



# FACULTY OF LAW

## Family Law

### LAW 433 • 2015

Child poverty, tax and  
family incomes

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May 7<sup>th</sup> 2015

CHiLD  
POVERTY  
ACTION  
GROUP

# Outline and objectives

- Understand the socio-economic context for families in NZ--- Our Children our Choice: Incomes
  - Relatively high rates of poverty and hardship
    - Nature of work
    - Nature of the welfare system
    - Nature of the tax system
    - Nature of support for children
- Intersection of the rights of the child with social legislation
  - Do we have policy that reflects the best interests of the child?
  - If not, what is the role of the legal profession?
  - Reflections on engagement to procure social justice
- Does our view of family/ relationships fit in the 21<sup>st</sup> century? The complexities of 'relationship' in the welfare system and the consequences for children

# Child Poverty Monitor

Tracking progress on reducing child poverty in New Zealand

**260,000**  
**KIWI KIDS**  
**POVERTY**

**24%**



Income Poverty

**180,000** **KIWI KIDS** **GO WITHOUT** **THEY NEED**

**THAT'S**



**17%**

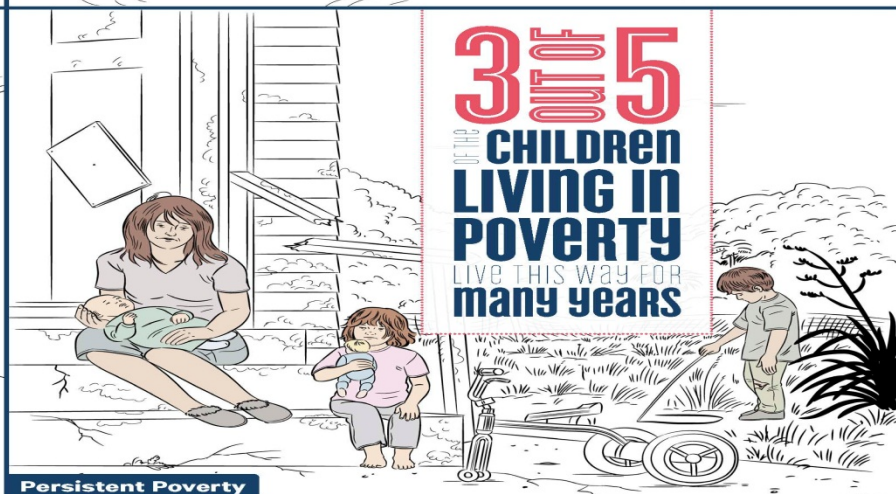
Material Hardship

**10%** **OF KIWI KIDS** **ARE AT THE HARDEST END OF POVERTY\***



Severe Poverty

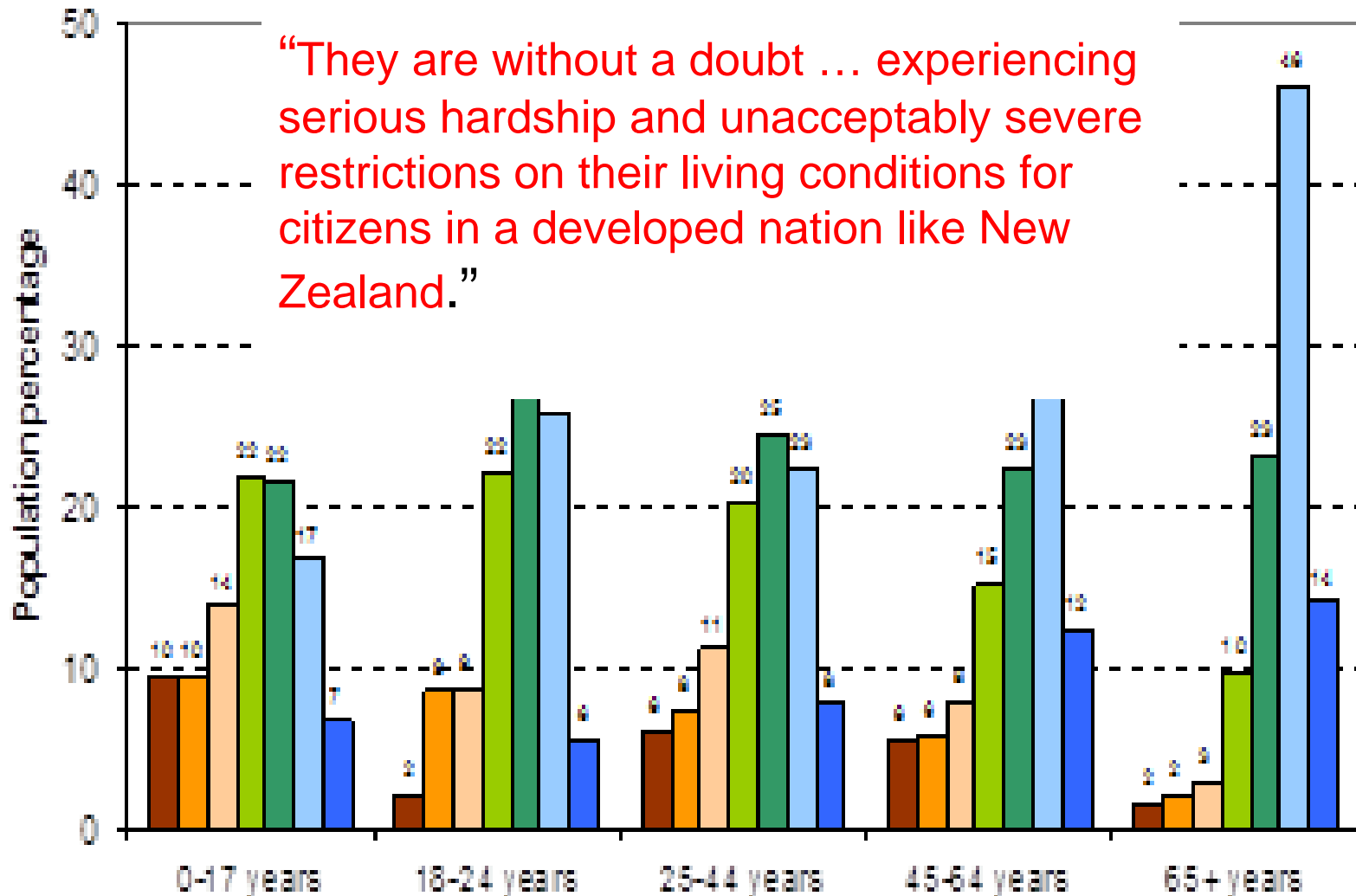
**3 OF 5** **CHILDREN** **LIVING IN** **POVERTY**  
**LIVE THIS WAY FOR**  
**many years**



Persistent Poverty

Data source – Child Poverty Monitor: 2014 Technical Report [childpoverty.co.nz](http://childpoverty.co.nz)  
\*this is based on the most recent available data from 2012

## Hardship concentrated on the young (Perry 2009)







5 December 2013

# KIDS MISSING OUT



It's time to make progress  
on children's rights

A summary of the first twenty years of the UN Convention  
on the Rights of the Child in Aotearoa NZ.

