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AND DISPUTE RESOLUTION MECHANISM IN THE FIJI
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**A Critical Analysis of Employment Relations and Dispute
Resolution Mechanisms in the Fiji Police Force**

By

Pariniappa Goundar

**A thesis submitted in partial fulfillment of the requirements for the
Degree of Master of Arts**

Faculty of Business and Economics

School of Management and Public Administration

The University of the South Pacific

April, 2007

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Declaration of Originality

I Pariniappa Goundar do hereby declare that this Supervised Research Project is my own research work undertaken to my best of knowledge and this work has not been previously submitted in substance for the candidature for any degree or award at any recognized institution, except where due recognition and acknowledgement is given for the work and research undertaken by other writers in the text.

Secondly, this Supervised Research Project is being submitted to partially fulfill the requirements for the degree of Master of Arts in Management and Public Administration and Employment Relations

Thirdly, I do hereby give consent for the usage of my Supervised Research Project for the inter-library loan and be placed on electronic media for a wider usage by the various outside organisations.

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Dedication

This Supervised Research Project is dedicated to my parents Late Mr. Venkatesh Permal and Late Mrs. Kamla Wati and also to my grandparents Late Mr. Kuppan and Late Mrs. Pachamma, the most wonderful people in my life.

Acknowledgement

I would like to acknowledge my sincere gratitude to a number of people who have kindly assisted me in this Supervised Research Project during my Masters program at the University of the South Pacific.

Firstly, I take this opportunity to thank my Principal Supervisor Dr Anand Chand for his intellectual and theoretical insights into Industrial Relations and posing important questions to refine my ideas. Dr Chand is a learned Supervisor who was always willing to help and provided guidance and support with his prompt feedback throughout the writing stages of my thesis. I would like to also thank my Core- Supervisor Mr. Mark Weston Wall for his invaluable guidance and supervision during my research that has been profoundly significant to this Supervised Research Project. At this juncture, I also extend my gratitude to Associate Professor Dr Mahendra Reddy for his timely advice during the initial stages of my post-graduate study.

Secondly, many thanks go to my sponsors the Commonwealth Government of Australia for their kind assistance through the Australian Regional Development Scholarship Program and without their financial support it would have been very difficult for me to undertake my postgraduate studies at the University of the South Pacific.

Thirdly, I wish to thank the Former Commissioner of Police Andrew Hughes for granting permission to undertake research in the organisation of the Fiji Police Force.

Fourthly, my sincere thanks go to my interviewees, friends and to various other people for their moral support and encouragement during the course of my study.

Last but not the least, I wish to thank my family especially my wife Sunita Goundar and my daughters Geeta and Shartika Goundar for their continuous support during my studies at the University of the South Pacific.

Abstract

In the heart of management and public administration, employment and industrial relations issues are vital to any organisation. It generally looks at improving the terms and conditions of employment with lucrative pay to attract the best people for a particular job in order to achieve high performance and at the same time enhance professionalism within the workforce. This has been a common practice in the public and private sectors in Fiji that continuously engage in the process of collective bargaining and if any matter of concern is not agreed upon then it is resolved and settled by the third party intervention under the prescribed grievance procedures. This Supervised Research Project examines the employment relations and the past and present system of grievance handling and dispute resolution in the Fiji Police Force. It also examines the major parties and institutions involved in employment relations. The Supervised Research Project is aimed at improving the employment relations and dispute resolution in the Fiji Police Force. In 2003, the Police Association was extended the right to collective bargaining together with the prescribed grievance machinery to resolve any disputes that could arise through the process of collective bargaining. Chapter one justifies the rationale for this study while chapter two explores the methodological framework. The theoretical and conceptual framework is discussed in chapter three while chapter four examines the employment relations in the Fiji Police Force. Chapter five examines the dispute handling and the system for dispute resolution in the Fiji Police Force and makes recommendations to the study. Chapter six summarizes the study with its findings and provides some interesting areas for further research. Basically, the thesis looks at some of the fundamental issues of employment and industrial relations in the Fiji Police Force. It provides interesting findings that could be useful for future researches by adding valuable literature to the discipline.

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Acronyms

International and National Organisation/Agencies and General Term

ACAS	Advisory Conciliation and Arbitration Services
ACP	Assistant Commissioner of Police
AIRC	Australian Industrial Relations Commission
ASP	Assistant Superintendent of Police
CP	Commissioner of Police
CPL	Corporal
DCP	Deputy Commissioner of Police
FICTU	Fiji Council of Trade Union
FPF	Fiji Police Force
FPSA	Fiji Public Servants Association
FRO	Force Routine Orders
FSO	Force Standing Orders
FTUC	Fiji Trade Union Congress
GOA	Gazetted Officers Association
ILO	International Labour Organisation
IOA	Inspectorate Officers Association
IP	Inspector of Police
MHA	Minister for Home Affairs
MLIR	Minister for Labour /Industrial Relations
PAT	Police Arbitration Tribunal
PC	Police Constable
PSC	Public Service Commission
SGT	Sergeant
SOA	Subordinate Officers Association
SRP	Supervised Research Project
SP	Superintendent of Police
SSP	Senior Superintendent of Police
W/ASP	Women Assistant Superintendent of Police

W/CPL	Women Corporal
W/IP	Women Inspector of Police
W/PC	Women Police Constable
W/SGT	Women Sergeant

Chapter 1

Introduction

1.1 Introduction

This chapter highlights the aims and objectives of this Supervised Research Project. It also discusses the usefulness of the study and the scope of this study. It gives an overview of conflict at work, background information on Fiji's employment relations legislation and the organisation of this Supervised Research Project. Finally, the chapter concludes with a brief summary.

1.2 Aims and Objectives of this Study

The main aims of this Supervised Research Project are as follows:

- (1) To examine the past and present employment and industrial relations system in the Fiji Police Force
- (2) To examine, analyse and evaluate the dispute handling mechanism in the Fiji Police Force
- (3) To provide recommendations for further improvement in the system of dispute handling in the Fiji Police Force.

1.3 Usefulness of the Study

The study would provide a better understanding of the dispute and grievance handling procedures in the Fiji Police Force. The disputant parties will be able to resolve their disputes in accordance with the laid down policy, procedures and practices under the Police (Amendment) Act 2003 (see appendix 4). This would provide greater coherence in the development of a framework that would guide the employment and industrial relations practices within the organisation of the Fiji Police Force.

1.4 Scope of this Study

While dispute resolution is adequately provided in Fiji's private and public sectors, it has not fully emerged in the Fiji Police Force. This thesis focuses on the issues of employment and industrial relations practices in the Fiji Police Force. It also looks at the past and present machinery for dispute resolution. The main thrust of this study is aimed at improving the employment and industrial relations practices, and particularly the system of dispute resolution in the Fiji Police Force.

1.5 Comments on Conflict at Work

All over the world employment relations and labour market institutions during the last decade have been witnessing turbulent times, particularly in the developing countries while anticipating the catastrophic economic and political situations (Reguri: 2004:1)¹. Due to these on going trajectories it is also noted that in the 21st century conflicts are more prevalent in our modern societies. At the same time Bartol et al. (1995:611) state that conflict is an inevitable phenomenon that is vital to organisations. On many occasions industrial relations scholars have mentioned that conflict is inherent because it has divergent interests groups with conflicting interest within organisations.

Most importantly, Arthur (2003:543-546) writes that conflict brings about an environment of rapid change to the organisation, which is considered to be a dynamic part of group interaction, and how the conflict is resolved is likely to change the actual structure and functioning of that group. In supporting this Bartol et al. (1995: 611) and Bray (2005:11) suggest that conflict is a legitimate consequence of the variety of interests in the workplace. Therefore, conflict in nature can be in the form of differences in opinion, grievances over certain issues and disputes over interests or rights (Belisle: 2001:172-6). It can also be defined as natural disagreement resulting from individuals or groups that differ in attitudes, beliefs, values, needs and power to influence decisions (Hoban: 2005:1).

¹ Dr Ram Reguri Reddy is a Senior Lecturer in the School of Management and Public Administration at the University of the South Pacific.

Conflict often leads to a dispute. Dispute in an employment relations situation basically means that there is an existence of conflict that leads to a disagreement between an employer and employee that needs to be resolved through laid down dispute resolution procedures. The dispute between an employer and employee is often said to be a trade dispute. On the other hand industrial disputes can lead to the withdrawal from work by employees or refusal by an employer to permit some or all of their employees to work (Australian Bureau of Statistics: 2005:3). Some of the most likely causes of disputes are deficiencies in wages, leave, pensions, compensation, managerial policy such as reform, physical working conditions that are inferior, non recognition and formation of trade unions and short or long hours of work et cetera (Australian Bureau of Statistics: 2005:3). Generally, conflicts arise when the employees try to seek better terms and conditions of employment from their employers. At the same time, the employers also dispute the exorbitant demands of the employees claiming poor economic performance leading to a bad financial year.

It is important to anticipate the existence of conflict by identifying the potential areas that need to be addressed by establishing proper mechanisms to manage and resolve disputes amicably (Belisle 2001:172-6). Dispute resolution seeks to assist parties in the employment relationship to settle their grievances in an orderly manner through agreed machinery with minimum disruption of work (ILO: 2002:1). In the workplace conflict is likely to occur from time to time, where there are different perceptions, but it can be resolved effectively. Ultimately, the settlement of labour disputes creates an environment that would foster industrial harmony and enhance organisational prosperity.

Contemporarily, in most democratic societies industrial relation provides for the dispute handling machinery to ensure that the parties are accessible to that given machinery to resolve and settle their disputes. Similarly, Prasad, Hince and Snell (2000:88-89) mentioned that; “the key element of any industrial relations framework is the provisions

which enable actors and social partners to resolve disputes effectively and speedily at workplaces”.²

The main objective of dispute resolution and settlement procedures is to promote bipartism through collective bargaining between the employer and employee (ILO: 2002:1). In addition, ILO mentions that the most commonly used procedures for dispute resolution are usually conciliation, mediation, arbitration and adjudication through a tribunal or labour court (ILO: 2002:1).

Likewise, Bilash (2002:1) also states that the procedures used for dispute resolution are often specified in the collective agreement called the dispute and grievance procedures. These procedures are developed unilaterally by the employer or through collective bargaining with the trade union. Mostly, the procedures established by the state include the method of judicial settlement, conciliation, mediation and arbitration. In addition, he states that ‘the objective of the dispute and grievance handling procedures in particular are to restrain industrial conflicts and to ensure that harmonious employment relations climate is maintained in the society’ (Bilash 2002:1).

The State is responsible for regulating employment relations in consultation with the employer and employee or with their representatives. It also provides well-developed legislation for dispute resolution, which enables the parties to resolve and settle disputes voluntarily and collectively. Dispute resolution is an essential component of industrial and employment relations. It is perceived as a process of resolving disputes through various specified procedures as stipulated under the employment law of any country. In this case the state provides the mechanisms to resolve disputes emanating from the employer and employees under the employment relations framework.

² Dr Satendra Prasad was a Senior Lecturer and Head of Sociology Department at University of the South Pacific, Professor Kevin Hince was a visiting scholar from New Zealand and Dr Darryn Snell was also a visiting scholar from Australia at the University of the South Pacific.

1.6 Background Information on Fiji's Employment Legislation

Since Fiji was a British colony, most of the industrial relations legislation was designed to accommodate bureaucracy and segregation of the workers. As such the Trade Dispute Act (1978 and 2000 amendments) is not applicable to the disciplinary services that are comprised of Police, Prison and Military Officers. Also the Employment Relations Bill (2005:10) does not apply to the above classification of workers. However, the Police Act of 1966 still exists with a minor edition in 1978; a slight revision in 1985; and an amendment in 2003. This last amendment was enacted without any constructive review so that modern employment and industrial relations practices could have been endorsed in the legislation. In the absence of such legislation, this study has generated much interest to examine the past and present dispute handling and resolution policy of the Fiji Police Force.

1.7 Organisation of this Supervised Research Project

This Supervised Research Project is structured in six chapters.

Chapter one highlights the aims and objectives of this research. It also discusses the usefulness of the study and the scope of this research; and makes brief commentary on conflict at work and the organisation of this Supervised Research Project.

Chapter two discusses the methods used to collect data for this research. It highlights the data analysis and the limitations that were encountered while conducting this research.

Chapter three examines the literature review. It throws some light on the evolution of employment and industrial relations and dispute resolution and how disputes are resolved in global and national perspectives giving the experiences of Britain, Australia and Fiji. Further, it also talks about how the disputes are resolved in their police organisations.

Chapter four describes the employment and industrial relations in the Fiji Police Force. It outlines the historical overview of the Fiji Police Force. It examines and evaluates the

nature of employment relations, the parties and institutions involved in the police employment relations. The main parties are the Police Association, Police Management, State, the Police Tribunal, Appeals System and including the processes of employment relations. Also it mentions some of the critical issues in Human Resource Management.

Chapter five examines and evaluates the past and present system of dispute handling and the grievance procedures for dispute resolution in the Fiji Police Force. The chapter notes that there are two sets of grievance procedure one under the Police (Amendment) Act of 2003 and the other under the Draft Police Association Regulation of 2006. The chapter argues that prior to November 2003 there was no procedure for dispute resolution in the Fiji Police Force. This chapter also provides the recommendations to the study.

Chapter six concludes the Supervised Research Project. It summarises the major findings of this study and offers areas for further research.

1.8 Summary

The chapter has explored the aims and objectives of this study. As mentioned earlier it will examine the employment and industrial relations system in the Fiji Police Force. In particular it will look at the dispute handling machinery provided to resolve industrial disputes in the Fiji Police Force. It discusses the usefulness of the study and its scope, comments on conflict at work, provides background information on Fiji's employment legislation and highlights the structure of this Supervised Research Project. The next chapter will discuss the methodology and the methods that were used to collect data while undertaking this research.

Chapter 2

Methodology

2.1 Introduction

This chapter will discuss the research methodology and the research methods that were used to collect data for this study in order to accomplish the main objective, which is to examine and evaluate the employment and industrial relations system and specifically the past and present mechanisms for dispute handling in the Fiji Police Force.

2.2 Methodology

Edcridge (1995:24) defines methodology as a body of methods, rules, and postulates employed by a discipline. In addition, method is a way, technique, or a process for doing something. Methodology comprises the various research methods employed in a particular place of research.

The research used in this study is qualitative in nature. The methods used were literature review, face-to-face interviews, archival researches, focus group meetings, and parliamentary researches for Hansard reports. The data was also collected through the personal experiences of the researcher. Sarantakos's (1993:6) perception on qualitative research is that:

It employs methods of data collection and analysis aiming towards exploration of social relations and describes the reality as experienced by the respondents and also discovers relationship between variables, enabling comparison and concludes with identifying significant factors of relationship.

Similarly, Eisner (1979) mentions that qualitative research methods are concerned with processes rather than the consequences and interest is directed towards context-bound conclusions that could pave way for new policies and decisions often used by the practitioners.

2.3 Methods of Data Collection

The researcher in order to accomplish the research objectives of this study has used primary and secondary data. The sources of primary and secondary data that were employed to conduct this research are as follows:

2.3.1 Secondary Sources

2.3.1.1 Literature Review

The researcher has conducted an extensive review of the literature. This was mostly conducted at the University of the South Pacific (USP) library. The study focused for the literature on dispute and grievance handling procedures and practices in Britain, Australia and Fiji. The relevant textbooks, journal articles, work of various researchers such as thesis and recent publication, magazines, annual reports and newspapers in relation to the subject of study at the Pacific collection were thoroughly consulted.

The employment relations legislation of Fiji Islands such as the Trade Dispute Act Chapter 97 and the Employment Relations Bill of 2005 in respect to the dispute handling and grievance procedures were used for comparative purposes. However, comparisons and assessments were made against the mechanism provided by the police organisation for its suitability and effectiveness, placing emphasis on the best practice methodology in dispute resolution.

Furthermore, University of the South Pacific Internet website (www.usp.ac.fj) was thoroughly visited for recent textbooks, journal articles and in particular reviewing the PDF files. Literature review is an important component of qualitative method. However, Burns (1998:294) reveals the worthiness of literature review:

Literature review stimulates thinking on the previous work that will encourage other ways of looking at the data and will identify additional questions that would be useful to pursue.

2.3.2 Primary Sources

2.3.2.1 Interviews with Key Stakeholders

The researcher interviewed the key stakeholders in the Fiji Police Force. I interviewed the Commissioner of Police, Deputy Commissioner of Police, former Secretary of the Subordinate Officers Association, Officer-in-charge of Central Police Station, Senior Legal Officer at the Ministry of Home Affairs, and Manager Industrial Relations at the Ministry of Labour and Industrial Relations. Interviews were quite significant in this study; ultimately they promoted better understanding and clarification of doubts created during the face-to-face meetings and responses from these interviewees were carefully noted during the conversation. Mann (1976:92) describes the importance of interviews and mentions that:

Interviews allow meeting people face to face for the purpose of formal conference or informal chat that forms the essential part of human interaction.

However, Denzin: (1991:42) states that;

The focus of interview is to clarify the meaning, understanding and interpretations of various concepts and ideas.

2.3.2.2 Focus Group Meetings

I conducted focus group meetings whereby officers in small groups comprising five to six members were engaged in informal discussions that were conducted in Suva, Labasa and Lautoka. The objective of this research and its associated specific research questions were floated for discussion and their views in those areas of interest to the researcher had been observed carefully, which assisted in guiding to set the parameters for further interviews.

According to Sarantakos (1993:185) “the focus group meeting is based on the research question in which the respondents are asked to discuss and provide their views in relation

to the study”. Meanwhile, Bouma (2000:181) highlights that in this event, the researcher normally facilitates discussion and ensures that the discussion remains on the topic so that a wide range of information can be gathered.

2.3.2.3 Personal Knowledge and Experience

I am a police officer with twenty years of personal experience in the Fiji Police Force. I know how various policies and procedures are practised in the police organisation especially in the areas of employment and industrial relations and the dispute resolution, which provided useful understanding of the system. It also assisted in ensuring relevance in the assessment and validation of the views from the key stakeholders in that perspective. According to Bouma (2000:58) observation simply involves a careful watch of what happens while the researcher particularly observes for things that are intended to be achieved.

2.3.2.4 Primary (Archival Documents)

The following primary documents were reviewed and used for the study: the Corporate Plan of the Fiji Police Force, News letters issued by the Commissioner of Police, Force Routine Orders (FRO) Royal Gazettes, Police publications, Parliamentary Hansard Reports and legislation such as the Police Act of 1966, Police Subsidiary legislation of 1985, the Police (Amendment) Act of 2003, the Police (Amendment) Bill of 2003 and the draft Police Association Regulation of 2006. All these documents were significant to this research in that they provided useful and relevant data. The searches for the primary documents were mostly conducted at the National Archives of Fiji, and the libraries of the Parliament of Fiji and the University of the South Pacific.

Moreover, Internet and website provided valuable source of information that were quite useful to this study. The historical data were extracted in relation to the establishment of the Fiji Police Force, the initial formation, purpose and structure of the Police Association that provide the background information to this study. The past trends and practices of employment relations in the force were also equally important in this

research. Mann (1976:77-79) observes the significance of primary data in interpretive research and states that:

“It could reveal historical developments such as the study of organisational structure of the trade union by closely studying the trends and its developments”.

2.4 Data Analysis

Since the research was qualitative, comparatively analysis was crucial in analysing the data for its relevancy. The study comparatively examined for an effective mechanism for dispute resolution in the countries like Britain, Australia and Fiji, in view of searching for an ideal system that could effectively improve dispute resolution in the Fiji Police Force. Ultimately, comparative analysis has revealed some common features of industrial and employment relations practices that were essential in dispute resolution. The data were analysed by making comparisons of the various mechanisms for dispute resolution in the given countries, which could be effectively used in the Fiji Police Force. Oyen (1992:30-31) mentions that;

Comparative research tends to provide a better understanding to gain insight of the distinctions that can be useful for analysis and interpretation.

Likewise, Bamber and Lansbury (1998:1-3) states that:

Comparative research in employment relations is useful where distinctions can be made through description and systematic analysis of two or more countries that could provide better understanding of institutional features and practice for theoretical construction and provide room for future reforms.

Sharma (2001:71) supports the views of Oyen and Bamber that:

The studies of other societies for their experiences are vital for a better understanding of the various institutional features such as technology, economic policies, laws, culture and practices that are engaged in employment relations.

2.5 Limitations and Implication of the Study

This study has encountered some problems in the disclosure of information during interviews, because most police officers were reluctant to discuss policy matters for fear of being victimised. There has been no major research undertaken in regard to the dispute resolution policy and practices of the Fiji Police Force. Perhaps the area of study did not generate enough interest among the scholars, resulting in lack of relevant information and literature on the research topic. Nevertheless, this study could generate interest in the field of employment relations that will set the platform for future research and debates particularly in the area of dispute resolution in the Fiji Police Force.

2.6 Summary

This chapter has briefly discussed the methodology and the research methods to collect data for this study. It also highlights the method used to analyse data and the limitations that were encountered during the research. The next chapter will explore the theoretical and conceptual perspective of employment relations and the dispute handling and the resolution policy and practices that are commonly used in various international and national industrial relations systems.

Chapter 3

Theoretical Perspectives on Employment Relations and Dispute Resolution

3.1 Introduction

Chapter three examines the theoretical perspectives on employment relations and the systems of dispute resolution that are normally used to resolve disputes in an industrial relations environment. In the global perspective the chapter will focus on Britain and Australia, while Fiji's system will also be examined as the local context. Ultimately, this would provide a clear understanding of the various procedures for dispute resolution that would be narrowed down to examine the prescribed policies and procedures to resolve disputes in the Fiji Police Force.

3.2 Theoretical Perspectives on Dispute Resolution

Dispute resolution is an essential component of any industrial relations system. Primarily, industrial relations focuses on the relationship between the employer and employee or between a group of employers and employees and their representatives engaged in individual or collective bargaining for the advancement of their conditions of employment. It also ensures the provision of a grievance procedure for dispute resolution that will adequately address disputes emanating from the employer and employee relationship in an organisation (Bray et al., 2005:1-8). In defining industrial relations Hyman (1989:4) mentions that:

Industrial relations is a question affecting the relations between employer and employee and their conditions of work. It mostly deals with industrial remuneration, which is often seen as the main cause of disputes that requires various procedures for the settlement of these disputes.

