UNDER PRESSURE:

Insecure Work in New Zealand

A Summary Report from the New Zealand Council of Trade Unions Te Kauae Kaimahi

He tangata takahi kaimahi, he wahi māhi puehu

A person who mistreats workers has a turbid workplace

Acknowledgments

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FOREWORD

Workers in New Zealand are under pressure – and much of this pressure comes from insecure work. This is the insecurity of not having definite hours of work, of not knowing if you are an employee or a contracted worker, of having no protection against sudden redundancy, of experiencing the absence of a collective employment agreement protecting your pay and conditions. This insecure work often leaves workers feeling they are not wanted, not valued, not really needed. It is damaging for them, for their families and for our communities.

Insecure work, for most people, means their lives are dominated by work: waiting for it, looking for it, worrying when they don't have it. They often don't have paid holidays – which can mean no holidays at all. They lose out on family time. They often don't have sick leave. They are vulnerable if they try to assert their rights or raise any concerns. They are exposed to dangerous working conditions and have to accept low wages. They can't make commitments – to family time, to sports teams, to church activities, to mortgages, or even to increasing their skills.

In this report, the NZCTU exposes the extent of insecure work in New Zealand. We speak to workers and share their experiences. We discuss the drivers of insecure work, its impact, and the extent to which it has become a feature of the world of work.

Insecure work was widespread over a hundred years ago, before protections were put in place across the developed world to promote greater security and ensure that work benefited both employer and employee. But there is now a concerted trend to turn the clock back, to move once more towards a world of insecure work, one in which the risks in the employment relationship are shifted still further from businesses and more and more on to workers.

We know there is a place for flexibility at work; we recognise that technological developments and different work practices will be introduced, and that they can result in positive changes. But we are saying that workers must have as much security as is possible – and that more steps must be taken to reduce job insecurity and promote secure jobs in the twenty-first century.

Our main recommendations are:

- Stronger legal protections to prevent insecure work
- Improved income support mechanisms for insecure workers
- Support for the Living Wage with greater security of hours
- Government procurement to promote decent work
- Union campaigns and bargaining to support secure work

A more comprehensive version of this report, *Under Pressure: A Detailed Report into Insecure Work in New Zealand,* is available on the NZCTU website.

We also want to hear your views about insecure work. How widespread is it? What are its worst forms? What do you think can be done to promote secure jobs? And how can we ensure more workers' voices are heard on the effects of insecure work?

This issue needs the full attention of a wide range of stakeholders, including unions, employers, and government. These groups will hold different views – but we hope that everyone can see the benefit to the economy and our society of improving the quality of jobs, both now and into the future.

Helen Kelly

Helen Kelly
NZCTU President

WHAT IS INSECURE WORK?

Insecure work is any job that denies workers the stability they need for a good life and reduces their ability to control their own work situation, with damaging consequences for them, their families and their communities. It is work where the variable and changing nature of a job suits the employer but not the worker. It is work where the burden of adjustment falls on the worker, and the inequality of power in the employment or contractual relationship disadvantages the person doing the work.

Insecure work is most often found in casual, seasonal, contracting (including labour hire) and fixed-term types of work. There is no hard or fixed line between secure and insecure work. But a number of things make work more insecure, and where a job has many of those features, or one of them to a great degree, it is more likely to be insecure.

Insecure work is characterised by the following:

- uncertainty over how long the job lasts, as the job can be terminated with little or no notice, or there is no contract for on-going work, or there is a high risk of job loss
- limited worker control or voice over hours of work, tasks, safe work practices, and work arrangements
- low pay and/or fluctuating pay
- no or limited access to benefits such as sick leave and domestic leave
- no or limited opportunities to gain skills
- lack of rights, such as protection against discrimination and unfair dismissal, and a lack of union representation

Insecure work is not about workers who, on the whole, genuinely choose to work variable hours or on contracts, and who:

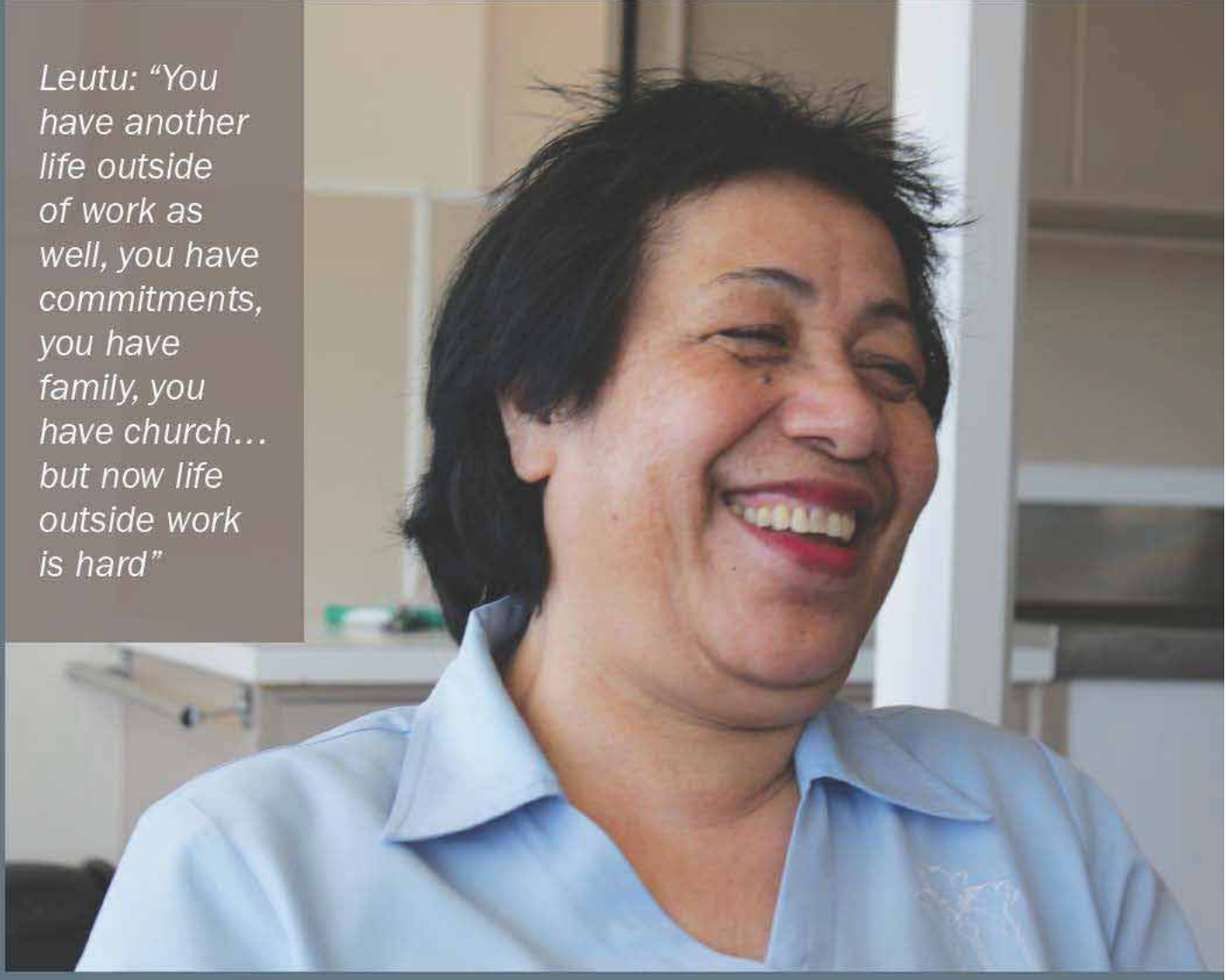
- earn a reasonably high income on a regular basis
- have transferable skills that will allow them to deal relatively easily with redundancy
- have a reasonable expectation of on-going permanent work
- have a significant say and control over any variations in their hours of work

