

# **THE 2006 MILITARY TAKEOVER IN FIJI**

## **A Coup to End All Coups?**



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Jon Fraenkel, Stewart Firth and Brij V. Lal (eds)

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## Acronyms and abbreviations

ACCF	Assembly of Christian Churches in Fiji
ADB	Asian Development Bank
ALTA	Agricultural Landlord and Tenant Act
ALTO	Agricultural Landlord and Tenant Ordinance
APEC	Asia-Pacific Economic Cooperation
APS	Arya Prathinidi Sabha
AV	Alternative vote
BLV	Bose Levu Vakaturaga (Great Council of Chiefs – GCC)
CAMV	Conservative Alliance–Matanitu Vanua
CCF	Citizens' Constitutional Forum
CEO	Chief Executive Officer
COLA	Cost of Living Allowance
CPSU	Confederation of Public Service Unions
CRW	Counter Revolutionary Warfare Unit
DIL	Duavata Initiative Limited
ECREA	Ecumenical Centre for Research, Education and Advocacy
EPG	Eminent Persons Group
EU	European Union
FCC	Fiji Council of Churches
FCGA	Fiji Cane Growers Association
FDI	Foreign Direct Investment
FHRC	Fiji Human Rights Commission
FIC	Forum Island Country
FICAC	Fiji Independent Commission Against Corruption
FICTU	Fiji Islands Council of Trade Unions
FIRCA	Fiji Islands Revenue and Customs Authority
FLP	Fiji Labour Party
FLS	Fiji Law Society
FML	Fiji Muslim League
FNA	Fiji Nursing Association
FNP	Fijian Nationalist Party
FNPF	Fiji National Provident Fund
FPEU	Fiji Public Employees Union
FPSA	Fiji Public Service Association
FTA	Fiji Teachers Association

FTU	Fiji Teachers Union
FTUC	Fiji Trade Union Congress
GCC	Great Council of Chiefs ( <i>Bose Levu Vakaturaga</i> )
GDI	Gross Domestic Income
GDP	Gross Domestic Product
ICT	Information and Communications Technology
ICFTU	International Confederation of Free Trade Unions
ILO	International Labor Organization
IRF	Industrial Relations Framework
JSC	Judicial Services Commission
MFA	Multi-Fibre Arrangement
MFO	Multinational Forces and Observers
MP	Member of Parliament
MSG	Melanesian Spearhead Group
NAPF	National Alliance Party of Fiji
NCBBF	National Council for Building a Better Fiji
NFP	National Federation Party
NFU	National Farmers Union
NGO	Non-Governmental Organization
PIF	Pacific Islands Forum
PSC	Public Service Commission
NLTB	Native Land Trust Board
QEB	Queen Elizabeth Barracks
RAMSI	Regional Assistance Mission to the Solomon Islands
RFMF	Republic of Fiji Military Forces
RBF	Reserve Bank of Fiji
RTU Bill	Promotion of Reconciliation, Tolerance and Unity Bill
SAS	Special Air Service
SDL	Soqosoqo Duavata ni Lewenivanua
SCGC	Sugar Cane Growers Council
SPARTECA	South Pacific Trade and Economic Cooperation Agreement
SSDPS	Shree Sanatan Dharm Pratinidhi Sabha
SVT	Soqosoqo ni Vakavulewa ni Taukei
TCF	Textiles, Clothing and Footwear
TI	Transparency International
UGP	United Generals Party
UN	United Nations



UNIFIL	United Nations Interim Force in Lebanon
VAT	Value Added Tax
UNAMI	United Nations Assistance Mission for Iraq
VCSA	Viti Civil Servants Association
VLV	Veitokani ni Lewenivanua Vakarisito

Throughout this book, in accordance with common usage, the term 'the Promotion of Reconciliation, Tolerance and Unity Bill' has been abbreviated to 'the RTU Bill'.

Note also that, throughout this book, different authors use different terms to describe those descended from the Indian subcontinent. No attempt has been made to standardize usage.



## Authors' biographies

**Colonel Jone Baledrokadroka** is a long-serving officer in the Republic of Fiji Military Forces. He has a Masters in Strategic Studies from Deakin University Australia and a post graduate diploma in Strategic and Defence Studies from University of Malaya. He has served overseas on United Nations peacekeeping missions and commanded the troops which put down the attempted mutiny of November 2000. He was promoted to Acting Land Forces Commander in January 2006, but was subsequently relieved of his command after urging the RFMF Commander to halt confrontation with the Qarase government. He comes from Naitasiri on Viti Levu and attended the Marist Brothers School in Suva.

**Virisila Buadromo** is Executive Director of the Fiji Women's Rights Movement. She was formerly a journalist working for the FM96 radio station.

**Satish Chand** is a Professor of Economics at the Australian Defence Force Academy. He is also the Director of the Pacific Policy Project, which undertakes policy-relevant research on Papua New Guinea and the Pacific Islands. Originally from Fiji, Satish has a PhD in Economics from the ANU and has published on international trade, economic growth, labour markets, and development.

**Mahendra Chaudhry** is leader of the Fiji Labour Party. He was Fiji's first Prime Minister of Indian descent, until being overthrown in the coup of 19 May 2000 and kept in captivity for 56 days. Upon appointment of the interim government in January 2007, he became Minister of Finance, Sugar Reform, Public Enterprise and National Planning, but he and his labour colleagues resigned from the government in August 2008.

**Noel Cox** is Professor of Constitutional Law and Head of the Department of Law at the Auckland University of Technology, New Zealand, and a Barrister of the High Court of New Zealand. His main fields of research are public law, and technological challenges to the law.

**Jone Dakuvula** works for the National Council for Building a Better Fiji Technical Secretariat, and comes from the vanua of Natewa in Cakaudrove Province on Vanua Levu. During the 1990s he served as Chief Assistant Secretary and Press Secretary to Prime Minister Sitiveni Rabuka and later worked for the Citizens' Constitutional Forum. He appeared on a *Close Up* television programme on Fiji TV shortly after the 19 May 2000 coup, denouncing its perpetrators. As a result, a mob rampaged through Suva's streets and smashed up the television station.

**Tupou Draunidalo** is a Fijian lawyer and a former Vice President of the Fiji Law Society. She is the daughter of 1999-2000 Fiji Deputy Prime Minister Adi Kuini Vuikaba Speed and former *Soqosoqo Duavata ni Lewenivanua* cabinet

minister, Savenaca Draunidalo. She was a candidate for the Fijian Association Party in the parliamentary election of 2001

**Stewart Firth** is a Visiting Fellow in the State, Society and Governance in Melanesia Program, The Australian National University, and was Professor of Politics at the University of the South Pacific (USP) 1998-2004. He has written widely on the history and politics of the Pacific. He co-edited (with Jon Fraenkel) *From Election to Coup in Fiji: The 2006 campaign and its aftermath*, IPS and ANU E Press, 2007, and (with Sinclair Dinnen) *Politics and State-Building in Solomon Islands*, ANU E Press, 2008.

**Jon Fraenkel** is a research fellow with the State, Society and Governance in Melanesia Program at The Australian National University. He previously lived in Fiji and worked at USP for 11 years. He is author of *The Manipulation of Custom: From uprising to intervention in the Solomon Islands* (Victoria University Press and Pandanus Books, 2004).

**Russell Hunter** is the former publisher and managing director of the *Fiji Sun*, who was deported in February 2008 by the military authorities after his newspaper ran a series of stories containing allegations of corruption against then Minister of Finance, Mahendra Chaudhry.

**Brij V. Lal** is Professor of Pacific and Asian History in the Research School of Pacific and Asian Studies at The Australian National University. He was a member of the three-person Fiji Constitution Review Commission whose report forms the basis of Fiji's 1997 multiracial Constitution. Among his many books on Fiji are *Broken Waves: A history of the Fiji Islands in the 20th Century* (1992), *Another Way: The politics of constitutional reform in post-coup Fiji* (1997), and *Islands of Turmoil: elections and politics in Fiji* (2006). He is currently working on a biography of the Fiji statesman Jai Ram Reddy.

**Graham Leung** is a Managing Partner of Howards Lawyers in Suva, and was formerly President of the Fiji Law Society and Chairman of the Electoral Commission as well as serving as Judge Advocate in the Fiji Military's Court Martial of those soldiers responsible for a mutiny in May 2000. He was born in Levuka, and has previously worked in the Office of the Solicitor General, as Deputy Ambassador to the United Nations and at the Pacific Islands Forum Secretariat.

**Kuini Lutua** has been an active trade unionist for many years. She worked for the Reserve Bank of Fiji from 1973 to 1999 and was on the executive of the Fiji Bank Employees Association in the 1980s. She was a member of the Labour Advisory Board from 2002 to 2006, and General Secretary of the Fiji Nursing Association from 2001 to 2008. She has also served numerous organizations dealing with women's issues, social services, training, productivity and labour issues in Fiji and beyond.

**Joiiji Kotobalavu** is the former Chief Executive Officer in the Prime Minister's Office under Prime Minister Laisenia Qarase. He was dismissed from his position after the military coup of 5 December 2006. Kotobalavu previously served under successive prime ministers, including Ratu Sir Kamisese Mara, Sitiveni Rabuka, and briefly Mahendra Chaudhry. He served as Fiji's ambassador to Japan in the 1970s and as head of the South Pacific Geoscience Commission.

**Ratu Joni Madraiwiwi** currently works as a lawyer with Howards Law firm in Suva. He was formerly Vice President of the Republic of the Fiji Islands, until being removed by the Fiji Military Forces following the coup of December 2006. He is also *Roko Tui Bau*, one of the highest chiefly titles from the powerful island of Bau off the coast of Viti Levu. He trained as a lawyer in Australia and Canada, and worked in the Attorney General's chambers as a solicitor from 1983–1991, before becoming permanent Arbitrator and then a High court judge. He resigned in 2000 in protest at the coup d'état of that year.

**Vijay Naidu** was born in Fiji and educated there and in the United Kingdom. He is Professor and Director of the Development Studies program at the University of the South Pacific, and was Professor and Director of Development Studies at Victoria University of Wellington from 2003 to 2007. He has written on aid, migration, ethnicity, higher education, electoral politics, land tenure, the state, development and poverty, and taken an active role in the civil society movement in Fiji over many years. He has recently served a term as co-chair of Aotearoa New Zealand International Development Network (DEVNET).

**Wadan Narsey** is a Professor of Economics at the University of the South Pacific. He is also a regular columnist for the *Fiji Times*, a former Fiji parliamentarian, and a prolific commentator on the key economic, social and political issues facing Fiji and the Pacific.

**Lynda Newland** is a social anthropologist. She works in the Division of Sociology and Social Work in the Faculty of Arts and Law, USP. For her PhD, she conducted fieldwork on the state's family planning program in rural Muslim villages in West Java, Indonesia, but since arriving at USP in 2001 has engaged in research on Christianity in Fiji.

**Robert Norton** is an honorary Senior Research Fellow in the Department of Anthropology at Macquarie University in Sydney, where he taught from 1969 until 2004. He began researching the politics of race and ethnicity in Fiji in 1966. His book *Race and Politics in Fiji* was first published by University of Queensland Press in 1977, and in a revised edition in 1990. He has also published numerous papers on Fiji in various academic journals.

**Samisoni Pareti** currently writes for the regional magazine, *i*, and was formerly the Fiji correspondent for ABC's international radio service, Radio Australia. He began his career at national radio in 1986 and covered the two coups in Fiji. He

has also worked at the Fiji Times, commercial radio FM96, the Pacific news service, Pacnews, and the Fiji Sun. He writes about politics in the Pacific as well as development issues like HIV/AIDS and the environment.

**Jonathon Prasad** is a PhD candidate in the Department of Religious Studies, Lancaster University, UK. He has conducted 20 months of fieldwork in Fiji, researching at the idea of community, land and spaces in the construction of Hindu religious identity in Fiji. He has previously undertaken research on the importance of dharma for kingship in classical Indian thought. His other research interests include global political economy, the application of the Sen/ Nussbaum Capabilities approach, and mental health in developing countries.

**Laisenia Qarase** is the ousted Prime Minister of Fiji, who was removed from office in the coup of December 2006. He became Prime Minister on 4 July 2000 and subsequently formed the Soqosoqo Duavata ni Lewenivanua to successfully contest general elections held in 2001 and 2006. He was born on Vanuabalavu in the Lau Group, and educated at Suva Grammar School and Auckland University. He served as Managing Director of the Development Bank (1983-98), and then the Merchant Bank of Fiji (1998-99), before becoming a Senator and then Prime Minister.

**Sandra Tarte** is the Coordinator of the Division of Politics and International Affairs in the Faculty of Arts and Law at the University of the South Pacific. She is the author of *Diplomatic strategies: the Pacific islands and Japan*, Canberra, 1997, and her major research interests are Pacific marine resource management, the politics of aid, and regional cooperation amongst Pacific Island states.

**Akuila Yabaki** is a Fijian human rights activist and a Methodist clergyman. He is currently the Executive Director of the Citizens' Constitutional Forum, and a member of the National Council for Building a Better Fiji.

# INTRODUCTION





# 1. The enigmas of Fiji's good governance coup

**Jon Fraenkel and Stewart Firth**

Fiji's December 2006 coup defied the assumptions upon which that country's post-independence history had hitherto been written. Until then, it had been assumed that the indigenous Fijians would control the country's politics. Even in the 1970s, 1980s and 1990s, when numbers of indigenous Fijians and Fiji Indians were close to parity, election victories by parties with predominantly Fiji Indian support had each entailed constitutional crises (April 1977) or coups (1987, 1999-2000). Writing of the 1987 election with the benefit of hindsight, one scholar described the objectives of the leftist and multiracially oriented but largely Indian-backed Fiji Labour Party – which briefly formed a government before the military coup of that year – as 'the politics of illusion'.<sup>1</sup> Fiji's 'Façade of Democracy', as Asesela Ravuvu called it at around the same time, concealed an unwritten rule that indigenous Fijians would remain politically 'paramount', which carried echoes of the assurances given to natives by Fiji's first colonial governor, Sir Arthur Gordon.<sup>2</sup> Were that structural hegemony breached, as in 1977, 1987 and 1999, there could be no doubt – many thought – that ethnic Fijians would react violently, and successfully restore their control over the nation's political life, even if the economic sphere remained largely under Fiji Indian control.

Bainimarama's 2006 coup demolished those political axioms in several ways. It overthrew a government elected only seven months earlier with the support of 80 per cent of the indigenous Fijians. The Fiji military, which had spearheaded the ethno-nationalist coup in 1987, was now responsible for a coup that would – it was claimed – forever eradicate the politics of race. A month after the military seizure of power, and – despite the hostility of core ethnic Fijian institutions, such as the Great Council of Chiefs and the Methodist Church – an interim government was appointed; it included leader of the Fiji Labour Party, Mahendra Chaudhry, the deposed 1999-2000 Prime Minister and arch-rival of Laisenia Qarase, the ethnic Fijian Prime Minister overthrown by Bainimarama's coup. The 'politics of illusion' appeared to have finally triumphed, as the new government set about restructuring the Great Council of Chiefs, fighting corruption and setting plans for a reform of the communally oriented electoral laws. Yet, in the longer view, claims that the 2006 coup had superseded the politics of race proved premature, and the 'good governance' coup, rather predictably, threw up its own host of indiscretions and foibles. Mahendra Chaudhry and his Fiji Labour Party departed, claiming never to have supported

the coup. Delay of elections was acknowledgement by the interim government that the new order, even two years after the coup, remained highly precarious.

The 2006 coup, in the longer view, might indicate the end of an era during which the bipolar conflict between politicians representing the indigenous Fijians, and those representing the indo-Fijians, dominated the political stage. Alternatively, it might prove a brief hiatus which, by serving to inflame ethno-nationalist passions, delays that inevitable shift away from bipolar politics. Even if the coup were, like all its predecessors, ultimately to fail, would it not leave enduring marks on the polity? Could Fiji Indians ever again claim to be victims of history, equating the injustices of the 1987 and 2000 coups with those of indenture? Would ethnic Fijians ever again insist on political paramountcy, and blatantly disregard international axioms about inclusiveness and equality? Would the Fiji military ever depart the political stage, or would it – like armies in Indonesia or Turkey – establish for itself a permanent guardian role? These enigmas, together with the controversies about the causes of Fiji's 2006 coup, are the issues addressed in this book.

Fiji is not a weak or failed state. Most children go to school; at least half the population is urban; the literacy rate is high; the health system is passable; and government administration is efficient by Pacific island standards. Fiji has a diversified export sector based on sugar, garments, gold, and niche products such as Fiji Water. Tourism and remittances supplement foreign exchange earnings, and keep the current account roughly in balance. On the UN Human Development Index, Fiji ranks with countries like Iran, Tunisia and Paraguay, not with poor Pacific neighbours such as Solomon Islands, Papua New Guinea and Vanuatu.

Fiji is, however, notorious for political instability: Regular overthrows of government have earned the country the journalistic epithet 'coup-coup land'. The 2006 coup confirmed its reputation as a country with endlessly unfulfilled promise. As the 'coup to end all coups', this was an event that rested on a paradoxical justification, namely, that the military – by temporarily abolishing democracy – would restore it later in a form that would solve Fiji's political problems once and for all. Fiji's problem since independence in 1970 has not been state weakness but rather the ethnic divisions created in colonial times by the British, who imported labourers from the Indian subcontinent to work on sugar plantations. By the end of World War II, their descendants, by a slight margin, formed a majority of the population, and Fiji has struggled ever since with the task of balancing the political claims of the indigenous Fijians against those of the Indian-derived population. The rapid growth of the military forces after independence created another combustible influence, and the military has been the final arbiter of Fiji politics since it staged the first coup in 1987. Although the military was not the catalyst for Fiji's second coup, in May 2000,

the fate of George Speight's rebellion was ultimately sealed by the internal balance of forces within the military. Fiji's third coup, on 5 December 2006, represented a reversion to a straight military coup, although in other respects it differed markedly from its predecessors.<sup>3</sup>

Six months after the 2006 takeover, we organized a workshop in Canberra, drawing together the speakers whose contributions form the backbone of this book. The event had to be held in Australia because public emergency regulations prohibited people from speaking out against the coup in Fiji. Such public events in Canberra are quickly reported in Fiji through radio or syndicated newspapers or global wire services. Some of the Australian journalists who attended the event understood few of the issues. The Australian Broadcasting Corporation (ABC) reported, quite irresponsibly and inaccurately, a 'secret gathering' of 'critics of the interim regime'.<sup>4</sup> The story was echoed by *The Fiji Times*, potentially threatening returning speakers with military harassment.<sup>5</sup> In fact, keynote speakers, such as Ratu Joni Madraiwiwi and Jioji Kotobalavu, spoke openly and on the record, and no sessions were held, as reported, 'behind locked doors'.<sup>6</sup> Some speakers feared military retribution and invoked Chatham House rules, much to the consternation of journalists hungry for stories about Fiji. A week or so after the event, the Fiji media grasped the significance of what had been said at the workshop, sparking considerable debate within Fiji. No such belated in depth coverage occurred in Australia. To their credit, the ABC did privately apologize for the errors, but they never corrected the omission.<sup>7</sup>

The collection of papers assembled here includes some written after the June 2007 workshop. It deliberately reflects a variety of views about Fiji's post-coup politics, economics and sociology. No effort has been made to oblige authors to follow any sort of uniform point of view, to the point that as editors we have often – sometimes with a certain degree of frustration – not corrected errors of fact, far less interpretation. Fiji has long had a rich national dialogue and has confronted a unique set of problems. We believe it best to allow that dialogue room for expression – for example, by bringing together such diametrically opposed views as those of Laisenia Qarase and Mahendra Chaudhry in a single volume. Our intention is not only to set down an array of opinions for the historical record, but also to encourage a less inflammatory, more measured and more intelligent style of discourse about Fiji politics. In the wake of Fiji's most recent coup, it is difficult to be confident that such an endeavour has been or will be successful. Yet, oddly, Bainimarama's coup and the ideology that inspires this reflect a continuation of, rather than a departure from, Fiji's characteristic national dialogue about the confrontations of ethnic difference in the post-independence era. Frustrated by the seeming failure of efforts to accommodate those rivalries, the coup sought to supersede the politics of race

by military force, and then to selectively engage the previous protagonists in a nation-building project.

The central question of Fiji politics since independence remains unresolved: Who should rule and for whom? Three constitutions have emerged as answers to that question – those of 1970, 1990 and 1997 – and further changes to the constitutional arrangements are likely. Each of the three coup-makers – Sitiveni Rabuka in 1987, George Speight in 2000 and Frank Bainimarama in 2006 – has sought to impose his own solution. Rabuka and Speight wanted to entrench indigenous Fijian predominance. Bainimarama wants a new (though imposed) multiracialism and equal citizenship. Whatever the differences between them, each coup-maker has believed the same thing: that he had the right to overthrow a popularly elected government. The assumption of all three coups was that an accommodation was not possible on the basis of democratic processes, through the post-election brokering of coalitions to forge governments.

Once a coup takes place, the route back to democracy is complex, fraught and laborious; the most pronounced difficulties are usually political. George Speight's takeover in 2000 gave a hint of how hard and unpredictable that road might be. Yet, what followed that coup offered hope. The army intervened and installed a government of civilians. That government, unexpectedly, accepted a decision from the courts that its rule had no legal foundation and Fiji went to an election in 2001. The military accepted the result of the election, even if it balked at the coalition government that emerged.

Fiji proceeded constitutionally to the next election, in 2006, and, again, the army – at least initially – accepted the result. Although the military commander mounted a relentless campaign against the government before and after the election, people thought he would confine himself to rhetoric and keep his men in the barracks. Many hoped that Fiji had re-established democracy on a permanent basis, especially as the newly elected government implemented the power-sharing provisions of the constitution. Meantime, however, tension between the military leadership and the civilian government was reaching a climax. On 5 December, after weeks of threats, Bainimarama ordered his flak-jacketed soldiers onto the streets of Suva, and removed the government of Laisenia Qarase.

The paradoxes and contradictions of the 2006 coup outdo anything in Fiji's modern history. This was not a coup of Fijian nationalists against a predominantly Fiji-Indian-supported coalition that had just emerged victorious at the polls, as in 1987 and 2000. It was a coup against a strongly indigenous Fijian-backed government that had been elected, with over 80 per cent of the ethnic Fijian vote, only seven months earlier. Like 1987, it was a military coup. Speaking before the United Nations in September 2007, Bainimarama called it a coup to end the coup culture, insisting that measures to 'clean up' the country and

eradicate racism would set Fiji firmly on a new trajectory and end forever the bitter cycle of ethno-nationalist coups. The coup was in the name of 'good governance', anti-corruption and anti-racism, and appealed to the rather severe moral values of Fiji's urban elites. In a decisive stroke from above, Bainimarama would remove bad politics and bad politicians; he would dispel bad inclinations such as greed and prejudice; and he would comprehensively remake Fiji so that it could eventually be returned to democracy in virtuous shape. The democracy so far practised in Fiji, he told the UN, 'was marked by divisive, adversarial, inward-looking, race-based politics. The legacy of leadership, at both community and national levels, was a fractured nation'. He would make the nation whole again through a People's Charter for Change, Peace and Progress, which would be the 'fundamental foundation' for future governments.<sup>8</sup> Like some latter-day Robespierre, he would lead his people to goodness and unity.

'I am not a politician, nor do I aspire to be one', said Bainimarama, projecting an image of the Republic of Fiji Military Forces (RFMF) as standing above politics. Sentiments of this kind were attractive to segments of Fiji society, particularly those who saw themselves as progressive individuals, or socio-ethnic classes floating serenely above the vulgar and pernicious ethnic divisions of Fiji society. Bainimarama's coup generated different controversies and alignments from its predecessors. In contrast to those earlier takeovers, the military drew support from social justice advocates, Catholic liberation theologians and civil society activists, as well as from some of Fiji's eastern chiefs. Paradoxically, this was the coup of the Fijian 'moderates', frustrated at being pushed aside by the centrifugal and bipolar pressures of Fiji's racial politics, and eager to reclaim for themselves a role in government.<sup>9</sup> Importantly, Fiji Indians generally supported the takeover and, after only a brief hesitation, Mahendra Chaudhry and his faction of the Fiji Labour Party (FLP) leadership declared their willingness to participate in the post-coup interim government. The north Indian religious organizations, the Arya Samaj and Sanatan Dharam, also involved themselves in the interim regime's initiatives, although the Fiji Muslim League, and the south Indian religious organizations remained more circumspect (Prasad, chapter 10).

We know less about the 2006 coup than we do about the 2000 coup.<sup>10</sup> What part did the 'dynastic ambitions' of the families of Ratu Sir Kamisese Mara and Ratu Sir Penaia Ganilau, referred to in this volume (Qarase, chapter 21), play in the coup? Were these the 'shadowy figures' warned about by Police Commissioner Andrew Hughes in November 2006, or did the planning and inspiration stem primarily from within the RFMF, as Bainimarama himself alleged? Was the FLP's involvement in the interim administration a pragmatic post-coup adjustment, as Chaudhry claimed, or was there some pre-coup collusion between Labour politicians and the military command? Why did the coup go ahead, despite the deal that appeared to have been reached and the major concessions that appeared to have been made by Qarase in New Zealand only days earlier?

How did the commander manage to transform the 99 per cent ethnic-Fijian RFMF, whose officers had voted strongly for Qarase's government only seven months earlier, into a force capable of overthrowing that same government? (Firth and Fraenkel, chapter 6)

More fundamentally, was Bainimarama's objective – to create an uncorrupted and racially harmonious Fiji – a utopian project masking other motives? Or did he genuinely believe that only a fresh start, imposed from above, could set Fiji on a stronger economic, social and political footing for the future?

The 2006 coup divided civil society organizations, judges, academics and politicians, as well as, more broadly, triggering an unfamiliar ethnic realignment. Amongst the opponents were, predictably, the ousted SDL government, the Great Council of Chiefs and the Methodist Church (Norton, chapter 5; Newland, chapter 9; Qarase, chapter 21), but hostility spread far and filtered wide through the Fijian community. Not all opponents of the coup assumed a Fijian nationalist perspective. Some, before the event, had sympathized with the commander's criticisms of the Qarase government. Union leader Kuini Lutua had vigorously defended Fiji's nurses under the Qarase government, and did so again by refusing to accept wage cuts under the post-coup interim government (Lutua, chapter 12; Naidu, chapter 11). Leader of the opposition Mick Beddoes' two-member party split down the middle when his colleague Bernadette Rounds Ganilau joined the interim government. Many journalists, human rights activists and women's organizations were strongly opposed, although few had warmly endorsed the Qarase's government's program (Buadromo, chapter 26; Cox, chapter 18). Lawyers, too, were vocal in their opposition to the coup, and balked at the suspension of Chief Justice Daniel Fatiaki; at the Judicial Services Commission's appointment of Justice Gates as his replacement; and at the resignation of numerous judges from the Fiji Court of Appeal (Leung, chapter 15; Draunidalo, chapter 17). Many were drawn towards opposition to the coup by the unconstitutionality of the RFMF's actions, the appointment of military officers to top civil service positions, the threatened long-term reinforcement of the RFMF's presence in Fiji's political life, and the danger that even a 'coup to end all coups' would in fact serve to *strengthen* the 'coup culture'.

Others – the bitterest critics of the Qarase government – warmed to the claimed objectives of multiracialism, anti-corruption and 'good governance'.<sup>11</sup> The Ecumenical Centre for Research, Education and Advocacy (ECEA), influenced by liberation theology, saw the coup as upholding the interests of the poor and disadvantaged in the face of a neo-liberal and racist government. The advanced industrial democracies, ECREA activists argued, had experienced hundreds of years during which autocratic kings were toppled by force, and revolutions were used to overthrow unjust and unpopular governments. Under normal circumstances, the military should remain apolitical, but, they claimed,

circumstances were far from normal in Qarase's Fiji. This was a position, as Ratu Joni Madraiwiwi (chapter 23) argues, that might make sense in conditions of genocide, humanitarian catastrophe or tyranny, but not seven months after an election that had been deemed fair, if not perfect, by numerous international observers. In the wake of the formation of a multiparty cabinet following that election it made still less sense. Constitutional methods of redress existed for those who felt aggrieved in November and early December 2006. Even the bills that were so vigorously opposed by the coup-supporters, such as the Qoliqoli Bill, the Promotion of Reconciliation, Tolerance and Unity Bill (RTU Bill) and the Indigenous Claims Tribunal Bill, had been sacrificed by Prime Minister Qarase during negotiations in New Zealand, in a vain effort to halt the impending coup.

To such electoral arguments the coup's supporters responded that the voting process in Fiji was fraught and racially skewed, that elections had not been conducted in a constitutional manner, and/or that Fijians had been duped by church leaders and chiefs. Fiji Human Rights Commission (FHRC) director Shaista Shameem argued that the 2001 election was a flawed and improper constitutional response to the Chandrika Prasad judgement of March 2001. After the 2000 coup, she claims, the courts should have restored to office the previous government.<sup>12</sup> Yet that was a view rejected by the courts themselves.<sup>13</sup> It was also abandoned by deposed Prime Minister Mahendra Chaudhry himself in March 2001, because he saw, at that time, that the political realities had moved on and that his leadership was unsustainable under such circumstances.<sup>14</sup> The FHRC director also argued that the 2006 election was invalid because a census of population had not been held, as scheduled in 2006, and because the necessary redrawing of constituency boundaries had not occurred. Lawyer Richard Naidu responded scathingly that this was indicative of what happens when 'sociology types' study 'serious subjects like law'.<sup>15</sup> Similar technical faults could be discovered with most elections in the world, and – if rigorously applied – no post-1987-coup Fiji election would be regarded as valid.

The validity of the 2006 election and those that preceded it were contested not only on the grounds of faulty constituency boundaries, but also – so Bainimarama increasingly alleged – because communal voting had, since independence, skewed outcomes in such a way as to reinforce racial polarization. This was the conclusion of an FHRC-sponsored review of the 2006 election, conducted by G.P. Lala, Taufa Vakatale and Waikato University's Dr David Neilsen, which claimed, largely on the basis of evidence presented at public hearings, that there had been ballot-rigging and fraud. The claims did not stand up to critical scrutiny, although they were increasingly to figure prominently amongst the regularly recited justifications for the coup by interim ministers (see Fraenkel, chapter 8).

Ultimately, the case for the coup rested not only on a negative assessment of the Qarase government (a viewpoint shared by many coup critics), but also on a claim that things were getting considerably worse, rather than better, in the wake of the May 2006 election (a viewpoint rejected by most of the coup critics). This was a key issue of debate in Fiji after the coup. Commodore Bainimarama himself returned to this theme again and again. He justified his coup on the grounds that 'Fiji's overall governance situation had regressed to a catastrophic level':

In the past years, Fiji's overall governance took a dramatic turn for the worse. In particular this was characterised by the politicisation of the prison service, and the criminal justice system. There was also a significant weakening of the key institutions of governance; a pervasive increase in corruption; serious economic decline combined with fiscal mismanagement; a sharp deterioration in the law and order situation; and a deepening of the racial divide in the country. The convicted coup perpetrators were prematurely discharged from prison, and certain coup perpetrators and sympathisers were appointed as senior Government Ministers and Officials. There were also a series of legislations that were deeply divisive and overtly racist. The 2006 general election was not credible. It was characterized by massive rigging of votes with the incumbent government using the state's resources to buy support. Fiji's overall situation by late 2006 had deteriorated sharply, heightened by massive corruption and lawlessness, a severe erosion of confidence and an economy on the brink of collapse.<sup>16</sup>

Some of the allegations raised here had an element of truth, but were wildly exaggerated. Others, like the electoral claims and the allegation of economic collapse, were false. Prior to the coup, many had sympathized with the commander's concerns, including former Vice-President Ratu Joni Madraiwiwi, who says that the RFMF had played a 'generally useful if somewhat vocal part in the general debate on issues of national interest and concern' (Madraiwiwi, chapter 23). Convictions had been secured against the 2000 coup-leaders, including George Speight, but a number of traditional chiefs, including then Vice-President Ratu Jope Seniloli, had been controversially released on 'Compulsory Supervision Orders'. The RTU Bill threatened to provide an amnesty for those still incarcerated, but the bill had been temporarily shelved before the May 2006 polls and was unlikely ever to pass in that form through parliament. Allegations had been raised against several ministers in Qarase's cabinet, and Minister of Lands Ratu Naiqama Lalabalavu, the Tui Cakau, had served a short prison sentence for his role in the July 2000 mutiny at the Sukunaivalu Barracks at Labasa. Not all traditional chiefs escaped prison: Ratu Inoke Takiveikata, a former president of Qarase's SDL, was convicted for treason and sentenced to



life imprisonment. Ironically, it was after the 2006 coup that he was released, after the Court of Appeal ordered a retrial on the grounds that the presiding judge, Justice Anthony Gates, had privately indicated bias against the defendant.

Claims of a 'pervasive increase in corruption' were difficult to prove, but scandals over affirmative action distributions from the Ministry of Agriculture were sufficient to strengthen familiar FLP objections that Fijian leaders were rorting the system. The economy had, in fact, recovered reasonably strongly from the coup-related downturn of 2000, although sugar, garments and gold had stagnated and mahogany exports had failed to have the substantial impact on the balance of payments that some had anticipated. Tourism had boomed, particularly in the wake of the post-coup stabilization, and with this had come a knock-on boom in the construction industry. Major new resorts, for example at Natadola and Momi Bay were under construction, and the island of Denarau, near Nadi, had witnessed major development of holiday complexes, time-share villas and new resorts. Finance Minister Jone Kubuabola had been reasonably prudent, if unexciting. Objections to fiscal mismanagement could be reasonably focused on unsustainable levels of government debt, and the nexus between government debt-raising, the Fiji National Provident Fund and monopolies in the country's telecommunications industry. But these pre-dated the Qarase government and, once forged, the links proved hard to disentangle, as Bainimarama's interim government was to discover.

Fiji's coups regularly set the economy back by years, and this one was no exception, with economic effects worse than those of the coup of 2000 (Chand, chapter 7). Fiji's economy slumped in the year following the coup that was supposed to revive it. Tourist arrivals contracted by 8.3 per cent and hotel turnover by 6.6 per cent. Remittances fell an estimated 30 per cent, and activity declined across the country in building and construction, wholesale and retail trade, hotels and restaurants, and finance, insurance, real estate and business services, leaving an overall economic contraction of 6.6 per cent for 2007, compared with growth of 3.6 per cent in 2006. The projected 1.7 per cent growth for 2008, even if it eventuated, would not restore Fiji to the economic position it enjoyed when the Qarase government was deposed. In his speech on the 2008 budget, Mahendra Chaudhry was left to call for sacrifices, patience and understanding for the 'drastic surgery' he had undertaken on the nation's finances.

The situation was dire: That was Chaudhry's justification, and it was a key plank in the commander's case for invoking the 'doctrine of necessity' (Chaudhry, chapter 20). For this, the political crisis had to appear as something other than military-generated, as had been claimed in 1987 when the RFMF said it was intervening to forestall an uprising by the indigenous Taukei Movement. Before the courts, judges who owed their positions to the new order wrestled with

these conundrums in the *Qarase v Bainimarama* case against the constitutionality of the new order. The defence, cognizant of the precedents set by post-2000 cases, discarded reliance on the doctrines of 'necessity' and 'effectiveness', identifying them as impossible routes for the legitimization of the new order owing to the guidelines set down in the 2000 and 2001 Chandrika Prasad cases. Instead, defence lawyers harked back to a political philosophy that preceded the subordination of kings to constitutions or parliaments. State Queen's Counsel Guy Reynolds told the court that the actions of the President entailed political judgements informed by matters of national security, which could not be determined before the courts: 'The ultimate reserve power of the President is to preserve the state', said another State Queen's Counsel, Gerard McCoy: 'The separation of powers between the State and the President does not allow your Lordships to review the President's decision'.<sup>17</sup> Despite ostensibly forsaking the doctrine of effectiveness, the defence trod the familiar route of claiming as evidence of 'acquiescence', Qarase's decision three days after the coup to sign himself 'former Prime Minister'; an inquiry by former Finance Minister, Ratu Jone Kubuabola, into his pension entitlements; and the Great Council of Chiefs' post-coup recognition that the Qarase government had been rendered ineffective.<sup>18</sup> One of the judges, Justice Davendra Pathik, expressed in court his sympathies for the catastrophist interpretation: 'the country had gone to the dogs, so to say. Now, what could the President do in those circumstances bearing in mind that he had no powers under the Constitution?'<sup>19</sup>

When acting Chief Justice Anthony Gates, and Justices John Byrne and Davendra Pathik eventually passed down their verdict, five months later, they largely embraced the position of the State lawyers. The High Court found that 'exceptional circumstances existed', because 'the stability of the State was endangered', so the President was entitled to use certain 'prerogative powers' not provided for in the constitution. No consideration was given to the fact that the source of that instability was the commander of the RFMF himself, who as a result of the exercise of these prerogative powers was himself made interim Prime Minister. Those 'ultimate reserve powers', the judges found, dated back 1,000 years to the Norman Conquest. Supporting case history was sought from the British Raj, and wartime exigencies under colonial rule. It was as if no Commonwealth country, freeing itself from colonial rule, was empowered to write its own constitution in such a way as to constrain presidential powers. Despite claiming to be a 'purposive' interpretation of Fiji's constitution, there was no serious enquiry into the intentions of the framers of that constitution. The 1997 constitution – whatever its flaws – was essentially a compact between the leaders of Fiji's two largest communities, and it had sought to limit very precisely the scope of presidential powers. To ignore this cast into doubt the previously applauded integrity of Fiji's courts, and particularly of Justice Gates. The alleged rejoinder that this was done to defend, however besmirched, the

1997 constitution carried little credibility, for similar reasoning had clearly not figured at the time of the initial Chandrika Prasad judgment of November 2000, when the government might well have seemed likely to respond by abrogating the constitution.

Fiji's crisis twisted and turned in new directions after the 2006 coup, but the fundamental dilemma that has plagued the country since independence remained in place. The critics and supporters of the coup played out their well-rehearsed arguments in terms of the 'rule of law' against a post-coup pragmatism, with coup-sympathizers urging that the coup was a *fait accompli* and that the country needed to 'move forward'. The more utopian enthusiasts extolled what they saw as a 'revolution for clean up' against those they condemned as cynics and conservatives.<sup>20</sup> John Samy, and his coterie of ex-Asian Development Bank consultants, sought to steer a middle course. They claimed to be opposed to the coup but eager to seize the opportunities for development and electoral reform. The proposed 'People's Charter', they argued, was to provide an 'exit strategy' for the commander, who might otherwise be reluctant to cede military control. The opponents of the body charged with developing the charter, the National Council for Building a Better Fiji (NCBBF), condemned it as 'illegal' and 'unconstitutional', but this was not entirely accurate either. In itself, the NCBBF was just a talking shop, and only its enactment by presidential decree threatened to breach Fiji's laws. What was deeply misguided about the NCBBF was the view that Fiji could be usefully re-moulded as a result of the coup and that – despite many magnanimous statements about seats on the council awaiting the SDL, the Methodist Church and the chiefs, should they decide to participate – this could be done in the face of hostility from the majority Fijian community (Narsey, chapter 19).

In our previous volume examining the May 2006 election and its immediate aftermath, we examined Fiji's perpetual legitimacy crisis and offered an optimistic assessment of the situation in post-coup Fiji:

None of Fiji's previous coups has resulted in a lasting military government. Fiji is not Burma. Instead, both domestic and international pressures have encouraged a return to constitutional democracy as each wave of rulers seeks to consolidate its legitimacy. ... Therein lies the crux of Fiji politics; each social force that claims unilateral power for itself almost visibly struggles for a broader public consent, and cringes in the face of its unacceptability to one or other section of the community.<sup>21</sup>

This has also been the pattern since 5 December 2006. At first sight, the commander's moves seem to suggest the confidence of a man who will not be swayed. He sacked numerous appointees of the previous government. He confronted the Methodist Church and the Great Council of Chiefs and in doing

so challenged institutions held dear by most indigenous Fijians. He imposed states of emergency, claiming his critics were threatening state security. Faced with public service strikes in August 2007, he boasted that he did not have to worry about votes. He claimed to be governing constitutionally when it was clear he was not. He rejected criticism of his coup by Australia and New Zealand. He brought pressure to bear on the media (Pareti, chapter 13) and deported two Australian newspaper men, the *Fiji Sun*'s Russell Hunter and Evan Hannah of *The Fiji Times* (Hunter, chapter 14). For the first time in the modern history of Fiji, people began to keep their opinions to themselves rather than risk official repression. Above all, the commander established the NCBBF as the instrument that would confer legitimacy on his intervention and produce the blueprint for constitutional change.

The coup immediately created Bainimarama's first legitimacy problem: condemnation by Fiji's key bilateral and multilateral allies. These days the leader of a coup in a small developing country faces international pressure to hold an election and return to democracy as soon as his troops have intervened. US law requires American presidents to suspend aid to countries where coups have occurred. The European Union (EU) imposes democratic conditionality on its aid and trade dealings with the 79 member states of the Africa, Caribbean and Pacific group to which Fiji belongs, and has enshrined them in the Cotonou Convention. The EU, main buyer of Fiji sugar, extracted a promise of a 2009 election from the interim government in April 2007, and was actively engaged in pressuring the government from then on. A coup-leader in Suva must also take into account the pro-democratic stance of Australia and New Zealand – significant trading and investment partners with Fiji that influence the position taken by other organizations such as the Pacific Islands Forum and the Commonwealth. Australia's new Labor government, elected at the end of 2007, was as critical of the coup as its predecessor, and New Zealand opposed it from the start. A succession of overseas visits by members of the interim government, including trips to the United Nations in New York, the FAO in Rome and the Pacific Islands Forum in Tonga, were aimed at securing recognition for the post-coup regime, and at countering the hostile influence of close neighbours, Australia and New Zealand. In October 2007, Bainimarama made a commitment to the Pacific Islands Forum that an election would be held by March 2009, although that promise was abandoned in mid-2008 when the interim Prime Minister publicly declared, as many had anticipated that he would, that there would be no election in 2009.

Bainimarama's second legitimacy problem was internal and more serious, for it provided the constant context for his regime's efforts to negotiate public acceptability. Most indigenous Fijians did not support him. Nor did a small but vocal number of Fiji Indians associated with the National Federation Party. Bainimarama rejected or ignored the criticism of leading Fiji chiefs, such as Roko

Tui Bau, deposed Vice-President Ratu Joni Madraiwiwi, and Rewa chief Ro Teimumu Kepa, the head of the Burebasaga confederacy. Ro Teimumu complained that the rights of the indigenous Fijians had been taken away because the interim government:

... dictates everything now and the people have no say. We are being threatened with changes to our chiefly system, which includes the Great Council of Chiefs and also the interim government has brought about a lot of changes that is affecting our everyday decision making. With all that's happening most of the villages around the country have not been able to get any sort of assistance and people are suffering.<sup>22</sup>

By most accounts, the vast majority of indigenous Fijians agreed with her and blamed Bainimarama and Chaudhry for everything that went wrong. 'What has the Fijian nation and its people done to be treated this way in such a vicious manner', asked Fijian lawyer Savenaca Komaisavai, who was representing the Great Council of Chiefs in an action against the regime's edicts in early 2008: 'Who is [Bainimarama] trying to hoodwink here? We have laws in this country to follow. You don't just go and nominate yourself, especially a commoner like him'.<sup>23</sup>

In the months after the military takeover, the commander carefully cultivated legitimacy by repeating over and over again alleged justifications for what he had done. Several days after the coup, clearly eager to present some sign of acquiescence by the various arms of state, he appeared on Fiji TV sporting a giant cheque reverting surpluses to government from the Pacific Fishing Company (PAFCO). Through 2007, various reviews and public forums were announced, with the number of respondents earnestly announced by the interim Prime Minister's Permanent Secretary Parmesh Chand and interim Attorney-General Aiyaz Sayed-Khaiyum, as if these were convincing proof of growing public support.<sup>24</sup> Ancient divisions in Fijian villages, and modern schisms amongst indigenous elites, were exploited in an effort to demonstrate popular enthusiasm, an endeavour fraught by constant mishaps and poor spin-doctoring. The quest for consensus was not open-ended: endorsement was to be on the commander's terms. As a gesture of conciliation, Bainimarama held several meetings with Qarase in 2008, but clearly wanted the deposed Prime Minister only to rubber stamp his various initiatives. The fundamental difficulty of ruling Fiji without consensus – also an insufficiently acknowledged dimension to Rabuka's difficulties in the early 1990s – made its presence felt again in the new post-coup setting. Would Bainimarama respond by lurching towards a long-lasting military order, or would the pressures eventually build towards some accommodation and a restoration of constitutional democracy?

The coalition that had been brought together in support of the coup may have been united by their desire to remain in power, but their various visions for

Fiji's future differed. Even by mid-2008, notably, Bainimarama had not abrogated Fiji's constitution. The courts eventually found themselves duty-bound to rule on the constitutionality of his regime, and their endorsement was met by universal opprobrium in international legal circles. Mounting evidence of economic crisis also cut away at what little legitimacy the regime could sustain, and the support of the Indian community was just as precarious as the position of interim Finance Minister, Mahendra Chaudhry, who the Military Council eventually forced out. A general election might be delayed, but it could not be forever avoided. No doubt the interim regime will seek, for some time, to herald and codify its achievements as lasting features of Fiji's social and political order, but there are few signs that it has sufficient coherence to guarantee for itself any protracted longevity.

## ENDNOTES

<sup>1</sup> Scarr, D. 1988. *Fiji: politics of illusion — The military coups in Fiji*, University of New South Wales Press, Australia.

<sup>2</sup> Ravuvu, A. 1991. *The facade of democracy: Fijian struggles for political control, 1830-1987*, Reader Publishing House, Suva. See also the discussion of the 1946 'Deed of Cession' debate, in Lal, B.V. 1992. *Broken waves: a history of the Fiji Islands in the twentieth century*, University of Hawaii Press, Honolulu, pp.139–43 and Macnaught, T. 1982. *The Fijian colonial experience: a study of the neotraditional order under British colonial rule prior to World War II*, Pacific research monograph, No. 7, The Australian National University, Canberra.

<sup>3</sup> Many authors talk of four coups, including, in addition to the May 1987, May 2000 and December 2006 coups, the September 1987 derailment of the Deuba talks, which had aimed at providing a settlement between the coup-makers and those who had been overthrown. We do not regard that event as constituting a coup d'état.

<sup>4</sup> 'Australian seminar examines Fiji coup', *ABC Radio*, 5 June 2007.

<sup>5</sup> 'Fijians secretly address Australian workshop', *The Fiji Times*, 6 June 2007.

<sup>6</sup> The afternoon part of the event was a smaller seminar-style event not because of the sensitivity of the papers presented, but because speakers were work-shopping work-in-progress, rather than delivering prepared public lectures.

<sup>7</sup> Email from Deborah Steele, Executive Producer, News and Current Affairs, ABC Radio Australia, 8 June 2007.

<sup>8</sup> Statement by H.E. Commodore Josaia Voreqe Bainimarama, Prime Minister of the Republic of Fiji Islands, 62<sup>nd</sup> Session of the UN General Assembly, New York, 28 September 2007.

<sup>9</sup> See Fraenkel, J. 2007. 'Bipolar realignment under the alternative vote system', in Fraenkel and Firth, *From Election to Coup in Fiji: The 2006 Campaign and its Aftermath*, Institute of Pacific Studies, Suva, and Asia-Pacific Press, Canberra, pp.368–378.

<sup>10</sup> In 2000, most of the major revelations as to who was involved and what were the objectives were raised repeatedly in speculative opinion columns in Fiji's vibrant media. For the six years afterwards, extensive police enquiries revealed little more than what was already known, or at least rumoured and susceptible to solid readings between the lines, by careful observers.

<sup>11</sup> 'Unlike the 1987 and 2000 coups, which were carried out in the name of "indigenous Fijian rights", this coup was in the name of multiculturalism', 'Time of Uncertainty, Opportunity', Paulo Baleinakorodawa, Father Kevin Barr and Semiti Qalowasa, *The Fiji Times*, 19 December 2006.

<sup>12</sup> Shaista Shameem, Director, Fiji Human Rights Commission, 'The Assumption of Executive Authority on December 5th by Commodore J.V. Bainimarama, Commander of the Republic of Fiji Military Forces: Legal, Constitutional and Human Rights Issues', 3 January 2007, <http://www.humanrights.org.fj>. We offered Shaista Shameem the opportunity to include this document as an appendix to this volume. She declined, apparently under the belief that we might 'make profit' from its publication. Clearly, the director of the FHRC has as deluded an assessment of the economics of the publishing world as she has

of the legal complexities of post-coup Fiji. Neither authors nor editors have made any profit or earned any royalty from the publication of this book or its predecessor.

<sup>13</sup> *Yabaki v President of the Republic of the Fiji Islands*, High Court of Fiji, 11 July 2001. 'I do not believe that it would be feasible to turn the clock back to May 2000 or even to March 2001. I believe that it would create a legal and administrative nightmare', Justice Scott concluded. The appeal was heard in 2003, two years after the 2001 election, when judges found the issue 'moot', concluding that the 'situation which existed in 2001 has now been overtaken' (*Yabaki v President of the Republic of the Fiji Islands*, *Court of Appeal*, 2003).

<sup>14</sup> See Firth, S. and Fraenkel, J. 2007. 'Introduction: Changing calculus and shifting visions' in Fraenkel and Firth, *From Election to Coup: The 2006 Campaign and its Aftermath*, Institute of Pacific Studies, Suva, and Asia-Pacific Press, Canberra.

<sup>15</sup> 'Prominent lawyer dismisses FHRC report', *The Fiji Times*, 4 January 2007.

<sup>16</sup> 'Statement by H.E. Commodore Josaia Voreqe Bainimarama, Prime Minister of the Republic of Fiji Islands, 62<sup>nd</sup> Session of the UN General Assembly, New York, 28 September 2007

<sup>17</sup> 'President cannot be challenged: State', *fijilive*, 6 March 2008; 'Court powerless on Ratu Iloilo, says QC', *The Fiji Times*, 19 March 2008.

<sup>18</sup> 'Qarase: No call made for help', *The Fiji Times*, 13 March 2008; 'Qarase Govt was incapable: GCC', *fijilive*, 13 March 2008; 'Iloilo wrong, lawyer says', *The Fiji Times*, 14 March 2008.

<sup>19</sup> *Qarase v Bainimarama*, transcript of court proceedings, available online at <http://203.97.34.63/Qarase%20v%20Bainimarama.htm>.

<sup>20</sup> 'Coup a revolution, says Vayeshnoi', *fijilive*, 25 June 2007.

<sup>21</sup> Firth, S. and Fraenkel, J. 2007. 'Preface: Fiji's perpetual legitimacy crisis' in Fraenkel and Firth *From Election to Coup: The 2006 Campaign and its Aftermath*.

<sup>22</sup> 'Fiji Paramount Chiefs to Fight Bainimarama at UN: "Our rights have been taken away"', *Fijilive*, 7 May 2008.

<sup>23</sup> Lawyer questions Bainimarama's authority', *fijilive*, 22 February 2008.

<sup>24</sup> See for example, '9 Provinces for Charter: PM's Office', *The Fiji Times*, 9 October 2007.





# THE COUP



## 2. 'Anxiety, uncertainty and fear in our land': Fiji's road to military coup, 2006<sup>1</sup>

**Brij V. Lal**

### **Introduction**

If civilization is to survive, one is driven to radical views. I do not mean driven to violence. Violence always compromises or ruins the cause it means to serve: it produces as much wrong as it tries to remedy. The State, for example, is always with us. Overthrow it and it will come back in another form, quite possibly worse. It's a necessary evil—a monster that continually has to be tamed, so that it serves us rather than devours us. We can't do without it, neither can we ever trust it.<sup>2</sup>

Fiji experienced the whole gamut of emotions over the course of a fateful 2006. The year ended on an unsettled note, as it had begun. Fiji was yet again caught in a political quagmire of its own making, hobbled by manufactured tensions, refusing to heed the lessons of its recent tumultuous past, and reeling from the effects of the coup. Ironies abound. A Fijian army confronted a Fijian government, fuelling the indigenous community's worst fears about a Fijian army spilling Fijian blood on Fijian soil. The military overthrow took place 19 years to the day after frustrated coup-maker of 1987 Sitiveni Rabuka had handed power back to Fiji's civilian leaders, Ratu Sir Penaia Ganilau and Ratu Sir Kamisese Mara, paving the way for the eventual return to parliamentary democracy.

The 2006 coup, like the previous ones, deposed a democratically elected government. Perhaps more importantly, it peremptorily sidelined the once powerful cultural and social institutions of the indigenous community, notably the Methodist Church and the Great Council of Chiefs (GCC)<sup>3</sup> – severing with a startling abruptness the overarching influence they had exercised in national life. Politicians who had supported past military coups in Fiji transformed themselves overnight into fearless defenders of democracy, because this time they found themselves on the other side of the barrel of a gun.

On the other hand, some victims of previous coups, such as Fiji Labour Party (FLP) leader Mahendra Chaudhry, accepted ministerial portfolios in a military-appointed interim administration on the grounds of serving the national interest: Victim of coup one day, beneficiary the next. To complete the saga, coup-leader Commodore Frank Bainimarama, initially disavowing a political role, accepted appointment as interim prime minister while remaining military

commander, with the full support of a visibly ailing and curiously ineffectual president, Ratu Josefa Iloilo.

## Gathering storm

In between the talks of coup and confrontation, Fiji had its share of high drama – caused by an intense election campaign in May and by the installation soon thereafter of a multiparty power-sharing cabinet which promised, despite initial teething problems, to take the country towards the new era of genuine multi-ethnic cooperation that its people so desperately want but which has remained elusive. But the military coup put paid to all that. The flashpoint between the military and the government in January 2006 came at the end of a long and troubled relationship. A ‘cold war’ between the two had begun as early as 2003, when it became clear that Commodore Frank Bainimarama was a ‘no-nonsense personality’ who would not toe the government line. An early indication came in 2004 when he single-handedly took on both the president and the prime minister and reversed a government order to reduce the sentence for soldiers involved in a mutiny in November 2000. (In May of that year, five senior military officers alleged that Bainimarama was plotting to overthrow the government.)

In retaliation the government quietly initiated moves to have the Commodore replaced. These were unsuccessful, and relations between the two deteriorated rapidly. People close to the government, some even part of it, who were variously implicated in the attempted coup of 2000 were released from gaol after a brief period (some for as little as under a fortnight), under Compulsory Supervision Orders, with others set free on dubious medical grounds. Among them were the former vice-president, Ratu Jope Seniloli, and Ratu Naiqama Lalabalavu, the paramount chief of Cakaudrove (Tui Cakau), leader of Qarase’s *Soqosoqo Duavata ni Lewenivanua* (SDL) coalition partner, the Conservative Alliance *Matanitu Vanua* Party, and the Minister for Fijian Affairs. The military insisted that the ‘real’ players in the 2000 crisis were walking free while the ‘small fry’ were being caught in the net. Others implicated were safely out of the country on plum diplomatic postings, such as Ratu Inoke Kubuabola, posted to Malaysia as Fiji’s High Commissioner (now to Tokyo), and Isikia Savua, the controversial police commissioner in 2000, who was cleared of misconduct and dereliction of duty in a closed trial headed by the former chief justice (Sir Timoci Tuivaga), and who later served in New York as Fiji’s permanent representative to the United Nations.

Having installed Qarase as the interim prime minister after the Speight crisis of 2000, hoping that he would form a lean and corruption-free government, Bainimarama expressed disappointment that ‘politics as usual’ had prevailed. Qarase, a commerce graduate, had been the head of Fiji’s Development Bank for 15 years (1983–98) before heading the Fiji Merchant Bank. His leadership of the

bank had been controversial, as he was accused of authorizing doubtful loans for racially skewed projects. 'He betrayed our trust when he went back to team up with the very people who caused the political instability of 2000', said Bainimarama. 'Though George Speight is in prison, the policies that he made are now being adopted by the Government and also the very people behind him are in parliament making decisions for the nation.'<sup>4</sup>

Revelations of a massive scam in the Ministry of Agriculture, involving millions of dollars to purchase votes in the 2001 general election under the guise of pro-Fijian affirmative action policies, hardened his opposition to the government. Bainimarama fingered Attorney General Qoriniasi Bale for particular criticism. 'He was not voted in by the people but [came in] through the Senate'. He raised questions about Bale's competence and integrity. 'We know Qoriniasi Bale's record and involvement in some trust funds a few years back that saw him being disbarred for sometime.' His appointment as Attorney-General was 'frightening'. 'Corruptive practices' had to end, Bainimarama said in his quiet, determined way, and the sooner the better.<sup>5</sup>

Qarase defended his government. 'The Commander makes many untruthful allegations against the Government' he said.

He regularly expresses unsubstantiated accusations about widespread corruption. My position on this is very clear. The Government has taken a strong position against corruption. Draft legislation to combat this is being prepared. In the meantime, law enforcement authorities must be allowed to do their duty when allegations are made. Those making the allegations against the Government must provide evidence to the Police.<sup>6</sup>

In this war of words, public sympathy seemed to lie with Bainimarama, for 'evidence' of corruption (or of mere incompetence and sheer carelessness) was everywhere, although prosecutions were difficult to initiate. Entrenched positions publicly aired in acrimonious tones made compromise and genuine dialogue difficult.

## **Controversial bills**

The military's condemnation of the government crystallized around two controversial bills that the government sought to bring before parliament.<sup>7</sup> One was the Promotion of Reconciliation, Tolerance and Unity Bill. The government argued that the bill was intended to heal the wounds resulting from the events of 2000. Its aim was to promote 'tolerance and genuine unity' among the people to prevent 'the perpetration of politically motivated violations of human rights in Fiji'. Those who had suffered 'gross violations of human rights and civil dignity' would receive reparations. But the provision that inflamed not only the military's but also civil society's vehement opposition concerned the 'granting [of] amnesty to persons who make full disclosures of all facts relevant to acts

associated with a political, as opposed to purely criminal, objective during the crisis’.

Rightly or wrongly, the amnesty provision came to be viewed as a device to pardon the coup perpetrators. The hasty release from gaol of those convicted of various coup-related crimes increased the public’s suspicion about the government’s real, unstated, intentions. It was also argued that the bill’s amnesty provision was in fact intended to circumvent the country’s generally robust judiciary, the proper role of which was to adjudicate matters of such importance. How could there be reconciliation without justice, many asked?

Faced with sustained vocal pressure from a wide cross-section of the community, the government withdrew the bill, promising to take account of the concerns that had been raised. Ultimately yielding to pressure, the government decided ‘categorically’, in Qarase’s words, to drop the amnesty provision. By dropping the provision, after months of insisting that it would not be removed or amended under any circumstances, Qarase caught the nation by surprise and briefly reclaimed some of the ground he had lost to Bainimarama. The concession was an act of political expediency, not an act of genuine compromise. Expedient or genuine, the concession came too late. By then the military had already decided to overthrow the government.

But the question was asked: If the much-criticized amnesty provision were to be dropped, what remained of Bainimarama’s objection? Self-preservation was said to be the answer. If the Reconciliation Commission, which the bill proposed to set up, were established, the Commodore’s violent suppression of an army mutiny in November 2000, which nearly claimed his life and which resulted in the brutal death of rebel soldiers, would be scrutinized. Many in Fiji believe that Bainimarama is ‘haunted’ by the mutiny – indiscipline and insubordination in the ranks of the military, its violent quelling, the attempt on the Commodore’s life – and read his subsequent behaviour in the light of that. Questions would also be asked about the Commodore’s role, as then head of the military government, in the dismissal of the President, Ratu Sir Kamisese Mara, in 2000. To his detractors the Commodore’s public pronouncements on the bill were suspect, carefully camouflaging personal interests behind the publicly appealing rhetoric of guarding the national interest.

The other piece of legislation that the military opposed (as did the opposition parties and commercial organizations such as the Fiji Hoteliers Association) was the Qoliqoli Bill, which was designed to transfer ‘all proprietary rights to and interests in *qoliqoli* [foreshore] areas within Fiji fisheries waters [and] vest them in the *qoliqoli* owners’. By this process, the marine area from the foreshore to the high water mark would be declared ‘native reserves’, for the unfettered use and enjoyment of the resource owners. The tourism industry reacted predictably with outrage, prophesying its collapse because of the uncertainty that the bill

would introduce into negotiations between hotel owners and the numerous *qoliqoli* owners. Others argued that the state was hastily divesting itself of a major resource, which it should develop for the benefit of the entire nation, including the resource owners. 'Thousands upon thousands of vacant and re-possessed land [*sic*] are not being used, making Fiji the world's largest producer of weeds and grass', remarked deputy opposition leader Bernadette Rounds Ganilau.<sup>8</sup>

Many *qoliqoli* boundaries are uncharted or unregistered, and the critics, including the military, felt that the bill would accentuate conflict among Fijians when registration started. But the government, which went to the election promising to introduce the bill into parliament if it were returned to power, claimed that it had majority Fijian support for the bill. After all, over 80 per cent of indigenous Fijians had voted for the SDL. The real implications of the bill were not properly explained to the Fijians, the military counteracted. The Fiji Law Society (FLS) entered the debate, pointing out that the Qoliqoli Bill breached certain provisions of the constitution. 'By transferring to the landowners *qoliqoli* areas as defined in the Bill', the FLS's *qoliqoli* sub-committee chair, Isireli Fa stated, 'the state is in fact transferring to them the state's rights of sovereignty within these *qoliqoli* areas. The effect of this is that the *qoliqoli* could become autonomous areas whereby the owners of the *qoliqoli* could implement their own rules outside the regulation and control of the state.'

The upshot of the public debate on these two controversial bills was to secure wide support for Bainimarama, who was perceived as an honest man taking on a corrupt and self-serving government playing to the basest sentiments of people in a blatant effort to remain in power. The Commodore's strictures became harsher, less compromising. Early in 2006, relations between the government and the military reached breaking point. The army staged a show of strength on the day parliament was dissolved in March, with 500 soldiers in full battle gear marching through the streets of Suva. The army's point was blunt: Those who contemplated orchestrating violence to oppose a change of government would bear the full brunt of its force. In fact, Bainimarama said publicly a few months before the election that a change of government would be good for Fiji. In the public eye he was aligned with the opposition parties. In early 2006, as the election campaign began, the army sent teams of officers to Fijian villages to 'educate' the people about what it deemed to be the 'real' intentions behind the government's legislative agenda – to secure Fijian votes by plundering the public purse. A nebulous truce between the army and the government was negotiated by Vice-President Ratu Joni Madraiwiwi in mid-January 2006, according to which both men agreed to put 'the national interest' above everything else and to have regular consultation and dialogue. But the impression remained of simmering tension. A few months later the deal collapsed. 'Qarase is trying to weaken the army by trying to remove me', Bainimarama said. 'It has

been his aim from day one. If he succeeds there will be no one to monitor them, and imagine how corrupt it is going to be. If civil servants speak out against the Government, they are sacked. If the provincial councils speak, their allocated funds are reduced, so we are the only hope of the silent majority.’<sup>9</sup> The army’s claim that it, not the government, was the true champion of the public interest would be trumpeted loudly in the months ahead.

For its part, the government insisted that the army was simply an ‘instrument of the state’, not an institution outside or above it.<sup>10</sup> ‘The constitutional and statutory authority of the RFMF [Republic of the Fiji Islands Military Force] is strictly confined to maintaining and safeguarding national security within a democracy’. The military’s contention – that the overarching security role it was given in the 1990 constitution carried over into the 1997 constitution – was incorrect, Qarase argued, and he sought the intervention of the Supreme Court to clarify the issue. Section 94 of the 1990 constitution gave the military the overall responsibility to ensure the security, defence and well-being of Fiji and its people at all times, and the army claimed that the section was incorporated into Section 112(1) of the 1997 constitution. The government argued that Section 94 had been repealed in its entirety. Section 112(1) simply reads: ‘The military force called the Republic of Fiji Military Forces established by the Constitution of 1990 continues in existence’.

Qarase alleged further that Bainimarama had breached the understanding brokered by Vice-President Madraiwiwi on 16 January 2006. Under that agreement Bainimarama ‘would not make public statements without clearing them first with the Prime Minister’. Qarase said, ‘I met with the Commander under these arrangements. The problem that immediately arose was he expected me to virtually follow his orders’. Finally, Qarase claimed that the military was ‘being used or influenced by unscrupulous people opposed to certain items of legislation introduced by the Government’, and suggested that the Commodore was ‘being manipulated by those with a certain political agenda’. There is no doubt that Qarase had in mind the tourism industry, which was vehemently opposed to the Qoliqoli Bill.

## **General election**

The tension between the military and the government went underground from March to May 2006 as Fiji held its tenth general election since independence in 1970.<sup>11</sup> After several weeks of generally amiable campaigning, but with the usual allegations of vote-rigging and electoral malpractice – which international observer teams deemed far-fetched<sup>12</sup> – Qarase’s SDL party was returned to power with 36 of the 71 seats in the House of Representatives. The FLP won 31 seats, the United Peoples Party and independents two each. Minor parties and disgruntled independents, who had briefly threatened to upset the conventional



wisdom about the dominance of the two main parties, vanished without a trace. The SDL was clearly the party of choice among Fijians, winning over 80 per cent of the Fijian communal votes, compared with 51 per cent in 2001. Qarase's assiduous courting of the Fijian voters through special assistance programs and grants for the indigenous community, and open appeal to Fijian nationalism, had paid good dividends. The overwhelming majority of the Indo-Fijian voters – 83 per cent – rallied behind the FLP, leaving its main rival among Indo-Fijians, the National Federation Party, the main opposition party up to that point, gasping for political breath.

A narrow but clear victory for the SDL led the country to breathe a sigh of relief. Although it was impolitic to say so at the time of the campaign, the silent, though widespread, feeling in the country was that there would have been rumbling in the countryside, perhaps something more, if the FLP had won the election. Qarase played the race card effectively to rally the Fijians behind him. One of the central planks in the SDL campaign was that Fiji was not yet ready for a non-Fijian prime minister. FLP leader Mahendra Chaudhry became the targeted focus of Fijian animus. Qarase also said that he found the idea of compulsory power-sharing embedded in the multiparty cabinet idea 'abhorrent': Multi-ethnic cabinet yes, multiparty cabinet no.<sup>13</sup>

## **Multiparty cabinet**

But as soon as the election result was known, Qarase did an astounding about-turn. Confident in the driver's seat, he welcomed, to most people's utter surprise, the concept of multiparty cabinet as the best way forward for Fiji. Indeed, he became its most vocal and enthusiastic proponent. Instead of offering the FLP minuscule ministries of little electoral significance or fiscal viability, as he had done in 2001, he now offered substantial portfolios, including agriculture, trade and commerce, labour, industrial relations, urban development and health. Whether Qarase's about-turn was a Machiavellian plot to co-opt and destroy the FLP in a cabinet dominated by the SDL, or whether it was a genuine gesture of power-sharing, became a point of debate. Qarase's offer put the FLP in a quandary. At first, FLP leader Chaudhry protested that the ministries his party was offered were those 'in a mess', only to be told by the electorate to join the government to help clean it up. Whatever calculations lay behind Qarase's offer, the mood in the country was enthusiastically in favour of the power-sharing arrangement, which the usually combative FLP leader could ignore only at his political peril. Chaudhry offered a list of FLP names to Qarase but insisted that he be allowed to allot the portfolios among his nominees. That, Qarase rightly argued, was the prerogative of the prime minister. Chaudhry then manoeuvred to have himself appointed the leader of the opposition, clearly an absurd proposition given that nine of his members were in the cabinet. Moreover, his demand was in direct breach of the Korolevu Declaration he himself had signed

in 1999: 'Any party that participates in Cabinet is deemed not to be in Opposition'.<sup>14</sup> President Ratu Josefa Iloilo rejected Chaudhry's offer – as he had to.

FLP insiders said that Chaudhry was personally not keen on the idea of any multiparty cabinet which he himself did not lead, and which he in any case thought would collapse under the weight of its own internal problems and contradictions.<sup>15</sup> Some of his FLP ministers, such as Krishna Datt and Poseci Bune, now in the twilight of their political careers, wanted the concept to succeed. They acknowledged the difficulties but promised to persist. Chaudhry demanded from his ministers a strict adherence to FLP policies as the basis for their participation in cabinet. That caught the FLP ministers between the proverbial rock and hard place. They could not ignore the directive of the FLP parliamentary caucus, but they also had to acknowledge the prime minister as their leader of government.

The FLP was split. When Datt questioned if Chaudhry's style was appropriate in the new environment – attuned more to consensus and compromise than to the confrontational characteristic of the Westminster system – and went on to praise Qarase's consultative style in contrast to his own leader's, the internal dissension became public. Chaudhry initiated disciplinary action against the dissidents. Subsequently, Datt and Bune were expelled from the FLP for questioning the authority of their leader and for bringing the party 'into disrepute'. (There cannot be too many parties in the post-Stalinist world which expel senior members for questioning their leader's political judgement or the way in which the party is run.)

Several problems emerged only too clearly. One was the absence of any ground rules for the operation of the multiparty cabinet. This created confusion about the roles and responsibilities of ministers from parties diametrically opposed to each other in their policies. Strangely, neither Qarase nor Chaudhry, both vying for political advantage over the other, saw the urgency of the matter. By the time the subject was resurrected for discussion, a coup was in train.

Another problem was Chaudhry's reluctance to join the cabinet, which compounded the difficulties of his ministers. According to the Westminster convention, ministers are required to maintain cabinet solidarity and the confidentiality of its proceedings. Chaudhry was the leader of the FLP, but not privy to cabinet discussions, which accentuated his angst and frustration; he then vented these upon his dissenting ministers. He publicly criticized government policies that his own ministers had had a hand in formulating, in effect playing the role of a *de facto* opposition leader, a role in which he thrived.

In November, Qarase offered Chaudhry the portfolios of deputy prime minister and minister of finance. Chaudhry dithered, fearing co-option and marginalization. He wanted multiparty cabinet ground rules to be finalized

before he would consider the offer. There had, however, been no such insistence when he nominated nine of his party members for cabinet. Many thought the working out of the multiparty cabinet was not Chaudhry's priority; disciplining dissidents in his party and asserting his iron grip on the party machinery was. 'In a strange twist of destiny', as he put it, he later accepted from the military the portfolios that he had refused from a democratically elected government. Had Chaudhry been less tepid about the multiparty cabinet, and participated in it, Bainimarama might – just might – have considered the situation differently; he might have been deterred by a strong political display of multi-ethnic unity between the leaders of the two main communities in Fiji.

Mahendra Chaudhry's personal reluctance to join a multiparty cabinet was understandable – if only in narrow, self-serving political terms – but Qarase's behaviour made matters worse. Instead of adopting confidence-building measures with his FLP partner in government, he insisted on rushing through parliament the controversial bills relating to amnesty and the foreshore. Their passage was important for him to consolidate his ethnic Fijian constituency, particularly the hard nationalist fringe which had given SDL its unequivocal support. It was good politics but bad policy. Furthermore, Qarase appointed controversial people to key portfolios. Ratu Naiqama Lalabalavu, convicted for inciting mutiny in 2000, was appointed to the crucial Fijian affairs ministry. His colleague, Ratu Josefa Dimuri, was appointed to the Senate. Josefa Vosanibola, the controversial home affairs minister, was back in his old portfolio, despite the military's strong objection to his appointment. Statutory boards were filled with pliant political appointees. Chanting the mantra of popular mandate (in much the same counterproductive way that Mahendra Chaudhry had in 1999), the government gave the appearance of studied indifference to its critics.

## **Confrontation with the military**

Making matters worse for the government were revelations in the courts of massive vote-buying scams in the agriculture ministry. Bainimarama accused the government of fostering dissent in the army. Land forces commander Jone Baledrokadroka's challenge to Bainimarama in January 2006 was cited as one example of this. Baledrokadroka was dismissed from the military and faced charges of indiscipline and insubordination, but then it was discovered that he was short-listed for the post of commissioner of prisons. Was the 'revolving door' of the past at play again, people wondered? The sluggish growth of the economy, the allegation that the government was virtually bankrupt and living on borrowed money, compounded its problem and encouraged open questioning of the government's competence to run the country.

By early October 2006 the army's cup of disillusionment was full. Bainimarama asked the government to resign, giving it a three-week ultimatum, as he left on an inspection tour of Fijian soldiers serving in peacekeeping missions in the

Middle East. 'We don't need any special powers to legalize our move in demanding the government to resign', the commander said.

And we don't have to take over because the military will walk into the office of the Prime Minister and demand his resignation. If the people want us to do this, we will. At this stage, Fiji needs good governance and the military will demand their resignation. There is nothing illegal about this.<sup>16</sup>

Bainimarama's uncompromising stance was hardening by the day. The government, predictably, protested its innocence and refused to resign.

For its part, the military, under acting commander Esala Teleni, reiterated its criticism. Its strident statements, backed by a publicly expressed willingness to use force to remove the government, created high tension in the country, and scared neighbours such as Australia and New Zealand into backing Qarase. Australia sent three naval ships to evacuate its citizens in the event of an emergency. The entry into Fiji of Australian SAS personnel carrying arms and communication equipment without proper authorization or customs clearance increased talk of a foreign invasion with the government's tacit support. It was learned later that Qarase had thrice asked Australia and New Zealand for military assistance to confront the Fiji military. Fortunately for Fiji, the requests were rejected. Taking on the highly trained and professional Fijian soldiers on Fijian soil would have resulted in bloodshed on an unprecedented scale.

The government made matters worse for itself by trying to remove Bainimarama while he was overseas and have him, again unsuccessfully, replaced by another senior officer, Colonel Ratu Meli Saubulinayau. This inept move strengthened the commander's standing among his troops, and in the country at large, as a man proudly defending Fiji's national sovereignty. The National Alliance Party, headed by former military commander Ratu Epeli Ganilau, a high chief in his own right, condemned the government, calling its action to remove 'the military commander in absentia and without even informing him' alarming.<sup>17</sup> His sentiments were echoed widely. Bainimarama also feared that the Qarase government might implement the 2006 Defence White Paper, which repeated the recommendations of the Security and Defence Review of 2004 – that the size of the military forces be halved.<sup>18</sup>

More alarming, on the local scene, was the deteriorating relationship between the military and the police force, with the Police Commissioner, Australian Andrew Hughes, coming under strident attack for seemingly promoting the government's (and, according to his critics, Australia's regional) agenda. But there was another reason for the tension between the military and the police commissioner. Hughes was nearing the end of his investigation of the commander over his 'treasonous' statements about the government. Bainimarama had dubbed

his campaign to get rid of the government a 'clean-up' campaign, and Hughes said he wanted to 'find out what it means in the context of my broader responsibility for maintaining law and order in Fiji'.<sup>19</sup> Allegations against Bainimarama included disobedience of law and order, seditious comments, unlawful removal of a container of ammunition from the wharf, alleged plotting to overthrow the government, and unlawfully obtaining from the President an order to abort both a commission of enquiry against himself and an investigation into the deaths of rebel soldiers in the November 2000 mutiny. Bainimarama dismissed Hughes' accusations as not being 'in the interest of crime prevention and investigation but to remove me from office as a result of political pressure on the Police Commissioner to silence the RFMF'.<sup>20</sup>

Hughes appealed directly to the soldiers. 'I repeat a warning made a few weeks ago to the military, officers and troops in the military that they cannot commit unlawful acts and say I was only following orders'.<sup>21</sup> Five senior officers were already facing charges of committing unlawful acts. Most in the military were 'decent, honest and law-abiding honourable professionals, who should not have their reputations tainted. Think of your families and I don't want to see costly mistakes happen.' The military was being manipulated. Hughes continued:

In 2000 there were people behind George Speight, shadowy, operating in the shadows, manipulating and influencing rebels and we suspect the same applies here. There are individuals, groups and organizations behind this inciting and manipulating the commander and others to do what they are doing. Tell everyone hiding in the shadows who were [sic] involved in the conspiracy to destabilize the Government that they need to think again because the investigation is getting closer.

Hughes had a commendable record as police commissioner, the best in recent years, but his increasingly public outbursts about 'shadowy characters' and about the need for justice to prevail, and his appeal to soldiers above the head of the commander, created the impression that he was doing the government's bidding. The fraught relationship between the military and the police force broke down completely. Bainimarama demanded Hughes' immediate resignation.

## **The Great Council of Chiefs**

While tension mounted, Qarase turned to the GCC to resolve the impasse, seeking its 'support and understanding of the approach I am taking to seek a resolution to this'. After describing the legislative processes of government, he outlined the importance to the Fijian people of the controversial Qoliqoli Bill and the Indigenous Claims Tribunal Bill.<sup>22</sup> These bills, Qarase argued, were an integral part of the government's 'Blueprint for Fijian and Rotuman Development' – racially based affirmative action policies in favour of the indigenous communities – which had been endorsed both by Bainimarama and the interim cabinet on 11

July 2000. Qarase thought it wrong to ignore the pleas and oft-expressed wishes of the Fijians over these grievances, believing that long term stability in Fiji would not come to Fiji unless they were addressed. Under the auspices of the Blueprint the government had already transferred Crown Schedule A and B land from the government to the Native Land Trust Board.<sup>23</sup> A Fijian Trust Fund had been established to give the GCC an independent source of income. Qarase did not need to repeat other policies in education and in the transport industry (such as giving special grants to Fijian-run schools and denying them to Indo-Fijian schools, where often the majority of the students were Fijians, and reserving 50 per cent of all new taxi licences to Fijians). Seen in the broad context, all these measures were designed to ensure the 'paramountcy of Fijian interests'.

Was Qarase wise in seeking the support and intervention of the chiefs in resolving the impasse? The GCC had often been called upon in the past (in 1987 and again in 2000) to adjudicate matters of national interest. At one level, Qarase argued, the crisis was between the government and an institution of the state. 'But when we look deeply into it', he said, 'we see that this concerns the relationship between a Fijian-led government and a Fijian-led army. It is about us, *koi keda saka na I taukei kei Viti kei Rotuma* [indigenous people of Fiji and Rotuma]'. It was for this reason that he had sought the GCC's 'blessings to the Commander and to me, as we find our way to the path of peace and reconciliation for all'.<sup>24</sup>

Bainimarama differed. For him the impasse was a political problem, to be resolved by the government in consultation with the military. He accused Qarase of evading his responsibility as the duly elected leader of the government. The commander did not see the GCC as a neutral or appropriate body to adjudicate the dispute. Many of its members had supported the coups of 1987 and 2000, and some of them occupied senior positions in government. Bainimarama stated:

I say Qarase lied from the beginning when he was elected to lead the country and did the opposite of what is expected of a Prime Minister in laughing at the rule of law by releasing coup perpetrators and coming up with racist policies that has [sic] divided this country more than ever.<sup>25</sup>

As for the GCC itself, Bainimarama was adamant that the military would not listen to the chiefs and that it was 'wrong for them to be involved in making any decisions'. Bainimarama's dismissive attitude towards the chiefs was unprecedented and could have had far-reaching consequences. The *Fiji Sun* editorialized thus:

The chiefs have been treated with contempt. They have been reviled as never before by being told [by Bainimarama] to go and drink homebrew under a mango tree as they could be of no further use. Where it will all end is difficult to predict but it does seem inevitable that the GCC will

emerge from whatever process takes place a diminished force at least in the public mind.<sup>26</sup>

Its quiet endorsement of the coup had compromised its position, especially as the coup was against a Fijian leader who was their staunch champion.

How the GCC reacts as events unfold will be watched with considerable interest. The 1987 coup was staged in the name of the chiefs and conventional understandings of their place in the larger scheme of things; this coup is a complete reversal. In the longer perspective, the damage that the military has done to the role and function of traditional chiefs in modern society may come to be seen as a far more significant effect of the military coup than the damage it has done to the institutions of parliamentary democracy. The latter can be repaired, as Fiji's recent experience suggests. But the damage to the indigenous cultural and social institutions may be irreparable.

As the stand-off between the military and the government escalated, the budget debate in parliament in November created further acrimony. Public attention and angst focused on the proposed increase in value added tax from 12.5 to 15 per cent, except on basic consumer items such as powdered milk, tea, flour, sharps (flour made from hard wheat), tinned fish and kerosene. The government argued that the tax was considered world-wide as 'increasingly important as a source of revenues', and that it was 'one of the fairest and most efficient methods of taxation'.<sup>27</sup> One hundred and twenty countries had it, including many in the Pacific Islands. The FLP rejected the tax outright and used the occasion to mount a spirited attack on the government's overall economic performance. Apart from causing internal dissension in the FLP, when two of its ministers (Krishna Datt and Poseci Bune) decided to support the budget so as not to jeopardize the multiparty cabinet, it raised a huge public outcry. The government's credibility as the manager of the nation's economy was at its lowest ebb. Public sympathy among the nation's poor was shifting towards the military.

## **Military demands**

In early November, Bainimarama repeated his 'non-negotiable' demands for the police to drop all investigation against him for his role in putting down the mutiny of November 2000, for all cabinet members who were involved in the 2000 coup and had served prison terms to be removed from office, for Police Commissioner Andrew Hughes to resign, for the police force's lightly armed Tactical Response Unit to be disbanded and for the two controversial bills to be withdrawn. In late November, taking the opportunity of Bainimarama's private visit to New Zealand for a family celebration, New Zealand Prime Minister Helen Clark arranged a meeting between the commander and Qarase in an effort to break the impasse.<sup>28</sup>

To the military's demand that the government publicly declare that the coup of 2000 was illegal and that all those associated with it had to be removed from office, Qarase agreed to 'develop, without delay, a renewed and fully resourced public education programme, to take to the public and the villages of Fiji, an information programme aimed at ensuring the wide public awareness and understanding that the events of 2000 were illegal'. Those found by due process to have associated themselves with illegal activities would be prosecuted. On the controversial bills, Qarase agreed that, if the bills were found to be 'legally or constitutionally unsound', they would be suspended (the military wanted them dropped). On the investigation into the actions of Bainimarama, Qarase agreed that, if the appropriate Fiji government authorities recommended that the charges be dropped, the government would heed their advice (the military wanted the charges dropped forthwith). Andrew Hughes' contract was up for renewal, and the government agreed to accept the military's concerns when reviewing his position (the military wanted immediate termination of his contract). There would be no foreign military or police intervention in Fiji's affairs. Qarase agreed to 'undertake a review of the Police Tactical Response Unit'. The military's concerns about corruption and good governance would be addressed through new legislation dealing with leadership conduct and freedom of information, and through the establishment of an anti-corruption agency. And finally, the military's concerns about its structure, allowances and terms of reference and conditions of employment would be addressed by an independent committee.