Likewise, the notion of industrial relations has also been narrowly defined as 'a study of institutions of job regulation at workplace' (Flanders, 1965, and Clegg, 1979 cited in Deery et al., 2003: 6). At times this intricate relationship in employment relations influences the parties to behave adversely towards each other and their relationship at the

workplace should be regulated to ensure adequate protection for the parties in dispute (Bray et al., 2005:7). However, Green (1994: 182-183) categorically mentions that:

All employees have a right to seek redress on any grievance from the employer and the management should establish jointly with the employees or their representative to hear and resolve grievances through formal procedures.

According to Bamber and Lansbury (1998:1) the formal procedures in dispute resolution include institutions of collective bargaining such as conciliation and arbitration with various other forms of job regulation between the employer and employee. The regulatory framework between the social partners would enable them to work within their established terms and conditions of employment and further advance their interests through the procedural rules and guidelines (Prasad et al., 1999:2).

In addition, Prasad states that these procedural rules and guidelines are established through the process of individual and collective bargaining that eventually becomes part of the individual or collective agreement. Often, these procedural rules are formulated either by the employer, by law, or by joint consultation between the employer and employee through collective bargaining (Ackers: 1994:32-47). Generally, the state provides the necessary employment legislation for the parties to interact and at the same time ensures fairness to them in order to maintain harmonious employment relations.

However, Brockner (2002:58-76) strongly suggested that procedural fairness influences people's reaction to the organisation's decision making because it addresses more symbolic, social and psychological concerns such as people's needs for self esteem, self-identity and affiliation. Therefore, to enhance employment relations, procedural fairness should be adequately provided to all the parties during dispute resolution.

Dispute handling and resolution policies have emerged from the pluralist perspective (Bray et al., 2005:13). Pluralism advocates the existence of divergent interest groups disputing within an organisation that can be resolved using appropriate mechanisms of dispute resolution. Meanwhile, disputes can be effectively managed through an

appropriate network of rules and regulations with the common objective of settling the dispute (Bray, Deery, Walsh and Waring: 2005: 11). Eventually, this will allow the social partners, the employer, employee and the government to work together and enhance the labour-management cooperation (Bray et al., 2005: 27).

3.3 Dispute Handling and Grievance Procedures

Disputes commonly occur in employment relations never mind how good are the conditions of employment. It is important to provide dispute handling and grievance procedures so that the parties are able to resolve and settle their disputes. According to Green (1994: 183) the difference between dispute and grievance procedure is that:

Dispute is a question raised or applicable to a group with collective approach while grievance on the other hand is applicable to an individual concerned with individual terms and conditions of employment mostly pertaining to the issues of entitlement. In the initial stages, conflict takes the form of a grievance and if unresolved and the individual is a union member, then the union's involvement defines and transforms grievances to a dispute.

In fact, the grievance procedure is mostly expressed in the individual or collective agreement that enables the parties to resolve disputes (ILO: 1997:15). Thus the individual or collective agreements should designate the grievance machinery in advance such as the arbitrator or panel of arbitrators to deal with such disputes without having unnecessary work disruptions.

Collective disputes are classified into two different categories, the dispute of interests and dispute of rights. Usually, the dispute of interests is related to claims made either by the employer or employee in order to address a new issue in relation to the conditions of employment that are not covered under the current agreement, whereas the dispute of rights emanates from the application or interpretation of the existing collective agreement (Green: 1994:101).

The dispute of interest case is resolved through third-party intervention. The process of conciliation takes place and the conciliator creates an environment for the parties to resolve the dispute themselves without proposing any alternative settlements. If a settlement is not reached the parties are then referred to arbitration. It is made possible either on a voluntary or on a compulsory basis (Bendersky: 2003: 643-656). However, Niland (1978:3) states that the parties are referred to arbitration primarily to serve the public interest so that strikes can be prevented, the disputes ultimately being settled.

In the event of dispute of rights, a third party intervenes to determine the outcome that is based upon the laws, contracts or standards of behaviour. The dispute resolution process includes grievance and complaint handling procedures, arbitration and through formal investigation (Bendersky: 2003: 643-656). In addition, these sorts of dispute deal with complex issues that need interpretation or application of the existing agreement that would probably require the services of an arbitrator or a qualified judge.

Green (1994:183) suggested that the most important aspect of dispute handling and grievance procedure is that:

It should provide a procedural agreement where the employers are obligated to acquaint employees about the statement of the terms and conditions of employment. Similarly, it is also important in the cases of disciplinary proceedings that standard rules and procedures should be established to ensure a fair method of dealing with allegations.

3.4 Mechanisms for Dispute Resolution

Significantly, there are a number of mechanisms that are commonly used for the resolution of collective disputes. According to Gladstone (1984:3) these mechanisms are the process of conciliation, mediation and arbitration. Also these processes are reckoned as an extension of collective bargaining, which gives the disputing parties another opportunity to resolve their disputes. In addition, these processes are more humanistic

and easily accessible to the parties, considering the fact that industrial relations deal with the basic human needs.

In the conciliation process a conciliator intervenes upon nomination and without imposing a solution, helps the parties to enable a mutually acceptable settlement. This process can be used in cases related to both individual and collective disputes (Green: 1994:103). It also provides another opportunity to the parties to re-negotiate their dispute and reach an agreement. Generally, conciliation takes place in interest-based disputes, and the outcomes eventually become part of an individual or collective agreement. Often, the disputes of interest cases are related to remuneration where the employees seek salary increases from their employers to offset the inflation. If conciliation is unsuccessful then the dispute is referred to the arbitration tribunal for an independent decision (Green: 1994:103).

Likewise, mediation is similar to conciliation that is initiated by a third party. The mediator intervenes upon nomination and plays an active role by offering the settlement proposals to the parties in dispute in order to reach an agreement. This settlement proposal, however, cannot be imposed on the parties (Gladstone: 1984:2). In addition, the mediation process mostly deals with issues that are in breach of the existing agreement in terms of its application or interpretation which need to be resolved. If the dispute is not settled it is then referred to arbitration.

However, arbitration is a process of adjudication in which a judge or an arbitrator is needed to determine the outcomes, which are mostly binding to the parties. At times the parties rely heavily on arbitration for the resolution of disputes when all avenues are exhausted during the conciliation and mediation processes (Jenkins and Sherman: 1977: 66).

According to Green (1994:104-105) there are various types of arbitration ranging from sole arbitrator to a panel of arbitrators, labour court, and a final offer arbitration, which is also called pendulum arbitration, whereby the arbitrator rejects extreme and excessive

claims by the parties, moderating it to a more reasonable and balanced decision However, this study will not discuss the types of arbitration in detail.

3.5 Dispute Resolution in Britain

Dispute resolution in Britain provides some distinctive features, in which the conciliation and arbitration processes supplement collective bargaining. The parties in dispute are not compulsorily referred to the arbitration tribunal and the decision made by the arbitrator is not actually binding on the parties (Bamber et al., 1998:46). In 1974, the Labour government established the Advisory, Conciliation and Arbitration Services (ACAS) consisting of tripartite nominees of union, employer and the state (Bamber and Lansbury: 1998:46). ACAS also provides free conciliation and advisory services in order to resolve both individual and collective disputes, mostly in regard to the breaches in employment rights. From time to time independent experts are appointed to act as mediators and arbitrators to adjudicate disputes and hear all matters pertaining to industrial and employment relations.

Subsequently, however, Johnson (2001:3) states that Britain has introduced progressive reforms in 2001 to bring about improvements in dispute resolutions in the workplace aiming to promote conciliation and the modernisation of employment tribunals. Further, he also mentions that the Advisory, Conciliation and Arbitration Services (ACAS) has played a prominent role in setting procedural standards such as the code of practice on grievance and disciplinary procedures.

This has enhanced workplace dispute resolution in Britain whereby the tribunal is seen as the last resort to resolve disputes. If any dispute that is not raised at the workplace level, it is ultimately rejected by the tribunal. In 2004 the changes implemented stipulated that the grievance procedure must be strictly followed before the dispute is referred to the tribunal. Otherwise, in contempt of the procedure, the tribunal will impose penalties that could ultimately increase the financial burden to the employer or at the same time could also decrease financial benefits of the employee.

According to Johnson (2001:3-46) the procedure specifies that the employer send written explanations to the employee about the conduct, capability or other circumstances that have led to the dismissal or the institution of the disciplinary action. An opportunity is given to the employee to appeal against the decision, if the decision is questionable to the employee. Subsequently, another meeting should be arranged to discuss the appeal and the employer gives the final decision to the employee after the meeting.

In the event, if the employee disagrees with the final decision and intends to take the matter to the tribunal then he/she has to wait for 28 days before the matter can be heard. This procedure is applied to all dismissal cases except for some collective and constructive dismissal and gross misconduct where discontinuation of employment is imminent. It is also applied in all disciplinary actions except in case of oral and written warnings and suspension on full pay. This procedure allows employees to discuss the issues openly with the employer and provides for a faster resolution.

The United Kingdom police service has also undergone significant reform programs particularly in dispute resolution. The machinery of conciliation and arbitration is commonly used to resolve disputes arising between the police employees and the management. If conciliation fails the dispute is referred to the Police Arbitration Tribunal (PAT) which is comprised of a panel of three arbitrators. The tribunal then hears submissions from the Association of Chief Police Officers (ACPO), government, and the Police Federation before making a consensus decision. This decision is forwarded to the Police Negotiating Board (PNB). The Home Secretary then scrutinises the agreement and makes the final decision after carefully considering how and why the arbitrator has arrived to that decision (Laws of Britain, Police Reform Bill: 2002:42).

3.6 Dispute Resolution in Australia

The Australian industrial relations system provides significant features in dispute handling and resolution policy at both the state and federal levels. The arbitration of industrial disputes is made on a compulsory basis setting minimum conditions of

employment by making arbitral decision in the form of an award that is binding to the parties (Ruskin and Smith: 1997: 314-325).

The Australian Industrial Relations Commission (AIRC) is the federal tribunal that plays a key role in resolving industrial disputes. It often intervenes to adjudicate and endorses collective agreements, if it believes that the parties are not engaged in genuine negotiations and there are fewer chances of reaching an agreement (Bamber and Lansbury: 1998:121). Apart from this, the Commission also views unlawful strikes seriously. It is empowered to suspend or even cancel awards, limiting the right to strike in order to supplement bargaining as stipulated under the Workplace Relations Act of 1996 (Bamber and Lansbury: 1998:121).

At the same time, the Commission also provides conciliation and arbitration services to the Australian police in order to resolve industrial disputes. It has a wide coverage over all employees and makes arbitral decisions that are fully implemented (Police Federation of Australia, 2002:15-21).

In Australia, the Department of Justice and Attorney General provides the mediation services to the Queensland police. It is used as an alternative method to resolve matters that are registered as complaints against police. Also the dispute handling and resolution policy has standard practices for both the police and public service that are effectively used to resolve and settle disputes. In fact, this system of dispute resolution essentially promotes the culture of enterprise bargaining (A. Ede cited in Prenzler, 2002:118-119).

3.7 Dispute Resolution in Fiji

In Fiji's industrial relations system the key features for the resolution of trade disputes are: conciliation, mediation and arbitration. According to Section 20 of the Trades Disputes (Amendment) Act (2000:10) the minister appoints the arbitrator (or panel of arbitrators). In addition, Prasad and Hince (2001:179) have stated that in 1976 the concept of a sole permanent arbitrator was established together with a Board of Inquiry especially to deal with disputes that could impinge on political and economic prosperity

of the country. The arbitrator makes decisions arbitrarily in the form of an award that is binding on the parties in dispute (Trades Disputes (Amendment) Act: 2000:7). The disputes are referred to arbitration either on voluntary or compulsory basis. The arbitration of industrial disputes takes place voluntarily when both the parties mutually accept to appear before the tribunal for an independent decision after the conciliation and mediation process fails in its attempt to resolve the dispute. This process is made accessible to the disputing parties in both disputes of interests and disputes of rights cases.

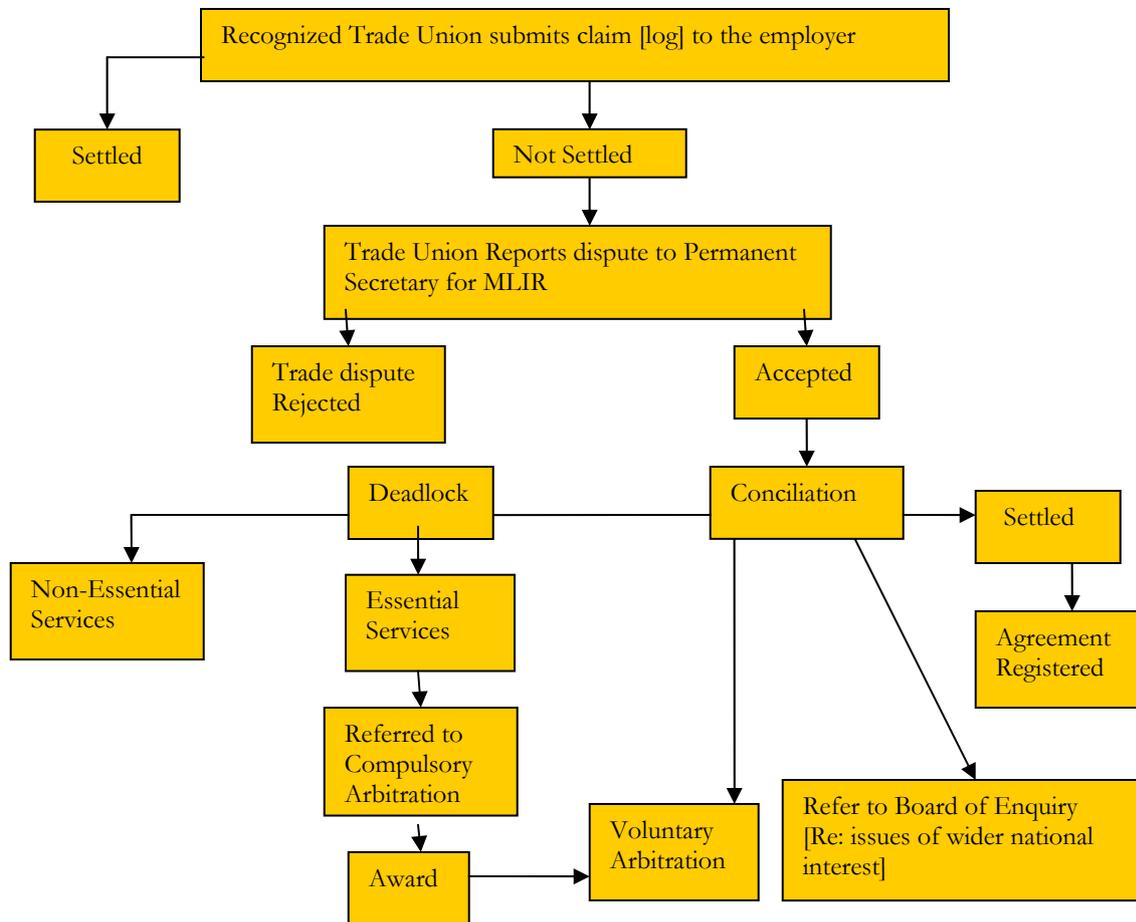
Similarly, the Minister for Labour, Industrial Relations and Productivity (MLIR/P) in accordance with the Trade Disputes Act of 1973 refers disputes to the arbitration on a compulsory basis when the employee's job classification falls within the essential services. In fact, dispute of rights cases are mostly referred to compulsory arbitration when the mediation process through the Dispute Committee fails to resolve the dispute because its complexity ultimately necessitates an interpretation. The arbitrator then summons the parties to hear their submissions and makes an award that is binding on the parties. Eventually, referring the dispute to arbitration on a compulsory basis takes away the unions' right to institute industrial actions against the employer. Meanwhile, Madraiwiwi (1994:5) suggested that:

The arbitration tribunal is not an appropriate place to resolve and settle disputes; however the best place to settle claims is through extensive negotiation. The parties in dispute should seriously engage in good faith bargaining during the negotiation process and come to an agreement rather than the judgments imposed on them by the tribunal that could deteriorate their continuous relationship as social partners.

However, industrial disputes are most effectively resolved through negotiations, conciliation and arbitration, which involve a great deal of mutual consultation between the social partners through agreed procedures and finally reaching a consensual binding agreement (MLIR/P, Industrial Relations Code of Practice: 1973:4-10). The figure 3.7.1

shows the procedures that the parties use in the dispute of interest cases in order to resolve and settle their dispute.

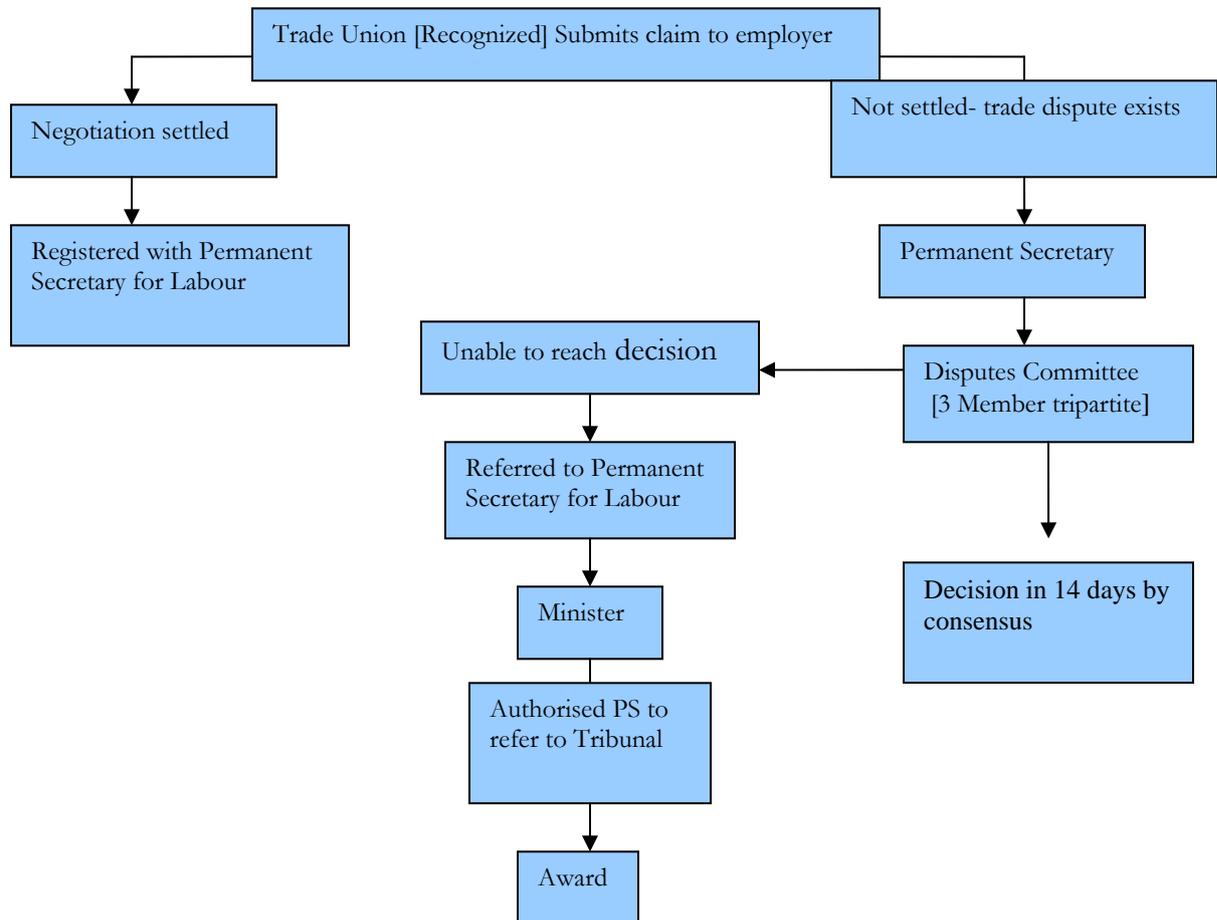
Figure: 3.7. 1: Settlement Procedure for “Dispute of Interest”



Source: Prasad, S and Hince K, (2001) Industrial Relations in the South Pacific; USP, Suva, Fiji, Page-181.

The figure 3.7.2 shows the procedures that the parties in dispute have to follow in the case of dispute of rights in order to resolve their dispute amicably to reach an agreement.

Figure: 3.7.2: Settlement Procedure for “Dispute of Rights”



Source: Prasad, S and Hince, K, (2001) Industrial Relations in the South Pacific, USP, Suva, Fiji, Page-182.

Table 3.7.3: Criteria for Dispute Resolution in Fiji

	2001	2002	2003	2004	2005
Total trade disputes reported	143	150	172	165	168
Disputes resolved through Conciliation	22	18	7	34	14
Disputes resolved through Mediation (D/C)	47	38	23	90	48
Disputes referred back to the parties	22	15	28	3	6
Disputes referred to Permanent Arbitrator	53	46	34	53	83
Disputes rejected	16	20	32	26	9
Disputes withdrawn	18	11	11	13	4

Source: Ministry of Labour and Industrial Relations, Annual Reports from 2001-2005.

Therefore, the industrial relations system in Fiji provides well-established procedures for dispute resolution in the organized sectors. The table 3.7.3 shows the total number of disputes reported to the MLIR/P from the 2001 to 2005 that were resolved through conciliation and mediation processes (Disputes Committee) or referred to the Arbitration Tribunal for adjudication. A significant number of these disputes were either rejected on the grounds that the disputes were not classified as trade disputes or the parties withdrew them. Furthermore, a number of disputes are still outstanding for reasons best known to the parties in disputation.

3.8 Summary

This chapter has discussed some of the theoretical perspectives on employment and industrial relations. It also highlighted the system of dispute handling and resolution policy currently used in Britain, Australia and Fiji. The chapter provides an understanding of the various grievance procedures and the mechanisms used for the resolution of industrial disputes. The next chapter will critically examine the employment relations in the Fiji Police Force.