2014 BACKGROUND PAPERS

## The Latest: Children &

the  
Ear

Other  
Parent

INVITE: ELECTION 2014 DISCUSSION SERIES

## Our Children, Our Choice: Priorities for Policy Discussion Series

Part 1: Health - Thursday 1  
5.30-7pm, St Johns in the C

SAVE THE DATE: NATIONWIDE POST BUDGET BREAKFASTS 16 MAY

## Nationwide Budget Breakfast Series: Friday 1 22<sup>nd</sup> May

In five main centres: Whangarei,  
Auckland, Wellington, Dunedin &  
Christchurch

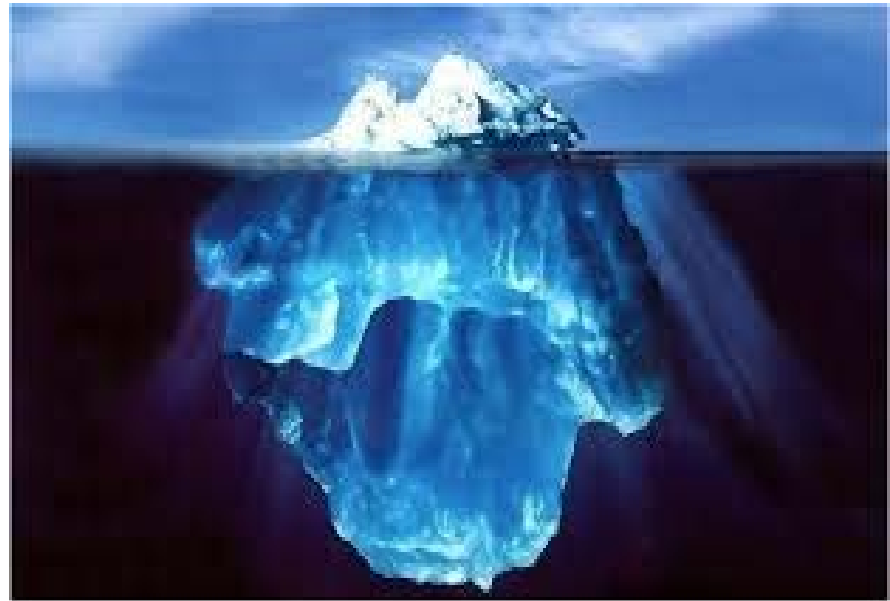
enefit

## Many New Zealand Children are in crisis

### Symptoms

- Child abuse
- 3<sup>rd</sup> world diseases
- Hunger
- Homelessness
- Transience
- Obesity

“vulnerable children in complex families”



Do we treat the symptoms? Blame the victims? Find ways to criminalise them? Send them to prison? **Or find the systemic causes in policy settings.**



# Treating the symptoms

## Private charity

**Thousands of kiwi kids  
live in poverty.**



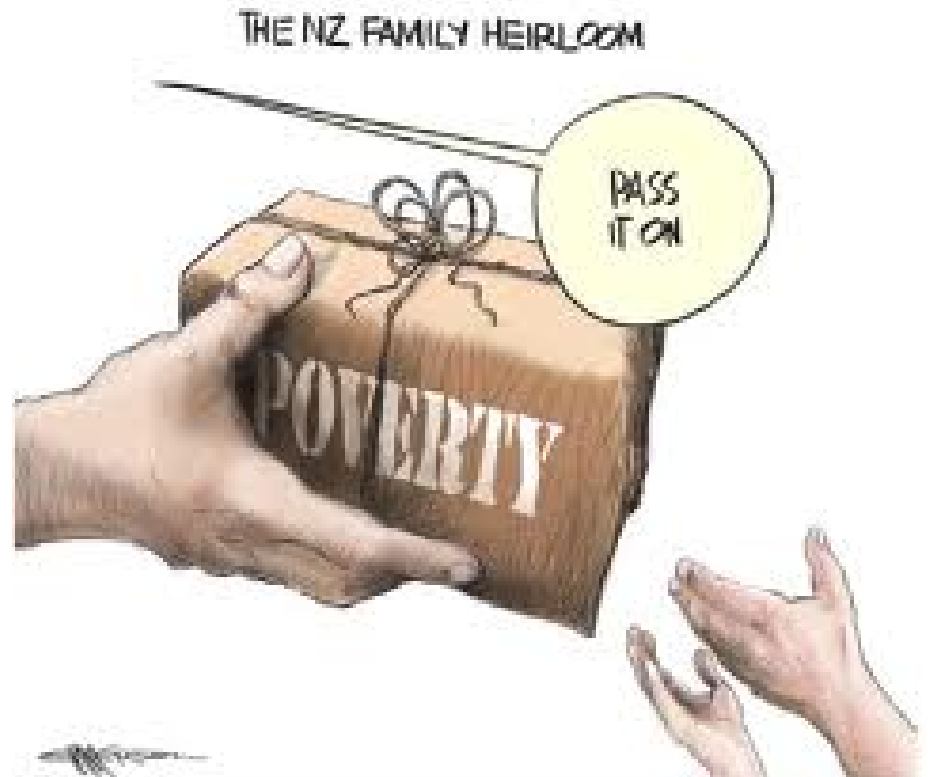
**For \$15 a month you can give them the basics.**

Join online now at [www.kidscan.org.nz](http://www.kidscan.org.nz)



