



FIJI SITUATION REPORT

VIOLATION OF HUMAN & TRADE UNION RIGHTS IN FIJI

FIJI TRADES UNION CONGRESS

26TH AUGUST, 2011

SUVA, FIJI ISLANDS

1.0 PREAMBLE

Fiji has featured prominently since the military takeover in 2006. The Human and Trade Union Rights has become the specific target of the military regime of recent years since the abrogation of the Constitution in April 2009. It introduced series of Decrees designed to curtail basic trade union rights along with other measures to suppress any dissenting views. The media law promulgated by the regime has stifled the voice of Fiji citizens.

The continued emergence of decrees to restrict trade unions from exercising the universally accepted principles and legislated rights at work has affected employment both in the public and private sector. Loss of jobs and abject poverty is the order of the day. The ordinary workers are facing extremely hard times. The sharp increases in food prices, escalating cost of utilities like power and water have hit the low income earners and the under privileged the hardest. These factors are causing poverty, misery and hardship on a scale never experienced before in our country. It is this level of hardship that is causing the most devastating impact on the lives of ordinary people. To put simply this is where the real betrayal of Fiji's people lies. The regime is projecting itself as a stabilizing force that will help the country to constitutional democracy, community reconciliation and economic reconstruction. Unfortunately, it has failed to win the support of all the people to rebuild the country with their brand of "democracy."

Despite being unelected (2006 military take-over) the regime has made it clear that it intends to hold the reins of government until 2014 or possibly longer. It has made enormous policy interventions that are totally unacceptable by any stretch of imagination particularly by an unelected Government. It has made changes to laws relating to land, labour, taxation, judiciary and public services etc.

Listed below, in brief, are some of our concerns and the actions of government that has led to more obstacles for workers.

2.0 EXISTING LABOUR LAW

As you are aware, since the December 2006 events, the nation has been ruled via issue of decrees. Decree #036 of 2007 introduced the Employment Relations Promulgation [ERP], parts of which came into effect on 01st October 2007, and the rest on 02nd April 2008. This legislation consolidated six other existing Fiji labour laws into one enactment. The ERP 2007 was the end result of approx twelve years of dedicated work by all stakeholders, i.e. the State, Employers Federation and Workers via FTUC. It was welcomed by all Fiji unions and workers Employers. This piece of legislation had passed through the House of Representatives in 2006 and was due to be passed in the Senate on 5th December when the Government take over took place.

Most of the provisions of ERP 2007 were in conformity with ILO conventions and other protocols. There were marked enhancement in some areas of labour laws, particularly human and trade union rights, gender issues and removal of discrimination etc. But certain other provisions of the ERP (e.g. summary dismissal) would have needed more attention in future. The Fiji trade union movement looked forward to participating in the gradual review and upgrading of ERP 2007 in accordance with prevalent and universal fair labour practices via a tripartite approach. This exercise had already started.

3.0 FIJI LABOUR DECREES

However, on 10th April 2009, the Fiji Constitution was abrogated. This was followed by a series of Decrees which have gradually diminished the gains and rights found under ERP 2007. On 14th April 2009, Decree #06 of 2009 titled "State Services Decree" was issued which re-established certain state institutions. However, in the process certain other rights of the workers in the Public Service were curtailed.

The Decree abolished the Public Service Appeal Board [PSAB] which was relied upon by thousands of Public Officers, including Members of FTUC affiliates, for viable, routine or special redress and justice on a host of service benefits. All cases pending before the PSAB were terminated upon the issuance of the Decree #06. A few months later, a new Public Service Disciplinary Tribunal [PSDT] was established but it was restricted to disciplinary cases only.

Also under Decree #06/2009, the retirement age in the Public Service was forcibly reduced from 60 to 55 years. As a result some 2000 existing staff (e.g. teachers, nurses, eneral and unestablished cadre) were forced to retire prematurely, while those at age 52 to 54 years were to follow in the ensuing years. All new recruitment or advancement in the Public Service was to be on contract basis. Since that time, many critical and senior positions have been unilaterally staffed by Military personnel, and the trend continues to this day.

