

Chapter 7

Industrial Relations In Vanuatu *Constraints and Potential*

Case Study

The Events and Consequences of Public Sector Strike Action

Personal tragedy, organisational tragedy, the creation and perpetuation of deep divisions and broader longer-term implications for industrial, social and political relations within Vanuatu: these were to be but the start of a list of consequences of what began as a sectoral strike by schoolteachers, in pursuit of a pay increase. The demise of the Vanuatu Public Service Association (VPSA), the intense anti-union position of a series of governments (primarily francophone dominant-see later for an explanation), the campaigning of a trade union linked Vanuatu Labour Party and other impacts flowed from these initial protests over pay. A campaign for increased personal freedoms in Vanuatu was also integral to the later events. Reinstatement of the last of the dismissed workers four years later was another one of the stories behind these actions_

When the Vanuaaku Party led by Donald Kalpokas was able to form a government in March 1998 one of the first acts was to order the reemployment (reinstatement) of a group of teachers and public servants who had been dismissed four years earlier for taking strike action and who had not been reinstated to that time. The physical and personal effects of the series of strikes in the public sector that commenced in 1993-94 were still evident.

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In May 1993 the Vanuatu Teachers Union (VTU) made a call for strike action in support of a pay claim. The membership responded but the strike collapsed after twelve days when the union settled for reinstatement of the ^staking teachers and a "promise" of an indeterminate pay rise during the next year (1994). Throughout the strike government had taken the position that teachers were covered by the Teaching Service Act and there was no provision for recognising the existence of disputes, or procedures for settling disputes, under that Act. Therefore, despite daily (or almost daily) meetings to seek to negotiate issues of substance, despite repeated requests to recognise the existence of a "dispute" and commence procedures for resolution, the government position was that teachers were simply refusing a directive to return to work. Teachers were suspended as the strike was declared unlawful. Picketing of the Ministry of Education and then Parliament took place. Three arrests, including that of the president of the VTU, occurred at the Parliament picket. After the president had spent three days in gaol, and a Court hearing the picketing was declared legal, and therefore by implication the issue of a strike and a "trade dispute" was accepted by the Court, if not the employer.

At the end of the strike the union was forced to settle for reinstatement and a promised but indeterminate pay rise in 1994. In passing, it is of interest to note that whilst the teachers' strike was in progress the Vanuatu parliament voted the 46 members a 40-70 per cent increase in pay.

In November 1993, the VPSA commenced a strike that was to last some four months. Government declared the strike illegal and immediately suspended 390 civil servants, and threatened to sack all involved. The ⁱmmediate demand was for a pay increase; later revocation of the suspension order was to be the last ditch battle.

In February 1994, teachers and some private sector workers joined the strike to support the public servants. Action was now being coordinated by the Vanuatu Council of Trade Unions (VCfU). A visible sign of this coordination was a public rally and march in Port Vila on Wednesday 23 February. Thirty-four of the private sector workers who joined the call for a general strike were sacked immediately. The remainder of the private sector members who had supported the VCTU strike call returned to work in response to dismissal threats. By May 1994 1,400 public servants, 17 teachers and 34 National Union of Labour (private sector) members had been sacked.

Collectively these events were a clear indication of a high degree of industrial unrest and turbulence in Vanuatu, especially in the area of public sector or government employment. A pay claim was a central issue in both the VTU and the VPSA strikes, but there were also far more important issues

of principle involved. In both cases, and at the hub of the national supportive action, unions were seeking legitimacy as collective representatives of workers in Vanuatu, and recognition of the right to bargain collectively on behalf of the membership. In both cases the substantive issue that caused the dispute, a pay claim, was soon submerged in this quest for legitimacy, in argument about procedures for resolving the impasses, and ultimately, the issue of the principle and process of reinstatement. Government stopped (April 1990) the automatic deduction from salary of union subscription for teachers.

