>
<td>1994</td>
<td>6.2</td>
<td>1.1</td>
<td>8.1</td>
<td>116</td>
</tr>
<tr>
<td>1995</td>
<td>3.9</td>
<td>2.4</td>
<td>6.2</td>
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<td>1996</td>
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<td>6.1</td>
<td>91</td>
</tr>
<tr>
<td>1997</td>
<td>2.9</td>
<td>0.5</td>
<td>6.0</td>
<td>101</td>
</tr>
<tr>
<td>1998</td>
<td>0.2</td>
<td>1.2</td>
<td>7.5</td>
<td>118</td>
</tr>
<tr>
<td>1999</td>
<td>4.9</td>
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<td>122</td>
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<td>2000</td>
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<td>6.0</td>
<td>105</td>
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<tr>
<td>2001</td>
<td>2.9</td>
<td>4.6</td>
<td>5.3</td>
<td>90</td>
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<td>2002</td>
<td>4.6</td>
<td>0.4</td>
<td>5.2</td>
<td>79</td>
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<tr>
<td>2003</td>
<td>3.3</td>
<td>2.0</td>
<td>4.6</td>
<td>68</td>
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<tr>
<td>2004</td>
<td>4.4</td>
<td>3.9</td>
<td>3.9</td>
<td>61</td>
</tr>
</tbody>
</table>

Source: OECD (2005)

Certainly, the proportion of workers in trade unions has not recovered as a result of the ERA, remaining virtually unchanged since 1998 at a little over 20 per cent of wage and salary earners (Blackwood et al. 2005). Similarly, collective bargaining has not grown in importance during the years of the ERA (Foster et al. 2006; May et al. 2004). Subsequent amendments to the original ERA were introduced in December 2004; but these changes do not affect our study as its end date is 2004.

It is interesting to note that during the period of the operation of the ERA, the unemployment rate fell each year, both in absolute terms and relative to the unemployment rate for the OECD’s Major 7, as Table 1 indicates. Supporters of market-oriented reforms see this as a long-term consequence of the ECA reforms introduced in 1990. Opponents of market-oriented reforms see the recent improvements as evidence that moderate collectivist policies are not inimical to growth and development. It is, of course, well beyond the scope and purpose of this paper to evaluate the macroeconomic effectiveness of the ECA versus the ERA regimes. For a start, the influences on the macroeconomy are multifactorial.

Between 1996 and 1999, National formed a coalition with the New Zealand First Party. The coalition proved to be rather fragile, however, and National itself was afflicted by internal tensions, reflected in part by a prime-ministerial change in 1997. During the last three years of National-led government, there was little improvement in New Zealand’s unemployment rate, either in absolute terms or in terms relative to that of the OECD’s Major 7 (Table 1).

With the re-election of a Labour Party government in 1999, many of the changes embodied in the ECA were dropped. The Labour government, headed by Helen Clark, enacted the Employment Relations Act [ERA] in October 2000. The ERA restored some of the former status and privileges afforded unions in the pre-1991 system (Walsh et al. 2004; Rasmussen 2004; Rasmussen and Lamm 2005; Kerr 2005). There was, however, only a partial return to the past. The right of unions to enter the workplace to recruit members was restored, as was support for possible multi-employer agreements (pattern bargaining). On the other hand, union membership remains a matter of choice and there is no compulsory arbitration. Most observers seem to be of the view that, in terms of outcomes (as opposed perhaps to intentions), the ERA had (and has) more in common with the ECA than with the earlier legislation in place during the years of conciliation and arbitration from 1894 to 1991 (Morrison 2003; Anderson 2004; Rasmussen and Lamm 2005; Jeffrey and Foster 2005).
and the unemployment rate in particular – as labour market conditions can have an effect on the likelihood of work stoppages occurring.

The Lawfulness Of Stoppages

The regulation of strikes and lockouts had, up until the passage of the Labour Relations Act 1987, been governed by a convoluted mix of English common law and various statutory provisions originating a century or so back. According to Anderson (1994, p. 124) the effect of this was '...to make almost any form of industrial action by workers unlawful. In practice, however, strikes always played a significant role in industrial relations regardless of the law.' [Emphasis added]

Anderson’s observation about the lawfulness of strikes and lockouts is important, because it indicates that the apparent lawfulness or otherwise of strikes and lockouts has frequently been a minor determinant of whether or not stoppages occur. Other factors, such as union power, general economic conditions (e.g. inflation and the unemployment rate) and government and social perceptions and attitudes towards unions and the issues in dispute, among other things, often override concerns about the legal status of a strike or lockout. Moreover, it is not uncommon, in the interests of industrial harmony, to settle stoppages without resort to a full-blowen and expensive legal battle.

