



# PSA Submission

## Employment, labour markets and income

Technological change and the future of work

February 2020

## About the PSA

The New Zealand Public Service Association Te Pūkenga Here Tikanga Mahi (the PSA) is the largest trade union in New Zealand with over 75,000 members. We are a democratic and bicultural organisation representing members in the public service, the wider state sector (the district health boards, crown research institutes and other crown entities), state owned enterprises, local government, tertiary education institutions and non-governmental organisations working in the health, social services and community sectors. Te Rūnanga o Ngā Toa Āwhina is the Māori arm of the PSA.

The PSA has been advocating for strong, innovative and effective public and community services since our establishment in 1913. People join the PSA to negotiate their terms of employment collectively, to have a voice within their workplace and to have an independent public voice on the quality of public and community services and how they're delivered.

PSA member networks, Te Rūnanga and sector committees have been invited to comment on the Amendment Bill and their views are appended. The PSA has also repeated illustrative comments in the body of this submission.

The PSA is an affiliate of the New Zealand Council of Trade Unions Te Kauae Kaimahi (CTU) and supports the submission of the CTU on the draft reports.

## The Inquiry

The PSA understands that the Productivity Commission's inquiry explores the impacts of new and changing technology on the quantity and nature of work. It aims to answer two main questions:

- What are the current and likely future impacts of technological change and disruption on the future of work, the workforce, labour markets, productivity and wellbeing?
- How can the Government better position New Zealand and New Zealanders to take advantage of innovation and technological change in terms of productivity, labour-market participation and the nature of work?

This report on 'Employment, labour markets and income' on which the PSA will focus in its submission examines:

- The conditions necessary for a dynamic labour market (Chapter 1);
- The gig economy and employment relationships (Chapter 2);
- Income support for displaced workers (Chapter 3);
- Labour-market programmes – government programmes designed and targeted to help people find or sustain employment (Chapter 4); and
- Re-orienting labour-market policies for increased technology adoption (Chapter 5).

The PSA welcomes a focus on employment, labour markets and income as part of the inquiry into technological change and its impacts on the future of work. We would like to add to your analysis by:

1. Proposing a definition of good work based on the concept of **decent work**, which includes the respect for fundamental rights at work
2. Explaining the **importance of participation** to reap the benefits of technological change for meaningful and productive work

## How to shape work into the future

The PSA believes in and works towards a human-centred approach to work. This means putting human beings at the centre of the design, organisation, conditions and outcomes of work. Work must be designed and organised to serve people. Conditions must be conducive to people's well-being and productivity. Outcomes need to be meaningful and useful to individuals, communities and society. It is deeply rooted in the belief of the potential of people.

This human-centred approach rooted in the belief of people's capabilities was enshrined in 1999 by the International Labour Organisation (ILO) in form of the **decent work agenda**. The decent work agenda was institutionalised through the adoption of the [Declaration on Social Justice for a Fair Globalisation in 2008](#). By adopting this text, the governments, employers' and workers'

organisations of the ILO's 187 Member States – including New Zealand – commit to advancing the Decent Work Agenda.

Technology must enable and serve people's unique gifts, talents and competencies to be exercised at work - not the other way around. Technology powered productivity gains can only be viable if human beings share a body of knowledge and continually learn together at work. We need to be cautious to not focus more on technology than on people. Technology must remain the how. It should not become the why.

The belief in the potential of people and the contribution they bring to an organisation or firm necessarily assumes and requires that people are **participating in decision making processes**. People have ideas and experiences about how technology can support and enhance their work in a meaningful and productive way.

In summary, people need to know that work and the outcomes of work benefit them, their communities and the environment. Currently working people including PSA members in public and State services, local government, district health boards (DHBs) and community public services are concerned that technology will become the reason instead of a tool to serve people living in New Zealand. In anything we do around the future of work and the use of technology we need to answer one fundamental question very clearly. Why are we doing this? What do we want to achieve?

## Recommendations

Based on how to shape work into the future, we would like to suggest the Commission considers the following points:

1. A definition of good work based on the concept of **decent work**, which includes respect for fundamental rights at work
2. The **importance of participation** to reap the benefits of technological change for meaningful and productive work

## The decent work agenda – a universal definition of good work

The decent work agenda is an integrated and coherent approach to creating full, productive and good work. We need a framework for normative action to ensure work of the future does not become a commodity.