But the effects were broader than the mere industrial issues. In late 1995 the opposition leader (Donald Kalpokas) was to claim that in many areas of the civil service support for the day to day operation of government had collapsed. Admittedly the claims were made in the run up to an election, but more than a "grain of truth" emerges from his assertions:

In the Department of Livestock there is a cleaner who goes in the morning to open it and closes it in the afternoon-but the whole service is non-existent. In Education, all school advisers have been sacked and the Government is not replacing them, so there is no-one doing teacher assessment or providing help for teachers. Some francophones had been recruited ... but they were unqualified. In dispensaries there is one person acting as a nurse diagnosing illnesses and dispensing medicines with no qualifications. In the hospital outpatients section people sometimes have to wait for days to be seen.. In maternity there is a shortage of nurses and women are coming in and delivering their babies on their own with no-one attending. (Pacific Unionist: Oct. 1995:7).

After four months the strike collapsed without resolution of either the substantive issue (the pay increase) or the issues of procedure. A large number of the public servants and teachers were permitted to resume employment a large number were not.

There was some additional reinstatement as time progressed: for example, fifteen civil servants reinstated in the ports, agriculture and customs in July 1994, but the run-down in public sector performance was to persist. Further indirect effects, the participation of the Vanuatu Labour Party in national elections, and a return of grass-roots organising by unions are referred to again later. However, before further analysis of the dispute, the events of the dispute need first to be put into the broader context of industrial relations in Vanuatu, both-yesterday and today.

Context

Vanuatu (formerly the New Hebrides) became independent in 1980. The Republic of Vanuatu stretches for 850 kilometres as an archipelago of some 80 islands. Population is between 170,000 and 180,000, with a large majority (about 80 per cent) located in rural areas. Less than 30,000 persons live in the two main urban areas, Port Vila (the capital) on the island of Efate and Luganville on Espiritu Santo. Seventy per cent of the economically active population are involved in subsistence agriculture. Total paid work force is 11,000-12,000 with the public sector (civil servants, teachers, nurses etc.) the dominant employer.

Vanuatu lacks a real manufacturing, industrial base, although some light industry (copra processing, meat canning, fish processing, soft drink bottling, furniture **making**, crafts) operates, employing some 1,000 employees. However, the economy is heavily dependent on agricultural products--copra, cocoa and more recently beef, kava and squash. Cyclone damage and political instability have placed stress on growth potential. In recent years tourism (currently 20 per cent of GDP) and financial services (tax haven, offshore, banking) have been emphasised. Vanuatu has no income, corporate, capital gains, sales, or other taxes for foreign companies or investors, and no tax treaties or agreement, no duties on estates, succession or gifts. Over 2,500 companies are registered in Vanuatu. Some elements of political instability have been related to improper involvement in external financial dealings by incumbent ministers/political leaders.

A single house of parliament is elected by universal adult suffrage. The four-year term has in fact been more nominal than real in recent years. Parliament elects the Prime Minister, who appoints a cabinet. Political parties formed prior to independence, and continue to reflect the anglophone/francophone dichotomy of colonial administration. Coalitions have from time to time bridged the language/historical background gap. Currently the political parties are: Union of Moderate Parties (UMP) (francophone); People's Democratic Party (PDP); National United Party (NUP) (anglophone); Vanuaaku Party (VP) (anglophone); and Labour Party. A presidential electoral college (46

members of parliament and 11 provincial council leaders) elects the head of state, the President. A two-thirds majority is required.

The anglophone/francophone heritage in Vanuatu, twice mentioned already as impacting on contemporary events (the impact is in fact more generally pervasive), has its historical origin in the unique form of governance established in the New Hebrides. Colony. From 1906 the New Hebrides was a colony of both the United Kingdom and France. It was an area of "joint influence" and it was jointly governed, developing a form of government referred to as a Condominium. The central proposition was that each colonial power retained sovereignty over its nationals, both individuals and corporations, with other nationals being identified or allocated as the responsibility of one or other- of the powers. Indigenous New Hebrideans were without a clear national status, and became, as time passed, subject to a competitive thrust for influence (or control) by each of the colonising powers.

Government of the Condominium was by a Joint Administration with joint and equal control exercised by the British and French resident commissioners. The Joint Administration consisted of three separate administrative services: the British National Service, the French National Service and the Joint (or Condominium) Service. Within this system of governance dual systems of police, courts, education, medical and health delivery, languages and wide range of government services emerged. Of special interest in the context of this chapter is that two Departments of Labour existed, one dealing with the francophone (French speaking) and the other the anglophone (English speaking) workers and employers. Each labour department was headed by a formally titled Inspector of Labour. The British official was also known as the Chief Labour Officer.