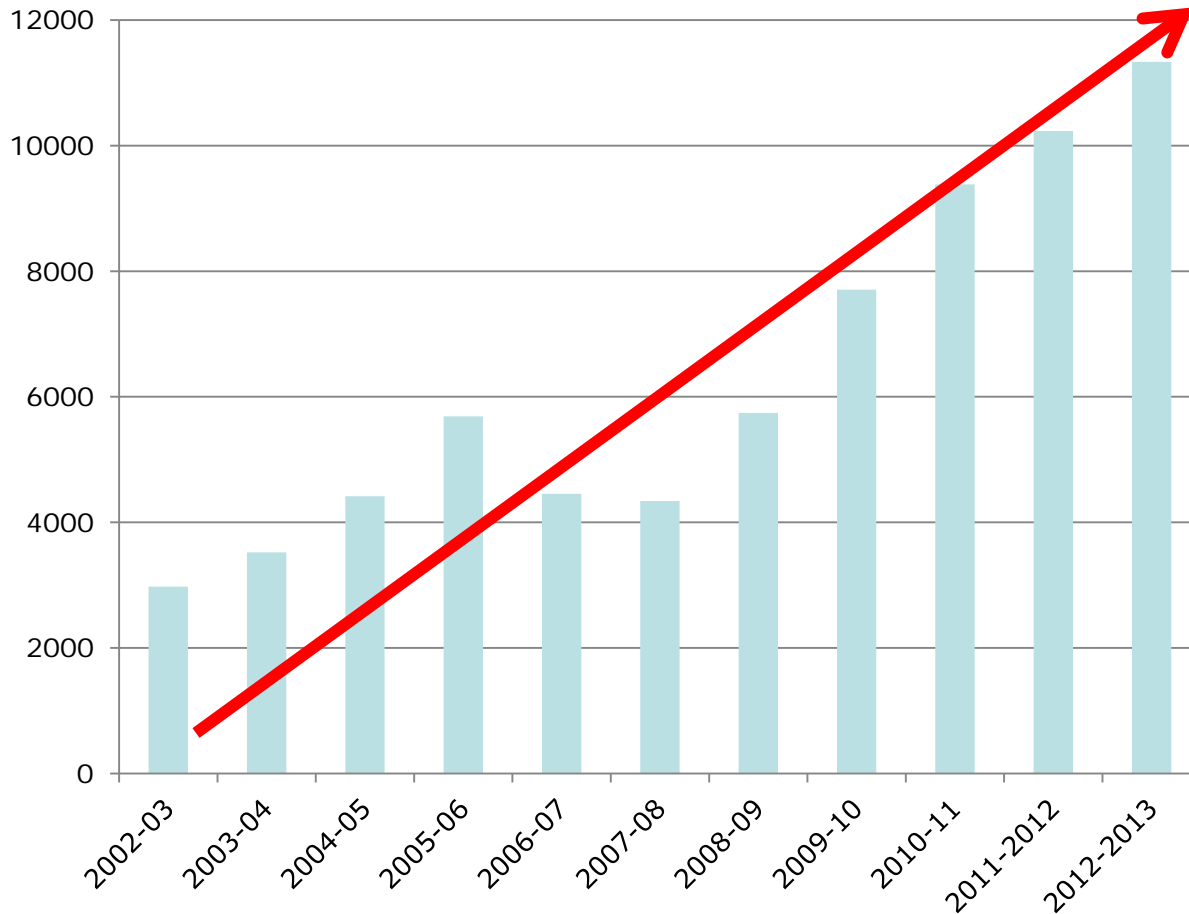


# Documentary on child poverty



state of NZ children

## Foodbanks: one barometer of distress



Estimate to June  
2013

Auckland City  
Mission

# **INCREDIBLY HIGH INCIDENCE OF 3<sup>RD</sup> WORLD DISEASE**

**Health statistics for NZ children  
shocking- Professor Innes Asher**

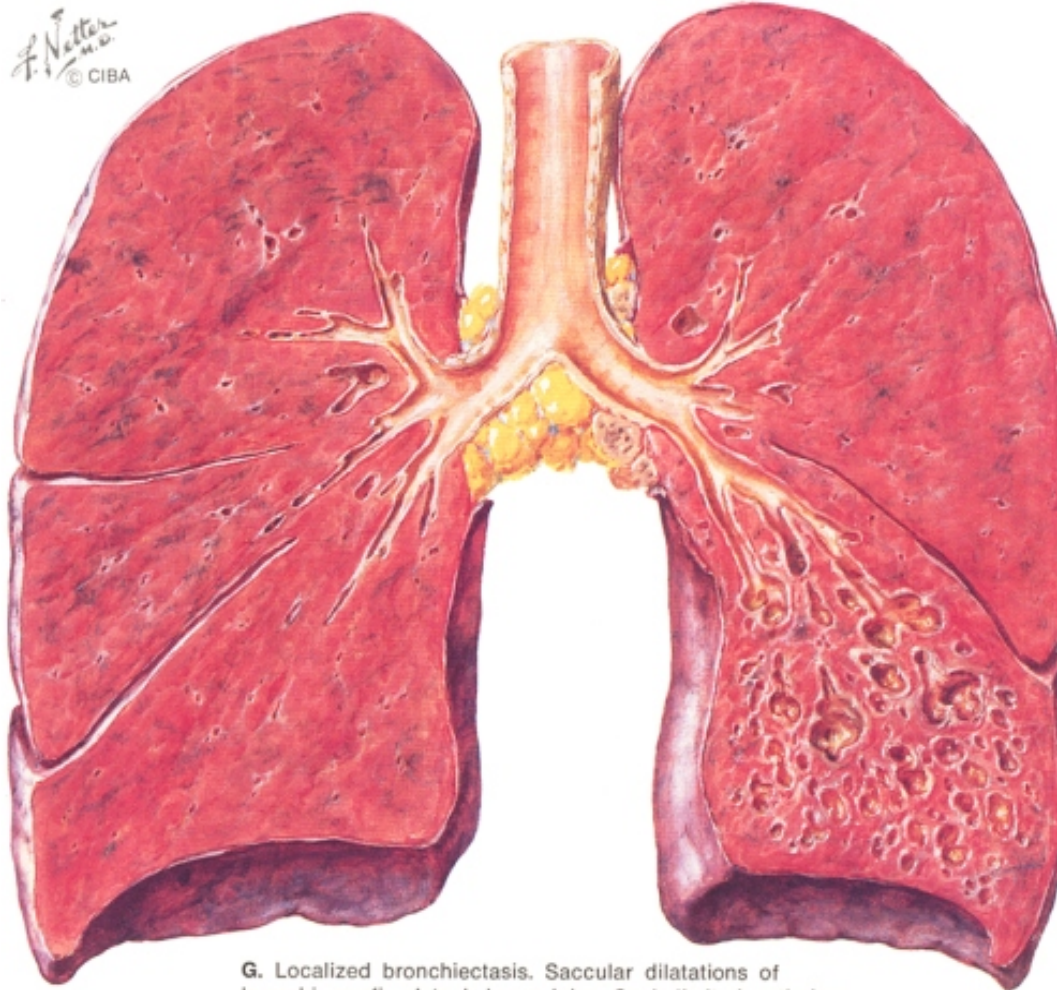
**Child health Statistics go horribly wrong  
from early 1990s**

**Eg Rates of child pneumonia 5 times higher  
than comparable countries**

*Grant CC. NZ Med J 2000; 112: 345-7.*

# Repeated or severe pneumonia can lead to Bronchiectasis

F. Netter  
© CIBA



G. Localized bronchiectasis. Saccular dilatations of bronchi, confined to l. lower lobe. Such limited pathology may be amenable to surgery

