

Asia Pacific Labour Law Review

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Workers' Rights for the New Century

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Papua New Guinea Labour and Labour Law

Satish Chand and Benedict Y Imbun

Background

Papua New Guinea (PNG) covering a total land mass of approximately 463 million square kilometres and home to some five million people lies 120 kilometres to the North-East of Australia. The West half of the main island of New Guinea constitutes the Indonesian province of Irian Jaya (West Papua) while the East half together with 600 islands surrounding it constitute the independent state of PNG. The total land area of PNG constitutes about 462, 840 square kilometres and is slightly less than that of Thailand but substantially greater than that of New Zealand. Approximately 80 percent of the population live in rural scattered villages and rely on land, much of which is highly mountainous, for their livelihood. Until September 1975 the territories of Papua and New Guinea were protectorates of Australia; self-rule was attained in 1973 with graduation to political independence being achieved two years later (see Chand and Yala, 2002 for details on this transition).



The Australian legacy is evident currently in PNG in the form of legal institutions, British parliamentary system of government, and most importantly for this paper the laws governing operation of labour markets. Labour unions in PNG have since independence maintained some association with their counterparts in Australia such that some of the transformations occurring within the unionised sector in Australia were transferred across the Torres Strait. For example, minimum wage legislation and review mechanisms originated from setting up the Minimum Wages Board in 1972, an outcome of intense lobbying by Australian-based unions.

The economy

With a per-capita income of US\$756 (data for 1998) and an average life expectancy of 58 years (data for 1996, the most recent available), PNG is classified by the World Bank as a middle-income developing country. The major industries in the country include mining and agriculture with principal export commodities in 2001 being logs (1.5 million tons), palm oil (515,000 tons), copra (71,000 tons), coffee (66,000 tons) Cocoa (48,600 tons), gold (57.7 tonnes), copper (158,300 tons), and crude oil (19,400 barrels) (data drawn from Duncan 2001). The bulk of the population is young with children under the age of 15 comprising some 45 percent of the population. Formal sector employment accounts for less than 10 percent of working-age population with the bulk of the rest engaged in subsistence production.¹ Crime and lawlessness in urban PNG has worsened over time, consequently the environment for investment and job creation has been poor (see Chand and Levantis 2000). Duncan and Lawson (1997), using analysis based on data collected via a survey of business enterprises, conclude that law and order is the single biggest impediment to the growth of private enterprise. The labour market was deregulated in 1992, but job growth has continued to lag behind expansion of the workforce giving little respite to the growing problems of urbanisation and crime.²

The unionised labour market

The trade union structure is both fluid and fragmented at national level as a result of a divisive trade union movement. There is one peak union organisation in the coun-

try, however not all trade unions are members. The PNG Trade Union Congress (PNGTUC) comprises affiliates predominately from the private sector, although lately several unions (the Nurses Association, the Doctors' Association, and the Elcom Workers' Association) from the public sector have also become affiliates.

In May 2002, some 80,000 rank and file members in 15 unions were affiliated to the PNGTUC. The biggest was the Amalgamated General Workers Union with a membership of some 4,000 that extends from commercial urban workplaces in Port Moresby to rural oil palm plantations in West New Britain. The PNGTUC has been active in its support of industry-based unionism. Several unions have therefore amalgamated along industry lines, which included Waterside and Marine Workers Union (WMWU), Federation of Energy and Mining Workers Union (FEMWU), and Finance and Banking Workers Union (FBWU). The PNGTUC is affiliated to the International Confederation of Free Trade Unions and receives annual visits from the International Labour Organisation (ILO).

Several unions have decided to exist as independent workers' organisations. Amongst them two notable unions, conspicuous by their absence in the PNGTUC membership, are the Public Employees Association (PEA) and the Teachers Association (TA), which cover government employees in the general public and teaching services respectively. These two relatively large public sector unions claim that policy differences and personality clashes are reasons they do not join the PNGTUC. The PEA and TA joined the PNGTUC in the late 1980s but this co-operation was short lived as differences over allocation of executive positions in PNGTUC saw an abrupt pull out (Imbun, 1999).