Chapter 4

Employment Relations in the Fiji Police Force

4.1 Introduction

This chapter will provide the historical background of the Fiji Police Force. It also examines and describes the employment relations. In particular it will look at the nature of employment relations, the parties involved in employment relations, the employment relations process, the Fiji Police Tribunal and the absence of an appeals system. The chapter will also identify and critique the major parties and institutions that are involved in the employment relationship. It will also look at some of the critical issues relating to Human Resources Management (HRM).

4.2 Historical Background

4.2.1 Overview

Historically, Fiji became a British colony in the 19th century. On 10th October 1874 the Governor His Excellency Sir Hercules George Robert Robinson inaugurated the establishment of the Fiji Police Force (Laws of Fiji, Royal Gazette: 1874:1-4). According to the gazette, Lieutenant Henry Olive from the Royal Marine Light Infantry was appointed as the Superintendent of Police. His job was to train the Armed Native Constabulary tasked with the responsibility for the maintenance of the law and order situation in the country (Brown, 1998:2-3). In 1936, the position of Superintendent of Police was upgraded to the level of Commissioner of Police (Brown, 1998: 83).³

Since, Fiji practises parliamentary democracy, it is governed by the constitutional rule of law. The institution of the Fiji Police Force is enshrined in the constitution, which grants authority for the establishment of the Office of the Commissioner of Police and other matters relating to policing (Constitution of the Republic of the Fiji, 1997:64). In

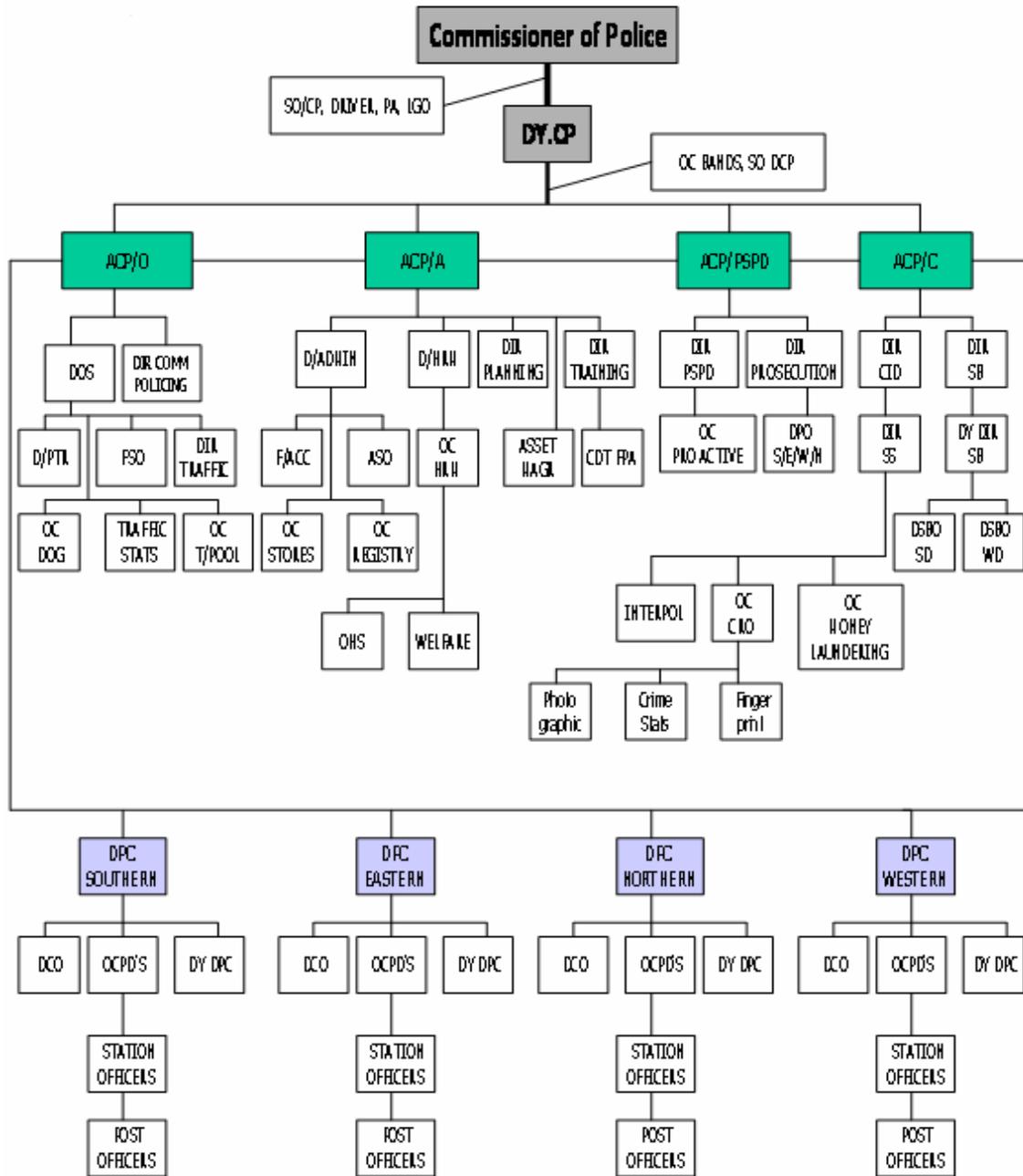
³ The Governor after accepting the Deed of Cession from the Fijian chiefs on the 10th of October 1874 made crucial appointments to set up the temporary administration of the Government of Fiji (Laws of Fiji, Royal Gazette: 1874:1-4).

addition, the Constitution provides that the appointment of the Commissioner of Police is made by the Constitutional Officers Commission and is responsible for the organisation, administration, deployment and controls the operations of the force. Primarily, the Fiji Police Force is responsible for the 'public safety and public order' in the Republic of the Fiji Islands (Constitution of the Republic of Fiji, 1997: 64).

4.2.2 Structure of the Fiji Police Force

The Fiji Police Force has a centralised organisational structure and it is quite complex due to the different levels and size of the organisation. The figure 4.2.2.1 shows the organisation chart of the Fiji Police Force.

Figure 4.2.2.1 : The Organisation Chart of the Fiji Police Force



Source: Fiji Police Force, Administration Section, 2006.

The Commissioner of Police is the Chief Executive Officer and under him are the Deputy Commissioner and the four Assistant Commissioners. The directors, divisional commanders, divisional crime officers, and officer- in-charge of districts, station officers, non-commissioned officers, police constables and police support officers directly come under the command of Assistant Commissioners. In accordance to Section 111 of the Constitution of Fiji (1997:64), the Commissioner of Police has the sole authority to make decisions and only delegates powers to the subordinates to execute police duties.

The Fiji Police Force is structured in such a way that it adopts a two-way communication method, one is from ‘top to bottom’ and the other is from the ‘bottom to top’. The subordinates need to strictly follow the chain of command while communicating to officers, ascending through the vertical hierarchy while strictly adhering to formal instructions in the course of their normal police duties.

4.2.3 Functions of the Fiji Police Force

Initially, the functions of the Fiji Police Force during the colonial days were ‘to keep watch by night, preserve the peace, protect the properties of the capitalist society, prevent and detect crimes, apprehend and bring people before court’ (Ordinance of the Colony of Fiji, 1906:1-5). Over the years the functions of the force have been transformed considerably, enlarging the work and giving the police officers more tasks and responsibilities.

At present, the legitimate functions of the force are the maintenance of law and order, preservation of peace, protection of life and property, prevention and detection of crime and the enforcement of all laws and regulations of the country (Police Act, 1966, 1978 edition: 5-6). Similarly, the style of policing has also changed, placing more emphasis on the concept of community policing and partnership arrangements as one of their core values in policing. Meanwhile, Shane (1980:36) reiterates that the principal function of the police is to promote peace in the community.

During colonial days the mission statement, vision and values were not mentioned in the strategic plan of the Fiji Police Force. The Fiji Police Force has recently developed its mission statement, vision and values in order to achieve the corporate objectives which are as follows;

The mission is to serve and protect the people of Fiji and its visitors through community partnership for a safer Fiji, whereas the vision prescribes that the Fiji Police Force is a well respected and effective contributor to Fiji's Law and Justice Sector, recognized by our community and other policing agencies as innovative and effective in crime prevention and enhancing community safety, and the values are stated as response to customers; serving with integrity; building personal capacity; expanding community partnership; looking after our people; and working better together, (Fiji Police Force, Strategic Plan, 2005-2009: 6).

4.3 The Nature of Employment Relations in the Fiji Police Force

4.3.1 Establishment of the Fiji Police Force

At present the Fiji Police Force has a total establishment of 4176 police officers. This includes 2643 Regular Police Officers and 1533 Police Support Officers (PSO) employed as un-established staff to strengthen and supplement police operations in all major divisions (Fiji Police Force, Administration Section, 2006). The Fiji Police Force is a service-oriented organisation, classified as public servants, and provides its core business of policing the communities. Basically, on average one police officer is responsible for 213 people in every tour of duty. This is an enormous task that one has to perform to ensure that the safety and security of the people is paramount.

4.3.2 Ethnic Composition of the Fiji Police Force

In terms of the ethnic composition of the force, in 2006 there were 1625 Indigenous Fijian police officers (62%), 936 Indo-Fijian police officers (35%), 21 Rotuman police officers (1%) and 60 police officers from other races (2%). Until December 2006 the Commissioner of Police was an Australian national (Fiji Police Force, Administration

Section: 2006). The ethnic composition of the Fiji Police Force promotes diversification that brings a rich source of innovation that is beneficial to the whole organisation.

There is a notable disparity in the ethnic composition of the Fiji Police Force. The indigenous Fijian police officers dominate in all facets of the Fiji Police Force. There is also disparity regarding promotions, which are clearly in favour of Indigenous Fijians in all established ranks below the Deputy Commissioner of Police. This practice is part of the affirmative action program of Fiji governments particularly since 1987. This issue, however, contravenes Section 140 of the Constitution of Fiji (1998: 74), which explicitly states that:

Members of all ethnic groups should have adequate and equal opportunities for training and advancement and the promotions and appointments should be based on merit.

The variation in ranks and ethnic composition in the Fiji Police Force until 2006 is shown in table 4.3.2.1 and figure 4.3.2.2.

Table: 4.3.2.1 Rank and Ethnic Composition of the Fiji Police Force (2006)

Rank	Australian	Fijian	Indian	Rotuman	Other Races	Total
CP	1 (100%)					1
DCP					1 (100%)	1
ACP		3 (75%)	1 (25%)			4
SSP		6 (66.67%)	2 (22.22%)	1 (11.11%)		9
SP		11 (64.71%)	6 (35.29%)			17
ASP		19 (44.19%)	21 (48.84%)	2 (4.65%)	1 (2.33%)	43
IP		103 (63.19%)	55 (33.74%)	1 (0.61%)	4 (2.45%)	163
SGT		127 (58.0%)	75 (34.25%)	9 (4.11%)	8 (3.65%)	219
CPL		206 (65.6%)	104 (33.12%)		4 (1.27%)	314
PC		830 (58.91%)	541 (38.40%)	6 (0.43%)	32 (2.27%)	1409
W/ASP		2 (100%)				2
W/IP		6 (75%)	2 (25%)			8
W/SGT		12 (66.67%)	2 (11.11%)	2 (11.11%)	2 (11.11%)	18
W/CPL		21 (87.5%)	3 (12.5%)			24
W/PC		279 (67.88%)	124 (30.17%)		8 (1.95%)	411
Total	1	1625 (61.48%)	936 (35.41%)	21 (0.79)	60 (2.27%)	2643

Source: Fiji Police Force, Administration Section, June, 2006.

Figure 4.3.2.2 The Ethnic Composition in the Fiji Police Force (2006)

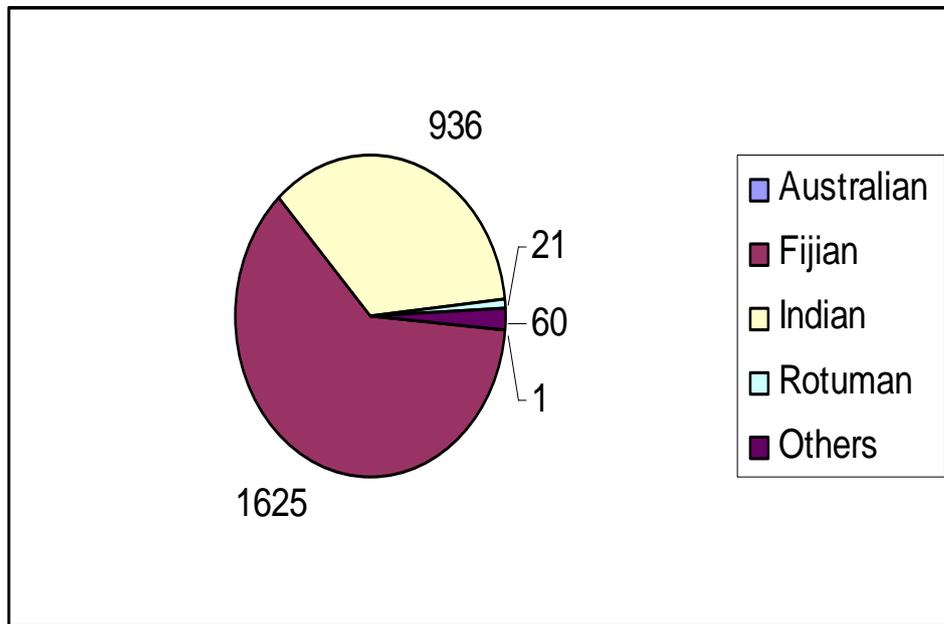


Figure drawn by the author. (Source: Fiji Police Force, Administration Section, June, 2006).

4.3.3 Gender Composition in the Fiji Police Force

Apart from the ethnic disparity, gender disparity is significant in the Fiji Police Force. In particular, the gender disparity draws a lot of attention from women's organisations' especially the Women's Crisis Centre. This basically shows the lack of women's participation in male dominated professions such as policing. Out of 2643 police officers, only 463 (17.5%) are female police officers (Fiji Police Force, Administration Section, June, 2006). Also, so far the highest rank achieved by female police officers is Assistant Superintendent of Police.

Female participation is now encouraged. On 31 March 2006, the Commissioner of Police stated that the main aim of the Fiji Police Force is to increase participation of the female officers from 17.5% to 25% by 2007 (Hughes, *The Fiji Times*, 31 March, 2006:5). This would mean that the intake of female officers would ultimately increase by 7.5%.

On 10 February 2005, the Commissioner of Police mentioned that:

The female officers are lagging behind in terms of promotion, this will be addressed in a shorter period of time giving preferential treatment to female officers by artificially and prematurely promoting them to undertake higher responsibilities within the establishment in order to bring about gender equity in the force, (Interview with Police Commissioner Andrew Hughes, 2005).

The table 4.3.3.1 and figure 4.3.3.2 shows the gender composition in the Fiji Police Force.

Table 4.3.3.1: Gender Composition in the Fiji Police Force (2006)

Gender	Total Number	Percentage
Male Officers	2180	82.5%
Female Officers	463	17.5%
Total Police Officers	2643	100%

Source: Fiji Police Force, Administration Section, June, 2006.

Figure 4.3.3.2: Gender Composition in the Fiji Police Force (2006)

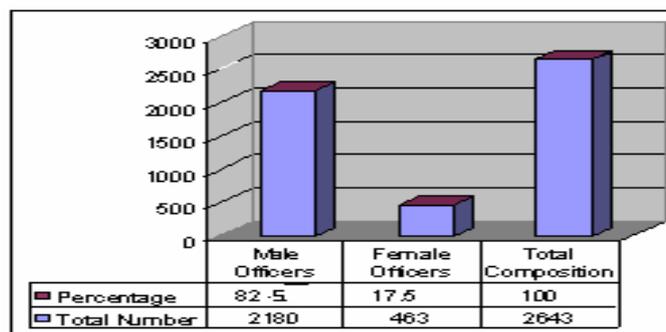


Figure drawn by author. (Source: Fiji Police Force, Administration Section, June, 2006).

4.3.4 Geographical Distribution of the Fiji Police Force

Including the Police Support Officers (PSO), the Fiji Police Force has a total deployment of 4176 police officers throughout the country. The police officers in Fiji are geographically deployed throughout the country in all the major divisions, as shown in table 4.3.4.1 and figure 4.3.4.2.

Table 4.3.4.1: Deployment of the Fiji Police Force within Fiji in 2006

Division	Regular Officers	%	PSO	%	Total	%
Southern Division/HQ	1666	64.42	920	35.58	2586	61.9
Western Division	591	64.87	320	35.13	911	21.8
Eastern Division	162	49.24	167	50.76	329	7.8
Northern Division	224	64	126	36	350	8.3
Total Distribution	2643	63.29	1533	36.71	4176	100

Source: Fiji Police Force, Administration Section, June, 2006.

Figure 4.3.4.2: The Geographical Distribution of the Fiji Police Force, June, 2006

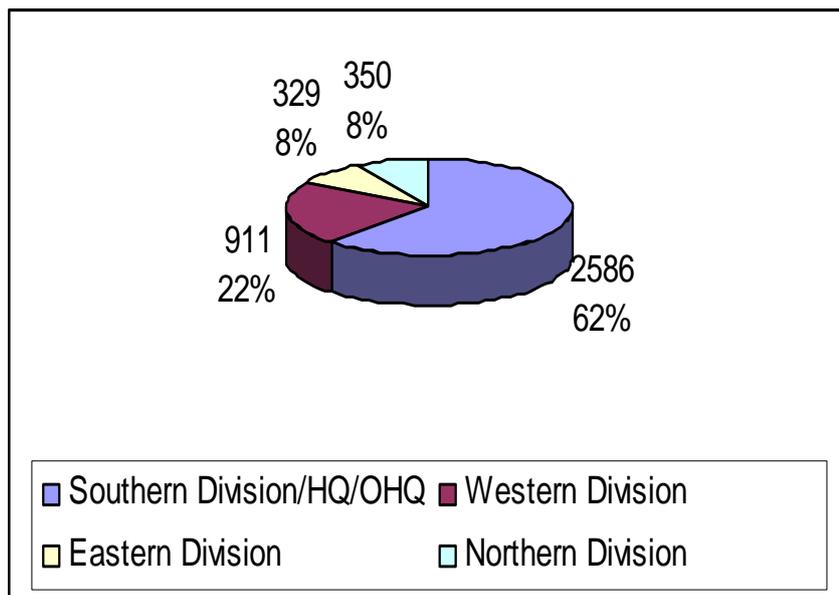


Figure drawn by the author. (Source: Fiji Police Force, Administration Section, June, 2006).

The Southern division has 2586 police officers (62%), Western division has 911 police officers (22%), and Eastern division has 329 police officers (8%), whilst the Northern division has 350 police officers (8%). The Southern division has the largest deployment that includes the police headquarters. Considering the geographical distribution of the Fiji Police Force there are constraints in terms of infrastructure, transportation, communication and resources that impede police operations in interior and remote areas in Fiji. Despite constraints, most deployments are geographically accessible.

4.4 The Three Parties to Employment Relations

There are three social partners that play a crucial role in the police employment relations: the State, Police Management and the Police Association. Stone (2005:549) argues that employment relations intimately entwine the intricacies of the unions, employers or management and government including the industrial tribunals, which are quite significant.

4.4.1 The State

The government is one of the actors in the area of industrial relations. Constitutionally, the Fiji Police Force comes under the jurisdiction of the Government of Fiji (Constitution of Fiji, 1997:64). It is part of the Public Service and the State acts as the principal employer administering the affairs of the Fiji Police Force through the Disciplinary Service Commission.

The Fiji Police Force is directly responsible to the Minister for Home Affairs. This ministry lays down the general policy directions with respect to the maintenance of public safety and public order and the Commissioner of Police acts accordingly (Constitution of Fiji, 1997: 64). The government provides the budgetary allocations through the Ministry of Finance to fund all police operations and administration costs. One of the key functions of the State is to regulate laws. It also regulates the terms and conditions of employment of the police officers.

4.4.2 The Police Management

The Commissioner of Police is vested with the powers to manage the Fiji Police Force in regard to its organisation, administration, deployment and control of all its operations (Constitution of Fiji, 1997: 64). In addition, the Commissioner has the powers to hire and fire police officers from the rank of Inspector and below, while for the officers above the rank of Inspector, the Police Commissioner has to seek approval from the Public Service Commission (PSC). Also he can reward police officers through promotions and at the same time demote officers who breach the code of conduct and behave unprofessionally. The Commissioner of Police chairs the Board of Management's (BOM) regular monthly meetings comprising chief officers to discuss various important policing issues and advises the Minister for Home Affairs in regard to policy matters.

4.4.3 The Police Association of Fiji (Employees Association)

In 1953, a Police Association was formed for the Sub-Inspectors. The colonial police administrators were behind the formation of the Police Association for the purpose of representing the police officers in matters concerning the conditions of service and general welfare of the force (Collie, nd). Basically, the role of this association was to advance the professional interests of the police officers. During that time the Police Association had 9 branches and held quarterly meetings. In addition all the branches were represented in the Central Committee (Collie, nd).

There were three main Police Associations in Fiji (Police Act 1966, Subsidiary Legislation 1985:1-10). The separate Police Associations were formed by the Order of the Minister for Home Affairs in consultation with the Commissioner of Police. Firstly, on 21 January 1966, the Subordinate Officers Association (SOA) was formally established under the Police Act (1966) to represent officers from the ranks of Police Constable to Sergeant Major. Secondly, the Inspectorate Officers Association (IOA) was established on 26 January 1966, which represented Inspectorate officers. Thirdly, on the 9 January 1978, the Gazetted Officers Association (GOA) was established, which represented officers from the rank of Assistant Superintendent to Senior Superintendent.

Essentially, the formation of the three segregated Police Associations was the strategy of the colonial administrators to segregate the three different classifications of police officers so that they advanced the interest of police officers within their own groupings.

The purpose of these three Police Associations was to raise concerns to the government on any matter affecting their welfare and efficiency, except for discipline and promotion, which fell in the jurisdiction of management and were left entirely at the mercy of management.

