



International
Labour
Organization

Developing Social Protection in Vanuatu

Tripartiate Constituents
Consensus Policy Position



SOCIAL PROTECTION POLICY: Introduction

The urgency of developing sound social protection policies in Vanuatu has been widely acknowledged. Strengthening and extending formal social protection will not only benefit formal sector workers and employers—who have been the beneficiaries of the existing social protection schemes, but also the wider population. Studies by the International Labour Organisation (ILO) in 2006 and 2012 have considered reform options in considerable detail. At this point Vanuatu needs to move beyond discussion of options, and to develop a clear reform agenda.

This paper summarises policy discussions by social partners and presents the consensus decision on reform options in respect of five (5) areas: unemployment benefits; maternity benefits; retirement/survivors' benefits; workplace injury compensation; and broader policy development issues. Consultations were based on an options paper which outlined a wide range of reform options, along with a preliminary list of advantages and disadvantages of each option. A long version of the options paper with a full discussion of the advantages and disadvantages of the various options is being produced, in order to provide a more detailed, record of the policy discussion and rationales.

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Fundamental Principle: Solidarity of funding

Social protection is a public good. As such the costs of social protection should be publically shared. In general, a national social protection programme aims at triple cross-subsidization: from healthy to ill individuals, from high- to low-income persons, and from single persons or small families to larger families (Cichon et al., 1999). Individual risks (e.g., pre-existing conditions, age and gender) should not influence the level of contributions, nor should they inevitably lead to exclusion from protection. The principles of solidarity in funding cash benefits schemes and pooling of risks, which are essential to allow the combination of resources to ensure a fairer and collective distribution of the costs and responsibilities of social protection.

When considering policy options the desirability of moving to a social insurance approach which respects the principles of solidarity of funding should therefore always be borne in mind. This principle must, however, be appropriately adapted for Vanuatu's context.

A Social Protection Floor

From a global legal perspective social security is recognized as a human right. The Universal Declaration of Human Rights (in article 22) and the International Covenant on Economic Social and Cultural Rights (in article 9) stated that everyone, as a member of society, has the right to social security.

The ILO, in Social Protection Floors Recommendation (Recommendation 202), suggests that social protection should be approached in its various dimensions and through various phases of the life cycle (prior to work, whilst working age, after retiring from work). Social protection floors are nationally defined sets of basic social security guarantees which secure protection aimed at preventing or alleviating poverty, vulnerability and social exclusion for the whole population. A Social Protection Floor entails:

- (i) access to essential health care;
- (ii) basic income security for children, providing them with nutrition, education and care;
- (iii) basic income security for persons in active age who are unable to earn sufficient income, such as in cases of sickness, unemployment, maternity and disability; and
- (iv) basic income security for older persons.

Scope

While acknowledging that a broad Social Protection Floor is a goal that all countries must aim to achieve and that comprehensive social protection provision for the whole population is a crucial part of countries' development, this paper focuses primarily on one aspect of social protection: income security for workers and their families. This narrow focus has been chosen as past studies on social protection in Vanuatu have indicated that developing a social protection system for workers where about 75% of the labour force is not engaged in formal employment is very difficult. As a result previous studies have indicated that starting with social protection measures for people in formal employment is the most achievable and realistic place to start.

This paper concedes that people who are in paid employment are not necessarily the most vulnerable part of Vanuatu's population. Other aspects of the Social Protection Floor are not less important and should be addressed in depth in a future exercise.

Structure

The paper begins by presenting the consensus policy position. It is followed by 5 appendixes. Appendix 1 presents a table summarising the social partners' positions in respect of each reform area. Appendixes 2 – 4 provide more detail on each social partner's policy positions and the reasons for assuming them. Appendix 5 records the final tripartite discussions on the draft paper.

Consensus policy position

Unemployment: Explore the feasibility of moving to a higher VNPF contribution in replacement of severance allowance payments, with early withdrawal of some VNPF in the event of unemployment.

Rationale

Both workers and employers acknowledge that the current severance allowance approach is reducing growth in secure long term employment and often does not provide an “unemployment buffer”, particularly where the employer is insolvent so cannot pay and/or manages severance by keeping people on fixed term contracts and regularly paying out severance allowance.

Whilst moving to a savings-type approach addresses many of these issues whilst avoiding the risks and administrative burdens of moving to a pooled state funded unemployment benefit, concerns about the ability of the VNPF to be able to administer such a scheme need to be addressed.

