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**Solidarity with unions in Fiji**  
**TUC background paper**  
**August 2011**

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## **Fiji: background to the attacks on unions**

Fiji, with a population of about 850,000, is a group of islands in the Pacific. It is a middle-income country with per capita GNI estimated at USD 3,610 for 2010. Life expectancy at birth was 69 years for the same year.

### **Government**

Fiji gained independence on 10 October 1970. In 1987, following a military coup, Fiji became a republic and left the Commonwealth. The Republic of Fiji was readmitted to the Commonwealth in 1997, following the introduction of a new constitution which guaranteed freedom of expression, assembly and association. In June 2000, Fiji was suspended from membership in the Commonwealth after a group of army officials took the then Prime Minister Mahendra Choudhry hostage. In December 2000, Fiji was readmitted to the Commonwealth.

Civilian rule ended in 2006 when Commodore Frank Bainimarama took over the country, leading to Fiji's membership in the Commonwealth being suspended once again. The country's membership in the Pacific Islands Forum was also suspended in May 2006. In 2007, Commodore Bainimarama restored executive powers to President Iloilo and became interim Prime Minister. In 2009, following the abrogation of the 1997 Constitution, Prime Minister Bainamarama announced a Roadmap for Fiji which sets the timetable for the elections to be held in 2014, and that is still the professed plan of the military government.

The Fiji Human Rights Commission established under the 1997 Constitution is widely considered to be ineffectual, especially, after the abrogation of the Constitution in 2009. Fiji is currently without a parliament or a constitution, ruled by a military-led interim regime which relies on presidential decrees for the maintenance of law and order and for civilian administration. Fiji is a member of the UN and has been a significant contributor to UN peace-keeping operations in many parts of the world. Over 2000 Fijians serve in the British army.

### **Economy**

The agricultural sector accounts for about 16.1% of the GDP but output contracted by 11.3% in 2010. About half of the population is still engaged in agriculture mainly due to the lack of employment opportunities in other sectors.

The sugar industry remains a mainstay of the economy, employing 200,000 people – more than 20% of the adult population. Services – mostly tourism - represent nearly 60% of Fiji's GDP. Exports of gold, mineral water, fish and timber have risen in recent years, boosting foreign exchange earnings. The 20% devaluation of the Fijian dollar in April 2009 has improved Fiji's competitiveness.

The UK is one of Fiji's main trading partners. Tate & Lyle is a major player, accounting for all sugar exports from Fiji. Cable & Wireless and Vodafone, too, have well-established trading links with Fiji.

The Government is keen to reduce the public sector salary bill through wage freezes and limits on recruitment on the advice of the IMF. A programme of public enterprise reforms is to be undertaken in order to return some public entities like the Fiji Sugar Corporation (FSC) to profitability.

### **The impact of the dictatorship on the economy**

The military takeover and the ensuing political instability have taken a heavy toll of the Fijian economy which has been stagnant over recent years. In fact, the Fijian economy has contracted by nearly 3.6% relative to 2006 with only marginal growth estimated for 2010. The national debt has risen and reached 56% of the country's GDP. It remains among the highest as a percentage of GDP in the Pacific islands. Fiji's external debt is estimated to be around 16% of its GDP (2011). Unemployment rose from 7.7% in 2008 to 9.3% in 2009.

The sugar industry has suffered due to the lack of investment, resulting in low productivity, aggravated by the loss of efficient farmers to more profitable sectors of the economy. Moreover, political developments have also contributed to the exodus of top managers. The losses due to the mismanagement of the FSC have added to the budget deficit. FSC debts, underwritten by the state, reached 3% of Fiji's GDP at the end of 2010.

Despite the 2009 devaluation, the military takeover has impacted adversely on the potential for further expansion in tourism. Room occupancy has been in steady decline since 2005. In 2007, receipts from tourism rose by only 0.2%. In 2009, they declined by 11% after a surge in 2008.

Fiji is a recipient of significant development assistance from the European Union, Australia and New Zealand. The EU has suspended some of its aid programmes following the military coup and subsequent developments until 30 September 2011. The EU has pointed out that the Government of Fiji has failed to fulfil its commitments in respect of democratic rights, rule of law and human rights and fundamental freedoms. China has been a major contributor to Fiji's development programmes and provided it with soft loans.

## **Trade union and human rights**

The trade union movement in Fiji is led by the Fiji Trades Union Congress (FTUC) which is affiliated to the International Trade Union Confederation. There is a smaller national confederation, FICTU, which originally split from the FTUC but is now working increasingly closely with the FTUC, and some trade unions which belong to no confederation (eg airline pilots and nurses). Many Fijian trade unions belong to Global Union Confederations such as the IUF (sugar workers), ITF (transport and tourism) and PSI (public services).

There has been a steady deterioration in the human and trade union rights situation in Fiji since the military takeover in 2006. The FTUC has borne the brunt of the Government's onslaught on human and trade union rights. Trade union leaders and activists have been assaulted and/or detained on several occasions.

The military regime has suspended the two key instruments – the 1997 Fijian Constitution and the Employment Relations Promulgation (ERP) 2007 - which afforded protection for workers' rights and entitlements. Section 33 of the 1997 Fiji Constitution provided for the right to form and join trade unions and organise and bargain collectively.