Qarase had conceded to virtually all of Bainimarama's demands, going as far as he could, although his critics argued that Qarase was merely buying time by attempting to give the impression that action would follow when he had no such intentions. In any event, he had acknowledged his weakness and starkly demonstrated the relative power of elected office versus the military. But the commander repudiated the 'deal' as soon as he returned to Fiji. His mind had already been made up long before his New Zealand visit. The 'clean-up' campaign was fully activated, although no one knew precisely what the military had in mind. Strategic facilities around the country were secured, police ammunitions seized, and access to the President channelled through the military.

At 6 pm on 5 December Commodore Bainimarama announced the military takeover: 'We consider that Fiji has reached a crossroads and that the government and those empowered to make decisions in our constitutional democracy are unable to make these decisions to save our people from destruction'. In taking control, he misguidedly invoked the 'doctrine of necessity' in defence of his action and declared a state of emergency.<sup>29</sup> But no 'exceptional circumstances' existed in the country. The duly elected government was in office. The Prime Minister had not advised the President to dissolve parliament, and the executive in the Westminster system is obliged to act on the advice of the prime minister.



Claiming that the President was being put under undue pressure and prevented from exercising his constitutional powers, Bainimarama assumed those executive powers. The constitution, the commander claimed, was still alive. His coup, therefore, was constitutional. In truth, it was anything but.

A state of confusion ensued about the fate of the constitution, the commander's conduct under it, the meaning and implications of the doctrine of necessity, and the impact of impending sanctions – but none was more confusing than the behaviour of President Ratu Josefa Iloilo. In his mid-80s, frail and reportedly suffering from Parkinson's Disease, he was conspicuous by his absence from the public eye. Conflicting statements issued under his name compounded the problem. It was claimed that the President had sanctioned Bainimarama's action – the two were reportedly close – but then came the claim that the President was still in charge. The removal from office of Vice-President Madraiwiwi, a former high court judge, deprived the country of sane advice. Exactly a month after the coup, on 5 January 2007, Bainimarama reinstalled President Iloilo, whose powers he had temporarily appropriated. Iloilo then appointed the interim administration, with Bainimarama as interim prime minister.

## **Impact and implications**

At the time of writing, the confusion continues. The constitution has not been abrogated, at least formally, although the commander's edicts are in breach of its essential spirit. Many chief executive officers and political appointees of statutory bodies have been sacked. Senior military officers have been appointed to the police and prison services. Civil liberties remain precariously intact under the ever-vigilant eye of the military, although abuse of human rights has begun to surface. Travel bans on those involved in the coup have been imposed by Australia, New Zealand and the European Union, and sanctions and cancellation of defence and sporting events have been enforced. The Commonwealth has suspended Fiji's membership from its foreign ministers meeting. The economy will suffer from a decline in the tourist sector; and the country's sugar industry, already under considerable strain from the projected cessation of preferential access to the European Union, will continue to deteriorate. The concurrent announcement by Emperor Gold Mines that it would cease its operations, with a loss of 1500 local jobs, will have its effect. And the emigration of the best and the brightest, already high, will continue apace, draining the country of talent and skill it can ill afford to lose. All this is predictable.

But some things are not. On the political front the fraught relationship between the army and the GCC is not something that would have been predicted even six months before. In the past, the GCC, as the umbrella body of the Fijians, exercised great moral and legal authority over the affairs of the indigenous community. It had endorsed the coups of 1987 and, less overtly, that of 2000. Now, fractured, hobbled and ineffectively led, it is a frustrated bystander in a

saga involving the Fijians. Fijians are divided and the GCC is unable to provide its accustomed leadership. Already there is grumbling in the *vanua*, the land, about the military and its dismissive attitude to the chiefly body. Some provinces have asked their sons and daughters in the army to return home. It is unlikely that they will; for them the military is their *vanua*, which has given them a place in society and is the source of their livelihood.

The potential for fragmentation and division along provincial and regional lines in the indigenous community – which has surfaced openly since the coup of 2000 and was accentuated by the departure of paramount chiefs of ‘*mana*’ and authority who were able to provide overarching leadership to their people – will continue to be a cause for grave concern. Compared with the other coups, there is now a greater danger of the weakening of the moral authority of the basic ethnic Fijian institutions. There are many Fijians who think that the military, the GCC and other elected leaders did not act in their best interests. The question then arises: What institution can now claim to represent all ethnic Fijians?

Unlike in 1987 and 2000, neither race nor the protection of indigenous rights was an issue in 2006. This crisis was widely perceived as a tussle for power between a Fijian military and a Fijian government. As a result, the kind of intense international agitation that accompanied the earlier crises, largely at the behest of Indo-Fijian communities abroad, did not eventuate this time. Nor is there much sign of active or effective local protest. Part of the reason is that the issues are not starkly defined in racial or ethnic terms. Many support Bainimarama’s stated reasons for staging the coup – ridding the country of bad governance and corruption – but disapprove of his method. More puzzling is the quiescent reaction of the indigenous Fijians, the overwhelming majority of whom had supported Laisenia Qarase’s party just a few months before. Culturally, military prowess and demonstration of physical strength, not abstract ideology, are highly esteemed virtues in Fijian society, which may partly explain the Fijians’ accommodating response. ‘Fijians very quickly shift to where power lies’, a Fijian elder told me. ‘We are a pragmatic people.’

From overseas – Australia, New Zealand, the Forum and Commonwealth Secretariats, the United Nations Security Council – came unequivocal support for the Qarase government. In their staunch commitment to the right of the democratically elected government they allowed no understanding or sympathy for Bainimarama and others. The sharpness of New Zealand’s reaction is probably attributable, in part at least, to its failed attempt to broker a peace between Qarase and Bainimarama, and to the feeling that the latter acted in bad faith from the outset, having no intention of engaging in meaningful negotiation. Australia’s displeasure probably arises from seeing its foreign policy initiatives in the region falter. Despite decades of benign engagement with the region through a series

of bilateral and multilateral initiatives, Australia's reputation in the region has been at its lowest in decades. That said, there is no denying genuine dismay in both Wellington and Canberra at the overthrow of a democratically elected government in Fiji.

The reaction of the Melanesian Spearhead Group (MSG), comprising Papua New Guinea, Solomon Islands and Vanuatu as well as Fiji, is at odds with the response of its bigger neighbours. At the meeting of its foreign ministers in Honiara on 12 January 2007 the group declared that 'the political situation in Fiji is an internal matter that can only be resolved by the people of Fiji using constitutional and democratic processes'. The ministers were content with the assurance that the 'rule of law and human rights will be observed, and that a democratic government through the holding of a general election would be held within a reasonable time frame'.<sup>30</sup> The MSG's lack of sympathy for Qarase's government was surprising as, on 30 October 2005, the government of Papua New Guinea had awarded the then Fijian prime minister the 'Star of Melanesia' for bringing political stability to Fiji and for promoting business and commerce in the region.<sup>31</sup> It has been suggested that the Melanesian reaction may partly be the result of its currently hostile attitude to Australia in particular. Be that as it may, the MSG's support for the military coup in Fiji will come, in time, to be seen as short-sighted and ultimately counterproductive.

In the Indo-Fijian community there had always been a marked lack of sympathy for the Qarase government. Indo-Fijians were victims of its many racially based pro-Fijian policies in education, the civil service and the public sector generally. The government did not give the impression of being interested in the welfare of the non-Fijian community. 'What was on offer', wrote an Indo-Fijian academic, 'was a dismal public management record, a race-based resource allocation regime, continuing tolerance of public racial abuse of a community by colleagues, and a range of exclusionary policies.'<sup>32</sup>

Many in the Qarase government had supported the 2000 coup, and even benefited from it. Their sudden conversion to democracy is, therefore, seen as politically expedient and unconvincing. For this reason, many Indo-Fijians, now around a third of the population, silently supported Bainimarama's so-called 'clean-up campaign'. But it would be wrong to suggest that Indo-Fijians, as a community, have rallied behind the commander. They have not, although their condemnation of the coup has been expressed through muted murmurs rather than in the vigorous campaigns that greeted past crises. Nonetheless, some nationalist Fijians are accusing Indo-Fijians of providing the military with moral and even financial support. They could, therefore, bear the brunt of Fijian anger. They may, unwittingly, get caught in the crossfire between the military and Fijians opposed to it.

Unlike in 1987 or 2000, calls for a sympathetic understanding of the military's position have come from unlikely quarters. Father Kevin Barr is one of Fiji's more enlightened church leaders. In a newspaper article he wrote: 'If we look at the military takeover from the perspective of democracy, it stands condemned in principle. However there is another perspective which needs to be considered.' He went on:

Does the protection of 'democracy and the rule of law' have to be the only consideration when a military takeover has occurred? Is 'democracy' to be understood only in its narrow Western context and to be measured only by the criteria of free and fair elections? Are wider considerations such as those of social justice also relevant and important in assessing what has happened recently in Fiji? Could it be that the future in Fiji will be more truly democratic and people-centered, more just and more inclusive because of the military takeover and clean-up?<sup>33</sup>

Questions such as these are being asked throughout the country, by members of all ethnic groups and social classes, suggesting the unpopularity of the Qarase government's six years in office.

The 2006 coup was visible in Suva, whereas in the sugar cane belt of Western Viti Levu and in Vanua Levu its impact was barely noticeable, beyond a few stray military checkpoints on the peripheries of urban centres. In 1987 and, to a lesser extent, in 2000, life in the Indo-Fijian areas was severely disrupted. In 1987, boycotts affected the cane belt severely, and in 2000 Indo-Fijians living in areas on the Rewa delta were terrorized, forcing many to flee to refugee camps in Lautoka. The 2006 coup has left a different impression. Incidents of violent crime and burglary in urban areas are noticeably down. People feel safe on the streets and in their homes. The military's determination to prevent a breakdown in law and order has had its impact, and is an important reason behind the gathering public support for it, although its concerted effort to quell dissent has raised concern among human rights activists.

It has been asked whether or not removing Qarase and Bainimarama from their respective offices would have helped resolve the impasse that had led to the coup. Personality did play a part, and Qarase was more accommodating and moderate in public – as he had to be – although his critics argued that he was dangerously deceptive, a reassuring face of Fijian nationalism, the very soul of sweet reasonableness. Qarase is a self-avowed Fijian nationalist who is not necessarily antagonistic to the other communities. Bainimarama, heading an almost exclusively Fijian institution, the military, is an avowed multiracialist, although in television interviews he appears awkwardly assertive, even dogmatically authoritarian. His multiracialism may be a legacy of his education at the elite multiracial Marist Brothers High School in Suva. Qarase is a product

of the exclusively Fijian (Queen Victoria) and European (until the early 1960s) Suva Boys' Grammar.

But this crisis goes beyond personalities. It is clear that the military now seeks a more enlarged, permanent public role for itself. It does not wish to remain simply an institution of the state but seeks to play an important role in the affairs of the state. 'Prevention is better than cure', a senior military officer told me. 'It is better to prevent the mess from taking place in the first place than to be called to clean it up afterwards.' He was referring to the role the military had to play in rescuing the country from the crisis of 2000. He cited Thailand, Indonesia, Pakistan and Turkey as models. Along with the parliament and (until recently) the GCC, the military regards itself as a major centre of power in Fiji and it is there to stay.

Could the crisis have been avoided? Bainimarama was adamant that he would proceed with his 'clean-up' campaign whatever the cost; he had stated his intention to take on the government almost three years before the coup. His intention to execute the coup was probably the longest coup-warning in recent history. His tactic differed from those employed by Sitiveni Rabuka in 1987. Then, Rabuka delivered a single, surgical strike on a single day, abrogated the constitution immediately and soon afterwards declared Fiji a republic. His actions stunned the nation. In 2006, Bainimarama deposed the government through 'death by haemorrhage' over a long period. His demands were clear and his intention unmistakable. He hoped that unrelenting pressure would crack the government and force it to accede to his demands. But the SDL government, buoyed by overwhelming Fijian support in the May 2006 elections, and riding high on the wave of enthusiastic public support for the multiparty government concept, did not take the military's threat as seriously and as early as it could and should have. Indeed, for the most part, it was determined to clip the commander's wings. Clumsy efforts to have him sacked when he was out of the country and to reduce the military's budget fuelled tensions. The government's attempt to foster dissent among the officer corps against Bainimarama failed. To the contrary, its actions only strengthened the support for him. By the time the government realized the resoluteness of the military's position it was too late. The military had crossed its Rubicon.

Many questions remain, and only time will provide the answers. Will Bainimarama be the charismatic messiah who will lead Fiji away from the path of corruption and bad governance, away from the era of racially polarized politics towards a better future for all its citizens? Or will he, like one of his military predecessors, Sitiveni Rabuka, succumb to hubris and take his country back into the cul-de-sac of despair and disillusionment? Will the multiracial 1997 constitution, once hailed as the saviour of the nation, remain intact, its lights undimmed? Or will it be emasculated and eventually snuffed out if it conflicts

with the agenda and interests of those in power? Will the military, from now on, insist on having a far greater, far more visible, public role in Fiji? Or will the fundamental tenets of parliamentary democracy be allowed to prevail? Will the institutions of law and order be allowed to exercise their proper function? Or will they do so only under the close supervision of the military? Will parliamentary democracy of the Westminster type, with all its faults and flaws, return to Fiji? Or will it be allowed to exist only on the sufferance of the military?

The 'anxiety, uncertainty, and fear' that the now-deposed prime minister, Laisenia Qarase, spoke about at the beginning of 2006 seem likely to continue to haunt Fiji well into its future.

## ENDNOTES

- <sup>1</sup> The citation is from Prime Minister Laisenia Qarase's 'Address to the Nation/Comments at Press Conference', 1 November 2006. A copy of the speech is available on numerous websites, such as <<http://www.fijilive.com>>. This paper was previously published in *The Round Table*, 96, 2007, pp.135–53, and the editors of that journal are thanked for agreeing to its re-publication. I am very grateful to Doug Munro, Hank Nelson, Vicki Luker, Stewart Firth and Ashwin Raj for their stringent and astute comments on a draft of this paper. But they are not responsible for its contents; I am.
- <sup>2</sup> Milner, I. 1971. 'A conversation with Charles Brash', *Landfall: A New Zealand Quarterly*, 100:349.
- <sup>3</sup> The Great Council of Chiefs is an entirely indigenous Fijian body, traditionally of hereditary chiefs, the role of which has been to advise governments on matters pertaining to Fijians. It appoints the President and Vice-President, as well as 14 of the 32 members of the Senate.
- <sup>4</sup> *Fiji Sun*, 1 November 2006.
- <sup>5</sup> *Fiji Sun*, 1 November 2006.
- <sup>6</sup> 'Fiji Prime Minister Addresses the Nation', *Pacific Islands Report*, 1 November 2006.
- <sup>7</sup> All bills presented to the Fijian parliament are available on the internet and on the websites of the Fiji daily newspapers. The third bill, the Indigenous Land Tribunal Bill, was also on the military's list but did not get much airing.
- <sup>8</sup> Radio New Zealand International, 21 Nov. 2006.
- <sup>9</sup> *Fiji Sun*, 1 November 2006.
- <sup>10</sup> Address by Laisenia Qarase to the Great Council of Chiefs, 9 November 2006.
- <sup>11</sup> Lal, B. V. 2006. *Islands of Turmoil: elections and politics in Fiji*, Asia Pacific Press, Canberra, covers this subject. The 2006 election is discussed at pp.251–64. See also Lal, B. V. 2007. 'Chance hai: impressions from the campaign trail', in Fraenkel, J. and Firth, S. (eds). 2007. *From Election to Coup in Fiji: the 2006 campaign and its aftermath*, IPS Publications, Suva, and Asia Pacific Press, Canberra, pp.11–25.
- <sup>12</sup> Including the Commonwealth Secretariat and the Pacific Islands Forum in Suva. I should note that both the Human Rights Commission and the military allege that there were irregularities in the election process, although no evidence has so far been produced before the courts.
- <sup>13</sup> The 1997 constitution provides that any political party with more than 10 per cent of seats in the House is constitutionally entitled to be invited to serve in cabinet.
- <sup>14</sup> Section 3(b) of the Declaration, a copy of which was subsequently published as a parliamentary paper.
- <sup>15</sup> This is based on conversations with some of the Labour Party members in cabinet. But see also Maika Bolatiki, 'FLP crisis poses threat,' *Fiji Sun*, 19 September 2006.
- <sup>16</sup> *The Fiji Times*, 17 October 2006.
- <sup>17</sup> *The Fiji Times*, 3 November 2006.
- <sup>18</sup> The 2004 review argued that the Republic of Fiji Military Forces was 'too top heavy and cumbersome for the size of the force and will need drastic revision once the options outlined above are decided. The rank structure is also grossly distorted, for example there are 80 warrant officers class 1 and 159 warrant officers Class II in a force that would justify no more than 10 and 30 respectively at that rank. The same

applies for officers. There are 8 colonels and 23 lieutenant colonels when half that number would be excessive in the current force.' I am grateful to Professor Stewart Firth for this information.

<sup>19</sup> *The Fiji Times Online*, 25 November 2006 (available at: [www.fjitime.com.fj](http://www.fjitime.com.fj)).

<sup>20</sup> *Fiji Sun*, 11 November 2006.

<sup>21</sup> *The Fiji Times Online*, 25 November 2006.

<sup>22</sup> This bill's purpose is to enable Fijians to present cases concerning long-standing grievances about the alienation of some of their ancestral land and to seek compensation or return. Around 500 claims have been lodged thus far.

<sup>23</sup> Land which is deemed vacant or without an owner, as decided by the Native Land Commission set up after Cession in 1874.

<sup>24</sup> See also Maika Bolataki, 'Fijian state versus Fijian army', *Fiji Sun* 11 November 2006.

<sup>25</sup> *fijilive*, 12 November 2006.

<sup>26</sup> *Fiji Sun*, 15 December 2006. See also the editorial of 20 December, where the paper asked: 'Are we seeing the beginning of the end of a chiefly system unable to integrate with this rapidly evolving world in which we live? Probably not. But we may be witnessing the first signs of a society unsure of its changing relationship with its history as the outside world inexorably alters the way in which we see ourselves and our place in it.' Further, 'there is a strong case for arguing that the chiefs have diminished in status as a result of the GCC's stand-off with the army commander and it is difficult to see how they can reverse that'.

<sup>27</sup> Budget Speech, 22 November 2006.

<sup>28</sup> *Fiji Daily Post*, 3 December 2006.

<sup>29</sup> The doctrine authorizes the executive to intervene if the government is unable to discharge its responsibilities in the event of an emergency, such as massive civil disorder. But the doctrine is limited in its scope, and the executive is obliged to return power to the government once the emergency is over.

<sup>30</sup> From the press release of the meeting, issued on 13 January 2007.

<sup>31</sup> The other awardees were Sir Allan Kemakeza of the Solomon Islands and Ham Lini Vanuarora of Vanuatu.

<sup>32</sup> Subhas Appana, 'Can't blame our Indians now', *The Fiji Times Online*, 22 December 2006.

<sup>33</sup> Paulo Baleinakorodawa, Kevin Barr and Semisi Qalowasa, 'Crisis brings uncertainty: what about opportunity?', *Fiji Sun*, 17 December 2006.





### 3. Fiji's December 2006 coup: Who, what, where and why?<sup>1</sup>

Jon Fraenkel

The Fiji military's 'clean-up' coup reached a climax on 5 December 2006. Although President Ratu Josefa Iloilo rubber-stamped the takeover that morning,<sup>2</sup> he was swayed by Vice-President Ratu Joni Madraiwiwi to disassociate himself from it in the afternoon. The official statement from Government House said that the Republic of Fiji Military Forces (RFMF) had acted 'contrary to the wishes of their Commander in Chief', but conveyed the President's intention to remain in office only to preserve some semblance of continuity.<sup>3</sup> That was not to be. Because the Prime Minister had declined to resign and the President equivocated, the illegality of the takeover had become inevitable. At 6 pm on Tuesday 5 December, military commander Frank Bainimarama declared that:

... the President has been prevented by some, including the Vice President, from exercising his constitutional prerogative to dismiss the Prime Minister in exceptional circumstances. As Commander of the RFMF, I, under the legal doctrine of necessity will step into the shoes of the President given that he has been blocked from exercising his constitutional powers.<sup>4</sup>

This was a coup that, unlike that in 2000, was reasonably quickly consolidated logistically, but nevertheless remained highly precarious politically. There was none of the mayhem of 2000, no trashing of Suva's business district, no curfews, no more than the usual power and water cuts. In the days before the coup, in 'exercises' announced beforehand to the national media, illumination flares were fired into the night sky above Suva Harbour and close to Nukulau Island, and soldiers fanned out across Suva. This was a show of strength aimed at ratcheting up the tension and convincing the somewhat incredulous political classes that the military meant business. Off the reefs of Kadavu, a Black Hawk helicopter crashed into the sea while attempting to land on one of three Australian warships that were standing by if needed to evacuate nationals. Fijians said it had been taken down by the shark god, *Dakuwaqa*. Newly arrived Australian security personnel attached to the High Commission were, Fiji's military command declared, to be treated as 'mercenaries',<sup>5</sup> and the army top brass condemned the anticipated use of the Biketawa Declaration as a justification for invading Fiji.<sup>6</sup> In the event, both Australian warships and security forces departed, and, from Canberra, Prime Minister John Howard declined to commit troops, publicly

– if ill-advisedly – reporting that he had been asked to do so three times by Qarase, but did not want to risk Australian lives.<sup>7</sup>

When the coup itself started, it was not a surgical strike, but rather a slow, methodical, and seemingly irresistible takeover of state power. On 4 December, soldiers seized weapons from the police armouries at Nasinu and Nasova in Suva and from smaller weapons' stores in Nadi, Lautoka and Labasa to prevent any potential threat to the RFMF's monopoly on the use of armed force. The next morning, Prime Minister Laisenia Qarase was summoned to Government House, to be confronted, he anticipated, with the options of capitulation or humiliating resignation.<sup>8</sup> His vehicle was stopped at the gates, where soldiers insisted that he walk the remaining distance.

Qarase refused, and returned to his Richards Road residence, declaring that 'under no circumstances will I resign or advise Ratu Josefa [Iloilo] to dissolve parliament'.<sup>9</sup> In the glare of the international media, soldiers tried to raid Qarase's home, eventually succeeding in whisking away the Prime Minister's two official vehicles, thereby stripping him of the remaining trappings of statehood. He left, the next day, for his home island of Vanuabalavu. Parliament was not sitting on the day of the coup, depriving the 2006 takeover of those critical focal points of the 2000 and 1987 coups. But the Senate, which was in session, was shut down, and soldiers raided the Prime Minister's office, carting away papers and computer hard drives to be used as evidence in the intended clean-up campaign. Confirming the impression of preparedness for a prime ministerial resignation rather than a seizure of power, military personnel that day roamed the offices of the government printer and the parliamentary library seeking copies of Rabuka's 1987 coup decrees to use as models for the inauguration of the new order.<sup>10</sup>

The 2006 military takeover had been an event so regularly threatened that many doubted that it would ever eventuate, not least because the commander himself had for several years repeatedly and emphatically publicly denied that he was intending a coup. The police commissioner, Australian Andrew Hughes, had also regularly reassured the nation that there would not be a coup, based on private guarantees from the commander. Repeated spats with the government had encouraged the perception that the commander's antics were mere brinkmanship, designed to influence rather than control the political agenda.

There were other good reasons why so many ruled out a military takeover. Previous coups had had quite different dynamics, or at least so it appeared. In both 1987 and 2000, coups had occurred in the wake of election victories by predominantly Indian-backed political parties. Both coups had overthrown reformist governments that were associated with the left of the political spectrum and identified with the politics of the sugar cane belts. Each time, takeovers had been carried out in the name of upholding 'indigenous paramountcy', extending

the reach of a notion formally embedded only as a 'protective principle' in the 1997 constitution. Both previous coups had the backing of the bulk of the ethnic Fijian establishment, as indicated by the endorsement of the Bose Levu Vakaturaga (Great Council of Chiefs (GCC)) and the Methodist Church. Both had brought into office governments committed to 'affirmative action' aimed at uplifting the position of the indigenous community. Both post-coup governments had ultimately pulled back from the abyss of ethno-nationalism and veered towards a more moderate and internationally acceptable style of politics.

The December events turned Fiji politics upside down. Key coup victims of 1987 and 2000 emerged as defenders, enthusiasts and beneficiaries of the military takeover, while, overnight, the coup-backers of 2000 became democrats and supporters of the rule of law. The director of the Fiji Human Rights Commission, an assortment of Catholic social justice advocates, much of the business community and probably the majority of left-leaning civil society activists supported the coup.<sup>11</sup> Vociferous opponents of previous illegal regimes, such as the widely respected Justice Anthony Gates, took positions in the new order, as did several well-travelled participants on the Pacific's 'good governance' workshop circuit. Deposed 1999–2000 prime minister Mahendra Chaudhry became interim finance minister, as well as acquiring a host of other important portfolios, including sugar industry restructuring. The reaction from the bulk of the Fiji Indian community to the 2006 coup was astonishing; the group that had such a strong sense of its own victimhood, due to the 1987 and 2000 coups and the much earlier experience of *girmitya* (indentured labour), was strongly in favour of the clean-up coup.<sup>12</sup>

That remarkable reorientation in Fiji politics had been brewing, behind the scenes, for a considerable time. In January 2006, Fiji Labour Party (FLP) president Jokapeci Koroi astounded Fiji TV viewers by pronouncing support for a military takeover, seeing in this the potential for a fulfilment of the agenda of the deposed 1999–2000 People's Coalition government. RFMF antagonism to the Qarase government – a government that it had originally, in July 2000, put into office – became apparent in the wake of Justice Gates' November 2000 decision to restore the 1997 constitution. After the government appealed, the higher courts upheld that decision (in the Chandrika Prasad Case), but left space for the then 'interim' administration to transform itself into a caretaker government, pending fresh elections in August 2001. In response to those judgments, the RFMF had wanted a restoration of the former parliament, and the formation of a 'government of national unity'.<sup>13</sup> Instead, Qarase's newly formed Soqosoqo Duavata ni Lewenivanua (SDL) used the advantages of incumbency and, in particular, a generous agricultural assistance scheme, to procure indigenous electoral support in rural Fiji. Its detractors alleged that this was what won the 2001 election. In the wake of its victory, the SDL formed a coalition with the 2000 coup-supporting Conservative Alliance–Matanitu Vanua party, much to the dismay of the RFMF.

The new government exerted pressure on the President's Office to drop charges against the November 2000 mutineers and to ease sentences for prominent coup leaders or allied chiefs (or release them under 'compulsory supervision orders') and, in mid-2005, threatened to enact a controversial Promotion of Reconciliation, Tolerance and Unity (RTU) Bill that might have provided an amnesty to those still incarcerated as a result of their involvement in the coup of May and the associated mutiny of November 2000. The RFMF vigorously opposed other pieces of intended SDL legislation as well, such as the Qoliqoli Bill and the Indigenous Claims Tribunal Bill, and strongly resisted proposals in a 2005 government-commissioned review to downsize the RFMF.

Alarm bells first started ringing when, in December 2003, RFMF commander Frank Bainimarama told soldiers dining at the officers' mess at the Queen Elizabeth Barracks (QEB) that he intended to take over the running of the government if his contract was not renewed. In the three following years, the outspoken commander was to engage in a series of high profile spats with the Qarase administration, each commencing with RFMF criticisms of government policy or personnel and vague threats of one type or another, and ending with various half-hearted reconciliatory statements, coupled with assurances that there would not be a coup d'état. Each spat served, internally, as a loyalty testing instrument for the purging and restructuring of the RFMF. As a result, over the five years after the 2000 coup, virtually the entire senior, often Sandhurst-educated, command had been dismissed, sent on leave or resigned. And still that cathartic transition continued. In January 2006, freshly appointed land forces commander Lieutenant Colonel Jone Baledrokadroka, a close fellow-Marist-educated friend and ally of Bainimarama, warned that he had received orders that he deemed potentially treasonous, sparking a potentially violent showdown with the RFMF commander. Baledrokadroka was sent on leave pending a court-martial.

There were robust attempts at peace-making. Vice-President Ratu Joni Madraiwiwi, who as Roko Tui Bau was high chief to the Tailevu-born commander, sought to mediate between Bainimarama and Qarase, and wholeheartedly backed the multiparty cabinet formed after the 2006 election. When the commander publicly attacked the government yet again in September, the Vice-President endorsed the government's long-running efforts to seek a Supreme Court ruling as regards the military's constitutional position.<sup>14</sup> While the commander was out of the country in October, the President sought to remove him from office, and appoint instead Lieutenant Colonel Meli Saubulinayau. But the takeover was badly mishandled, and other senior officers again rallied behind the commander and threatened a coup should the President issue such directions. The order was consequently withdrawn. Soon, Saubulinayau too was removed from his position and placed under investigation. After each destabilizing crisis, the commander purged disloyal officers, or moved

them to positions without responsibility at Strategic Headquarters at Berkley Crescent. By December 2006, the senior RFMF ranks were exclusively staffed by rapidly promoted and extremely junior officers who owed their position to the commander.

Before departing to inspect Fiji's Middle East troops in October, Bainimarama announced a three-week deadline for the Qarase government to comply with RFMF demands or resign. While he was away, heavily armed soldiers raided the Suva wharf to secure the release of a consignment of imported RFMF weaponry and ammunition being held by the customs authorities on instructions from police chief Andrew Hughes, who had insisted on clear military assurances that they would not be used for a coup. Hughes had also commenced investigations aimed at laying charges against the commander for 'sedition', entailing a hugely controversial raid on the President's Office seeking incriminating evidence. Many alleged that the sedition charges were the trigger for the December 2006 coup. According to this view, further appeasement was the preferable course, and without that personal threat to the commander there would have been no coup. In fact, the point of no return had been reached earlier, at the time of the botched attempt to replace Bainimarama by Saubulinayau. After that, insiders knew that the so-called 'impasse' or 'stand-off' that had so destabilized Fiji politics was likely to be resolved by a military coup, and not by the government successfully asserting its authority.<sup>15</sup> By November, it was widely known in local diplomatic circles that there was going to be a military takeover, and that nothing short of utter capitulation, resignation by Qarase or installation of a puppet government could avert it.

Bainimarama returned from his trip to the Middle East on 4 November, only to depart again for New Zealand to attend his granddaughter's first Holy Communion. While he was there, the New Zealand government facilitated crisis talks between the commander and Qarase, who flew down for the purpose. At these, Fiji's prime minister conceded to all the main RFMF demands, agreeing to suspend action on controversial legislation, to take into account RFMF views when considering whether or not to renew Hughes' contract, and even to accept advice from the Director of Public Prosecutions or Solicitor-General, were it offered, to publicly drop charges against Bainimarama.<sup>16</sup> Yet, as soon as Bainimarama returned to Fiji, he declared that Qarase was 'lying' about the Wellington deal, that the bills should be withdrawn not stalled, and that nothing could stop the intended clean-up campaign.<sup>17</sup> The deadline had fallen due, but now the commander said there would be no action until the school holidays and then, in a farcical climax to the pre-coup phoney war, put off the ousting of Qarase to attend the scheduled Ratu Sukuna Bowl rugby contest between the army and the police.

This time, the coup that had hovered finally happened: Bainimarama, having himself rendered the government incapable of acting, claimed its incapacity as justification for the takeover. The illegality of his action was nevertheless clear. The 1997 constitution does not permit a president to dismiss a prime minister unless he has lost the confidence of the majority in parliament, and a dissolution is only possible on the advice of a legally appointed prime minister.<sup>18</sup> With President Ratu Josefa Iloilo in place, it was probable that RFMF lawyers would suggest that certain 'reserve powers' existed (on the Kerr/Whitlam model<sup>19</sup> ) and that Ratu Josefa was acting under the 'doctrine of necessity' to speedily restore constitutional rule in Fiji. Without the President in place, the 'doctrine of necessity' was irrelevant; it was an unsuitable line of defence for a usurper, as the commander clearly was, and 'necessity' could scarcely be invoked to tackle an RFMF-provoked crisis.<sup>20</sup> The more plausible line of legal defence was to suggest that a 'glorious revolution' had occurred (using Kelsen's theory of revolutionary legality) and established a new constitutional order. But, for that, the commander needed to abrogate Fiji's 1997 constitution, which he steadfastly refused to do through December–February, presumably because of the rift this might create with Ratu Josefa Iloilo and other conditional pro-constitution allies. Even with a formal abrogation of the constitution, the 2001 Chandrika Prasad case had left many in Fiji very familiar with the required tests of 'the doctrine of effectiveness', namely 'acquiescence'. That perhaps helps to explain the recurrent post-coup cycles of beatings and intimidation at the QEB in Nabua directed against outspoken critics, lawyers, women's rights activists, and SDL party officials, if not the considerable number of ordinary civilians picked up from the check-points, the police stations or from their homes for various allegedly criminal activities.

In the weeks before the coup, international opinion and local diplomats had rallied behind the Qarase government. At a meeting of the Pacific Islands Forum, held in Nadi in October, Qarase was fêted by Helen Clark and John Howard, and served as their ally in controversies with other members of the Melanesian Spearhead Group.<sup>21</sup> Australia, New Zealand, the USA, the European Union, Britain and the United Nations made clear their disapproval of the commander's intended coup, and threatened sanctions. On 28 November, the American Ambassador, and the Australian and British High Commissioners, had visited the QEB during Bainimarama's absence, urging a stand down of forces and change in the command structure. On the eve of his retirement, the United Nations' (UN's) Kofi Annan threatened to withdraw Fiji peacekeepers serving with the UN, something potentially far more damaging to the RFMF than the Australian and New Zealand severing of bilateral military ties. Australian Minister for Foreign Affairs Alexander Downer urged people in Fiji to rise up against the new military order, prompting those sympathetic to Bainimarama to talk of double-standards given the more muted responses to the 1987 and 2000 coups.<sup>22</sup>

In fact, once the initial outrage had abated, there was no great difference in the overseas reaction as compared with previous Fiji coups. The hard-pressed UN was never likely to deprive itself of an urgently needed supply of peacekeepers for Iraq. Although there were targeted travel bans, Australia and New Zealand ultimately did not impose trade sanctions, concerned as they were of the consequences for antipodean expatriates and businesses in Fiji.

In his new role as self-proclaimed 'President', Commodore Bainimarama temporarily appointed the army physician, Dr Jona Senilagakali, as Prime Minister, and announced the commencement of his clean-up campaign. On the day after the coup, a nervous-looking Bainimarama declared a state of emergency and promised stern repression against any who dared to incite popular resistance. Yet, on the following days, the commander dropped his severe green military fatigues for florid *bula* shirts at his daily press conferences, and announced a series of populist measures designed to bolster support for the takeover. The deposed government's previously announced imposition of an increase in VAT was to be reversed. The board of the Fiji National Provident Fund (FNPF) was to be purged, with the suggestion that its excessive take-up of government debt would be halted and the associated monopolies in the Fiji telecommunications market abolished. Costly prison facilities on the offshore island of Nukulau were to be dismantled, enabling the island to become, once again, a popular weekend picnic resort. 2000 coup leader, George Speight, was transported from there to Naboro Maximum Security Prison, and other still-imprisoned 2000 'coup convicts' were spread out amongst prison facilities elsewhere on Viti Levu. Ministers were given a month to vacate their government quarters. Vice-President Ratu Joni Madraiwiwi was given only hours to leave his official residence, in a petulant response to his refusal to support the military takeover.

A new broom swept through the commanding heights of the state apparatus. Military officers took over key positions in the civil security institutions; Colonel Ioane Naivalurua became commissioner of prisons, naval commander Viliame Naupoto took over as director of immigration, and Col. Jim Koroi became commissioner of police. A succession of government CEOs, including the key advisor in the Prime Minister's Office, Jioji Kotobalavu, and the chairman of the Public Service Commission, Stuart Huggett, were sacked, as were the Solicitor-General, the Supervisor of Elections and the Parliamentary Secretary. The boards and chief executives of state-owned enterprises – including Fiji Pine, Fiji Post, the FNPF, Airports Fiji, Air Terminal Services, the Civil Aviation Authority of Fiji, Ports Corporation and Ports Terminal Ltd, the Fiji Electricity Authority and the Sugar Cane Growers' Council – were all purged. Those targeted were usually officials identified with the Qarase government or known opponents of the new regime, but dismissals were invariably accompanied by allegations of corruption, mismanagement and abuse of office. On Radio Fiji One, military spokesmen initiated daily attacks in the Fijian language on such opponents,

making accusations of grave misdemeanours that were not repeated on the station's English language programs.<sup>23</sup>

The coup had been justified by claims of military knowledge of deep-seated corruption under the Qarase government. If such there was, the military was well placed to know. In addition to 3,500 or so paid RFMF personnel, some 20–25,000 Fijians had passed through the military since independence, many serving on overseas peace-keeping missions. Perhaps 5,000 were no longer alive, but the remainder were all, at least in theory, military reservists. As a result, the RFMF had former officers positioned throughout Fiji's key institutions: in the police force, at the airport and customs authorities, in the Lands Transport Authority, on the Native Land Trust Board, and through all the ministries and state-owned enterprises. Such prying eyes, where sympathetic, should have been able to discern multiple incidents of small- and large-scale fraud. Yet, in the wake of the coup, the military set about primarily seeking evidence, rather than exposing already known scandals. Often, what proof there was, was far from robust. The RFMF dismissed Fijian Affairs Board CEO Adi Litia Qionibaravi, claiming that she had 'used money from the Fijian Affairs Board to buy herself a vehicle' and to 'renovate a private house at Ma'afu Street', based on information from the two Indian carpenters contracted to do the work.<sup>24</sup> Like ousted Airports Fiji Ltd Chief Executive Sakiusa Tuisolia, she responded by taking out paid advertisements in the Fiji newspapers denying the RFMF allegations. The military was publicly soliciting informers to assist the proposed 'national audit', and large volumes of papers and computer hard drives were being stored away as evidence for the 'forensic accountants' that Bainimarama wanted to bring to Fiji. Australia and the UK refused his requests for such assistance, not wanting to have anything to do with efforts to discredit the ousted Qarase government.

In one sense, corruption under the deposed government was well known, especially in the government tendering process, in the immigration department, in the Native Land Trust Board, in the affirmative action programs and at the interface between foreign investors and government. Reports from the Auditor-General's Office, down the years, had highlighted hundreds of irregularities, not only under Qarase's administration but also under those of his predecessors.<sup>25</sup> The Public Accounts Committee, when it had functioned, had also documented incidents of gross mismanagement of public funds, although it had a poor record of initiating prosecutions. The courts had heard evidence of significant abuses of public office under the Ministry of Agriculture's Agricultural Assistance Scheme, and had convicted former permanent secretary Peniasi Kunatuba for his role in what became widely known as the 'agricultural scam'. But the RFMF too had been subjected to scrutiny, in particular for busting spending limits and failing to obey repeated court judgements requiring an audit of its regimental funds.<sup>26</sup> The democratic process had been far from perfect in



encouraging enquiries, or securing convictions against public officials for corruption. The Qarase government had failed to pass pressing anti-corruption legislation, but it was far from clear that a coup could rectify those weaknesses, and prove midwife to the emergence of a cleaner social order.

Unleashing an accusatory culture, and putting judgement into the hands of those who were not experts, also elevated the position of those with axes to grind on the mill of the clean-up campaign. Detailed scrutiny was always likely to pick up some evidence of government corruption, as it always had done in the past, but would this be sufficient to justify, retrospectively, the December coup?

Evidently aware of the small pickings in the early days of the anti-corruption crusade, the commander promised extraordinary revelations on January 1, so as to see in the New Year 'on a truth and transparency note'. Spokesman Neumi Leweni applauded a junior officer's initiative in mounting 'Operation Free Fiji' to expose major fraud among senior SDL officials and provide evidence of ballot-rigging at the 2006 election and of kickbacks for ministerial favours.<sup>27</sup> The RFMF, it turned out, had recruited notorious Australian conman Peter Foster to solicit the information. Foster had, before the coup, been hunted down and unceremoniously arrested by the Fiji police for using a forged Queensland police report to obtain a work permit. More disturbingly, he had published black propaganda on the internet seeking to depict the Champagne Beach resort in the Yasawas as a 'heavenly haven for homosexuals' in the hope that this would bring down the wrath of conservative landowners upon the promoters.<sup>28</sup> The motive, apparently, was that he had previously secured a US\$580,000 loan from the Bank of the Federated States of Micronesia to develop his own resort in the Yasawas, and thus urgently needed to secure the termination of his rivals' lease.<sup>29</sup> Foster had been released on bail by the Fiji court, but ordered to stay under police guard at the luxury Suva hotel, JJ's on the Park. From there, he was taken into RFMF custody and wired to gather evidence of corruption and election-rigging from senior SDL officials – evidence which the RFMF spokesman initially described as 'irrefutable proof' of ballot-rigging.<sup>30</sup> The resulting heavily spliced tapes were aired on Fiji TV on 2 January; Navitalai Naisoro, a key SDL strategist was shown purportedly admitting involvement in ballot-rigging in May 2006, but his claims lacked plausibility and, before long, the RFMF had abandoned its plans to release any more of the footage obtained by Foster.<sup>31</sup> In early January, having already breached bail, apparently with RFMF collusion, Foster evaded his military minders and escaped Fiji aboard a vessel bound for Vanuatu.<sup>32</sup> 'Democracy is corrupt', Foster had told the *Fiji Daily Post* in early January at the time when he extolled the virtues of the military's coup, but now he claimed that it was military corruption that was halting the further public disclosure of his revelations.<sup>33</sup> The junior officer previously acclaimed for his

initiative in mounting 'Operation Free Fiji', was subsequently, allegedly, badly beaten up by RFMF soldiers for his role in the Foster escape.<sup>34</sup>

According to the plan initially laid out by 'President' Bainimarama, the Great Council of Chiefs was to meet to 'reappoint' President Ratu Josefa Iloilo, and in so doing demonstrate acquiescence in the military takeover.<sup>35</sup> With a similar objective, the commander insisted that he would only attend the GCC meeting if invited as 'President', rather than as 'commander'. But the chiefs delayed and demurred, with Chairman Ratu Ovini Bokini cancelling the scheduled Levuka meeting, and taking refuge in Tavua, where the traditional bodyguards of the Tui Tavua set up roadblocks, reportedly to halt an expected RFMF assault. Reports filtered out that the 'warriors of the 14 provinces' were preparing an uprising and assassination of the commander, and soldiers were sent out into the provinces to pre-empt that threat, although the military denied harassing the GCC chairman. When the GCC eventually met at the FMF Dome in Suva on 20–22 December, Ratu Ovini lamented that never before had the GCC been so 'ridiculed and suppressed'. The chiefs had refused RFMF entreaties to invite the commander as 'President' but instead requested his presence as military commander. Bainimarama consequently refused to attend. Qarase, although invited, was also absent, stranded on his home island of Vanuabalavu owing to military insistence that no plane or vessel carry him to the capital.

At the meeting, Fiji's three confederacies<sup>36</sup> were at odds as to how to react to the ousting of the Qarase government. Burebasaga and Kubuna were united in refusing to endorse Bainimarama's request, but Tovata was divided. One member of the Lau (Tovata) delegation, Ratu Tevita Uluilakeba, who was the son of former president, Ratu Mara and who had recently been promoted commander of the all-important Third Fiji Infantry Regiment (3FIR), insisted that the council be 'realistic' and acknowledge that the military held executive authority. That language of 'realism' was also embraced by other members of the family of Ratu Mara, echoing the former President's post-1987 coup epithet about accepting positions in an illegal interim administration: 'when my house is on fire how can I stand and watch?'. The GCC disagreed, and stood instead, temporarily, on principle. It resolved to uphold the 1997 constitution, suggesting that the President and Vice-President remain in office and the army return to barracks. The GCC did, however, recognise that the Qarase government had been 'rendered ineffective and incapable of discharging its constitutional responsibilities', recommending that 'since there is no other alternative in this crisis, the GCC has regretfully advised the Prime Minister Laisenia Qarase to tender his resignation to the President'.<sup>37</sup> Under the GCC plan, a Privy Council would have been established to advise the President, including representatives from the military, the SDL and the FLP, which would choose a prime minister and establish

membership of a 'Government of National Unity', paving the way for fresh elections fifteen months later.

Many expected greater Fijian resistance to the military takeover. Australian Minister for Foreign Affairs Alexander Downer and ex-police chief Andrew Hughes anticipated civil unrest. So too did the RFMF itself. The rationale for constant beatings and harassment up at the QEB and the continuation of the emergency decree was, after all, that the security threat remained real. Labour leader Mahendra Chaudhry insisted that there were 'elements out there who would not hesitate to create disorder should there be any slackness on the part of the law enforcement authorities'.<sup>38</sup> These fears were, perhaps, exaggerated. Fijians were scared. Back in 2000, there had been enduring resistance to the RFMF in some parts of the country, such as Wainibuka (in Tailevu) and Wailevu as well as other parts of Vanua Levu. But Fijians in these areas had been brutally repressed, and they feared a repeat of the military onslaught.<sup>39</sup>

The 2000 protests had, in most cases, been orchestrated by prominent chiefs, many of whom had been beaten up and imprisoned in the aftermath. Calls from chiefs in Namosi and Cakaudrove for their soldiers to stand down were countered by rival RFMF provincial contingents visiting villages to solicit communal support.<sup>40</sup> Although 80 per cent of Fijians had backed the Qarase government in May, popular enthusiasm was hardly such as to spark an uprising in its support. And Qarase's flight to Mavana removed the short-lived focal point of post-coup resistance in Suva. Within Fijian society, there exists a tradition of submission to forceful and violent overlords, but silence, culturally, is not acquiescence. In time, indigenous Fijian resistance to the interim government might grow. The Methodist Church is by no means reconciled to the new order, and nor are the Bau and Cakaudrove chiefs. The government – short of money – will impose public spending cuts that are likely to stir resentment in the indigenous Fijian community, especially as Mahendra Chaudhry will be the minister implementing them.

The greater immediate potential for resistance, or for some kind of counter-coup, came from within the army itself. Repeated internal incidents of opposition to Bainimarama over 2000–2006 had shown this to be a real possibility. The poor turnout of reservists called into the army camps shortly before the coup also indicated some lack of enthusiasm for it. At the May 2006 election, the bulk of rank-and-file soldiers probably backed the SDL, as did ethnic Fijians more generally. But Bainimarama had cemented a dependable command structure, and subjected this to repeated loyalty tests. Amongst the rank-and-file, loyalism held its attractions. Not least, the RFMF offered reasonable salaries to otherwise unemployed Fijians, as well as the possibility of lucrative participation in overseas peacekeeping missions. Internally, the RFMF provided a highly structured life experience for soldiers, like a spiritless carbon copy of the long lost village order.

The army was the *vanua* for many Fijians, and this coherence provided potential reservoirs of support for the senior command. Active mobilization, keeping soldiers on their toes, was also used to galvanize the rank-and-file; the threat of foreign intervention before the coup, for example, was used to rally soldiers in 'defence of the nation'.

The most vociferous opposition to the coup came from civil society activists, but these too were divided. People were urged to wear black on Thursdays, and citizens were implored to wear blue ribbons and attend silent prayer vigils to support 'peace and democracy, the rule of law and active non-violence'.<sup>41</sup> A 'democracy shrine' established by businesswoman Laisa Digitaki, consisting of a house in the Suva suburb of Lami sporting a large banner saying 'Yes to Democracy, No to guns', was repeatedly raided by the military. Outspoken May 2006 SDL candidate, and former TV presenter, Imraz Iqbal had his business burnt to the ground. Digitaki responded to allegations that their protests were against the law by insisting on the illegality of the emergency regulations, and pointing out that 'their interim Prime Minister himself has publicly admitted that the military takeover is illegal'.<sup>42</sup> On Christmas eve, Digitaki, Iqbal and Fiji Women's Rights Movement coordinator Virisila Buadromo were amongst a group taken up to the QEB, threatened and manhandled, and then frog-marched up Mead Road with soldiers behind them shouting '*toso! toso!*' (move! move!). Local music celebrity, *Vude* Queen Laisa Vulakoro was among the many protestors taken up to the camp after she penned critical letters comparing the commander with Idi Amin.<sup>43</sup> One by one, the critics were effectively silenced, usually after a single visit to the camps. Fiji Human Rights Commission director Shaista Shameem said many of the protestors were 'not genuine pro-democracy activists', prompting fellow commissioner, Shamima Ali, to denounce the director and suggest that the organization had lost credibility.<sup>44</sup> Many NGOs remained silent, or, as in the case of the local branch of Transparency International, expressed their support for the military's anti-corruption objectives.<sup>45</sup> Those that resisted were isolated, largely because of the muted grassroots Fijian reaction.

To convey the GCC resolutions to the Commodore, Paul Manueli, 1974–79 RFMF commander and finance minister under Rabuka, was sent up to QEB; he was followed by a broader delegation, comprising chiefs from the three confederacies. On the TV news, military spokesman Neumi Leweni said, 'why should we meet them when they don't recognise us as the executive authority?' By this point, the Mara dynasty had publicly identified itself with the coup, as Ratu Tevita Uluilakeba made clear at the GCC meeting. His sister, former Senator Adi Koila Mara, had also strongly supported the clean-up campaign on Radio New Zealand.<sup>46</sup> So too had a politician widely alleged to be Mara's illegitimate son, Poseci Bune; and Mara's son-in-law, Ratu Epeli Ganilau, Bainimarama's predecessor as military commander, was clearly positioning himself for a top

position in the new government. Ganilau's National Alliance Party of Fiji (NAPF) had obtained less than three per cent of the national vote at the May 2006 election, but his party members emerged at the forefront of those insisting that Fiji accept the 'reality' of the situation, and acquiesce in the new order. NAPF spokesman Kini Rarubi said of the GCC plan 'their resolution is nothing more than a wish list and they should take it to the Santa Claus'.<sup>47</sup> The commander concurred with this disdain for the chiefs' resolutions; 'I am of the view that the GCC in their last meeting embroiled themselves too much into the legality of our actions'.<sup>48</sup> He refused to allow any further chiefs' meetings unless these were instigated by the RFMF.

Now cut adrift from all the traditional bastions of state power in Fiji, the RFMF turned inwards for its Christmas festivities, with internal ceremony acquiring added importance now that the commander had transformed himself into the pivotal figure in Fiji politics. At the QEB, an increasingly busy hive of activity, church services became a means for cementing an inevitably fragile coherence. 'We must clean ourselves', the army's Reverend Major Josefa Tikonatabua told close to 700 soldiers attending the Rabuka Hall Christmas church service at the QEB, 'although you have been spat upon and sworn at by your own people because of the uniform you wear, you must remain strong'.<sup>49</sup> These were sentiments echoed by the commander, whose rhetoric regularly featured the objective of a disciplinarian transcendence of Fijian primitivism; 'we the Fijians are too selfish', he told soldiers at the Rabuka Hall, emphasizing the importance of the family, of sharing and of multi-ethnic harmony, as against the 'teachings of some chiefs, church leaders and politicians who have now been sacked'.<sup>50</sup> In another Rabuka Hall church service several days later, the commander – evidently concerned by allegations about RFMF abuses at the checkpoints – again emphasized that 'the clean-up starts from within us', and Reverend Tikonatabua appealed to soldiers to pray three times a day, at 4 am, noon and 4 pm. The assembled throng attending the Sunday service was told that senior commanders intended to embark on a month-long spiritual fast and that the rank and file should likewise deny themselves something, such as tobacco, *yaqona* or alcohol.<sup>51</sup>

Many of the commander's statements about the Qarase government had, down the years, echoed the Fiji Labour Party's attacks on government corruption, mismanagement and inefficiency. But there were also not-so-subtle differences. George Speight's coup was seen by the commander as a 'cry of the land', and the contemporary pleas of Nadroga landowners, as well as evidence of a spurt in land transactions in the two weeks immediately following the coup, led the commander to temporarily ban all land sales, claiming that native title was being converted to Crown land and then sold as freehold.<sup>52</sup> Returning Crown lands to native owners was used to bolster popular Fijian support for the coup, but

capital gains tax policies on land sales also threatened to ruin the already troubled half-completed Momi Bay development in western Viti Levu.<sup>53</sup> The neighbouring Natadola development, financed by the displaced old guard at the FNPF, also found itself in trouble. Many fortunes were endangered by the new order, including that of Ballu Khan, whose Pacific Connex joint venture with the Native Land Trust Board was placed under investigation. The cancellation of the affirmative action programs threatened to halt the post-1987 gravy train, which had catapulted a generation of educated Fijians into the propertied élite.

Authoritarian rule was directed at Fijian and Indian alike, and several Indians reported severe bashings at the hands of the RFMF. But most Fiji Indians welcomed the checkpoints, and extolled the virtues of a government that had, at least temporarily, substantially improved the law and order situation. Fijians were mostly opposed, and they felt the brunt of military repression. One Tailevu villager, Nimilote Verebasaga, was taken into custody by the RFMF in the wake of a village land dispute. Up at QEB, he was allegedly beaten to death in such a gruesome way that his clothes had to be changed before the body was returned to his distraught kinsfolk.<sup>54</sup> Many others were subjected to intimidation and harassment at QEB, including politicians, civil society activists and outspoken lawyers. Usually, they were forced into humiliating 'exercises', such as running round the army grounds or crawling through muddy ditches, in what were evidently RFMF externalizations of its internal disciplinary procedures.

Immediately after the coup, FLP leader Mahendra Chaudhry remained unusually silent. He then suggested a speedy return to democracy but notably did not call for the restoration of the elected Qarase government. Three weeks after the coup, with Fiji well embalmed in the softening rhetoric of 'accepting realities', 'coming to terms with what has happened' and the need to 'move the nation forward', the Labour leader ventured an explicit endorsement of the Bainimarama takeover. 'Last year's coup was warranted', said Chaudhry in his New Year message: 'One cannot forget that the current constitutional crisis had its roots in a growing discontent and frustration with six years of bad governance, characterised by pervasive corruption, ethno-nationalism and defiance of the rule of law'.<sup>55</sup> The May 2006 election, like that of August 2001, had been rigged, said the FLP leader, dismissing the 'rhetoric about the takeover of a democratically-elected Government'.<sup>56</sup> In these statements, Chaudhry was clearly positioning himself for an extraordinary transition from steadfast upholder of the rule of law to participant in an illegal administration, from RFMF victim to ally of the latest military insurrection and from principled democrat to coup apologist. He had not been prepared to enter Qarase's post-May election multiparty cabinet, and had successfully undermined, out-manoeuvred and disciplined the 'gang of five' FLP supporters of power-sharing. Of these, Krishna Datt, Poseci Bune and Atu Emberson-Bain were expelled from the party. At the first crucial test, the 2007

budget vote, the multiparty cabinet had all but fallen apart. Now the FLP leader was poised to enter a new form of power-sharing arrangement, no longer inspired by sophisticated constitutional engineering theories, but rather by a Bonapartist transcendence of ethnic divisions and a blunt and remorseless shift onto the path of authoritarian modernization.

With the GCC now cut out of the loop, Bainimarama chose to directly 'reappoint' President Ratu Josefa Iloilo, as the precursor to setting up an interim government. The event was to prove yet another extraordinary spectacle – despite the absence of the foreign dignitaries, ambassadors, and high commissioners usually in attendance on such occasions. After detailing 21 reasons why the RFMF takeover had been justified, the commander explained that 'extra-constitutional steps' had been 'necessary to preserve the Constitution', insisting that legal precedents existed for his use of 'reserve powers' and had not been over-turned, and thus remained 'binding and valid law'.<sup>57</sup> Ostensibly to facilitate an inquiry into the activities of the judiciary at the time of the 2000 coup, Chief Justice Daniel Fatiaki and Chief Magistrate Naomi Matanitobua had been sent on leave a day before the presidential handover. Justice Anthony Gates was soon made acting Chief Justice.<sup>58</sup> The independence of the judiciary, which had been damaged but not broken by the events of 29 May 2000, was now to be more thoroughly compromised by senior judges' assumption of positions under the auspices of an illegal regime.<sup>59</sup>

On 4 January, the re-appointed President addressed the nation for the first time since the December coup:

Good citizens of our beloved Fiji Islands. I know that the events of the past few weeks have been trying on all of us. In particular in early December we were at cross roads at which hard and decisive decisions needed to be made. I was, as has been noted by the Commander of the Republic of the Fiji Military Forces, unable to fully perform my duties as I was prevented from doing so. I do not wish to elaborate further on this point but I can state that they were predominantly cultural. In any case given the circumstances I would have done exactly what the Commander of the RFMF, Commodore Josaia Voreqe Bainimarama did since it was necessary to do so at that time. These actions were also valid in law. Therefore, I fully endorse the actions of the Commander of the RFMF and the RFMF in acting in the interest of the nation and most importantly in upholding the Constitution.<sup>60</sup>

For the President to so blatantly endorse such an illegal act was extraordinary, and flatly contradicted the Government House statement of 5 December, when he had refused to 'condone' or 'support' the military takeover. The unelaborated 'cultural reasons' referred to the advice of Vice-President Ratu Joni Madraiwiwi, who, as Roko Tui Bau, might in traditional terms be seen as the higher-ranking

of the two chiefs. But Ratu Joni had been dismissed from his position, and the President's military speech-writers were no longer constrained in their efforts to rubber-stamp the new order. Nonetheless, the President's statement sent shock waves through the Fijian community, not least through the Methodist Church, which suggested that the President be 'medically boarded, and if necessary, retired with dignity and respect'.<sup>61</sup>

The day after he had relinquished the presidency, Commodore Bainimarama was sworn in as prime minister, replacing the rather ineffective Dr Jona Senilagakali. Esala Teleni, who had shot up through the ranks to become deputy commander after the coup, became acting commander of the RFMF, although Bainimarama retained the substantive position. The interim cabinet was then announced, an occasion for those civilian politicians sympathetic to the coup to emerge into the public glare. The Fiji newspapers had, prior to Christmas, published novel adverts soliciting applications from the general public for positions in the interim cabinet, with the job description requiring clean criminal records and a declaration that applicants would not stand in the next election. A slimmed-down cabinet of 16 members was announced, replacing Qarase's bloated 36-member collection of ministers and 'state ministers', with the commander claiming to thereby save \$2m annually. Former parliamentary speaker Ratu Epeli Nailatikau emerged from a behind-the-scenes role liaising with the Commonwealth and bilateral partners, to become Foreign Minister. Several politicians associated with the NAF, and some former RFMF officers with civil service experience, acquired portfolios. The popular Bernadette Rounds Ganilau amazed the chattering classes of Suva by taking up the post of interim minister for labour, industrial relations, productivity, tourism and environment, while the sole other MP in her United Peoples Party was being hauled into barracks in western Viti Levu to face military questioning for his critical public statements about the coup. The president of Fiji's Chamber of Commerce, Taito Waradi, became interim minister of commerce, and Ratu Epeli Ganilau belatedly took up the Fijian affairs portfolio. Lawyer Aiyez Sayed-Khaiyum became interim Attorney-General, surrendering a \$150,000 per annum position at the Colonial Bank. Frustrating Labour warnings about 'opportunists', Poseci Bune, the former 'hard man' in the deposed 1999–2000 government became interim minister for public service reform. Bune had only recently been expelled from the FLP, but had previously established for himself a chameleonic reputation for traversing all manner of political divides. Mahendra Chaudhry became interim minister of finance, as well as interim minister for national planning, public enterprise and the sugar industry. Lekh Ram Vayeshnoi, who had formerly been Chaudhry's Trojan horse in Qarase's multiparty cabinet, took up the youth and sports portfolio and promptly sacked the entire board of the Sports Council. The only other surviving cabinet member was the SDL's Jonetani Navakamocea, who explained that he had spent close to \$30,000 on the May election campaign and did not want to



lose out – rather oddly, given the clean-up mandate that was intended to define the new order.<sup>62</sup>

Realism soon took its toll. With an interim government in place, domestic critics were presented with the conundrum of whether to continue to insist on the seemingly impossible restoration of the Qarase government or to instead call for the interim government to settle on a roadmap for the restoration of democracy. That ambivalence between pragmatism and strict legality, which always figures in the aftermath of coups, led to a wave of more nuanced domestic accommodation with the new order amongst the non-enthusiasts – those with no hope of places either in the new order nor, any longer, in the resurrection of the old. The formerly stalwartly pro-government *Fiji Daily Post*, managed by Qarase's cousin Mesake Koroi, now concluded that the SDL had 'failed in its duty' because 'a coup happened on their watch' owing to its non-inclusion of 'the military leadership in its deliberations on national security'.<sup>63</sup> Internationally, key bilateral and multilateral agencies had by January abandoned much hope of restoration of the elected government. Even ousted Prime Minister Qarase was, by the time the Pacific Islands Forum Eminent Persons Group visited him in late January on his home island, primarily taking issue about the timetable for the next election.<sup>64</sup>

Efforts were made to 'normalize' the political situation, to rubber-stamp the decrees of the previous month, and earnestly pursue the anti-corruption program. Following the President's statement, a wide-ranging immunity decree was passed, although the legality of this (and of all the other decrees) remained to be tested. Chaudhry was to re-design the 2007 budget, and somehow fill the F\$70m gap left by the dropping of the previous government's proposed value added tax increase, avoid the impending economic collapse anticipated to result in a F\$190m revenue shortfall (including an undisclosed sum to cover the military's giant blow out of its budget during December) and, he hoped, persuade the European Union to continue to provide F\$350m to assist sugar restructuring after the inevitable end of sugar price subsidies. Poseci Bune announced the sacking of all government CEOs, and a reversion to the former system of lower paid 'permanent secretaries', as well as a reduction in the retirement age from 60 to 55, opposition to which earned general secretary of the Fiji Public Service Association Rajeshwar Singh a visit to the QEB. With the new government installed, Ratu Ovini Bokini announced the support of the GCC for the decisions of the President, albeit without the chiefs being allowed to meet to ratify this shift in stance. The Methodist Church, whose leaders had formerly been outspoken in their criticism of the new order, and then been temporarily silenced, again challenged the new regime in a statement sent to the Pacific Islands Forum's Eminent Persons Group.<sup>65</sup>

December 5 signalled an extraordinary inversion of Fiji's earlier political trajectory. Ethno-nationalist coups had been countered by what Catholic social justice advocates called a 'multi-culturalist coup'.<sup>66</sup> Some fellow travellers denied that it was a coup at all. The RFMF had transformed itself from *the* guarantor of indigenous Fijian paramountcy into its nemesis. The FLP had cartwheeled from victim to victor in the illegal overthrow of elected governments, and the despised language of the 2000 coup ('I agree with the goals, but not the means') had become the favoured retort of those seeking accommodations with the new order. It was an event justified, like previous coups, by claims that perhaps Fiji was not yet ready for democracy, nor for institutions that had been carefully nurtured over hundreds of years in Europe and North America.<sup>67</sup> Precisely because the longer-run character of the RFMF program remained so obscure, all manner of local reformists, erstwhile optimists and vigorous enemies of Qarase sought to impress on this seemingly blank sheet their own pet projects and vague aspirations. In the early weeks, the commander evidently cherished such valuable reservoirs of legitimacy; even to the point of organizing a tea party for selected representatives of the civil society organizations. As the economic downturn set in, this honeymoon era was inevitably displaced by the harsher realities of consolidating the military takeover.

The December 2006 coup signalled the collapse of the mid-1990s 'constitutional engineering' project. At the core of that effort to address the post-1987 coup crisis and to put in place institutional supports to promote 'multiethnic government' was a hybrid mixture of two political science perspectives; the Horowitz approach to electoral system design meshed together with the Lijphartian recommendation of top-level power-sharing among élites.<sup>68</sup> Fiji's Constitutional Review Commission had embraced the alternative vote system as a means of promoting moderation, encouraging cross-ethnic alliances around the exchange of preferential votes, and fostering stable 'coalitions of conviction'.<sup>69</sup> But the 1999, 2001 and 2006 elections had provided negligible support for such expectations and, particularly in 2001 and 2006, produced highly ethnically polarized results.<sup>70</sup> The Lijphartian power-sharing provisions, which entitled all parties with over 10 per cent of seats in parliament to cabinet portfolios, had remained untested, at least until 2006.<sup>71</sup> In the wake of the 2006 election, Qarase formed a government that, for the first time, brought together in cabinet parliamentarians from the two largest political parties, one representing the ethnic Fijians and the other the Fiji Indians. Nine FLP members had entered cabinet, and had received substantial portfolios, like labour, health and the environment. But, FLP leader Mahendra Chaudhry's refusal to enter cabinet was always likely to entail a death sentence for the new arrangements. Even before the swearing in of the new cabinet, it had become clear that this would spark a power struggle within the FLP. Given the constitutional penalties for floor-crossing,<sup>72</sup> FLP disciplinary measures against the moderate supporters of

power-sharing had the potential to bust apart the multiparty cabinet. The most senior FLP enthusiast for powersharing, Krishna Datt, had his effigy burnt at a meeting of the Nasinu FLP in one event among several that indicated the absence of strong Fiji Indian support within the FLP for power-sharing. Still deeper divisions were always likely when controversial SDL legislation, such as the RTU Bill, the Qoliqoli Bill and the Indigenous Claims Tribunal Bill, were put to the parliamentary vote. Would FLP cabinet ministers adhere to the Westminster rules of 'collective responsibility' codified in the 1997 Constitution? Or would they follow the FLP party line, as also required by the 1997 Constitution?

In the event, the multiparty cabinet collapsed at the first hurdle. FLP ministers were confronted by ultimatums both from Qarase and Chaudhry to, respectively, support and oppose the 2007 budget. Four backed the FLP line and voted against the budget, while five conveniently absented themselves. In a last ditch effort to save his crumbling cabinet, Qarase relented from dismissing the four anti-budget ministers, but Chaudhry showed little sign of wishing to make any peace with his rebel ministers, although he smartly embraced those other FLP members who sought reconciliation.<sup>73</sup> Would there have been a coup in December had the multiparty cabinet been working smoothly and constructively? That seems unlikely, and, had there not been a military coup, the political ramifications of the collapse of power-sharing might well have been more severe for the FLP leader. Internationally, the break-up of coalition governments is frequently accompanied by efforts by antagonistic parties to make each other appear as the 'spoilers'. In this sense, Bainimarama's coup saved Chaudhry from appearing as the destroyer of an arrangement that had been so warmly welcomed by Fiji's citizens in May 2006.

The fact that the break-up of the power-sharing cabinet, an aspect of the December events that received insufficient attention both at home and abroad, and the 2006 coup happened simultaneously was not a coincidence. After the May 2006 election, Bainimarama had publicly and enthusiastically supported the new arrangements.<sup>74</sup> Outspoken hostility to the Qarase government had, albeit temporarily, been silenced. Only in September, as politicians battled over the issue of 'ground rules' for the new cabinet arrangements, did the commander again resume his public challenges to the Qarase regime. Given the lack of any groundswell of FLP support for the moderate position, the refusal of Mahendra Chaudhry to enter cabinet, and the timidity of Qarase in re-orienting his government's policies and personnel to bolster the new accord, the fate of the multiparty cabinet had been sealed by early December 2006. In its place, although the majority Fijian-backed party was excluded, a different grouping of Fijian and Indian leaders was to come together in a new kind of embrace, but this time in violation of the constitution, of democracy and of fashionable theories of institutional design.

That broader structural explanation for the December 2006 coup needs to be combined with more specific accounts of institutional galvanization, repulsion and attraction. How significant were the 'shadowy backers' of the 2006 coup, which Police Commissioner Andrew Hughes claimed to have under investigation prior to the coup? Did the 2006 coup primarily reflect the revenge of the Mara dynasty, long shut out of the corridors of power and altogether eclipsed by the death of Ratu Mara himself? Alternatively, was the coup driven, at least ideologically, by Mahendra Chaudhry in a thinly-veiled effort to capture power on the back of a military coup? Or was Commodore Bainimarama correct when, responding to allegations of hidden backers, he said 'it starts from within us'.<sup>75</sup> It was, after all, the RFMF that had internally re-made and steeled itself through protracted power struggles with the Qarase government. Others had only seized upon the opportunities presented by the showdown, even if they encouraged and took succour from it. In the process, the RFMF had acquired the ideological colours of those most bitter opponents of Qarase's government, following the principle of 'my enemy's enemy is my friend'. But if it was Qarase, as incumbent, who precipitated such an unholy alliance among his adversaries, what was to happen once these lost the focus of their coming together and featured as fellow ministers in cabinet?

Last but not least, what of the role of personal factors? The threat to the commander's life in November 2000 encouraged a relentless pursuit of those responsible, and ensured a breakdown of relations with the very government he had once put into power. Charges of sedition against the commander and the longer-running controversies about the killing of Counter Revolutionary Warfare Unit soldiers during the November 2000 mutiny generated some personal incentive to overturn the legal order. The role of the individual in Fiji's modern history should not be lightly dismissed. For military leaders, personal loyalty can prove to be everything, particularly when their political interventions do not express the broader social uprisings. Loyalty pledges and psychological tests had – for many years – proved a regular feature at Strategic Headquarters at Berkley Crescent and at the QEB. Would there have been a coup in December 2006 if Bainimarama had accepted a diplomatic posting to Wellington in 2003, as he nearly did? Was it possible that a stronger response from the Office of the President might have dislodged the commander back in 2003 or 2004? Would history have taken the same course if Bainimarama's contract as commander had not been renewed in 2004, or if he had become commander of the United Nations in Kuwait Observer Mission, a job he applied for and for the purposes of which he was promoted, temporarily, to Rear Admiral?<sup>76</sup> As the military leader responsible for appointing the Qarase government back in July 2000, the commander always held a unique position, and he never accepted the subordination of the RFMF to the government.

Fiji's May 2006 election was thoroughly eclipsed by the December coup, but the issues it raised may continue to haunt Fiji politics. How can the country overcome ethnically based voting patterns and, if it cannot do so, does power-sharing among political élites provide the only effective answer?<sup>77</sup> If Fiji follows the pattern of past post-coup settlements, there will be a reversion to constitutional democracy. Several factors are likely to delay that process. In particular, a new population census will entail a redrawing of constituency boundaries, possibly accompanied by electoral system changes. Anticipation of the post-electoral configuration of a future parliament may also prove a deterrent to holding elections for some time – especially if concerns remain about the weakness of support for the interim government amongst ethnic Fijians. Will those Fijian politicians who have rallied to the RFMF cause settle easily for a part as bit players if the Fiji Indian vote delivers the bulk of support for the next government? And, even if alliances change much more dramatically, will it prove possible to get the military out of Fiji's political life when elected politicians are returned to the national stage? These are questions Fiji must inevitably wrestle with over the years ahead.

## ENDNOTES

<sup>1</sup> This chapter previously appeared as an addendum to Fraenkel and Firth, *From Election to Coup in Fiji: The 2006 polls and their aftermath*, and is reproduced here with permission of the Institute of Pacific Studies at the University of the South Pacific.

<sup>2</sup> *fijilive*, 5 December 2006.

<sup>3</sup> Government House Statement, 5 December 2006.

<sup>4</sup> Press Statement from Government House, 6 December 2006.

<sup>5</sup> *The Australian*, 7 November 2006; *Sydney Morning Herald*, 6 November 2006.

<sup>6</sup> The Pacific Islands Forum's Biketawa Declaration allows regional intervention in a member country after an invitation from the government concerned.

<sup>7</sup> Essentially the same non-interventionist policy could, more diplomatically, have been defended by saying that it would not help the situation in Fiji if the government became dependent on outside military support for its survival and that this was an elite power struggle that had to be, ultimately, resolved internally, preferably without bloodshed. Qarase was later threatened with treason charges for, allegedly, making such requests for foreign intervention.

<sup>8</sup> Address to the Nation by the Hon. Laisenia Qarase, 5 December 2006.

<sup>9</sup> *The Fiji Times*, 6 December 2006.

<sup>10</sup> *The Fiji Times*, 6 December 2006.

<sup>11</sup> Shaista Shameem, Director, Fiji Human Rights Commission, 'The Assumption of Executive Authority on December 5th by Commodore J.V. Bainimarama, Commander of the Republic of Fiji Military Forces: Legal, Constitutional and Human Rights Issues', 3 January 2007, <http://www.humanrights.org.fj>. For a critique, penned anonymously by senior lawyers also, ironically, under the FHRC logo, see 'A Response to the Fiji Human Rights Commission Director's report on the Assumption of Executive Authority by Commodore J.V. Bainimarama, Commander of the Republic of Fiji Military Forces', available online on the Intelligentsiya website, <http://intelligentsiya.blogspot.com>.

<sup>12</sup> There were, of course, exceptions, but to a considerably lesser degree than there were Fijian critics of either the 1987 or 2000 coups.

<sup>13</sup> In January 2001, a military delegation to Government House including Commodore Bainimarama, Colonel Ratu George Kadalevu, Ilaia Kacisolomone and Lesi Korovavala, told the President that it would uphold Anthony Gates' November 2000 ruling restoring the 1997 constitution if it was upheld in the Court of Appeal and support the formation of 'Government of National Unity' (Margaret Wise, 'Fiji

Army Stands Firm, Law and Order Top Priority List', *The Fiji Times*, 24 January 2001; see also Dakuvula, J., 'The Fiji Military Forces Vs The Elected Government of Fiji; A Case Study of Conflict', Citizens Constitutional Forum, 19 January 2004).

<sup>14</sup> Senior military personnel held the view that the 1997 constitution had not displaced the earlier 1990 constitution provisions, granting that 'it shall be the overall responsibility of the Republic of Fiji Military Forces to ensure at all times the security, defence and well being of Fiji and its peoples' [Republic of the Fiji Islands, 1990 Constitution, S94(3)]. The Qarase government had, even before the May 2006 election, wanted to put this matter before the courts.

<sup>15</sup> In early November, for example, Lesi Korovavala, Chief Executive Officer in the Ministry of Home Affairs was suspended from duty by Home Affairs Minister, Josefa Vosanibola, for failing to turn up to three consecutive meetings of the National Security Council, which Korovavala chaired (Radio New Zealand International, 9 November 2006). Korovavala, himself a former military man, clearly saw the writing on the wall for the Qarase government, and made himself scarce.

<sup>16</sup> 'Meeting between Prime Minister Qarase and Commodore Bainimarama', Government House, [scoop.co.nz/media/pdfs/0612/WellingtonMinutes.pdf](http://scoop.co.nz/media/pdfs/0612/WellingtonMinutes.pdf)

<sup>17</sup> *Fiji Sun*, 1 December 2006.

<sup>18</sup> 1997 Constitution of Fiji, Sections 99 (1), 109 (1) and (2).

<sup>19</sup> Appealing for international support, the commander made reference to Governor Kerr's dismissal of Australian Prime Minister Gough Whitlam in 1975 (see 'Coup leader invokes Whitlam sacking', *Sydney Morning Herald*, 6 December 2006).

<sup>20</sup> Mahmud, T. 1994. 'Jurisprudence of Successful Treason: Coup d'État and Common Law', *Cornell International Law Journal*, 49, pp. 49–140.

<sup>21</sup> That, in turn, ensured lukewarm support from other Melanesian leaders for Qarase after the coup, a schism manipulated by officials in the Fiji Ministry of Foreign Affairs to secure international recognition for the post-coup government.

<sup>22</sup> Graham Davis 'An island enigma', *The Fiji Times*, 11 December 2006.

<sup>23</sup> The program ran on weekday mornings, and was hosted by former Fiji Broadcasting Corporation Ltd (FBCL ) radio personality Sitiveni Raturala, who had been fired by FBCL in early 2006 for running an interview in which the commander fiercely attacked the Qarase government.

<sup>24</sup> *The Fiji Times*, 23 December 2006.

<sup>25</sup> See <http://www.oag.gov.fj/reports.html>.

<sup>26</sup> Commander, Republic of Fiji Military Forces V Auditor General, Court of Appeal of Fiji, 26 August 2003; Commander, Republic of Fiji Military Forces V Auditor General, Supreme Court of Fiji, 17 September 2004.

<sup>27</sup> *The Fiji Times*, 29 December 2006.

<sup>28</sup> 'Fijian Police seek Foster over Resort Claims', *Sydney Morning Herald*, 12 October 2006.

<sup>29</sup> Radio New Zealand, 3 October 2006; *Pacific Magazine*, 15 January 2007.

<sup>30</sup> *Fiji Sun*, 24 December 2006.

<sup>31</sup> To rig elections merely in the way claimed, by stuffing extra ballots into the boxes, was implausible, at least without also altering the reconciliation forms that tally ballots issued with the numbers emptied out of the boxes at the counting centres. More suspicious was the long-standing failure to release the 0-39 forms that provide detailed evidence as regards the counting and transfer of preference votes in the marginal urban open constituencies along the all-important Suva–Nausori corridor, despite strong pre-election assurances from the Chair of the Electoral Commission that this would be done.

<sup>32</sup> In Vanuatu, he was again arrested, and eventually deported to Australia, where he was arrested for a third time, now on charges related to securing the Bank of the Federated States of Micronesia loan.

<sup>33</sup> *Fiji Daily Post*, 2 January 2007; *The Australian*, 19 January 2007.

<sup>34</sup> *The Fiji Times*, 15 January 2007.

<sup>35</sup> The GCC, after all, was the constitutional appointing authority for the President and Vice President.

<sup>36</sup> Fiji's three chiefly confederacies, Kubuna, Burebasaga and Tovata, have nowadays become the basis for the organization of GCC meetings, which regularly break up into smaller confederacy-based groupings before reaching decisions as a whole.

<sup>37</sup> *Fiji Sun*, 23 December 2006.

<sup>38</sup> *The Fiji Times*, 28 December 2006.

- <sup>39</sup> See *The Fiji Times*, 23 September 2000, and letters to *The Fiji Times* on 25 September and 30 September 2000. See also 'Pacific People Building Peace', Update No. 12, email circular, 20 December 2006.
- <sup>40</sup> *The Fiji Times*, 7 December 2006; *Fiji Post*, 9 December 2006; *Fiji Sun*, 9 December 2006.
- <sup>41</sup> *The Fiji Times*, 15 December 2006.
- <sup>42</sup> *Fiji Sun*, 9 December 2006.
- <sup>43</sup> *The Fiji Times*, 24 December 2006. A subsequent letter to the newspapers stated '[Lt. Col.] Driti should know that as long as he walks this earth, the people of Yacata in Cakaudrove will always despise him and his bullies for what they did to Laisa Vulakoro' (*The Fiji Times*, 6 January 2007).
- <sup>44</sup> *Fiji Sun* 31 December 2006; *Fiji Sun* 27 December 2006.
- <sup>45</sup> 'If the military is cleaning up corruption, then we are more or less with them on that, and support their campaign' (Hari Pal Singh, Chairman Transparency International (Fiji), *The Fiji Times*, 28 December 2006).
- <sup>46</sup> Radio New Zealand, 7 December 2006.
- <sup>47</sup> *Fiji Daily Post*, 24 December 2006.
- <sup>48</sup> *The Fiji Times*, 28 December 2006.
- <sup>49</sup> *Fiji Daily Post*, 23 December 2006.
- <sup>50</sup> *Fiji Sun*, 24 December 2006.
- <sup>51</sup> *The Fiji Times*, 8 January 2007.
- <sup>52</sup> Only 5 per cent of Fiji's total land area is freehold, while 87 per cent is native land, which cannot be bought and sold. The residual 8 per cent is crown land, which the Qarase government, following a policy also embraced under previous governments, had been gradually reverting to native owners.
- <sup>53</sup> 'Attitude "Caused Resort Loss"', *The Fiji Times*, 15 February 2007. The responsibility of the Fiji Islands Revenue and Customs Authority (FIRC A) for the resort's difficulties was subsequently rejected in an advertisement paid for by FIRC A (*The Fiji Times*, 23 January 2007).
- <sup>54</sup> *Fiji Sun*, 7 January 2007.
- <sup>55</sup> *Fiji Sun*, 1 January 2007.
- <sup>56</sup> *The Fiji Times*, 3 January 2007.
- <sup>57</sup> Commander of the RFMF's Handover Speech, 4 January 2007, [http://www.fiji.gov.fj/publish/page\\_8136.shtml](http://www.fiji.gov.fj/publish/page_8136.shtml). The commander's reference was to the judgement of M.D. Scott, in *Yabaki v President of the Republic of the Fiji Islands*, 11 July 2001, available at <http://www.paclii.org>.
- <sup>58</sup> Justice Gates was the former Lautoka High Court judge who had initially upheld the 1997 constitution in November 2000, a decision which was appealed by the government leading to the February–March 2001 case held before the Court of Appeal (mentioned above). Justice Gates had, down the years, vehemently criticized former Chief Justice Timoci Tuivaga, as well as the new Chief Justice Fatiaki, and Justice Scott's judicial complicity in the attempted 2000 illegal abrogation of the 1997 constitution. Since it was the military itself that had purported to abrogate that constitution back in 2000, it was strange that these judges should now suffer such a fate. Realizing that he had departed with too little protest, the 'suspended' Chief Justice later turned up at his chambers on 18 January, claiming to be back at work and holding an impromptu TV press conference before being escorted away by senior police officers.
- <sup>59</sup> Interim Attorney-General Aiyez Sayed-Khaiyum later claimed to have constitutionally convened a meeting of the Judicial Services Commission (JSC) to appoint Justice Gates as Acting Chief Justice, and to have appointed as JSC chair Justice Nazhat Shameem (the sister of FHRC Director Shaista Shameem). But both the Shameem and Gates appointments were found to be unconstitutional by the University of Cambridge's James Crawford S.C. in 'Opinion. Re: Judicial Services Commission of Fiji – recommendation for Appointment of Acting Chief Justice', 20 February 2007, published on the Intelligentsiya website, <http://intelligentsiya.blogspot.com/>.
- <sup>60</sup> H.E the President Ratu Josefa Iloilovatu Uluivuda's speech after Commander of the Republic of the Fiji Military Force, Commodore Voreqe Bainimarama handed back Authority 5 January 2007, [http://www.fiji.gov.fj/publish/page\\_8194.shtml](http://www.fiji.gov.fj/publish/page_8194.shtml) accessed 6 February 2007.
- <sup>61</sup> Methodist Church in Fiji, 'Here we stand', reprinted in the *Fiji Daily Post*, 3 February 2007.
- <sup>62</sup> For a broader survey of SDL campaign expenditures, countering some of the wilder speculations, see Verena Raicola 'It's money down the drain', *The Fiji Times*, 1 February 2007.
- <sup>63</sup> *Fiji Daily Post*, 7 February 2007.

<sup>64</sup> *The Fiji Times*, 1 February 2007.

<sup>65</sup> Methodist Church, 'Here We Stand', reprinted *Daily Post*, 3 February 2007. Several church leaders were taken into military custody after the issuing of this statement, which was consequently said in the media to have been 'withdrawn', although Methodist Church President Ratabacaca insisted that the RFMF and church had 'agreed to differ'. Later reports suggested that the report had in fact been approved by the Methodist Church Standing Committee (see letter, Rev T.K. Waqairawai, Deputy General Secretary, on behalf of the Church Media Committee, *The Fiji Times*, 26 February 2007).