Insecure work is not new. It was a feature of employment over a century ago in New Zealand. Gradually things improved, and protections for workers were introduced, but now jobs are becoming less secure. And for an increasing number of workers, the experience of insecurity is for years and years, not just a short period before a secure job is found. This has led to a renewed focus on the most vulnerable of insecure workers – those now called the 'precariat', workers who lack any of the forms of labour security in their income, employment, skill development or representation. In this report, we mainly use the term 'insecure work' to describe this growing trend, though there are other closely related terms, such as 'precarious work', 'casualisation' and 'non-standard' work.

Some people argue that if we abolish insecure work, we will remove work options for young people, or women, or older workers. We disagree. Jobs can be flexible but also provide a reasonable level of security. This requires strong minimum standards as well as genuinely mutual agreement about how a job will be performed, rather than weak standards and the power resting almost entirely with the employer.

We recognise that we live in a changing world, and that the pace and variety of modern life affects the types of jobs that are offered. We do not oppose that. But we want to stop businesses making work insecure when there is no good reason to do so. And where some insecurity is inevitable, we want to ensure that the flexibility and variety of modern work benefits those doing the work, not just their employer.

Leutu: "You have another life outside of work as well, you have commitments, you have family, you have church… but now life outside work is hard"



Leutu has worked in aged care for 14 years, and enjoys the work. Until recently, she worked regular hours, Monday to Friday, 40 hours a week.

Leutu says, "I love my job, I love looking after people, it's like looking after my own people."

But restructuring has brought big changes. Leutu now only gets 36.5 hours a week, and the days have changed so that she has to work on alternate Saturdays or Sundays each week. To make up the hours to earn the same amount as before, she now has to work six days a week.

Leutu used to spend Saturdays with her grandchildren, and Sundays at church. She has been a very active church member. But things have changed now.

"To me, you have another life outside of work as well, you have commitments, you have family, you have church … but now life outside work is hard."

Leutu is trying to restore some regularity to her work schedule, so that she can fit in going to church. "I told them I will not work on Sundays". She now just sees her grandchildren at church rather than on Saturdays as well.

"The change in hours is not really good. But what can you do? You have to adjust your life to the work. Because it's income, you depend on it for things that you need, not even the things you want."

Set hours and normal days would make a big difference to Leutu's life – as would a decent pay rate, of course.

With the new hours, Leutu says, "for the money, it's very hard. I have 14 grandkids and two great-grandchildren, and a mortgage. Power is going up, food is going up. It's like you're working hard for the same money you had before – the cut to 36 hours makes a big, big difference. I've lost hours but now there's an extra day I have to come into work."

Leutu says the new arrangement gives her employer unfair powers to change her hours, and has a big impact on the rest of her life.

"It's like they hold everything against you. Where is the human right? It's like they can drag you wherever they want to.

"I am not young. I'm getting old, and need my rest as well. But what can you do?"

WHAT'S DRIVING INSECURE WORK?

Various factors are driving insecure work, including globalisation, which – through the freeing up of trade and the creation of global supply chains – has forced a greater global division of labour and reduced wages and conditions in many countries. There have been structural changes to the economy, with employment shifting towards the service sector. New technologies have changed how and when work is performed. Customer demands have changed. There have also been significant changes in the way people are employed, with an increase in the number of workers in 'non-standard' or 'atypical' forms of employment.

Underlying all this is a 'just-in-time' approach to staff hiring (and firing). In addition, there have been changes in the distribution of working hours, with full-time jobs increasingly associated with longer hours and part-time jobs associated with irregular and unsocial hours of work. There has also been a dramatic increase in insecure income – the volatility of working income for individual employees.

This trend has been made worse by employers opting for the 'low road' of driving down costs (including wages), rather than investing in workers and good employment relations, and by governments that deliberately undermine the bargaining strength of workers. And while some of the changes in work, especially those associated with technology, have clearly been necessary or inevitable, many employers have also used them as an excuse to go further with unnecessary changes that have advantaged businesses at the expense of the workers.

Mike and Kevin, Meatworkers

Kevin and Mike have worked at the meatworks for 40 and 20 years respectively. They are third-generation freezing workers, and have seen many changes.

The meat industry is hard on its workers. They don't know from day to day how many hours they will be working, and because it's seasonal work, they don't know from year to year how many months work they will have.

Mike worked 24 hours last week, and 30 this week. "We get rung on Friday and told if we're working on Monday or not."

Kevin describes his usual day: "We go to work, and if we're there all day, you're there all day. You really can't plan for anything."

Typically, the off season is 8–16 weeks a year, and there will be one weeks' notice of the end of the season and two or three days' notice of the 'call back'.