Decree #09 of 2009 titled "Administration of Justice Decree" was next issued on 16th April 2009. While the Judicial Branch was re-established, this Decree also prohibited any lawful challenge to the abrogation of the Fiji Constitution, or any other acts by the Interim Regime from 5th December 2006 to 9th April 2009 incl, and of any new decrees issued thereafter.

On 15th May 2009, Decree #10 of 2009, further amended Section 5 of Decree # 09, by terminating any existing or new challenges and extended its reach to labour tribunals that interpreted or adjudicated on the terms and conditions of service of Public Officers, as follows:

Section 23 Amended

3. Section 23 of the Administration of Justice Decree 2009 is amended by inserting the following new subsection after subsection (4):

*“(5) Any proceeding, claim, dispute or grievance, of any form whatsoever, in the Courts established by the Constitution Amendment Act 1997 (or any previous Constitutions or written law) or in any tribunal established by written law, which purports to or purported to challenge any decision made by the Government or the Public Service Commission between 5th Dec 2006 and 9th April 2009 in relation to the terms and conditions of employment of public officers, including any changes to the remuneration of public officers, shall **wholly terminate immediately** upon the commencement of this Decree and all orders made therein shall **wholly terminate** upon the commencement of this Decree.”*

Via this decree, dozens of existing or pending grievances by union members were terminated by issue of certificates without resolution. Nevertheless, as the dispute settlement provisions of ERP 2007 continued to exist, many workers relied on them for relief on individual cases with some success.

However, due to the actions of the Govt, the Fiji unions were unable to negotiate any changes or upgrading to the benefits of workers via collective bargaining. At the same time, on 15th May 2009, the Fiji Reserve Bank devalued the Fiji dollar by **20%**. The flow on and nett results further aggravated the living standards of the workers, the effects of which are still manifested in their lives in many forms.

3.1 DECREE # 25 of 2009

The issuance of the Certificate from the Registrar serves as the final document, concluding matters raised by parties or unions in this case against any decision by the Public Service Commission which is the administrating authority for working conditions in the public service. Therefore, any decision by the Registrar is not subject to legal challenge at any court of law in Fiji.

3.2 DECREE # 14 of 2010

The Govt was involved in ongoing structural reforms for many years. Most of these were at the instigation of international lenders, such as the World Bank. In order to remove any hindrance to their reform programmes, Decree #014 of 2010 was promulgated on 17th February 2010, whereby the Govt, its statutory bodies and other entities, were given a free hand to make structural changes without any challenges. Whereas previous decrees applied to Public Service only, Decree #14/2010

now extended to other public sector entities, and thus to a larger union population. The Govt and several other public institutions have already taken advantage of this license and introduced changes that cannot be challenged.

Nevertheless, the trade unions and workers of Fiji continued to rely and make proper use of the provisions of the ERP Institutions, i.e. its Mediation Services, the ER Tribunal and ER Court, largely on individual basis. Despite the restrictions imposed by other decrees, some semblance of trade union rights and the pursuit of justice and freedom were still available. In face of the restrictions described above, both public and private sector unions were making good grounds based largely on merits and legality of their grievance or dispute cases.

3.3 DECREE # 21 of 2011

However, this year saw the sudden issue of Decree #021 of 2011 on 16th May 2011 which introduced two amendments to ERP 2007 itself. This action was arbitrary and without any consultations with other stakeholders, despite the fact the talks among the social partners were pending on the general review of the ERP legislation. The spirit of good faith bargaining had been missing from Govt's agenda for some time, and now it was beyond reach.

By changing Section 3 of ERP 2007, the Govt removed thousands of Public Employees (both established and hourly paid) in all sectors from the full protection of ERP 2007. Again, by the second amendment as new Section 266, any claim or report on behalf of workers against the Govt as a whole, that were apprehended, reported or acted on, or still pending before, and by any of the ERP institutions (Mediation, Tribunal or Court) were terminated by the issue of a certificate. Further, any delivered award or order of a Tribunal that was pending were also neutralized.

