



ITUC INTERNATIONAL TRADE UNION CONFEDERATION
CSI CONFÉDÉRATION SYNDICALE INTERNATIONALE
CSI CONFEDERACIÓN SINDICAL INTERNACIONAL
IGB INTERNATIONALER GEWERKSCHAFTSBUND



December 3, 2011

Commodore Josaia Voreqe Bainimarama
4th floor Govt. Bldgs., New Wing
Suva, Fiji
Email: pmsoffice@connect.com.fj

Re: Immediately halt ongoing serious human rights violations

Dear Commodore Bainimarama,

On the eve of the 5th anniversary of your assumption of power in Fiji, we urge you to immediately halt the ongoing serious human rights violations in Fiji and realize the promises that your government made at the United Nations Human Rights Council in June 2010.

Five years after the December 5, 2006 coup d'état, your government continues to deny Fiji's citizens the right to take part in self-government through free and fair elections, as well as the freedoms of speech, press, assembly, association, and free exercise of religion. The military and police have arbitrarily arrested and detained human rights defenders, including labor leaders and journalists, and others actually or perceived to be critical of the government. Four people are reported to have died in military or police custody and dozens of people have been intimidated, beaten, sexually assaulted, or subjected to degrading treatment.¹

¹“Mr. Josefa Baleiloa, 41, died on September 16, 2008, as a result, according to multiple witnesses, of injuries sustained eight weeks earlier when he was detained and severely beaten by at least six police and prison officers at Suva; Mr. Tevita Malasebe, 31, was pronounced dead on June 5, 2007, the morning after he was taken into police custody at Valelevu Crime Office. A pathologist found evidence of assault with wooden planks, and torture marks on the soles of his feet; Mr. Sakiusa Rabaka, 19, died on February 24, 2007, as a result of injuries sustained three weeks earlier when he was detained and beaten at Black Rock Military Base in Nadi on January 28, 2007; Mr. Nimilote Verebasaga, 41, died on January 5, 2007, approximately six hours after being taken into military custody at Nausori. Verebasaga died of hemorrhagic shock due to injured to vital organs as a result of the beatings by military officers.” See Human Rights Watch, Universal Periodic Review of Fiji, August 2009, <http://www.hrw.org/news/2010/02/09/universal-periodic-review-fiji>.

At the United Nations Human Rights Council in June 2010, Ambassador Peceli Vocea pledged your government's commitment to improving its human rights record. Eighteen months later, your government has done little to address these ongoing violations, instead enacting increasingly abusive laws and using the police and the military to curb basic freedoms.

1. Public Emergency Regulations Threaten Freedoms of Speech, Assembly, and Association

The 2009 Public Emergency Regulations restrict free speech, assembly and association, and grant the military sweeping powers of arrest and detention. Your government committed to cease the monthly renewal of the Public Emergency Regulations in February 2010. You subsequently committed to lift the decree when the Media Industry Development Decree (Media Decree) took effect in June 2010. However, your government continues to renew the regulations. At this five-year anniversary of your rule, we urge you to take an initial step toward improving the human rights situation in Fiji by letting the Public Emergency Regulations expire and publicly committing not to renew them in the future.

Pursuant to the Public Emergency Regulations, several trade union meetings were broken up by police this year. On August 13, police broke up a regular meeting of the Fiji Trades Union Congress (FTUC) after revoking its permit to assemble.² The raid occurred just after members of the FTUC met with a high-level delegation of the International Labor Organization (ILO), which was in Fiji to investigate human and worker rights violations committed by your government. Since then, trade unionists report the existence of a de facto ban on all trade union meetings, as applications for meetings are routinely denied or simply never acted upon. As a result, union leaders are unable to speak to their own members, take decisions requiring meetings of executive committees, or even follow collective bargaining procedures prescribed by law.³ In September 2011, police disrupted a social gathering of trade unionists, including Felix Anthony, General Secretary of the FTUC, as it was deemed a meeting of three or more persons without a permit.

On August 3, Daniel Urai, President of the FTUC and General Secretary of the National Union of Hospitality, Catering and Tourism Industries Employees (hospitality union) and Dinesh Goundar, an organizer with hospitality union were arrested and detained overnight. They were charged with unlawful assembly under the regulations for having held a union meeting to prepare members in the hotel industry for collective bargaining.⁴ A trial on those charges has yet to commence.

On July 1, the Fiji Women's Rights Movement's internal planning meeting was shut down by police. After the incident, the police acknowledged that a permit for the meeting was not required.

² FTUC Press Release, August 13, 2011.

³ As reported in separate interviews with trade union leaders on November 30-December 1, 2011.

⁴ As reported to the ITUC by the FTUC on August 4, 2011.

This practice has similarly been used to stifle the activities of religious groups perceived to oppose your government. While groups are required to attain a permit for a religious gathering, the terms of this provision and its requirements are applied and enforced arbitrarily. In August 2011, after approving the necessary documentation for the Methodist church's three-day annual conference, the police cancelled the conference. The church has been forced to cancel its last three annual meetings. The police have limited the church's gatherings to Sunday and enforced travel bans on church ministers who wish to travel abroad for church related meetings.