The Labour Relations Act 1987 sought to spell out, for the first time, exactly when a strike or lockout could be classified as lawful or unlawful. Subsequent legislation has similarly identified lawful and unlawful stoppages. The ECA narrowed the band of acceptable lawful stoppages and the ERA, on balance, widened the band (Anderson 1994, 2004).

New Zealand Lockout Statistics

Statistics New Zealand is the body charged with the responsibility of collecting and publishing New Zealand statistics. It categorises work stoppages as being either strikes or lockouts. Data on the number of strikes and the number of lockouts are published separately. Between 1986 and 2004, the number of lockouts averaged about 3 per cent of all work stoppages.

The number of employees involved in lockouts and the number of person-days lost due to lockouts are not published. Unpublished data have been made available in a restricted form, however, covering the period 1986 to 2004. For reasons of privacy, Statistics New Zealand is not permitted to reveal the number of employees involved in lockouts or the number of person-days lost through lockouts when there are fewer than three lockouts. Between 1986 and 2004 there were 13 years during which lockouts numbered less than 3. In order to get official numbers for employees involved and person-days lost, it has been necessary to combine certain years so as to get an aggregate number of lockouts of 3 or more. For example, for the years 2002, 2003 and 2004, there were 1, 0 and 2 lockouts respectively. Statistics New Zealand provided the unpublished data on workers involved in stoppages and person days lost due to stoppages for the total of the three years (2002 to 2004).

As a result of these restrictions on the availability of official unpublished data and so as to have a sufficient number of years to generate a workable data set on lockouts, multi-year comparisons have been made of lockouts and strikes. Also, so as to mesh the available data with different legislative periods (discussed below), additional unofficial information on lockouts from Rasmussen and McIntosh (1999a, 1999b) are applied.

Finally, it is important to note that Statistics New Zealand employs the convention that whether a work stoppage is classified as a lockout or a strike is determined at the beginning of the action. Thus, if a dispute that started as a strike subsequently transformed itself into a lockout, its original classification of being a strike does not change.

Two approaches are employed in the periodisation of data. The first approach slices the data into the three principal politico-legislative periods. These are:

- Period 1: 1986-91 Conciliation and Arbitration
- Period 2: 1991-2000 ECA
- Period 3: 2001-04 ERA

Note the overlap of 1991 for Period 1 and Period 2. This is because the ECA came into force in May 1991, so that both the era of conciliation and arbitration and the contracts era had some impact on 1991. The inclusion or exclusion of 1991, in one era or the other, does not materially alter the results of this paper. The data for this approach to periodization are depicted in Figure 1 and will be discussed below.

A second approach to the periodisation of data slices the years of the ECA into three sub-periods, roughly corresponding to the three separate periods that National were elected to office while the ECA legislation was in place. These more finely subdivided periods are indicated below.

- Period 1: 1986-91 Conciliation and Arbitration
• Period 2a: 1991-93 ECA Early Stage
• Period 2b: 1994-96 ECA Middle Stage
• Period 2c: 1997-00 ECA Later Stage
• Period 3: 2001-04 ERA

The data for this arrangement are depicted in Figure 2 and will be discussed below.

Note that the identification of different periods is in part determined by data availability. Notwithstanding the limitations placed on the analysis by these informational shortfalls, some interesting patterns can be gleaned. Before exploring them, we comment briefly on the various periods and sub-periods identified above.

Period 1 incorporates the last years of the old conciliation and arbitration system, and represents most of the years of New Zealand’s Fourth Labour Government under Prime Ministers Lange, Palmer and Moore. Labour held office from July 1984 to November 1990. Foster et al. (2006, p. 180) refer to the period of the Fourth Labour Government as one of ‘transition to collective bargaining’. This period was distinctly different from the preceding politico-legislative period, from 1975 to 1984, during which Prime Minister Muldoon pursued a highly interventionist approach to the management of labour and product markets, including a wage freeze from 1982 to 1984 and a controversial pick-a-winner industry policy.