Once again, by the stroke of a pen, the workers in the largest public sector of the nation were further deprived of their rights to labour laws, collective bargaining and freedom of association. This status is in direct violation of the core ILO conventions and other protocols, and which had formed the basis of justice and fairness found in ERP 2007.

3.4 EFFECT ON PUBLIC SERVICE

The whole of ERP 2007 was declared to be now beyond the reach of thousands of Public Service workers, which included FTUC Affiliates. The only exception to the prohibition above was matters of OHS and Workmen's Compensation, which however operated under their own Acts, and would continue to apply to Public Servants.

To appreciate the extent of the losses, the following is a brief description of the main sections of ERP 2007 which no longer applies to Govt staff:

1. **Fundamental Rights at Work.**
2. **ER Labour Advisory Board and functions of officials.**
3. **Valid Contracts of Service.**
4. **Protection of Wages.**
5. **Rights to Minimum Conditions of Work, i.e. hours of work, holidays, leave etc.**
6. **EEO and Protection from Discrimination.**
7. **Protection from Redundancy or Unfair Treatment.**
8. **Registering of Employment Grievances & Disputes.**
9. **Protection from Sexual Harassment.**
10. **The establishment, registration and operation of trade unions.**
11. **Right to Collective Bargaining & Collective Agreements.**
12. **Right to Challenge Employer's Decisions.**
13. **Right to Report Disputes to Mediation, Tribunal or Labour Court.**
14. **Right to Appeals at all levels.**
15. **Subsidiary ERP legislation no longer applicable.**

The foregoing situation constitutes a stark breach of many ILO Conventions, in particular C087 and C096, which the country had ratified in 1974. The FTUC has taken the initiative to report the Fiji situation, via The International Trade Union Confederation (ITUC), to the current ILC 2011 sessions in Geneva. Similarly, FTUC Affiliate FPSA had reported the arrival of Decree #21/2011 and its draconian effects on its Members onwards via the PSI channels.

The Fiji situation was discussed by the *ILO Committee on Application of Standards* in its 100th Session, at its 114th Sitting on 10th June 2011. While the ILO process will take its time for responses and reactions etc, with any semblance of relief not immediately realizable, the FTUC wishes to take further initiative by referring this matter to ITUC for appropriate attention via other avenues and options.

The advent of Decree #021/2011 appears to be a precursor of more serious developments in the field of trade unionism within Fiji, as discussed below. The removal of ERP provisions from Public Officers would deny them all the rights, benefits and protection of the legislation. Thus, the very existence of trade unions in the Public Sector is in question now.

3.5. DECREE # 35 of 2011

- 3.5.1 The *Essential National Industries* [ENI] Decree 2011 was gazetted on Friday 29th July 2011 in the FIGG (Vol 12, No.78). The Decree specifically attacks trade union organisations in the Fiji Sugar, airline, tourism and aviation sectors from indications received but could cover all or any Industries, Corporations or Companies. And it offers major weapons to the Employers to utilize against unions. As it has been experienced with previous Decrees, other industry sectors may be brought under its effect in future via new Decrees amending the Regulations.

- 3.5.2 The ENI Decree prescribes drastic new obstacles to trade unions continuing to represent workers in accordance with the Employment Relations Promulgation [ERP] 2007. It outlaws professional trade unionists, eliminates existing collective agreements, promotes a *biased* system of non-professional bargaining agents to represent workers, severely restricts industrial action, strengthens sanctions against legally striking workers and bans overtime payments and other allowances for workers in 24-hour operations.
- 3.5.3 The Trade Union movement in Fiji sees that these measures constitute a concerted and ongoing attack on trade union organisations in Fiji. They follow the recent harassment, abductions and beatings by the regime against effective and legitimate trade union representatives. The ENI Decree transfers absolute powers to the Prime Minister to dictate and impose, or remove, terms and conditions of service of union Members. At the same time, the pendulum has also swung so far right that the Employers can also act with impunity, which invariably will be supported by the Prime Minister.
- 3.5.4 Fiji has ratified ILO conventions No. C87 Freedom of Association and Protection of the Right to Organise Convention 1948 and No. C98 Right to Organise and Collective Bargaining Convention 1949. Fiji in the past expressed considerable pride in the ERP 2007 comprehensively enshrining these principles. Fiji, as a Member State, is obligated to respect the rights enshrined therein and should do all possible not to undermine or dilute such rights.
- 3.5.5 But the issue of a series of Decrees, culminating with ENI Decree # 035 of 2011 indicates that the Fiji authorities consider themselves immune to the principles of justice, fair play and accountability. Analysis of the new Decree follows.