Both unions nevertheless exist independent of each other and have exercised their industrial power and remained effective organisations in pursuing their members' demands. In the recent past they have fought the government over retrenchment programmes emanating from the 'structural adjustment programme' that was instituted with support from the World Bank and International Monetary Fund. The government has been adamant that a third of the 60,000 public servants be retrenched in order to do away with 'duplication and inefficiency'. The PEA executive has met with the government on several occasions to argue for a phased

programme of retrenchment with payments of all due entitlements to the retrenched workers (Gima, 1998).

Absence of new union formations

There has not been any major new union formation in the past 10 years but several union amalgamations along industrial lines have taken place in this period. The stagnant economy with subdued job creation has been the primary reason for the above. The last significant industrial economic development, which took place in 1990, was due to the construction of the giant Porgera gold mine, the resource sector since has remained stagnant.³ The amalgamations, facilitated by the PNGTUC, have taken place as part of the rationalisation process including enabling the unions to take advantage of economies of scale, giving them greater industrial clout while minimising duplication of services. Successful amalgamations first took place in the waterfront industry with the formation of WMWU. The formation of FBWU and Forest and Wood Workers Union in the 1990s signals industry-wide amalgamations that in future has the potential to lead to further consolidation at the national level. The FEMWU however still has to go through a process of final endorsement from the respective rank and file membership before acquiring the status a fully-fledged industrial union.

Major labour legislation⁴

Legislation designed to provide or protect workers' welfare

Legislative protection is afforded to workers in formal employment and come in two forms: those that protect the welfare of the individual worker; and those that protect the collective aspects of workers' grievances. The laws that make up the former are the Employment Act 1978, Employment of Non-Citizen Act 1978, Workmen's Compensation Act, National Superannuation Act 2001 and the Industrial Safety Health and Welfare Act. The latter are mainly industrial relations laws including the Industrial Relations Act, the Industrial Organisations Act, the Public Services Conciliation and Arbitration Act, and the Teaching Services Conciliation and Arbitration Act. All of the above protect the collective rights for workers by laying down the parameters for industrial dispute settlement and facilitating the formation of unions.

Most importantly, the Employment Act 1978 caters for individual employment and provides the legal parameters for work undertaken in PNG. Adapted from the Queensland Employment Act, it is long and complex and regulates a comprehensive range of issues in minute detail. For example, the Act contains provisions regulating the hours of work – this extends over five pages and guarantees minimum periods of daily and weekly rest; similarly, conditions under which overtime may be worked and maximum allowable hours of work per week are also stipulated. The maximum number of hours of work per day is set at 12 but piece rate workers are excluded from this protection. Some employers have voiced concerns that the Act does not respond to the current needs of the manufacturing sector, particularly employment flexibility. Similarly, the small enterprise sector has claimed that these provisions have reduced flexibility of employment in the sector (Heron, Machida and Salter, 1998:11). Workers, and particularly those in the medium and large enterprise sector that readily complies with these regulations, have a high level of protection for working conditions under the Employment Act. However, there are inconsistencies between the Employment Act and Common Rules and Awards, particularly concerning annual leave, hours of work, sick leave, maternity leave, and part-time work.

Employment of foreign nationals is regulated by the Employment of Non-Citizen Act 1978. This Act controls entry of expatriate labour such that local workers are not displaced and that those who do enter have skills unavailable locally. One of the provisions in the Act stipulates that an employing organisation must provide an explicit training and localisation programme prior to hiring expatriate staff; the rationale being that foreign workers are to be used for short-term relief only. Further, the Department of Labour and Employment (DLE) in line with one of the stipulation of the Act has developed a 'classification of occupations' to assist in standardising the nomenclature and descriptions of the labour force. A company's employment manifesto is necessary to comply with the above and work permits that detail the duties and responsibilities of an occupation are required if expatriate labour is to be hired. In fact, this Act has been one of the most controversial laws regulating employment as several unions and politicians have expressed concern over what seems to be little compliance

with the provisions and in particular the pace of localisation (Imbun and Ngangan, 2001).

Further, the Worker's Compensation Act, is responsible for ensuring workers are adequately compensated, particularly in the case of permanent disability. The Office of Workers' Compensation (OWC), which is the responsibility of the Minister for Labour and Employment, is entrusted with the responsibility of administering the Workers' Compensation Act. Each employer is required by law to insure their workers, but compliance with this legislation is poor amongst the smaller enterprises, the OWC being left with the challenge of enforcing compliance. A trust fund operated by the OWC is available to workers without insurance but information on access to it is poor.

