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REGIME ENFORCES REPRESSIVE DECREE

ENI Decree # 035 of 2011 (*Essential National Industries Decree*)

On Friday 9th September 2011, the Fiji Regime issued a Gazette Notice containing *Regulations* to implement their ENI Decree which was first published on 29th July 2011. It is effective from the date of publication: 09th September 2011. Today, the workers of Fiji can compare this act as a calamity just as worse as the US 9/11 Twin Towers disaster in New York 10 years ago.

At the same time, Ministry of Information issued three separate documents, accompanying the issue of ENI Regulations, which contained extensive propaganda and in support of their recent spin actions aimed at totally destroying the trade union movement in Fiji.

The first release (MinInfo # 1739) is a complete list of *Quotations* from the regime's mouth piece Aiyaz Saiyed Khaiyum (AG), on the ENI decree. It is plainly a publicity exercise for external consumption that there is nothing wrong with the new Regulations or previously released Decree #035/2011. Aiyaz S Khaiyum with no understanding of Employment Relations or ILO Core Labour standards continues via his non-stop utterances in support of the profit motive of the corporate sector. He treats the rest of the country as if they have no worth left and he has the sole right to determine their life and future, in this case the status and future existence of workers who are the most valuable assets in any economy.

Secondly, a "*Fact Sheet*" (#1740, *author not mentioned*) with more inane justification on their actions to date via the ENI and other decrees designed to limit, remove or destroy the status of trade unions, their officials and the workers themselves in the various nominated industries and entities. The contents garishly praise the objective of their plans, ignoring the immediate and long term flow on effect on the lives of workers and/or the sectors of the economy they are presumably trying to protect.

The inclusion of Fiji Revenue & Customs Authority (FRCA) is a shocker as it is a government statutory authority which has been roped in as a designated corporation. The influence of FRCA Senior Management with the regime is clearly at play. The senior management officials desire to continue unabated with corrupt practices such as \$10million reprieve given to a government commercial company as a favour which flies in the face of VAT Decree and its implementation process. The appointment of sons and daughters of senior management staff and family members continues to be done with impunity. The ENI Decree will now give them a much free hand to indulge in nefarious activities and they would be free from the binding Collective Agreement which had been a thorn on their side. The nepotism is rife and we are very much aware the FRCA, CEO wrote to the PM's Office to be exempted from the ERP similar to the Public Service Decree No.21/2011.

The Decree is clearly designed to aid and benefit the Employers and they admit the provisions are based on US labour laws. The paper even quotes some practices in USA and UK, which under close scrutiny by ILO standards will fall flat. At no time so far, they have provided solid proof that actions of unions and workers have harmed any company or industry in Fiji. They have ignored the fact that the poor performance of Fiji economy is due to other factors, e.g. corruption mismanagement of this organization and industries, loss of Aid Funds, trade imbalances and brain drain due to instability.

The quotes from UK and USA has been misquoted and avoided meaningfully about other accompanying legislation in those respective countries which ensure human and trade union rights. These rights are enshrined in the constitutions and legislations of these countries and are fully protected by independent judiciaries of these countries. The authors have purposely deflected their quotes not to inform the public that citizens of UK and USA have the right to challenge any matter through the judicial system in their countries unlike Fiji where we have no rights whatsoever. Moreover, these countries have elected parliament and other accountable institutions unlike the unelected regime in Fiji who possess no mandate.

Thirdly, another statement (#1742, *origin not shown*) with fictitious "Frequently Asked Questions (FAQs)" which is tailor made to justify themselves, i.e. they issue the questions and provide their own answers to them, as they wish, knowing there will be no one to question or rebut them. Any person with a basic sense of decency and propriety would see the mockery of the whole exercise.

The PER and Media Decree is foisted upon Fiji's people and defies the respected principles of accountability, transparency and good governance. These two (2) Decrees allows the regime to operate as an authoritarian government without democratic scrutiny and accountability. They make a mockery of the rule of law.

The regime's propaganda through their media release (No.1742/AG) at several places mentioned "good faith". Good Faith is a legal requirement – but it is also a tool and an investment. As a tool, good faith used flexibly and proactively can help parties in their dealings with one another. As an investment, it lays the foundation for productive ongoing relationships among employers, employees and the regime should take a leaf out of our good faith definition.

As we said elsewhere, if the Regime has confidence in itself, they will readily submit to a test by popular vote. The utterances in these three papers starkly demonstrate that they are lacking self-assurance and clutching at straws to save themselves from the mire they themselves created.

