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NOT A TYPICAL UNION BUT A UNION ALL THE SAME

Opinion leaders, employers, dissatisfaction and the
formation of New Unions under the Employment
Relations Act 2000

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Abstract

This research examined the rapid formation and proliferation, in New Zealand, of new predominantly workplace-based unions under the Employment Relations Act 2000 (ERA). More specifically, it examined the motivations and interests of the individuals responsible for forming New Unions, and the process by which the decision to form a New Union was made. To date, scholars have placed little emphasis on these issues and have given greater weight to describing New Unions, and on comparing their structure, activities and character against that of older, more established unions. When compared, the typical New Union has not fared well its small size, limited finances, and limited interests outside of enterprise based bargaining is argued to be ineffective in comparison to the size, finances and activities of larger, more established unions. The status of New Unions as 'genuine' union organisations has also been questioned, particularly as many are regarded as, or more accurately implied to be, incapable of operating at arm's length from employers. In simple terms' many New Unions are not seen as genuine unions as their formation is argued to be an employer *not* an employee driven phenomenon.

However, evidence of actual employer involvement in New Union formation and, more importantly, their activities post-formation is relatively sparse, as are explanations for why employers would consider such involvement necessary. If, as argued, the goal of employers' is to undermine the existing union movement, then the current legislative climate already allows them to do so *without* recourse to a New Zealand version of the company union phenomenon seen elsewhere. The current climate characterized by employers' to passing on of union negotiated terms and conditions, union recruitment and retention difficulties, and the availability of decollectivist strategies that have been successful without the formation of a tame in-house unions. Critically, in focusing on how New Unions operate, the role of employers, and comparisons with established unions', scholars have overlooked the

motivations and interests of New Union members. Some scholars have linked workers' dissatisfaction with, and possible opposition to, the wider union movement to New Union formation. But beyond this, no direct or definitive examination has been provided of why workers chose to form, and subsequently join, organisations that are, according to scholars, ineffective and unable to operate independently.

By interviewing New Unions, their employers, and older, more established unions, this study addressed these and other questions, and re-examined New Union formation. The study questioned in particular why those unions formed, the motivations and interests of the workers who formed them, and challenged suggestions that they are *not* genuine unions. A number of significant findings emerged from the research process. New Union formation was found to be an employee *not* an employer driven phenomenon, and little evidence was found of *actual* employer involvement in their formation. Workers' negative personal and shared experiences with the behaviour of older unions and their members and officials were significant to New Union formation. Also significant were the actions and attitudes of key opinion leaders who provided the expertise and knowledge needed to form and operate New Unions, but more importantly acted as a source of workers shared experiences with other unions.

Overall, the findings of this study make an important contribution to existing research by re-defining the significance of existing findings. But more importantly, they challenge existing arguments that New Unions are *not* genuine union organisations that New Union members are opposed to traditional concepts of unionism, and question in particular the relevance of existing empirical definitions and descriptions of the *genuine* union.

Introduction

For the New Zealand union movement, one consequence of the Employment Relations Act 2000 (ERA) has been the rapid formation and proliferation of new predominantly workplace-based unions (Barry, 2004; Barry & May, 2002; Barry & Reveley, 2001; Harbridge & Thickett, 2003; May, 2003b). This process diverges from union and union membership trends internationally (Buchanan, 2003; Chaison & Rose, 1991; Chaison, Sverke & Sjoberg, 2001; Freeman, 1989; Hose & Rimmer, 2002; Kuruvilla, Das, Kwon & Kwon, 2002; Western, 1995). As at 1st March 2004, New Unions as organisations made up approximately half of all registered unions in this country but their members represented only 2% of total union membership at that time (Employment Relations Service, 2004). Despite their small average size the overall contribution of New Unions to union membership growth under the ERA has been significant; approximately one third of all New Union members registered under the ERA belong to New Unions (Employment Relations Service, 2004). Consequently, New Unions as organisations have had a large impact on union membership growth and the number of registered unions recorded under the ERA.

As a phenomenon, the formation and rapid proliferation of New Unions under the ERA has attracted a modest degree of empirical attention from primarily New Zealand-based researchers (Anderson, 2004; Barry, 2004; Barry & May, 2002; Barry & Reveley, 2001; May, 2003a & 2003b). The primary focus of this research has been on the structure and activities of New Unions and more specifically on their possible impact on the existing union movement (Barry, 2004; Barry & May, 2002); legitimacy or independence as organisations (Anderson, 2004); and the possible involvement of employers in their formation (Anderson, 2004; Barry & Reveley, 2001). Critically, however, this same research has provided a paucity of data on why these organisations have formed, and in particular on workers' motivations for

forming New Unions, and the process by which the decision to form those unions was made. Rather, scholars have paid greater attention to the question of whether New Unions are now, or are capable of becoming, a genuine form of union representation (Barry & May, 2002), and to comparing New Unions against existing definitions and empirical descriptions of the term 'union' (e.g., Blackburn, 1967; Blackburn & Prandy, 1965; Hawkins, 1981; Jenkins & Sherman, 1979; Nicholson, Blyton & Turnbull, 1981; Webb & Webb, 1907).

The primary method by which scholars have attempted to address the character of New Unions has been to compare the structures, activities and interests of New Unions and Old Unions within the New Zealand union movement (e.g., Barry, 2004; Barry & May, 2002) Old Unions being defined as organisations formed and operating as unions prior to the ERA. Key characteristics said to differentiate New from Old Unions are New Unions:

- Enterprise-based membership.
- Non-affiliation with the New Zealand Council of Trade Unions (NZCTU).
- Lower membership fees.
- Enterprise-based bargaining agenda (Barry, 2004; Barry & May, 2002; May, 2003a & 2003b).