But Mike says there are also lay-offs throughout the season. "Half the workforce was laid off last week. They might get the call up again before Christmas. Nobody knows."

Pay at the works used to be good, and with careful planning, the off season was survivable. But now, Mike says, "Sometimes you can pick up some off season work – but once they hear you're at the works, they know you'll go back, so it's hard to pick up work."

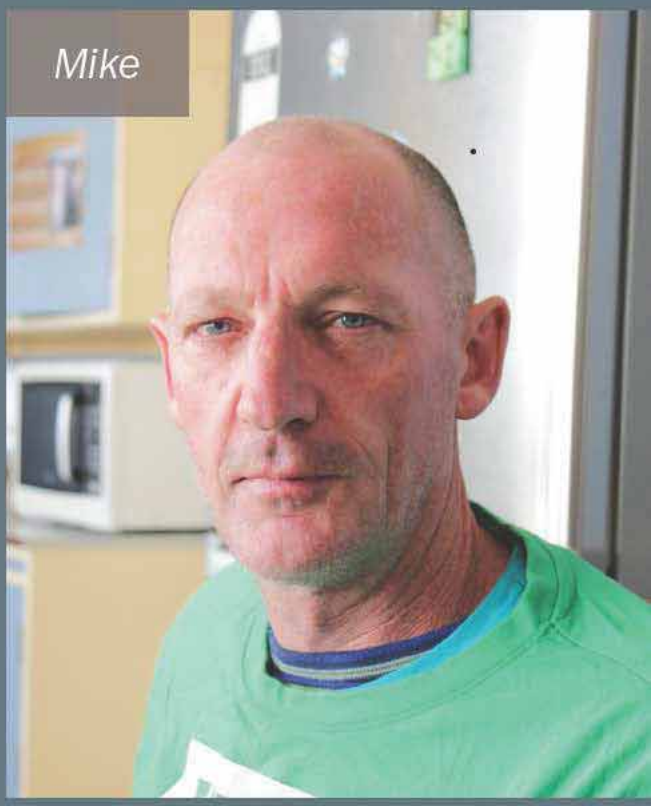
The allocation of jobs is meant to work on seniority – where, all things being equal, it's first on, last off. Seniority clauses have been hard won over several collective agreements, to create some security out of the seasonal nature of the job. But they're not always observed. Kevin has recently had to fight for his right to be at work after being laid off, despite his high rank on seniority.

He describes himself as a prime example of work insecurity, saying, "There's no loyalty from companies anymore. It used to be an enjoyable place to work. But now you get up and think, 'Aw God, what's today going to bring?'"

Mike talks about what it's like in the off season: "Everyone's just hanging on a rope out there till they get the call. That's when you're at your most vulnerable – when we're laid off. They try and get you to buy your job back with increasing the kill numbers on the cards as part of the contract to get back for the next season. That just means you have to work faster for the same pay."

Kevin says: "You never know when you're going to get the call back. You can't go on holiday."

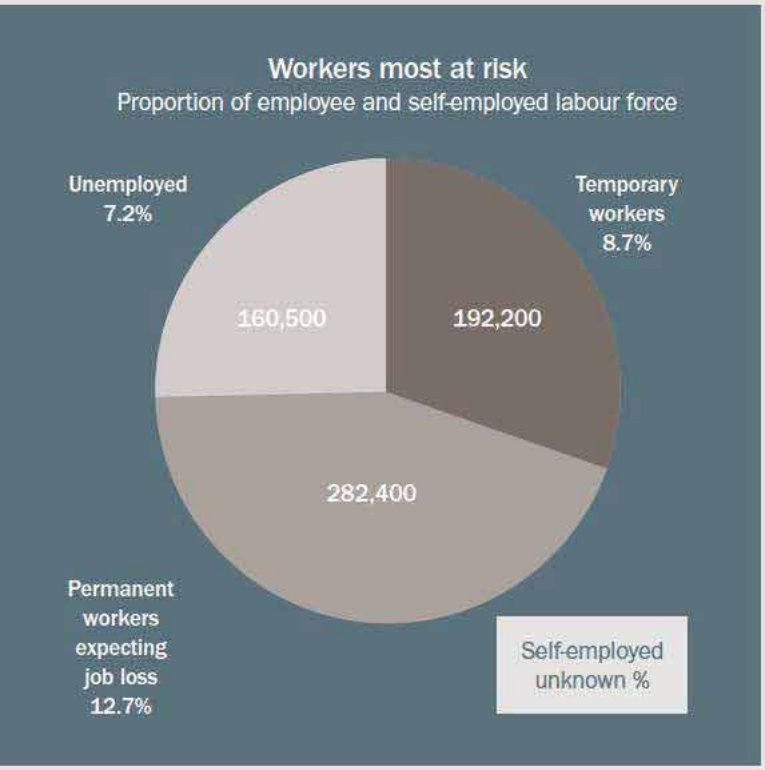
And as Mike says, "Everyone in this community relies on a meatworker – the dairy owner, the publican, families. You notice it when we're laid off."



INSECURE WORK IN NEW ZEALAND: HOW WIDESPREAD IS IT?

From current figures, we know that at least 30% of New Zealand's workers – over 635,000 people – are in insecure work. Though much better information is desperately needed, it would be surprising if the total amounted to less than 40% of the workforce, and it may well cover 50% or more.

From Statistics New Zealand's Survey of Working Life for December 2012 and other sources we know the following facts. At least 635,000 workers – mainly wage and salary earners – were in insecure work at that time. They were in various forms of temporary employment (192,200 workers), which includes casual work, fixed-term, temp agency, or seasonal work; in permanent work where there was a medium to high chance of job loss in the next year (282,400, some of whom would have been on a 90-day trial); or unemployed (160,500 according to the Household Labour Force Survey). These workers made up 28.6% of the 2,221,900 employees and self-employed people in the labour force in 2012. But this figure takes no account of the most at-risk self-employed workers, such as dependent contractors, because no data is available for them. So it is fair to estimate that at least 30% of our workforce are insecure workers who are most at risk.