**damaged  
airway  
walls<sub>2</sub>**



# Severe Bx-

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A. Bilateral extensive bronchiectasis

## Adults with Bx

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- Often too tired and sick to work
- Only income is the sickness benefit
- Leads to respiratory failure, and premature death in young adults (20-40 yr old)

*Kolbe J et al. Resp Medicine*

*1996; 1, 221-225.*

# Serious skin infection - impetigo and cellulitis

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# Causes of child poverty are multiple

eg poor quality housing: housing crisis



But family incomes are critical too  
and **poor policy** is a *cause* of much child poverty



# Understanding the causes: Family incomes

## **Labour market**

- casualised/low pay

## **Welfare system**

- Highly targeted
- Stigmatising
- conditional

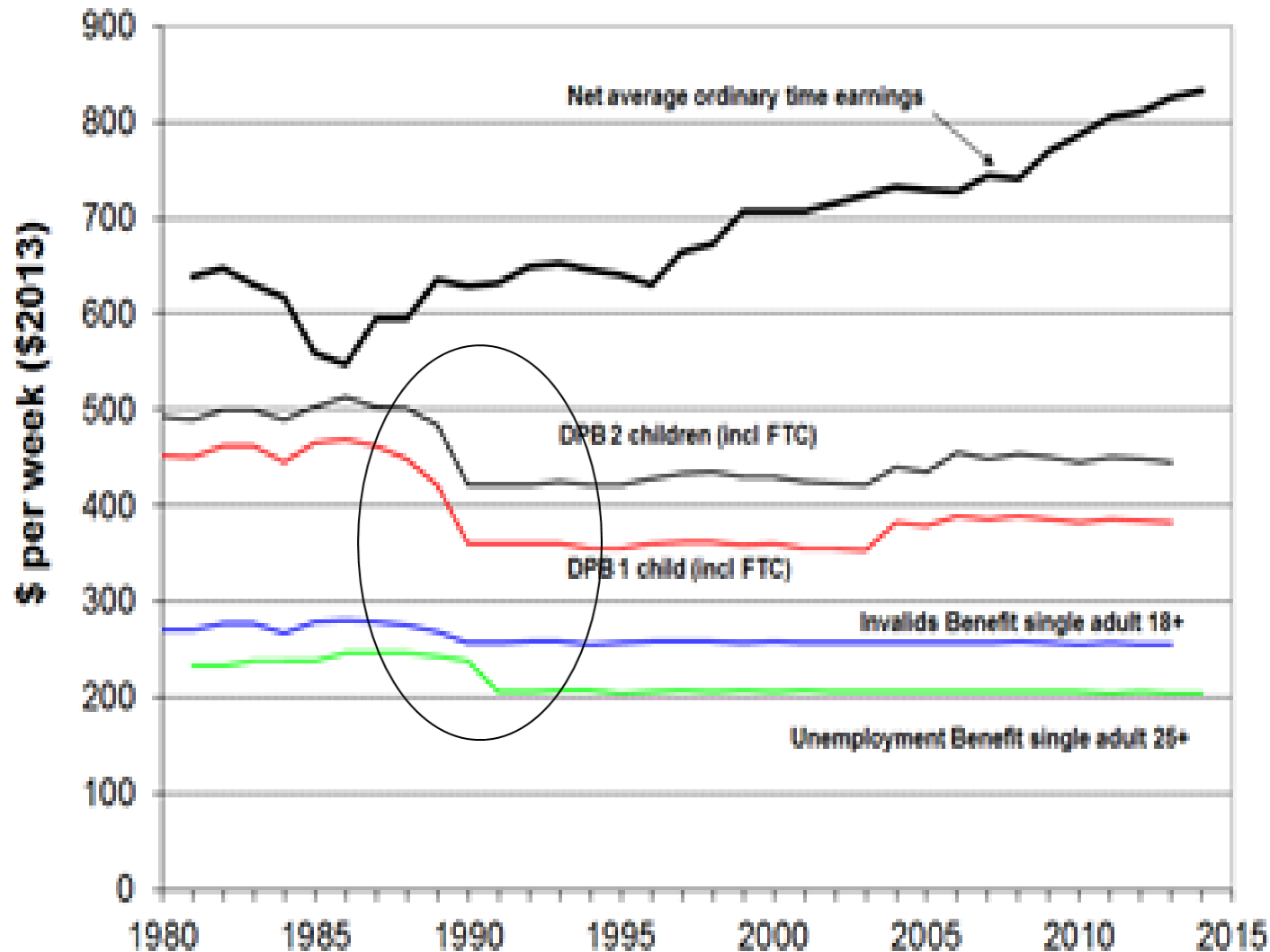
## **Tax system**

- high taxes on low incomes

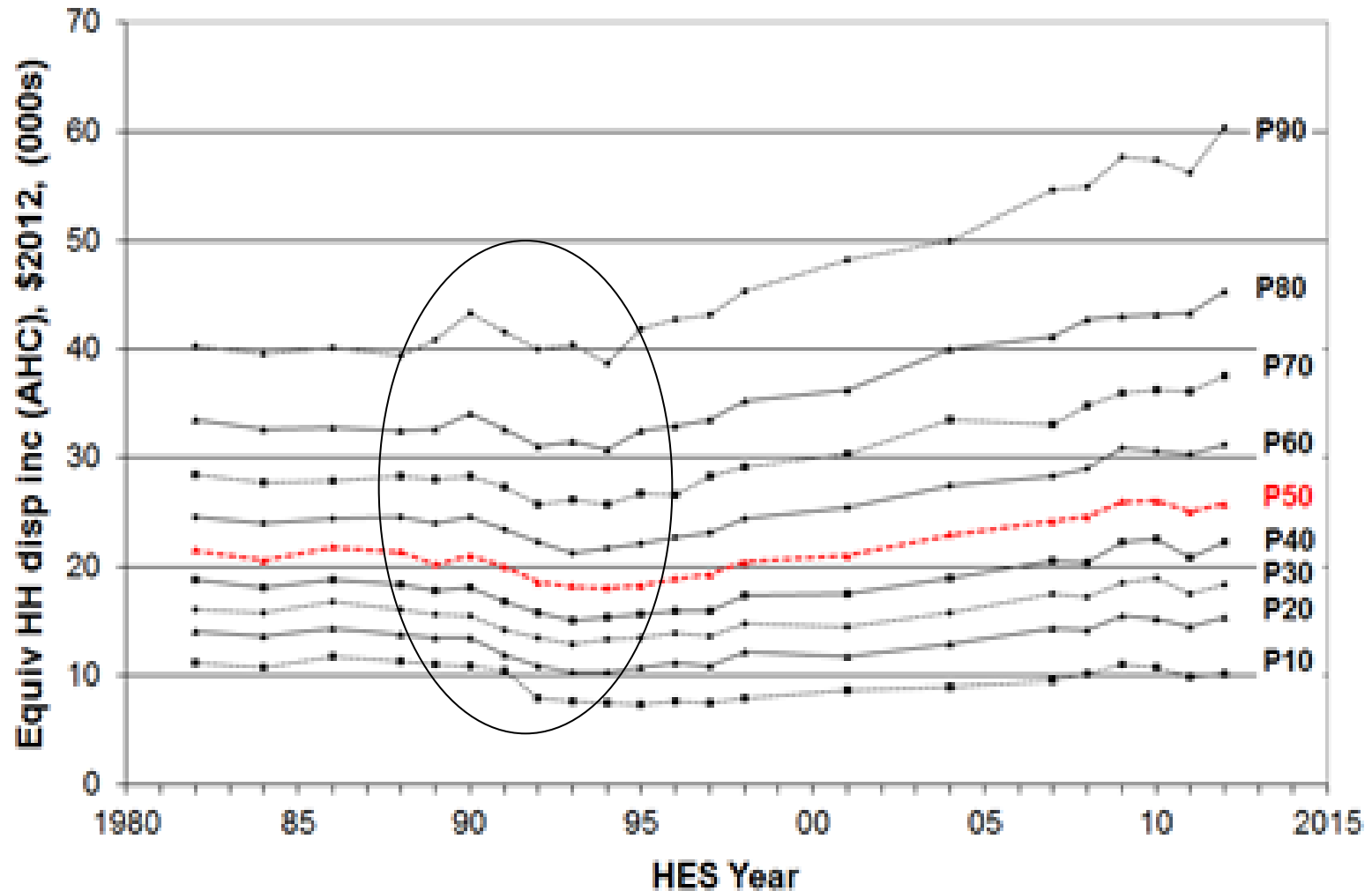
## **Financial support for children**

- neglected
- badly designed

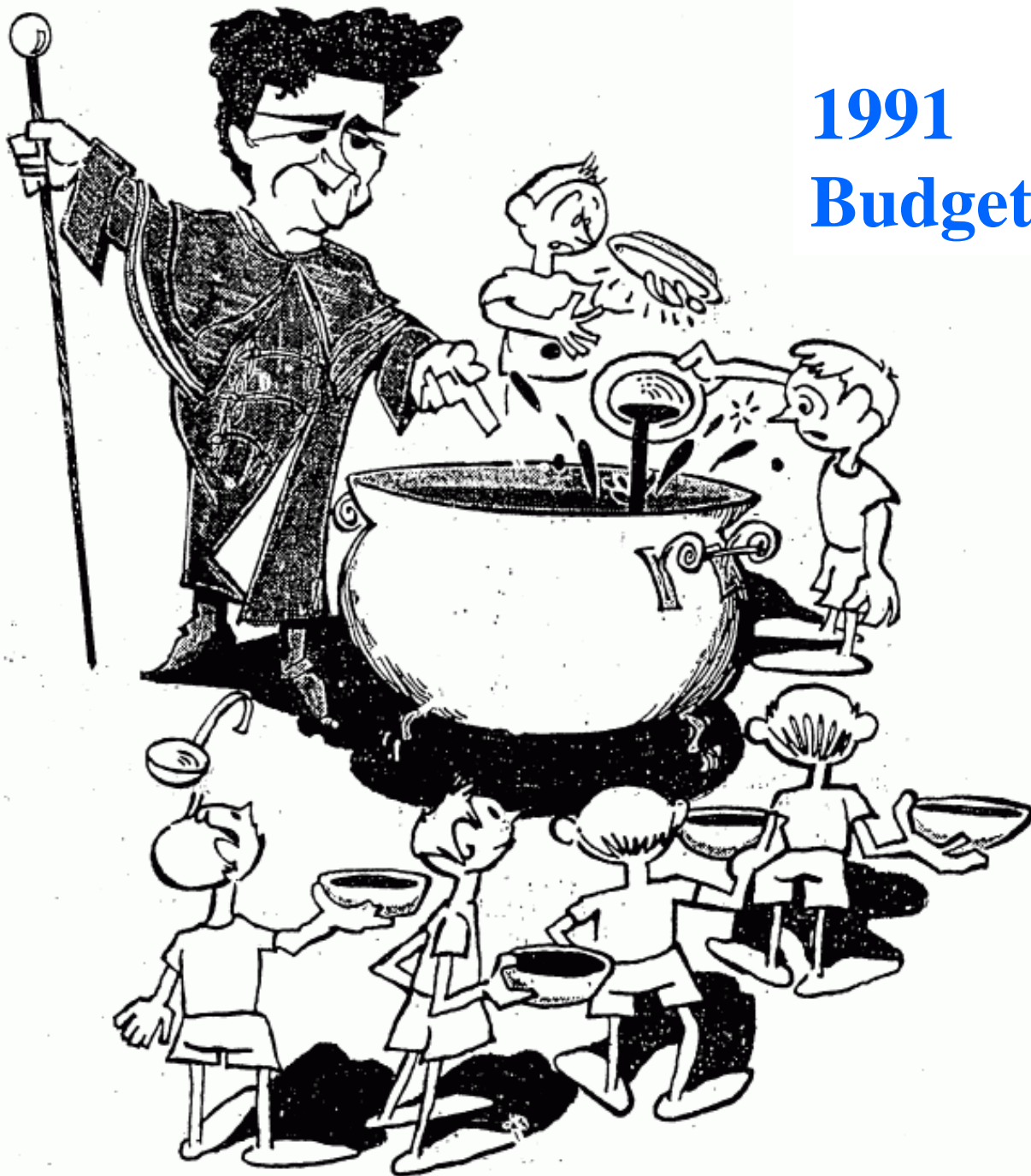
# Deliberate policy to reduce relativity of benefits to general living standards