Based on these comparisons and the divergence of New Unions from existing empirical definitions of the term 'union', New Unions have been broadly defined as something less than a genuine form of union representation (Barry, 2004; Barry & May, 2002). However, a key component of these arguments, the concept of union character (Blackburn, 1967; Blackburn & Prandy, 1965), does *not* allow scholars to state that an organisation is or is not a union (Gall, 1997). Recent conclusions also overlook similarities between the character of New and many Old Unions and the possible inaccuracy of existing definitions of the term 'union'.

In general, the typical New Union has been described by scholars as a small, poorly financed enterprise-based organisation formed solely for the purpose of negotiating a site-based collective employment agreement (Barry, 2004; Barry & May, 2002). The enterprise-based structure, found to be typical of many New Unions, is also argued to be an ineffective mechanism for representing workers' interests (Barry, 2004; Barry & May, 2001). More specifically, New Unions' small size, workplace-based membership and bargaining agenda, and low membership fees have raised concerns that as organisations they lack the ability to operate independently of and at arm's length from employers (Anderson, 2004; Barry, 2004; Barry & May, 2002). The ability to act independently is the critical test of an organisations' status as a genuine union (Blackburn, 1967; Blackburn & Prandy, 1965; Prandy, Stewart & Blackburn, 1974), and consequently New Unions' perceived lack of independence has been of significant interest to scholars.

New Union formation has in many cases been linked to employer efforts at undermining the bargaining and organising efforts of Old Unions (Anderson, 2004; Barry, 2004; Barry & May, 2001; Barry & Reveley, 2001). Employers are implied to sponsor or promote New Union formation as part of a wider decollectivist strategy (e.g., Peetz, 2002a & 2002b), possibly based on a New Zealand version of the company union phenomenon seen elsewhere (e.g., Jenkins & Sherman, 1979; Kaufman, 2001; Nissen, 1999). But outside of a few, possibly extreme, examples (Anderson, 2004; Barry, 2004; Barry & May, 2001; May, 2003a & 2003b), little definitive evidence has been produced that this is in fact the case. Nevertheless, the argument that New Union formation frequently represents an employer rather than employee driven phenomenon has not been significantly challenged.

A significant omission from this body of literature is an analysis of the motives and interests of workers who formed New Unions. Few scholars (Anderson, 2004, was one exception) have questioned why workers would 'freely' choose to form, join and remain in organisations that could not and did not effectively represent their

interests. Fewer still have questioned why workers would form, join and remain in organisations that lacked the ability to act independently of their employers. Empirical research into workers' unionisation decisions has consistently found that workers join and remain in unions in order to gain some advantage, typically an economic one. If a union is incapable, or unable, because of employer involvement, to offer such an advantage, why workers would choose to form, join, and remain in New Unions is an important question.

The only identified motives for workers' decisions to form New Unions is argued to be their dissatisfaction with the existing union movement or a desire for a cheaper form of union membership (Barry & May, 2002; May, 2003a & 2003b). But as catalysts or antecedent causes of New Union formation these factors have not been extensively examined by scholars. Consequently, empirical research thus far has offered few if any explanations of why workers choose to form New Unions or of how that decision was reached. This is surprising given the impact New Unions are argued to have on the union movement as a whole and the operation of the ERA (Barry, 2004; Barry & May, 2002; May, 2003a & 2003b).

In examining the decision to form a New Union and questions raised by the relevant literature, this study sought the experiences and perceptions of members of three stakeholder groups: workers who formed New Unions, their employers, and representatives of Old Unions whom they operated alongside. In total, representatives of 9 New Unions, 3 employers, and 3 Old Unions were interviewed by the study in a semi-structured qualitative format. The primary purpose of the interviews was to re-examine the phenomenon of New Union formation and to develop a more comprehensive picture of why and how those unions formed. The primary research question investigated by the study was:

“Why do New Unions form in New Zealand under the ERA?”

To address additional themes identified within the literature as relevant to this question, the study also investigated six additional and supporting research questions. These were:

- Why did workers reject membership in other unions in favour of forming their own?
- What role did and do employers play in workers' decision to form a New Union?
- Was the decision to form a New Union a spontaneous or a deliberate decision?
- How have New Unions' relationships with employers and their character as organisations evolved?
- What is a genuine union?
- Are New Unions genuine?

In order to present its examination and analysis of these questions, the study uses the following format: First Chapter One outlines the relevant literature to describe the current state of knowledge relevant to the research questions and establishes the context within which those questions are asked; Chapter Two describes the research process adopted by the study including the type of interview used, participant selection and data collection. It also provides a description of and rationale for the chosen methodology; Chapter Three provides a brief report on the results of the data collection process in relation to the study's research questions; Chapters Four, Five and Six then discuss those results in relation to the relevant literature with each chapter examining and analysing data collected from a specific stakeholder group. Chapter Four discusses the results of interviews with New Unions, Chapter Five the results of interviews with Employers, and Chapter Six the results of interviews with Old Unions. Finally, Chapter Seven summarises the study's overall findings and offers conclusions in relation to each of the study's research questions with further reference to the relevant literature. Also provided is a discussion of new or

unexpected themes identified by the research process, the implications of the study's overall findings, and suggestions for future research where considered appropriate.