All the three Police Associations had 'Central Committees' that were elected annually through secret ballots. The annual general meeting of the committee was held no later than 31 January of each year. The Central Committee is allowed to hold only two meetings per year including the annual general meeting, which should not last more than 1 hour (Police Act, 1966, Rev, 1985:2-10). The Police Associations do not have much say in the police employment relations because they do not have a collective agreement with the management.

4.4.3.1 Powers of the Police Association

The Police Associations were empowered to make representation to the Minister for Home Affairs through the Commissioner of Police to report upon any matters affecting the conditions of service and general welfare of the Fiji Police Force. On 7 October 1970 the Commissioner of Police invoked another order that empowers him to suspend the Central Committee at any time if he considers that the interest of the force is jeopardised (Police Act, 1966, Rev, 1985:10). Hence, this is seen as an autocratic arrangement that was deliberately done to prevent the Police Associations from effectively raising their grievances in order to achieve an equitable and justified outcome.

The management provides its facilities to the Police Associations to conduct their meetings. All the members attending the meetings will be deemed to be on official duty and paid accordingly. However, attendance will be taken at the meetings and any member

who fails to attend the meeting without showing good cause will be disciplined (Police Act, 1966, Rev, 1985:2-10).

4.4.3.2 Police officers prohibited from joining Trade Unions

The most contentious issue is that no police officer is allowed to join or become a member of any trade union or an industrial association with an objective to control or influence pay or conditions of service of the Fiji Police Force. In addition, it also prohibits the Police Association from being affiliated to any national body such as the Fiji Trade Union Congress (FTUC) or the Fiji Island Council of Trade Union (FICTU). Any police officer who contravenes this provision will be liable for a fine not exceeding one hundred dollars (\$F100) (Police Act, 1966, ed 1978: 16). This particular provision violates Section 33 (4) of the Constitution of Fiji, (1998:23), which stipulates that:

The labour relations environment provides workers with the right to form and join trade unions, have a right to organize and bargain collectively giving every person the right to fair labour practices, including humane treatment and proper working conditions.

4.5 Amendments to the Police Act (1966)

On 6 November 2003, the Minister for Home Affairs in consultation with the Police Commissioner made amendments to the Police Act (1966, rev.1985) in regard to Section 45 of the Act in respect to the establishment and the 'mode of operation' of the Police Associations. It suggests that the current three Police Associations be amalgamated into one single Police Association that will operate independently from the Fiji Police Force. The new Police Association is yet to be formed. The proposed new Association will be empowered with the right to negotiate with the government on matters affecting their pay and conditions of service of the Fiji Police Force (see appendix 1). However, like the previous Police Associations, the new Police Association is also not allowed to infringe on the matters of promotion and discipline. However, promotion and discipline are the main causes of disputes, trade unions and industrial associations are allowed to intervene and represent their members in resolving the dispute.

In addition, the new Police Association will be strictly prohibited from exhibiting industrial action in the form of strikes against the government on any dispute relating to pay and conditions of service. Consequently, any police officer contravening this provision and engaging in strike action will be fined one thousand dollars (\$F1, 000). At the same time, any person who instigates police officers to proceed on strikes, whether from within or outside the force, will be liable for a conviction to a fine of two thousand dollars (\$F2, 000) (see appendix 4).

The draft Police Association Regulation of 2006 deals with the formation and the establishment of the new Police Association. The Minister for Home Affairs is trying to regulate the behavioural guidelines of the new Police Association that would be enforced through the Draft Police Association Regulation of 2006. The police management regulates the affairs of the Police Association through this legislation. Both the parties should mutually agree upon various issues in the conditions of employment that would eventually lead to a 'collective agreement'. By and large, it is the jurisdiction of the elected Executive Council of the Police Association to set the rules and standard procedural guidelines on how the Association will operate its business. However, executives of the previous Police Associations feel that the new Police Association should operate independently from the Fiji Police Force (Interview with Itendra Nair, former SOA Secretary, 4 July: 2006).

Furthermore, the draft Police Association Regulation (2006: 3-5) has some important provisions. Firstly, it mentions that the membership clause of the Association is open to all police officers including the Police Support Officers. But it excludes the management, such as the Police Commissioner, Deputy Commissioner, Assistant Commissioners and the civilian staff, from being its members. The new Police Association will be facilitated with payroll deductions through the check-off system that will enable payment of members' subscriptions (Cokanasiga, Hansard Report, Parliament of Fiji, 2003:994).

The proposed new Police Association will be governed by an Executive Council (Draft Police Association Regulation, 2006: 4). It will have a President, four Vice Presidents,

one from each division, a Secretary and a Treasurer elected through secret ballots. According to the Deputy Commissioner of Police, election of four vice -presidents one from each division, will allow more say and representation from the divisions (Interview with Moses Driver, Deputy Commissioner of Police, 13 January 2006).

The annual general meeting of the Executive Council will be held biennially before 31 March. The date will be set by the Executive Council of the Police Association and approved by the Commissioner of Police. Attendance at the meeting will be made compulsory and will be deemed as part of official duty. The Police Commissioner has the power to suspend the Executive Council of the Police Association with the approval of the Minister for Home Affairs. In addition, the suspension can also be revoked and uplifted by the Commissioner of Police in a similar manner.

This thesis argues that the suspension of the Executive Council of the Police Association would be imminent if pressure were mounted during the collective bargaining process. Eventually, this heavy-handed approach towards the new Police Association would affect the processes of negotiation, derailing the true spirit of the industrial relations processes. If this happens then it is predicted that the new Police Association will be a 'toothless tiger'.

On 29 October 2003, whilst debating on the Police Amendment Bill (2003), Senator Felix Anthony, a trade unionist, questioned that if the Police Association can not belong to a trade union or to an industrial association then what is it going to become? Will it be a charitable organisation or a social club where people get together, feel good about it and do nothing about it? Furthermore, he described the Police Association as a 'toothless tiger' whereby the management and the Minister for Home Affairs will dictate the terms and conditions of the Association through regulatory measures (see appendix 3). According to Anthony, this is not an effective industrial relations process (Anthony, Parliament of Fiji, Hansard Report, 2003:4394-4399).

The Senior Legal Officer at the Ministry of Home Affairs also argued that it is time to bring about changes to the Police Act so that the Police Association could be registered as an Industrial Association (Interview with S.D.Turaga, 8 September 2006).⁴

4.6 A Case of the Public Service Commission not willing to accept General Orders in a dispute with the Fiji Public Servants Association.

A case between the Fiji Public Service Association (FPSA) and the Public Service Commission (PSC) in a dispute ‘over the commission’s refusal to accept General Orders registered on 25/07/1973 as a Master agreement between the Association and the PSC was referred to the Permanent Arbitrator of the Ministry of Labour for settlement on 8 November 1995. The Permanent Arbitrator Ratu Joni Madraiwiwi drew critical inferences and made some interesting decisions on this particular dispute. The Award of the Arbitration Tribunal (1995:3) states that in dealing with the conditions of employment the Public Service Commission does not operate in a vacuum and its powers are not absolute. Where the provisions of General Orders related to terms and conditions of employment upon which the Association and the other unions have a right to negotiate, then those may not be changed without consultation and master agreement (Madraiwiwi, Award of the Arbitration Tribunal 1995:5).

In addition, he warned the PSC that it should exercise its powers within a framework that includes the provisions of Fiji’s industrial relations legislation. Furthermore, the arbitrator stated that a claim of General Orders being a Master agreement is fundamentally valid. He mentioned that “consequently, unless all amendments to those General Orders affecting terms and conditions of employment have been occasioned by constitutional, legislative, regulatory or agreed changes, they are invalid and of no effect” (Madraiwiwi, Award of the Arbitration Tribunal 1995:7). The PSC with undoubted powers and authority is obliged to negotiate and agree to such terms and conditions in pursuant to the

⁴ S. D. Turaga is a Senior Legal Officer at the Ministry of Home Affairs, who has responsibility for the legal drafting of the Cabinet paper and advising the Minister for Home Affairs with regard to the changes made to the Police Act of 1966.

provisions of Fiji's Trade Disputes Act (1973) and the General Orders' (Madraiwiwi, Award of the Arbitration Tribunal 1995:7).

This case provides interesting lessons for good industrial relations practices. According to the Permanent Arbitrator any changes to the terms and conditions of employment should be consulted and negotiated with the workers' representatives rather than enforced through regulations.⁵ The argument is that the Police Act of 1966 prescribes the terms and conditions of employment and any subsequent changes to these conditions should be subject to consultation with the Police Association.

4.7 Employment Relations Processes in the Fiji Police Force

This section examines the employment relations processes in the Fiji Police Force. In hindsight, the collective bargaining process was not prescribed in the police employment relations because the Police Management through regulatory measures discouraged 'collective bargaining'. In 2003, the Fiji Police Force established the 'industrial relations division'. The management initially thought that it would be practical and pragmatic to establish the industrial relations unit in order to deal with all industrial matters with the Police Association. Primarily, the then Police Commissioner's intention was to anticipate changes that were made through the Police (Amendment) Act of 2003. However, the industrial relations division in the Fiji Police Force is not particularly effective due to the absence of a collective bargaining process. The Commissioner of Police has admitted that industrial relations in the Fiji Police Force are not effective (Interview with former Police Commissioner Andrew Hughes, 10 February, 2005).

The employment of Inspectorate and Subordinate officers is regulated through the Police Act Chapter 85 (1966). However, for the Gazetted officers their employment is also scrutinised by the Public Service Act of 1999 and the Public Service General Orders of 1973 because they are recognised as part of civil service. Apart from these regulations the

⁵Ratu Joni Madraiwiwi was the former Permanent Arbitrator and a High Court Judge and was subsequently Vice-President of the Republic of the Fiji Islands until his resignation in the face of the military takeover in December 2006.

Force Standing Orders (FSO) of 1972 also set the basic guideline for standard operating procedures for police officers, including the conditions of employment such as leave entitlements, allowances, sick leave and long service leave.

4.8 Conditions of Service

The salary structure for police officers slightly improved after the Soqosoqo Duavata Ni Lewenivanua (SDL) government in 2004 adopted some parts of the Job Evaluation Exercise conducted by the ‘Mercer Human Resource Consultants’ in 2003. These resulted in a 30% increase in base salary for police officers that would be paid progressively over the next 5 years. In addition to this the police officers are entitled to the Cost of Living Adjustments (COLA) to supplement the reduction in purchasing power of the dollar affected by the inflation rate. Meanwhile, the Mercer Consultants in their Job Evaluation Exercise Report (2003:66-68) have recommended various issues pertaining to the terms and conditions of employment of police officers. However, some of these recommendations have been technically shelved on the pretext that it will need further consultation between the Public Service Commission and the incoming new Police Association before it can be implemented (Interview with former SOA secretary Itendra Nair, 4 July: 2006).

4.8.1 Pay and Fringe Benefits

Conventionally, under the ‘Master and Servant’ agreement of the Fiji Police Force, the poorly paid subordinate police officers were offered free quarters, electricity, water supply and kerosene as part of the conditions of service. The single officers received 7 litres of kerosene, married living in the quarters received 13 litres, while married officers living outside received 20 litres. As time went past the issue of ‘kerosene’ became controversial and was discontinued by the management. The Job Evaluation Report by the Mercer Consultants (2003:54) stated that allowances of this sort should be absorbed into the payment of new salaries levels.

Apart from these conditions, subordinate police officers living outside were paid a 20% lodging allowance which partly subsidised the cost of renting houses. The Inspectorate officers who occupied government and police quarters paid a rent at the rate of 10% for furnished quarters and 5% for unfurnished quarters. Inspectorate officers who were not provided with police quarters were merely paid a lodging allowance of fifty dollars (\$F50) per month subsidising the housing cost (Police Act, Subsidiary legislation, 1985:13).

The Gazetted officers were also entitled to police quarters wherever they were available and the rental rates were similar to those for Inspectorate officers. But these officers are not entitled to any lodging allowances to subsidise the housing rentals. The Subordinate Officers Association had been pressing on this issue with the management to increase the lodging allowance to a respectable amount to match the hike in the real estate market. The Subordinate Officers Association in its submission to the management had asked for an increase of three to four hundred dollars (\$F300-\$F400) so that its members could afford decent houses (Subordinate Officers Association's Submission, 2003:1). But till to date the management has failed to address this issue (Interview with former SOA secretary Itendra Nair, 4 July: 2006).

The officers performing their duty outside their official area of jurisdiction are paid a subsistence allowance of twenty-five dollars (\$F25) per night and a meal allowance of nine dollars (\$F9.00) per meal. The regular police officers are paid 12.5% allowance for any extra work in addition to their normal hours. Other allowances duly paid to the police officers are transfer allowances, plain clothes and maternity allowances. On 14 February 2005 the Police Commissioner mentioned that there is a need to work out certain percentages to allocate shift allowances for night, morning and afternoon shifts that are currently being used in Australia (Interview with former Police Commissioner Andrew Hughes, 14 February: 2005).

As part of the contract, 'subordinate officers' have to undergo medical examination in every five years of their service, for the renewal of their contract and to be re-enlisted in

the Fiji Police Force. If the contract is renewed for the next five years depending on the medical report then the officer is paid with a bonus that is equivalent to eight weeks' salary. In case the officer is not medically fit then the Commissioner of Police has the discretion to terminate the officer on medical grounds (Police Act, Subsidiary legislation, 1985:12).

4.8.2 Leave Conditions

As far as annual leave is concerned subordinate officers are entitled to 18 working days while the Inspectorate officers and above receive 21 working days' leave. The Inspectorate and Gazetted officers are entitled to a long service leave on the completion of 12, 15, 20, 25 and 30 years of continuous service. They are compensated with 30, 42, 56, 84 and 112 days of leave with a leave allowance of two hundred dollars (\$F200) paid 7 days before the leave is taken. Another one hundred dollars (\$F100) is paid when an officer becomes entitled for long service leave, which is paid 7 days before the end of the tour (Police Act, Subsidiary legislation, 1985:22-23).

Similarly, subordinate officers have long service leave conditions but there is variation in the leave allowances. The subordinate officers receive one hundred and fifty dollars (\$F150) paid 7 days before the leave is taken and a further fifty dollars (\$F50) is paid 7 days before the end of the tour of leave. The Commissioner of Police on the recommendation of a government medical officer can grant up to 3 months' sick leave to any police officer (Police Act, Subsidiary legislation, 1985:22-23).

4.9 Mechanism of the Police Tribunal in Fiji

The Police Tribunal was established in accordance to the Police Act (1966, ed.1978). It deals with all matters pertaining to discipline. The tribunal comprises a senior police officer to a position of Superintendent of Police. It hears disciplinary offences against police officers who breach the code of conduct and commit an offence. In most cases the accused officer is given a chance to appoint another senior police officer to defend him or her during the period of trial. The tribunal proceedings are simple without many legal

complexities and the officer accused could easily make his or her submissions before the tribunal. In most cases the accused police officers defend the cases by themselves.

After the trial proceedings have finished the tribunal officer recommends to the Commissioner of Police for the punishment. The Police Commissioner then makes a decision or can change the decision of the tribunal. The punishment normally imposed on the accused police officer is either admonishment, reprimand, severe reprimand, a fine not exceeding 7 days' pay, a reduction in rank or dismissal.

In the case of a subordinate officer the punishments are same except for an additional clause of punishment that is confinement to quarters for any period not exceeding 14 days with or without guards (Police Act 1966, ed.1978:12). Consequently, the outcome of the tribunal is then made known to the accused police officer and also published in the Force Routine Orders (FRO) for the necessary action. Furthermore, the tribunal is not responsible for charges against police officers for offences that are criminal in nature. Offences of this magnitude are particularly dealt by the court of law through normal criminal proceedings.

The police tribunal significantly maintains a humanistic approach while dealing with disciplinary proceedings against police officers. The Commissioner of Police has reiterated that the tribunal process is quite different from the judicial process, for it is not bound by the constricting rules of evidence applied by the criminal process. In addition, he reaffirmed that the tribunal should be seen as a robust and dependable process that is streamlined, fair, open and honest to people appearing before it without any judicial and legal complication' (Hughes, *Fiji Police Newsletter*, 2006:3-5). However, the Police Commissioner on 10 February 2005 mentioned that there was no need for a tripartite independent police tribunal to hear disciplinary proceedings against police officers, stating that the Professional Standards Department looks after disciplinary matters and the force has eventually moved away from the British system (Interview with former Police Commissioner Andrew Hughes, 10 February: 2005).

4.10 No Appeals System

There is no provision for an appeals system to appeal against the Police tribunal's decision, nor to appeal against a management decision on discipline and promotional matters. The Public Service Commission (PSC) in accordance with the Public Service Act and the Regulation of 1999 and pursuant to Sections 5-11, provides a tripartite appeals board for the public service to appeal against the management decisions on the issues of discipline and promotion. However, for some unknown reasons the Fiji Police Force was excluded from using this Appeals Board. In some cases officers have personally sought redress from the Court of Law to seek an interpretation and determination on the tribunal's decisions. But this has been an expensive exercise for police officers.

The Senior Legal Officer at the Ministry of Home Affairs was surprised to hear that there was no appeals system to seek recourse on the matters of promotion and discipline (Interview with Turaga, 8 September, 2006). He mentioned that there is an urgent need to review the Police Act of 1966, so that the appeals system can be included in the Fiji Police Force so that the police officers can seek recourse and fully address their grievances.

Significantly, Corby (1999:163) mentions that:

The grounds for an appeal are that the employment tribunal erred in law, made a finding of primary fact unsupported by any evidence or the decision was perverse and therefore certainly wrong. The contemporary reality is that the existence of an appeals system is crucial to employment relations whereby it gives a fair opportunity to the person to fully explore in addressing his or her grievances.

The Commissioner of Police has unequivocally mentioned that there was no need for an independent appeals system to address the grievances of unfair promotions in the Fiji Police Force, on grounds that there is a promotion board that carefully scrutinises promotions based on the career plan and the force will not entertain disgruntled officers

who challenge the management's decision (Interview with former Police Commissioner Andrew Hughes, 14 February: 2005).

4.11 Human Resources Management (HRM) in the Fiji Police Force

In 1990 the HRM division was established in the Fiji Police Force and its aim was to plan and implement the strategic human resources policies in terms of recruitment, selection, training, compensation, retention, occupational health and safety (OHS) and welfare scheme for police officers.

4.11.1 Recruitment and Training

Since 2003, the Police management has started recruiting regular police officers instead of special constables, who were not fully trained police officers. During the 1990s the practice was to recruit special constables and gradually absorb them as regular police officers.

The courses for police training are quite old and had emerged from colonial system. Therefore, training should be effectively designed in such a way that it should assist and promote the corporate objective of the Fiji Police Force in the current context.

4.11.2 Promotions Criteria

During the interviews and focus group meetings, some police officers have raised concerns that there is an absence of standard criteria for promotion. In most occasions police officers were promoted without consideration of any promotional criteria, giving rise to double standards. In 2005, a comprehensive review was conducted by the former Commissioner of Australian Federal Police, John Murray, who recommended that qualifying courses no longer be used for the Sergeants, Inspectors and Superintendents, because they were basically promotional courses rather than skill based courses (Murray, 2005:12). Since then the police management has developed an alternative Superintendent qualifying course policy that sets minimum qualification requirements for the promotions from the ranks of Assistant to Senior Superintendent, effective January 2006 (Hughes,

Fiji Police Newsletter, 2006: 5-9). This qualifying course will be used as the minimum qualification requirement for promotions to those ranks, although it has been advised otherwise by the consultant, that these courses should be phased out and replaced by skill based courses.

Moreover, the Fiji Police Force is still reluctant to recognise the police graduates and specialised personnel from accredited tertiary and technical institutions as being capable to assume managerial positions in the Fiji Police Force. This can be achieved through an effective succession planning by identifying and developing the career path for officers and enhancing them with various training programs and attachments to designated positions to gain experience. These officers should also be compensated with an equitable salary level to match with their qualifications so that retention is made possible.

4.11.3 Occupational Health and Safety

Occupational health and safety (OHS) is the responsibility of the HRM division. It is evident that the OHS in the Fiji Police Force is not functional and lacks coordination within the workforce. In order to provide a healthy and safe working environment, standard safety procedures of work are necessary as stipulated in the OHS Act (1996:24-62).

According to the OHS Act (1996:36) it is the dual responsibility of the employer and employees to consult and cooperate in addressing all matters of safety at work. Actually, this is not happening in the Fiji Police Force. The Officer-in-Charge of Central Police Station, Ram Chetty, on 9 May 2006 mentioned that there is an urgent need to revive health and safety at various police stations and workplaces (Interview with Chetty, 2006). On 14 February the Police Commissioner also mentioned that there are difficulties in implementing safety standards in the workplace because of financial constraints (Interview with Hughes, 14 February: 2005).

4.11.4 Employee Participation

The Fiji Police Force does not have any significant programs for the employee participation or any consultation schemes for worker democracy in the management and decision-making process. It is evident that there is an absence of ‘quality of work life’ programs and ‘quality circles’ in the Fiji Police Force. Worker democracy has proven quite successful at Fiji’s Air Terminal Services in which employees’ participation in decision making has benefited the company in terms of profits, which are ultimately shared among the employees under the profit-sharing scheme (Chand: 1998:224-231).⁶ These crucial programs are missing in the Fiji Police Force.

4.11.5 Health Scheme

In addition, the Fiji Police Force has a group medical insurance scheme under its welfare program. The police officers contribute to this scheme. They pay full premium for the insurance cover, also pay the doctor’s fee and later claim a reimbursement of only 85% of what they have actually spent. But the management and the government are the ‘free riders’ without contributing any single cent towards the employee’s medical scheme. At the same time, it is the management that makes major decisions and the majority group members have little or no control over the medical scheme.

4.12 Summary

Basically, his chapter has examined and analysed the terms and conditions of employment for police officers as stipulated in the Police Act of 1966. It has also looked at the parties and institutions that are involved in the employment relations of the Fiji Police Force. Also the chapter has discussed and highlighted some of the critical issues that urgently need to be addressed by management in order to maintain harmonious employment and industrial relations practises. The next chapter will embark on the dispute resolution machinery in the Fiji Police Force.

⁶ Dr Anand Chand is a senior lecturer and the former Head of Sociology and Industrial Relations at the University of the South Pacific.

