

# Protection from unemployment

Two critical aspects of protection from unemployment are income adequacy for those who for a variety of reasons are unemployed and cannot work and the availability of decent work.

## International obligations

The Commission's National Conversation about Work highlighted the centrality of work in the lives of New Zealanders, whether they are currently in the labour market or seeking employment. The Commission observed genuine acceptance by both employers and employees that decent work underpins a fair society. This reflects the provisions of the International Covenant on Economic, Social and Cultural Rights (ICESCR).

The UN Committee in its general comment on ICESCR said:

States parties are obliged to fulfil (provide) the right to work when individuals or groups are unable, for reasons beyond their control, to realise that right themselves by the means at their disposal.<sup>45</sup> This includes obligations to:

- reduce the unemployment rate, in particular among women, the disadvantaged and marginalised
- establish a compensation mechanism in the event of loss of employment
- take appropriate measures for the establishment of employment services and
- implement plans to counter unemployment.<sup>46</sup>

The Covenant imposes a duty on each State party to take whatever steps are necessary to ensure that everyone is protected from unemployment and insecurity in employment.<sup>47</sup> The principal obligation of States parties is to ensure the progressive realisation of the right to work. States parties must therefore adopt, as quickly as possible, measures aimed at achieving full employment.<sup>48</sup> This includes the requirement to “adopt a national strategy, based on human rights principles aimed at progressively ensuring full employment for all.”<sup>49</sup>

However, while increasing access to sustainable employment is necessary, on its own it is not sufficient to meet international human rights standards.

The ICESCR was the first to recognise the right to an adequate standard of living, which is defined in Article 11 as:

- [T]he right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing and continuous improvement in living conditions.

The right to work and equal employment is one component of the right to an adequate standard of living. It sits alongside the right to adequate food, clothing and housing (Article

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<sup>45</sup> Committee on Economic, Social and Cultural Rights 2006. Comment No. 18. The Right to Work p26, Human Rights Commission.

<sup>46</sup> See ILO Convention No. 88 and, similarly, ILO Convention No. 2 concerning Unemployment, 1919. See also ILO Convention No. 168 concerning Employment Promotion and Protection against Unemployment, 1988.

<sup>47</sup> Committee on Economic, Social and Cultural Rights 2006. Comment No. 18. The Right to Work p26, Human Rights Commission.

<sup>48</sup> Ibid at 19

<sup>49</sup> Ibid at 41

11) and the right to social security (Article 9). This latter right is fundamental to any discussions of welfare reform.

Under Article 25(1) of the Universal Declaration of Human Rights:

“Everyone has the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.”

The right to social security, including the requirement to address the specific needs of women, children and young people, and disabled people, is also detailed in:

- Articles 9 and 10 of ICESCR
- Article 14 of Convention on the Elimination of all forms of Discrimination Against Women (CEDAW)
- Article 26 of United Nations Convention on the Rights of the Child (UNCROC)
- Article 28 of the Convention on the Rights of Persons with Disabilities (CRPD).

New Zealand has ratified each of these covenants and conventions.

The General Comment on social security<sup>50</sup> spells out the minimum obligations required by all States parties. The minimum essential level of social security benefits must be sufficient to enable all individuals and families to acquire at least essential health care, basic shelter and housing, water and sanitation, food and education. In addition, each State must respect existing social security schemes and protect them from unreasonable interference, adopt and implement a national plan of action and monitor the realisation of the right to social security.<sup>51</sup> Each country must also demonstrate that every effort has been made to use all resources at its disposal to satisfy these minimum obligations.<sup>52</sup>

## The global recession

In 2009, the ILO called for a recovery plan that focussed on active labour market policies that supported employment and earnings and expanded social protection measures.

Since then the ILO has noted either at best a weakening of the job recovery or at worse a double dip. A lengthy labour market recession has resulted in many unemployed people becoming discouraged and leaving the job market altogether. An earlier focus on fiscal stimulus packages is being withdrawn, the ILO reports, and fiscal policy has shifted to austerity which if badly designed, will prolong the job crisis.<sup>53</sup>

In industrial countries, the OECD average unemployment rate was 8.2% in February 2011. In advanced economies job growth is expected to remain stagnant.<sup>54</sup> A return to pre-crisis levels is not foreseeable before 2015 and youth employment is predicted to take a lot longer to recover. Employment is a lagging indicator in economic recovery.