The decent work agenda has its origins in a report by the then ILO Director General Juan Somavia to the International Labour Conference. This report outlines the primary goal of the ILO:

*‘promote opportunities for women and men to obtain decent and productive work, in conditions of freedom, equity, security and human dignity.’ (ILO, 1999)*

The decent work agenda unites four strategic objectives: the promotion of rights at work; employment; social protection; and social dialogue. These objectives have policy implications which need to be considered to shape good work into the future in New Zealand. Relying on agreement between the employer and employee to define good work, as proposed by the Commission at p.5 of the Issues Paper, is insufficient. We need a common basis that applies to all, in order to move the economy and society forwards. An individual approach won’t be useful for sustainable and coherent adoption of technology that doesn’t leave anyone behind.

Over the past 20 years, the decent work agenda has been included in major human rights declarations; the UN’s 2030 Agenda for Sustainable Development (2015); and was included in leaders’ statements and action plans of the G20, G7, EU, African Union and other multilateral and regional bodies. This confirms the relevance of decent work for the well-being of workers, communities and societies embedded in sustainable, meaningful and productive economies.

The decent work agenda including its four objectives can be further specified by the [indicators](#) that were chosen by a tripartite group of experts to measure the attainment of decent work . Their suggested approach was endorsed by the 18th International Conference of Labour Statisticians. For instance, some of the substantive elements of decent work are:

- Employment opportunities
- Adequate earnings and productive work
- Decent working time
- Combining work, family, and personal life
- Stability and security at work
- Equal opportunity and treatment
- Social dialogue, workers’ and employers’ representation etc.

The [Government’s Employment Strategy](#) published in August 2019 highlights the centrality of work for human beings. Minister Jackson underlines that:

*‘Work touches on every facet of our lives - it’s how we support our whanau, contribute to our communities and make social connections, and it can help us to learn new skills and support our health and wellbeing.’ (p.1)*

It sets out a vision to deliver a productive but also sustainable and inclusive New Zealand. It outlines basic components of modern workplaces. A good job is situated within these modern workplaces which offer:

- Work-life balance,
- clear and meaningful career pathways,
- flexible work arrangements,
- to invest, build and utilise workers' skills
- a stronger voice in the workplace and commitment to productivity
- job stability and fair pay that reflects the contribution made
- increase management capability
- compete on productivity and innovation
- promotion of diversity (p.9-10)

Decent work includes respect for standards and fundamental rights at work including freedom of association and the effective recognition of the right to collective bargaining; and the elimination of discrimination in respect of employment and occupation. The Government's Employment Strategy reflects the concept of decent work and the respect for fundamental rights at work.

Underlying the employment strategy is the object of the [Employment Relations Act 2000](#) which underlines the importance of collective bargaining to address 'the inherent inequality of power in employment relationships'. The relationship between human beings is at the heart of work. It reads as follows:

*'The object of this Act is—*

*(a) to build productive employment relationships through the promotion of good faith in all aspects of the employment environment and of the employment relationship—*

*(i) by recognising that employment relationships must be built not only on the implied mutual obligations of trust and confidence, but also on a legislative requirement for good faith behaviour; and*

*(ii) by acknowledging and addressing the **inherent inequality of power in employment relationships**; and*

*(iii) by **promoting collective bargaining**; and*

*(iv) by protecting the integrity of individual choice; and*

*(v) by promoting mediation as the primary problem-solving mechanism other than for enforcing employment standards; and*

*(vi) by reducing the need for judicial intervention; and*

*(ab) to promote the effective **enforcement of employment standards**, in particular by conferring enforcement powers on Labour Inspectors, the Authority, and the court; and*

*(b) to promote observance in New Zealand of the principles **underlying International Labour Organisation Convention 87 on Freedom of Association, and Convention 98 on the Right to Organise and Bargain Collectively.**' (Part 1, section 3; Emphasis added by the author)*

The use of technology for example by platforms does not always respect decent work and fundamental rights including the freedom of association and the right to organise and bargain collectively.

### The wide-reaching impacts of technology and platforms

The **OECD** in a recent report has outlined several issues of responsibility for the quality of work arising for platforms. In general, the report highlights that

*'(...) Internet intermediaries, like other stakeholders, also play an important role in addressing and deterring illegal activity, fraud and misleading and unfair practices conducted via their networks and services; and that proportionality and compliance with the protection of all relevant fundamental rights are important in this regard.'* (2018, p.87)

The report asks whether and under what circumstances regulations that apply to traditional businesses should also apply to their online platform competitors, and vice versa. 'Regulatory parity' is required to ensure a level playing field for different stakeholders in the market (including workers) (p.93). It talks about the opportunities to decrease unemployment and underemployment including in disadvantaged regions.