Government and administration depended upon consultative and consensual decision making; at times a very painstaking, slow and frustrating process. The attempt to amend Joint *Regulation No. 11* of 1969 to facilitate administrative regulation of emerging trade unions is referred to below, and provides but one example of this process in action (or inaction).

The generalised francophone community antipathy towards unionism and direct action was exhibited by the willingness of francophone ni-Vanuatu to replace striking teachers in the 1994 action. Such a position has historic roots in the attitude and approaches to such issues by the francophone community and administration in the Condominium years (see Hince: 1996b).

As Vanuatu moved towards independence in the 1970s the historic differences of approach that emerged between the dual colonial powers, continued to profoundly influence events. In this instance it was a British position of facilitating change, a French position of resistance. Even after a constitution was agreed upon (1979) and elections held (Walter Lini led the Vanuaaku Party to a 62 per cent share of the popular vote), progress to independence was not without further acrimony.

Campbell (1992:209) records:

Even at this late stage, French resistance had not ceased, and French government complicity was alleged in two rebellions which occurred (one on Tanna, the other on Espiritu Santo) shortly before independence was due to be proclaimed.

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French unwillingness to yield at strategic moment=s created much ill-feeling which left a legacy of resentment in Vanuatu, and a bitter suspicion of anything which appears neo-colonialist. Vanuatu alone in the Pacific came to independence with a sense of having had to fight for it, and of having defeated a more powerful adversary.

Labour Legislation

T7ze Colonial Heritage

Joint Regulation No. 11 of 1969 was introduced to control conditions of employment in, broadly, the private sector. Public servants (including police, prison services and teachers), employees of local authorities and ecclesiastical bodies, aircrew and seamen were excluded. It did in fact replace and consolidate earlier labour

legislation, namely the Native Recruiting and Employment Joint Regulation 1941, the Trade Unions and Trade Disputes Regulation of 1957 and the Labour Advisory Committee Joint Regulation 1962. The latter two regulations had been enacted to implement then current British Colonial Office policy but had no effective operation.

Sections of Joint Regulation No. 11 of 1969 covered the basic provisions of the contract of employment, the fixing of *minimum* wages, the payment of wages, the regulation of the employment of women and young persons, forced labour, and health and safety issues. Part III of the Regulation provided for the registration of trade unions, and provided the historic protections (of British origin) against civil **and criminal prosecution against actions taken "in restraint of trade"**. Section 25 **provided** for the Resident Commissioners to jointly appoint a Registrar of Trade Unions. The Registrar was required to consult both British and French residencies before authorising registration. The first requests for registration were made in 1973, although a registrar had not been appointed. The Attorney-General accepted the role. In 1979, the year before independence, the rise of the Registrar of Unions appears to have come within the ambit of the Ministry of Social Affairs. W. H. Lini, later to become the first Prime Minister of Vanuatu, signed the authorisation of the registration of the Luganville Taxi **Drivers Union and the** Union of Agricultural Field Assistants in his capacity as Minister of Social Affairs in the New Hebrides Government of National Unity. The first appointment of a registrar of trade unions did not occur until 1982 (with the Registrar of Companies doubling in the role).

Collective bargaining was identified as an acceptable industrial relations process as Section 20 of Part III of the Regulation defined a collective agreement (agreement between one or more trade union and one or more employer), provided that such agreements could **establish conditions more favourable (but not less favourable) than the law, and determine the industrial and geographic scope of the agreement**. Part VII of the Joint Regulation No. 11 of 1969 provided procedures for assisting in the resolution of trade disputes by conciliation and arbitration.

Joint Regulation No. 11 of 1969 was, in fact, a comprehensive labour statute, clearly drawing upon the British **experiences (and policy framework) and adapting to the Condominium requirements.**
Post-independence

The British character of the legislation was further re-inforced after independence. British aid and British expertise were the basis of the review that led to the passage of the labour legislation package that is still operative in Vanuatu. In 1983, the Employment Act, Trade Union Act, and Trades Disputes Act were enacted. The Minimum Wages and Minimum Wages Board Act, the Health and Safety at Work Act and the Labour Work Permit Act completed the package of labour legislation.