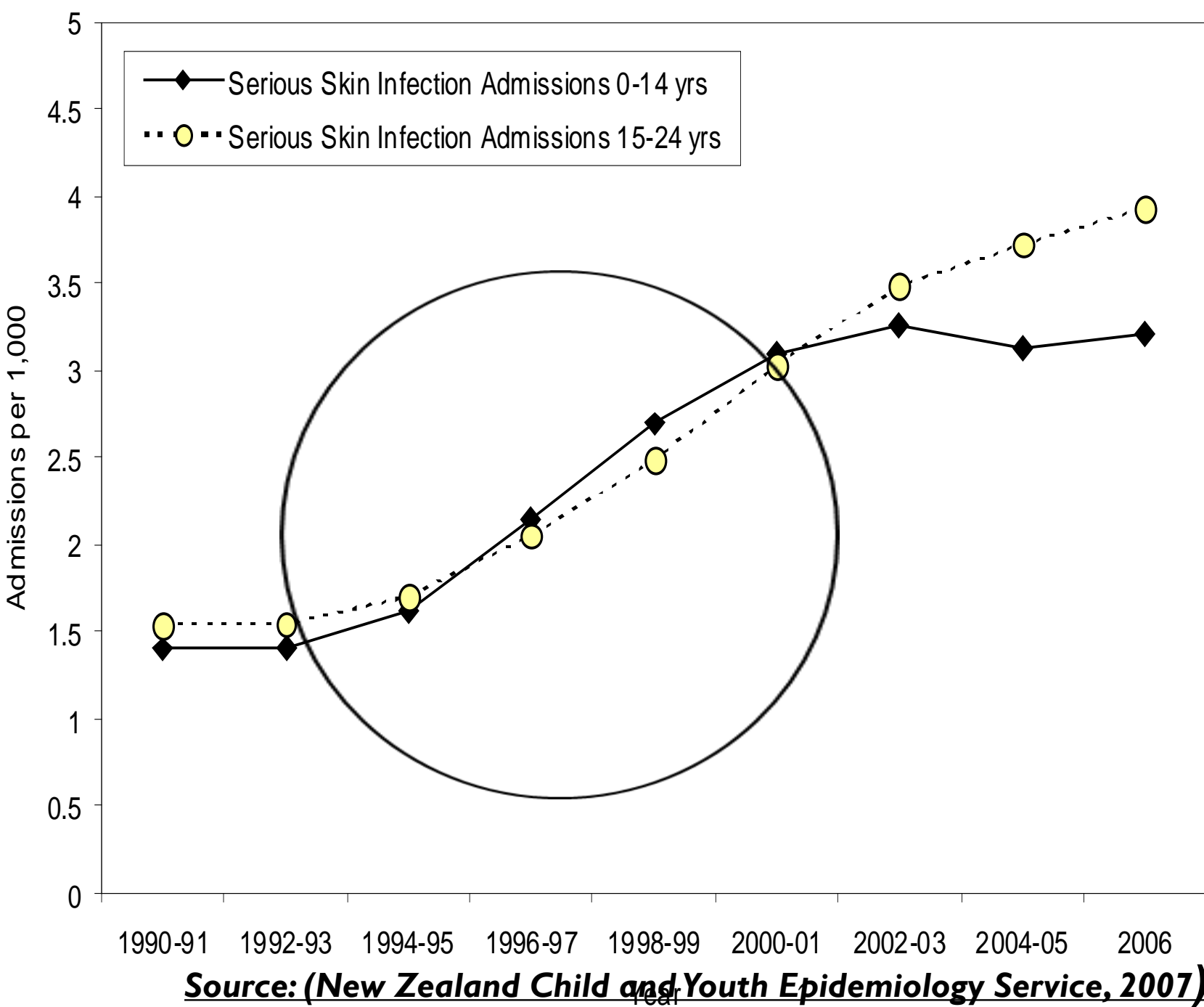
# Real equivalised household incomes (AHC): decile boundaries, 1982 to 2013 (2013 dollars) Perry 2014



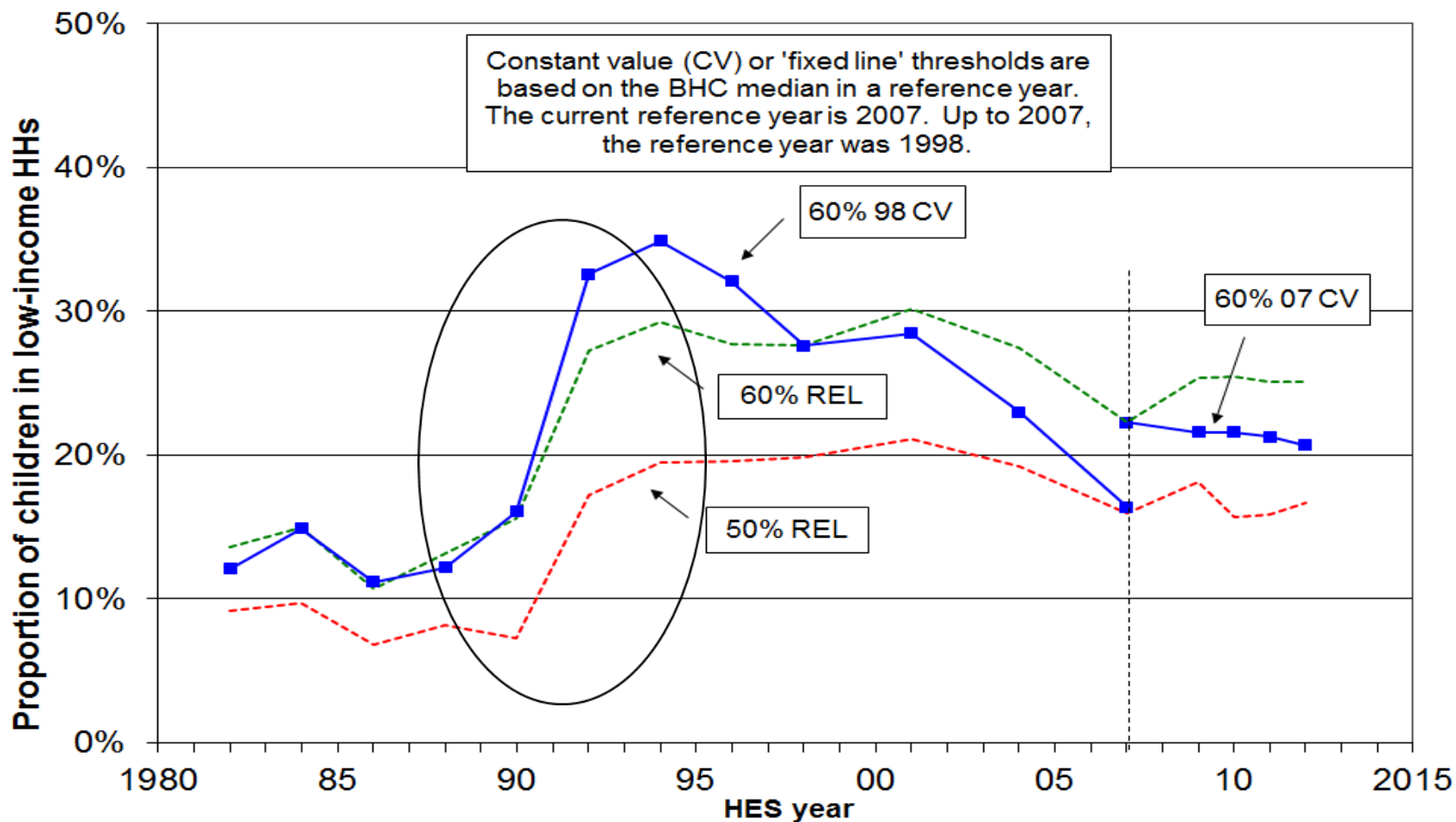
# 1991 Budget







# Proportion of children below selected thresholds (AHC): fixed line (CV) and moving line (REL) approaches compared (Perry 2013)



# The old resisted their medicine in 1991

YOU'RE ONLY AS OLD AS YOU FEEL...