Period 1 begins with 1986 as there are no data available for the first 18 months of the Fourth Labour Government. Nevertheless, it is most unlikely that if data were available for the earlier months, they would change the basics of the story presented here. It is important to note that 1986 was the year in which the largest number of person-days lost due to work stoppages has ever been recorded in New Zealand; and it was also the year in which the second largest number of days lost per employee was recorded, the highest reading occurring in 1951. This needs to be kept in mind when comparing the various periods under review, in that in some ways the work stoppages experience of period 1 incorporates a relatively exceptional year. Most of the person-days lost during 1986 were attributable to protracted and widespread stoppages in the meat industry (Roth, 1986a and 1986b).

Period 2 represents the years of the ECA years. The ECA was in force from May 1991 to October 2000. Period 2 is sliced into three sub-periods. Sub-period 2a corresponds to the first three years of the administration of the National Government. National won a clear majority in the election of October 1990. This sub-period incorporates the aggressively pro-market Finance ministership of Ruth Richardson (1991-1993), who was seen as being a prime driver in introducing market-oriented reforms during these years.

Sub-period 2b corresponds to the second three years of the administration of the National Government. National entered this period with a majority of one (and 35 per cent of the vote). During this period Bill Birch acted as Finance Minister; he was perceived to be more moderate than Richardson, his predecessor. During this period, as a result of a referendum on voting preferences, a new system of voting was introduced that gave a greater voice to minor parties.

Sub-period 2c corresponds to the third three years of the administration of the National Government plus the year 2000 during which labour was in office while the ECA was in place. During this period, National (which had received 34 per cent of the vote) formed a coalition with the New Zealand First Party, headed by Winston Peters. This was a politically fragile period as there was considerable tension between the coalition partners. Birch and Peters shared the Finance ministry, more or less. A further indicator of the political tension of this period was the switch in 1997 from Jim Bolger as Prime Minister to Jenny Shipley.

It is important to note that the decision to subdivide the years of the ECA into the above sub-periods has been largely determined by data availability, notwithstanding the fact that there are, quite fortuitously, some political aspects of the three periods that might justify this particular arrangement of the data.

Period 4 incorporates the years of the ERA. The ERA was introduced by New Zealand’s Fifth Labour Government, which came to office in December 1999, under the Prime Ministership of Helen Clark. The ERA was enacted in October 2000 and was well entrenched during the 2001-04 period. Amendments to the ERA were enacted in late 2004, but these changes do not affect our analysis since our end-date is 2004.

Lockouts and Politico-legislative Eras

In this section we investigate the relation between the pattern of lockouts and strikes during the different politico-legislative periods discussed above. Figure 1 is composed of nine graphs, G1 to G9, that correspond to the various periods discussed in the previous section. Graphs G1 to G3 depict lockouts in terms of (i) numbers, (ii) employees involved and (iii) person-days lost, respectively.
The broadest measure of lockouts is the number of person-days lost (G3). The pattern displayed by G3 indicates a substantial downwards trend in lockouts over the timeframe under review. Note that the published data on the number of lockouts depicted in G1 suggest a rise in lockout numbers during the ECA period compared to the preceding conciliation and arbitration period (Briggs, 2005). But the unpublished data on person-days lost due to lockouts, which are a broader and superior measure of the overall dimensions of stoppages, are trending strongly downward.

Graphs G4 to G6 in Figure 1 depict strikes in terms of (i) numbers, (ii) employees involved and (iii) person-days lost, respectively. Graph G6 shows a pronounced declining trend somewhat similar to the pattern of decline for lockouts in G3. The overall dimensions of days lost due to strikes is, however, considerably larger than is the case for lockouts. A declining trend in the patterns of strikes in terms of (i) numbers and (ii) employees involved is also discernible.

Graphs G7 to G9 in Figure 1 depict lockouts as a percentage of strikes in terms of (i) numbers, (ii) employees involved and (iii) person-days lost, respectively. Graph G7 to G9 have similar shapes, indicating the greater relative incidence of lockouts, on average, during the ECA years.

Figure 2 depicts the same measures of lockouts and strikes as Figure 1; but it decomposes the period of the ECA into its three previously-discussed sub-periods; i.e. the Early Stage (1991-93), the Middle Stage (1994-1996) and the Later Stage (1997-2000) of the ECA. Key features of Figure 2 are as follows. First, while the number of lockouts (G1) and the number of workers involved in lockouts (G2) peaked during the Early Stage of the ECA, the number of person days lost (G3) did not peak until the Middle Stage of the ECA. Second, likewise, while the relative number of lockouts (G7) and the relative number of workers involved in lockouts (G8) peaked during the Early Stage of the ECA, the relative number of person days lost (G9) did not peak until Middle Stage of the ECA. Third, during the last four years of the ECA the number of person days lost due to lockouts was low both in absolute numbers (G3) and relative to strikes (G9). And fourth, strikes have been trending downwards in terms of person-days lost during the years of the ECA (G6).