The broad content of each of these statutes can be determined from the title, and from knowing the pattern of legislative approach by British advisers to countries in the region, in contrast to the **composite nature and coverage of the Joint Regulation No. 11.** The separation of key fields of interest into separate statutes was also the then current orthodoxy. These statutes, as with the earlier *Joint Regulation No. 1.1*, did not cover public servants, or other public employees (teachers, health sector workers).

The Employment Act regulates the required minimum content of the Contract of Employment. This includes the form of the contract (written or **oral**), **the term of the contract, probationary period and the duty of the employer to provide work.**

Whilst **the amount of pay (remuneration) is not specified, the method of payment (legal tender), time of payments and permitted deductions are noted.** Hours of work, overtime pay, leave, employment of women and young persons, safety and medical facilities and conditions for termination of the contract of employment are covered by the statute.

The Trade Unions Act covers registration of unions, immunities at civil law (restraint of trade, tort in **pursuit of industrial issues**), **the required rules of registered unions, the basis of accountability of funds, and control over amalgamation and dissolution.** Detail of the rules which a union must have before registration is included in the

schedule to the Act. Twenty-one separate requirements are listed, including the list of officers, how decisions are made, right of members to vote, provisions for elections and quorums for meetings.

The Trade Disputes Act defines industrial disputes, specifies the method of notification and the procedural steps towards resolving that dispute. Powers of the Labour Officer and processes of conciliation and arbitration are detailed. Special provisions for handling disputes in Essential Services are detailed in Part 4, including powers of Minister, ability to proceed with "urgency", proclamation of emergency and restraints on strike action. General provisions about strikes and lockouts are contained in Part 5.

Section 40 of the Act extends the provisions to the Public Service but this provision was not utilised in the examples of 1993-94 strikes by teachers and public servants referred in the earlier case study. Explanations would need to canvass issues of internal politics, struggle for power (government vis-a-vis a union) and hence on unwillingness of government to seek third party intervention in a settlement process.

Providing procedures is only a first step towards the resolution of disputes. Parties must be willing, or be forced to use procedures. It is difficult to achieve the latter where government is the recalcitrant employer.

Administration of the legislation was the responsibility of the single Department of Labour of the independent Vanuatu-replacing the two separate departments of the condominium era. Separate national minimum wage rates were set for the urban sector and the rural sector. The Minimum Wage Board was established as a tripartite board. Initially a tripartite Labour Advisory Board operated to provide advice to government on labour matters.

It is useful to note that in the first decade of independence there was a general acceptance of the legislation by trade unions. Some complaints were made about the way government used the legislation, for example:

- the ability of Labour Department to use references to conciliation and arbitration against the wishes of a union,

- lack of expertise of administrations in applying the legislation, or
- political parties dealing with labour issues from a political rather than an industrial perspective.

Trade Unions

Early Days

As with so many of the micro-states of the South Pacific (and other ex-British colonial states) trade unionism first came to the New Hebrides with the expatriates themselves. In the New Hebrides expatriate British civil servants formed the New Hebrides British Civil Servants Association in 1945. By the late 1950s membership rights had been accorded to indigenous civil servants of the British and Condominium Services Who had been promoted to specified salary grades. Later, in the 1960s, membership was broadened to include all civil servants and at some point the association was renamed the New Hebrides Condominium Civil Servants Association.

The indigenous members of the New Hebrides Condominium Civil Servants Association employed in the British National Service took strike action in 1972. The issue was the delay in processing a pay claim at a time when, it was argued, local pay scales in the British Service had fallen behind those in the French and Condominium services. The strike lasted two weeks, 4 April to 18 April, and was called off only after members accepted an offer of a 12 per cent interim award (although they had rejected such an offer on two earlier occasions). A commentator at the time wrote that the most notable effect of the action was the disturbance of the complacency of the administration in terms of its "self-satisfied" belief that it had satisfactory relations with the indigenous employees (PBvf May 1972).