Worryingly, in countries that are experiencing job growth, a disproportionate number of jobs are part-time. While this may have assisted in maintaining jobs in the short term, there is now concern that a “permanent, involuntary increase in part-time employment ...will lead to a deterioration in the overall quality of jobs being created.”<sup>55</sup>

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<sup>50</sup> Committee on Economic, Social and Cultural Rights (2008). General Comment 19: The right to social security, para 1. Thirty-ninth session: E/C.12/GC/19.

<sup>51</sup> Ibid paras 59 and 60.

<sup>52</sup> Ibid para 42.

<sup>53</sup> P1 *World of Work Report 2010: From one crisis to the next?* Summary International Labour Organization

<sup>54</sup> *World of Work Report 2010 From one crisis to the next.* ILO

<sup>55</sup> P8 *ibid*

Globally, there is an emergence of two labour markets characterised by informal, low skilled, insecure and uncertain employment on the one hand and high skilled, relatively secure employment on the other. There is a fear that transition from the first type of employment to the second will be difficult. The global recession has had a particularly severe impact on youth employment, with many young people unable to find work that matches their skills and is precarious if they can get work at all.

In 2009 the Director General of the International Labour Office said, “Dry figures cannot capture the anger, frustration and despair of people. Working women and men have absolutely no responsibility for the financial collapse. Yet they are being thrown out of work or being asked to make major cuts in wages and working conditions. This is giving rise to legitimate, organized and constructive protest. In addition the social effects of the recession cumulate insidiously in drug and alcohol abuse, domestic and workplace violence, rising suicides, increased crime, inter-community conflict as well as spontaneous riots and different forms of violence.”<sup>56</sup>

## Social security in New Zealand

The report of the Welfare Working Group said, “New Zealand’s benefit system is a social assistance approach around defined categories of need. Benefits are provided to sole parents, unemployed people who are looking for work, people who are sick or disabled, widows, older women who do not have a partner, and people who care for the sick and infirm. In addition to meeting defined categories of need, people are only eligible for benefits if they are part of a low income nuclear family. This means that the earnings of both the individual and their partner are taken into account when determining eligibility for a benefit.”<sup>57</sup>

The Welfare Working Group reported that 376,000 people were receiving a benefit at June 2010, 79,058 of whom received an unemployment benefit, 68,056 received a sickness benefit, 99,269 received an invalid’s benefit and 99,298 were in receipt of a domestic purposes benefit. At June 2010, the Household Labour Force Survey put the seasonally adjusted number of unemployed at 159,000. On these figures, it appears that about half of those people who are unemployed (i.e do not have a job and are looking for work) receive an unemployment benefit.

Benefit levels are determined by type of benefit, partnership status, age and in some cases family size. A second tier of benefit provides additional payments for costs such as housing and costs associated with disability. A third tier provides extra support to cover hardship encountered with unexpected costs and is either one off or for a limited period.

The Welfare Working Group calculated that “the average net amount of main and supplementary benefit income was \$296 per week.”<sup>58</sup>

## Income Adequacy

According to the Ministry of Social Development beneficiary families’ incomes were below recognised poverty lines after they had paid for housing.

The proportion of household income required to purchase a basic balanced diet (as determined by Otago University’s food costs survey) was calculated for various low income household types.<sup>59</sup>

<sup>56</sup> Somavia, J. (2009) *Shortening the Global Recession, Accelerating recovery and setting course for inclusive and sustainable world development*, speech to International Monetary, Finance and Development Committee, Washington DC, USA, 25-26 April, 2009.

<sup>57</sup> *Welfare Working Group report 2011*, p38

<sup>58</sup> *Welfare Working Group Report* p38 data quoted as at April 2010

<sup>59</sup> Robinson, V. 2010, *Food costs for Families*. Regional Public Health

A family relying on the unemployment benefit with two children would need to spend 66% of their income after paying rent in a state house to purchase a healthy diet. A comparable family renting in the private market would need to spend 75% of their income after rent. Other costs such as power, transport, clothing, telephones and household and personal cleaning products would need to be met by what is left.

In the report prepared for Wellington Regional Public Health, it was said, “Families earning low incomes and receiving benefits need to spend a high proportion of their income to purchase a healthy diet and are likely to have little option but to compromise their food choices to be able to provide for the many competing expenses of daily life.” The report concluded “To adequately address and reduce nutrition-related health conditions the complex issues of improving access to sufficient income and affordable healthy food needs to be tackled.”<sup>60</sup>

In the Review of Human Rights in New Zealand the Human Rights Commission<sup>61</sup> observed that the right to social security is compromised if core benefit levels do not enable people to feed and house themselves and their families. People are not dying of starvation in New Zealand the Commission said, but relative poverty means that some people do not get enough nutritious food to eat, and this has a direct impact on health and educational outcomes.

