

## Collective Regulation and Working Women in New Zealand and Fiji

### Régulation collective et main-d'oeuvre féminine en Nouvelle-Zélande et aux Fidji

### Regulación colectiva y mujeres trabajadoras en Nueva Zelandia y Fiji

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Résumé de l'article

Dans plusieurs pays, la présence des femmes sur le marché du travail est significative, bien qu'elle accuse du retard sur celle des hommes au niveau de plusieurs indicateurs, notamment les salaires et l'ancienneté. Les répercussions de cette situation sont immenses sur l'expérience d'emploi des femmes, leur conditions dans d'autres sphères d'activités et, par conséquent, sur le progrès social. La régulation des relations d'emploi (RE) cherche, entre autres choses, à développer des structures pouvant générer plus d'équité dans l'accès et la progression sur le marché du travail. Toutefois, malgré la persistance d'écart discriminatoires reliés au travail, il y a un manque relatif d'analyses nationales comparatives du genre (particulièrement dans le Pacifique sud). Ce fait freine le développement de théories et de politiques favorisant l'égalité des chances sur le marché du travail.

Aussi, cet article compare comment des initiatives récentes en matière de régulation collective des RE ont été appliquées en Nouvelle-Zélande (NZ) et aux Fidji, où l'on retrouve des conditions nationales et internationales uniques et partagées. Le modèle de système de RE proposé par Martin et Bamber (2004, 2005) constitue un cadre d'analyse de réponses issues d'enquêtes qualitatives et de preuves documentaires permettant d'évaluer, plus particulièrement, la signification de la régulation des RE pour les femmes en emploi. Il en ressort que la réalisation de l'égalité des chances via des instruments de régulation s'avère difficile à cerner, particulièrement aux Fidji. L'effritement de la régulation formelle de l'emploi et sa décentralisation en NZ, la mise en oeuvre plutôt timide de la régulation dans le contexte politique tumultueux des Fidji, et le vide créé par l'érosion de la négociation collective dans les deux environnements n'ont pas été remplacés par un nouveau dialogue social, un renforcement des droits sociaux fondamentaux et, en ce qui concerne les Fidji, un renforcement de la régulation. Cela a contribué à une détérioration de la situation des femmes sur le marché du travail en NZ et, de manière plus accentuée, aux Fidji. Par contre, certains informateurs affichent une préférence pour certaines mesures de régulation pouvant améliorer la situation des femmes sur le marché du travail, renforçant l'idée qu'une régulation formelle plus forte des RE, le tripartisme ainsi qu'une réelle mise en oeuvre de la réglementation sont nécessaires dans les deux pays et que certaines problèmes plus spécifiques aux femmes en emploi nécessitent des réponses sur mesure.

Cet article discute de la manière dont des mesures de régulation des RE peuvent être théorisées pour améliorer la prise en compte de conditions contextuelles communes aux femmes sur le marché du travail aux Fidji et en NZ, et pour développer des approches politiques et économiques plus larges faisant place aux valeurs socio-culturelles et à celles reliées au genre. Il examine également comment certaines initiatives en matière de régulation des RE peuvent être reformulées dans des termes « gagnant-gagnant » pour les différentes parties prenantes des RE, en faisant plus de place à la dimension du genre. Pour les Fidji, on fonde beaucoup d'espoir sur un retour à la démocratie et, pour les deux pays, sur le renforcement de l'activité des syndicats.

# Collective Regulation and Working Women in New Zealand and Fiji

Jane Parker and James Arrowsmith

**New Zealand is a relatively prosperous OECD member with a tradition of liberal democracy. Fiji remains a developing nation with a large subsistence agriculture sector and one-quarter of its people living in poverty. Its socio-economic difficulties have contributed to four *Coups d'État* since Fiji attained independence in 1970. This comparative study examines these South Pacific neighbours' considerable employment regulatory change amid economic liberalisation framed by neo-liberal market ideology, before focusing on the gendered impacts of this change. A thematic analysis of qualitative survey and documentary evidence reveals a link between regulatory forms and working women's progress, mediated by national and international pressures. The findings inform a model of regulatory approaches that can influence women's relationship with the labour market.**

**KEYWORDS:** women, employment, regulation, collectivism, New Zealand, Fiji.

## Introduction

The position of women in the labour market and employment is increasingly recognised as an important, if still relatively neglected, focus for industrial relations (IR) research (Healy *et al.*, 2007; Holgate *et al.*, 2012). This reflects the significance of issues such as the feminization of the labour force, the persistence of gender segregation, and the growth of vulnerable work, of which women form a disproportionate part. Women's employment situation can no longer be treated as a marginal concern. Rather, as Rubery and Fagan (1995: 212) put it, "the regulation of the female labour market thus becomes an important issue for the overall regulation of the industrial relations system and the maintenance of employment standards". An important means to understand these connections, and in particular the relationship between regulation and disadvantage, is through comparative research. This is because of its analytical focus on the nature and effects of different national institutional and regulatory configurations, a focus

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which is even more relevant in the age of globalisation (Barry and Wilkinson, 2011; Bamber *et al.*, 2011). Yet, comparative investigation and analysis remains under-developed in the area of gender differentiation and disadvantage in employment (Rubery and Fagan, 1995; Tripp, 2006), particularly in developing areas such as much of the South Pacific.

Understanding women's experience of employment and the labour market is thus increasingly central to IR research, and needs to be better understood through comparative study. Primarily, this paper asks: how has recent employment regulation influenced and impacted on working women in New Zealand (NZ) and Fiji? In response, it examines key modes of regulation and their implications for working women in these two South Pacific countries. Whilst they differ in terms of their political, socio-economic and developmental circumstances, both nations share a recent history of significant labour market and regulatory change. NZ was at the forefront of neo-liberal deregulation, which has somewhat attenuated in recent years. It was also relatively sheltered from the worst storms of the global financial crisis (GFC). In Fiji, adherence to and enforcement of relatively progressive employment regulation was weakened by political instability (culminating in a military *Coup* on 5 December 2006), the size of its informal sector, and economic decline accelerated by the GFC. In selecting these countries, the paper benefits from a "contextualised comparison" methodological approach (Locke and Thelen, 1995), and being framed by the dimensions of Martin and Bamber's (2004 and 2005) ER system approach, enabling the identification of the most salient features of national systems.

The paper has two main objectives. First, it aims to make an empirical contribution, given the dearth of cross-national empirical analysis of working women in the South Pacific. This lack of data limits understanding of how regulatory change impacts on women in different political, socio-economic, cultural and labour market contexts. In this way, the paper also responds to a criticism increasingly levelled at comparative research, that it is biased towards the larger western economies of Europe and North America where access to data is most readily available. This is an important oversight in the study of gender; as Chappell (2010: 187) argues, "it is only through an understanding of how gender operates within institutions in less advanced democracies and in non-democratic systems that we can fully understand its effects both in terms of policy outcomes and opportunities for feminist actors". Second, it makes an analytical contribution by developing a model around the significance of different employment regulatory forms for working women in such different contexts. It emerges that particular regulatory forms are preferred in both nations to help respond to workplace gender inequities. However, their effective combination and impact for working women are subject to environmental factors and the equality issues being pursued.

These findings help to develop an initial model of the relationship between regulatory forms and their meaning for working women that could potentially inform theory and policy development pertaining to NZ, Fiji and beyond.

The next section provides a contextual overview of the political, socio-economic and labour market settings of both countries with regard to women's employment situation and collective regulation. Section three describes and rationalises the empirical process adopted to conduct the comparative study, locating this in a brief discussion of gender in ER scholarship and the significance of comparative research for the study of women in employment. Findings are then presented and considered with a particular emphasis on: 1- developing a conceptualisation of the significance of collective regulatory forms for working women; and 2- evaluating how regulatory approaches might be recast to improve women's labour market situation in both countries.