<sup>66</sup> Paulo Baleinakoro-Dawa, Father Kevin Barr and Semiti Qalowasa, 'Time of Uncertainty, Opportunity', *The Fiji Times*, 19 December 2006.

<sup>67</sup> See the comments of Commerce Minister Taito Waradi before his appointment in *The Fiji Times*, 29 December 2006, and those of Catholic Archbishop Petero Mataka in *The Fiji Times*, 23 January 2007.

<sup>68</sup> Horowitz, D.L. 1991. *A Democratic South Africa? Constitutional Engineering in a Divided Society*, University of California Press, Berkeley; Horowitz, D.L. 1997. 'Encouraging Electoral Accommodation in Divided Societies', in Lal, B.V. and P. Larmour (eds) *Electoral Systems in Divided Societies: The Fiji Constitutional Review*, ANU, Canberra; Lijphart, A. 1985. *Power-Sharing in South Africa*, Policy Papers in International Affairs, 24, Institute of International Studies, University of California, Berkeley; Lijphart, A. 1991. 'The Power Sharing Approach', in Montville, J. (ed.) *Conflict and Peacemaking in Multiethnic Societies*, Lexington Press, Lexington, Massachusetts.

<sup>69</sup> Constitutional Review Commission. 1996. *The Fiji Islands: Towards a United Future*, P. Reeves, T. Vakatora and B.V. Lal (eds), Suva: Parliamentary Paper 34, pp. 309–10, 312, 316, 317.

<sup>70</sup> See Fraenkel, J. and B. Grofman. 2006. 'Does the Alternative Vote Foster Moderation in Ethnically Divided Societies? The Case of Fiji', *Comparative Political Studies*, 39(5):623–51.

<sup>71</sup> In 1999, the FLP had formed a power-sharing cabinet, but this had been beyond what was constitutionally required owing to concerns about the security situation and it had not included the party that obtained the largest share of indigenous Fijian votes. In any case, it had lasted only a year, and none of the Fijian politicians who had participated had secured re-election from their own community in 2001. (The one exception, Poseci Bune, had abandoned his Fijian communal seat and stood, in 2001, instead for the FLP in the 70 percent Indian Labasa Open constituency. He was elected on the basis of Indian votes). After the 2001 poll, the Qarase government had avoided assembling a multiparty cabinet, at first by repeated delaying tactics, and then by compliance with the letter but not the spirit of the law, although Labour in any case rejected the 2004 offer of cabinet participation and shifted into opposition.

<sup>72</sup> 'The place of a member of the House of Representatives becomes vacant if the member:...(g) resigns from the political party for which he or she was a candidate at the time he or she was last elected to the House of Representatives; (h) is expelled from the political party for which he or she was a candidate at the time he or she was last elected to the House of Representatives and: (i) the political party is a registered party; (ii) the expulsion was in accordance with rules of the party relating to party discipline; and (iii) the expulsion did not relate to action taken by the member in his or her capacity as a member of a parliamentary committee' [1997 Fiji Constitution, 71.-(1)].

<sup>73</sup> Only two of the FLP ministers were expelled, Krishna Datt and Poseci Bune.

<sup>74</sup> In one post-election issue of the RFMF newsletter, the commander applauded 'the evolution of this great and new concept of power sharing at the executive level of government' and reiterated earlier calls for 'total support to the Multi-party cabinet from each and every member of the Republic of Fiji Military Forces' (*Mataivalu News*, July/August 2006, p.3; see also 'Fiji Military Pledges Support for Government', *The Fiji Times*, 28 July 2006).

<sup>75</sup> Fiji TV *Viti Nikua*, 3 December 2006.

<sup>76</sup> Keith-Reid, R., 'Frankly Speaking', *Islands Business*, June 2003; *Fiji Daily Post*, 13 December 2003.

<sup>77</sup> The 'paradox' of the 2006 election, that voters were strongly polarized on ethnic lines in May 2006 but then also strongly supportive of post-election power-sharing, is perhaps not as odd as it at first sight appears. Why, many liberals asked, if they endorsed power-sharing, did voters not support those moderate politicians who were most committed to making multiparty cabinet work? The answer is obvious: power-sharing cabinets do not supersede the antagonisms they are intended to resolve. They provide means for negotiating them. Putting the more obstinate representatives of one's own ethnic group into office may seem a better negotiating strategy than sending into cabinet the more conciliatory, or less hard-line, politicians.



## 4. 'This process of political readjustment': The aftermath of the 2006 Fiji Coup<sup>1</sup>

**Brij V. Lal**

Democracy remains an article of faith—always. That is, it stands by the faith citizens have in themselves to arrive at proper decisions affecting their common future, and the faith they have in each other respecting that faith and its processes and outcomes. This renders democracy precarious because anyone at any time with sufficient resources can knock it over and down. All it takes is 'bad faith.' That is, anyone can destroy democracy by simply losing faith in what it is by its very nature.

*Fiji Daily Post (editorial), 21 April 2007*

However much I may sympathize with and admire worthy motives, I am an uncompromising opponent of violent methods even to serve the noblest of causes.

*Mahatma Gandhi*

'We consider that Fiji has reached a crossroads and that the government and all those empowered to make decisions in our constitutional democracy are unable to make these decisions to save our people from destruction', Commodore Josaia Voreqe (Frank) Bainimarama told Fiji at 6 pm on 5 December 2006. The military, which had 'observed the concern and anguish of the deteriorating state of our beloved Fiji', had, therefore, 'taken over the government as executive authority in the running of the country'. Those fateful words brought to a close the long-running saga of escalating tension and the mounting war of words between Laisenia Qarase's *Soqosoqo Duavata ni Lewenivanua* (SDL) government and the Republic of Fiji Military Forces (RFMF).<sup>2</sup> The following day, President Ratu Josefa Iloilo met Commodore Bainimarama. After confused vacillation and, shortly before being sidelined, Ratu Josefa signed a military order dissolving parliament and inaugurating a military administration. Bainimarama assumed the Office of President. A month later he was sworn in as interim prime minister, whereupon he restored Ratu Josefa to the presidency.

Resuming formal executive authority on 4 January 2007, Ratu Josefa thanked Bainimarama for 'having the courage to step in', and for 'handing back all my executive powers'. Noting that 'decisive decisions needed to be made', he added ominously (for a titular head of state), 'In any case given the circumstances, I would have done exactly what Commodore Josaia Voreqe Bainimarama did since

it was necessary to do so at the time'.<sup>3</sup> This statement directly contradicted his press release of 5 December in which he 'neither condone[d] nor support[ed] the actions of the military today, which is clearly outside the constitution, contrary to the rule of law and our democratic ideals'.<sup>4</sup> Ratu Josefa's contradictory pronouncements were one of the more mystifying aspects of the confusing saga following the coup. Perhaps he was not the free agent the world imagined – or wished – him to be. Soon after the takeover, he was shielded from the public by the military, and denied access to his traditional supporters. Statements issued in his name were prepared by the military. Iloilo was a frail, fading figurehead, a decent man but ineffectual, a curious onlooker in the drama taking place around him – and in his name. Wittingly or unwittingly, he became the military's fount of legality and legitimacy. And so, sadly, he has remained.

### **The 'President's Mandate' and the 'Doctrine of Necessity'**

Announcing the formation of an interim administration, Iloilo outlined what he would call the 'President's Mandate'. This included upholding the constitution; facilitating legal protection and immunity from both criminal and civil offences for the military; recognizing the right of the military to suspend, dismiss or remove from office anyone it thought appropriate for removal; steadying economic growth and 'correcting the economic mismanagement' of the previous government; restructuring the Native Land Trust Board to 'ensure more benefits flow to the ordinary indigenous Fijians'; creating an anti-corruption unit in the Attorney-General's office to eradicate systematic corruption; introducing a code of conduct to improve 'governmental and institutional transparency'; and preparing Fiji for democratic elections 'after advanced electoral office and systems are in place and the political and economic conditions are conducive to the holding of such elections'. The astonishing scope of the mandate requires little comment. Taken at face value, it would take years to fulfil. And it could, in the end, prove to be futile anyway. Under the mandate, the word 'interim' could justifiably be stretched to mean semi-permanent, or at least long-term. The interim administration had no intention of relinquishing power anytime soon – raising the unhappy, and once unthinkable, spectre of Fiji becoming the Pacific's version of Southeast Asia's Burma.

More troubling was the patent illegality of the President's action. The President gave – or, more accurately, was reported to have given – a mandate that was never his to give in the first place.<sup>5</sup> In the Westminster system as adopted in Fiji, the President acts on the advice of the Prime Minister as the head of an elected government. The power that the President exercises in 'his own deliberate judgement' is carefully prescribed and limited, to be used in exceptional circumstances and then only for short periods of time. The proper course of action for the President to authorize would have been the prompt restoration of

the deposed government. But illegal and improper though it was, it became the mantra of legitimacy for the military and the interim administration.

Just as the President's mandate was misconceived, so, too, was the legal principle that the military invoked to validate the overthrow of the Qarase government. The coup, Bainimarama told the nation on 5 December, was justified by the 'Doctrine of Necessity.' The country was in the hands of morally tainted and politically compromised leaders, he had said repeatedly in the weeks preceding the coup, riddled with corruption, heading towards bankruptcy. It was on the verge of inflicting unprecedented harm upon the nation with the imminent introduction of controversial bills, among them principally the Promotion of Reconciliation, Tolerance and Unity Bill and the Qoliqoli Bill; the latter designed to return the ownership and management of foreshores to indigenous resource owners.<sup>6</sup> Supporters and perpetrators of George Speight's 2000 coup, Bainimarama said, were still at large, many safely ensconced in the public service and in statutory organizations, and on the diplomatic circuit. They were a threat to national security. The removal of their patron, the Qarase government, was thus a matter of urgent national interest.

The 'Doctrine of Necessity' has a long pedigree. Thomas Jefferson wrote:

The laws of necessity, or self-preservation, of saving our country when in danger, are of higher obligation. To lose our country by a scrupulous adherence to written law, would be to lose the law itself, with life, liberty, property and those who are enjoying them with us; thus absurdly sacrificing the end to the means.<sup>7</sup>

Since then, the doctrine has been confined within strict limits. In a landmark judgement of the Grenada Court of Appeal in 1986, these limits were carefully prescribed. For the 'Doctrine of Necessity' to be enforced, it said:

... an imperative necessity must arise because of the existence of exceptional circumstances not provided for in the Constitution, for immediate action to be taken to protect or preserve some vital function of the State ... there must be no other course of action reasonably available'; any such action must be reasonably necessary in the interest of peace, order, and good government, 'but it must not do more than is necessary or legislate beyond that ... it must not impair the just rights of citizens under the Constitution ... it must not be one the sole effect and intention of which is to consolidate or strengthen the revolution as such.'<sup>8</sup>

Clearly, then, the 'Doctrine of Necessity' only applies in cases of extreme emergencies – civil strife, a calamitous natural disaster, massive breakdown of law and order – when the duly elected government of the day is unable to govern. It is to be the last resort in the absence of any other option. In 2006, the

Fijian state was under no fatal threat. The newly elected government was grappling with the normal problems governments in developing countries face – a sluggish economy, failing public infrastructure, ailing health and education services, allegations of corruption. The Qarase government was by no means perfect – complacent about its well-advertised shortcomings; pandering to the Fijian nationalist fringe, with whose support it had won the elections; quietly tolerant of widely reported cases of misdemeanours in government and statutory organizations; and rewarding political loyalists with lucrative appointments to boards and diplomatic missions. All that said, many in Fiji felt the country was turning a new corner, especially after the May 2006 election and the advent of the multiparty cabinet.

The compulsory power-sharing involved in multiparty rule is an aspect of the 1997 constitution. It provides that any political party with more than ten per cent of the seats in parliament, that is 8 or more of the 71 seats in the House of Representatives, is constitutionally entitled to be invited to nominate members to serve in the cabinet (Section 99(5)). In 2001, Qarase had abused the spirit of the power-sharing provision by offering the Fiji Labour Party (FLP) portfolios of miniscule significance, which it rightly refused. But in 2006, he surprised everyone by offering the FLP significant portfolios, which the FLP accepted. The multiparty cabinet faced the inevitable teething problems, compounded not least by FLP leader Chaudhry's decision to stay outside the cabinet while relentlessly needling his ministers within it.<sup>9</sup> Nonetheless, the experiment was beginning to work – according to FLP members of the cabinet themselves. There was no sign of imminent collapse. On the contrary, there was a general sense of optimism that Fiji might be turning a new leaf in its political evolution, embracing a more inclusive approach to power-sharing.

Questions about the validity of the 'Doctrine of Necessity'<sup>10</sup> led the military to modify its position by invoking the 'Doctrine of Effectiveness' – that is, the military was the *de facto* government because it was effectively in control of the country. It is true that there were no protest marches against the takeover, but this was partly because of genuine confusion about the meaning and purpose of the coup. Race was not an issue as it had been in the past. Prominent Fijian institutions, such as the Methodist Church and the Great Council of Chiefs (GCC), were silenced and sidelined, bewildering people looking for leadership from them. Confusion aside, a genuine fear of the military prevented open public debate. Regular reports of interrogations at the military barracks, and of humiliating treatment and psychological 'torture', fostered self-imposed silence and censorship. This, above all else, was the reason for the muted criticism of the military takeover. But effectiveness is more easily asserted than demonstrated. In the now famous Chandrika Prasad case, the Fiji Court of Appeal demanded a 'high civil standard' of proof of acquiescence on the part of the populace, requiring the regime to show that any conformity and obedience to it stemmed

from 'popular acceptance and support as distinct from tacit submission to coercion or fear of force'.<sup>11</sup> The 'burden of the proof of efficacy,' the Court ruled, 'lies on the *de facto* government seeking to establish that it is firmly in control of the country with the agreement (tacit or express) of the population as a whole'. This test the military would almost certainly have failed. Reports of interrogation at the military barracks and abuse of human rights were simply too well-known to ignore.

The legality or illegality of the events of 5 December is moot, Bainimarama has said repeatedly. Everyone should accept the reality of what happened and 'move on'. But even as events unfolded, the military gave the impression of not being overly constricted by legality. They had the guns, they had deposed the government, and that, as far as they were concerned, was that. The military knew that its claim to be working within the ambit of the 1997 constitution was similarly fraught, but this pretension served as a useful façade. In truth, the military was working not so much within the spirit of the constitution as in breach of it. Former president of the Fiji Law Society Graham Leung told the LAWASIA conference in Hong Kong in June 2007 that while the interim administration 'professes that the Constitution of Fiji is intact and has not been abrogated, all the signs point to grave departures from constitutional procedures that are corroding the lawful and proper governance of Fiji'.<sup>12</sup> He expressed a widely held concern. The constitution survives – but only just – and mostly on paper.

## **Appointment of the interim administration**

Soon after taking over government, the military announced that all ministerial positions in the new interim administration would be filled by application only. The applicants would have to have at least 'ten years experience in the workforce, be of sound character and must never have been declared bankrupt'.<sup>13</sup> Further, to prevent a conflict of interest, they would not be able to stand in future elections. Hundreds applied, including an elderly Indo-Fijian taxi driver who thought himself a suitable candidate for minister of transport because he knew about potholes and corrupt transport officials, so he told me. But the most prominent members of the interim administration, such as FLP leader Mahendra Chaudhry and National Alliance Party of Fiji (NAPF) leader Ratu Epeli Ganilau did not apply. Instead, they were 'invited' into the line-up. The much-touted show of transparency in the appointment of the interim administration turned out to be just that – a show. The final line-up featured many old and faded faces, some political retreads (and a novice or two), and others defeated at the 2006 election – all hoping to enjoy a last moment of glory. The pledge not to stand in future elections was hollow: Unenforceable to start with and unconstitutional to boot. Bainimarama missed an important opportunity to make a fresh start with fresh faces – or to show non-partisanship by including some SDL members.

The inclusion of Mahendra Chaudhry in the ministerial line-up was one of the surprises in the interim administration. On 6 December, a day after the coup, he had promised 'never [to] be part of an illegal set up because he believe[d] in democracy and the rule of law'.<sup>14</sup> Such are the processes of political transformation in Fiji. More importantly, Chaudhry accepted four senior ministries for himself – finance, sugar, national planning and public enterprise.<sup>15</sup> He had been offered the finance portfolio (along with the deputy prime ministership) by Qarase weeks before the coup but had declined both. Sugar was predictable – that is, and always has been, his powerbase. Some of his support had slipped in recent years, so Chaudhry moved swiftly to have the CEO of the Sugar Cane Growers Council, National Federation Party-leaning Jaganath Sami, sacked by way of an extraordinary presidential decree. Sami was replaced by a former FLP parliamentarian, Jai Gawandar, while the FLP's Udit Narayan was appointed principal officer in the ministry of sugar.<sup>16</sup> This was one internal coup among several in the aftermath of 5 December.

Chaudhry's membership of the interim administration gave it a multiracial face and a large, if often silent and puzzled, Indo-Fijian base. Chaudhry is the dominant Indo-Fijian leader. Many in the Indo-Fijian community had long been disaffected by the Qarase government's pro-Fijian affirmative action policies and nationalist rhetoric, and so found crossing over to the Bainimarama camp easy. Chaudhry's presence in the line-up made the shift easier, or at least easier to justify. But Chaudhry's participation in the interim administration came at a cost. Many Fijians opposed to the coup now saw it not so much as a military overthrow of a democratically elected government as an 'Indian' – Chaudhry's – coup against a Fijian government. The interim administration, in which Mahendra Chaudhry is easily the most experienced politician, was seen as his 'handmaiden'.<sup>17</sup> Never their favourite, Chaudhry became a powerful lightning rod for the Fijian nationalists. 'Race' was once again in the picture.

Ratu Epeli Ganilau was another leader whose inclusion in the interim administration caused comment. A high chief, the eldest son of former President Ratu Sir Penaia Ganilau, former army commander and president of the Great Council of Chiefs, the founding leader of the NAPF, a latter-day version of the original Alliance, Ganilau had a distinguished pedigree. But he was also a failed politician. His party had won only around six per cent of the votes in the May 2006 election. But he and fellow failed NAPF member Manu Korovulavula were in the interim ministerial line-up. Others included former Speaker of the House, Ratu Epeli Nailatikau, like Ganilau, a son-in-law of the late President, Ratu Sir Kamisese Mara; as well as the ever politically agile (not to say opportunistic) Poseci Bune, another publicly unacknowledged member of the Mara family. The Mara dynasty is widely seen as being intimately associated with the military and the interim administration. Ratu Mara's youngest son, Tevita Uluilakeba,

is the commander of the army's Third Fiji Infantry Battalion. In the eyes of many Fijians opposed to the coup, the military and the Mara clan morphed into one indistinguishable entity.

Broadly speaking, the interim administration was made up principally of FLP and NAP figures – leading many to the cynical conclusion that those defeated at the polls had entered the corridors of power under the cover of guns. Bainimarama might have enjoyed more public support had he appointed people of genuine national stature, not those discredited by past failures or charges of improper behaviour. Instead, he surrounded himself with people who lacked moral or political credibility and who had personal and political agendas of their own. However it is looked at, the interim administration lacked lustre and vigour.

### **Politicization of public institutions**

The reaction to the coup from and within two quarters in particular perplexed the public. One was the Fiji Human Rights Commission (FHRC), especially its director, Dr Shaista Shameem. With a doctorate in sociology and a law degree from Waikato University in New Zealand, Shameem was well qualified for the position. She had long been at loggerheads with the Qarase government, which, she felt, had ignored her complaints about the unconstitutionality of some of its policies (such as the race-based affirmative action policy)<sup>18</sup> and had sought to politicize her office and thus undermine her effectiveness. Her reports were repeatedly disregarded. In a wide-ranging report on the coup, made on her own initiative, Shameem made a number of claims.<sup>19</sup> She argued that the Qarase government was founded on an illegality. After the 2000 coup, she asserted, the President had erred by appointing an interim administration headed by Laisenia Qarase, not Mahendra Chaudhry. Both the High Court as well as the Court of Appeal had ruled that the purported abrogation of the 1997 constitution was invalid; the Labour Coalition should have been restored to power. Between the judgement of the High Court and that of the Court of Appeal, the 2001 election had brought Qarase to power, making the issue moot. Nonetheless, Shameem argued, 'the cases are still relevant for the important constitutional principles that the courts established'.

The army was not the culprit, Shameem asserted. The real culprit was the GCC 'which not only acted against the decision of the Court of Appeal in the Chandrika Prasad case, [but] emasculated the ability of the RFMF Commander to act in the national interest according to section 94 of the 1990 Constitution as imported into Section 112 of the 1997 Constitution Amendment Act'. But the military had not been as innocent nor as restricted as Shameem implies. To the contrary. While it expected President Iloilo to respect the spirit of the constitution, the military wrote to him after the 2000 coup saying that 'as a matter of national interest we cannot afford to have Mr Chaudhry and his group back'.<sup>20</sup> For the

military, preserving law and order, which might be jeopardized if Chaudhry were returned to power, took precedence over constitutionalism.

Shameem also wrote scathingly of the Qarase government, which, she argued, 'did everything in its power to undermine the Constitution, especially the entrenched Bill of Rights'. The government's race-based affirmative action policies were in breach of the constitution, Shameem said, as was its tolerance of hate speeches and racially inflammatory remarks – by Minister for Women Asenaca Caucau, for instance, who called Indo-Fijians 'noxious weeds' – and its support for various pieces of legislation designed ultimately to grant amnesty to the 2000 coup plotters and perpetrators. The promulgation of the controversial Qoliqoli and Land Tribunal Bills 'would have the effect of removing the constitutionally protected property rights of at least 50 per cent of the population and also causing havoc and potentially serious violence among the indigenous population'. In short, Shameem argued,

The Qarase Government was involved in massive violations of human rights in Fiji, constituting crimes against humanity, and made serious attempts to impose ethnic cleansing tactics in Fiji. The Commission attempted to thwart such inroads into constitutionality by a combination of persuasion and warnings, but ultimately, its funding was reduced, and even foreign government funding politicized by adverse reports on the Commission's investigations and analysis of government's abuse of human rights and fundamental freedoms.

Some of the force of Shameem's case was vitiated by the sharp rhetorical excesses of her prose. 'Ethnic cleansing' and 'crimes against humanity' do not ring true to me nor correlate with reality in Fiji. Ethnic discrimination, distasteful though it always is, cannot be equated to 'ethnic cleansing,' or to the wrenching violence invariably associated with it (as in former Yugoslavia or Rwanda).

On legal and constitutional matters, Shameem's judgements have been questioned. A response prepared by a group of senior Fiji lawyers and released anonymously to the public (for fear of retribution by the military) accused Shameem of being innocent of fundamental constitutional principles. They rejected her interpretation of the 'Doctrine of Necessity,' adding that as a 'matter of law, the doctrine of necessity cannot be invoked or taken advantage of by the persons who create or precipitate the necessity'. They disputed her understanding of the constitutional role of the military in the public life of Fiji. Instead of being the supreme arbiter of the national interest, the military operated under civilian control. The Qarase government was not as unresponsive to criticism and public opinion as Shameem alleged. Were the elections unfair? The lawyers argued that the general elections 'were the most transparent and closely observed in the country's history'. They were as robust in their response as Shameem was in her report:



What emerges from the Report is a pathological dislike of Prime Minister Qarase and his two Governments. The tragedy is that in confusing the latter with its apparent approval of the RFMF's perspective in relation to its own actions, the Report has compromised the Fiji Human Rights Commission and Shameem's own standing as well as set back the cause of human rights in Fiji.<sup>21</sup>

*That* it, sadly, has done. Even Shameem's ardent supporters, equally vocal on the sidelines, enjoin circumspection and tactfulness in public discourse and urge a repairing of the harm to the image and reputation of the Human Rights Commission. In the present circumstances, that seems a difficult task. Emotions are too aroused and wounds too raw for calm to return anytime soon.

Another institution similarly embroiled in controversy after the coup was the judiciary. The causes of the division in it go back to the aftermath of George Speight's attempted coup in May 2000. Differences arose in the judicial ranks over Chief Justice Timoci Tuivaga's advice supporting the military's proposal to abrogate the 1997 constitution in order to resolve the impasse.<sup>22</sup> In this stance, he was reportedly supported by two fellow judges, Michael Scott and Tuivaga's successor as chief justice, Daniel Fatiaki. Justices Nazhat Shameem<sup>23</sup> and Anthony Gates opposed the advice. With time, coalitions formed, feelings on the bench hardened and rifts deepened. Bainimarama's coup provided Fatiaki's opponents within the judiciary and outside it, the opportunity to derail him. On 15 January 2007, the interim administration sent Fatiaki on enforced paid leave, pending an investigation into 'the involvement of certain members of the judiciary in the events of 2000, the subsequent politicisation of the Judicial Bench, in particular the Magistracy and numerous instances of corruption, irregularities and gross inefficiency in the Judiciary'.<sup>24</sup>

The suspension of the Chief Justice is one issue of concern. There are others, including, especially, the manner in which his successor was appointed. Sensing public disquiet and confusion, on 6 December 2006 the judges of the High Court issued a statement reassuring the public that they remained 'committed to their judicial oaths to uphold the Constitution and do right to all manner of people in accordance with the law', and that they would uphold the rule of law and that all courts would remain open and accessible to the public as normal.<sup>25</sup> Subsequently, with Fatiaki on leave, the Judicial Services Commission – which appoints judges and magistrates and is chaired by the Chief Justice – was convened by Justice Nazhat Shameem, with the president of the Fiji Law Society, Devenesh Sharma, in attendance. It appointed Anthony Gates as acting Chief Justice. Shameem justified her assumption of the Chair of the Commission on the grounds that she was the most senior substantive puisne judge of the High Court, next in line of seniority to Fatiaki himself. Criticizing Gates' acceptance of the appointment as a 'breach of trust,' Fatiaki said:

They could have called me but they did not. Why did the Attorney General ask another judge to call a meeting of the Judicial Services Commission? The meeting for the Commission is only supposed to be convened by the chair of the Commission which is the Chief Justice. It does not mean that if I am on forced leave, that I cannot come in and call a meeting of the Commission.<sup>26</sup>

That view, perfectly reasonable, was not the point: Minds had already been made up that Fatiaki should go. The matter is before the courts, though in the opinion of at least one distinguished lawyer, the appointment of Anthony Gates as acting Chief Justice was in breach of the constitution.<sup>27</sup>

Tension within the judiciary aside, there is also concern at the legality as well as the calibre of people appointed to the bench. The appointment of a former military lawyer, Major Ana Rokomokoti, as magistrate generated controversy about her experience and suitability for the position and spawned (probably exaggerated) fears about the military making judicial appointments of people sympathetic to it.

There is similar concern being expressed about the civil service. The Fiji civil service was once widely admired for its impartiality and integrity, but it has suffered a mixed fortune since the coups of 1987. In the years that followed, a concerted effort was made to 'Fijianize' it.<sup>28</sup> As senior Indo-Fijian civil servants migrated or resigned in frustration, Fijians were appointed as replacements, not necessarily on seniority or merit but because of their ethnicity and family or political connections. More recently, an effort had been made, with the appointment of CEOs, to re-introduce professionalism into the service. But after 5 December, a number of senior civil servants were either sacked or sent on leave because of their alleged closeness to the Qarase government and because of doubt about their loyalty to the interim administration.<sup>29</sup> Some were sacked because of alleged mismanagement and corruption, none of it proven so far. The travel bans imposed by Australia and New Zealand will discourage replacements from outside.

The drain of talent and experience is one problem plaguing the civil service. Another is its collapsing morale. A number of senior military personnel have been transferred into the service in recent months, blurring the line between the military and the civil service. Among them are Captain Esala Teleni as commissioner of police, Captain Viliame Naupoto, as head of the immigration department, Lieutenant Colonel Ioane Naivalarua as commissioner of prisons and Lieutenant Commander Elik Salusalu as manager of the government IT centre. Land forces commander Pita Driti is to be Fiji's new High Commissioner to Malaysia, if Malaysia accepts him, and his chief-of-staff, Mason Smith, is earmarked for Fiji's mission to the United Nations. The appointment of military personnel to civil and diplomatic service is not new in Fiji. After the 1987 coups,

a number of senior military personnel were appointed to the public service, some even as district commissioners.<sup>30</sup> None of them were spectacular successes. Their appointments caused bitterness and frustration among senior civil servants bypassed or sidelined. There is a similar crisis of confidence in the civil service now.<sup>31</sup> With the departure of talent from the civil service, and from Fiji generally, the problem acquires a graver complexion.

## **The Church, the chiefs and the Indians**

While the December coup was no surprise, it elicited different responses from the two major communities. Among Fijians, there was much confusion and puzzlement. 'How could this crisis have come to pass?' they asked. One senior Fijian civil servant had talked to me optimistically about the '60:40 solution' to Fiji's political problem.<sup>32</sup> In the very near future, Fijians would constitute around 60 per cent of the total population and Indo-Fijians around 40, I was told. Fijian numerical preponderance would then translate into permanent political domination, ending the decades-long Fijian fear of 'Indian domination'. But just when the prize was within reach, the coup jolted that dream. Fijians are puzzled and confused and divided in their response to the coup. Many, it would seem, oppose it but there are also some (such as some members of the Kadavu Council, elements of the Fijian middle class and those who have independent careers, as well as Fijians living abroad) who support it. However, no clear-cut pattern of response has emerged from the Fijian community, especially from those on Bainimarama's side.

One reason for this is the paralysis of the most important institutions of Fijian society, the Methodist Church and the GCC, both the traditional bastions of the Fijian establishment. In 1987, and to a lesser extent in 2000, the Methodist Church rallied its supporters behind the coups, promising to make Fiji a Christian State, complete with the enforced observance of the Sabbath. As over 80 per cent of Fijians are Methodists, the power and reach of the church is considerable. The Church's task was made easier by the fact that the 'other' was visibly different: Non-Fijian and non-Christian. Soon after the 2006 coup, the Methodists pledged support to the military, more in hope than conviction that the military intervention might bring better times.<sup>33</sup> Then, as the military imposed its hold on the country, the Church leadership went quiet. Six months later, the Church began to assert its views. In June, the Methodist Church and the Association of Christian Churches said, 'The nation and our people have suffered enough. It's only proper that the nation be returned to democratic rule of law at an early opportunity'.<sup>34</sup> The Methodist Church is likely to take a harder line against the interim administration as it strives to regain its pride of place in Fijian cultural hierarchy, reflecting perhaps a hardening Fijian view of the coup as the work of individuals and institutions opposed to the preservation of fundamental Fijian interests.

Like the Methodist Church, the GCC also vacillated in the early days of the coup, giving the military the benefit of the doubt.<sup>35</sup> The military intervention was rationalized as part of God's plan for Fiji. 'We need to work hand in hand and move forward as a country so we can rebuild this nation', said GCC chair Ratu Ovini Bokini.<sup>36</sup> 'The Council fully supports the interim ministerial appointments.' But with time, dissension surfaced. Some resentment arose from the disrespectful manner in which Commodore Bainimarama had treated the Council, telling the chiefs to refrain from meddling in politics, to relax and drink homebrew under a tree.<sup>37</sup> Such symbolic humiliation and disrespect for the highest umbrella organization of Fijians was unprecedented. Some members of the GCC were also part of the deposed Qarase government. The most vocal among them was Ro Teimumu Kepa, the Roko Tui Dreketi and former Minister of Education. A Fijian nationalist and a silent supporter of George Speight's coup, she, along with many others, was now a transformed and principled democrat opposed to Bainimarama's coup.<sup>38</sup>

The impasse between the military and a palpably constrained and humiliated GCC came to a head over the appointment of a Vice-President, following Ratu Joni Madraiwiwi's resignation soon after the coup, when he refused to facilitate the military's plans. The issue was pressing in view of the President's frail condition and his need for regular medical check-ups overseas. Normally, the Vice-President – and in his absence, the Speaker of the House of Representatives – would act as head of State. But since the parliament had been dissolved, there was no Speaker. The Chief Justice, next in line, was appointed in controversial circumstances, the legality of which was before the courts. And he was not a citizen. The interim administration nominated former Speaker of the House and current Minister for Foreign Affairs Ratu Epeli Nailatikau for the position. Ratu Epeli is an affable socialite, unthreatening, apolitical, moderate and multiracial. The interim administration regarded his appointment a foregone conclusion, the GCC as little more than a rubber stamp. Moreover, cultural protocol required respecting the President's choice. He was, after all, Tui Vuda, the paramount chief of Western Viti Levu. Confident about the outcome, the military did no prior consultation or canvassing with the chiefs. Bainimarama did not attend the meeting.

Following a long-established procedure, the GCC split up into three confederacies to consider the nomination. In the end, only Lau, led by Ratu Mara's son, Ratu Tevita Uluilakeba, endorsed Nailatikau. The opposition was led by Kepa who argued that the nomination, coming from an illegal interim administration, was illegal. Kepa pre-empted the issue: The matter was before the High Court. The interim administration's ineptness was part of the reason for the debacle. But Ovini Bokini's inability or failure to orchestrate a consensus solution compounded the problem. One member of the GCC told me that it should have kept meeting

until a consensus was reached. Consensus, after all, is how the GCC has always conducted its business, though it has to be said that in the strained, post-coup atmosphere, consensus might not have been possible. Hubris on one side and incompetence on the other won the day.

The interim administration reacted swiftly to the GCC's snub, suspending it on 12 April and saying that it 'will only be reconvened if, and when, the interim government sees it appropriate'.<sup>39</sup> Bainimarama denounced the GCC as a haven for anti-coup politicians who were manipulating it to advance their own personal and political agendas. The GCC, he continued, was a 'security threat in our efforts to move the country forward'.<sup>40</sup> The Council has challenged its dissolution, and this matter too is before the High Court.

Beyond the legality or illegality of the issue, lie broader, more troubling questions. How permanent a damage has the military done to the status and reputation of the GCC? Will it be allowed to exercise its proper role without political interference or oversight? The Council will also have to reconsider the way it conducts its business if it is to retain its national advisory role. Considering issues of national importance on a confederacy basis effectively excludes non-Fijians from chiefly discourse. Moreover, the practice is anachronistic. Population movement and modernization over the last half century have eroded the power of traditional institutions. Their main value is symbolic, but the symbolism of confederacy politics does not resonate in the daily life of most Fijians. The GCC is in a bind, buffeted from within and without, and rudderless in unfamiliar waters. A *Fiji Sun* editorial put the matter succinctly:

Commodore Bainimarama is no respecter of chiefly tradition and protocol. To commit such acts [snubbing the GCC] and get away with them will be widely seen as a massive insult. But it is also represents a heavy blow to the status and standing of the chiefs and tends to undermine their relevance in a rapidly evolving society such as ours. Seldom can Fiji's highest traditional body have been so insulted in the past and, worse still, the culprit remain neither punished nor even chastised.<sup>41</sup>

The Indo-Fijian community was widely, if erroneously, accused by many Fijians of instigating the coup and benefiting from it.<sup>42</sup> In Ratu Joni Madraiwiwi's words, 'many Fijians' saw the 2006 overthrow as 'an Indo-Fijian coup'.<sup>43</sup> Others described it as a Muslim coup, given the alleged association of some prominent Muslims with the interim administration.<sup>44</sup> The Muslim connection, if there was one, was more a coincidence than an established connection. Some of the most prominent opponents of the coup, such as Shamima Ali and Imrana Jalal, were Muslim. The Indo-Fijian community was and still is divided. There were undoubtedly those who were victims of the Qarase government's race-based affirmative action policies who saw no reason to mourn its demise. Qarase's pandering to the nationalist fringe for political success disenchanting others.

Abuse of public funds and public trust – reported repeatedly by the Auditor General – and the government’s patently indifferent response to these reports, created widespread dismay in the community. There were some whose support for the coup was motivated by revenge and grudge. But there were also many who were genuinely confused, perplexed and undecided. They may have approved of the removal of the Qarase government, but not the method used to do it. Big business would work with any regime in power, but many small businesses suffered the brunt of the severe decline in the economy. They had no reason to applaud the death of the goose – political stability – which laid the golden egg – economic prosperity.

An example of an Indo-Fijian-led opposition to the coup was the hard-hitting submission that the Fiji Islands Council of Trade Unions (FICTU), representing 18,000 members of the 33,000 unionized workers in Fiji, made to the UN visiting mission.<sup>45</sup> It alerted the mission to the abuse of human rights in the country, and the ‘misery and suffering of the ordinary citizens, the working class, farmers and the under-privileged’. It proposed the removal of Bainimarama as prime minister to enable the President to appoint a ‘qualified civilian as interim prime minister’, and the replacement of politicians and failed candidates from the 2006 election in the interim administration by ‘qualified civilians of repute’. Further, FICTU urged the preservation of the 1997 constitution and a speedy return to parliamentary democracy.

FICTU was not alone in its critical response to the coup. The National Federation Party, representing about 15–20 per cent of the Indo-Fijian population, was equally forthright in its denunciation. The party ‘condemned the coup from day one and continues to do so’, it told the UN visiting mission.<sup>46</sup> In urging the United Nations to work towards a speedy return to parliamentary democracy in Fiji, it opined that the December coup was not a:

... clean-up campaign as the military and the interim administration claim it to be. Just like the previous coups, it is about power, even if it means achieving it through the barrel of the gun. The fact that the key players in the current administration are those who either badly lost in the last general elections or came out second best is testimony to this fact.

There were many in the Indo-Fijian community who shared that thought.

## **The response of civil society**

Soon after the coup, some NGOs attempted to form a broad-based anti-coup coalition, and even sent a delegation to the military. They suggested the appointment of a representative Presidential Commission of Truth, Justice and Reconciliation to, among other things, ‘clarify the Truth regarding the events of the 2000 coup and mutiny’ and to consider ways of ending ‘this abhorrent

cycle of coups and attempted coups, and to put in place concrete measures to ensure the prevention of such conflicts in the future'.<sup>47</sup> The Citizens Constitutional Forum (CCF), formed in 1993 and active for years in the defence of human rights and good governance, also condemned the coup, though in decidedly (and uncharacteristically) measured tones – in marked contrast to its previous ringing denunciations of the past coups. On 4 December it called the coup illegal, but then added that 'the CCF does not hold the Qarase Government blameless in this crisis either – it has a track record of illegal activities over the past six years'.<sup>48</sup> It too had been singing by the Qarase government questioning its legality and constitutional foundation. Perhaps that bruising experience tempered its response. It preferred engagement with the military and the interim administration to public confrontation.

By far the most vocal among the non-governmental organizations (NGOs) was the Fiji Women's Crisis Centre headed by Shamima Ali.<sup>49</sup> AusAid-funded, the Centre's primary function is to offer counselling and other practical help to women suffering from violence, abuse and harassment and to educate the public about gender issues. After the December coup, Ali became an outspoken critic of the military takeover and the ensuing violations of human rights. Ali was also a commissioner of the FHRC, and publicly at odds with its director, Shaista Shameem. Indeed, Ali authorized the release of an anonymous response to Shameem's report rationalizing the coup.

But not all NGOs were critical of the coup.<sup>50</sup> Among the most notable was the Ecumenical Centre for Research, Education and Advocacy (ECEA), founded in 1990 by Reverend Paul Niukula 'to address the social, religious, economic and political issues that confront Fiji'.<sup>51</sup> Its current director, Fr Kevin Barr, has done pioneering work on poverty in Fiji, and was a strong critic of the Qarase government's race-based affirmative action policies. Barr asked whether a military overthrow of an elected but racist and discriminatory government was necessarily an evil thing. If the coup led to improvements in human rights and social justice, and to the alleviation of poverty and eradication of corruption and racial discrimination, should it be considered such a bad thing after all? Under the Qarase government, Barr argued, democracy was being seriously undermined:

Democracy was being manipulated in the interests of a group of extreme nationalists and rich elites. It was not working in the interests of all Fiji citizens. There was little concern for the poor, the ordinary workers, and for Indo-Fijians. There was serious mismanagement and some evidence of corruption. Hence although democratically elected by a small margin, the Qarase government was not a democracy that worked in the interests of all the people and sought to bring about justice for all.<sup>52</sup>

The last, Barr continued, is of paramount importance.

The aim of democracy is surely to build a just society – the ordering of society to bring about social justice for all. If this does not happen, does that ‘democracy’ deserve to stay in power? Yet how can it be removed particularly when it has a history of manipulating the race card and possibly tampering with the electoral process?

Barr saw promise and opportunity in Bainimarama’s coup and counselled patience and understanding. His views, expressed in newspaper columns, attracted criticism from opponents and planted the suspicion that many Catholics were like-minded and supported the coup.<sup>53</sup>

Barr’s position raises many troubling questions. Which government, except in a Utopian democracy, works in the interests of ‘justice for all’? Which government in Fiji has ever worked ‘in the interests of all the people of Fiji’? And which government has not manipulated the race card? This does not excuse the Qarase government’s record, it simply puts the issue in perspective. The race-based electoral system provided the incentive for ethnic manipulation, and Qarase and other leaders in the past – including Mahendra Chaudhry – played it to their advantage. Proposing solutions to deep-seated problems at gunpoint, without the support of the majority of the population, is both myopic and counterproductive. Military intervention exacerbates ethnic tension and hostility and, without inter-ethnic accommodation and understanding, there can be no resolution of Fiji’s deep-seated problems. People’s participation in formulating and resolving problems is important within the overarching framework of parliamentary democracy. What Barr ignores is that the military has set itself up as the ultimate guardian and arbiter of the national interest, over and above everyone else. What happens if a democratically elected government fails to live up to the military’s expectations in delivering social justice programs? Strengthening the basic tenets of parliamentary democracy, respecting the verdict of the ballot box in free and fair elections, is a better way to resolving the country’s problems than the short-cut of military intervention.

In April 2007, a group of NGOs and some interested former Fiji citizens with an international public service background – collectively called the National Council for Building a Better Fiji (NCBBF) – formulated a charter to assist the interim government in drawing up a national plan for a better Fiji. It was quickly adopted by the interim government. Thoughtful and visionary, *Building a Better Fiji for All: A People’s Charter for Change and Progress*, outlined steps and programs necessary to ‘rebuild Fiji into a non-racial, culturally-vibrant and united, well-governed, truly democratic nation that seeks progress and prosperity through merit-based equality of opportunity and peace’.<sup>54</sup> Six national task teams would look at specific areas – good governance, the economy, reform of the public service, reform of financial institutions, land and land utilization, and social and community sectors. All of the task forces would be co-chaired by



a representative of the interim administration and someone from outside the government.

The vision the charter endorses is unexceptionable. There can be no argument with the view that 'the vast majority of Fiji's people aspire for and deserve a country, including a system of governance, that is characterised by stability, transparency and accountability, as well as the prevalence of law, order and peace'. Nor could one argue against the view that 'Fiji needs to become a more progressive and a truly democratic nation; a country in which its leaders, at all levels, emphasize national unity, racial harmony and the social and economic advancement of all communities regardless of race or ethnic origin'. The spirit of the vision enunciated by the NCBBF is already part of the 'compact' of the 1997 constitution, which specifies broad principles for the governance of the country. The real problem for Fiji is not the vision but the willingness of its leaders, both military and civilian, to respect the rule of law.

The preponderance of civil society representation in the NCBBF posed a problem. The National Council idea was civil society inspired, but did it have to be civil society dominated as well? The inevitable question would be asked about the mandate of the civil society organizations to propose far-reaching changes to the governance of Fiji. Neither the SDL (which has declined to participate) nor the National Federation Party was invited to participate when the charter was first circulated. Their absence from the Council detracted from its credibility and legitimacy as a broad-based group. The Methodist Church, with around two hundred and fifty thousand members, rejected the idea of an unelected NCBBF and wanted its implementation 'immediately stopped,' and Fiji returned to democratic rule 'at an early opportunity'.<sup>55</sup>

The NCBBF proposed to act as a moral watchdog over the policies and performance of the government. But what would be the role of the parliament or political parties in that case? And what if the policies of the elected government of the day were at variance with those espoused by the NCBBF? Idealistic and Utopian, the charter effectively sought to remove the practice of politics in the processes of governance. Ratu Joni Madraiwiwi's questions were asked by many: 'Is this a genuine effort at drawing the people of Fiji together? Or is it merely an attempt by the Interim Government and its cohorts to cloak themselves in some mantle of popular acclaim?'<sup>56</sup>

There was a further question. Did an interim administration have the constitutional authority to promulgate policies of far-reaching significance? In an important ruling in 2001 concerning the legitimacy of the Asesela Ravuvu Constitution Review Committee that was appointed by the Qarase-led interim administration, Justice Anthony Gates wrote:

Unusual programmes of expenditure or reformist projects are the prerogative of an elected government. A lawful government needs to be

buttressed by holding the confidence of the House of Representatives, and by acting within the Constitution with the two other bodies of Parliament, namely, the Senate and the President. Moving in advance of the will of Parliament in reformist fields, however well-intentioned, is not an act which the courts will validate under the necessity doctrine. The authorisation for the expenditure of public funds for such reform work is similarly outside the permitted scope of work of a caretaker Cabinet. Such authorisation is unlawful.<sup>57</sup>

Justice Gates' views are as relevant to the case of the charter promoted by the interim administration as they were in stopping the work of the Asesela Ravuvu Constitution Review Committee in 2001.

## External response

The military did not expect the kind of uproar it provoked among Fiji's neighbours and international trading partners when it executed the coup. After all, its rationale for the military intervention was good governance, and the promotion of a 'corrupt-free' society. The military had not conducted a coup, it had started a 'clean-up campaign'. It was doing precisely what the aid agencies and neighbouring countries had wanted from the island governments all along. The reaction, particularly from Australia and New Zealand but also from the United States and the European Union, was sharp and unequivocal. Whether or not Australia and New Zealand could have done more to prevent the crisis remains an open question, though it is unlikely given Bainimarama's disposition. Nonetheless, one observer remarked that 'Canberra appeared more intent on stopping a military intervention than addressing the causes of the deepening volatility', with John Howard's 'repeated support for his Fijian counterpart [giving] no incentive for Qarase to modify his domestic agenda'.<sup>58</sup> New Zealand's reaction was probably coloured by Bainimarama's reneging on a truce it had brokered between him and Laisenia Qarase in late November 2006.

Both Australia and New Zealand condemned the military takeover in ringing terms, imposing travel bans on members of the interim administration and their families and all who accepted appointments from it or were identified as its sympathizers and supporters. The military's place was in the barracks, Australian Foreign Affairs Minister Alexander Downer told Bainimarama firmly, not in the political arena.<sup>59</sup> New Zealand banned all ministerial level talks with Fiji; tightened travel restrictions on military personnel and civil servants appointed by the interim administration; froze the new Recognised Seasonal Employer Scheme, which would have provided Fiji workers temporary visas to work in New Zealand; cancelled training for Fiji soldiers; stopped new development assistance schemes; and suspended training programs for Fiji's public sector under the regional governance programs.<sup>60</sup> A new low in diplomatic relations

between Fiji and New Zealand was reached in mid-June 2007 when Fiji expelled New Zealand High Commissioner Michael Green for 'being in our face' since the coup, according to Commodore Bainimarama. Green was, by wide consensus, an exemplary diplomat, unobtrusive and informed and accessible to the public. The interim administration, citing the Geneva Convention, refused to elaborate.<sup>61</sup> As *The Fiji Times* put it, 'The military and the interim Government must have known that their actions were not going to be greeted with joy by much of the rest of the world. They must have known and expected criticism. Maybe it has been a harder road than they anticipated.'<sup>62</sup> It was.

The travel bans have had an immediate and decisive effect. Many qualified people in Fiji have refused appointment to the interim administration for fear of being banned from travelling to these countries, where many have close families. Labour mobility is a fact of life in Fiji, and the diasporic dimension of the crisis is real. Travel bans have similarly discouraged foreign nationals from accepting positions in an administration that their countries regard as illegal. There is a conundrum here. Australia and New Zealand want to promote good governance and a speedy return to parliamentary democracy and yet their (perfectly understandable) policies and reactions hinder the outcome they desire. On the Fijian side, a military that has overthrown a democratically elected government professes puzzlement at the reaction of the international community to its extra-legal action, despite its plans to promote good governance – even if it is under the cover of guns. Is there room for a middle course between indignation and engagement, between the legitimate defence of fundamental principles on the one hand and a pragmatic appreciation of the realities on the ground on the other? A 'slowly recuperating constitutional convalescent' needs all the help it can get.<sup>63</sup>

The countries of the Pacific Islands reacted cautiously to the coup in the beginning. Their limited and vague support was short-lived when it dawned on them that Fiji's sickness was bad for regional cooperation generally. The hardline adopted by Australia and New Zealand might also have shifted their thinking. On 1 December 2006, the Forum Foreign Affairs Ministers met in Sydney to discuss the impending crisis and resolved to send an Eminent Persons Group (EPG) to Fiji. The EPG's terms of reference were drawn up on 15th December, after the military coup. They directed leaders to assess the underlying causes and the nature of the overthrow of the Qarase government, and 'to recommend steps towards the restoration of democratic government, within the boundaries of the Constitution and the rule of law'.<sup>64</sup> The four-person EPG was chaired by Vanuatu's Foreign Affairs Minister and Deputy Prime Minister Sato Kilman and comprised Faumuina Liuga, Samoa's Minister for Natural Resources and Environment, Sir Arnold Amet, retired Chief Justice of Papua

New Guinea and General Peter Cosgrove, retired Chief of the Australian Defence Force.

The EPG report was blunt. The military takeover of the Qarase government was 'unconstitutional and unacceptable,' it said. The military should retreat to the barracks and civilian rule should be restored as soon as possible; Bainimarama should vacate the position of interim prime minister and the State of Emergency should be lifted. Further, the EPG report called on the military to continue to uphold the constitution, respect Fiji's domestic and international obligations, cease interference in the work of the judiciary and other accountable institutions, and end all abuse of human rights. The interim administration was asked to adopt a 'roadmap with measurable milestones, which included holding general elections between eighteen months to two years, if not sooner', and de-linking the military's clean-up campaign from a national time-table for elections 'except in those areas directly related to the electoral process'.

The interim administration's response to the EPG report was measured,<sup>65</sup> with the Forum Foreign Ministers, meeting in Vila on 6 March 2007, recommending that the Forum maintain a 'staged process of engagement with the interim administration'.<sup>66</sup> To that end, the ministers set up a 'Pacific Islands Forum-Fiji Joint Working Group on the Situation in Fiji' – one task of which was to assess whether an election could be held based on the current boundaries and register within the time frame specified by the EPG.<sup>67</sup> The EPG reported in May that 'from a technical point of view', parliamentary elections could be held in the first quarter of 2009, or even earlier (November 2008) if the Bureau of Statistics were able to conduct an earlier census. The second major recommendation was for 'minimal changes to the current electoral provisions and procedures before the next election'. Only those changes designed to reduce or eliminate abuse in the campaign and the voting process to 'reflect the voter's clear intention' were to be contemplated.

The EPG's recommendation conflicted with the interim administration's own *Road Map for the Return to Parliamentary Democracy*.<sup>68</sup> According to that document, Fiji would be ready for a general election and full restoration of parliamentary democracy only in 2010 (or possibly later), after the country's finances had been stabilized, the economy resuscitated, and electoral boundaries drawn up after a new census. The interim administration also envisaged a review of the constitution to rid it of 'provisions that facilitate and exacerbate the politics of race'. But these fundamental changes, desirable though they might be, could not legitimately be undertaken by the interim administration; they are the responsibility of an elected parliament. Whatever else may be the case, the next general election in Fiji would have to be held under the 1997 constitution.

In mid-June, after weeks of silence, Commodore Bainimarama issued a confusing series of statements. First, he rejected any externally imposed time frame for

holding the next general election.<sup>69</sup> Fiji, and not the international community, would decide when the elections are held, he said. Two days later, he told a news conference that an election would be held after the President's Mandate (see above) had been fulfilled and the objectives of December 2006 accomplished.<sup>70</sup> A day later, he agreed, 'in principle' that a general election could be held within the time frame specified by the EPG, provided the international community lent Fiji a helping hand. Whether this was a genuine commitment or a tactical ploy to deflect public criticism remains to be seen. Australia and New Zealand remained unconvinced. 'It is very likely now that Australia, New Zealand and other democratic countries that deal with us will take a much closer look at the situation and withdraw even further, taking with them more of their aid money and their trade', wrote *The Fiji Times*. 'Where they will differ from the views held by Commodore Bainimarama is that they will see a former democratic country now ruled by the gun, no matter what 'shopfront' the regime puts up. Military men are in most of the key positions of power in the civil service and the interim Cabinet cannot be seen as independent.'<sup>71</sup>

The timing of the general election is crucial in the context of Fiji's ongoing aid negotiations with the European Union. The EU matters to Fiji. Fiji sells sugar to it under a preferential agreement, and its aid to Fiji's ailing sugar industry is estimated at around \$400 million.<sup>72</sup> In April, 2007, when a Fiji delegation led by interim Foreign Affairs Minister Ratu Epeli Nailatikau (and comprising interim Finance Minister Mahendra Chaudhry and interim Attorney-General Aiyaz Sayed-Khaiyum) went to Brussels, the EU reiterated Article 9 of the ACP-EC Cotonou Agreement that 'Respect for human rights, democratic principles and the rule of law constitute the essential elements of the Partnership Agreement'.<sup>73</sup> The EU undertook to 'continue and deepen the political dialogue with Fiji' provided certain conditions were met. These included, respect for democratic principles, including holding parliamentary elections by March 2009; consulting widely within Fiji before adopting major legislative changes; respecting the rule of law and protecting human rights and fundamental freedoms of its citizens; and protecting the independence and integrity of the judiciary, among other similar undertakings. Any derogation from the undertaking Fiji has given will jeopardize future aid to Fiji. One fear haunts the nation: The loss of aid for an industry whose collapse would cripple the country. The EU (and Australia and New Zealand for that matter) will not relax sanctions until Fiji goes beyond the 'in-principle' undertaking it has given to returning Fiji to parliamentary democracy in the specified time frame. The EU's Commissioner for External Relations, Benita Ferrero-Waldner, has said that the 'most important thing is to see whether the commitment will materialise'.<sup>74</sup> In fact, Bainimarama has threatened to postpone elections indefinitely.<sup>75</sup> In July 2008, he said elections would not be held before 2010.

## Warfare in cyberspace

The reaction to the 2006 coup differed from responses to previous coups in many ways but one is novel, the intervention of cyberspace. In 1987, the latest invention was the facsimile machine, and the military was able effectively to shut down Fiji's contact with the outside. In 2000, the national boundaries were more porous, with email enabling transmission of massive amounts of information in real time. In 2006, the most notable innovation was the emergence of 'blogsites,' enabling ordinary people with access to the internet, worldwide opportunities to exchange news, ideas, information, and comments about political developments in Fiji without the mediation of State licensing or the authorization of gate keepers and agenda-setters of the mass media.<sup>76</sup>

The sites differ in the depth and range of coverage and commentary, but all condemn the coup to varying degrees. Many carry opinions and information in the Fijian language, which suggests that they are run by indigenous Fijians or others intimately familiar with Fiji language, culture and protocol. As with cyberspace generally,<sup>77</sup> some of what passes for accurate information or analysis is petty prejudice and partiality, sometimes defamatory, frequently vituperative, always provocative, on occasions treasonous.<sup>78</sup> One website on 20 June 2007 advised its readers thus: 'Destabilize the country. Make it ungovernable. Every act of resistance you engage in makes it difficult for the regime to govern and stay in control. The government is economically unstable, so your objective should be to completely destabilize that economic fulcrum.' Attack businesses that make money for the regime, the site encouraged its readers: 'Attack their assets.' A few days later, the same website encouraged its readers to attack tourists to bring that industry to its knees. Other sites name and shame people who they think support the coup. Yet others seek to foster dissent in the ranks of the military. The enemy is identified, targeted, vilified, judged and hanged. It is verbal warfare at its most brutal and visceral.

When they first appeared, most sites condemned the coup as the work of a power-crazed 'military junta'. But with time a new interpretation began to emerge, insidiously portraying the military overthrow as an 'Indian' coup against the Fijian people. Mahendra Chaudhry was identified as the villain of the piece and he became the object of vitriolic anger among the anti-coup bloggers, in the minds of whom Chaudhry's connection to the coup has been irrevocably established. The blogsites seem to reflect a wider, developing Fijian view of the coup as being fundamentally anti-Fijian as opposed to being anti-Qarase government. Bainimarama's derisive treatment of the GCC has touched a raw nerve and inflamed passions that may be difficult to subdue in the short-term. A potentially dangerous chasm, with grave implications for future inter-ethnic accommodation, seems to be opening.

## Where to now?

With the lifting of the Public Emergency Regulation on 1 June 2007, the first phase of the crisis came to an end. In that period, there were violations of human rights that brought condemnation from local activists as well as from international organizations. There was evident tension in the vital organs of the state, and fear and uncertainty in the public sector as people were fired or sent on leave pending investigation. The prosecutions are still pending. The violent deaths of young Fijian men in either military or police custody – Nimilote Verebasaga, Sakiusa Rabaka and Tevita Malasebe – aroused profound public anger and anguish about the 'stunning sounds of silence from top-down',<sup>79</sup> and about the slow pace of investigation into these tragedies. The blame was laid at the door of the interim administration. The state of law and order is critical to its future.

There are other challenges as well. For a start, a number of cases contesting the legality of the military takeover will come before the courts in the next few months. On the face of it, the verdict looks certain<sup>80</sup>: How could it be otherwise? But whether or not the military will respect them is another matter. Bainimarama has made it abundantly clear that 'Qarase will not come back', while the deposed prime minister is determined to remain in political harness, convinced, with justification, that he has the support of the silent Fijian majority. Whether the verdicts of the courts will unravel the initiatives instigated by the interim administration (such as the Fiji Independent Commission Against Corruption) and order the status quo reinstated, or whether the military will simply abrogate the constitution to legalize the revolution it began, remain questions to be watched closely. Equally closely watched will be the interim administration's various commitments to donor organizations, such as the EU, particularly about returning Fiji to parliamentary democracy. The international community is not likely to let up on Fiji anytime soon, nor be lulled into complacency by insincere promises.

If returning the country to parliamentary democracy is one major challenge for the interim administration and for the people of Fiji as a whole, another is to revive the economy. The ailing state of Fiji's sugar industry, requiring regular and massive infusion of funds, is well known. A lot here will depend on Fiji abiding by the undertaking it has given to the EU. The downturn in the tourism industry after the coup, has dented Fiji's economic prospects, though it will bounce back when political stability returns. The Governor of the Reserve Bank of Fiji, Savenaca Narube, has identified three other major challenges to the Fijian economy.<sup>81</sup> The first is the low rate of growth. The second challenge is to raise investment in the economy to over 25 per cent of the Gross Domestic Product, and to promote more local investment. And the third is to narrow the widening gap between imports and exports. None of these problems are insurmountable, but the current atmosphere of uncertainty and anxiety about the country's

future, the deepening unemployment and poverty levels in the country (around 34 per cent in 2002–03, up from around 29 per cent in 1991<sup>82</sup> ) will make their resolution difficult. With talks of retaliatory trade and aid bans in the air, writes *The Fiji Times*, ‘the nation watches as the economy continues to slump and more families feel the effects of redundancies, reduced working hours, pay cuts and the reduction of financial assistance meant for the poor and the underprivileged’.<sup>83</sup>

Over the past months, the interim administration has made a strenuous, but ultimately failing, attempt to entrench itself in the public consciousness as an instrument for the good of the country. Some of its leading lights are too tainted by chequered pasts or private ambitions for power and glory to have any chance of winning public affection or esteem. Important institutions of the State have been politicized, their impartiality impaired, their effectiveness undermined. A third of the nation is living in poverty. Squatter settlements are mushrooming. An escalating war of words between the interim administration’s supporters and opponents is filling the air (and cyberspace) about whether the coup is the best or the worst thing that could have happened to Fiji; whether Commodore Bainimarama is the saviour of the nation or its destroyer; whether or not, from the ashes of the coup, the phoenix will eventually rise in the form of a truly representative democracy unencumbered by the politics of race and ethnicity; and whether, in the end, the coup was worth all the pain and suffering it caused. Time will tell. In the meantime, half of the Fiji population, disaffected, disenchanting and disapproving of the unfolding events, watches in sullen silence. Brooding.

## ENDNOTES

<sup>1</sup> The quoted words are from Commodore Frank Bainimarama’s address to the nation on 5 December 2006, announcing the military takeover of the government. I thank Anthony Regan for asking me to write this paper and for his valuable editorial suggestions. For comments and advice for revision, I am grateful to Rod Alley, Satish Chand, Ian Campbell, Jon Fraenkel, Padma Lal, Peter Larmour, Vicki Luker, Robin Nair, Bob Norton, Biman Prasad and Robbie Robertson. They have been generous and constructive and frightfully candid: I could not have asked for anything more. The usual disclaimer applies.

<sup>2</sup> The causes of the 2006 coup are considered in my ‘Anxiety, Uncertainty, and Fear in Our Land: Fiji’s road to Military Coup, 2006,’ chapter 2, this volume.

<sup>3</sup> From a typescript of Ratu Josefa Iloilo’s speech circulated to the media.

<sup>4</sup> Quoted in a letter to the editor, ‘President’s Speech,’ *The Fiji Times*, 6 January 2007.

<sup>5</sup> Section 96(1) of the Fiji Constitution provides that ‘in the exercise of his or her powers and executive authority, the President acts only on the advice of the Cabinet or a Minister or of some other body or authority prescribed by this Constitution for a particular purpose as the body or authority on whose advice the President acts in that case.’

<sup>6</sup> For a discussion of the Promotion of Reconciliation, Tolerance and Unity Bill, see Bhim, M. 2007. ‘The impact of the Promotion of Reconciliation, Tolerance and Unity Bill on the 2006 election’ in Jon Fraenkel and Stewart Firth (eds), *From Election to Coup in Fiji: the 2006 Campaign and its Aftermath*, IPS Publications, Suva, Asia Pacific Press and ANU EPress, Canberra.

<sup>7</sup> Quoted in Venkat Iyer, ‘Courts and Constitutional Usurpers: Some Lessons from Fiji’, in *Dalhousie Law Journal* 2005, 28(1):37.



- <sup>8</sup> *Ibid.* See also Iyer. 2006. 'Restoration Constitutionalism in the South Pacific', *Pacific Rim Law and Policy Journal* 15(1).
- <sup>9</sup> One cause of friction was Chaudhry's demand that his ministers in cabinet be answerable to him, not the prime minister. He eventually sacked several of them for bringing the party 'into disrepute' for questioning his leadership.
- <sup>10</sup> Raised by, among others, this writer in the Fiji media.
- <sup>11</sup> Quoted in Iyer, 'Courts and Constitutional Usurpers,' pp.55–56. See also, George Williams, 'The case that stopped a coup? The rule of law in Fiji', 2003 Quentin-Baxter Memorial Trust Lecture, Victoria University of Wellington, 27 November 2003.
- <sup>12</sup> 'Lawyers must cry freedom to challenge in Fiji', *The Fiji Times*, 9 June 2007. Reproduced as Chapter 15, this volume.
- <sup>13</sup> Advertisements to this effect appeared in all the daily newspapers in Fiji.
- <sup>14</sup> 'It's illegal, Chaudhry', *Fiji Daily Post*, 6 December 2006. See also *Fiji Sun*, 9 December 2006.
- <sup>15</sup> The last portfolio was taken away from him by his arch rival, former Labour member of parliament expelled from the party for insubordination, Poseci Bune.
- <sup>16</sup> 'Sugar industry posts queried', *The Fiji Times*, 16 June 2007.
- <sup>17</sup> This is Ratu Joni Madraiwiwi's description in a talk, 'Mythic Constitutionalism: Whither Fiji's course in June 2007', delivered at The Australian National University, 5 June 2007. Reproduced as Chapter 23, this volume.
- <sup>18</sup> As part of the Fijian 'Blueprint' designed by the Qarase government to offer assistance to indigenous Fijians lagging behind in various fields.
- <sup>19</sup> *The Assumption of Executive Authority on December 5<sup>th</sup> 2006 by Commodore J.V. Bainimarama, Commander of the Republic of Fiji Military Forces: Legal, Constitutional and Human Rights Issues*, By Doctor Shaista Shameem, Director. This report is widely available on several websites. It was published on 4 January 2007.
- <sup>20</sup> Quoted in my *Islands of Turmoil: Elections and Politics in Fiji*, 2006, Asia Pacific Press, Canberra, p.220.
- <sup>21</sup> *A Response to the Fiji Human Rights Commission Director's Report on the Assumption of Executive Authority by Commodore J V Bainimarama, Commander of the Republic of Fiji Military Forces*. Undated, but it was written around mid-late January.
- <sup>22</sup> For more discussion, see my *Islands of Turmoil*, pp. 200–201.
- <sup>23</sup> Justice Shameem is Dr Shaista Shameem's younger sister.
- <sup>24</sup> Republic of Fiji Military Forces press release, 15 January 2007.
- <sup>25</sup> This is from a media release issued on 6 December 2006.
- <sup>26</sup> See 'Gates Broke Trust: Fatiaki', *The Fiji Times*, 18 January 2007. 'How Gates reached the top,' in *Fiji Sun*, 5 March 2007, reveals the contents of confidential minutes of the proceedings which led to Gates' appointment.
- <sup>27</sup> 'Opinion Re Judicial Services Commission of Fiji – Recommendation for Appointment of Acting Chief Justice,' by James Crawford SC, Whewell Professor International Law, University of Cambridge and Barrister, Matrix Chambers, Gray's Inn. The Opinion was issued on 20 February 2007. Another (similar) advice came from James Dingemans, QC of James Hawkins, Temple, London.
- <sup>28</sup> By, among others, Poseci Bune and Dr Jona Senilagakali, both members of the present interim administration. Bune was head of the Public Service Commission while Senilagakali headed Foreign Affairs.
- <sup>29</sup> Among them were Jioji Kotobalavu, chief executive officer in the Prime Minister's office, Solicitor General Nainendra Nand and the chief executive officer of the Public Service Commission Anare Jale.
- <sup>30</sup> For instance, Colonels Kacisolomone and Lomaloma and Kaukimoce. Isikia Savua was posted as Fiji's representative to the United Nations.
- <sup>31</sup> See, 'Militarising our police or policing the military,' *Fiji Daily Post*, 13 June 2007. The collapsing morale in the civil service was the subject of Jioji Kotobalavu's address to The Australian National University on 5 June 2007. See Chapter 23, this volume.
- <sup>32</sup> In fact, various projections put the Indo-Fijian population at around 37 per cent – and declining.
- <sup>33</sup> 'Methodists pledge support,' *Fiji Sun*, 11 January 2007.

<sup>34</sup> 'Churches want early return to democracy,' *fijilive*, 13 June 2007. For further detail of the reaction of the Christian churches, see Newland (this volume).

<sup>35</sup> For an overarching consideration of the GCC, see Norton (this volume).

<sup>36</sup> 'Chiefs Approve,' *Fiji Sun*, 11 January 2007. Several chiefs from western Viti Levu trooped up to the Queen Elizabeth Barracks to show their 'appreciation' to the military.

<sup>37</sup> Bainimarama himself is a chief, although he does not use the honorific chiefly title 'Ratu'.

<sup>38</sup> She was not alone in her new-found respect for law and order and the rule of parliamentary democracy. Among the more astonishing examples was Mere Samisoni, an SDL member of parliament and prominent Speight sympathizer.

<sup>39</sup> 'State suspends GCC meetings', *The Fiji Times*, 13 April 2007. See also 'The vestige of Fijian identity', *Fiji Daily Post*, 15 April 2007.

<sup>40</sup> 'Address by the Interim Prime Minister Commodore Voreqe Bainimarama,' 12 April 2007 on Republic of Fiji Military Forces website, 31 May 2007.

<sup>41</sup> 'A blow to tradition', *Fiji Sun*, 9 December 2006.

<sup>42</sup> See 'Where to Now, Bainimarama', *Fiji Daily Post*, 13 June 2007 for a representative expression of this view.

<sup>43</sup> 'Mythic constitutionalism: Whither Fiji's course in June, 2007?', chapter 23, this volume.

<sup>44</sup> Others include the Attorney General (Khaiyum), a controversial High Court Judge (Nazhat Shameem), Director of the Human Rights Commission (Shaista Shameem), the military's Chief Legal Advisor (Colonel Aziz), and lawyer and recently appointed chair of the Electoral Commission Dr Sahu Khan.

<sup>45</sup> Fiji Islands Council of Trade Unions, *Submission to the UN Mission*, 27 April 2007. The mission was sent to make an independent and confidential assessment of the situation in Fiji.

<sup>46</sup> National Federation Party, *Submission to the United Nations Fact Finding Mission*, 24 April 2007.

<sup>47</sup> From a draft of a press release. The NGOs represented in the coalition included femLINKPACIFIC, Fiji Women's Rights Movement, Fiji Women's Crisis Centre, Citizens Constitutional Forum and the Pacific Centre for Public Integrity.

<sup>48</sup> CCF media release, 4 December 2006, [http://www.ccf.org.fj/news\\_detail.php?news\\_id=44](http://www.ccf.org.fj/news_detail.php?news_id=44).

<sup>49</sup> See their website, <http://www.fijiwomen.com>

<sup>50</sup> Most human rights-based NGOs seem to oppose the coup while those concerned with social justice seem to support it.

<sup>51</sup> See ECREA's website at <http://www.ecrea.org.fj>

<sup>52</sup> Barr, K. 'A flawed Democracy', *The Fiji Times*, 9 April 2007; see also his 'Does democracy benefit people?', *Fiji Sun*, 3 April 2007.

<sup>53</sup> See Archbishop Petero Mataka, 'Let's put common good first,' *The Fiji Times*, 29 September 2006, where he expressed criticism of the Qarase government's resource policies. See also his 'Reflections on Democracy,' *The Fiji Times*, 3 July 2007, where he urges his readers not to be 'obsessed with being politically correct' about 'the legality of this or the illegality of that,' but to ponder about 'higher goals.' For an early optimistic assessment of the coup, see Andrew Murray, 'Observations on the Current Situation in Fiji, 26 January 2007,' typescript sent to the author. Murray is Senior Lecturer in Philosophy at the Catholic Institute of Sydney.

<sup>54</sup> The document was initially for restricted circulation but later posted on different websites, including *fijilive.com*.

<sup>55</sup> 'Regime's plan illegal, says Methodists,' *fijilive.com*, 13 June 2007. See also Vereniasi Raicola, 'Questions for the charter,' *The Fiji Times*, 21 June 2007.

<sup>56</sup> Address to The Australian National University, 5 June 2007. See Chapter 23, this volume.

<sup>57</sup> Quoted in Iyer, 'Courts and Constitutional Usurpers,' p.65.

<sup>58</sup> Herr, R. 'External Influences and the 2006 Fiji Military Coup', unpublished paper. See also Steven Ratuva, 'Coups and international reaction,' posted on *fijilive.com*

<sup>59</sup> 'Downer shares views on Fiji', *The Fiji Times*, 22 June 2007.

<sup>60</sup> 'Fiji loses foreign friends', *Fiji Sun*, 12 December 2006.

<sup>61</sup> In April, Commodore Bainimarama refused to see a visiting senior US State Department official and threatened to open up Loftus Street (where the American embassy is located) to the public, only to retract his threat when the enormity of the consequences of his action dawned upon him.

- <sup>62</sup> *The Fiji Times* (editorial), 15 June 2007; Bainimarama's reaction is reported in *The Fiji Times*, 19 June 2007.
- <sup>63</sup> These apposite words are Rod Alley's, private communication, 20 June 2007.
- <sup>64</sup> This formed the core of the EPG's Terms of Reference. The report, marked for 'Forum Eyes Only: Confidential', was leaked to the media and published on the internet the moment it was printed and long before it was formally submitted to the Forum Ministers meeting for their deliberation. Such is the reach and power of the internet.
- <sup>65</sup> However, the Fijian wing of the Fiji Labour Party described the EPG report as 'a piece of rubbish', its spokesperson, Maika Moroca, saying 'The so-called Forum Persons Group can go to hell with their report because it does not hold recommendations that are constructive enough to enable Fiji's economic recovery and return to democratic rule without corruption' (*The Fiji Times*, 20 February 2007). It is highly unlikely that this statement could have been released without the tacit approval of the party hierarchy.
- <sup>66</sup> Forum Foreign Affairs Ministers' Meeting, 16 March 2007, Port Vila, 'Outcome Statement,' PIFS (07) FFAMM.3
- <sup>67</sup> The Group was chaired by Papua New Guinea's High Commissioner to Fiji. The EPG was co-chaired by Dr Paul Harris (NZ) and Barrie Sweetman (Fiji). Its two other members were Dr Kesaia Seniloli (Fiji) and Bruce Hatch (Canada). Titled 'Report of the Independent Assessment of the Electoral Process in Fiji, 14–25 May 2007', it is available on *fijilive.com* and other websites, although this document, like many others cited in this essay, was sent to me by email.
- <sup>68</sup> Described in a speech by Commodore Bainimarama at the Queen Elizabeth Barracks on 20 February 2007.
- <sup>69</sup> 'We will say when elections to be held, says interim PM', *The Fiji Times*, 17 June 2007.
- <sup>70</sup> Interview on *fijivillage.com*, 19 June 2007.
- <sup>71</sup> Editorial, 18 June 2007.
- <sup>72</sup> See, *Fiji Sun*, 10 May 2007
- <sup>73</sup> This comes from 'Opening of Consultations with the Republic of Fiji Islands under Article 96 of the Cotonou Agreement (Brussels, 18 April 2007).
- <sup>74</sup> 'EU/Australia agree on sanctions,' *fijilive*, 26 June 2007.
- <sup>75</sup> 'Critics put elections in limbo: Bainimarama,' *fijilive*, 3 July 2007.
- <sup>76</sup> These are too numerous to mention but among the more prominent ones are: *whyfijiiscrying*; *hyde.n.ceek*, *Rere Vaka Na Kalou Ka doka Na Tui*, *Intelligentsya*, *Name and Shame*, *discombobulated*.
- <sup>77</sup> An introduction to some of the complex issues raised by the use of cyberspace is in Gan, S., Gomez, J. and Johannan, U. (eds) 2004. *Asian Cyberactivism: Freedom of Expression and Media Censorship*, Friedrich Naumann Foundation, Bangkok.
- <sup>78</sup> And witty and humorous too. Thus: 'Machiavelli Chaudhry'; 'Bainimahendra'; 'Komanda Bai Karaik'; 'Commodore Frankenstein' (Bainimarama); 'Rebel without a Clue' (military spokesman Major Leweni Neumi); RFMF: Ratu Frank's Military Force'; 'Pusi': Helen Clark; 'Big Moma Bernie' Bernadette Rounds-Ganilau; Laufitu 'Zsa Zsa Gabor' Malani; and others too impolite to repeat.
- <sup>79</sup> *Fiji Daily Post* editorial, 13 June 2007.
- <sup>80</sup> In fact Acting Chief Justice Anthony Gates ruled in the High Court of Fiji on 9 October 2008 that the decision by the President to appoint an interim government after the 2006 coup was legal.
- <sup>81</sup> 'Economic crisis looms', *Fiji Sun*, 12 May 2007.
- <sup>82</sup> Narsey, W. 'Truth behind our poverty,' *The Fiji Times*, 10 June 2007. For a more extensive treatment, see Satish Chand, 'Poverty and Redistributive Politics in Post-Independence Fiji: 50/50 by 2020', in press.
- <sup>83</sup> Editorial, 'Keeping a promise,' 21 June 2007. For a brief survey of post-coup economic trends, see Biman C Prasad, 'Fiji's Economy in the Doldrums: Possibilities for a way forward?' presented to Pacific Cooperation Foundation, Wellington, seminar 'Fiji at the Crossroads – Again?' 8 June 2007.



# THEMES



## 5. The changing role of the Great Council of Chiefs

**Robert Norton**

The central dilemma in Fiji's political development has been the problem of how to devise constitutional government that can reconcile the indigenous Fijian conviction of entitlement to political pre-eminence with a just representation of the interests of other sections of the population, primarily the Indians. Both the army and the Great Council of Chiefs (GCC) have gained prominence during the last 20 years as institutions of indigenous Fijian power with capacities for the extra-constitutional management of crises arising after the electoral defeat of Fijian-dominated governments. Both have grappled with the dangerous force of Fijian nationalist sentiment, at times endorsing it and at times restraining it in the process of setting up new regimes. Army and political leaders have turned to the GCC for legitimation of their actions, and, in the decade following Rabuka's coups of 1987, the GCC came to be widely viewed as having an important national political role, notwithstanding the fact that its members are typically strongly ethnocentric.

A dramatic highlight of the aftermath of the army coup of December 2006, however, has been military commander Bainimarama's acrimonious conflict with the GCC. Whereas Rabuka had readily secured the chiefs' approval of his quest to re-instate a Fijian-dominated government, Bainimarama had, purportedly in the national interest, deposed such a government – indeed, one only recently returned to office by the vast majority of Fijian voters. The GCC refused to accept Bainimarama's claim to have taken authority from the President of Fiji, asked the army to return to barracks, and proposed that the President appoint a council to set up an interim regime. The commander's angry response was to direct the GCC not to meet again without his approval. Continuing resistance from the GCC provoked Bainimarama to declare he was dissolving its current membership in preparation for a review and reform.

The commander's ascendancy in Fiji's political life was driven especially by his determination to expunge the nationalist influence that, since the crisis of 2000, he had viewed as a threat to the integrity of the army under his control. His rhetoric about the army's responsibility to safeguard the nation has been compelled by this preoccupation no less than by a concern for order, justice, and well-being in Fiji's multi-ethnic society. The army has become the pre-eminent institutional vehicle of ethnic Fijian power – paradoxically set against Fijian nationalism, and harshly dismissive of the GCC as being mainly aligned with that force. Army leaders now seek to relegate the chiefs to a

compliant, supportive role in the project of cleansing the nation of alleged corruption and bad governance.

## **The Great Council of Chiefs as an instrument of colonial rule**

The GCC was created by the first colonial governor, Sir Arthur Gordon, following his consultations with an assembly of chiefs on how the Fijians should be governed. It became the major symbol of Fijian identity and strength in the colonial political structure and continued to have this significance after independence, ritually affirming an ethnic political unity transcending geographical and cultural differences among Fijians in opposition to the other sections of Fiji's population.

Under British rule, the GCC embodied the privileged relationship of trust and protection established between the Fijians and the British when the leading chiefs voluntarily ceded the islands to the Crown in 1874. The colonial governors chaired meetings of the GCC – held every year or two with rich ceremonial protocol, usually in the villages of pre-eminent chiefs – in order to consult about policy and legislation for Fijian affairs and, until 1963, to select the Fijian representatives for the colonial parliament.

Councils of chiefs had long been important in Fijian political life, and the chiefs who assembled to discuss ceding their islands to the British Crown formed, perhaps, the greatest of such assemblies. Although in pre-colonial times there had been no enduring council of representatives from all chiefdoms, the GCC can be said to have roots in Fijian tradition – as well as in the ideas of British colonial officials. It is the classic 'neo-traditional' institution, established through a blending of traditional forms of rank and political procedure with colonial law and its administrative and consultative requirements.<sup>1</sup>

Throughout most of the colonial period, the GCC continued to be almost exclusively a forum of high-ranking hereditary chiefs, and included many senior officials in the Fijian Administration, the body charged with supervising village life. The most influential members have been paramount chiefs of southeastern Viti Levu and the eastern islands. In the last 20 years of British rule they were Ratu Sir Lala Sukuna, Ratu Kamisese Mara, Ratu George Cakobau, Ratu Edward Cakobau, and Ratu Penaia Ganilau. All began their political careers as GCC nominees to the colonial parliament, and, especially in the context of ethnic tensions, preserved their leadership after Fijians were given the franchise in 1963. The last four of these chiefs dominated the political arena in the transition to independence, and Ganilau and Mara continued to exercise powerful influence until recent times, dying in 1993 and 2004 respectively.

From the 1950s, with rising numbers of Fijians entering the modern economy as wage-earners, membership of the GCC was broadened to allow representation



of trade unions and other urban organizations. It was becoming, Ratu Mara once explained to critics, more a 'chiefly' council than a council of chiefs, characterized by 'a certain standard of behaviour which can be performed by all sections of Fijians...a standard of behaviour for which all Fijians aim'.<sup>2</sup> This trend was strengthened after independence, when all Fijians elected to the lower house of parliament were made ex-officio members of the GCC. By the late 1970s, sometimes half the GCC members were commoners or people of modest chiefly rank.<sup>3</sup> The GCC had become 'an assembly of Fijian leaders from all walks of life, with divergent interests'.<sup>4</sup>

Soon after Rabuka's coups, however, the GCC, with the encouragement of the military, reverted to being almost exclusively a council of hereditary chiefs, and so it remains today. The then Minister of Fijian affairs, an army colonel, explained that 'while we appreciate the contributions made by commoners...it is becoming increasingly evident that the chiefs can be outvoted ...[W]hat we want is for the commoners to act as advisers while the decision-making is left entirely to the chiefs'.<sup>5</sup> Rabuka himself lamented that 'there are so many non-chiefs there who will try to dictate the resolutions ...[T]he chiefs are so humble, their personalities and their character do not make them forceful enough when they discuss matters. They will agree, they will compromise...whereas those who are not chiefs in [the GCC] tend to be very very selfish...'.<sup>6</sup> This view received no vindication from the turmoil stirred up by aggressive chiefly rivalries in the GCC in recent years, especially during the coup crisis of 2000.

Today the GCC has 54 members. Each of the fourteen provincial councils chooses three. There are four ex-officio members – the President and Vice-President of Fiji, and the Prime Minister and the Minister for Fijian Affairs. The latter nominates an additional six chiefs, and the Council of Rotuma has two delegates. The members form a wide spectrum of experience and outlook. A few have tertiary education, careers as bureaucrats, professionals, or politicians, and are widely travelled. But most have relatively little formal education and many live mainly in their home villages. While some have progressive views on the sharing of power and resources, the majority have very ethnocentric outlooks.

While the GCC membership has undergone this regressive change since 1987, its powers have been enhanced. The 1990 constitution increased its delegates to the Senate from 8 (of 22) members – as it was under the 1970 constitution – to 24 (of 34) members, and empowered it to decide the appointments of the President and the Vice-President of Fiji. This authority is retained in the current (1997) constitution, although the GCC's strength in the Senate is reduced to 14 (of 32) seats. While commoners and people of modest chiefly rank have been largely excluded from the GCC, they have for many years predominated among the elected Fijian members of the House of Representatives.

## The GCC's dual political role

The GCC's official entitlements have accorded with a widely held view that, in embodying a concept of indigenous paramountcy, the chiefs are an essential source of legitimacy for a national government. The status afforded the chiefs signifies both the appeasement of a powerful vested interest group and the preservation of an institutional mechanism that has helped to constrain Fijian nationalism. The chiefs' collective authority has been grounded not only in the part they have played in asserting indigenous solidarity in opposition to other groups, especially the Indians, but also, paradoxically, in their capacity to mitigate ethnic conflict. Ethnocentric opinions are often aggressively voiced. Yet in enhancing Fijian convictions of political and cultural strength, the GCC meetings have sometimes been conducive to inter-ethnic accommodation.