The Alternative Welfare Working group has suggested determining the level of income support using the Swedish model. In Sweden income adequacy is ensured by setting income support at a level which covers a “basket of needs” which includes food, housing, power, clothes, shoes, play, leisure, health and insurance. It also recommends indexing social security to the average wage, in the same way that superannuation levels are set.<sup>62</sup>

## National Conversation about Work

The importance of work to New Zealanders as a source of well-being beyond an economic transaction is clear. This insight came when participants talked about what they liked about their work and when people talked about the emotional and social impact of redundancy, retirement and trying to enter or re-enter the workforce. While income sufficiency is important, work clearly provides more than a pay cheque.

Employers are currently caught between ensuring essential skills are retained in anticipation of the economic recovery and staying economically viable.

The Commission observed that many employers were less willing to give people a go, because they were keen to operate a lean labour force. In particular this appears to impact on younger people and those with disabilities. A Nelson participant who ran a disability support agency said, “When there was low unemployment and people were struggling to fill jobs, employers were opening their eyes to possibilities in the labour market (of employing disabled people). The pressure is off now. The triple bottom line has gone.” The triple bottom line approach involving “people, planet and profit” recognises social and environmental impacts, as well as economic impacts of business.

Globally, the prospect of a “jobless recovery” has been flagged. Those who are frequently marginalised in the labour market, such as disabled people and young people with minimal academic qualifications, are struggling to gain employment at the moment, particularly in the unskilled or semi-skilled labour market. Many of the vulnerable and disadvantaged people

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<sup>60</sup> P23 Ibid

<sup>61</sup> *The Right to Social Security* in Human Rights in New Zealand 2010, Human Rights Commission

<sup>62</sup> [www.alternativewelfareworkinggroup.org.nz](http://www.alternativewelfareworkinggroup.org.nz) accessed 26 April 2011

who lose jobs or are unemployed and receive social security assistance want both to get back to work as soon as possible, and to reduce their dependency on benefits. It is the unavailability of suitable, decent work and the availability of affordable childcare where they live that relentlessly limits their participation in the workforce.

The Commission was struck by the vulnerability of provincial New Zealand to layoffs in dominant industries. The loss of several hundred jobs from one company or one industry in smaller centres has a much more significant impact on the whole community than is the case in urban New Zealand. This was described as an “eco-system” approach in Hawke’s Bay. “If an anchor company falls over, it is not 100 jobs that go but 400. If you map the supply chain that supports the anchor company, you see how inter-dependent businesses are.”

The lack of wider community awareness and subsequent planning about the potential for major company layoffs is an issue in many regions. Job creation schemes and regional initiatives to assist people into work varied from region to region and depended on precarious funding. Some authorities have taken a regional approach to supporting job retention and growth, others were less active. For example, programmes developed by Hastings District Council, in conjunction with the local Work and Income office, have enabled a number of “hard-to-place” youth to get into short-term jobs that provide a positive work experience, build confidence, work skills and provide labour for much-needed community projects. Critically the human resource infrastructure for the community projects was provided by the council. Many of these schemes, even examples of exemplary good practice, appear to be operating in isolation from one another.

Proposed reforms to social security have been an “unrelenting focus” on work<sup>63</sup> predicated on the assumption that “work will become available for people as the economy recovers.”<sup>64</sup> The Commission in its submission on the Social Assistance Future Focus Bill said “It is the lack of jobs in regions and provinces as well as urban areas, rather than attitudes to work amongst job-seekers, that is the critical driver of a focus on work...It is the unavailability of suitable, decent work where they live that relentlessly limits their employment focus.”

From a human rights framework, protection from unemployment focuses on active labour market policies that ensure full employment characterised by decent jobs that are freely chosen. Where for whatever reason a person cannot work (either because there are no appropriate jobs available or because they are unable to work) then an adequate social security floor must be available.

## Future action

- Progressively increase the level of both the minimum wage and benefit levels to ensure universal entitlement to an adequate standard of living.
- Implement active labour market policies that include regional factors to stimulate employment creation.

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<sup>63</sup> *Explanatory note at 3 to the Social Assistance (Future Focus) Bill 2010*

<sup>64</sup> *Regulatory Impact Statement to the Social Assistance (Future Focus) Bill 2010*