Areas to be considered

In assessing the feasibility of a higher VNPF payment and early withdrawal in the event of unemployment the following are a preliminary list of key issues to be considered:

- Eligibility for early withdrawal
- The maximum amount of early withdrawal
- The administrative structures required to ensure early withdrawals are processed quickly
 - The Fiji Provident Fund approach could be a useful comparator in these areas
 - Having clear performance standards may help in this area
- The amount that VNPF contributions should increase by and who should bear the cost of the increase
 - What should happen with employers who are already paying more than the statutory minimum VNPF contribution
- Tripartite oversight of VNPF – or other mechanisms to ensure workers are confident that there is sufficient oversight of funds.
 - Other mechanisms could include increasing oversight by the RBV, such as requiring a response to RBV recommendations, increasing the RBV’s powers to stop investments, and ensuring timely oversight. Other mechanisms may also include improving the operation and oversight of the VNPF Board. It should be noted that many reforms in this area are already underway and these reforms should be assessed.
- Easier mechanisms for enrolling workers into VNPF, and/or for employers to be protected in the event that workers cannot provide VNPF numbers
- Whether private savings institutions and/or a new government institution separate for VNPF or should have any role in managing workers’ unemployment and/or retirement savings
 - What oversight there would need to be for private savings institutions and/or a new government institution if these options are found to be feasible
- The impact that using private savings institutions rather than VNPF would have on Vanuatu’s overall financial stability
- What is an appropriate retirement age, based on worker mortality statistics (an issue which will affect early withdrawal of funds)
- The legal framework changes needed across laws to ensure consistency

In the event that a higher VNPF payment and early withdrawal is found to be unfeasible, at the same time a review of the draft ERB, weighing the benefits and costs of keeping severance allowance as it is or moving to a termination approach which provides greater job security and a payment on redundancy should be undertaken.

Next actions

Commission a feasibility study of moving from severance allowance to a higher VNPF rate with early draw-down facilities. This study should also address concerns raised in respect of retirement benefits.

Assist social partners, and in particular workers, in weighing the benefits and costs of keeping severance allowance as it is or moving to a termination approach which provides greater job security and a payment on redundancy.

Reconsult with social partners and other stakeholders on the basis of the feasibility study and assessment of the ERB.

Note: benefits on termination are currently covered in the Employment Relations Bill (ERB), and are a major area of contention. In the interests of moving the ERB forward this matter should be prioritised.

Maternity:

Explore the feasibility of moving to a pooled fund and also measures to reduce disincentives to employing women if the current approach of employers directly paying for maternity leave is maintained.

Rationale

Both workers and employers acknowledge that the current approach of a direct payment by employers reduces employment of women. This is a particular issue for the private sector.

Whilst a pooled fund would remove this disincentive there are concerns about the government's administrative capacity to implement such a scheme and the costs of implementing the scheme. The estimated cost of 0.35 – 0.4% of payroll in order to provide a benefit of 66.6% of salary for between 12 – 14 weeks is based on a low number of births per working mother and excludes administration costs.

Areas to be considered

In assessing the feasibility of a pooled fund the following are a preliminary list of key issues to be considered:

- Eligibility for claiming benefits
- The level of benefit to be provided (including amount of salary or a flat rate benefit, the length of the benefit and the number of births to be covered)
- The method of paying the benefit
- The administrative structures required to collect payment, manage a pooled fund and manage payment to women
 - Whether VNPF or a separate administrative structure would need to be established
- Method of guarantee of payment in the event that the pooled fund is insufficient
- The administrative costs of implementing a pooled fund (including the costs for setting up and managing the fund and the costs/benefits for the public sector to change its approach to managing permanent staff)
- Tripartite oversight of the pooled fund and payments

In assessing keeping a direct payment approach but reducing the disincentive to employ women the following are a preliminary list of key issues to be considered:

- Eligibility for claiming benefits

- The level of benefit to be provided (including amount of salary, the length of the benefit and the number of births to be covered)
- Approaches, including establishing a relief fund and relief pool of teachers, that the Teaching Service Commission could adopt to deal with specific issues relating to the replacement of teachers when they are on maternity leave.

Next actions

Commission a feasibility study of introducing a pooled maternity allowance scheme and/or revising current maternity benefits. As part of this feasibility study there is to be specific engagement with the Teaching Service Commission.

Reconsult with social partners and other stakeholders on the basis of the feasibility study.

Note: maternity benefits are currently covered in the Employment Relations Bill (ERB). In the interests of moving the ERB forward this matter should be prioritised.

- Workplace injury:***
- (1) **Keep private sector workplace injury compensation with private insurers, but amend law to ensure better coverage and regulation of insurers.**
 - (2) **Undertake a feasibility study assessing the costs and benefits to the government of requiring government to privately insure its workers and/or implement a pooled fund.**

Rationale

Costings/coverage in the 2006 ILO study (between 1 – 4% of total payroll, coverage providing medical and rehabilitation care in Vanuatu, and a pension of 66.6% of salary for up to 5 years) compared to the current main insurer, QBE, (between 0.2 – 8% of payroll depending on the level of risk of the occupation, coverage providing medical and rehabilitation expenses, 100% of salary whilst off work for medical care for a and lump sum payments for permanent disability in accordance with the Workers Compensation Act and common law damages) indicates that keeping private insurance:

- (1) is cheaper for the majority of employers;
- (2) provides workers with a better range of benefits;
- (3) exposes the government to no risk in respect of underwriting a state insurance scheme; and
- (4) does not require the government to set up a new accident compensation fund which will be potentially very costly and difficult to administer.