A number of general observations can be made about the last near-twenty years for which unpublished data on lockouts have been charted.

First, there has been a marked declining trend in both person-days lost due to lockouts and strikes. To be sure, the peak in lockouts and strikes during the first year (1986) of the entire period under review was unusually high, and this may have magnified the extent of the underlying decline in work stoppages – especially work stoppages caused by lockouts. Nevertheless, the strikes and lockouts of 1986 did happen and it would be entirely inappropriate to in anyway ignore them.

Secondly, the data on total person-days lost due to work stoppages is dominated by strikes – not lockouts. Strikes account for over 95 per cent of all person-days lost in New Zealand for the period under review. Even during the Middle Stage of the ECA period when lockouts rose considerably in relative importance, lockouts accounted for less than ten per cent of all stoppages; and total stoppages during this period were relatively low (well below one third of the annual average for the entire post-World War II period).

Thirdly, the relative importance of lockouts as a source of days lost increased quite sharply during the middle stage of the ECA period, then fell during the later stage. The relative increase in lockouts during the ECA period as a whole – with its disempowering impact on unions (though not necessarily on employees) – might be expected. The relative rise in lockouts during the ECA period, however, was not sustained.

Lastly, it can be noted that the general decline in stoppages in New Zealand has been broadly similar to the decline in work stoppages experienced in most other OECD economies over the last two or three decades (Monger 2005). The decline in stoppages in other economies has been similarly (though not exclusively) linked to declining union density, as well as legislative and other broader and social and economic changes.

Comparisons with Australia

There are no official data on lockouts in Australia. Briggs (2004), however, conducted a survey of Australian lockouts for the period 1994-2003. He found that the absolute and relative number of person-days lost in lockouts was higher in the second half-decade period (1999-2003) than during the first half-decade (1994-1998). During the earlier half decade, lockouts accounted for 1.6 per cent of all person-days lost; in the later period, the proportion was 9.3 per cent. Thus Briggs (2004, p. 107) observes that ‘... lockouts are still relatively rare but on an upward trend'.

Briggs attributes the absolute and relative increase in lockouts to the introduction of enterprise bargaining enshrined in the Industrial Relations Reform Act 1993 [IRRA]. The IRRA introduced the right of employers to lockout employees as a
counterbalance to the right of employees to strike. The right to lockout employees was extended under the Workplace Relations Act 1996 [WRA] ‘... by introducing the right to use them [lockouts] as a means of pressuring employees to sign individual Australian Workplace Agreements’ (Briggs 2004, p. 102).

There appear to be some similarities in the experiences of Australia and New Zealand with respect to the impact of general neo-liberal legislative changes on lockouts, notwithstanding the fact that the ECA reforms in New Zealand were conspicuously more comprehensive than the reforms introduced in Australia around the same time. In New Zealand, the introduction of the ECA, which reduced union power and increased employer power, coincided with a relative rise in lockouts - though not for a sustained period. In Australia, the effect of the WRA was to reinforce the bargaining power of employers, and this has been associated with a (delayed) relative increase in the use of lockouts (Sheldon and Thornthwaite 2001; Briggs 2004).

Briggs (2004) found that lockouts in Australia tended to be relatively protracted affairs. Thus during the earlier half-decade period (1994-1998), 7.7 per cent of 'long' stoppages (stoppages lasting 20 or more person days) were accounted for by lockouts. But during the later half-decade period (1999-2003), lockouts accounted for 57.5 per cent of all long stoppages. All in all, these results imply that the average duration of lockouts in Australia has been high - and, for the period in review, trending up.

What of New Zealand? Table 2 gives estimates of the average duration of strikes and lockouts in New Zealand. These data indicate that the average duration of lockouts is about four times greater than the average duration of strikes. These results for New Zealand are consistent with experience in Australia: namely that, on average, lockouts have tended to last longer than strikes.10

Table 2: Duration of Lockouts and Strikes in New Zealand: 1986-2004

<table>
<thead>
<tr>
<th>Period</th>
<th>Number of Years</th>
<th>Average Duration in Days of:</th>
<th>Ratio of Duration of Lockouts to Strikes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Lockouts</td>
<td>Strikes</td>
</tr>
<tr>
<td>1986-91</td>
<td>6</td>
<td>23.5</td>
<td>5.6</td>
</tr>
<tr>
<td>1991-00</td>
<td>10</td>
<td>6.2</td>
<td>2.0</td>
</tr>
<tr>
<td>2001-04</td>
<td>4</td>
<td>8.6</td>
<td>2.0</td>
</tr>
</tbody>
</table>