**Today just 3-4% of those over 65 live in significant and serious hardship compared to 17% of children.**

# Children getting seriously ill through poverty, say doctors

Families huddling to beat winter cold

Women hardest hit by slump, new poll shows

Debts



Strategies for survival

Families miss out on food

Is Foodbank enough?

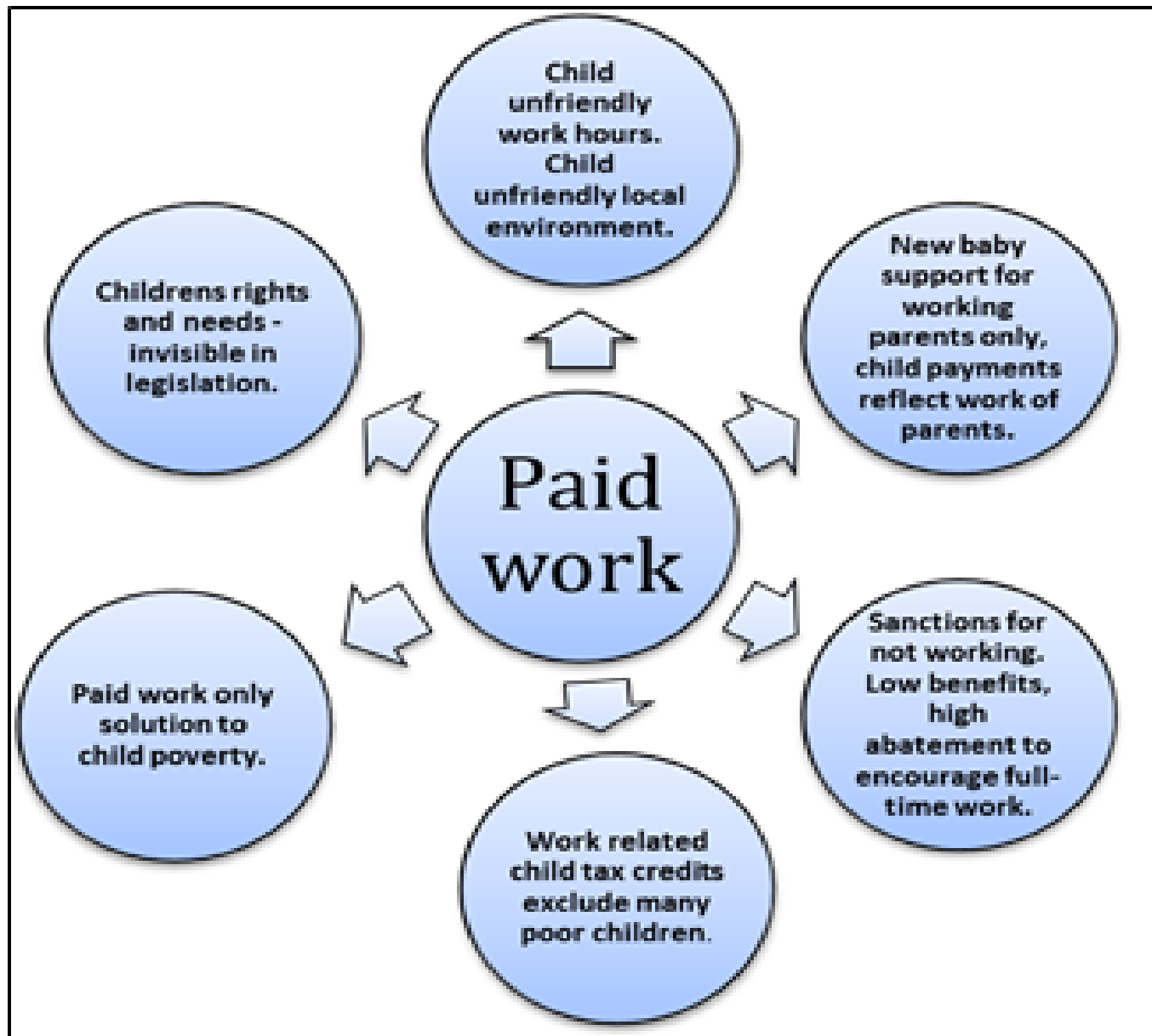
Tenants could be 'forced' out

Early  
1990s  
media

Benefit cuts



# From 1990s policy focus has put paid work at centre



# 1991-2013: policies drive outcomes

Policy driven by mantras eg **“paid work is the best source of wellbeing”**

Work will set you free?

Incentives for parents are more important than the welfare of children

# **1996 The beginning of discriminatory policies:**

## **Child Tax Credit only to deserving poor**

It is no wonder that we do not value the work that is done in our homes, because we dismiss it and give it no economic value at all. That is disgusting. To divide children into those whose parents are good parents because they work and children who are bad because their parents do not is absolutely disgusting.

1996 Hansard Annette King MP

## Labour was outraged



“a simplistic tangle of bigotry and ignorance ... barely disguised attack on beneficiaries ... mean spirited, ill thought through and punitive ... unholy product of National’s deeply held view that everyone on a benefit is a bludger and Treasury’s new right agenda ... based on highly questionable incentive arguments