Chapter 5

Critical Analysis of the Dispute Handling and Resolution Mechanisms in the Fiji Police Force

5.1 Introduction

Dispute handling and the resolution policies are the key components of any sound industrial and employment relation practices in a democratic society. This chapter will discuss the dispute handling and resolution policy in the Fiji Police Force. It will focus on what was the past system of dispute resolution, and what is the new system of dispute resolution. It will also examine the weaknesses and problems that could be encountered by the parties in dispute and it will provide recommendations.

5.2 The Past System of Dispute Resolution: Prior to 2003

The Colonial administrators of the Fiji Police Force did not allow the Police Association to participate in issues relating to industrial and employment relations for fear of mobilisation and retaliation from the under- paid and overworked police officers. What is extremely important here is that, despite the officers being exploited under extremely deplorable working conditions, as a conventional ‘master and servant’ working relationship, they were often threatened through institutionalised disciplinary proceedings, for any breaches or misconduct on the part of the officers.

The most common terminology in the Fiji Police Force is the notion of ‘do it first and complain later’. In fact this practice was a colonial approach towards repressive discipline that still remains as a common tradition in policing. In such situations the existence of dispute handling and resolution policy is extremely important, whereby underlying grievances and disputes can be effectively managed and resolved.

The Police Tribunal was established in accordance with the Police Act (1966, ed.1978). It deals with all matters committed by police officers pertaining to disciplinary offences. However, the Fiji Police Force was not immune from industrial disputes. The emergence

of industrial disputes was at times clearly visible. Most of them were neutralised through the aggression of repressive discipline. Often, this method resulted in alleged victimisation of officers, who sought redress from the courts on their own initiative, because there was an absence of collective bargaining and the dispute resolution machinery to resolve industrial disputes in the Fiji Police Force.

Likewise, the dispute resolution machinery and the Courts of Law were also not prescribed as a grievance procedure in the Police Act of 1966. The court proceedings were usually an expensive and prolonged exercise that caused unnecessary pain and suffering to the police officers, who understandably thought twice before using court as an alternative mechanism to resolve industrial disputes (Interview with Criminal Investigating Officer Kishore Kumar, 18 December 2006).

The Police Association was entirely responsible for the professional advancement of the police cadre and lacked jurisdiction in dealing with pay and terms and conditions of employment (Police Act: 1966, Subsidiary Legislation: 1985:5). The Police Association was deliberately excluded from making any positive contribution or interfering in matters of discipline, promotion, and tribunal proceedings. Hence 'it did not have any teeth'. The Police Management mostly regulates the conditions of employment conditions without much consultation from the Police Association (Police Act: 1966:1-41). Consequently, there was no dispute handling and resolution machinery to handle industrial disputes in the Fiji Police Force.

Dispute resolution, however, has become an emerging issue in the Fiji Police Force. This development has witnessed a great sense of euphoria among the police officers with an expectation that their participation in the collective bargaining process will improve their terms and conditions of employment, which would also provide a framework for the resolution of disputes.

5.3 The New System of Dispute Resolution since 2003

The proposed new dispute resolution policy in the Fiji Police Force incorporates the processes of negotiation, mediation and arbitration for resolving industrial disputes emanating from the employment relations (Draft Police Association Regulations 2006:7-8), (see appendix 5). As mentioned earlier, the reason for developing dispute resolution machinery in the Fiji Police Force is to provide a procedure to handle disputes that would ultimately arise during the collective bargaining process.

In 2003, the Police Association was accorded the right to exercise collective bargaining. This was extended to the Police Association by the Commissioner of Police in consultation with the Minister for Home Affairs in order to amalgamate the three different Police Associations namely the Police Gazetted Officers Association, Police Inspectorate Officers Association and the Police Subordinate Officers Association into a single Police Association that would be well organised to serve its purposes (Cokanasiga, Hansard Report, Parliament of Fiji, 2003:994-995), (see appendix 1, appendix 4 and appendix 5).

The Commissioner of Police in an interview mentioned that the previous Police Associations were not effective, they lacked support, he said, thus creating a single Police Association that could represent and make contributions in regard to pay and conditions of service on behalf of its member to the management (Interview with Police Commissioner Andrew Hughes, 10 February : 2005).

In addition, the Attorney General Bale (2003:3) explained that:

The amendments should allow the members (employees) of the Fiji Police Force to form a single Police Association for the purpose of advancing the general working conditions including remuneration with the government. It should further empower the Minister for Home Affairs to make regulations for the establishment of a Police Association for the purpose of negotiating pay and other conditions of service with the Fiji Police Force. However, it will be unlawful for police officers to undertake and engage in strike or in any other

industrial actions arising out of any dispute relating to pay and other conditions of service.

On 15 October 2003, the Minister for Home Affairs (MHA) whilst tabling the Police (Amendment) Bill (2003) in parliament categorically stated that the most important aspect of the proposed new regulation is that it addresses 'conflict resolution'. When negotiations with the management end in a deadlock the dispute can be referred to a third party for adjudication (Cokanasiga, Hansard Report: Parliament of Fiji, 15 October 2003:995).

Initially, the amendments gave rise to an intensified debate both in the House of Representatives and in Senate sittings, with differing viewpoints regarding the controversial changes that were proposed for the Police Act (Hansard Report, Parliament of Fiji, 15 -16 October 2003:1001-1064 and in Senate from 28-29 October 2003:4386-4435). Despite vigorous opposition, the Minister for Home Affairs on 16 October 2003 was successful in the acceptance of these changes with the majority support in the Parliament of Fiji (Cokanasiga, Hansard Report: 16 October 2003:1064). The President of Fiji approved the said amendments on 6 November 2006 (Police (Amendment) Act: 2003: 183-184).

The new legislation will provide an opportunity to the Police Association to negotiate with the government regarding matters of pay and conditions of service. It also establishes the grievance procedure for the determination of disputes. In particular, if a claim is submitted to the management by the Police Association, the laid down grievance procedure is that negotiations must be completed within a reasonable time and should not be allowed by the parties to drag on indefinitely (Cokanasiga, Hansard Report, Parliament of Fiji, Police (Amendment) Bill, 2003:995). However, it is not clearly specified what should be the reasonable length of time when disputes are to be referred to a third party. But it stipulates that in the event of a breakdown in negotiation process between the Police Association and the Police Management, ending in a conflict

situation, the Commissioner of Police is obliged to refer the dispute to the Minister for Home Affairs seeking the Minister's intervention in an effort to resolve the dispute.

The referral of a dispute to the Minister for Home Affairs is intended to introduce a further negotiation process to deal amicably with the issues under the ministerial portfolio. It is significant to mention that this intervention by the minister cannot be deemed as a third party intervention. In reality the minister is the principal employer and the organisation of the Fiji Police Force directly comes under his constitutional jurisdiction. The Minister's intervention to resolve the dispute is more or less a matter of elucidation in order to prevent the escalation of the dispute.

The grievance procedure also specifically mentions that if the Minister for Home Affairs is unable to resolve dispute within a reasonable time frame, then the Minister is empowered by law to refer the dispute to a third party such as an independent mediator to initiate the mediation process in order to reach a consensual settlement. If this, too, is unsuccessful then the Minister for Home Affairs is empowered to refer the dispute to an independent arbitrator for adjudication. Finally, the arbitrator determines the dispute and deliberates the judgment in the form of an award. The decision of the arbitrator will be binding to the parties (Cokanasiga, Hansard Report, Parliament of Fiji, Police (Amendment) Bill, 2003:995). At this point of time it is not clear whether the minister will use the arbitrator provided by the Ministry of Labour and Industrial Relations (MLIR) or make a new appointment.

When interviewed on 8 September 2006, however, the Senior Legal Officer with the Ministry of Home Affairs admitted to the researcher that while the Minister for Home Affairs is the principal employer of the Fiji Police Force, it is not proper for him to appoint a mediator and an arbitrator, and referring the disputes to them could be seen as a problem area that would probably need a further review of the Police Act and its subsidiary legislation. In addition, he mentioned that the whole idea was to provide a mechanism for dispute resolution in the Fiji Police Force, which could be modified later to suit the parties (Interview with S. D. Turaga, 8 September 2006).

On 15 October 2003, the Minister for Home Affairs mentioned in the House of Representative that the amendment will not allow the new Police Association to be registered as a trade union or as an industrial association within the meaning of the Trade Union Act of 1978 or the Industrial Association Act of 1978 (Cokanasiga, Hansard Report, Parliament of Fiji, 15 October 2003:994). Therefore, it is likely that the Minister for Home Affairs will refer the dispute to an independent mediator or an arbitrator who is appointed on an ad hoc basis.

On 16 October 2003, Honorable Krishna Datt commented that judging from the comments made by the Minister for Home Affairs in parliament, the Minister can refer the ‘dispute to anyone whom he wants, and it need not be an arbitrator’ (Hansard Report, Parliament of Fiji, 2003:1063) (see appendix 2).⁷

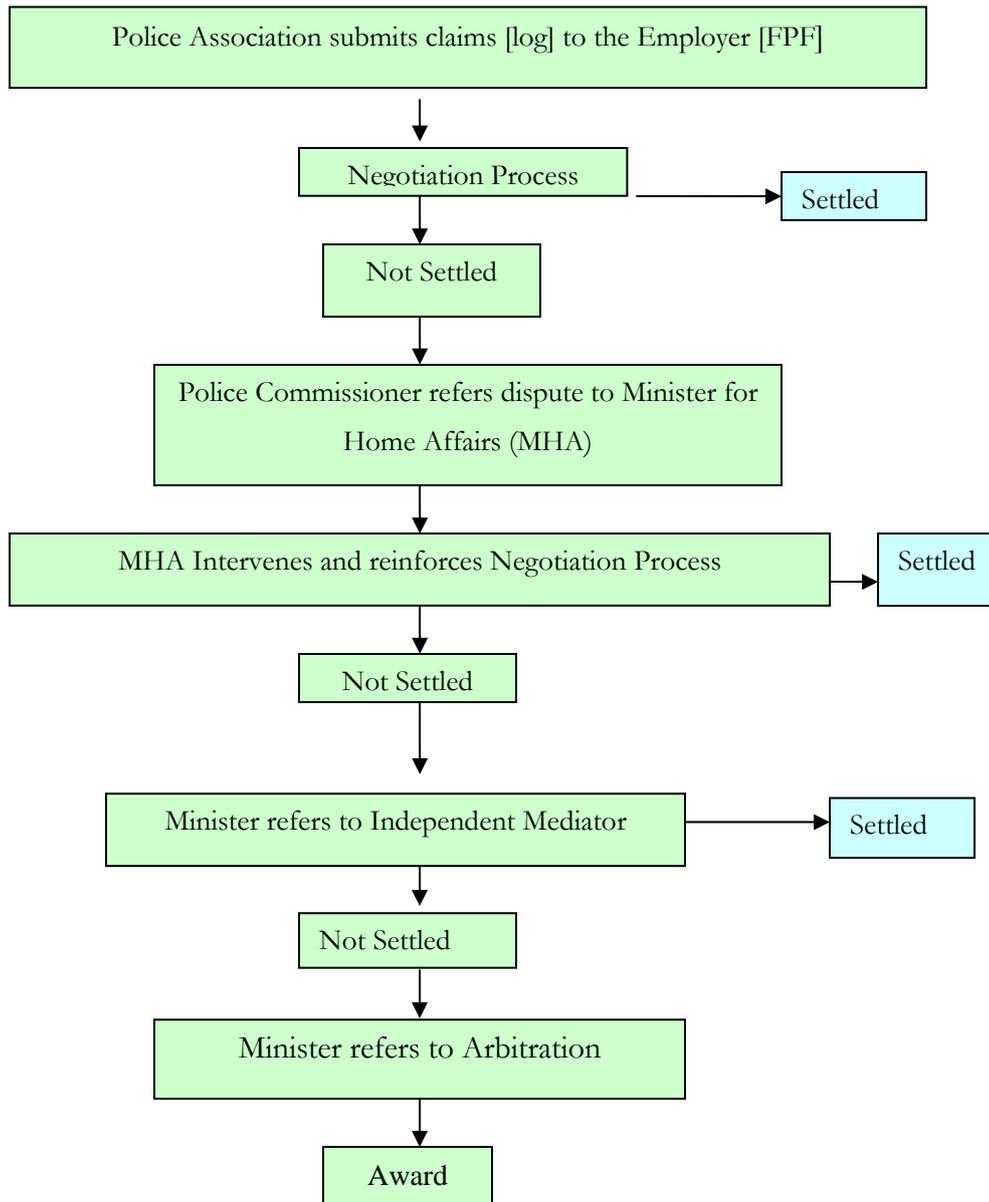
On 12 September 2006, the Manager Industrial Relations at the Ministry of Labour and Industrial Relations confirmed that the third party intervention is necessary for the adjudication of industrial disputes. The Minister for Home Affairs, being a party to the dispute, cannot be empowered to refer disputes to a third party or even appoint a third party. In fact, the Police Association should be extended the right to ‘freedom of association’ and the ‘right to form or join any trade union’ under the ILO convention 98 and 87 and to apply pressure on the management, because the right to strike has not been extended to the police. This would provide the Fiji Police Force an opportunity to use the dispute resolution machinery such as Mediation, Arbitration Tribunal and the Labour Court prescribed as a window provision in the Employment Relations Bill (2005:77-95), (Interview with Kuruduadua, 12 September :2006).⁸

The grievance procedure under the Police (Amendment) Act of 2003 for the resolution of disputes is shown in the figure 5.3.1.

⁷ Honorable Krishna Datt a founding member of the Fiji Labour Party was the Minister for Labour and Industrial Relations in the multi-party cabinet arrangement in the SDL Government empowered by the 2006 election.

⁸ Sainivalati Kuruduadua is the Manager Industrial Relations at the Ministry of Labour and Industrial Relations and also a Barrister and Solicitor of the High Court of Fiji and has experience in dealing with industrial disputes and their resolution.

Figure: 5.3.1 Grievance Procedure as stipulated in the Police (Amendment) Act (2003)



Source: Drawn by the author from the information provided in the Police (Amendment) Act of 2003.

In 2006, after a lapse of three years, a new development has taken place in an effort to address some of the issues that were overlooked in the Police (Amendment) Act of 2003. At this point in time the Minister for Home Affairs is trying to introduce further changes to the Police (Amendment) Act of 2003 in respect to the grievance procedure through the proposed Police Association Regulation of 2006 (Draft Police Association Regulation, 2006:1-8).

The procedure for negotiation prescribes that any matter relating to pay and conditions of service of the Fiji Police Force shall be referred by the Executive Council of the Police Association to the Commissioner of Police who shall forward it to the Minister for Home Affairs with his recommendations. In return the Minister for Home Affairs will make determination on the dispute informing his decision through the Police Commissioner. If the Police Association is not satisfied with the decision of the Minister for Home Affairs, then the Commissioner will enter into negotiations in good faith on behalf of the Home Affairs Minister to resolve the dispute between the parties (Draft Police Association Regulation, 2005:6-7).

If the negotiation fails, ending in a deadlock, then the Commissioner of Police is responsible for referring the dispute back to the Minister for Home Affairs. The Minister for Home Affairs will then consult the Police Association and appoint an independent mediator who within 21 day from the date of appointment will mediate between the parties in order to resolve the dispute. Likewise, if the mediation also ends in a deadlock, then the Minister is obliged to refer the dispute to an arbitrator for adjudication within 28 days (Draft Police Association Regulation, 2006:6-7).

Interestingly, the appointment of an arbitrator and referral of disputes to arbitration has marked a notable change. In accordance to the draft Police Association Regulation (2006:7-8) the Minister for Home Affairs shall request in writing to the Minister for Labour and Industrial Relations (MLIR) to appoint an arbitrator for the purpose of determination of the dispute between the Police Association and the Government.

The Minister for Labour and Industrial Relations upon receiving the request shall appoint an independent person with extensive experience in law, economics or industrial relations to be an arbitrator. The arbitrator will also be assisted by one or more assessors appointed as approved by the MLIR. One of the criteria for the appointment of the assessors and arbitrator is that they must be a resident of Fiji. The arbitrator will then determine the procedures for the arbitration proceedings using his/her discretionary powers whether to hear submissions in writing or in person from the parties. Significantly, the arbitrator is obliged to make determination on the dispute within 28 days from the date of reference of the dispute. A further extension can be granted if the MLIR in his/her opinion feels that the dispute is complicated and probably needs more time to make a decision (Draft Police Association Regulation: 2006: 8). Even though it is a step towards good industrial relations practices, the Minister for Home Affairs (MHA) still retains powers over employment and industrial relations issues of the Fiji Police Force (see appendix 4 and 5).

On 8 September 2006 the Senior Legal Officer with Ministry of Home Affairs mentioned that the machinery provided by the Labour Ministry will be used informally to resolve disputes from the Fiji Police Force. However, he admitted that there could be legal complications for the Minister for Labour and Industrial Relations in appointing the arbitrator and his assessors because the Fiji Police Force is not unionised and the Trade Dispute Act is not applicable to police. He added that further amendments to this provision are imminent (Interview with Turaga, 8 September: 2006).

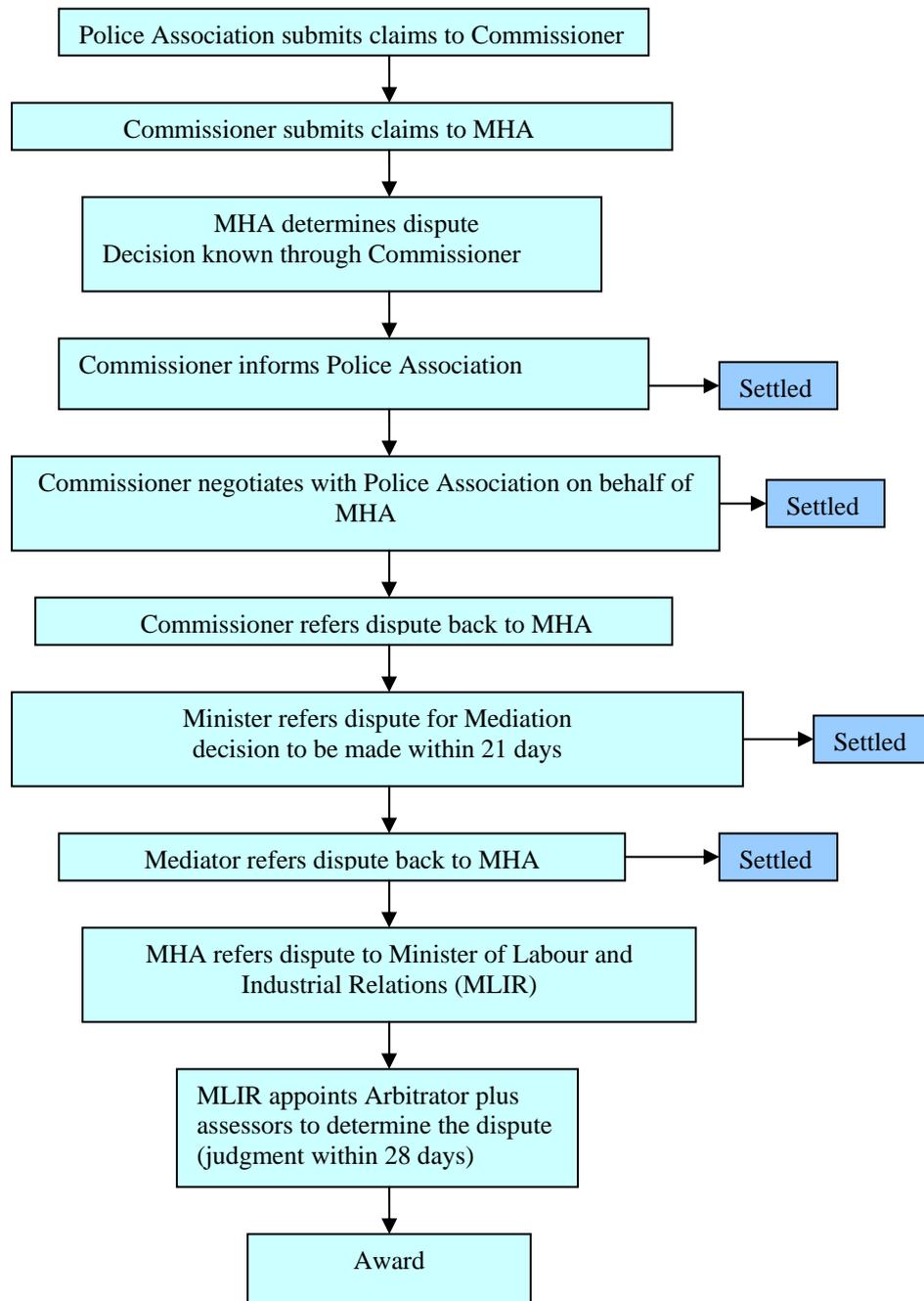
The Trade Dispute (Amendment) Act (2000:6) states that:

The disputes are referred to tribunal in circumstances where the Permanent Secretary for Labour and Industrial Relations (PSLIR) or any person appointed by him or by the Minister for Labour and Industrial Relations (MLIR) is unable to effect settlement. Then the PSLIR shall report the trade dispute to the MLIR who may subject as hereinafter provided, if he thinks fit, and if both parties agree in writing to accept the award of the tribunal, authorize the PSLIR to refer such trade disputes to a tribunal for settlement.

The new system of dispute resolution in the Fiji Police Force will not be subject to application for mediation assistance as required in the Employment Relations Bill of 2005. The Minister for Home Affairs using his discretionary powers will refer the dispute to a third party for a speedy mediation. Consequently, if the mediation process progressively fails then arbitration is the last resort under the prescribed grievance procedure.

Figure: 5.3.2 shows the changes made to the grievance procedure that will be enforced through the proposed draft Police Association Regulations of 2006 (see appendix 5). It illustrates the machinery provided for the resolution of the dispute, which the parties have to follow strictly while addressing their grievances.

Figure: 5.3.2 Grievance Procedure as prescribed in the Draft Police Association Regulations of 2006



Source: Drawn by the author from the information collected from the Draft Police Association Regulations of 2006.