3.5.6 **GENERAL ANALYSIS (In brief)**

*Part 1: **Preliminary Provisions***

- Several definitions provide new interpretations, e.g. a "*trade union*" becomes a "*bargaining unit*" with minimum 75 workers employed by the same employer.
- The Minister in charge is now the Prime Minister, not a line or Labour Minister.
- The ENI Decree is now gazetted, but its effective date/s will be notified by the Prime Minister in the near future, perhaps within day or weeks.
- On paper the Principles & Objectives of the Decree look normal. But what follows in other sections are a moon apart.

Part 2: Effect on Unions & Agreements

- All currently existing and registered unions under ERP 2007 in these sectors **must** re-register.
- All new office bearers of these newly registered unions must be employed by that employer/industry.
- When an employee is terminated, he ceases to be a union official.
- Non compliance with above will result in a fine (individuals \$50K, corporate bodies \$100K) or/and 5 years imprisonment.
- When ENI Decree is in effect, the validity of all existing Master Collective Agreements [MCA] will last for next 60 days, **then declared null and void**.
- If no new MCA is agreed upon, then the Company may impose its own MCA or individual contracts at its own pace.
- Aggrieved staff may appeal to Prime Minister, but it will not restrict the Employer.

Part 3: Re-Registered Bargaining Units (Unions)

- ❖ New unions will be registered for 2 years after 1st elections, or when recognized by the Employer. If no officials elected, then workers remain in limbo, and existing MCA will be declared null and void.
- ❖ Workers vying for union elections must apply to and be approved by the Prime Minister.
- ❖ Generally, for registration, ERP 2007 procedures to be followed.
- ❖ Minimum 35% of workers with an employer must approve in writing the formation of not a union but a "*bargaining unit*".
- ❖ The Prime Minister shall determine the composition and scope of the/ a bargaining unit.
- ❖ The Registrar of Trade Unions [RTU] will now supervise elections.
- ❖ The results must comply with the 50% + 1 rule by secret ballots.
- ❖ Lower result will result in the Prime Minister intervening and refusing the results.
- ❖ The Employer can obtain evidence from 35% of workers (or 35% of workers themselves) that they do not support their union and apply to the Prime Minister for cancellation of the registration.
- ❖ RTU can cancel the election results and order new application and election.
- ❖ Upon cancellation, existing MCA's become null and void.
- ❖ The Prime Minister must approve the foregoing requirements.
- ❖ The Registrar may refuse the registration of a union.

Part 4: **Collective Bargaining Process**

- Employers have a “duty” to bargain in “good faith”, but in light of other provisions of the Decree, these appear to be just a window dressing.
- Either party can start talks giving 30 days notice, to start in next 30 days.
- Negotiations on successor MCA to begin within next 36 months.
- If no agreement reached, either party can apply to Prime Minister to determine.
- Prime Minister’s determination and approval of MCA to last next two years.
- MCA’s do not expire, but have dates for changes over next 5 years.
- If Employer suffers business losses before taxes for 2 years, then it can give notice to re-negotiate the MCA’s.
- If no agreement reached as above, then Company to apply to Prime Minister who will make final decision on amended MCA which will last next five years.
- The Prime Minister’s decision cannot be challenged.