For many workers, insecurity takes the form of hours of work being uncertain or the hours being able to be changed at will by the employer. At the end of 2012, there were 94,700 workers (66,400 of them permanent) who had "no usual working time" and 118,400 workers (permanent and temporary) who had less than two weeks' notice of their work schedule. More broadly, we do not know how many employees experienced the insecurity of low levels of control over their employment processes and working arrangements, though we know from daily experience and from recent inquiries into workplace health and safety that this is common in New Zealand workplaces. Neither do we know the numbers whose work arrangements can be changed at will by their employer. We do know that 60,700 employees had no written employment agreement in 2012.

Then there are people experiencing the insecurity of unsafe or unhealthy workplaces, the unacceptable extent of which has been documented in recent official inquiries. The Independent Taskforce on Workplace Health and Safety estimated that "each year, around 1 in 10 workers is harmed, with about 200,000 claims being made by people to ACC for costs associated with work-related injuries and illnesses". We also know that 608,400 people sometimes, often or always had physical problems or pain because of work in 2012; that 226,900 had experienced discrimination, harassment or bullying; and that 572,300 worked in one of the five high-priority sectors for addressing workplace health and safety problems (agriculture, forestry, fishing, construction, and manufacturing) or worked in mining.

Low pay also contributes to job insecurity. Two out of five children living in poverty are in households where at least one adult is in full-time employment or self-employed. The Ministry of Business, Innovation and Employment estimates that 84,800 workers are on the minimum wage and that there are 573,100 workers on less than the Living Wage of $18.40 an hour.

Inability to access what should be 'standard' non-wage employment benefits such as sick leave, domestic leave, bereavement leave and parental leave is another aspect of job insecurity. Again, there is little data on this, because the situation often reflects practical conditions of employment rather than the letter of the law. Temporary workers who frequently change jobs may find themselves almost permanently without paid leave entitlements because they never build up sufficient time in a single job to be eligible for them, or receive only pay in place of leave they are never actually able to take. Workers are also exposed to longer term insecurity if they have limited or no opportunity to gain and retain skills through access to education and training. Again, this is difficult to quantify.

Unions and collective bargaining can provide a degree of protection against insecurity. But in many New Zealand workplaces, union representation is non-existent or low and is discouraged by the employer. According to the Survey of Working Life, 1,319,000 employees (71.5%) say they are not union members (a smaller number than official union registration statistics suggest).

Collective bargaining rates are low: 1,100,000 employees (59.7%) are on individual employment agreements, another 302,100 aren't aware of any agreement or don't know if they are on one, and an estimated 1,231,000 (66.8%) work in businesses which have less than 10% coverage by collective employment agreements that de facto provide a base of conditions for workers on individual agreements in those firms.

The Australian Independent Inquiry into Insecure Work in Australia found that 40% of Australian workers are in insecure work. The proportion in New Zealand is unlikely to be lower, and may well be 50% or more.

Nayte: "I can't calculate how much I'm going to get paid. I can't plan for anything that takes money or time"

Nayte is a cinema attendant. At Nayte's work, the allocation of shifts is not evenly spread throughout the staff, and the workers feel that the allocation of shifts is used as a way of disciplining people.

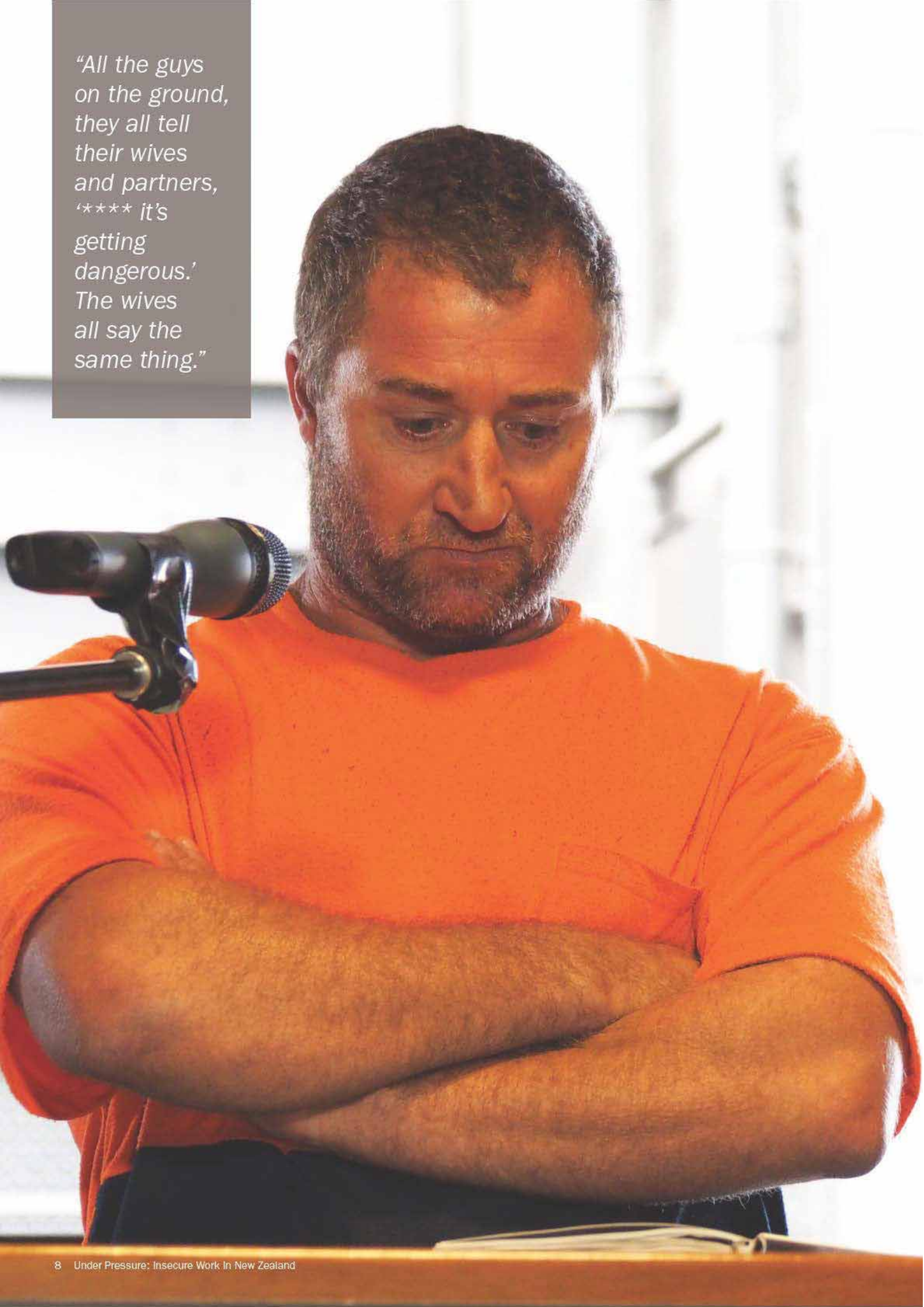
"Some people do get regular hours, but everyone knows that if you call in sick too often or get off side with the manager, they will slowly cut your shifts. They silently fire you."