Yet the report also underlines that platform work has implications for work and employment. **Eurofound** (2017) provides four domains of work and employment which are impacted by technological change:

1. **Task and occupations:** the distribution of tasks in the economy and the occupational structure
2. **The conditions of work:** the physical, psychological and environmental requirements and conditions of work
3. **The conditions of employment:** the contractual and social conditions of the work relation, including issues such as stability, opportunities for development or pay. They mostly depend on the institutional framework and labour regulation
4. **Industrial Relations:** the more or less institutionalised ways in which workers and employers organise their relations and settle their disputes

The paper specifies that

*'the most immediate and direct implications of platforms are in terms of employment conditions, since they are a new form of economic organisation that does not fit clearly in existing categories of dependent employment and self-employment. There is a legitimate concern that some platform workers could combine the worst of both worlds: the more limited social and contractual protection of self-employed workers with the dependence and lack of autonomy of employees.'* (p.21)

This has far reaching implications not only on the economy but society. The OECD report for instance discusses social impacts, human health, knowledge, social polarisation and democracy, tax etc. These implications can't be neglected by a report on technological change and the future of work.

Economies and societies will be shaped by the future of work and vice versa. Economies are embedded in societies and will be affected by societal, social, cultural and political transformation. It is necessary for such a report to look at labour markets, employment and income but this focus is insufficient to grasp the full breath of implications. Work might remain a crucial factor providing meaning and structure and security to people's lives which is why it is crucial to understand work and decent work for that matter. If we have a joint understanding of what decent work means and its implications for people, for societies and economies we can start reflecting on how we wish to use, integrate and harness the potential of new technologies from a human-centred perspective.

### Decent work and platforms

Decent work is not necessarily a feature of platforms. A study of **Deliveroo riders** in Belgium highlights that riders had short (often unsocial) monthly hours of work translated into low monthly net earnings. 'For the majority of riders, work for Deliveroo represented the main source of their overall income' (ETUI 2019, p. 19) leaving them in a precarious financial situation. Working multiple jobs, predominantly other forms of non-standard or informal work, created a fragmented working lives and rarely offered any stability or security of income. Most riders would have preferred to work more hours. The idea of working fully flexible was also de-mystified as 'many riders found the actual flexibility offered by Deliveroo to be lacking and expressed a preference for greater control over their schedules.' (p28). Generally, the survey found that

*'while they valued flexibility, the riders also had a strong preference for income security. Indeed, income insecurity and unpredictability was not the type of flexibility sought by riders.'* (p.30)

Fragmentation and precariousness were also reflected in riders' expectations of the type of potential future employment they might secure for themselves taking whatever they might find. This highlights a flaw in the concept of work being good if the employer and the worker agree it is good. The power imbalance of the employment relationship (as acknowledged in the above-mentioned Employment Relations Act 2000) when agreeing to what constitutes a good job is not considered. Workers might be scarred and dependent on taking any job which might be the reason why they agree that a job and its terms and conditions are acceptable.

Another report by the ILO about income security based on a survey of crowdworkers from Amazon **Mechanical Turk and Crowdfunder** platform highlighting the precariousness of work. People chose to work on the platform because they had care responsibilities at home, couldn't afford childcare or because of their own poor health and disability (p.8). These reasons point to wider societal challenges we must manage and shape in the future. Technology in the form of platforms can be a short-term solution to an immediate problem but don't offer sustainable solutions over the life course. Treating symptoms has never led to eradicating root causes. The requirement of platforms workers to make significant trade offs might be justified to deal with an immediate issue. It might be a disproportionate ask to require someone long-term to trade-in security of work because they have care responsibilities or a disability.



The report also finds that low pay, insufficient work and underemployment are recurring issues for worker and adds the insight that nearly a quarter of the time was spent on doing unpaid tasks: ‘for every hour of paid work , workers spent 18 minutes searching and doing unpaid preparatory work.’ (p.11) This might be financially efficient and profitable for the platform but at the expense of the worker. One worker is quoted as saying:

*‘(...) half of the key to making money on MTurk is being on the site 24/7 with your scripts running so you can catch all the best jobs as they come out. – AMT worker’ (p.14)*

It also means that it is very hard to plan and structure one’s day, your family, social and private life around it. This in turn has major implications for family, neighbourhood, community and general social connections. Isolation, as many studies have shown, leads to mental health problems and can contribute to other social issues such as violence. We need to be mindful about these issues if we want to make best use of platforms for the future of work and the future of New Zealand.