## Context

### Women and ethnicity in the Fijian and NZ labour markets

Asia-Pacific is one of the most diverse regions in the world on many factors, including language and culture (Zanko, 2003). The make-up of NZ and Fiji's labour markets certainly reflect this, with NZ considered one of the most—and increasingly—diverse countries in the world, particularly due to recent migration patterns and rapid growth anticipated among Asians (Sayers and Ang, 2013; NZ Department of Labour, 2010). Further, the majority of manager and employee respondents to a 2013 NZ-wide employment survey defined themselves as being of NZ European descent (81.2%), followed by "Others" (10.7%), Māori (3.9%), Indian (2.1%), Chinese (1.2%) and Pasifika peoples (0.9%) (Haar *et al.*, 2013). Fiji's population also exhibits considerable ethnic diversity. Its last (2007) census indicates that indigenous Fijians formed just over half (56.8%) of the population, followed by Indians (37.5%), part-Europeans (1.3%), Europeans (0.4%), Chinese (0.6%) and "Others" (3.5%). However, recent government statistics (January 2012) show that indigenous Fijians number 511,838 while there are 290,129 Indians and 56,071 Others, reflecting a "collapse" of Fiji's Indian population "as people flee the *Coup*-plagued nation" (Field, 2009: 1). That said, labour force participation had been significantly higher for Fijians than Indians due to the former's high level of participation in the subsistence sector. However, this difference has reduced significantly as Fijian participation has declined in this sector amid increasing labour force participation among 20-34 year old Indians that has now exceeded that of Fijians (Fiji Islands Bureau of Statistics, 2009).

Alongside these ethnicity patterns, women have a long-established and prominent presence in both countries' labour markets, though in Fiji they are less

visible in formal employment. In NZ, women form nearly half of the 2.32 million-strong (formal) labour force and have a high labour force participation rate at 62.4% (Statistics NZ, 2011). By contrast, working women feature prominently in Fiji's large, informal economy but comprise just 31% of its small (330,255) formal labour force. Their participation rate (37%) is thus much lower than for women in NZ. Concomitantly, female workers in Fiji are much more vulnerable to poverty than women in NZ, and 44% earn less than the 'poverty wage' (FJ\$60/week) compared with 32% of males in Fiji (Narsey, 2007). Women are estimated to perform 52% of *total work* in Fiji whilst receiving just 27% of total income (Narsey, 2007). This may be linked to larger family size and child-bearing at a younger age, as well as cultural values that mean that women continue to take responsibility for household labour and supporting economically-active males (Rakaseta, 1995).

Hence, it is important to bear in mind that the vast majority of all women in paid employment in NZ are located in the formal economy, in contrast to a minority of those in Fiji. Nonetheless, women in both nations are concentrated in feminised occupations, and in a narrower range of formal occupations than men—with pay implications. In NZ, women's hourly earnings average 12-15% less than those of men (Council of Trade Unions (CTU), 2010) while the gap is 19% in Fiji (Narsey, 2007). The only occupation in which women in Fiji form the majority is administrative clerks, mainly at lower levels. Although under-represented elsewhere, they cluster as low-income earners in service, shop and sales roles; plant and machinery jobs; and elementary roles. More generally, women are mainly self-employed craft workers or family workers in skilled agriculture and fishery. Career mentoring of young female workers and more female enrolments in tertiary education have enabled some to access professional areas and contribute more to family income, but women still enter the paid work force in low numbers (Jalal, 2009). In NZ, women have made greater in-roads into its larger, formal economy, and are well represented among professional, community and personal service, clerical and administrative, and sales worker groups. They remain under-represented as managers, technicians and trades workers. More women than men—and more Pacific and Māori than European women—participate in tertiary education in NZ. However, gendered differences emerge in their salaries soon after graduation (Ministry of Women's Affairs (MWA), 2010).

By industry, Fiji has experienced general difficulties since the 2006 *Coup*, though tourism has recovered somewhat—this is important for women who are over-represented as low paid workers in related service areas. Key export sectors such as sugar and textiles (which is highly feminised) have been in decline for some years, a situation exacerbated by the GFC and by the expiration of favourable terms for multi-national garment companies in tax-free zones (TFZs)

(Jalal, 2009; Prasad *et al.*, 2011). Industry dynamics have been less dramatic in NZ, reflecting relative economic stability. However, Pacific and Māori women are more likely than Pākehā (White) women to work in semi- or low-skilled manual jobs, receiving lower pay and more vulnerable to economic shifts (Parker *et al.*, 2012). Young Māori women's employment rate (42%) is lower than for young Pākehā women (64%) and they are more likely to do unpaid work (Warburton, 2008). Thus, whilst women in Fiji's labour market are comparatively worse off than women in NZ, their position in both countries still trails that for men on measures such as participation, pay and often working conditions, particularly in Fiji where women have limited access to the formal economy.

### Employment regulation in context

International instruments are relevant to employment regulation in both countries. For instance, Fiji and NZ have ratified international standards concerning sex equality and anti-discrimination, and less so, those relating to ER and collective bargaining (Parker *et al.*, 2011). These have been transposed into national statutes and regulation. However, the countries differ in their active adherence to such. On gender, for example, both have signed the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW) and are legally bound to implement its provisions and submit regular progress reports<sup>1</sup>. However, Amnesty International (AI) (2010) criticised the Fiji government for not meeting its CEDAW obligations. The NZ government has also displayed a lack of enthusiasm for regulation in recent years, for example, voting against an international labour convention to establish fundamental rights for domestic workers (i.e. vulnerable and mainly women workers) in 2010 (CTU, 2010). On the face of it, this reflects the dominance of neo-liberal doctrine in Fiji and NZ. However, its impact is mediated by a range of different features in each national context. These are briefly considered in turn.

From the mid-1980s, NZ shifted from one of the most to one of the least regulated economies of the OECD. Its central wage-fixing (awards) system and much of its tripartism and social dialogue structures were dismantled, and restrictions on competition deregulated. Then, *the Employment Contracts Act* (ECA) 1991 removed union registration and compulsory union membership. Consequently, there was a major decline in union membership and collective bargaining in the early 1990s, particularly in the private sector (Crawford and Walsh, 1999). This was seen as reversing the gains made for women via unions and the former arbitration system (Coleman, 1989; Frances and Nolan, 2008). The return of a Labour-led government in 1997 led to some employment and labour market protections, notably with the replacement of the ECA with the *Employment Relations Act 2000* (ERA). This offered greater legislative support

for collective bargaining, but no return to generalised awards. For women, over-represented among those not covered by collective arrangements, this was unlikely to significantly advance gender equality. Further, the current centre-right National coalition government (in power since 2008) stresses voluntarist solutions to labour force and equality challenges and shows little inclination for regulation or collective bargaining.

In Fiji, the situation is one of acute instability. Tensions between indigenous and Indo-Fijian peoples have contributed to four *Coups d'État* since the country attained independence on 10 October 1970. The last *Coup*, in 2006, installed an "interim" military regime, straining international relations and hurting business investment. It was predated by economic liberalisation, involving sectors such as tourism, sugar, fisheries, timber and gold. However, Government revenue losses led to trade and economic policy changes, including restructured tax regimes which, combined with global market forces, impact more on poorer households, women's employment options and their economic status. Trade and labour market deregulation has also undermined unions and reduced wage rates. Furthermore, during recession, constructs of women as primarily wives, mothers and carers have been used to take pressure off the job market (Lateef, 1990). Many improvise by doing informal work, often full-time with poor wages, conditions and job security. Further, whilst a range of unions in NZ are proactive about women's issues and have successfully lobbied for gains relating to women's rights, Fijian unions are limited in their membership base, both in overall numbers and given declining female membership, and face political obstacles to effective workplace representation and influence on policy (Parker *et al.*, 2011).