Fiji developed under colonial rule as a deeply bifurcated society. The majority of Fijians were compelled to remain predominantly subsistence farmers almost until the end of British rule. In contrast, the Indians entered various sectors of the money-based economy. The importance that the GCC acquired in the national political arena was based on the depth of this ethnic divide and on the need to bridge it. Through the GCC, the colonial governor and Fijian political leaders periodically sought to persuade Fijians – who viewed non-Fijian strengths in the modern economy as reflecting their own economic weakness – to agree to inter-ethnic compromises on both land and the political system.

The GCC could be persuaded to play this bridging role because it securely embodied Fijian identity and strength, and because a readiness to agree to concessions in support of interests in the wider society and of Fiji's economic development came to be seen as part of the chiefs' role in their privileged relationship with the British Crown. There was a perception in the GCC that the British officials' primary concern was indigenous security, and that the chiefs had a reciprocal duty to support the officials in their government of the colony. The most notable early instance of the GCC's bridging role was Ratu Sukuna's success in 1936, on behalf of the colonial governor, in persuading his fellow chiefs to agree to a proposal to give control of the leasing of Fijian land to a central statutory authority in order to overcome problems in personal negotiations between land-owning clans and their sugar cane farmer tenants.<sup>7</sup> British officials hailed Sukuna's achievement as a breakthrough for economic development and praised the chiefs for their 'statesmanlike attitude towards the general affairs of the colony'.<sup>8</sup>

As preparations to end colonial rule raised ethnic tension, the GCC took on a strengthened political role as the major voice of conservative Fijian opinion on constitutional change. The Council continued to enjoy privileged representation in the parliament after Fijians were given the vote for choosing most of their representatives, and it was regularly consulted by the Governor and elected

Fijian leaders (principally chiefs who had begun their political careers as GCC nominees).

The GCC continued also to be important in facilitating legislative reforms benefiting Indian tenants on Fijian land. In the 1960s the GCC was persuaded by the paramount chiefs, now leaders of the Alliance Party, to agree to the Agricultural Landlord and Tenant Ordinance (ALTO). During a short phase of heightened ethnic tension near the end of colonial rule, which almost erupted in widespread violence, the GCC called for the withdrawal of this concession. Yet, after anti-Indian rhetoric in the Council's meeting, this and other proposals against Indians were not pushed, and several years after independence, Fijian political leaders persuaded the GCC to consent to another land reform primarily of benefit to tenants, the 1976 Agricultural Landlord and Tenant Act (ALTA). Lest an impression be given that Fijian leaders have easily persuaded GCC assent to such proposals, it should be emphasised that argument at Council meetings has often been heated, with suspicion and anger sometimes directed against leaders seen to be compromising Fijian interests.

The independence constitution strengthened the political power of the GCC by giving it reserved seats and a limited veto power in the Senate, a privilege proposed by Indian leaders as a concession to the Fijian claim to political pre-eminence. Soon after independence, the GCC came under the influence of the Fijian Nationalist Party (FNP), which called for a constitutional change to permanently secure Fijian control of government. At their 1982 meeting, following an acrimonious election campaign in which Ratu Mara and other chiefs were denigrated by some Indian leaders, GCC members almost unanimously called for implementation of the FNP demand – despite counter arguments by Prime Minister Ratu Mara, and the Governor General Ratu Penaia Ganilau. The GCC did not pursue this demand until 1987, when the Fijian nationalist mood surged aggressively in the street marches and threats of the *Taukei* Movement after the defeat of Mara's Alliance Party government by a mainly Indian-based coalition.

### **The army coups of 1987: Managing militant ethno-nationalism<sup>9</sup>**

Events in the year following Rabuka's overthrow of the new government were marked by a sometimes conflicting interplay of several forces in the political arena, centring on the issue of entrenching indigenous power: The army; the sometimes violent *Taukei* Movement whose leaders included several people of high chiefly rank; and chiefly authority in the form of the GCC and the paramount chiefs (the former Prime Minister Ratu Mara and the Governor-General Ratu Ganilau) who, with GCC support, had long held leadership of the State.

Rabuka became manager and mediator of these forces. The GCC and the paramount chiefs were the crucial political resources with which he endeavoured to control the extremists within and outside the army. To secure legitimacy for his coup and restore stability, he sought to bind Taukei objectives to chiefly leadership. Most Fijians acclaimed Rabuka's coup as a legitimate assertion of indigenous power against the perceived threat of Indian domination. Yet, what was most significant about the popular response to the crisis was the way in which the old institutions and symbols of ethnic Fijian leadership helped to both articulate and control it, taking from Rabuka – for the most part with his encouragement – the function of asserting the ethnic claim, and so limiting the independent power of the aggressive nationalists.

Rabuka's first council of ministers, set up in the face of Ganilau's opposition, was headed by Rabuka and Mara, and included many Taukei Movement leaders, some of them formerly Mara's colleagues in the Alliance Party. Rabuka then convened a meeting of the GCC in Suva's Civic Centre, while Taukei Movement supporters massed in an adjacent park. This assembly, and subsequent Fijian provincial council meetings, approved the coup and endorsed the Taukei goal of changing the constitution to entrench indigenous control of government.

After the GCC meeting, Ganilau agreed to lead a new council including Mara and Rabuka, but with fewer Taukei activists. There soon followed meetings of the two paramount chiefs with Timoci Bavadra, the deposed new prime minister. They proposed a caretaker government, to be recruited equally from the Alliance Party and the overthrown Labour-National Federation Party (NFP) coalition, and headed by Ganilau. A Constitution Review Committee's majority report to Ganilau had just endorsed the GCC call for Fijian dominance. But the agreement reached in the Mara/Ganilau/Bavadra talks promised only to take 'full account of Fijian aspirations for the betterment of their interests'. When young men rampaged against Indians and their property, Taukei spokesmen excused the outburst as legitimate anger at the lack of progress towards fulfilling the GCC's resolution.

Rabuka soon yielded to the militants, pushed the two high chiefs aside, and appointed a new governing council, this time dominated by Taukei leaders and army officers. But, as his new cabinet foundered on a combination of personal ambitions and inexperience, pressure on Rabuka to regain the chiefs' cooperation mounted. He dismissed his council and appointed Ganilau as president of the newly declared Republic of Fiji. Ganilau then gave the office of prime minister to Mara, who excluded most Taukei from yet another council and brought back some old Alliance Party colleagues. This interim government endured under Mara's leadership until the election in 1992, which was conducted under a new constitution designed to secure Fijian political dominance.

In its support of the demand for ethnocentric constitutional change, the GCC might be seen as essentially at one with the Taukei Movement.<sup>10</sup> But there was more to its part in the crisis than this. The GCC was crucial in constraining a volatile nationalist movement that might well have become more violent and oppressive than it did. What most stood out in the turbulent events was Rabuka's attempt to control and mediate the different political forces: Initially relying on the GCC and the two paramount chiefs for legitimacy and stability, later sidelining them under pressure from the extremists, and eventually turning back to the chiefs when the Taukei pressure threatened to overwhelm him.

The Taukei Movement had potential to grow as an independent force, reconstructing Fijian political leadership, for some of its leaders wanted to marginalize the principal chiefs. But the militants were unable to sustain an aggressive ethnic movement independently of the ideology that affirmed the legitimacy of chiefly leadership. Chiefs and their councils continued to hold the cultural and political high ground throughout the crisis.

The ethnocentric government and constitution that resulted from Rabuka's coups are thus more accurately understood as a constrained expression of a potential for a more oppressive ethno-nationalism than as the unbridled triumph of that potential. In this respect, the GCC might be understood as an institutional 'shock absorber' in Fiji's body politic, its long-established ritualized assertion of indigenous Fijian identity and strength dampening the force of aggressive nationalism. Without the GCC, and without the influence the leading chiefs held over it, militant Taukeism would likely have had a more damaging sway.

The coup crisis from 1987 to 1990 dramatized the dual character of the GCC. The GCC embodies, in powerful but institutionally constrained form, the indigenous Fijian conviction of their entitlement to political paramountcy that since the 1960s has co-existed in tension with the constitutional political order bequeathed by the colonial rulers. While political and social order have been disturbed by volatile ethno-nationalist movements driven by that conviction, the GCC has, as an institution, served the national society by allowing the claim of indigenous paramountcy a form of expression that can constrain such movements and facilitate the restoration of order. This explains the paradox of public talk, since 1987, about the GCC's national importance while it continued to uphold ethno-nationalist political demands.

## **The GCC and liberal constitutional reform**

In May 1988, Ratu Sir Penaia Ganilau told the GCC, 'There's been a change of wind in Fiji. After the first coup the Queen stressed that my main role [as governor-general] was to speak to the GCC. This confirmed that the leadership, the source of life, the future of Fiji, is in your hands'.<sup>11</sup> Certainly, the GCC had, in the process of crisis management, attained new power in Fiji's political system

as an extra-constitutional authority to which key political actors turned for support. The GCC's capacity to act as a stabilizing force, while affirming Fijian political strength, was soon being recognized in public discourse. A discussion began about the positive role the GCC might assume, beyond safeguarding Fijian interests by its veto power in the Senate, and its responsibility to select the President and Vice-President of Fiji. The idea first came to the fore in the debate about constitutional reform in the mid 1990s.

Agreement that the GCC should have a strong place in the national polity was a theme that linked a wide range of proposals and mitigated the conflict of ideological extremes, from the Methodist Church and the *Soqosoqo ni Vakavulewa ni Taukei* (SVT) party, to the Labour/NFP coalition and numerous exclusively Indian bodies.<sup>12</sup>

It was in the constitutional reform process that Rabuka endeavoured to remake himself as a leader for multi-ethnic Fiji. He turned to the GCC for validation of his compromise with Indian leaders – just as he had depended on the GCC to ratify his coup against those same leaders, to secure his first regime, to constrain the chauvinism inflamed by that crisis, to endorse the 1990 constitution, and to authorize the political party (SVT) through which he ruled from 1992 to 1999.<sup>13</sup>

Foreign diplomatic pressures, the declining Indian population, and economic recession disposed Rabuka and his fellow political leaders to agree to constitutional change. But the most crucial factor enabling the reform was the containment of the ethno-nationalist sentiment they themselves had helped foment. Their ability to control this threat to their compromising depended ultimately on their influence in the GCC. There was, in effect, a strategic division of political labour. Rabuka's ruling SVT party had, in its submission to the Reeves Commission, highlighted ethnic conflict, reproved Indians for their alleged prejudices and insensitivities, and reaffirmed Fijian opposition to their political demands.<sup>14</sup> The submission strongly echoed the nationalist sentiments that Rabuka had championed after his coups. Yet later, the GCC was persuaded by Rabuka, Ratu Mara and his wife Adi Lala (herself a high chief), and NFP leader Jai Ram Reddy to perform a reconciling role – approving a legislative change that reduced its representation in the Senate and restored equitable representation of the major ethnic groups in the lower house, while retaining the GCC's authority to appoint the President and Vice-President.

Some Indian leaders were fulsome in praise of the chiefs' decision. Senator Irene Jai Narayan, a firebrand of the NFP in its early radical years, declared that 'all the citizens of this country look up to the *Bose Levu Vakaturaga* [GCC] for guidance and leadership'.<sup>15</sup> In the lower house, Harnam Singh Golian, another former NFP militant, expressed 'gratitude' to the GCC 'who have been a source of vision, inspiration, and a pillar of strength in the [constitution] review process, and to whom the whole nation looks...as a symbol of national unity and

togetherness'.<sup>16</sup> These accolades matched Rabuka's reverence for the GCC as 'not only the highest institution for the protection of Fijian interests, but also the ultimate guardian of the good and orderly government of Fiji, and the...welfare of all its citizens'.<sup>17</sup>

## **The coup crisis of 2000**

The optimism inspired by the reform was soon brutally shattered. Eight of the 14 Fijian provincial councils opposed the GCC's decision, and the disquiet was widened and intensified by a radical change of government in 1999. The first election under the new constitution was won by a coalition of parties, including several Fijian bodies, but led by the still mainly Indian Labour Party. Labour leader Mahendra Chaudhry was appointed prime minister by President Ratu Mara, whose daughter would be a member of the new cabinet. Soon after taking office, Chaudhry addressed the GCC, reaffirming the assurance given to the chiefs two years before by another Indian leader, Rabuka's political ally Jai Ram Reddy, 'that all communities...look to this great venerable institution for leadership and guidance in the good governance and well-being of our nation'.<sup>18</sup>

Fiji's first Indian prime minister wanted to impress on the GCC his respect for Fijian concerns and anxieties. It seemed a promising start for the new government. However, within a few months there grew a groundswell of Fijian anger over some of Chaudhry's plans, especially a proposal to reform the management of their lands – allegedly without proper consultation with the GCC. The hostility culminated in protest marches and a coup d'état led by a civilian, George Speight, with the support of a small section of the army (originally established by Rabuka as his personal force).

The GCC was divided in its response to the crisis. Its capacity as a cohesive force for political stability and compromise has always depended on its openness to persuasion by Fijian leaders, particularly the paramount chiefs. With their encouragement, GCC unity was maintained in the crisis precipitated by Rabuka's first coup and at subsequent critical moments throughout the 1990s: The making of the 1990 constitution, the constitutional reform in 1997, and the GCC's reception of Chaudhry in 1999. But now the chiefs were split between supporters and opponents of George Speight and his fellow coup-makers. Prolonged argument and rivalries have always been features of GCC meetings, but this impasse was unprecedented.

The GCC's failure to unite against the overthrow of a government elected under the constitution it had approved, was due partly to a long simmering resentment of several Bauan chiefs against the continued political pre-eminence of Tovata high chief Ratu Mara. Mara's ability to guide the GCC, as he had usually been able to do in the past, was weakened by ill health, by the fact that his daughter was among the hostages held during the Speight coup, and eventually by his

resignation as President under pressure from Bainimarama and his advisers. The crisis marked the demise of this frail last survivor of the 'Big Four' paramount chiefs who had led the Fijians to independence from British rule.

The GCC had appointed Rabuka as its chairman following the defeat of his government in the 1999 election. But this erstwhile champion of liberal constitutional reform was now unwilling to push for a firm stand against the coup at the chiefs' meetings. The explanation might partly be that, as the first commoner to hold the office, Rabuka perhaps wished to avoid a possibly humiliating clash at this most volatile moment with his deputy, Adi Litia Cakobau, a feisty Bauan chief who strongly supported the coup.

While, in the crisis of 2000, the GCC failed a crucial test of its now expected national role, the upheaval was the crucible for a strengthening of the army as an independent political force. Commander Bainimarama grappled with the crisis on two fronts: The prolonged hostage situation, and the challenge of controlling his army in the face of ethno-nationalist and *vanua* (tribal) sentiments that were inflamed by the coup and eventually erupted in a very violent attempted mutiny. Whereas Rabuka's task in 1987 had been simply to control the Fijian nationalists, whose objectives he and his united army supported, Bainimarama faced the far more difficult problems of combating the renewal of that nationalism and crushing Speight's coup.<sup>19</sup>

The GCC redeemed itself as a forum supporting democratic government when, after much debate, it accepted court rulings that the constitution remained in place, appointed a new President, and urged him to order fresh elections for the House of Representatives – a proposal that Chaudhry himself endorsed. In 2001, the Fijian-dominated, Laisenia Qarase-led interim government that Bainimarama had installed, was confirmed in power by election, but only through an alliance with a party led by coup supporters. As well as cultivating nationalist allies, Qarase sought to consolidate the support of the GCC, promising to 'elevate and strengthen' it, and even proposing that 'the sovereignty of this country' be shared between parliament and the GCC.<sup>20</sup> An independent source of income was established for the GCC, and construction commenced on grand buildings next door to Government House for its meetings and administration, to replace the old venues of chiefly villages, army barracks, and city convention centres.

The image of the GCC as a forum of national importance was enhanced by ritual presentations and submissions to it by two Indian organizations, the Girmit Council (representing major religious, cultural, and educational bodies) and the Fiji Sugar Cane Growers' Council, whose executive asked the chiefs to resolve land problems afflicting the tenant farmers.<sup>21</sup> However, the GCC later supported Prime Minister Qarase's plan for legislation aimed at 'reconciliation, tolerance, and unity' that would give amnesty to many coup supporters, several of whom he had appointed to his cabinet.<sup>22</sup> The GCC was aligning with a government



now strongly influenced by the nationalist leaders on whom Qarase partly relied for his first electoral victory, and whom he would need again for his win in 2006.

As Qarase endeavoured to boost the status of the GCC, confident of its continued support, a conflict grew with the army commander. The crisis of 2000, and the conduct of the government that Bainimarama had installed at its height, provoked a determination in the commander and some of his senior officers to strengthen the military as a corporate community of soldiers within the framework of an ideology that proclaimed their responsibility to work for the good government and stability of the nation, in opposition to Fijian extremists. Under this new creed the commander claimed for the army an on-going independent overseer authority in Fiji's political system.<sup>23</sup>

## The 2006 coup

Toward the end of 2006, Qarase sought help from the GCC, hoping that the chiefs could mediate a resolution of his worsening conflict with Bainimarama. He reaffirmed his belief in the GCC's national role, emphasizing the part it had played in the management of past crises. Both Qarase and Bainimarama were invited to an 'emergency' GCC meeting. Bainimarama declined to attend, declaring that he did not wish the chiefs to become involved in the conflict and condemning Qarase for seeking to use them to resolve his predicament. Qarase explained again to the chiefs the planned legislation that Bainimarama was opposing, and announced that he would seek a Supreme Court ruling on the commander's claim that Fiji's constitution gave the army an independent responsibility to safeguard the security and well-being of the nation.<sup>24</sup>

Bainimarama refused to meet with a GCC mediation committee which tried to visit him at the barracks, and, on 5 December, he ousted Qarase's government, scarcely seven months after its re-election. He persuaded the acquiescence of the ageing and ailing President Josefa Iloilo, ordered Vice-President Ratu Joni Madraiwiwi from his office, and proclaimed that, as army commander, he had assumed executive authority. As the takeover began, the GCC chairman appealed to Bainimarama over national radio, saying, 'Where you are taking Fiji now will only end in grief and hopelessness for all its peoples...You told the GCC you will protect this country. Now you have turned your back on God, the chiefs, our country and the church...'.<sup>25</sup> At its meeting two weeks later, the GCC continued to recognize President Iloilo and the Vice-President and the government of Qarase. The chiefs called on the army to return to barracks and recommended that the President should appoint a council to set up an interim government 'of national unity', on the grounds that the elected government, although still possessing legitimacy, was now ineffective. Bainimarama, who had declined to attend the meeting because the chiefs refused to invite him as the acting President (rather than as army commander) now directed that the GCC

must not meet again during the 'state of emergency' without army approval. He bluntly made clear that he no longer respected the Council, viewing it as an obstacle to his 'clean-up' work for the well being of the nation. There was briefly a suggestion in the GCC that chiefs should direct their traditional subjects to leave the army. Only one chief attempted, unsuccessfully, to do this, prompting a newspaper editor to remark that for many Fijians the armed forces were 'the new *vanua*' (Fijian community).<sup>26</sup>

Early in January 2007 Bainimarama declared he was returning executive authority to the President. After the President then appointed him acting prime minister, Bainimarama, retaining his command of the army, selected an interim cabinet of 16 (4 Indians, 10 Fijians, a Rotuman, and a part-European). The GCC chairman initially accepted these appointments. But, at its next meeting, the GCC refused to endorse the President's nominee for Vice-President on the grounds that, as a member of the interim government, this man was complicit in illegal actions.<sup>27</sup>

An angry Bainimarama rebuked the chiefs for their concern about the legality of the coup and the new regime, and for obstructing his 'clean-up' campaign. He directed his Minister for Fijian Affairs, himself a high-ranking chief and the previous army commander and previous GCC chairman, to 'suspend' the GCC and initiate a review of its composition and role in preparation for a reform. Bainimarama explained his action in an address on national radio. It was clear, he said, that the GCC 'does not recognise the interim government', and therefore it 'now constitutes a security threat in our efforts to move the country forward'.<sup>28</sup>

A 'task force' of several prominent chiefs was appointed to conduct the review.

In response to this unprecedented affront to the GCC, several of its leading members declared that they would take the matter to court, their resolve boosted by the European Union's threat to withhold aid funds if the GCC's autonomy was not respected.<sup>29</sup> Perhaps the most telling moment in the commander's assertion of his dominance over the chiefs was the military escort of a high-ranking chief from his home to the barracks for interrogation where he was cautioned about his statement at the GCC meeting against the interim regime.<sup>30</sup>

In the crisis of 1987 the military was the catalyst for the GCC's assumption of a national political role, and in the 1990s, the coup-maker, as prime minister, continued to rely on GCC support. Rabuka had perpetrated his coups with the aim of strengthening indigenous Fijian power, and there was no voiced disapproval of this objective within the GCC. The army and the GCC had been supported by the leading chiefs during most of the first coup crisis and, except for three months, following the second coup. The Fijian nationalist hostility provoked by the electoral defeat of Mara's government had united these three established forces of indigenous power: The army, the GCC, and the paramount chiefs.

Bainimarama's declared objective both in 2000 and 2006 was to combat Fijian nationalism, which he viewed as a threat not only to the security and well-being of Fiji as a nation, but particularly to the integrity of his army and to his command. In 2000, he faced a GCC disabled by division in response to Speight's coup. But in 2006–07 he confronted a GCC predominantly opposed to his overthrow of the government that 80 per cent of Fijian voters had only recently returned to power. This impasse has made it difficult for Bainimarama to achieve legitimacy for his takeover, at least in the eyes of most indigenous Fijians. It seems likely that he will have to continue to rely more than did Rabuka on the resources of the army, both physical and ideological, to maintain his control. However, he has been supported in his conflict with the GCC by two former army commanders, both high chiefs closely related to the Mara family, and both members of the interim regime (one his military mentor, the other the man he favours for Vice-President), and by a son of Mara who holds senior military rank. Certain Bauan chiefs, who had once swayed many in the GCC to endorse Speight's coup, have been conspicuous for their reluctance to voice opposition to the regime.

## Conclusion

Fiji's political development since late colonial times has been primarily a story of the assertion and containment of the indigenous Fijian claim to power. Efforts to develop strongly multi-ethnic parties have been unsuccessful, obstructed mainly by the force of indigenous nationalism which began, soon after independence, to weaken the ability of the leading high chiefs to expand Indian support for their Alliance Party, and which has sometimes had powerful influence in the GCC. The Labour Party in 1987 was mainly supported by Indians, and its coalition partner, the NFP, was almost entirely so. In 1999, the still largely Indian Labour Party depended on a fragile coalition of convenience with Fijian parties (two of them nationalist) that was fracturing before Speight's coup. The possibility of government committed to the welfare of the multi-ethnic society, to the limited extent that such government has been achieved, has depended on the preservation of Fijian control.

It does seem that ethnic Fijian power, in some institutional form, is the necessary keystone in Fiji's political architecture. The Fijian claim to power has been asserted through several different forms of leadership and institution: The GCC, with its privileged representation and veto power in the Senate; the paramount chiefs who, from 1966 to 1987, assured the Fijian people that through the Alliance Party they would retain political power; aggressive ethno-nationalist parties and movements demanding a 'Fiji for the Fijians'; and the army – the gold standard for ensuring Fijian power, with its own capacities to both assert and restrain ethno-nationalism. Political events have been marked by the fluctuating strengths and interplay of these forces. The ascendancy of the army in the

political arena is to be understood partly in terms of the institution's own strengthening since independence by UN peace-keeping work, but more importantly in relation to the eventual failure of chiefly leadership as an arm of Fijian power, and indeed the failure of other projects of Fijian political leadership, to build a multi-ethnic base for national government.

While the GCC has sometimes been swayed by militant ethno-nationalism, it has also helped to dampen or contain it by its institutional capacity to reconcile the ritual assertion of ethnic Fijian identity and strength, with debate and compromise facilitating inter-ethnic accommodation. The GCC has acted in this way with the encouragement of political leaders, especially the paramount chiefs. Similarly, although the army has been influenced by aggressive nationalism – and nationalist convictions have sometimes permeated its ranks – these forces have also been subdued by leadership, as under Bainimarama's command.

For all its current declarations of a commitment to ensure 'good governance' for Fiji, the most significant fact about the military is that it is the most powerful institutional embodiment of indigenous Fijian identity and strength. Yet the army both embodies Fijian power and possesses the resources of organization, skilled personnel, coercive authority, and professional ethos to support government for the multi-ethnic society. A continuing political role for the army might possibly be a viable way of reconciling the Fijian conviction of their entitlement to power with the interests of other sections of the society. Perhaps by the army assuming some form of guardian role in relation to government, ethnic Fijian power could be seen as being secured outside the electoral arena, thereby freeing political rivalry for stronger inter-ethnic cooperation than before. In any case, the army officers, having acquired experience and new status in dominating national political life, are likely to claim an on-going monitoring authority even after a restoration of democratic elections. A major concern, of course, is whether the military can be persuaded to curb its disposition to suppress some of its strongest critics by the use or threat of physical force.

In the interplay of political forces centring on the assertion and management of the indigenous claim to power, Fiji's military leaders have changed from their initial deference to the GCC, to an assertion of power over it. Bainimarama is not the first military strongman to try to control the GCC. Rabuka sought to manipulate the forum by barring certain chiefs and leading commoners opposed to him from attending its meetings, and it was under his rule that the membership was reverted in the early 1990s almost exclusively to chiefs after thirty years of broadening representation. Rabuka was sometimes accused by his political adversaries of using the GCC as a 'rubber stamp' for his policies.<sup>31</sup>

There has been much discussion over the last decade about the need to reform the GCC by again broadening its membership to include more well-educated members to better equip it to respond usefully to Fiji's contemporary problems

and to strengthen its capacity to resist ethnic extremism, and by making it accessible for consultations with various interest groups, leaders, and advisers, while protecting its autonomy from political parties and government.<sup>32</sup> Bainimarama and Ratu Epeli Ganilau, his Minister for Fijian Affairs, are proposing reforms that might achieve some of these objectives, but would end the GCC's status as a forum with claim to political autonomy. Their plan is to subordinate the chiefs to government: 'The GCC is an arm of government and it exists to support government'.<sup>33</sup> Ironically, Ganilau, as the previous chairman of the GCC, had opposed some major policies and decisions of the Qarase government, provoking Qarase to arrange his replacement before his term expired.

Bainimarama's contemptuous treatment of the GCC highlights dramatically the question of the Council's future significance as a political agent in a rapidly changing Fiji. The GCC attained its prominence in the political arena in the context of the deep bifurcation of colonial Fiji, the divide between a compartmentalized subsistence, village-based indigenous population, and a strengthening market-based economy driven mainly by European capital and Indian labour and enterprise. British rulers encouraged the GCC to facilitate both the segregated paternalistic government of the Fijians and the political bridging of the divide, especially to support the lease access of Indian farmers to Fijian clan lands, but also to establish a strong political identity for Fijians in the context of the conflicts and tensions of this divide, a powerful symbolic and political presence in the colonial society that paradoxically enhanced the GCC's capacity to play an accommodating role across the divide.

Two related trends might weaken the significance that the GCC had achieved in Fiji's political system: The increasing Fijian majority in Fiji's population, and intensifying Fijian political rivalries. Urbanization has reduced the rural village people from a large majority of the Fijian population at the time of independence in 1970, to barely half the Fijian population today. Ironically, this change accelerated as the GCC reverted to being a forum that largely excluded representatives of urban interests. While Fijians increasingly view the GCC as losing much of its relevance, a relic of the colonial era, the institution has retained importance as a bastion of indigenous strength in the context of ethnic political tensions. However, the political weight of the ethnic divide has been diminished by demographic change, with the Indian population falling from nearly 49 per cent in 1986 (Fijians 46 per cent) to the present 38 per cent (Fijians 53 per cent), and by the dominance of Fijians in most domains of government and in government-linked corporations. At the same time, there has been a strengthening of Fijian rivalries for political power or advantage. These rivalries are tending to outweigh the old ethnic conflict, and have at times threatened to overwhelm the GCC's capacity to achieve consensus on matters of crucial national importance, a capacity that had become central to the Council's significance in the past.

## Postscript

New regulations for the GCC were gazetted in February 2008, while several leading chiefs in the old GCC awaited the outcome of their legal challenge to its dissolution.<sup>34</sup> The changes strike at the autonomy of the GCC and will exclude many former members, including several high ranking chiefs. While Fiji's President, Vice-President and prime minister will no longer be ex-officio members, the Minister for Indigenous Affairs remains with the status of chairman and with much greater power than before. The rules aim to realize the army commander's view that the GCC should primarily be an instrument of government, insulated from electoral and parliamentary politics, especially the influence of Fijian nationalist groups. The attempted political taming of the GCC echoes Bainimarama's earlier preoccupation with ridding his army of this influence. Whoever wins government will have considerable power over the make-up and conduct of the GCC.

Forty-two of the 52 members are to be representatives of the chiefs of the 14 provinces (three from each). Each chief 'shall have demonstrated exemplary leadership in *Vanua* and in the community at large, and shall be appointed by the minister', who presumably will make the final judgement on the achievement of these qualities. The minister will also appoint an additional six chiefs as 'co-opted members', and three representatives of the chiefs of Rotuma. All appointments are to be for three years with the possibility of renewal.

Most controversial is the requirement that all members must be formally installed chiefs. It is estimated that at least 60 per cent of chiefly titles are vacant, in many cases because of disputes over rightful succession. In the past this has not restricted the provincial councils when selecting their representatives to the GCC; indeed, in certain provinces, formal installation has not been the customary practice. The new regulations do not specify the method by which chiefs representing a province are to be selected, only that they will be appointed by the minister. However, provincial councils are being told that leading chiefs of each province must meet to nominate chiefs for appointment: The Bose ni Vanua (Council of Chiefs) of a province is to be the 'nominating authority under the minister's mandate'.<sup>35</sup> Formerly, the provincial councils elected their representatives and these were not required to be chiefs.<sup>36</sup> The minister previously decided only the appointments of the additional six Fijian members (who had to be chiefs). In future, apparently, the minister is to have the final say in the selection of the provincial members.

There are further new restrictions on membership. Chiefs will be ineligible if, during the previous seven years, they have been members of the House of Representatives or election candidates for such seats, or have been non-GCC nominated members of the Senate. Also excluded are those who have been political party office-holders in this period, those who hold 'public office', and

any who have served prison terms of more than six months during the previous 10 years. The new regulations ignore a long-standing central issue in debates about reforming the GCC: The desirability of having among the members more individuals with advanced formal education and specialist expertise. A concern to enhance the independent capacity of the GCC to make well-informed decisions is apparently not high on the interim regime's reform agenda.

Under the old regulations, the Minister for Fijian Affairs could neither fully control the agenda of the GCC nor exercise punitive sanctions against members. In the 'new look' GCC the members are to be restricted to discussion and recommendations on issues, policies, and draft laws relating to Fijian and Rotuman people 'which the minister may refer to the GCC'. The minister will also have authority 'to suspend, dismiss, or take disciplinary action against a member...for bringing the GCC into disrepute or for any other good cause'.

The GCC Task Force team has visited provincial councils to explain the changes and to persuade them to convene meetings of their chiefs for the purpose of proposing members for a new GCC. The team leader has stressed the urgency of convening the GCC in order to fill the vacant office of Fiji's Vice-President in preparation for the death or retirement of the President. Failure to do this, he warned, would lead to a 'constitutional crisis'.<sup>37</sup> In an attempt to win them over, the provincial councils are being told that for the first meeting of a new GCC their chiefs are allowed to directly 'appoint' their representatives, who will be able to propose amendments to the new regulations ('they are not set in stone').<sup>38</sup>

The responses from the provincial councils have highlighted a continued Fijian opposition to the regime, at least from most provincial leaders. At the time of writing, only four councils (Macuata, Bua, Serua, and Lau) had supported the reforms.<sup>39</sup> Eight councils have rejected the changes on the grounds that the regime is illegal and had acted disrespectfully toward the chiefs - in the words of one chief, the reform of the GCC has been 'forced on people through the power of the gun'.<sup>40</sup> In some of the provincial councils most strongly opposed to the reform, the chairmen are either now disqualified from GCC membership or are appellants in the current legal action against the regime for dissolving the old GCC. Two councils refuse to make their decision until the court has made its ruling. Among the councils opposing the new regulations are Rewa, Tailevu, and Cakaudrove, the provinces of Fiji's pre-eminent high chiefs.

Bainimarama has warned that if necessary he, as the new Minister for Indigenous Affairs, will appoint provincial representatives for the GCC regardless of the widespread opposition; he claims that a number of chiefs have volunteered their personal support.<sup>41</sup> But he suggests that if a new GCC meeting fails to achieve a quorum (35 of the 52 members), a referendum among the citizens might be held to choose a President and Vice-President.

## ENDNOTES

- <sup>1</sup> Nayacakalou, R. 1975. *Leadership in Fiji*, Melbourne: Oxford University Press; Macnaught, T. 1982. *The Fijian Colonial Experience: A study of the neo-traditional order under British colonial rule prior to World War II*, Pacific Research Monograph #7, Australian National University, Canberra; Norton, R. 1999. 'Chiefs for the Nation: Containing Ethno-nationalism and Bridging the Ethnic Divide', *Pacific Studies* 22(1):21-50; Newbury, C. 2006. 'Bose Vakaturaga: Fiji's Great Council of Chiefs', *Pacific Studies* 29(1&2): pp.82-127.
- <sup>2</sup> 'Chiefly council' is the literal translation of the Fijian title of the GCC: Bose Levu Vakaturaga (Fiji Legislative Council Debates, May 1966: 92). Sir Arthur Gordon's account of the earliest councils is in Gordon, A. 1883. 'Native Councils in Fiji', *Contemporary Review* 43:711-731.
- <sup>3</sup> Lasaqa, I. 1984. *The Fijian People: Before and After Independence*, Canberra: Australian National University Press, pp.161-164.
- <sup>4</sup> Ibid p.162
- <sup>5</sup> *The Fiji Times* 16 February 1988.
- <sup>6</sup> Dean, E. and Ritova, S. 1988. *Rabuka: No Other Way*, Doubleday, Sydney.
- <sup>7</sup> Norton 'Chiefs for the Nation', pp. 33-35; Scarr, D. 1980 *Ratu Sukuna: Soldier, Statesman, Man of Two Worlds* London: Macmillan Education Limited.
- <sup>8</sup> Norton 'Chiefs for the Nation', p. 34.
- <sup>9</sup> This section is based on Norton, R. 1990, *Race and Politics in Fiji* 2nd revised edition, St Lucia: University of Queensland Press, Chapter 7. For detailed accounts of the 1987 coups and their aftermath, see Lawson, S. 1991, *The Failure of Democratic Politics in Fiji* Oxford: Oxford University Press; Howard, M. 1991. *Fiji: Race and Politics in an Island State*, Vancouver: University of British Columbia Press, and Lal, B. 1992, *Broken Waves: A History of Fiji in the 20th Century*, Honolulu: University of Hawaii Press.
- <sup>10</sup> Lal, *Broken Waves*, p. 289.
- <sup>11</sup> *Nai Lalakai* (Fijian newspaper), 5 May 1988.
- <sup>12</sup> Norton, R. 2000 'Reconciling Ethnicity and Nation: Contending Discourses in Fiji's Constitutional Reform', *The Contemporary Pacific* 12(1)83-122, p. 110.
- <sup>13</sup> Lal, B. 1998, *Another Way: The Politics of Constitutional Reform in Post-Coup Fiji*, Canberra: Asia-Pacific Press; Norton, 2000, *Reconciling Ethnicity and the Nation*.
- <sup>14</sup> Norton, R. 'Reconciling Ethnicity and the Nation', pp. 97-99.
- <sup>15</sup> Irene Jai Narayan, Fiji Parliament, Senate, Daily Hansard, 20 August 1997 p.869.
- <sup>16</sup> Harnam Singh, Fiji Parliament, House of Representatives, Daily Hansard, 24 June 1997 p.318.
- <sup>17</sup> Sitiveni Rabuka, Fiji Parliament, House of Representatives, Daily Hansard, 23 June 1997 p.311.
- <sup>18</sup> *The Fiji Times*, 14 June 1999.
- <sup>19</sup> Bainimarama, overseas when the coup occurred, returned to an army in danger of splitting. He maintained his control with the backing of his land force commander, Viliame Seruvakula, who had refused attempts by coup supporters to win him over. In his subsequent efforts to rid the army of nationalist leanings, Bainimarama continued a project begun many years earlier by his predecessor and mentor, Ratu Epeli Ganilau, whom he had succeeded scarcely a year before to the consternation of rival officers. For detailed accounts of the 2000 coup and its aftermath, see Robertson, R. and Sutherland, W. 2001, *Government By the Gun: The Unfinished Business of Fiji's 2000 Coup*, Sydney: Pluto Press; Fraenkel, J. 2000 'The Clash of Dynasties and the Rise of Demagogues : Fiji's Tauri Vakaukauwa of May 2000', *Journal of Pacific History* 35(3): 295-308.
- <sup>20</sup> Fiji Parliament, House of Representatives, November 2001, Appropriation debate. Quoted on Fiji Government website *Fiji Government Online*, 28 November 2001.
- <sup>21</sup> *The Fiji Times* 15, 17, 18, 23 November 2003. The presentations were made at a time when the GCC chairman, Ratu Epeli Ganilau (a critic of the Qarase government), was encouraging dialogue with Indian leaders.
- <sup>22</sup> *The Fiji Times*, 29 July 2005. On the Promotion of Reconciliation, Tolerance and Unity Bill proposal, see Bhim, M. 2007, 'The impact of the Promotion of Reconciliation, Tolerance and Unity Bill on the 2006 election', in J. Fraenkel and S.Firth (eds) *From Election to Coup in Fiji: The 2006 campaign and its aftermath*, Canberra: Asia Pacific Press, and Suva: Institute of Pacific Studies, pp. 111-143.
- <sup>23</sup> The new ethos that Bainimarama and his most senior officers have been endeavouring to build in the RFMF is reflected in documents on the army's web pages; see especially Mataivalu News and 'Commander's Intent 2008'.



- <sup>24</sup> Bainimarama invokes a clause in Fiji's current constitution which, he insists, implicitly preserves the following provision in the previous constitution promulgated in 1990, 'It shall be the overall responsibility of the Republic of Fiji Military Forces to ensure at all times the security, defence and well-being of Fiji and its peoples' (Constitution of Fiji, 1990, Clause 94 (3). P.86). For detailed accounts of the coup and its aftermath see Chs 1-3, this volume.
- <sup>25</sup> The Tui Tavua, Ratu Ovini Bokini, *The Fiji Times*, 5 December 2006.
- <sup>26</sup> *Fiji Sun*, 16 December 2006.
- <sup>27</sup> Chiefs of two of the three traditional political confederacies (Kubuna and Burebasaga) rejected the nomination, while the third (Tovata) supported it. Under the 1997 constitution, the President's nominee is appointed Vice-President if approved by the GCC, but there is no specification of the procedure to be followed in the event of the GCC rejecting the President's nomination. It should be noted that Bainimarama is himself of chiefly status (in Tailevu Province), and that in his treatment of the GCC he has been supported by two very high ranking chiefs in his regime (both former army commanders and one a former GCC chairman).
- <sup>28</sup> *Fiji Government Online*, 13 April 2007: 'There are strong indications' Bainimarama said, 'that the Council has now become a forum for furthering certain political agendas which can be detrimental to the interim government's efforts to move the country forward'.
- <sup>29</sup> *The Fiji Times*, 26 April 2007.
- <sup>30</sup> Ratu Timoci Vesikula of Verata, a prominent minister in Rabuka's government, *The Fiji Times*, 14 April 2007.
- <sup>31</sup> Rabuka's 'manipulation' of the GCC mainly took the form of informally exercised pressure. The Fijian Association Party (FAP) leader, Josefa Kamikamica, complained in 1995 that Rabuka and his fellow leaders in the GCC-endorsed SVT Party were excluding from GCC meetings, chiefs who supported the FAP (*The Fiji Times*, 31 July 1995). Rabuka's political opponents accused him of trying to 'stack' the GCC with his supporters, and of using the GCC as a 'rubber stamp' for his policies and decisions, including his work for constitutional reform. Rabuka, some critics alleged, was 'belittling the integrity of the chiefly forum' (FAP leader V. Saulekaleka, *The Fiji Times*, 8 May 1997). See also the debate of a FAP proposal to broaden GCC membership, House of Representatives, Daily Hansard, 8-9 December 1994, pp.2558-2583).
- <sup>32</sup> See especially Reeves, Sir P., Vakatora, T., Lal, B. 1996 *The Fiji Islands: Towards a United Future*. Report of the Fiji Constitution Review Commission, Parliament of Fiji, Parliamentary Paper No.34 of 1996, 256-262; and Ministry of Fijian Affairs, 2002 'Review of the Fijian Administration' (in 2 vols) Parliamentary Papers 70 and 71 of 2002. Vol1: 20-21, 34-39.
- <sup>33</sup> *The Fiji Times*, 8 August 2007.
- <sup>34</sup> Republic of Fiji Islands Government Gazette (Extraordinary) Vol 8 No.12, 13 February 2008 - Fijian Affairs Act, Fijian Affairs (Great Council of Chiefs) Regulations 2008.
- <sup>35</sup> *The Fiji Times*, 28 April 2008.
- <sup>36</sup> Fiji Republic Gazette Supplement No.18, 7 May 1993, Legal Notice No. 29, Fijian Affairs (Great Council of Chiefs) Regulations 1993.
- <sup>37</sup> *The Fiji Times*, 29 April 2008.
- <sup>38</sup> *The Fiji Times*, 2 May 2008.
- <sup>39</sup> *The Fiji Times*, 21 May and 28 June 2008; *Fiji Daily Post*, 26 May 2008; *Fiji Sun*, 29 June 2008.
- <sup>40</sup> Ro Filipe Tuisawau of Rewa Province, *The Fiji Times*, 19 April 2008.
- <sup>41</sup> *The Fiji Times*, 13 May 2008.



## 6. The Fiji military and ethno-nationalism: Analyzing the paradox

**Stewart Firth and Jon Fraenkel**

Despite three years of regular public criticism and threats by the commander of the Republic of Fiji Military Forces (RFMF), Commodore Voreqe ('Frank') Bainimarama, most people in Fiji during the period 2002–06 thought he would not overthrow the government of Laisenia Qarase. The rank and file in the RFMF were solidly ethnic Fijian and had backed Qarase's SDL party in large numbers. Bainimarama had put Qarase into office, and the RFMF had initially backed the latter's 'blueprint' for lifting Fijian living standards. It seemed odd that Bainimarama could so change his political tune. The commander himself repeatedly said that there would be no coup, and that he was and would remain a loyal servant of the 1997 constitution. When the RFMF seized power, on 5 December 2006, it left many licking their intellectual wounds, and wondering how and why what was the hitherto seemingly impossible had come to pass. Yet few subsequently sought, with the benefit of hindsight, to revisit that earlier experience, and to ask why the expectations of so many – that the constitutional order would survive – were so shattered. This chapter seeks to fill that gap.

How was the 99 per cent ethnic Fijian RFMF transformed from the key instrument of ethno-nationalist Fijian rule in 1987 into its nemesis in 2006? How was a relatively junior officer, swiftly elevated through the ranks and becoming commander of the RFMF only in March 1999, able to avoid a mutiny, consolidate officer support and establish a loyal base amongst the rank and file? Why was the reaction from the rank and file, who voted for the governing Soqosoqo Duavata ni Lewenivanua (SDL) in large numbers in 2006, so muted? The answers lie in the hidden legacy of the top-level power struggles of the 1990s; in the fraught experience during and after the 2000 coup; and, above all, in the distinct ways through which the Qarase administration and the military sought to consolidate their influence by placating discontent or eliminating rivals.

In theory, the Qarase government was the employer of Commodore Bainimarama, and paymaster of the RFMF. In theory, it could sack the commander and replace him with someone willing to accept the orders of the democratically elected government. In reality, the RFMF had, by late 2006, long since become a law unto itself and ceased to recognize government authority. The commander was convinced he knew better than the Prime Minister what was best for the people of Fiji. As Bainimarama said at the end of 2005 – after a furious row with the

Minister and CEO of the Ministry of Home Affairs – ‘The Military now is on its own and is not answerable to anyone’.<sup>1</sup> Under these circumstances, Qarase, the newly re-elected prime minister, had little alternative but to deal cautiously with the RFMF in the hope that the military commander would come to accept the verdict of the election.

In October 2006 Qarase made a ham-fisted attempt to replace Bainimarama with a more congenial commander, the only effect of which was to hasten the demise of the elected government. The coup so often threatened by Bainimarama eventually happened, and the RFMF resumed the control of the country that it had yielded to Qarase’s government in 2000. The infrastructure of military takeover quickly appeared on the streets as armed soldiers manned checkpoints with red and white painted metal barriers. Familiar official advice followed, telling people to continue with their normal lives. Bainimarama said ‘the Government and all those empowered to make decisions in constitutional democracy are unable to make decisions to save people from destruction’.<sup>2</sup> With the choice being between destruction at the hands of the elected government or salvation by the RFMF, he had had no choice but to take over.

The military tradition in Fiji is strong. Fiji’s military was known as the Fiji Defence Force when war broke out in 1939 and was renamed the Fiji Military Forces in 1942, when Fijian soldiers entered active service fighting the Japanese invaders in the Solomon Islands. Peak strength in 1943 was over 8,500, of whom 6,371 were indigenous Fijians. The wartime performance of the Fijians inspired lavish praise from the British and Americans, of the kind expressed by the historian of the World War II Fiji Military Forces, R.A. Howlett. ‘The flower of the country’s manhood was assembled and trained and then sent into conflict against a cunning and vigorous foe’, he wrote. ‘They took their place and were not found wanting. They fought valiantly and met success with equanimity, adversity with fortitude, and death with honour. They lived up to the proud traditions of a warrior race and by their deeds left a heritage for the generations yet to come’.<sup>3</sup> That judgement reflected the Fijian soldiers’ view of themselves as the modern representatives of a warrior race, and the esteem in which they were held by the Fijian people. More soldiering followed in the 1950s, when a Fiji battalion with the motto ‘Hunt and Kill’ served for four years with the British against communist insurgents in the Malayan emergency. Yet Fiji’s regular military force when the British left in 1970 was but 200 strong and played little more than a symbolic role in national affairs. Its best days seemed far behind; if it had remained in that role, the course of events in Fiji would have been quite different.

Why, then, did the military forces become dominant in independent Fiji? Nation-building by the country’s first independent government played a minor part. The force grew modestly in the early 1970s. Fiji’s first prime minister, Ratu

Mara, enhanced the size of the force somewhat by giving it a nation-building role and by establishing a trade training school, a rural development unit and the RFMF naval squadron. Peacekeeping for the United Nations did most to stimulate the growth of the force. Tens of thousands of Fijians have served in foreign theatres in almost thirty years of peacekeeping. Solid links were forged with counterparts in the British, Australian and New Zealand defence forces. The overall effect has been to boost the morale of officers and troops – especially when they are on operational duty – and to professionalize the RFMF as a military institution. Typically, Fiji's leading military officers have been better educated and more articulate than many of Fiji's civilian politicians.

### **The expansion of Fiji's military**

The force grew from 800 to 1,300 in 1978 in order to provide a light battalion of 500 to the UN. When 2FIR, the 2nd Fiji Infantry battalion, went to the Sinai in 1982 the force grew to 1,800. By 1986, following further UN requests, the force had grown to 2,200. The RFMF's involvement in the United Nations Interim Force in Lebanon (UNIFIL) was initially intended to last no longer than a year or so but continued uninterrupted until the end of 2002. Over the 22 years of the UNIFIL deployment, south Lebanon was temporarily home to thousands of Fijian soldiers, some of whom witnessed the Qana incident of April 1996, when an Israeli artillery barrage killed about 100 Lebanese civilians.<sup>4</sup> The commitment to the Multinational Forces and Observers (MFO) in the Sinai continues a quarter of a century later. The Fiji battalion there has a headquarters company and three infantry companies, with a total strength of 329, and maintains a number of remote sites in the region, six checkpoints and five observation posts. Over the 30 years since 1978, around 25,000 Fiji soldiers have served on overseas peacekeeping missions, bringing home an estimated US\$300 million. In recent years the Iraq War has brought more income to Fiji from the 1,000 or so Fijians who have served as escorts, guards and drivers for companies in the business of privatised security in war zones such as Global Strategies, Triple Canopy, ArmorGroup International, DynCorp International, Control Solutions and Sandline International. According to Lieutenant Colonel Mosese Tikoitoga, a former UN peacekeeper, 'our economy has no choice but to build armies, and it's a good business. There are few other foreign investments. If we didn't do this, our people would be in the street creating havoc'.<sup>5</sup>

The uniqueness of Fiji's peacekeeping contributions lies in the fact that Fiji is a microstate with one of the world's smallest military forces. Fiji's sister forces in the Sinai, for example, are Australia, Colombia, France, Hungary, Italy, New Zealand, Norway, Uruguay and the USA, all countries that vastly exceed Fiji in population and resources. Peacekeeping has taken Fijian soldiers in small numbers to Croatia, Cambodia, Afghanistan, Pakistan and Kuwait, and Fiji has 220 troops in Iraq, where they serve as guards for UN personnel and facilities in Baghdad

and Erbil under the UN Assistance Mission for Iraq (UNAMI).<sup>6</sup> Fijians have served in larger numbers in regional peacekeeping missions in East Timor, Bougainville and Solomon Islands. Fijians were in Bougainville as part of a regional peacekeeping force following the end of hostilities there in 1997, and have served in East Timor under a succession of UN missions since 2000. They participated in the Regional Assistance Mission to the Solomon Islands (RAMSI) from 2003, though Australia cut funding for the Fijian operation following the 2006 coup in Fiji.<sup>7</sup>

**Table 1: Republic of Fiji Military Forces, 2004-5**

<b>Regular Force (2005)</b>	<b>Approved</b>	<b>Current</b>
Headquarters RFMF	150	126
HQ Land Force Command	386	347
RFMF Navy	336	330
RFMF Engineers Regiment	500	500
3FIR	958	942
Force Training Group	201	191
Logistics Support Unit	390	396
2FIR (MFO in the Sinai)	336	336
<b>TOTAL</b>	<b>3257</b>	<b>3137</b>
<b>Territorial/Reserve Force (2004)</b>	<b>Approved</b>	<b>Current</b>
4th Battalion (Nadi)	500	97
5th Battalion (Lautoka)	500	148
6th Battalion (Nausori)	500	131
7th Battalion (Northern Division)	500	134
8th Battalion (Suva)	500	158
Navy	100	99
<b>TOTAL</b>	<b>2600</b>	<b>767</b>

Source; Ministry of Home Affairs & Immigration, 'National Security White Paper: A Safe and Prosperous Fiji', 2006.

The 1987 coup wrought a permanent change in the role of the RFMF in Fiji's political life. The size of the force almost trebled, to 6,000 – including the reservists who were later deactivated – and the proportion of the government budget devoted to the military forces vastly increased. The force fell to 3,571 by 1996 and the RFMF has maintained slightly below this level of strength since then (see Table 1). But the 1987 coup taught that the RFMF could easily assume control of the country if the military leadership wanted to. With a carefully preserved monopoly on the use of armed force, it was easily large enough to overwhelm the government or suppress any emergent insurrectionist group.

The subsequent career of Sitiveni Rabuka, the originator of Fiji's coup culture, tends to obscure the significance of the first post-coup years, 1987–1990. Under Rabuka, the army intervened not once but twice, transforming what might have been a temporary lapse in constitutionality following the first coup into a permanent change of political direction. Fiji became a republic and was expelled from the Commonwealth; the prefix 'Royal' was removed from 'Fiji Military

Forces'; military men occupied key positions in government; the military strictly policed Methodist Sunday observance; a security decree gave the military extraordinary powers over those suspected of disloyalty; soldiers arrested and detained journalists. The military forces absorbed an ever-increasing proportion of the national budget – rising from \$8 million to \$38 million in three years – while educated, highly skilled citizens, mostly of Indian origin, left Fiji in their thousands, depriving it of the human capital that had once made its government and economy exceptional for the South Pacific. People had been leaving Fiji in moderate numbers since independence but the flood that started with Rabuka's coup – 66,000 by 1994 – has never stopped, each coup convincing more to leave.

### **The shifting constitutional position**

A 1989 submission by senior military officers to the Manueli Committee, which was charged with preparing a draft constitution, reveals a shift in military thinking that did not go away. The officers talked of Fiji needing a 'very strong and firm government even if we have to temporarily sacrifice Constitutional Government until all remedial, corrective and upgrading actions are finalized in favour of the indigenous people of this country'.<sup>8</sup> Such a strong government, in their opinion, should remain in power for 15 years. The officers did not get their way. Fiji adopted a new constitution in 1990 and held an election in 1992. But the seeds of future military interventions into politics had been sown, and the military had displayed its impatience with the compromises of democratic government.

Rabuka left the military forces, and was selected by Fiji's Great Council of Chiefs (GCC) as leader of the Soqosoqo ni Vakavulewa ni Taukei (SVT) party in preference to Ratu Sir Kamisese Mara's wife, the high chief of Burebasaga, Ro Lady Lala Mara.<sup>9</sup> At the helm of this new mainstream indigenous party he won two elections, remaining prime minister until 1999, while Ratu Mara was selected by the chiefs as President of the republic. Schisms emerged within the SVT, leading eventually to the formation of the Fijian Association Party, with Ratu Mara's clandestine blessing. Power struggles in the mid-1990s were dramatized as a feud between Ratu Mara, figuring as the archetypal Polynesian chief, and the 'commoner' Rabuka, as the self-made Melanesian big man.<sup>10</sup> In office, Rabuka's thinking about the primacy of indigenous rights moderated, and his government commissioned a review of the constitution. The review was 'a fundamental, wide ranging exercise', covering the composition and functioning of parliament, the electoral system, 'the relationship between the executive and legislative branches, institutions of government and the mechanism for improving accountability and transparency, the administration of justice, citizenship, ethnic and social justice issues, rights of communities and groups, the operation of local government bodies, public revenue and expenditure, emergency powers and a

Bill of Rights'.<sup>11</sup> The 1997 constitution adopted by parliament was equally comprehensive.

However detailed and wide-ranging the provisions of the 1997 constitution might have been, no constitutional issue mattered more than control of the military forces, though this was less obvious at the time than it is now. As Fiji's 1997 Defence White Paper put it,

[the] starting point in any free democracy is that the military is one of the functions of the central national government and must be the servant of its policies and priorities. The ethics of the profession of arms must always include, as it does in all established democracies, total loyalty to the government in power and must reject as unacceptable any active political endeavours by servicemen either collectively or individually to act otherwise than as directed by the government.<sup>12</sup>

The constitution-makers thought the same way. They wanted to return Fiji permanently to Westminster-style parliamentary supremacy, and to subordinate the military forces to the democratically elected government as had been the case before 1987 – and they assumed this would happen. And so they included the usual Westminster safeguards: The President is the commander-in-chief of the military forces (Section 87), he appoints the military commander 'subject to the control of the minister', and parliament may make laws relating to the military (Section 112).

## **Bainimarama and the link with the Mara dynasty**

In 1999, in accordance with these requirements, the Fiji government under Rabuka appointed army chief-of-staff and former navy commander Captain Bainimarama as the new military commander.<sup>13</sup> His name was suggested by Brigadier General Ratu Epeli Ganilau, who was resigning as commander in order to contest – unsuccessfully as it turned out – as a candidate of the newly formed Veitokani ni Lewenivanua Vakarisito (VLV – Christian Democratic Party). The VLV was a chrysalis for Fijians aggrieved at Rabuka having usurped the leadership of the chief's party and having compromised with the Indians. It gained the backing of the Methodist Church, called for a ban on Sunday trading and opposed the 1997 constitution's concessions to multiracialism. The VLV's core support was in the Tovata confederacy, including Lau, where President Ratu Mara's daughter, Adi Koila Mara, won a seat, and Macuata, where his illegitimate son, Poseci Bune, took the Fijian communal seat. It was the VLV's 19.4 per cent of the Fijian vote, and its strength in the marginal urban constituencies, that sank Rabuka's SVT.<sup>14</sup> Ratu Epeli Ganilau, although unsuccessful in his election bid in Rabuka's home constituency of West Cakaudrove, was a contender for his father's Tui Cakau title, the highest in Cakaudrove (on Vanua Levu). His wife was another of Ratu Mara's daughters.



Many suspected that Ratu Mara's dynastic ambitions included both gaining control over the top Fijian chiefly titles and maintaining a firm grip over the senior command of the Fiji military forces.<sup>15</sup>

As President, Ratu Mara was the commander-in-chief of the RFMF. He sympathized with the Labour-led People's Coalition government that won the election in 1999 – probably more due to contempt for Rabuka than enthusiasm for Labour policies. But the marriage between the Mara dynasty and the People's Coalition government was not sufficiently strong at that point for Ratu Epeli to accept an appointment through the Senate as minister of home affairs.<sup>16</sup> Instead, the post went to the less-than-convincing Jioji Uluinakauvadra. Out of the limelight, the RFMF remained quiet. But it was well known in Fijian circles that Bainimarama, like Ratu Epeli, was a 'Mara man'. Ratu Epeli was later to describe Bainimarama's performance as head of the military as 'excellent'.<sup>17</sup> Bainimarama reciprocated after the 2006 coup by appointing members of the Mara dynasty to key positions – including Ratu Epeli Ganilau, first as minister for Fijian affairs and later as minister for defence, national security and immigration in the interim government; and Ratu Epeli Nailatikau (Adi Koila Mara's husband) as minister of foreign affairs.

The political turmoil of 2000 focused attention more on splits in the military than on control of the military. About 30 rebel soldiers from the 80-strong Counter Revolutionary Warfare Unit (CRW) directly supported George Speight's 'civilian coup', but they were soon eclipsed by an army intervention, which was widely welcomed for restoring stability and returning the country to civilian government. When the military took control on 29 May, Bainimarama said it did so 'with much reluctance'.<sup>18</sup> And when he announced the new cabinet to the press early in July, people saw a military stepping back in favour of a civilian interim government, rather than a military commander acting as kingmaker.<sup>19</sup> Following the army mutiny in November 2000, when rebel soldiers conspired to kill Bainimarama, it was he who announced that 'there would be no more coup d'états in Fiji'.<sup>20</sup> The *Fiji Daily Post* went as far as naming Bainimarama 'Man of the Year' at the end of 2000, on the grounds that he had stood fast against those who broke the law.

Yet many people overlooked the extent to which Bainimarama had directed events – from abrogating the constitution and ensuring that Ratu Mara stood aside as President, to determining the way in which a new government would be appointed and who would head it. In effect – though few said so at the time – Bainimarama had conducted his own coup in 2000. While Bainimarama took key decisions behind the scenes, the military presented an acceptable face to the world through its articulate and presentable spokesmen, Lieutenant Colonel Filipo Tarakinikini and Major Howard Politini; both appeared regularly on TV news bulletins to explain developments. Tarakinikini, in particular, was the

hero of many of those who opposed Speight after the May 2000 coup, until he fell out with the commander and left the country. News reports indicated that the RFMF favoured a modernist political trajectory, offering solutions, for example, to the vexatious land leasing controversy, and wanting an orientation that might elevate ethnic Fijians from their disadvantaged economic state.<sup>21</sup> This led the RFMF to warmly endorse Qarase's 'Blueprint for the Protection of Fijian and Rotuman Rights and Interests and the Advancement of their Development' presented to the GCC on 13 June 2000.<sup>22</sup>

The November 2000 army mutiny, when disgruntled CRW soldiers made a second attempt to take over Fiji, appears to have profoundly affected the senior command in the RFMF. By then, George Speight was in detention on Nukulau Island but the instigators of the mutiny were determined to finish what he had started by killing the commander, deposing the interim government he had installed, and replacing it with a strongly pro-Fijian regime that would restore the political influence of Bau and the Kubuna confederacy in the affairs of the nation.<sup>23</sup> The mutiny failed. Eight soldiers were killed and 28 were wounded, with the government declaring a curfew that lasted 36 hours. In the years that followed, Bainimarama would not forget the attempt on his life and would vow to ensure that those responsible were brought to justice and not given lenient treatment.<sup>24</sup> The ideology that inspired the mutineers of 2000 – with its appeal not only to the special rights of indigenous Fijians but also to the cause of one group of Fijian chiefs over another – came to be anathema to him. Meantime, however, he talked sympathetically of improving the lot of indigenous Fijians and saw the restoration of the Chaudhry government as a threat to national security. In an affidavit to the High Court in 2001, the military commander said the RFMF believed that 'in order to uphold the rule of law, maintain the credibility of the RFMF and ensure national security the nation cannot be allowed to revert to the pre-19 May 2000 status and must be projected forward as directed by the President'.<sup>25</sup> When the courts upheld the constitution, against the wishes of the commander, the RFMF hoped that the President would not opt for fresh elections, but restore the 1999–2000 parliament – although with an ethnic Fijian, Dr Tupeni Baba, replacing Labour leader Mahendra Chaudhry as prime minister.<sup>26</sup> It was the decision in favour of an election that, above all, opened the schism between Bainimarama and the man he intended only to serve as a technocrat and facilitator, Laisenia Qarase. As Bainimarama envisaged the post-coup future of Fiji, Qarase would prepare the way for a restoration of parliamentary democracy and then depart the stage.

## **Divergent trajectories**

The pressures arising from the 2000 coup, and even more importantly, the March 2001 court ruling, led Bainimarama and Qarase in different and increasingly opposed directions. Qarase's 'Blueprint' and most of his interim government's

policies were aimed at placating indigenous discontent, and avoiding a recurrence of the Speight uprising by appeasement. By winning the 2001 election, Qarase gained political legitimacy in his own right, and lost the need to be beholden to his patron. Qarase's new SDL party won more seats than the Fiji Labour Party (FLP) – 31 to 27 – but, in order to gain a parliamentary majority, Qarase turned to the six elected members of the ultra-nationalist Conservative Alliance–Matanitu Vanua (CAMV) party (one of them George Speight, who had been elected from prison), some of Bainimarama's bitterest enemies. The CAMV drew its support from Vanua Levu and northern Tailevu, precisely the areas where the RFMF had firmly clamped down in the wake of the May 2000 coup. Having gone to the election promising to deliver amnesty for George Speight and for the army officers who had conspired against their commander in the mutiny of November 2000, the CAMV now sat in government, a permanent affront to Bainimarama, the man who had been acclaimed for saving Fiji from just such people the previous year. Worse than that, the vice-president of the SDL was Naitasiri paramount chief, the Qaranivalu Ratu Inoke Takiveikata, who was charged with involvement in the 2000 army mutiny and was later to be convicted.

For Bainimarama, the exigencies of consolidating influence in the RFMF, and decisively eliminating those forces that had backed the mutiny of November 2000, suggested a quite different course of action. Loyal officers had suppressed dissident chiefs and villagers in mid-2000, and critics within the armed forces had been dismissed, sent on leave or consigned to token jobs under the commander's close gaze at military headquarters in Berkley Crescent. In the wake of the 2001 election, Qarase's government was politically tied to reinforcing and elevating into office precisely those forces that the commander felt he had to suppress and bring to justice. As Bainimarama told the UN General Assembly in 2007, 'a prominent High Chief connected to the ruling SDL Party incited a mutiny within the Military, and attempts were made, not only to remove me, but also to eliminate me'.<sup>27</sup> Relations between commander and Prime Minister deteriorated steadily from the time of the 2001 election. Bainimarama was reported as asking Qarase why he had stood for election when he was only an interim prime minister, and as calling on Qarase to resign if the Supreme Court ruled against him in 2003 on the issue of sharing power with the FLP as required by the constitution.<sup>28</sup>

One issue dramatized Fiji's fundamental problem of civilian control of the military: The government was determined not to extend Bainimarama's contract as head of the military when it came up for renewal in February 2004 – the commander was equally determined to stay for another five years. In the end the military won. Bainimarama refused to accept that the minister for home affairs could replace him and directly confronted the permanent secretary of Home Affairs, Jeremaia Waqanisau, over the issue. The government not only conceded Bainimarama's demand for another five years at the head of the armed

forces, it also removed Waqanisau from his position and sent him to Beijing as Fiji ambassador. At the same time, Bainimarama purged the top ranks of the RFMF of officers he considered disloyal. They were, former chief-of-staff Colonel George Kadavulevu, together with colonels Alfred Tuatoko, Samuela Raduva and Akuila Buadromo, and commander Timoci Koroi.<sup>29</sup> They claimed Bainimarama had urged them to arrange a coup, then demanded a personal pledge of loyalty. When they pledged loyalty only to the RFMF, he asked them to resign.

The new acting chief-of-staff was Lieutenant Colonel Jone Baledrokadroka. He had been in charge of storming the Kalabu District School in 2000 to arrest the fleeing remnants of Speight loyalists after they had left the parliamentary complex, and he was seen as a Bainimarama loyalist. In 2006, Baledrokadroka became land forces commander, but within three days he too fell victim to the Commodore, who relieved him of his duties after accusing him of conspiring with other senior officers to take over the military. 'There was an instant when he threatened my life', Bainimarama said. 'He threatened to shoot me but I hope that threat will have gone away by now.'<sup>30</sup> Rather than risk the disloyalty of another land force commander, Bainimarama then appointed two chiefs-of-staff to occupy that position under his direct supervision. They were Lieutenant Colonel Pita Driti and Captain Esala Teleni, and both were to benefit considerably from their commander's patronage after the 2006 coup. Driti was Bainimarama's choice to become Fiji ambassador to Malaysia (though Malaysia declined to accept him) and Teleni, newly promoted from captain to commodore, became police commissioner, ensuring RFMF control of the police.

All attempts by the Qarase government to rein in the military proved futile, partly because the commander proved able to exert strong influence through military appointees in the Office of the President. Nothing about the government pleased the commander, who considered it his duty to campaign publicly against the Prime Minister and in particular against the Promotion of Reconciliation, Tolerance and Unity (RTU) Bill introduced into parliament in 2005. The RFMF responded with hostility to official attempts to reform it. The RFMF offered little cooperation to a 2004 national security and defence review and rejected outright its principal recommendation, which was to halve the size of the force. The idea surfaced again in the government's 2006 National Security White Paper, though the re-elected Qarase government was quick to reassure the RFMF that it would not seek to reduce its size.<sup>31</sup>

The White Paper, reflecting the views of the Qarase government, argued that, while the military could support the police in times of unrest, it:

... can in itself be a threat to national security by interfering with the due processes of government as it did in 1987. The involvement of rogue elements in the military in the May 2000 coup, and the internal

insurrection at the military camp which resulted in a number of fatalities, has caused a loss of confidence in the military by the public, and the spate of exchanges between the military and the government, as recently reported in the media, is doing nothing to improve the image of the RFMF.

The White Paper recommended that the term of the commander be reduced from five years to three years, and added: 'This will also prevent the military as an organization from being associated with the persona of a commander, a situation which more often than not could result in the retardation of organizations'.<sup>32</sup> Far from accepting government direction, the RFMF adopted Bainimarama's own strategic plan, which called for the force to 'maintain military capability to deter, respond and react to any contingency' and 'to maintain capability that responds effectively to internal crisis'.<sup>33</sup>

Bainimarama came to see his original handover to civilian government in 2000 as having been conditional: 'As Military Commander, I played a key role in the handing over of executive authority back into civilian hands in the wake of the 2000 coup. This rested on a number of critical pre-conditions being met, in taking Fiji forward.' They were: That new elections be held; 'all of the perpetrators of the May 2000 coup, including the military rebels, would be prosecuted'; and that 'the 2000 coup would be publicly renounced as racially motivated'.<sup>34</sup> That conditional empowerment of Qarase and his interim cabinet by the RFMF was deemed a firm mandate, unlike that arising from popular endorsement at the polls. As for the 2001 and 2006 elections, both of which returned Qarase and the SDL to power, Bainimarama dismissed them as 'not credible' and 'characterised by massive rigging of votes'.<sup>35</sup> So too did Mahendra Chaudhry, whose FLP found itself with a similar share of seats at both elections (See Fraenkel, chapter 8, for an assessment of the accuracy or otherwise of these claims). Ratu Epeli Ganilau headed a new party in 2006, the National Alliance Party of Fiji, but it gained only 2.9 per cent of the national vote and not a single seat. In between the two elections, Ganilau had been chairman of the GCC, but had been removed after controversies about his moderate orientation. Ratu Epeli Nailatikau had been speaker of parliament, but lost that position after the May 2006 election. He had been nominated for an overseas diplomatic posting by the new Qarase government, until the December coup landed him the foreign affairs portfolio. Election-driven hostility to the incumbent government, coupled with a rapprochement driven, above all, by opposition to the RTU Bill, permitted the FLP, the Mara loyalists among the eastern chiefs, and the military to come together in support of yet another coup in Fiji.

## Good governance by militarization

Bainimarama's ideological strategy for justifying his seizure of power has been to embrace the good governance agenda, disown preferential treatment for Fijians, and argue for multiracialism. As he told a gathering at the Lautoka Chamber of Commerce in October 2007, Fiji's leaders needed to 'accept the fact that the vast majority of Fiji's people aspire for governance that is characterised by stability, transparency and accountability.' Fiji needed to become 'a more progressive and a truly democratic nation in which its leaders at all levels emphasise national unity, racial harmony and the social and economic advancement of all communities regardless of race or ethnic origin.' Bainimarama's fellow officers sing the same tune. Chief-of-staff Lieutenant Colonel Mosese Tikoitoga told *Fijilive* that the SDL government had wanted to lift indigenous Fijian standards 'by giving Fijians giveaways, giving them preferential treatment in all government policies, preferential treatment in scholarships, and preferential treatment in the way they can get loans from the Fiji Development Bank', but the only result had been to make elite Fijians richer. 'We are telling them to work harder and they will not get handouts. They have to sweat because the bible tells they have to sweat first to get their food.'<sup>36</sup>

The 2006 coup entailed a considerable militarization of government. Military patronage gave senior officers a direct personal stake in the new order. With traditional officer-training in Australia and the USA barred because of the coup, the interim government sent officers to India and China. Bainimarama consolidated power by dismissing numerous public servants and heads of government boards and organizations, and giving the military direct control of the police, prisons, immigration, justice, the postal service and fisheries. He ensured that a military appointee was in charge of airports, and posted others to diplomatic positions. In the words of land force chief-of-staff Mosese Tikoitoga, Fiji's 28-member military council advises the interim prime minister on 'anything and everything', including the declaration of states of emergency.<sup>37</sup> The military council, he said, had advised the government to reintroduce the public emergency decree in September 2007 'after their intelligence reports showed that some people were influencing the increasing public statements against the military and the government'.<sup>38</sup> Senior public servants drawn from the RFMF served on the council, such as Police Commissioner Commodore Esala Teleni, immigration director commander Viliame Naupoto and Justice permanent secretary Lieutenant Colonel Pio Tikoduadua; while other key council members were Ratu Mara's son Colonel Tevita Mara, the commanding officer of the 3rd Battalion Fiji Infantry Regiment, the land force commander, Colonel Pita Driti, and the commanding officer of the force training group, Colonel Inia Seruiratu. Reacting to criticism of the militarization of the civil service, Viliame Naupoto said:

Military officers should be accommodated into nation building like me right now. I feel the military has been used too much like a tied watchdog with a tag return to barracks after the job and 2000 was an example ... That is what the Constitution says and [it] was a bad use of military officers ... Military officers have proven they can come in and be assimilated into society and do well and you just have to look at senior military officers who have held posts to prove that. Military people are useful and it is my answer to killing the coup culture. If you keep using the military as a watchdog the chain might break and bite people.<sup>39</sup>

In addition to the top-level post-2006 coup military appointments to the commanding heights of the state apparatus, there was a longer-run trend towards absorption of former officers into the civil service. After the 2000 coup, former soldiers were demobilized into the police force and the ministry of works and energy.<sup>40</sup> For many years, reservists had been positioned throughout the ministries and state-owned enterprises, and particularly in those with a security role. The growing economic impact of the RFMF, as a vehicle for training and mobilizing Fijian labour, was cherished by the commander in his 2008 annual speech to the rank and file. Pointing to the global trend towards 'contracting out of defence and security operations', Bainimarama extolled the virtues of Homelink, the Port Security Unit and other such military-brokered domestic employment agencies, hoping that they would become 'an extended arm of the RFMF in the execution of its defence, security and nation building occupation'.<sup>41</sup> Such activities also presented possibilities for accommodating the regular RFMF busting of budgeted spending limits, as, for example, when soldiers after the 2006 coup secured for the RFMF a lucrative \$320,000 contract supplying security services at Suva's port.<sup>42</sup> When challenged about the award of that tender, the commander responded that the decision had been taken by the Ports Terminal Limited board and had been transparent and based on merit, omitting to mention that the board had been purged and restructured in the wake of the coup.<sup>43</sup> To consolidate the RFMF's expanding influence in core parts of the civil service, Brigadier-General Timoci Lesi Natuva was appointed as the new minister for works and transport as part of a cabinet reshuffle in early 2008.

The military overspent its budget in every year from 2003-2007 – in total by \$118 million over the five year period.<sup>44</sup> Total spending reached \$100 million in 2006, well ahead of the budgeted \$76.5 million, and some of this money was used to campaign against the government. When Telecom Fiji paid the RFMF \$1.5 million to install telephone satellite stations in villages, the commander drew on those funds to pay for his truth and justice campaign against the Qarase government's RTU Bill.<sup>45</sup> The pattern continued after the 2006 coup, but without the earlier restraints. 'We did bust our budget', admitted land force chief-of-staff Lieutenant Colonel Mosese Tikoitoga, 'but that was a national necessity for us'.

The army had responded by cutting rations, severing pay for reservists and cancelling training programs, he explained, but admitting also that shortages of funds had meant that 'we had to go borrow all the government vehicles'.<sup>46</sup> Such belt-tightening did not extend to the senior command. In mid-2008, Bainimarama received \$184,740 payout from Finance Minister Mahendra Chaudhry for leave not taken extending back to 1978.<sup>47</sup> Around 40 other senior officers also received substantial sums in backpay.<sup>48</sup> For the junior ranks, rewards were not quite so generous, but – as the economy slackened and urban jobs were lost under the impact of the coup – even salaries for the rank-and-file contrasted favourably with those received elsewhere in the civil service. In total, the RFMF staffing establishment received a 39 percent increase in salaries. Funds budgeted for the Ministry of Health were allegedly raided to pay for the military's budget blowout.<sup>49</sup>

When the commander handed the presidency back to Ratu Josefa Iloilo in early January 2007, the President's 'roadmap' included a commitment to 'facilitate all legal protection and immunity, both criminal and civil, to the Commander, Officers and all members of the RFMF'. Under the heading of 'Accountability and Good Governance', the 'roadmap' was to take 'into account the aspirations of the military and the Interim Government'.<sup>50</sup> The 1990 constitution had given an 'overall responsibility [to] the Republic of Fiji Military Forces to ensure at all times the security, defence and well being of Fiji and its peoples'.<sup>51</sup> Prior to the 2006 coup, the commander had claimed that this was still in force, despite the subsequent introduction of the 1997 constitution. Now less troubled by those constitutional restraints, the military claimed for itself an ever-expanding role in such activities as 'nation-building', disaster relief, 'maritime research', 'youth training' and 'infrastructure development'.<sup>52</sup> Despite this expanded domestic role, Lieutenant Colonel Mosese Tikoitoga still claimed in October 2007 that there were 'over 10,000' reservists able to go abroad on peacekeeping missions.<sup>53</sup> Two weeks later he acknowledged that the RFMF was stretched, and that the rapid promotion of junior officers to fill the gaps left by those who joined the civil service meant 'we have lost a lot of mentoring with our younger officers'.<sup>54</sup>

Those civil society organizations that supported the 2006 coup out of hatred for the Qarase government lauded the military's actions as harbingers of a corruption-free and multiracial Fiji. Their vehicle was the 'National Council for Building a Better Fiji' (NCBBF), established by John Samy and other ex-Asian Development Bank consultants at the behest of Mahendra Chaudhry. For the more moderate participants, however, the autonomy of the NCBBF's deliberations was critical to their objectives. Proceedings got off to an inauspicious start after the initial 'training' exercise took place at the RFMF camp, and when the commander declared himself co-chair along with the Catholic Archbishop.<sup>55</sup> Undeterred, participating civil society activists pressed ahead, insisting that the



NCBBF would provide an 'exit strategy' for the commander and applauding the NCBBF inclusion of deliberations centred on the 'role of the military' in fostering Fiji's 'coup culture'.<sup>56</sup> In this the commander happily acquiesced, clearly perceiving an opportunity to further entrench the RFMF's role in the governance of Fiji.

The divergence between those motley civil society activists and the RFMF/interim government participants on the NCBBF became increasingly apparent. John Samy emphasized both his opposition to the coup and the inclusive nature of the NCBBF proceedings, insisting that seats at the negotiating table remained vacant awaiting Qarase's SDL party and the Methodist Church, should they choose to participate. Bainimarama, by contrast, told the media that 'if anybody with Qarase-like policies comes in [to government], the charter will automatically remove them'.<sup>57</sup> Former police chief Isikia Savua, who had once been army chief-of-staff, was commissioned by the NCBBF to write a report on the RFMF. This contained proposals for a new role for RFMF soldiers to 'clear bushes and plough the land with their machines for the villagers to plant cassava' and for a 'white water navy to operate within the reefs and monitor *qoliqoli* or fishing grounds'. But after objections to his participation – probably because of Savua's seeking of a position in Speight's post-2000 coup government – he was unceremoniously dropped by the NCBBF technical secretariat.<sup>58</sup> Savua responded by telling the media that the proposed 'People's Charter' was similar to the military's post-1987 plan, anticipating that it would 'contain the prescription that the military wants subsequent governments to follow'.<sup>59</sup>

Something of Savua's concept remained in the draft People's Charter released in August 2008. In the 'new dawn', 'new day' and 'new way' envisaged for Fiji the military was not going to return to barracks, a predictable recommendation from a charter co-signed by the military commander. Instead, the military's role would be developmental as it moved closer to the people and realized its 'professional, technical and social potential'.<sup>60</sup> The *Fiji Sun* called the charter 'a blueprint for military dictatorship'.<sup>61</sup>

Relations between the police force and the ministry of home affairs and the RFMF were also transformed in the wake of the 2006 coup. As previously mentioned, the commander had resisted his constitutional obligation to answer to the minister of home affairs from the 2000 coup onwards, and even engineered his own re-appointment against government opposition. He was convinced, moreover, that Qarase was strengthening the police force in order to weaken the military. Qarase was the prime minister who appointed the Australian Andrew Hughes as police commander, and under Hughes the police became a better disciplined and more professional organization with a strong sense of accountability to the elected government. The police had been run-down since the late 1980s and the military had therefore routinely usurped police functions.

The military did not like the resurgence of the police and complained that there had been a move under Qarase 'to replace the RFMF with a reinvigorated and robust police force'.<sup>62</sup> In response, the military ensured that Hughes would not return to Fiji and appointed one of its own, Teleni, as police commander. By 2008 the military had engineered a major change in Fiji's bureaucratic arrangements by creating a new super-ministry of defence, national security and immigration under Ratu Epeli Ganilau. The ministry was to absorb more than 10 per cent of government outlays with a budget of \$157m, \$81.5m for the military and \$70.5m for the police. The key advance from Bainimarama's viewpoint has been to put military and police under one roof with the new minister (who is himself a former military commander), and to remove the military from the supervision of the minister for home affairs. When the 'Pro-poor and for Economic Growth' 2009 budget was released in November 2008, it included proposals for further a \$15 million hike in expenditure on the RFMF. Under Qarase, the accountability of the RFMF to the elected government atrophied; under Bainimarama, the military's accountability only to itself was to become enshrined in Fiji's administrative arrangements.

### **Conclusion: Military futures**

Despite this, does Bainimarama enjoy the complete support of his officers and men? In his message to the troops in January 2007, Bainimarama spoke of the 'RFMF family' and linked it to family values, 'I would like to remind all service personnel of one of the core values of the RFMF which is the 'FAMILY'. As the larger RFMF family we need to re-look at our goals for our individual families and what we hope to achieve at the end of this year'.<sup>63</sup> The RFMF plays the role of a 'new *vanua*' for ordinary soldiers, whose first loyalties in former times would have been to their chiefs and provinces. It offers lucrative salaries to ethnic Fijians who might otherwise be trapped in their villages or be part of the urban and peri-urban unemployed. Many expected, at the height of the 2000 crisis, that the RFMF would splinter along provincial lines and disintegrate. In fact, the army cleverly avoided pitting province against province, sending soldiers from Tailevu to suppress villagers in Wainibuka (Tailevu) in July 2000, and soldiers from Naitasiri, Rewa and Tailevu to arrest Speight's supporters at the Kalabu School outside Suva (in Naitasiri). Since then, Bainimarama has worked assiduously to unify the RFMF, first by abolishing the CRW unit and, since, by repeatedly purging the force of dissident officers, and offering soldiers support with their problems and difficulties. The result is that when chiefs appealed to soldiers to return to their provinces after the RFMF takeover in 2006, most remained in the barracks (even if the reservists showed little enthusiasm for the call to duty). Tui Namosi Ratu Suliano Matanitobua was one of a number of chiefs who called on his people to abandon the RFMF:

To all the sons and daughters of Namosi serving in the Republic of Fiji Military Forces, please consider the vanua of Namosi, think well of the wellbeing of the people of your country and leave the barracks and discontinue the activities you are doing against our people ... Now is the time for you the sons and daughters of Namosi to leave the barracks and return home to your people.<sup>64</sup>

The RFMF responded by forging ties with dissident lineages in Namosi, and establishing provincial groupings of soldiers to denounce the opposition to the coup, a strategy which had considerable success.

On the other hand, there is reason to doubt that Bainimarama has succeeded in convincing his force of the rightness of his multiracial and modernizing philosophy. Fijians have traditionally looked to the RFMF as their protectors in a multi-ethnic society and regarded their soldiering as an ethnic Fijian achievement – a view confirmed in both 1987 and 2000, when military intervention had the effect of returning the country to ethnic Fijian government. Yet in 2006 the mostly Fijian officers and soldiers were asked to believe that the country's problems arose in large part from the fact that the government was favouring Fijians too much. They were called upon to support a commander who denounced Fijian institutions such as the GCC and the Methodist Church as threats to national security, and who installed Fiji's leading Indo-Fijian politician as a senior minister in the new government. The military remained loyal to their commander, but there were also hints of discontent. Former Papua New Guinea defence force commander Jerry Singirok, who once had ties with the RFMF leadership, said he thought 'about 90% of the officers within the Fiji military force would like to see Fiji go back to democratic government' but were not in a position to influence events.<sup>65</sup> A number of key senior officers left the RFMF in the wake of the 2006 coup.<sup>66</sup> Coup opponent and human rights advocate Angie Heffernan also claimed that there was a danger of a split in the military.<sup>67</sup> The subtext was that a return to democratic government would mean a return to power of Qarase and his pro-Fijian SDL party, something many soldiers might be expected to welcome.

