
PART III

AUSTRALIA

1. INTRODUCTION

The ACTU has been active in defending workers rights in Australia and the Asia Pacific region, and throughout the rest of the world. The ACTU has done so through its core industrial activity to defend and advance workers interests. The ACTU has also been strong in the negotiation of industrial legislation - both federal and state levels. The ACTU has concerned itself with the needs of certain groups of workers facing particular disadvantage in the labour market, eg. women, Aboriginal and Torres Strait Islander workers, migrant workers and workers with disabilities.

As Australia becomes more integrated with the world economy and our labour force more multi-cultural, the rights of workers in the Asia Pacific region has become a major focus of ACTU activity. The ACTU strongly supports trade union and worker rights throughout the region and also the establishment of independent trade unions to enforce worker rights amongst our Asia Pacific nations.

This report is a brief summary of ACTU activity in these areas.

2. TRADE UNION RIGHTS IN AUSTRALIA

2.1 Federal Legislation

The federal Labor Government in 1994 passed the Industrial Relations Reform Act 1993 in order to bring on a new framework of industrial relations law in Australia. A key part of the legislation that is of relevance to trade union rights throughout the world is the granting to the Industrial Relations Commission of new powers in respect to setting minimum wages, ensuring equal remuneration for work of equal value, and with respect to unfair dis-

missals.

These powers are based on the commonwealth government's external affairs power in terms of ratifying a number of international conventions, as well as on the traditional provincial power which underpins the Industrial Relations Act.

The use of the external affairs powers to meet Australia's international obligation is significant, as indeed the relevant ILO Conventions are in fact included as an appendix to the Act.

The legislation fixes minimum entitlements to all workers which conform with our national treaty obligations, and ensure that all Australian workers, whether covered by an Award of the Australian Industrial Relations Commission or not, are provided for adequately in respect of minimum wages, equal remuneration for work of equal value, termination of employment, parental leave, and leave to care for the immediate family (in keeping with the Convention of workers with family responsibilities).

The legislation cements these minimum entitlements for all Australian workers in line with Australia's international treaty obligations.

In addition the legislation:

1. preserves and inserts the integrity of the award system of a benchmark against which the bargaining process can be determined.
2. facilitates the making of enterprise agreements throughout the entire workforce by encouraging an interventionist but conciliatory role for the Australian Industrial Relations Commission.
3. ensures that the bargaining process and its outcomes are open to public scrutiny and protect workers and the award safety net through a no disadvantage test applied by the AIRC.

4. provides for limited immunity for civil liberty and civil liability for industrial action during the bargaining process.

5. establishes a special court to be known as the Industrial Relations Court of Australia which assumes responsibility for matters previously handled by the Federal Court, plus judicial matters concerning termination of employment.

In essence the legislation provides scope for bargaining by workers and employers in the form of enterprise bargaining, but bargaining is underpinned by a sustainable and appropriate safety net for wages and conditions for workers.

The legislation also provides unions and their members with immunity from sanctions for industrial action taken in support of the pursuit of a certified agreement during a bargaining period in relation to such agreement. This is in keeping with the compliance with the convention of the ILO concerning freedom of association and protection of the right to organise, and the convention concerning the application of the principles of the right to organise and bargain collectively.

2.2 State Legislation

Despite the presence of a Labor Government federally, all but one of the Australian states currently have Conservative State Governments. Most of these governments are particularly anti-trade union, particularly the government of Premier Jeff Kennett in Victoria. The legislation, the Employer Relations Act 1992, introduced by the Conservative State Government in Victoria was particularly anti-union. The law enabled employers to determine wage levels and employment conditions unilaterally by excluding unions from enterprise bargaining and removing a wide range of established employment conditions and benefits. Awards in the state were frozen and there has been an enforcement of workers to sign individual

employment contracts in the state, strikes have been outlawed, and particularly harsh offences have been brought in against industrial action.

However, due to the draconian nature of this legislation, in 1992 a large number of workers have since transferred to federal award coverage. It is estimated that over 300,000 workers have transferred to the federal system, and the state award system has subsequently had a profound reduction in a workforce population which it covers. The exodus of Victorian workers to the federal system would have been much higher but for the delay tactics of the state government through litigation, trying to keep state public servants, teachers and nurses in the Victorian system against their will.

Conservative governments in South Australia and Western Australia have since tried similar tactics in industrial legislation, as has the NSW state Conservative Government which had been elected before the Victorian government.

3. THE ACTU AND WORKERS RIGHTS IN THE ASIA PACIFIC

3.1 The Social Clause (GATT/WHO)

In the lead-up to the completion of the Uruguay Round and its signing at Marrakesh, Morocco, the ACTU has participated vigorously in the debate on the importance of labor rights and workers rights in trade policy.

The ACTU has done that through its affiliations with the ICFTU/APRO and had done so domestically with the Australian Government and Australian business.

The ACTU believes that as Australia further integrates into the Asia Pacific region that labor standards, workers rights, and the right to form trade unions will be an important issue in the region. Its

importance to trade has been clear since the Havana Charter in 1948, which noted that trade liberalisation does not trickle down if left to market forces alone. There are great benefits to be got from international trade liberalisation, but it is important that those benefits be shared with workers and their families and not just elites in society.

The ACTU believes there are a core set of minimum labor standards that should be included in a discussion of the social clause. These include the freedom of association, the right to organisation and the right to collectively bargain, the prevention of child labour, the prevention of forced labour, antidiscrimination, and the right to work in a safe environment.

These should be part of the agenda for the successor to the GATT, the WTO, and other trade policy within the region.

The ACTU sees this as being consistent with trade liberalisation, and it will ensure that benefits from trade liberalisation will be shared with the community, and they will also ensure support for liberalised trade from workers and the community. It is essentially an insurance policy against a return to protectionism. For if trade liberalisation impoverishes workers and their families then there is unlikely to be much support for it in the future and the push for protection will be quite overwhelming. The social clause is about protecting human rights and workers rights. It is about protecting markets or countries.

Despite opposition to the social clause initially by the Australian Labor Government, the recent Australian Labor Party Conference passed a resolution recognising the need to support workers rights in the global economy as part of the ALP trade platform. The resolution: "underlines the need to broaden and deepen these efforts in order to achieve greater worker rights, including the following ILO Conventions:

- (a) No. 97 and 98 - Freedom of Association and Rights

to Organise and Collective Bargaining.

- (b) No. 100 and 111 - Equity and non-discrimination.
- (c) No. 29 and 105 - Forced Labour
- (d) No. 138 - Child Labour and the right to work in a safe environment.

The resolution commits the Australian Government to establish a tripartite working party, including representatives of the ACTU, Australian industry and government to investigate "effective measures that the Australian Government can take.... within the international community, including the consideration of the possible role of trade and international financial institutions to develop and promote workers rights in the region". (The resolution is included in the Appendix).

The work on trade and labour rights is an important part of the ACTU's agenda as the Australian economy becomes more integrated in the Asia Pacific.

3.2 Asia Pacific Economic Co-operation (APEC)

In addition to the GATT/WTO, the role of APEC will increasingly be important as the vehicle for trade and economic integration in the region for remainder of the 90's and throughout the next century. As in the WTO context the ACTU believes that labour rights play an important role in economic integration within the Asia Pacific. The ACTU welcomes the spectacular economic growth in the region, and sees important opportunities for Australian business and industry in the region, and similarly opportunities for our Asian Pacific neighbours within Australia itself. However, despite the levels of economic growth and market liberalisation within the Asia Pacific region, there is still a great deal of problems in terms of workers rights and labour standards. This includes the horrific number of

industrial accidents such as the Kader Toy Factory in Bangkok where women were burnt to death due to the lack of proper safety standards.

Also, we see a great number of deaths and industrial accidents, the use of child of child and the use of forced labour throughout Asia. We are most concerned about the reports that last year 92 trade unionist were murdered in at least 14 countries (see annual Survey of violation of trade union rights in the ICFTU). The ACTU and large sectors of the Australian community were distressed to hear the example in Indonesia where the body of female trade unionist Marsinah was found raped and tortured a few days after she and fellow workers had been summoned for questioning by the local military authorities in connection with a wage dispute in an East Java factory.

In 22 countries nearly 1,000 trade unionists were attacked when they held peaceful demonstrations for improved pay and conditions. 2,300 trade unionists were arrested in 38 countries for trade union activities.

The ACTU is extremely concerned about human rights within the Asian Pacific region and believes this should be a priority as the APEC institutions develop, and as countries discuss political liberalisation and democratic development as economic growth continues.

3.3 ASILO

In 1992 the Australian Government following discussions with the other social partners - the ACTU and the employers organisation - committed \$1 million to the ILO for a three year pilot project, to promote compliance with ILO Conventions. The objectives of this program, known as ASILO, were to increase compliance with conventions, improve industrial relations and improve occupational health and safety in China, Indonesia, Malaysia, Thailand and Vietnam. Currently proposals are being developed for a

second phase of this program.

4. THE 'MARGINALISED MAJORITY'

4.1 Indigenous issues

As 1993 was the International Year for the world's Indigenous people and even though 1993 has passed, Indigenous issues are extremely important for the trade union movement.

This priority was emphasised by Martin Feguson, ACTU President at the Partners for Justice Conference in Sydney in June 1993 where he said:

"Essentially trade unions, like the International Year, are about human rights. We have the international year to say why people should not be harmed because of their race, similarly we as trade unions see people are not harmed because of their economic status as an employee. Trade unions must be the major protector of human rights at work but it is important that unions support justice for our members. This should be a priority for the Australian and International workers movement".

The ACTU has supported this in terms of its support for the Mabo legislation of Native Title. This legislation followed the High Court decision recognising the Aboriginal and Torres Strait Islander people as the original inhabitants of Australia and has allowed those with a continuous link with the land to be able to claim Native Title.

This has been followed in 1994 by the National Land Fund legislation, and by the Social Justice Package. This ensures that those indigenous people without direct connections to land are still able to have their disadvantage redressed.

The educational and employment disadvantage of indigenous Australians is still apparent. Aboriginal and Torres Strait

Islander unemployment is three times the national average. Aboriginal and Torres Strait Islander unemployment is three times the national average. On average Aboriginal and Torres Strait Islander earn only half the income of other Australians. Australian and Torres Strait Islander workers have found it difficult to gain access to high paying jobs and careers in the labour market. They have tended to remain in lower level jobs if they have jobs at all, and have been severely disadvantaged in terms of education and training.

As part of the need to redress this disadvantage the ACTU has joined forces with the Australian Chamber of Commerce and Industry to appoint an Aboriginal Employment Development Officer in each state to target employment and training opportunities for Aboriginal and Torres Strait Islander workers.

In addition, trade unions have given assistance to Aboriginal Communities in developing award wages and conditions for their workers. The ACTU continues to play a role in improving the delivery of health, education and community services to Aborigines, particularly in remote areas in Australia.

4.2 Women Workers

Equal Opportunity and Affirmative Action continue to be supported within the trade union movement. In addition the framing of the Industrial Relations Reform Act 1993 put an important focus on the needs of women workers, and workers with family responsibilities (the majority of whom are women). Provisions in the Act include the importance of minimum entitlements which ensures that women workers are provided with minimum protections. Also equal remuneration for work of equal value, and equal remuneration for men and women workers for work of equal value has been inserted in the Act, following the ILO Convention on equal remuneration and interpretation of that Convention by expert supervisory bodies of the International Labor Organisation. The Act also ensures fair treatment for workers with family responsibilities in line with the ILO

Convention. This is in order to prevent discrimination against workers with family responsibilities, and help workers reconcile work and family responsibilities.

The ACTU has also lodged a claim to establish leave to provide care for support for a member of the workers' immediate family who is ill. This application is currently before the Industrial Relations Commission.

4.3 Migrant Workers

Australia has one of the most culturally and linguistic workforces in the world, with more than fifty percent of its population either born overseas or with a parent born overseas.

While there is legislation in place to combat discrimination and racism there is little doubt that overseas born workers continue to experience substantive systemic discrimination. A tripartite national committee has been established to monitor workplace discrimination but with few resources it has not been as effective as was originally planned.

Under current industrial legislation, enterprise agreements must ensure that there is no discrimination on the grounds of race, colour, sex, sexual preference, age, physical or mental disability, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin.

To further promote equity in the workplace the union movement has actively promoted a national program to provide English language training in the workplace. A number of unions conduct their own English language training programs, with others involved in workplace committees contracting out training services.

To monitor policies relating to overseas born workers, and to promote equal opportunity programs, the ACTU has its own Migrant

Workers Policy committee. Under a Joint Program with the Australian Government a number of unions employ staff to work with overseas born workers.

In addition the ACTU publishes an annual report on developments in discrimination and racism both in the workplace and wider community.

4.4 Workers with Disabilities

The ACTU recognises that specific measures may need to be taken and maintained to ensure that people with disabilities have the opportunity to work in an environment which is adapted to their needs.

Trade union action is necessary to assist people with disabilities being integrated into the overall workforce together with consideration of needs of workers in sheltered workshops, eg training and health and safety. ACTU affiliates are encouraged to ensure that the benefits of workplace agreements are reflected in an equitable way in supported wage agreements applicable at the enterprise level.

The ACTU also acknowledges that the diverse nature of disability may require support beyond that currently available within the general workplace and notes that in some circumstances people with disabilities may choose to work in supported employment, and this right must be guaranteed.

However, the ACTU does not support eligibility criteria for disability pensions that look at medical impairment in isolation from functional disability and social factors that inhibit a return to work.

Workers with disabilities are entitled to appropriate union coverage, and normal award conditions must be applied to all workers. In this regard the ACTU welcomes recent progress by affiliates in extending award coverage of people with disabilities both in open

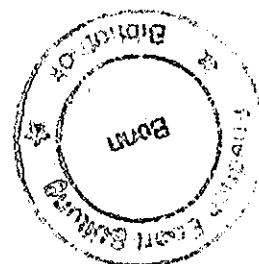
industry and sheltered or supported employment business enterprises.

5. SUMMARY

The ACTU strongly adheres to the view that trade union rights are human rights whether at home in Australia or in other countries in the Asia Pacific region.

The ACTU works for the strengthening of trade union and workers rights in industrial legislation. The ACTU also sees that the rights of workers who have particular disadvantages in the labour market: women, Aboriginal and Torres Strait Islanders, Migrants and workers' is disabilities, are protected.

The ACTU supports the growth of trade union and democratic rights in the Asia Pacific region. This should be a priority as the region becomes more economically integrated through trade liberalisation. The ACTU supports the efforts of the international trade union movement to ensure that trade and economic expansion benefits workers and their families and not just elites in the community.



NEW ZEALAND

For 98 years New Zealand was in the forefront among nations enjoying a liberal approach to progress and reform and it consigned into history the sweat shop conditions its migrants had inherited from the older societies of the Northern Hemisphere.

New Zealand was the first country to give recognition to the 8 hour day and it established by law the 40 hour week for general application to its industrial work force much earlier than most nations.

Its means and channels for negotiation between workers and employers together with its systems for conciliation and arbitration were world leaders and there was general recognition that New Zealand enjoyed a society that represented fairness to a much greater degree than most others.

The workforce with few exceptions was covered by awards and agreements that provided for and protected: conditions, hours of work and overtime, wages and salaries, holidays and sickness benefits, the social conditions of domestic, parental and bereavement leave, working conditions, health and safety, protection for disabled workers, trade union rights, avenues for the settlement of disputes and grievances and many other matters.