Deficiencies in the current Workers' Compensation Act are, however, acknowledged. These need to be addressed in order to ensure fairness for workers, employers and the insurance industry as a whole.

Areas to be amended in Workers Comp Act

A preliminary list of specific areas to be addressed during amendment includes:

- Tripartite oversight board to ensure that insurers do not exploit captive market with high premiums and that policies comply with law;
- Law guaranteeing specific benefits relating to medical and rehabilitation expenses, wages while away from work & payments in the event of permanent incapacity or death;
- Clear regulation/insurance of casual workers (to align with the VNPF definition of workers);
- Mechanisms to make it administratively easier for employers to insure staff;
- Coverage of all workers;
- Compliance measures – for instance requiring insurance policy to be presented when business license is being issued;

- How common law damages claims can or should be accommodated, and whether there are ways to make calculation of common law damages easier;
- How workers who become sick or are injured whilst travelling overseas for work can or should be covered.

When considering amendments, consideration should be given to the draft Workers Compensation Bill that was provided in the 2006 ILO study. Whilst this Bill envisages a state administered scheme, so is not directly applicable, it may provide good models on issues such as tripartite oversight.

Areas to be considered in respect of govt workers

Before extension of private insurance to public sector workers is decided a cost benefit analysis comparing current government workplace injury costs with private insurance costs should be undertaken. The possibility of implementing a pooled government fund to ensure that government always has sufficient reserves to meet workers compensation claims should also be considered.

Many government costs are associated with public servants who become sick whilst overseas. The issue of how to best cover workers who become sick or are injured whilst travelling overseas for work should be specifically considered.

The Public Service Staff Manual also contains provisions regarding death in service. These provisions should be also be reviewed as part of a holistic consideration of public sector compensation for workplace injury.

The costs/benefits associated with requiring government to hold third party motor vehicle insurance – as a way of both managing injury costs to workers and costs to third parties – should be reviewed.

Next actions

Development of a paper for Council of Ministers recommending a government commitment to amending the Workers' Compensation Act.

Undertake a cost/benefit analysis of requiring government to privately insure staff for workplace injury.

Development of drafting instructions/revised draft, in consultation with Tripartite Labour Advisory Council (TLAC) and other stakeholders.

Approval of revised draft by TLAC and presentation to Council of Ministers.

Retirement and Survivors' benefit:

(1) No change to the current (VNPF) approach of individual compulsory retirement savings accounts, although the law should be tidied up, as part of the discussion on unemployment payments.

(2) A review of state pensions being provided to state officials should be conducted to ensure that these are fair, transparent and appropriate for Vanuatu's economy.

Rationale

Moving to retirement pensions is potentially very costly and requires high capacity of both the government and VNPF. The current approach is workable, and with good management does provide a reasonable benefit. There are concerns about the management of VNPF.

These management issues are being considered as part of assessing the feasibility of managing unemployment by increasing VNPF payments and allowing an early withdrawal. Rather than duplicating work the feasibility study in respect of unemployment benefits should be extended to include issues relating to retirement benefits.

There are some concerns about the costs and fairness of state pensions being provided to certain state officials once they leave their post. In order to be comprehensive, and to help address broader concerns of “right-sizing” government costs, state pensions should be independently reviewed, and benchmarked against the value of pensions provided under the VNPF.

Areas to be considered in tidying up VNPF

As part of tightening up VNPF the following should be considered:

- Whether payments should be periodical
- How payments for under 18 beneficiaries (survivors) should be managed, including whether a trust account should be introduced
- Whether the retirement age is set too high.
- Mechanisms to improve management/oversight (as already discussed in relation to unemployment benefits)
- How to address “double paying” caused by having both direct payments by employers on retirement (the current severance allowance) and VNPF.

Issues to be considered in respect of state pensions

The review of state pensions should include:

- An assessment of who is currently receiving state pensions
- The annual cost of paying state pensions

The rationale for paying state pensions

Next actions

Issues relating to management of VNPF will be addressed in the paper on unemployment benefits, which should take into account the management of retirement savings as well.

A review of state pensions should be commissioned by TLAC.

Recommendations on broader social protection and employment policy

(1) There are already a number of policies (including, for instance, health and education policies) dealing with aspects of the Social Protection Floor. A comprehensive national social welfare policy, which focuses on the Social Protection Floor more broadly should be developed and implemented in practice. In particular health care services need to be improved in practice. . TLAC should be one of the bodies involved in this policy development process.