Bainimarama sees both himself and the nation as under siege from threats of all kinds. At the UN General Assembly he told the world that he had overthrown the Qarase government in 2006 with good reason:

There have been critics of that decision. In response to this criticism I say this. Fiji has a coup culture – a history of civilian or military coups executed in the interests of a few and based on nationalism, racism and greed. To remove this coup culture and to commit to democracy and the rule of law, policies which promote racial supremacy and further the interests of economic and social elites must be removed once and for all.<sup>68</sup>

The coup culture was a threat, so was the Qarase government and its corruption, and so too were Australia and New Zealand because they failed to support his decisive intervention on behalf of good governance, the very thing they had demanded from Fiji for so long. As if those threats were not enough, the interim government claimed in November 2007 to have uncovered a plot to assassinate Bainimarama and a number of his ministers. Police arrested sixteen alleged conspirators, whose names read like a who's who of people against whom Bainimarama had a grudge: They included Naitasiri paramount chief, Qaranivalu, Ratu Inoke Takiveikata and his brother-in-law and former land force commander Jone Baledrokadroka, Colonel Metuisela Mua, SDL national director Peceli Kinivuwai, a number of soldiers from the disbanded CRW unit that had supported the coup in 2000, and the millionaire businessman Ballu Khan, a New Zealand citizen who suffered a skull fracture from injuries inflicted by the police after his arrest.<sup>69</sup>

Whether the assassination plot was genuine, or whether Bainimarama orchestrated the arrests on trumped-up charges – as seems more likely – there is no doubt that he and his military force want to recast the constitutional order in a way that both justifies past and legitimizes future military intervention. When a general election occurs again and when an elected government takes office, the RFMF seems likely to continue to exercise power in the affairs of Fiji, maintaining the option to intervene again whenever it deems fit. When the civil society groupings that attached themselves to the NCBBF demanded, for the sake of true neutrality, that the constitutional position of the RFMF be under consideration in the deliberations, the army's top brass welcomed this, seeing it as an opportunity to establish permanent control over the ministry of home affairs. The elected civilian government that eventually returns to power will have a tough job carving out for itself anything like the autonomy of its predecessors.

## ENDNOTES

<sup>1</sup> *Fijilive*, 31 December 2005, quoted in Steven Ratuva, 'The pre-election 'cold war': the role of the Fiji military during the 2006 election', in Jon Fraenkel and Stewart Firth, eds, *From Election to Coup in Fiji: the 2006 campaign and its aftermath*, IPS Publications, Suva, and Asia Pacific Press, Canberra, p.38.

<sup>2</sup> 'Bainimarama appoints himself acting President', *Fiji Sun*, 7 December 2006.

<sup>3</sup> Howlett, R.A. 1948. *The History of the Fiji Military Forces 1939-1945*, Crown Agents, London, p.148.

<sup>4</sup> Maclellan, N. 2006 'From Fiji to Fallujah: The war on Iraq and the privatization of Pacific security', *Pacific Journalism Review*, 12(2):47–65.

<sup>5</sup> 'On Fiji, a crop of soldiers fuels economy', A Craig Copetas, *International Herald Tribune*, 30 October 2007.

<sup>6</sup> 'Fiji soldiers leave for Iraq', *fijilive*, 27 October 2007.

<sup>7</sup> 'Australia cuts RAMSI funding for Fiji', *ABC*, 28 December 2006.

<sup>8</sup> Lal, B.V. 1998. *Another Way: the politics of constitutional reform in post-coup Fiji*, Asia Pacific Press, ANU, Canberra, p. 13.

<sup>9</sup> For more details, see Fraenkel, J. 2000. 'The Triumph of the Non-Idealist Intellectuals? An Investigation of Fiji's 1999 Election Results', *Australian Journal of Politics and History* 46(1): 86–109.

- <sup>10</sup> Garrett, J. 1990. 'Uncertain Sequel: The Social and Religious Scene in Fiji Since the Coups', *The Contemporary Pacific*, 2 (1): 87–88.
- <sup>11</sup> Lal, *Another Way*, p. 60.
- <sup>12</sup> Parliament of Fiji, 1997. *Defending Fiji: Defence White Paper 1997*, Suva, 1997, par. 6:30.
- <sup>13</sup> Bainimarama was born 27 April 1954, on Bau island. He joined the Fiji navy on 26 July 1975. He went through the ranks from able seaman in August 1976 to midshipman in December of the same year. He was commissioned sub-lieutenant in 1978 and lieutenant six years later. He took his first command appointment in February 1985 when he assumed the command of the HMFS *Kikau*. He was promoted temporary lieutenant commander in early 1986, and later that year served a tour with the Multinational Forces and Observers in the Sinai. From 1988 to 1997 he held the post of commander, Fiji Naval Division and was promoted to commander and, in 1995, captain, which is equivalent to the military rank of a full colonel. He was appointed acting chief-of-staff in November 1997 and confirmed in that position in April 1998. He was named commander of the Army on 25 February 1999, to replace Brigadier General Ratu Epeli Ganilau, who resigned to enter politics. In 2002, Bainimarama assumed the temporary rank of rear admiral in an unsuccessful bid by the government to win him a United Nations post in Kuwait. (Source: Michael Field 'Bainimarama standoff a dangerous drama in Fiji', *Pacific Islands Report*, 1 January 2004.)
- <sup>14</sup> For an analysis of how the VLV affected the election result, see Fraenkel, 'The Triumph', pp. 93–95.
- <sup>15</sup> For an early exposé of Ratu Mara's wealth, not at all coincidentally written by Josefa Nata, who was later a key ally of Speight during the coup of 19 May 2000, see 'The Mara Empire; A Fijian Success Story, Family Worth Millions', *Fiji Sun*, 2 August 1985.
- <sup>16</sup> Ramesh, S. 1999. 'The Government of Fiji Prime Minister Mahendra Chaudhry', *Pacific Islands Report*, 30 June 1999.
- <sup>17</sup> 'Bainimarama tries to allay Fiji fears', *Pacific Islands Report*, 1 February 2004.
- <sup>18</sup> 'Fiji under martial law', *Pacific Islands Report*, 30 May 2000.
- <sup>19</sup> Qarase had originally been co-opted into the post-coup military council as an adviser on finance (*The Fiji Times*, 10 June 2000; see also 'The Men behind our Military Council', *The Fiji Times*, 17 June 2000.).
- <sup>20</sup> *Fiji Daily Post*, 9 November 2000.
- <sup>21</sup> 'Army wants land issue dealt with', *The Fiji Times*, 1 July 2000.
- <sup>22</sup> <http://www.fijivillage.com/crisis/blueprint.php3>, copy in authors' possession.
- <sup>23</sup> Ratuva, S. 2000. 'The Failed Rebel Coup: Episode 2', *USP Pacific Journalism Online*, 6 November 2000 <http://www.usp.ac.fj/journ/docs/news/nius3090shoot.html>.
- <sup>24</sup> In 2004, Naitasiri paramount chief Ratu Inoke Takiveikata was convicted and sentenced to life imprisonment for his role in the mutiny. The Fiji Court of Appeal quashed his conviction in June 2007.
- <sup>25</sup> 'Clear warning revealed that Fiji military will never let Chaudhry be PM again', Agence France Press, 17 July 2001.
- <sup>26</sup> On the background to these developments, see Jone Dakuvula, 'The Fiji Military Forces vs. the Elected Government of Fiji; A Case Study of Conflict', Citizens' Constitutional Forum, 19 January 2004.
- <sup>27</sup> Statement of the Prime Minister of the Republic of the Fiji Islands to the 62<sup>nd</sup> Session of the United Nations General Assembly New York, 28 September 2007.
- <sup>28</sup> 'Fiji military chief warns Qarase he might have to resign', *Pacific Islands Report*, 20 April 2003.
- <sup>29</sup> 'Bainimarama wants Disloyal Soldiers to Resign', *Radio New Zealand International*, 23 February 2004.
- <sup>30</sup> 'Fiji military chief says officer threatened his life', *The Fiji Times*, 15 January 2006.
- <sup>31</sup> 'Fiji Minister says no military cuts', *The Fiji Times*, 9 June 2006.
- <sup>32</sup> National Security White Paper *A Safe and Prosperous Fiji*, Ministry of Home Affairs and Immigration, 2006.
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# 7. Swim or sink: The post-coup economy in limbo

Satish Chand

## A snapshot of the economy post-coup

The interim finance minister, Mahendra Chaudhry, in launching the revised budget for 2007, stated that the economy was in a 'sink or swim' situation, but that he was determined to swim out of the turbulence that followed the military coup of December 2006. As of mid-2007, the state of the economy could have been described as being in limbo, and a year later things were hardly better. Fiji's coups have been costly. Each coup has pushed back the economy some three years in terms of per capita income. More importantly, all of the four past coups have contributed to the erosion of governance and thus weighed heavily on the rate of growth of the economy. It is the immobile factors of production – land and unskilled labour – that have borne the brunt of the costs of economic contractions resulting from each of the past coups. Rising poverty is one symptom.

In its review of the economy in February 2007, the Reserve Bank of Fiji (RBF) announced that some 3,000 jobs had been lost since the coup due to the (possibly unrelated) closure of the Vatukoula gold mine, and to the slump in the tourism industry. The RBF's forecasts of contraction in Gross Domestic Product (GDP) became more pessimistic as time passed: First it predicted a contraction of 2.5 per cent; by October 2007 it was saying 3.9 per cent. In the end, GDP shrank by 6.6 per cent during 2007.<sup>1</sup> The effects of the economic contraction were evident in job losses, shrinking foreign exchange reserves, and pressure on the exchange rate. The RBF put in place stringent capital controls to protect reserves. The inflation rate, however, rose to some 6 per cent by mid-2007, nearly double the target rate of 3.5 per cent, and, by March 2008, inflation was running at a ten-year high of 7.5 per cent. Government revenues were put under pressure, although the government held the budget deficit to 1.3 per cent of GDP in 2007 by cutting public servants' salaries and suspending wage increases. When nurses and teachers went on strike in August 2007, Bainimarama reflected on the advantages of being an unelected government: 'We do not have to worry about votes', he said. 'This Government is not going to budge.'<sup>2</sup>

The immediate challenges facing the administration were those of maintaining foreign reserves at adequate levels and containing public debt to manageable levels. There is little escape from the fact that the economy had been hit hard by the coup. Exports are down, investments are on hold, and jobs are being lost.

Tourism holds the best prospects for an economic revival, but this requires the lifting of travel restrictions and a return to normalcy in diplomatic relations between the major source destinations, Australia, New Zealand, and the USA.

Contrary to the claims of the interim minister of finance, the prospects of a complete revival of the sugar industry are poor – and those for garment exports just as rickety. International conditions for both of these exports have worsened, with the price premium earned by local producers from trade preferences in their main markets on the ebb. Total garment export earnings grew in 2007 by a mere 0.3 per cent, and the outlook remains uncertain. Before the coup, garment and sugar producers were already facing severe adjustment costs as a result of the changing international conditions; their main hopes rested with growth in the rest of the economy and adjustment assistance from the donors and the government. The coup has put all of these hopes at risk.

Overall, the economy is declining, and the worsening external and internal imbalances make an economic revival all the more urgent. Such a revival requires the rebuilding of investor confidence and the removal of the many conflicting policies that have been adopted by previous governments. A determined administration could succeed where past governments have failed. Clearly, the coup culture has to be eradicated if prosperity is to have a chance. Will this coup be the 'mother of all coups', eradicating coups from Fiji's landscape forever? Or will it add to the momentum of more coups in future? Only time will tell.

## **The economic impacts of the coups**

Fiji has had four military coups in its 37-year post-independence history. Each coup had its own drivers, but a reason given for the first three was to return political leadership to the indigenous peoples. The two coups of 1987 and that of 2000 displaced governments that were allegedly dominated by ethnic Indians. Thus, the coups were condoned by the chiefs in their role as the representatives of the indigenous population; by the Methodist Church, which has a majority indigenous following; and by the army, which is also predominantly indigenous. In each case, the overthrow of a constitutionally elected government had a deleterious impact on the economy and on private investment in particular. They all signalled that rule by the gun had superiority over rule through the ballot box, and consequently eroded the legitimacy of legislated constructs – such as the constitution and respect for institutions of civil society. The corrosive effects of the coups are visible in the form of deteriorating physical infrastructure and in spurts of violent crime in their immediate aftermath.

The first coup sanctioned income redistribution to the indigenous population; albeit with the policies supporting the redistribution often couched in terms of poverty reduction. However, these redistribution policies have lent themselves to abuse, particularly by the elite. The largest scam in Fiji's history – the National

Bank of Fiji financial disaster, which cost taxpayers some F\$220 million – was undertaken under the guise of affirmative action. The beneficiaries of the scam were far from being poor Fijians; rather, the scam was a tax imposed on the poor for the benefit of the rich. Many more scams followed. According to one estimate, losses due to corruption and abuse of office in the decade to 2002 amounted to half a billion Fiji dollars.<sup>3</sup> Moreover, the abuses of office have extended well beyond corruption. Abuses of legal processes, such as the release of prisoners on compulsory supervision orders, have also followed. In sum, good governance has been a major, albeit a silent, victim of past coups.

Since, 2004, the Republic of Fiji Military Forces (RFMF) had been voicing its opposition to what it saw as abuses of office and, in the lead-up to the 2006 election, threatened a ‘clean-up’ should the elected government continue with the abuses. Dwindling foreign reserves, rising unemployment, and worsening poverty all pointed to a gloomy future. In hindsight, it is clear that something had to give. The coup by the RFMF was a surprise to many only because the commander had so often threatened the overthrow of the government.

At least in rhetoric, the coup of 2006 is significantly different from the previous coups. The interim prime minister, on taking office, committed his administration to:

- upholding the constitution;
- eradicating ‘systematic’ corruption;
- introducing code of conduct and freedom of information provisions;
- facilitating sustained growth of the economy;
- reducing poverty and levels of destitution in the nation;
- ensuring that a greater share of the benefits from use of natural resources, land included, flowed to the owners; and
- improving relations with the international community.

There was evidence of some improvement in law and order during 2007, notwithstanding the disturbing allegations of human rights abuses (which raise questions regarding the commitment to uphold the constitution). In line with the second commitment, an anti-corruption agency was established. This is a marked improvement on past administrations, given that such action was first proposed in 1997 in a report commissioned by the then finance minister and produced by the former head of the Serious Fraud Unit of New Zealand. As of September 2007, there were media reports of raids on offices suspected of being engaged in corrupt dealings and evidence being gathered, but no successful prosecutions had materialized. Bringing such cases to court is a lengthy process, however.

In relation to the third commitment, code of conduct and freedom of information provisions are yet to be produced.

Progress on the final four commitments is difficult to evaluate for several reasons, including the fact that they are inter-twined and that any evidence of their progress is likely to become clear only slowly. As of June 2008, the economy was showing little signs of a rebound, foreign exchange reserves were recovering but still at low levels, poverty was continuing entrenched, and relations with the international community were far from being on the mend.

It is early days to pass judgment on whether the coup of 2006 will be the last or whether the RFBM elevates itself to a position whereby democracy will be allowed only with its blessing. However, the public will soon be in a position to judge progress on each of the developmental and governance commitments made by the interim prime minister. A favourable scenario for Fiji would demonstrate the quality of governance improving rapidly, successful prosecutions with respect to some high profile cases of abuse of office, private investment rebounding, the economy beginning to grow, and the levels of poverty and destitution beginning to recede. Such economic prosperity would encourage and facilitate peace, the rebuilding of institutions of civil society, and a jettisoning of the coup culture. A determined leader, and one who is not required to maintain popular support, could achieve the above. The experiences of Chile, Indonesia, South Korea, and Thailand under military rule demonstrate this. Converse scenarios are too frightening to contemplate as they could include simultaneous economic and political crises.

## **The macro-economy**

According to RBF July 2008 figures, aggregate GDP contracted by 6.6 per cent in 2007 after having grown by 3.6 per cent in 2006.<sup>4</sup> Per capita GDP for the first 35 years after independence grew at an annual average rate of less than 1.4 per cent and contracted substantially in the years of coups – by 7 per cent in 1987 and by 2.7 per cent in 2000. In terms of growth collapses, the 1987 coup set Fiji back, in terms of per capita GDP, by six years. In comparative terms, the 2000 coup was less damaging as it set the country back in terms of per capita GDP by just two years. The 2006 coup was worse for the economy than that of 2000 and almost as destructive as that of 1987.

Assuming a population growth rate of one per cent, the per capita decline of GDP in 2007 will wipe off at least three years of economic progress. Thus, each of the past coups has wiped off, on average, three years of economic growth. The impact of the coups on poverty, however, may have been a lot larger than these average figures suggest. One in eight in the population was in poverty in 1977; this figure had risen to one in four by 1991 and to one in three by 2001.<sup>5</sup>

Poverty has been on the increase in Fiji and this trend is likely to continue. Real wages of unskilled workers fell by some 15 per cent over the decade to 2002.<sup>6</sup> The earnings of those fortunate enough to have work have often been insufficient

to fund the minimal basic needs of their households; they thus comprise the 'working poor'. The pool of the 'working poor' and that of the 'walking poor' has grown after each of the coups.<sup>7</sup> Households most at risk of being in poverty or of falling into poverty include the destitute – comprising single mothers, widows, the disabled, the elderly and the chronically ill, and family members of imprisoned breadwinners; those with casual work, often comprising the unskilled with earnings below the poverty line—agricultural workers, the bottom-rung garment factory employees, and security guards fall into this group; those in rural areas with limited access to basic health, education, and infrastructure services; and, the landless urban settlers.<sup>8</sup> The ranks of all of the above-mentioned categories have been swelling over the past decade.

Abbott notes that urban poverty was the highest amongst households living in settlements and housing authority areas. Furthermore, the population of settlements is expanding at an annual rate of 3.7 per cent; informal (*vakavanua*) settlements are growing at more than 5 per cent; and peri-urban areas in Nadi are reported to be growing at an annual rate of 11.2 per cent, in Savusavu at 12.8 per cent, Sigatoka at 9.1 per cent, and Ba at 8.4 per cent.<sup>9</sup> This trend is likely to continue as leases continue to expire; some 45 per cent of Indo-Fijian arrivals in the settlements since 2000 have been of those whose leases had expired. The concentration of poverty in the burgeoning settlements runs the risk of keeping asset-poor households in permanent poverty. Serious pockets of poverty have already developed amongst households within parts of urban settlements and in rural regions facing sharp declines in agricultural income.

The coups and the ensuing political instability have adversely affected investment. Gross Domestic Investment (GDI) peaked at 34 per cent of GDP in 1981, dropped to 12 per cent in 1988 (after the first two coups), and hovered around 13 per cent in 2000.<sup>10</sup> These falls took place despite the introduction of tax incentives for investments in exporting. Foreign Direct Investment (FDI), the form of investment most sensitive to political uncertainty, was negative in 1999 and 2000. The small turnaround in GDI after 2002 can be attributed to increased public sector investment and to the construction of several ('lumpy') private-sector investments in tourism (hotel) infrastructure. There is anecdotal evidence to suggest that the 2006 coup has stalled several investment projects; if so, the effects will be captured in the data some years down the track. The falls in investment following past coups have been accompanied by an exodus of skilled personnel; thus, the economy has suffered a 'double whammy' – the loss of financial and of human capital. Again, data are not yet available to show if the same thing has happened following the 2006 coup, but the Reserve Bank predicted that investment, having stalled in 2007, would 'remain subdued' in 2008.<sup>11</sup>

## Fiscal policy

The interim minister for finance announced the theme of his 2007 'revised' budget as 'securing financial and economic stability'. While the minister did not define what he meant by these two terms, the first is interpreted as achieving fiscal sustainability, while the latter is interpreted as achieving internal and external balance. Priority was given to the former in the budget.

Securing financial stability entails reducing expenditure, raising income, and/or improving productivity of public outlays in order to contain any deterioration in access to public services. The minister warned that failing to contain the deficit would result in a devaluation of the Fiji dollar. While budget deficits and current account deficits have a close association, linking fiscal policy to the value of the Fiji dollar may have been a mistake, particularly when the risk of capital flight following the coup remains significant. The government achieved its deficit target in 2007 but this will be no guarantee against a devaluation of the currency. Ultimately, current account sustainability will hold sway in determining the value of the currency. The decision to devalue the currency will be driven by considerations of ensuring external balance.

Savings in the revised budget were achieved through a salary cut of 5 per cent for public servants. While this salary cut was lower than the 12.5 per cent and 15 per cent pay cuts following the coups of 2000 and 1987, respectively, public servants were also denied the 4 per cent cost of living adjustment previously agreed to with the ousted government. Total savings from this measure were estimated at F\$70 million. Amongst the major revenue initiatives was an increase in the airport departure tax from F\$25 to F\$40; this was anticipated to raise an additional F\$7.88 million. VAT was left at 12.5 per cent instead of being raised to the 15 per cent foreshadowed in the original budget brought down by the ousted government in November 2006. Government debt as of 2006 was estimated at 53 per cent of GDP.

While the motivations for containing public expenditure are clear, the impact of these initiatives on public sector productivity could be devastating. Salaries of public servants have barely kept pace with inflation since 1993.<sup>12</sup> Nurses with a diploma entering the public service at the beginning of 2007 earned 22 per cent more (in 1993 dollars) than they did in 1993 – an implied annual growth rate in their real (that is, inflation-adjusted) salary of 1.4 per cent. Nursing salaries, moreover, have hardly kept pace with inflation for the first six years of the new millennium. Compounding the low real income growth has been the high demand for nurses abroad; entry level salaries for registered nurses in Western Australia as of July 2006, for example, were some four times that of their counterparts in Fiji. These situations are expected to hold for the rest of the public service. Salary cuts for public servants, therefore, are likely to

adversely affect productivity – and lower productivity could be a justification for real wage reductions.

Efforts are being made to raise productivity within the public sector. For example, the number of ministries was reduced from 23 to 16, and a taskforce was established to consider strategies for improving efficiency and productivity of the public service.

## Monetary policy

The conduct of monetary policy is the responsibility of the RBF. The bank targets price stability whilst attempting to ensure that an adequate supply of foreign exchange is maintained. Interest rates have been used to target the former while the value of the exchange rate and capital controls have been used to ensure that foreign reserves remain at healthy levels. Inflation for 2006 was recorded at 3 per cent, and had hovered around this figure since 2004; thus, on price stability, the RBF has had considerable success. However, its record in terms of maintaining a healthy stock of foreign reserves has not been as favourable. Fiji has traditionally maintained reserves sufficient for 6 months of merchandise import cover, but the level dropped steadily to 5.7 months of import cover in 2004 and to 3.3 months of import cover by December 2006. It had recovered, but only to 4.1 months, by April 2008.

Furthermore, the stock of foreign reserves as of December 2006 (F\$823 million) included the proceeds from the bond issue of US\$150 million in September 2006. The pressure on foreign exchange reserves was relieved by the ratcheting up of interest rates prior to the coup and the ratcheting up of capital controls since. The RBF has rationalized these interventions as being, 'necessary to ensure that reserves are safeguarded under the current circumstances'.<sup>13</sup> The economic decline following the last coup makes further interest rate tightening impractical.

The pressure on foreign reserves, however, predates the coup – which would only have exacerbated the problems. Both the nominal and the real (that is inflation-adjusted) exchange rates have appreciated since 2003.<sup>14</sup> The nominal exchange rate is a weighted average of five currencies; namely, the Australian, New Zealand, and United States dollars, the Euro, and the Japanese yen. The weights are not disclosed (but can be readily computed from the data), and thus may be altered as an instrument of policy. Since all of the currencies in the basket have appreciated against the US dollar over the recent past, the Fijian dollar has followed suit. This has reduced the competitiveness of exports and encouraged imports, the cumulative effect of which would be reflected in terms of pressure on the current account.<sup>15</sup>

There is some evidence of the Fiji dollar (FJD) being over-valued by at least 12 per cent as of 16 April 2007. This conclusion is gleaned from a simple comparison of the value of an investment in sovereign bonds vis-à-vis holding the same in

FJD at home. Despite this clear evidence of an over-valued FJD, the RBF has been reluctant to devalue the dollar. This reluctance is perhaps due to a fear of destabilizing the currency, particularly when the markets have been anticipating a devaluation. Capital controls are more effective during short bouts of uncertainty, such as following a coup, as demonstrated with earlier coups. On its own, devaluation could have induced a run on the currency, forcing the authorities to devalue the currency yet further, even if this was not necessary prior to the coup. But, these strategies work only in the short term because investors find alternate means of circumventing the capital controls, or consumers go on an import binge in the face of an imminent devaluation. However, the evidence of an over-valued exchange rate existed long before the coup of December 2006.

The RBF has vehemently defended its decision not to devalue the dollar, a decision supported by the interim minister for finance. Exports have not picked up, thus capital controls remain the only option for protecting foreign reserves. The RBF has recently been easing liquidity (whilst tightening capital controls in order to protect foreign reserves) in order to stimulate domestic investment. The RBF has been directing credit to investments and rationing the supply of foreign exchange in the hope of encouraging exports. Success on this front, however, has been less than encouraging. This can be concluded from the repeated warnings by the RBF regarding the falling export income and buoyant imports – and, thus, a widening current account deficit; but the RBF has yet to acknowledge that at least some of the blow-out in the current account may be of its own making.<sup>16</sup>

Employment conditions are likely to remain subdued until investment picks up. In the meanwhile, workers who have lost jobs and those with reduced hours of work are likely to face hardship. There is considerable anecdotal evidence of rising poverty, particularly within the urban informal settlements. In its February 2007 survey, the Fiji Employers Federation noted increased redundancies, reduced hours of work and temporary termination of work, all of which will increase in the absence of an economic rebound. Fiji has, since independence, witnessed an increase in the working-age population, particularly within the urban centres. Unless used, this demographic bonus could be a recipe for further social and economic problems.

## **Sectoral prospects**

### **Garments**

Prior to 1987, Fiji had a small garment sector, but exports took off after 1987.<sup>17</sup> The major drivers of this change were domestic, including the devaluation of the Fiji dollar by some 33 per cent in 1987; the offer of tax concessions and publicly subsidised infrastructure<sup>18</sup>; and, a wage freeze and restraints on labour



unions following the first coup. External conditions were also favourable; they included the preferences afforded via SPARTECA<sup>19</sup>, the introduction in 1991 of the Australian Import Credit Scheme, the high tariffs imposed in Australia on textiles, clothing and footwear (TCF) imports from sources outside the Pacific, and the Multi-fibre Arrangement (MFA) quotas provided to Fiji. What changed in 1987 were the domestic conditions; thus the growth of garment exports in 1987 and later must be attributed to these factors only.

What has changed since? On the domestic front, inflation has picked up, thus diminishing the real value of the dollar; wages, overall, have risen but without any evidence of a commensurate increase in productivity; and, the tax exemptions have expired. The Fiji dollar was devalued by a further 20 per cent in 1998, but without the wage restraints of the earlier era. We have had two more coups since, but without the export incentives offered earlier. Political instability has continued since 2000 and so has the emigration of the skilled workforce. The domestic situation has pushed local investment toward the acquisition of skills and qualifications for emigration, thus penalizing the growth of locally and internationally competitive industries. External conditions have also changed. China has entered the scene with its ability to mass-produce garments at a fraction of the cost of its nearest competitors. The MFA expired at the end of 2004. Australian tariffs on TCF imports have been falling, even though the TCF clauses of SPARTECA have been extended for seven years. Australian tariffs will fall further under its APEC/WTO commitments. This will increase the competitive pressures faced by the local industry. Fiji can do little about stalling these changes. The consequences of the decline in the garment industry have been growth in 'the working poor' and an industry that has been locked into producing a narrow range of cheap-labour-intensive products for a single market.

## Sugar

The sugar industry, which includes the growing of sugar cane and the manufacture of sugar for export, has historically had a central place in the economy. The industry still provides the livelihoods of a large part of the population, and remains a major earner of foreign exchange. Sugar cane production peaked at 4.38 million tons in 1996, when it accounted for some 11 per cent of GDP and some 37 per cent of merchandise exports (measured net of re-exports). As of 2005, the most recent period for which published data are available, sugar accounted for 6 per cent of GDP and some 26 per cent of total merchandise exports (again excluding re-exports). Production has been declining over the past decade as leases of land on which the crop has been cultivated have expired. While some landowners have been induced into taking up sugar cane farming by government subsidies, many of the farms from which the tenants were displaced remain fallow. The decline in sugar cane production predates the announcement of price reductions – of 36 per cent to be spread over three

years – by the EU but is coincidental with the uncertainty about the loss of leases.<sup>20</sup>

The interim administration has expressed its commitment to reviving the industry to its former health. As part of a sugar industry reform package, the interim minister for finance announced in the 2007 budget:

- the upgrading of mill facilities, to increase mill capacity and efficiency;
- improvements to the mill transportation system, to reduce costs of carting cane;
- modernizing farming methods, to improve farm productivity; and
- diversification of industry risks into value-adding opportunities such as cogeneration of electricity and ethanol production.

The minister subsequently announced a target of raising sugar cane production by 1.3 million tons within three years. This would mean returning production to its peak of 1996. Mills are to be upgraded, while the Sugar Research Institute has been tasked to ‘educate’ the farmers in order to improve yields.<sup>21</sup>

Returning the industry to its glory days may be difficult given that both domestic and international conditions for sugar have changed markedly.<sup>22</sup> Leased land, on which the bulk of sugar cane has been grown, continues to be vacated as leases expire. Many of the displaced farmers have been swelling the ranks of squatters around urban centres of the two main islands. While Fiji has an abundance of un-farmed land, mobilising it for development has, to date, had limited success. This is in contrast to the success that Ratu Sir Lala Sukuna had some 70 years ago.<sup>23</sup>

As in the garment industry, external conditions have conspired with deteriorating domestic conditions to weigh down the sugar industry.

## Tourism

Tourism is a significant sector of the economy and, unlike sugar, one that has been expanding except for short periods following the coups. Tourist arrivals are extremely sensitive to perceptions of security in the host nation. If past coups are any guide, a rebound in tourism numbers will happen quickly following a return to ‘normalcy’. The slow easing of travel warnings by the major source countries – Australia, New Zealand, and the US – appears to be contributing to a continuing decline in visitor arrivals, despite the discounting of hotel rooms (by as much as 40 per cent).

Australia has been the major source of Fiji’s tourists, accounting for some 35 per cent of the total arrivals of around 550,000 in 2005; New Zealand came second with a share of 21 per cent; and the USA was third, accounting for a further 13 per cent.<sup>24</sup> Fiji’s gross earnings from tourism in 2006 have been provisionally estimated by the Fiji Islands Bureau of Statistics at F\$741.7 million. The tourism

industry as of September 2007 was appealing for further budgetary support to market Fiji abroad. Tourist arrivals began to rebound somewhat in 2008 and the Fiji Visitors Bureau thought the year would bring an increase of 5.9 per cent over 2007 arrival levels, but the Bureau remained pessimistic about the state of the industry because tourists were paying less and staying for shorter periods.

The heavy discounting by hotels will hurt profitability of existing operators, many of whom have sunk substantial amounts of capital into immovable assets; but even more importantly, the slump will scare away future investments. This is unfortunate as Fiji has many natural advantages – including being centrally located within the Asia-Pacific region; and having well-developed infrastructure, extremely hospitable people, a pleasant climate and an attractive natural environment – that enable it to excel as a tourist destination for the swelling ranks of the middle class in the region. A significant expansion of the tourism industry would have taken much of the pressure off the Fijian economy with respect to the adverse employment and foreign exchange earnings impacts from the declining garment and sugar sectors.

## Information and communication technology (ICT)

There has been some recent growth in the information and communication technology sector. Fiji has locational advantages, as the Southern Cross cable and the international dateline both pass close by. Fiji, furthermore, has an English-speaking and relatively skilled workforce able to support data-processing. An uncompetitive telecommunications sector has been a major drag on the ICT industry, an issue that has been taken up by the interim government.<sup>25</sup> The interim minister for commerce has announced the government's intention to induce increased investments into business process outsourcing and call-centres, software development, and IT training. The specifics, in terms of the inducements to be offered to investors, remain to be detailed, however. The government does not have the resources to provide tax concessions to individual investors; doing so, in any case, is unlikely to attract the scale of investments that is required. Access to a more competitive telecommunications and public infrastructure is likely to be a lot more helpful than policies targeted at development of particular industries or localities.<sup>26</sup>

## The way forward

The immediate challenges facing the government involve addressing the growing fiscal pressures and problems of governance, whilst raising the rate of growth of the economy.

Attaining fiscal sustainability has been an immediate priority. Early in 2007 the government announced its intention to contain the budget deficit to 2 per cent of GDP and reduce the level of public debt to 45 per cent of GDP over the medium term. The revised budget brought down in March 2007 projected total revenues

of F\$1,471 million, an increase of nearly 6 per cent over the estimate for 2006, but an 8 per cent decline from the projection for the 2007 budget brought down by the ousted regime in November 2006. In fact, total revenues amounted to just F\$1,288 million in 2007. However, total expenditure for 2007, anticipated in the revised budget at F\$1,572 million, was just F\$1,360 million.<sup>27</sup> The revenue estimates in the revised budget were based on an economic contraction of 2.5 per cent of GDP, which in fact turned out to be 6.6 per cent. The declines in both revenue and spending pointed to the sharp downturn in Fiji's economic activity following the coup. So, while the budget deficit was contained to 1.3 per cent in 2007, the change came at considerable cost – and the deficit was expected to increase to 2.0 per cent in 2008.

In terms of governance for growth, the newly established Fiji Independent Commission Against Corruption has much to live up to. The Commission has the powers to investigate corruption and report these directly to the President. Another special unit is to be set up within the interim finance ministry to carry out investigations of all allegations of abuse of public funds. According to the interim minister for finance, this special unit will be equipped with competent and experienced auditors empowered to visit agencies unannounced, conduct spot checks, and prepare timely audit reports. Unless this unit is a simple revamp of the internal audit unit within the ministry, it may entail costs of duplication. While it is often reported that corruption has risen significantly over the past decade, and thus combating its rise is long overdue, the creation of new agencies with parallel responsibilities to existing ones is unlikely to be productive. Arguments for economies of scale in fraud investigation and prosecution would suggest that amalgamation of existing agencies could have been a better alternative.

For the bulk of its post-independence history, Fiji has been governed democratically. Normalcy, therefore, requires a return to constitutional rule; a fact that has been put as a precondition for the complete re-engagement of the donor community. The medium- to long-term challenge for the interim administration is to chart a path to constitutional rule. A rebound in the economy is likely to assist in such a transition – while an economic crisis is just as likely to spill over into political chaos.

## Conclusions

In bringing down its 2007 budget, the interim government announced that it was either a 'swim or sink' situation for the country. The interim minister for finance announced his intention of 'belt-tightening', particularly with respect to recurrent outlays. Without a strong rebound in the economy, debt levels are unlikely to return to 45 per cent of GDP over the medium term as targeted in the budget; indeed in 2007 they amounted to 49.1 per cent.

Foreign reserves have been falling since 2002 and are unlikely to rebound soon given prevailing policies. Efforts by the RBF to protect reserves using tightened capital controls, and the introduction of a credit ceiling on commercial banks, will raise the cost of credit, making economic recovery all the more difficult. The RBF, in all likelihood, has got itself tangled up in rationing foreign exchange, while the nominal (and the real) exchange rate(s) have appreciated sharply since September 2006. The loss of foreign reserves, due to the worsening of the trade balance could, therefore, be of its own making. As mentioned above, on one measure, that of the difference in the value of Fiji's sovereign bond with the official exchange rate, the FJD was over-valued by 12 per cent as of 16 April 2007.<sup>28</sup>

Macroeconomic stability requires a return to fiscal sustainability and external balance. In relation to the former, new revenue-raising measures need to be considered; in relation to the latter, the RBF may ultimately be persuaded to devalue the dollar. The longer the RBF holds out against devaluing the dollar, the larger the correction that will be necessary when its hand is forced. The only saviour would be large capital inflows and/or substantially increased exports, which are unlikely without a substantial boost in investor confidence.

For the economy, the position is neither one of sinking nor swimming – it is more akin to floating. Continuing with the water metaphor, the economy had been taking in water well before the December 2006 coup. Total investment as a share of GDP had reached a low of 11.3 per cent by 1996, with each of the coups pushing the economy back by an average of three years in terms of per capita income. The challenge for policy-makers wanting to raise growth is both to improve the immediate conditions for investment and to put in place measures to prevent future coups.

As regards the prospects for an early economic revival, tourism offers the best potential. Gold and garments have both made their retreat in terms of foreign exchange earnings and their contribution to employment generation. The international conditions for sugar are rapidly changing, and hope of revival in Fiji's sugar industry could be misplaced. Furthermore, the problems within the garment and sugar industries are the cumulative effects of long-standing and unattended local problems. The increased pace of liberalization of global trade over the recent past has only exacerbated the pressures for change.

Information and communications technology activities form a small, albeit growing, sector. Its expansion, as for other sectors, will depend on political stability, maintenance of law and order, and the presence of competitive communications and transport infrastructure. The interim administration has committed itself to cleaning up corruption and walking away from race-based politics, while supplying the environment for growth of private enterprise. It has also announced that merit will henceforth be the sole criterion for

appointment to public office. The intentions are laudable and, if actioned, will deliver the 'goods'. Time, however, will be the ultimate judge.

## ENDNOTES

- <sup>1</sup> Reserve Bank of Fiji, 2008. *Quarterly Review*, March, July, Suva, Fiji.
- <sup>2</sup> 'We have no voters to please: Bainimarama', *fijilive*, 3 August 2007..
- <sup>3</sup> Grynberg, R., Munro, D. and White, M. 2002. *Crisis: the collapse of the National Bank of Fiji*, Crawford House, Adelaide. Reported by *Fiji Post* 7 February 2002.
- <sup>4</sup> Reserve Bank of Fiji, 2008. *Quarterly Review*, July 2008.
- <sup>5</sup> United Nations Development Program, 1996. *Fiji Poverty Report*, accessed online at: <http://www.undp.org.fj/index.cfm?si=main.resources&cmd=forumview&cbegin=0&uid=publications&cid=117>;
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- <sup>6</sup> Abbott, D. F. 2006. 'Fiji analysis of the 2002/03 household income and expenditure surveys'.
- <sup>7</sup> The under-employed, who roam the streets in search of work, are the 'walking poor'.
- <sup>8</sup> United Nations Development Program, 1996. *Fiji Poverty Report*, accessed online at: <http://www.undp.org.fj/index.cfm?si=main.resources&cmd=forumview&cbegin=0&uid=publications&cid=117>;
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- <sup>9</sup> McKinnon, J., Whitehead, S., Chung, M. and Taylor, L. 2007. 'Fiji Informal Settlement Scoping Mission Report', (unpublished) Wellington.
- <sup>10</sup> The figures used here are from the World Bank. The Reserve Bank of Fiji gives slightly different numbers, but qualitatively similar conclusions.
- <sup>11</sup> Reserve Bank of Fiji, 2008. *Quarterly Review*, March 2008, Suva, Fiji, p.16.
- <sup>12</sup> Chand, S. 2007. 'Sink or swim: the predicament of the Fiji economy', *Pacific Economic Bulletin* 22(2):1–21.
- <sup>13</sup> Reserve Bank of Fiji, 2006. *Quarterly Review*, December, Suva, Fiji, p.33.
- <sup>14</sup> See, Reserve Bank of Fiji, 2006. *Quarterly Review*, December, Suva, Fiji, p.19.
- <sup>15</sup> While Fiji's total merchandise trade with the USA is less than 10%, US dollar-denominated trade still dominates. For example, all mineral fuels imports and the bulk of remaining imports are US dollar-denominated.
- <sup>16</sup> The increase in the cost of mineral fuels accounted for just one-third of the 16.9% increase in imports to November 2006 (RBF, 2006: 18).
- <sup>17</sup> Storey, D. 2005. 'End of the line? Globalisation and Fiji's garment industry', Paper presented at the conference on Globalisation, Governance, and the Pacific Islands, The Australian National University, 25–27 October.
- <sup>18</sup> The Kalabo Tax Free Zone (TFZ), for example, was built with an EU grant of \$7.25 million dollars.
- <sup>19</sup> SPARTECA is a non-reciprocal trade agreement whereby Australia and New Zealand (ANZ) offer duty free access to all products originating from the developing island member countries of the Forum (FICs). SPARTECA came into effect for most FICs from 1 January, 1981 and the current list of countries includes Cook Islands, the Federated States of Micronesia, Fiji, Kiribati, Marshall Islands, Nauru, Niue, Papua New Guinea, Solomon Islands, Tonga, Tuvalu, Vanuatu and Samoa.
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- <sup>21</sup> Reported in *The Fiji Times* (online version), 3 April 2007.
- <sup>22</sup> Chand, S. 2005. 'Globalisation or self-inflicted wounds in the Fiji sugar and garment industries' *Pacific Economic Bulletin* 20(3):124–29.
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- <sup>24</sup> RBF. 2006. *Quarterly Review*, Table 30.
- <sup>25</sup> Duncan, R. 2004. 'Information and Communications Technology in the Pacific Islands: marginalization by monopolization', *Pacific Economic Bulletin*, 19(2):129–31.

<sup>26</sup> See, Duncan, R. 2007. 'A "Clean-Up Campaign" for Fiji's Economy', *Pacific Economic Bulletin* 22(2):119–26.

<sup>27</sup> RBF. 2008. *Quarterly Review*, p. 17.

<sup>28</sup> This assumes that the currency was at par when the bonds were floated.





## 8. The great roadmap charade: Electoral issues in post-coup Fiji

Jon Fraenkel

Electoral issues were to figure prominently in the wake of Fiji's 2006 coup – as instruments in the ideological justification of the military takeover; as internationally required stepping stones on the 'roadmap' back to democracy; and as predominant features of the interim government's vision for social transformation. The coup-makers and their supporters justified the seizure of power on the grounds that the May 2006 election had been marred by ethnically biased ballot-rigging; that the preparations of the Elections Office had been gravely mismanaged; that the constitution had been violated; and that Qarase's *Soqosoqo Duavata ni Lewenivanua* (SDL) party had abused its incumbent position in order to secure victory. Over the longer run, weaknesses in Fiji's electoral system were blamed for generating ethnic polarization since independence and for fostering an insular political control over the indigenous population by way of churches and chiefs. Only a wholesale reform of electoral laws – including the abolition of communal electorates – it was argued, would enable Fiji to chart its way to a multiracial future and definitively eliminate the coup cycle.

This chapter reviews the post-2006 coup controversies about the timetable for a return to democracy, about obstacles to holding fresh elections, and about the way electoral factors influenced Fiji's domestic politics. Analysing how electoral issues were negotiated provides a curious but useful way to view the way the events during the 18 months after the Fiji coup were played out, both domestically and internationally. It also suggests some important lessons about unintended consequences of standard Commonwealth and United Nations responses to countries that have witnessed coups, and the dangers associated with commonly promoted avenues for re-engagement.

### The authoritarian preference

In his takeover speech on 5 December 2006, military commander Voreqe Bainimarama declared that 'when the country is stable and the Electoral Rolls and other machineries of Elections have been properly reviewed and amended, elections will be held'.<sup>1</sup> Consistency with the constitution was claimed – despite a maelstrom of breaches – by indicating an intention to return to the polls once 'a proper census and electoral system' were in place. This was a vague commitment, and not one that gained much prominence in the tumultuous early days after the coup. Disdain for electoral democracy had been an important part of the commander's message over the preceding years. Upholding the 'rule of

law' had figured centrally, but democracy had been dismissed as a mere 'numbers game', and the troubles of Fiji blamed squarely on 'politicians'. Bainimarama regularly played up the significance of the fact that the Republic of Fiji Military Forces (RFMF) had initially put Qarase's government into office back in July 2000, so that he could depict the prime minister as a disobedient subordinate who had defied orders. The commander consistently downplayed the fact that Qarase had won two elections – in 2001 and then again in 2006 – to distract from the Prime Minister's claim of something greater than a military mandate.

That commitment to the 'rule of law' could be extolled while electoral democracy was disparaged seemed curious. After all, the constitution specified that the government be democratically elected, and Fiji's judges had in the past found unelected regimes illegal. Yet perhaps this was not quite as strange as it at first sight appeared. Bainimarama was a military man, and within the RFMF rigid obedience to top-down authority was a pivotal element in the command structure, while accountability to the rank-and-file was non-existent. Armies are seldom democratic.

There were also strong Fijian antecedents for such a mixed position. Prominent mid-twentieth century Fijian politicians such as Ratu Sir Lala Sukuna – himself a dedicated military man – had deep misgivings about the suitability of democracy for Fiji.<sup>2</sup> Ethnic Fijians only gained the vote in 1963, 34 years after the Fiji Indians. Until then, the council of chiefs had controlled which of their number sat on the legislative council, with the approval of the governor. The military had shown its antipathy towards electoral democracy in 1987, when it first overthrew a government. In March 2001, the RFMF had opposed elections as a way out of the impasse generated by the 2000 coup after the Court of Appeal had judged Qarase's first government to be illegal.

In the early days after the 2006 coup, that authoritarian preference was given free rein. Prime Minister Qarase and his cabinet were stood down, parliament was dissolved, and the Secretary General to Parliament and the Supervisor of Elections were dismissed. The President, Ratu Josefa Iloilo, was sidelined (although he was restored to office in January 2007). The assault on Fiji's core representational institutions was also pressed further and deeper: The Great Council of Chiefs (GCC – Bose Levu Vakaturaga) was forbidden from sitting after it defied the commander's demands: It was subsequently restructured and politically transformed under the impetus of presidential decrees.<sup>3</sup> Soon, the Chief Executive Officers (CEOs) and other top officials in the ministries; the boards of the state-owned councils; and, by mid-2008, even quasi-private sector companies like Fijian Holdings Ltd were being purged and replaced by those who indicated their loyalty to the new order. If there was to be a return to democracy, it was destined to come to a thoroughly reconfigured polity. The commander and his allies hoped that their revolution would tear Fijians away

from the influence of pastors and chiefs and that, with time, they might come to cherish the new order.

## Roadmap to engagement

Post-coup statements about forthcoming elections initially acquired an inconsistent and rhetorical flavour, reflecting the regime's uncertainties about its own future. After he was elevated to the post of interim prime minister on 5 December 2006, semi-retired army camp physician Dr Jona Senilagakali said he was not sure when an election would be held: 'Democracy might be all right for Australia and New Zealand but [it is] certainly not all right for Fiji', he said, echoing the familiar post-1987 coup objections to democracy as a 'foreign flower'.<sup>4</sup> When Bainimarama handed power back to the 86-year old president on 4 January 2007 and took for himself the interim prime ministerial post, Ratu Josefa Iloilo's speech enjoined the RFMF commander rather vaguely to 'take our country to democratic elections after an advanced electoral office and systems are in place and the political and economic conditions are conducive to the holding of such elections'.<sup>5</sup> The President's military minder, Rupeni Nacewa, said polls might be five years away, but that this was 'merely a timeframe'.<sup>6</sup> The commander wanted the timing of the election to depend on the completion of his 'clean-up campaign', so that corruption might be thoroughly cleansed from Fiji beforehand. Conversely, Fiji's provincial chiefs, the Methodist Church and the SDL urged an early election as the way forward, having by early 2007 already despaired of restoring the deposed government.<sup>7</sup>

Interim government statements about the timing of the anticipated election soon came to reflect commitments made to the Commonwealth, European Union (EU) and Pacific Islands Forum (PIF). Former Speaker of the House, Ratu Epeli Nailatikau, played a key behind-the-scenes role in the early days after the coup liaising with the supranational organizations on behalf of the regime, as did the former CEO in the foreign affairs ministry, Isikeli Mataitoga. Commonwealth rules stipulated 'up to two years as the time frame for the restoration of democracy where the institutions are not in place to permit the holding of elections within, say, a maximum of six months'.<sup>8</sup> That such institutions were not in place, and had not been in place at the time of the May 2006 poll, became a pivotal plank of the coup-supporters' international diplomacy. In a document released in early January 2007, Fiji Human Rights Commission (FHRC) director Shaista Shameem argued that the 2006 elections had violated the constitution because a census of population had not been drawn up beforehand and because the Constituency Boundaries Commission had not revised district boundaries prior to the polls.<sup>9</sup> These claims were almost universally ridiculed by those familiar with the political situation in pre-coup Fiji, but they were echoed by Commodore Bainimarama.<sup>10</sup>

For their part, the Commonwealth and the EU were eager to engage with the post-coup Fiji government, and privately indicated their frustration with the belligerent stances of Australia and New Zealand. Canberra and Wellington were, in early 2007, still bristling at the collapse of their pre-coup efforts to broker a settlement between Bainimarama and Qarase and avert the coup. During the countdown to the military takeover, personal insults had been traded between Bainimarama and Australian Foreign Minister Alexander Downer. The commander condemned Australia, the UK and the USA for having allegedly sought to provoke a pre-coup mutiny against his authority at the Queen Elizabeth Barracks. After the coup, the Australian and New Zealand High Commissions were focal points for the post-coup military administration's claims of overseas-orchestrated destabilization, perceptions that culminated in the expulsion of New Zealand High Commissioner Michael Green in June 2007. For Australia and New Zealand, engagement under the auspices of the PIF thus became preferable to re-warming direct bilateral dealings. Since most new antipodean aid was immediately suspended in the wake of the coup<sup>11</sup>, the familiar pattern of condition-based restoration of grant assistance in the wake of Fiji coups focused on paying for things that could plausibly be viewed as encouraging a restoration of democracy.

For the EU and the Commonwealth, the PIF was also the convenient brokerage point. The Commonwealth Secretariat had a well-established tradition of interaction with the Pacific's major regional organization, and funded several of its key positions. EU adjustment to new World Trade Organization (WTO) rules had come to entail support for Pacific regional trade deals. EU assistance was particularly important to Fiji, since a F\$350 million grant to assist the rehabilitation of the Fiji sugar industry after the end of EU price subsidies had been agreed. However, article 96 of the EU's 2000 Cotonou Agreement made provision for a suspension of aid in cases of violation of human rights, democratic principles or the rule of law. The 2006 coup thus threatened possible cancellation of that grant assistance. In specifying conditions for continued payments, the EU, like the PIF, said it wanted to see an election before March 2009.<sup>12</sup>

In early 2007, the PIF engaged an Eminent Persons Group (EPG) to visit Fiji. Vanuatu Deputy Prime Minister Sato Kilman led a team comprising Samoan minister Faumuina Liuga, former PNG Chief Justice Sir Arnold Amet, and retired Australian Defence Force chief, General Peter Cosgrove.<sup>13</sup> The EPG report called on the interim government 'to commit without delay to a roadmap with measurable milestones which includes ... a firm timeframe for a national election (in the EPG's view this should be between eighteen months and two years, if not sooner)'.<sup>14</sup> The interim government responded by proposing a 36-month timetable, and requesting \$53.5 million for conducting a 12–15 month census of population, a Constituency Boundaries Commission (another 6 months), and other preparations for elections including setting up an electronic voter

registration system, conducting a voter education program and administering the elections (another 12 months).<sup>15</sup> Time was also needed, Bainimarama said, to facilitate economic recovery, to clean up corruption and to review the constitution.<sup>16</sup>

## The real danger of elections

Although the need for institutional reform was now agreed by both sides as the justification for some delay before fresh elections, this was not the real reason. The Commonwealth's Millbrook principles encouraged an emphasis on charting a 'roadmap' through various technical obstacles to holding elections, but most informed observers in Fiji knew that an election, if held, would produce a similar result to that of May 2006.<sup>17</sup> The maths were simple. Bainimarama's coup had overthrown a government that had obtained 80 per cent of the votes of ethnic Fijians only eight months earlier. By 2007, ethnic Fijians comprised 57 per cent of the population. If anything, indigenous Fijian attitudes had hardened since the 2006 election, as they had seen their politicians, chiefs and church leaders ridiculed, chastised and challenged by the military commander. So an election in 2009 would be likely to return Qarase's SDL or some similarly oriented ethnic Fijian-backed party, although such an outcome was anathema to the commander.

With Labour leader Mahendra Chaudhry as finance minister in the interim cabinet, the military-backed regime had the support of the leader of the Fiji Indians. Chaudhry's position had, oddly, been strengthened by the coup. Internal fissures had surfaced within the Fiji Labour Party (FLP) during the eight months of Qarase's multiparty cabinet. Some Labour MPs assumed ministerial portfolios, but Chaudhry had remained on the backbenches. From there, he had sought to discipline a 'gang of five' FLP moderates who defied his authority by supporting the new power-sharing accord. Yet the coup had entailed a switching of roles, and now Chaudhry held a key position in the cabinet. In the new circumstances, former divisions could be healed by granting positions in the post-coup order to FLP sympathizers and trades unionists such as Felix Anthony, Daniel Urai and Agni Deo Singh. Nevertheless, cracks continued to appear. Outgoing FLP Nadi branch president Bijay Prasad publicly expressed his regret at endorsing the FLP decision to join the interim regime, saying that this marked the end of his party's aspirations to be a multi-ethnic party; 'With the suspension of the GCC, reduction of the ministry of Fijian affairs to a department of Fijian Affairs, and the overhauling of the NLTB [Native Land Trust Board] with concurrence of our members in the Cabinet, any hope of winning the indigenous support has evaporated in thin air'.<sup>18</sup> In familiar fashion, Chaudhry responded that only corrupt politicians and chiefs were peddling the illusion of an alienated indigenous community.<sup>19</sup>

Chaudhry's leadership also faced challenges from other sources. Damaging revelations emerged about alleged tax evasion and fraudulent misappropriation of funds raised in India after the 2000 coup.<sup>20</sup> But, for the present, most Labour supporters did not believe the accusations and rallied behind their embattled leader. The overwhelming majority of the Fiji Indians either explicitly supported the coup or at least sympathized with the interim government. Yet Fiji Indians by 2007 accounted for only 38 per cent of the population, and therefore were unlikely to deliver sufficient votes to determine the political complexion of the next government. A more critical Indian perspective came from the minority National Federation Party (NFP), which, despite having secured no seats at elections in 1999 and 2006, retained a base both in the unions and in the municipal councils. NFP leaders kept up a high media profile, and harried the interim government and FLP leader Mahendra Chaudhry for all the injustices and constitutional breaches of the post-coup period. Would the extraordinary shift of the FLP into a post-coup government, after decades of criticism of those who acquiesced under earlier post-coup regimes, deliver greater Indian support for the one-time mainstream Indian-backed party? If so that would further compound the difficulties of the interim government.

Plausibly, a minority ethnic Fijian party willing to back the military's objectives might emerge. Yet something close to that had been tried before, at the May 2006 polls, when Ratu Epeli Ganilau's National Alliance Party of Fiji had secured only 2.5 per cent of ethnic Fijian votes and 2.9 per cent of the national vote. Ratu Epeli, the former RFBF commander, was politically close to Bainimarama, an affinity subsequently demonstrated by his joining the post-2006 coup interim cabinet. Perhaps the advantages of incumbency, popular acquiescence and post-coup 'realism' might boost support for such a party – if there were a breach of the commander's promise that interim ministers would not be allowed to contest the next election. After all, all manner of bribes, threats, age-old rural squabbles and sugar-coated enticements were being used to bolster political support for the regime's initiatives. Yet, by mid-2007, all the indications were that the post-coup assault on Fijian institutions had generated a seething discontent in the indigenous community. That disquiet was subdued only by fear of the military's monopoly over armed force.

Ultimately, the firmest indicator of the limited popularity of the interim government was its own evident timidity about facing the electorate. Ministers saw the writing on the wall. FLP leader Mahendra Chaudhry, the most experienced electoral campaigner in cabinet, was also the most vociferously and steadfastly resistant to holding a fresh election. Evidently, the interim ministers saw little realistic possibility that they, or their political allies, might secure a popular mandate at the polls.

## The invention of obstacles

A meeting of the PIF foreign affairs ministers in Vanuatu in March 2007 recommended the establishment of a joint PIF-Fiji government working group to monitor the implementation of the various steps required prior to the holding of fresh elections in Fiji.<sup>21</sup> This, in turn, commissioned an 'Independent Technical Assessment of Election Timetable for Fiji', drawn up by a team led by New Zealand electoral specialist, Paul Harris. It concluded that an 'election could be held in February or March 2009 from a technical point of view', or by November 2008 if the Fiji Bureau of Statistics received assistance with drawing up a new census of population. The report urged that there be some correction to 'the current mal-distribution of constituencies following the census' and suggested several other changes. However, it recommended that broader changes, either to Fiji's alternative vote system or to the prevalent mix between 46 communal and 25 open constituencies were 'best reserved for consideration by the people of Fiji after the next election'.<sup>22</sup>

In response, cabinet agreed 'in principle' to hold an election in the first quarter of 2009, with the proviso that 'there should be a redistribution of constituency boundaries following the 2007 census, an update of the registers of voters, and voters' education and information programmes'. Based on that commitment, Bainimarama announced, 'it is now for the European Union and Governments of Australia and New Zealand to provide Fiji financial and technical assistance for the convening of national census, boundary redistribution, voter registration, voter education and information programmes, to the Electoral Commission and the Elections Office'.<sup>23</sup> The new commitment was welcomed by Australian Foreign Minister Alexander Downer, and some aid was released for these electoral preparations.<sup>24</sup> Parallel negotiations with the EU reached a similar conclusion, and Brussels announced its support for the PIF-Fiji working group roadmap.<sup>25</sup>

With the government now 'in principle' committed to hold elections in early 2009, attention shifted away from electoral matters to other pressing concerns, and in particular to the mid-2007 challenge from the public sector unions (see Lutua and Naidu, this volume). Progress on implementing the agreed steps along the roadmap was slow. Doubts also existed about how genuine the electoral commitments were, fuelled – for example – by Bainimarama's statement in May that the RFMF did not conduct a coup 'just to have another election' and Chaudhry telling the media while in India that elections would be held in 2010.<sup>26</sup> The New Zealand government accused Fiji's interim regime of 'playing for time' and seeking to play donors off against each other.<sup>27</sup>

Agreement by the interim government on the electoral timetable had been aimed at securing resumption of the flow of aid. Through renewed engagement, it was hoped, donors could be gently cajoled into further concessions, including cancelling the much-despised travel bans that prevented interim ministers and

interim government appointees from entering Australia and New Zealand. The charade was fairly regularly exposed in domestic contexts. In July, Bainimarama told lawyers who petitioned the interim government to reinstate the ousted Chief Justice that 'if they continue doing this then the elections will be impossible in 2009, it will be in 2020'.<sup>28</sup> Australian and New Zealand travel bans, he claimed, were in fact preventing a return to constitutional democracy, pointing to the negligible number of applications for the vacant supervisor of elections post and claiming that this was due to antipodean travel blacklisting of regime appointees.<sup>29</sup> In August, he said that refusing to buckle to the demands of striking nurses was made easier by the fact that 'we do not have to worry about votes'.<sup>30</sup> Like the lawyers, nurses were told their action could derail plans for a national election in 2009.<sup>31</sup>

A central part of Bainimarama's case for overthrowing the Qarase government became that the 2006 elections were rigged, although this had not featured centrally in the RFMF's public statements before the coup.<sup>32</sup> In January 2007, soldiers released doctored tapes provided by convicted conman Peter Foster purporting to prove electoral fraud at the 2006 polls (see Fraenkel, chapter 3, this volume). But the evidence was quickly discredited, further releases of footage cancelled and Foster surreptitiously fled the country.<sup>33</sup> The 'rigged elections' story did not die. In early May, interim finance minister Mahendra Chaudhry held a press conference, claiming that an audit by his ministry had discovered that 665,256 ballot papers had gone missing, and that this was definitive proof of direct attempts to 'interfere with and manipulate the results of the 2006 general elections'.<sup>34</sup> The allegations were strenuously denied by sacked supervisor of elections, Semesa Karavaki, who said Mr Chaudhry 'can't believe he lost in the election. The people of Fiji had spoken and now he is part of the illegal regime'.<sup>35</sup> The timing of Chaudhry's statement was odd, particularly since there was nothing new about the allegations. Chaudhry had called for a hasty return to democracy soon after the coup<sup>36</sup>, but now he and his FLP colleague Lekh Ram Vayeshnoi had joined the interim cabinet. Were they under pressure to declare public sympathy for the coup? Speaking before a military passing-out parade in June, Vayeshnoi applauded the commander's coup, calling it a 'revolution for clean up' which 'had effectively removed all vestiges of racial discrimination in this country'.<sup>37</sup>

## **Were the 2006 polls rigged?**

The 2006 election had seen the arrival of Fiji's largest ever cohort of international election observers. A substantial and well-resourced team had arrived from the EU, and Australian and New Zealand monitors joined a team under the auspices of the PIF. The University of the South Pacific also assembled an official observation mission, as did the Commonwealth. All these teams found some evidence of administrative failings and some serious irregularities, but none



concluded that the election had been rigged or that the obvious deficiencies had somehow determined the ultimate result. The outcome of the 2006 poll was largely in line with the expectations of the better-informed locally based and neutral political commentators: It was close and highly ethnically polarized, but the slight edge in the indigenous Fijian share in electorates tipped the balance in favour of Qarase's SDL.<sup>38</sup>

Chaudhry, whose largely Indian-backed FLP had in May 2006 obtained 31 seats in the 71-member parliament, afterwards claimed that irregularities in voter registration, vote-buying and 'poll-rigging' by Qarase's ruling SDL had deprived his party of victory.<sup>39</sup> FLP claims of irregularities pre-dated the 2006 election; they were raised at the Electoral Commission's pre-poll dialogue sessions with political parties and in a stream of angry letters to the Supervisor of Elections. The allegations echoed the reaction after the 2001 election, when FLP leaders had difficulty suddenly adjusting to the shock of finding that they could not repeat their 1999 victory and so reverse the injustices of the 2000 coup. Defeated FLP candidates in the highly marginal open constituencies around Suva, like Lavinia Padarath in Nausori–Naitasiri, for many years after the 2001 election vociferously claimed that she had been robbed of victory, and she did so again after her defeat in 2006. None of these allegations were proven for 2001. After long drawn-out hearings, the courts rejected the petitions.<sup>40</sup> Defeated candidates' and parties' statements are seldom credible sources of evidence for claims of electoral malpractice. Their incentives to exaggerate, accuse and deceive are self-evident. The FLP needed some way to explain to supporters why campaign trail promises of a return to the pre-2000-coup glory days had failed to materialize in 2001, and electoral skulduggery was the obvious choice. The protests after the 2006 election were far more muted, and far less convincing, than they had been in 2001.<sup>41</sup>

One reason for that contrast was that, in 2001, Qarase's government had used distribution of outboard motors, pitchforks, spades and other farming implements to solicit support in rural indigenous Fijian communities. One of Qarase's ministers had himself highlighted the importance of such largesse to the SDL's 2001 re-election chances.<sup>42</sup> After the 2001 poll, key figures involved in the 'agricultural scam' were prosecuted. On the 2006 campaign trail, bags of rice or flour, and the perennial boosts to *yaqona* consumption filtered along the roads that led through Fijian villages. But vote-buying allegations could equally be levelled against Chaudhry's FLP, for which carefully targeted gifts had long been a favoured means of fostering political loyalties in the cane belts. The biggest expense for all the political parties was the supply of food and *yaqona* at the vibrant party sheds set up close to polling stations and outside the counting centres at election time. While the vote-buying allegations thus had some substance, the vote-rigging allegations were extravagant, unproven and

inflammatory. Irregularities there were, but these were mainly because seconded civil servants struggled with registering Fiji's eligible citizens, arranging the printing of the required number of ballot papers, organizing timetables for polling station opening times, shifting the ballot boxes to the counting centres, and tallying the preference votes marked on Fiji's over-elaborate ballot papers.

In the wake of the coup, the FHRC initiated a commission of inquiry into the 2006 polls; it was undertaken by Suva lawyer G.P. Lala, former MP Taufu Vakatale and a radical political economist from Waikato University, Dr David Neilson.<sup>43</sup> The title of the resulting report was 'From Roadhumps to Roadmaps', presumably to convey disdain for the obstacles cast in Fiji's way by international donors and to outline a more appropriate path back to democracy. It claimed (i) 'significant failures to ensure citizens' right to vote', (ii) 'significant biases in these failures primarily against Indian voters to the unfair advantage of the SDL', (iii) 'inappropriate "vote-influencing", vote-buying and vote-rigging to the unfair advantage of the SDL', (iv) 'the concentration of bias, vote-influencing, vote-buying and vote-rigging in the key urban open constituencies which is where elections in Fiji are won and lost'. The report was sloppy in construction, and full of spelling and factual errors, a sign of what one otherwise sympathetic reviewer generously called 'undue haste in its preparation'.<sup>44</sup> No reference was made to the difficulty of conducting a retrospective review of an election the result of which had been cancelled out by a coup. Nor did it mention any problem arising from the fact that the report had been commissioned by FHRC director Shaista Shameem, who had previously associated herself firmly with the military takeover. But it did mention the RFME, describing its role as that of a 'last resort defender of democracy' which had needed 'to suspend "democracy" in order to protect democracy'.<sup>45</sup>

The method chosen by the commission was just as flawed as its inspiration. It reached the verdict that the 2006 result had been 'rigged' largely on the basis of evidence gleaned at public hearings, without any independent effort to verify the accuracy of the evidence. When critics said the commission had failed to analyse the statistical plausibility of its extravagant claims, the team replied that this was 'beyond the resource and time constraints under which the report was prepared'.<sup>46</sup> This was a staggering claim. Public enquiry under conditions of military rule was scarcely an adequate way of testing whether an election 16 months earlier had been free and fair. The vast majority of the 59 submissions drawn upon came from those who had lost the election or, for one reason or another, had an obvious axe to grind. Only one submission came from the former governing party, the SDL. Whatever substance was in the report echoed the far more thorough and careful conclusions, based on more extensive, more independent and more reliable methods of evidence-gathering, by the various May 2006 electoral observation teams. But the FHRC commission ventured to

claim systematic ethnic bias and ballot-rigging solely on the basis of hearsay and anecdotal evidence, condemning the other reports as based on ‘first-worldist’ perspectives.<sup>47</sup>

The core allegation that there had been ‘ballot rigging’ by the SDL, and that this was particularly apparent in the key highly marginal urban open constituencies, had no solid foundation. The bases for this claim were (i) the ‘pattern of complaints’ (p.9), (ii) Dr Neilson’s observation of systematic bias in the issuing of registration slips and (iii) the argument that those administrative deficiencies identified in all the observer reports ultimately indicated such irresponsibility as to legitimately be called an ‘anti-democratic act’ and to generate ‘suspicion of corrupt practice’ (p.35). The story about bias in the issue of registration slips is the only one of these allegations that merits serious attention.

Registration of voters was the weakest element of the 2005–06 Election Office preparations, as all the observer reports indicated. Eligible citizens were left off the rolls or registered in the wrong constituencies, a familiar problem in elections across the Pacific. At the time of registration, citizens were given coloured slips of paper indicating in which two constituencies they were eligible to vote, and these were colour-coded by ethnic group (pink for the Fiji Indians). The FHRC report explained the rather impressionistic sequence of its findings of deliberate bias and ballot-rigging:

It was only when the Commission reached Savusavu that the New Zealand Commissioner, in a conversation with one of the District Officers, realized that the pink slips were only for Indo-Fijians! Registration problems were overwhelmingly confined to this one group. Only once the Inquiry was reaching the end of the submissions, and had returned to the greater Suva area, did it become apparent that one particular registration problem was recurring in a way that seemed more than accidental. Indo-Fijian voters were being registered in the correct communal constituency, but incorrectly in the open constituency. Further submissions indicated that this particular problem tended to occur in the main urban centres, especially around the Greater Suva area. This pattern is suspicious because of one significant fact, as was pointed out by Rev David Arms (submission 52); in Fiji elections hang in the balance around a relatively few number of open constituency seats in the major urban areas. Thus, vote-rigging, if it is going to be pursued, would be likely to be concentrated in these marginal seats (p.13).

This was evidence by insinuation. To jump from alleged concentration of registration errors in the Suva–Nausori area to ‘suspicions’ of ballot-rigging because, *if elections were rigged*, this is geographically where it would be done, is disjointed reasoning. There are plenty of plausible reasons why registration errors might be largely found in the densely populated Suva–Nausori area, which

is covered by many interlocked open and communal constituencies, as compared with the more sparsely populated countryside.

More importantly, the basic premise about the link between the issue of registration slips and the electoral rolls was flawed. Errors on the registration slips handed out to voters were reasonably common, but affected somewhat less than 1 per cent of all voters, and not just Indo-Fijians, but everyone.<sup>48</sup> This did not mean, as the commission apparently believed, that voters were actually registered in the wrong place on the rolls.<sup>49</sup> It only meant that the forms issued to them to tell them where to find their names were incorrect. Polling officials could easily correct this, and often did so if they understood the system, since at the end of the rows, next to each voter's name on a communal roll, was the number of the corresponding open constituency, and *vice versa*. Members of the FHRC Commission of Inquiry, like many of the polling station officials, were apparently unaware of this important detail about the methodology used in the Fiji voter registration system. Nonetheless, this was the core reason for claiming evidence of ballot-rigging.

The claim that administrative failings indicated 'corrupt practice' or that fraud could be confirmed by submissions from unsuccessful politicians or parties (or those like the government printer with an obvious grudge against the Supervisor of Elections) were even less credible. In other words, despite now having full control over the administrative arms and records of the state, the interim government's supporters were evidently struggling to find solid evidence that the 2006 election had been rigged. In fact, they were not even looking in the plausible direction.<sup>50</sup> The allegations by interim ministers about electoral fraud were thus largely self-serving bombast and showmanship.

## **The power of chiefs, padres and pastors**

'The 2006 general election was not credible', Commodore Bainimarama told the United Nations General Assembly in New York in September, 'it was characterised by massive rigging of votes with the incumbent government using the state's resources to buy votes'.<sup>51</sup> In addition to these more recent difficulties, the commander told the UN General Assembly that his military takeover had been a legitimate reaction to decades of defective democracy:

The "democracy" that came to be practiced in Fiji was marred by divisive, adversarial, inward looking, race-based politics. The legacy of leadership, both at community and national levels, was a fractured nation. Fiji's people were not allowed to share a common national identity. Of the two major communities, indigenous Fijians were instilled with fear of dominance and dispossession by Indo-Fijians and they desired protection of their status as the indigenous people. Indo-Fijians on the other hand,

felt alienated and marginalised as second class citizens in their own country, the country of their birth, Fiji.<sup>52</sup>

That post-independence democracy had become race-based, adversarial and divisive was not in doubt, although the claims that Fiji's citizens were 'not allowed' to share a common national identity were unfair to the efforts of Ratu Mara in the 1970s, and exaggerated the impact of his successors in generating race-based politics. Promoting positive images of multi-ethnic harmony was a regular feature under all governments, including that of Mahendra Chaudhry during 1999–2000. Television adverts shortly before the coup had encouraged popular support for Qarase's power-sharing experiment through messages from local celebrities and politicians, including Imrana Jalal, Ratu Joni Madraiwiwi and Krishna Datt.

The comments about the failures of leadership, included by Bainimarama's speech-writers, were more controversial, since these were primarily aimed at indigenous Fijians. Such claims were increasingly used to chastise those pressuring Fiji to hold early elections. 'The countries that are urging us to return to democracy', said Bainimarama in an unscripted remark, 'I don't know if they understand how unfair the system has been over the last 20 or 30 years':

Fijians live in a democracy with a mentality that belongs to the Fijian chiefly system. They decide for us who to vote for, our church *talatalas* [church ministers] decide for us who to vote for. These are the Fijians living in the villages and rural areas. The provincial [chiefly] councils dictate for us who to vote for and we go along with that.<sup>53</sup>

Indigenous politics has proved more complex, multi-faceted and changing than this suggests. In rural areas, the provincial councils have indeed often been able to influence the selection of indigenous candidates, just as the National Farmers' Union can pull the Indian vote behind the FLP candidate in the cane belts of western Viti Levu and northern Vanua Levu. But Fijian chiefs have often been defeated at the polls.<sup>54</sup> 'Commoners', like Rabuka and then Qarase, emerged as the core Fijian leaders of the 1990s and the new millennium, whereas high chiefs, like Ratu Mara, Ratu Epeli Ganilau and Ratu Epeli Nailatikau, found themselves out of favour. Those eastern chiefs, paradoxically, were to become the key Fijian backers of Bainimarama. Ratu Epeli Ganilau's National Alliance Party, which in TV adverts emphasized its ancestral linkages with the grand chiefs of post-war Fiji<sup>55</sup>, went to a crashing defeat at the 2006 election. Both Ganilau and Nailatikau joined Bainimarama's interim cabinet after the 2006 coup. Bainimarama's attack on chiefly influence was thus highly partisan, and did not preclude his drawing on the support of disgruntled chiefs where this suited his purposes.

The influence of the Methodist Church on indigenous voters has also been strong, particularly in the urban areas (see Newland, this volume). At the 1999 election,

the Methodist-backed *Veitokani ni Vakarisito in Lewenivanua* (VLV; Christian Democratic Party) proved decisive in ensuring the defeat of Rabuka's *Soqosoqo ni Vakavulewa ni Taukei* (SVT).<sup>56</sup> The VLV was associated with the Mara dynasty, and Mara had appointed Bainimarama as military commander in 1999. The VLV's 1999 leader, Poseci Bune, joined Bainimarama's cabinet after the 2006 coup. Adi Koila Mara (Ratu Mara's daughter and also a 2006 coup-sympathizer<sup>57</sup>) became another of the VLV's three MPs in 1999. Also in 1999, Ratu Epeli Ganilau stood unsuccessfully for the VLV in Cakaudrove West. In 2001, public Methodist endorsement for two new parties – Qarase's SDL and the Conservative Alliance–Matanitu Vanua – was an important reason for their achieving respectively 50 per cent and 20 per cent of the indigenous Fijian vote. By contrast, Hindu and Muslim religious organisations are generally less important in determining Indian voting patterns. Like minority community politics in many other parts of the world, Fiji Indian politics has been more overtly secular – in part to resist Methodist demands for Fiji to be turned into a 'Christian state'.<sup>58</sup>

Catholicism, the religion of Bainimarama's wife, also became an important prop for the post-2006 coup interim regime, much to the horror of prominent Catholics associated with the deposed government (like Ro Teimumu Kepa, paramount chief of Rewa province and former education minister). Catholic Archbishop Petero Mataka indicated strong sympathies with the commander's transformative project, and other members of the Catholic clergy, such as Fathers Kevin Barr and David Arms, became involved in the regime's initiatives. Complaints about the Catholic Archbishop's involvement with the post-coup government were sent by indigenous Catholics to Rome, but went unanswered. In June 2008, the Pope met Commodore Bainimarama at the Vatican, and the news reverberated back to Fiji. What was not reported was that Bainimarama bought a ticket for one of the regular papal public audiences, stood in line, and when his turn came basked in the resulting photo opportunity.

In Bainimarama's United Nations speech (as cited above), indigenous Fijians were described as having been 'instilled' with race-based hostility towards Fiji Indians, while Indo-Fijians 'felt' alienated and marginalized. In other words, Indians held legitimate moral grievances, whereas the ethnic Fijians had been duped by their leaders. Yet many Fijians also felt alienated and marginalized, indicating frustration at the prosperity of the Indian middle classes in urban areas or at Indian dominance of the commercial sector. Unlike ethnic Fijian politics, Indian politics is seldom publicly and explicitly couched in terms of communal interests. Nevertheless, on the campaign trail and in the vernacular, subtle ethnic messages are regularly conveyed about the forces of 'darkness' and 'light', about poor indigenous economic performance ('incompetence' and 'sleeping on the job' are regularly heard expressions) and about the alleged dismal failures of post-independence Fijian political leadership. Fiji Indian support for the coup entailed a rejection of the power-sharing cabinet attempted during

the May–December 2006 Qarase government, symbolized most vividly by the burning of an effigy of FLP cabinet minister Krishna Datt at an FLP meeting in Nasinu (Suva) shortly before the coup. Was this not also an example of Fiji's citizens being 'instilled' with communalist ideology by leaders playing ethnic politics?

If chiefs and *talatalas* (pastors) exert such strong influence over indigenous electoral loyalties, should urban reformers seek to annihilate this? Villagers look to political representation by chiefs, pastors or provincial councillors to provide an otherwise-lacking conduit for accessing state resources (eg. for building a road, or school or clinic) or for legal protection of customary rights. Where such links are absent or attenuated, for example further west in Melanesia, the state is correspondingly weaker. When chiefs or churchmen articulate communal aspirations, this is sometimes accompanied by inflammatory racial rhetoric. But, in the broader view, ethnic frictions between Fijian and Indian are underpinned by real issues – for example, land leasing arrangements, the desirability of affirmative action programs to combat disadvantage or political control over the state – which are poorly handled politically by dismissing these as based on 'racist' positions or claiming that these are efforts to sustain an 'apartheid' social order. Representing Fijian ethno-nationalism as a dogma 'instilled' by unscrupulous leaders only weakens the political will to negotiate indigenous hopes and fears. An advantage of electoral democracy is that it draws representatives of these various forces into political contexts where these issues must be transparently dealt with, even if doing so simultaneously generates a dangerous potential for top-level confrontation and obstruction. The utopian goal of seeking to transcend those social forces by destroying them is tantamount to aspiring to leave indigenous Fijians rudderless, inarticulate and estranged.

## **The advantages of sheep's clothing**

At a meeting of the PIF in Tonga in mid-October 2007, Bainimarama made a firm and much-publicized commitment that an election would be held by March 2009, without the qualification appended to earlier statements. The promise was welcomed by Australia, New Zealand and the United States, as well as by Qarase. The Fiji interim prime minister again called on donors to now drop sanctions and step up the flow of aid. New Zealand Prime Minister Helen Clark responded that she would 'keep Fiji's feet to the fire', explaining 'we need to see benchmarks met'.<sup>59</sup> 'Everything that needs to be done to prepare ourselves for the election has been done completely', responded Bainimarama, pointing out that the 2007 census of population had been completed and that preparations were well underway towards establishing a Constituency Boundaries Commission. 'What else do they want?', he asked, 'people come up and tell me you have to show us concrete steps – what further steps?'.<sup>60</sup> 'They think I have evil intentions', said Bainimarama jocularly, 'and that I want to stay around for the next 10 years'.<sup>61</sup>

Perhaps those assurances were genuine, some believed. Perhaps after the brief military interlude, Fiji would revert quickly to elections, as had occurred after the 2000 coup.

Actions within Fiji suggested that the commander's commitment was not made in good faith. Contrary to agreements with the EU, public emergency regulations had been reintroduced in September 2007 following Qarase's return to Suva 'to restrain ousted Fiji Prime Minister Laisenia Qarase and his party executives from destabilizing our progress'.<sup>62</sup> Political parties – such as the NFP and SDL – were prohibited from meeting, and indicated their outrage that political bans did not extend to the FLP.<sup>63</sup> SDL National Director Peceli Kinivuwai, was taken up to the Queen Elizabeth Barracks for interrogation at least 16 times during 2007. 'We will not let any government push us forward to have elections', military spokesman Lieutenant Colonel Mosese Tikoitoga told the Fiji press, 'we want to have all the conditions in place before we proceed with an election'.<sup>64</sup> In early October, an EU council meeting in Luxembourg had resolved to cancel US\$30 million worth of commitments for Fiji for 2007, and that 2008 and 2009 commitments would be subject to further discussions under article 96 of the Cotonou Agreement and Article 37 of the Development Cooperation Agreement.<sup>65</sup> Bainimarama responded 'right now it's better that we do not provoke them in any way otherwise they will not give us any funding'.<sup>66</sup>

Preparations in Fiji were, by the time of the commander's October Forum statement, already well under way for a National Council for Building a Better Fiji (NCBBF), which was to deliberate – among other issues – on plans to thoroughly overhaul Fiji's electoral system. The NCBBF was designed to draw on support from various sections of civil society for the interim regime's goals of fighting corruption, combating poverty and challenging racism. Bainimarama was to be co-chair, together with Fiji's Catholic Archbishop, and the goal was to produce a 'People's Charter' by October 2008. The commander had sought to gain PIF endorsement of the NCBBF process, but this had been merely 'noted' in the Tonga final communiqué.<sup>67</sup> Outside the Forum retreat venue at the picturesque waterfront Vava'u resort, the commander hedged his election commitment with qualifications: 'We might change the constitution before the election', he told the assembled journalists.<sup>68</sup> 'The charter will make sure there is no racial discrimination again ever', he explained 'so if anybody with Qarase like policies comes in, the charter will automatically remove them'.<sup>69</sup> The Attorney-General, Aiyaz Sayed-Khaiyum, who was accompanying Bainimarama, also equivocated about the election date, and downplayed the significance of the commitment to the Forum.<sup>70</sup>

Within Fiji, hostility to the overseas-brokered election timetable had become a popular rallying cry amongst those sympathetic to the interim government's program. The Catholic Archbishop and Ecumenical Centre for Education, Research



and Advocacy (ECREA) activists expressed such sentiments, as did civil society organizations like the Citizens' Constitutional Forum (CCF), and so most vociferously did the FLP. Australia and New Zealand were regularly condemned for insisting on an excessively hasty return to elections, rather than allowing time for reforms aimed at facilitating the emergence of 'deep rooted democracy'.<sup>71</sup> Jokapeci Koroi, the FLP president, accused Australia and New Zealand of bullying Fiji. 'They have exploited us commercially, treating us as a little colonial empire in their backwaters', she said, claiming that the PIF was little more than an instrument of neo-colonial oppression. The FLP had been the victim of vote-buying, vote-rigging and political interference with the electoral process, said Koroi, 'unless the system is overhauled to address these problems, holding another election will be farcical'.<sup>72</sup> This was a transparently self-serving comment, since changes to electoral laws in themselves do little to prevent ballot-rigging or vote-buying. But the FLP was by now firmly ensconced in the military-backed interim government and wanted to remain in that position for as long as possible.