Thus, while union density for Fiji was estimated at 31% in 2008 and total union membership at 45,000 in 2003 (Visser, 2008), these figures have since depleted, largely due to the *Government's State Service Decree 2009* (Decree No. 6) which reduced the retirement age of civil servants from 60 to 55 years, meaning that a substantial number of union members were lost as most are aged between 30 and 60 years. The Decree has affected about 2,500 workers, 90 per cent of whom were union members and thus a substantial proportion of the 15,000 unionised government employees. The Government also introduced the recruitment of all new officers on individual contracts, and most private sector industries are following suit in accordance with the *Promulgation 2007*. Further, government officers who are promoted will automatically go onto an individual contract. In NZ, overall union density is also low at 20.5% in 2012 according to the OECD (2013). In both countries, it remains much lower in the private sector than in the public sector (Parker *et al.*, 2011).

Within the region, Fiji's formal labour market regulation is wide-ranging and progressive. Following an extensive process of tripartite consultation supported

by the ILO, the *Employment Relations Promulgation* (ERP) 2007 introduced a comprehensive code governing the regulation of employment relationships. However, implementation and enforcement of the ERP has been weak due to a lack of political will and limited access to the law. Further, in 2009, President Iloilo dismissed the judiciary and suspended Fiji's 1997 Constitution which addressed "social justice and affirmative action", ordering Parliament to legislate for programmes or special measures for disadvantaged groups. Cabinet also approved the *Employment Relations (Amendment) Decree 2011*, exempting Government and its entities from the ERP providing that they are subject to the Employment Relations Tribunal for claims under other Acts. Stakeholders were not consulted, nor account taken of opposition to it, reflecting the demise of tripartism and social dialogue. Further, an *Essential Services Decree* now severely curtails union bargaining powers and voids collective agreements in key sectors, removes collective bargaining rights for many workers, imposes heavy restrictions on union leaders and removes the right to strike and minimum wages for the sectors it covers. These developments have particular implications for Fiji's working women who, more than in NZ, remain over-represented among the low paid, unpaid, disadvantaged and unrepresented. For instance, they constitute one-third of the Fiji Trade Union Congress' (FTUC) 32,000-strong affiliate membership whilst in NZ, they form 54% of union membership and feature more prominently in senior union roles (Parker *et al.*, 2011). Hence, whereas there has been a largely incremental dismantling of collectivist measures in NZ, in Fiji this has been explicit and by decree. The overall effect is that women in the two nations' labour markets have experienced gender inequality from different departure points, with those in Fiji facing relatively greater problems in terms of accessing and progressing in the formal economy, particularly in the current political circumstances.

## Methodology

Academic discussion concerned with the significance of gender and comparative ER scholarship and regulatory approaches is overviewed below, helping to clarify our research focus and methodological approach to understanding the meaning of collective ER regulation for working women in Fiji and NZ.

## Gender and comparative ER scholarship—with a regulatory focus

The above section highlights differences in women and men's labour market situation in Fiji and NZ. If women are in many ways disadvantaged in the labour market, they are also not generally well served by academia. As Wajcman (2002: 1) observes, "the very way industrial relations scholars define what is 'inside' the industrial relations system and what is 'outside' reflects masculine priorities



and privilege". In NZ and Fiji, the relative absence of gender mainstreaming in ER scholarship has been criticised, with some exceptions (Deeks *et al.*, 1994; cf. Parker with Arrowsmith, 2013). This matters, not least because gender inequalities in employment need to be highlighted to better understand and inform responses to how they curtail women's options in that context and beyond, thereby constraining society's potential.

Indeed, the gender "lag" in ER practice and academic analysis has informed public and workplace policy, especially "in this current age of austerity [where] we are witnessing a number of ... 'fairness initiatives' feeling the sharp blade of a cost-cutting axe" (Holgate *et al.*, 2012: 323). For instance, NZ's government disestablished a Pay and Employment Equity (PaEE) Unit set up to implement a *Plan of Action* to reduce the gender pay gap and ensure public sector PaEE. As noted, in Fiji, the State has been criticised for not complying with its CEDAW obligations. Of central concern here, then, is how regulatory forms (and their alteration) impact on labour market participants, especially the most vulnerable workers whom are often women.

Also, as noted at the outset, even when gender does take centre stage in ER scholarship, cross-national analyses are relatively uncommon. And where comparative work has been undertaken, it has typically drawn on well-resourced labour market data for developed economies, and EU States in particular (Rubery *et al.*, 2003). However, the South Pacific region does not possess equivalent repositories. Whilst agencies like the ILO and World Bank issue cross-national reports on the region, they have noted the patchiness of labour market statistics (including for gender) for Island States including Fiji. Even NZ, a developed nation, does not hold official statistics on a wide array of relevant indices, stressing the need for an exploration of both nations' employment regulation and its meaning for working women.

The comparative aspect of a gender analysis of ER is especially significant for understanding the meaning of the labour market and its regulation with regard to developments which tend to be generically labelled as "globalisation" or "deregulation" but in which "the valence of particular issues and changes in practices are quite varied in the different national contexts" (Locke and Kochan, 1995: 365). Such cross-national studies can also provide insights for policy-makers, managers and workers, and help address a frequent criticism of ER that it has been overly descriptive and unable to develop causal explanations of relevant phenomena (Kelly, 1998; Bean, 1994). The two countries were selected for comparison because of their shared South Pacific location, relatively small economies, and relatively recent upheaval of their employment regulation. At the same time, they differ considerably in terms of economic development, political arrangements and culture. This permits a contextualised comparative analysis

of the most salient factors underpinning the dynamics and impacts of regulation for working women through the collection of “rich” qualitative data. In our view, differences, as well as contextual similarities, warrant rather than preclude a comparative analysis (cf. Prasad *et al.*, 2003).

Effective comparative ER studies require robust analytical dimensions, and Martin and Bamber (2004, 2005) propose a useful framework for such. The utility of their model relates to its focus on four “touchstones” of differentiation between ER systems that highlight traditional ER actors and different institutions for and levels of regulation: 1- the role of the State in ER; 2- the degree of enterprise-level management autonomy in ER; 3- union character; and 4- the role of collective bargaining. As the authors argue, in examining these aspects, a political economy approach to explaining national differences in ER arrangements has considerable potential, “especially if our focus extends ... to include developing economies” (Martin and Bamber, 2005: 377). Both NZ and Fiji are subject to the trends in international political economy discussed by the authors (e.g. intensified international competition manifested as globalisation, “deregulation” policies).

Further, regulation cuts across each of the key facets of the ER system, making it important to assess whether its process and impacts are nuanced for different labour market groups, including working women. However, ER regulation itself can adopt a wide array of forms. Collective employment regulation plays a central role, aimed at checking the power relations between the social partners (Parker and Arrowsmith, 2012). It is often justified on grounds including the need for intervention according to the classical economics of “market failures”; collective judgments by a significant sector of society; and diverse (group) experiences and social subordination (Balleisen and Moss, 2010; Moss and Cisternino, 2009). Collective regulation can be sub-divided into formal/“hard” forms such as legal and official measures concerned with specific rights and obligations, and informal/“soft” variants involving extra-legal and unofficial initiatives that tend to deal with general principles, although a combinatory approach predominates (Parker and Arrowsmith, 2012).