### Reorganising platform work and introducing collective bargaining

The ILO report also debunks the argument the Productivity Commission is suggesting that the ‘on-demand economy’, is often additional income for secondary earners, and thus, not real work (p.18). Consequently, the job might be precarious, but the worker is not (because he has other jobs). The report warns that:

*‘even if crowdwork were undertaken for ‘pin’ money, there is nonetheless a need for minimum pay thresholds. Indeed, a primary goal of minimum wages, aside from protecting workers’ earnings, is to prevent businesses from competing unfairly through wages that are so low that they do not cover ‘the social costs of the worker’ and which undercut fair competition. Yet when the discourse evokes ‘pin money,’ ‘extra money’ or ‘beer money’ as motivations for work, there is less support or perceived need for regulating it.’ (p.19)*

Instead of ensuring income security as proposed by the Productivity Commission’s report, the ILO proposes employment security by reorganising platform work and returning to an employment relationship which would solve low pay and unreliability of working hours while maintaining task based work and associated piece-meal rates which comply with the minimum wage. Lessons for home-based work can be drawn from agricultural and manufacturing sectors to ensure higher productivity and earnings. For instance, screening workers for the task, hiring fewer workers and providing feedback on the completed tasks are essential (p.24). Complementing income security with employment security recognises the importance of work for people as it provides purpose, structure and integration which are hard to be achieved by financial security alone. A combined approach to income and employment security would also support a [‘just transition’](#) for New Zealand.

In addition to creating employment and earning opportunities and respecting fundamental rights, social dialogue and workers’ participation is one of the components of decent work. To realise all four components and to create a more equitable regulatory regimes ensuring equal opportunities as envisaged by the ILO, some of the costs and risks borne by platform workers (as highlighted in the Commission’s report as trade-offs to be made) need to be shifted onto the businesses. This can be done via collective bargaining, legislation or policy.

Examples of how decent work can be ensured via collective bargaining - with its positive implications for society - are for example the union 3F in Denmark who has negotiated a collective agreement with the cleaning services platform Hilfr. **The collective agreement** includes:

- A minimum payment of 141, 21 DKK (19 €) pr. hour.
- A contribution to the pension savings
- Holiday pay contribution
- Sick pay
- Introduce a 'welfare supplement' (velfærdstillæg), an additional amount of 20 kroner per hour to be paid on top of salary.

The **Centre for Future Work in Australia** has undertaken an analysis of the Victorian on-demand workforce (2019) suggesting several additional ways of ensuring decent work on the macro and state level. In addition to proposing to create a tripartite working group to investigate the applicability of collective bargaining models for on-demand work (p.23) several initiatives are suggested such as:

- Clarification of the definition of employees
- On demand workers must be provided with the right to negotiate collectively
- Strengthening of contract law to avoid abuse
- Establish a level playing field in workers compensation
- Establish a level playing field for payroll tax
- Licensing (and/or) accreditation of platforms
- Enforce existing laws
- Create access to training and skills for on-demand workers
- The establishment of a portable benefit system (e.g. re. training)

Some of these ideas are included in the consultation document by MBIE on '[Better protections for contractors](#)'. The Productivity Commission's final recommendations should include and reference existing initiatives and policies which are strongly related to technological change and the future of work.

### Principles and charters to guide and govern the use of technology

Potential or actual disregard for fundamental rights at work has led to the formulation of charters to guide and govern the respect of human rights in the digital arena.

Algorithms are not neutral. They follow criteria defined by the person taking decisions in the company which are then implemented by programmers. This can lead to systemic discrimination. It is very hard to carry out audits of these automated systems. Therefore, we might be at the doorstep of the automation of discrimination, exclusion and inequality. This calls for the protection of workers' data – the fundamental input into algorithms - and an assessment and monitoring of algorithms. We need to develop rules for which data may be collected and used, and which may not, to enable limiting abuse by such algorithms.

The Charter on [10 Principles for Workers' Data Rights](#) developed by UNI Global tries to prevent the potential abuse of data via unilateral data-informed managerial decisions. To avoid discrimination and unfair treatment the charter calls for explanation as to what data is used, how the data is

stored, where it was retrieved and what will be done with it. They have also developed a charter on ethical artificial intelligence (AI) which goes hand in hand with data rights charter. The OECD has also developed a human-centred [Charter on AI](#) which promotes AI that is innovative and trustworthy and that respects human rights and democratic values. The principles enshrined in the charter complement existing OECD standards in areas such as privacy, digital security risk management and responsible business conduct.

