



## FACTSHEET – UPR 2019 – FIJI 3<sup>rd</sup> CYCLE UNIVERSAL PERIODIC REVIEW CIVIL LIBERTIES AND FUNDAMENTAL FREEDOMS AT RISK

**The Fijian Government once again fails to uphold its commitments. Workers and trade unionists face constant threats, physical violence and botched criminal charges when attempting to exercise their rights. No progress has been made to reform unjust laws restricting freedoms of association and assembly.**

### First Cycle

- Recommendation is made that Fiji accept a mission from the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.
- **Fiji does not pursue it**

### Second Cycle

- Recommendations focus on reforming Fiji's legal framework.
- Fiji must bring its legislation on freedom of expression, assembly and association in line with international human rights standards.
- **Fiji undertakes commitments under the Joint Implementation Report (JIR) but fails to act**

### Our Goals

- Highlight the **lack of progress and political will** since the October 2014 UPR review
- Put the **JIR** back on the national agenda
- Begin comprehensive **reform** to laws restricting freedom of association and workers' rights and **Reactivate the ERAB** (Employment Relations Advisory Board)
- **Put an end to harrasment and intimidation** of workers and trade unionists

### CURRENT NATIONAL FRAMEWORK – Legislation

#### **TRADE UNION MEETING AND ASSEMBLIES ARE SEVERELY RESTRICTED**

The Fijian Government uses the Public Order (Amendment) Decree to impede and interfere in trade union legitimate activities like assemblies and meetings. Section 8 of the Decree leaves discretionary power to the Police Commissioner to refuse a protest permit on broad and undefined grounds. The section also criminalises any person or organisation who allegedly “undermines or sabotages the economy or financial integrity of Fiji”.



### POLITICAL ACTIVITIES ARE BANNED

The 2013 Political Parties Decree bans unions' office holders from being members or holding office in any political party. It also prohibits any public officer from conducting campaign activities which constitutes a serious breach of workers' and trade unionists' rights to engage in political activities.

### LAWS IMPEDE THE EXERCISE OF FREEDOM OF ASSOCIATION

For many years, the Fijian Government has been requested to amend a number of restrictive provisions in the Employment Relations Promulgation (ERP) that are not in line with international standards, including:

- excessively wide discretionary powers granted to the Registrar preventing workers from forming trade unions without previous authorization
- limitations to the exercise of rights of non-citizens
- criminal sanctions imposed on peaceful strike actions.

## CURRENT NATIONAL FRAMEWORK – Cooperation Mechanisms

### GOVERNMENT FAILS TO UPHOLD INTERNATIONAL COMMITMENTS

The **Joint Implementation Report (JIR)** was designed in 2016 to be a tripartite process to reform Fijian labour laws. However, despite its international commitment with the ILO under the JIR, the Government has not engaged in good faith to bring its legislation into conformity with international standards.

### TRIPARTISM AND SOCIAL DIALOGUE ARE TRAMPLED

The **Employment Relations Advisory Board (ERAB)** was designed as a tripartite body tasked with the review and amendment of the legislation. In reality, the ERAB has not held meetings as agreed and has now been shut down indefinitely before any changes could be made. Moreover, the Government systematically dismantled tripartism by removing or replacing the tripartite representation on a number of bodies (ERAB, the Fiji National Provident Fund, the Wages Councils, etc.).

## CHALLENGES

### HARRASMENT AND INTIMIDATION OF UNION LEADERS

- Continued use of the POAD has resulted in a return to violence against unionists and the repression of trade union rights and civil liberties.
- Mr. Felix Anthony, National Secretary of Fiji Trade Union Congress (FTUC) was arrested on trumped-up charges during a meeting at the Ministry of Employment. Police raided FTUC offices, confiscating documents and computers, and interrogated staff.
- Mr. Anthony remains under surveillance pending trial.

### POLICE CRACKDOWNS OF LAWFUL PROTESTS

- On 1 May 2019, hundreds of workers from the Water Authority of Fiji attempted a lawful picket. However, police stormed union offices and prevented the picket from taking place under the pretext that it contravened POAD. 29 members of the National Union of Workers were arrested.
- On 18 December 2017, over 300 Air Terminal Services workers were locked out of their workplace for demonstrating over low pay and poor working conditions.



## 9 RECOMMENDATIONS FOR FIJI

### RESPECT FOR TRIPARTISM AND REVIEW OF THE LEGISLATION

- **REACTIVATE** the Employment relations advisory board (ERAB) and **ENSURE** that workers' organisations can freely designate their Board members
- **COMMIT** to holding ERAB meetings, including sub-committee meetings, bi-monthly as required under the Joint Implementation Report.
- **ESTABLISH** a time-bound roadmap by which the ERAB will conclude its recommendations on the review and amendment of the:
  - Employment Relations Promulgation (ERP);
  - Public Order (Amendment) Decree (POAD);
  - Political Parties Decree;
  - and all other labour laws that unduly restrict fundamental freedoms for workers and their unions.
- **ENSURE** that workers' organisations can freely designate their Board members within tripartite bodies, including the Fiji National Provident Fund, the Fiji National University Training at the Productivity Authority of Fiji, the Air Terminal Service and the Wages Councils

### RESPECT FOR CIVIL LIBERTIES

- **REPEAL** POAD provisions allowing the Police Commissioner to discretionarily refuse applications for protests and ERP provisions criminalising the right to strike
- **STOP IMMEDIATELY** the systematic police and army crackdown on strike actions and **DROP ALL CHARGES** against workers and trade unionists targeted for their trade union activities
- **INVESTIGATE without delay** police and army abuses against workers and trade unionists, including brutality during strike actions, arbitrary arrests and brutality in detention, raids on unions' offices, to hold to account those responsible and provide adequate and timely redress for victims
- **INSTITUTE** mandatory programmes of education and training in human rights for law enforcement officials, the army, the police and prison services in order to prevent further human rights violations.
- **ACCEPT and FACILITATE** a mission from the Special Rapporteur on the rights to freedom of peaceful assembly and of association

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