2. Abuses by Security Personnel

On November 4, 2011, the police arrested Felix Anthony.⁵ This arrest followed the October arrest of Daniel Urai following his return from the Commonwealth Head of Government Meeting in Australia.⁶ On November 7, Urai was officially charged with "inciting political violence by urging to overthrow government." Urai was released on bail and Anthony was released without charge, following an international campaign urging their release. The trial of Urai is expected to commence in 2012. Both leaders have been banned from travelling outside Fiji, and Urai is subject to a curfew that restricts his freedom of movement within Fiji.⁷

The military had previously detained Anthony on February 12, 2011. According to trade union officials, military officers took Anthony from his home to military barracks in Lautoka, where he was interrogated as to whether he knew of any attempts to overthrow the government and whether he supported the current regime. On February 18, military officers told Felix Anthony to meet the prime minister at a sugar mill in Ba, together with two other union officials. Following the meeting with the Prime Minister, the military officers beat the union officials for roughly two hours. The union officials were ordered to drive to Namaka military camp and were reported to have been beaten again by military officers for roughly another two hours.⁸

On June 22, 2011, immediately following the 100th International Labor Conference, two military officers allegedly beat the president of the Fiji Sugar and General Workers Union - Ba Branch.⁹ The officers demanded that he submit his resignation from the union by 3 p.m. the next day and threatened further abuse.

On February 21, 2011, the military detained and allegedly physically assaulted politician Sam Speight. A former cabinet minister in the deposed Qarase government, Speight was held for three days in detention and was reported to have been badly beaten.¹⁰

3. Media Freedom Curtailed

⁵ As reported to the ITUC by the FTUC on November 4, 2011.

⁶ As reported to the ITUC by the FTUC on October 29, 2011.

⁷ As reported to the ITUC by the FTUC on November 28, 2011.

⁸ As reported to the ITUC by the FTUC.

⁹ ILO concerned about alleged attacks on Fiji union leader by military, Radio New Zealand International, June 28, available online at <http://www.rnzi.com/pages/news.php?op=read&id=61467>

¹⁰ Amnesty International Press Release, "Arbitrary detentions and beatings in Fiji must stop," February 25, 2011, <http://www.amnesty.org.au/news/comments/24916/>.

Your government has consistently sought to limit public criticism through aggressive censorship of the press. Your government asserts control over published media content, keeping government censors in news rooms and punishing journalists for material deemed anti-government.

The 2010 Media Decree strengthens the state's mechanism of censorship, restricting foreign media ownership and forbidding publications which are "against public interest or order, against national interest, offends good taste or decency, or creates communal discord." Repercussions for such material include hefty fines and or jail time. Additionally, the decree requires domestic media outlets to be at least 90 percent locally owned. This provision was widely seen as targeting The Fiji Times, which is owned by News Limited, and its editor, Netani Rika. Long perceived by the Ministry of Information as anti-government, Rika left the Times after the passage of the decree under what many viewed as targeted pressure from your government.

4. Unilateral Labor Law Revisions Eliminate Most Labor Rights

The Fiji government has issued several decrees that sharply curtail fundamental labor rights in both the public and private sectors. Some of the decrees also eliminate all access to judicial review and redress for past, present, and future violations of those rights or to question the legality of the decrees themselves. These sweeping changes were made without any prior consultation with the relevant trade unions. These decrees 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. 21); Public Service Act (Amendment) 2011; and the Essential Industries Decree of 2011.

On May 16, 2011, your government promulgated the Employment Relations Amendment Decree which amended the Employment Relations Promulgation of 2007 to exclude all public service workers from the scope of its' coverage. Thus, roughly 15,000 workers in Fiji's public service were divested of their important labor rights available under that law, such as collective bargaining and the right to strike, overnight.

On July 29, the government promulgated the Essential Industries Decree, which divested most private sector workers in key industries of their rights. As explained by the ILO Director General Juan Somavia, the decree has "very far reaching implications" including the "ending of existing collective agreements, the designation of new bargaining agents which may not be trade unions, and the possible imposition of compulsory arbitration of disputes and other limits on the right to strike." Implementing regulations issued on September 9, 2011 subsequently designated the finance, telecoms, civil aviation, and public utilities sectors as essential and purports

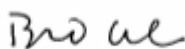
to allow the military government to include any other industries as and when it wishes.¹¹

Together, these decrees are widely viewed as a direct attack on the independent trade union movement, among the strongest voices in Fijian civil society.

In the five years since you assumed power through extra-constitutional means, few steps have been taken to restore the right of Fiji Islanders to participate fully and freely in the governance of their own country. Rather than embracing the important role that civil society, human rights defenders, and trade unions play in good governance, your government has systematically repressed such groups. As international human rights, labor, and press organizations, we urge you to commit publicly to your international human rights obligations and take all necessary measures to protect human rights in Fiji. We urge your government to:

- Immediately repeal the Public Emergency Regulations – as your government has undertaken to do on several occasions;
- Repeal the Media Industry Development Decree, remove government censors from news rooms, and encourage international press organizations to work with the Fiji media to establish a mechanism for self-regulation;
- Revise all labor decrees, including the Employment Relations Amendment Decree of 2011 and the Essential Industries Decree of 2011, through a tri-partite process, to ensure compliance with your international obligations to the ILO;
- Publicly order security personnel to uphold human rights, in particular fair trial and due process rights, the prohibition on torture, and the right to free assembly and association;
- Investigate and prosecute all security force personnel who engage in arbitrary arrest and detention, attacks on journalists and human rights defenders, and physical abuse of detainees; and
- Publicly commit to an expedited timetable for elections, implementing the right of all Fiji Islanders to take part in the conduct of public affairs, directly or through freely chosen representatives and to vote and to be elected at genuine periodic elections.

Sincerely,

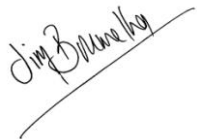


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¹¹ Statement on Fiji, by ILO Director-General Juan Somavia, September 13, 2011, available online at http://www.ilo.org/global/about-the-ilo/Press-And-Media-Centre/Statements-And-Speeches/Wcms_162761/Lang--En/Index.Htm



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