Angela: "I love the job; I just don't like how it's being run"

Angela is employed as a housekeeper in a hotel. She is a casual worker, on-call on a seven-day roster.

But from past experience, she knows that fairer organisation of the work can help take away some of the insecurity for workers. "I have worked in other hotels as a housekeeper – it doesn't have to be like this. They can organise, things can run smoothly, and then we wouldn't have to be so on-call."

Angela says: "You want to take your skill and your time, and take it to a place where they appreciate you. Not to somewhere they will just use you. I've never worked like this before. It shouldn't be like this."



*"All the guys on the ground, they all tell their wives and partners, '**** it's getting dangerous.' The wives all say the same thing."*

Chris: Forestry – an industry under pressure

Chris has worked in forests all his life. He fells the trees and pulls them out of the forest. He has been a contractor, and now is a waged worker running crews of people in the forests cutting trees. Chris has every 'ticket' available for the industry, and has recently completed the CTU's health and safety representative training.

Chris describes the industry as one that's under constant pressure. "All the guys on the ground, they all tell their wives and partners, '**** it's getting dangerous.' The wives all say the same thing."

Chris works Monday to Friday, nine-hour days. He says this is a choice he's made, so that he can spend time with his family. Plenty of other men out there either don't or can't make that same choice, and work much longer hours and six-day weeks. Chris describes it as an insecure industry because of the contracting nature of much of the work.

"There are inexperienced new guys out there who succumb to the pressure and work the long hours. They are constantly under pressure – its top down – from the forest owner, who negotiates a contract with a contractor, who takes that pressure and transfers it to the workers. There are more trees, more production, and fewer guys cutting."

"It's pressure, pressure, pressure. If you feel like something's unsafe, or should change, you get told the same thing over and over – 'We'll sort it out,' or, 'We'll look into it.' It's not good enough. When grown men, men in their 30s and 40s, are saying this, you know it's bad."

Forestry is a dangerous industry. Chris thinks the amount of contract work and the level of deregulation are partly to blame. Since 2008, there have been 28 fatalities in the forestry industry, and nearly 900 accidents causing serious harm.

"There are no regulations about wind, or rain. There are no clear rules around breaks. I get up at 5.20am, and our first break is at lunch time. I don't eat breakfast and neither do a lot of the guys. It's dangerous and it's gotten worse since they changed the two-break day down to just one at lunch time. Because of the contracts, it's all about the time and the money and how many trees we can cut. Not about safety."

These dangerous practices are having a huge impact on communities around the country.

"We all fish, hunt and golf together. We all know each other and each other's families. When one goes down, the impact ripples through the whole community."

"Too often I come home thinking, 'Jeepers, that was lucky.' Coming home is the key thing; there are too many widows and kids without dads."

WHO IS AFFECTED?

The loss of job security is now affecting more and more people. Insecure work is spreading across sectors. The fast food sector has long been characterised by its casualised workforce, but fixed-term agreements are now very common in the education sector. They are also more common in government departments, where once they were relatively rare. In the retail sector, more and more workers are on part-time hours, with additional hours allocated on a casual basis. New forms of insecure work are appearing, including zero hours contracts, in which workers have to be available for work but are not guaranteed any set number of hours.

Across all kinds of insecure work, some groups of workers are more frequently affected than others – in particular, low paid women workers, young workers, Māori and Pacific workers, migrants and people with disabilities.

- Women are more prone to being in insecure work, given that more of them are in part-time, temporary, casual and low-paid work
- Young people are exposed to many forms of insecure work, and children in employment are particularly at risk, as they lack a statutory minimum wage
- Māori and Pacific workers are disproportionately represented in temporary work and in some primary and service industries. There are high numbers of Māori and Pacific workers in seasonal work
- Migrants are particularly vulnerable to insecure work and exploitative work practices
- Sole parents and people with disabilities and mental health conditions are being pressured into insecure employment because of recent welfare and benefit reforms.

Moli: "Every day is a struggle to provide anything for my children"

Moli struggles to make ends meet every day. Her family's whole life is insecure because of her low pay. Moli is raising her children on a cleaner's wage. For the last year she has been on $13.85 an hour, but she was recently promoted to supervisor and earns $14.50. She says this is not enough to support her four children, aged from 4 years to 17.

"I work full time but I am broke," she says. "Every day is a struggle to provide anything for my children."

Moli says the family can only afford to eat vegetables once a week, on pay day. "Otherwise all I can afford is bread and noodles, and I have to ration how much I give my growing children."

The family sleeps together in the lounge at night – the only time she uses the heat pump.

"It is heart-breaking when your child tells you they are sick or hungry or cold but you can't do anything about it," she says.

WHAT DAMAGE DOES INSECURE WORK DO?

Insecure work has many costs for workers, families, workplaces and communities. The direct costs for workers include job uncertainty, low and variable earnings, lack of adequate sick leave and annual leave (or indeed no leave entitlements), increased health and safety risks, and a lack of training and career development opportunities. But insecure work also imposes significant costs and burdens on society as a whole.

CAREER OPTIONS

Accepting a low-quality job does not necessarily improve a worker's chances of getting into better quality employment. Extended periods in insecure or temporary work can close doors to better employment and can severely limit future employment opportunities. Workers in those jobs often have no chance to acquire the skills that would allow them to move into better paid work, and the nature of the job can damage their health and thus their long-term job prospects. In this way, insecure work can trap people in a downward cycle of low-paid, poor-quality work that embeds social and economic disadvantage.