Given its responsibilities, the OWC is under-resourced in terms of finance and manpower, consequently workers are unable to get the full protection provided by the legislation. On average, of 1,300 claims that are received by the OWC each year, less than one half of these are resolved. Of the figures that are available, in 1995 some 1,370 cases were received and of these only 757 were settled. Then an excess of 5,600 claims was awaiting settlement with the long delays in processing of claims frustrating workers and employers (Heron, Machida and Salter, 1998:18). The slow pace of settlement of compensation claims by the OWC is due to a combination of insufficient resources (manpower) and low productivity of available resources.

Legislation put in place to protect collective rights allows workers to organise themselves into unions while any hindrance to such actions is illegal. The industrial relations machinery that was transferred from Australia during the colonial period, and that has in bulk remained intact ever since, provides channels for dispute resolution. The Industrial Organisation Act 1964 mandates the existence of trade unions in the country and constitutes the core of industrial relations legislation. This Act, as one of the pillars of the industrial relations system, provides the legal basis for existence of worker and employer organisations for the purpose of addressing concerns and aspirations of their members. In fact, PNG is one of only a few developing countries that encourage formation of indus-

trial organisations. According to the Act, an employer who inhibits the formation of a trade union is subject to prosecution and if convicted a heavy penalty is imposed. Similarly, an employer can be penalised for dismissal of an employee or group of employees as a result of engaging in trade union activity. This legislation has promoted formation of unions at the workplace, several of which went into hibernation straight after formation.

The Industrial Relations Amendment Act 1991 operates in conjunction with the Industrial Organisation Act. The original Act of 1964 was amended to include provisions dealing with the resolution of industrial relations particularly in the private sector. It has provisions relating to the establishment of dispute resolution machinery including negotiation, conciliation, and arbitration tribunals. The Government, in a major amendment to the Act in 1991, encouraged the parties away from an adversarial approach through advocacy to one of negotiation and workplace agreements (Hess and Imbun, 2002). The Act also contains the provision for the establishment of Minimum Wages Board (chapter 174, which guides the determination of minimum wages for unskilled workers). Since 1992 the government has pursued a policy of decentralised wage determination and encouraged wage restraint to contain inflation. In addition to the above, the Public Services Conciliation and Arbitration Act and the Teaching Services Conciliation and Arbitration Act provide dispute settlement procedures for the public and teaching services respectively.

However, recently the PNG parliament deliberated a National Superannuation Act and, if passed late in 2002,



Handicrafts for the tourists (Credit: Benedict Y Imbun)

would regulate employee benefits such as health care, sickness, as well as retirement on capital accumulation. This Act is a product of a near collapse of the National Provident Fund, which was set up by the government in the early 1980s for private sector employees as a retirement fund. For the last few years this fund has been politicised and systematically plundered by government cronies. A theft of some K100 million from the fund was the subject of a Royal Commission of Inquiry in 2001, which resulted in the recommendation of a National Superannuation Fund Act to protect the fund from government interference. This Act, once passed in Parliament, should regulate the entire pension fund in the country.

Collective labour rights

PNG has a pluralist legal and political framework in which acknowledgement of collective labour rights is entrenched in core industrial relations laws. The role of the state is confined to that of a facilitator for private commerce. Such a liberal environment encourages exercise of freedom of association including anti-government activity by the unions when such action is considered to be in the interest of the membership.

Trade union rights

For a relatively young developing country and much to the credit of its colonial past, PNG is an exception with a legal and political framework that allows for a pluralistic environment that encourages formation of unions at the workplace, collective bargaining, and respects the right of workers to strike (Smith, 1975). The Industrial Organisation Act mandates the existence of trade unions and therefore trade unions enjoy considerable freedom under the Act to operate in serving the interests of their members.

Occupational health and safety legislation

The Industrial Safety Health and Welfare Act mandates provision of adequate work-related facilities and amenities at all workplaces. The DLE is responsible for enforcing the occupational health and safety (OHS) regulations and as such inspects worksites to ensure compliance with the legislation. This legislation has a primary focus on the regulation of OHS in factories, hence tends to ignore other workplaces such as offices,

shops, and construction sites etc. This is clearly apparent from the elaborate provisions that exist in the legislation pertaining to the registration of factories to the prescribed minimum conditions of work that the proprietor must comply with as stipulated in Part V of the Act. The irony being that PNG has a small manufacturing sector with employment in agriculture and services accounting for more than 90 percent of the workforce.