(2) It is acknowledged that the best income protection for workers is access to paid employment. Social protection reforms must be accompanied by a range of active labour market policies. A national employment policy which includes human resource development through the life cycle should be developed. This policy needs should include both private and public sector human resource needs. TLAC should be centrally involved in this policy development process and resources should be provided for this.

(3) In order to be able to develop a national employment policy and to measure its impact there needs to be accurate data/statistics that is regularly collected. The Vanuatu National Statistics Office should be resourced to undertake regular surveys, with consultation from TLAC as to the data required.

Specific public sector recommendations

(1) Currently there are a number of public commissions (Police Service Commission, Teaching Service Commission, Public Service Commission, Judicial Service Commission, and there is a proposal for a Health Service Commission). These commissions do not have harmonised rules, and provide separate benefits.

A project should be established, under TLAC which is driven by a working group made up of representatives of each of the commissions, along with others as required, to:

- Consider whether the commissions should be amalgamated under the Public Service Commission as the central, and constitutionally established, body,
- Harmonise and simplify rules, including salary structures and other benefits,
- review the operation of the Government Remuneration Tribunal,
- revise rules to adopt a new approach to social protection, and
- revise rules to take account of law changes as proposed under the Employment Relations Bill (depending on timing/progress on the ERB).

(2) Concerns about the need to right-size the public sector in order to address government wage costs were raised. External support should be sought to undertake performance assessments and a skills/needs analysis of government agencies, under the auspices of TLAC.

Worker managed social protection schemes

The Vanuatu Teachers Union (VTU) and Police Officers Association (POA) social protection schemes were noted as being commendable, but in need of stronger management. The VTU and POA schemes should be externally assessed with the view to the ILO providing assistance to improve management, and extend coverage to other unions.

Other recommendations

Workplace injury compensation should be complemented by approaches to occupational health and safety which reduce the occurrence of workplace accidents. In tandem with activities on workplace injury insurance a review of occupational safety and health should be undertaken. As a first step the draft OSH Bill that was developed some time ago should be reviewed alongside the existing Safety and Health at Work Act.

APPENDIX 1: Table of positions

This table summarises the positions of employers, workers and government in respect of the four main reform areas.

| Area | <i>Current position</i> | Employers | Workers | Government |
|---------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Unemployment | <i>Employer pays direct lump sum severance allowance. Private sector 1 month per year.</i> | Replace severance with higher VNPF contribution – worker can draw down a % of VNPF early if required. Management of VNPF will need to be improved. | Keep the current severance payment, while exploring a new saving system for unemployment. Issues with VNPF need to be carefully addressed. | Severance is a major burden and an alternative approach is needed. Paying into VNPF, or similar, is appropriate. |
| Maternity | <i>Employer pays direct percentage of regular salary. Private sector 66% of salary for 12 weeks.</i> | Keep status quo – with lower (50%) benefit and tighter regulation on who can claim in order to reduce disincentive to employ women OR Consider moving to a pooled fund if it can be managed properly and costs no more than 0.4% of payroll | Keep status quo – 66% (not reduced), but improve enforcement OR Consider moving to a pooled fund if it can be implemented properly | Due to how permanent staff payroll in managed the status quo works well for all except for the Teaching Service Commission. Moving to a pooled fund may be administratively difficult for the Public Service Commission. |
| Elderly & Survivors | <i>Lump sum from VNPF & Employer pays direct lump sum (severance allowance) on retirement</i> | Keep VNPF, replace severance with higher VNPF contribution | Keep VNPF, but identify different sectors (who contributes and who doesn't) | Keep VNPF but ensure proper management. |
| Workplace injury | <i>Most private employers must maintain compulsory insurance which pays lump sum compensation & Employer pays sick leave (up to 21 days on full pay in private sector)</i> | Keep private insurance, but regulate better to ensure fair coverage for workers. | Keep private insurance, but regulate better to ensure fair coverage for workers. Law needs to be more specific. | Keep private insurance for the private sector. A study of the government's current workplace injury costs needs to be undertaken before deciding whether government should privately insure as well. |

APPENDIX 2: Consultation outcomes – proposed employer position

The employer position is based on:

- Results from the Employers' Survey (3 long forms from Tanna, 19 long forms from Santo/Malo, first 60 long forms from Vila)
- A meeting with VCCI Councillors held in Port Vila on 4 September
- A business forum attended by about 40 Santo/Malo business people held in Luganville on 8 September
- Individual meetings with private insurance agents and the Reserve Bank of Vanuatu – insurance regulators

Before considering specific proposals in the areas of unemployment insurance, maternity benefits, workplace injury insurance, and retirement/survivors' benefits general observations by employers were:

1. Employers want to see solutions that are good for the country as a whole. This means solutions must not be too costly or risky for the government to implement, should provide workers with stable benefits, should not reduce employment opportunities, and should be realistic (both in terms of cost and administration) for employers to implement.
2. Many employers are already challenged by social protection costs under the current law. Many businesses reduced the number of staff or took other measures to reduce costs when maternity benefits and severance allowance increased in 2009. This is not good for workers – who may have lost jobs, been made casual and/or who now find it harder to find work. It is also not good for the economy as a whole, as economic growth is slowed. Squeezing employers for more and more payments will put employers out of business and/or get them to replace workers with machinery.
3. Vanuatu is a developing country with a small formal sector. It has a limited tax base and already struggles to fund state activities. Vanuatu is not economically similar to Australia or New Zealand. These countries have a wide tax base, which includes workers paying high levels of personal income tax. This provides a large general revenue pool from which state provided benefits can be funded. This must be recognised in any reforms.
4. There are considerable concerns about state corruption and misuse of VNPF savings. Measures to ensure that workers' savings and/or any pooled funds from which benefits are paid are secure and properly managed are needed.
5. A number of businesses reported difficulties in getting staff registered with the VNPF. If social protection is to be based around VNPF, easier ways to register, and solutions for if workers refuse to provide numbers are needed.

Employment injury insurance (including coverage of medical costs)

Employer position: keep private insurance, but improve the Act to ensure that medical costs, rehabilitation costs and wages whilst on leave are covered. Insurance providers should be overseen by a joint worker/employer/government/insurance representative board, to ensure that private insurers do not exploit

their statutorily created market. Administrative difficulties in obtaining insurance, particularly in respect of casual workers, also need to be addressed.

Reasons:

Survey

There are proposals to develop workplace compensation by increasing VNPf contributions and having VNPf manage workplace insurance. Do you think this is a good idea?

Yes 31

No 37

I don't know/am not sure 14

- Private insurance is more secure for the government
 - Having state funded accident compensation insurance opens the government to massive risk as it is the government which is the guarantor of the scheme
 - It is expensive and difficult to administer state schemes, even in developed countries
- Keeping private insurance is provides better benefits to workers whilst being cheaper for employers
 - The costings from the 2006 ILO study are more expensive (between 1 – 4% of payroll) than it costs to maintain private insurance (between 0.20 – 3% of payroll for all except for high risk – stevedores & marine, who are at about 6% of payroll) and the benefits in the 2006 ILO study are less than what the main private insurer currently offers
 - The current offering by the main private insurer already offers a greater range of benefits than is in the Act – changing will not increase employer expenses
- Issues of non-compliance stated in earlier reports appear to be overstated, with the majority of businesses currently complying, even in the absence of any awareness raising.

Maternity benefits

Employer position: Employers are divided on this. The current maternity scheme has reduced employment of women and makes it harder for young women to find jobs. If direct payment by employers remains maternity payments should be reduced to 50% of salary whilst on leave and there should be a minimum qualifying period to be paid maternity. Limits on the number of children to be funded should also be considered. These will help to reduce the disincentive to employ women.

Reasons:

Survey

One suggestion is that instead of having the employer make maternity leave payments directly, a national insurance should be established, with all employers and employees paying a small percentage of salary into it. Maternity leave

payments would then be paid from this fund. Do you think this suggestion is better than having employers directly pay for maternity leave?

Yes 32

No 34

I don't know/am not sure 11

No response 5

- Currently maternity is directly funded by employers, who pay 66% of salary for up to 12 weeks. Some employers are happy to keep this, or to keep this with a reduction in the amount of maternity payment, because they can avoid costs by not employing women, or keeping women on short term contracts.
- The 2006 ILO study costed a state maternity benefit at between 0.35% - 0.40% of total payroll. This could be shared. Using VNPF as the collecting agent for this would be sensible, if VNPF issues were addressed. There are concerns about the government's ability to manage such a fund, to guarantee payments to workers, and the impact on the economy as a whole if this is mismanaged. There are also concerns about creating a "handout mentality". If this option is preferred across the board, then employers are willing to consider a pooled fund on the bases that all employers and employees share liability, regardless of whether they are women or have female employees.

Unemployment insurance

Employer position: severance of 1 month per year is too high, although employers do not object to paying some severance.

Paying slightly more into VNPF, and allowing workers early withdrawal of some funds means that more employees will have access to unemployment payments, and will still be able to access money if the employer is insolvent. Some employers report that workers rely on annual payments to fund various projects, so if this option is preferred there should be flexibility in conditions for early withdrawal.

Alternatively moving to an approach of termination only for cause plus a redundancy payment (as proposed in the ERB) balances worker interests in job security with employer interests in managing costs. An amount of 2 weeks per year (about 4% of payroll) is the maximum if payments are made on this basis.

Reasons:

Survey

Do you think that the idea of employers giving severance allowance is a good thing?

Yes 51

No 17

I don't know/am not sure 12

No response 2

Do you think that Vanuatu has set the amount of severance allowance too high?