LOWER PAY AND OTHER PROBLEMS

Temporary employees earn less than their permanent counterparts, through working fewer hours but also through receiving lower rates of pay. This is true across the insecure workforce. A low income forces breadwinners to take on jobs that are undesirable for many reasons, such as being short term, having long or unsociable hours, being dangerous, damaging family relationships, having few career prospects, or creating a cycle of continuing and deepening insecurity.

Workers in such circumstances are also less able to refuse unreasonable demands from their employer; and without union representation, they are in a weak position to insist on their rights and negotiate for more secure working conditions. If the level of income is insufficient to maintain the wellbeing of workers and their dependents, it can damage not just their health but also their relationships and their children's development. Conversely, with higher incomes, workers have greater ability to 'ride out' a loss of income caused by job loss or reduced hours of work, or walk away from a job if it is unsatisfactory.

Caitlin: A jobs shortage forces graduate teachers into insecure work

Even with training, it is hard to find secure work, says Caitlin, a new graduate teacher. "I'm a bit annoyed – so many of us expected to get jobs. You don't expect to finish a degree and have a huge student loan and not get a job. It's not even easy to get relief work because schools already have their relievers. I'm so sick of hearing, 'Sorry we're looking for someone with a bit more experience.'" As a result, Caitlin has been doing relief work at an early childhood education centre: "It's all about survival at the moment."

Bank worker: "I knew that they were forcing me out"

One former bank worker says, "Working at the branch was like being a cat on a hot tin roof. I knew that they were forcing me out.

"Lunch and tea breaks were being monitored. The pressure was on to meet targets. Any small mistake, I knew I'd be in for it at the weekly meeting with the manager."

John: "I don't get a chance to socialise with people who get weekends off. It can be very disruptive"

John is a meat assistant in the butchery at a supermarket chain. It was a big change coming to retail, from a previous career in the human services sector. Low pay and unsociable hours have taken a toll on his personal and social life.

LESS TRAINING

Temporary workers are less likely than permanent employees to have received training, as employers view the training of casual and temporary workers as less important than for permanent workers. This deprives insecure workers of valuable opportunities to develop their transferable skills leading to greater employability.

POORER HEALTH AND WELL-BEING

The Commission on the Social Determinants of Health, established by the World Health Organisation to look at social factors leading to ill-health reported on evidence that temporary workers have higher death rates, poorer mental health outcomes and worse physical health. Insecure work is a major factor contributing to health inequalities, including mental illness and heart disease.

Perceived work insecurity is a significant predictor of health problems, and people who report persistent job insecurity have significantly worse health and mental health symptoms, including depression, than those who have never perceived their jobs to be at risk.

LACK OF CONTROL

Workers in insecure employment have less control over their work hours and are more likely to have irregular and uncertain hours. Insecure employment with uncertain hours has major impacts on family life and social relations. People who work outside the Monday to Friday daylight hours have reduced social interaction with friends and family in their leisure time and it is harder for them to plan attendance at recreational events, attend religious events, or spend time with their family. Insecurity can strain family relationships and result in less time for relations, friends and community.

REDUCED KNOWLEDGE OF RIGHTS

Workers in insecure employment tend to know less about their working conditions and rights. A major effect of the growth in insecure work is reduced unionisation and reduced awareness of working entitlements. Workers in insecure work are often susceptible to their hours or shifts being used as disciplinary tools against them. The case studies in this document have shown that when there are no guaranteed hours or protections of secure work, workers are often fearful that they may lose hours or even lose their job if they stand up for their rights. Unreasonable performance targets can also add to job insecurity.

THE COSTS TO SOCIETY

Insecure work impacts on individuals and families – but also on communities. Society pays for insecure work through increased child poverty, reduced participation from people in their communities, greater levels of debt, and poorer health and educational outcomes because of family instability and stress.

HEALTH AND SAFETY

Employees in casual and insecure work are at greater risk of workplace injury than those who are employed in permanent positions. The reasons for this include the greater likelihood of the worker being unfamiliar with the requirements of the job, uncertain responsibilities for health and safety, lack of knowledge of employment rights, more acceptance of risk, fear of repercussion if sick leave is taken, fatigue and exhaustion, and work-life balance being seriously compromised by shift work, irregular hours and on-going, unrelieved stress.

Peniata: "I need to help mum, to help out running our family"

Low pay and insecurity impact in many ways on families. Peniata is 17 years old and in his final year at college. He gets paid just over $14 an hour and works up to 20 hours a week, cleaning from Monday to Friday with his mother Emma, who works 35 hours a week on the same rate. He does his homework when he gets home at 10pm and gets up early the next day to go to school. Peniata says he has no choice about working long hours, because he has to help his mother look after the family –and still they struggle to get by.

René: "You're tied to the phone. You can't plan anything"

René and his family lived in Christchurch, where René worked at the Port of Lyttleton for 11 years. He has a lot of experience and the 'tickets' for most jobs on a wharf. After the earthquake, they moved up to Auckland.

René tried to get a transfer to Ports of Auckland at the level of his current job, but had to start again as a casual, or 'P24', meaning he has only three shifts guaranteed. René is on call for extra shifts, which he is always keen to pick up, to top up the family income. He often works 'splits' – eight hours on, eight hours off.

"You get used to it, but it's hard. It means you don't have time for anything. Kids, family, house – everything is on the run."

P24s are usually kept for the weekends. René can almost guarantee a Sunday shift, but he never knows. René gets a text at 11am to confirm work the following night. And for a day shift, he'll get a text at 2pm to work the next day.

"Pretty much you're tied to the phone. You can't plan anything."

René says life in Auckland is expensive, so he takes whatever work he's offered. "I've got two kids; my wife is also a casual so some weeks has work, others she doesn't. I have to make myself available for everything or else you can't afford to live.

"When you're available for everything, you'll even get a call at 2.45 to start at 3. I drop everything, call the wife and ask her to get the kids because I can't, and jump in the car. You've got to be able to change everything all the time."

To make up for the varied hours, René often has to 'top up' his weekly pay by taking annual leave days to ensure he gets paid.

"I've finished all my leave for last year, and next year. I can't take a holiday."

Life on a P24 contract is hard, René says. "You get used to it, but it's very frustrating. You can't say no.