Indigenous civil servants were involved in another example of militant action prior to independence. In 1978 strike threats were made in response to an attempt to reduce wage rates. Issues of procedure, rather than substance, became central as the employer asserted that the crown was not bound by Joint Regulation No. 11 of

1969, and thus the procedures of the regulation relating to the resolution of trade disputes did not apply. Ironically the strike threats were withdrawn after a series of meetings held in the form provided for by Section 112 of that regulation. A grace and favour action, saving face, or both! A portent of things to come in the 1993-1994 disputation!

A New Herbridean Trained Teachers Association (to direct antecedent of the Vanuatu Teachers Union) was formed in 1972. It gave notice of strike action in support of a salary claim. The union committee withdrew the threat, and teachers continued to teach normally, after receiving assurances that the case for a salary revision was under active consideration, albeit that such consideration was occurring in London. An association of francophone teachers, the Association des Maitres francophone des Nouvelle Hebrides, was formed in the 1970s. Other French expatriate civil servants did not establish an association. In November 1972 a New Hebrides Pilots Association representing expatriate pilots served a log of claims on Air Melanesia. The response of the British Labour Office is of interest: the Association had not applied for registration (although in point of fact a Registrar of Unions had not yet been appointed) and in any case "aircrew" were specifically excluded from the definition of "worker" under Joint Regulation No. 11 of 1969. The claim was referred on to the Personnel Department of QANTAS in Australia.

Towards the end of May 1973 a small number of English speaking New Hebrideans, including members of the British Residency day labour staff, approached the British Inspector of Labour for advice and guidance with respect to the requirements of the joint regulations relating to trade unionism. It was the first indication of interest in trade unionism by indigenous workers outside of the civil service and teaching.

French and British officials met to consider the request. A choice was given at the outset that organisation should be restricted to an industrial basis (the building and construction industry was the suggestion). The prohibition of registration of general unions under Joint Regulation No. 11 of 1969 was the basis of this advice. Section

24 provided that formation of a trade union was restricted to persons exercising or engaging in the same (or similar) profession or trade.

The view of the workers was that unity could be achieved only by the formation of one all-embracing union. The British Inspector of Labour had some sympathy for this position, commenting, amongst other things, that it would be difficult to get sufficient workers of an educational standard high enough to provide for the needs of executive committees for six trade unions. Concern was also expressed about potential effectiveness and the ability to achieve employer recognition by small organisations. Such observations were exceptionally perceptive from a practical point of view, although contrary to British Colonial Office advice and practice of the times. Official resistance to general unionism can be demonstrated in several other instances in the South Pacific. The French also rejected the notion of general unionism in the New Hebrides context.

The New Hebrides General Labourers Union was formed at a general meeting in late November 1973, and applied for registration on 28 December 1983. A paid-up membership in Port Vila of some 500 members was achieved early in 1974, and a peaceful demonstration was organised by the union on 6 March to greet the new French High Commissioner. The demands of the demonstrators focussed on price control and minimum wages. No employers were willing to accept the existence of the union.

The story of subsequent events and struggles is told in detail in Hince (1996b), and the interested reader should follow up this material. The union did not survive. Other unions emerged later in both francophone and anglophone sectors, and a proliferation of registered organisations occurred in the lead up to the year of independence. Whether these unions were effective is another question. Politicisation of unions was part of the process of the campaign for independence, and for specific support for individuals or individual causes. But again, as occurred in other emerging independent states of the region, the support for a trade union movement was short term and not sustained into the longer term of the independent period.

Recent Times

In 1982 the Vanuatu Trade Union Coordinating Committee, soon to become the Vanuatu Trade Union Congress (VTUC), was established. Assistance from overseas union agencies (first the ICFTU/AFRO and later AAFLI) led to a proliferation of separate unions. Somehow the lead taken by the general union movement of 1973 was not followed. By 1984 twenty unions were registered. By 1986 the VTUC was concerned about finances and total union membership. In 1987 ten unions were deregistered as inactive; the VTUC and four further unions were to be deregistered in 1990. But a reconstruction of the trade union movement in Vanuatu had begun.