Yes 51

No 8

I don't know/am not sure 14

No response 9

Most Pacific Island countries (such as PNG, Samoa and Kiribati) do not provide severance allowance, but provide for higher national provident fund contributions. Do you think paying a higher national provident fund contribution instead of severance allowance would be a good way of ensuring that employees have some unemployment protection?

Yes 47

No 20

I don't know/am not sure 14

No response 1

The ERB appears to be proposing a “trade off” of more job security for employees, in return for a lower redundancy payment on termination. Do you think this is a good trade off?

Yes 37

No 26

I don't know/am not sure 18

No response 1

- Currently severance allowance of 1 month's salary per year worked acts as unemployment insurance. This is paid whether or not employees are unemployed when they leave work. Changes to the law in 2009 resulted in a number of employers reducing staff and/or restructuring to avoid severance through the use of casual and part time staff. A considerable number of employers are paying annually in order to avoid a large build-up, so it does not operate effectively as an unemployment payment.
- The 2006 ILO study costed a pooled unemployment benefit at 1.5 – 3% of total payroll. Whilst this is cheaper than paying 2 weeks' severance (which is 4.16% of payroll) there are concerns about the government's ability to manage such a fund, to guarantee payments to workers, and the impact on the economy as a whole if this is mismanaged. There are also concerns about creating a “handout mentality”.
- When VNPF was introduced it could/should have been developed to replace severance allowance. Having both severance and VNPF is seen as “double dipping”.
- Allowing early withdrawal of some VNPF (possibly with a slightly higher contribution) would be administratively fairly easy and would help employers to manage payments. It also helps to create a “savings mentality” if there is proper education around VNPF. Again there are concerns about VNPF being mismanaged to the detriment of workers which would need to be addressed.
- The Employment Relations Bill proposes moving to termination only for cause (misconduct or performance related reasons) or redundancy. Accepting this is trading off job security for workers – a benefit for workers – with lower termination costs, but more administration around termination, for employers. This option would also be acceptable.

Retirement and survivors benefits

Employer position: keep VNPF funded by both employer and worker contributions & remove severance payments on retirement.

Reasons:

- Moving to retirement pensions, even only for those who have been in the workforce, is potentially very costly. Even developed countries struggle to fund such schemes, and have very high income tax and company taxes in order to be able to do this. Vanuatu does not have a strong enough economy to experiment in this area.
- VNPF, if managed properly, works reasonably well to ensure that workers' receive a benefit.
- There are concerns about "double paying". At the moment severance allowance is provided on retirement, along with a VNPF withdrawal. For workers who are employed up until retirement this additional payment can add substantially to their retirement fund. However, there are stories of employers (including the government) being unable to afford to retire staff as they cannot pay the severance allowance. This is not a fair situation for workers. It also created insecurity of retirement savings as workers have no meaningful way of being able to get severance from insolvent employers.

Other: Health insurance

VNPF is developing an offering in this area. This should be closely monitored.

Other: Broader social welfare policy

Developing social protection should be part of broader policy discussion. The best social protection is, usually, to create income earning opportunities, either through employment or self employment. A national employment policy, which includes human resources development for people entering the labour force and exiting the labour force is needed.

Social protection also includes matters such as provision of healthcare, adequate nutrition and adequate housing. As well as strengthening state services in these areas there may, at times, be the need for cash transfers to at-risk low income families (whilst avoiding developing a "hand-out mentality"). A national social welfare policy is also needed.

APPENDIX 3: Consultation outcomes – proposed workers position

The workers position is based on internal discussion within labour unions and a series of consultation meeting in Port Vila attended by workers representatives from, among others, tourism, police force, construction, electricity, media.

An underlying issue expressed by members of trade unions that may be an obstacle for reform is the lack of trust towards the government and current social security provider. Workers have limited access to the management of existing schemes and tripartite oversight is minimum.

For Vanuatu to embark to a new system or establish a new social protection scheme, workers want to see proof that it can be administered properly and bring benefit to them. In many cases, changes are preferable as the current system is not satisfactory, but there is hesitation that a new system will bring significant change and not add administrative burden to the country.

Any new scheme must go through sound feasibility study and trials, and prove its viability for implementation.

Unemployment insurance

Workers position: Keep the current severance payment, while exploring a new saving system for unemployment. Such new saving system may be administered by private or government agencies, determined through feasibility study. In case it will be administered by VNPF, members note some issues with VNPF services in the past. VNPF also has to make sure the claim procedure is made simple and timely. Members have experience with complicated procedure in claiming VNPF benefits, thus delaying the transfer of funds. In case of unemployment, timely disbursement of benefit is crucial.

Members are open increasing contribution to their account for this saving purpose.

Maternity benefits

Workers position: Keep status quo with benefit level at 66% of wage and improve enforcement, or consider moving to a pooled fund if it can be implemented properly

Workers are aware that the current employers liability system for maternity benefit have negative effects to women employment. A new insurance system may address some of this problem. However, given the limited trust to the current system, to implement a new scheme the social security provider must be able to prove that the scheme will be administered properly and open for monitoring from workers and employers.