The interim regime has increasingly relied on decrees and on the Public Emergency Regulation of 2009 – which requires organisations to apply for permits to hold meetings - to curb legitimate trade union activity, as was evident in the recent arrest of the FTUC President.

The right to strike was limited even before the current crisis arose. A decision to strike had to be approved by more than 50% of the paid-up members, with unions being required to give 21 days' notice prior to calling a strike, and 49 days' notice in the case of "essential" industries. The names of all the strike participants had to be communicated to the Ministry of Labour which had the right to declare an existing or proposed strike unlawful and refer it to arbitration.

A series of Decrees<sup>1</sup> has stripped away civil and trade union rights, imposed strict press censorship, abolished minimum wages and conditions of employment, and terminated existing collective agreements.

## **Recent developments**

Recent developments have further restricted the scope for industrial action and made it almost impossible for the purposeful functioning of free trade unions in Fiji. On Friday 2 September Daniel Urai, President of the Fiji Trade Union Congress and General Secretary of the National Union of Hospitality, Catering and Tourism Industries Employees, and his union organiser Nitin Gounder, are scheduled to appear in the Nadi Magistrates Court in Fiji charged with unlawful assembly. Both men were detained and questioned at Nadi Police Station overnight on 3 August

and charged next day, apparently for having met with and advised union members regarding pending collective negotiations with hotel management.

Two recent decrees are of particular importance.

First, in May 2011 the interim regime suddenly issued a decree which introduced two amendments to the Employment Relations Promulgation 2007; the main legislation outlining industrial relations in the country. This action was arbitrary and without any consultations with other stakeholders, despite the fact that talks among the partners were pending on the general review of the ERP legislation. As a result, the regime removed thousands of public sector employees in all sectors from full protection of the legislation. This means public sector workers are no longer covered by the main sections of the ERP including:

- Fundamental Rights at Work
- Valid Contracts of Service
- Protection of Wages
- Rights to Minimum Conditions of Work, i.e. hours of work, holidays, leave etc.
- EEO and Protection from Discrimination
- Protection from Redundancy or Unfair Treatment
- Registering of Employment Grievances & Disputes
- Protection from Sexual Harassment
- Right to Collective Bargaining & Collective Agreements
- Right to Challenge Employer's Decisions
- Right to Report Disputes to Mediation, Tribunal or Labour Court.
- Right to Appeals at all levels

In August, Government prohibited automatic dues deduction for all public service workers by a decree amending the Civil Service Act. This is a clear attempt to cripple trade unions.

Second, in July 2011 the regime published the Essential National Industries (Employment) Decree. The decree introduces drastic new obstacles to trade unions continuing to represent workers in the Fiji sugar, airline, tourism and aviation sectors. The draconian decree:

- Prohibits all strikes, slowdowns, sick actions or any action that may be financially or operationally harmful to the employer;
- Prohibit unions' efforts to obtain registration as "representative of a bargaining unit" or influence collective bargaining outcomes in any dispute;
- Voids all current collective agreements within 60 days;

- Provides that after 60 days period any strike or lockout may take place only with the written authority of the Minister;
- Prohibits overtime payments unless agreed by the employer;
- Prohibits overtime payments for weekend work, work on days off, and work on public holidays unless agreed by the employer;
- Cancel all current Wages Council Orders regarding minimum terms and conditions of work in designated industries;
- Require that all members, office bearers, officers and executives of the union shall be employees of the designated company;
- Provide that any individual who fails to comply shall be guilty of an offence and shall be liable upon conviction to a fine of \$50,000 and five years imprisonment of both;
- Provide that any union shall be liable to a fine of up to \$100,000

With the worsening situation and passage of further Decrees, the Director General of the International Labour Organization [announced](#) a senior ILO fact-finding delegation to Fiji from 11-13 August, to assess the country's compliance with its obligations under ILO Conventions on Freedom of Association and Collective Bargaining.

### **Our demands**

Unions are calling for:

- An end to the repression and harassment of trade unionists, and an end to the prohibition on union meetings;
- The immediate dropping of charges against FTUC President Daniel Urai and Nitin Gounder
- The revocation of the Essential National Industries (Employment) Decree and restoration of the 2007 labour law, agreed by both unions and employers
- The restoration of democratic rule in Fiji

### **Further information**

- ITUC – 2011 survey of [union rights abuses](#); [union meetings disrupted](#) (August); [attack on union rights](#) (August); [beatings and harassment](#) of union officials (March);
- Amnesty International: [Warning](#) on Fiji government plan to severely restrict workers' rights

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<sup>1</sup> Decrees introduced by the government of Fiji since 2009 that curtail fundamental labour rights (and others), largely for public service workers, and simultaneously eliminate access to judicial review and redress for past, present and future violations of those rights include: State Services Decree of 2009 (No. 6); Administration of Justice Decree of 2009 (Decree No. 9); Administration of Justice (Amendment) Decree of 2009 (Decree No. 10); Administration of Justice (Amendment) Decree of 2010 (Decree No. 14); Trade Disputes Decree of 2009 (Decree No. 10); Employment Relations Amendment Decree of 2011 (Decree No.

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21); and Essential National Industries (Employment) Decree 2011 (Decree No.35).