



FIJI¹¹⁸

EI affiliates

- FTU** Fiji Teachers Union f. 1929 and affiliated to Fiji Trade Union Congress
- FTA** Fijian Teachers' Association (formerly Fiji Native Teachers' Association) registered as a trade union in 1961; Affiliated to the Fiji Islands Council of Trade Unions
- FTC** The Fiji Teachers Confederation was formed after Independence as an umbrella body to represent teachers.
- AUSPS** Association of the University of the South Pacific Staff

Ratification

- C. 87 Freedom of Association and the Protection of the Right to Organise (1948) ratified 2002
- C. 98 Right to Organise and Collective Bargaining (1949) ratified 1974
- C. 100 Equal Remuneration (1951) ratified 2002
- C. 111 Discrimination (Employment and Occupation) (1958) ratified 2002
- C. 144 Tripartite Consultations (1976) ratified 1998

Union Density Rate

28% (according to Permanent Secretary 2012)

Background

Following a military coup in 2006, the Constitution was abrogated 10th April 2009. Currently the Head of State is Commodore Frank Bainimarama. Fiji has been suspended from the Commonwealth and the Pacific Islands Forum, the EU has withdrawn all but emergency aid.

Since 2009, the government has ruled by executive decrees which have restricted trade union and labour rights in the public and private sectors, and "have deprived Fijian workers of fundamental rights guaranteed by ILO Conventions 87 and 98, eliminated access to judicial review and disallowed the right to question the legality of the decrees".¹¹⁹ Unions face harassment, threats, arbitrary arrest, travel restrictions and members suffer violence and beatings by the authorities.

The ILO Governing Body at its November 2012 meeting declared Fiji among the 5 countries in the world with the worst record on freedom of association. The CEARC and the CFA have examined the case of Fiji (based on a complaint no 2723 dating back to July

¹¹⁸ Grateful acknowledgements to Maika R M Namudu, General Secretary, FTA and Govind Singh, Secretary General, Council of Pacific Education, who provided valuable information and comments for this study.

¹¹⁹ ILO Governing Body Resolution November 2012

¹²⁰ ILO CFA Report GB 309/8 paras 523 -528

2009¹²⁰ submitted jointly by Fijian Teachers Association, Fiji Islands Council of Trade Unions, the Fiji Trade Union Congress, the International Trade Union Confederation and Education International).

Education System

Education is compulsory between ages of 6-16. While universal primary education had been achieved by 2006, since then, there has been an increase in children dropping out of school, between primary and secondary levels, particularly in remote areas. While access to education is good, quality is often poor because of the use of junior or less experienced teachers. Basic secondary level is compulsory in theory alone. Education is centrally administered by the Ministry of Education. The majority of schools are partnerships between community based or religious organizations together with the Ministry of Education. Each school has an operations committee which manages funds and maintenance while the government pays teachers' salaries. Curriculum and policy is centrally developed.

Education standards are considered to have fallen over the last 6 years because of the emigration of teachers. Teachers leave Fiji due to low pay, lack of continuing educational opportunities and training, poor working and living conditions, particularly in remote areas. It is estimated that teachers comprise one third of the total skilled migrant population.¹²¹ In recent years, the poor economic climate and political situation has resulted in increased migration rates.

Teachers salaries have failed to keep up with steep inflation. Since 2008, the increase has only been 3%. The 2012 education budget was reported to be USD 25.7 million, an increase of USD 9 million over 2011. According to the former President of the FTA, President, *Tevita Koroi*, over 90% of the government education budget goes on teachers' salaries.¹²²

The Education Act adopted in September 1966, was amended in 1976 to establish an Education Forum, an advisory board on education facilities, education policy, and other matters as submitted by a member of the Forum or by the Permanent Secretary. It includes the FTU, the FTA, the President of the Fiji Principals' Association and 10 representatives of the controlling authorities of registered schools.

Teachers in public education are public employees. The Public Service Commission, established in the Act of 1999, is responsible for setting employment terms and conditions, including salaries. It established a Public Services Appeal Board to hear individual cases.

¹²¹ *Asia Pacific Viewpoint Vol 44 Issue 2 August 2003 pp 163-175 "Fijian teachers on the move: Causes, implications and policies".*

¹²² *Fiji Times Online May 5th 2010 speaking at the 80th Annual Conference in May 5th 2010*



Social Dialogue before the Military Coup

In April 2006, the Confederation of Public Sector Unions (Fiji Public Service Association, the Fiji Teachers Union and the Fiji Nurses Association) signed a partnership agreement with the Public Service Commission (PSC) and Prime Minister Laisenia Qarase, the last democratically elected leader of the country. The agreement contained a 5 year Memorandum of Understanding and an Industrial Relations Framework 2006-2008. This agreement, according to the FNA, resolved a number of outstanding issues dating back to 2003, concerning back payments, salary increments, and cost-of-living adjustments, as well as a proposal to carry out a systematic job evaluation system. It had been a long and closely negotiated process.