A network of European unions has created an online resource called [Fair Crowd Work](#). It collects information about crowd and platform work from the perspective of workers and unions. Among other things the website offers ratings of working conditions (instead of rating of - or 'evaluating'-workers' services on different platforms) based on surveys with workers. It provides detailed profiles of a variety of platforms going beyond focussing on the major players. The website also provided input to the development of a code of conduct for platforms intending to set fair standards for platform workers. The '[Crowdsourcing Code of Conduct](#)' was developed with the intention for 'prosperous and fair cooperation between platforms, clients, and crowdworkers.' (Silberman et.al, 2017, p.38). While self-regulatory efforts are desirable, they are insufficient to ensure a level-playing field and to find sustainable solutions.

## The importance of social partnership and worker participation for the future of work

Collective bargaining is a mechanism to find sustainable solutions to existing and emerging issues. The importance for workers of having a strong voice in the workplace and businesses involving workers in problem solving and working out better ways of doing things has to be considered when reflecting on the future of work. Social dialogue or partnership (as it is often referred to in Europe including in Denmark) between employers, workers and their representatives is much needed in a time of uncertainties, widening social inequalities and as in New Zealand low productivity.

Multiple studies show the positive relationship between productivity and participation (see e.g. Eurofound 2016). The OECD concludes that collective bargaining helps to ensure that 'all workers and companies, including small and medium-sized enterprises, reap the benefits of technological innovation, organisational changes and globalisation'. Deloitte have shown in a white paper on 'Transitioning to the Future of Work and the Workplace' that work culture is crucial for realising a company's vision. Employee engagement is of growing interest 'to build a sense of belonging in a workforce that is increasingly dispersed, global, and mobile.' (p. 3)

The OECD report recommends tailoring labour law to give workers in the 'grey zone' the right to collective bargaining, as well as exempting specific forms of self-employment from the prohibition to bargain collectively. The reason for this is that social dialogue and collective bargaining can help 'formulate solutions to emerging issues'. A first step has been made in the film industry in New Zealand and the second step might be made after the government has finalised its consultation on better protections for contractors. In Denmark, the often-cited role model for New Zealand, is built on strong social partners and social dialogue (which is based on active participation and collective voice) and investment in active labour market policies. They also have industry level bargaining

which calls for the adoption of fair pay agreements (FPAs) to ensure minimum standards and which in turn is a way of creating more decent work.

With specific regard to representation on platforms, Eurofound (2018) recommends that ‘platform workers should be supported to organise and establish representation.’ (p.64) The report suggests enhancing exchange of experiences and ideas across the relevant stakeholders including the social partners to foster joint learning on how to deal with the particularities of this specific form of work.

Collective bargaining is the development of a regulatory framework which supports and involves key stakeholders of platforms including workers and business. However, this approach has been neglected in previous discourse and the Productivity Commission’s analysis in favour of focussing on e.g. the individual employment relationship, litigation and smoothing negative impacts of platform work. Extending the scope of individual protections for contractors (as currently [consulted on by MBIE](#)) such as platform workers, must be complemented by an ‘inclusive conception of the right to collective bargaining’ (Doherty and Franca, 2019, p. 23).

### Participation for fairness

Including workers into the decision making around platform-based work is essential to ensure a degree of fairness. The PSA has witnessed that the cost to invest in technology is shouldered by workers. Especially in community public services we see that our members are asked to use apps for rostering, time sheets and pay but don’t get access to the required hardware. Instead the cost for a smart phone and data package is passed on to our members. In addition, the data gathered through their smart phone while working is not available to them.

Not only with regards to investing in new technology, participation is crucial to finding fairways forward. Platforms (especially those involving physical activity such as courier and food delivery services) are incrementally biased towards the more capable as they will be able to reserve the busy shifts first which pay best (Ivanova et al, 2018). The vicious circle is fuelled through greater likelihood of being rated positively thereby crowding out workers who are less capable (or even temporarily less able e.g. due to illness). Participation of workers would help to ensure rules which give everyone equal opportunities to work and an associated income.

## Conclusion

To conclude, the PSA would like to highlight that an increase in acceptance of technology by workers and the general public depends on adopting a human-centred approach and creating decent work including worker participation. The PSA believes that technology is a necessary component for the future of work but not enough to ensure productive work in the future. People are productive when they are engaging in meaningful work. Meaningful work is decent work.

Technology cannot be introduced in isolation. As platforms highlight new work and production processes, complex and new forms of cooperation, the need for new qualifications, tasks, and their monitoring are needed to use new technologies effectively. Communication will be even more essential for future operations. Worker participation is an established mechanism to facilitate and engage in continuous communication.

A democracy must provide a sense of security for those who feel threatened by the changes in the world of work. It must preserve the international institutions we helped to build and continue to support. A sustainable future of work is one that is built by the people and for the people.

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**Thank you for considering our submission.**

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