# But, ten years later

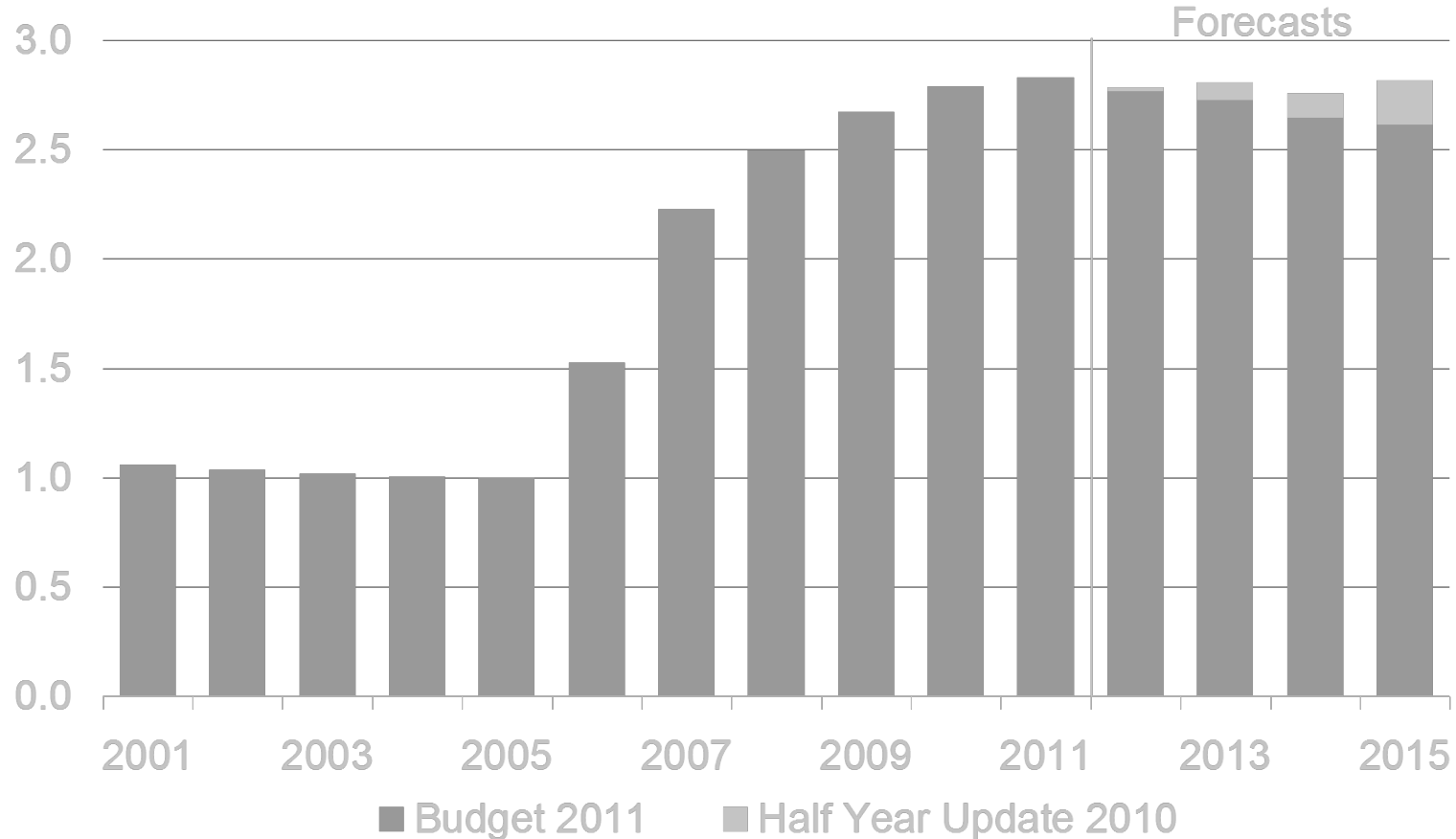
- Labour took the child tax credit and made it far worse
- Called it the In Work Tax Credit
  - Part of weekly assistance paid to mother
  - Requirement of “off benefit”
  - Required number of hours
    - 20 sole parent
    - 30 couple

Part of the badly designed **Working for Families**



# 2005-7 WFF was a great boost to (some) family incomes

Working for Families costs, \$ billions



- **A per child per week payment paid to the caregiver for the children**
  - the Family Tax Credit
  - In Work Tax Credit
- Supposed to
  - Reduce Child Poverty **AND**
  - Make work pay

# **Impact on poverty?**

## **Child Poverty Rate fell but...**

**“WFF had little if any impact on the poverty rates for children in workless households”**

**MSD 2012**

**Who was left out?**

**Why have we not been  
concerned about  
those left out ?**



"And the wolf ate all children but it didn't matter  
because they were the children of People not like us





## **What has been the cost to 'non-deserving' families**

Since 1996 each year there has been a cumulative loss from poor families' balance sheets

\$2.25B due the CTC 1996-2006

\$3.75 B due to IWTC 2006-2015

**\$6 Billion and rising**

# Can children look to the law to protect them from income poverty?



**UNCROC** ratified 1993

Children have specific human rights that recognise their special need for protection, including income adequacy.

# Challenging policy: The HR framework?

Article 26 of the UNCROC, recognising the **right of children to social security** and the corresponding obligation of the government to **implement measures necessary to achieve full realisation of that right.**

Article 3.1 of the UNCROC, recognising the **best interests of the child to be given primary consideration.**

# The Human Rights Case

## CPAG v the Attorney General

- 1996 HR complaint rejected
- 2002 CPAG lodged complaint under Part 1A
- 2003 Crown Law objected
- 2005 Case taken on CPAG's behalf by Office of Human Rights Proceedings
- June 2005 – Crown disputes right to take the case
- Sept 2005 Human Rights Tribunal rules in CPAG's favour
- Oct 2005 Crown Appealed
- May 2006 Reserved decision dismisses appeal
- August 2006 goes to Judicial Review.
- November 2006 CPAG won right to take the case

# The Human Rights Review Tribunal 2008





***We are satisfied that the WFF package as a whole, and the eligibility rules for the IWTC in particular, treats families in receipt of an income-tested benefit less favourably than it does families in work, and that as a result families that were and are dependent on the receipt of an income-tested benefit **were and are disadvantaged in a real and substantive way.*****  
**(Human Rights Tribunal 2008: para 192)**

# Appeal High Court

## Appeal Court of Appeal 2013

**Discrimination upheld  
ie 230,000 children  
are harmed**

**But .....**



# The decision: The Court of Appeal found...

... the IWTC part of Working for Families paid to the mother in a so called 'working' family was discriminatory and caused material harm to the beneficiary families who were excluded.

However the Court decided the harm to over 200,000 of NZ's poorest children was justified.

## What is government doing?

- Rt Hon JOHN KEY (Prime Minister): Yes, and I think all New Zealanders would like to see child poverty levels lower. That is why the Government is investing hundreds of millions of dollars in helping people to get off welfare benefits and into work, **because full-time paid work is the best way of lifting children out of poverty.**

12<sup>th</sup> Feb 2014 question time

# Punitive welfare reforms

## Sanctions:

### Where are the children?



One injustice  
unchallenged leads  
to another and  
another.

# Bill English and the 2015 budget

- ‘Significant measures to address child poverty not on the agenda: “the ability to afford large-scale programmes just isn’t there”’
- Budget will focus on 1.04% of children with complex needs who live in complex families....

