

6. Repeal of the Hobbit Law

The *Hobbit* saga shows how easily a New Zealand government can change our labour laws under urgency and find a large additional subsidy when a prominent investor threatens to take its ball and play elsewhere.

Similar tactics are likely if a Labour government seeks to re-regulate labour markets, including repeal of the Hobbit law, strengthen workforce protections and take concrete steps to achieve a living wage.

As the Hobbit precedent showed, the facts and legal basis of their argument are irrelevant if they can manipulate the public debate and political climate. If that fails, **the TPPA would allow Hollywood to increase the fiscal and political risk by threatening to sue, and if necessary suing the government directly in an offshore investment tribunal.**

The Motion Picture Association of America - Hollywood - is a vigorous proponent of the TPPA. Prime Minister John Key discussed it with them in Hollywood in 2012. They are most interested in the intellectual property issues. But they also insist that investors must have the right to sue under the investment chapter of the TPPA.

There are a growing number of investor disputes that challenge labour laws said to have a substantial impact on the value or profitability of an investment.

- In 2005 US courier company [United Parcel Service \(UPS\)](#) accused state-owned Canada Post of unfair competition, in breach of its investment obligations under NAFTA. One ground was that Canada Post's wages were kept unfairly low because certain postal workers were denied the right to bargain collectively. The case failed, but the tribunal did not rule out the labour issue as a valid part of the claim.
- In another 2005 dispute [Romania](#) was accused of failing to protect the company's officials from labour unrest.
- Last year, French transnational [Veolia](#) claimed €82 million against Egypt, saying it breached the investor's rights by failing to keep payments in line with inflation and other potential cost increases. One target was Egypt's new labour laws, including a higher minimum wage, even though contract provisions provided a buffer against the financial impacts of such changes.

Again, the threat of such disputes can be as, or more, effective than an actual case.

The proposed labour chapter would not help in such cases. It is expected to exhort the various TPPA countries not to lower their labour standards to attract foreign investment. The chapter would also require the parties' laws to adopt and maintain the rights stated in the International Labour Organisation (ILO) Declaration on Fundamental Principles and Rights at Work and its Follow-Up. But that does not help a policy that is designed to *raise* labour standards.

The TPPA would provide Hollywood with more leverage and new tools to deter the government from changing employment laws or the subsidies and other benefits that are made available to foreign firms.