"I have to tell the kids, 'Sorry, I can't do this today.' It's frustrating. It's because of the money, because of the way they employ people. It's a hard place to be.

"I think they should get rid of these casual contracts."

Hinemoana: "I don't ever foresee being able to buy a house. I don't have a savings plan or a retirement plan"

Hinemoana works at a polytechnic. It is a job she has had since 2006 – but in a string of semester-long employment agreements. She has no security of work from one semester to the next, despite having been employed continuously for seven years.

THE LEGAL CONTEXT

The law defines several categories of (potentially) insecure work and sets out many of the rights and obligations. For example, the law defines who is an employee, sets out individual and collective bargaining rights and process, permits various types of contracts (such as fixed-term agreements) and establishes other rights, such as appeal against unfair dismissal, for certain categories of workers.

According to the OECD, New Zealand's employment protection laws are relatively weak. New Zealand has the fourth lowest level of protective regulation in the OECD relating to temporary contracts (including the lowest level of regulation on temporary agency work). As the OECD notes, protections for workers in New Zealand are getting weaker: the removal of the right of appeal against unjustified dismissal in the first 90 days of employment is an example of how a law change can make workers less secure. There are many legal measures that can be implemented to ensure that workers are more secure.

The International Labour Organisation also has numerous conventions that affect the extent of secure work. As a priority, New Zealand should urgently ratify key ILO conventions relating to employment agencies, termination of employment and the minimum age.

The table below summarises the differences in the key legal rights and protections available to different categories of worker. For more on the different categories, see *Under Pressure: A detailed report into insecure work in New Zealand*, available on the NZCTU website.

Cordelia: "If it's a choice, you would choose something somewhat regular"

Flexibility is also about power: "It's nice when you've got the choice, but if you're feeling like your employer has all the flexibility, then that's no kind of a deal at all." Cordelia has been working through temping agencies for most of her working career, and now is glad to have a permanent job.

SUMMARY CHART: LEGAL PROTECTION FOR INSECURE WORKERS

Permanent employment

- Subject to unfair dismissal / disadvantage law
- Good faith requirements
- Eligibility for annual leave, sick leave, public holiday pay, parental leave

Fixed term employment

Same as permanent employment except:

- Not subject to unfair dismissal rules if end of employment due to expiry of valid fixed term
- May not qualify for some service-based leave entitlements (such as sick leave) depending on length of engagement

Casual employment

Same as permanent employment except:

- No guaranteed hours (and therefore no protection against unfair dismissal)
- No good faith requirements between periods of work
- Unlikely to qualify for service-based entitlements (redundancy, sick leave, long service leave)

Contract for services

- No protection against unfair dismissal or disadvantage
- No good faith
- Common law and contract law protection only
- No minimum statutory entitlements (such as minimum wage and paid leave)
- No access to low-cost, expert employment institutions (mediation, Employment Relations Authority, Employment Court)

SPECIAL CATEGORIES

Children and young persons

- Under 16 year-olds no minimum wage payable;
- 16-19 year-olds may be subject to starting-out wage (80% of adult minimum wage);
- But some restrictions on type of work done.

Subcontracted or agency work

Same as fixed term employment except:

- Triangular (principal, contractor, employee) employment relationship may limit ability to collectively bargain or take personal grievance action against the 'host' employer.

Trial periods

Same as permanent employment except:

- Not subject to unfair dismissal rules if dismissed during valid trial period (maximum of 90 days)

'Zero hours' employment

Hybrid of casual and permanent employment:

- No guaranteed hours (and therefore no protection against unfair dismissal)
- Continuing employment relationship may grant access to service-based entitlements

Stephanie: "It's not really enough to live on, and it creates ill-feeling"

Stephanie is a tutor at a polytechnic teaching English to migrants and refugees. As she knows very well, when jobs are threatened, insecure workers are the first to go – and she would be no exception. "Even though my job was 'permanent part-time', I was aware when it comes to job losses that there are the casuals, and then next in line is the permanent part-time positions."

She started in 2001 in a fixed-term position with variable hours. Each year she got a letter saying, as she puts it, "Thank you, goodbye," then a new fixed -term agreement the following year.

After five years of these revolving agreements, the polytechnic created a new type of job, which it called 'permanent part-time'. The polytechnic offered six or seven of these positions. But when Stephanie got one of them, she quickly learnt it was only one step up from the casual positions she had previously held.

Unlike truly permanent tutors, Stephanie and her newly 'permanent part-time' colleagues were paid hourly and limited to teaching 412 hours a year. There were minimal sick leave and professional development provisions, and no opportunities to advance to senior tutor positions. Because Stephanie was paid hourly, once the academic year finished she had a space of eight to ten weeks, during December to February, when there was no teaching and thus no pay.

"Luckily I have partner who is working full-time, but there were single mothers who found it really hard. They had to plan to get through that summer period. Some of us talked about the dole, but with the stand-down period, it wasn't really worth it."

Stephanie and her 'permanent part-time' colleagues did exactly the same work as their truly permanent colleagues on salaries, including course and assessment design. Over time the expectation grew that they would attend staff meetings, put in extra hours to relieve for tutors who were away, and step into positions of responsibility on a temporary basis, all within their allotted 412 hours per year.

A little more than a decade after she first started working for the polytechnic, Stephanie now has the job security of a permanent position. However, she still has a several colleagues in 'permanent part-time' jobs, working on an hourly rate while others around them get a salary.

"It's not really enough to live on, and it creates ill-feeling," she says.

WHAT CAN BE DONE?

Addressing insecure work involves a combination of measures. These range across employment law, expanding the minimum code, institutional arrangements, regulation and best practice, and the role of unions.

Of course we are not suggesting that we simply 'turn back the clock to the 1950s', as much has changed since then in terms of the nature of work, the composition of the workforce, and many other factors. There are some desirable elements of flexibility we want to keep where it is mutually agreed on a genuine basis. It is the insecurity we want to reduce.

We have a detailed set of recommendations in *Under Pressure: A Detailed Report into Insecure Work in New Zealand*.

Our main recommendations are that New Zealand should:

- Establish greater legal protections to prevent insecure work
- Improve income support mechanisms for insecure workers
- Support the Living Wage with greater security of hours
- Reform government procurement to promote decent work
- Strengthen union campaigns and bargaining to support secure work

LEGAL PROTECTIONS

Legal changes should aim to eliminate insecure work, or where that is not possible, to minimise it.