Employment injury insurance (including coverage of medical costs)

Workers position: Workers hold similar position to employers, to keep the current private insurance system, but note that there needs to be standardised benefits and better enforcement and oversight.

The current Workers Compensation Act has limited provisions and is open to interpretations which can lead to different schemes provided by different insurance companies. The act needs to be amended to give more comprehensive provisions.

Reasons not to change to a new system:

Pooled fund at national level for workers compensation may bring a large administrative and financial burden to the government, and workers are concerned that there may not be enough capacity to administer such scheme at present.

Retirement and survivors benefits

Workers position: keep VNPF funded by both employer and worker contributions

Moving to retirement pensions is potentially very costly and requires high capacity of both the government and VNPF. A new pension system will not be considered for the time being.

APPENDIX 4: Consultation outcomes – proposed government position

The government position is based on interviews and group meetings with representatives from public commissions (the Public Service Commission, the Teaching Service Commission, the Judicial Services Commission, the Police Service Commission), DSPACC, the Reserve Bank of Vanuatu and VNPF.

Initial observation

A number of people observed that it is for the government to carefully consider costs and make funding available if costs increase. There is also a need for the government to sustainably manage public service wage bills. Whilst the social protection reforms may help to address severance issues, a broader review of the various public service staff rules to simplify payment and incentive structures is needed. This review should help to add certainty to government wage bills.

There was also some concern about inefficiency within the public sector, and a sense that right-sizing undertaken during the Comprehensive Reform Programme may need to be revisited.

Duplication of functions and lack of harmony in government employee staff rules, depending on which commission employees were engaged under, were seen as problems. Lack of harmony makes it difficult for staff to transfer employment between commissions. It also leads to resentment by staff – for instance teachers who received lower severance allowance than those engaged under the Public Service Staff Manual.

Unemployment insurance

Government position: Severance is an unsustainable burden for government. A higher VNPF contribution in place of severance, with some early withdrawal from VNPF being permitted, will be easier to manage and plan for. However, any change needs to be carefully managed in order to be politically feasible.

Both the Teaching Service Commission and the Public Service Commission commented about current challenges with meeting severance allowance payments. Severance is a very large liability for government, and is not easy to manage. Paying a regular contribution would be easier. There would, however, need to be a very clear plan for transitioning from severance to savings, in order to avoid unfairness.

The Fiji approach of early withdrawals and no severance was endorsed by the Teaching Service Commission and should be carefully examined.

Concerns with VNPF's ability to manage funds were noted. Consultations with the VNPF have indicated that a number of reforms are already underway to improve management. The RBV also noted that there is already work underway to improve oversight of VNPF.

VNPF is currently introducing a new system which will allow easier management of partial early withdrawals. Unemployment insurance is part of the 5 year strategic plan that is being developed and can be the driver in implementing changes in this area. In order for this to happen, however, the laws need to change to enable the VNPF to operate differently.

Maternity benefits

Government position: The status quo does not cause problems for anyone except for teachers. Moving to a pooled fund may be administratively difficult so must be carefully considered before being implemented.

The Teaching Service is in a unique position of having many female staff, and having to replace them when on leave. Specific strategies to deal with this are needed.

The Teaching Service Commission noted problems when women are on maternity leave, because they are paid full wage while on leave and must be replaced, leading to a double wage bill. It is not possible to leave classrooms without teachers. A pooled fund would solve this problem. Other options, such as a relief fund and a pool of relief teachers (possibly retired qualified teachers) were also raised. However the Public Service Commission noted that a pooled fund may be difficult to administer. PSC permanent staff get paid full salary, with acting allowances being paid to cover staff on leave as necessary. The feasibility study would need to take careful account of this situation.

The RBV noted that if the pooled fund is managed by the VNPF then there is already an investment strategy in place. Also, if VNPF management issues are addressed (noting that work is already underway in this area)

Employment injury insurance (including coverage of medical costs)

Government position: Keep, but better regulate, private insurance for the private sector, and assess whether private insurance for government workers would be a benefit.

There was general agreement that the potential costs to the country of implementing a state managed workplace accident compensation scheme for private sector businesses were high. Costs, coupled with the exposure to risk in the event of a high level of claims and lack of contributions to meet claims, meant that keeping private insurance for private sector employees was thought to be appropriate. Better oversight of insurance was thought to be needed though.

The Public Service Commission noted that changes to the Workers Compensation Act increased government expenses, but no analysis of costs in this area has been done yet. This should be undertaken. As accidents are reported to the Department of Labour this would provide a starting point for costs. As workers who fall sick in Vanuatu are cared for by the free public health system this does not appear to create significant costs. The broader costs to the health system should also be assessed.