In 1988 the Nasional Union Blong De Leba (NUL) was established and registered. The intention from the outset was to become both general and national in scope with respect to private sector workers. Initial organisation covered plantation and associated production workers on four main islands-Tanna, Efate (including Port Vila), Malekula, and Santo (including Luganville). Membership totalled some 1,500 by 1990. Membership at that time covered some 94 companies, although only seven companies gave formal recognition (the next battle). Ephraim Kalsakau was the leading figure and secretary of the NUL. Kalsakau also reestablished a central organisation, now named the Vanuatu Council of Trade Unions and that organisation developed a policy of facilitating amalgamation and consolidation within the union movement.

Progress was slow, but ongoing. By 1994 consolidation into four unions had occurred-NUL, a 'single union for the private sector, the ITV, the VPSA and a union of health professionals. The last named then merged with the VPSA and there were three. The events of 1993-94 referred to earlier created forces that led to the demise of the VPSA, clearing the NUL to accept remnants of public servant membership.. The NUL had suffered -severe membership losses also at this time, and pressures for consolidation increased further. In late 1997 the Vanuatu National Union of Workers (VNUW) was registered with a constitution allowing for membership of any worker in Vanuatu. It became a matter of administrative processes to achieve

an amalgamation of the VTU and the NUL into this body, and to provide for the organising of workers from the defunct VPSA. Reconstruction of a labour movement, and of relations with the community, employers (including government as an employer) and government as legislator and policy maker, is the task of this new organisation.

Case Study

Unions and the Community Vanuatu Style.

During 1995 trade union activists were literally walking the islands of Vanuatu "preaching" about trade unions to the community.

In a series of workshops the Vanuatu Council of Trade Unions carried out an assessment of the 1993-94 strikes and the effect they had on trade union development in Vanuatu. It was decided that a union awareness project had to be carried out, particularly in the rural communities. It was acknowledged that there were many people in Vanuatu who did not understand the role of a trade union. The Government had promoted the view that trade unions were political organisations or parties and this had created enormous confusion within the country, as whenever the unions took industrial action, this was seen (and portrayed) as "political".

Twenty-five participants were trained to carry out a model education programme that had been developed locally. The idea was that each trainer would be away for 3-4 weeks travelling around the islands and conducting one day programmes in the rural communities. The project commenced in October 1994. By May 1995 65 programmes attended by over 2,000 participants had been held. A lack of recognition of legitimacy in rural communities was also shown to be fundamental to the failure of the BKATM strikes in Kiribati in 1981 (see Kiribati chapter in this volume).

Ephraim Kalsakau tells the story of his own involvement

... but we had been too soft in Vila for too long. We went out to the Islands and climbed hills and walked miles sometimes late into the night. Some places we ended up being knocked.-out with one bowl of kava, and mosquitoes and malaria were a constant enemy. Since we have been back, endless tales have been told. We had been out of touch in the rural areas. We had talked about the rural

areas in theory. For example I talked about the rural area I knew while I was a Health Inspector, but that was 12 years ago. I went back this time and really found out what the rural area was 12 years on. There has been a lot of development in Vanuatu but in the rural areas there has really been NO development. I think that is one reason why we were so well accepted.

For example we crossed the Island of Vanua Lava early one morning and when we arrived at the village the Chief said-how did you come, you walk-in the rain? I replied, yes, we walked in the rain. Then we had to talk at night and the next morning. When the Chief thanked us, he said they couldn't believe we had walked to their village to teach them because no political leader had done that since independence: This was the **furth**erest I had walked since I had been in the union movement. We were soaking wet when we arrived at the village. We had to hang out all our clothes and had nothing to wear until our clothes dried. The next morning we walked back with some of the villagers and they were surprised that we could walk as fast as they could (Pacific Unionist: Oct. 1995).

The campaign had the dual aims of. community education and membership organising.

Employer Organisations

Individual employers have been the **dominant** entity in industrial relationship within Vanuatu. From time to time organisations of employers had been formed and operated to pursue aspects of common business interest. But a common front on labour relations did not emerge. In 1995 Vanuatu government provided by legislation that 2 per cent of all business registration fees were to be allocated to the operation of a national Chamber of Commerce. Registered. businesses automatically become members. Expansion of resources and activities of the Chamber has occurred, but to date there is no evidence of an industrial or labour relations function becoming part of the operation.

