



FIJI TRADES UNION CONGRESS

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The Public Order (Amendment) Decree No. 1 of 2012 (POAD)

The Fiji Trades Union Congress condemns the regime's new Public Order (Amendment) Decree 2012 (POAD) which puts citizens in a more vulnerable position than before. The removal of the PER is just an exercise to camouflage the incoming stringent and draconian Decree in the form of the Public Order (Amendment) Decree No. 01 of 2012 (POAD).

The following are some of the amendments that will have a direct impact on the normal and core business of institutions like trade unions.

1. **Section 2 : Definitions:**

The definition of '*terrorism*' has been widened extensively. It includes the following (i-v) amongst the general definitions of terrorism (weapons use, hazardous chemicals etc). The definition of terrorism in Fiji has a very different meaning from the general and global definition and would make the work of Trade Unions and Churches impossible. Under the new definition "*terrorism*" now also means:

- i. Any form of actions by unions to communications, banking or financial services, utilities, transportation or other essential infrastructure.
- ii. Intimidation of the public or a section of the public. This is an act of terrorism unless it is perpetrated by the powers that be as they enjoy full immunity from prosecution.
- iii. Seeking international support from camaraderie organizations for issues faced in Fiji as it would mean compelling these organizations to take actions or initiate support campaigns. These would include campaigns on restoration of trade union and human rights in Fiji.
- iv. Promoting any religious, political or ideological cause or belief.
- v. Computer hacking and use of internet and internet based facilities such as websites and emails.

The above definition of terrorism now criminalizes legitimate trade union activities in Fiji and internationally which is in violation of basic human and trade union rights in Fiji. It strikes at the very heart of legitimate trade union activity.

2: Terrorism Offences:

Part 3A Section 12 A states that "Any person who commits an act of terrorism, shall be guilty of an offence and shall be liable upon conviction to imprisonment for life."

3. Section 3: Offenses and Penalties

There is a huge increase in Offenses and Penalties attached to the different sections. For instance, causing disturbance of public peace, incitement of violence, spreading false news, to name a few would mean a three (3) year term in prison from the initial six months or a 5000 dollars fine from the initial 200 dollars. Who decides what is false news or incitement? Isn't government the main perpetrator of this itself?

4. Usage of flags and Banners banned:

Section 3 of the Act is amended to allow the Minister (PM) to prohibit the use of flag, banner, dress or uniform, even pictures and photos, etc. The fine for these will be \$5,000 or maximum of three (3) years jail term.

5. Stopping or Refusing an Assembly (of 3 persons of more):

Section 9 directly replaces the implications of the PER and relates to organizations such as Unions and Churches. Section 9 (1) a) and b) : gives powers to Commissioner of Police or Divisional Commanders to stop, disperse or 'conditionalise' any meetings etc even if a permit has been granted.

The Commissioner of Police or Divisional Commanders can stop or disperse or reject the progress of a meeting if any application by an individual or organization has

- Been refused a permit before.
- Failed to comply with conditions of permits before
- Held any meeting that has disrupted peace, public safety etc before
- Has engaged in activities deemed to sabotage or undermine the economy and financial integrity of Fiji.

The Commissioner of Police now becomes the Prosecutor, the Judge and the Executioner.

Section 9 (3) gives any police officer the authority to also use force and arms to disperse a gathering and these police officers shall be given full immunity from prosecution or legal action.

Offenses and Penalties Section 10 (1) now can penalize an individual who has taken part in permit-less meeting or even taken part in a meeting in which conditions have been breached and will be liable for fines up to \$10, 000 or 5 years prison term. Any persons assisting in the conduct of a meeting or organizing it are also liable to be charged the same.

6. Access to meeting venues:

Section 11 1) allows the Commissioner of Police and Officer in Charge of the Police District to restrict access to meeting venues by closing roads and buildings.

7. Section 11: Control of Persons

Section 11 A gives Commissioner of Police the powers to stop any person from going to an area or place or stop a person from leaving a place or area, can ask a person to remain indoors during specified hours, can restrain a person from leaving the country for some duration and prohibit such persons from entering or exiting a town, district, or country etc. This means that a person can now be detained by police and refrained from attending a meeting even if a permit has been granted. These powers now given to the Commissioner of Police were previously a function of our Justice System through the Courts. The Commissioner now becomes the prosecutor and the judge and his decision cannot be challenged in court. This makes Fiji a police state, and these restrictions by the Commissioner of Police does not require an individual to be charged lawfully under the law but merely if Police have reasonable suspicion to believe that an individual is working against the regime.

8. Sabotaging the Economy Is a crime: Section 17 implies that anyone who "*undermines or sabotages the economy or financial integrity of Fiji* " is a criminal and would be subject to a fine of \$ 5000 or 10 years imprisonment. The definitions of the key terms are unknown and can mean anything at the discretion of the authorities. If found in possession of a document inciting violence etc, the fine has increased from six months to 10 years and two hundred dollars to 50 000 dollars. Again this provision is designed to deny the institutions like trade unions, NGOS, and churches from raising issues of trade union rights violations and seeking the international community to remind Fijian regime of its international obligations. A look at the official statistics of GDP below reveal that government itself has been responsible for the sabotage of the economy and the financial integrity of our nation.

Fiji GDP Figures:

Year	GDP Rate
2006	1.5 %
2007	-1.1%
2008	-0.4%
2009	-1.9%
2010	-0.4%

9. Section 17: Power of Arrest, Search and Use of Force

Section 17 B and C allow the military to act and perform as a police officer or a prison officer. They will have the same privileges and powers, and can perform all and any duties and functions of the police or prisons officer. The immunity provision also applies in the execution of their duties. Again this provision has no checks and balances and legitimizes the role of the military in civilian rule. We do not believe that the military should take over the role of the police or get involved in civil matters.

10. Section 21: Certain decisions not to be challenged

Insertion of new section (21) to prohibit any Court from accepting or hearing cases on this Decree and a certificate to this effect is not subject to challenge in any court. This limits the organizations from seeking redress if their rights are violated by authorities themselves. If the powers that have been vested in the Commissioner of Police and the Divisional Police Commanders and the Minister cannot be challenged, then we ask, where is the transparency, accountability and good governance principles that the regime is trumpeting?

We are completely appalled at the implications of this new Amendment Decree. The media has jumped the gun by publicizing the removal of the PER rather than exposing the restrictions that are embedded in the new Decree. We believe that the Human and Trade Union Rights situation has drastically worsened under this Decree and the removal of the much disapproved PER was just a camouflage exercise by the regime to MISLEAD the people of Fiji and the international community.

The FTUC calls upon government to revoke the new repressive Amendment Decree which we believe is designed to control the lives of people rather than restore to the people of Fiji their fundamental rights and freedoms.

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