However, there is little regard in the literature generally for the significance of different regulatory forms or their combination for workers’ circumstances. In focussing on what different collective ER regulation forms mean for working women in NZ and Fiji, this study encompasses the touchstone areas of Martin and Bamber’s ER system but is not restricted to the national-level regulation that they stress. Their model is thus used here to help inform a “point of departure”, perception-based model of the contextualised relationship between collective ER regulatory forms and their meaning for working women in NZ and Fiji.

## Data collection and analysis

A dual source (survey and document) qualitative approach was chosen for this exploratory study. The study does not seek to be “representative” in approach but rather to utilise a qualitative survey in that respondents could reply with open-ended questions to the same set of (comparable) questions. An email survey was sent to expert informants in Fiji and NZ in 2010-11. The total potential informant number was achieved via a “snowballing” approach (Janesick, 1984), from an initial group of 25 experts known to the researchers. Thirty-five returns were received from a possible 60 (58% response rate), most of whom were women. These included 22 responses from 35 NZ contacts (63%) and 13 from 25 Fijian contacts (52%). According to informal feedback, the lower response rate for Fiji reflects non-respondents’ concern about potential reprisals for partaking in the study. NZ informants were evenly split among senior trade unionists, managers, academics, policy analysts and HR specialists. Respondents from Fiji encompassed these together with officers of international agencies (see Table 1). An extensive and inclusive strategy was pursued, incorporating non-governmental organisation (NGO), women’s organisation and academic respondents as well as the “social partners” in order to gather a range of perspectives. This broadening of information sources is particularly necessary when studying gender issues because of the overlap and intersections between women’s paid and unpaid working lives.

Informants remained anonymous, although most in NZ gave their organisational affiliation. Further, most from both countries were happy to be contacted for clarification and further data gathering, including documentary evidence such as policy and international agency reports. Fieldwork did not proceed with female workers directly. In the case of Fiji, this was not possible as access to these workers was very difficult (bordering impossible). A number of women workers were contacted but they were too fearful to respond

**TABLE 1**  
**Survey Informants’ Affiliations and Characteristics**

<b>NZ Informants (n=22)</b>	<b>Fijian Informants (n=13)</b>
Five senior trade unionists	Two senior trade unionists
Four workplace managers	Two workplace/NGO managers
Five academics	Two academics
Five policy analysts	One policy analyst
Three HR specialists	One HR specialist
	Two officers of international agencies
	Two fully anonymised informants

in the current context, particularly through intermediaries (i.e. several of the expert informants) and/or did not have appropriate on-line technology. Indeed, several Fijian women based in NZ who had worked in Fiji did not want to comment because they have family in, and other links to, Fiji and were concerned about repercussions if their involvement in the study should be discovered. As a consequence, female workers in NZ were not included in the study as this would have led to data “asymmetry” for the two countries under examination. Further, the expert informants share a close understanding of working women’s situation in the respective national settings, and spoke with some authority on the “broad picture” as they have perceived and/or experienced it.

In the survey, 15 semi-structured questions sought comments about informants’ experience and understanding of the scope and substance of collective ER regulation. They also yielded perceptual data about key regulatory forms and their enforcement. Informants indicated where they felt different collective regulatory initiatives had made most and least progress for women; and where improvements might be made. The dimensions used to analyse responses and documentary evidence—a typology of regulatory forms—was derived from the literature (Parker *et al.*, 2011), and a thematic aggregation of the collected data.

## Findings

We now present findings on the key forms of collective ER regulation in NZ and Fiji; their perceived relative significance for working women given the two nations’ respective national and international ER systems and wider circumstances; and the question of “issue” as a factor that has some bearing on regulatory impacts for women.

### Regulatory forms

Informants from both nations discussed collective regulation in process and outcome terms, and with regard to its varying level of formality. For instance, a national official from the NZ Public Service Association (PSA, 2010) commented: “‘Formal’ regulation includes collective employment agreements [CEAs] and legislation; ‘informal’ regulation includes employer workplace policies and government policies not covered by legislation”. Aggregately, informants for Fiji stressed the role of CEAs even more, reflecting their significance for above-minima gains for working women. However, they noted the protracted process that can accompany collective bargaining and a need for participative implementation to give it effect. And, of course, Fiji’s political and socio-economic

instability was observed in comments around ensuring greater workplace democracy.

Overall, the principal parties to collective regulation were seen as State agencies, unions, central union bodies, employers and employer bodies. Industry organisations, central private sector bodies (e.g. Fiji Commerce and Employers Federation), civil society organisations, and tripartite bodies such as the Wages Councils were also specified for Fiji. This reflects a general waning of tripartite arrangements in NZ though exceptions were given (including the National Advisory Council for the Employment of Women). Each of the above regulatory forms emphasises the traditional ER actors highlighted by Martin and Bamber's ER system aspects. Other actors were mentioned to a lesser extent. Civil alliance coalitions were not specified for NZ, while a senior agency representative (Fiji, 2010) reported that they are uncommon in Fiji where social dialogue methodology is undeveloped and "positional bargaining" is the norm due to wider regulatory controls: "there is a reliance on statutory mechanisms to define the scope for collective action", (though this scope is currently very limited)—it is "rare to have campaigns outside of this framework."

Accounts of low levels of coalition activity in Fiji fit with a perception of the "diminished voice" of campaigns to promote working women via social movements and community groups like the YWCA, femLINK Pacific and the Fiji Women's Rights Movement (FWRM). For example, the FWRM contributed to the outlawing of sexual discrimination in the Constitution<sup>2</sup> and in the run up to the ERP but has recently had "little to no visibility on economic issues of NGOs" (anonymous, Fiji, 2011), reflecting the regime's grip on public expression. Similarly, international bodies and instruments were cited infrequently as components of either country's regulatory framework; if mentioned, their roles were typically merged with those of other regulatory forms.

### **"Priority" regulatory forms**

Informants were asked to prioritise the regulatory forms that they felt could most improve working women's circumstances. In both nations, employment legislation, union representation and collective bargaining were regarded as the potentially most influential instruments (see table 2). More particularly, many informants for Fiji stressed recent minimum wage improvements, despite employer opposition, as also "probably [having] had the greatest positive impact on women's employment" (senior agency representative, Fiji, 2010). Wages Councils and Regulation Orders were also significant as "the only protection available to many women in paid employment in the unorganised private sector" (senior agency representative, Fiji, 2010) though they do not cover domestic workers—among the most disadvantaged women.

TABLE 2

## Regulation Seen to Have Most Influence on Working Women's Situation

NZ	Fiji
<b>Legislation:</b> ERA; Parental Leave and Employment Protection Act 1987; flexible working, work breaks and breastfeeding statutes; Human Rights Act 1993; Equal Pay Act 1972	<b>Union representation and collective bargaining:</b> for instance, the Fiji Nurses Association: "largest and most effective female-dominated union" (agency representative, Fiji, 2010)
<b>Collective Bargaining/Workplace Agreements:</b> particularly for enhanced leave arrangements, pay systems, HRD though this "depends on the ability of the union to negotiate successfully" (ER policy analyst)	<b>Legislation:</b> ERP, particularly on discrimination, sexual harassment and maternity leave; Wages Regulation Orders (WROs)
<b>Union Representation:</b> including the CTU Women's Council's engagement with the CEDAW	<b>Tripartite processes and structures:</b> Wages Councils
<b>Tripartite Processes and Structures</b>	<b>State Processes and Agencies</b>
<b>(State) PaEE Processes and Agencies:</b> PaEE mechanisms developed by the former PaEE Unit	<b>International Instruments, Action Programmes and Fora</b>
<b>International Instruments, Action Programmes and Fora:</b> including CEDAW and the ITUC Action Programme on achieving gender equality	

## Legislation/national regulation

Although legislation was generally regarded as very significant, some NZ informants questioned the scope and impact of legislative and CEA provisions in practice for working women, in a context of general union decline and government hostility:

[Does it have] enough "teeth" in the first place—specifically, the possibility of achieving pay equity would be assisted by reviewing the *Equal Pay Act*. (National Official, PSA, NZ, 2010)

ERA emphasises "good faith" bargaining but what does this mean when union power continues to be eroded by regulatory and environmental changes? (ER Academic, NZ, 2011)

NZ union respondents said that State policies on improving women's working conditions were "not immediately evident" (National Official, PSA, NZ, 2010), "[nor] a priority" (CTU Policy Analyst, 2010). Many also felt that "thinner" regulation, the removal of institutions like the PaEE Unit and legislative changes (e.g. extension of the ERA trial period to all employees; restricted union access to workplaces) affected women disproportionately "because of their life-time work patterns" (Senior Official, FIRST Union, 2011) and more women having vulnerable jobs.