At its inaugural NCBBF meeting in Lami in January 2008, co-chair Archbishop Petero Mataca explained to participants: 'There are those who want elections to be held imminently, so that we can return to democracy as soon as possible, but elections alone will not bring about democracy nor guarantee stability or end all coups'.<sup>73</sup> Early training sessions leading up to the inaugural NCBBF meeting had been held at the Queen Elizabeth Barracks, but civil society participants – like the CCF's Akuila Yabaki – urged the military to adopt an arms-length stance towards the NCBBF process.<sup>74</sup> Both of the major North Indian Hindu organizations joined the Council, although the Fiji Muslim League and the small but vocal NFP stayed out. So, critically, did the SDL and the Methodist Church, signalling that ethnic Fijian enthusiasm for the council was minimal. Those moderates that did join insisted that the role of the military itself be considered, since this was integral to the objective of ending Fiji's 'coup culture'. Deliberations were to be inclusive, insisted director of the NCBBF technical secretariat John Samy, a former Asian Development Bank consultant, and seats at the table would be left vacant for the SDL and Methodist Church, should they relent on their refusal to participate.<sup>75</sup>

Although participation was open to adversaries, the agenda was clearly non-negotiable. Why would the SDL want to participate in a forum intent on stopping people with 'Qarase-like politics' from assuming office? Was the intention to ban ethnic political parties, as has been undertaken – usually unsuccessfully – in so many other parts of the world? Plausibly, Bainimarama's threat to ban the SDL did not reflect the position of the technical secretariat or the rest of the NCBBF membership. However, Archbishop Mataca, too, said that the charter should serve as a binding 'covenant' for the future, a phrase

subsequently much echoed by the commander.<sup>76</sup> John Samy said 'it is anticipated that the political parties that will contest the March 2009 general election will all have manifestos in which the contents of the People's Charter contents will dominate'.<sup>77</sup> Some accolades were still more effusive; University of Fiji academic Professor Satendra Nandan called the as yet unwritten charter 'the most sacred text after the bible in the history of Fiji'.<sup>78</sup>

Other NCBBF participants' views of the charter process differed. Some, including moderates like Media Council director Daryl Tarte, former opposition leader Mick Beddoes and civil society activist Suliana Siwatibau resigned in early 2008, citing lack of independence of the NCBBF from the interim government and the military. Samy told Fiji TV's *Close Up* program in January 2008 that he opposed the coup, but he did not explain why he saw an initiative launched by the consequent military-established interim regime as a vehicle for social transformation. He had been called upon to set up the NCBBF by Mahendra Chaudhry, but the FLP too had reason for concern that the military's ever-changing agenda might shift yet again, and that the 'charter process' might be steered in unwanted and uncontrollable directions. Former Chief of Police Josefa Savua predicted that the People's Charter would ultimately reflect the military's aspirations, not those of the civil society activists who had pinned their utopian hopes and aspirations on these deliberations.<sup>79</sup>

'Why do you think we're here running the country instead of the politicians who should be here instead of us?' asked Bainimarama in September 2007, 'we keep removing them. Why? I don't think the politicians are ready to take this country forward. That's why we think our exit strategy is the Charter. That will form the basis of good governance. That way we can move away from all this'.<sup>80</sup> This was a justification of all Fiji's coups, including those in 1987 and 2000 that had removed Chaudhry and his FLP from office. It was not the voice reflected by the public speech-writers, but that of a military coup-maker indicating disdain for the shabby compromises and posturing of elected politicians. Nor was it an isolated statement. In October, Bainimarama repeated again to the Fiji press that 'you cannot afford to have a civilian as a Prime Minister'.<sup>81</sup> Clashes between cabinet ministers rarely reached the Fiji media, but a reshuffle in January removed Poseci Bune, who was known to have fought with Chaudhry. Chaudhry himself was investigated by the RFMF after allegations of financial impropriety, although the end result was a whitewash. For the present, Bainimarama needed his finance minister to give robustness, coherence and legitimacy in the Indian community to an otherwise unpopular government. But in Fiji's ever-shifting political landscape, it was never quite clear where contemporary allies might stand a few months hence.

Meanwhile, progress on the Forum-monitored roadmap was beset by public relations disasters. Adi Koila Mara was appointed to head the required

Constituency Boundaries Commission. But she had been a Senator in the previous government, so her appointment was unlawful and it was cancelled, much to the embarrassment of the Attorney-General.<sup>82</sup> Newly appointed High Court Judge Jocelyn Scutt publicly criticized the 2006 international election observers in February and applauded the FHRC report on the 2006 election, much to the horror of the Fiji Law Society.<sup>83</sup> The government selected a Supervisor of Elections, only to find that he had been disbarred in New Zealand in 1992, and he too had to be replaced.<sup>84</sup> New technical obstacles were arising every week. The school timetable made a March 2009 election impossible, said Bainimarama in May.<sup>85</sup> Others pointed out that the hurricane season only finished in April, two months after the scheduled election date. For some overseas mediators, their own ambivalent and pragmatic attitudes towards Fiji's coup were manifested through acquiescence to the electoral delay. After negotiations with the commander in June, PNG Prime Minister Sir Michael Somare acknowledged uncertainties about the timetable, explaining that 'there are logistical issues that the Fiji interim government is in the process of resolving'.<sup>86</sup>

The political motives behind the interim government's desire to delay the election were always fairly obvious, but they became more explicit during early 2008. 'Now we want to have an election', the commander told journalists in May, 'but we want to have an election *on my terms* so that we can cut out the coup mentality'.<sup>87</sup> The 'coup to end all coups' theme of the interim prime minister's October 2007 UN Speech was now recycled into a reason for *not* holding elections. 'We have to break the vicious cycle of elections followed by coups; that is what has been described as the "coup culture" in Fiji', the commander said.<sup>88</sup> Hasty elections, he explained, would be 'impossible under the current electoral system as the system itself is undemocratic ... it violates the UN Universal Declaration of Human Rights'.<sup>89</sup> Attorney-General Aiyez Sayed-Khaiyum admitted that earlier commitments had only been meant to hoodwink the EU into releasing sugar subsidies.<sup>90</sup> By May, it was glaringly obvious that the interim government intended to renege on its March 2009 election commitment. Elections would now, the commander said, be held 'as soon as possible in 2009'.<sup>91</sup> In Nadoi (Rewa) in May, Bainimarama told villagers that unless they endorsed the People's Charter there would be no election.<sup>92</sup> A Commonwealth Ministerial Action Group meeting in London expressed grave concern at apparent slips in election preparations.<sup>93</sup>

## Roadmap to Damascus

The new rationale for electoral delay, drawing succour from the NCBBF's deliberations, was now an urgent need for wholesale electoral reform. As Chaudhry put it in May, it was necessary to 'put our fundamentals right before an election is held'.<sup>94</sup> Until we fix the electoral system' he claimed, 'you cannot get rid of racism in the country'.<sup>95</sup> John Samy said that the 1997 constitution

had served to 'entrench, perpetuate and legitimise race-based, divisive politics. It has been the antithesis of national unity. It has undermined democracy'.<sup>96</sup> The 'current race-based electoral system has failed to deliver social cohesion and inter-ethnic cooperation', Bainimarama told one of the NCBBF meetings.<sup>97</sup> 'The common roll is the way to go', he claimed, because 'it takes away the race card'.<sup>98</sup> Similar arguments were echoed by NGO activists, such as the CCF's Reverend Akuila Yabaki and ECREA director Chantelle Khan.<sup>99</sup> When the NCBBF's 'National Task Team on Good Governance' report was released in June 2008 it called for 'the complete abolishment [*sic*] of the communal representation system' and for 'common roll for all future elections'.<sup>100</sup>

The case for a common roll had long been urged in Fiji.<sup>101</sup> It had been pressed by Indian politicians back in the 1920s, when the colonists first introduced communal voting, and when use of communal seats for Indians had been viewed as an instrument of colonial oppression. The claim that communal voting was responsible for race-based voting was expressed by A.D. Patel and the Indian delegation to the 1965 London talks. It was echoed by the 1975 Street Commission and in a more sophisticated way by the 1995–96 Reeves Commission.<sup>102</sup> That this style of electoral organization, in one sense, nudged outcomes in a communalist direction was not in doubt.<sup>103</sup> Yet attributing Fiji's post-independence ethnic polarization to institutional design was a gross exaggeration. Even in the common roll contests during 1972–87<sup>104</sup> and 1999–2006, there had been very little inter-ethnic voting. Plausibly, political parties primarily constituted for communal contests had tended to fight the common roll contests in a similar fashion. After all, even many of Fiji's common roll constituencies were so ethnically unbalanced that they were sometimes called 'communal seats in disguise'.<sup>105</sup> But, if this view were correct, Fiji would have some history of multi-ethnic political parties performing reasonably well in the highly heterogeneous common roll seats in the Suva–Nausori corridor, but struggling to make headway in the communal contests.<sup>106</sup> In fact, ethnic political divisions since independence were *stronger* in the inter-mixed areas around the capital, Suva, than in the so-called 'friendly north' (Vanua Levu) or western Viti Levu. In its mid-1970s heyday, for example, the extremist Fijian Nationalist Party secured its highest vote share in the urban and peri-urban areas of eastern Viti Levu, and was never strongly supported in the cane belts or on the outer islands.

Fiji is unique in classifying *all* its citizens by race for electoral purposes.<sup>107</sup> Other countries, however, have strongly ethnic, religious or communal voting patterns. Northern Ireland, for example, has a Catholic/Protestant or Republican/Loyalist division that strongly influences voting patterns.<sup>108</sup> Yet it does not have communal constituencies. Nor does Guyana, where Indo-Guyanese and Afro-Guyanese have long backed distinct, communally based, political

parties.<sup>109</sup> Ethnic voting is reasonably common internationally, but separate communal constituencies are a rarity.

The interim regime also appropriated other aspects of the NCBBF's transformative agenda. In a paper for the NCBBF's National Task Team 1 on Good Governance, David Arms recommended the abolition of Fiji's alternative vote system and instead suggested the adoption of an open list proportional representation system.<sup>110</sup> Plans were also announced to lower the voting age from 21 to 18; to abolish compulsory voting; to end use of power-sharing provisions; and to restrict cabinet size. 'As the military regime [is] more or less acting outside the Constitution', Father Arms proposed, 'the NCBBF should take the opportunity to push through the electoral reforms and amend the Constitution, by taking advantage of the military authority and ignoring the legal constitutional requirements for making such changes'. The suggestion was condemned as 'treasonous' by former Leader of the Opposition Mick Beddoes, who lamented that 'men of God' were in cahoots with 'a military Junta, whose actions to date have been against the will of the people'.<sup>111</sup>

While many of the National Task Team 1 proposals were sensible, seeking to introduce these on the back of a military coup was not. As deposed Vice-President Ratu Joni Madraiwiwi, himself a long-standing supporter of proportional representation, told the Fiji Institute of Accountants in June, 'the tragedy is that many beneficial features in the proposed charter and the electoral system would be discounted and discredited because of the manner of their implementation'. The People's Charter and the new electoral system would not be sustainable if forced on the people.<sup>112</sup> Ironically, Qarase himself had contemplated abolishing communal rolls prior to the coup, recognizing that this might hold advantages for the numerically preponderant Fijians.<sup>113</sup> Neither the introduction of a common roll system nor the abolition of the alternative vote system were likely to threaten indigenous Fijian preponderance in government, if they backed a single party. But now, in the bitterly divided circumstances of post-coup Fiji, Fijians were likely to take any available opportunity to contest any of the interim regime's initiatives, whatever their intrinsic value. Rewa Chief Ro Filipe Tuisawau, for example, condemned the common roll proposal, saying it had been urged by 'non-Fijian leaders since 1970' but that 'Fijian Chiefs and leaders have consistently opposed this call in order to protect their heritage and interests'.<sup>114</sup>

Using military ascendancy to force through electoral reforms ran the risk of further politicizing voting institutions, and consequently damaging the legitimacy of any post-election government. One alternative was a referendum on the proposed electoral reforms. Despite there being no legal provision for constitutional amendment through referendum, the courts would be unlikely to overturn a popularly backed outcome. But, again, the likelihood was that

such a referendum might elicit support only from the regime's sympathizers, and be rejected by the majority of indigenous Fijians.

An alternative was to accomplish reform by achieving a consensus with Qarase and the SDL, as well as the other smaller parties. Parliament might be temporarily reconvened only to agree the changes, and then dissolved ahead of an election. Qarase had offered such a course of action.<sup>115</sup> The commander refused, fearful of acknowledging the political importance of his arch-adversary, saying 'we dictate how things go. Nobody tells us what to do'.<sup>116</sup> What to do about the charter proposals thus became linked to the controversy about the electoral timetable. Could Fiji be governed without the consent of the majority? Could electoral changes or the People's Charter be adopted without broad legitimacy? By mid-2008, the motley collection of civil society activists, modernist military officers, Catholic social justice advocates, Hindu religious leaders and FLP supporters who had pinned their hopes on a 'good governance' coup had come to a predictable impasse. Essentially the same question of legitimacy would beset them on every route out of crisis, whether towards the promised electoral deadline or towards the rubber-stamping of their reformist institutional proposals.

## End of the roadmap

Reneging on the agreed election timetable generated dangers of isolation. Alternatives were sought. Sir Paul Reeves, the chair of Fiji's mid-1990's Constitutional Review Commission, visited the country to broker talks in December 2007,<sup>117</sup> and returned in the New Year as Commonwealth Envoy. After appeals from the Office of the President, he returned yet again in July 2008 to set up a political forum. Ahead of Sir Paul's arrival, as a gesture of commitment to talks, Bainimarama met with Qarase over *draunimoli* (lemon tea), for negotiations brokered by Catholic and Methodist church leaders.<sup>118</sup> Aware that alternative methods of international engagement were in the offing, including also a visiting EU Troika mission, the commander wrote to the PIF 'I have decided that Fiji will no longer participate in the Forum Working Group meetings until such time [as] the positions of Australia and New Zealand are genuine'.<sup>119</sup> The Attorney-General said that the EU Troika Mission was 'more flexible', 'more facilitative' and 'more engaging partners' than the Joint Forum Working Group.<sup>120</sup> Only month later, he condemned the EU mission for inappropriately focusing on the election timetable.<sup>121</sup>

In mid-July 2008, the commander finally, publicly and unequivocally, declared that 'there will be no elections next year'.<sup>122</sup> Cabinet had always planned to hold elections only in 2010, he said. The earlier qualification – that the March 2009 deadline was only an 'in principle' commitment – had only been removed as a result of entreaties from Pacific Island Forum chairman Feleti Sevele.

What I gathered was that he said whilst you kept the 'in principle' in front of the March 2009 – it tells the international community you will never have elections so take away the 'in principle', keep the March 2009 – announce to them the March 2009 and if there's any extra time for elections that you want, we will be quite flexible coming out with additional timing so I took that on board and that's how I came up with March 2009 at the Forum on the understanding if there's need to be an extension in time the International Community will be very flexible.  
[sic]

Dr Feleti broadly confirmed the commander's garbled account of the behind the scenes diplomacy at the Forum's October 2008 meeting, saying:

... the Forum Leaders did not want such a diluting qualification in the communiqué. We also added that if having taken all reasonable steps towards holding the elections as promised, the Fiji interim Government found that it was genuinely and practically impossible for Fiji to hold free and fair elections in the first quarter of 2009, then the Forum Leaders would, as reasonable people, be flexible about extension of the agreed deadline.<sup>123</sup>

The charade in this was twofold. First, it was that foreign powers were somehow in control of the process, and that they could give 'deadlines' and 'extensions', as if to students whose essays are overdue. Second, it was that delays were due to technical obstacles, as if the reluctance of a coup-leader to relinquish power to an elected government was not political at all. The diplomatic advantages of that myth were that it kept overseas sympathizers and opponents of the Fiji coup united around the pressure for a fresh election, but it also made that pressure susceptible to myopic technical objections and ensured that dialogue became entangled in a focus on process rather than substance. The principal usefulness of the March 2009 deadline was symbolic, and its justification was as an echo of what domestic forces – although restrained by military oppression – were themselves urging. It entailed pressure for an acknowledgement by the interim regime that its tenure was only temporary, and that Fiji's longer-term future lay in a restoration of constitutional democracy.

## **Conclusion: The primacy of domestic discontent**

For the first year and a half following the coup, the regime had sought to cultivate popular support for its various initiatives, such as the review of the Great Council of Chiefs (GCC), and the NCBBF. In the end, a Presidential decree made changes to the GCC that were so unpalatable to Fijians that even members of the review team resigned. The island of Kadavu dropped Josefa Nawalowalo as provincial chairman after he associated himself with the regime's decree to reconfigure the GCC. Support for the NCBBF amongst indigenous Fijians was, at best, patchy.

In Rotuma, Macuata and Serua, provincial chiefs indicated a willingness to embrace the new reform agenda. Qarase supporters were locked out of a meeting of the Lau provincial council meeting in June 2008 in a mini-coup that saw Ratu Mara's son and military officer, Ratu Tevita Uluilakeba, assume the chairmanship. Lau's faded glory since the death of Ratu Mara in 2004, it was hoped, would be resurrected through the new military-dominated political order. Most of the core Fijian provincial councils – including Naitasiri, Tailevu, Cakaudrove, Rewa, and Namosi – remained steadfastly opposed to the interim regime's initiatives. Critically, no high profile splits amongst the SDL leadership had occurred that might give the commander a much-needed political niche. One ambitious SDL minister, Jonetani Navakamocea, had joined the January 2007 interim cabinet, but he was dropped in a January 2008 reshuffle and subsequently protested that an inner circle kitchen cabinet was running the affairs of state.<sup>124</sup>

By mid-2008, Bainimarama had destroyed the careers of the bulk of the ethnic Fijian elite, by purges ranging from the public sector to the boards of state-owned companies and even to listed companies like Fijian Holdings Ltd. Had Fijian society been primarily class-based, this might have translated into grass roots support for the military regime. But it was not. Most Fijian families were hit hard by the removal of breadwinners from positions of influence. Some also benefited, and many had amongst their relatives both beneficiaries and those who had been deposed. The severity of the economic downturn ensured that what gains there were did not offset the losses.

Amongst the civil society activists, there were enthusiasts and visionaries who felt they were in the throes of a social and even spiritual revolution. They did not want an early election that might halt their transformational project, a point regularly negatively expressed by saying, as the Catholic Archbishop did, that elections 'would not halt Fiji's coup culture'. Perhaps not, replied lawyer Richard Naidu, ridiculing the idea that a military-sponsored initiative like the NCBBF might serve this purpose. Elections were a means to an end, said Naidu, not a panacea for all Fiji's difficulties. The key and fairly obvious point was that only a constitutional government could find long-term solutions to Fiji's 'coup culture'.<sup>125</sup> Naidu, like many of the public opponents of the coup, had been harassed at the Queen Elizabeth Barracks after the coup, when soldiers fired off a gun next to his hooded head, before releasing their traumatized captive. He, like many others, lowered his profile, and adopted a more cautious public stance. Despite all this harassment, when supporters and opponents of the 'People's Charter' came together in a public debate in Suva's *JJs on the Park* banquet hall, it was clear that the intellectual heavyweights – including Richard Naidu, Wadan Narsey and Tupou Draunidalo – were on the opposing side.<sup>126</sup> That the middle ground had shifted away from a strained participation in the NCBBF initiative (on the grounds of the need for dialogue) was indicated by the resignations of Daryl Tarte, Mick Beddoes and Suliana Siwatibau in early 2008. Even amongst



the Indian community, whose leader was in cabinet, the longer-term political ramifications of the coup were, by mid-2008, increasingly uncertain. As a *Fiji Times* editorial noted in April 2008 'there has been no groundswell of support for Commodore Bainimarama'.<sup>127</sup>

Overseas pressure on Fiji's interim government to hold elections was often justified in the context of broad-ranging principles of human rights or democratic norms. In response, Bainimarama's ministers regularly upbraided foreign diplomats for a 'dogmatic' focus on the election timetable, and pleaded greater familiarity with Fiji's historical circumstances.<sup>128</sup> The weight of domestic hostility to the coup, silenced by civil rights abuses, ongoing intimidation and some growing sense of fatalism, was increasingly forgotten or conveniently ignored in this post-coup dialogue, even amongst those overseas commentators who were familiar with the once open style of pre-coup Fiji politics. But diplomatic pressure for an election or for a restoration of constitutional democracy only made good sense as a means for externally articulating the robust – if intimidated and sometimes silenced – Fiji-based resistance. Bainimarama's decision to repudiate the March 2009 election date did not reflect some heartfelt commitment to the grand cause of electoral reform, but was rather a pragmatic acknowledgement of the unpropitious domestic balance of social forces.

## ENDNOTES

<sup>1</sup> Commander RFMF - Public Declaration of Military Takeover, 5 December 2006.

<sup>2</sup> Sukuna, Ratu Sir Lala, *Fiji: The three-legged stool; selected writings of Ratu Sir Lala Sukuna*, (ed) Scarr, D., London: Macmillan, 1983.

<sup>3</sup> 'Fijian Affairs (Great Council of Chiefs) Regulations 2008', *Republic of Fiji Islands Government Gazette*, 8 (12), 13 February 2008.

<sup>4</sup> *Fijilive*, 7 December 2006.

<sup>5</sup> H.E. the President's speech after the commander handed back authority, 5 January, 2007.

<sup>6</sup> 'Interim Government May Rule for Five Years', *PacNews*, 23 January 2007.

<sup>7</sup> 'Chiefs want early Polls', *The Fiji Times*, 30 March 2007; Churches want early return to democracy', *fijilive*, 13 June 2007.

<sup>8</sup> The Millbrook Commonwealth Action Programme on the Harare Declaration, 1995, available [http://www.thecommonwealth.org/Internal/20723/34458/the\\_millbrook\\_commonwealth\\_action\\_programme/](http://www.thecommonwealth.org/Internal/20723/34458/the_millbrook_commonwealth_action_programme/); see also the comments of Secretary General Don McKinnon cited in *The Fiji Times*, 22 October 2007; *The Guardian*, 8 December 2006.

<sup>9</sup> Shaista Shameem, Director, Fiji Human Rights Commission, 'The Assumption of Executive Authority on December 5<sup>th</sup> by Commodore J.V. Bainimarama, Commander of the Republic of Fiji Military Forces: Legal, Constitutional and Human Rights Issues', 3 January 2007, <http://www.humanrights.org.fj>.

<sup>10</sup> See for example, 'Commander RFMF's Handover Speech', 4 January, 2007. On the reasons for the pre-2006 election Constituency Boundaries Commission not revising district boundaries, see Kesaia Seniloli, 'Fiji's electoral boundaries and malapportionment', in Fraenkel and Firth, *From Election to Coup in Fiji: The 2006 Campaign and its Aftermath*, Institute of Pacific Studies, Suva, and Asia-Pacific Press, Canberra, 2007, pp. 288–299.

<sup>11</sup> Australia suspended the defence cooperation program and parts of the law and justice sector program (ie. assistance to the security services), but health and education programs continued. New bilateral initiatives were also suspended, aside from programs aimed at facilitating an early return to democracy.

<sup>12</sup> See 'Fiji-EU Diplomacy', *Oceania Flash*, 19 April 2007; *The Fiji Times*, 20 April 2007; and 'Fiji's Cooperation with EU Vital', *fijilive*, 22 June 2007. Commitments to the EU had included 'the staging of

free and fair parliamentary elections within 24 months from March 1, 2007' ('Election before Aid', *The Fiji Times*, 2 October 2007).

<sup>13</sup> Pacific Islands Forum, Press Statement, 24 January 2007.

<sup>14</sup> Forum Eminent Person's Group Report on Fiji, 29 January–1 February, 2007, available

[http://forumsec.org/\\_resources/article/files/FLJI%20EPG%20REPORT,%2029%20Jan%20to%201%20Feb%2020071.pdf](http://forumsec.org/_resources/article/files/FLJI%20EPG%20REPORT,%2029%20Jan%20to%201%20Feb%2020071.pdf).

<sup>15</sup> Fiji Government Submission to the Forum Foreign Affairs Meeting on the EPG Report on Fiji, 16<sup>th</sup> March 2007, Ministry of Foreign Affairs and External Trade.

<sup>16</sup> 'Roadmap of Interim Government', *The Fiji Times*, 21 February 2007.

<sup>17</sup> See, for example, Narsey, this volume.

<sup>18</sup> 'FLP widens racial gap', *The Fiji Times*, 11 February 2008. The announcement regarding the downgrading of the ministry of Fijian affairs ([http://www.fiji.gov.fj/publish/printer\\_10683.shtml](http://www.fiji.gov.fj/publish/printer_10683.shtml)), was subsequently reversed ('Fijian Affairs not downgraded – PM Bainimarama',

26 November 2007, [http://www.fiji.gov.fj/publish/page\\_10688.shtml](http://www.fiji.gov.fj/publish/page_10688.shtml)).

<sup>19</sup> 'Labour will not Withdraw from Regime', *The Fiji Times*, 12 February 2008.

<sup>20</sup> Large sums of money obtained by Chaudhry from India in the wake of the 2000 coup had been placed in Australian bank accounts (see Victor Lal, 'Chaudhry Letter Reveals Hidden Donations', *Fiji Sun*, 25 February 2008). Speaking before parliament in 2005, Chaudhry had denied knowledge of these payments (see <http://www.parliament.gov.fj/hansard/viewhansard.aspx?hansardID=441&viewtype=full>). Under investigation by the Fiji Islands Revenue and Customs Authority (FIRCA), he had produced a letter from a man in India claiming that these payments were to assist the deposed prime minister to relocate his family in the wake of the 2000 coup. An enquiry by Bainimarama's interim government found that FIRCA had conducted its enquiries on the matter properly, but did not address the issue of whether Chaudhry had misled Fiji's parliament in 2005. It also accepted Chaudhry's claim that he was unaware of FIRCA procedures for handling interest payments on overseas interest earnings, although it seemed rather unlikely that the finance minister in the 1987, 1999–2000 and post-2006 coup interim governments would be unaware of these provisions. The other remaining mystery was whether those funds were, as claimed, for personal use or whether they had been intended to assist the beleaguered Fiji Indians suffering in the wake of George Speight's takeover in 2000.

<sup>21</sup> 'We are ready to assist: Australia', *fijilive*, 7 June 2007.

<sup>22</sup> 'Fiji elections "in 2008 possible"', *fijilive*, 7 June 2007.

<sup>23</sup> 'Fiji Cabinet "agrees" to 2009 election', *fijilive*, 19 June 2007.

<sup>24</sup> 'Australia welcomes Fiji's stand on elections', *fijilive*, 20 June 2007. Australia provided \$437,000 for the 2007 census ('Aussies keen to help commission', *The Fiji Times*, 16 January 2008)

<sup>25</sup> 'Fiji's cooperation with EU vital', *fijilive*, 22 June 2007.

<sup>26</sup> 'Australia worried by Bainimarama's comments', *fijilive*, 1 June 2007; 'Chaudhry reveals election date to India', *The Fiji Times*, 22 May 2007.

<sup>27</sup> 'Clark says Fiji playing for time', *The Fiji Times*, 21 June 2007.

<sup>28</sup> 'Critics put Elections in Limbo', *fijilive*, 3 July 2007.

<sup>29</sup> 'NZ "hell bent" on hurting Fiji: interim PM', *fijilive*, 3 July 2007.

<sup>30</sup> 'We have no voters to please: Bainimarama', *The Fiji Times* 3 August 2007.

<sup>31</sup> 'Bainimarama: strike could defer poll', *The Fiji Times*, 1 August 2007.

<sup>32</sup> See, for example, the commander's eulogy to the new multi-party government after the 2006 polls in *Mataivalu News*, July/August 2006, p.3; see also 'Fiji military pledges support for government', *The Fiji Times*, 28 July 2006.

<sup>33</sup> 'Army to release more Foster videos', *fijilive*, 3 January 2007.

<sup>34</sup> *The Fiji Times*, 9 May 2007.

<sup>35</sup> *The Fiji Times*, 11 May 2007

<sup>36</sup> *Fijivillage*, 16 December 2006.

<sup>37</sup> 'Coup a revolution, says Vayeshnoi', *fijilive*, 25 June 2007.

<sup>38</sup> By-elections in Tavua and Cakaudrove prior to the May 2006 polls had suggested that the forthcoming general election would be sharply polarized, although no one then said those had been rigged. The acutely ethnically polarized political temperature throughout 2001–06 – inflamed particularly by conflict between Qarase and Chaudhry over the multiparty cabinet provisions, the Promotion of Reconciliation, Tolerance and Unity Bill, and the treatment of 2000 coup convicts – made the 2006 election outcome

likely to be highly divided. Based on projections giving 80% of the Fijian vote to the SDL and 80% of the Indian vote to the FLP, the overall election results were reasonably straightforward to predict. Once the political parties released their rankings for redistribution of preference votes for each of the 71 constituencies, those predictions could be fine-tuned to anticipate results for each constituency. I conducted several workshops for diplomats and for the media in August and October 2005 and March 2006, explaining this methodology for predicting the 2006 electoral outcomes ('Alternative Scenarios at the Forthcoming Polls', *Understanding the Next Fiji Elections; A Workshop for Diplomats*, Tanoa Plaza, Suva, Fiji, 15 August 2005; 'Analysing Fiji Elections', Media and Elections Workshop, Suva, 20-22 March 2006; 'Understanding the Alternative Vote System; Preference Exchange, the Count Process and Getting from Votes to Seats', 2006 Fiji Media and Elections Workshop, Tanoa Plaza, Suva, Fiji, October 22 2005). As the international observer teams arrived, I publicly briefed both the PIF and EU observers again explaining that methodology ('Briefing Presentation for Combined International Observers to the Fiji 2006 election, Police Academy, Nasese, Suva, April 2006; Briefing Presentation for Pacific Islands Forum Election Observers, Fale, Pacific Islands Forum Secretariat, Ratu Sukuna Road, Suva, April 2006). Other observers also predicted an outcome that was close to the final result, with FM96's Yellow Bucket column calling every seat except one correctly.

<sup>39</sup> Chaudhry, M. 'Tainted elections', in Fraenkel and Firth, *From Election to Coup in Fiji; The 2006 Campaign and its Aftermath*, Institute of Pacific Studies, Suva, and Asia-Pacific Press, Canberra, 2007, pp 347–364.

<sup>40</sup> In one case – Nadi Open – the result was overturned by Justice Anthony Gates giving victory to the FLP candidate. The Court of Appeal concluded that he had made a serious mistake in law.

<sup>41</sup> One indication of the temperature of allegations of fraud was the CCF's ElectionWatch workshops. I attended both the 2001 and 2006 workshops. In 2001, the audience was packed, and allegations of irregularities and malpractice were wild and furious – although most turned out to be bogus. In 2006, the audience was much smaller and there were few allegations of fraud.

<sup>42</sup> A letter from Minister of Public Works and Energy Jocketani Cokanasiga to Prime Minister Qarase, dated 8 August 2001, described a decision by the finance ministry to suspend the agricultural assistance scheme so soon before the general election as 'political suicide'. The origins of this program were in fact prior to the 2001 election announcement: it was aimed at placating discontent in rural Fijians areas in order to avoid any repeat of the Speight uprising, as were nearly all of the initiatives of the Qarase government.

<sup>43</sup> Fiji Human Rights Commission, 'Report of the Commission of Inquiry into the Fiji 2006 General Elections', September 2007.

<sup>44</sup> David Arms, 'A Critique of the Report of the Independent Assessment of the Electoral Process in Fiji', 31 July 2007, included as an annex to the main report.

<sup>45</sup> Fiji Human Rights Commission, 'Report of the Commission of Inquiry into the Fiji 2006 General Elections', September 2007, p23.

<sup>46</sup> 'Commentary on the SDL's Response to the Draft Report', annex to Fiji Human Rights Commission, 'Report of the Commission of Inquiry into the Fiji 2006 General Elections', September 2007.

<sup>47</sup> Report of the Commission of Inquiry into the Fiji 2006 General Elections, Fiji Human Rights Commission, September 2007, pp.5, p9–10; see also David Neilson 'What if the Fiji ballot was less than "Free and fair"?' , *New Zealand Herald*, 15 October, 2007.

<sup>48</sup> Unlike the Commission, I can offer detailed first-hand evidence of this. I was a University of the South Pacific election observer during the 2006 election. Early in election week, the problem of officials finding the names of voters on one roll, but not on the other, became apparent and much discussed. I personally raised this with the Fiji Elections Office, and was told that – although the colour-coded registration slips handed out to voters at the time of registration were often in error, the electoral rolls themselves were not. Over the following days of election week, I tested this claim by requesting presiding officers in the polling stations to show me their logbook records of voters who had been able to cast only one vote because their name could not be found in a corresponding open or communal constituency. In every case I checked, the Elections Office was correct: it was possible for presiding officers, if they ignored the registration slips, to use any one correct entry on the electoral roll to find the other. In other words, the problem lay with the registration officials and with the training of polling station officials. It was not an indication of systemic bias or ballot-rigging. In any case, during the final days of election week, in somewhat chaotic circumstances, the Fiji Elections Office effectively dispensed with the electoral rolls as a means of avoiding duplicate voting and allowed citizens whose name was found on one roll to cast a second vote on a corresponding open or communal roll, even if their name could

not be found. From that point, prevention of duplicate voting depended solely on reference to the ink marked on voters' fingers.

<sup>49</sup> The same confusion of registration *slips* with the actual entries on the rolls is repeated in Dr Neilson's *New Zealand Herald* article: 'The recurring experience among Indian voters in [urban, open] constituencies in particular was of correct registration in the communal constituency and mis-registration in the open constituency' (David Neilson 'What if the Fiji Ballot was less than "Free and fair"?', *New Zealand Herald*, 15 October, 2007).

<sup>50</sup> If the Commission had instead chosen to follow up on Fr David Arms comment about the election outcome being decided in key marginal open constituencies around the Suva-Nausori corridor in the Central Division in 2001 and 2006 and the logical likelihood that any ballot-rigging would target these constituencies, they might have noticed that all of the tabulation forms (O-38s and O-39s) had suspiciously disappeared for these key constituencies both in 2001 and 2006, despite firm assurances before the 2006 polls from both the supervisor and the chairman of the Electoral Commission that they would order their release (these assurances were likely to have been genuine, I believe, because the Supervisor's office successfully obtained every other one of these forms for the Eastern, Western and Northern Divisions). With these O-38 and O-39 tabulation forms an expert eye, such as that of Fr Arms, might well have been able to detect any odd movements of preference votes that suggested resort to ballot-rigging. Most likely, the real reason why these forms were concealed in 2001 and 2006 was that they were a hideous mess, smothered in tipex and full of errors, and the Commissioner Central did not want expert eyes scrutinizing the way they had been completed. The Central Division, covering the Suva-Nausori corridor, covers the vast majority of the close-to-parity Fijian/Indian constituencies and therefore tends to have many more successive counts than other divisions, rendering tabulation particularly problematic. The Commissioner Central, Inoke Devo, was arrested under the post-coup government, and convicted on charges of corruption in issuing liquor licenses, but notably not for his role as Chief Returning Officer in the Central Division.

<sup>51</sup> Statement of the Prime Minister of Fiji to the 62nd session of the United Nations General Assembly., New York, 28 September 2007, p.4.

<sup>52</sup> Bainimarama, speech to UN, cited 'Fiji: Interim PM outlines plans for referendum', *Radio Australia* 2 October 2007.

<sup>53</sup> 'Rumblings of a revolution', *Sydney Morning Herald*, 27 October 2007.

<sup>54</sup> See Morgan Tuimaleali'ifano, 'Indigenous title disputes: what they meant for the 2006 election', in Fraenkel and Firth, *From Election to Coup in Fiji: The 2006 Campaign and its Aftermath*, Institute of Pacific Studies, Suva, and Asia-Pacific Press, Canberra, 2007, pp. 261–271

<sup>55</sup> See Yellow Bucket, 'The failure of the moderates', in Fraenkel and Firth, *From Election to Coup in Fiji: The 2006 Campaign and its Aftermath*, Institute of Pacific Studies, Suva, and Asia-Pacific Press, Canberra, 2007, pp. 108–9.

<sup>56</sup> For details, see Jon Fraenkel, 'The Triumph of the Non-Idealist Intellectuals? An Investigation of Fiji's 1999 Election Results', *Australian Journal of Politics and History* (46), 1, 2000, pp. 93–95.

<sup>57</sup> Radio New Zealand, 7 December 2006.

<sup>58</sup> See Jonathon Prasad, 'The role of Hindu and Muslim religious organizations during the 2006 election', in Fraenkel and Firth, *From Election to Coup in Fiji: The 2006 Campaign and its Aftermath*, Institute of Pacific Studies, Suva, and Asia-Pacific Press, Canberra, 2007, pp. 315–336.

<sup>59</sup> 'Sanctions on Fiji to stay', *fijilive*, 18 October 2007.

<sup>60</sup> "'Don't let up on sanctions" deposed Fiji PM tells New Zealand', *New Zealand Herald*, 18 October 2007.

<sup>61</sup> 'Interim PM says he is not power hungry', *Fijivillage*, 18 October 2007.

<sup>62</sup> 'EU Considers Fiji Aid', *fijilive*, 11 September 2007.

<sup>63</sup> See, for example, 'Police Disallows Political Party Meeting', *fijilive*, 27 July 2007.

<sup>64</sup> 'No polls if we're not ready', *Fiji Post*, 9 October 2007.

<sup>65</sup> See [http://eur-lex.europa.eu/LexUriServ/site/en/oj/2007/l\\_260/l\\_26020071005en00150020.pdf](http://eur-lex.europa.eu/LexUriServ/site/en/oj/2007/l_260/l_26020071005en00150020.pdf); 'EU Concerned with Lack of progress', *The Fiji Times*, 9 October 2007; 'EU Suspends Sugar Industry Assistance', *Radio Australia*, 9 October 2007

<sup>66</sup> 'PM Convinced EU will provide funds', *The Fiji Times*, 10 October 2007.

<sup>67</sup> [http://www.forumsec.org/\\_resources/article/files/2007%20Forum%20Communique,%20Vava'u%20-%20Final%20Version.pdf](http://www.forumsec.org/_resources/article/files/2007%20Forum%20Communique,%20Vava'u%20-%20Final%20Version.pdf).

<sup>68</sup> 'Constitution talk rocks Pacific Forum', *New Zealand Herald*, 19 October 2007.

- <sup>69</sup> 'People's Charter will not allow Qarase to contest next election: Bainimarama', *The Fiji Times*, 18 October 2007; 'Fijian coup leader sets deadline for election', *Sydney Morning Herald*, 18 October 2007.
- <sup>70</sup> 'Downer, Clarke welcome 2009 Fiji poll' *fijilive* 18 October 2007.
- <sup>71</sup> See, for example, 'Time less important: CCF', *Daily Post*, 21 June 2007; Aisake Casimira, in *The Fiji Times* 26 February 2007.
- <sup>72</sup> 'Aust/NZ Trying to Bully Fiji: FLP', *fijilive*, 18 October 2007.
- <sup>73</sup> 'Poll won't end coups: Mataca', *The Fiji Times*, 18 January 2008.
- <sup>74</sup> Akuila Yabaki, 'Military must back off on charter', *The Fiji Times*, 22 October 2007; 'Parties attempt to derail charter', *Fiji Times*, 1 February 2008.
- <sup>75</sup> 'Fiji council positions to remain open', *fijilive*, 17 January 2008.
- <sup>76</sup> 'Frankly Speaking with Voreqe', *Sunday Times*, 21 October 2007
- <sup>77</sup> 'People will have final say on what is in Charter', *The Fiji Times*, 16 February 2008.
- <sup>78</sup> 'Academic Refers to Charter as Sacred', *The Fiji Times*, 21 June 2008.
- <sup>79</sup> 'Charter similar to 1987 military list: Savua', *fijilive*, 31 March 2008.
- <sup>80</sup> 'Qarase Choice "was a Mistake"', *The Fiji Times* 20 September 2007.
- <sup>81</sup> 'Frankly Speaking with Voreqe', *Sunday Times*, 21 October 2007
- <sup>82</sup> 'Latest Fiji Constituency Boundaries Commission chair accepts she is ruled out', *Radio New Zealand International*, 25 October, 2007.
- <sup>83</sup> 'Judge Scutt's words shocks law society', *Fiji Daily Post*, 7 February 2008.
- <sup>84</sup> 'NZ lawyer withdraws as Fiji election supervisor', *Radio Australia*, 22 April 2008.
- <sup>85</sup> 'The Constitution for the Party', *The Fiji Times*, 31 May 2008.
- <sup>86</sup> 'Poll in 2009, says Interim PM', *The Fiji Times*, 5 June 2008.
- <sup>87</sup> 'The Constitution for the Party', *The Fiji Times*, 31 May 2008 [emphasis added].
- <sup>88</sup> 'Fiji's problems are Deep-Rooted, Says Commodore Bainimarama', *The Fiji Times*, 31 May 2008.
- <sup>89</sup> 'Fiji Regime Backs Forum Move', *fijilive*, 17 April 2008.
- <sup>90</sup> 'Who's Right and Who's Wrong', *Fiji Daily Post*, 29 May 2008.
- <sup>91</sup> 'Elections ASAP in 2009: Fiji PM', *fijilive*, 13 May 2008.
- <sup>92</sup> 'No Charter, No Election', *The Fiji Times*, 23 May 2008.
- <sup>93</sup> 'Timely Election Reminder', *The Fiji Times*, 14 May 2008
- <sup>94</sup> *The Fiji Times*, 5 April 2008.
- <sup>95</sup> 'Chaudhry: Charter ready by August', *The Fiji Times*, 13 February 2008.
- <sup>96</sup> John Samy, 'The Aftermath of 1987', *Fiji Daily Post*, 11 June 2008.
- <sup>97</sup> 'Altering the Electoral System', *Fiji Sun*, 4 March 2008.
- <sup>98</sup> 'Rumblings of a revolution', *Sydney Morning Herald*, 27 October 2007.
- <sup>99</sup> 'Ministers "Fail to Address Problems"', *The Fiji Times*, 5 April 2008.
- <sup>100</sup> NCBBF Communique, 24 June 2008, <http://www.fijilive.com/archive/showpdf.php?pdf=2008/07/COMMUNIQUE%20NCBBF%2024.6.08.pdf>; see also 'Plan to Change Voting System', *Fiji Sun*, 24 June 2008.
- <sup>101</sup> I have long supported adoption of a common roll system in Fiji, despite disagreement with those scholars who attribute race-based voting to use of communal rolls, see Jon Fraenkel, 'The Triumph of the Non-Idealist Intellectuals? An Investigation of Fiji's 1999 Election Results', *Australian Journal of Politics and History* (46), 1, 2000.
- <sup>102</sup> This historical background is discussed at greater length in Jon Fraenkel, 'Electoral Engineering and the Politicisation of Ethnic Frictions in Fiji', Bastian, S and Luckham, R (eds) *Can Democracy be Designed? The Politics of Institutional Choice in Conflict-Torn Societies*, IDS, Sussex, Zed Books Ltd, 2003, pp220–252.
- <sup>103</sup> In communal contests, citizens were denied the opportunity to cast votes for parties primarily rooted in the other group. The often heard broader claims about communal constituencies causing race-based voting have never been substantiated through any solid empirical analysis.
- <sup>104</sup> The 'cross-voting' or 'national' seats during 1965–1987 were common roll, although the ethnicity of the candidates was specified.

<sup>105</sup> Chaudhry, cited in Brij Lal, *Another Way: The Politics of Constitutional Reform in Post-Coup Fiji*, NCDS/Asia-Pacific Press, 1998, p. 96.

<sup>106</sup> The only examples of this might be Ofa Duncan (Swann)'s victory in Lami open for the United People's Party in 1999 and for the New Labour Unity Party in 2001.

<sup>107</sup> For a global survey of the use of reserved constituencies, see Andrew Reynolds. 'Reserved Seats in National Legislatures: A Comparative Approach' in *Comparative Redistricting*, (ed) Lisa Handley, Oxford University Press, 2008. Other countries also have a 'general roll' as well as rolls for minorities, but nowhere else on the globe has two large ethnic groups on separate ethnic rolls with 'generals' as a minority.

<sup>108</sup> See Sydney Elliot 'North vote sees over 80 per cent of transfers stay within main parties', *Irish Times*, 1 December 2003.

<sup>109</sup> Perry Mars, 'Ethnic Politics, Mediation, and Conflict Resolution: The Guyana Experience', *Journal of Peace Research*, 38, (3), 2001, pp. 357-359.

<sup>110</sup> List proportional representation is a system designed to ensure that party seat shares in parliament are reasonably close to party vote shares. The system always uses multi-member constituencies, and voters simply tick the ballot to indicate their support for a party list. Under 'closed list' systems, the party determines which of its candidates get elected. Under 'open list' systems, the voter can indicate choice of both candidate and party.

<sup>111</sup> 'Beddoes Slates Clergy's Proposal', *fijilive*, 6 June 2006

<sup>112</sup> 'Chiefs Point to Need for Dialogue', *fijilive*, 14 June 2008.

<sup>113</sup> See Qarase, 'Fiji's system of elections and government: where to from here?', in Fraenkel and Firth, *From Election to Coup in Fiji: The 2006 Campaign and its Aftermath*, Institute of Pacific Studies, Suva, and Asia-Pacific Press, Canberra, 2007, pp. 343, 346.

<sup>114</sup> Press Release from Ro Filipe Tuisawau, reproduced on the website *Solivakasama*, 16 April 2008.

<sup>115</sup> 'Qarase offers to resign if SDL plan accepted', *fijilive*, 24 November 2007.

<sup>116</sup> 'Don't tell us how to do it: PM', *fijilive*, 24 November 2007.

<sup>117</sup> 'Talks held with Sir Paul in secret', *The Fiji Times*, 13 December 2007

<sup>118</sup> 'Qarase brushes off invitation', *The Fiji Times*, 9 June 2008

<sup>119</sup> 'PM Sends Word To Sevele', *The Fiji Times*, 24 June 2008.

<sup>120</sup> 'Stop Being Obsessed with Poll Timelines', *The Fiji Times*, 20 June 2008; 'Beddoes Hails EU Input', *The Fiji Times*, 23 June 2008

<sup>121</sup> 'EU Mission', *Fiji TV News*, 14 July 2008.

<sup>122</sup> '2009 election unachievable: Interim PM', *The Fiji Times*, 18 July 2008.

<sup>123</sup> 'Genuine efforts led to flexibility: Dr Sevele', *The Fiji Times*, 19 July 2008.

<sup>124</sup> 'Former interim minister sheds light on Cabinet discussions', *Fiji TV*, 9 April 2008.

<sup>125</sup> Richard Naidu, speech at the Fiji Media Council Forum – A Debate: "The People's Charter for Change, Peace and Progress is good for Fiji.", JJ's On the Park Banquet Hall, 10 April 2008.

<sup>126</sup> The speeches were reproduced on the *The Fiji Times* website, <http://www.fijitimes.com/peoples-charter-debate.aspx>.

<sup>127</sup> 'Electoral Reality', Editorial, *The Fiji Times*, 18 April 2008.

<sup>128</sup> Aiyaz Sayed-Khaiyum, cited in 'Fiji accuses Australia and NZ of being dogmatic', *Radio New Zealand International*, 29 June 2008.

# RELIGION





## **9. Religion and politics: The Christian churches and the 2006 coup in Fiji**

**Lynda Newland**

On 5 December 2006, Commodore Bainimarama led a successful military coup against a Qarase government that had been strongly supported by the Assembly of Christian Churches of Fiji (ACCF), an umbrella organization in which the Methodist Church of Fiji is the most dominant member. Within two days of the coup, the Assistant General Secretary of the Methodist Church, in his capacity as chair of both the ACCF and a second umbrella group, the Fiji Council of Churches (FCC), condemned the coup as illegal and unconstitutional. This position has been retained – by the Methodist Church in particular, despite its support for the previous coups in 1987 and 2000. By contrast, the Roman Catholic Church took an alternative position, which was to become influential: That while the coup itself was illegal, the church supported the multicultural views expressed by the military and the interim government. Almost a year after the coup, in October 2007 and amid much controversy, head of the Roman Catholic Church in Fiji Archbishop Mataca accepted the role of co-chair of the National Council for Building a Better Fiji (NCBBF), the body charged by the interim government with developing the People’s Charter for Change and Progress. Together with Commodore Bainimarama, he signed the draft charter in August 2008.

Clearly, the Christian churches played a role in the aftermath of the 2006 coup by articulating strongly divergent visions of the way that Fiji should be governed. This reflects the extent of the polarization between the Methodist Church and the Roman Catholic Church in Fiji (and consequently the division in and between Christian umbrella groups), and also shows markedly different ideas about the role religion should play in politics in Fiji.

### **The umbrella groups: The FCC and the ACCF**

The FCC, an affiliate of the World Council of Churches, was established in 1964 as an ecumenical institution to unify Christians, deepen their faith, foster an understanding of other religious traditions and encourage activism in social justice issues. Its members are the Methodist, Anglican, Presbyterian and Samoan Congregational churches, the Roman Catholic Church, the Salvation Army and the Fiji Baptist Convention. Of these, the Methodist Church is the largest. It is also the largest religious organization in Fiji – with 36.3 per cent of the total population and 66.5 per cent of Fijians identifying themselves as Methodist in the 1996 Census.<sup>1</sup>

By contrast, the ACCF was formed after the 2000 coup, and currently has about 27 member churches, para-churches and attached organizations.<sup>2</sup> While the Methodist Church is central to the ACCF, nearly all the other churches and para-churches are Pentecostal and evangelical in orientation. Two influential members are the Assemblies of God and a fast-growing local variant of Pentecostalism, the Christian Mission Fellowship (CMF). Pentecostal/evangelical churches have burgeoned since the 1970s – with many of their converts drawn from the Methodist Church, which resulted in political and social upheavals within village communities.<sup>3</sup> For the Methodists, an umbrella organization that promoted unity with the Pentecostal/evangelical churches offered a means by which Methodists could promote dialogue and teamwork – a measure which could go some way to healing divisions among Christian Fijians across Fiji.

The philosophy of the ACCF is not about ecumenism but about unifying Fijians under Christianity. In a country where the two main ethnicities are Fijian and Indo-Fijian (the latter are more likely to be Hindu, Muslim, or Sikh), most Christian churches have predominantly Fijian membership.<sup>4</sup> The vision statement of the ACCF calls members to strive towards making Fiji a nation that honours and glorifies God in order that the country becomes 'God's Treasured Possession'. To attain that goal, all flocks need to unite, members should live God's way of love, leadership should be God-fearing, and Fiji should be reconciled for peace and prosperity.<sup>5</sup> As most Fijians are Christian and most Indo-Fijians are not, the vision statement's objectives are clearly aimed at uniting Fijians under (particular perspectives of) Christianity, and at converting all others – thus emphasizing the importance of Christian leadership in both church and government, and the importance of evangelism. With its underlying objective of turning Fiji into a Christian state,<sup>6</sup> the ACCF's mission lies in stark contrast to the FCC's goals of promoting interfaith understanding and interaction.

While the FCC and the ACCF have profoundly different philosophies, the chair of both organizations is currently the Assistant General Secretary of the Methodist Church, Rev. Tuikilakila Waqairatu. The unfolding politics that have resulted from the stance of the various churches – particularly the Methodist and Roman Catholic churches – within the larger context of these umbrella organizations, are embedded in a history of active church involvement in politics; whether through direct influence on government or through critiquing government policy.

## **The Fijian ethos, churches and politics before the 2006 coup**

The Methodist Church's notion of Fijian paramountcy lies in the history of the church in Fiji. As Wesleyan missionaries were the first to proselytize Christianity in the 1830s, and the first to convert powerful figures such as the Fijian high

chief, Cakobau, Methodism became the most firmly rooted Christian belief system in Fiji. It was followed by the Roman Catholic Church, and, to a lesser extent, the Anglican, Presbyterian, and Seventh-Day Adventist churches; but Methodism remained dominant and became absorbed into the culture.<sup>7</sup> To this day, the three pillars of Methodist Fijian social, political and cultural life are *vanua* (land and community), *matanitu* (the chiefly system), and *lotu* (religion, but in this context, Methodism).<sup>8</sup>

With the colonial project of mapping and recording the boundaries of native land, and with the arrival of the Indian indentured labourers for the sugar plantations, this basis of Fijian identity became more rigid and more politicized. Across Fiji, land was registered in the name of the kin-group of brothers called the *mataqali*, with patrilineal kin recorded in the *Vola Ni Kawa Bula*, the defining document for the Native Land Trust Board and the Ministry of Fijian Affairs<sup>9</sup> – effectively institutionalizing the land-owners or *tauvei* in opposition to their tenants, the Indo-Fijians. As Fijians moved into urban areas, the Methodist Church increasingly became a centre for Fijians to discuss religious, social and political concerns, and provided the space for the emergence of ethno-religious nationalism, which surfaced in the lead-up to independence in 1970.<sup>10</sup> Lastly, the theology of salvation in Fijian Methodism is experienced in communal terms rather than individual terms,<sup>11</sup> which translates relatively easily to a focus on the ethnic salvation of indigenous Fijians.

The sense of urgency for ethnic salvation was heightened with the increase in the Indo-Fijian population – especially from 1946 until 1986, when the Indo-Fijian population outnumbered the indigenous population of Fijians.<sup>12</sup> At independence in 1970, racial identities were further rigidified along communal and racial lines in the new Fiji parliament. In 1987, when the Fiji Labour Party in coalition with the National Federation Party won the election, land ownership had been politicized to the extent that a *Tauvei* (indigenous landowners) movement emerged, claiming that ‘the Fijians appear to have lost their country’.<sup>13</sup> Within a month of the swearing-in of the new government, Lieutenant Colonel Sitiveni Rabuka and 10–12 armed men marched into parliament and captured all government members, including the prime minister.<sup>14</sup>

A lay-preacher of the Methodist Church, Rabuka freely used religious imagery in his justifications of the coup. He was supported by the General Secretary of the Methodist Church, Manasa Lasaro, who influenced the military to impose the Sunday Decree, banning work on Sundays. When the interim government attempted to reinstate Sunday bus and taxi services at the end of 1988, Lasaro’s followers set up roadblocks throughout Suva.<sup>15</sup> These events led to a coup within the Methodist Church and the ousting of the Church’s president, the Rev. Josateki Koroi – who had been critical of the coups – in favour of Rev. Isireli Caucau.<sup>16</sup>

Thirteen years later, in 2000, George Speight executed a third coup; this one was to remove Fiji's first elected Indo-Fijian prime minister, Mahendra Chaudhry, who had made a series of decisions that upset conservative Fijian interests. While Speight's interests in 2000 were expressed in a similar way to those of Rabuka in 1987, the churches' responses to this coup were not so clear. While a number of churches denounced the coup outright in advertisements posted in *The Fiji Times* and the *Fiji Daily Post*, the Methodist Church took several days to lodge a full-page advertisement stating that the Methodist Church in Fiji supported the interim government because Speight's objectives had been met.<sup>17</sup> At the same time, it is alleged that the incoming president of the Methodist Church, Kanailagi, wrote to Speight and his colleagues to pledge the support of the Church.<sup>18</sup> Meanwhile, Suliasi Kurulo, head of the CME, wrote to Speight to demand the release of the hostages. A service involving 12 Pentecostal and evangelical churches and para-churches was held at the CME's World Harvest Centre. Responding to Speight's request for a reconciliation meeting to be held at parliament, a group of pastors visited Speight and the hostages.<sup>19</sup>

As a direct result of the 2000 coup, the Assemblies of God leaders approached Rev. Tomasi Kanailagi, president of the Methodist Church, to call a meeting of all Christian churches in order to repair the political divisions between Fijians. Fourteen churches met and formed the ACCF, ignoring the existence of the FCC. Formed at about the same time as the political party, the *Soqosoqo Duavata ni Lewenivanua* (SDL), the ACCF became influential upon the SDL's rise to government, upon which it advised the government on significant issues and worked closely with the Ministry of Reconciliation.<sup>20</sup> It supported the Qarase government's proposals to pass the Reconciliation, Tolerance, and Unity Bill and the Qoliqoli Bill (which concerned indigenous rights over reefs). Both of these bills promoted the interests of members in the indigenous Fijian community and had the potential to further marginalize Indo-Fijians. In addition, the Qoliqoli Bill was perceived to have the potential to create conflict between Fijian groups which had different interests in the reefs. The bills were key justifications for the military's overthrow of the Qarase government in a 'clean-up campaign'.

### **The ACCF's response to the December 2006 coup**

In his immediate response to the coup, Rev. Tuikilakila Waqairatu condemned the takeover as illegal and unconstitutional, saying:

We are now deeply convinced that the move now taken by the commander and his advisors is the manifestation of darkness and evil, and we humbly appeal to them to reconsider their present course and remain loyal to the divine rule of God which will bring order and peace to the nation.<sup>21</sup>

He was supported by Sepesa Niumataiwalu, a pastor for the Church of God (another ACCF member church), who argued:

Christian churches in Fiji represent 52 per cent of the population and we oppose the formation of any interim government other than that of the elected government of Laisenia Qarase ...

We the church leaders represent a higher authority, and we offer spiritual support to the democratically elected government, this move by the military is the work of evil ...<sup>22</sup>

The strongest condemnation of the coup came from Suliasi Kurulo, head of the CMF, who, unlike the leaders of the Methodist Church, had also criticized the 2000 coup. In 2006, immediately after the coup, the CMF placed large advertisements in *The Fiji Times* and the *Fiji Sun* that appealed to all adherents of CMF – as well as to leaders and politicians – to uphold the law, and condemned the coup as ‘unbiblical, ungodly, unconstitutional, unlawful, and unethical’.<sup>23</sup>

Kurulo’s strongest words – describing Bainimarama’s leadership as dictatorial and manipulative – were reported by the *Fiji Daily Post*. Voicing his opposition against the overthrowing of a democratically elected government, Kurulo said that, from the Church’s perspective, the ‘military’s action is purely the manifestation of darkness and evil and it interferes with our reasonable conscience’.<sup>24</sup> The same source reported the CMF as calling for the commander to admit that his actions were illegal and to give up and to return the soldiers to their barracks, with Kurulo saying, ‘We are appealing to the commander to take courage as a real man and admit that what he has done is ungodly, unconstitutional and unlawful’ – and, noting that the coup cycle must be broken because it was based on lies and deception, and that, ‘the church will continue to pray for justice, righteousness, understanding and goodwill to prevail’. Showing strong parallels with Waqairatu’s position, these quotes suggest that Kurulo and Waqairatu were in close contact through this period.

The connection between the Methodist Church and the CMF was also evident in the views expressed at a multi-denominational service held at the World Harvest Centre. The service was held to seek divine intervention and to ‘pray for the lives of those who were in the military and those who had been or will be affected by the military takeover’.<sup>25</sup> Participants included Assemblies of God and Methodist adherents, as well as ousted Prime Minister Qarase. Waqairatu is reported to have preached at length, labelling the coup a ‘manifestation of darkness and evil’, and outlining a plan ‘to call for the reinstatement of the elected government, to refuse to recognise military rule, to consider Commodore Bainimarama’s justification for the coup – that Mr Qarase was corrupt and he would stand down – unacceptable’.<sup>26</sup>

Under the Qarase government, it was not unusual for the Methodist Church and the ACCF to be visible at political meetings, often leading prayers and blessing rallies. Methodist ministers also prayed before the swearing-in of ministers into the Qarase government. Members of the ACCF arranged to gather at the FMF Dome in Suva in order to bless it before the meeting of the Great Council of Chiefs (GCC) that was held there two weeks after the coup.

The Methodist presence provoked Commodore Bainimarama to draw a parallel between the meeting and the GCC meeting that had been held at the parliamentary complex after the 2000 coup. Bainimarama said that the blessing was an act 'which has never been done before in any past GCC meeting venue'. He intimated that the GCC was being manipulated by the Methodist Church and therefore would lose credibility, and reiterated his belief that the coup was essential in order to lift Fiji 'out of the corrupt web that is so entangling [it], and propel Fiji towards a peaceful, prosperous and harmonious future'.<sup>27</sup> He was also reported as showing concern that Qarase had been invited to the GCC meeting – which would mean Qarase travelling back to Suva from his 'exile' on his home island of Vanuabalavu despite the military's warnings that they would arrest him and take him into military custody if he did.<sup>28</sup>

Rev. Waqairatu responded via the media that the ACCF represented the body of Christ, which was a much bigger power than the military, and maintained that the ACCF's fight was against evil, which, 'the military is succumbing to'.<sup>29</sup> Affirming that his blessings were not intended to be a move against the military, Waqairatu advised that 'nothing should be imposed as it should come from within, voluntarily when someone realises his/her mistakes'.<sup>30</sup> The same source reported him as saying that this meant that the military needed to clean up 'their own mess' before they embarked on the clean-up campaign; that '[D]ifferent governments will come and go but only one will remain – the most powerful one of all, which is the Kingdom of God'; and, with regard to blessing the GCC meeting, as saying that it was a norm for invited church leaders to bless the meeting. The prayer meeting at the Centenary Church was simply to call those who wished to pray for the nation, as the ACCF worked closely with the Ministry of Reconciliation to unite people, promote love, create God-fearing leaders and promote reconciliation and peace.

While Waqairatu's comments may have indicated that the Methodist Church of Fiji would continue to oppose the coup, after the GCC met, the Methodist Church appeared to recant and to join the Great Council of Chiefs supporting the interim administration in order to move Fiji forward.<sup>31</sup> Yet this appearance of compliance was soon shattered by reports of a 20-point statement denouncing the coup. While the statement never appeared in full in the media, its contents were widely reported. Titled 'Here We Stand', the statement argued that the commander's actions of deposing and reinstating the President, and of terminating the Qarase

government and multiparty cabinet, as well as the dissolution of parliament would be questioned in any court of law.<sup>32</sup> It continued:

These actions must be viewed as a dangerous precedent to the governance of this country ie. the use of military power to usurp the mandate of a democratically elected government. The takeover should be deplored as a treasonous act against the State.<sup>33</sup>

In the short term, the coup exacerbated poverty – evidenced to the Church by the growing number of people seeking the Church’s assistance. However, the Church accepted the interim government because of the need to restore the nation to democratic normalcy quickly. The President and the GCC were called upon ‘to stand up for the rule of law and Godly principles, including human rights, in this difficult period’. The statement contained a request that, in the interests of the nation and to give credibility to the interim government, the President be medically boarded or retired with dignity and respect.<sup>34</sup> It argued that, since the takeover, every action of the military had been illegal. Commodore Bainimarama and his interim ministers were asked to resign so that a politically neutral group of prominent and respected people could be appointed to govern until fresh elections were held. The military was called upon to return to the barracks. The statement also argued that all affirmative action programs for indigenous Fijians should be retained.<sup>35</sup>

Bainimarama responded by sending soldiers to meet with the Methodist Church president, Rev. Laisiasa Ratabacaca – with the result that staff members were taken to the barracks for questioning.<sup>36</sup> The staff members involved were later revealed to be the Church’s legal adviser, former RFMF senior officer, Lieutenant Colonel Tevita Bukarau,<sup>37</sup> and the senior administration officer, Patiliai Leqa. As the military entered the Methodist Church, they assaulted a newspaper photographer and took him to the Queen Elizabeth Barracks because he had taken pictures of soldiers without their permission.<sup>38</sup> In the military’s view, those involved in drafting the statement were ‘politically motivated’ and the Church should have addressed the issue of President Ratu Josefa’s resignation with the GCC rather than with the media.

In the days that followed, it became clear that the president, the general secretary and the assistant general secretary of the Methodist Church, had all sighted and approved the statement before it was released to the media. However, it had not been signed, instead carrying the letterhead of the Methodist Church in Fiji.<sup>39</sup> According to the same sources, Major Neumi Leweni described the anonymity of the author as ‘very unchristian-like’ and claimed that the press statement was not credible, and that ‘it was common knowledge there were people using the church to air their views’ in an attempt to discredit the President and the interim prime minister. Representatives from the Suva branch of the Fiji Labour Party

were reported as calling on spokesperson Mr Iliesa Naivalu and on Rev. Waqairatu to resign if they desired to engage in politics.

While the two Church officials were released after three nights in military custody, their release came with a warning from land force commander Colonel Pita Driti, who told the media:

We have been informed on certain aspects regarding plans by some church leaders and others who are trying to downgrade the military and the interim government and we warn them not to test our patience.<sup>40</sup>

In a press conference, Bainimarama warned the Methodist leaders against inciting people, saying that some of the Church leaders were manipulating events for their own benefit. Bainimarama was reported elsewhere as warning that the statement threatened the RFMF, that any threat to the military would not be taken lightly and, moreover, that the statement was written by a 'few misled *talatala*' (church pastors), and therefore did not show the Church's collective view. He was further quoted as saying that: 'They should not start something they can't finish'.<sup>41</sup>

The 20-point statement was held over for the consideration of the Methodist Church's standing committee. The Church leaders resolved that only the Church president could release information to the media. At this stage, it was alleged that Tugae, Naivalu, Waqairatu, Lasaro, and Bukarau had co-authored the document.<sup>42</sup> However, while the Church's social services department, headed by Lasaro, had prepared the statement, it was claimed that Church executives had only looked at the paper for a few minutes before it became public and was released prematurely.<sup>43</sup>

The military then met with a Church delegation that included Ratabacaca, Lasaro, Waqairatu and other senior ministers. The meeting lasted at least two and a half hours and, according to Major Leweni, was very successful. From Ratabacaca's perspective, while there were issues on which the two parties agreed to differ, they would continue in dialogue in the coming weeks. He argued that the Church was simply undertaking its prophetic and pastoral role in society, and reaffirmed its stance as raised in the statement, including with regard to the resignation of both President Iloilo and interim Prime Minister Bainimarama.<sup>44</sup>

In the same period, and after President Iloilo had addressed the nation, Rev. Kurulo of the CMF again spoke bluntly to reporters. Kurulo described the President's address as shocking and contradictory, saying that he was 'a puppet of the military'. It 'made a mockery of our culture, government and our beloved nation Fiji' and has left the country reeling. He said that it was a crying shame that the President stated he would have done the same things, that the commander's actions were legal, and that he continues to uphold the constitution.<sup>45</sup> This appears to have been Kurulo's last statement to the media.



Several months later, the interim government proposed the People's Charter for Change and Progress in order to forestall 'any further deterioration of Fiji's precarious overall economic and fiscal situation', to reform and restructure the economy, and to create a stable, transparent and accountable government under leaders who emphasize national unity and racial harmony. Originally, 120 organizations were approached for submissions on the charter, but, by the initial deadline, only 51 had responded, with just two or three submissions opposing it (which included the Methodist Church and the Naitasiri Provincial Council). The deadline was extended and, by 31 August 2007, from the 191 submissions hoped for, 95 responses had been received, with 82 supporting the proposal.

The Methodist Church's submission, signed by Ratabacaca, voiced opposition to the objectives of the Charter, pointing out that the nation should return to civilian rule at the earliest opportunity. It strongly stated that setting up the National Council for Building a Better Fiji (NCBBF) to develop the Charter would be unconstitutional, and that an interim government (and the military) should not be involved in such wide-sweeping structural change because they did not have the mandate of the people. In the Church's view, the previous government, which represented a mandate of the people, was excluded and, moreover, the interim government had decided to proceed with its plans before submissions were received. Furthermore, the Church objected to the removal of institutions directly supporting Fijians (such as the GCC and the Fijian Affairs Board), and to the increasing militarization and politization of the civil service. Lastly, the submission argued, some of the people appointed to positions of influence were not neutral or credible. In particular, there was concern over the appointment of Dr Sahu Khan as Chair of the Electoral Commission, given his record for 'questioning the legal basis of Fijian ownership of land'.<sup>46</sup>

The Commodore's response was that the leaders of the Methodist Church were 'deliberately misleading their followers to accomplish their own political agenda'. He singled out Rev. Waqairatu, who had been giving interviews to the media on the Charter, as 'trying to whip up Fijian emotions', specifically on the issue of land – the rights and ownership of which were not under question.<sup>47</sup>

After a period of silence between the military and the Methodist Church, Bainimarama was interviewed by the Australian media; he was reported as accusing 'the Methodist Church of sowing seeds of racial hatred'<sup>48</sup>, arguing that it was conspiring with the chiefs and politicians against ordinary Fijians and that the provincial councils and local lay-pastors in the villages and rural areas decide who ordinary Fijians should vote for. The same source reported a spokesman from a chiefly clan as responding by saying that this perspective ignored 'how the Almighty God put leaders in place to lead the *vanua*', and that those who spoke in the way that Bainimarama did do not know the protocol. Clearly, Bainimarama views the Methodist Church and the ACCF as not merely

opposing him but as the greatest threat to his vision for Fiji. Yet, while the military has actively suppressed the ACCF, the Roman Catholic Church has been highly visible and active in promoting a vision of Fiji more in keeping with that of the military.

## **A Catholic coup?**

While the Roman Catholic Church in Fiji condemned the coup, some of the statements of Archbishop Mataka and of activists like Father Kevin Barr of the Ecumenical Centre for Research, Education, and Advocacy (ECEA) have been perceived as supportive. And while Bainimarama was born a Methodist, he received a Catholic education. As a result, there have been questions over the extent of Catholic support for the coup.

As early as 19 December 2006, Father Barr and two co-writers, Paulo Baleinakorodawa and Semiti Qalowasa, published an article in *The Fiji Times* arguing that the coup was indeed illegal and wrong, but that, from the perspective of social justice, the Qarase government was guilty of manipulating democracy to serve Fijian nationalism. This, they said, was evidenced by the affirmative action initiatives, the Promotion of Reconciliation, Tolerance, and Unity Bill, the Qoliqoli Bill, and the Indigenous Lands Claim Bill. In addition, the Qarase government had ignored the poor and low-income workers and increased value added tax from 10 to 15 per cent. The fact that the military responded to this issue made it a coup 'in the name of multiculturalism'. Further:

It seems regrettable that those who have condemned the military takeover seem obsessed with the 'violation of democracy' perspective and fail to recognise the 'anti-racist' and 'pro-people' aspects of the takeover which could be termed the 'social justice' perspective.<sup>49</sup>

The article went on to claim that overseas governments that condemned the coup (the US, UK, and the EU) had forgotten their own wars, revolutions, and coups; and that, in Fiji, there are questions about the nature of democracy due to cultural practices, where Fijians vote according to the advice of their chief, provincial council or church minister.<sup>50</sup> For some, according to these writers, it was not really a coup because of the protracted nature of events, and the Qarase government was not predisposed to listening. It was also, they alleged, peaceful, although 'some human rights violations may definitely need to be investigated'. At this point, the article changed direction, providing a very long list of changes that it hoped the military could achieve, stressing the possibilities of a multicultural and socially just society, and resonating with the sympathies many had for Bainimarama's position before the threat of a coup became serious. The writers reflected that, '[I]f these things come to pass we will have put our Christianity into practice and establish a nation where there is justice, compassion and inclusiveness'.

When I interviewed Father Kevin Barr nine months later, he referred to this article, saying, 'we sort of said that [the ACCF's reaction to the coup] was to be expected in view of the collusion that existed between the Qarase government and the Assembly of Christian Churches in Fiji'. He went on to discuss the ACCF's activities in blessing the land in relation to:

... driving out the forces of darkness which were the gods of other peoples ... So there's a whole background there of racism, collusion and justification of Fijian nationalism by some of the Christian churches and so it was almost inevitable that, when the Qarase government was [ousted], the ACCF and those who represented ACCF would come out strongly and say these were the forces of darkness.

Re-affirming that the coup was illegal and that he was against any violations of human rights, Father Barr felt it was time to ask whether or not there were grounds that justified the ousting of a democratically elected government. For him, there were, given that the Qarase government was, in his view, very racist, represented a small section of the community, and colluded with the fundamentalist elements of the Methodist Church and the ACCF.

Similarly, Archbishop Mataca condemned the illegal overthrow of the Qarase government, noting that lessons had not been learnt from the coup in 2000. However, he was equally critical of the ACCF statement in that it did not call for a rapid return to democracy and the rule of law, or for the military acting with justice, but, rather hypocritically, labelled the commander and his advisors 'manifestations of darkness of evil', when they did not label the coup-makers of 2000 in the same way.<sup>51</sup> Yet, Archbishop Mataca has also been critical of New Zealand's stance, arguing that it took hundreds of years for developed countries to find a democratic system of governance 'that they feel comfortable with'.<sup>52</sup> Likewise, he has argued that the interim government should be accepted as it will return democracy.<sup>53</sup>

The most controversial move on the part of the Roman Catholic Church was Archbishop Mataca's acceptance to co-chair, with Bainimarama, the council for the People's Charter for Change and Progress, which was announced on 10 October 2007 by President Ratu Josefa Iloilo. According to the Vicar-General of the Catholic Church's council of priests, Father Kaloudou, the Charter 'was formulated by civil societies, not by the interim administration'<sup>54</sup> and Archbishop Mataca was approached by 'a group of businessmen, academics, church leaders, civil society organisations and individuals'. Further, he 'only agreed to the appointment out of fear that the 1997 Constitution would be abrogated' and that if he allowed this to happen it would take the country back to the dark ages.<sup>55</sup>

The Archbishop's supporters include at least part of the FCC, with Rev. Isereli Kacimawai, seeing it as a window of opportunity that would aid the nation in moving forward. Bishop of the Anglican Church Apimeleki Qiliho has vocalized his support of the Archbishop's involvement, arguing that Mataca had been consistent since 1987 in his respect of other religions, cultures and faiths, and that he was 'a man of principle who would always stand for what he believed in and not be influenced by outside sources'.<sup>56</sup> Former politician Fred Caine has also come out in support, saying that the 'silent majority of Catholics supported the Archbishop and the interim government 'to the hilt'' in returning to democracy.<sup>57</sup> For him, the position had nothing to do with politics.<sup>58</sup>

Mataca's detractors include Ro Teimumu Kepa, ousted education minister and Rewa paramount chief, who believes the Archbishop has wronged the Church because the position of co-chair is a political one and therefore undermines his neutrality, and that he will lose the trust of many Catholics.<sup>59</sup> Former labour minister Kenneth Zinck, was part of a group, including Ro Teimumu Kepa and Tui Namosi Ratu Suliano Matanitobua, that approached the Archbishop to withdraw from the council because they feared his position would compromise 'the integrity and independence of the Roman Catholic Church'.<sup>60</sup> However, the meeting did not put to rest Zinck's concerns as he argued that 'He [the Archbishop] has joined a coup leader. That's worse than joining a political party'.<sup>61</sup> Fred Caine condemned the meeting, saying it was presumptuous and arrogant.<sup>62</sup>

Friar Kieran Maloney has been particularly critical, reportedly saying that the Archbishop's acceptance of the co-chair position is 'disgusting but not surprising' and that the Archbishop's involvement 'is giving credence to an immoral regime'. He likened the Archbishop's position to that of indigenous Catholic politicians whom he saw as racist, with views very similar to the views of the SDL, and opined that the views the Archbishop and Father Barr had published were 'very pitiful and despicable'.<sup>63</sup>

Lastly, the Catholic League wrote to the Vatican and the Apostolic Nuncio in Wellington. The league's president, Kepeli Lesi, argued that the Archbishop could not accept the position of co-chair because of a code in the Canon Law prohibiting priests from involvement in public office and politics, and claimed that 'the silent majority of Catholics feared a backlash from the military if they spoke out against Archbishop Mataca's decision'.<sup>64</sup> *The Fiji Times* then printed stories over four days (28–31 October), conveying little more than that Charles Balvo, the Archbishop in Wellington and representative of the Pacific to the Vatican, was waiting for more information from Archbishop Mataca. Finally, Archbishop Balvo responded that an archbishop had chaired a national conference in Berlin to help chart a new course, which was not deemed wrong because it was not considered to be running for office.<sup>65</sup>

The Archbishop's opposition within his own Church led him to make a public apology to those who felt he has wronged due to his acceptance of the position of co-chair, arguing 'I have not joined any political party. I joined the action group to build a better Fiji for all'.<sup>66</sup> He argued that all the coups had the aim of bettering the lives of Fijians but instead they 'brought more fragmentation, hurt, and poverty'. These views have been condemned by the ACCF, with ACCF General Secretary Sani Matalomani arguing that the 'removal of an elected government is against God', that the Archbishop needed to practice supportive speech, that he had become critical and bitter, and that he 'needs to allow the spirit of God to instil the love of God in him'.<sup>67</sup>

### **The relationship between religion and politics in Fiji**

Clearly, the media agitation regarding the divergent views of both Catholic and non-Catholic laity has shown the deep concern about the relationship between religion and politics in Fiji, but this concern is also present in Methodist adherents. While the Methodist Church was actively involved in the 1987 coups and has been a vocal commentator and support for the Qarase government since, not all its laity believe that this is a role for the Methodist Church. Indeed, outside of Suva, some have expressed concern about the extent to which the Methodist Church in Suva is involved with political issues that are not immediately relevant to rural areas.<sup>68</sup>

With regard to the Catholic Church in Fiji, many see the Archbishop's acceptance of the co-chair role on the council for the Charter as profoundly political, given that the Charter was initiated by the interim government and that the Archbishop is co-chairing the council with Bainimarama. On the other hand, the Archbishop's position has always been that he wants to see Fiji progress towards a better future and that his position on a council is not the same as joining or endorsing a particular political party. Father Barr supports this position, arguing that there is a right and a wrong way for churches to be involved in politics:

I think the wrong sense is to be giving your support to the political parties, and endorsing and so on. I think the right sense is that the church has the right and the obligation to be critical of government policies and government actions, particularly when they impinge upon underprivileged and poor people.<sup>69</sup>

Thus, the dominant view in the Catholic Church of Fiji is that the church must be political in that it must relate to the issues of the day, but should not be endorsing particular parties. Yet the Catholic Church hierarchy's support for many of the views of the Bainimarama-led interim government suggests that this is not at all an easy position to take.

An example of this was Mataca's comment that, 'There are those who want elections to be held imminently, so that we can return to democracy as soon as

possible, but elections alone will not bring about democracy nor guarantee stability or end all coups'.<sup>70</sup> In the context of no commitments having been met with regard to the proposed general election in March 2009 – despite strong regional and international pressure to hold elections as soon as possible; and because Mataka made these comments at the first meeting of the NCBBF – such statements are easily construed as being in favour of one political party over another. This conclusion is further strengthened by the fact that the riposte published the next day in *The Fiji Times* came directly from the SDL's director.

To complicate matters further, the Roman Catholic Church's theology in Fiji is based upon liberation theology.<sup>71</sup> This theology maintains that oppressive social systems create social injustice and therefore must be actively challenged, sometimes with justifiable acts of 'counter-violence.' Father Barr expressed similar sentiments to me, drawing on Thomas Jefferson, who argued that the highest duty of a good citizen is to save the country when it is in danger, over and above strict observance of written law. In a second example, he drew on a statement by France's new minister of foreign affairs, who said that it was sometimes necessary to go outside the law to achieve justice. He related this back to the first article he and others wrote after the coup, saying:

We were talking about social justice, trying to do away with racism, have a multi-racial country where the benefits of development are for everybody and also make sure that human rights are observed. But you know, I spoke to one of the lawyers here in Fiji and I said, 'What do you think of that statement as a lawyer? Is it sometimes necessary to go outside the law to achieve justice?' And he thought for a moment he said, 'It's absolutely correct'.<sup>72</sup>

Thus, while he views the military takeover as technically illegal, Father Barr strongly feels that, in this case, the end justifies the means. Given the strength of his views, it is not surprising that many have assumed Father Barr supported the coup outright.

Another level of analysis concerns the question of the relationship between religion and the state in Fiji. The Methodist Church and the ACCF have periodically called for a Christian state which, in the context of Fiji's divisions between the 'races' of Fijians and Indians, would legitimate and maintain the paramouncy of Christian Fijians as hosts, while all other races retain guest-status. By contrast the Roman Catholic Church, the Anglican Church, and the Presbyterian Church, which endorse ecumenism and tolerance, strongly oppose such a racially based paradigm.

However, the Archbishop's involvement in the Charter has suggested to at least one critic that the Roman Catholic Church might well sanction another kind of

Christian state. This critic makes the point that, being a representative of the Roman Catholic Church, the Archbishop will be required to oversee:

... a process whose outcomes must be consistent with Christian values, beliefs and doctrines. While he may not actively impose his own personal views on the process, as a Christian, he would, presumably, have to sanction its outcomes in terms of his church's beliefs and only an outcome that accorded with those beliefs would be tolerated and accord with his conscience.<sup>73</sup>

The writer gave homosexual marriage and abortion as examples to show that the Archbishop was unlikely to support any principle emerging from the Charter that was not fully consistent with those endorsed by the Vatican. Therefore, while the outcome would not be the same as that proposed by the Methodists, Roman Catholic values would be implicit in the outcomes of the Charter, which is to act as a guideline (and perhaps instrument) for selecting future governments. If this is the case, while the Archbishop's role is not directly political in that he has not technically joined any political party nor endorsed the coup, it will have political ramifications.<sup>74</sup>

## **The FCC and ACCF revisited**

I have approached a number of religious leaders about the ACCF's responses to the coups, but many have responded they do not feel they can talk to me in the current political environment.<sup>75</sup> However, there were some indications from the Assemblies of God that they were not entirely in agreement with some of the statements of the ACCF.

Rev. Tuikilakila Waqairatu's position as chair of both the ACCF and the FCC has, however, created considerable tension between FCC members – particularly, it would seem, between the Methodist Church and the Roman Catholic Church. Father Barr said:

I think an unfortunate situation is the whole takeover of the FCC by the Methodist Church and the ACCF. They've got a very strong representation there and I'm not a member of the committee there but I've heard from others that there's been a very strong move to change the FCC, to initiate changes in the constitution and even to do up a sort of a statement of beliefs that all churches [adhere to].<sup>76</sup>

Within the FCC, churches are apparently expected to conform to the decisions made by Rev. Waqairatu, unless they express a different view as an individual church. In fact, the FCC is now divided to the point that they met only once in 2007, at their AGM (pers. comm., church member, 2007). As a result, there has been no public statement from the FCC regarding the People's Charter.

## Conclusion

During 2006 and 2007, the rhetoric of the churches threw up a number of ironies. On the one hand, while Rev. Waqairatu was representing both the FCC and the ACCF in his initial statement against the coup, his description of the military actions as 'manifestations of darkness and evil' had more in common with Pentecostal and evangelical notions of the end of the world, a Manichean viewpoint that does not resonate well with the more liberal and practical perspective of the FCC. On the other hand, the ACCF and, particularly the Methodist Church, has radically changed its position on the overthrow of democratically elected governments since 2000. Manasa Lasaro, a chief advocate of the 1987 coups, became visible again in 2006 as a co-writer of the 20-point statement put out by the Methodist Church and rejecting the coup as treasonous and illegal. Moreover, the 20-point statement appeared to be using the language of human rights, whereas, before the 2006 coup, Methodist leaders, and more broadly the ACCF, were often highly critical of human rights as a vehicle for foreign values, especially with regard to tolerating homosexuality.