Via these moves, they have gone to extreme lengths to delude themselves that what they are doing they see as the right thing to do. The propaganda is meant for the gullible, both here and abroad, who are their supplicants of like nature. But the danger is that unsuspecting local public and in particular some of the workers will be forced to take these explanations as gospel truth and then take no action to investigate the facts and react in a positive manner. However, like the unions and workers, they are also severely constrained by the presence of

the *Public Emergency Regulations* [PER] and the *Media Decree* 2010, both of them have introduced a situation which are akin to a “police state”.

Looking at some of their wordings in these three documents, it is also obvious that they are directed against the Fiji trade unions, in particular FTUC and their affiliates, and our various responses, statements and releases in recent weeks. The contents of the three releases answer directly to our serious concerns, arguments and condemnation of the Regime’s actions in the recent past, i.e. the erosion and denial of trade union and human rights in Fiji. They have plagiarized some of our own wordings.

Once again the Regime feels that they have explained themselves to the recent *ILO Mission* to Fiji and are thus justified to embark on their foolish path. The initial ILO responses indicated that all the actions of the Fiji authorities were in violation of basic and fundamental human and trade union rights and in breach of the various ILO Core Conventions.

FTUC have made several statements and releases on this subject in recent weeks, all of them condemning the Govt actions, simply because they are in breach of conventions, illegal and denial of rights. We have been ably supported by international worker groups from many sources who have condemned the actions of Fiji Govt and echoed FTUC stand calling for immediate rescinding of all repressive decrees, return to normal operations in all sectors, the correct observance of all existing laws, the upholding of trade union and human rights, including the cessation of harassment and attacks on union officials and members.

Our crusade includes the restoration of the full ERP 2007 machinery to all workers of Fiji in every sector without discrimination. This will mean the reinstatement of the many grievances, disputes, awards and orders that were the rights and properties of workers and unions based on just grounds, law, merit and successful advocacy, before they were arbitrarily cancelled forthwith under the Decrees. Furthermore, the absence of dialogue between the parties have taken their toll, and we repeat the call for return to full collective bargaining status in all aspects so that all social partners can live and perform in accordance with industrial democracy and in harmony. If the Govt seeks peace, stability and progress in Fiji’s economy then, they should heed the call for sanity. Even FCEF feels that way.

While we await the publication of the Gazette notice, the Min. Info release last Friday identified the following 4 industries and 11 corporations as coming under the ENI Decree #035/2011:

	ESSENTIAL NATIONAL INDUSTRY	DESIGNATED CORPORATIONS
1.	FINANCIAL INDUSTRY	(i) Australia & New Zealand Banking Group (ii) Bank of Baroda (iii) Bank of South Pacific (iv) Westpac Banking Corporation (v) Fiji Revenue & Customs Authority
2.	TELECOMMUNICATIONS INDUSTRY	(i) Fiji International Telecom Limited (ii) Telecom Fiji Limited (iii) Fiji Broadcasting Corporation Limited
3.	CIVIL AVIATION INDUSTRY	(i) Air Pacific Limited

4.	PUBLIC UTILITIES INDUSTRY	(i) Fiji Electricity Authority (ii) Water Authority of Fiji
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From the foregoing it appears that following trade unions will be affected immediately:

- a) Fiji Public Service Association [FPSA] representing workers in FRCA & WAF.
- b) Fiji Bank & Finance Sector Union [FBFSU] with Members in ANZ, BoB, BSP, and Westpac.
- c) Transport Workers Union [TWU] with staff of Air Pacific Ltd.
- d) Fiji Post & Telecom Employees Assoc (FPTEA) covering FINTEL & TFL.

In view of above, our position has become most precarious, in fact if nothing is done to check it, then the demise of nearly all unions will follow. We should not aid and abet their design by keeping silent. This has been the most important and central theme of all our discussions, statements and objectives to date.

Sadly, apart from losing all hard fought benefits under the existing Collective Agreements, the current trade unions will be replaced by weak, pliable and ineffective "*bargaining units*", with Membership of 75 or more workers only in any one company, branch or station/unit.

In any case, if Employers plan to apply pressure via the pay check or inducement via pay increases or promotions to achieve their aims, then they can easily obtain 35% of existing membership of new trade unions, i.e. as little as twenty seven (27) workers, to cross over and reject their unions. Then the Minister, the RTU and the Employer will jump in, endorse and legalize it, and after which they will have a free hand in all its dealings with their staff.

The stakes are critical and high, our affiliates and their Membership should lose no time in realizing the predicament that we have been forced into. We must all rally behind our cause, i.e. the freedom of association, the freedom of assembly, the freedom of collective bargaining, the freedom for a decent work and career, and the right to peace, progress, prosperity and better living conditions. We must regain our legitimate expectations and the universal trade union and human rights.

Felix Anthony
NATIONAL SECRETARY