By comparison, Fiji's ERP was widely seen as a potentially progressive form of collective regulation of women and gender equality in workplaces (see earlier).

The ERP consolidates existing labour law and repealed a number of Acts. The Promulgation came into force in Fiji in two parts, the first on 1 October 2006, under the Qarase government, and the second on 8 April 2008, under the interim government. Since the December 2006 *Coup*, however, there has been limited implementation and some reversal of its provisions. Indeed, one Fijian, private-sector CEO (2011) referred to an “active derailing” of formal regulation in Fiji that has inculcated a “culture of silence”. Decrees imposed by the regime have removed the public sector and designated essential industries from many of the regulations governing union rights, causing “less enforcement of rights” and the public sector to “go backwards” (anonymous, Fiji, 2011). The removal of unions’ collective bargaining powers and ‘union bashing [since] the 2006 *Coup*’ (ex-superannuation fund manager, Fiji, 2011) led some to assert that employers might not honour agreed work conditions and to discriminate against women workers (there was scepticism about an absence of reported breaches of the ERP’s anti-discrimination provisions). A worsening of some working women’s situation was also linked to a strong gender imbalance in Fijian politics<sup>3</sup>, reflecting traditional views about women’s roles—despite ILO, UNDP and aid agencies’ contributions to improvements in this area via their support of campaigns by Fijian women’s organisations.

There were also concerns, in both countries, around information gathering and provision. For example, in Fiji, the ERP was criticised for “not providing the right mechanism to collect the right [gender] information” (anonymous, Fiji, 2011) to enable the Labour Ministry to effectively regulate the labour market. There were also complaints about Fiji’s tribunal system for delays and the labour inspectorate’s limited capacity. In both nations, informants also noted that regulatory potential was often limited by insufficient knowledge on the part of workers and employers, and concern among some workers (particularly women in precarious work) about drawing on legal provisions in a context of economic downturn and increasing job insecurity.

### Unions and collective bargaining

NZ unions were considered to be more successful than their Fijian counterparts in pushing gender equality issues, particularly under the last Labour-led administration (also CTU, 2006). For example, Fiji’s Public Services Commission, though a significant employer of women, now operates “through [State] declaration, in effect” (senior agency representative, Fiji, 2011). A milder political climate for seeking reform in NZ was also said to be evidenced by pro-women worker initiatives by the lead employer group, Business NZ, though it has also led lobbying against State initiatives that are perceived to raise costs. One example of a positive initiative is its endorsement of the *ILO Report of the Committee of Gender*

*Equality 2009* on the need for social dialogue and tripartism to advance workplace gender equality and more female leadership in social partner organisations. However, in both nations, the respective political situations, recession, and in Fiji, widespread poverty, were also seen to have galvanised some organising and campaigning. Although this was comparatively low-key in Fiji, any such activity at all is remarkable given the growth of sanctions brought in by the regime.

Indeed, in Fiji, where it has occurred, collective bargaining and organising activity has been led by public sector unions. The Fiji Nurses' Association stood out for its activities including an illegal, lengthy strike seven months after Bainimarama seized power, which successfully raised the minimum wage and reduced working hours for its primarily female membership. Further, the Factory and Commercial Workers Union's steady membership growth bodes well for women in the private sector, and its ability to negotiate better working conditions and minimum wages. This follows a period of retrenchment and many job losses in the garment industry particularly, as well as on-going difficulties relating to "ideological employers, lack of dialogue mechanisms and effective collective bargaining, and the active lobbying of government" (senior agency representative, Fiji, 2010). Other union-related activity for women was also noted (by the Fiji Teachers Union, the FTUC and the Public Sector Union).

In NZ, "stand-out" collective bargaining achievements were said to include the Service and Food Workers' Union's successful negotiation of a multi-employer collective agreement in the District Health Boards which raised the CEA minimum wage NZ \$2 above the legal minimum (DHBs and SFWU, 2010). Other successes were identified for pay in low wage and feminised occupations (e.g. school support staff, nursing, primary health and aged care, retail and supermarket workers). Several respondents noted the greater resource and expertise capacity of larger unions in NZ to pursue initiatives relating to gendered work interests, mostly in the public sector. Despite disappointments over pay equity, for instance, the PSA participated in the 2007-08 reviews in public service departments, DHBs and local government, follow-through on response plans with employers, legal cases, collective bargaining that promoted better terms and conditions, and a survey of its female public service members. Hence, despite the change of government, unions in NZ faced much less hostility from employers and the State, and were better equipped in resource terms, than their Fijian counterparts.

### **The nexus between regulatory forms**

Informants identified strong links between the various legislative initiatives that structure workplace regulation, and union campaigns and lobbying. This was particularly the case for NZ, but also applied to Fiji until recently. In NZ, CEAs are much more likely to contain provisions on extended unpaid leave and flex-



ible hours that are based on recent changes to legislation, such as the right to request flexible or part-time work (Blumenfeld *et al.*, 2011). For Fiji, unions still lobby around the implementation of WROs but, with exceptions, their current focus is understandably on freedom of association issues. While union influence and collective deals vary in both countries due to institutional arrangements and the character of ER, in Fiji, more stress was put on environmental constraints on unions' capacity to organise around the enforcement of general standards, with workers reliant on minimum codes due to not having effective access to unions.

Informants from both nations also stressed a lack of progress on gender equality in particular labour market areas. These included women's terms and conditions in the private (and, in Fiji, informal) sector, conditions and salary packages for executive women, and, in Fiji, a lack of child-care for young children. These problems were mostly attributed to a lack of political will and, in Fiji, conservative cultural values. Political obstacles were, of course, most pronounced in Fiji following the last two *Coups*. For example, progress on Fiji's ratification of the CEDAW in 1995 was "set back by the attempted *Coup* in 2000 and ensuing political instability" (Secretariat of the Pacific Community (SPC) representative, 2010). Recent participation in its political process has been difficult, especially for those advocating institutional and legal change to improve women's status as "formal dialogue on labour issues has been shattered" (ex-superannuation fund manager, Fiji, 2011).

### The "issue" question

Informants in both countries concurred that current collective regulation provides insufficient impetus to adequately improve working women's circumstances, albeit from different starting points and environments. Many stressed 1- priority issues for regulation and 2- a change in the emphasis and character of regulatory forms to effect change in these areas. In both nations, there was general prioritisation of the need for greater attention to be paid to: equal pay and pay equity; minimum wages; paid parental leave (PPL); sexual harassment; and pensions. Interestingly, and despite the finding that different regulatory forms function in tandem, informants also "leaned" towards different, context-aware regulatory "bundles" with which to respond to different issues. The following illustrates this for equal pay/pay equity and minimum wages.