Procedural Difficulties and Public Sector Industrial Relations

The case study of the strikes by teachers and public servants in 1993-94, which was presented at the start of this chapter, identified the clear gaps in procedures available to handle overt dispute in the public sector. At the same time the study identified an absence of formalised processes for involvement of public employees and their organisations in the determination of salaries and conditions of employment. The absence of such procedures and propensity for formalised involvement had not occurred by default. It is clear that unilateralism, the right of government to determine such issues, in such a manner as government saw fit, was the preferred manner of operation. Such a position was not unique to Vanuatu.

Joint Regulation No. 11 of 1969, which provided for union registration and disputes settlement procedures, specifically excluded permanent public servants, teachers or police from coverage. There was no ban on these employees forming associations, but these would operate without the statutory rights awarded by the regulation. The irony was that, technically, these employees could undertake strike action without reporting a trade dispute under the Regulation, and the procedures, of the Regulation would not apply. Government, even at this point, considered it ought not be bound by regulation in dealing with its employees, and this difficulty of recognition and procedure was to be an ongoing problem for unions in these sectors.

Similarly the post-independence *Trade Disputes Act* covered the private sector only. Ironically, unions representing public sector employees were registered under the Trade Union Act, but, as noted, were denied the procedures of the complementary statute.

Tension was created by the struggle to preserve or establish rights-the right to unilaterally establish public sector salaries (by government)-the right to participate and be heard (by the unions). The tensions were accentuated by the political instability that was to become a dominant feature of the Vanuatu scene in the ensuing years 1994 to 1999. During this most recent period there were two further illustrations of these procedural difficulties of public sector industrial relations and the struggle for control or involvement.

Vanuatu Police Dispute

On Saturday 12 October 1996 a group of Vanuatu paramilitary police abducted the President Jean-Marie Leye just after dawn, commandeered a plane and flew to a neighbouring island. There they met acting Prime Minister Barak Sope before **taking both Sope and the President back** to Port Vila, demanding an immediate cabinet meeting. It was not a coup. It was not a takeover of government. It was part of an industrial dispute: the Police wanted the settlement of a "pay claim". The claim had been of long standing; the failure of government to pay **allowances for overtime and extra duties, some dating back over** a period of some four years.

At the time of the abduction all 300 members of the police had been on strike for two weeks. They had closed the Port Vila fire station, withdrawn sentries from official residences, refused to obey orders, and caused the cancellation of the national day celebration.

The meeting of the Council of Ministers, held after the police returned the President and acting Prime Minister to Port Vila, agreed to pay the allowances due in two instalments, the first on the following Tuesday. Action produced action, but it clearly was a radical step that could not be countenanced as normal industrial relations. There was some indeterminacy about the amount involved -reports varied from \$A400,000 to \$US 1. imillion. The debts were longstanding, the inability to process an **industrial grievance led to severe actions and consequences**. In fact these consequences took even longer to work out-several months later in December some 138 members of the police force were arrested, with government intending to prosecute. The promised first instalment had not been paid by that time.

A Strike or Lockout at Vanuatu Television

On 21 October 1998 all staff at Vanuatu's television station were suspended after staging a protest outside its offices in Port Vila. Two truckloads of police were called by the general manager after banners were unfurled at the protest calling the general manager corrupt and demanding his removal. Police left after trade union officials present told them that such protests were not illegal. Management responded by suspending the workers. At issue were

a series of unresolved grievances and announced staff cuts. A week later the key spokesperson and some other employees were sacked for insubordination.

On 29 October the suspended workers returned to work following a further edict-return or face further disciplinary action. The dispute has a number of features that merit highlighting. First, an absence of process to handle grievances can create an accumulation of tension. Second, confrontation, standoff, can provide a temporary solution (return to work) if one of the parties occupies a clearly more powerful position. Otherwise standoffs can continue and may even escalate. Third, unresolved issues (the three dismissed leaders) could lead to future problems or action.