Situation after the Military Coup

Following the military coup in 2007, the partnership agreement was unilaterally nullified. The interim administration then imposed a 5% across the board pay cut for all public employees and reduced the compulsory retirement age from 60 to 55 years. Although FICTU requested the Minister of Labour to refer the dispute to arbitration, the government ignored the request and FICTU then lodged a notice of strike action. On 25th July 2007, FNA went on strike, joined by FTA and Fiji Public Employees Union and Fiji Civil Servants Association. However, other unions did not join the strike and when the interim government threatened to deduct pay, the strike crumbled. The legal challenges to these unilateral decisions are still pending.

In April 2008, the Employment Relations Promulgation (ERP) established a new set of mechanisms, including Mediation Services, the Employment Tribunal and the Employment Relations Court. The Employment Relations Advisory Board was established in May 2009. The ILO CEARC declared it was generally satisfied with this new legislation.

However, persecution of trade unionists was stepped up in 2009, following the abrogation of the Fiji Constitution on April 10th. The FTA President, Terita Koroi, was dismissed on April 30th from his position as a school principal by the Public Service Commission. He was also removed from his positions on the Education Forum, the Fiji Teachers' Registration Board, the Joint Consultative Committee (JCC) and Staff Board (CSB). He was charged with breaching the public service code of conduct. This accusation was based on a statement by Koroi in December 2008 in his capacity as a trade union leader when he called for a coordinated campaign to return Fiji to parliamentary democracy. His dismissal was widely condemned as a violation of the right to freedom of expression and the FTA's freedom of association. The case was submitted to the ILO Committee on Freedom of Association which has urged the government to ensure that Mr. Koroi's is reinstated and fully rehabilitated.

The Public Emergency Regulations (PER) of 2009, which made meetings of more than 3 people illegal, were repealed in 2012 and replaced by the Public Order (Amendment) Decree (POAD). The POAD essentially requires organisations to seek the consent of the authorities prior to holding meetings and gives police and military wide powers to use force in breaking up groups of people. A sub-section (5) of Section (8) lists a sweeping range of reasons why permission to hold a meeting can be withheld.

At the same time, other decrees limited or terminated the possibilities of collective bargaining or appeals procedures for public sector trade unions.

Decree No 6 of 2009 (State Services) abolished the Public Service Appeal Board and terminated all cases before it.

Decrees 9 and 10 of 2009 (Administration of Justice) terminated dozens of existing and pending grievances filed by public sector employees. The decree also prevented public sector unions from negotiating any changes or up-grading the benefits of workers via collective bargaining.

Since 2009, the PSC has ceased to respond or negotiate with public sector trade unions, over employment conditions, including cost-of-living adjustments, according to the FICTU. However, it was possible for individual cases to be referred to procedures under the Employment Relations Promulgation (ERP) of April 2008.

Decree 21 of 2011 (Employment Regulations) amended the Employment Regulations Promulgation effectively closing this avenue of appeal for public sector workers. A subsequent Decree 36 of 2011 is intended to restore the protection of public sector workers against discrimination, including anti-union discrimination.

Although not directly affecting teachers, the **Essential National Industries Decree 2011** has severely curtailed freedom of association and collective bargaining in key economic sectors, including finances, telecommunications, civil aviation, all foreign banks and the public utilities.

Recent Developments in 2012

The government has suspended POAD to allow for consultations to take place convened by the recently created Constitutional Commission. The government has outlined a road map in order to hold Parliamentary elections by 2014.

A recent High Court decision recognizes its jurisdiction over cases from public sector workers who wish to challenge government or the PSC, including on issues related to termination of employment or suspensions. The PSC has also established a new internal grievance system. The government also reported to the ILO Committee on Freedom of Association that a sub-committee of the ERAB is undertaking a review of all existing government decrees relating to the public service in terms of their conformity to international labour standards.



The government of Fiji has informed the ILO that its recommendations in the case of the dismissal of the FTA President, Tevita Koroi, will be referred to the Employment Relations Advisory Board for its consideration.¹²³

In September 2012, the ILO sought to conduct a fact-finding mission to Fiji. While the government had originally agreed to the mission and its terms of reference, there was a change of opinion and the mission was requested to leave the country.

March 2011 FTA Update:

“The current political climate is not conducive to good and fair labour practices and industrial relations. Negotiation with the government is no longer interesting and forthcoming. They do whatever they think is right and workers are regarded as tools and the human element seems to be deliberately excluded from the whole equation.”

Education expenditure and GDP growth

% GDP spent on education	% public expenditure spent on education	GDP % Growth
2006		3.4%
2007: 5.8%		-6.6%
2008: 4.2%	15.6%	0.2%
2009: 4.5%	14.4%	-0.5%
2010: 6.2%		

Source World Bank/IndexMundi

¹²³ Report of the ILO CFA to Governing Body November 2012 para 783(b)