### Equal pay/pay equity

Most NZ informants felt that the dismantling of the centralised wage-fixing system and market deregulation had "removed the possibility of across-the-board changes [for women]" (academic, NZ, 2011). Several referred to a sense of reversal since a discussion document issue by the MWA proposed government

regulation, collective bargaining and unionisation as part of a solution to further closing the gender pay gap (MWA, 2002; also ITUC, 2009). The abolition of the PaEE Unit was regarded as a particular nadir. Respondents highlighted how the unions had pursued initiatives aimed at re-regulation in this area, including lobbying. For instance, a CTU-led national Pay Equity Challenge Campaign in 2009 “challenged” the Government to outline its pay equity plans for public policy, working with employers and unions to this end, and public campaigns (e.g. raising the minimum wage to a “living wage” in order to improve pay equity). Respondents also said that campaigners were aware of and utilised the work of International agencies, as was the case when the ILO urged NZ’s government in 2008 to amend *Equal Pay Legislation* to address pay equity.

For Fiji, respondents reported how, from the late 1960s, an array of regulatory forms promoted women’s workplace rights to varying extents, in response to pressure from social movements and increased stakeholder involvement in institutionalised social dialogue. There was significant work on “regulation on the ground” by a range of supra-national and Fijian agencies, including the ILO, UNDP, HRC, FWRM, National Council of Women and FWCC. The unions too were also highly active (e.g. the PCS initiated EEO policy in 1989 that provides guidelines and benchmarks for ministries and departments to formulate their own EEO policies) and the State adopted a relatively benign position, as indicated by the establishment of an Inter-Ministerial Committee on Women in 1998. However, many of these measures were perceived to have been ineffective, if not formally withered away. Similar observations apply to the ERP which, on the face of it, contains potentially far-reaching provisions, including the stipulation that “every employer shall pay male and female workers equal remuneration for work of equal value” (i.e. formally, it is more progressive than NZ’s equal pay statute). There are problems around specific terms. For instance, the ILO feels that the Promulgation could go further, having asked the State to amend Part 9.77(1) to conform to the *Equal Remuneration Convention* though the real problem was seen to be monitoring and, in particular, enforcement. The re-militarised State has adopted an increasingly antipathetic approach to employment regulation, including “purging” the judiciary, which emboldened hostile employers and weakened the unions. Limited progress on the enforcement of equal pay was euphemistically attributed to a “stand-off between the regime and union leaders weakening the bargaining position of unions” by one respondent (ex-superannuation fund manager, Fiji, 2011).

### Minimum wages

On minimum wages, formal (statutory) regulation was broadly seen as the key mechanism for improving working women’s situation in both countries. Minimum wages are set for the country as a whole in NZ whereas Fiji applies different

rates according to sector. In NZ, respondents estimated that most minimum wage workers are women (the rate is currently NZ\$13.50/hour, with the Government wanting to tie increases to economic conditions). Though there are criticisms that bodies such as the Garments Wages Council is pro-employer and gender-biased (Rokoduru, 2008), with “increasingly effective employer opposition” (University Council member, Fiji, 2010), Fiji informants noted a recent, overall improvement in minimum wages, with the WRO 2009 helping to boost garment sector wages by 20%. Industry minima in Fiji are much lower than NZ’s national figure (in 2008, the garment sector minimum wage was just FJ\$1.26/hour) and a 10% wage rate hike in 2011 was welcomed by the Textile, Clothing and Footwear Council only if future increments were to be linked to adequate productivity growth and favourable export market conditions (Fibre2Fashion, 2011)—similar to the NZ government’s stance. Fiji’s government has made a commitment to introduce a national minimum wage, but there is some concern about its likely impact:

If this is instead of rather than as well as the WROs, it will probably lead to lower wages as the calibrated sector-based system enables some industries to pay more and a national minimum wage may well be set at the lowest common denominator, leading to downwards compression of low wages. (Agency representative, Fiji, 2011)

However, there was also concern that WROs are not actively enforced, with long implementation delays meaning set-backs in pay increases for the lowest paid, even at the lowest rates (the garment workers’ annual agreement was described as flimsy by several). One informant in Fiji said that as almost all female textile workers are neither organised nor aware of their basic rights, they “can be exploited by management” (anonymous, Fiji, 2011) at the enterprise level. Informants in both countries thus called for regular improvements in the pay and conditions for low paid women, including increased minimum wages, and in Fiji, the strengthening of related regulatory institutions (e.g. Wage Councils) and awareness and enforcement mechanisms to help non-unionised workers gain improved wage adjustments in TFZs. It can be noted that such initiatives do not in any case address the income situation of the bulk of Fiji’s working women who are engaged in the informal economy.

Whilst priority issues were thus seen to require regulatory responses with differing and common features, it was recognised that regulatory development would generally be more difficult in Fiji than NZ due to environmental, resourcing and enforcement differences<sup>4</sup>, and the more vulnerable labour market situation overall of its working women. Relatively more “regulatory” steps via policy are enacted in NZ, including through the activities of non-governmental and quasi-autonomous governmental organisations such as the not-for-profit NZ Global Women organisation (HR Director, medium-sized organisation, 2010) and the EEO Trust’s Cross-Company Mentoring Programme. Informants in Fiji saw the

need to tackle issues such as gendered vertical segregation and encourage women into leadership through empowerment programmes for women and workplace cultural changes, but current priorities are more circumspect.

Also relevant, in Fiji especially, is the role of international instruments and agencies for working women's situation (see earlier). The development of participative mechanisms in Fiji will continue to be strongly linked to external agency support. Indeed, several informants referred to the Fiji NGO CEDAW Report's (2010) recommendation that stakeholders could set gender-specific National Development Goals (developing UN Millennium Development Goals (MDGs) relating to gender gaps in employment, incomes and household work) that would help to address the paid and non-paid work divide. More widely, external agencies, including international finance institutions, were seen to impact strongly on the potential for dialogue in Fiji, as in the area of public sector reform "where the promotion of a fixed agenda narrows any real space for negotiated outcomes" (agency representative, Fiji, 2011). There were also related calls for a "gender sensitisation" of the negotiation, ratification, implementation and assessment of Fiji's trade and economic policy; and analysis of its complementarity with social and ER policy and institutions. Again, many linked this to the re-institutionalisation of democratic process, which was seen as necessary to reinvigorate initiatives to improve the situation of working women in Fiji's labour market.

## Conclusion

The figure overleaf outlines the relationships highlighted by our findings. The double-ended arrows indicate the influence of context, including international pressures and related domestic dynamics such as the political economy, socio-cultural and labour market settings, on regulatory forms' impact for working women, and vice-versa, though the valence of influence in either direction is unknown. The bottom left box also emphasises the significance of issue for perceptions of differing "bundles" of regulatory responses. Their relative significance (cf. prioritisation) in providing adequate, gendered responses to working women's issues, and interactive effects, could also be considered in future research. The framework might also provide a useful analytical point-of-departure for further examination of regulatory measures and their gender implications for workers in NZ, Fiji and beyond. It also supports Martin and Bamber (2004 and 2005) and Locke and Thelen's (1995) calls for explaining how trends are mediated by national arrangements, including institutions and regulation and how their impacts are contextualised, thus extending its potential application to other (developing) countries.