This legislation, however, does not apply to OHS matters in the mining industry, which has its own regulations (see s. 2 of the Act). The Department of Mining and Petroleum is responsible for enforcement of safety and health regulations in mines under its lease. To minimise risks to workers, this legislation prescribes minimum standards regarding use of machinery, design of plant and equipment, and shop floor arrangements. A major limitation to use legislation for ensuring OHS practices are maintained is the lack of enforcement such that much of the legislation fails to supply the intended protection. Limited capacity within enforcement agencies means that most of the workplaces are rarely, if ever, visited. Anecdotal evidence suggests minimal compliance with the Act with some 150 fatal accidents recorded each year. The actual number of such accidents could be considerably higher since information gathering is limited to workplaces covered by workers' compensation. There is little information on injuries and deaths that occur in uninsured workplaces and this is where the majority of workers are employed (Kalinoe and Mellam, 1999; Heron, Machindia and Salter, 1999:17). The Act does not reflect current reality of dealing with OHS issues where emphasis now is placed on establishing legal mechanisms to promote voluntary action at workplaces. Further, there are no provisions in the Act for managers and workers to get acquainted with dangerous machines and hazardous materials. PNG is as yet to ratify several ILO labour conventions on OHS, but lack of monitoring capacity is an area for urgent attention if risks of injury and death to workers are to be minimised.

Gender-related labour law

There is an absence of gender-related labour law in a country where traditional and customary biases exist against women.⁵ Discrimination against women is evident in modern workplaces where women workers continue to receive less favourable treatment than men by

their employers including the public sector. Reasons for such biases constitute a topic for research in its own right, but statistics show an under-representation of women in formal sector employment and enrolments in educational establishments. Some of this under-representation is due to greater problems faced by girls than by boys in attending school, the societal perception of women, the high crime rate against women, and the sparse distribution of schools.

In the formal (public and private) sector, maternity leave of six weeks following confinement is given but without pay, although sick and other leave credits can be converted into paid maternity leave. Incidences of sexual harassment and violent crimes against women are on the rise.

Laws aimed at dealing with discrimination

PNG does not have specific legislation to deal with racial, religious, sexual, or political discrimination. The forces which have been instrumental in influencing the creation of anti-discrimination laws in Australia and elsewhere are absent in PNG. This is not to suggest that discrimination on the basis of religion, ethnicity, and gender is not present. In a country with some 800 different languages and several ethnic groups, discrimination in employment is implicit such that managers have a bias to hiring their wantok⁶ (relatives, tribesmen and friends). Although unfair employment practices have not been publicised, corruption and nepotism particularly in public service are endemic. A national politician was dismissed from Parliament in 2002 for appointing his brother into a high-paying job in public service; this incident would have gone unnoticed had it not been for the report of the Ombudsman Commission. Currently, there is an outright war on corruption embarked upon by the media, several politicians, NGOs, and corporate organisations. One form of corruption being targeted is the appointment of wantoks into jobs that do not match their credentials. Despite unfair practices in employment, there are general provisions within the Employment Act and the Constitution that give women equal and unrestricted access to jobs and protection of their rights as are available to men.

The enclave nature of mining development, a major growth industry in the first decade after independence in

the most isolated pockets of the country, has encouraged and sustained the practice of affirmative action by mining companies in the allocation of mine work to land-owners and their clan. The people who benefit most from these apparently discriminatory employment policies are those who live adjacent to and within the vicinity of the projects. Although quite contrary to national equity principles, the PNG experience demonstrates that ethnic affirmative action in employment and training opportunities results in running economical and safe mines. This practice would have generated controversy and legal challenges if it were practiced in mines in Australia or other developed countries. In PNG the wider population for security of investment and sustenance of mining activity passively and grudgingly accepts such discriminatory policies. The Porgera mine provides an example of personnel policies that gives local people preference over others in employment and access to onsite business (Imbun, 1997).