If manifestations of evil had been the initial response of the ACCF, the Methodist Church's leader, Reverend Ratabacaca, issued a much less spiritually controversial statement in the form of the submission on the People's Charter. While it extends greetings in the name of Christ, and much later discusses Christian notions of justice, there is little to differentiate it in language from secular submissions of its sort. With the language of the Pentecostal churches no longer in evidence, the document is labelled as a submission by the Methodist Church and the ACCF and, in view of the fact that it is signed by the president of the Methodist Church, it would seem that the Methodist Church has come to increasingly act as the dominant party of the ACCF rather than simply a team-member.<sup>77</sup>

The land issue at the centre of the submission indicates a potential return to the concerns of 1987, where, despite the fact that land rights were entrenched in the constitution, fears about changes to land sparked off the Taukei Movement. While Commodore Bainimarama has refuted these claims, it is difficult to know at this stage what the extent of reform may entail, especially given that a Committee on Better Utilisation of Land was set up and that a report has already made recommendations to de-reserve native reserved land in sugar-growing areas. The latter has, however, since been rejected by the NLTB, a decision supported by the SDL.<sup>78</sup>

In response to such issues, the Methodist Church has set up a think tank, chaired by Manasa Lasaro, to discuss current political issues affecting the Church. SDL members are reported as participating.<sup>79</sup> Given the close relationship between the SDL and the Methodist Church, this is not, in itself, surprising. Archbishop Mataka called for a meeting with the Methodist Church, which brought Qarase and Bainimarama together for discussions.<sup>80</sup> However, this has not resulted in



any breakthrough as the Methodist Church has continued to voice its opposition to the Charter<sup>81</sup> and the police have continued to monitor Methodist activities, including the conference, to ensure that the Methodist Church is not used as a political forum.<sup>82</sup>

The Roman Catholic Church's leaders have shown more tolerance of the coup because it provides opportunity for the government to radically change direction in its social, economic and political policies. Prior to the coup, the interests of the Roman Catholic Church lay outside the interests of the Qarase government and in opposition to the influential ACCF. Despite the fact that the coup may have caused poverty, there was deep resentment of the Qarase government over policies that focused on Fijian paramountcy at the expense of poverty across racial boundaries, an emphasis that was particularly marked in proposed bills such as the Promotion of Reconciliation, Tolerance, and Unity Bill and the Qoliqoli Bill. There was also suspicion of the extent to which corruption prevailed: Hence Bainimarama's naming of the coup a 'clean-up campaign'.

In analysing the Roman Catholic position, there are also ironies. With a theology strongly rooted in seeking to improve the position of the poor, Roman Catholic leaders have underplayed the alleged human rights abuses at the Queen Elizabeth Barracks.

Moreover, the Archbishop's acceptance of the co-chair position on the NCBBF alongside Bainimarama created much controversy in the Catholic Church. The Archbishop argues that his acceptance may help prevent the abrogation of the constitution and ensure that racism is no longer on the agenda – thus, for many, the Archbishop's role is a step towards reconciling Fiji society. Yet, for others – within and outside the Catholic Church – it is an active engagement in the political realm that legitimates the coup.

It is clear that the military's relationship with the churches has profoundly changed since the 1987 and 2000 coups and is now one of opposition to ACCF interests – in which Methodist interests feature strongly. Ethno-religious nationalism of the kind that has, in past coups, been associated with the Methodist Church is currently repressed by the military, but remains one of the big threats to stability.

Lastly, the ACCF had striven to unify Fijians under the umbrella of Christianity, but clearly this has not been achieved. Instead, ACCF interests have been overthrown by a Fijian military that viewed the Qarase government's proposed bills as likely to return Fiji to its 'cannibal past'.<sup>83</sup> Both the ACCF and the military under Commodore Bainimarama believe they have answers that will lead Fiji to unity and prosperity, and that the alternative will lead to fragmentation between Fijians. Yet, their answers are polar opposites of each other – and at the nation's expense.

## ENDNOTES

<sup>1</sup> Fiji Islands Bureau of Statistics. 1996. <http://www.spc.int/prism/fjtest/index.htm>, accessed 23/5/07. The 2007 Census statistics are not yet available but are likely to show considerable change in church affiliation, away from the Methodist Church and towards the Pentecostal/evangelical churches.

<sup>2</sup> In 2005, members were listed as: the Apostles Gospel Outreach Fellowship International (AGOFI); Assemblies of God, Fiji (AOG); Christian Mission Fellowship (CMF); Christian Outreach Centre (COC); Church of God of Fiji (COG); Covenant Evangelical Church (CEC); Grace Baptist Church; Advanced Breakthrough Ministry (ABC); Jesus Power Church; the Methodist Church in Fiji and Rotuma; the Methodist Davuilevu Theological College; New Life Centre; Pentecostal Churches of Fiji; Rescue Mission Fellowship; the Redeemed Christian Church of God (RCCG), the Worldwide Church of God in Fiji and Tonga; the Fiji Brethren Assemblies Partnership (Gospel Churches); the Family Life Ministry; the New Methodist Church; Fiji Baptist Convention; the Prison Chaplaincy; Impact World Tour/YWAM; Prison Fellowship; Global Sports Ministries; Summit Ministries (World Views); Teach us to Pray (ministry); and Assemble Communication.

<sup>3</sup> Newland, L. 2004. 'Turning the Spirits into Witchcraft: Pentecostalism in Fijian Villages', *Oceania*, 75(1):1-18.

<sup>4</sup> Indo-Fijians have joined the Indian Division of the Methodist Church, the Assemblies of God, and a small number of other Christian churches such as the Anglican Church and the Fijian Brethren Assemblies Partnership. Other small churches have mixed congregations of Pacific Islanders and whites (eg. the Presbyterian Church and the New Life Centre).

<sup>5</sup> Newland, L. 2006. 'Fiji' in Manfred Ernst (ed.) 2006. *Globalization and the Re-Shaping of Christianity in the Pacific Islands*, The Pacific Theological College, Suva.

<sup>6</sup> A reference to the Christian state reappeared in March 2006 in an ACCF project aimed at healing the land; it then became a call to make each province in Fiji, Christian. See, Newland, L. 2007. 'The Role of the Assembly of Christian Churches in Fiji (ACCF) in the 2006 Elections' in Fraenkel, J. and Firth, S. (eds) 2007. *From Election to Coup in Fiji: The 2006 campaign and its aftermath*, Institute of Pacific Studies, Suva and Asia Pacific Press, Canberra.

<sup>7</sup> Ernst, M. 1994. *Winds of Change: Rapidly Growing Religious Groups in the Pacific Islands*, Pacific Conference of Churches, Suva; Halapua, W. 2003. *Tradition, Lotu, and Militarism in Fiji*, Fiji Institute of Applied Studies, Nadi.

<sup>8</sup> Niukula, Paula n.d. (circa 1994) *The Three Pillars: The Triple Aspect of Fijian Society*, Christian Writing Project, Suva.

<sup>9</sup> France, P. 1969. *The Charter of the Land: Custom and Colonization in Fiji*, Oxford University Press, Melbourne; Clammer, J. 'Colonialism and the Perception of Tradition in Fiji', in Asad, T (ed.) 1973. *Anthropology and the Colonial Encounter*, Ithaca Press, London.

<sup>10</sup> Halapua, W. 2003. *Tradition, Lotu, and Militarism in Fiji*; Norton, R. 1990. *Race and Politics in Fiji*, 2nd ed., University of Queensland Press, St Lucia, Queensland.

<sup>11</sup> Bush, J. E. 2001. 'Land and Communal Faith: Methodist Belief and Ritual in Fiji', *Studies in World Christianity*: 21-37.

<sup>12</sup> Tavola, H. 1991. *Secondary Education in Fiji: A Key to the Future*, IPS Publications, Suva; Chetty, N, K. and Prasad, S. 1993. *Fiji's Emigration: An Examination of Contemporary Trends and Issues*, Population Studies Programme, University of the South Pacific, Suva.

<sup>13</sup> Norton, R. 1990. *Race and Politics in Fiji*, p.137.

<sup>14</sup> Rabuka later justified this coup in terms of pre-empting bloodshed by Fijians attacking their own people (Halapua, W. 2003), which has resonances with some of Bainimarama's comments regarding the Qoliqoli Bill in 2006.

<sup>15</sup> Halapua, W. 2003. *Tradition, Lotu, and Militarism in Fiji*; Ernst 1994, *Globalization and the Re-Shaping of Christianity*; Ratuva, S. 1999 *Ethnic Politics, Communalism and Affirmative Action in Fiji: A Critical and Comparative Study*, unpublished PhD Thesis, University of Sussex, England.

<sup>16</sup> Rabuka also staged a second coup in 1987 when he was dissatisfied with the interim government's direction (Halapua, W. 2003).

<sup>17</sup> Newland, L. 2006. 'Fiji' in *Globalization and the Re-Shaping of Christianity*.

<sup>18</sup> Dakuvula, J. Pers. Comm. 2007.

<sup>19</sup> Newland, L. 2006. 'Fiji' in *Globalization and the Re-Shaping of Christianity*.

- <sup>20</sup> Newland, L. 2006. 'Fiji' in *Globalization and the Re-Shaping of Christianity*; Newland, L. 2007. 'The Role of the Assembly of Christian Churches in Fiji (ACCF) in the 2006 Elections' in: Fraenkel, J. and Firth, S. (eds) 2007. *From Election to Coup in Fiji: The 2006 campaign and its aftermath*, Institute of Pacific Studies, Suva and Asia Pacific Press, Canberra..
- <sup>21</sup> Gurdayal, M., Devi, P. Tumoi, I., Pratibha, J., and Goundar, S. 'Churches condemn Army's Interim Government', *Fiji Daily Post* website, 7 December 2006.
- <sup>22</sup> Gurdayal et al. 7 December 2006.
- <sup>23</sup> *The Fiji Times*, 6 December 2006, *Fiji Sun*, 6 December 2006.
- <sup>24</sup> *Fiji Daily Post*, 8 December 2006.
- <sup>25</sup> *The Fiji Times*, 11 December 2006.
- <sup>26</sup> *Dominion Post*, 11 December 2006.
- <sup>27</sup> *Fiji Daily Post*, 19 December 2006. Bainimarama appears to be referring to a rally at the Methodist Centenary Church that was to be held at the same time that the Great Council of Chiefs was sitting (*Fiji One National News*, 19 December 2006).
- <sup>28</sup> *Fiji Daily Post*, 19 December 2007. On the same day, *The Fiji Times* reported that the Prime Minister's Office had granted the ACCF \$20,000 from its small grant scheme to aid in establishing an office and purchasing equipment. This appears to be a decision made independently of Bainimarama's public jousting with the ACCF and the Methodist Church.
- <sup>29</sup> *Fiji One National News*, 19 December 2006.
- <sup>30</sup> *Fiji Daily Post*, 20 December 2006.
- <sup>31</sup> *The Fiji Times*, 10 January 2007.
- <sup>32</sup> *fijilive*, 2 February 2007; *The Fiji Times*, 3 February 2007; *BBC Monitoring Asia Pacific*, 4 February 2007; *The Fiji Times*, 7 February 2007.
- <sup>33</sup> *fijilive*, 2 February 2007; cf *The Fiji Times*, 3 February 2007.
- <sup>34</sup> *fijilive*, 2 February 2007; cf *The Fiji Times*, 3 February 2007. .
- <sup>35</sup> *fijilive*, 2 February 2007; *The Fiji Times*, 3 February 2007; *BBC Monitoring Asia Pacific*, 6 February 2007; *fijilive*, 6 February 2007; *The Fiji Times*, 7 February 2007.
- <sup>36</sup> *The Fiji Times*, 3 February 2007; *BBC Monitoring Asia Pacific*, 4 February 2007.
- <sup>37</sup> Bukarau was gaoled for offences related to the 2000 coup and released in 2006, so would have been of significant interest to Commodore Bainimarama (Dakuvula: Personal communication, 2007).
- <sup>38</sup> *BBC Monitoring Asia Pacific*, 6 February 2007.
- <sup>39</sup> *The Fiji Times*, 3 February 2007.
- <sup>40</sup> *BBC Monitoring Asia Pacific*, 5 February 2007.
- <sup>41</sup> *The Fiji Times*, 7 February 2007.
- <sup>42</sup> *BBC Monitoring Asia Pacific*, 6 February 2007.
- <sup>43</sup> *BBC Monitoring Asia Pacific*, 6 February 2007; *fijilive*, 6 February 2007. Some of the views in the daily papers were not especially supportive of the Methodist Church's position. For instance, an editorial in *The Fiji Times* criticized the release of the 20-point resolution, saying that, as a consequence of its early release, the Methodist Church had put itself in an embarrassing position and, because of its influence, the Methodist Church needed to exercise care and responsibility on important national issues. The views expressed in the document needed to be discussed with the interim administration, but the government also needed to work with the Church to resolve 'important national issues such as land, reconciliation, crime and poverty' and therefore to consult, not to confront (*The Fiji Times*, 7 February 2007).
- <sup>44</sup> *BBC Monitoring Asia Pacific*, 12 February 2007; *The Fiji Times*, 13 February 2007.
- <sup>45</sup> *The Fiji Times*, 4 and 5 January 2007.
- <sup>46</sup> Ratabacaca, Laisiasa 2007 Submission on Interim Government's "People's Charter for Change and Progress" Suva, June, at <http://www.fijilive.com/news/show/news/2007/02/02/02Fijilive14.html>
- <sup>47</sup> Curiously, however, the interim government then commissioned a report by Dr Krishnamurthy, which recommended that native reserved land in sugar areas should be de-reserved (*Fiji Times* 25/2/08).
- <sup>48</sup> *The Fiji Times*, 31 October 2007.
- <sup>49</sup> *The Fiji Times*, 19 December 2007.
- <sup>50</sup> This is an oft-cited practice but there is apparently evidence to the contrary (Dakuvula: Pers. comm. 2007).

## The 2006 Military Takeover in Fiji

<sup>51</sup> *Fiji Daily Post*, 13 December 2006; *The Fiji Times*, 16 December 2006.

<sup>52</sup> *The Press* (New Zealand), 24 January 2007. This kind of idea echoes some of the assumptions in Modernisation Theory, where all societies are expected to progress along the same path until they become developed. The idea of Fiji needing several hundred years to fully develop its fledgling democracy is commonly cited in Fiji.

<sup>53</sup> For example, *The Fiji Times*, 10 January 2007.

<sup>54</sup> How it was formed by civil society is unclear. It was certainly the interim government that launched the Charter and it was on Bainimarama's submission that the Cabinet endorsed it (Pacific Islands Report 2007; Interim Government 25 September 2007).

<sup>55</sup> *The Fiji Times*, 27 October 2007.

<sup>56</sup> *Fiji Daily Post*, 28 October 2007.

<sup>57</sup> *The Fiji Times*, 29 October 2007.

<sup>58</sup> *Fiji Daily Post*, 28 October 2007.

<sup>59</sup> *The Fiji Times*, 24 and 25 October 2007. Rewa is one of the provinces that has rejected the Charter and the military takeover.

<sup>60</sup> *The Fiji Times*, 24, 27 and 31 October 2007; Elbourne and Singh, 'Sorry: Mataca', *The Fiji Times*, 24 October 2007. There seems to be some confusion in the reporting of whether there was one or more meetings between Zinck and the Archbishop. There is also confusion in who attended as one report notes that Ro Teimumu apologised for 'lying about her presence at the meeting' (*The Fiji Times*, 27 October 2007) while a later report suggests that Teimumu did not go but that close friends of hers who were teachers had gone (*The Fiji Times*, 29 October 2007).

<sup>61</sup> *The Fiji Times*, 27 October 2007.

<sup>62</sup> *The Fiji Times*, 29 October 2007.

<sup>63</sup> *The Fiji Times*, 25 October 2007.

<sup>64</sup> *The Fiji Times*, 29, 30 October 2007; *Fiji Daily Post*, 31 October 2007.

<sup>65</sup> *The Fiji Times*, 31 October 2007.

<sup>66</sup> *The Fiji Times*, 24 October 2007.

<sup>67</sup> *The Fiji Times*, 16 February 2008.

<sup>68</sup> For instance, in focus groups I conducted in Labasa, Vanua Levu, in 2005, several Methodists were highly critical of the statements by the church in Suva. One railed against the position the Methodist Church in Suva had taken on homosexuality, liquor licences, and the Reconciliation, Tolerance and Unity Bill, arguing that the church should not be involved in politics at all. Newland, L. 2006. *Social Justice in Fiji: Christian Perspectives*, ECREA, Suva.

<sup>69</sup> Interview, 19 September 2007.

<sup>70</sup> *The Fiji Times*, 18 January 2008.

<sup>71</sup> As many have noted, the Archbishop's views are similar in style to the views of Father Kevin Barr. I conducted research for ECREA, which was headed by Father Barr, in 2005. During this research period, I was asked to explore Liberation Theology as it developed through the Popes' Encyclicals and Catholic meetings, such as the Medellin Conference in Latin America, as part of a broader piece of research on social justice.

<sup>72</sup> Interview, 19 September 2007.

<sup>73</sup> *Fiji Daily Post*, 30 October 2007.

<sup>74</sup> More recently, Archbishop Mataca appeared on the current affairs program, *Close-Up*, saying that the Charter was a Covenant, which suggests a more intense relationship between the state and the Roman Catholic Church than was otherwise being conveyed ('Close-Up', *Fiji One*, 13 April 2008). Curiously, when I asked to see the tape of the broadcast, it had mysteriously disappeared.

<sup>75</sup> While I was attempting to do this research, another State of Emergency was put in place.

<sup>76</sup> Interview, 19 September 2007.

<sup>77</sup> The Methodist Church's public refusal to join the Charter has been contested, albeit mildly, from within the church. The church's Indian division prepared its own submission in support of the People's Charter, which it discussed with the Methodist hierarchy (*The Fiji Times*, 25 February 2008). However, the submission appears to have resulted in a strategic plan for a sole church (the Dudley Methodist Church). Using an analysis popular in business (the SWOT analysis which examines strengths,

weaknesses, opportunities, and threats), the plan's aim is to make the church more service-oriented and re-focused on evangelism in the Indian communities (*The Fiji Times*, 17 March 2008).

<sup>78</sup> *The Fiji Times*, 5 March 2008.

<sup>79</sup> *Fiji One National News*, 4 March 2008. Lasaro ran for president at the Methodist Conference but lost to Rev. Tugaue.

<sup>80</sup> 'Bainimarama and Qarase told to sort out differences' *Fiji One National News*, 20 May 2008.

<sup>81</sup> 'Methodist Church says it will not accept Draft Charter', *Fiji One National News*, August 17, 2008

<sup>82</sup> *The Fiji Times*, 16 August 2008.

<sup>83</sup> *The Press*, 4 November 2006.



# 10. The good, the bad and the faithful: The response by Indian religious groups<sup>1</sup>

**Jonathon Prasad**

Shortly after lunchtime on 5 December 2006, crowds began to assemble outside Prime Minister Laisenia Qarase's residence on Richards Road, Suva. At first they arrived slowly, a few at a time; but, as the afternoon progressed, numbers rapidly swelled, particularly after the arrival of the Republic of Fiji Military Forces (RFMF).<sup>2</sup> The crowds were drawn by the news that *their* government was in the process of being overthrown, and the rumour that *their* prime minister would shortly be placed under house arrest.<sup>3</sup> The congregated sang mournful hymns and offered prayers for the nation in both Fijian and English. They rallied in support of democracy and to register their opposition to the military's escalating political involvement over previous weeks.<sup>4</sup> Some had assembled spontaneously, whilst others, going by the church minibuses parked nearby, had been assisted to come by church ministers.<sup>5</sup>

The elaborate game of cat and mouse that had been played out over the previous days showed Qarase to be skilled in evading the military while operating a 'government on the move' and frustrating all efforts to locate him.<sup>6</sup> As the game neared its inevitable climax, all that remained between the military and Qarase was a line of the faithful, singing hymns and offering prayers: A moral force separating 'good' from 'evil'.<sup>7</sup>

The dividing line between good and evil is an important, if relative, one in Fiji. The influence of religion pervades society, with both Qarase's and FLP-leader Chaudhry's religious convictions being as much a part of their appeal to the electorate as their ethnicity and political stance.<sup>8</sup> The relationship between religion and ethnicity is pronounced. Nearly all ethnic Fijians identify themselves as Christians; the Indian population is predominantly Hindu (76.7 per cent), with smaller groups of Muslim (15.9 per cent) and Christian (6.1 per cent).<sup>9</sup> For indigenous Fijians, Christianity represents a particular stage of social development, signifying a break with pre-Christian spirituality and cannibalistic practices, and uniting groups previously fragmented by tribal conflict under a common set of values. For the Indians, while religion represents an act of faith, it also provides a tangible link to the history of their settlement. It further transforms them from an isolated community in the Pacific to one historically connected to the grand religious, cultural and linguistic traditions of India.

Fiji remains a nation polarized by ethnicity, with communal voting exacerbating divisions, and skewing election outcomes. In the days immediately before and after the coup, the battle for the people's hearts and minds focused upon claims by both sides to be the defenders of the rule of law and righteousness. Bainimarama's 'clean-up campaign' was described as a moral crusade to cleanse the nation of corruption and discrimination, which he claimed was endemic under the Qarase government. Qarase, on the other hand, appealed directly to the rule of law, which he argued was directly threatened by the actions of the military. He claimed that the foundations on which society rested were systematically being undermined, with principles of democracy, good governance, the rule of law, and human rights being swept aside. He warned that this would be replaced by dictatorship through the barrel of the gun, which would inevitably lead to injustice, repression and chaos.<sup>10</sup>

Qarase's support base amongst the Assemblies of Christian Churches in Fiji (ACCF) – which includes the dominant and influential Methodist Church – claimed that the authority of God passed to man through elected representatives, and that any challenge to this order would directly challenge the authority of God, resulting in Bainimarama 'himself' being 'cleaned up'.<sup>11</sup> This appeal to non-earthly sources of authority was also found in the response of Hindus, through their emphasis on the religious authority of their scriptural system as bound up in the metaphysics of '*dharma*'. *Dharma* is a central concept in Hindu thought. Having no English equivalence, it is notoriously difficult to define but is commonly interpreted as justice, virtue, ethics, duty, truth, goodness and morality; it is regarded as the principle which upholds the moral and physical world.<sup>12</sup> In Fiji, *dharma* signifies the duty of each person towards a life of good conduct and the performance of righteous actions. These ideas are bound up in a cosmic jurisprudence, transcending national boundaries and temporal concerns.

## **The Indian community between 1987 and 2006: A community under siege?**

The position of the Indians in Fiji is a precarious one, with the post-1987 period commonly referred to as a second girit. <sup>13</sup> Unable to own land, the sense of insecurity and uncertainty is palpable. Since the mid-1990s, Indian farm leases have expired and many farmers evicted, often without compensation.<sup>14</sup> It is suggested by some that this is a direct consequence of a nationalist agenda, which has sought to marginalize the Indian position in Fiji. A trip to cane-growing areas tends to support this view, as many previously fertile, productive fields previously tilled by Indian farmers lie idle at a time when the cane industry is struggling to meet its commitment to fill international sugar orders.<sup>15</sup>



The population figures are a sobering reminder of the human costs wrought by the coups. The census for 1986 showed Indians constituting 52 per cent of the total population. By 2007 this had declined to 38 per cent. In the 20 years since 1987 scores of thousands of Indians have left Fiji, many of them professionals.<sup>16</sup> The resulting vacuum has been filled by ethnic Fijians through processes of positive discrimination that have seen Indians being passed over for promotion, or their positions being made redundant. Increased levels of unemployment and underemployment within the Indian community have led to a decline in self esteem amongst many men, and increased domestic violence, marital breakdown and suicide.<sup>17</sup>

In the aftermath of the 1987 and 2000 coups, the Indian community found itself on the receiving end of unprecedented violence:

... [F]or a few weeks there was unprecedented violence, particularly stoning and arson attacks against Indian homes by young Fijian men, sometimes with assaults and robbery. The attacks continued sporadically for a long time, and there were incidents of intimidation and physical abuse by members of the military.<sup>18</sup>

There was also an increase in violent home invasions. The targets were predominantly in the Indian community. In some cases, daughters have been raped in front of their parents, whilst there have been several reported deaths resulting either directly or indirectly from these invasions.<sup>19</sup>

## **The responses of the Indian community**

### **Responses to the build-up to the coup**

Whilst some protests were made against the 1987 coups, these were organized by trade unions, rather than coordinated by the various Indian religious groups. Some farmers refused to harvest their cane, but in the long-run they only harmed themselves and their families, as they were not paid.<sup>20</sup> It is common to hear people express the futility of their situation. Others have resigned themselves to their fate, arguing that the land inevitably belongs to the Fijians as they were there before the Indians. It is possibly for this reason that religion and culture are so important to Indians in Fiji; they are the two things that cannot be taken away from them, and explain why many have a firm belief in their prayers – believing their religion will offer them guidance and the capacity to endure whatever calamity befalls them.

The introduction of the Promotion of Reconciliation, Tolerance and Unity (RTU) Bill (2005) and the Qoliqoli Bill and Indigenous Claims Tribunal Bill (2006) has been interpreted as a further attempt to marginalize the Indian community. Qarase had previously claimed that those who went to the Parliament complex in 2000 were answering the *Tagi ni Taukei*, the 'Cry of the Fijians', and that,

rather than being intent on troublemaking, they were the victims of a legal system that had failed to recognize customary behaviour.<sup>21</sup> The RTU Bill took this a step further, by proposing an amnesty for those involved in the 2000 coup. The Qoliqoli Bill had the potential to restrict access of non-Fijians to coastal waters and fishing rights.<sup>22</sup> Society became polarized, with those in favour of the bills being characterized as the 'Blue Ribbons'; those against, the 'Yellow Ribbons'. The Methodist Church actively supported the bills; in a rare act of solidarity, almost all the 'Yellow Ribbon' Hindu and Muslim groups issued statements condemning the bills in part or in total. Their criticisms focused on the amnesty provision of the RTU Bill, which they felt would promote a coup culture and prove divisive for Fiji society. They questioned whether or not one could legislate for reconciliation, arguing that it was a personal sentiment that had to come from within. A further concern was that it ran contrary to the spirit of democracy.

A Tebbutt Poll commissioned by *The Fiji Times*, revealed that only 19 per cent of Indians expressed support for the Bill. Despite this, Qarase persisted, and, in a move calculated to close the distance between religions, suggested the restorative justice component of the Bill was in keeping with the noble tradition of forgiveness:

... a principle common to all the great religions practiced in Fiji. This is the golden thread that links them ... Hindu scripture, for instance, regards forgiveness as holy and calls it the highest virtue.<sup>23</sup>

Caught between the Blue and Yellow camps was the Indian division of the Methodist Church. Eventually, the Indian division acceded to the request of the leadership and offered their support, although this was conditional on the Bill leading to real reconciliation.<sup>24</sup>

## Post-coup responses

Writing in *The Fiji Times* shortly after the 2006 coup, Verenaisi Raicola noted the importance of religion for the people of Fiji:

Fiji is a unique country with many practicing and non-practicing Christians. So when there is a political crisis, unlike other countries where people look to politicians to resolve issues of importance, our people look to the churches for divine interventions.<sup>25</sup>

This echoes Satendra Nandan, a member of the ill-fated Bavadra government of 1987, who argued that religion plays a symbolic as well as functional role for individuals and groups:

During the coups and in their aftermath the myriad, ubiquitous ceremonies became a form of resistance. Hindu holy texts, the *Ramayana* and the *Gita*, are both about fighting evil and the final triumph of good.

There is no doubt that many saw the coups as the banality of ethnic evil, Adharma.<sup>26</sup>

Commentators expected the Indians to respond to the 2006 coup with an ebullient outpouring of support for the military, but the predicted celebrations failed to materialize. There were no tears of joy, no dancing in the streets, no prayers of thanks – for most there was only emptiness, a familiar pang of recognition. For many survivors of previous coups, this was a well-rehearsed drill; they knew how their lives would be disrupted. Many, however, expressed a sense of relief that the protracted build-up, the phoney-war of words in which the military declared there would be no coup, had finally and decisively come to an end. For Indians, there was the further relief that this time they were not the targets. Far from a sense of *schadenfreude*, daily events were picked over in minute detail; self-appointed commentators around the *tanoas* in Indian households offered their interpretation and prognosis for the future.

Religion plays a crucial role in the aftermath of traumatic events. It provides a means of interpreting, mapping and coping with uncertainty, with religious leaders offering guidance, leadership and reaffirming community ties.<sup>27</sup> Public worship allows a community to share their fears and join together in hopes of a positive outcome; it allows devotees to play an active role and provides a sense that one is somehow guiding events, rather than passively observing. When Qarase went to meet with Bainimarama in New Zealand for 11th hour talks in a bid to avert the 2006 coup, religious groups of all denominations called on the nation to pray for their successful outcome.

## The perceived impact on poverty

One of the immediate concerns voiced by religious groups was how the poor would be affected by the coup. Sections of the Indian community are amongst the poorest groups in Fiji, with farmers facing increased hardship since land leases began to expire, and a raft of welfare policies having benefited the indigenous community at the expense of the Indians.<sup>28</sup>

Sections of the international donor community responded to the coup by discontinuing aid, imposing trade and travel restrictions and limiting international scholarships.<sup>29</sup> This came at a time when preferential access to the EU markets for African, Caribbean and Pacific nations (ACP nations) was being phased out because it breached international trade laws. The threat of the removal of the financial package to aid transition was dangled before the interim government unless it provided a 'roadmap' back to democracy. The potential loss of the transitional aid package led to concerns that the lives of those living in poverty or on the cusp of it would be negatively affected.

Poverty is an area that religious groups feel comfortable discussing, as it allows them to comment indirectly on political issues. In the aftermath of the 2006 coup,

the Arya Pratinidhi Sabha of Fiji (APS/Fiji) urged a dialogue between the military and government in order to avoid further hardships affecting the farmers. They suggested that religious organizations had an important role to play in the dialogue between the two sides – identifying the source of the problem as a lack of wisdom and of a sense of common good for all.<sup>30</sup> The then president of the Shree Sanatan Dharm Pratinidhi Sabha (SSDPS), Surendra Kumar, stated that those hardest hit by the coup would be those already living under the poverty line.<sup>31</sup> The Sangam and SSDPS asked their sister organizations in Australia and New Zealand to make representations to the governments of both countries calling for the lifting of sanctions.<sup>32</sup>

In the aftermath of the coup, the Indian community and their representative organizations, fearful of reprisals, became sensitive to suggestions that they were implicated, and immediately sought to quash such claims. When FemLINKpacific coordinator Sharon Bhagwan-Rolls suggested that the Indian community was receptive towards the overthrow of the Qarase government, she was condemned by Swani Maharaj, former president of the SSDPS Lautoka:

We are really disgusted with the statement and we want to know which segments of the Indian community she is trying to talk about and which ones she represents. Since past coups, someone always has to blame the Indo-Fijians ... if there is anyone who wanted to talk about the Indo-Fijian community, it ought to be someone like Labour leader Mahendra Chaudhry who had the support of the people and leaders of the various religious groups in the country ... The commander of the military has told the public that they need cooperation ... the Indian community is cooperating and wants a recovery to democratic rule ... Although the military takeover is illegal, it did not abrogate the Constitution which is vital in keeping the multi cultural society of this country.<sup>33</sup>

The difficulty faced by Indian religious groups was how to respond. One of the stated aims of the coup was to end the discrimination against the Indian community. Despite this, religious groups could not be seen to condone the military's actions, which represented an *adharmic* act. The largest Indian organization in Fiji – the SSDPS, which claims to represent over 200,000 Hindus – negotiated this difficulty by distancing the organization from the 'overthrow'. However, given the reality of the situation, it accepted that the military should be allowed to complete its task, especially if it related to claims of corruption. When Bainimarama issued a warning to NGOs not to speak out against the military, Surendra Kumar urged the public to remain silent and allow the military to carry out its task, saying:

[W]e should not cause hindrance to their work because its [sic] members of the public who have to face the consequence of any wrong comment

that they make ... the best thing for the entire nation to do is let them do their task while we wait and pray for normalcy in the country.<sup>34</sup>

## The response of the SSDPS

The SSDPS purported to adopt a neutral stance during the early days of the coup, stating that they were not in a position to judge either Qarase or Bainimarama.<sup>35</sup> However, the SSDPS statement appears to legitimize the actions of the military; it refers to it as performing 'work' and suggests that statements in opposition to it were 'wrong'.

From a Hindu perspective the coup occupies a grey area; Hindu mythology is filled with stories of coups and counter-coups in a quest for power and supremacy. Some argued that pursuance of *dharma* legitimized the coup. In the case of the 2006 coup, it may be argued that the proposed RTU and Qoliquoli bills could potentially have inflicted harm on the Indian community. Because of this, an act that sought to lessen this harm – such as the overthrowing of a democratically elected government – would be morally and '*dharmically*' legitimate.<sup>36</sup>

## The response of the TISI Sangam

By contrast, the South Indian Hindu organisation, the Then India Sanmarga Ikya Sangam (TISI Sangam), has consistently condemned the coup, speaking out in defence of democracy. Dorsami Naidu is simultaneously the head of the TISI Sangam, a former president of the National Federation Party and a prominent Nadi-based lawyer. He spoke out against the RTU Bill – arranging demonstrations and a petition against it. After the coup the Sangam stated:

The illegal and unlawful takeover of a democratically elected government will never be condoned. We all may not agree with the policies of the government but that does not give anyone the right to do what the military has.<sup>37</sup>

The Sangam, in common with the SSDPS and APS, restricted its comments to social issues, choosing not to condone or condemn the action of the military. Rather, they chose to comment directly on the social consequences of the coup, on poverty, the increased sense of safety felt by the population due to the presence of road blocks, and the decline in temple desecrations.<sup>38</sup>

The Sangam was directly affected by the coup. As one of the larger Indian religious organizations, it had planned to expand its educational portfolio by developing a nursing school and a vocational training centre. The nursing school was established with support from the Asian Development Bank (ADB). An additional F\$3 million was to be provided by the ADB for the establishment of the vocational school. However, before funds were released, the coup occurred. The costs were not inconsiderable: Sangam had already purchased the site,

employed an architect and invested time in the project. The project would have created up to 200 jobs for builders and teachers, and opportunities for the school's graduates. The Sangam is unclear as to whether or not funding will be reinstated, and are wary of future dependence on international donor funding. It is moving towards financial independence, seeking funds from amongst its members and through the diversification of its financial arrangements.<sup>39</sup>

In his capacity as a lawyer, Naidu defended Angie Heffernan, chief executive of the Pacific Centre for Public Integrity, an outspoken human rights activist, and one of the founders of the Lami 'democracy shrine' established in protest at the coup. The case questioned the legitimacy of the interim government. In accepting the case, Naidu positioned himself in opposition to the military. Naidu had previously been president of the National Federation Party (NFP), the preferred party of the Indian community until the arrival of the FLP. Significantly, prior to the election, Naidu had made an uneasy alliance with the SDL, offering to become a coalition partner in the event of a hung parliament. This support was contingent upon the removal of the amnesty provision from the RTU Bill. It would, of course, have placed the NFP back in government.

Naidu's opposition to the coup was based upon his belief that it was the illegal overthrow of a democratically elected government, an action that he regards as morally wrong and therefore *adharmic*. When asked about whether or not he found it difficult to separate his different societal roles, he responded that his personal views mirrored those of the Sangam and the NFP during his time leading those respective organizations.

## The response of the APS/Fiji

The APS/Fiji took the position of observer, choosing to neither condemn nor condone the coup, as they believed that:

If the end result is positive and brings benefit to all, then it can be justified as something right, *dharmic*. However, if it takes the situation in Fiji to a stage which is worse than December 5<sup>th</sup>, then it is wrong – *adharmic*. We cannot judge at this stage, only time will tell.<sup>40</sup>

Despite this, APS/Fiji was disappointed that all democratic avenues were not explored in order to ensure a peaceful resolution with the minimum of disruption to the nation. They pointed to dialogue as the most transparent way of solving disputes in a democratic society, and argued that, regardless of future outcomes, the will of the people *must* prevail, and must be freely arrived at without outside interference or coercion. The APS/Fiji discussed the coup during its convention and gave a briefing to delegates – but it did not suggest a position to be adopted by followers because it believed it wrong for an organization to impose its will upon its members as this removes people's freedom to decide.

## The response of the Indian division of the Methodist Church

The coup further strained relations within the Methodist Church. Whilst the leaders of the church condemned the military, members of the Indian division were divided, with many supporting the military's anti-corruption stance. Some members of the Indian division began openly questioning their leadership as to why it hadn't condemned the 1987 and 2000 coups. This placed the Indian division in a difficult situation, as they were aware that the stance of the parent body would potentially lead to a loss of confidence in the organization amongst its Indian supporters.<sup>41</sup>

The increased military presence on the streets received support from all communities, as it provided a sense of security, with many in the Indo-Fijian community hoping it would become a permanent feature. The addition of military checkpoints and the promise that crime would be swiftly dealt with meant that the Christmas period was the first when the people of Fiji did not have to worry about crime. This found particular support amongst the Indian community, which had previously been the target of break-ins and attacks. During this period there were no reported temple attacks. Surendra Kumar said that:

... they [the Indians] were fed up of daily break-ins by indigenous Fijian youths ... we hope that the military maintains this peace and harmony in the country and restores democracy. We know that the overthrow of the democratically elected government is illegal and unconstitutional and there are other means of solving this problem but it is a fact that our Hindu brothers were victims of daily break-ins.<sup>42</sup>

The sense of security was acknowledged by Nasinu Town Council Mayor Rajeshwar Kumar, who, along with other councillors (the majority of whom were Indian), prepared lunch for 180 soldiers stationed along the Suva-Nausori corridor to show their appreciation and gratitude for the efforts made by soldiers during the Christmas holidays to bring safety and stability to the area, allowing people to walk freely on the streets and feel safer in their homes.<sup>43</sup>

## 2007 – Mahendra Chaudhry: The return of the king?

The 2006 election saw a sizable increase in the number of Indian votes cast for the FLP at the expense of the NFP.<sup>44</sup> Many saw Chaudhry as the personification of the FLP; by others he was regarded as an avatar of King Rama, the heroic-mythic figure of the Hindu Epic, the *Rāmcaritmānas*.

The metaphor of Chaudhry as the inheritor of Rama's legacy draws upon the example of the hardship and suffering Rama endured during his enforced exile from his kingdom, during which time he wandered in the wilderness, being tested through various trials. Despite these challenges he was able to exhibit critical judgement and maintain his sense of righteousness and morality. The

moral underpinning of the text is that Rama is the embodiment of *dharma*, and that a person who adopts the path of righteousness, upholding *dharma*, is destined to triumph over ignorance and evil.<sup>45</sup>

Chaudhry, as a shrewd and skilled politician, is most likely aware of this comparison, and is wont to use it to his advantage. During his 2002 Diwali message he reminded the Hindu community of the timeless appeal of the text, with Rama as the embodiment of renunciation, self-discipline and duty. He extolled the virtues of being responsive, a good ruler, sensitive to the needs of his people.

We may not have the ancient demons to fight against today. But there are the modern day ones, heaping injustice on society. There are other unfortunate people among us, whom we should not forget in the enjoyment of our own riches.

He highlighted the importance of acting in accordance with *dharma* to fight injustice, and defend rights, and personalized this by reflecting on the sacrifices he had made for the benefit of the community by means of his struggle to obtain a position in the post-2001 election cabinet:

How many times have I been advised to accept the position of Leader of the Opposition and to forget about our right to be included in the Cabinet and to form part of the government? It would be the easy way out. I would be the Leader of Opposition, pick up a hefty salary, have a car and driver at my disposal and be consulted on all key decisions and appointments.<sup>46</sup>

In the aftermath of the 2000 coup, Chaudhry was heralded by the BBC as '[A] figurehead for the aspirations of Fiji's Indian community, a crusader for democracy and the rule of law' due to his act of forgiveness towards George Speight.<sup>47</sup>

His immediate condemnation of the 2006 coup as an illegal act and a sad day for Fiji, appeared consistent with his previous statements. The statement declared that neither Chaudhry nor the FLP supported:

... the military takeover of the democratically elected Qarase government. We just can't get out of the coup culture. We can't support the takeover and we hope the commander will quickly restore democracy to the country ... the fourth coup will escalate poverty, unemployment and further cripple the economy. The three previous coups have taken Fiji back 20 years.

Chaudhry declared that he would not be part of the interim government, and vowed to uphold democracy and the rule of law.<sup>48</sup> However, in January 2007, Chaudhry reversed this position by accepting the portfolio of the minister of



finance in the interim government. He claimed as justification that he was acting under the orders of President Ratu Josefa Iloilo.

The decision by Chaudhry to join the interim government was viewed with skepticism by some sections of the Indian community. Having previously established himself as defending righteousness, calling for the reinstatement of a deposed government after 2000, he had been lauded by the community as a just leader. However, his decision to join the interim government divided the community as to whether or not he had been seduced by the prospect of power backed by the might of the military. Around *tanoas* across Fiji, debates took place, with some going as far as to suggest that Chaudhry was the author of the coup.

Chaudhry's presence as a member of the interim government made it more acceptable for the Indian community to support it. Some cited the Bhagavad-Gita, casting him into the role of Lord Krishna, bringing righteousness to bear:

Whenever virtue declines and unrighteousness rises, I manifest Myself as an embodied being. To protect the Saints and Sages, to destroy the evil-doers and to establish Dharma (righteousness), I am born from age to age.<sup>49</sup>

For these people, Chaudhry's return to government was the circle complete, with him being returned to the position he had occupied before being ousted as part of the Bavadra government in the coup of 1987. It was *dharma* in action, with righteousness restored, and the proper order of the universe settled. Others, however, thought a different circle had been transgressed, that of the 'Laxman-Rekha' (circle of Laxman). In the mythology of the *Rāmcaritmānas*, this was the circle that Laxman, half-brother of Rama, drew on the ground in order to prevent any harm coming to Sita whilst they were in exile. It was a circle of safety, security and comfort separating Sita from the dangers and uncertainty of the world beyond – a dividing line between good and evil.<sup>50</sup> It is claimed that Chaudhry has taken the Indian community beyond the protective-circle, by performing an *adharmic* act. Comments made by farmers in rural Vanua Levu echoed these sentiments:

After the 1987 and 2000 coups, we [the Indians] were regarded as the victims of people that did not respect democracy, human rights or cultural traditions – we were the principled people. However, we can no longer claim this, and we no longer have the international communities support, sympathy and respect. We have now become the aggressors.<sup>51</sup>

Critics of Chaudhry have played upon the idea of causation, prevalent in Hindu thought and suggesting that the hardships and natural disasters which have befallen Fiji since the coup – rising food and fuel prices, increased unemployment, water shortages, the imposition of sanctions, various cyclones – were a

consequence of his actions. This was extended to suggest that Chaudhry's chickens had come home to roost when, in late February 2008, he found himself accused of tax evasion in Fiji after the discovery of five separate bank accounts registered to him in Australia and containing a total of AU\$1.6 million. Throughout, he denied any wrongdoing, claiming that the money had been raised in India after the 2000 coup to help him and his family resettle in Australia if needed.<sup>52</sup> This coincided with Bainimarama's controversial decision to install himself as the head of the GCC, and a much-vaunted report into the land issue authored by Dr Krishnamurthi – suggesting that land that had previously been reserved, be de-reserved – was rejected by the NLTB. The Indian community became unsettled, believing that the consequences of *adharmā* were being repaid. Hushed critical voices began talking in terms of karma, with former allies Bijay Prasad and Krishna Datt urging Chaudhry to resign because the FLP was being damaged by its association with the interim government.<sup>53</sup> Another former colleague, Tupeni Baba, looked forward to a post-Chaudhry era, saying, 'Fiji's politics without him will be cleaner, less racially polarised and congenial'.<sup>54</sup>

Chaudhry, however, remained steadfast, and was later cleared of any wrong-doing by an 'independent' inquiry, established by the interim government. The media questioned the independence of the inquiry team, focusing on the facts that interim Attorney-General Aiyaz Sayed-Khaiyum had previously worked for Minter Ellison – the law firm from which an Australian-based member of the inquiry team was drawn – and that his aunt, Dr Nur-Bano Ali, ran the franchise for BDO Kendall in Fiji, the accountancy firm from which another Australia based-member of the team was drawn. Questions were also raised about the secretive way in which the inquiry team was established, as its existence was only made public the day before it submitted its report. When the media sought a response from the two Australian-based experts, they were told that they had no comments to make; the two left the country the day the report was delivered – a bank holiday. The Attorney-General, clearly angered by the media's investigations, felt that they had a 'personal' agenda against Chaudhry, with critics grasping at anything to create doubt in the minds of the public.<sup>55</sup> The event took a toll on Chaudhry's reputation<sup>56</sup> and led him to respond to claims that he had lost the support of the Indian community saying 'The Indian community has never doubted my integrity...I have never had any doubts about my community, the Indian community being behind me'.<sup>57</sup>

### **The National Council for Building a Better Fiji: *Dharmic* or *adharmic*?**

Since the coups of 1987, Indian religious groups have expressed concern that they were not consulted or involved in the post-coup reconstruction process.<sup>58</sup> They felt that, as representatives of large sections of the population, including

the business community, their opinion should have been solicited as to Fiji's future direction. It is commonly felt that, had their opinion been sought, they may have been able to allay some of the fears that existed on both sides, many of which continue to simmer beneath the surface. This would have helped heal the divisions between communities, leading to a greater understanding and possibly preventing further coups.<sup>59</sup>

A People's Charter, prepared under the auspices of the National Council for Building a Better Fiji (NCBBF), is the platform the interim government is pursuing to 'heal the nation' and plan its development. The interim government is seeking to rebuild trust in the political process and increase the sense that all are stakeholders. In doing so it hopes that the Indian community will feel as much a part of the decision-making process as other communities:

The proposed People's Charter is a national cause, which will lay a foundation for change, peace, political stability and prosperity in the country. It will seek to bring about change in attitude and provide ways to deal with our socially and culturally-fragmented society and find ways to build a better Fiji.<sup>60</sup>

The nature of the charter has changed over time. When it was introduced, it was floated as a consultation exercise; however, over time, it has morphed into the political program for the next government.<sup>61</sup> Through a process of widespread consultation it is envisioned that people will take ownership of the charter; working to ensure its success. There has, however, been a mixed reaction to it within the Indian community, with the process highlighting and exacerbating differences between groups. However, a positive outcome has been that Indian religious groups feel they have found the voice they lost after 1987, and feel safe speaking out whilst engaging in public debate.

The invitation to join the NCBBF was extended by President Ratu Josefa Iloilo to key stakeholders in society, with major religious groups of all faiths being well represented. It was intended that the NCBBF would be filled by a representative cross-section of those organizations currently working with different communities in Fiji. While some of the invited groups turned down the invitation, others were happy to accept – which tells much about the relationships between groups and their internal politics. It also develops an interesting dynamic, highlighting historical and theological differences between groups, and the extent to which the Indian community is fragmented.<sup>62</sup> These dynamics may be seen as operating across a number of axes: Sanatan v Arya; TISI Sangam v Andhra Sangam; and Fiji Muslim League v Ahmadiyya. The internal divisions within the Methodist Church may be crudely analysed along the racial category Indian v Fijian.

## Sanatan v Arya

The decision by both the SSDPS and APS/Fiji to accept seats on the NCBBF can be seen as a continuation of the struggle for influence in the Indian community dating back to the 1920s and 1930s.<sup>63</sup> At that time, there were bitter debates, led by spiritual leaders, in relation to fundamental theological differences. Sanatani Hindus recognize the scriptural authority of the *Rāmcaritmānas* and *Mahabharata*, in addition to practicing deity worship. By contrast, the Arya Samaj rejects the epic tradition and idol worship, regarding it as a lower form of devotion; they emphasise the Vedas, a more philosophical set of texts. This leads them to reinterpret festivals such as Diwali in secular terms – making it similar to a harvest festival. There are also fundamental differences in their respective stances on child marriage, widow re-marriage, and the sexual conduct of prophets and gods. These debates opened fissures within the Indian community, which continue into the present, although in a less hostile mode. Sanatanis make up the majority of Hindus in Fiji, numbering approximately 200,000, and come from a wide cross-section of the community – from farmers through to affluent business people. The support base for the Arya Samaj is significantly smaller – approximately 50,000 – although their membership attracts a larger number of professionals. In a sense, neither the SSDPS nor APS/Fiji had a choice as to whether or not to join the NCBBF – for if one hadn't, the other would have become the official spokespeople for the Hindu community.

Both leaders joined the NCBBF at its initial meeting in January 2008. Kamlesh Arya joined as head of the APS/Fiji, mandated to do so after a lengthy consultation process with key advisors, lawyers, the APS/Fiji National Executive and the national convention.<sup>64</sup> For Arya, the NCBBF may provide 'sufficient leverage' to bring together communities which have been kept apart. Its members argue that their participation is one of the best ways to move the country forward.<sup>65</sup> In accepting the invitation, the APS/Fiji were mindful that the key values the charter invitation referred to – good governance, friendship, transparent action, tolerance, communal harmony, respect and a level platform – were values shared by Vedic philosophy. Therefore, they see the APS/Fiji and NCBBF as sharing a set of common values, which ultimately promotes *dharma*.<sup>66</sup> However, critics have pointed to self-interest in securing continued government support for the APS/Fiji-founded University of Fiji as a more likely explanation for their involvement.<sup>67</sup> Immediately prior to the 2006 election, Kamlesh Arya, a former senior FLP parliamentarian, resigned from the party after a well-publicized dispute with Chaudhry over his style and direction of leadership.<sup>68</sup> Some cited his decision to 'jump ship' as being influenced by concerns for the fledgling University of Fiji, which required government support for the granting of its charter and funding. At that time, then Prime Minister Qarase was invited to make an address at the University's dedication ceremony.

In doing so, he spoke of the shared vision of both the government and APS/Fiji for the role of education in the development of Fiji. This closeness was short-lived; in the aftermath of the 2006 coup, Arya has spoken out against the disruption and uncertainty caused by the coup, but, significantly, has not pushed for Qarase's reinstatement. 'Jumping ship' once again, the APS/Fiji moved towards the interim government, extending an invitation to Bainimarama to address their annual convention. The theme of the convention was 'Striving For a Better Fiji', which Bainimarama felt was in keeping with his government's vision for the future. He also congratulated the APS/Fiji on the role they continued to play in the education sector, regarding them as a valued partner of the government of Fiji, and he confirmed the interim government's continued commitment to the University of Fiji, saying:

Today is a good day for us to look back on the journey of the Arya Samaj and reflect on the new directions that will enhance the influence and relevance of the Arya Prathinidhi Sabha in the future.<sup>69</sup>

Whilst the SSDPS has consistently condemned the events of December 2006, its leaders justify their decision to join the NCBBF as indicative of their desire to help move Fiji forward. They argue that, as representatives of 73 per cent of the total Indian population, they have a duty to speak for the interests of their members. In doing so, they are able to relay to a national forum the plight of the Indian community. Aware of their critics, they maintain that their participation should not be seen as support for the interim government, but as providing a voice that has been missing from previous post-coup reconstructions. Further, they do not see their participation as being an *adharmic* act, and point to their scriptures as filled with examples of such conduct. In the *Rāmcaritmānas*, Rama was the king's preferred successor, but was forced into exile after one of the king's wives, who preferred the throne for her son, forced the king to crown him instead. Similarly, they argue that the basis of the *Mahabharata* is the quest for power and is filled with examples of statecraft and the usurpation of power.

Dewan Maharaj was elected the SSDPS president in March 2007, and has sought to stamp his authority on the organization by making intra-faith and interfaith dialogue one of its key priorities. This he regards as important because it will promote cultural understanding, and comes at a time when the SSDPS is facing a crisis of internal division due to the erosion of centralized organizational authority over the previous 40 years. During the 2008 SSDPS national convention, Maharaj claimed that 95 per cent of his members supported the NCBBF process, a statement he was later forced to qualify, recognizing that there were differing views within the organization.<sup>70</sup> Some have questioned the extent to which the membership was consulted prior to him making such a claim.<sup>71</sup> During the convention, heated exchanges about the decision to join took place between members and the executive. Questions were also asked of Maharaj's personal

ambitions, with speculation being raised that he was using the charter as a personal platform to launch his own political career, a claim he strongly denied. The dissenting voices were dismissed as political troublemakers standing in the way of progress, linked to the NFP. Maharaj pointed to the invitation to the convention of Ratu Joni Madraiwiwi, the former Vice-President of Fiji, deposed after the coup, and an outspoken critic of the regime, as evidence that they were engaging in debate over the issue, rather than being beholden to the military. Madraiwiwi, as guest of honour, delivered a speech that recognized the charter as worthy in principle, but with limited validity unless all ethnic groups agreed to participate in significant numbers. He also attacked the interim government for deporting newspaper publishers, for the increased militarization of the public service and for use of the Public Order Act to stifle debate, all of which sit uneasily with the SSDPS' commitment to *dharmic* principles.<sup>72</sup>

Questions have also been raised about lack of transparency: Maharaj's business interest, a printing company, obtained the contract to print NCBBF literature.<sup>73</sup> Maharaj, for his part, has not commented on this issue.

At the 2008 SSDPS annual convention, copies of a consultation document for the NCBBF were distributed in both English and Hindi. Amongst those assembled, opinion was divided as to whether the convention was the correct forum for such material. Some argued that such materials had no place in a religious event, whilst others argued that it was a legitimate site due to the concentration of Indians passing through the convention ground over the weekend.

## **TISI Sangam v Andhra Sangam**

The arrival in Fiji of the 'South Indians', almost a quarter of a century after the 'North Indians' meant that the former found themselves in a social system that had already been established. The *lingua franca* on the plantations was a derivative of northern dialects, as were the culture and customs practiced; the colonial administration was used to dealing with the North Indians. The later arrival of the South Indians placed them at a disadvantage, leaving them open to victimization and discrimination based upon their physical appearance, language, culture, the way in which they practiced their religion, their cuisine and mode of dress. In addition to this, it was claimed that they were more susceptible to depression and less hardy compared with their North Indian colleagues when it came to work.<sup>74</sup> South Indians were drawn from areas with distinct linguistic traditions: Tamil, Telegu, Malayalam and Kanada, although the majority were Tamil speakers. They were shunned by the North Indians and were excluded from participating in their social and religious functions. It was several years before they were integrated into the 'Indian' community. To secure themselves against this victimization, they established, in 1926, the TISI Sangam. The intention was for the organization to be a representative body for all peoples of South Indian origin, regardless of their ethnic or religious background. Over

time, divisions occurred as Telegu speakers began to feel that the Sangam was promoting Tamil language and culture at the expense of other languages, especially that of Telegu speakers. This led to the establishment of the Dakshina India Andhra Sangam in 1941, which sought to preserve Telegu language and culture. Since then, uneasiness has existed between the two rival organizations. The Sangam, estimates its membership to be 30,000, and it is actively engaged in cultural preservation, promoting the Tamil language, Hindu rituals and prayers –including an active fire-walking program. Many of its senior priests are either from India or have trained there. It has invested in all levels of education, including the tertiary sector, with a nursing school in Vanua Levu. Its supporters come from all backgrounds, but include a number of prominent businessmen and professionals who readily offer financial assistance. By contrast, the Andhra Sangam has a much smaller membership – between 2,000 and 5,000 – with some Telugu speakers choosing to join the Sangam. Unlike the Sangam, which has a national reach, the AS is much more localized to the West, having three temples located in the area around Ba, six schools and two colleges, located in the West.

The decision by the Sangam not to join the NCBBF was taken after consultation with its executive committee. The committee decided to continue with the stance they had taken in the aftermath of the 1987 and 2000 coups, namely to recognize the interim government as governing only by force, in the same way that the Rabuka governments had. They argue that they are primarily a cultural organization, and their required apolitical stance would be compromised by joining the NCBBF, which they view as a political initiative. The head of the Technical and Support Secretariat to the NCBBF, John Samy, claimed that the Sangam had failed to understand the purpose and function of the charter, suggesting that their position was most likely the outcome of preconceived ideas rather than facts. He added that he hoped the decision was based on ignorance rather than politics. Samy further argues that, as the charter is a national initiative rather than a political one, the Sangam's integrity would remain intact as the opinions of all stakeholders in society are being sought rather than those of specific sections.<sup>75</sup>

This has allowed the Andhra Sangam to become the *de facto* national spokes-group for those of South Indian origin, effectively raising their national status and profile. Their leader, Vinod Naidu, does not share the concerns of Dorsami Naidu; he suggested that the AS has a role to play in moving the country forward.<sup>76</sup> It may, however, be much easier for the AS to join the NCBBF as they have historically rejected the NFP due to the role played by the future leader of the NFP, A D Patel, as legal advisor to the Sangam during the AS/Sangam split. In recent years they have given their support to the FLP. Vinod Naidu, as leader of the AS, praised the FLP's 2006 manifesto, as he felt it was favourable for all the people in the country. He went so far as to say that he felt that it was the best party for Fiji.<sup>77</sup> Beyond this, they have not issued any statements,

choosing instead to become familiar with the charter process before offering further comments.

## **Fiji Muslim League v Ahmadiyya**

The Muslim community has historically sought separate political representation citing a distinct linguistic, religious and cultural heritage from the Hindu community. These calls have largely come from the Fiji Muslim League (FML), which represents the more numerous Sunni community – the non-mainstream Ahmadiyya Muslims represent a smaller section of the community. It is believed that the formation of the FML was partly inspired by the perceived need to prevent the Sunni Muslim community being overtaken by that of the Ahmadiyya, a missionary sect which arrived in the 1920s.

In the aftermath of the 2006 coup, many Muslims feared that it would be regarded as having been instigated – or at least supported – by the Muslim community, due to the fact that several prominent Muslims occupy key positions within the interim government. Aiyaz Sayed-Khaiyum is the prominent interim Attorney-General; Colonel Mohammed Aziz is a senior member of the military and its legal advisor; and the Fiji Human Rights Commission, under the guidance of Shaista Shameem, has been criticized for not being more outspoken on human rights issues, and for issuing a controversial report in the aftermath of the coup, which effectively vindicated the military of any wrong-doing.<sup>78</sup> Other prominent Muslims include the High Court judge, Nazhat Shameem, and the chair of the electoral commission, Dr Sahu Khan. This has led the FML to maintain a low profile and issue very few statements.

Members of the interim government were critical of organizations representing the Muslim community. Aiyaz Sayed-Khaiyum spoke out against the FML and its administration over the stance it took on the issue of constitutional review, and their demand for separate political representation. He argued that the FML did not have the mandate to speak on behalf of the Muslims living in Fiji.<sup>79</sup> However, he was present at the FML-organized celebrations for the birthday of prophet Mohammed, as was Ballu Khan – the controversial businessman who stood accused, with others, of a plot to assassinate Bainimarama and other members of the interim government. At the same gathering, the president of the FML, Hafiz Ud Dean Khan, publicly declined President Iloilo's invitation to join the NCBBF. He reasoned that, since its inception in 1972, the League had remained non-political, choosing to remain a 'silent observer, promoting only its core activities in social, religious and educational areas for the benefit of its members'.<sup>80</sup> This stance did not preclude individual members and members of the executive from freely participating in political activities in their personal capacity. Critics of this position argue that the FML was founded as a political organization, pointing to the inclusion of the term 'political' under the organization's objectives in the original Urdu version of the FML constitution.



The same critics point out that the FML is already a politicized body, as evidenced by several senators having been drawn from the membership of the FML.<sup>81</sup>

After the FML declined the invitation to join the NCBBF, the invitation was extended to the Ahmadiyyas. It had previously been courted by the interim government, as evidenced by the attendance of Parmesh Chand, the interim prime minister's permanent secretary, as guest of honour of the Ahmadiyya at the birthday celebrations of the Prophet Mohammed. In his speech, Chand spoke of the role of the Muslim community as a valuable partner in building a better Fiji<sup>82</sup> and urged Muslims to do more in moving the country forward.<sup>83</sup> In accepting the invitation, they were brought into the mainstream, raising their public profile in the same way that the AS did. In doing so they became the representatives of the Muslim community, articulating the Muslim community's concerns and perspective on national issues as diverse as social justice, the role of religion in society, and national identity.

Conscious of the FML's stance on the politicization of the organization, they accepted the invitation after consultation with the Caliph, who gave his permission for the Ahmadiyya's to join.<sup>84</sup> The Ahmadiyya did not see its position being compromised as long as the NCBBF remained an autonomous and an apolitical entity. The vice-president of the Ahmadiyya Muslim Jama'at, Tahir Munshi, felt that participation in the NCBBF could help move Fiji forward, noting that Fiji had the potential to become the 'Singapore of the Pacific':

It is the responsibility of those holding positions of responsibility to participate for the love of the country ... we cannot see the country declining and if our ideas, however small they may be, if they are good ideas and they get implemented and help the country move forward ... In our Islamic theology love for the country is part of our faith. So wherever we live, we love the country and that's whenever we are asked we are ready to come in.<sup>85</sup>

## **The Indian division of the Methodist Church**

The issue of the charter brought the internal conflict within the Methodist Church into the public domain. The standing committee of the church declined the invitation to join the NCBBF – however, the Indian division took a contrary position, seeing it as a useful forum through which they would be able to represent the views of their community. It found the standing committee's position to be short-sighted as, by remaining outside the process, they would not be able to help move the country forward. Publicly, members of the Indian division have spoken positively about the charter process to the media, recognizing that one needs to be inside in order to effect change. Members of the Indian division have expressed a desire to informally contribute to the NCBBF process. They rationalize their position on the basis of the idea of brotherly love,

arguing, 'it is best to forget about differences, with all joining hands, looking to the future'.<sup>86</sup> This position is also partly dictated by self-interest, as its members are conscious that the military views the Methodist Church as a threat, as it represents a strong moral force – and if the Church constantly opposes the military, the military will take a hardened stance against them. The split within the Methodist Church has been largely along racial lines, with the Indian division being a moderate voice urging cooperation in the best interest of the nation. They see their position as being founded on Christian principles rather than exclusively racial self-interest.

### **The impact of the NCBBF on religious groups**

The interim government clearly had a preference when it came to recruitment of religious groups to the NCBBF. It initially approached the larger national religious groups – some accepted, others declined. When first-preference groups declined, they were replaced by second-preference groups; this has allowed several minority groups to enter the mainstream decision-making process. These groups bring a different perspective and set of issues. However, the inclusion of some groups and not others raises the question of how representative of the wider Indian community the included groups are, and whether or not the Indian community as a whole will be supportive of the charter once it is finalized.

The decision by the FML and Sangam not to play a role in the charter process is unlikely to damage the reputation of those organizations as the national spokes-groups of their respective communities. By not participating, they maintain their organizational integrity; at the same time they shield themselves from any future criticism should the process fail to deliver on its stated aims. The worry for smaller groups is that if the charter becomes politicized – or, as some have claimed, it becomes the manifesto for a new political party – their participation in a taxpayer-funded project leaves them exposed to criticism and further marginalization. This would prove devastating as they don't have the political experience of larger organizations nor the extensive support base of these groups to cushion the impact.

### **Conclusion**

Out of the tragedy that was 5 December 2006, a ray of hope has shone brightly. Indian groups are, for the first time, publicly commenting on the coup and debating the future trajectory of Fiji – this was unthinkable after the coups of 1987 and 2000, and reflects an increased sense of confidence that they are true stakeholders, with legitimate voices that will be taken seriously. These voices reflect a variety of positions and highlight the differences between groups, but they have had the effect of capturing public imagination in such a way that the wider Indian community feel reconnected to the political process, with people regularly debating the issues in homes and workplaces across the nation. At the

same time, the continued growth of internet technology has extended the debate beyond the shores of Fiji, with, in what must be another first, the debate becoming a global one – extending to Indo-Fijians living in America, Australia and elsewhere, to those serving in the British army in Europe and elsewhere, and to nurses trained in Fiji, but working in other parts of the Pacific. It has become a truly global dialogue.

The coup itself divided opinion in Fiji. For the most part, the Indian community was saddened and stunned rather than supportive of yet another political upheaval. Despite being the silent victims of anti-Indian aggression for many years, they did not rejoice. Many mourned the loss of the fragile multiparty cabinet, which some believed would have presented the best hope for Fiji since independence. At the same time, many are pragmatic in looking to the future, recognizing that the current political reality is a military one and awaiting the transition that the interim government will effect. Initially, they were heartened by the added sense of security they felt – a result of the military checkpoints stationed around Fiji. However, now that the dust has settled, many are still waiting for the promised proof of large-scale corruption implicating the Qarase government; all they have witnessed so far has been Mahendra Chaudhry's tax irregularities. At the same time, global increases in the cost of food items such as rice, flour and fuel, as well as freak weather conditions that have led to cyclones and flooding have been characterized by some as examples of what happens when one challenges the *dharmic* order of the universe.

While many within the Indian community welcome the idea of a 'People's Charter', few truly understand its purpose or the legal status it will occupy. One of the coups stated aims – to restore rights previously lost to the Indian community over the past 20 years – has not been enough to convince them that Fiji is a country worth committing to; it looks likely that they will continue to migrate in large numbers as they no longer feel that Fiji is a viable place in which to raise their families or invest. For many, the prognosis looks bleak, with a future filled with temple desecrations, home invasions and assaults on individuals. Some question what would happen if a future government takes a position opposed to that of the military – would it lead to another coup, would Fiji then be firmly entrenched in a coup cycle? Many of those planning to relocate overseas state that that they do not want to leave the land of their birth, believing it to be the best country in the world, with friendly people, a strong sense of community and a good climate. But they recognize little alternative.

## ENDNOTES

<sup>1</sup> This paper deals with the response from the Arya Pratinidhi Sabha of Fiji (APS/Fiji), the Shree Sanatan Dharm Prathinidhi Sabha (SSDPS), The Then India Sanmarga Ikya Sangam (TISI Sangam), Andhra Sangam (AS), Fiji Muslim League (FML), Ahmadiyya Muslim Jama'at (AMJ) and the Indian Division of the Methodist Church.

<sup>2</sup> The RFMF originally went to Qarase's house at 11am, leaving an hour later. At 3pm, approximately 60 soldiers returned to place Qarase under house arrest. Roughly 250 people gathered – some offering prayers and hymns to heal the nation; soldiers awaiting orders while trying to maintain order; bemused spectators watching history unfold; and the media, recording it.

<sup>3</sup> Discussions with those assembled revealed the depth of feeling they had for Qarase. By voting for him and his government they claimed that they had endorsed his vision for the future of Fiji. He held their mandate and they gathered to ensure that their voices would be heard and their mandate upheld.

<sup>4</sup> In the weeks after this demonstration, the military were successful in curtailing protest through direct threats and coercion. One notable example was that of the Lami-based democracy rights activists, whose democracy shrine became a source of international media attention and an embarrassment to the military.

<sup>5</sup> The 2006 coup was the first to make extensive use of modern technology to transmit information. Mobile phones were widely used to coordinate group movements, such as the 'Wear Black in Support of Democracy' campaign. Blog sites have also been established within Fiji and overseas. Most of these sites are critical of the military and interim government. Some, such as 'And This Just In' (<http://andthisjustin.blogspot.com/>) and Fiji Nub News (<http://fijinubnews.blogspot.com/>), use humour to diffuse the tension; others – Solivakasama (<http://solivakasama.wordpress.com/>); Intelligensiya (<http://intelligensiya.blogspot.com/>) and The Rotten State (<http://therottenstate.blogspot.com/>) take a more critical approach.

<sup>6</sup> For example, Qarase avoided roadblocks set up to intercept him when returning from a provincial council meeting in Naitasiri by taking a helicopter, landing close to his home, and thereby frustrating the military.

<sup>7</sup> In the days after the coup, coup-leader Commodore Bainimarama was characterized as 'ungodly' (Assemblies of God), the 'manifestation of darkness and evil' (Federation of Christian Churches and Assemblies of Christian Churches in Fiji), 'the enemy' (Assemblies of God of Fiji); Qarase was regarded as 'ordained of God' (Assemblies of God), 'doing God's will' (Assemblies of God of Fiji).

<sup>8</sup> Qarase's Methodism is well known, as is Chaudhry's Hindu faith. Indians I have spoken to have expressed a belief that religion is an important component of a just leader.

<sup>9</sup> Fiji Bureau of Statistics: Census of Population. 1996.

<sup>10</sup> 'Standing Up and Together For the Rule of Law', *The Fiji Times* 4 December 2006.

<sup>11</sup> Paid advertisement from the Apostles Gospel Outreach Fellowship International 'Regarding the Current Crisis in Fiji', *The Fiji Times*, 6 December 2006.

<sup>12</sup> Lingat, R. (trans. Derrett, J D M) 1973. *The Classical Laws of India*, University of California Press, Berkeley. p.4.

<sup>13</sup> The term *giriti* is a corruption of the term 'agreement', referring to the indenture process by which Indians arriving in Fiji signed an agreement committing them to labour for a minimum period of 5 years. This period was characterized by violence, poverty, and social problems (such as adultery, suicide and murder). For further details of this period see: Naidu, V. 2004. *The Violence of Indenture in Fiji*. Fiji Institute of Applied Studies, Lautoka, and Prasad, R. 2004. *Tears in Paradise*. Glade Publishers, Auckland. and Lal, B.V. 1983. *Girmitiyas: The Origins of the Fiji Indians*, Canberra. pp. 43–67.

<sup>14</sup> Under the Agricultural Landlord and Tenant Act 1966 (ALTA), land leases were given for a thirty-year period. These began to expire in the mid 1990s. For further details see Reddy, M. and Naidu, V. 2001. 'Land tenure system in Fiji: the poverty implications of expiring leases', available at: <http://devnet.anu.edu.au/online%20versions%20pdfs/55/10Reddy55.pdf> (accessed November 2007)

<sup>15</sup> 2007 saw the Fiji Sugar Corporation (FSC) unable to meet its sugar cane quotas for the European Union; it imported 40,000 tons of sugar from India to meet this obligation. *The Fiji Times Online* 17 December 2007 <http://www.fijitimes.com/storey.aspx?id=76789>. Fiji plans to import sugar from India again during the 2008 season. <http://news.tradingcharts.com/futures/1/5/108234551.html>

<sup>16</sup> 'More Expected to Leave Our Shores', *Fiji Daily Post* 16 December 2006:3. Figures based upon estimates by UN Population Fund regional representative Najib Hasifi.

<sup>17</sup> Adinkah, M. and Chand, A. 1996. *Suicide in Fiji: Report of a National Survey*, Department of Sociology, USP, Suva.

<sup>18</sup> Norton, R. 1977, 1990. *Race and Politics in Fiji*. University of Queensland Press, Queensland: p.138. See also 'Fiji Coup Sparks attack on Hindus', *Hinduism Today*, June 1987. <http://www.hinduismtoday.com/archives/1987/06/index.shtml> (accessed November 2007), see also 'Coup Culture at a Micro-Level' *The Fiji Times*, 9 May 2007:7, in which the incidence of physical attacks and robberies targeted against the Indian community is highlighted.

- <sup>19</sup> Crimes against Indian families have also been committed by gangs which have included or been headed by Indians.
- <sup>20</sup> Conversation with farmers in Vanua Levu, 28 December 2007.
- <sup>21</sup> 'Consider Fijian Loyalties' – PM. Fiji Government online portal 3 June 2005. Accessed November 2007.
- <sup>22</sup> For further information about these two bills see chapter 2, this volume.
- <sup>23</sup> Healing Fiji through Restorative Justice: A new way towards reconciliation and justice <http://www.parliament.gov.fj/legislative/bills.aspx?billID=247&viewtype=reports&billnav=bill> (accessed 15 November 2007).
- <sup>24</sup> Interview with a senior member of the Methodist Church 21 January 2008; see also Barr, K., Fr 2004. *The Church and Fijian Ethnocentrism: An Adventure in Religious History and Sociology*, Ecumenical Centre For Research Education and Advocacy, Suva. pp.8–9.
- <sup>25</sup> 'Let Us Pray, Churches Say', *The Fiji Times*, 29 November 2006.
- <sup>26</sup> Nandan, Satendra. 2000. *Fiji: Paradise in Pieces*. Centre for Research in the New Literatures in English, Flinders University, Adelaide, p. 15.
- <sup>27</sup> Said, A and Funk, N. 'The Role of Faith in Cross-Cultural Conflict Resolution' [www.gmu.edu/academic/pcs/ASNC83PCS.htm](http://www.gmu.edu/academic/pcs/ASNC83PCS.htm). (accessed 5 February 2008).
- <sup>28</sup> The Household Incomes and Expenditure Survey 2002/03 found that, in both urban and rural settings, the incidence of poverty was higher amongst Indo-Fijian families than Fijian Families. Further evidence of this is to be found in Kumar S and Prasad B 'Politics of Race and Poverty in Fiji: A Case of Indo-Fijian Community' [www.emeraldinsight.com/0306-8293.htm](http://www.emeraldinsight.com/0306-8293.htm); and 'Black Christmas for Farmers', *Fiji Daily Post* 24 December 2006. It must be noted that some sections of the Indian community are amongst the richest groups in Fiji. Some prominent Indian business families, such as Vinod Patel, Tappoo and the Punja families are amongst the richest in Fiji. 'Concluding observations of the Committee on the Elimination of Racial Discrimination: Fiji. 02/06/2003. CERD/C/62/CO/3' – Points 16 and 19.
- <sup>29</sup> Notably, Australia, New Zealand and the United States took a hard-line stance, failing to recognize the interim government and removing their various aid packages and programs. 'Fiji Military Stages Coup, U.S. Suspends Aid', *Reuters Online* [www.reuters.com](http://www.reuters.com) (accessed 5 December 2006).
- <sup>30</sup> 'Sabha warns on Hardship', *Fiji Sun*, 3 December 2006.
- <sup>31</sup> See 'Black Christmas for Farmers', *Fiji Daily Post*, 24 December 2006.
- <sup>32</sup> *Fiji Sun* 8 December 2006.
- <sup>33</sup> *Fiji Sun* 8 December 2006.
- <sup>34</sup> 'Hindu Group Calling on Public To Remain Silent', *Fiji Daily Post*, 28 December 2006.
- <sup>35</sup> 'Sabha Warns on Hardship', *Fiji Sun*, 3 December 2006. At a later stage the actions of the military were described by the SSDPS as illegal and unconstitutional: 'Army Security Pleases Hindus', *Fiji Sun*, 13 December 2006.
- <sup>36</sup> One must, however, draw a distinction between first and second order harms. If an act prevents harm, this is legitimate. However, any subsequent harm resulting from the first order action, such as hardships affecting farmers resulting from international sanctions, in this instance, the first order act remains legitimate as it was designed with the intention of maintaining *dharma*.
- <sup>37</sup> 'Coup May Hasten Exodus of Ethnic Indians', IPS/Pacific Media Watch, 22 December 2006, <http://www.pmw.c2o.org/2006/fiji5091.html>.
- <sup>38</sup> 'Sabha Warns on Hardship' *Fiji Sun*, 3 December 2006; 'Sabha urges sanction removal' *Fiji Sun* 8 December 2006; 'Army Security Pleases Hindus' *Fiji Sun*, 13 December 2006; 'Sabha Prays for Good Year' *Fiji Sun*, 30 December 2006.
- <sup>39</sup> Interview with Dorsami Naidu 26 January 2008.
- <sup>40</sup> Interview with Kamlesh Arya 24 January 2008.
- <sup>41</sup> Interview with a senior member of the Indian division of the Methodist church. January 2008.
- <sup>42</sup> 'Army Security pleases Hindus: Temple Attacks Decline', *Fiji Sun*, 13 December 2006:2
- <sup>43</sup> 'Soldiers Get a Treat', *Fiji Daily Post*, 30 December 2006: 21. It must be added that there were also numerous examples of Fijian families garlanding and providing food for soldiers. I witnessed one such act on Christmas Day 2006, with the family saying they were rewarding those who had put the interest of the nation before their families.

<sup>44</sup> Out of a total of 165,398 valid votes, the FLP won 134,022 (81 per cent), whilst the NFP polled 23,263 (14 per cent) and the National Alliance and SDL parties had a combined Indian Communal vote of 7,000 (4.2 per cent).

<sup>45</sup> Khan, Benjamin. 1965. *The Concept of Dharma in Valmiki Ramayana*, Munshiram Manoharlal Publishers PCT Ltd. Bombay. The metaphor does have its limitations, however, as some of Chaudhry's critics argue that while Rama enjoyed popular support when he returned to his kingdom allowing him to resume power peaceably, Chaudhry's return to power was far from populist and was the result of military intervention.

<sup>46</sup> Chaudhry, cited in 'Diwali is an integral part of Hindu culture', Fiji Labour Party website, 2 November 2002, <http://www.flp.org.fj/n021102.htm>.

<sup>47</sup> 'Mahendra Chaudhry: Democratic Crusader', *BBC Website*: <http://news.bbc.co.uk/1/hi/world/asia-pacific/842714.stm> 20/07/00 (accessed 15 November 2007).

<sup>48</sup> 'It's Illegal – Chaudhry', *Fiji Sun*, 6 December 2006:2.

<sup>49</sup> *Bhagavad-Gita* 4.7 and 4.8.

<sup>50</sup> The idea of the Laxman-Rekha is an important one in Fiji, with many Sanatani Hindu families performing a *pooja* (prayer ritual) around the perimeter of their property to protect their home and family from any misfortune, such as burglary or 'black magic'.

<sup>51</sup> Discussion with farmers in Vanua Levu, 28 December 2007.

<sup>52</sup> After the scandal broke, websites became the immediate 'court' as to Chaudhry's innocence or guilt. In response to stories published on *The Fiji Times* website, members of the public were encouraged to leave their own thoughts. Some claimed that he had done nothing wrong, and that it was legitimate for him to fundraise. Critics claimed that he had duped the people of Haryana as they believed the money was for the people of Fiji. These calls were echoed by some who had attended similar fundraising tours of America and Australia in which it was claimed that he had fundraised on behalf of the people of Fiji. Many of the critical comments came from overseas Indo-Fijians and highlighted a division between those 'at home' and those overseas. Those 'at home' were critical of dissenting Indian voices and accused them of having abandoned Fiji after 1987. Because of this they had no right to speak out, as they were safe abroad. This is one of the first notable incidents to highlight the division between Indo-Fijians living inside and outside Fiji.

<sup>53</sup> *The Fiji Times Online*, 17 February 2008.

<sup>54</sup> 'Chaudhry is Finished: Baba', *The Fiji Times Online*, 24 February 2008.

<sup>55</sup> 'It was personalised: Interim A-G', *The Fiji Times Online*, 12 March 2008.

<sup>56</sup> The discussion boards and blogsites became battle sites for supporters and detractors of Chaudhry. Some blogsites referred to him as 'Choro' – meaning thief in Hindi, while others referred to him as 'Chodo', a less polite, vulgar term. The debates on *The Fiji Times Online* discussion boards became heated at times, with some claiming he was misguided, others that he was right. Many of those posting on discussions were from overseas – especially Indians living in Australia, New Zealand, Canada and America, the preferred destinations for Indians that left after the 1987 and 2000 coups. The blogsites were most likely domestically produced and critical of the interim government.

<sup>57</sup> *Fiji One National News*, Interview with Chaudhry, broadcast at 6pm and 10pm 11 March 2008.

<sup>58</sup> Their consultative role was limited to issuing submissions on, for example, the 1997 constitution.

<sup>59</sup> This was a common theme repeated in interviews with the SSDPS, APS/Fiji and TISI Sangam.

<sup>60</sup> 'Secretariat Queries Sangam Stand', *The Fiji Times Online*, 29 March 2008.

<sup>61</sup> 'Villagers Told People's Charter Will Be Manifesto of New Governments', *One National News Online*, 7 April 2008.

<sup>62</sup> Prasad, J. 'The role of Hindu and Muslim organizations during the 2006 election' in Fraenkel, J. and Firth, S. 2007, *From Election to Coup in Fiji: The 2006 Campaign and its Aftermath*, IPS Publications, USP, Suva; Asia Pacific Press, ANU, Canberra; ANU EPress.

<sup>63</sup> Kelly, J. D. 1991. *A politics of Virtue: Hinduism, sexuality and countercolonial discourse in Fiji*, University of Chicago Press, Chicago.

<sup>64</sup> Interview with Kamlesh Arya 24 January 2008.

<sup>65</sup> 'It's for the best: Arya accepts NCBFF invite', *fjilive*, 6 January 2008.

<sup>66</sup> Interview with Kamlesh Arya 24 January 2008.

<sup>67</sup> During Anirudh Dewarker's radio call-in show on Radio Fiji (2 February 2008) callers put this point to Arya. While he denied that this was the reason, the suspicion still persists.

- <sup>68</sup> 'Bad Blood Spills from Cracked Walls', *Fiji Sun*, 11 March 2006: 7)
- <sup>69</sup> PM Bainimarama – Address at the Arya Prathinidhi Sabha of Fiji Convention, 2007. *Fiji Government Online*: [http://www.fiji.gov.fj/publish/page\\_9265.shtml](http://www.fiji.gov.fj/publish/page_9265.shtml) 24/07/07 (accessed 15/11/07).
- <sup>70</sup> 'Sanatan President Admits Differences on NCBBF Decision', *One National News Online* <http://www.fijitv.com.fj/index.cfm?si=main.resources&cmd=forumview&uid=newsnational&cbegin=9541> 23 March 2008.
- <sup>71</sup> 'Mandate to speak', *The Fiji Times Online*, 26 March 2008.
- <sup>72</sup> 'Lack of Participation Hurts Charter, Ratu Joni Says', *The Fiji Times*, 22 March 2008.
- <sup>73</sup> *The Fiji Times Online* voice of the people 7 April 2008.
- <sup>74</sup> Lal, B.V. 2000. *Chalo Jahaji: On a Journey Through Indenture in Fiji*. Prashant Pacific, Suva; Division of Pacific and Asian History, Australian National University, Canberra.
- <sup>75</sup> 'Secretariat queries Sangma Stand', *The Fiji Times Online*, 29 March 2008.
- <sup>76</sup> 'New Members Answer President's Call', *Fiji Daily Post*, 16 April 2008.
- <sup>77</sup> Interview with Vinod Naidu 14 June 2006.
- <sup>78</sup> Shameem, S. 2007. *The Assumption of Executive Authority on December 5<sup>th</sup> 2006 by the Commodore J. V Bainimarama, Commander of the Republic of Fiji Military Forces: Legal, Constitutional and Human Rights Issues*, Fiji Human Rights Commission. Available at [www.fijiliv.com\\_archive\\_showpdf.php\\_pdf=2007\\_08\\_FHRC\\_report\\_UN\\_H\\_Commissioner.pdf](http://www.fijiliv.com_archive_showpdf.php_pdf=2007_08_FHRC_report_UN_H_Commissioner.pdf) (accessed 8 January 2008).
- <sup>79</sup> Letter: Critique of FML decision to make submission to Constitution Commission A S Khaiyum [http://www.fijihosting.com/pcgov/docs\\_o/askhaiyum\\_letter.htm](http://www.fijihosting.com/pcgov/docs_o/askhaiyum_letter.htm)
- <sup>80</sup> 'Muslim Community Celebrate Prophet Mohammed's Birthday', *One National News Online* 17 March 2008.
- <sup>81</sup> 'Muslim League', A Q Buksch. *Fiji Daily Post Online*, 15 March 2008.
- <sup>82</sup> 'Chand lauds Muslim community', *The Fiji Times Online*, 17 March 2008.
- <sup>83</sup> 'Ahmadiyya Muslim Jama'at Association Celebrates Prophet Mohammed Day', *One National News Online*, 17 March 2008.
- <sup>84</sup> The Caliph is the senior Ahmadiyya religious leader in Fiji.
- <sup>85</sup> 'Love Thy Country – Munshi', *Fiji Government Online*, 31 March 2008.
- <sup>86</sup> Interview with a senior member of the Methodist Church, January 2008.





