The Hon Hugo Swire MP

Minister of State

Foreign and Commonwealth Office

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26 Feb 2015

Dear Hugo

Fiji - ILO Commission of Inquiry

I write to express our growing concern over the developments in Fiji and request the UK Government’s support for the establishment of a commission of inquiry by the ILO.

In March 2014, the ILO Governing Body authorized the establishment of a Commission of Inquiry if the government of Fiji did not permit the ILO Direct Contacts Mission to return to the country in time to report to the November 2014 session. The mission was allowed to return only in October 2014 two years after it was expelled from the country in September 2012, to verify the charges made by Fijian workers. The mission’s report confirmed the credibility of the serious and widespread violations of the right to freedom of association in Fiji. Indeed, the summaries of interviews with the various Fijian companies, mostly state-owned, indicate that the Essential National Industries Decree has been used to eliminate existing unions and collective bargaining agreements.

The Government of Fiji, over the last several years, has consistently ignored the observations and recommendations of the ILO supervisory system. Furthermore, it has, at regular intervals, weakened the legal framework for the exercise of freedom of association, disregarding two tripartite resolutions and many urgent interventions by the ILO. As mentioned in the report, a Memorandum of Understanding (MOU) was negotiated, calling upon all parties to work to ensure that the laws and policies of Fiji are consistent with Convention 87 and 98. While both the worker and employer representatives in Fiji have signed it, the government refuses to do so, on the pretext that it was not aware of the MOU, despite the texts concerned being shared with it from the beginning.

The mission report has also highlighted the following.

**Charges against union leaders:** There are two cases pending against Mr Daniel Urai, FTUC President – one for preparing union members for collective bargaining and the other for allegedly inciting the overthrow of the Government by violent means. The Committee of Experts on the Application of Conventions and Recommendations (CEACR) has urged the Government to take the necessary measures to ensure that all charges against them are immediately dropped.

**Essential National Industries Decree:** The Committee of Experts and the Committee on Freedom of Association have taken note of the devastating impact of the Essential National Industries Decree (ENID). Not only has the Government failed to repeal or amend the ENID, but it has also expanded its reach. The mission report noted that “it is not possible for trade unions as such to continue to function under the Decree”. The report also noted the fact that the decree created “severe imbalance of power in the bargaining process” as well as “the fear of reprisal that accompanies employee bargaining representatives who consider that their jobs may be in jeopardy.” Given that the Decree’s provisions do not allow for judicial review, the mission considered fears of reprisal “fully comprehensible.” In 2015, the Committee of Experts again “urge[d] the Government to give serious consideration to the full abrogation of the ENID along the lines supported by the social partners”.

**Public Sector:** Public sector workers were excluded from the rights and protections set out in the Employment Relations Promulgation under Decree 21 of 2011, and 15,000 workers were effectively removed from the scope of employment legislation including the ability to have judicial proceedings. Here too, the mission report noted that while Public Service (Amendment) Decree restored some of their rights under the Employment Relations Promulgation to these workers, “this was said to have had little impact, as their ability to appeal for protection of their rights remained hindered. In 2015, the Committee of Experts once again “requests the Government to take all necessary measures to ensure that public servants have genuine and effective recourse to judicial review of any decisions or actions of government entities affecting their conditions of employment, especially as regards the exercise of their rights under the Convention[.] Moreover, the Committee requests the Government to indicate any progress made to review the government decrees relating to the public service in terms of their conformity with the ILO fundamental Conventions and any steps for their amendment or repeal.”

It is clear that the Fiji government continues to view fundamental rights and the international community with contempt. On numerous occasions, workers and employers in Fiji have sought tripartite social dialogue with the government without success. The government has taken no meaningful action to address the long-standing concerns reflected in the mission report since the Governing Body meeting in November 2014. As there is no evidence of any progress, we urge you to support the establishment of a Commission of Inquiry in March 2015.

I look forward to hearing from you on the UK Government’s stance.

Yours sincerely

**FRANCES O’ GRADY**

General Secretary