But in the decade of the 1980s there was a dramatic change in economic direction and in 1990 a newly elected National Party Government signalled that it intended to accelerate economic change.

The measures they took were harsh and high unemployment reached epidemic proportions. Current figures are 9.6% overall, 22% Maori, 24% Pacific Islanders.

Para 7 One of the measures accompanying the forecast of economic change was to be the introduction of Voluntary Unionism - the so-called democratisation of the labour force.

The employment Contracts Act was designed to deregulate the labour market by removing the effectiveness of the trade union movement. Workers covered by negotiated collective agreements between August 1991- May 1993 dropped from 45% to 21%. These figures may include workers who are not union members.

This act has few parallels and undeniably had the purpose of weakening if not entirely destroying the organised trade union movement in New Zealand.

It was passed on the 15 May 1991 and cancelled all awards and agreements as from the date of their expiry so that by mid 1992 coverage by awards and agreements had ceased and by virtue of the act each and every employee was deemed to be employed under an individual contract.

The act in an unprecedented fashion deregistered all unions and by regulation declared them to be Incorporated Societies. The change in law had a traumatic effect on all workers.

Unemployment continued to rise particularly in the rural areas. The effects of the Employment Contracts Act and other Structural Adjustments created redundancies and the decline in wages and conditions gained momentum. In effect the Act was soon seen to be an Act promoting 'labour contracting' rather than 'employment'.

Union membership fell rapidly in all industries and many unions have ceased to exist. Even amalgamations have failed to stem the Act's objectives.

This Act in the long term is seen to be capable of totally destroying the trade union movement and in the face of a govern

ments determined to pursue deunionisation the NZCTU in 1993 lodged a complaint with the ILO.

In the second of two submissions to the Governing Body the NZCTU said in summary;

a) There is no longer any formal recognition of trade unions in New Zealand. The Act is based on any one being appointed as Bargaining Agent. The system leads to fragmentation and frustrates collective bargaining.

b) Collective Bargaining Agencies or agents of all manner have equal status. Bargaining is done on behalf of individuals or groups and not an area of work or an industry. The employer determines whether new employees will be allowed to join a collective contract and can thus further restrict coverage of contracts negotiated by worker's organisations.

c) Unions can be bypassed and undermined. On one hand the Courts have said that employers may not frustrate the bargaining process where workers have appointed a bargaining agent. However employers are not prohibited from pressing employees to sign individual contracts during the negotiating process or undertake other activities to undermine unions. Some employers will pay for and appoint a bargaining agent to act for their employees; or set up house committees to work out contracts with management. Undermining of unions is also achieved by offering an employment contract only if a union is not involved. Employers exert pressure on workers to withdraw their authorities for the union to act on their behalf while the Courts may decide in future what is acceptable or not acceptable in respect of those practices. It is not possible to restrain the employer by legal means in many instances.

d) Discrimination against unions and union workers. Although workers are free to join a union and to hold office there is no effective protection against discrimination.

e) Employer-funded employee organisations. It is legal for employers to set up and fund workers organisations, to draw up their constitutions and even appoint and employ those organisation's advocates.

f) Unions do not have the right of access to the work place for the purpose of recruiting and organising, or to seek to obtain bargaining rights for employees.

g) Strikes and multi-employer contracts. Strikes to secure an employment contract that will cover the workers of more than one employer in the same industry are explicitly illegal. Employers can structure their enterprises in such a way to ensure that even one company must be covered by more than one contract so isolating the stronger or more strategic sections.

h) Strikes related to economic and social issues. Such strikes are explicitly illegal so there is no redress for conditions that meet only the minimum legislated code in respect of wages and holidays etc.

The ILO preliminary report largely accepted the complaints of the NZCTU. See appendix A.

Prior to the enactment of the Employment Contracts Act there were 1100 awards and agreements covering nearly 800,000 workers out of a workforce of 1.2 million. Most were multi-employer documents. Today, less than half of 1% of the workforce are covered by multi-employer contracts; less than 300,000 employees are covered by collective contracts and approximately 600,000 employees are covered by individual contracts.

Most individual contracts are verbal and are offered by employers on a take it or leave it basis.

Most workers indicating to a potential employer that they wished a union to negotiate their contract would not be employed although the Act gives the impression that all workers can exercise this right to representation.

The Employment Contracts Act is not the only piece of legislation causing concern in New Zealand as it is one of several Acts that form a package to fit the policies and strategies of successive governments that have promoted the structural adjustment required to move to an economy of free market liberalism. An economist writing in the Financial Times described structural adjustment in New Zealand as 'the most extreme experiment in economic liberalization possible in a democracy'.

New Zealand introduced the revolutionary concept of 'no fault' accident compensation in 1973 and refined the system again in 1983. These acts provided for lifelong compensation for victims of work-related and non work-related accidents alike. Weekly payments were augmented by lump sum compensation in the case of serious injury and incapacity. The 'no fault' system removed the need for victims to pursue civil suits to secure common law damages for negligence.

This system was changed under a new law - the Accident Rehabilitation and Compensation Insurance Act 1992 which abolished lump sum payments, the concept of lifetime support and as a result workers compensation has been reduced to less than that available under the pre-1973 legislation. While workers can choose recourse through common law this is frequently ruled out by cost and the uncertainty of the result. The loss of rights conferred by the no fault system can have catastrophic results:

A carpenter dying from an asbestos-related disease was recently awarded compensation of only \$4.00 per week. After union intervention this was increased to a mere \$14.00 per week. This worker has since died.

A six year old child who suffered the loss of a limb when he fell from a train which had faulty safety handrails is entitled to nothing as under New Zealand law he has no right to sue.

The Factories Act with all its protections in respect of hours of work and working conditions has been repealed and workers are deprived of all of their previous rights under this legislation.

Also repealed was the Employment Equity Act 1990 which succeeded the Equal Pay Act had as two of its primary objectives the promotion of equal employment opportunities through the abolition of inequalities of opportunity for designated groups in all forms of employment in both the public and private sectors, and the redress of current and historical discrimination against women in respect of their remuneration. It provided for equal pay for work of equal value, determined by a process of job evaluation which measured a position in a predominantly female industry by comparing it with a similar job in an industry that employed predominantly male workers.

While the NZ Government has rejected ILO's criticism of the Employment Contracts Act, the undeniable truth is that the Act was an act to weaken organised labour and lower the standard of living of the average New Zealander. The effect of the Act and other economic restructuring measures that preceded it, on the lower paid and beneficiaries continues to be devastating.

While living standards have been lowered we have also seen the protection of privilege. Higher salaries in the public sector which are measured against the top salaries in the private sector have increased by decisions of a Commission set up to determine them by 11% since 1992. The Higher Salaries Commission determines the salaries of members of parliament, the judiciary, heads of departments, universities staff, and top jobs in local government administration. Such people have not suffered from the income cuts that have been the lot of the rest of the employed workforce and which contin-

ues to cause hardship for ordinary people.

The criticism of New Zealand's law and social responsibility for people in need is valid but transcending even that is the contempt for democracy.

The Employment Contracts Act style of industrial relations is harshly felt among all workers particularly women who predominate among the lower paid.

In New Zealand 25 Acts of Parliament require government departments and state-owned enterprises to adopt the status of 'good employers', i.e. adopt personnel policies necessary for the fair and proper treatment of employees in all aspects of employment. There is no such obligation for the private sector. The public sector legislation is however largely ineffectual in promoting workers rights.

SOLOMON ISLANDS

Introduction:

This report may not meet some of the requirements but I will try to compensate to that extent. While other countries are celebrating their 30th or 60th anniversaries of unionism Solomon Islands is only trying to emerge above the service and stare across the horizon for a helping hand academically, physically and spiritually in solidarity.

Solomon Islands is a developing country, and as such undergoes a transitional period from colonialism to democratic modernization. As in any underdeveloped countries, the time to put the papers straight, whether it is mean to be that or otherwise.

You can pardon the report because what we are trying to cope with is a new and foreign concept in our society.

PART ONE

General Information on the Country & the Union.

The Solomon Islands were discovered by the Spanish Navigator and Explorer Alvaro De Mendana, in 1568. As he landed on the shores of Guadalcanal the biggest Island he found some gold nuggets in a stream, and thought that these must be the place where King Solomon got all his treasures, because of that he named the Islands "the Isles of Solomon".

There followed a period colonial servitude, starting from 1856. A period of black-birding days followed. Planters kidnapped Solomon Islanders and sold them to plantation owners in Australia & Fiji. This went on until the Queen of Britain declared the Solomon Islands a Protectorate.

The Solomon Islands was governed by the British through the residential High Commissioner based in Fiji. After the Second World War a movement was formed by the people. It was similar to the Cargo Cult in Vanuatu. The movement was called "Marching Rule". Few years after the British Government gave power so that people can form their local councils. These laws were based on British laws. That led to the first Legislative Assembly. We were governed by the Legislative Assembly up to our Independence in 1978. The switch to the Ministerial system in our Government took place after our Independence. Generally speaking we had seen no political crises during our sixteen years of Independence. The present Hilly Government was elected last May 1993. The government policies of the day are geared more towards the environment such as control of mass logging and over fishing in our territorial waters.

Trade unions enjoyed much through the Trade Union Act, and therefore there had not been any terrified policies on unionism. Working attitude towards teachers had been mutual in all respects.

Economic Trend

Solomon Islands is like any other Third World country. Its economy depends mostly on few raw materials that can be exported, the supply of qualified manpower available in the labour market, and of course legislations that can control the whole economy infrastructure. Since 1989 our NDP had been increased. All along since the Independence all the governments that held the reign of power had been accused of crowding the money market, and living very little for the private sector. But then with a population of 300,000 (1986 census) and a birth rate of 3.5%, there must be justification on the government to commit itself in increased expenditures. About 90% of the populace is living on subsistence economy, but depend on government for public services, such as health, (shipping services, transport and communication).

It is therefore, the economic trend of the Solomon Islands is something of a slow process and is sometimes hit by the world recession, but nevertheless trying hard to submerge above the trouble waters of the world economy. (See Appendixs) Economic summit & summary.

PART TWO:

The Union.

The name of the union is the Solomon Islands National Teachers Association. From the time of its formation there had been a number of changes in the executive circles. I think the main reasons are based very much on personal differences. It is upper most important where democracy existed such changes can be experienced, but again it will leave the union in a stagnant syndrome. Even if you have the general secretary but an inefficient executive, progress cannot be measured, or vice versa. The names of the office bearers are as follows:

Mr. Jack Inifiri	- President
Mr. Donation Houkura	- V.President
Mrs. Margret Aihunu	- V.President (F)
Mr Neven Onorio	- Assistant Secretary
Mr. Joseph Lalaubatu	- Treasurer
Mr. Felix Laumae	- General Secretary

Address:

Mr. Jack Inifiri	- Iliia Primary School, C/- Honiara Education Authority, P.O. Box 324, Honiara, S.I.
Mr. Donation Houkura	- Bishop Epalle Primary School, Box 285, Honiara, Solomon Islands.

- Mrs. Margret Aihunu - Mbuavale Primary School, Box 324, Honiara, Solomon Islands.
- Mr. Neven Onorio - Naha Primary School, Box 324, Honiara, S.I.
- Mr. Joseph Lalaubatu - Naha Primary School, Box 324, Honiara, S.I.
- Mr. Felix Laurnae - Solomon Islands National Teachers Association, Box 9G7, Honiara, Solomon Islands.

a) The Solomon Islands National Teachers Union was the result of a group of determined teachers struggling to form a teachers union in 1985. This was done after an attempt by provincial teachers to form several single teachers unions or Associations. They failed because of the lack of finance and qualified manpower. There were no provisions in our legislature to cater for the check off system in those days. The Association was duly registered under the (SI) Trade Union Act in 1986. When the union was granted recognition the first general secretary elected in 1985 resigned. In 1989 the union called a three (3) months nationwide strike. Due to no compromise with members and the executive the first President was forced to step down. Anyway the union progressed on from 1990 by initiating its three financial arms. By 1992 the union experienced its first taste of problems. The second general secretary was terminated based on the Auditors' report. And so, finance was the basis of problems apart from the indifferences of certain top executive members.

Summarily, in its nine years of progress SINTA had five executives and 2 general secretaries. (The current one inclusive)

b) There is no written history of the association. This is a part from information supplied in several country reports presented by officers who attended various conferences in the region. (See Appendix) The only report with recommendations for and of the union is the "NZEI Ross FORBES report (a copy of which should be with the C.P.T.O.)

Current Problems and Issues

As indicated in this report earlier the Association needs.

- a) Good financial control administration.
- b) Proper planning & co-ordination.
- c) More executive education on unionism issues.
- d) Management.
- e) Recruiting new members.

The union is undergoing an exercise of creating an accounting system. This includes a computerized programming on membership, income & expenditure and other relevant informations. A 4 - 5 years educational programme had been created aiming at the priority executive members and then the rank & file members. A weekly programme, in our Radio Happy Isles to inform our members, on the union issues from Head quarters, and its subsidiaries. (See Appendixes) SINTA Education Plan Vision year 2000.

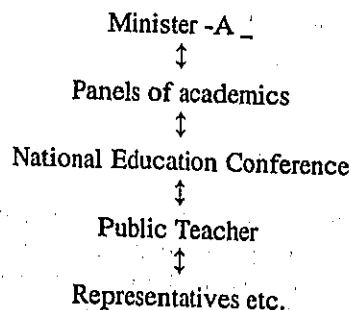
PART THREE.

Information Relating to IMF/World Bank Report On Our Country.

Yes there is an input in our Education Infrastructure in the form of finance. The government had been given 12.2 million dollars from a package of US\$16.9 million dollars to help in our third education project for both primary & secondary. This was the result of a nationwide Education conference in 1991. Concerning Policy matters there had

ject for both primary & secondary. This was the result of a nationwide Education conference in 1991. Concerning Policy matters there had not been any involvement by the IMF/World Bank in our Education Policy. All policies on the education system are purely originated from such conferences. The education policies are based along the line of thinking of the question of "Education for what?"

The normal structure for Education policy making is as follows.



To our knowledge there had not been any job Evaluation carried in the teaching service.

- 1) The key demands of the Union.
 - a) Supply of key material in schools.
 - b) Teachers participation in main decisions in relations to their condition of work.
 - c) Housing allowance.
 - d) Transport allowances.

Since 1989 the Association achieved a 18% pay rise after a 3 months strike, and in 1991 a 11% rise. These had been incorporated ever since.

- 2) The consumers price index was building up from 7% until now it is 13%. The Estimate in December 1994 it is 24%.

3) Automatic Increase had been suspended by the government. It is now a general issue or demand by all the public service unions - in the country which means it is a part of a continuous struggle.

4) The Solomon Islands Trade Union movement needs manpower of skill capabilities to monitor and assess such statistical studies.

5) One thing the government needs to be aware is that many of conventions need to be ratified by the government, since our country is a member of the United Nations.

COMPILED & PREPARED

BY

FELIX LAUMAE
GENERAL SECRETARY
SINTA

PAPUA NEW GUINEA:

INTRODUCTION

I would like to start this paper by making some observations about the context of workers' rights, and then to go on to look at some, but not all, of the items raised by the major ILO Conventions.