Effectiveness of labour laws

Unfair dismissal

Compliance with labour legislation standards is particularly weak amongst small employers. The level of complaints is high, most commonly concerning wages and termination of employment. Labour laws have minimal impact in the rural sector due to lack of information on their existence and an absence of agencies responsible for their enforcement. Shortage of funds makes the process of information dissemination and dispute settlement extremely difficult. This is despite the presence of provincial labour offices throughout the country to serve these purposes. The situation has allowed many workers in the private sector to accept termination of employment either as a managerial prerogative or condescendingly accept this as their own failing. Hence, only a small proportion of these workers have taken the matter to the formal dispute settlement process.

Public sector employment is governed by several awards and conditions. Senior officers and heads of departments are employed on fixed-term contracts and are therefore entitled to natural (procedural) justice. In relation to termination of contracts, the statute provides that public servants may be terminated at the pleasure of the crown/state and without compensation but this interpre-

tation has been successfully challenged in the courts. Termination of employment of public servants has to comply with the Act the Public Service General Orders that set out the grounds and procedures for dismissal. Lately there has been an interesting trend in which dismissed senior public servants and heads of corporate organisations have accessed the National Court for judicial review of decisions that have been made to dismiss them. In a few cases the Ombudsman Commission has also been involved in investigating allegations of unfair dismissal of holders of senior public offices.

Conditions of employment in the private sector, in contrast to public service, allows dismissal but only after issue of the mandatory period of notification as stipulated in the contract of employment or pay in lieu of notice. In most cases employees just take the decisions and leave but some challenge them. However, the rules of common law apply to employment and access to the courts by the disaffected are available to those having the information and funds to access these services; the unions, no doubt, are of considerable assistance to workers in this regard.

The first call for redress by a dismissed employee who feels unfairly terminated is the Industrial Relations Act (amended 1991). This Act contains provisions dealing with the resolution of industrial disputes. First the dispute is established between an employer and the employee(s), according to the Act, which defines 'dispute' as the termination of employment of an employee who might seek re-employment therefore creating a dispute with the employer (Industrial Relations Act Section 29). Once a disagreement is identified as an industrial dispute the aggrieved person has to register it with the Department of Labour and Employment. The Conciliation and Arbitration Commission (CAC) of the DLE convene a compulsory conference where the disputing parties are expected to attend. An industrial officer from the CAC chairs the meeting and acts as a conciliator in endeavouring to convince the two parties to arrive at an amicably acceptable decision. However, if there is no compromise, as the employer may insist that the termination of the employee was done following set procedures (i.e. after three warnings) and final reason warranted dismissal(s), the case then goes to the Arbitration Tribunal, comprised of members from each section

of society. This tribunal has broad discretion to make orders to resolve the dispute. The decision handed down by the tribunal (which) is legally binding. In fact, the range of remedies available to a dismissed employee under the Industrial Relations Act is far broader than the remedies available in a district or national court under common law.

It is surprising that workers in PNG have not taken full advantage of available redress mechanisms of the DLE and CAC tribunals under the Industrial Relations Act. In many respects, the compulsion and remedies available are similar to dismissal remedies available under similar legislation in Australia. There are no statistics available but 'the unfair dismissal cases dealt with by the DLE in a year can be counted on the fingers of one hand' (Young, 2000:5). The above may be the result of a combination of factors including minimal job churning, particularly in the public sector; high transactions costs associated with accessing the legislatively available redress facilities; and strong unions who provide sufficient deterrent against unfair dismissal of employees.

Policy dilemmas

Crime and urbanisation

According to the 1990 population census, 30 percent of the labour force in urban PNG was actively engaged in seeking work. The unemployment rate is considerably higher given the low participation rate and the fact that many engaged in illegitimate activity do not report as 'actively seeking work'. According to Levantis (2000) who uses survey data that was collected in 1990, 15 percent of the urban workforce was engaged in crime as a primary source of income. Another 3.5 percent reported prostitution as their primary source of livelihood. Only 13 percent of the urban workforce was engaged in informal activity to generate income. Furthermore, income from illegitimate activity was similar to that of wages of unskilled workers implying that arbitrage between the two 'occupations' was taking place. Inability of the authorities to apprehend criminals and contain those convicted for the full terms of their prison sentences means that the risk associated with criminal activity is low. Not surprisingly, urban crime rate rose with unemployment such that the crime rate of 1990 was 17 times that of 1972, and is still rising.