5.4 The Weaknesses and Problems in the New System of Dispute Resolution

The new system of dispute resolution is not without weaknesses. Firstly, the dispute resolution machinery does not have the classification of ‘dispute of interest or dispute of rights’. According to the draft Police Association Regulations of 2006, both types of disputes will be resolved through the mediation process. The Police Association will negotiate with the management on matters affecting the pay and conditions of service of the Fiji Police Force. However, these are interest-based claims and any dispute arising will be conciliated by a third party. In the absence of the conciliation process the parties could be deprived of further opportunity to re-negotiate disputes in order to reach an agreement.

The dispute resolution machinery in the Fiji Police Force has a distinctive feature that includes mediation as a mechanism to resolve interest-based disputes. Normally, the process of mediation is used in the dispute of rights cases. Eventually, the Employment Relations Bill of 2005 prescribes the concept of mediation to resolve industrial disputes. Once the mediation process is used, only then can its real problems and weaknesses be identified. Obviously, this new system will require expertise to maintain the efficiency of the machinery, otherwise, the parties will be compounded by frustration.

Secondly, the reporting of trade disputes and their referral of to a third party was not clearly mentioned by the Minister for Home Affairs whilst tabling the Police (Amendment) Bill of 2003 in the House of Representatives. The Minister for Home Affairs is a party to the dispute and technically cannot himself refer disputes to a third party. Therefore, there should have been provisions clearly stated that if the parties cannot reach agreement during negotiations than either party can register a trade dispute to the established third party prescribed in the grievance procedure. The Minister for Home Affairs has caused a lot of confusion to the parties in dispute by giving two separate procedures, one under the Police (Amendment) Act 2003 and the other, stipulated under the Draft Police Association Regulations of 2006.

Thirdly, the Minister for Home Affairs has sought assistance from the Minister for Labour and Industrial Relations seeking his indulgence to appoint an arbitrator and his

assessors as stipulated in the draft Police Association Regulations of 2006 (see appendix 5). At this point in time, it is not clear whether the Minister for Labour and Industrial Relations (MLIR) will appoint an arbitrator from within the jurisdiction of the Trade Dispute Act or will appoint from outside. Whatever it may be, the power of the MLIR to refer disputes to a third party is vested under the Trade Dispute (Amendment) Act (2000:10-11). However, the Trade Dispute Act which mostly caters for the unionised workforce categorically does not apply to the members of the Fiji Police Force.

It is cynical, that on one hand the Police Association is not allowed to be registered as a trade union or an industrial association or even use their grievance procedures provided by the Labour Ministry. While on the other hand the Minister for Home Affairs is referring the dispute to the Minister for Labour and Industrial Relations to appoint an arbitrator and his assessors. Such provisions grossly violate the employment laws of Fiji. Nevertheless, if the Minister for Home Affairs is adamant to refer the dispute to the Labour Minister than he has to allow the Police Association to be registered as an industrial association or as a trade union. However, to accommodate this, the Home Minister and the Labour Minister should swiftly review the Police (Amendment) Act of 2003 and Trade Dispute (Amendment) Act of 2000 respectively. Only then will the grievance procedure be meaningful for the resolution of industrial disputes in the Fiji Police Force.

Finally, when the Police Association submits a claim to the Commissioner of Police, the Commissioner submits that particular claim directly to the Minister for Home Affairs for the determination of the dispute. In return the Minister makes a decision through the Police Commissioner. If that particular decision is not accepted by the Police Association then the Commissioner of Police represents the Minister for Home Affairs to negotiate the claims. At times this can cause problems to the Police Association. Significantly, the decision of the Minister for Home Affairs can be imposed upon the Police Association on the pretext that the Minister has made the decision and negotiation on the specified matter is secondary.

The grievance procedures under the Police (Amendment) Act of 2003 and as stipulated in the Draft Police Association Regulations of 2006 show that there are irregularities that need further attention in the interest of the disputing parties. In fact, the Commissioner of Police should engage in the negotiation process until all efforts in negotiating the dispute are exhausted. If negotiation on the claim fails then he should make recommendations to the Minister for Home Affairs for the determination of the dispute. This is a weakness that could suppress the Executive Council of the Police Association in accepting the Minister's determination on the dispute rather than having a free bargaining process.

5.5 My Recommendations

Firstly, the Police Management should initiate wider consultation with all the stakeholders in order to develop effective machinery to resolve disputes. Also the management together with the government should seriously consider reviewing the necessary employment relations legislations so that the existing system of dispute resolution can be improved by developing a grievance procedure that is independent, with a neutral third party intervention to mediate and arbitrate disputes.

Secondly, the Police Management in consultation with the Minister for Home Affairs should establish an independent Police Arbitration Tribunal (PAT) that would handle all mediation and arbitration of industrial disputes in the Fiji Police Force. According to the literature, the United Kingdom police have a Police Arbitration Tribunal that comprises three arbitrators responsible for all disputes. These appointments will be similar to the Sugar Industry Tribunal stipulated under the Sugar Industry Act of 1984, which caters for all disputes that arise in this particular industry.

If the parties are unable to resolve a dispute through negotiations then either party can register a trade dispute to these third parties for mediation or arbitration. Ultimately, the third party would hear submissions from the parties and make a judgment in the form of an award that would be binding to the parties. This would significantly provide the parties with a standard grievance procedure that could be used effectively to resolve industrial disputes emanating from the Fiji Police Force.

Thirdly, the study highly recommends another mechanism for dispute resolution. The Police management should review the Police Act of 1966 to allow the Police Association to be registered as an industrial association. This would extend to them a free collective bargaining process. In return the parties in dispute could use the grievance machinery provided by the Ministry of Labour and Industrial Relations. The grievance machinery provided by the Labour Ministry is neutral, with an allowance for third party interventions to resolve industrial disputes amicably. This could be the most suitable machinery with necessary expertise, which would be broadly accepted by all the parties without many legal complexities. The advantage is that it is already established and would be cost effective without making any unnecessary appointments to manage mediation and arbitration processes.

Fourthly, the Police Management should entirely leave the affairs of the Police Association to its Executive Council with respect to how they want to administer and execute the affairs of the Police Association. It should not be dictated by the management by regulating the behaviour of the Police Association. The management should also remove the threatening clause of suspending the Executive Council of the Police Association by the Police Commissioner, if the interest of the force is jeopardised.

Moreover, the Police Association should be seen as independent from the Fiji Police Force operating in a democratic manner. Hence, threatening and intimidating the Police Association with fines and suspensions will not assist to resolve various significant issues in relation to employment relations. However, disputes can be resolved amicably through open door policies with a cooperative and consultative approach working in partnership to resolve various pressing issues.

Fifthly, a significant number of disputes in employment relations arise from the issue of promotion and discipline. Therefore, it is a major concern to most of the police officers who are either deliberately side lined without a consideration for promotion or punished through unwanted disciplinary action for minor offences, without giving officers a fair

representation to defend themselves against the management decision. In considering the primary functions of any trade union or an industrial association for that matter, I strongly recommend that the Police Management should allow the Police Association to represent their members' grievances in the issue of promotion and discipline.

Sixthly, there is a genuine need for an Independent Appeals System in the Fiji Police Force, which is equivalent to that of the Public Service Appeals Board. This mechanism will provide an opportunity for an appeal to police officers to seek a further recourse in the matters of promotion and discipline. However, if this is not possible, then the Public Service Appeals Board should be made available to police officers. This will ultimately provide natural justice to the police officers by giving them another opportunity to seek redress.

Seventhly, the Police Management should seriously consider developing a workable 'collective agreement' with the Police Association that will set the basic guidelines and procedures while addressing certain grievances. In 2003 the management regulated certain rules and guidelines through the Police (Amendment) Act of 2003 but unfortunately these procedural rules were not negotiated with the Police Association. This paper strongly recommends that the collective agreement should be formalised for the benefit of the parties in dispute.

Finally, the last but not the least, the Fiji Police Force needs to implement a comprehensive reform program in the areas of employment relations. One of these areas that need an urgent attention is the institutional reforms whereby the rules and regulations of the game in employment relations, such as the Police Act of 1966, Police (Amendment) Act of 2003 and the Force Standing Orders of 1972, need to be reviewed. By doing so, it will gradually improve the terms and conditions of employment for the police officers, which would motivate and enhance performance and professionalism in the Fiji Police Force.

5.6 Summary

The chapter has examined the past and present dispute resolution machinery in the Fiji Police Force. It has also discussed some of the problems and weaknesses in the current system that could be encountered by the parties during the various stages, causing impediment to the initial dispute resolution process. The next chapter will summarise and conclude with the findings.

Chapter 6

Summary and Conclusions

6.1 Summary

So far, this Supervised Research Project has carefully examined the employment relations and the dispute handling and resolution policy in the Fiji Police Force, which has been exemplified in this study. The study cautiously reveals that there are irregularities in the system of dispute resolution. Apparently, the employment relations and the system of dispute resolution in the Fiji Police Force are complex in nature and are profoundly engulfed with bureaucracy. The parties would certainly encounter various limitations and problems while resolving industrial disputes. Furthermore, the Supervised Research Project has also identified the absence of a simple and adequate procedure for dispute resolution. However, the parties are kept in the dark regarding the appointment of a third party such as mediators and arbitrators to deal with disputes.

This Supervised Research Project accentuates the past and present dispute handling and resolution policy and practices of the Fiji Police Force. It will recommend suitable mechanisms for resolving industrial disputes in the Fiji Police Force. Hence, a new system would foster equilibrium and enhance independence of the machinery restoring some credibility to the parties in dispute.

Chapter one introduces the subject by focusing on the topic for the research, outlining its aims and objectives and the scope of the study. It also strongly justifies the rationale for this study by supporting its usefulness, which would ultimately provide a better understanding about the usage of the dispute and grievance handling procedures in the Fiji Police Force.

Basically, chapter two explores the methodological framework for this study. Qualitative research methods were used to conduct this research. The interpretive research methodology played a crucial role in this research because of the nature of this study.

It mostly involved the interpretation of the dispute resolution procedure stipulated under the Police (Amendment) Act of 2003. Comparative research was used to make comparisons of the various dispute resolution mechanisms provided in the public sector under the Trade Disputes Act of 1973 and Trade Dispute (Amendment) Act of 2000. The data were collected through interviews, literature review, archival research, and informal focus group meetings, which were significant to this research.

The data were analysed through comparative analysis, by comparing various dispute resolution mechanisms, one provided under the Police (Amendment) Act of 2003 and the other machinery being enforced through the Draft Police Association Regulations of 2006, with the mechanisms provided by the Ministry of Labour and Industrial Relations stipulated under the Trade Disputes Act of 1973 and the 2000 amendment with a view to prescribe the best machinery to resolve disputes in the Fiji Police Force.

In the course of this research, whilst accomplishing the methodologies and methods, it also encountered limitations and problems in terms of data collections and disclosures during interviews whereby the respondents were very reluctant to reveal the facts and figures because of fear of being victimised.

Moreover, chapter three constructs the peripheral boundaries for the conceptual and theoretical framework for this study. It also discusses the perspectives of dispute resolution, procedures and the mechanisms that are commonly used to resolve industrial disputes in industrialised societies. The chapter also highlights dispute resolution policy and practices that are currently being used in Britain, Australia and Fiji.

In addition, it draws attention to some of the emerging issues in dispute handling and resolution policies that are practised in the police organisations in those particular countries. It explains the dispute resolution procedures that are used by the trade unions and industrial associations in Fiji provided under the Trade Disputes Act of 1973 and the 2000 amendments. This machinery is prescribed for the organised sector under the

collective bargaining arrangements, which shows how disputes of an industrial nature are systematically resolved in the public and private sectors.

Likewise, chapter four has critically examined and described the employment relations in the Fiji Police Force. It throws some light on the historical background of the Fiji Police Force. It discusses in detail the nature of employment relations. The parties and institutions involved in the police employment relations are identified and critically examined; that includes the Police Association, Police Management, the State, the Police Tribunal and the processes of employment relations.

It also highlights the absence of an appeals system that could provide recourse for aggrieved police officers in the Fiji Police Force. Further, it describes the conventional issues in relation to the Human Resources Management in the Fiji Police Force. The chapter also provides a case where the government refuses to accept its own general orders, which serves as a lesson that the employers should consult the workers' representatives if any changes are to be made to the conditions of employment.

Meanwhile, chapter five is perceived to be the main chapter in this study. It critically examines and evaluates the past and present system of dispute handling and resolution policy in the Fiji Police Force. The chapter has identified that there is a need for appropriate machinery that would be significant to resolve industrial disputes in the Fiji Police Force. It examines in detail the introduction of the new system and the procedures that have to be followed while trying to address grievances. Also it discusses the two different sets of grievance procedures, one under the Police (Amendment) Act of 2003 and the other being introduced through the Draft Police Association Regulations of 2006. Therefore, the new system has envisaged problems and weaknesses that could impede etiquette dispute resolution procedures. It also provides recommendations to this study.

Finally, chapter six concludes this study. It summarises, discusses and evaluates the major findings of the study. It ensures that the aims and objectives of the study are fully accomplished. In addition, the chapter also highlights areas for future research.

6.2 Discussion and Evaluation of Major Findings

Interestingly, there are a number of significant findings in this study. This discussion concentrates on the evaluation of the major findings in relation to the Police Association and the procedure of dispute resolution adopted to resolve industrial disputes in the Fiji Police Force. The Police Association is classified as a 'professional association' that is essentially formed to advance the professional interests of its members in the Fiji Police Force. The Police Association is excluded from indulging in the matters of promotion and discipline. In 2003 the proposed new Police Association has been given the right to bargain collectively with the police management and government on the matters of pay and conditions of service. However, this extension is highly regulated, causing restraint to a free bargaining process.

The Police Association is empowered to make representations to the Minister for Home Affairs through the Police Commissioner to report upon matters affecting the conditions of service and general welfare in the Fiji Police Force. It is purposely excluded from dealing in matters of promotion and discipline. However, the Police Association has the right to engage in collective bargaining with the Police Management and the government.

In fact, the Police Commissioner is obliged to inform the Minister for Home Affairs on the position of the Police Association whether the claims of the Police Association are reasonable or not. If not then a process of negotiation should immediately take place between the Police Management and the Police Association. As such the Police Association should deal only with the Police Commissioner. It will be the responsibility of the Commissioner of Police to inform the Minister for Home Affairs about any developments during processes of collective bargaining.

The study has also revealed that the government and the management have grossly violated the constitutional rights of the police officers by not allowing them to form or join any trade unions or industrial association aiming to organise and bargain collectively. Because of this prohibition, the members of the Police Association are strictly restricted from engaging themselves in a strike or instituting industrial action

against the government. Such actions will not be condoned and officers contravening these provisions will be disciplined on the pretext of public safety and public order, which is the primary concern for the police officers. In a broader context such a regulatory framework will never assist the development of industrial and employment relations in the Fiji Police Force.

In addition to the strike prohibition, the Police Commissioner is empowered to suspend the Executive Council of the Police Association, if the interest of the Fiji Police Force is jeopardised. This provision curtails the democratic rights of the Police Association, limiting their bargaining powers. As such, if the Police Association applies pressure during the process of collective bargaining they ultimately face suspension. In the event, the process of negotiation, mediation or arbitration is terminated indefinitely while the whole issue virtually dies out over a period of time.

Apparently, the management is interfering and undermining in the affairs of the Police Association, although it is deemed to be independent from the Fiji Police Force. The management has heavily regulated the operations and the behavioural aspects of the Police Association through the Police (Amendment) Act of 2003 and the Draft Police Association Regulations of 2006. By and large the Police Association is threatened with regulatory measures so that they do not have an upper hand during the bargaining process. Under such legal constraints it will be quite difficult for any association to function effectively to advance the interests of its membership.

The study has also revealed that parties in dispute will use the processes of negotiation, mediation and arbitration as the machinery provided for the resolution of industrial disputes in the Fiji Police Force. However, there are two different sets of grievance procedures that have been identified, one defined under the Police (Amendment) Act of 2003 and the other stipulated in the Draft Police Association Regulations of 2006. Both grievance procedures have limitations and can not be totally relied upon to resolve disputes effectively. It seems that thorough consultations were not made while developing the grievance procedures. Diligently, the whole system is designed with strict

regulatory measures for the due process, whereby the management predominantly has an advantage over the system.

It is also evident that the then Minister for Home Affairs while tabling the Police (Amendment) Bill of 2003 misled the parliament by not clearly informing on the appropriate grievance procedure for the referral of disputes for mediation and arbitration. At this time around the Minister for Home Affairs is trying to refer the dispute to the Minister for Labour and Industrial Relations (MILR) for the appointment of an arbitrator and his assessors enforced through the Draft Police Association Regulations of 2006, not recognising that he is a party to the dispute.

At this point in time, it is also not clear whether the Minister for Labour and Industrial Relations will use the machinery prescribed under the Trade Dispute (Amendment) Act of 2000 or will make fresh appointments from elsewhere. Whatever it may be, the Trade Disputes Act of 1973 and the amendment of 2000 do not apply to the Fiji Police Force. Therefore, the Labour Minister does not have the powers to appoint the mediator or an arbitrator to resolve industrial disputes in the Fiji Police Force. In this situation, if the Minister wants to accommodate the resolution of disputes from Fiji Police Force then first of all the required employment legislation has to be amended, otherwise the appointments can be challenged in a court of law and discredited as null and void.

The Minister for Home Affairs (MHA) is the principal employer of the Fiji Police Force and only intervenes to elucidate any matter of concern in order to resolve the dispute. This intervention can only be deemed as a process of negotiation and not conciliation. If the parties still disagree, then either party can report a trade dispute to a third party. However, the Minister for Home Affairs does not have the powers to refer the dispute to a neutral third party for resolution, because he himself is a party to the dispute. In other words the Minister for Home Affairs can report a trade dispute on behalf of the Police Management to a third party stating that the particular issue could not be resolved despite several attempts during negotiations. The third party will then intervene to mediate and adjudicate the dispute. If a settlement is not reached then ultimately the dispute will be

referred to an arbitrator as prescribed in the grievance procedure. According to the grievance procedure, the Minister for Home Affairs in one particular situation appoints the independent mediator as a third party while in another situation he refers the dispute to the Minister for Labour and Industrial Relations for his indulgence in appointing the arbitrator and his assessors as the third party. In fact, this practice is quite unusual.

Primarily, the Minister for Home Affairs is acting in a conflict of interest situation. Being the line Minister, he cannot intervene as a third party neither can he appoint or refer the dispute to a third party. Therefore, he should clearly state the third parties mediating and arbitrating the dispute. To accommodate the referral of disputes to the Minister for Labour and Industrial Relations, the Minister for Home Affairs should first of all allow the Police Association to register as an industrial association by reviewing the Police (Amendment) Act of 2003 and the Trade Disputes (Amendment) Act of 2000 so that the legislation is applicable to the Fiji Police Force. Ultimately, this would solve the problem of the appointment of the third parties and the referral of disputes to the third party keeping in mind of how the industrial relations system works.

At this point in time, the dispute resolution machinery in the Fiji Police Force can encounter problems that could impede effective dispute resolution by not having clear cut machinery. It relies on the Minister for Labour and Industrial Relations to appoint an arbitrator. However, it is not clear whether the Labour Minister will use the existing machinery or will make fresh appointments. Whatever it may be, for the matter of transparency, the dispute resolution machinery should be clearly expressed in the grievance procedure for the benefit of the parties in dispute.

6.3 Further Research

Significantly, employment and industrial relations issues are predominately becoming a major area of concern in the Fiji Police Force. Therefore, it is important that further ongoing research is conducted in relation to employment and industrial relations in the Fiji Police Force. Hence, the distinctive advantage of such researches will in fact enhance

a better understanding of the subject matter and in overall it will add value to the field of employment relations.

The Fiji Police Force was somehow neglected by academics but this analysis has set the platform for further research in relation to employment and industrial relations. The force has established a human resources management and industrial relations department and their future development in respect to collective bargaining and the effectiveness of the dispute resolution machinery would be an interesting feature that should attract attention. Other possible areas for research are the police reform and the leadership and change management in the Fiji Police Force.

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Appendix 1

BILL NO. 16 OF 2003

A BILL

(FOR AN ACT TO AMEND THE
POLICE ACT ENACTED) by the
Parliament of the Fiji Islands -

1. This Act may be cited as the Police (Amendment) Act 2003.

Section -45 amended

2. Section 45 of the Police Act (Cap. 85) is amended

- (a) in subsection (1) by adding "subject to subsection (3)" at the end of that subsection, and
- (b) by repealing subsection (3) and substituting the following subsections"(3) Notwithstanding subsections (1) and (2), the Minister may make regulations
 - (a) for the establishment and regulation of a police association (including the regulation of office bearers) for the purposes of enabling police officers to negotiate with the Government matters affecting their pay and conditions of service of the Force, other than discipline and promotion;
 - (h) for the rules and procedures for negotiation of pay or commons of service of the Force;
 - (c) for the rules and procedures relating to the determination of grievance for disputes

Appendix 1

relating to pay and conditions of service of the Force.

- (4) It is unlawful for a police officer or member of a police association to go on strike or to take any industrial action on any dispute relating to pay and conditions of service of the Force.
- (5) A police officer or a member of a police association who contravenes subsection (4) is liable on conviction to a fine of \$1,000.
- (6) A person who instigates or encourages a police officer or a member of a police association to contravene subsection (4) commits an offence and is liable on conviction to a fine of \$2,000.

*Attorney
General's
Chambers*

J-7 Floors, Suvavou House SUVA

September, 2003

NOTE

(This note is not part of the Bill and is only intended to indicate its general effect) 1.0

INTRODUCTION

The Bill seeks to amend the Police Act to allow the members of the Police Force to form an association for the purpose of advancing the general working conditions (including remuneration) with the Government.

2.0 CLAUSES

Clause 1 - provides for the short title.

Appendix 1

Clause 2 - amends section 45 to empower the Minister to make regulations for the establishment of a police association for the purpose of negotiating pay and other condition of service ice of the Force. It will also make it unlawful to undertake strike or any other industrial action arising out of any dispute relating to pay and other conditions of service.