Workers covered by collective agreements have more protection, so we advocate for an extension model for collective bargaining that would provide greater protection and coverage for more workers. This would mean that industry standard agreements would provide a basic floor of protections for workers throughout an industry.

Some workers are treated as contractors when in reality they are employees, so we want to see more rights for contracted workers to seek a determination that they are employees. We also want to see a repeal of the 'Hobbit Law', a piece of legislation that effectively removes from all film industry workers the right to argue that they are in fact workers, not contractors.

Irregular hours of work are a real problem. We say there should be a right for workers to apply to a labour inspector for a determination that their incidence of hours worked constitutes regular hours of work and therefore they are not a casual employee. There also should be protection against zero-hours contracts, extremely long hours and other highly irregular hours of work.

The minimum code, which includes the minimum wage and holiday and sick leave entitlements, is an important protection for all workers. New Zealand should apply the minimum code to work such as dependant contracting if the contractor is effectively tied to one enterprise.

It is proven that insecure work and high health and safety risks coincide. Casual and temporary workers, contractors and other insecure workers are less likely to be aware of hazards or be trained in health and safety. It is harder to have good communication and a high standard of health and safety when there is such a lack of coordination and there are many different agencies operating.

Some workers are understandably reluctant to speak up about health and safety concerns. In addition, a worker on a 90-day trial period can effectively be dismissed with no reason required and no right of appeal if she or he raises a concern about health and safety.

We want the repeal of the employment law provision that allows employers to employ a worker for the first 90 days with no right of appeal against unfair dismissal. We also want to ensure that all workers are entitled to meal and refreshment breaks. And if work is to be more secure, there needs to be more regulation and restrictions on the use of labour hire agencies.

Some categories of workers are relatively disadvantaged in the workforce. The implementation of equal pay for work of equal value, as provided for in the Equal Pay Act 1972, would reduce the gender pay gap, and provide greater income security and fair valuation of their labour for women working in female-dominated occupations. There should be enhanced protection for migrant workers.

INCOME SUPPORT

A universal basic income ensures that all people have a minimum income. This would be a significant and complex measure to implement, but should be investigated. The welfare system also needs reforms that would support insecure workers to earn income from paid work but also receive a benefit to cover periods when they are not in paid work. This could involve greater flexibility to combine benefit and paid work income (such as increasing the amount a person can earn before a benefit abates). The system could, for example, allow beneficiaries to earn a higher weekly amount, but with a maximum in any one tax year.

LIVING WAGE

The Living Wage is the income necessary to provide workers and their families with the basic requirements of life, enable them to live with dignity, and allow them to participate as active citizens in New Zealand society. It is commonly expressed as an hourly rate, but in fact the calculation is based on a weekly income requirement, and that cannot be achieved if hours are few and/or irregular. New Zealand should promote a Living Wage in the context of ensuring workers and their families have an adequate weekly income. There should also be a reduction in the thresholds for working hours (e.g. 20 hours) for child tax credits under the Working for Families programme, to take into account the situation faced by workers with intermittent and irregular hours of work.

GOVERNMENT PROCUREMENT

Government procurement takes into account many factors such as value for money, whole-of-life costs, and quality of service. But the government can also ensure that other policy objectives – such as supporting apprenticeships, sustainability, high health and safety standards, and support for local content – can be achieved. Responsible contractor policies can be applied to issues such as the extent to which casual labour is permitted in the performance of contracts. Government procurement should promote decent work, including training opportunities and equal employment opportunities.

UNION CAMPAIGNS AND BARGAINING

Unions need to be at the forefront of the campaign for secure work. This goes beyond collective bargaining, testing the current law and promoting changes to legislation. Unions also need to ensure that they are organisations that promote the involvement of insecure workers and champion their rights.

Unions should promote ‘Together’, a union that is open to those not covered by another union. It links workers up on common issues and promotes new models of unionism that break down perceived barriers including those between ‘permanent’ and ‘casual’ workers. It aims to emulate Australian union campaigns based on the idea that ‘every worker counts’ and that are people are entitled to ‘jobs you can count on’. These campaigns argue for the right to be treated equally in all matters of employment: regardless of whether someone is employed directly or through a labour hire agency, workers have the right to collectively organise and be unified, and should show loyalty to other workers, whether they are deemed ‘casual’ or ‘permanent’. Unions also need to promote community campaigning to break down the barriers between work and community and to promote unions as social justice organisations.

Unions should continue to seek protections in collective employment agreements, such as restrictions on the number or proportion of casual workers, a casual pay loading, provisions for accumulation of leave by casual workers, and protections around the use of fixed-term agreements to provide for more opportunities for permanent employment.

Unions should push to reform industry training funding to take account of the needs of insecure workers, ensuring that such workers are included in apprenticeship opportunities. This may require more group apprenticeships and greater flexibility across different modes of learning so that training can be continued on and off the job.

INSECURE WORK: A SNAPSHOT

Insecure work affects at least 30% of New Zealand's workforce – over 635,000 people – and probably far more than that.

Insecure work is most often found in casual, zero-hours, seasonal, contracting (including labour hire) and fixed-term types of work.

Insecure work includes uncertainty over how long the job lasts; fluctuating hours; low and/or variable pay; limited access to benefits such as sick leave and domestic leave; limited opportunities to gain skills; and a lack of rights and union representation.

Insecure work is not about high-paid contractors and other people who want to be working flexibly.

Insecure work imposes real and severe costs on workers, their families and our communities. It damages income, health, family time and people's long-term prospects.

Insecure work particularly affects Māori and Pacific workers, women, children and young people, migrants, and people with disabilities.

We can fight it with greater legal protections, better income support mechanisms, a Living Wage with greater security of hours, government procurement that promotes secure work, and stronger union campaigns and bargaining.

For a comprehensive version of this report, Under Pressure: A detailed report into insecure work in New Zealand, please see www.union.org.nz/underpressure. This includes much more detailed analysis and discussion on what insecure work is, how it has come about, its prevalence and effects, the legal issues and an extensive list of recommendations.

NEW ZEALAND COUNCIL OF TRADE UNIONS

Te Kauae Kaimahi