CAPITAL, UNIONS AND THE STATE

I have an old fashioned view of the relationship between capital, the state, and trade unions. I do not see a tripartite arrangement in which the three elements come together as equals, and co-operate for the good of us all. Instead I see capital and the state making deals, and manipulating the law at the expense of workers. Workers have lost consistently over the past decade. Prices have gone up, taxes have gone up, the value of money has gone down, and conditions of employment have got worse. In Papua New Guinea we have a capitalist state, which openly glorifies an export-orientated economy dominated by foreign investment. We have a state which rolls-over for the World Bank and IMF. A state which has adopted the Structural Adjustment Programs of the IMF that have brought poverty and misery to hundreds of millions of people in the Third World. Since Independence the condition of the Papua New Guinean worker has deteriorated. The health services and the education system are in a mess. Housing for workers would be a joke if it were not so serious. The governments policy of promoting employment through expansion of the export orientated economy is little better than a big lie. We know that about one in ten school leavers can get a job. The Papua New Guinea economy, in its present form can never provide full employment. Even if they doubled its capacity overnight, they would not come anywhere near the promise of full employment. The

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promise of employment is a big lie, and the sooner we recognise it as a lie, the sooner we can begin to build a new economic and social system that is just and fair for all, rather than go on living a lie and cheating ourselves and our children.

RURAL PEASANTRY LARGER THAN THE WORKING CLASS & USED TO CONTROL WORKERS

There are about a quarter of a million workers (wage-earners) in Papua New Guinea. The majority of people in this country are rural producers, peasants, with one foot in the traditional economy and culture, and one foot in the cash economy. The difference between a worker and a peasant is that workers buy their food and subsistence with the money they earn as wages, while peasants produce some or all of their food and subsistence themselves. The worker is more vulnerable to market, while the peasant is vulnerable to natural disaster like drought, floods, or crop disease. Because the working class in Papua New Guinea is smaller than rural producers the government and the bosses use the imbalance against workers to hold them in place, to hold wage claims down, and to make sure unions are kept under control. When unions demand wage indexation the government calls them greedy, and raises the rights of the rural producers to shut the workers up. This is a fairly transparent divide and rule tactic, that will run out when rural producers realise that economic policies that hurt unions also hurt rural producers. It is true that governments have been quite successful in keeping rural producers in the dark. But we can see the direction that unions need to take: we need to explore the links we have with rural producers.

An associated issue, then is raised, about the need to actively promote rural unions. Mine and petroleum workers are usually based in remote areas. The mining industry has seen the largest expansion of union activity in recent times. Compared to other sectors, mine and petroleum workers, have been able to attract better conditions. The timber industry is also located in relatively remote areas, but there has not been the same degree of unionism in that industry. We know that

many timber workers are employed under very bad conditions.

The plantation industry is another activity that exploits workers. Indeed, international prices for many commodities are so bad that this industry can only survive because plantation workers are kept ignorant of their rights as workers. Once the worker on a plantation begins to demand decent conditions, the plantations will go bankrupt. Here we see how the raw materials export trade is maintained by a subsidy supplied by the rural worker. In the oil palm sector the bosses know these truths. They invented the nuclear estate to delay the day of reckoning. The block-holder is bound by contract to the factory. No wage is paid. The factory gets the labour of the man, wife and children, and through an agreement with the government fixes the prices so low, that it is hard for the block-holder to make the rural minimum wage. So low are block-holders fresh fruit bunch prices maintained in Papua New Guinea through the price fixing mechanism agreed to by the government, that Irian Jayan block-holders get twice as much as their Papua New Guinean counterparts.

Another area in which I have seen rural workers being ripped off is with rubber-tapping piecework arrangements. There is something very wrong up at Sogeri. Rubber tappers up there can only get about half the price for crude latex as what is being paid by buyers down at Kanosia. These are injustices which we need the union movement to address. We need some active rural-based unions.

INDUSTRIAL RELATIONS BUREAUCRACY: PART OF THE EXECUTIVE

I have so far talked about the relationship between the bosses and the government, how, in the big picture they control workers and the unions, and some ways in which workers and unions may respond. But there are other factors which go against workers and unions. In Papua New Guinea the regulation of industrial organisations is an executive function. Even the arbitration system which is formally meant to be impartial, is housed, and managed as an executive func-

tion. I do not wish to imply any criticism of the industrial arbitrator. It is the public image of an institution housed in the Department of Labour that is of concern.

The Minimum Wages Board, a misnomer, because it sets basic conditions for all workers, cannot be regarded as a judicial body at all. It is a multi-sectoral institution, and tries to be every thing to every body, in short, as an institution, it is a political compromise. We need a judicial body to decide on basic conditions. One that is bound by the rule of law.

We need to have regulatory agencies that are not arms of the executive open to political pressure. We need to have a system of dispute settlement that is quite beyond the control, and the appearance of control, of the executive. There is a real need to create a specialist labour court, which is part of the judicial arm of government, quite separate from the executive.

The U.S State *Department Human Rights Report for 1993* for Papua New Guinea says in past years, the International Labour Organisation (ILO) has admonished the Government to amend the law that gives it discretionary power to cancel arbitration awards or declare wage agreements void when they are contrary to government policy. This has not been accomplished because of a lack of resources. The ILO has now offered its technical assistance.

One way in which agreements can be thwarted in the public sector is by saying that they have to be approved under the *Salaries and Conditions Monitoring Committee Act*. When the National Academic Staff Association reached an agreement with the University of Papua New Guinea over the dual wage issue in 1988, the government used that Act to knock the agreement on the head. There is no definitive ruling on whether that Act impinges on the arbitration system. We need an arbitration system that is executive-free.

These institutional biases against workers and against unions are a

reflection of a more profound bias in the law itself.

INDUSTRIAL LAW: THE UNEVEN PLAYING FIELD

Trade union existence depends upon laws that are designed to limit trade union action. Industrial law pretends to deal equally and fairly between bosses and workers, but this is really a lie and hypocrisy. The English Common Law (imported into Papua New Guinea under Schedule 2 of the *Constitution*), which underlays the *Industrial Relations Act* always protected property owners and bosses. The courts have traditionally given a bizarre interpretation of the right of workers to enter into contracts of employment. Workers can enter into a contract of employment, supposedly of their own free will, but if they are unlawfully dismissed cannot claim specific performance, because it would be unfair to employers to force them to employ a worker, when the law could not grant specific performance against a worker, because that would be considered as enslaving the worker.

This is superficial reasoning because specific performance is a matter of equity, and is only granted when damages are inappropriate. As a remedy, specific performance is a creature of equity, and all equitable remedies are discretionary, depending upon fairness and good conscience. Clearly there are cases when damages for unlawful dismissal are not an appropriate remedy, and as a matter of fairness and good conscience, the worker should be re-instated. The transparent hypocrisy of the law is seen when it is realised that slavery is illegal, although its not illegal to pay workers starvation wages and make them wages slaves.

The two-faced nature of Industrial Law can be accounted for historically, in terms of a class bias in the judiciary which favoured the bosses and property owners. Even though this bias may have dissipated, the judiciary is left with well-established rules that could only reform with difficulty. So, workers tend to get the sticky end of the Common Law.

Another aspect of the vulgar class bias of Industrial Law can be seen when workers actions which seek to disrupt the employers business are seen by the law as restraints of trade, or as other unlawful acts which disrupt contracts and property relations. So, when workers combine and take action against their bosses the bosses use the Common Law of wrongs (torts) to protect themselves. The law never viewed the plight of the worker who had to live on starvation wages as a justification for the disruption of contractual relationships. The chief value in industrial law was always money, and not humanity. Trade unions eventually got the Common Law changed by statute to give them protection from civil actions when they went on strike. It was only a partial victory. The bosses put on so many controls over strikes which enabled them to have a strike declared illegal, a union de-registered so that it lost its protection and could be sued.

The law of trespass to the person, and trespass to property is used to stop the effective use of the union picket. The law of real property puts the ownership of the place of work in the hands of the boss. The boss can then say who goes in and who goes out; union organisers and shop stewards can have the right to be on the bosses premises withdrawn. Pickets must be peaceful. Any group of two or more persons who act in such a way as to cause fear to a reasonable person is an unlawful assembly. So scabs can break picket lines but pickets who try to stop scabs physically run the risk of assault charges. Pickets can only take place off the bosses land, otherwise they are trespassing. If the picket blocks a public road it is likely to be obstructing traffic.

Unions are controlled in the ways that they can further the rights of workers by the law which defines what is an industrial dispute. If a union takes up a matter which the Registrar or the bosses decide is not an "industrial matter", then the government will declare the union action illegal. For example when the National Academics went on strike in 1988 over the dual pay system, the government said that the strike was political, and not a genuine industrial dispute. Although in that case the government backed off, there is potential for a union to be deregistered if it pushes an issue which is defined in law as not

being an industrial issue. This makes it difficult for unions to use their power to further general social issues such as health, education, environmental damage, or the right of self-determination in other countries like West Papua, East Timor, or Kanaky.

UNIONS IN PAPUA NEW GUINEA ARE UNDEVELOPED

The inherent class-bias of Industrial Law is a severe impediment to union development, but it is by no means the only obstacle to trade union rights in Papua New Guinea. Unions in Papua New Guinea are relatively weak. This is a reflection on the historical conditions which accompanied the emergence of the working class in Papua New Guinea. The working class is still quite small. It did not begin to grow until after the Second World War. Even now many Papua New Guineans who work for wages are not proletarians, that is persons who have nothing to sell but their labour power. Most Papua New Guinean workers still have traditional land rights back in the village. It is only recently that a generation of true workers has begun to emerge, people who will remain as wage employees until they are too old to work. It is from this class that a true trade union movement is beginning to arise. Up until now the emergence of the union movement has had many failures and inefficiencies. Michael Hess summed up the present situation:

“Since their initial formation in the late 1950’s PNG unions have made considerable progress. Unlike unions in so many newly independent nations, they have survived the demise of colonial rule and have an established place in the nation’s economic and political life. Most, however, continue to have little real presence in the workplace and to be largely irrelevant to their members” *M. Hess Unions Under Economic Development: Private sector Unions in Papua New Guinea*, OUP, Melbourne 1992, 206z

PEOPLE WHO SLEEP ON THEIR RIGHTS LOSE THEM

This lack of real presence in the workplace and irrelevancy to rank

and file members can be attributed to the failure of union leadership on a whole series of issues vital to workers. Over the last ten years the bosses and the government have had many victories. The conditions of the workers and ordinary people in Papua New Guinea have got worse, and worse. In many of these cases unions have been unable or unwilling to confront the government or the bosses, and have rolled over and surrendered. The unions really have no one to blame but themselves. Unions in Papua New Guinea seem to have swallowed the government line that “workers are greedy and that workers make their demands at the expense of the rural people”. This, of course, is divide and rule. It fails to see that historically workers lead rural producers in the fight for human rights, social services and democracy. The clear example of this is COSATU in South Africa which spear-headed the fight against apartheid, and is a major strength behind the African National Congress. Papua New Guinea unions need to re-commit themselves to social justice.

There are a number of issues which should have been hard fought by unions:

Youth wages: This issue was important because the strength of unions depends upon being able to recruit new members. The unions neglected the youth wages issue, and allowed employers to exploit youth. Young people did not see the unions stand up for them. They are not likely to think positively about unions. The bosses win both ways: they get cheap labour, and they undermine future union membership.

Abolition of urban minimum wage: The way in which unions gave up at the last Minimum Wages Board hearing, and allowed the government and employers to bring in a wage below the level of subsistence can do little to promote solidarity amongst workers. This is an issue that needs to be taken up at the Minimum Wage Board hearings in early 1995.

The equality of women: Half the population of this country are left

out in the cold. Women are underrepresented in all aspects of modern life, and they get a raw deal in the traditional sector too. I raised this issue in my paper on human and democratic rights. The trade unions must bring in more women as members. They should reserve places on their executives for female vice presidents, and they should do their best to achieve a gender balance in the decision-making processes. The argument that women have to get into power on their own merit is rubbish. Women in Papua New Guinea are so disadvantaged that this will take too long. We have to have affirmative action. If the unions bring in women the unions will prosper.

Housing: Government policy is to get away from employer provided housing. But with housing costs rising and the urban minimum wage down, unskilled workers have no chance of decent housing. They are condemned to live in settlements, with unhygienic conditions and poor services: The bosses have managed to pass another social cost off onto labour. The economist John Galbraith tells us that capitalism has never provided decent housing at prices that be afforded by all.

Health services: The government has run the IMF's Structural Adjustment Program since the early 1980s. It has systematically cut away health funding. As a result Papua New Guinea is one of the worst countries in the world for infant deaths. The health centres, health programs, and hospitals have run down, and Papua New Guineans are allowed to die from diseases that are easily preventable. Structural Adjustment kills babies.

Devaluation: The bosses knew that the devaluation was coming in June 1994, and many big companies, including mining companies pulled out their money from the country. One big-time politician is alleged to have moved K14 million out of the country. As a result of this exodus of capital Papua New Guinea's foreign exchange reserves were run dry. The government had to float the kina. Prices went up. Workers have been told by the government "no more pay rises". This is a union issue and it was good to see the Teachers Association run a full page newspaper advertisement on it.

Wage indexation: In its latest Supply Bill the government has said that all rates, fees and charges are to be fully indexed against the Consumer Price Index. But the government refuses to give workers wage indexation. If the workers ask for indexation the government calls them "greedy". This is an important union issue, and we have a Minimum Wages Board coming in early 1995. The workers are very angry about price rises, but are the unions ready for this important case ?

Legal aid: At ICRAF we have a number of workers as clients. There are three broad types of complaints: unlawful dismissals, injuries, and loss of life savings. The unlawful dismissal cases come from both the private and public sectors. The public sector dismissals are easier to deal with because the breach of statutory duty can give rise to judicial review. A worker in the private sector can only get damages through the courts reinstatement can come through arbitration. The injury cases include workers compensation claims and common law actions. We have one client a member of the security forces who was badly injured in Bougainville. It seems that many workers are being robbed of their life savings, or at least finding it very hard to access their money. A common complaint is that savings in a bank, savings and loan society, or superannuation fund have disappeared. Worker's savings are being stolen. Retired public servants have great difficulty in getting access to their pensions or lump sums, particularly if they now live in rural areas. These big banks and funds are almost impossible to deal with, even if you are a lawyer. They do not answer letters, telephones or faxes. The unions need to be doing a lot more to give legal aid to their workers.

Judge Woods, in Mount Hagen recently dealt with an appeal involving a policemen who ran his vehicle off the road to avoid a pig. The Judge said:

"I must be critical of the failure of the police association to look after the interests of its members when they have trouble which brings

them before the courts...One should expect a well run union, which collects dues from members and purports to look after the interests of its members, would at the least assist its members with representation before the courts. What are the dues paid into the Police Association every fortnight for ? For all police. I estimate about K15000 a fortnight which means several thousand a year, this could pay several lawyers to look after the police problems and still leave a substantial balance left for other association matters." *Post Courier* 11 November 1994 p. 4

I know it is unfair of me to single out a particular union, and there is probably another side to the story, which did not come out in the press. But the judge makes a point. There is a real need for us all to get our act together and provide a decent legal aid service to workers. I know that the Catholic Commission for Justice Peace and Development is keen to provide legal aid to poor people. Other NGOs and ICRAF would like to participate too. Some unions have their own in-house lawyers. Could we come together and decide how to provide appropriate legal aid to workers ?

