

BS/SB/TJ/sw

Brussels, 6 September 2013

Ms Baroness Catherine Ashton  
High Representative of the Union  
for Foreign Affairs & Security  
Policy

European External Action Service  
1046 Brussels  
[Letter sent by e-mail]

## Rapidly Deteriorating Human and Labour Rights Situation in Fiji

Dear Ms Ashton

Since having taken power through a 2006 coup d'état, Commodore Bainamarama has systematically restricted or denied the right to freedom of association in law and practice in Fiji. ILO supervisory mechanisms have detailed extremely serious and systematic violations of the right to freedom of association, from harsh beatings, threats, arrests on false charges and constant surveillance to severe restrictions on labour rights for workers in the public sector and private sector 'essential industries'. The ILO and social partners have sought to engage in a constructive dialogue with the regime in order to find solutions to these extremely serious violations -- but to no avail. Indeed, the regime even ejected an ILO mission in September 2012 that was sent to verify the numerous allegations made by Fijian workers. To date, the regime continues to refuse to allow the mission to return.<sup>1</sup>

On September 6, a new, deeply flawed constitution came into force. Indeed, after having received a draft constitution from an independent Constitution Commission, which was informed by a highly-participatory process – with over 7,000 public submissions, including from Fijian trade unions – the Government in December 2012 confiscated copies of the Commission's draft and announced that it would instead write its own. On March 20, the Prime Minister unilaterally issued a new draft constitution, which is substantially inferior to the draft presented by the Commission, in particular its fidelity to principles of international law. The Government also decided to do away entirely with the Constituent Assembly, which was charged with reviewing, amending and adopting the constitution. This left only a brief period, from March 20 to April 30 for the public to submit comments on the Government's lengthy and complex new draft.

There is much to be concerned about with the new constitution. For example, Articles 19 and 20, while first providing that all persons have the right to associate, to join a union, to bargain collectively and to strike, they include broad exceptions that could be invoked to limit severely those fundamental labour rights and indeed to justify the existing harmful decrees already criticized by the ILO.<sup>2</sup> The broadly stated principles can and no doubt

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<sup>1</sup> A detailed summary of the regime's serious and systematic violations of international labour standards is found in the enclosed factsheet.

<sup>2</sup> For example, the right to join a union and bargain collectively can be limited under the constitution for the following reasons: (a) in the interests of national security, public safety, public order, public morality, public health or the orderly conduct of elections; (b) for the purposes of protecting the rights and freedoms of others; (c) for the purposes of

will be undermined through the invocation of these exceptions. Of note, the Commission's draft constitution contained none of these sweeping exceptions. The contents of the political party decree have also been incorporated into the constitution.

On 6 September 2013, the police arrested over 30 protestors, including political party and trade union leaders, who had assembled outside of the Government House in Suva to denounce the entry into force of the new constitution. In arresting the peaceful protestors, the government explained that they did not have the permission of the authorities. This part of the repressive Public Order Amendment Decree was suspended during the constitutional reform process but is apparently once again in force.

Most recently, the regime has escalated its attack on the trade union movement. In July, the Fiji Sugar and General Workers' Union (FSGWU) filed a legal notice to hold a secret ballot to authorize a strike in the nations' sugar mills. The union had no other choice as the Fiji Sugar Corporation (FSC), the public entity that owns and manages the sugar mills, had continuously refused to bargain with the union. FSC management held meetings in all work stations in order to intimidate union members not to vote and even threatened that if they voted the FSC would turn their names over to the Government. During the balloting, police and military officers were present at the polling sites to threaten and intimidate workers. The Attorney General personally issued threats to the union via state-controlled media threatening that the regime would intervene to keep the mills running in the case of a strike through use of replacement workers.

Despite these threats, workers voted to authorize a strike in late July. Throughout August, there has been continual intimidation of mill workers. Military and management have been very aggressive in threatening workers with termination if they decided to carry out the strike. The military has also threatened some workers that they would be taken to the military camp if the strike was going to take place. Last week, the union's General Secretary was asked by members to address a lunch hour meeting outside the Lautoka Mill. On his arrival, management dispatched security guards (comprised of police and military) and disallowed any meeting on the grounds around the mill.

Finally, we note that Decision 2007/641/EC expires on 30 September 2013. We believe that the EU should not extend any further benefits to Fiji than those already contemplated by the Council Decision of 24 September 2012. The continued violation of human rights remains a serious concern. Indeed, a request for an ILO Commission of Inquiry will be discussed by the ILO Governing Body this October. Further, given the existence of deeply repressive decrees, such as the Public Order Amendment Decree and the Political Parties Decree, among others, the possibility of credible elections in 2014 remains doubtful.

We request an opportunity to discuss this matter with your office at the earliest possible convenience.

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*imposing reasonable restrictions on the holders of public offices and members of a disciplined force in order to secure their impartial service; (d) for the purposes of regulating the registration of trade unions, or of any federation, congress, council or affiliation of trade unions, or of any federation, congress, council or affiliation of employers; (e) for the purposes of regulating collective bargaining processes, providing mechanisms for the resolution of employment disputes and grievances, and regulating strikes and lockouts; or (f) for the purposes of regulating essential services and industries, in the overall interests of the Fijian economy and the citizens of Fiji.*

Yours sincerely,



Bernadette Ségo  
ETUC General Secretary



Sharan Burrow  
ITUC General Secretary

Enclosures:

- ITUC Factsheet
- Human Rights Watch Statement on the Constitution