



FIJI HUMAN RIGHTS COMMISSION

GPO Private Mail Bag
SUVA, FIJI ISLANDS

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Press Statement: Nurses Strike

The Fiji Human Rights Commission has received a number of enquiries from the public on constitutional protection of the rights of sick people balanced against labour rights. It has been reported to the Commission that many seriously sick people are not going to the hospital because of the nurses' strike.

And poor people do not have access to private healthcare as an alternative to hospital care because they cannot afford it.

Therefore the Commission makes this press statement in the **public interest**.

Section 33 of the Constitution protects **labour rights**, specifically the right of workers to organize and bargain collectively:

Every person has the right to fair labour practices, including humane treatment and proper working conditions.

Fiji is also bound by the relevant provisions of the International Labour Organisations.

On the other hand, the Constitution also protects the **right to life**. **Section 22** of the Constitution states that every person has the right to life and should not arbitrarily be deprived of it.

The **right to life is a fundamental human right** and holds more weight than the right to organize and bargain collectively. This is particularly so if alternative remedies are available to workers to exercise their right to fair labour practices. Using the example of the nurses' current industrial action, the right to strike cannot override the right to life of patients, sick people and the elderly.

Furthermore, the **Constitution limits fair labour practices in the interest of public health** (section 33 (4) (a)). The right to life of patients and sick people would come under the **public health limitation** in section 33.

However, the Commission is also aware that historically, nurses have been among the lowest paid workers in the world. This is mainly to do with the fact that nursing is usually dominated by females and the female workforce is usually paid less than the male work force. Therefore, the pay question for nurses is important not only in terms of fair labour relations as protected by the Constitution, but also in terms of gendered and discriminatory aspects of the workforce as a whole in Fiji.

Over the past 20 years international human rights agencies have considered the issue of **'equal pay for work of equal value'** in assessing whether nurses are being paid fairly in light of the critical and essential work that they do in public health. The UN Commission on the Status of Women in 1994, at its 38th session, said that States should take special measures to address the principle of equal pay for work of equal value.

In Fiji, the Interim Government should consider whether nurses are paid adequately for work that they do, compared to male dominated professions in the public sector. This issue should be analysed from the perspective of ILO Convention 100 of 1952. Government can consider whether new legislation is required to take into account the **ILO concept of equal pay for work of equal value** for particular areas of the workforce. Collective Agreements could also be re-considered from this important human rights perspective.

The question of whether two jobs are of equal value involves a weighing and balancing between features of two or more sets of jobs, and takes into account aspects such as skill, knowledge and responsibility, planning, decision-making, physical and environmental demands to assess the correct value of work in each category of employment.

However, the Fiji Human Rights Commission emphasises **that the right to strike less important than the right to life**. The right to life is the very first right that is protected in the 1997 Bill of Rights in our Constitution to give it the importance it deserves.

The right to life will be upheld over labour rights especially when alternative remedies are available to the workers to express their grievances. This will be looked at in terms of whether other unions have accepted Government's explanation for the pay cut of public officers and the extent of public health that is affected in any industrial action by public health officials.

The Fiji Human Rights Commission advises the Interim Government and members of the public accordingly.



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