Looking back over the last decade we can see that workers and the union movement lost a lot. But I believe that the nineties are different. The union movement, as Michael Hess says, has survived and has an established place in society. It is up to the unions to take up the human rights and workers rights issues, and advance the position of their members.

Now, I would like to move on to the formal part of the paper. What I do here is to set out parts of some the International Labour Organisation (ILO) Conventions, and the equivalent rights under our *Constitution*. I think it is important to have the ILO Conventions set out, because the material is not readily available in Papua New Guinea, and I suspect that many Papua New Guinean workers may not have read them before. As I have a problem of space, I do not cover all the material.

THE RIGHT TO JOIN A UNION

ILO Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise.

Art. 2 (1). Workers and employers, without distinction whatsoever, shall have the right to establish, and subject only to those rules of the organisation concerned, to join organisations of their own choosing without previous authorisation.

(2). The public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof.

Art. 4 [The right of a union not to be dissolved or suspended by administrative action] Workers and employers organisations shall not be liable to be dissolved or suspended by administrative authority.

Art. 5 [Industry wide unions & the freedom to establish and join federations nationally and internationally] Workers' and employers' organisations shall have the right to establish and join federations and confederations and any such organisation, federation or confederations shall have the right to affiliate with international organisations of workers and employers.

Art.6 The provisions of Articles 2,3, and 4 hereof apply to federations and confederations of workers and employers' organisations.

Art. 7 The acquisition of legal personality by workers' and employers' organisations, federations and confederations shall not be made subject to conditions of such a character as to restrict the application of the provision of Articles 2. 3, and 4 hereof.

Art. 8 (1) In exercising the rights provided for in this Convention workers and employers and their respective organisations, like other persons or organised collectivities, shall respect the law of the land.
(2). The law of the land shall not be such as to impair, nor shall it be

so applied as to impair, the guarantees provided for in this Convention.

The Constitution

Section 47 Freedom of Assembly and Association: Every person has the right peacefully to assemble and associate and to form or belong to, nor not to belong to, political parties, industrial organisations or other associations, except to the extent that the exercise of that right is regulated by a law (a) that makes reasonable provision in respect of the registration of all or any associations; or (b) that imposes reasonable restrictions on public office-holders; or (c) that complies with section 38 (general qualification on qualified rights)

The right to form a union

ILO Convention No. 98 concerning the Application of the principles of the Right to Organise and to Bargain Collectively:

Art. 1. (1) Workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment. (2) Such protection shall apply more particularly in respect of acts calculated to (a) make the employment of a worker subject to the condition that he shall not join a union or shall relinquish trade union membership; (b) cause the dismissal of or otherwise prejudice a worker by reason of union membership or because of participation in union activities outside working hours or, with the consent of the employer, within working hours.

ILO Convention 135 concerning Protection and Facilities to be Afforded to Workers' Representatives in the Undertaking:

Article 1 Workers' representatives in an undertaking shall enjoy effective protection against any act prejudicial to them, including dismissal, based on their status or activities as a worker's representative or on union membership or participation in union activities, in so

far as they act in conformity with existing laws or collective agreements or other jointly agreed arrangements

ILO Convention 151 concerning Protection of the Right to Organise and Procedures for determining Conditions of Employment in the Public Service

Article 4 (1) Public employees shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment.
Article 5 (1) Public employees' organisations shall enjoy complete independence from public authorities .

Article 6 (1) Such facilities shall be afforded to the representatives of recognised public employees' organisations as may be appropriate in order to enable them to carry out their functions promptly and efficiently, both during and outside their working hours.

Article 9 Public employees shall have, as other workers, the civil and political rights which are essential for the normal exercise of freedom of association, subject only to the obligations arising from their status and the nature of their functions.

One of the problems that we have met recently with public employees is with soldiers. Under the Defence Act they may not join trade unions. As far as I know, soldiers are the only group of workers who are banned from joining a union in Papua New Guinea. The effect of this law was to severely prejudice soldiers in the 1980s when the government began a retrenchment exercise in the Defence Force. At first the government refused to apply the PEA negotiated retrenchment package to soldiers. When it finally agreed to apply that agreement to the Defence Force hundreds of soldiers had been retrenched, and these was widespread complaints about the calculations of the retrenchment benefits paid. The soldiers had no union to take up their complaints formally through negotiation or arbitration. They were left with actions before the courts. These actions have been running now since 1988, and the latest action involves claims by over 700 ex-ser-

vicemen amounting to K14 million. The government has been quite lucky. In other Third World Countries soldiers treated badly tend to react violently. In my view there is a need to alter the law to allow soldiers to form a trade union, like the Police Association, so that they can bargain collectively.

The Constitution

See section 47 of the Constitution, quoted in full, above.

U.S State Department Human Rights Report 1993

The right to form and join labor unions is protected by law, subject to registration by the Department of Labor. While the Government does not use registration as a form of control over unions, an unregistered union has no legal standing with the Department of Labor or before the courts and accordingly cannot operate effectively. Unionised workers account for one half of the 250,000 wage earners in the formal economy and are organised into some 50 trade unions, most of which are associated with the Trade Union Congress. Unions are independent of the Government and of political parties. They may freely affiliate with international organisations.

RIGHT TO STRIKE

The Constitution

There is no specific constitutional right to strike, but section 32(2) of the *Constitution* reads:

Every person has the right to freedom based on law, and accordingly has a legal right to do anything that(a) does not injure or interfere with the rights and freedoms of others; and (b) is not prohibited by law; and no person(c) is obliged to do anything that is not required by law; and (d) may be prevented from doing anything that complies with the provisions of paragraphs (a) and (b).

This section does not help the potential striker, as there are laws that prohibit strike action, when an award exists, or with public servants.

U.S. State Department Human Rights Report for 1993

Both public and private sector unions exercised their right to strike in 1993. Concerned over perceived politicization of the appointments of departmental heads, approximately 100 attorneys and staff of the Office of Attorney-General, with support from the Public Employees Association, struck to revoke a controversial appointment as Secretary of Justice. After a week, the strike was abandoned in favour of a legal challenge, which was ultimately accepted by the courts. Mining workers have been responsible for the most visible union activity in the private sector. Laborers at the Ok Tedi Mine struck three times in 1993—first over wages, then management activities, and finally work related conditions.

For most workers, there is no right to strike in Papua New Guinea, because they are locked into awards, which forbid strikes, or they are public servants. In the lawyers strike in 1993, many senior lawyers were suspended and threatened with sacking.

When Papua New Guinean workers are driven to strike action, they use their industrial muscle, and rely on the fact that they are too poor to be sued. The view of the U.S. State Department is somewhat formal. Dr. Hess sees the *Industrial Relations Act* (referred to by Dr. Hess in its pre-independence form as an Ordinance) thus:

The *Industrial Relations Act* (now "Act") did not go very far in protecting unions from the common law consequences of coming between employer and employee. Nor did it overcome the prohibition on industrial action where an award already exists. The protection given under the ordinance therefore extended to collective organisation without the threat of strike action and only on behalf of non-con-

tract workers who did not *have* a current award. Furthermore the over-regulation of union affairs place enormous potential power in the hands of the industrial registrar and the Department of Labour. The "Act" made it an offence for a union to operate without being registered s.72 . Individuals who represented such an organisation were themselves open to prosecution s.28. Penalties ranging from fines to deregistration were provided where a union failed to furnish the industrial registrar with annual reports, audits, names of committee members and lists of members s. 59. Michael Hess *Unions Under Economic Development 70-71* .

RIGHT TO PICKET

The law allows a group of people to come together, providing they are not trespassing on someone else's land, and providing they do not put an ordinary person in fear by their acts (which is an unlawful assembly). But a picket cannot touch a scab; that is an assault; to shout "scabs go home " could well be insulting language with intent to cause a breach of the peace, or some such other Summary Offence; and is probably defamatory. Signs which say the same type of thing have to be carefully considered. Pickets are open to be busted by the police. The right to picket is very limited, and while you are debating the right with the police in Papua New Guinea, you are likely to be arrested or illegally detained. This happened to a group of NGO protesters who peacefully picketed the Indonesian Embassy in protest over alleged border crossings and killings at Yapsie by Indonesian soldiers last year. They were released later, but only after the police had broken the picket.

The Constitution

There is no constitutional right to picket, only a limited right to put up an ineffective line, with every chance in practice the picket will be busted and you will be illegally detained.

RIGHT TO HOLD MEETINGS, DEMONSTRATIONS, AND PUBLISH JOURNALS

The Constitution

I have discussed these matters in detail in my paper on human rights. Briefly there are constitutional rights to assemble and hold demonstrations. Effectively, the police stop you if they do not like what you are doing. Freedom of expression is guaranteed, but watch out for the laws of defamation if you criticise big business and foreign investors. There are a number of informal ways, which I described in the human rights paper, by which the elites keep control over ideology in Papua New Guinea. Formal controls include the *Censorship Act* and the *Internal Security Act*.

PROTECTION AGAINST ANTI-UNION DISCRIMINATION

U.S. State Department Human Rights Report for 1993

The law prohibits anti union discrimination by employers against union members and organisers. The Department of Labor and Employment, as well as the courts, resolve complaints. There are no export processing zones.

It should be noted that there was a conviction of officials from one major mine who discriminated against unionists, although that matter may go on appeal to a higher court. The strike was declared illegal by the National Court. There has been some pressure to introduce special conditions of employment in export processing zones, although the abolition of the urban minimum wage means that workers will have to work for less than subsistence wages regardless of whether they work in an export processing zone. However, practically the unemployment situation is so bad in Papua New Guinea that bosses can easily sack unionists and get away with it. PTC and Air Niugini are high profile examples because of the presence of unions, but in the private sector where union presence is thin, union members and

organisers are easy targets, and you would not want to tell your future boss that you were a union member if you were looking for a job.

Protection of trade union assets, property and premises: the threat of de-registration

Although the assets of unions are protected by registration under the *Industrial Organisations Act*, a union that does not toe the line runs the risk of deregistration. The effect of de-registration is to strip away protection from the union and leave the assets to the mercy of the bosses and the government. Although this has not happened in Papua New Guinea where unions are generally poor and many have virtually no assets, the lesson can be learnt from the way in which the Australian Government deregistered the militant Builders' Labourers Federation (BLF), and then allowed state governments to strip the assets of the union. This is an example of how the state misuses its power to "chill" those who oppose the bosses.

VANUATU

I suspect most of us in this room have either read or heard something about the situation in Vanuatu over the last 12 months so I will therefore not try to bore you with details but will endeavour to highlight issues on importance.

My report seeks to update the situation vis-a-vis a country report submitted to the Committee on Foreign Affairs U.S. House of Representatives and the U.S. Senate of the Dept of State in February of this year.

Introduction

Vanuatu, South Pacific island nation with a population of 170,000, became independent in 1980 after many years of joint British-French rule. It has a parliamentary system of government with a Prime Minister and a 46-member Parliament. The President has largely ceremonial powers, except when acting on the advice of the Council of Ministers. Vanuatu's citizens are divided by a variety of languages, by the nation's separation into more than 80 islands, and by their colonial experience. Overtime Vanuatu has largely overcome this difference to forged strong sense of nationhood. Political legitimacy is based on majority rule, supported by both Melanesian and Western tradition. The civilian authorities control the small police and paramilitary mobile forces. Because the Vanuatu economy is dependent on international trade to shifts in world market prices. Growth in tourism and Vanuatu's offshore banking center were expected once again to lead other sectors of the economy in 1993.

Restrictions on freedom of speech and press, together with the treatment of women, remain the major human rights problems.

Respect for Human Rights

Generally speaking the traditional values taught to children respect human life which is then supported by the Christian beliefs preached by Churches in Vanuatu.

The only area which we believe needs to be questioned is on the issue of denial of fair trial. We agree that the Courts uphold constitutional provisions for a fair public trial however, where trade unions are concerned this has not been the case. The Trade Disputes Act Cap. 162 is the instrument that tries to ensure that workers and/or their representatives find a solution to any dispute 'between workers and their employers. The Act empowers a civil servant, the Commissioner of Labour, to decide whether a case should be dealt with in accordance with the Act or not.

Since the enactment of this legislation in 1983 only 5 cases have been through a normal conciliation proceedings and none to the next step of arbitrations

Therefore the only recourse would be for workers to take their disputes to an already overworked supreme Court for adjudication.

Here we find another major problem, where a handful of expatriate lawyers working in the private sector in Vanuatu, represent employers interest in tax haven and are not too keen to take trade union cases. The two Vanuatu lawyers who have set up firms are relatively inexperienced in the area of labour law and to date have lost cases in the Supreme Court.

Therefore the question to be asked is whether there is due process? In the light of what I have just recounted, if I stole some money I would have the opportunity to appeal an Island Court decision, Magistrates

Court decision and a Supreme Court decision where as workers could only appeal a Supreme Court decision, we therefore must state that there is a denial of fair public trial for trade unions.

Respect for civil liberties

Here we reiterate the findings of the U.S. Dept of State report.

Respect for Political Rights

Again we agree with the U.S. report.

Workers Rights

The VCTU is of the view that the requirement to register a Union is in fact the first step to restrict trade union rights. This is further emphasised by the insistence that Unions shall not affiliate to the international trade union movement without the permission of the government.

Over 1,000 workers have been summarily dismissed for attempting to organise workers in the private sector, after working hours, and the Commissioner of Labour has yet to act on anti-union discrimination cases referred to him.

The right to strike is yet to be decided by a Court of law however, the government has always referred to past strikes as being illegal.

Unions have the right to organise and bargain collectively, however, because of the *Dept of Labour's* very reluctance to provide conciliation and arbitration to deal with disputes, most employers may turn up for initial 'round table' meetings but then do nothing because they know that unions cannot take their cases any further.

Enforcement of law

Most of us will agree that it is human nature to want to find solutions to disputes.

However, it is imperative that a third party provide the environment for disputing parties to find a solution to their problems.

In Vanuatu this role is given to a Labour Inspector who is trained to carry out his inspectoral duties which excludes dispute handling.

We contend that the rights of workers are seriously being neglected.

Trade Union to promote human Rights

“Trade Unions Rights are Human Rights”; we have heard so many times in trade unions forums but the question is what are we doing about the deteriorating human rights situation in the region.

The VCTU is concerned that in our times of trouble the only help we could get was in money form.

We strongly believe that if the international trade union movement’s response to a “small brother organisation” is to send it money, then we have perhaps gone a long way in the wrong direction. It is sad to note that we now resort to the “employers” tactics in dealing with our problems.

The VCTU also agrees that if we cannot help ourselves first then we cannot help others. Therefore it has commenced a programme where it will rebuild itself in such a way that it can contain it’s own problems.

However, with the influx of TNC’s and the appearance of a New World Order, surely the onus would be on the workers of the World to unite in spirit and in action against the tide of imperialistic giants.

Conclusion

The VCTU takes this opportunity to thank you all for your help, especially ICFTU and its regional bodies, and also IFBWW, CTUC, PSI, USTJE, FTUC, ATIA I MUA, ACTU and NZCTU.

The 21st century will be dawning on us soon let us strive to make it a century of equality for all regardless of race, sex, religion, disability, language or social status.