Source: As for Figure 1

Perry

The New Zealand data presented in this paper do not support the view that the upturn in the number of lockouts in New Zealand during the 1990s up to 1996 reflects a general increase in lockout activity attributable to the introduction of the ECA (Briggs 2005). Person days lost in lockouts were far greater during the years of conciliation and arbitration – transitioning to collective bargaining under the auspices of New Zealand's Fourth Labour Government – than during the years of the ECA. Moreover, during the later years of the ECA, lockouts fell both in absolute terms and relatively to strikes.

Some Concluding Thoughts

There are interesting similarities and differences in the experience of New Zealand and Australia with regard to lockouts. Both countries have at various times introduced legislative reforms that have favoured, to some extent, individual contracting over collective arrangements involving unions and/or other active third party participants. In New Zealand, the ECA of 1991 represented an extraordinary change in the legislative framework of New Zealand's labour market. In Australia, the IRRA of 1993, in conjunction with the WRA of 1996, represented major changes in the evolution of the legislative framework of Australia's labour market. In both cases, the legislative changes – accompanied by declining union density – seem to have spawned, at least for a while, a relative rise in lockouts. In New Zealand, the relative rise in lockouts was largely confined to the first six years of the ECA. In Australia, the relative and absolute rise in lockouts seems to have increased in intensity after some time had lapsed during the currency of the WRA. Indeed, it was not until 2000 that the number of lockouts in Australia increased quite markedly. Perhaps there was a period of learning. Perhaps the economic slowdown of 2000 and 2001 motivated some employers to cut labour costs and experiment with lockouts to that end. That appeared to be the case in at least one major lockout (Briggs 2004, pp. 105-106).

Interestingly, New Zealand and Australia appear now to be travelling rather divergent paths. New Zealand's Employment Relations Amendment Act 2004, introduced in December of 2004, has pushed New Zealand further towards past practices of centrally regulated working conditions (Kerr 2005). On the other hand, Australia endorsed in December of 2005 the Workplace Relations Amendment (Work Choices) Bill 2005, which promises to push Australian labour markets further down the track of deregulation, decentralisation and individual contracting. It will be of interest to learn exactly how these divergent policies affect lockouts – provided the data can be found.
the tally of lockouts. Commence, has been applied. Thus the October strike-turned-lockout is excluded from the convention that disputes are classified as strikes or lockouts according only to how they seemingly started as a strike, before it morphed into a lockout. The Statistics New Zealand (1999b: 100) also report that a lockout occurred in October of 1999. This lockout, however, are assigned to 1999, while the balance of the (unpublished) aggregate data recorded by Statistics New Zealand is assigned to 2001. Note that Rasmussen and Macintosh for 1999, 2000 and 2001 were respectively, 1, zero and 2. According to Rasmussen and Macintosh (1999a: 215, 1999b: 397) there was one relatively small lockouts during April-May of 1999. The numbers given and otherwise suggested by Rasmussen and MacIntosh are assigned to 1999, while the balance of the (unpublished) aggregate data recorded by Statistics New Zealand is assigned to 2001. Note that Rasmussen and MacIntosh (1999b: 100) also report that a lockout occurred in October of 1999. This lockout, however, seemingly started as a strike, before it morphed into a lockout. The Statistics New Zealand convention that disputes are classified as strikes or lockouts according only to how they commence, has been applied. Thus the October strike-turned-lockout is excluded from the tally of lockouts.

Endnotes

1 The OECD Major 7 is made up of the USA, Japan, Germany, France, Italy, the UK and Canada. The average unemployment rate for the Major 7 is the sum of the numbers unemployed in all countries divided by the sum of the labour forces of all countries. This is effectively a weighted average measure of the unemployment rate, where the weights are the ratios of each individual country’s labour force to total Major 7 labour force.

2 The short-term impact of the implementation of the Labour Relations Act on stoppages is unclear. For example, for the first three years during which the act was operative (financial years 1987/88 to 1989/00), annual stoppages were greater than during the last year (1986/87) of when the preceding legislation was in place. Nevertheless, the immediate years prior to 1986/87 did produce a relatively high level of industrial disputes, particularly 1985/86.

