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Draft Constitution A Farce

The Regime's new Draft Constitution aims to legitimise all draconian Decrees it has imposed on the people of Fiji. The Constitution empowers the current regime and future governments to impose laws that could drastically impact rights normally enjoyed by people in democratic states. The draft Constitution ought to be a document that lays down the supreme law of the land and should not entitle any Government at will to change through legislation or alter any provisions unilaterally by a simple majority in parliament.

The FTUC notes that the Bill of Rights in the Constitution has been considerably watered down. One should not be fooled by the loose use of words associated with democracy and human rights internationally. While the first part of each Right confer the rights to the people, the second part promptly takes it away by allowing government to make laws restricting those rights.

For example, Section 19, the "Freedom of Association". While the very first sentence gives every person the right to this freedom the next six sentences take this right away. This includes workers who currently fall under the Essential National Industries Employment Decree. It further limits rights of Unions and Congresses from registering. These restrictions will be dreamt up by the current regime or future governments. The other example is Section 23 "Political Right". Parts 1 to 3 give every person the right to make political choices and the right to join a political party, participate and campaign while Section 4 places restrictions on registration of parties, participation in political parties or elections. This is to give legitimacy to Decrees 4 and 11 of 2013 on the Registration of Political Parties. We ask, if this regime does not allow the registration of political parties, how then are people to exercise their rights? There are many such examples and this is nothing more than an attempt to fool the people of Fiji into believing that they have rights and that we are moving towards true democracy.

Section 20 dealing with “Employment Relations” guarantees “every person” the right to fair employment practices, including humane treatment and proper working conditions. Part 5 promptly takes this right away for the many excuses given. The same section 20 gives every worker the right to join a Union and participate in its activities and to bargain collectively while Section 126 stipulates that public servants will have individual contracts. The Constitution even stipulates a retirement age of 55 for the public service at section 125 but in section 26 states that one cannot be discriminated on age but laws can be made for a retirement age.

The regime has used the Constitution to bash Unions and workers and ensure that these draconian provisions remain intact in the Constitution so that no incoming government can easily change these provisions other than holding a Referendum. All these provisions do not comply with the ILO minimum standards and there are volumes of reports from ILO experts in this regard. Yet Chapter 2, section 7 the Draft states that in interpreting the Bill of Rights the court, tribunal or “other authority” may consider international or foreign law applicable to the protection and rights in this chapter. What are the people of Fiji to make out of this contradiction?

The FTUC also questions the Regime on the process it has now adopted. Telling all the people of Fiji that they are the Assembly and giving them 2 weeks including the Easter holidays to make submissions by 5th April which will all be seriously considered and have a final draft constitution for adoption by 12th April, a week later, is nothing short of an insult to the intelligence of Fiji Citizens. The regime might as well simply impose its Constitution and not call a bluff on the citizens of Fiji. We ask, If the people are the New Assembly, why not a Referendum now on the Constitution? If this regime has enough confidence in knowing it is doing the right thing, it should not have any difficulty getting the people’s vote in a Referendum. It is time to walk the talk and stop the dictatorship. The FTUC will analyse the draft further and a submission will be made for whatever it may be worth.



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