Part 5: **Limitations & Dispute Resolution**

- Any terms in new MCA’s will prevail over ERP conditions.
- In designated corporations, **NO overtime or penal rates** are payable, unless agreed between the parties.
- No overtime payable to pilots, cabin crew and engineers.
- **Check Off** system is not permissible anymore.
- ERP Wages Councils not allowed in these sectors (minimum conditions and wage).
- No disruptions allowed. It is “duty” of both parties to settle disputes.
- Disputes must be settled internally, reference to external forums not allowed.
- Unresolved cases (only costing \$5m pa or more) referred to Prime Minister for final determination.
- Unresolved disputes costing less than 5m shall be referred to the employers designated reviewing officer.
- *“No job actions, strikes, sick outs, slowdowns”* or other harmful actions permitted in these sectors, in cases of union registration, collective bargaining etc.
- For MCA bargaining a “STRIKE” is allowed giving 28 days notice, supervised secret vote taken, and *“prior written approval of Prime Minister”* is obtained.
- But, the Employer can still lock out strikers, and make changes to the MCA unilaterally.
- Non compliance with above results in a fine (\$50K, or \$100K) and/or 5years imprisonment.

Part 6: **GENERAL**

- ❖ ENI Decree #035/2011 prevails over ERP 2007 in all aspects.
- ❖ Exclusion of ERP 2007 from all in these sectors are reinforced.
- ❖ PM may delegate some functions to the Solicitor General.
- ❖ **NO CHALLENGE** to ENI Decree via any other forum.
- ❖ Any pending cases in any forum will **terminate** wholly.
- ❖ All Orders to be vacated by High Court Chief or ERT Registrar.
- ❖ Any new cases brought before an external forum will not be heard, but shall be transferred for immediate cancellation.
- ❖ The cancellations certificates cannot be challenged.
- ❖ The Prime Minister can issue Regulations under the Decree.
- ❖ Any industry, employer or individual can be brought under this Decree.
- ❖ New conditions and fines can be introduced by the Prime Minister.

3.5.7 OBSERVATIONS:

- i) The nation has seen a series of decrees enacted since 2006 which have affected the lives and welfare of the workers in Fiji, both in the public and private sector. Currently, those in the Public and Essential Services are targeted with new decrees with the overt objectives of neutralising the trade unions operating therein.
- ii) Thereafter, a series of Decrees amending the Employment Relations Promulgation[ERP 2007 Decree, #036 of 2007], including: the State Services Decree (#06 of 2009); the Administration of Justice Decree (Decree 9 of 2009) and its amendment Decree 10 of 2009; Decree 25 of 2009; and Decree 14 of 2010 were issued. Collectively these Decrees have eroded unions' rights to challenge in any court any decision of Govt or Govt owned entities to make any employee redundant or change any terms and conditions of employment, despite a collective agreement remaining in force. Furthermore, the re-structuring and reform programmes by the Govt are also beyond challenge.
- iii) These Decrees are in violation of ILO core labour standards which Fiji has ratified and is obligated to respect. The Cotonou Agreement which obligates Fiji to respect the core labour standards and Fiji's own labour laws demand the same, but the ERP has also been marginalised.
- iv) The sudden promulgation on 16 May 2011 of Decree #21 of 2011 introduced two further amendments to the ERP. This amendment to Sections 3 and 266 of the ERP summarily removed thousands of Public Employees from the protection of the ERP totally (except OHS and workers compensation). It nullified all active and pending

claims by workers against the Government and depriving them of their rights to labour laws, collective bargaining and freedom of association.

- v) Now, Decree # 035 of 2011 has further **extended these limitations in a most draconian manner to other public and private sectors, e.g. sugar, airline, airports and tourism industries.** It is obvious that the vast majority of the ENI provisions are directed at trade unions, their Officers and their collective agreements. In contrast, all such measures are provided to the benefit of the Employers.
- vi) The implementation of ENI will effectively abolish all existing Trade Unions in Fiji. The observations in section 2 above collectively demonstrate the range and level of effect the Decree will have on certain trade unions operating in the nominated industries. There is no denying that the model would be extended to cover all unions in all sectors of Fiji economy.