Incomes policy and employment

At independence, PNG pursued an active incomes policy via centralised wage-setting mechanisms. The Minimum Wages Board together with the labour unions had significant roles in setting wages until the Minimum Wages Board was scrapped in 1992. Nominal wages were fully indexed until 1992 so that any initial disequilibrium that existed in the market remained until deregulation. As a consequence real wages in the 1972 to 1975 period were maintained at levels well above those necessary for internal balance. Wages rose rapidly in this period: for example, the minimum weekly wage in Port Moresby rose from K8 (US\$9) in 1971 to K25.80 (US\$35) by late 1975. Similarly, the national minimum weekly wage rose from K5.30 (US\$6) to K8.90 (US\$12) for workers in primary industries and to K10.75 (US\$15) for other rural workers. The urban minimum wage was raised substantially above the rural minimum, increasing the incentive for rural-to-urban migration. Garnaut and Baxter (1984) estimated that real wages for adult workers in Port Moresby in 1980 would have to fall by as much as 30 percent to return to the level prevailing in 1971.

The need for growth in employment and the potential for job growth via removal of impediments to the operation of the labour and informal markets were recognised well before independence. Faber et al. (1973: 60) warned against the damaging effects of increases in rural wages on employment and argued strongly for ‘a policy of minimum average wage per capita and maximum employment of numbers of wage earners’. The report noted that the informal sector was ‘fully indigenous’ and argued for ‘a liberalisation of protective restrictions limiting competition in the urban economy’ (page 25) to increase opportunities for self-employment. The report also noted: ‘Given that wage employment cannot absorb the growth in the labour force, self-employment must be a major source of indigenous income’, (page 25) and saw the informal sector as the springboard for entrepreneurs into the formal sector. Policies implemented from independence to 1992 were basically contradictory to the recommendations in the Faber report.

The labour market was deregulated after unemployment had risen considerably, together with associated social problems of urban squatter settlements and crime. During this period, the general investment climate wors-

ened. High legislated-minimum wages for unskilled labour, implying levels above those that would have prevailed under competitive conditions, became entrenched through wage indexation and fed the growing unemployment problem until 1992. The abolition of the urban minimum wage in 1992 by the Wages Board was too late because conditions for investment had deteriorated so badly that wage de-regulation on its own was no longer sufficient to re-invigorate private investment. Wage distortion contributed significantly to urban unemployment and social instability raising costs of doing business. In spite of the above, Levantis (2000) provides empirical evidence in support of some increased formal sector employment after deregulation. Even though urban real wages fell significantly after deregulation, this could not be expected to lead to a substantial increase in employment given the host of other non-wage structural impediments to private sector development that had built up during the period of wage indexation.

Like most developing countries, PNG does not provide a state-funded social security system. Community-based ‘wantok’ systems provide support during periods of hardship, but such a system at any one time is able to sustain approximately five percent of the workforce without income. A rise in opportunities for employment and particularly for the growing pool of youth, therefore, is critical for a drop in urban crime and reductions in poverty.

Youth unemployment

Despite the reduction in youth wage in 1992, several compelling reasons point to the fact that youth employment has not increased. There is a general reluctance by PNG employers to increase their youth workforce. In many cases, jobs suitable for youth are not available. Casual employment seems to be the only avenue for young unskilled workers and even here employers consider the 16-21 age group as unreliable, disruptive, and restless. Consequently, there is a strong bias against employing male youths in particular (Carrol, 1993); this in turn has ramifications on crime. The social bias has contributed to lowering morale and motivation for work by unskilled male workers; creating an unemployment trap for such workers. Hence, even when unskilled male workers are employed, their commitment and motivation to work is poor and as a consequence productivity is low.

Skill shortages are severe in the country hence skilled workers command a considerable wage premium leading to skilled wages being well above those of unskilled workers. The state for much of the last decade has had budgetary problems and in the process public education has failed to equip unskilled workers with necessary skills to get formal sector employment. Rising youth unemployment together with rising crime have adversely affected the domestic investor climate, consequently private sector activity has remained stagnant for much of the last decade. Growing shortage of skilled workers and lack of such workers from abroad as a result of regulatory barriers and the deteriorating crime image of PNG abroad has seen rising incomes of those in work compared to those without employment. The above together with weak capacity to enforce law and order has resulted in PNG being trapped by low employment, low income, and high crime (see Chand and Levantis 1998).