This can only happen when a big brother helps a small sister or a small brother helps a big sister, Mathew 19.19.

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VANUATU

3d Congress 2d Session.
JOINT COMMITTEE PRINT
COUNTRY REPORTS ON HUMAN RIGHTS
PRACTICES FOR 1993

REPORT

SUBMITTED TO THE

COMMITTEE ON FOREIGN AFFAIRS
U.S. HOUSE OF REPRESENTATIVES

AND THE

COMMITTEE ON FOREIGN RELATIONS
U.S. SENATE

BY THE

DEPARTMENT OF STATE

IN ACCORDANCE WITH SECTIONS 116(d) AND 502B(b) OF
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VANUATU

Vanuatu, a South Pacific Island nation with a population of 170,000, became independent in 1980 after many years of joint British-French rule. It has a parliamentary system of government with a prime minister and a 46-member parliament. The President has largely ceremonial powers, except when acting on the advice of the Council of Ministers. Vanuatu's citizens are divided by a variety of languages, by the nation's separation into more than 80 islands, and by their colonial experience. Over time Vanuatu has largely overcome this difference to forge a strong sense of nationhood. Political legitimacy is based on majority rule, supported by both Melanesian and Western tradition.

The civilian authorities control the small police and paramilitary mobile forces.

Because the Vanuatu economy is dependent on international trade, it is vulnerable to shifts in world market prices. Growth in tourism and Vanuatu's offshore banking center were expected once again to lead other sectors of the economy in 1993. Restrictions on freedom of speech and press, together with the treatment of women, remain the major human rights problems.

RESPECT FOR HUMAN RIGHTS

Section I. Respect for the integrity of the Person, Including Freedom from:

a. *Political and Other Extrajudicial Killing* No political or other extra judicial killings by the Government or any organized group were reported.

b. *Disappearance.* There were no reports of politically motivated; disappearances.

c. *Torture and Cruel, Inhuman, or Degrading Treatment or Punishment.* Constitutional provisions against torture and cruel, inhuman, or degrading treatment are observed in practice and enforced by the courts. While the law provides that prisoners shall have recourse to an ombudsman, that position has never been filled.

d. *Arbitrary Arrest, Detention, or Exile.* There were no reports of arbitrary arrests. Arrest is by warrant. The constitutional provision that suspects must be informed of charges and given a speedy hearing before a judge is observed in practice. There is no exile.

e. *Denial of Fair Public Trial.* The courts uphold constitutional provisions for a fair public trial, presumption of innocence until guilt is proven, prohibition against double jeopardy, the right of habeas corpus, and appeal to the Supreme Court. The courts are free of military or executive interference. There were no reports of arbitrary or unfair exercise of judicial authority in 1993. There were no political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.* There was no arbitrary interference with privacy, family, home, or correspondence.

Section 2. Respect for Civil Liberties, Including: -

a. *Freedom of Speech and Press.* Vanuatu's record of respect for the independence of opinion and of the media is poor, and 1993 proved no exception. Although the Constitution provides for freedom of speech and press, the Government controls the national newspaper, radio stations, and television company.

An independent newspaper, Vanuascop, opened in 1992 and enjoyed relative freedom until August 1993, when the Government banned media coverage of any statements by Father Walter Lini's political faction, which was challenging the Government's control over Parliament. When Vanuascop defied the ban, the Government discussed revoking the editor's work permit and

the newspaper's publishing licence. With the collapse of Lini's challenge, the overt pressure on the newspaper relaxed but remained behind the scenes.

Although strict controls over the media remain in place, the Government has permitted more balanced coverage of significant issues than was the case previously. Even so, the Government continues to manipulate the media when it suits its political advantage and to react harshly to any criticism. The political opposition often encounters difficulty in getting its press statements broadcast and published in the state-controlled media, and coverage of opposition statements has sometimes been delayed until the Government has prepared its response.

b. *Freedom of Peaceful Assembly and Association.* Permits must be obtained to hold public demonstrations and rallies. The Government reportedly denied the National Teachers Union permission to demonstrate during its June strike. Nevertheless, the teachers marched on Parliament. Several union leaders, including some who had not participated in the march, were arrested. They were released after 2 days in custody, and the court ultimately dismissed charges that they had created public disturbance. Twenty striking members of the Vanuatu Public Service Association were arrested in early December for involvement in a protest outside Parliament. The public prosecutor released the group without charge after approximately 1 hour.

There were no restrictions on the forming of political parties or other groups.

c. *Freedom of Religion.* Freedom of religion is protected by law and has been generally respected in practice. Missionaries of various Christian denominations work without restrictions.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.* All citizens are free to travel internally and externally and to return from abroad without restrictions.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens have the right freely to change the government through periodic multiparty elections. The Constitution provides for parliamentary elections every 4 years. The Government of Prime Minister Maxime Carlot Korman comprises the Prime Minister's Francophone Union of Moderate Parties and the Deputy Prime Minister's faction of the Anglophone National United Party. In opposition are the Vanua'aku Party and four others. Campaigns and voting are considered by outside observers to be fair although government restrictions and pressure on the media inhibit the ability of opposition parties to publicize their views (see Section 2.a.). Elections to provincial and local councils have also been freely contested and fair. There were reports of discrimination in hiring and provision of services against both persons and communities suspected of or known to be supporting opposition political candidates. The Government has also been charged with unfairly dismissing civil servants for political reasons (see Section 6.a.).

In Vanuatu's traditional society, males are dominant and women are frequently limited to customary family roles. This has hampered women from taking a more active role in economic and political life. There is only one female Member of Parliament. She served as Minister of Health for part of the year.

Section 4. Governmental Attitude Regarding International and Non-governmental Investigation of Alleged Violations of Human Rights

Although there are no restrictions on the formation of local non governmental human rights organizations, none has been founded to date. A non governmental organization to promote and protect the rights of women, the Committee on Violence against Women, was formed in 1993. There were no requests for investigation by outside human rights organizations.

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

Women. While women have equal rights under the law, they are only slowly emerging from a traditional culture characterized by male dominance, a general reluctance to educate women, and a widespread belief that women should devote themselves primarily to childbearing. Members of the National Council of Women (NCW) view village chiefs as a primary obstacle to the attainment of social, political, and economic rights by women. There are no women serving as leaders in Vanuatu's municipal or village councils, churches, or chambers of commerce.

While no accurate data are available, violence against women, particularly wife beating, is reportedly common. However, very few cases of wife beating are brought to the attention of the authorities, and even fewer are prosecuted. Usually the cases are dropped by the women involved before going to court. The police are reluctant to intervene in what are considered purely domestic matters. Although there are no specific laws against spouse beating, the courts have at times dealt severely with such cases, using common law assault as a basis for imposing punishment. Several cases have been reported in which victims have died. In one case, the husband was tried and sentenced to 15 years in prison. In another, the family ultimately withdrew the charges and the husband remains at liberty.

The majority of women enter into marriage through "bride price payment". On those islands where the custom of paying "bride price" is observed, the woman is regarded as the property of the husband and may be dealt with as he chooses.

Children are loved and protected within the traditional extended-family system, in accordance with the family's financial resources and access to services. Members of the extended family, particularly paternal uncles, play an active role in a child's development. As a result, virtually no children are homeless or abandoned. Though cases of child abuse are sometimes reported, there is no pattern of societal abuse. Although the present Government has made education a priority, access is limited and school attendance is not

compulsory. Within the limits of its resources, the Government is committed to the welfare, and the protection of the rights, of children. *'National / Racial / Ethnic Minorities.* Most of the population comprises Melanesians whose ancestors probably originated in New Guinea. Small minorities of Chinese, Fijians, Vietnamese, Tongans, and Europeans are generally concentrated in two towns and on a few plantations and experience some discrimination with regard to land ownership. Although there have been allegations of corrupt practices by members of the Governments, there is no evidence to suggest a pattern of ethnic discrimination in the provision of basic services.

People's with Disabilities. There is no known governmental or national policy on the disabled. Their protection and care is left to the traditional extended family and voluntary non governmental organizations.

Section 6. Worker Rights

a. *The Right of Association.* Vanuatu's workers have the right to organize unions. Unions may not affiliate with international labor federations without government permission. The fundamental legislation establishing the right to organize unions, setting out the scope of union activity, and providing for the arbitration and conciliation of labor disputes consists of the Trade Union Act of 1983 and the Trade Disputes Act of 1983. Complaints of anti union discrimination are referred to the Commissioner of Labor.

There are 5 trade unions with over 4,000 members in the private and public sectors. The high percentage of the population still engaged in subsistence agriculture and fishing serves as a deterrent to extensive union activity. The unions are grouped under an umbrella organization, the Vanuatu National Committee of Unions, which is a member of the International Confederation of Free Trade Unions. The trade unions are independent of the Government.

Strikes seldom occurred in the past, due in part to high rates of unemployment. In 1993 an important strike took place when over three-quarters of Vanuatu's teachers walked off the job, demanding a 25 percent increase in their salaries. Although the 3-week strike was ultimately settled when the Government granted the teachers a 5 per-

cent salary increase, the Government failed to handle the matter within the established framework of the country's labor laws. The strike was resolved after civil servants threatened to generalize the strike. In the wake of the teachers' strike, the Government refused to allow two officials of the South Pacific Council of Trade Unions to enter the country, resulting in the cancellation of the council's triennial conference, scheduled to be held in Port Vila. In late November, the Vanuatu public service union went on strike seeking a 16 percent pay raise to compensate for inflation. At year's end the strike continued. The courts declined the union's mid-December request that a conciliator be appointed and ordered the opposing parties to engage in face-to-face negotiation.

Unrelated to the strikes discussed above, and ignoring legal requirements for notification, the Government summarily dismissed a number of civil servants. Critics contend that the Government's motivations are political. Several of the people dismissed have successfully fought their dismissals through appeal to the Vanuatu national court system. Others are expected to appeal.

b. *The Right to Organize and bargain collectively.* Unions exercise the right to organize and bargain collectively. Labor unions negotiate wages and conditions directly with management. If the two sides cannot agree, the matter is referred to a three-member Arbitration Board appointed by the Minister of Home Affairs. The board consists of one representative from organized labor, one from management and the senior magistrate of the magistrate's court. While a dispute is before the board, labor may not strike and management may not dismiss union employees. Unions and management, however, generally reach agreement on wages without having to refer the matter to arbitration.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.* Forced or compulsory labor is prohibited by law, and there have been no reports that either is practiced.

d. *Minimum Age for Employment of Children.* Children under 12 years of age are not permitted to work outside of family owned agriculture, where many children assist their parents. Employment of children from 12 to 18 years of age is restricted by occupational category and conditions of labor for example, restrictions on employment in the shipping industry and nighttime employment. The laws are effectively enforced by the Labor Department. The high level of unemployment discourages the use of child labor.

e. *Acceptable Conditions of Work.* Vanuatu has a legislated minimum wage, effectively enforced by the Labor Department. Minimum wage rates were last raised in November 1991 to \$107 monthly for urban worker and \$93 monthly for rural workers (13,200 and 11,440 vatu, respectively). Agricultural workers' minimum wages are tied to the market prices for copra and cocoa. Most workers are not in the wage economy and are thus outside the scope of the minimum wage laws. For those covered by them, the wages provide an adequate standard of living within the local context.

Various laws regulate the rights to sick leave, annual vacations and other conditions of employment, including a 44-hour maximum workweek. Vanuatu's Employment Act, enforced by the Labor Department, includes provisions for safety standards. However, the 1987 safety and health legislation is inadequate to protect workers engaged in logging, agriculture, construction, and manufacturing. It lacks provisions for sanitation and protection against substandard electrical wiring, machinery, and exposure to agricultural and industrial chemicals. Even so, the single inspector attached to the Labor Department is hard pressed to enforce the Act fully. After visits by International Labor Organization consultants, a new occupational health and safety act and an industrial relations act have been drafted. It is expected that they will be submitted to the Parliament in 1994.

FIJI

INTRODUCTION

Fiji gained its independence in 1970 from Great Britain and set up a parliamentary system of Government which had members from major ethnic groupings in Fiji. However, this was interrupted in 1987 with two blood less military coups. The country experienced the military rule for a period of time when the former Prime Minister Ratu Sir Kamisese Mara took over reins of government and focussed an revitalising the economy of the country and drafting a new constitution. The interim government administered the country from December 1987 to late May 1992.

The 1990 constitution was imposed on the country with no popular validation, politically driving the country along ethnic and racial lines in an effort to favour one group over another in the retention of power. It has entrenched the position of Fijian hierarchy,

The first general election was held in May 1992 under the new 1990 constitution. The elected government was headed by the perpetrator of the two coups Major-General Sitiveni Rabuka. The elected Government gave an assurance of restoring full human and trade union rights in the country but continued to disregard the undertakings it gave and in fact consolidated the existing state of affairs.

Principal human rights problems in 1992 included constitutionally imposed and ethnically biased political discrimination, continuing restrictions on freedom of the press, continuing delays in bringing criminal and civil cases to trial, and violence and discrimination against women.

The 1995 Budget announced last Thursday, the 11th of November by Minister of Finance, Berenado Vunibobo has curtailed the rights of workers to collective bargaining. It moved to bring public sector pays

under wage order and has rejected the 1993 Job Evaluation report.

The Minister has talked of decriminalising and depoliticising industrial dispute. It not very clear what he meant. It could mean that employers could go to court for damages and resolution of industrial dispute, frustrating and weakening the unions.

The public sector unions have been calling rallies and meetings throughout the country to address their objections to the current budget that is in direct contradiction to the ILO Conventions.

The Fiji Trades Union Congress will seek the support of its overseas counterparts if the government continues to deny its rights and does not come to the negotiations table to resolve the issue.

It has decided to take industrial action in an emergency meeting held on 17 November, 1994.

LABOUR REFORMS

On 1 November 1991 the interim government imposed changes to labour laws through promulgating decrees 42, 43, 44 and Legal Notices 58 and 59. It flagrantly violated trade union rights and is still in force with a few minor changes. The decrees had been introduced by the unelected interim government.

The decrees contained provisions which restricted the basic rights of freedom of association and the right to strike. The Decrees and Legal Notices specifically aimed at crippling Fiji Trades Union Congress and its affiliates through eroding the union's ability to effectively operate and permitting unacceptable interference in trade union decision making affairs.

The new laws clearly violated internationally recognised labour rights conventions 87 and 98 of the International Labour Organisation.

The Fiji Trades Union Congress lodged a complaint to the ILO

Committee on Freedom of Association through ICFTU about the Fiji's Labour Reforms. The ILO Committee on Freedom of Association report showed that the Fiji Government had infringed numerous trade union rights, the November 1991 decree, the most serious one being the prohibition on industrial associations through which many workers in Fiji defended and promoted their interests from engaging in industrial disputes; the ban on any individuals form holding office in more than one trade union or industrial association; recognition procedure which allows the promotion of splinter unions and employer promoted organisations as a means of constructing genuine trade union representation; banning of strike on recognition issues; exclusion of some categories of employees from joining unions; the requirement of membership approval by secret ballot for any act involving international solidarity and assistance; unreasonable and restrictive ballot requirements for strike action and for election of union officials; and withdrawal of legal rights to check-off facilities.