4.0 MEDIA DECREE

The Fiji Media Decree imposes strict controls on print and other media reporting anything against the current regime, in complete defiance of principles of press freedom. All media outlets are censored daily by the authorities thereby free expression of views and opinions is denied and suppressed. **This was painfully obvious during the recent events following the imposition of Decree # 21 and Decree 35 of 2011.** Some media outlets actually proactively promote the Regime's propaganda thus misinforming and misleading the people.

The Media Decrees have also limited individuals' freedom of speech on essential and critical issues and the fear of intimidation still exists. No views expressed contrary to that of the Regime is published or aired on radio or television.

5.0 JUDICIARY:

We are concerned about the practice in the Judiciary especially in the following critical areas:

- i) Appointment of judges: The sourcing of these judges from one particular country have raised questions when there are qualified individuals available elsewhere.
- ii) Independence: Some judges are found to have linkages that question their independence and neutrality when presiding over cases.
- iii) Qualifications of these appointed judges at Magistrates are questionable.
- iv) Transparency in the appointment of judges at Magistrates.
- v) Consistency on the appointments: Ad hoc terminations and resignations continue to plague the legal system and no explanations are given for such terminations

and resignations. In many cases if instructions or wishes of the Regime are not met by the Court, action is taken on Judicial Officers by the Regime.

More recently some former legal officers of the Director of Public Prosecution (DPP) and Fiji Independent Commission Against Corruption (FICAC) have made revelations on the interference by the Regime in the prosecution of people opposing the regime and raised serious concerns on the independence of the DPP's office, FICAC and Judiciary.

6.0 HUMAN RIGHTS

The Regime since 2006 has embarked on a systematic plan to intimidate and harass citizens who in any way show opposition or (discontent) to the regime. Many NGO representatives and Trade Union representatives have been forcefully taken to the Military camps and intimidated. This includes some politicians as well.

More recently the assault and harassment of Trade union leaders has affected the highest trade union official in Fiji, Mr. Felix Anthony, National Secretary of the Fiji Trades Union Congress (FTUC) and General Secretary of the Fiji Sugar & General Workers Union (FSGWU). Mr. Anthony has suffered harassment, intimidation and assault by the officers of the Fiji Military Forces. On 12 February, 2011 at about 8pm Felix Anthony was taken from his home by three uniformed military officers. He was driven around in the back roads of Lautoka city through the bushes and then taken to the military barracks in Lautoka. During the ride he was threatened, they threatened his family, his children. He was warned that worse things could happen next time. He was later dropped off at his home at about 10pm the same night. On Friday 18 February, 2011, Felix Anthony was told that the Prime Minister wanted to meet him at a sugar mill in Ba at 1200 midday which is on the western side of Fiji. He attended the meeting together with two other officials of the Union. At the meeting with the Prime Minister he was mostly shouted down accusing him of and the unions for being the cause of all the problems in the sugar mills. He was later called into the office where he met with some military officers. After a short discussion the soldiers began to beat him and the other officials. The assault continued for some time. Later they were driven to Namaka (airport) military barracks which is an hour's drive from Ba. There again, Felix and his colleagues were physically assaulted. His ear drum was damaged as a result of the beating. They were released around 9:30pm with threats of further violence.

On 2nd March 2011 the General Secretary of the ITUC reported the matter to the Director General of the ILO asking him for his immediate intervention on the matter. The DG wrote to the government of Fiji registering serious concerns on the assaults on Felix Anthony. He asked the Government to investigate the incident and transmit any information in that regard.

However, no action has been taken to date on this request. He further pointed out the recommendations of the CFA case (No. 2732) whereby a recommendation was made for a tripartite mission to Fiji to assist Fiji Government. He recalled the ILO support for such a mission. The Regime has not responded to the recommendation of a tripartite mission.

Additionally, the Conference Credentials Committee of the 100th International Labour Conference examined an objection concerning the Government's failure to deposit credentials of Mr. Anthony whose nomination had been provided by FTUC. The Credentials Committee noted that the Government had deliberately chosen not to nominate the workers delegate and concluded that its action raised doubts as to its impartiality vis-à-vis the FTUC, considering the allegations of trade union rights in the country.