Each of these issues can emerge from analyses of conventional industrial dispute: the events described followed a known pattern for industrial dispute. What was unique then about this strike/lockout? Simply that it was an action, a collective action by non-unionists. Whilst some union officials (probably from the VTUC) were present at the protest, the action was taken by a collective of individuals. The final point of analysis therefore is that a fertile ground for future organising has emerged.

Current Issues

Unions and political parties, public sector industrial relations, political instability and the inability to develop constructive dialogue about industrial relations issues or processes, let alone national goals, have been part of the immediate past in Vanuatu. They are also the basis of the issues of the time and the immediate future.

Unions and Politics

in 1987 four unionists were candidates at the national election under the banner of the Labour Party (Leba Pati). They were not successful. Individual unions have not been directly connected to any political party, but the formation of the Labour Party was a conscious act by the VTUC. The union movement is political; it deals with political issues and with the mainstream parties ignoring or openly antagonistic, the separate party appeared the way to go.

No Labour Party candidates stood at the 1991 elections. The events of 1993-94-the strikes by teachers and public servants-changed this stance. The community education campaign and grass roots organising referred to earlier was concerned with raising the consciousness about trade unions, but also the role of trade unions as a political movement. Labour Party candidates were unsuccessful in 1995, and in subsequent elections. So far that strategy has failed to achieved results. Kalsakau (1995) earlier reflected that the Vanua'aki Pati is clearly the one with which unions could best work. It is, he notes, the only party which has been supportive in any way of the trade union movement. Leadership and other splits in that party have hindered cooperative links. Whether the 1998 elected Kalpokas led Vanua'aki Pati government can meet the aspirations of the union movement (for dialogue, consideration, involvement and ultimately improved industrial relations processes) remains to be seen. The intent to reinstate all workers still unemployed from the 1993-94 strike is a start.

Union-Government Relations

The inter-relationship of the parties both in the employer-employee, and government sector interest group **linkae** is central to stable industrial relations. And given the importance of the public employment in Vanuatu the employer-employee relationship is particularly critical. The legacy of the years from independence does not provide for high levels of optimism.

Pressures for public sector restructuring and downsizing are exacerbated by degrees of financial instability **requires** a dependence on external agencies (Asian Development Bank, for example). Negativism in the employer-employee relationship in the public sector is thus more likely than cooperative behaviour. A commitment given in respect to an Asian Development Bank package in 1996-97 required 500-700 public sector job losses-about of 10 per cent of the service.

Political instability-four governments in as many years-has not made the task of implementing change any easier. It is a multi-faceted task that faces government under these circumstances. Can

the new Vanuaaku Government create that stability, which in turn can permit the dialogue that can (perhaps) lead to an orderly implementation of a reform agenda?

Tripartism has had a long but chequered history in Vanuatu. In 1982 an ad hoc tripartite Labour Advisory Board was established to review draft labour legislation prepared by an ILO team. Three unions leaders participated and expressed concern about some aspects of the proposed legislation, and redrafting by a British expert occurred. The Labour Advisory Board was formalised under the legislation in 1984, but by 1990 had not met. Given the political milieu of the 1990s it can be asserted (without real knowledge) that it probably has not yet met.

It should also be noted that the relevant legislation (Employment Act) does not require worker or employer members to be representative of or nominated by the most representative organisations. And consultation has not been the norm with regard to these appointments. This would be the expectation given the state of government labour/union relations over the past decade or so.

The same position applies in the case of other nominally tripartite bodies, the National Provident Fund, and the Training Advisory Board. The Minimum Wages Board is the one exception where there has been provision for direct involvement of employer and worker organisations in nominating membership of a tripartite body. This board was established as a tripartite body by legislation, also in 1984. From time to time the Board has made recommendations for increases in the rural and urban minimum wages, which the Minister of Home Affairs has approved. But, in recent years appointments to the Minimum Wages Board have not been made in conformity with the legislative requirements. Government has ignored its own law, yet another example of a low trust level amongst parties to the labour relationship.

The significant query is-can this trust be rebuilt? Day to day working relationships as well as longer term goals of attention to reworking aspects of labour law, and the role of social partners in development will depend upon the answer to that substantive question.