In the face of internal and external pressures the Fiji government made some nominal and restrictive changes to Labour Reforms, leaving out the most repressive laws which deprived the Fiji's workforce of their rights under ILO Conventions 87 and 98. Those laws designed to weaken trade unions or remove trade union rights were retained. FTUC regarded this as a blatant defiance of the findings and decisions of the ILO Committee on Freedom of Association.

The changes to labour laws made by the Fiji Government in July 1993 included the uplifting of the ban on multiple office holding and the dropping of a legal action against the trade unionists Mahendra Chaudhry; revocation of the six weeks validity period for strike ballots; dropping of membership approval by secret ballot for any act involving international solidarity and assistance; and the removal of the "standard" undertaking from civil service check-off agreement.

Recently the Minister of Labour and Industrial Relations has shown some positive signs to review the labour laws in the light of the ILO Committee on Freedom of Association's recommendations and

FTUC had meetings with senior officials of the Labour Ministry to identify which laws contravene the ILO Conventions. However, the progress is rather slow and FTUC has to review its strategy to ensure that trade union rights are restored in the country.

CONDITIONS OF WORK

The unilateral changes to the trade union and industrial acts have made more difficult for unions to operate freely and represent their members effectively. It has become almost impossible for organised workers to legally engage in industrial action - this means that unorganised workers have even less recourse to remedy their situation. Furthermore, in the unorganised sector working conditions are severe. Employees are subject to arbitrary dismissal and employer abuses are rampant. Working conditions in most garment factories are atrocious - poor lighting and ventilation, substandard health and hygiene conditions, fire hazards, to name a few of the obvious severe and dangerous working conditions. Factory regulations are ignored or concessions are made by the Government to attract investors. The two groups of workers, miners and garment workers, toil under particularly appalling conditions. Workers on both industries have been suffering for a long time and their conditions is bound to worsen as a result of the drastic curtailment of workers' organisations' activities.

WAGES AND BENEFITS

Fiji has no national minimum wages; however, a few sectors have minimum wages established by the Ministry of Labour and Industrial Relations appointed Wages Council. Yet the wages laid down could barely support adequate standards of living. Many unscrupulous employers pay less than the prescribed rate. The recently published report from the Ministry of Labour revealed that workers covered by various wages councils were not paid almost \$200,000 in wages or the first half of this year. One of the worst industries for not paying workers what they were supposed to get was the garment industry. It seems that the government hasn't got the capacity nor intention of

inspecting these employers who are exploiting the already lowly prescribed rate of wages. The workers do not complain for the fear of victimisation or instant dismissal.

As a result of its deregulation policy, the government lifted the restrictions on wages on 1 August 1991 to allow employees and employers to enter into wage negotiations without the constraint of wage guidelines. However, unions have found most difficult to negotiate on pay and conditions of service under the constraint of the labour reforms. Furthermore, the Government has been looked upon as a trend setter for pay increases with employers in the country following suit.

The arrogant and autocratic attitude shown by the government recently in handling the public sector unions' pay claims make it apparent that the government is hell bent on withdrawing the rights of public servants to enter into collective bargaining or resort to conciliation and arbitration process, using the industrial relations procedures enacted by the government. However, under rising pressure from the public sector unions and from some members of the parliament led the government to concede to arbitration. The Government has rejected the Job Evaluation Report which recommended pay increases to civil servants. It is also likely that the Government will impose a wage freeze from next year. This will destroy all collective bargaining right which is entrenched in the ILO conventions No 98 and No 154.

DISCRIMINATION AGAINST WOMEN

Many of the Fiji's laws are patriarchal in design; they deny women equality and fair treatment.

The 1990 constitution is the most significant legal document, it is however fraught with contradictions where gender issues and equality are concerned. Section 16 of the document purports to protect all citizens from discrimination on the grounds of sex, race, religion, etc. However section 26 of the same constitution is partly discrimina-

tory on grounds of sex. Under the same section foreign spouses of male citizens have automatic rights to register them as citizens of Fiji but foreign spouses of female citizens are denied this right. This discriminatory provision effectively forces Fiji women who marry non-citizens to surrender their birthright.

Ethnicity under the Constitution is determined by tracing descent solely through the father. Under these provisions (Section 15b) a child is classified as belonging to the ethnic category of his/her father. Thus children of a native Fijian mother are discriminated against with respect to allocation of scholarship, jobs in the public service, land inheritance etc.

DISCRIMINATION BASED ON RACE

The purpose of the 1987 military coups was to ensure the political supremacy of the indigenous Fijian people and to protect their traditional ways of life and communal control of land. To this end a number of measures have been taken to favour the indigenous Fijian over other ethnic groups. Several of these provisions are embodied in the 1990 constitution.

INHUMAN TREATMENT OF DETAINEES

Police some time physically abuse detainees. The offending officers have been punished in some instances, although punishment have been light. In September 1991 the new Police Commissioner announced the creation of a new internal affairs unit to expedite the investigation of such cases. The unit took disciplinary action against several officers in 1992. Its investigations resulted criminal charges being filed in five cases and offenders were appropriately dealt with.

POWERS TO SEARCH PEOPLE AND PROPERTY

The Fiji Intelligence Service has powers to search people and property, open mail and tap telephone with specific operational guidelines

outlined in the government decree which created it. However, there is no evidence that these powers are being abused. Surveillance of persons believed to present a security threat is carried out to degree. Many political dissidents believe their telephones and mails are monitored, but concrete evidence is lacking.

RELIGIOUS FREEDOM

After the events of 1987 the military government promulgated a Sunday Observance Decree forcing the Sabbath concept on all citizens regardless of religious adherence. It banned all economic and public activities on Sunday; all forms of public transport came to a halt, all economic activities stopped except those associated with tourism, sugar milling and cane harvesting, regarded as essential revenue earners; all sporting activities were denied and picnics banned. The decree was widely resented as it inconvenienced a lot of people.

The provisions of the decree were eventually relaxed a year later but all forms of trading are still not allowed. Public entertainment is denied and organised sports are still banned. There is still a great deal of resentment from all sections of the community including a large member of Christians. People are still continuing to voice their opposition to the Sunday Ban Decree. The Methodist fundamentalists continue to support the ban and oppose strongly to any relaxation of the provisions of the decree.

FREEDOM OF ASSEMBLY

Assembly for political purposes is allowed but subject to restriction in the interest of public order. Public gatherings require permission from the Government's District Officer who may obtain advice from the police on the anticipated crowd size and the ability of the police to ensure public safety. Permits for large outdoor political meetings or demonstrations are not always granted. Wide powers are vested in the district officers who sometimes make questionable decisions on requests to hold public meetings.

FREEDOM OF PRESS AND SPEECH

Freedom of speech has largely been restored however, Sunday papers are still not published. The government has broad discretionary powers to impose restriction on press freedom, and it has sometimes done so. Legislation pertaining to the press is contained in the News Paper Registration Act and the Press Correction Act. All newspapers which are sold and published in Fiji must be registered with the Government before they can begin publishing. The Press Corrections Act gives the Minister of Information sole discretionary power to order a newspaper to publish a 'correcting statement' if, in his opinion, a false or distorted article has been published. Should the newspaper refuse to do that it can be taken to court. The PCA allows the government to arrest anyone who publishes "malicious" material which includes false news that could create or forster public alarm or result in the "detriment of the public".

Fiji TV 1 is not fully independent, media. News is provided by the Fiji Video Centre which is controlled by the Ministry of Information. The station avoids any programme of contentious nature or that could put government under scrutiny. The independence of this media will remain quite questionable once the government has already issued a TV licence to a corporation consisting of people of one particular section of the community.

CONCLUSION

It is evident that up till the election of 1992 the interim government continued to infringe severely the people's rights openly and freely by passing decrees. The same thing is now being done insidiously and in a subtle way up the elected Government. The Government has legitimatised the Labour Reforms and other decrees promulgated by the interim government.

Another daunting feature is that race is being used by some to frag-

ment the unions and weaken their negotiating strength. The country has witnessed the emergence of smaller unions to serve the interest of the employers to one racial group than the workers as a whole.

Trade union and human rights are possible if the political system is based on the Declaration of Human Rights which respects the dignity and rights of all individual citizens and provide them equal opportunity to decent standard of living. For lasting peace and stability it is necessary to respect the dignity and rights of all individual citizens.

RECOMMENDATIONS AND CONFERENCE CONCLUSION

November 24, 1994

Trade Union Representatives attending the Conference:

Reject government arguments suggesting that trade union and other human rights differ from country to country owing to cultural diversity and levels of development.

Insist that trade union and other human rights are universal and apply to all peoples of the world, trade union rights are indivisible from all democratic rights, far from being a luxury for only certain societies, they are essential pre-conditions for development.

Condemn

Foreign influences which attempt to deprive or roll back trade union rights, i.e. growth of global new-liberalism and new right governments legislative, and often physical attacks on trade unionists and trade unions.

The imposition of structural adjustment programmes by international financial institutions which focus solely on restrictive economic policies, undermining wage and job security, social standards and working conditions, and leading to deregulation, devaluation of currencies and privatisation.

Exploitation of South Pacific workers and abuse of trade unions by transnational corporations whose only interest is maximisation of profit without regard for social development or improvement of workers' conditions.

South Pacific Governments' false conception of development whereby they compete for foreign investments by undermining or restricting trade union and other human rights, creating a global downward

competition towards the lowest common denominator in workers' and social standards.

Reiterate

that trade union and other human rights apply to all workers, whether in developing countries or industrialised countries and stress that the wealth or level of development of societies cannot be measured by simple economic indicators or production, but must also involve social development, i.e. literacy levels, health care etc. and application of basic freedoms, i.e. freedom of association, the right to free collective bargaining, elimination of forced labour, enforcement of equality and non-discrimination, abolition of child labour and freedom of speech - to name a few.

The Conference insists on full respect for the right to strike and

Underlines

that peoples' and workers' social or cultural diversity or national differences cannot be used to apply sub minimum standards in any part of the world and therefore, South Pacific Trade Unionists.

Welcomes

the international trade union movement's efforts as represented by the ICFTU, ITS and their affiliates, for the inclusion of the "social clause" in trade and development agreements, which would assist South Pacific Trade Unions to press for the application of basic minimum "International Labour Standards" in South Pacific Nations.

Also welcomes

SPOCTU's work for the development of a "Social Charter" for the improvement of labour and social conditions in South Pacific Islands.

and as such should be published by unions in addition to the trade union development that is occurring in the region, such as union amalgamation, the growth of unionism in the private sector, and the involvement of the community in union responses to structural adjustment programmes.

Calls

and commits itself to press South Pacific Islands Governments to become members of ILO and ratify conventions, 87, 98, 29, 100, 105, 111, 138, and to create tripartite structures for the proper and qualitative development of South Pacific societies. ILO should also take to task member states which deny that respect for trade union rights is a necessary prerequisite for development as outlined in ILO's constitution and the Declaration of Philadelphia. Increased levels of ILO activities promoting tripartism need to be conducted in the South Pacific.

Concludes that

- a) the most important means by which to advance and promote trade union and other human and democratic rights is through the organisation of strong, united, free and democratic unions which are responsive to the needs of their members, reaching out to all categories of workers, and taking prominent roles in the development of societies while making communities aware of the positive role which workers play in society.
- b) greater international solidarity needs to be promoted between South Pacific unions through the assistance of ICFTU and ITSs. Regional and sub-regional trade union structures, such as SPOCTU, need to be supported to strengthen cooperation and assist in the building of strong viable unions.
- c) in order to develop strong, viable unions in the region, well targeted trade union development strategies need to be devised.

Education, in order to train well skilled trade union activists and to keep union membership informed, is essential. Education, planning and organising is essential to create trade union strategies to counter-act and campaign against anti-trade union political bodies or governments which are working to undermine trade union rights. In this work the fervent commitment of trade union officials and members is essential to build union strength and solidarity. Trade unions need to constantly review and assess their structures and consider means by which to strengthen their membership base, finances and dues payment potential in order to grow.

d) all categories of workers need to find a place in trade unions. In particular women workers needs must be promoted in unions and societies as a whole. Unions should adopt programmes for affirmative action, combat abuse and harassment of women and devise means to provide women with representatives in union structures. Women workers should be provided with specifically targeted trade union training to assist in meeting their needs and aspirations.

e) that South Pacific Island unions, noting the growth and mobility of TNCs in the area, welcome Australian initiatives to establish a code of conduct on Australian TNCs' activities in the South Pacific. Such codes of conduct should be based on internationally accepted principles as established by ILO standards and the ILO tripartite declaration on multinational companies and social policy.

There is still, however, a need to create stronger mechanisms to force governments and employers to respect basic internationally accepted minimum labour standards, particularly, through trade and development agreements. The ITSs (International Trade Secretariats) and ICFTU need to find means to keep South Pacific unions informed of employers strategies and trends emerging in different parts of the world which will likely soon reach the area.

Appendix to Statement of Conclusion

IFBWW-IUF-ITGLWF/TWARO ICEF-PTTI-FIET-EI-PSI IFJ and
ICFTU-APRO/SPOCTU/FRIEDRICH EBERT FOUNDATION
International Conference
"HUMAN, TRADE UNION, and DEMOCRATIC RIGHTS in the
SOUTH PACIFIC"

November 21, 22 and 23, 1994 Papua New Guinea

What Should Unions Do

1. *Build Strong Unions*
 - independent
 - united along industry lines (mergers within one national centre in each country)
 - adequate dues (1% - 2% of wage rate) (supported by proper accounts)
 - increasing organising and collective bargaining activities)
 - education and training
 - infuse fresh human resources
2. *Stand up for Women's rights*
 - oppose sexual harassment and violence against women
 - organise women and educate
 - take up women's issues in collective bargaining
 - affirmative action program to position women in union structures
3. *Increase Solidarity Links*
 - promote cooperation between unions from different countries

4. *Stand up and expose specific violation of workers' rights*
 - set up trade union, human and democratic rights committees (ie network of rights monitors)
5. *Build International Standards*
 - new mechanism
 - link rights with trade - social clause
 - trade union social development - social charter
 - code of conduct for transnational companies (effective)
 - fair trade campaigns
6. *Tripartism*
 - enlist ILO support to strengthen structures
7. *Building alliance with NGOs*
 - (of similar principles) within your country

FIJI RESOLUTION

Noting that the source of the violation of Human Rights Issues arise from the unilaterally imposed 1990 constitution of Fiji but appreciating the recent steps by the Government to appoint a Parliamentary Select Committee to review the constitution.

Recalling that the specific breaches of Trade Union Rights emerges from the institution of measures launched during the time of the unelected Government of 1987-1991.

Abhorring the steps taken by the Government in

(a) reducing Trade Union Rights by imposing, so called "Labour Reform Decrees" which has effectively undermined the strength of the Trade Union Movement making it impossible for some unions to operate

(b) by introducing a system of ballot to be taken by all members to decide on strike action.

Shocked at the Ministers budget speech of 11 November 1994 and the concurrent Counter Inflation Order of the same date which has effectively frozen all increments for the workers in the public service and in the Government subsidiaries, thus negating all rights of Collective Bargaining for unions representing the workers in Government and Public Sector Enterprises and therefore violating all ILO conventions pertaining to Trade Union Rights.

Calls upon all ITS's gathered here from 21-23 November 1994 to deliberate on Human, Trade Union and Democratic Rights at Port Moresby to

(i) use International and Diplomatic pressure through International Agencies including ILO and UN to influence the Government of Fiji to

(a) adopt a more democratic practices in their relations with the Trade Union Movement of Fiji.