Particular costs in relation to government workers who become sick whilst overseas were noted. The lack of motor vehicle insurance on government vehicles was also noted.

Chief Justice observed that common law claims for personal injury are a challenge for the courts. If the amendments can help to regulate this area this would be a benefit.

Retirement and survivors benefits

Government position: Keep with VNPF, but ensure better management, and also explore the wider implications of allowing retirement savings to be invested with institutions outside of VNPF.

All consulted agreed with the worker/employer position that a broad state superannuation scheme for all workers would not be suitable for Vanuatu's current stage of economic development. VNPF noted that part of its strategic plan includes moving to optional periodic payments of retirement funds.

The Chief Justice noted that there is a draft Bill to provide Supreme Court judges with pensions. This will help recruitment, the encouragement of long service and independence on leaving the judiciary. This proposal would be funded out of general tax revenue, and is not intended to be extended to other court staff. The possibility of pensions for particular classes of people (such as constitutional office holders) is not excluded.

A number of Commissions noted issues with processing withdrawals from VNPF. Also, the age at which funds can be withdrawn may be too high, given mortality rates. This should be reviewed.

APPENDIX 5: Consultation outcomes – Tripartite Labour Advisory Council Meeting 4 December 2014

Unemployment insurance

Government representatives stressed that issues of management of VNPF are crucial. If these are not resolved then any attempt to manage unemployment through a contributory fund managed by VNPF will not work. As this was already reflected in recommendations the paper was not changed.

Employer representatives were in agreement with the need to go ahead with feasibility to weigh costs/benefits and fairness. As this was already reflected in recommendations the paper was not changed.

Worker representatives commented that there needs to be attention given to raising awareness for workers, particularly of benefits of moving from employer funded severance allowance, as at the moment workers do not really understand social protection. The paper was reworded slightly to emphasise that awareness raising activities should be particularly targeted to workers.

Maternity benefits

Workers had no additional comments to add.

Government representatives noted that this issue mainly affects the Teaching Service Commission (TSC), and also health/nurses. They commented that this needs to be carefully considered and the TSC involved with study. The issues of whether commissions should be amalgamated was also raised, and this was added to a later recommendation regarding the public service.

Employers stressed the need for indicators/statistical data both for baseline and impact of any changes. For this there needs to be regular national labour market surveys. There are also broader policy questions of how can we get to have more skilled female workers in labour force. These points were added to the recommendations regarding national employment policy.

Workers compensation

Employers and workers agree with the consensus in respect of point 1. Employer representatives commented that Vanuatu used to use Solomon Islands law, then moved to something worse.

The Commissioner of Labour raised that we already have a draft bill. Employer representatives noted that the draft is about establishing a State fund, and the consensus at the moment is to not move in this direction. The meeting confirmed the consensus but noted that as part of the review one activity should be to see if there are any useful things from draft. The paper was altered to reflect this point.

Government led the discussion in respect of point 2, and noted that changes to the maximum workers compensation payment (to 8 million vatu) could potentially cause a big problem and that a feasibility study is needed. Other issues, such as death in service payments and death overseas also need to be carefully considered. The paper was altered to reflect these points.

Retirement and survivors' benefits

Workers and employers agreed to these points without further discussion. Government representatives, in discussing the issue of state pensions, suggested that fairness would be for everyone to get VNPF or an equivalent level of benefit. The wording of the paper was altered to reflect this.

Recommendations on broader social protection and employment policy

Employers noted that in order to better craft the National Employment Policy we need the national labour market survey, otherwise do not know the baseline. The need for regular surveys so we can track changes was also noted. Training needs should be part of the survey. The paper was altered to reflect this point.

Government commented on the need for workforce planning in both the public and private sector. At the moment there is no matching between graduates and jobs – getting qualified people without jobs for qualifications – but then there are some areas without qualified staff. These issues should be addressed in the national employment policy. The paper was altered to reflect that the national employment policy should include public as well as private sector employment.

There were also comments that the national employment policy and human resource development policy should not be separate, but should be one. Similarly the national youth employment policy that had been discussed at various times earlier should not be separate, but should be part of the overall policy. As this was already reflected in the paper no changes were made.

Specific public sector recommendations

Government representatives raised the point that the PSC is the constitutionally established body. Consideration should be given to amalgamation of commissions under the PSC. The paper was altered to reflect this point.

Government representatives noted that the last right-sizing was in about 1998. There needs to be a balance between the budget, population and public sector size. Government representatives commented that the right sizing exercise should be done under TLAC, and this was added to the paper.

Worker managed social protection schemes

The workers representatives agreed to the need for support so this recommendation was slightly reworded. It was also noted that the police currently have one technical advisor who is reviewing benefits under orders.

Other Recommendations

The Commissioner of Labour commented that there is already a draft OSH Bill that could be reviewed as a first step. The paper has been altered to reflect this point.