3 Partial strikes are included in strike data in this paper. Partial strikes cause a reduction in the normal rate of output, and include overtime bans, go-slow and such like. Lockouts data include ‘partial lockouts’.

4 The following years were combined so as to get the required minimum of three or more lockouts and to protect confidentiality: (A) 1987, 1990 and 1995, (B) 1997 and 1998, (C) 1999 to 2001 and (D) 2002 to 2004. Note that for the combined years of period (A), the aggregated numbers of employees involved and person-days lost were relatively small. So as to compare the pre-ECA period (pre-1991) with subsequent periods, the aggregate number for the combined years of period (A) were apportioned (as per the number of lockouts) and assigned to the respective years. Given the very small size of the aggregated number, any inaccuracies associated with the apportioning will be very slight.

5 Further to the preceding endnote, to make the apportionments for period (C) 1999 to 2001, certain unofficial information on lockouts has been employed. Recall that the ECA era ended with the introduction of the ERA legislation in October 2000. The number of lockouts for 1999, 2000 and 2001 were respectively, 1, zero and 2. According to Rasmussen and MacIntosh (1999a: 215, 1999b: 397) there was one relatively small lockouts during April-May of 1999. The numbers given and otherwise suggested by Rasmussen and MacIntosh are assigned to 1999, while the balance of the (unpublished) aggregate data recorded by Statistics New Zealand is assigned to 2001. Note that Rasmussen and MacIntosh (1999b: 100) also report that a lockout occurred in October of 1999. This lockout, however, seemingly started as a strike, before it morphed into a lockout. The Statistics New Zealand convention that disputes are classified as strikes or lockouts according only to how they commence, has been applied. Thus the October strike-turned-lockout is excluded from the tally of lockouts.

6 One notable strike that transformed into a lockout was the 1951 waterfront dispute (Bassett, 1972; Deeks and Rasmussen 2002; Grant, 2004). Person-days lost per employee in 1951 was the highest in New Zealand’s recorded history, due to this protracted dispute. According to Woods (2004), the dispute started on 9 February 1951 as an overtime ban, i.e. a partial strike, by the Waterside Workers Union. The overtime ban continued for about a couple of weeks until workers arrived ‘...to find the wharf gates locked against them, and work on the wharf completely stopped. It was the action of the government not the union, that caused that stoppage’ (p. 17).

7 The role of the Finance Ministry was split into two separate offices. The office and title ‘Treasurer’ was given to Winston Peters; this was seen as a relatively senior position. The office and title: ‘Minister of Finance’ was given to Birch; this was seen as a lesser position; although one opposition politician claimed: ‘we are always impressed when Winston Peters answers questions, because Bill Birch’s lips do not move’ (Wikipedia, 2005). As an aside, history in some ways repeated itself in 2005 when Winston Peters’ New Zealand First Party formed a coalition with the Labour Party. This time round, Peters will be Minister for Foreign Affairs and Racing, though he will not be in the Cabinet.


9 Rasmussen and Lamm (2005) point out that during the ECA period there was a sharp rise in personal grievance complaints against employers. Personal grievance claims are quite similar to unfair dismissal claims in Australia. As a consequence, employers needed to be very careful when seeking to dismiss employees. Certain, at times unclear, protocols needed to be followed (Woodward, 1995). All in all, the possibility of personal grievance claims against an employer, had the effect of limiting the prerogative of employers and management to hire and fire at will.

10 Perry (2006) finds a similar pattern for India.

References


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Insider Power, Outsider Ineffectiveness and Wage Setting Institutions: Evidence from Australia.

Abstract

Insider-outsider theories have been advanced to explain a range of phenomena, principally the persistence of unemployment. This paper uses data from the Australian Workplace Industrial Relations Survey 1995, and regional labour force survey data, to test this model. The paper also examines how enterprise bargaining influences the relative power positions of insiders and outsiders. The paper finds provisional support for the insider-outsider distinction, and for the idea that enterprise level wage bargaining enhances insider power at the expense of outsiders.

1. Introduction

Insider-outsider models have been advanced to explain a range of phenomena, principally the persistence of unemployment. The first purpose of this paper is to provide an empirical test of this theory using Australian micro-data. The second purpose is to examine the relationship between wage setting institutions and insider power. Specifically, the paper seeks to establish whether enterprise level wage setting facilitates or restrains insider power. Analysis of the Australian experience is well suited to this task, since this economy has been moving from a centralised, at times corporatist, wage setting system to one based at the enterprise, over the past two decades. The result is a hybrid system of centralised and decentralised elements.
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