

108th Session, Geneva, June 2019

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**Committee on the Application of Standards**

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*Following the decisions made during the informal tripartite consultations on the working methods of the CAS in March 2019, governments appearing on the preliminary list of individual cases have now the opportunity, if they so wish, to supply on a purely voluntary basis, written information before the opening of the session of the Conference.*

## **Information on the application of ratified Conventions supplied by governments on the preliminary list of individual cases**

### **Fiji**

#### **Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)**

**Fiji** (ratification: 2002). The Government has provided the following written information. The Fijian Government submits below a brief summary of the latest developments on the discussion of the Joint Implementation Report of 2016 (JIR) after the Fiji Trade Union Congress withdrew from tripartite boards and meetings in September 2018. The Fijian Government in the spirit of social dialogue and tripartism continues to engage with the social partners on the way forward to implement the JIR. In addition, outlined briefly is the Fijian Governments' response on the observations made by the Committee of Experts on Application of Conventions and Recommendations.

#### **Developments on Discussion of the Joint Implementation Report**

The tripartite partners recently met to discuss the way forward and proposed timelines for dealing with the outstanding matters of the JIR. The meetings held were as follows:

- (a) 11 March 2019 meeting with the Minister for Employment, Productivity and Industrial Relations Honourable Parveen Kumar, Permanent Secretary of Employment Osea Cawaru, trade unionists Felix Anthony, Daniel Urai and two union officials and employer's representative, Nezbitt Hazelman; and
- (b) 3 April 2019 meeting with the tripartite partners, ILO Director for Pacific Island Countries Donglin Li and ILO Decent Work & International Labour Standard Specialist Ms Elena Gerasimova.

During the 3 April 2019 meeting, the tripartite parties agreed that the Fijian Government has implemented a number of matters under the JIR, primarily by way of amendments to the Employment Relations Act 2007 (Act). These amendments relate to:

- (i) the restoration of check-off facilities;
- (ii) reduction of strike notice to 14 days for essential services and industries;
- (iii) reinstatement of grievances which were discontinued by the Essential National Industries Decree;
- (iv) removal of all references to bargaining units in the Act and allowing workers to freely join or form a trade union (including an enterprise trade union);
- (v) repeal of sections 191X and 191BC of the Act;
- (vi) application for compensation for workers employed in an essential national industry or a designated corporation or designated company under the Essential National Industries (Employment) Decree 2011 (Decree) whose employment was terminated during operation of the Decree; and
- (vii) any trade union deregistered was entitled to apply to be registered again.

The only two outstanding matters under the JIR which the tripartite parties are working towards implementing include the review of labour laws and the review of the list of essential services and industries. The ILO has offered to provide technical assistance for the review of the list of essential services and industries. The Fijian Government will be responding shortly to ILO on the proposed tentative date provided by ILO technical expert in relation to the workshop to be conducted for the social partners.

The tripartite partners also met on 30 April 2019 to review the agreed proposed amendments to the Act. During the meeting, the tripartite partners made good progress on the discussion of the proposed amendments to the Act and agreed to continue discussions at a later date. While the Fijian Government had proposed to continue discussions during the third week of May, Fiji Trade Union Congress (FTUC) representative, Felix Anthony (Mr Anthony) informed that they would be providing their response to their participation at the tripartite dialogue on 1 June 2019.

Despite FTUC's withdrawal from participating in the tripartite dialogue and board meeting on 5 September 2018, the Fijian Government remains committed to undertaking its obligations under the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) and continues to recognise FTUC and the Fiji Commerce and Employers Federation as tripartite partners in advancing social dialogue.

### **Allegation of harassment and intimidation of trade unionist General Secretary Felix Anthony**

All persons have the right to fair employment practices including the right to form or join a trade union, and participate in its activities and programme, and these rights equally apply to Mr Anthony.

The Office of the Commissioner of Police as provided for under the Fijian Constitution and other relevant national laws, is authorised to investigate circumstances of a possible or alleged violation of any law, and this authority includes the power to arrest, search and detain. The detention of Mr Anthony by police officers was not intended to harass and intimidate Mr Anthony, but to allow police officers to carry out further investigation.

Please note that the FTUC have conducted public protests in the past, including the protests held in Suva on 21 October 2017 and in Nadi on 31 January 2018.

### **Legislative Issues**

As earlier submitted, the review of the labour laws is progressively taking place between the tripartite partners, and will also take into consideration the provisions outlined by the Committee of Experts.

It is also worth noting that trade union officials in Fiji have recently contested the General Elections, and those that have been unsuccessful have returned to their former trade union positions with the exception of one former trade union official, Honourable Mikaele Leawere who is a Member of Parliament.