Assault by military officers on a trade union leader, Mr. Mohammed Khalil, President of the Fiji Sugar & General Workers Union (FSGWU) Ba Branch. On 22nd June, 2011 at about 9pm two Army officers assaulted the Ba Branch President of the FSGWU Mr. Khalil for no apparent reason. They accused him of being a strongman of the union and he was made to wallow in the mud, stomped on, and dragged around while assaulted in full view of his colleagues and other onlookers. They swore at him and at Mr. Felix Anthony accusing them of trying to be strong union advocates. Mr. Khalil is a Locomotive Driver and he did not make any provoking remarks or comments to anyone least of all the army officers. Such degrading treatment by the military is also quite repulsive to conjecture. This is no less than thuggery by the military officers and the stark abuse of human rights to say the least. The basic human rights such as protection by law, freedom of speech and assembly all mean nothing under their Public Emergency Regulation (PER) Decree. To make matters worse, he was called by the military at 3pm that day to report to the military. He was instructed to submit his resignation from the Union and the military officers wanted to sight his resignation letter. He was suspended from work at the insistence of the military who wanted him terminated from work. The Union prevailed. He was again taken by the same military officer on Wednesday 24th August, 2011, just few days ago, who threatened and intimidated him again. He was advised that anything could happen to him. He was detained for about 2 hours. Mr. Khalil was also assaulted earlier by the officers together with Mr. Felix Anthony as reported. This is the height of abuse, arrogance and downright dictatorship at its peak. Military officers are stationed in all the sugar mills fulltime. These are only two examples of human right abuses. There are many others.

7.0 THE PUBLIC EMERGENCY REGULATIONS [PER]

The Public Emergency Regulations (PER) was imposed in 2009, which defy the principles of accountability, transparency and good governance. The PER allows the regime to operate as an authoritarian government without democratic scrutiny and make a mockery of rule of law; amongst other restrictions under the PER, meetings of more than 3 persons without a permit are illegal. Trade unions generally conduct a whole series of meetings as part of their legitimate functions and the PER impinges on them.

The Public Emergency Regulations continues to be extended for the infinite number of times within the past few years on a monthly basis. This ongoing extension of the PER is a way of curtailing people's basic human rights such as freedom of assembly. The PER allows military personnel to be stationed inside workplaces who are at liberty of intimidating workers as well as the public. We bring to your notice the existence of soldiers within the Fiji Sugar Corporation who mistreat workers and intimidate them. The Management has been found to use the military as a tool to achieve their own agendas against workers mainly where disregarding of collective bargaining agreements is concerned.

The decree allows the detention of any person for 24 hours without the authority of a magistrate. A further 48 hours of detention is allowed if a Magistrate or Police Officer directs. The Police or Military Personnel may enter any premises, private or public should they suspect any breach of the PER. The Military Officers may perform the duty of a police officer or a prison officer if so directed by their commanding officers.

The Public Emergency Regulations also have has a direct impact on the ability of unions to freely organize legitimate trade union activities. It has had direct impact in all sections of our community to assemble freely for social, religions or cultural functions. As per the PER a permit needs to be obtained to conduct any union meetings or any activities. We have witnessed that in many instance the application to hold a meeting with workers even on legitimate workers issues such as redundancy and job security has been declined. More recently most request for Union meetings have been declined, most recent being the FTUC National Council Meeting of 13th August 2011 and 27th August 2011.

8.0 1997 FIJI CONSTITUTION

We call for the immediate reinstatement of the 1997 Constitution and election to be held without delay. We do not believe that the Regime has the mandate of the people to amend the Constitution, let alone have the support of the majority of citizens of Fiji. If the regime should claim support, it should have no hesitation in seeking the people's mandate.