And further calls upon the Government of Fiji to

(a) Abandon forthwith undemocratic and unilaterally imposed "Counter Inflation Order" of November 1994.

(b) Honor and implement the fully negotiated "Job Review Exercise" undertaken to rationalise the Public and the Teaching Service.

(c) speed up the process of the review of sections in the labor reform which are repugnant to the Trade Unions.

(d) to rebuild the foundation and set the industrial climate for unions and employers to work for their mutual development and for the development of Fiji.

24 November, 1994

PROGRAMME:

Monday, 21 November, 1994

08:00 - 09:00 a.m. Arrival and Registration of Participants
09:00 - 09:15 a.m. Opening

 Welcome Address
 (John Paska, Acting General Secretary,
 PNGTUC)

09:15 - 10.45 a.m. Opening Address
 (Right Hon. Prime Minister & Minister
 of Foreign Affairs and Trade, Sir Julius
 Chan)

 Greetings by
 Noriyuki Suzuki, Secretary, TWARO
 Asia & Pacific Regional Organisation on
 behalf of the 9 ITSS ICFTU-
 APRO/SPOCTU

 Sven Eric Sterner, Advisor, Workers
 Activities, ILO

 Fritz Kopsieker, Res. Representative,
 Friedrich Ebert Stiftung

10:45 - 11.15 a.m. *Tea Break*
11:15 - 12:30 pm Keynote Speech on Conference Theme
 Neil Kearney, General Secretary,
 ITGLWF

12:30 - 02.00 p.m.
02:00 - 03:30 p.m.

Lunch
Country Reports
Fiji
Solomon Island
New Zealand
Australia
Papua New Guinea
Workshops on Country Reports

03:30 - 04:00 p.m.

Tea Break

04:00 - 05:00 p.m.

Continuation of Workshops on Country
Reports
Presentation of Workshop Results
Vanuatu
Fiji
Solomon Island

07.00 p.m.

Reception by PNG Trade Union Congress

Wednesday, 23 November, 1994

08:00 - 10:00 a.m.

Workshops on ~
a) How to use Governmental and
Non-Governmental Avenues of
Complaints and Solidarity
b) How to defend and promote Trade
Union, Human and Democratic Rights:
Issues of Strategy

10:00 - 10:30 a.m.

Tea Break

10:30 - 12:30 p.m.	Continuation of Workshops
12:30 - 02.00 p.m.	<i>Lunch</i>
02:00 - 03:00 p.m.	Submission of Workshop Reports (in writing) to the Conference Secretariat for typing and photocopying Recess to allow time for Organisers and Rapporteurs to compile the Reports
03:00 - 03.30 p.m.	<i>Tea Break</i>
03.30 - 04.30 p.m.	Presentation of a Synthesis of the confer- ence conclusions and recommendations.

ABBREVIATION

AAFLI	-	Asia-America Free Labour Institute
ACTU	-	Australia Congress of Trade Unions
CPTO	-	Council of Pacific Teachers Organisation
CTUC	-	Commonwealth Trade Union Council
E. I.	-	Education International
FES	-	Friedrich Ebert Stiftung
FIET	-	International Federation of Commercial, Clerical, Professional and Technical Employees
FPSA	-	Fiji Public Service Association
FTU	-	Fiji Teachers Union
FTUC	-	Fiji Trade Union Congress
ICEF	-	International Federation of Chemical, Energy and General Workers' Union
ICFTU-APRO	-	International Confederation of Free Trade Unions - Asia - Pacific Regional Organisation
IFBWW	-	International Federation of Building and Woodworkers
IFJ	-	International Federation of Journalists
ILO	-	International Labour Organisation
IMF	-	International Metal Workers' Federation
ITF	-	International Transport Workers' Federation
ITGLWF	-	International Textile, Garment & Leather Workers Union,
IUF	-	International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco & Allied Workers

Human, Trade Union And Democratic Rights

Associations	
LMWU	- Lae Miscellaneous Workers' Union
PEA	- Public Employees Association of PNG
PNGTA	- Papua New Guinea Teachers Association
PNGTUC	- Papua New Guinea Trade Union Congress
PSI	- Public Services International
PTCWU	- Post & Telecommunication Workers' Union
PTTI	- Postal, Telegraph & Telephone International
SICTU	- Solomon Islands Council of Trade Unions
SINTA	- Solomon Islands National Teachers Association
SINA	- Solomon Islands Nurses Association
SPOCTU	- South Pacific & Oceanic Council of Trade Unions
TEA	- Telecom Employees Association
TWARO	- International Textile, Garment and Leather Workers' Federation
VCTU	- Vanuatu Council of Trade Unions
VTU	- Vanuatu Teachers Union
AIDAB	- Australian International Development Assistance Bureau
BRA	- Bougainville Revolutionary Army
EMTV	- Local TV Station
INA	- Institute of National Affairs
IPA	- Investment Promotion Authority
K	- Kina
NBC	- National Broadcasting Commission
NCD(C)	- National Capital District (Commission)

Human, Trade Union And Democratic Rights

NCW	- National Council of Women
NEC	- National Executive Council
NRI	- National Research Institute
OIDA	- Office of International Development Assistance
PNG	- Papua New Guinea
PNGBC	- Papua New Guinea Banking Corporation
PNGNBA	- Papua New Guinea National Business Association
PTC	- Post & Telecommunication Corporation
SBDC	- Small Business Development Corporation
Unitech	- University of Technology
UPNG	- University of Papua New Guinea

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dent or book yourself for a tour (see enclosed
pamphlets)

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WHAT THE MEDIA SAYS



Trade Union Rights Are Human Rights

The public Employees Association of PNG on behalf of its 22,000 members throughout PNG acknowledges the presence of all brothers and sisters and trade union colleagues who are currently here in our city of Port Moresby for the Human and Trade Union Rights Conference.

The Association is proud to note the direct participation and support for the Conference by PSI to which PEA is affiliated. The PEA appreciates also that had it been without the PSI, the Association would not have known and participated in the official opening and the conference itself.

Fundamentally, Trade Union rights are equal to human rights and these include:

1. right to organise and freedom of association;
2. right to collective bargaining;
3. right to receiving decent living wages in return for an honest days work;
4. right to strike or withdrawal of labour;
5. right to fair trial and hearing;
6. right to be employed within an environmentally healthy and work places;
7. right to life and freedom of movement.

The above are amongst the most basic worker or trade union rights which according to evidence are under serious threat in PNG and in other parts of the region.

International forums such as the current one taking place at the Grenville Hotel are good as reminders and as sources of encouragement from the knowledge that unions are together in this global struggle through sharing of experiences. These high-powered forums alone are however not enough.

The fundamental basis of our problem is the changing work cultures and values due to numerous factors both at the "Macro and Micro" levels.

At the global or macro level, the South Pacific Island nations have already began to feel the effect of global which is marked by the following:

- rapid and increasing involvement of global financial institutions and banks in influencing regional and domestic policies;
- the new emergence of market economy which is supported or supplemented by policies of liberalisation and deregulation aimed at allowing market force to influence economic relations;

- tax, legal, industrial relations concessions and incentives made by governments to attract foreign investments in the fields of financial, technology and human resources;

- co-operation and privatisation of public institutions and services;

The above are some of the significant aspects of what the entire world is experiencing which are already being experienced in an increasing way in PNG and other Pacific Island Nations.

At the micro level 'work' is basic and 'manual work' has over the years been considered as having:

- no culture
- lacked talents and dignity
- without rights

The above attitudes are prevalent in the Pacific Island countries and are supported by employers both private and public alike. These attitudes forget that workers are PEOPLE with dignity.

Decent living wage is an entitlement to a worker who is employed and that living wage must be comparable to the current level of cost of living applicable in a given country.

For the Honourable Prime Minister to accuse level of wages and salaries in PNG as he did in his Opening Address on Monday 21 November, 1994 without any mention of high cost of living in PNG cannot be excused.

Levels of wages in PNG and any country for

that matter is directly in response to the current cost of living so it is most unfair to blame high wages without any reference to the current cost of living is most unfair and narrow minded.

The challenge for all national centres including PNG Trade Union Congress and other individual trade unions and association is to go beyond these big forums and publicise and sharing of experiences and to get down to real change of having programmes and activities that support workers in their work places.

Sadly, in the experience of PNG, this is left to only a handful individual associations. Generally, there is more to be done in defending the rights of workers and trade union rights at the work place now than ever before in view of the global developments and the increasing desire of our Island governments to support the transfer of global experiences into our small developing nations. These experiences also include continuous restructuring of organisations with their complimentary labour policies which include:

- reducing number of permanent workers in place for contract and casual workers;
- increasing use of women, apprentices and in the case of developed nations migrant workers;
- use of more contracting and sub-contracting out of public services for example, works, transport and maintenance;
- increasing use of shift over time and productivity based salaries;
- keeping out or reducing the influence of international trade union organisations;
- discouraging unionism at the management level and negotiations at the industry.

To counter all the above international trade agreements, national centres as well as individual trade union organisations and associations are left with no option but to do less talking and big public statements and be engaged in real action-oriented programmes. This is now overdue.

NAPOLÉON B. LIOSI
NATIONAL PRESIDENT

Trade unions place human dignity first

WE note your opposition to privatisation (The National, Dec 5) and welcome your views.

One is bemused, however, by the contradictions against your commentary of Nov 24 rebutting the concerns put forward by our learned brother Neil Keaney.

In a nutshell, what my colleague Neil addressed were the negative trickle effects of the new wave of neo-liberalism which is being carved out under the banner of structural adjustment.

For the benefit of readers, structural adjustment refers to the array of so-called free market policies developed by the World Bank and the International Monetary Fund (IMF) chiefly as a condition for receiving financial assistance.

This cartel of policies typically includes currency devaluation or floating, trade liberalisation, cuts in social spending, privatisation, holding down wages including wage freeze, business deregulation, restrictions on credit and higher interest rates, free trade zones (industrial centres in PNG) etc.

Neil does not, by any stretch of imagination, oppose investments nor does he disagree with economic equation for success and progress. Equally, unions do not oppose investments for the simple reason it is counter productive to our cause. The main concern focuses on the unfair rules of trade liberalisation which promote particularly transnational transgression at the expenses of the masses.

What Neil attempted to highlight among others, however, was the fallacious use of abstract economic growth figures as a barometer for measuring socio-economic success and prosperity against a sea of reality which presents paradoxes that render the growth figures as meaningless idioms of the political vernacular.

Consider that as the world prepares to launch itself into the new millennium, the hopes of casting off the debilitating and destructive burdens of mass unemployment degrading poverty and gross inequalities dwindles and it appears more likely we will enter the portals of the 21st century doubling our negative growth figures.

Do not have the luxury of space to de-

Send your letters to:
The Editor, The National,
P.O. Box 6817, Boroko NCD.
Please provide your full name and address, and phone number if available.
You may include a pseudonym.

bate the demerits of your attack on Neil on a point by point basis.

Suffice it to say I would observe with respect that it is highly contradictory and way off mark particularly when placed against your views on privatisation.

I would, however, take you to task on the issue of trade union development and economic development where you unassumingly endorsed the statements made by Sir Julius Chan. Trade unions are used to being scapegoats so this rubs easily off our back.

It should not go unchallenged, however, and with respect, I would submit that you both miss the point, the reason being that there is simply no competition between trade union development and economic development.

They are incomparable to the extent economic development does not and will never run parallel to trade union development.

In effect what you are preaching, however, is that economic development must come before human resource development and human dignity which is effectively what trade unions are all about.

To put it crudely, since capital is controlled by the rich few what you are advocating is liberty for the rich to amass their fortunes and fortify their defences and only when they are satisfied should they remit and access relief to the suffering poor.

Therein lies the bottom line a prescription for a successful neo-liberalism campaign. Therein lies the reason for the nominal success of the countries you referred to.

John Paska
General Secretary
PNGTUC

NATION

PEA will strike to defend union, worker rights, warns Liosi

By PHIL YONBON
PORT MORESBY: The Public Employees Association (PEA) is moving aggressively to defend the rights of workers and trade unions throughout the country, its president Mr Napoleon Liosi said yesterday.

He told workers that the PEA would fight for their rights and would not rule out strikes and boycotts to achieve that.

Mr Liosi was reacting to a call by Prime Minister Sir Julius Chan to "develop the economy before trade unions".

PEA members, according to Mr Liosi, had put up with "low salaries and wages, lack of housing, appointments on political influence rather than merit, dislocation and redundancies - all of which had led to low morale among workers which in turn affected productivity".

Mr Liosi said PEA's first initiative would be to protect human and trade union rights such as the right to organise and freedom of association, right to collective bargaining and the right to receive decent living wages in return for an honest day's work.

The PEA will opposed proposals to reduce the number of public servants and pledged to fight to increase the number of women workers or apprentices.

Mr Liosi said the level of wages in the country was "equivalent to current cost of living" so it was unfair to blame high wages alone.

"If wages were high, so was the standard of living," he said.

Mr Liosi also attacked the increasing involvement of global financial institutions and banks in influencing regional and domestic policies, the new emergence of a market economy "which is supported or supplemented by policies of liberalisation and deregulation and privatisation of public institutions and services".

Top Manila band at 'extravaganza'

PORT MORESBY: Club Filipino of Port Moresby is sponsoring a dinner-concert-dance musical extravaganza, Balik-Saya '94, here this weekend.

Featuring the versatile Music Making Company of the Philippines, the show will be staged at the Kamubungi Room of the Port Moresby Travelodge on Sunday at 6.30pm. The entertainers, billed as one of the best showbands in the Philippines, has won music awards at home and internationally.

The main objective of the club is to promote the social and cultural welfare of its members.

It is also committed to fostering unity and cooperation while in recent times it has been quite active with donations to charitable organisations in the city.

Tickets are available from any club officer.

Korea-PNG ties good: PM

By HAROLD FARAPO
PORT MORESBY: Papua New Guinea's interest in Korean markets will continue, Prime Minister Sir Julius Chan said yesterday.

He made the comment in welcoming Korea's resident ambassador to Papua New Guinea Mr Hyun Tai Yi.

He said the relationship between the two countries, particularly in trade, was growing and cited the many successful Korean economic missions to PNG over the past few years as proof

of that.

Sir Julius said the Government will continue to look at Korea as a market and alternative source of quality products like machinery, electrical appliances and automobiles.

Korean brand names such as Hyundai and Samsung have become popular household names in PNG.

"Korea is PNG's third largest bilateral trading partner. In 1990, we had a favourable trade of K102.8 million," said Sir Julius. He said the value of PNG's to-

tal trade exports had increased markedly over the years.

PNG's main exports to South Korea are timber, logs, fish and coffee.

The prime minister welcomed Korean investment in the country, particularly in downstream processing projects on joint venture basis.

He informed the Korean ambassador of the Government's tax incentives including relaxation of currency regulations to encourage foreign investors to come into the country.

Lutherans launch protest

LAIE: The deputy bishop of the Evangelical Lutheran Church of PNG, Ray Rasowe, has condemned the leadership of the so-called Lutheran Reformed Group for using the church's name to advertise a crusade they are holding.

The advertisement which appeared in The National on Nov 23 carried the focal Lutheran church's emblem and this has incensed church leaders, particularly those at Lae-head office.