Conclusion

On paper PNG stands in good stead relative to most developing countries in the Asia Pacific region on labour laws and protection afforded to workers. Much is due to the colonial past where several Australian laws were transferred into the territories of Papua and New Guinea prior to independence with the bulk of this legislation remaining intact. A clear deficiency in enforcing the legislation has meant that much of the protection provided to workers is only in the form of paper protection. The deteriorating fiscal position since 1990 has eroded the ability of the state to provide very basic protection of security to property and personal safety. In such a climate, further legislation to safeguard rights of workers are not only paper exercises but could be counter-productive given rising crime and youth unemployment.

We argue that rising unemployment and deteriorating law and order in much of urban Papua New Guinea are interrelated and responsible for locking the economy into a poverty-trap. Getting out of this trap will require considerable resources and a concerted effort targeted at containing the deteriorating law and order problems while raising education delivery at all levels. Reducing the high level of violent crime against women could raise female participation in commerce. Similarly, morale of male youth to work could be raised through edu-

cation and social campaigns. PNG needs all the support it can muster to a long and difficult road to a position where employment prospects of its growing population of workers and the conditions of such employment could be improved.

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Notes

1. Data on formal private-sector employment is not available, but Levantis (2000) estimates the 1994 figure to be 152,000.
2. See Appendix 1, Employment change by sector.
3. Lihir gold mine was opened in mid-1990s but the employment generation has in bulk been confined to the immediate vicinity.
4. See Appendix 2, Labour legislation.
5. PNG is one of a few countries in the world where women have lower life expectancies than men.
6. This is pidgin English for one-talk, that is people who speak the same language.

Appendix 1

Employment change by sector

	1982	1987	1992	1997	1999
Retail	6,000	6,325	5,692	6,925	7,978
Wholesale	15,343	15,409	14,328	13,713	14,577
Manufacturing	17,700	15,088	17,795	20,816	23,156
Construction	15,000	10,592	10,732	12,021	10,606
Transportation	11,128	12,080	10,755	11,360	10,172
Agriculture	47,500	45,744	52,479	44,990	43,050
Financial	9,800	9,500	11,370	13,838	16,457
Mining	8,742	8,019	5,680	6,543	10,068
Public Utilities	2,511	2,623	2,336	2,467	2,209
Communications	4,176	2,904	3,476	4,230	5,031
Community & business services	4,104	3,587	4,293	5,224	6,213
Amusements Hotels etc	6,958	6,073	7,268	8,845	10,519
Education	16,209	19,089	21,283	25,409	30,000
Health	7,936	9,532	10,019	10,530	10,741
Central Government	23,838	25,054	25,305	24,076	23,602
Public authorities & other	29,020	32,782	36,542	36,907	36,180
TOTAL	225,965	224,402	239,351	247,895	260,561

Source: Curtin's unpublished PNG economic statistics, cited in Hess and Imbun, 2002.

Appendix 2

Labour legislation

Event	Date	Remarks
Industrial Relations Act	1964	Establishes formal machinery for resolving industrial conflict
Industrial Organisation Act	1964	Mandates the establishment of both workers' and employers' organisations
Workers' Compensation Act	1978	Ensures compensation for workers ineligible to work due to injuries sustained at place of work
Employment Act	1978	Regulates employment of labour
Minimum Wage Board established	1972	Sets minimum wage and employment conditions across employment categories.
Industrial Relations Amendment Act	1991	Marked the beginning of PNG government's attempt to move away from system of industrial advocacy and confrontation to workplace negotiations
Wage deregulation	1992	Minimum wages abolished and replaced with productivity and capacity to pay arrangements
Employment of Non-Citizen Act	1978	Increased job creation for PNG citizens by putting in place stringent measures before and upon recruitment of expatriate labour
Apprenticeship Act	1972	Regulates the recruitment and training of apprentices in technical and professional fields
Industrial Safety, Health, and Welfare Act	1976	Mandates that safety is maintained in workplaces and health and welfare of workers are given adequate attention by employers
National Superannuation Fund	2002	To be passed as a matter of urgent priority in the 2002 parliament. This Act will regulate the pension funds operated by various public and private sector bodies

Appendix 3

Contact details of trade union federations

The General Secretary Papua New Guinea Trade Union Congress, PO Box 4279, Boroko, NCD, PNG
Phone/Fax: (675) 3257642

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