3.0 MINISTERIAL RESPONSIBILITY

The Bill comes under the responsibility of the Minister for Home Affairs

Q. B. BALE Attorney General and Minister for Justice

v. NAREKI Government Printer. Suva. Fiji-2003

Price: 52c

Official Printer Since

1W I 6 A, 2003-1.350

Hansard Parliament Debate-Krishna Datt**Appendix 2**

HON. K. DATT Mr. Speaker, Sir, after the sound and fury at the earlier adjournment motion, I thought all the fury on the other side would have stopped, but I see its of that are still whimpering there and some of it have been transferred upstairs and further up. It has gone through the tube and it continues to blow.

Mr. Speaker, Sir, I rise to make a very brief intervention this late afternoon. This as to do with some historical record which I wish to set right. The honourable Minister's contribution tended to indicate and made reference to say (which almost by implication) that i.e. original of this particular proposition or amendment springs from the Senate Committees effort on the Fiji Police Force, chaired by the late Honourable senator Shardha Nand in 1996. . .

Mr. Speaker, Sir, I have been a long time trade unionist as well, and I know that the Fiji Trade Union Congress had been around for a very long time, agitating for the police officers to see that they have a single association. Not only that, they had actually been arguing for a Trade Union Movement for police officers of all ranks, and I think it was in i.e. late 1970s that the Fiji Trade Union Congress in fact submitted a written paper to the and again I am depending on my recollection) Labour Advisory Board at the time commending that the Government give permission for such an organisation in the Police force to exist.

The Government had then rejected the idea again on the grounds that have been mentioned today in this debate as well on the grounds of national security and other reasons which were advanced at that time. I am glad. Sir. after a long nation; agitation of the trade union movement itself. together with the concerns expressed through the police officers themselves finally, an amendment is being made which is not as encompassing as we would like to see it, but at least it is a step forward and it is for that reason that we have decided to support maybe in time to come, we will have a fully-fledged organisation that exists in the United States and elsewhere allowing them freedom to strike and all other aspects that exist and other developed countries. We want to take this in stages and I agree with the Minister hat maybe the right to strike at this stage will be a bit too early for us.

Mr. Speaker, Sir, the burden of responsibility, arguing for the police officers for all , those years had rested largely on the shoulders of the public 'sector' union and as one of the leaders of the public sector unions in those days. I know for sure that on a number of occasions, we have had to make a case for the police officers as well, even in things like negotiating for a caller for them. I am glad that if the public sector unions are currently still exercising that right, and I am sure they are, those responsibilities will now be on the shoulders of the new association which when the questions raised by my colleagues here are fully answered, will be within the collective bargaining rights which the Minister intends to provide to these people.

Hansard Parliament Debate-Krishna Datt

Mr. Speaker, Sir, on the contributions that are being made on the other side, it has been very interesting to hear that a number of contributions, almost all of them, talked with great warmth. Now that Government on the other side has found a solution to improve the "working conditions and the pay conditions of the police officers, the assumption there Sir is that without a workers' organisation, work and pay conditions, improvements in these conditions are not possible. That is the assumption on which those arguments are based, and that is very heartening to note, coming from a Government which is constantly deriving the trade union movement. That has been a very healthy change and even the honourable Member for Lomaivuna/Namosi/Kadavu Open (T. Young) who ought to know better, coming from the Trade Union Movement himself, also made these points very vehemently and I commend him for finally acknowledging that trade union movements do indeed play a very useful role on workers' organisations in improving the workers.

You may also want to read the *Hansard* the next morning, honourable Young to read exactly what you have said because some of the things that you have said will come back and haunt you. Let me remind you of one thing, subject to my looking at the *Hansard* record as well. I overheard you to say that the association should also be critical of itself, "criticise its own members", were the words that you used.

Mr. Speaker, Sir, he would know very well when members pay from their own pay packet and contribute to their own organisation, no Secretary-General then turns around and bites its own members, it is going to stay there after the next AGM. You will do well to have a look at that and try some correction in the *Hansard*.

Having said that, the honourable Member for Lomaivuna/Namosi/Kadavu Open (T. Young) did make a very useful comment and I want to commend him whenever it is due. He talked about the possibility of a civilian leadership to the organisation, either to the Secretary-General or whatever position which is feasible under the regulations that the Minister intends to invoke. I think that would be a good idea, given the context of this transition from a ranked officers' organisation, with its various categories, moving towards a mobile uniform association where all ranks would meet together. There will be a considerable hangover of saluting each other from this organisation to one where saluting would perhaps no longer be required because you sit there as equals. That transition is not going to be easy for a disciplined force and the possibility of ranked officers becoming office bearers in the new association and therefore continuing the chain of command in an association which is supposed to be free is going to be a difficult job and one that perhaps will have to be assisted in management and it is at that place that the suggestion that the honourable has mooted, about a civilian providing assistance in this area, could be quite helpful.

Mr. Speaker, Sir, let me make one other small point; assuming and agreeing with all the other matters that have been raised and supporting them, I feel a bit uncomfortable with what has been suggested by the Minister that in the event of

Hansard Parliament Debate-Krishna Datt

differences between the association and the Minister, the Minister would then refer the unresolved matters to an arbitrator "vi someone else ..

Sir, : find in there the possibility of difficulties on the part of the association negotiating with the Minister who may prove to be very difficult, and one of the things we have to be very concerned about in making laws or regulations is that, we must not assume. that our own leadership style `is the 'one' that the next Minister will carry forward. This Minister, Sir, is very amicable. He has been very nice to the police officers and has taken steps to get all these things done but the laws and regulations we make must not be those that reflect the style of the present incumbent. One has to think of the future. What if one day we have a difficult Minister who does not want to refer the matter any further or makes it cumbersome, or refers it to someone that he wants, not an arbitrator? Judging from the contribution that the Minister has made, it be anyone, it need not be an arbitrator.

What then would be the point of a Minister referring a matter to one of his favoured colleagues and say "Can you make this decision on behalf of this; can you refer to it?" A hint is enough when someone like a Minister is concerned. I hope this does not happen and I am absolutely certain it will not happen during the current term of this Minister, Sir, but here we are making laws for the future and when the regulation to this effect comes up, I would suggest that greater caution be taken.

I would also recommend very strongly the matter of resolving dispute, when there is a conflict between the Minister and the association representative be made the first subject of negotiation between the Minister in this case and the association's representative before it is finalized.

In other words, what I am saying, Mr. Speaker, Sir, is that the conflict resolution method must be the subject of the first item of discussion on the agenda between the Minister and the government to talk about that so that the resolution of that kind of conflict is in itself a negotiated and an agreed matter rather than one which is imposed by the regulation as is suggested in the Ministers contribution. If what I have said is it to correct, the Minister would have a chance to respond. I have some small concerns about other matters as well. The association may not negotiate with the Minister on matters of promotion and discipline. I have a soft spot for not being able to negotiate on matters of promotion, but on discipline, where a Member has been disciplined and if there is a possibility that the affected party believes that he was victimised and there is a close link or perception of the member that has been victimised and not disciplined, where does he appeal? So, I would think that to totally take discipline area out of this as well would perhaps be put as a matter of discussions between the Associations and the Minister.

With those few words, Mr. Speaker, Sir, I am also quite happy to support the amendment in the belief that it is the first step towards a total freedom of association one day later on.

Hansard Parliament Debate-Krishna Datt

Hon J. W. Cokanasiga Mr. Speaker, Sir, I am beholden to the expressions of support for the Bill from the Members of this House. Although some honourable Members have not expressly indicated their support in their contributions, I do know, Sir, that deep down in their hearts, they welcome the proposed amendments as a step in the right direction and is a progressive step.

Other issues, Sir, not directly related to the Bill have been raised. These are issues being currently addressed through the Job Evaluation Review and the current Defence and Security Review, that will of course identify additional areas that may need the attention of Government.

The amendment proposed, Sir, will create an association divorced from the normal constraints of the Police Force. It permits the creation by regulation of an association, and the association will be free to appoint their own officers subject to any conditions that may be laid down by regulations. The Executive Officers of the association are to be paid for by the association itself, unlike the present arrangements:

A number of issues have also been expressed, Sir, relating to the freedom of officers who will run the association. They shall be free to do as they like within reasonable doubts. It is not intended for the Minister to say how or who shall be appointed. The order will set out the perimeters of appointment.

Sir, some pertinent issues that have been raised regarding training are now being addressed. The question of improvement of working conditions are also being addressed and the Commissioner of Police is now working very hard to try and identify these issues. These issues will be addressed, Sir, subject to the availability of resources that will be made available to the Police Force as time goes on. Sir, I am humbled and most grateful for the expressions of support Members of this House have extended to the Commissioner of Police. It is appreciated not only by Government, but also by the members of the Police Force, for your support has lifted their spirit and morale in these times. I thank the honourable Members for their support and I commend the Bill to the House.

Question put. Motion
agreed to. Bill read a
second time. In
Committee:

Clauses 1, 2, and title and enacting
clause agreed to. The House resumed:

Bill reported without amendment, read a third time and passed.(Act No. of
2003)

Appendix 3

HON. SENATOR F. ANTHONY.- Mr. President, Sir, I rise to make a contribution to the Bill before the House. Sir, this country and its citizens have relied heavily on the Police Force over the last 20 years, to maintain the rule of law and stability in the country. We are all very much aware of the terms and conditions under which our police officers perform their duties and it is needless to say that they work under extremely difficult conditions, particularly When it comes to their welfare, wage conditions and terms and conditions of employment. We have also often heard over the years the criticism about the Police Force from time to time from all quarters. I believe we need to put all this in the right perspective.

Mr. President, Sir, the Police Force's terms and conditions have not been reviewed for many years. In fact, some time ago, when I spoke in this august House, I did give some examples of the conditions that were in place for many years and have continued unchanged, one of them being housing. There are also many other terms and conditions that have remained unchanged. Sir, the Police Force do not currently have an effective voice to represent their concerns and grievances to Government or even to the Commissioner of Police. We acknowledge that, there are in existence three police associations that is supposed to cater for their welfare and efficiency and they are:

- (a) Police Gazetted Officers Association;
- (b) Police Inspector Officers Association; and
- (c) Police Subordinate Officers Association.

These three associations that currently exist under the Police Act and were formed by way of regulations put in place by the honourable Minister for Home Affairs.

Although, these associations have existed for many years (and as I have said), they have proved to be ineffective and have not been able to serve the needs of the police officers over the years. I say this with no disrespect to any of the current office bearers of this association. I recognise that these associations have little, or no, teeth at all to do anything about the plight of police officers.

Mr. President, Sir, over the years, the police officers have made it no secret of their desire to have a trade union or belong to a trade union to look after their needs. I have, over the last few years, being involved personally in meetings with the former Commissioner of Police (Isikia Savua) and the Acting Commissioner of Police (Moses Driver) regarding the formation of a union for the police in this country. In all these meetings, it was indicated that there was support that the police needed to have a union for themselves, to look after

their own interests. I also had numerous meetings with the police officers themselves of all ranks and again. Sir, the support has been overwhelming that there needed to be a union that could look after their interests.

Unfortunately, Mr. President, Sir, we have before us a Bill that does not, in my view, go as far as it ought to have gone. This Bill merely seeks to make amendments to Section 45 of the Police Act, and in particular Section 45(3). In that, Sir, all this Bill does is to take out the words that currently are in that subsection (3) (a), which is to look after the welfare and the efficiency in the Police Force and substitute that with the words "To negotiate with Government, matters affecting their pay and conditions of service. That is the change. Apart from that, subsection 3) (b) and (3) (c) in the Bill are basically to give powers to the Minister to make regulations to formulate rules and procedures for negotiations of pay and conditions of service and to make rules and procedures relating to the determination of grievances and disputes that may arise in regards to their pay and conditions of service.

Mr. President, Sir, I cannot help but make this observation that this Bill, like Mahogany Bill, is one that has very little information or detail and only seeks to give additional powers to the Minister concerned. We are not told or given any idea of what kind of association will be formed. What will be this association about? What will the rules of this association be that the Minister intends to regulate, including the regulation of office bearers? Is the honourable Minister going to determine who can be office bearers, whether there will be elections or appointments made? Is the Minister going to determine what kind of animal this association is going to be? Is the Minister going to decide what kind of rules and procedures that they can adopt for negotiations? We have absolutely no idea what these rules will be and we have absolutely no idea what kind of rules and procedures would be there for the determination of grievances and disputes, but we are asked in this august House to support this Bill and let the Minister do what he wants with the Police Force associations. I believe, Sir, that we are merely passing the buck. We are legislators, we ought to decide under what perimeters these associations should work and, unfortunately, this Bill just simply does not do that. Without those important details, Sir, we have some serious reservations about this Bill.

Mr. President, Sir, let me just say that we need to look at this Bill in its entirety. This is an amendment to Section 45 of the Police Act. However, Section 45(1) states, and I quote for the benefit of this august House:

"It shall not be lawful for a police officer to become, or to be a member of a trade union, or an industrial association as defined in the Trade Union Act, or the Industrial Associations Act, or any association having its objects or one of its objects to control or influence the pay or conditions of service of the Force."

The Bill simply makes one amendment to the end of that, stating: "subject to subsection 3", which is part of the Bill. But the important part to part (1) states clearly that police officers have no right to belong to trade unions or any industrial associations, and that provision, Sir,

remains in the Police Act. This Bill does not in any way amend that provision. The question that arises then, Sir, is what is this association going to be? It cannot be a trade union, it cannot be an industrial association, what is it going to be? Is it going to be a charitable organisation or is it just going to be a club where the police officers can get together, feel good about, but do nothing about? I know honourable Senator Tora would have described this as a toothless tiger or a castrated boom. I am sure he still thinks that way, but, Sir, I believe we need to be honest about what we are giving to the police force. I do not think we should in any way attempt to hoodwink the police officers into thinking that they finally have an organisation that can amply represent them; not only that, but can also represent them effectively. Sir, I do not believe that this association (I do not know what form or shape or what it is going to be registered under), can do anything at all.

Sir, that is an issue that I believe this Bill ought to have covered what this association is all about, or is it just a tea club. We do not know and this Bill does not say, but the Act does say that it cannot be a trade union and it cannot be an industrial association.

Sir, the honourable Senator Takiveikata, in introducing the Bill stated and as I quote from page 4387 of yesterday's *Daily Hansard*:

"The right to form associations and be members of any is guaranteed right under the Constitution. "

The previous speaker before me also talked about the provisions of the Constitution, in fact, without the entire provisions of the Constitution. I believe that we should look at those provisions seriously.

Sir, to continue, Section 33(1) of the Constitution reads and I quote:

"Workers have the right to form and join trade unions (not a tea party or club), and employers have the right to form and join employers' organisations. "

Sir, I repeat, trade unions, not a tea party or club.

HON. SENATOR A.V. TORA.- Read on!

HON. SENATOR F. ANTHONY.- I will read, I will read for the benefit of the honourable Senator Tora, Sir.

"(2) Workers and employers have the right to organise and bargain collectively."
The police, as I see them, are workers, they are no different from any other workers who are trying to earn a decent living for the welfare of their families and their people.

"(3) Every person has the right to fair labour practices, including humane treatment and proper working conditions. "

That, Sir, applies to the Police Force also, and currently, they are not enjoying that provision of the Constitution. I will go on to the other sections that interest the honourable Senator Tora, Sir.

"(4) A law may limit, or may authorise limitations of, the rights set out in..."

Sir, here, I emphasise the words, "A law may limit..."; it does not say, "A lay may deny...". There is a difference between limiting the rights and denying the rights of workers in this country, simple English that some people do not wish to understand.

- "(a) in the interests of national security, public safety, public order, public morality or public health;
- (b) for the purpose of protecting the rights and freedoms of others; or
- (c) for the purpose of imposing reasonable restrictions on members of a disciplined Force;

but (this is the most important part that needs to be understood) only to the extent that the limitation is reasonable and justifiable in a free and democratic society."

The limitations are only to the extent. The Constitution does not say one can deny the discipline forces the right to belong to a trade union. It says that their rights as trade unions may be limited to the extent that is reasonable and justifiable in a democratic society. That is what it says, Sir, and I believe that that needs to be understood very well.

Sir, this Bill does not give the Police the right to join a trade union. It is their constitutional right to belong to a trade union and this Bill does not do that. Section 45(1) of the Police Act actually denies that right, it is in direct conflict with Section 33 of the Constitution. This was an opportunity to fix that problem, unfortunately, we have decided to do so. But to hoodwink the Police Force into believing that they now have an organisation that can represent them, God knows what that organisation is.

Not only the Police Act, but the Trade Disputes Act deals with all disputes of grievances that affect the workers of this country. Except the Police Force, Prisons and the Military, Sir, Section 1(2) of the Trade Disputes Act, Cap. 97 also denies the Police Force the right to access the disputes procedures.

The Trade Unions Act (Cap. 96), Section 2(2), again denies the Police Force to register an organisation under the Trade Union Act. All these are in violation of Section 33 of the Constitution. Yet, we wish to turn a blind eye to that and say, "We will take one step at a

time". One step is not just good enough. We need to comply fully with the Constitution and the provisions of the Constitution.

Sir, yesterday, in the debate of the Mahogany Bill, the honourable Senator Dr. Ali did and quite rightly say that we need to pay heed to international conventions, they are very important. Again, Sir, I would like to point out that Fiji has ratified all International Labour Organisations (ILO) Conventions and in particular, Convention 87 which deals with the Freedom of Association and Protection of Rights to Organise Conventions, 1948. This Convention was ratified by the Fiji Government on 25th March, 2002. In fact, this Convention is about 53 years old already, there is nothing new. Article 3 of that Convention, Sir, reads and I quote:

"Workers and employers organisations shall have the right to draw up their Constitution and rules to elect their representatives in full freedom, to organise their administration and activities and to formulate their programmes. "

Sir, that again is in line with Section 33 of the Constitution.

Again, this Bill seeks to regulate, this Bill actually regulates how and what this association is going to be and what their rules will be. The Police will not decide what their rules will be, they will not decide freely how and who their office bearers of this association will be, the Minister will decide. The Minister will decide on the rules and procedures of the association, the Minister will decide on these when this association goes to the Commissioner of Police or to Government to negotiate. The Minister will also decide, that if the negotiation do not work out, what the associations should do. Is that in full freedom of the police officers?

Here, we have a situation, Sir, the Minister says; "I will give you an association; you wanted one, I will give it to you but I will decide how you behave and if I do not like the way you behave I will change the rules. I will change the goal posts". We all know what these regulations are, the Minister can make them and he can amend them. There is absolutely no accountability to Parliament on the regulations or even to the Constitution for that matter. Sir, are we trying to play a joke on our police officers? Giving them a sense of protection and then say; "Look I will control your organisation, I will decide how you behave and if I do not like how you behave, I will change the rules, you watch it". Sir, this is absolutely a joke, this is a joke and a sick one at that too, I agree with the honourable Senator Dr. Emberson-Bain.

Sir, the honourable Senator Tora will tell you that any organisation or trade union can never sit on equal terms with any employer and negotiate if it is not independent, if the members are not in control of the organisation and if it does not have any muscle. This Bill gives no muscle to the association to effectively negotiate at all. In fact, we do not even know what the rules will be. It gives nothing, it gives no muscle to the association to negotiate and look after the interest of the police officers. Sir, if I may say this Bill is no different from the existing associations that are there. The only thing we have put in is that now they can negotiate pay and terms and conditions of employment. That is all that is said

but they have not been given the power to do that. The purpose is to fool them, that is what you have done and I challenge any honourable Senator to show me in this Bill, where the rights of these police officers and the rights of the association are protected. Where? Nowhere in this Bill is there anything that protects the rights of the police officers.

HON. SENATOR P. LESAVUA.- It is sad.

HON. SENATOR F. ANTHONY.- All this Bill does is to say to the police officers; "We give you an association but we will still control it, we will decide how you behave". That is simply not good enough.

Sir, in formulating this Bill, let me say there was absolutely no consultation with the police officers, the trade union movement, the employers federation and no consultation with the Labour Advisory Board. These are workers' issues, these are not something from outer space and there has absolutely been no consultation, particularly, there has been no consultation with the very people that this Bill seeks to defend, protect or give them some right. There has absolutely been nothing and that is not good enough.

Sir, some honourable Senators here, seem to believe that police officers are not workers, they are not human beings, they do not deserve these rights and they get offended when they hear that police officers are human beings and need to be protected as workers. Sir, police Officers also have families, just in case some do not know. They work, they are police officers not for the love of simply just being police officers, they are there to provide for their families too. We have an obligation to ensure that they are given a fair treatment and that they are not ^{di}scriminated against in any way just like every other worker in this country. Not only that, Sir, as legislators the last thing we ought to try and do is to give them a false sense of security, ^{sa}ying that this Bill is their saviour which is not and for the reasons that I have given.

The limitations are only to the extent. The Constitution does not say one can deny the discipline forces the right to belong to a trade union. It says that their rights as trade unions may be limited to the extent that is reasonable and justifiable in a democratic society. That is what it says, Sir, and I believe that that needs to be understood very well.

Sir, this Bill does not give the Police the right to join a trade union. It is their constitutional right to belong to a trade union and this Bill does not do that. Section 45(1) of the Police Act actually denies that right, it is in direct conflict with Section 33 of the Constitution. This was an opportunity to fix that problem, unfortunately, we have decided to do so. But to hoodwink the Police Force into believing that they now have an organisation that can represent them, God knows what that organisation is.

Not only the Police Act, but the Trade Disputes Act deals with all disputes of grievances that affect the workers of this country. Except the Police Force, Prisons and the Military, Sir, Section 1(2) of the Trade Disputes Act, Cap. 97 also denies the Police Force the right to access the disputes procedures.

The Trade Unions Act (Cap. 96), Section 2(2), again denies the Police Force to register an organisation under the Trade Union Act. All these are in violation of Section 33 of the Constitution. Yet, we wish to turn a blind eye to that and say, "We will take one step at a time". One step is not just good enough. We need to comply fully with the Constitution and the provisions of the Constitution.