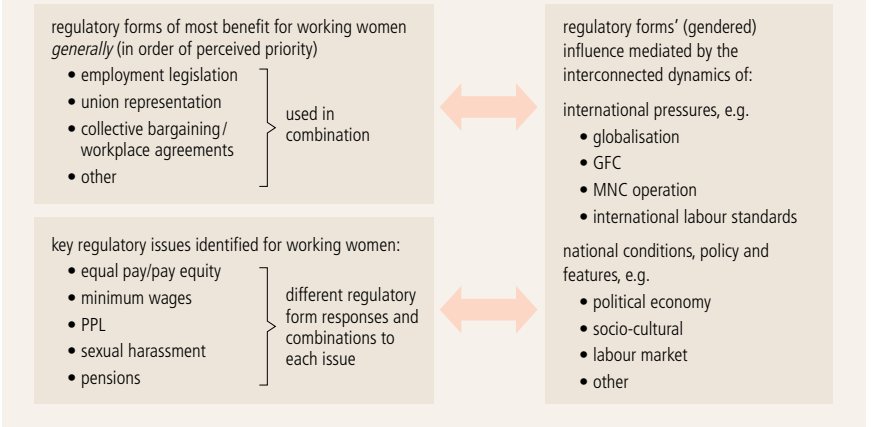
However, the main option signalled by informants emphasises stronger and "more" formal regulation of employment and the reversal of certain formal

regulatory measures (whether “trial periods” in NZ, whereby employees may have no rights concerning unfair dismissal in their first 90 days, to the much more serious issues of Fiji’s decrees and return of union rights “without fear of reprisals”). Another issue raised was the re-conceptualisation of ER regulatory measures and players in positive, interconnected terms. As the Fiji NGO CEDAW Report (2010) notes, gender discrimination hinders women’s participation in employment, reduces their productivity, diverts resources, and disempowers them and thus society. The right level, forms and mix of protective, progressive employment regulation are key. There are models informed by international standards to which social partners in Fiji and NZ can look for guidance. For instance, from 2002, NZ’s only international framework agreement binds its MNC dairy company Fonterra to respect international labour standards, including those defined in ILO Conventions 100 and 111. By delivering progress in gender equality, such organisations can influence others, alongside union and HR promotion of “best practice”. In Fiji, MNCs with leverage such as Tate and Lyle and Qantas have been asked by unions to help halt labour abuses and gender-related inequities.

According to the UNDP (1997: 39), “no society treats its women as well as its men”. There are enduring gender inequities in Fiji and NZ, including a pay gap, occupational segregation, weak female representation in governance, women’s concentration in vulnerable and non-unionised work, their difficulty in accessing all of the labour market, and shouldering the burden of unpaid work. There has also been some “sliding back” on areas of progress in both countries (HRC, 2010). Yet, on each count, the situation is worse in Fiji than NZ. Women’s labour

FIGURE 1

**A Perception-Based Model of the Contextualised Relationship between Collective ER Regulatory Forms and their Meaning for Working Women in NZ and Fiji**



force participation in NZ is now one of the highest in the developed world whilst Fiji's has fallen from already low levels over the past decade, with more women exposed to poor wages, conditions and job security associated with the informal sector. The unemployment rate in Fiji is nearly double that of NZ and its women are twice as likely as men to be unemployed. Further, NZ performs well on international equality measures (sixth position on the 2011 Global Gender Gap measure of 135 countries; 109th for Fiji), and Fiji scores much more poorly on economic participation and opportunity, and "political empowerment" measures (World Economic Forum, 2011). This reflects the low level of economic development in Fiji and its recent political turbulence. It has also had a more adverse experience of the GFC, which hit women hard. Ethnicity, linked to differences in work experiences in both nations, has also been important: "every aspect of public life in Fiji [has been] seen and assessed through the prism of race" (Lal, 2012: 2).

Given these different contexts, we used collective ER regulatory forms to structure a thematic exploration of the meaning of regulation for working women in Fiji and NZ. Our analysis of experts' comments and documentary evidence found certain relationships, with implications for gender-aware conceptualisation and development of regulation. First, there is a shared perception in both nations that particular regulatory forms—if effectively implemented and enforced—generally ameliorate working women's situation to some extent. The 'prioritised' forms are employment legislation, union representation, and collective bargaining/agreements, and these span Martin and Bamber's (2004) four ER system "touchstones". Second, however, the issue being pursued appears to influence the prioritisation and combination of regulatory forms considered most effective for achieving gender equality. Further, in relation to areas such as equal pay/pay equity, the minimum wage and other issues seen as priorities for working women, the regulatory responses suggested involve both traditional ER and newer actors, reflecting the overlapping spheres in which work-related gender inequities are apposite.

Importantly, too, informants stressed the mediating effects of wider contextual considerations for the likely utility "on the ground" of regulatory forms for working women in developing Fiji and developed NZ. For example, neo-liberal ideas inform labour market and economic regulation in both countries. However, in NZ, State approaches to the labour market and ER have operated within the realms of democratic governance, and a meritocratic ideology of equal access to work predicated on supply-side interventions is advanced. In Fiji, economic liberalisation combined with military control intensifies the dis-empowerment of labour representation and weakens the effectiveness of other forms of regulation. This can be seen by a recent Decree giving

absolute power to the government and companies deemed “critical corporations”, removing rights of freedom of association and collective bargaining from workers. Thus, whilst progressive collective regulation such as the ERP, pre-*Coup* statutes and Wage Councils exists, its implementation is very difficult as non-adherence and amendments to formal regulation have escalated. The scope for unions, women’s and other civil society groups to counter these developments are handicapped by the anti-collectivism of many recent decrees and “information asymmetry” due to media censorship. The continuing absence of equality policy, and of dialogue with political parties, holds “worrying tell-tale signs for the future” (Prasad *et al.*, 2011: 1). As the ITUC put it, there is a shift away from developing dialogue and engagement toward ‘a command-and-control approach’ driven by productivity concerns but “Fiji’s military rulers are turning the country into an absolute dictatorship ... [They] must turn back from this destructive path and allow Fiji to return to democracy.” (Sharan Burrow, ITUC, 2011).

Indeed, full observance of international standards must be part of future context- and gender-aware strategy in both nations. Shrinking and decentralised prescriptive collective regulation in NZ; non-compliance to hard regulation in Fiji amid environmental turmoil; and the space left by declining collective bargaining in both contexts has not been replaced by adequate social dialogue, fundamental social rights, labour law, and in Fiji, regulatory enforcement. This has fuelled deteriorating circumstances for some working women in NZ and comparatively more in Fiji (though labour market statistics on such are often found wanting). Collective bargaining and union membership are also significant for strengthening the position of disadvantaged groups and highlighting when national regulation falls short of international conventions. More generally, as emphasised by informants, formal regulation that recalibrates employer and union powers in NZ, and aids the cessation of State and employer attacks on union rights in Fiji, is vital to advancing working women’s circumstances.

## Notes

- 1 NZ but not Fiji has ratified the CEDAW optional protocol.
- 2 This formed the basis for the non-discrimination and equal remuneration for male and female provisions in the ERP.
- 3 Prior to the last *Coup*, female CEOs in government and corporate entities numbered less than 10% and the percentage of representation of women in parliament was five per cent.
- 4 Fiji’s regime has stated its intention to ratify all outside human rights treaties within 10 years (State CEDAW Report, 2010) and notes the need to work harder to strengthen its regulatory frameworks, including ratification of international standards.

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## SUMMARY

### Collective Regulation and Working Women in New Zealand and Fiji

In many nations, women's labour market presence is significant though it tends to lag that of men on most indices, including pay and seniority. The ramifications of such are huge for women's experience of employment, their circumstances in other spheres, and thus societal progress. Employment relations (ER) regulation seeks to structure equitable access to and progress within the labour market. However, despite on-going, work-related gender inequities, there is a relative dearth of cross-national (particularly South Pacific), gender-focused analyses. This constrains the development of theory and policy geared towards gender equality in the labour market.