Bishop Rasowe said the

founder of Lutheran Reformed Group, Mr Enoma Topogogo, is a "renegade member" of the congregation. He broke away to form "his own church".

He accused Mr Topogogo of disguising himself as a "genuine Lutheran" to promote his activities and this has confused Lutheran members throughout the country.

"He puts himself under the umbrella of ELCP-PNG and causes division among the Lutherans in Lae, Port Moresby, Madang... and he is trying to do the same

in Mt. Hagen," the Bishop Rasowe said.

"His activities contradict the church doctrine," he said.

Bishop Rasowe said the use of ELCP-PNG emblem by the rival church to host rallies is an "offence".

"The use by that group of our church emblem was illegal... I will take legal action against them if they continue to do that."

Bishop Rasowe said if Mr Topogogo wants to stage such rallies, he should "come out clear with his own identity".

THE NATIONAL

MR Neil Kearney of the International Textile Garment and Leather Workers Federation must be challenged on the job-stuffed, inappropriate and insufficient views he gives about investments, wages and work conditions and his conclusion that what results from the intensification of competition for international investment capital "is not the road to development but a recipe for the poor to remain poor".

First, his analysis is odd coming as it does from someone in the textiles and garments industry which arguably is the single most important industry that has launched most, if not all, developing countries on the road to successful industrial

Jobs and workers: Who sets the standard?

development and prosperity. He talks of the "inertness" competition between governments trying to seduce this inward investment" and complains about governments "trampling on the wishes and demands of these investors rather than working for the benefit of their own people".

Is not creating jobs, encouraging greater productivity, promoting economic growth, "working for the benefit" of people? Perhaps he has dismissed West as accustomed to.

For us, simple things like having a job would be benefit enough. If governments are not responsive to the needs of

would be investors how are industries and jobs to be created? He then goes on to conclude that as a result of this competition "wages declined and working conditions deteriorated". This malaise, as he calls it, spreads from country to country as "they joined the spiral of crashing down wages and working conditions".

Where has that happened? Which countries have suffered wage falls and deteriorations as a result of investments taking place?

The truth, and let us be reassured by it, is that the competition for investments has not only created jobs the length and breadth of Asia but has in-

creased productivity and, with that, wages.

Just look at the burgeoning economies of Asia and the Pacific. Anyone of them would be more than happy to be able to complain to Mr Kearney about wages falling but the reality is that wages levels are shooting up - even in new entrants to the race like China and India.

If wages are chased down it is not for the reasons Mr Kearney cites but the exact opposite: No investments, no industries. No jobs.

Next, he laments that those who "try to uphold minimum labour standards" are seen as enemies.

We need to consider here that wages levels are shooting up - even in new entrants to the race like China and India.

what "minimum standard" means, even assuming we want one. Is there a standard appropriate to PNG, and who decides that? The answer should be crystal clear.

The truth is that the unions of the industrialised economies, especially US, care basically only about protecting their own jobs, their own standard of living.

Just count the demands they make on Congress every year to shut out some Third World exporter or other - it is flimsy ground or other - it is open season on textiles and poor remaining poor".

Do those unions really care about the millions that will become richer?

Good, reliable secretary

I am writing to air my views on Finschhafen MP Yair Avini's call to "Sack Finschhafen District Secretary" (The National Nov 16).

As a Finschhafen, I think the Secretary, Mr Alford Pope, is the best man for the job. He is reliable and capable of making good decisions on issues affecting the district.

He is one of the best secretaries Finschhafen has ever had.

heard that funds for two new roads have not been released by Mr Avini since late 1993.

Finschhafen people would like to know who is benefiting from Mr Avini's \$300,000 electoral development fund?

Where was it when Finschhafen was devastated by the recent flood and landslides where food gardens were destroyed and several lives lost?

Where was he when

people were looking for help. Can Mr Avini tell us about the fate of Mongi River Bridge near Pandit?

Has Mr Avini made any funds available for the feasibility studies on the 30 water supply projects he mentioned?

Why can Mr Avini tell us what he has done for Finschhafen other than lack a public servant?

Karanas Mangel Finschhafen

High taxes in land of poor services



funds for schools. I also disagree with the Deputy Prime Minister and Minister for Education.

I REFER to the Government's decision to increase taxes in its Supply Bill. All governments need

Prime Minister takes a leaf out of Lee's book

PRIME MINISTER Sir Julius there have abuses on both sides in the Bougainville conflict.

Sir Julius said that there was no such thing as a Bougainvillean.

The province of Bougainville has at least 25 major local languages and many more which are spoken by a few.

Each group has its own traditions, and its own customs, and its own languages and dialects. Sir Julius speaks a different language to most of the world in a fundamental way.

There are different perceptions between a person from Buka and one from Kieta.

The issue in Bougainville was and economically remains. Reconciliation were not receiving sufficient source developments in their province. My Government has also admitted that mistakes have been made, and that people's rights have not always been respected.

The answer to this is not to try to

characterise an economic conflict as a human rights conflict. It is to admit that it is economic, and to get about the job of doing it.

This means we have to bring fair and equitable development to the province. It is developed which guarantees human rights, not human rights which guarantee development.

This is not true only for Papua New Guinea. Let Kwan Yew of Singapore recognise in the world. There are those who still look at Singapore today and complain that human rights are not respected.

That the people of Singapore live under a regime which is often repressive and undemocratic.

But ask the people of Singapore. Ask people who have had to make their own decisions in individual liberty and freedom, but who have seen their per capita income rise tenfold in little more than a generation, whose children are guaranteed a good education, and who need not fear that in their old age they will be cast out onto the street with no resources, no shelter, no food.

Chan creates stir at union forum

By BRIAN TOBIA

PRIME MINISTER Sir Julius Chan created a stir yesterday when he told a trade union conference that economic development should come first before any emphasis is given to trade union development.

over 150 trade unionists from the South Pacific and elsewhere.

The conference would look at remedial actions to human rights violations in the South Pacific region.

Sir Julius said the most important issue that needed to be addressed was the high wage structures, which he said were preventing PNG from expanding its economic base.

He implied that trade union development had given rise to the increase in demands for wage increases, while the country remained stagnant.

He was speaking at the opening of the International Conference on Human, Trade Union and Democratic Rights in the South Pacific in Port Moresby yesterday.

The three-day conference, jointly organised by the German Friedrich Stiftung (Foundation) and the PNG Trade Union Congress (TUC), is being attended by

formal economy is the domestic market."

Increasing the size of the domestic market, Sir Julius said, depended on increasing the income of the nation.

"But we cannot do this because we cannot expand our export market," said Sir Julius. And added: "We are caught in a vicious trap and the only way is to accept the difficult truth that wages in the formal sector are too high and that as long as this is the case, there will be little expansion for formal employment."

He said he was not trying to blame the unions for the woes of the economy but that developments must be at sustained periods.

Participants took Sir Julius's comments to task later, saying they would work towards establishing a sound and elaborate trade union systems.

Unions reject govt suggestion

ITUC vows to make unions and groups into a force



By BRIAN TOBIA

for foreign investments by undermining human rights.

The conference insists on full respect for the right to strike and workers' interests, which apply to all workers involved in them, being developing of industrial countries.

They said that wealth or level of development does not determine indicators or production, but also by social development.

And to guard these rights, the conference vowed to build strong unions in the South Pacific region by merging individual unions into

THE International Trade Union conference in Port Moresby yesterday rejected Government arguments suggesting that trade unions and other human rights groups differ in different countries owing to cultural diversity and levels of development.

Participants at the Friedrich Ebert Stiftung (Foundation) sponsored three-day international conference on *Human Trade Union, and Democratic Rights* unanimously resolved and insisted that on the contrary, trade unions and other human rights groups are universal and apply to all people of the world.

The conference further insisted that trade union rights are indivisible from all democratic rights, far from being a luxury to certain societies, they are essentially pre-conditions for development.

The participants condemned various practices suppressing human rights which include foreign influences which attempt to de-

private trade union rights in terms of and new right government legislation and physical attack on trade unionists and trade unions. Impediment of structural adjustment programmes by international financial institutions which focus solely on restrictive economic policies, undermining wage and job security, social and working standards leading to deregulation, devaluation of currencies and privatisation, exploitation of South Pacific workers and abuse of trade unions by trans-national corporations whose only interest is making a profit and also condemns South Pacific governments' false conception of development through which they compete

rights, increase solidarity links to promote co-operation between unions from different countries, expose specific violations of workers' rights, build international alliances, support and build organisations with non-government organisations.

It further concludes that greater international solidarity needs to be promoted between South Pacific unions through the assistance of ICTRU and the International Trade Secretariate.

PNG Trade Union Congress general Secretary John Paska describes the conference as being very successful.

He said the resolutions will be followed by individual trade unions in the region.

He said the meeting had now established the Government's position on trade unions and human rights groups and would do everything possible to protect them as much as possible.

PNGTUC general secretary, John Paska who saw the conference as being very successful.

one with assistance in educating and training of staff and in use of fresh human resources. The conference further suggested to stand up for women's

Getting the right food at the right age...

THAT'S THE SECRET OF HAPPY HEINZ BABIES!
HEINZ-STRAINED FOODS (Blue Label)
Fox babies from 4 months old.

NATION

Unions bash World Bank, IMF for 'repressing' rights

By WILLIE PALME
PORT MORESBY: Trade unionists ending a three-day international conference here yesterday condemned foreign influences for allegedly "repressing" the trade union movement and democratic rights in PNG.

Conference participants singled out the World Bank and the International Monetary Fund for their roles in influencing structural adjustment programmes in the country. They claimed the programmes focused "solely on restrictive economic policies" which undermined wage and job security, social standards and workers' conditions.

The programmes also led to deregulation, devaluation of currency and privatisation, they said.

improvement of workers conditions; and

- False concept of development by South Pacific governments where they compete for foreign investments by undermining or restricting trade union and other human rights, creating a global downward competition towards the lowest common denominator in workers' and social standards.

The conference reiterated that trade unions and other human rights "apply to all workers, whether in developing or industrialised countries" and stressed that the wealth or level of development of societies cannot be measured by simple economic indicators of production, but must also involve social development such as literacy levels

and health care.

The unionists also advocated application of basic freedoms, like freedom of association, the right to free collective bargaining, elimination of forced labour, enforcement of equality and non-discrimination, abolition of child labour and freedom of speech, to name a few.

The conference called for "full respect for the right to strike" and underlined the people's and workers' social or cultural diversity or national differences could not be used to apply sub-minimum standards in any part of the world.

The conference was sponsored by the German Friedrich Ebert Stiftung.

Engineering firm goes local with new partners

ENGINEERING consultancy firm Beca Gure (PNG) Pty Ltd is now nationally owned.

The national partners, Pae Gure (managing director) and Lot Zauva (director), have attained majority shareholding, increasing to 72.2 per cent.

By ABBY YADI

Mr Gure was appointed director in 1983. The company's office is located in Boroka, Port Moresby, PNG.

Workers oppressed globally - unionist

By BRIAN TOBIA

THE global response to oppression of workers' rights are constantly opposed by the visiting trade unionist.

This statement was in direct response to Prime Minister Sir Julius Chan while opening the conference on Monday in which he said that trade unionism belongs to the West, not of the poor or industrialised economies and should not be applicable to developing countries.

General Secretary of the International Textile, Garment and Leather Workers Federation, Neil Kearney told the three-day international trade union conference in Port Moresby that many governments have a reputation and regard "human rights as a western imposition" conflicting with regional customs and cultures.

He said they go on to say that trade union rights are workers' rights which hamper job creation and development.

"But this does not reflect the views of workers in the countries concerned," he added.

He said the trade unionist who put their

lives on the line to defend the rights of workers in the respective countries are hardly mimicking western values.

Mr Kearney said human rights including trade union rights are not a concept of the West nor of the poor or any single group but are universal.

And contrary to the views of many governments, "development is the direct result of the application of rights".

He added: "Without such application, there can be no real development or progress."

This statement was also consistent to his statement by Sir Julius He said that development of the unions should come after the development of the economy.

The prime minister said union activities are directly hindering development in many countries including PNG.

But Mr Kearney said oppression is a route to enhancing development, rather the reverse.

Sir Julius hits at unions

PAPUA New Guinea and the South Pacific should not import foreign models of industrial relations, Prime Minister Sir Julius Chan said yesterday.

Speaking at the Conference on Human, Trade Union and Democratic Rights in the South Pacific held in Port Moresby, Sir Julius said care must be taken when introducing industrial relations models to ensure the unique traditions and cultures and the level of development in a particular country were incorporated.

"Every man and woman wants to have the right to a decent job because it will guarantee their family food and shelter and allow them to put their children through school and give them the opportunity to improve themselves.

"The simple fact is that the best way to guarantee the rights of the workers is to provide a conducive environment for economic and social development.

"In a nutshell, there will be issues of workers' rights if there is no vibrant business sector to provide employment in the first place, which is often a difficult balance to strike," he said.

"If we over-restrict the ability of the employer, particularly in the early stages of development, to gain access to skilled labor, or if we over price that labor before the business sector is well established, we will kill the goose which could, if properly nurtured, lay the golden egg.

Prime Minister condemns foreign modes of industrial relations

By BRIANTOBIA

PNG has a number of powerful unions which operate in the formal economy and the form and structure of these unions were inherited from Australia at independence.

They operate in the same way and with the same goals as Australian, or American or English unions do "but this is not an industrialised country... we are still primarily a subsistence, rural agricultural nation".

He said the formal economy enjoyed by the formal sector of the total labor force, yet that small proportion takes the lion's share of the rewards.

This is not fair in that it is only the right of small minority of the population to monopolise the cash income available in the country and Papua New Guinea now has a situation in which most of the people are shut out of a system which benefits the very few.

The Prime Minister said the result was that PNG has probably the highest relative wage structure of any country in this part of the world.

However, Sir Julius the South Pacific nations must certainly protect human rights violations.

He added: "We must at all times seek to protect the rights of the worker and commit ourselves to democratic rights... but to do so we must take account of our levels of development and take into account our unique social and cultural structures.

"We must not be so naive as to think that we can import some foreign structure or form and impose it on our societies and expect the result to be 'the same as in industrialised countries'."

For this reason, he said, PNG and the South Pacific nations cannot import foreign models of industrial relations which impose artificial models of class distinction in societies in which such distinctions have not historically existed.

"Nor should we import systems of industrial relations which assume that such distinctions are an inevitable part of the economy because this will only create problems where no problems existed, and we have enough problems already without importing more.

And in the final analysis, he said, the most important thing is to provide our people with development or with equitable development which would benefit all and not just a chosen minority.

But the unions, however, can still be a force for the development of the country, but to do so they have to begin thinking about the people of this country as a whole and not about the narrow group which currently benefits from membership.

"I am not attempting to lump the woes of the economy onto the backs of the unions because certainly, the private enterprise has a role to play in spreading wealth around," he said.

But this can only occur in sustained periods of development.

"The Government should also do their part by providing the right environment and example.

"The waste and inefficiency of Government must be ended, and I intend to make certain that this process is well and truly begun.

But to be successful, the Government need the co-operation of the unions and the formal economy.

"One encouraging step is to re-activate the National Tripartite Consultative Council.

"The council has proven to be a useful forum for raising issues and resolving them before open confrontation began but, unfortunately, it has not met for more than 12 months," he said.