9.0 PREPARATIONS FOR ELECTIONS

The elections were originally promised to be held in 2010 and now the date for elections has been announced to be held in 2014 (a total of 8 years gap). We believe that this should be brought forward and held as soon as possible. A representative forum of major political parties as per last parliament should be convened to discuss immediate elections. The justification advanced for a delay in Elections was to fix up the economy. However the economy and plight of workers continue to deteriorate and it is a futile exercise in itself if we do not have a democratic government in place. There is no investor confidence in the Fijian economy, major aid is held back, and aid sanctions are still being applied. The main export earner, sugar, still is on the decline with more than 50% reduction in production. The Regime Propaganda on the economy is not translating to reality.

10.0 RETURN TO DEMOCRACY

The Regime has paraded on the international scene promoting its plan forward as the "Peoples Charter". While the Charter may have some very noble principles, the reality in Fiji is quite to the contrary to the Charter. The Charter plans to build a better Fiji through transparency and greater accountability of the Government to the people. It plans to build a stronger democracy through promoting unity between different cultures and races. The reality is that there is absolutely no transparency nor accountability in Government today. All democratic institutions like the political parties, Town and City Councils, the Cane Growers Councils, the Provincial Councils, Churches and Trade Union organizations are being either hindered from carrying out their rightful roles or are totally denied from exercising their rights. The Regime is attempting to demolish all democratic structures and institutions existing in Fiji. We do not believe that we can build a stronger democratic Fiji by demolishing all democratic institutions.

Similarly we are witnessing the appointment of senior military officers to senior Civil Service positions with more regularity. Currently all District Commissioners are military officers. Senior District officers are military officers. A number of Permanent Secretaries are military officers and the list go on.

We are witnessing the militarization of the Civil Service. In short, we have been over the last two to three years have moved closer to absolute dictatorship rather than a step closer to democracy. Such a situation cannot and should not be condoned. This brings us to the important question of whether the Region is putting sufficient pressure to the Regime to move towards democracy.

11.0 CONCLUSION

The social and economic disaster facing Fiji has begun to unfold. Unemployment is at its peak and the escalating number of working poor continues to rise unabated. More homes are on mortgagee sale, workers in all sectors are losing their jobs. Cane farmers are no longer interested in farming and leaving their farms to seek other forms of livelihood as collapse of the Sugar Industry is imminent. Health care services are declining and corruption is rampant in the corridors of power. People with skills and money are migrating. The litany goes on. The workers and the farmers who have contributed so much to build this country are silent witness to their own social and economic disaster.

The general public especially workers continue to suffer as a result. Rates of poverty continue to rise. The real rate of poverty is far greater than what is provided in much publicized reports. There have been increases in squatter settlements around the semi-urban areas and unemployment has risen to 11.9%, however the real unemployment rate is predicted to be over 15% with many citizens underemployed and between employment, the casualisation of the workforce, etc.

The Regime continues to talk about weeding out corruption and bad governance practices hence it needs to lead by example and showcase the same effectively. The means to achieve these goals are equally important as the end. There is absolutely no sign of this being achieved after 5 years of rule by this regime.

More recent detention and torture and beatings of citizens are a disturbing development. The Human and Trade Union violations have seen the situation in Fiji steadily deteriorating. There is little or no hope of a return to democracy by way of free and fair elections under this Regime.

We call on the International Community to take a closer look at the reality on the ground and not just be blinded by the Regime's claim to move the country forward in line with the "Peoples Charter". Quite the opposite is the reality.

We call on the International Community to take a firmer position on Fiji considering the realities on the ground and respect the wish of the majority of citizens for an immediate return to democracy under the 1997 Constitution via free and fair elections and the return of all military personnel to the Barracks. The Military must respect the authority of an elected civilian Government. To condone or do otherwise simply would send a strong disturbing signal to the Region and the International Community that it is acceptable to overthrow an elected Government and be ruled by a dictatorship. Furthermore it would send a signal that Regional unity take precedence over human rights, the rule of law and democracy. These are principles and values that people in Fiji hold dear and look up to leaders in the Region to show resolve.

Fiji Trades Union Congress.