This paper thus compares how recent collective ER regulatory initiatives have been applied in New Zealand (NZ) and Fiji, amid shared and unique national and international conditions. Martin and Bamber's (2004, 2005) ER system model frames an analysis of qualitative survey responses and documentary evidence to more particularly assess the meaning of ER regulation for working women. It emerges that the achievement of gender equality via regulatory instruments has proven elusive, particularly in Fiji. A withering of formal employment regulation and its decentralisation in NZ; weakly implemented regulation in Fiji's politically tumultuous setting; and the space left by a shift away from collective bargaining in both contexts has not been replaced by social dialogue, fundamental social rights, and in Fiji, regulatory enforcement. This has contributed to deteriorating circumstances for some working women in NZ and comparatively more in Fiji. However, informants showed a preference for certain regulatory measures for improving working women's situation, concurring that stronger formal regulation of ER, tripartism and effective enforcement are needed in both nations, and that particular issues for working women require tailored responses.

The paper discusses how ER regulatory measures might be theorised in terms of improving working women's context-bound circumstances in Fiji and NZ, and with regard to the infusion of gender-related and socio-cultural values in wider economic and political approaches. It also examines how regulatory initiatives might operate and impact in a more gender-sensitive way by being re-couched in 'win-win', inter-connected terms for different ER stakeholders. For Fiji, much hope also rests on its return to democratic rule, and for both countries, on strengthened union activity.

KEYWORDS: women, employment, regulation, collectivism, New Zealand, Fiji.

## RÉSUMÉ

### Régulation collective et main-d'œuvre féminine en Nouvelle-Zélande et aux Fidji

Dans plusieurs pays, la présence des femmes sur le marché du travail est significative, bien qu'elle accuse du retard sur celle des hommes au niveau de plusieurs indicateurs, notamment les salaires et l'ancienneté. Les répercussions de cette situation sont immenses sur l'expérience d'emploi des femmes, leur conditions dans d'autres sphères d'activités et, par conséquent, sur le progrès social. La régulation des relations d'emploi (RE) cherche, entre autres choses, à développer des structures pouvant générer plus d'équité dans l'accès et la progression sur le marché du travail. Toutefois, malgré la persistance d'écarts discriminatoires reliés au travail, il y a un manque relatif d'analyses nationales comparatives du genre (particulièrement dans le Pacifique sud). Ce fait freine le développement de théories et de politiques favorisant l'égalité des chances sur le marché du travail.

Aussi, cet article compare comment des initiatives récentes en matière de régulation collective des RE ont été appliquées en Nouvelle-Zélande (NZ) et aux Fidji, où l'on retrouve des conditions nationales et internationales uniques et partagées. Le modèle de système de RE proposé par Martin et Bamber (2004, 2005) constitue un cadre d'analyse de réponses issues d'enquêtes qualitatives et de preuves documentaires permettant d'évaluer, plus particulièrement, la signification de la régulation des RE pour les femmes en emploi. Il en ressort que la réalisation de l'égalité des chances via des instruments de régulation s'avère difficile à cerner, particulièrement aux Fidji. L'effritement de la régulation formelle de l'emploi et sa décentralisation en NZ, la mise en œuvre plutôt timide de la régulation dans le contexte politique tumultueux des Fidji, et le vide créé par l'érosion de la négociation collective dans les deux environnements n'ont pas été remplacés par un nouveau dialogue social, un renforcement des droits sociaux fondamentaux et, en ce qui concerne les Fidji, un renforcement de la régulation. Cela a contribué à une détérioration de la situation des femmes sur le marché du travail en NZ et, de manière plus accentuée, aux Fidji. Par contre, certains informateurs affichent une préférence pour certaines mesures de régulation pouvant améliorer la situation des femmes sur le marché du travail, renforçant l'idée qu'une régulation formelle plus forte des RE, le tripartisme ainsi qu'une réelle mise en œuvre de la réglementation sont nécessaires dans les deux pays et que certaines problèmes plus spécifiques aux femmes en emploi nécessitent des réponses sur mesure.

Cet article discute de la manière dont des mesures de régulation des RE peuvent être théorisées pour améliorer la prise en compte de conditions contextuelles communes aux femmes sur le marché du travail aux Fidji et en NZ, et pour développer des approches politiques et économiques plus larges faisant place aux valeurs socio-culturelles et à celles reliées au genre. Il examine également comment certaines initiatives en matière de régulation des RE peuvent être reformulées dans des termes « gagnant-gagnant » pour les différentes parties prenantes des RE, en

faisant plus de place à la dimension du genre. Pour les Fidji, on fonde beaucoup d'espoir sur un retour à la démocratie et, pour les deux pays, sur le renforcement de l'activité des syndicats.

MOTS CLÉS : femmes, emploi, régulation, collectivisme, Nouvelle-Zélande, Fidji.

## RESUMEN

### Regulación colectiva y mujeres trabajadoras en Nueva Zelanda y Fiji

En muchas naciones, la presencia de las mujeres en el mercado laboral es significativa aunque esta tienda a ser inferior de aquella de los hombres por la mayoría de indicadores, incluyendo el salario y la ancianidad. Las implicaciones de esta situación son enormes para la experiencia de empleo de las mujeres, su situación en otras esferas y, por ende, en su progreso social. La regulación de las relaciones de empleo (RE) parece estructurar un acceso equitativo al mercado laboral y ofrecer la posibilidad de progresar dentro de él. Sin embargo, a pesar de las desigualdades de género presentes en el medio laboral, hay una relativa escasez de análisis de nivel nacional (particularmente en los países del Pacífico Sur) que focalicen los aspectos de género. Esto restringe el desarrollo de teorías y de política encaminadas hacia la igualdad de género en el mercado laboral.

Este artículo compara cómo las iniciativas recientes de regulación colectiva de relaciones de empleo han sido aplicadas en Nueva Zelanda (NZ) y en Fiji, en condiciones nacionales e internacionales únicas y compartidas. El modelo de sistema de ER de Martin y Bamber (2004, 2005) ofrece un marco de análisis de las respuestas a una encuesta cualitativa y permite una prueba documentaria para evaluar de manera más específica el significado de la regulación de las RE de las mujeres trabajadoras. Se hace evidente que lograr la igualdad de género mediante instrumentos reguladores se revela impreciso, sobre todo en Fiji. Un debilitamiento de la regulación formal del empleo y su descentralización en NZ; regulación insuficientemente implementada en el ajuste político tumultuoso de Fiji; y el espacio dejado por un desplazamiento de la convención colectiva en ambos contextos no ha sido remplazado por un diálogo social, ni por derechos sociales fundamentales, y en Fiji, ni por el reforzamiento de la regulación. Esto ha contribuido a deteriorar las condiciones de muchas trabajadoras en NZ y aún más en Fiji. Sin embargo, nuestros informantes muestran una preferencia por ciertas medidas regulatorias para mejorar la situación de las trabajadoras, lo que nos permite constatar que la regulación formal más fuerte de las relaciones de empleo, el tripartismo y el refuerzo efectivo son necesarios en ambas naciones, y que las cuestiones particulares de las mujeres trabajadoras requieren respuestas específicas.

Este artículo discute cómo las medidas de regulación de las relaciones de empleo pueden ser teorizadas en términos de mejoramiento de la situación de las mu-

eres trabajadoras focalizando el contexto específico en Fiji y NZ, y teniendo en cuenta la infusión de valores socioculturales y los valores de género en los enfoques políticos y económicos más amplios. Se examina también cómo las iniciativas reguladoras pueden operar y tener un impacto de manera más sensible a las cuestiones de género para ser reformulado en términos “ganador—ganador”, y de manera interconectada con los diferentes protagonistas de la relaciones de empleo. En Fiji, la esperanza reside en su regreso a las reglas democráticas, y por ambos países, en el refuerzo de la actividad sindical.

**PALABRAS CLAVES:** empleo, regulación, colectivismo, mujeres, Nueva Zelanda, Fiji.