Sir, yesterday, in the debate of the Mahogany Bill, the honourable Senator Dr. Ali did and quite rightly say that we need to pay heed to international conventions, they are very important. Again, Sir, I would like to point out that Fiji has ratified all International Labour Organisations (ILO) Conventions and in particular, Convention 87 which deals with the Freedom of Association and Protection of Rights to Organise Conventions, 1948. This Convention was ratified by the Fiji Government on 25th March, 2002. In fact, this Convention is about 53 years old already, there is nothing new. Article 3 of that Convention, Sir, reads and I quote:

"Workers and employers organisations shall have the right to draw up their Constitution and rules to elect their representatives in full freedom, to organise their administration and activities and to formulate their programmes. "

Sir, that again is in line with Section 33 of the Constitution.

Again, this Bill seeks to regulate, this Bill actually regulates how and what this association is going to be and what their rules will be. The Police will not decide what their rules will be, they will not decide freely how and who their office bearers of this association will be, the Minister will decide. The Minister will decide on the rules and procedures of the association, the Minister will decide on these when this association goes to the Commissioner of Police or to Government to negotiate. The Minister will also decide, that if the negotiations do not work out, what the associations should do. Is that in full freedom of the police officers?

Here, we have a situation, Sir, the Minister says; "I will give you an association; you wanted one, I will give it to you but I will decide how you behave and if I do not like the way you behave I will change the rules. I will change the goal posts". We all know what these regulations are, the Minister can make them and he can amend them. There is absolutely no accountability to Parliament on the regulations or even to the Constitution for that matter. Sir, are we trying to play a joke on our police officers? Giving them a sense of protection and then say; "Look I will control your organisation, I will decide how you behave and if I do not like how you behave, I will change the rules, you watch it". Sir, this is absolutely a joke, this is a joke and a sick one at that too, I agree with the honourable Senator Dr. Emberson-Bain.

Sir, the honourable Senator Tora will tell you that any organisation or trade union can never sit on equal terms with any employer and negotiate if it is not independent, if the members are not in control of the organisation and if it does not have any muscle. This Bill gives no muscle to the association to effectively negotiate at all. In fact, we do not even

know what the ' rules will be. It gives nothing, it gives no muscle to the association to negotiate and look after the interest of the police officers. Sir, if I may say this Bill is no different from the existing associations that are there. The only thing we have put in is that now they can negotiate pay and terms and conditions of employment. That is all that is said but they have not been given the power to do that. The purpose is to fool them, that is what you have done and I challenge any honourable Senator to show me in this Bill, where the rights of these police officers and the rights of the association are protected. Where? Nowhere in this Bill is there anything that protects the rights of the police officers.

HON. SENATOR P. LESAVUA.- It is sad.

HON. SENATOR F. ANTHONY.- All this Bill does is to say to the police officers; "We give you an association but we will still control it, we will decide how you behave". That is simply not good enough.

Sir, in formulating this Bill, let me say there was absolutely no consultation with the police officers, the trade union movement, the employers federation and no consultation with the Labour Advisory Board. These are workers' issues, these are not something from outer space and there has absolutely been no consultation, particularly, there has been no consultation with the very people that this Bill seeks to defend, protect or give them some right. There has absolutely been nothing and that is not good enough.

Sir, some honourable Senators here, seem to believe that police officers are not workers, they are not human beings, they do not deserve these rights and they get offended when they hear that police officers are human beings and need to be protected as workers. Sir, police officers also have families, just in case some do not know. They work, they are police officers not for the love of simply just being police officers, they are there to provide for their families too. We have an obligation to ensure that they are given a fair treatment and that they are not discriminated against in any way just like every other worker in this country. Not only that, Sir, ^but as legislators the last thing we ought to try and do is to give them a false sense of security, saying that this Bill is their saviour which is not and for the reasons that I have given.

HON. SENATOR RATU J. RAYAWA.- All that time, what have you done while you were in Government?

HON. SENATOR P. LESAVUA.- Do not ask, we were only one year in government, HON. SENATOR F. ANTHONY.- Sir, with all the rules that will be promulgated or regulations by the Minister that this association will have any teeth effectively to represent the Police Force. Sir, I do not understand why the Government of the day cannot allow the police to form or join a credit union? Why it cannot allow the police the right to fully administer their own association? Why it cannot allow the police to elect freely its own office bearers? Why it cannot allow the police to have access to the disputes settling machinery under the current Trade Disputes Act? Sir, I simply do not understand why this Government does not wish to give that right as they have given to every other worker in this country.

Sir, the Bill also talks about this association having the right only to negotiate with Government matters affecting pay and conditions of service other than discipline and promotion. Sir, over the years, we are very much aware that the Police Force has been demoralised because of unfair actions taken on officers, victimisation on some officers and also some officers being by passed on promotions unfairly. Why is it that this Bill does not give the association the [right. to](#) take up grievances in relation to unfair disciplinary action taken on any police officer, any matter in regard to unfair promotions or bypassing of any officer for promotion in any circumstance. Why are police officers being denied that right? They are very fundamental issues insofar as terms and conditions go and we are all aware over the years of the victimisation that has taken place. We are aware of many able police officers who have worked honestly and diligently being bypassed for promotions. We are aware of all these, yet, we say that they do not have a voice in regard to that, you cannot talk about it. Is that fair? How do we sit here with a straight face and say that it is fair? That is not fair at all, I believe the association, any organisation that represents, they must have the right to take up grievances through the normal procedures. Sir, this Bill does not give that right.

Quite apart from this, Sir, may I also point out, when we talk about international conventions, that the *Cotonou Agreement* that Fiji is a signatory to also recognises core labour conventions and the respect for core labour conventions by member states.

Sir, Convention 87; the Freedom of Association and the Protection to Organise Collective Bargaining is one of those core conventions which Fiji has ratified. I believe we also have an obligation under the *Cotonou Agreement* to respect that convention and this Bill does not in any way comply with the core convention.

Sir, currently if workers in this country have a grievance that cannot be resolved between the employer and the union, it is passed or reported to the Ministry of Labour and there is a dispute settling machinery under the provisions of the Trade Disputes Act. These provisions have worked reasonably well for industrial relations in this country over many years and these include Disputes of Rights, where the dispute is referred to a Disputes Committee appointed by th^e Permanent Secretary and if that cannot be resolved, it is referred to the Permanent Arbitrator for a determination. Sir, Disputes of Interests is again referred to conciliation and if it is not resolved, it is referred to the Arbitrator for a resolution.

Sir, similarly, the Police Force ought to have been given access to this dispute settling machinery under the Trade Disputes Act and that would have meant an amendment to the Trade Disputes Act and [also.to](#) the Trade Union Act. Unfortunately, there were minor amendments to both those Acts and that is not done. What we seek to do here is to set a new set of rules for handling disputes for the Police Force.

Sir, the Civil Service falls under the Trade Disputes Act. They also report disputes under the Trade Disputes Act and follow the procedures, but I do not see why the Police Force could not be accorded the same rights.

Sir, now I will touch on the issue of the right to strike. As any worker in this country and so indeed the world over, the right to strike is a fundamental right. However, Sir, I concede that under the provisions of the Constitution, and in particular the provision the honourable Senator Apisai Tora might want to hear is the extent of limitation for the purpose of imposing reasonable restrictions on members of the disciplined force. Sir, I concede that maybe on the right to strike, there can be a limitation to that because the members are in a disciplined force and also in the interest of national security. Sir, I have no problems with that, that limitation is or maybe reasonable. However, I do not agree that a total denial of the Police Force workers to join the union constitutes that limitation. In fact, that is a direct breach of that provision. I am not going to push the argument that they ought to have the right to strike. As I have said, our provisions in the Constitution may well have taken care of that.

Sir, in concluding, I would like to say that this Bill has not been well thought out. It has not given much detail or information as to what kind of animal we are trying to create in this new association, but what we do know is that it is not going to be a trade union. It is not going to be an industrial association and it will not have any rights as other workers in this country have.

Sir, the provisions that allow the honourable Minister to make the rule are a direct interference into the running of the association and as I have said, the Police have a right to have their own association. They have a right to run their own association. In fact, they are the ones who would fight, not Government and why should Government have the right to tell them how they should run their organisation? This interference is in breach of both Section 33 of the Constitution and the ILO Convention 87.

Sir, we need to seriously re-look at these provisions to ensure that the rights of the Police are fully protected, and not only rights in a Bill or legislation but in a position to exercise those rights fully. Sir, we have for too long paid lip service to the Police Force. On a number of occasions, we have spoken about the plight of the Police Force and we have done very little. The morale of the Force has been low. I know the new Commissioner of Police has got a huge task in front of him to uplift the morale of the Force to ensure that the Police Force are well looked after and I agree with the previous speaker before me who said; "A happy workforce will bring about more efficiency and in fact better health to the police officers". Unfortunately, that is not so. We need to genuinely look at the plight of the police officers if we are to expect greater efficiency, if we are to expect greater commitment of the officers in the Force.

Sir, I have also been recently told (and this is where the morale issue comes in), that the Special Constables I talked about in my previous contributions on the Police Force in this august House were being paid 108 hours a fortnight. Just recently, arbitrarily, that has been reduced to 90 hours and I suspect that has been reduced because there has been some back pay due to them for two per cent that was to be paid some weeks ago and has not been paid. Are they going to be short-changed in the back pay that they are going to receive in their Cost of Living Adjustment? Already, they earn miserable wages and yet we have a situation where their terms are being made to continually cheat them of their dues. These are the kind of

things that affect the morale of the police officers. They work long hours. They even do not get paid overtime, yet for what little they earn, we have a situation where we try and cheat them even of that. I do not believe that is fair. I do not believe that that is just and it is for these reasons.

We may also recall the ACP Meeting which was held in Nadi where the police officers worked day and night. When it came for them to be paid their wages, overtime and allowances, they had to wait for months on end. They have no voice. They do not have anyone to whom they can go and complain to that they have not been paid. They have to patiently wait. Why? Because we tend to abuse the fact that they are a disciplined force, therefore they ought to just keep quiet, be disciplined and wait until we want to pay them. That is not discipline. I believe the administration and the Government also ought to show some discipline when it comes to dealing with police officers and when it comes to dealing with their pay, it is for these reasons that the Police Force needs a union, not a tea party club to look after their interests. They need a union that can take these matters up, that can deal with them effectively and if we have an undisciplined administration in place that they can take this matter up to arbitration and get justice. That is what a union is all about and unfortunately this Bill does not do that.

Sir, if any of we Senators did not get our cheques on time, we would have a huge problem down there. Sir, those cheques will be equivalent to more than a few months of their wages, yet, when we talk about their mere wages not being paid, some people are not happy about it. Perhaps we ought to tell the Accounts Section to withhold some cheques and see what we get from some people here. Only then they will understand what I am talking about the Police Force.

Sir, with that contribution, I thank you for the time given to me to speak and I thank the Senators for staying awake and listening to what I have had to say.

HON. SENATOR RATU K.R. VAKAWALETABUA.- Mr. President, Sir, I rise in support of the Police (Amendment) Bill, Bill No. 16 of 2003.

I support the Bill because it respects the right of the Police Force to negotiate for better pay and better work conditions. I also support this Bill because it requires loyalty and responsibility from the Police Force by not allowing them to go on strike over wages and work conditions. This Bill must be supported because it allows Police Force and the Government to work together to take care of their interests and to give their best services to this country.

Police (Amendment) Act 2003

FIJI ISLANDS

POLICE (AMENDMENT) ACT 2003

ACT NO. 16 OF 2003

I assent.

[L. S.]

J. I. ULUIVUDA
President

[6 November, 2003]

AN ACT

TO AMEND THE POLICE ACT

ENACTED by the Parliament of the Fiji Islands-

Part 1 - PRELIMINARY

Short title

1. This Act may be cited as the Police (Amendment) Act 2003.

Section 45 amended

2. Section 45 of the Police Act (Cap. 85) is amended-

(a) in subsection (1) by adding "subject to subsection (3)" at the end of that subsection;
and

(b) by repealing subsection (3) and substituting the following subsections-

"(3) Notwithstanding subsections (1) and (2), the Minister may make regulations-

(a) for the establishment and regulation of a police association (including the regulation of office bearers) for the purposes of enabling police officers to negotiate with the

Appendix 4

Government matters affecting their pay and conditions of service of the Force, other than discipline and promotion;

(b) for the rules and procedures for negotiation of pay or conditions of service of the Force;

(c) for the rules and procedures relating to the determination of grievance for disputes relating to pay and conditions of service of the Force.

(4) It is unlawful for a police officer or member of a police association to go on strike or to take any industrial action on any dispute relating to pay and conditions of service of the Force.

(5) A police officer or a member of a police association who contravenes subsection (4) is liable on conviction to a fine of \$1,000.

(6) A person who instigates or encourages a police officer or a member of a police association to contravene subsection (4) commits an offence and is liable on conviction to a fine of \$2,000."

Passed by the House of Representatives this 16th day of October 2003.

Passed by the Senate this 29th day of October 2003.

POLICE ASSOCIATION REGULATIONS 2006

ARRANGEMENT OF REGULATIONS

1. Citation
2. Interpretation
3. Establishment and objects of Association
4. Membership of Association
5. Establishment of Executive Council
6. Constitution of Executive Council
7. Election of members of Executive Council
8. Meetings
9. Meeting procedures
10. Committees
11. Attendances at meetings official duties
12. Procedure for negotiation of pay or conditions of service
13. Representations by Executive Council
14. Procedures for negotiations
15. Determination of disputes
16. Appointment of and determination by arbitrator
17. Revocation

POLICE ACT

(CAP. 85)

POLICE ASSOCIATION REGULATIONS 2006

IN exercise of the powers conferred upon me by section 45 of the Police Act, I make these Regulations –

Citation

1. These Regulations may be cited as the Police Association Regulations 2006.

Interpretation

2. In these Regulations, unless the context otherwise requires –

“Association” means the Police Association established by regulation 3;

“Executive Council” means the Executive Council of the Association established by regulation 5.

Establishment and objects of Association

3. – (1) This provision establishes the Police Association with the following objects –

- (a) to enable police officers to bring to the notice of Government any matter affecting their welfare and efficiency; and
- (b) to provide professionalism in policing and to negotiate with the Government on any matters affecting their pay and conditions of service within the Force.

(2) The object of the Association or any matter brought by it shall not cover or relate to any matter of discipline and promotion within the Force.

Membership of Association

4. (1) Subject to sub-regulation (2), all police officers, including special constables, may be members of the Association.

(2) The Commissioner, Deputy Commissioner and the Assistant Commissioners of Police shall not be members of the Association.

(3) A civilian employee of the Force shall not become a member of the Association.

Establishment of Executive Council

5. This provision establishes the Executive Council as the governing body of the Association with authority, in the name of the Association, to exercise and perform function conferred upon it by these Regulations or by resolutions of the Association.

Constitution of Executive Council

6. – (1) The members of the Executive Council consist of the following members of the Association –

- (a) the President;
- (b) four Vice Presidents;
- (c) the Secretary; and
- (d) the Treasurer.

(2) The members of the Association within their respective Western, Eastern, Northern and Central Divisions shall each elect a Vice President for the purposes of sub-regulation (1)(b).

Election of members of Executive Council

7. – (1) The first election of the Executive Council shall be held within 3 months of the commencement of these Regulations, and thereafter elections shall be held biennially, in the manner provided by this provision.

(2) All elections of members of the Executive Council are to be conducted by secret ballot subject to the following –

- (a) every person in a place of voting shall maintain and aid in maintaining the secrecy of the voting in that place and shall not, before the poll is closed, disclose, unless lawfully authorised, to any other person, the name or other means of identification of any voter, whether or not such voter has applied for a ballot paper or has voted;

- (b) no person shall interfere with or attempt to interfere with a voter when marking his ballot paper, or otherwise attempt to obtain, in the polling station or other place of voting, information as to the candidate for whom any voter in such station or place has voted or is about to vote;
- (c) no person shall communicate at any time to any other person any information obtained in the polling station or other place of voting as to the candidate for whom any voter in such station or place has voted or is about to vote; or
- (d) a person present at the counting of votes shall maintain and aid in maintaining the secrecy of the voting and shall not disclose any information obtained at such counting as to the candidate for whom any vote is given in any particular ballot paper; or
- (e) no person shall directly or indirectly induce any voter to display his ballot paper after he has marked the same so as to be made known to any other person the name of the candidate for or against whom he has so marked his vote.

(3) Any person who contravenes a provision of sub-regulation (2) commits an offence and is liable on conviction to a fine not exceeding \$300.

(4) A member of the Association has the right to vote at the election of members of the Executive Council and shall vote for one candidate each from the candidates nominated to be elected respectively, as President, Secretary or Treasurer of the Association.

(5) In respect of voting for Vice Presidents, a member registered for each Division has the right to vote for one Vice President in respect of the member's Division, and the member shall vote for one candidate only from the candidates nominated to be elected as Vice President of that Division.

(6) Subject to the provisions of these Regulations, the Executive Council may make rules as to the mode of elections of members, the filling of casual vacancies and other relevant matters.

Meetings

8. – (1) The Executive Council shall hold An Annual General meeting of the Association on a date, not later than 31st January,¹ to be fixed by the Executive Council approved by the Commissioner.

(2) The Executive Council may hold not more than 3 meetings in a year, including the Annual General Meeting.

(3) Any meeting held under sub-regulation (1) or (2) shall be conducted in one day only.

Meeting procedures

9. - (1) The President shall preside at all meetings of the Executive Council or the Association, and if the President is unavailable, a Vice President appointed in writing by the President, shall preside.

(2) The President or Vice President presiding at any meeting held in accordance with these Regulations has an ordinary vote, and in the case of equality of votes has a casting vote.

(3) The quorum at a meeting of the Executive Council is 4 members.

(4) The quorum at a meeting of the Association is a majority of all the members, by way of personal attendance or by duly signed proxy.

(5) Subject to the provisions of these Regulations, the Executive Council may regulate its own procedure.

(6) The secretary of the Executive Council shall keep and maintain minutes of all meetings and shall, within 21 days before any meeting, forward two copies of those minutes to the Commissioner and one copy to each member of the Executive Council.

Committees

10. (1) The Executive Council may establish and appoint committees or subcommittees.

Attendances at meetings official duties

11. Except where a member of the Association is required for duty for which no substitute is available, leave shall be given for attendance at all meetings duly held under the provisions of these Regulations and attendance at such meeting is deemed an occasion of official duty.

Suspension of Executive Council

12. – (1) The Commissioner, with the prior approval of the Minister, may, if he considers that it is in the interests of the Force, suspend the Executive Council for such period as he thinks fit.

(2) The Commissioner may, with the approval of the Minister, revoke the suspension in writing.

(3) If the Executive Council is suspended, any committee or subcommittee appointed by the Executive Council is also suspended.

Representations by Executive Council

13. – (1) The Executive Council may, make written submissions or representations to the Minister through the Commissioner.

(2) Upon receiving any submissions or representations, the Minister shall consider the submissions or representations and provide a written response to the Association through the Commissioner.

(3) Any communication made under this regulation shall be made in accordance with the standing orders of the Force.

(4) Subject to the provisions of these Regulations, no member of the Executive Council or the Association shall make public comments on any submission or representations made to the Minister including matters relating to the discipline, promotion, operations and resource allocations of the Force.

Procedures for negotiations

14. – (1) Any matter relating to the pay and conditions of service of the Force shall be referred by the Association to the Commissioner who shall forward it together with his recommendations to the Minister.

(2) The Minister must make a determination on any matter referred to him by the Commissioner under this regulation and shall make his decision including the reasons for the decision known through the Commissioner.

(3) If the Association is not satisfied with a decision of the Minister, it shall enter into negotiations on the matter with the Commissioner, who shall represent the Minister in such negotiations, on the matter and both parties must act in good faith to resolve the matter within a reasonable time.

(4) Where it has become clear that the negotiation has reached a deadlock and there exists an apparent dispute on the matter, the dispute shall be determined in accordance with regulation 15.

Determination of disputes

15. – (1) Subject to sub-regulation (3), where there is an apparent dispute under regulation 14(4), the dispute shall be referred by the Commissioner to the Minister.

(2) Upon receiving a dispute under sub regulation (1), the Minister shall, in consultation with the Association, appoint an independent mediator who shall, within a period of 21 days from the date of appointment, mediate between the parties with the view of resolving the dispute.

(3) Where both parties consider that mediation will not effectively resolve the dispute, or where mediation has been pursued unsuccessfully in accordance with sub-regulation (1), the Minister shall, within 21 days of receiving the dispute or after the mediation has been unsuccessfully completed, refer the dispute to an arbitrator appointed in accordance with regulations 16

Appointment of arbitrator

16. – (1) The Minister shall, in writing, request the Minister responsible for labour and industrial relations to appoint an arbitrator for the purpose of determining disputes between the Association and the Government.

(2) Upon receiving a request from the Minister for the appointment of an arbitrator, the Minister responsible for labour and industrial relations shall appoint an independent person with extensive experience in law, economics or industrial relations to be the arbitrator.

(3) An arbitrator appointed under sub regulation (2) may be assisted by one or more assessors nominated by or on behalf of the Minister and an equal number of assessors nominated by or on behalf of the Association, all of whom shall be approved and appointed by the Minister responsible for labour and industrial relations.

(4) Any arbitrator or assessor appointed under this regulation shall be a Fiji resident.

(5) The decision of the Minister responsible for Labour and Industrial Relations under this regulation to appoint an arbitrator or assessor shall be final.

(6) In determining a dispute referred to it by the Minister, the arbitrator may by order:-

- (a) require a party to provide, in writing or otherwise, such particulars relating to the dispute as may be required;
- (b) require a party to appear before it and may allow a party to be represented by another person;
- (c) adduce such evidence as in the circumstances may be considered necessary, without being bound by the procedures, legal forms and rules of evidence of a court of law; and
- (d) Regulate its own procedure for determining disputes.

(7) The arbitrator shall make its determination on any matter referred to it by the Minister without delay and in any case within 28 days from the date of reference unless the Minister, if in his opinion the circumstances of the case require, extend the period of 28 days for such further period as he thinks fit.

Revocation

17. The following Orders are revoked –

- (a) Police (Gazetted Officers) Association Order;
- (b) Police (Inspectorate Officers) Association Order;
- (c) Police (Subordinate Officers) Association Order.

DATED at Suva this _____ day of _____ 2005.

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J. Vosanibola
Minister for Home Affairs, Immigration &
National Disaster Management