# LABOUR



# 11. Heading for the scrap heap of history? The consequences of the coup for the Fiji labour movement

**Vijay Naidu**

During the period 2001–06, in between his repeated media skirmishes with Prime Minister Laisenia Qarase’s government, the commander of the Republic of Fiji Military Forces (RFMF), Commodore Frank Bainimarama, proclaimed his intention to depose Qarase’s *Soqosoqo Duavata ni Lewenivanua* (SDL) party from government.<sup>1</sup> Even though Qarase had, for the first time, followed Fiji constitution’s power-sharing provision, and established a multiparty government, with ministerial appointments for eight Fiji Labour Party (FLP) members of parliament, it was evident, from three very controversial bills, that Qarase continued to push an ethno-nationalist agenda; this was used by the Commodore as a justification for the coup.

The interim administration, with Commodore Bainimarama as prime minister, has taken its authority and legitimacy from the Office of the President of the Republic of the Fiji Islands. Fiji is not a republic in the accepted meaning of the word; it does not denote sovereignty residing in the people of the nation. Under the constitution, the President of Fiji is nominated by the unelected Bose Levu Vakaturaga (Great Council of Chiefs or GCC).

## **Paramouncy of ‘indigenous rights’ coups and the ‘clean-up’ coup**

Fiji’s 2006 coup not only bestowed near-absolute sovereignty on Fiji’s President, it also caused considerable confusion and angst among those who had previously supported the overthrow of legitimately elected governments. The coups of 1987 and 2000 had been justified by the perpetrators in terms of protecting and promoting indigenous Fijian interests against those of non-ethnic Fijian citizens. In 1987, the indigenous Fijian establishment of paramount chiefs and their allies, as well as elements from the newly formed Taukei movement, took power. This was celebrated by most – but not all – indigenous Fijians. In the vanguard of support for the illegal overthrow of the coalition government that had been led by Dr Timoci Bavadra were the GCC, the Fijian Administration, indigenous Fijian public servants, ethnic Fijian trade union leaders and the leadership of the Methodist Church in Fiji and Rotuma.<sup>2</sup>

A form of quiet ‘ethnic cleansing’ took place after 1987. More than 100,000 Indo-Fijians emigrated in the face of institutionalized racism and the

'ethnicization' of the State. The consequences of this loss of human capital, purchasing power, and financial capital have yet to be comprehensively measured.<sup>3</sup> The exodus of a third of Fiji's Indo-Fijian voters almost guaranteed the victory of the dominant ethno-nationalist party in 2001, and even more so in 2006.

With the 2006 coup, things have gone topsy-turvy – the overwhelmingly indigenous Fijian military appears to have turned against the very indigenous Fijian establishment of which it has been an integral part. Both the GCC and the Methodist Church have been openly criticized and even ridiculed by the military commander.<sup>4</sup> Indeed, the interim government suspended the GCC following its refusal to endorse the former's nominee for the position of Vice-President. Other exclusively 'Fijian' institutions, such as the Native Land Trust Board (NLTB) and the Fijian Administration, have come under close scrutiny. Not surprisingly, those previously opposed to the 1997 constitution, the practice of 'democracy' and human rights (including the deposed Prime Minister Qarase himself), have become very vocal advocates of them.

Those previously wronged by the repeated violent takeovers of elected governments have become beneficiaries of the latest coup. This applies especially to FLP leader Mahendra Pal Chaudhry. Ousted twice from government – first in 1987, when he was minister of finance in the Bavadra-led coalition government, and then in 2000, when he was prime minister – he accepted the position of minister of finance in the interim government established after the 2006 coup.<sup>5</sup> On the receiving end for the third time was Krishna Datt, an FLP founder and vice-president, who was a cabinet minister in the deposed governments of 1987, 2000 and 2006.

This spectacle of some individuals in the FLP (Chaudhry, Poseci Bune and Lekh Ram Vayeshnoi) benefiting from the 2006 coup by being allocated ministerial appointments, and others (Krishna Datt, Gunasagar Gounder, Gyani Nand<sup>6</sup> and Adi Sivia Qoro) being ousted from such positions is part of a wider schism within the FLP. Beneficiaries of the coup include Chaudhry loyalists, such as executive members of the Fiji Trade Union Congress (FTUC) who were appointed to various boards of statutory bodies.<sup>7</sup> Felix Anthony and Daniel Urai, for example, assumed key positions in the Fiji National Provident Fund and, in those roles, exert powerful influence over the multi-million dollar Natadola tourist project in south-west Viti Levu.

The divisions in the FLP have been a product of Mahendra Chaudhry's tight and authoritarian control over its membership, and his efforts to extend his influence through his loyalists into the wider trade union movement. Persons opposed to Chaudhry's style of leadership and to his approach to issues facing the party and/or the country have been removed from the party and from the FTUC, the National Farmers Union (NFU) and the Sugar Cane Growers Council

(SCGC).<sup>8</sup> Chaudhry's influence on both the FLP and the labour movement has been pivotal.

## The labour movement

Defining the labour movement in Fiji is at once an easy and a difficult task. In one sense the notion of a labour movement denotes organized labour – that is, unionized labour characterized by membership in trade unions (or the trade union movement) and, in the political domain, by membership in and support for the FLP. The difficulty arises from the fact that a majority of the formal sector workers in Fiji are not unionized. These include construction, garment and footwear, sawmilling and retail and service sector workers.<sup>9</sup> Moreover, two-thirds of Fiji's labour force is in the informal sector – working for others, including as family labour – or are self-employed in the primary sector (agriculture, fisheries and forestry) and the non-formal sector. As such, they fall outside the purview of organized trade unionism. This explains the FLP directing its appeal more broadly to workers, farmers and small-business owners.

The labour force engaged in agriculture and fisheries is divided into broad categories. There are those involved as farmers and farm-workers in commercial agriculture – such as the production of sugar cane, coconut, cattle, kava, taro, ginger, fruit and vegetables. Among this segment of the labour force, only the sugar cane growers are properly unionized. They are represented by the NFU, the SCGC and the Fiji Cane Growers Association (FCGA).

While there are indigenous Fijian farmers in the commercial sector, proportionate to their population numbers they are relatively few compared with Indo-Fijians, mixed race and Chinese-Fijian farmers. Indigenous Fijians tend to be semi-subsistence cultivators who produce crops and raise animals largely for their own consumption, selling only the surplus. This category of farmers, needless to say, is not unionized, and is more directly subject to the chiefs.

The formal sector labour force is further divided between white- and blue-collar workers. The former are represented by the public service unions and the teachers and nurses unions. The latter include various factory, service and commercial workers, the very large Public Employees Union, and also hourly paid and casual workers of the state. There are extremely large differences in the terms and conditions of employment of these workers.<sup>10</sup>

Thus, the labour force in Fiji is mostly unorganized; it does not strictly constitute a nation-wide labour movement. Occupational and ethnic divisions have characterized the labour movement for much of its history.<sup>11</sup> Nevertheless, there have been rare occasions when organized labour has exhibited unity of purpose. For example, in 1959, colonial Fiji society was shaken to its foundations by the strike and subsequent riots in Suva involving the Wholesale and Retail Workers' General Union and its supporters. Working class solidarity brought

together coloured workers against the three large oil companies managed by Europeans and the colonial state.<sup>12</sup> However, this solidarity was undermined by the appeals of leading Fijian chiefs to ethnic Fijian workers to eschew militant trade unionism and not be misled by ‘foreigners’.

Considerable worker solidarity was also engendered by the wage freeze imposed by the Alliance Party government in 1984. The freeze was accompanied by the threat to bring out the military to provide various services if there was a general strike. The government also disbanded the tripartite forum, which had previously contributed to dialogue between the Employers’ Federation, the trade unions and the State. The leadership of the FTUC, the umbrella body for all trade unions in the country at that time, realized there was little that could be done, given the unbending stance of the government and the ineffectual faction-ridden parliamentary opposition. It dawned on them that the challenge would have to be at the level of wresting state power from the ruling Alliance Party. So it was that in 1985 the FTUC sponsored the FLP.<sup>13</sup>

## **Divisions in the labour movement**

In a matter of less than a year, the FLP became the primary opposition party, even though it did not have a single seat in Fiji’s parliament. It was consistent in its criticism of Alliance Party approaches to public policy-making and to specific issues and policies. Its allegations of government corruption proved to be popular. Some National Federation Party (NFP) parliamentarians, the long-established opposition party whose support base was Indo-Fijian sugar cane farmers and small businessmen, openly identified with the FLP.

Just before the 1987 election, a coalition was cobbled together between the FLP and the NFP.<sup>14</sup> This coalition narrowly defeated the Alliance Party, which had ruled Fiji since independence.<sup>15</sup> However, the defeat was not accepted by many leaders or supporters of the Alliance Party. The Taukei Movement, or indigenous land-owners’ movement, emerged, comprising Alliance MPs, chiefs, Methodist ministers, public servants and ethnic chauvinists. This ‘nationalistic’ movement began a campaign of destabilization that included marches, road blocks and fire-bombing of offices and businesses, and provided the pretext for the first military coup d’état in May of that year.<sup>16</sup>

With the overthrow of the month-old FLP/NFP government, the deposed prime minister, Dr Timoci Bavadra, led a broad-based, multi-ethnic pro-democracy movement until his untimely death in 1989.<sup>17</sup> After a short interlude, during which Bavadra’s widow, Adi Kuini, led the FLP, Mahendra Chaudhry became the face of the party. He has, over the last 18 years, assumed absolute control by promoting his loyalists, marginalizing others, and removing dissenters.

Chaudhry’s road to success has been accompanied by divisions in just about every organization and movement that he has been involved in. The trade union

movement is now deeply divided between those who support Chaudhry and those who do not. Of the close to 43,000 workers who belong to trade unions (of 112,000 formal sector workers), 24,783 belong through their trade unions to the umbrella body the FTUC, and 18,143 are members of trade unions which broke away from FTUC to form the Fiji Islands Council of Trade Unions (FICTU).<sup>18</sup> The latter body, comprising 15 unions, was formed in August 2002.<sup>19</sup> FICTU's President is Maika Namudu of the Fijian Teachers Union and its General Secretary is Attar Singh of the Fiji Post and Telecommunications Employees Association.

The primary reason for the split and the formation of the second umbrella organization was the close connection between the FLP and the FTUC leadership. Indeed, Chaudhry had successfully manoeuvred his protégés into FTUC executive positions, marginalizing and alienating those he suspected of having ties with other political parties or who did not readily follow his wishes. Those subjected to this treatment and others not inclined to be in the Chaudhry camp formed FICTU. According to one commentator, 'The fall of the union movement can be traced back to the formation of another national body, the Fiji Islands Council of Trade Unions (FICTU). Again, this came about as a result of the politically motivated attempt by Felix Anthony, Rajeshwar Singh and others to continue to treat FTUC as an arm of the Fiji Labour Party'.<sup>20</sup>

The FTUC, led by Felix Anthony and Daniel Urai and backed by the powerful Public Service Association, has been engaged in a bitter struggle against FICTU. Anthony has repeatedly asserted that FICTU is illegal and strongly protested its recognition by the then SDL government.<sup>21</sup> FICTU's presence was questioned at the International Labor Organization's (ILO's) 91st session in Geneva in 2003 by FTUC officials. The ILO's Credentials Committee discussed the FTUC and Fiji government submissions. The International Confederation of Free Trade Unions (ICFTU) joined in the fray on the side of FTUC. Because Attar Singh, the then general secretary of the Transport Workers Union, had been nominated to be an observer at the conference by Fiji's ministry of labour, the ILO Credentials Committee did not regard the FTUC/ICFTU's objection as justified; but the Committee expressed its concern about 'incomplete delegations' and the need to remedy this.<sup>22</sup>

A war of attrition is on-going between the two umbrella organizations. In early 2004, the FLP and the FTUC sought to wrestle control of the leadership of two key trade unions from FICTU. Dr Ganesh Chand, FLP MP, contested the position of secretary of the Bank Employees Union against Pramod Rae, who had been acting secretary. Chand was soundly defeated. Daniel Urai, another FLP MP, contested the position of general secretary of the Fiji Post and Telecommunications Employees Association against Attar Singh. Singh won with an overwhelming majority. It is noteworthy that both Rae and Singh have close connections with the NFP and are vocal opponents of Chaudhry.<sup>23</sup>

The tussle between Chaudhry's men and NFP supporters has also been taking place among farmers. The older farmers' union leaders had supported the idea of the NFU, initiated by the FTUC to organize rural workers in 1978.<sup>24</sup> In the early period, James Raman, the then secretary of the FTUC, was chair of the NFU, and Chaudhry, as assistant secretary of the FTUC, became its first secretary. The objective was to establish the NFU and hand it over to the farmers. Raman relinquished his position to a respected farmer, Girja Prasad. However, Chaudhry held on to the secretary's position and replaced Prasad with his own man.

By the time sugar cane farmers loyal to NFP and NFP leaders realized that Chaudhry had used this initiative to secure a firm political base it was too late. The FCGA was formed to counter the influence of Chaudhry and his NFU. Prasad observed that, 'The Fiji Cane Growers Association was formed by the supporters of the National Federation Party partly because they felt that the National Farmers Union had become a branch of the Labour Party'.<sup>25</sup>

Through the NFU, Chaudhry has gained considerable support for the FLP and has won all the rural 'Indian' communal seats in the last three general elections. The FCGA leadership has sought to gain lost ground by frontal attacks on Chaudhry's policies and integrity. For instance, as leader of the opposition in 2005, Chaudhry opposed the SDL's efforts to reform the sugar industry and yet now, as minister of finance and the sugar industry, he pushes strongly for reform. He had previously maintained that the Indian Sugar Technology Mission's recommendation for restructuring the industry was based on an overly ambitious sugar production target of 430,000 tonnes, pointing out that sugar production had declined to 270,000 tonnes. He pointed to expiring farm leases, to the increased costs of inputs, including fertilizer, and to the impending reduction in sugar prices (from F\$55 per tonne to F\$43 per tonne) as the EU phased out preferential access and stopped paying well above world market price for sugar from countries such as Fiji. He argued that poor infrastructure and obsolete machinery in the mills would work against the costly reform. He said ethanol production was uneconomic. He made out that the reform was a costly waste of money. Yet, he reversed all of these positions after he joined the interim administration and took responsibility for the sugar industry.

The sugar industry, including the farmers, hoped that the injection of F\$350 million of EU funds would assist in the rejuvenation of sugar cane farming and sugar production, as well as cushion the impending 36 per cent reduction in the price of sugar. However, the EU withheld its aid to the industry because of the 2006 coup. When FCGA's Bala Dass made an issue of the plight of farmers, who he said would need subsidies to keep the sugar price at F\$55 per tonne – something that Chaudhry had said previously – Chaudhry called him a 'professional whiner'. Dass in turn said that Chaudhry had a 'master's degree in making false promises'.



Kamal Iyer, in a cogently argued article, quoted Chaudhry's 2006 budget speech in which he had vigorously opposed the sugar reform initiative of Qarase's SDL government, and his contradictory position in the post-coup era. Iyer, intrigued by Chaudhry's conversion from anti- to pro-sugar reformer, raised the following rhetorical questions:

... how can the initiatives of the deposed SDL Government that Chaudhry tore to pieces have now become his baby to rescue the sugar industry? And can Chaudhry explain how the concerns that he raised on that day have now become a thing of the past as far as he is concerned? According to Dass, these problems have worsened to the extent that they are about to strangulate cane farmers and the industry.<sup>26</sup>

He concluded his piece by expressing his support for Dass:

Based on the cries emanating from the cane belts, Bala Dass may have just understated Mahendra Chaudhry's master's degree in making false promises. His qualifications are unrivalled and unparalleled.

## **Divisions in the Fiji Labour Party**

During the last two decades, the FLP has gone through several episodes of dissension and crisis. Each crisis witnessed the departure of those who would stand up to Chaudhry and his inner circle, and to the Chaudhry circle's consolidation of power in the party. A number of academics left the party after Dr Bavadra's death. In 1992, as the FLP leadership prevaricated over whether or not to boycott the general election, many ethnic Fijian members quit the party to establish the New Labour Party.

The FLP's national council, which is dominated in its entirety by Chaudhry supporters (many of whom are NFU representatives), disciplines and otherwise undermines those who dissent. Dr Tupeni Baba, who was the deputy prime minister in the People's Coalition government and a Chaudhry loyalist, was ousted from the party after 2000. He formed the New Labour Unity Party, which won two seats at the 2001 general election – although Baba himself failed to secure the Samabula/Tamavua Open seat. Following the 2006 general election, a rift emerged between Chaudhry and a group of senior FLP members. These included Krishna Datt (an FLP vice-president), Poseci Bune (deputy leader), MPs Felix Anthony and Agni Deo Singh, and former senator Dr 'Atu Emberson Bain. It was alleged that Chaudhry had nominated his cronies and a relative or two as senators over other very competent persons. In the dispute, 17 of the 31 FLP MPs supported Poseci Bune, the acting leader, over Chaudhry.<sup>27</sup>

Chaudhry sought to discipline 'the gang of five' over their bid to nominate their preferred candidates to the senate via the office of the leader of the opposition. The five dissenters took legal action to stop the FLP national council from taking

disciplinary action. This saga has not ended, as legal proceedings are still pending. However, with Chaudhry's stranglehold on the party, it is very likely that Krishna Datt and 'Atu Bain will have to leave. Felix Anthony, who had previously been the most vocal of the five in criticizing Chaudhry's nominations to the senate and his style of leadership, and Agni Deo Singh have apologized and confirmed their support for Chaudhry. It is apparent that intelligent and critical thinkers who might challenge the latter do not last in the party.

## **The Fiji Labour Party and the coup**

In early 2006, months before the general election, FLP president Jokapeci Koroï was accused of encouraging the military to overthrow the SDL government. Both NFP and FICTU leaders condemned the FLP president for her statements endorsing the threats being made by the military commander against Qarase.<sup>28</sup> An NFP leader claimed 'the FLP is now trying to return to power not through the ballot box but by the barrel of the gun'. He condemned Koroï's statement as treasonous and urged the police to investigate.

After agreeing that the FLP join the Qarase-led multiparty government following the 2006 election, and providing a list of FLP MPs to the SDL prime minister, Chaudhry initially gave lukewarm support to the multiparty government; he then turned hostile towards it. This was because, in the months following the formation of the new government, Krishna Datt emerged as the FLP leader in government. With his style of reconciliatory politics, he was quickly gaining the image of a national statesman. This did not sit well at all with Chaudhry, who was totally disinclined to being sidelined by Datt.

As the Vice-President of Fiji, Ratu Joni Madraiwiwi, in his address to the Fiji Institute of Accountants, a month after the formation of the multiparty government, had opined, Chaudhry was in a 'strategic position to destroy the multiparty government'.<sup>29</sup>

Following the coup, the FLP president, in her speech to the delegates of the party's national council, declared her support for the interim administration and the need for the 'clean-up'. She appealed to FLP supporters to back the interim administration. It is evident that the FLP leadership is part of the military-backed interim government and most FLP supporters appear to be comfortable with this state of affairs. Chaudhry has been completely successful in ridding the FLP of potential threats to his leadership of the party.

Chaudhry readily accepted the position of interim minister of finance in the post-coup administration, and has used every public opportunity to roundly criticize deposed Prime Minister Qarase for mismanagement, incompetence and corruption. He has also consistently claimed that the SDL won the 2006 election through vote-rigging. He has claimed that the 2006 coup was 'warranted',<sup>30</sup> but regretted that it took place. It is apparent that he supports the military and

the interim administration's 'clean-up' activities, including the establishment of the Fiji Independent Commission Against Corruption (FICAC). It is evident that he has a great deal of affinity with the coup-makers and their agenda.

## **The labour movement's downfall**

Divisions in the trade union movement have become significant fault lines in the post-2006 coup period, and have seriously affected the labour movement's capacity to articulate common interests and meet threats to the well-being of workers under what is, in effect, a military dictatorship. The FTUC is seen to be – and has been accused of – collaborating with the military-backed regime. While FTUC leaders have enjoyed the 'perks of office' as board members of various statutory bodies – including the multi-billion dollar pension body, the Fiji National Provident Fund – their opponents in FICTU, who have opposed the regime (such as, Attar Singh, Tevita Koroi and Taniela Tabu), have been threatened, detained and even assaulted by the military. Matters came to a head in the middle of 2007 when the interim administration unilaterally imposed a five per cent across-the-board pay cut for all civil servants, reduced the compulsory retirement age from 60 to 55 years and nullified the agreement between Qarase and the public sector trade unions. The economic downturn following the coup was used as the primary justification for compelling public servants to tighten their belts.

The FTUC and its affiliates, the Fiji Public Service Association (FPSA) and the Fiji Teachers Union (FTU), were at first vociferous in their opposition to the salary cut, the reduction in the retirement age and the abrupt end to a legal agreement. They made threatening noises about strike action and about having these matters resolved in the courts. They condemned FICTU – which wanted to have discussions with the interim administration about other ways of responding to financial constraints – for 'selling out'. However, it was not long before it became clear that the FTUC and its affiliates were merely posturing. They quickly capitulated and accepted a one per cent restoration of pay. FICTU, on behalf of its affiliates, followed due process by requesting the Minister of Labour to refer the dispute to arbitration. The interim minister, whilst agreeing that FICTU and its affiliates had followed the law, did not act according to Fiji's laws. She appeared to have been instructed by the interim prime minister not to follow due process.

FICTU affiliates, having lodged the necessary notice of strike action, which was their legal entitlement, were denied the right to withdraw their labour. The military and the police resorted to intimidation. FICTU leaders decided to take legal action on the matter.

The Fiji Nursing Association, which is not affiliated to either one of the umbrella organizations, stood its ground, and its members went on strike on 25 July.

Seven days later, the nurses were joined by hundreds of teachers and public sector workers throughout the country, by members of the Fijian Teachers Association (FTA), the Fiji Public Employees Union (FPEU) and the Viti Civil Servants Association (VCSA). The interim government refused to negotiate with the striking trade unions, maintaining that its offer of a one per cent restoration was the best available under the circumstances. The Public Service Commission made repeated announcements that striking workers would be identified and their pay deducted for the period that they were on strike. The interim government threatened to use the military, if necessary, to provide emergency services. The interim government also alleged that the unions that had gone on strike were largely ethnic Fijian in their membership and they were being politically manipulated. In the face of the interim government's extreme hard-line position, the industrial action by the Nurses Association, FTA, FPEU and VCSA began to crumble. The nurses held out the longest.

The strike failed for several reasons, but a significant factor was the lack of solidarity in the labour movement. The FTUC, the FPSA and the FTU stood by as other public sector workers withdrew their labour. The leaders of these 'by-standing' unions chose to criticize their counterparts in the striking unions for not making a deal with the interim government. Worse still, the general secretary of the FTU offered to provide scab labour if the FTA's withdrawal of its members seriously affected schools. It is likely that this gesture has ended the Fiji Teachers Confederation that had previously brought these ethnically divided unions together. Several legal challenges to the interim government's initial decisions relating to the pay cut, retirement age and the agreement between the public sector unions and the SDL government are pending. The courts have already passed the judgment that the interim government erred in its imposition of 55 years as the retirement age for public servants.

The lack of cohesion and solidarity among trade unions, in the face of a heavy-handed authoritarian State, has also jeopardized possibilities of gains for non-unionized workers in the formal sector, as well as put at risk new industrial relations legislation. With the coup, all Wages Councils have been suspended.<sup>31</sup> This means that this avenue for adjusting non-unionized workers' wages and other conditions of work has vanished. With this suspension, possibilities of reforming the Wages Councils to better reflect worker needs have also been brought to an abrupt halt. The divided trade union movement has been silent on this critical issue.

On the matter of the new industrial relations bill, the Employment Relations Bill, the labour movement schism is openly expressed. The FTUC is completely in support of it, arguing on the interim government side that it marks the dawning of a new era in positive labour relations. For the FTUC, this bill has taken nine years to reach this stage and there should be no further delay in its

promulgation. In contrast to the FTUC stand, FICTU considers any expeditious passage of the bill into law as totally unacceptable. For the latter, the bill should not be made into law by what it considers to be an illegal regime. It would also like to review certain provisions of the bill, such as the apparent dilution of the right to strike, and limit on the number of times that women employees can take maternity leave. While there is certainly some basis for questioning aspects of the bill, the underlying lack of agreement between the two umbrella bodies has to do with their different standpoints relating to the regime in power. This difference does not contribute to cohesion in the labour movement or to furthering workers' interests at a time when their rights are under serious danger.<sup>32</sup>

Needless to say, the current period is not conducive to the formation of new unions or the recruitment of new members to existing unions. Meetings and rallies require the approval of authorities – and even when such gatherings have been sanctioned, there is a heavy police presence.

The lack of unity in the labour movement is also affecting broader initiatives that generate awareness of work-related and workers' rights issues. Seminars, workshops, training and worker education programs, normally part of the annual routine activities of the FTUC, have been severely curtailed since the 2006 coup. Many of these activities received funding and technical support from donor agencies, such as the EU and the ILO. In the current post-coup period there is a reduction in aid funding for the country in general as well as for specific areas, such as trade union activities.

The FLP lost the high moral ground when Chaudhry took up the position of interim minister of finance in the interim administration. Chaudhry loyalists and FLP diehards believe that he did so to help the country out of the mess created by Qarase and his SDL colleagues. They have been looking forward to revelations of massive cases of corruption in the 'clean-up' campaign but, thus far, very little evidence against any former senior government officials has surfaced. On the contrary, Chaudhry himself is caught up in massive public recrimination over the revelation that he is the interim minister who has allegedly evaded paying taxes over three years and who has bank accounts in Australia holding A\$1.6 million received from, amongst other places, India.<sup>33</sup>

There are deep divisions in the party, the trade union movement and among farmers. These rifts are unlikely to be healed in the short to intermediate term. For instance, at the FLP's National Council meeting in Ba on 16 February 2008, the president of the Nadi Branch of the party, Bijay Prasad, a former FLP senator (a Chaudhry loyalist) tried to question the party leader about his overseas bank accounts and the tax evasion allegations that were aired by the media. He walked out of the meeting because of the hostile reception he received from other members of the National Council. According to Prasad:

Everything Chaudhry is doing now is against the FLP manifesto. The FLP was formed to look after the poor. Now people are paying more than what they earn and Chaudhry being there [in the interim Government] for 14 months, hasn't done anything about it... His puppets will not speak against him but it's time that somebody does. Enough is enough!

Prasad alleged that Chaudhry 'even went as far as stopping the multimillion dollar project at Momi Bay, which now sees villagers without jobs'.<sup>34</sup> Prasad claimed that the FLP's involvement in the interim administration has 'widened the racial gap'.<sup>35</sup> Baba, when interviewed on the exposé of Chaudhry's alleged tax evasion and overseas bank accounts, stated that he and others had raised issues relating to the outcomes of the FLP's overseas fund-raising efforts but had not been given a satisfactory response.<sup>36</sup> 'It has split the party and caused many of his colleagues to be kicked out of the party'. Baba called for Chaudhry's resignation from the party and as interim minister of finance, saying, 'Fiji no longer needs Chaudhry. Fiji politics without him will be cleaner, less racially polarised and congenial'.<sup>37</sup>

Thus far, there is really no significant challenge to Chaudhry's leadership from within the party.<sup>38</sup>

While the FLP is likely to continue as an Indo-Fijian political party, with Chaudhry continuing to have considerable influence in its affairs, it has lost its credibility and its appeal to the wider Fiji society. It is now almost completely an ethnic party and will not be seen as the party of workers and disadvantaged people of the country for some time. With the declining proportion of Indo-Fijians in the total population of Fiji, it is near impossible for the FLP to win a sufficient number of seats in parliament in any future election to be able to form government. When it was first formed, the FLP's future lay in its multi-ethnic appeal; but with Chaudhry or one of his protégés at the helm, the party will have no credibility among ethnic Fijians and other minorities.

In its present form and orientation, the FLP is very likely to be embroiled in the quicksand of divisive trade union politics and the quagmire of sugar cane politics. The latter has served Chaudhry's political ambitions well, but anti-Chaudhry sentiments are growing. Ethnicity rather than class will continue to take centre stage for the party, thereby undermining its capacity at the national level.

## **Phoenix rising?**

In the current post-coup period the labour movement is seriously weakened by the divisions among trade unions, farmers' organizations and within the FLP itself. Mahendra Pal Chaudhry has contributed immensely, both to the party's impact on the national political arena and to its present ethnic character. He has also been the main protagonist in causing the rifts in the organizations of the working people of the country. The FLP under Chaudhry has abandoned low-paid

workers in favour of a more exclusive ethnic appeal to Indo-Fijian voters. It is only with his departure from national politics and from meddling in the affairs of trade unions and farmers' associations that a degree of unity will return to the labour movement.

It is only a matter of time before the broader, disadvantaged workforce's efforts for better conditions permeate national politics, and the labour movement is resuscitated. This revived labour movement will become even more multi-ethnic as the forces of globalization mould Fiji in the interest of international capital, creating the conditions for a political party in the image of the FLP when it was formed two decades ago. With short-term seasonal labour migration beginning to be implemented by New Zealand and Australia, it may even take more international dimensions. A new era of collaboration amongst labour movements in Oceania may even be engendered. This might be too optimistic a prognosis as, after the debacle of the last two years, it may take the next 25 years for Fiji's labour movement to regain its strength.

## ENDNOTES

<sup>1</sup> Pareti, S. and Fraenkel, J. 2007. 'The strategic impasse: Mahendra Chaudhry and the Fiji Labour Party', in Fraenkel, J. and Firth, S. (eds) 2007. *From Election to Coup in Fiji: the 2006 campaign and its aftermath*, IPS Publications, Suva, and Asia Pacific Press, Canberra, p. 38.

<sup>2</sup> Robertson, R. and Tamanisau, A. 1988. *Fiji: Shattered Coups*, Pluto Press, Leichhardt.

<sup>3</sup> Reddy, M., Mohanty, M. and Naidu, V. 2004. 'Economic Cost of Human Capital Loss from Fiji: Implications for Sustainable Development', *International Migration Review*, 38, 4, Winter:1447–61.

<sup>4</sup> Bainimarama expressed his disdain for the chiefs by suggesting that 'chiefs should go and drink home brew under a mango tree' (*The Fiji Times*, 20 and 23 February 2007).

<sup>5</sup> There are two main views about Chaudhry's accepting the position of interim minister of finance: First, that he was part of a coup conspiracy that began well before the August 2006 general election; and, second, that he was invited to join Commodore Bainimarama's interim government after the 2006 coup and saw it as an opportunity to push his policies and his people into prominence. Both standpoints consider him as the 'brains' behind the interim administration. His alleged tax evasion over three years and failure to disclose A\$1.6 million lodged in Australia, provide another possible rationale for his joining the interim administration (*The Fiji Times*, 23 February 2008).

<sup>6</sup> Mr Nand, a retired civil servant and diplomat, passed away in 2007.

<sup>7</sup> The FTUC's opposition to the 2006 coup is muted, a stance which is very different from its policy of open opposition to previous coups.

<sup>8</sup> The CEO of the Sugar Cane Growers Council, Jaganath Sami, an opponent of Chaudhry, was summarily dismissed from office by a Presidential decree. He was subsequently forcefully removed and assaulted by members of the RFMF. Sami has been replaced by Jai Gawendar, a former FLP MP.

<sup>9</sup> These non-unionized formal sector workers are supposed to have some protection with respect to their wages through the mechanism of Wages Councils, comprising representatives of employers, trade union and government. According to a recent study (Narsey, W. 2006. *Just living Wages for Fiji: lifting workers out of poverty*, ECREA, Vanuavou Publications, Suva) Wages Councils have generally been ineffective and, over the last four decades of Fiji's independence, more than F\$1 billion that should have been part of workers' wages have gone to their employers. Even the modicum of wage support that Wages Councils may have provided has been lost with their suspension since the 2006 coup.

<sup>10</sup> Narsey, W. 2007. *Report on the 2004–2005 Employment and Unemployment Survey, Fiji Islands Bureau of Statistics*, Vanuavou Publications, Suva.

<sup>11</sup> For instance, there are two teachers' unions, the Fiji Teachers Union (FTU), which has open membership but is primarily Indo-Fijian, and the Fijian Teachers Association (FTA), which restricts its membership to ethnic Fijians and Rotumans. The Viti Civil Servants Association, like FTA, is ethnically

exclusive and was formed after the 1987 coup by indigenous Fijian public servants opposed to the position taken by the Chaudhry-led Fiji Public Servants Association (FPSA).

<sup>12</sup> See, for example, Narayan, J. 1984. *The Political Economy of Fiji*, South Pacific Review Press, Suva; Sutherland, W. 1992. *Beyond the Politics of Race, Political and Social Change* Monograph 15, Department of Political and Social Change, Research School of Pacific Studies, Australian National University, Canberra; Heartfield, J. 2002. 'The Dark Races Against the Light? Official Reaction to the 1959 Fiji Riots', *Journal of Pacific History* 37(1):75–86.

<sup>13</sup> See, for example, Naidu, V. 1985. 'The Fiji Labour Party and the By-Election of November 1985: A Report', Working Paper 3, SSED, University of the South Pacific, Suva; Naidu, V. 1987. 'Fiji: The State, Labour Aristocracy and the Fiji Labour Party', in Hooper, A. et al. (eds), *Class and Culture in the South Pacific*, Centre for Pacific Studies, University of Auckland and Institute of Pacific Studies, Auckland and Suva; Howard, M.C. 1991. *Fiji; Race and Politics in an Island State*, University of British Columbia Press, Vancouver.

<sup>14</sup> Some FLP members strongly opposed the idea of a coalition with a largely ethnic party that had failed to defend worker interests during the wage freeze (see Robertson and Tamanisau 1988).

<sup>15</sup> A palace coup by the Governor General, Ratu George Cakobau, ensured continued Alliance Party rule after its narrow defeat by the NFP in April 1977.

<sup>16</sup> Rabuka, S.L. 2000. 'The Fiji Islands in transition: personal reflections', in Lal. B.V. (ed.) *Fiji before the storm: elections and the politics of development*, Asia Pacific Press, Canberra.

<sup>17</sup> Leckie, J. 1997. *To Labour with the State: The Fiji Public Service Association*, University of Otago Press, Dunedin.

<sup>18</sup> The commonly used figure of 43,000 trade unionists in Fiji is derived from adding together the claimed members of the FTUC and FICTU. Other estimates are lower. Labour Minister in the 2001–06 Qarase government Kenneth Zinck has suggested 35,000: 'there are at least 112,000 formal workers in this country and 35,000 of them are members of unions, which constitute 31 per cent. He said the remaining 70 per cent do not belong to any union at all' ('Stop fighting, protect workers, unions told', *Indian News –NZ* 30 May 2003).

<sup>19</sup> *Indian News*, [http://www.theindian.co.nz/testing/plugin/news/journal/plugin.asp?plugin=article\\_view\\_Unwrap.asp&abxyk945=301&iabspos=157&vjob=vsub%2C66](http://www.theindian.co.nz/testing/plugin/news/journal/plugin.asp?plugin=article_view_Unwrap.asp&abxyk945=301&iabspos=157&vjob=vsub%2C66)

<sup>20</sup> Prasad, J. 2007. 'The Role of Hindu and Muslim Organizations during the 2006 election', in Fraenkel and Firth, 2007.

<sup>21</sup> Interestingly enough, it was the then Minister of Labour, Kenneth Zinck, who launched FICTU in August 2002.

<sup>22</sup> The ILO's Credentials Committee also considered an objection of Fiji's Employers' Federation against the inclusion of the Fiji Chamber of Commerce representative in the tripartite delegation from Fiji.

<sup>23</sup> *Radio New Zealand International*, 29 March, 2004  
<http://www.rnzi.com/pages/news.php?op=read&id=9234>

<sup>24</sup> Historically, there have been at least 14 different sugar cane farmers' unions ([http://en.wikipedia.org/wiki/Sugar\\_Cane\\_Farmers\\_Unions\\_in\\_Fiji](http://en.wikipedia.org/wiki/Sugar_Cane_Farmers_Unions_in_Fiji)). Currently there are at least 4: NFU, FCGA, Kisan Sangh and an organization representing indigenous Fijian cane farmers.

<sup>25</sup> Prasad, B.C. 2007. 'Trade Unions', in *The Fiji Times*, 30 August 2007.

<sup>26</sup> *The Fiji Times*, 23 January 2008.

<sup>27</sup> *Radio New Zealand International* 4–7 July 2006

<sup>28</sup> Pareti, S. and Fraenkel, J. 2007. 'The strategic impasse: Mahendra Chaudhry and the Fiji Labour Party', in Fraenkel, J. and Firth, S. 2007.

<sup>29</sup> Pareti, S. and Fraenkel, J. 2007. 'The strategic impasse: Mahendra Chaudhry and the Fiji Labour Party', in Fraenkel, J. and Firth, S. 2007, p. 101.

<sup>30</sup> Fraenkel, J. 2007, 'The Fiji coup of December 2006: who, what, where and why?', in Fraenkel, J. and Firth, S., 2007, p. 435.

<sup>31</sup> According to poverty survey results reported in the 1997 UNDP Fiji Poverty Report and the 2002–03 Household Income and Expenditure Survey Report (see, Narsey, W. 2006. Report on the 2002–03 Household Income and Expenditure Survey, Vanuavou Publications, Suva) more than 46 per cent of those living below the poverty line are workers; for the coup-makers one of the reasons for the overthrow of the democratically elected government was social justice for the disadvantaged!



<sup>32</sup> The Fijian economy experienced a decline of 6.6 per cent in 2007 and the anticipated growth for 2008 has been revised downwards to 2 per cent. Fiji's labour market has not expanded and many workers have lost jobs over the last four years in the garment and footwear, and construction industries. The coup has had a negative impact on tourism-related employment. There is downward pressure on existing wage levels.

<sup>33</sup> *The Fiji Times*, 23 February 2008. His lawyers have advised the interim minister of finance to sue *The Fiji Times* for one billion dollars for defamation (*The Fiji Times*, 4 March, 2008) and have informed all media outlets that they would be liable for any further disclosure or discussion on the matter. Chaudhry himself has said that he owes no tax to the Fiji Islands Revenue and Customs Authority (FIRCA) and he is entitled to hold overseas bank accounts and invest abroad.

<sup>34</sup> [http://www.fijilive.com/news\\_new/index.php/news/show\\_news/2011](http://www.fijilive.com/news_new/index.php/news/show_news/2011)

<sup>35</sup> *The Fiji Times*, 11 February 2008.

<sup>36</sup> Dr Baba joined the SDL and was an unsuccessful candidate in the 2006 election. He was subsequently appointed to be Fiji's ambassador to the United Nations, but this was overruled by the interim administration.

<sup>37</sup> *The Fiji Times*, 24 February 2008.

<sup>38</sup> The interim Prime Minister, Commodore Voreqe Bainimarama, has refused to suspend or sack Chaudhry, instead it appears that he has taken action against his Military Council spokesmen for informing the media that the Council has asked that Chaudhry 'step aside' and an independent commission of inquiry be instituted about his alleged tax evasion and his overseas bank accounts.



## 12. The Fiji nurses' strike

**Kuini Lutua**

### **Editor's Note**

*Fiji's 2006 coup brought to power a government determined to resist industrial action. Seven months after Bainimarama seized power, Fiji's 1,500 nurses walked out of the country's hospitals in a strike over pay and conditions. The nurses were aggrieved that the interim government had cut their pay by five per cent (as it had for all other civil servants), lowered the retirement age, and failed to implement a wide-ranging agreement reached with the deposed government of Laisenia Qarase before the 2006 election. The government treated the strikers with contempt, offering one per cent, and then refusing to negotiate further. Exhausted, short of money, and more eager than ever to find jobs overseas, the nurses were forced back to work after sixteen days. Mahendra Chaudhry, despite his credentials as a former union leader, was as dismissive of the nurses' cause as the military man who had appointed him finance minister. Kuini Lutua, as general secretary of the Fiji Nursing Association, was at the centre of these events, leading the strike, encouraging her members to stand firm – and condemned by Chaudhry and other ministers. She is the author of this first-person account of events.*

*The nurses' defiance encouraged others to follow suit. Unions affiliated with the Fiji Islands Council of Trade Unions (FICTU) – the Fijian Teachers Association (FTA), the Fiji Public Employees Union, and the Viti National Union of Taukei Workers – walked off the job on 2 August, though without the same solidarity or unity of purpose as the nurses; the teachers called off their strike within a day and other workers held out for only a week. Meanwhile, Taniela Tabu, spokesman for FICTU, was arrested. He later claimed to have been forced to strip to his underwear and humiliated. Military officers, he said, threatened him with death if he were summoned to the barracks again.*

*As Vijay Naidu shows (chapter 11), the strikes revealed deep splits within the Fiji trade union movement. The Fiji Trade Union Congress and its affiliate unions, widely regarded as sympathetic to the coup, had already settled for the one per cent pay increase offered by the government, and offered no assistance to its rival FICTU when FICTU unions went on strike. Bainimarama thought the strikes vindicated his coup. He pointed out that he led a non-elected government, and could therefore resist interest groups in the interest of the country as a whole. 'We do not have to worry about votes', he said. 'This Government is not going to budge.'<sup>1</sup>*

## **Introduction**

On 5 December 2006, when news of the 2006 coup surfaced, I was with seven senior members of the Fiji Nursing Association (FNA) at our MacGregor Road headquarters. We were practicing presentations of the FNA's submission on the draft Radium Protection Bill. A special cabinet select committee was scheduled to meet with us at 10am that morning. Just as we left the office to go to Parliament House, mobile phones started ringing as distressed family members called their relatives about the coup and the trouble at the parliamentary complex at Veiuto. Amongst the callers was my secretary, calling to alert me that there had been a military coup and that the cabinet select committee meeting had been postponed until further notice. We returned to the conference hall, and I conveyed to my colleagues what had happened. As we sat down, one of the nurses tapped my back and said, let us pray and not worry. I don't know how my heart cried out that day as we prayed. All I can remember is that after a very long time I heard myself saying 'amen' in unison with my colleagues. We hugged each other, and then the other FNA leaders returned to their jobs at the CWM Hospital.

The 2006 coup left the FNA in a difficult position. We had negotiated concessions from the now deposed government of Laisenia Qarase, but these had not yet been implemented. Would they be honoured by the post-coup administration? What would be the result of the inevitable economic decline that invariably follows Fiji's coups, and the cutbacks in civil service pay that have also been a familiar feature of post-coup policy-making? What kind of solidarity could be expected from other trades unions in negotiations with the post-coup interim government? This chapter looks at the background to the nurses' strike of July–August 2007, at the fissures that emerged amongst the trades unions, and at the confrontation between the nurses and the interim cabinet.

## **The signed partnership agreement and memorandum of agreement**

The FNA, together with members of the Confederation of Public Sector Unions (CPSU – comprising the Fiji Public Service Association [FPSA] and Fiji Teachers Union [FTU]), had, after some hard negotiation, on 26 April 2006, signed a partnership agreement with Prime Minister Qarase, the chairman of the Public Service Commission (PSC), Mr Stuart Huggett, and its secretary, Anare Jale; it culminated in a five year Memorandum of Agreement (MoA) that established an Industrial Relations Framework (IRF) set to run from 2006 to 2008. The MoA contained clauses that were to resolve industrial relations issues dating back to 2003; to give back to the members of the FNA and other public servants most of the outstanding payments of increments and scheduled cost of living adjustments; and entailed some commitment to the implementation of the 2003 Mercer Job Evaluation Exercise recommendations.

I was thrilled, knowing that with the agreement and the MoA, I could now leave the FNA when my contract expired and seek less stressful jobs. What I had set out to do for the nurses seemed to be finally materializing. The Qarase government had accepted the need for some redress to cover the loss of salaries that civil servants had experienced in the wake of the 2000 coup. This acceptance had come as a surprise to the FNA because a few of the ministers in the Qarase government had labeled civil servants as 'dead wood', 'under-performing', or 'time-wasters'. There was seldom a good word about the dedicated service of those who worked tirelessly to fulfill the wishes of these ministers and provide essential services to the public.

This change in attitude indicated an emerging awareness that only civil servants could implement government's political strategies. For the FNA, the negotiations that led up to the signing of the partnership agreement showed the importance of presenting a strong and water-tight case to the government, buttressed by robust facts and figures, in order to convince ministers that taking better care of public sector workers would give the workers an incentive to work harder and more productively. It was also pointed out during the negotiations that it was mainly civil servants who suffered financial hardship each time there was a coup.

The 2000 coup happened shortly after the conclusion of a previous strike by the nurses. Some people to this day still blame the nurses for that coup, saying that they had, prior to the takeover, staged a protest to ensure that the Mahendra Chaudhry-led government would fall.<sup>2</sup> These same people, however, forget that two strong women supporters of the Fiji Labour Party were past executives of the FNA and that, prior to the 2000 coup, they still had much influence over the running of the Association. The May 2000 strike was a result of legitimate industrial grievances: it was not a politically orchestrated attempt to destabilize the Chaudhry government.

As a result of that strike, the PSC ordered a salary review, and the nurses went back to work, while their dispute was referred to arbitration. They then accepted without question an Award by permanent arbitrator Jon Apted. Little did they know that problems would arise during the implementation period: The PSC and Ministry of Health repeated their mistake of 1998 – the salaries of the nurses and medical orderlies were wrongly assimilated to the salary scale recommended in 1993. Salary levels had since been adjusted to add three more levels, so the change in salary should have entailed a movement across rather than downwards.

The members were upset and angry about this unfair treatment. Although the dollar value of their new salaries was often higher, they found that they had lost, on average, two to four increment levels once they were moved to the new scale. To make matters worse, all civil servants had been denied annual increments because the government had frozen increments. Many of the members

had remained on the same salary level for the previous four or five years of service, some for even longer.

When new graduates came into the workforce after 2000, the more senior nurses – including those who had graduated a year or two earlier – found themselves on the same salary as the newcomers. Many tendered their resignations and looked outside the Ministry of Health for employment. Some migrated overseas. More than 20 nurses moved on to the newly opened Suva Private Hospital and some joined the Military Hospital where they were offered a better salary packet. Some who remained in the public sector workforce, resigned from the FNA because there was no response from its officials, the Ministry of Health or the PSC in relation to their salary grievances. The FNA lost a considerable number of members in this period. Many members started criticizing the Association's leaders, but it was difficult to ascertain the real cause of the dissension of members at the time.

Migration overseas of nurses was to become an evermore pressing issue in the wake of the 2000 coup. In addition to long-established destinations – like Australia, New Zealand and England – new destinations – like Bermuda and the Bahamas – actively sought to recruit nurses from Fiji. Other Pacific Islands – such as the Marshall Islands, Palau and the Cook Islands – had formerly recruited Fiji nurses, but pay-rates in the Pacific have become uncompetitive compared with those on offer from the newer destinations. One of the barriers to the movement of Fiji nurses overseas has always been the need for prospective migrants to pay the airfares. But recruiters from the Caribbean now offer packages that include air travel costs, thereby generating the potential for a much more substantial drain of nursing talent from Fiji in future years.

As in May 2000, nurses went on strike in 2005 over the issue of wrong assimilation of salaries for nurses who had graduated before 2000. Some were earning between F\$9,000 to F\$11,000 when they should have been earning F\$14,000 to F\$16,000. Payroll had been part of my responsibility when I was with my previous employer, the Reserve Bank of Fiji. I was well aware of the effects of payments of annual increments and the importance of workers getting the correct movement in salary when promotions and acting allowances were paid. It was not too difficult for me to see that there was something seriously wrong with the salaries that the nurses were being paid. There were continuous complaints from members that they had been on a higher salary before the salary adjustment of 2000/2001.

My first task when I became the FNA General Secretary in September 2001 was to listen to the members tell me their stories about the unfairness of the 2000 salary review and the subsequent award. Checking the files and getting salary slips and letters of appointment from members, I discovered that, it was not only those who had commenced their careers shortly before 2000 that were

affected, but also those who had started well before 1998. I began to work with the office staff to build up case histories for all members that brought up salary grievances. After a while, we were able to detect a pattern in the salary treatment of staff nurses who had graduated in the same year and those who had been promoted in the same year.

We found that many of these senior nurses had lost out on the higher salary that should have accompanied promotion because their salary before promotion had been determined at the wrong level. This generated widespread disillusionment and lack of incentive to work hard, beyond the common compassion of nurses to provide care for the sake of saving lives. Some of the nurses turned to the teachings of the Nurses Christian Fellowship, which urged them to forsake strike action and preached 'you do not ask for your pay, because nursing is a calling from God'. Some would say to the junior nurses, 'one day your pay will be put right but you must not refuse to do good because your pay is low – you just provide the service'.

In 2006, this unsatisfactory situation appeared to have reached some resolution. The correct salary adjustments were finally calculated for most nurses. For some, this was on the eve of their retirement. There may be others who retired on the wrong salary. I had to constantly negotiate with Anare Jale who was then secretary to the Public Service Commission, and Stuart Huggett who was its chairman. Having someone from the private sector as the chair of the PSC brought some useful experience to the position, and enabled the government to finally acknowledge the great injustice that had been done to those employed in the civil service. I have a sister who was holding a senior technical civil service post. When I shared with her the story of the regular transfer of nurses to the wrong position on the new salary scale, she confirmed that it was the same for all the other civil servants. She added that it hurt the technical staff in the different ministries to be so treated: they know that they are qualified people, have been trained for at least three years and have specialist skills and competencies that are essential for the core services of government. Yet their remuneration has not moved upwards in the way that had been settled during previous negotiations between government and the public sector unions.

In the aftermath of the 2006 coup, in early 2007, the interim government declared to the media that there would be a 10 per cent pay cut for all civil servants. The FNA and CPSU members approached new PSC chair Rishi Ram to confirm what the media was reporting. He denied the news reports. He said that there was no confirmed reduction but it was likely that the partnership agreement and MoA would be affected by the change in government. This was no surprise to us, given the bitter experience of civil servants after the 1987 and 2000 coups. The timing was dreadful from the public service employees' point of view: there was to have been some salary increase for the civil servants in the last pay of

December 2006, and another 2 per cent adjustment in the beginning of 2007. In mid-2006, there had been agreement for a delayed staggered payment of 2 per cent arising from the agreement between the trade unions representing the civil servants and the Qarase government. This all changed after the December 2006 coup. At first, it was said that the balance of payment due for the three year IRF, covering 2005 to 2007, would be paid sometime in 2007. That never eventuated. Nurses had good reason to feel aggrieved.

When the negotiations with the PSC became no longer fruitful, the CPSU agreed that members would vote on the separate issues affecting each of the public sector unions. In addition to the broader issues, the FNA had an ongoing dispute about the 12-hour shift that was being imposed on nurses by the CWM Hospital management. Although several meetings had taken place with the Ministry of Health representatives and the PSC, the FNA was not satisfied with the outcome of the talks and sought the intervention of the Minister for Health, Dr Jona Senilagakali. Fortunately, he decided in our favour, agreeing, on the basis of evidence that we presented to his ministry, that such shifts were not feasible.

The FNA conducted a secret ballot on the five issues affecting our members in March 2007, with the results being declared on 28 April at the 50th Annual General Meeting of the Fiji Nursing Association at the Tradewinds Hotel in Lami, on Suva's outskirts. There was an overwhelming response from the members, with 875 votes cast on all five issues. At the final count, 89 per cent of votes were in favour of taking industrial action – (i) against the 5 per cent salary reduction; (ii) for not honouring the partnership agreement; (iii) for not honouring the MoA signed with the previous Qarase government; (iv) for the breach of the collective agreement on the reduction of the compulsory retirement age from 60 years to 55 years; and, (v) for the imposition of a 12-hour shift for nurses who worked in hospitals.

A trade dispute was lodged on 21 June 2007 with the Ministry of Labour, Industrial Relations and Tourism, through its permanent secretary, Taito Waqa, indicating the cause of the dispute, the results of the secret ballot and the intended date for industrial action (midnight 24 July 2007). As our members worked in essential services, we had to give 28 days notice to the ministry of our intention to take industrial action. The intention of this law, I believe, was to give the relevant ministries enough time to intervene through a dispute committee or mediation process to try to settle the matter amicably.

The FNA then waited for a reply to our notification. We knew that we had followed the rules to the letter, but we received only a reply that the dispute was being analyzed. Even before we knew the result of the secret ballot, the interim Minister for Labour, Industrial Relations and Tourism, Bernadette Rounds Ganilau, had sent me a copy of a letter addressed to the general secretary of the Public Service Association, Rajeshwar Singh, requesting his attendance at a



meeting aimed at mediation with the trade unions that were contemplating filing trade disputes. I immediately sent a reply to her, stating that dialogue was of no use to us because our grievances were already under consideration by our membership through the secret ballot. At that stage, we in the leadership of the FNA were not sure whether or not our members would want to stage industrial action.

I was not happy with the way that the FNA was addressed in the correspondence. It seemed to me that our invitation to the mediation meeting was an afterthought. Furthermore, we did not want to start premature dialogue that might compromise our position. It was the minister herself who wanted to mediate. However, there are appointed officers in the Ministry of Labour who are trained to do this job. In my opinion, the minister has the last say and is the final decision-maker. For the minister to intervene in person at this early stage would have been a waste of time for us as well as her. Nevertheless, other trade unions decided to meet her for this mediation process. The media later reported that these efforts were not successful.

The countdown for the industrial action started when the trade dispute was lodged. Internally, FNA president Simione Racolo called for an emergency meeting of the FNA national council. At this meeting, we informed the council of the process that was to take place; about the results of the negotiations that we had been having with the PSC; and about the involvement of the permanent secretary for health, Dr Lepani Waqatakirewa. The members were told to prepare their colleagues by updating them weekly on the progress of the talks with the interim government. As general secretary, I was to be in contact with them if some positive changes seemed likely to materialize.

The presidents of all the FNA branches were asked to keep talking to members, encouraging them to keep working normally with the patients. For those who worked in weekly or monthly clinics, they were to be told that, if there were to be industrial action, they were not to come to the health centres or hospitals, but to take a supply of drugs for patients to cover that period. The branch presidents were reminded to choose their picket sites carefully so that they were not on government premises. If picket sites were in public places, the owner of the land was to be approached traditionally. Picket sites in Fijian villages were discouraged, to avoid any appearance of ethnic bias. Ours is a multiracial union, and we did not want to seem dependent on traditional Fijian support. (Sometimes this was unavoidable; in Tavua, for example, the *turaga ni vanua* insisted that it was his duty and that of his warriors to protect the nurses.) Other plans included assembly and distribution of the cell-phone numbers of contacts at the branch level because we were not to use the government phones. The FNA national council met to decide on the financial assistance to be given to branches that needed it. In past strikes, we had found it necessary to look after striking

members only for two or three days. Judged by our previous strike experiences, we were very optimistic.

A week or two before the 24 July, when the nurses' strike was scheduled to commence, I continued talks with my counterparts, Agni Deo Singh, the general secretary of Fiji Teachers Union, and Rajeshwar Singh, the general secretary of the Fiji Public Service Association.<sup>3</sup> Together, we tried to negotiate with interim Minister for Public Sector Reform Poseci Bune. This man, I thought, did not know what he was talking about – we found what he was offering absurd because he made no commitment to any movement in the interim government's position despite being aware that all three of our unions had lodged trade disputes with the Ministry of Labour. He also made it difficult for us to meet him – for example, at one point, giving excuses that he was not in Suva and that we would have to wait until he returned after the weekend.

Meanwhile, our 28 days notice deadline was closing in and we had not made any progress. Rajeshwar Singh again made arrangements with the CPSU to meet the 'money man' Mahendra Chaudhry. This arrangement, I believe, was made through Felix Anthony, the general secretary of the Fiji Trade Union Congress (FTUC). By this time, there was a rumour that the FTUC was backing the interim government and that the unions that were affiliated with this organization would not stage any industrial action while the interim government was in power. I do not know how true this was but there were mixed feelings amongst the FTUC affiliates – some of them supported us later on during the strike. We met the interim Minister for Finance at his office on 9 July 2007. This was after the CPSU had met with Poseci Bune earlier on the same day. That afternoon, the CPSU leaders were called to meet with the interim Minister for Finance at the FTUC building to finalize what had been discussed with Rajeshwar Singh at the interim Finance Minister's office earlier in that day.

During those discussions I was uneasy and sensed that my fellow trade unionists had sold us out because I did not hear any change in the initial offer that the interim government had made to settle our trade dispute. Personally, I wanted to vomit. I couldn't believe that my colleagues and 'brother trade unionists' had embraced defeat by accepting the deal from government without any struggle at all. They had told me that the secret ballots conducted amongst their members had delivered over 90 per cent in favour of industrial action. I could not understand how easily they could change their tune on that day. I prayed that evening as we sat late into the night at the FTUC office, and resolved not to sign any agreement until I had consulted with Simone Racolo and the Suva-based National Council. Some of my colleagues were disappointed by my decision.

On 12 June 2007, together with CPSU leaders Rajeshwar Singh and Agni Deo Singh, I met with interim Prime Minister Bainimarama to try to convince him that the policies that they intended to apply to the civil servants would damage

the public sector and create a very negative image of the interim government's leadership, jeopardizing their claims to bring positive change to the country. Our three unions met more regularly after the nurses' trade dispute had been lodged, but it became ever clearer that the FPSA and FTA were not committed to strike action or solidarity with the nurses.

A week after our dispute was lodged, I met the interim Minister for Commerce, Taito Waradi, and his ministry's permanent secretary, Mr Yauvoli. Mr Waradi was also acting Minister for the Public Service Commission.<sup>4</sup> He had been informed of our dispute and wanted to talk to me regarding how best our issues could be addressed. I agreed to see him partly because we had been classmates at the Dudley High School in 1970, and because Mr Yauvoli's wife was a personal friend. At that meeting, I pointed out to both Mr Waradi and Mr Yauvoli the importance to us of the agreement and the MoA. I was afraid that if the interim government did not honour them, it would cause nurses to take industrial action. These were very important agreements for both salaried and wage-earning civil servants. If they were to throw these agreements out, I told them, I was afraid to think of the consequences.

Mr Waradi suggested that perhaps the interim government might shelve or defer the implementation of its planned course of action. I responded that the impact of this would depend on how it was announced to the public and how we in the trade union leadership might explain the interim government's intentions to our members. I emphasized the fact that the two agreements contained commitments by the government to pay the lost salaries and wages of civil servants who had been in government employment since 2001. In total, the agreements entailed a salary increase of around 27 per cent even without adjustment for the fact that the entire civil service had not received a full increment since 2000. Only about seven per cent of what was contained in the agreement and MoA had been paid by January 2006. Normal increments averaged three per cent for other civil servants.

The other important issues were the implementation of the 2003 Mercer Job Evaluation recommendations; the implementation of the intended Performance Management System (PMS) and the job-related allowances; and the need to address the unions' 2003 log of claims. In the MoA, the issues specific to nurses were: the re-introduction of higher pay for higher professional qualifications and scarce skills; the provision for housing for nurses and medical orderlies or payment of lodging allowance in lieu of housing; and the payment of risk allowance to nurses and medical orderlies who work in high risk areas. These were very important issues for the nurses and had been continually raised at FNA annual general meetings. Even if nurses' pay remained low, improved working conditions – such as provision of rent-free housing – would discourage many nurses from leaving Fiji.

On 10 July 2007, I called the FNA president and the two Suva-based council members to update them on an offer from interim Finance Minister Mahendra Chaudhry – a restoration of 1 per cent of the proposed 5 per cent pay-cuts in December 2007. I explained my position and I also reminded them about the mandate we had from the members. I wanted to hear their views on the way forward for me as the FNA's chief negotiator. By this point, I suspected that we were alone in our fight, as the other trade unions had their own issues to think about, and because their mandate from their members was not clear. The president ordered an emergency meeting on 21 July of the full national council so that we could inform them of what had transpired and seek their reaction. The FNA president and I had sought the intervention of the interim Minister for the Public Service Commission as the end of the 28-day notice period drew near. We sat twice with the Permanent Secretary for Health and the Secretary to the PSC on 20 July to try and come to a consensus. At the special national council meeting at the FNA Conference Hall on 21 July 2007, reports from most national council members were presented. Not one of them indicated a negative response to the strike action.

While all this was going on, I was involved in a big project with the European Union; it was to start with workshops in Viti Levu and Vanua Levu. I used these opportunities to meet the members and talk to them about what might transpire, and I also gauged their feedback on the strength of resolve in the different branches. One message that we emphasized was 'explain to your husband/wife and family members why we have to take strike action, so that they will support you'. We did not know how long the scheduled strike would last, but, because there would be no pay for a number of days, we needed their understanding and cooperation. We had very able and committed national council members representing the 20 FNA branches, and they were very aware of the difficulties that we would face by making a stand on our own. Our CPSU team had broken up and I respected the decisions that my colleagues had taken.

I had to brace myself for the outcome of the FNA emergency meeting of 21 July 2007. After that, there was no turning back. The president and I had received warnings, and even threats, that we couldn't back out at that stage as the response from the branch representatives was overwhelming. We knew that, because many of our members were married to members of the security forces, they might face severe pressure to back down; but the word from many of them was 'they became nurses first and got married later'. Many of these brave women and men came out on strike when the clock struck midnight on 24 July 2007.

The media and members of the security forces<sup>5</sup> continued to hound me and the FNA president around the clock for comments and explanations. Other members of the national council were also pestered by members of the security forces near their workplace. However, we handled this professionally. There were two

incidents of violence reported to us involving members being manhandled by their spouses; we allowed these members to go back to work for their own safety. On the first day, more than 1,000 nurses were reported to be at the 20 picket sites. Others joined in on the second and third days. Even some non-members joined in and, as they did so, filled in FNA membership forms at the different strike sites around the country.

On the second day, we called upon interim Prime Minister Bainimarama to intervene. He refused. Instead, he said the strike was a ploy to bring down his government, and that the stand-off with the unions could have the effect of deferring the elections planned for 2009. He claimed his government did not have the money to restore the five per cent pay cut.<sup>6</sup> But we wanted proof that the government had no money – there seemed to be plenty available for government ministers to take overseas trips at the taxpayers' expense. In the first few days of the strike it looked as if we might get somewhere; interim Minister for Labour Bernadette Rounds Ganilau kept promising that concessions would be made and that the dispute could be settled. She admitted that our strike was legal, but she was too intimidated by the interim prime minister to take action and make a decision in our favour, and so she kept delaying. Whatever authority she had over industrial disputes was taken away from her by Bainimarama, who was determined that our strike should fail.

Our initial request to government had been that they should restore the one per cent immediately, restore two per cent in December 2007 and the remaining two per cent in 2008, but once the strike began we went back to demanding the full five per cent. In the end, Bainimarama offered us one per cent, with further discussions to take place over the remaining four per cent. We had been down that road too many times before and we were not fooled. What that meant was nothing beyond one per cent. The truth was that, going back to 2003, we were actually owed a pay increase of 27 per cent.

Talking to the media, I pointed out that there was a vast imbalance between the work we did and the amount we were paid, and I wanted to know why nurses always faced pay cuts when a military coup took place. Mahendhra Chaudry blamed me, rather than the government, for the plight of the nurses, and said we should have sorted all this out with the Qarase government rather than raising the issue when finances were in a critical state. Fiji Human Rights Commission director Shaista Shameem said the right to life of patients, sick people and the elderly was more important than the right to strike, to which I replied that these were not normal times and that our hands had been forced by poor working conditions and low pay. Ultimately, I said, the right to life was the responsibility of the government, not of the nurses.

The Methodist Church, possibly Fiji's largest and most important institution outside government, refused to help the interim government when asked for

assistance. Church president Reverend Laisiasa Ratabacaca said the government was responsible for the situation and that the church would not interfere.

We had to tighten security at our headquarters in MacGregor Road because we thought the strike might attract people who would use our struggle for their own political purposes. Our concern, as I kept telling the media, related purely to nurses' issues, and the interim government, which was in charge of the country, should not be surprised if all sorts of problems arose. 'Every coup', I pointed out, 'sets a country back 10 years and I hope the prime minister doesn't forget it'.

On 2 August I told the media 'We have reached day nine and now there is no turning back. Our members have indicated there is nothing stopping them from carrying on in order to get their five per cent back'. I called on the nurses who were still working to join the strike: 'As long as some nurses remain in hospitals', I said, 'this fight will go on. If all members come out and sit, then we will prove to the interim government that nurses are vital in order to have the hospitals functioning. Nurses must unite and take industrial action'.

By 8 August, however, we realized that the interim government was willing to let Fiji's hospitals and health system collapse rather than yield to our demands. We had held together for more than two weeks. We had strengthened each other at the picket sites with chain prayers and singing, and people had helped us, but we could not hold out indefinitely because we had no savings. Fiji's nurses are not prosperous. It was impossible for them to accumulate sufficient savings to survive through a long-running strike.

## ENDNOTES

<sup>1</sup> 'We have no voters to please: Bainimarama', *fijilive*, 3 August 2007.

<sup>2</sup> See, for example, 'Former Spy linked to Striking Fiji Nurses', *Daily Post*, 12 May 2000.

<sup>3</sup> Rajeshwar Singh had replaced Mahendra Chaudhry as general secretary of the Fiji Public Services Association in 2000. Chaudhry became interim Finance Minister in the post-2006 coup government.

<sup>4</sup> Mr Bune was away overseas.

<sup>5</sup> I was never sure whether these were soldiers or the police special branch, as they normally turned up in plain clothes.

<sup>6</sup> *The Fiji Times*, 1 August 2007.

# MEDIA





# 13. The Fiji coup six months on: The role of the media

**Samisoni Pareti**

I came across a very interesting story not too long ago, the headline-grabbing type, one sure to be a best seller. The story revealed the wisdom and farsightedness of the founders of modern Fiji as portrayed in the islands' coat of arms. The sugar cane on the national emblem is reflective of the leadership of Fiji's first modern leader and prime minister, the late Ratu Sir Kamisese Mara, and his unquestioned role in securing unparalleled prices for our sugar in Europe. Then there's the coconut palm, symbolic – the story claimed – of the policies and leadership of the late Dr Timoci Bavadra and Mr Mahendra Chaudhry, the *vara* (a fledgling palm tree) being the symbol of the Fiji Labour Party. The white dove on our coat of arms is reflective of the rulership of the *Soqosoqo Duavata ni Lewenivanua* (SDL) party of the ousted Prime Minister, Mr Laisenia Qarase. And what of the final insignia on our coat of arms, a bunch of bananas? Perhaps this reflects a disturbing premonition that Fiji would eventually, after four coups, become a banana republic.

You did not miss reading this story in one of our dailies in Fiji. I picked up that story from the many that had been crowding Suva's coconut wireless, the rumour mills. Under the seemingly strict and tested rules of conventional journalism, such rumours would not make the pages of any serious newspaper or broadcast. And rightly so. But with all the media outlets in Fiji – three daily newspapers, at least two weekly vernacular newspapers, two parent radio companies, one commercial television station, at least three news online services, and, by the last count, seven monthly or semi-monthly partly news, mainly lifestyle magazines – adopting self-censorship in the light of harsh and violent reactions from the Fiji military, one has to wonder how many stories are being left untouched and untold in Fiji today.

In this chapter, I consider whether or not self-censorship was the best media response in post-coup Fiji. Is this the best the industry in Fiji can do? Was there a lot of thought, even debate, on the approach the media should take? What would have happened had journalists, with the support of their editors, decided to take the other option – that of unitedly and single-mindedly opposing the regime's decision to become an uninvited player in determining what is news and what is not?

I raise a lot of questions; questions to which I personally do not have the answers. I make no apology for that. First and foremost, I do not count myself an authority

on the news media. Besides, nature itself dictates that a pathologist cannot perform a post mortem on himself! I certainly do not pretend to carry the mandate to speak on behalf of Fiji's media industry. In fact, I believe that no one carries that mandate – neither within or without the industry – unless of course you believe what Major Neumi Leweni has been saying since 5 December 2006.

## **The media in the lead-up to the coup**

In the lead up to the coup, relations between the elected government of Prime Minister Laisenia Qarase and the Republic of Fiji Military Forces (RFMF) had been stormy at best. We know that because the news media in Fiji had chronicled, in a rather spectacular fashion, the up and down, love/hate relationship between the two, played out in large part by Mr Qarase himself and the commander of the RFMF, Commodore Frank Bainimarama.

Look back at past issues of the newspapers, as far back as 2001 after the SDL government assumed power, and you will see how bad blood, distrust, disrespect, and the lack of confidence was built up, especially by the military, against the government of Prime Minister Qarase.

Journalists covered this love/hate relationship like any other 'normal' story. If Commodore Bainimarama said something nasty about the SDL government, it hit the front page the next day. Then, when Qarase or his minister for home affairs or even the PM's chief adviser responded, it received prominent coverage the day following. You could be forgiven if you wondered whether the news media was being used by the two parties to out-bid and out-smart each other. This of course raises the question – of course with the benefit of hindsight – as to whether or not the news media in Fiji could have done their job better, been smarter.

To be fair, there are some of us in the industry who, amidst the daily pressure of meeting deadlines and pleasing our editors, did (and do) ponder the way we do our work. Should we, as a rule of thumb, stick to our traditional role of reporting society as we see it, day in day out? We are, after all, the mirror of society. A house is burning in the neighbourhood and that is exactly what you are going to hear in your next radio or television bulletin. You might even have a colour image in the morning newspaper the next day, flames leaping high to the sky from the roof of the burning house.

Thanks to democracy, there is no shortage of critics of this traditional approach to journalism. One such critic is none other than Chief Justice Daniel Fatiaki, whom the military regime forcefully sent on leave and then suspended after the 2006 coup. In a paper he had presented to the Attorney-General's conference in December 2001, he had this to say:

Media coverage is ... often dictated by 'what sells' and in this day and age it seems that what sells is 'bad news' and the sensationalising of it

in the media by eye-catching by-lines or sound bites. Pick up any newspaper today or watch the first five minutes of the evening TV newscast and chances are that most of the coverage will be about what went wrong in the country and the world – how someone failed to do something or did something they should not have done. It has been said that ‘conflict, criticism and controversy are the staples of news coverage today’ and I ask, why should it be? Why cannot it be balanced by the reporting of ‘good news’...?<sup>1</sup>

Interestingly, Fatiaki’s last question on balancing ‘bad news’ reports with ‘good news’ was put to a panel of journalists at a seminar held recently at the University of the South Pacific. My response to it was simple; everyone loves a good story and there are many waiting to be told. But if a house is burning, what do you expect me as a reporter to do? Report about how nice the flames looked from where I stood?

I recall one day in 2006, around the middle of the year, wrestling with this very issue over coffee with a colleague who holds a senior position in the newsroom of a daily newspaper. I asked her: Why can’t all media organizations in Fiji decide not to publish or broadcast any story relating to the military/government row? Her response was swift. She didn’t think her own editor would agree to such an idea, as it is a fact that when Bainimarama appears on page one of the newspaper, it sells. Back in the office about an hour later, I received a telephone call from this same friend of mine. She said, ‘Guess what. I related your question to my editor and his response caught me by surprise. He said he would support such a proposition’.<sup>2</sup> Sadly, that is where the story ended and where such an idea died. Neither my friend nor I are managers or editors, and neither of us were members of the Fiji Media Council, so our powers to influence matters within the industry are virtually nil.

We all know that the news media of any country is not the panacea of all our ills. It can be a force for good, yes, but not all the time. I am one who subscribes to the view that by simply headlining the stormy relationship between Bainimarama and Qarase day in, day out, one cannot expect the two to set aside their widening differences, to simply kiss and make up. I guess in another world, this could have happened. Bainimarama or Qarase, or both, might have woken up one morning, read *The Fiji Times’* headline, realized they had overstepped the mark, and resigned.

But we do not live in that world. I wonder, though, what would have happened if the media in Fiji – as one – had decided to impose a ban on any coverage of the Bainimarama/Qarase love/hate relationship? Would it have convinced the two men to get to the negotiating table? I am sceptical that this would have happened. But there would have been no harm in trying. Everybody would have been the winner had this boycott of coverage of the military/government

saga worked. On the other hand, if it had not worked, the only losers would have been the two antagonists themselves. They would have missed a great opportunity to resolve their disturbing and very unsettling public row, thereby allowing the nation to fall yet again into the vicious and painful coup cycle the nation had been trying to break away from.

So what was the role of the Fiji news media in the lead up to the coup? It was the traditional role of reporting the deteriorating relationship between the Fiji military and the government it helped install after the 2000 coup.

Did we make a good job of it? Perhaps. Although I believe we could have done the job better by being critical of how we do our work. The ability to think outside the box and look at the bigger picture – the role of the news media in a developing, emerging democracy like Fiji – would have assisted our work greatly.

But what about the belief that it was the media that fuelled the stand-off between Bainimarama and Qarase? I used to hold this belief. Now I am not sure whether or not either man, particularly Bainimarama, would have changed his mind or the course he had decided to take, even if the media had slapped a ban on covering his fight with the other.

Was profit – as argued by Fatiaki way back in 2001 – the driving force in the news media's coverage of the military/government nasty row? Maybe.

Was it the hope of the news media that, by their coverage of the row, the two institutions and the two men who led them, would meet and resolve to set aside their differences for the sake of the nation? I hope so.

Or would it have been better for the news media if it had taken a less reactive approach – either through a news blackout or through other means – in order to seriously and genuinely assist the attempt of others, such as former Vice-President Ratu Joni Madraiwiwi, to get Bainimarama and Qarase to reconcile and get on with the job of nation-building? I certainly wish it had done so.

I know what some will say. That this is not the role of the news media. You are the mirror, you reflect society, not try to engineer it. But my point is, who set that role? And who said that this traditional role of the media can not be changed or adjusted to meet the peculiar needs of a young democracy like ours? Of course I am not for a moment proposing that we turn the news media into a fully fledged lobbying movement. We have plenty of those around.

Think about it; the news media in Fiji has in the past taken on such a role. Until the general election of May 2006, the Fiji Media Council had organized national and healthy debates through its editors' forum.<sup>3</sup> Its 'adopt-a-flag initiative' is another good example.<sup>4</sup> The same is true when you look further afield. The media of our good neighbours in Papua New Guinea, through their own media council, has been a key player in the fight for greater transparency in that

country.<sup>5</sup> Some of its senior journalists have also joined the movement against illegal arms smuggling.<sup>6</sup>

We reflect society, yes, but we can also influence society for the common good. The end justifies the means. If taking a principled stand had meant avoiding the coup, then we would have achieved our objective. That, I think, is what responsible journalism should be about.

## The role of the media after the coup

The transition from pre- to post-coup coverage for the Fiji news media did not go down too well. Late on the evening of the coup, *Fiji One News* went off air. The following morning, *The Fiji Times* was not published. This boycott, triggered by the military's attempt at media censorship, was effective in some ways because the authorities – we were told – relented, and *The Fiji Times* came out with an afternoon edition that same day, and *Fiji One News* went back on air for their main 6pm evening news.<sup>7</sup>

That short-lived boycott showed how hopelessly disunited and divided the local media was. Whilst *The Fiji Times* refused to publish on the evening of the coup, the *Fiji Daily Post* and the *Fiji Sun* went ahead as normal. The *Fiji Sun* said the order from the military for news on the coup to be censored came too late.<sup>8</sup> Both radio networks, as well as all online news services, also proceeded as normal. Clearly, any hope of getting the news media to work in unison and truly become a force to be reckoned with – especially important in any fight to protect the freedom of the press provision of Fiji's 1997 constitution – was lost.

Although Prime Minister Qarase and his family were flown into exile on his island home in Lau, and armed soldiers patrolled the streets, for the local news media, it was to, a large extent, business as usual. In keeping with its traditional role of being the mirror of society, the military – and the regime it installed – began to dominate the daily news scene. Not for a moment did the news media in Fiji pause and think: The political landscape had undergone a dramatic, if not revolutionary, change, so should the 'business as usual' kind of reporting continue or should the change in landscape require a change in approach?

There have been some disturbing trends. The *Fiji Sun* newspaper had a scoop when it reported and photographed one former ruling party official undergoing interrogation at the military camp. The story contained very damaging allegations of corruption levelled against the official, including the supposed admission of the offence by this party official.<sup>9</sup> My question is, where is the balance in the story? Even if the former political party official had admitted the offence, does it mean that he really did it or was he coerced into admitting the wrong? As if to rub salt into the wound, this same edition almost boastfully reported in its gossip column how its reporter had caused a stir in the army's officers' mess when he accepted an invitation to have a meal there – and then used his fingers,

not a fork and knife!<sup>10</sup> Where is the impartiality in the story? Was the newspaper condoning a trial by media?

The same newspaper, some weeks later, published another exclusive: How two senior managers of the country's largest financial institution were supposedly abusing company regulations by taking loans for themselves.<sup>11</sup> It was a great story, it surely would have boosted sales that day. But the story was one-sided, quoting from a report leaked to the newspaper by someone with an agenda. To be fair, the newspaper did say that it had attempted to contact the two senior managers for their comments, but had not succeeded. In normal times, this would be fine. You can say the two managers have only themselves to blame. But the problem is, these were not normal times in Fiji. We had just had a democratically elected government overthrown, and the military was in power. What would have happened had the two senior managers given their response to the newspaper, even going to the extent of paying for a full page advertisement to clear their names?

Well, someone before them, who had had a similar experience of trial by media, did try to clear her name, and where did she end up? Inside one of the cells of the Queen Elizabeth Barracks, where she underwent – rumours have it because she has declined to speak openly about it – very humiliating and inhumane treatment.<sup>12</sup>

There is another dark side to such developments. In obtaining information that is available only to the military regime and those who support it, what did the newspaper offer in return? My only hope is that all the newspaper offered was fair coverage, nothing more, nothing less.

Another disturbing trend as I see it is the gullible nature of the local media industry. Obvious questions remained unasked, and anything and everything that falls from the mouth of coup instigators and supporters is taken almost as gospel truth. Explanations are left unchallenged, distortions lie undetected, and lies masquerade as facts.

Sadly there are numerous examples of this. I give only two.

Mahendra Chaudhry, leader of the Fiji Labour Party and currently interim finance minister in Fiji's military government, is one politician who appreciates the power of the media, and, like the shrewd politician he is, knows how to use it for his own good. Before and after his return from Brussels in April 2007, where he had accompanied interim Foreign Minister Ratu Epeli Nailatikau and interim Attorney-General Aiyaz Sayed-Khaiyum, Chaudhry told national television that the request for F\$350 million from the European Union (EU) to fund reforms in the country's sugar industry had been assured.<sup>13</sup> In repeated interviews to other local news media afterwards, Chaudhry repeated the claim

that the EU had assured him that Fiji would get the \$350m, and reforms in the sugar industry would go ahead.

But no reporter ever told the Fiji public that the \$350m Chaudhry boasted about was never requested by him nor by the military regime. Worse still, the EU is not giving Fiji \$350 million, and the local news media knew about this even before Chaudhry left for Brussels!<sup>14</sup> They should know that Fiji is not going to get \$350 million because one of their own, *Islands Business* magazine, had reported in its April edition, complete with quotes from the EU document, that Fiji was getting far less.<sup>15</sup> Confirmation of the magazine story, which I had written, did not come from the European Commission until May.

On 30 April 2007 the Fiji Australia Business Council circulated a press statement that called on the Australian government to lift the travel ban it had slapped on members of the Fiji public who took up positions offered by the military regime. That statement, released under the name of council president Caz Tebbutt Dennis, spoke of the desire of many of her members, who, though not responsible for the coup, wanted to move the country forward.<sup>16</sup> That statement got widespread coverage in both local and overseas media.

Yet, not once did I read or hear a news report that asked Dennis why she wanted to move the country forward now? Who moved it backwards in the first place and whose decision was it in the first place to move the country backwards? Australia's then Foreign Minister Alexander Downer had to ask questions that journalists failed to ask Dennis: If you have a problem about the travel ban, then aren't you barking up the wrong tree? Weren't you supposed to re-direct that question somewhere closer to home?<sup>17</sup>

It does not take a genius to figure all this out. Day in day out, you see gross examples of stories that raise more questions than answers.

Is this the result of working in an environment of fear, of persecution and harassment? I do not know. I suspect the answers would be many. It could relate to poor training, the rush to meet deadlines, inexperienced reporters and reporters who feel too intimidated to ask the questions that need to be asked.

It is now common knowledge that, due to increasing harassment – and for some journalists, brutal and humiliating treatment at the hand of soldiers – media organizations in Fiji opted for self-censorship.<sup>18</sup> Each newsroom has its own way of self-censoring. When I was with state radio during the coups of 1987 and 2000, every story was viewed by the news editor or the duty editor before broadcast. If the story was going to put the life of anyone – either a reporter or a member of the public – at risk, then that story would not see the light of day. Unverified stories, those that might be true but could not be confirmed or verified by two or more people, would also be spiked. You might still read or hear and view negative stories about the military and the interim regime, but as a general

rule, you would see attempts to balance those stories with reactions from the authorities concerned.<sup>19</sup>

In 1987, then a cadet reporter with state radio, I realized that censorship was easy to implement. We had, sitting next to our desks in the newsroom, fully armed soldiers. I would not say the 2000 coup was any better. We did not have soldiers in the newsroom then, which was an improvement, but I still won't forget the dash for life that I took from Broadcasting House to the Central Police Station in Suva one Sunday night to escape the deadly mob that had trashed the studios of Fiji Television and then gone on to shoot and kill a police officer near parliament house.<sup>20</sup>

As in the coups of 1987 and 2000, the role of the news media in the 2006 coup remained the same. True, the original *Fiji Sun* newspaper closed its operations for good in 1987, in protest against military-imposed censorship, and the *Fiji Daily Post* closed for several days during the coup of 2000. But these reactions had been too individualistic to have any great impact. For such forms of peaceful protest to work, the local news media would have to work in unison.

Early in the days after the 2006 coup, a group calling itself the Movement for Democracy began to stage peaceful protests outside a house in Suva that they termed the Democracy Shrine.<sup>21</sup> We all know that. What many of us do not know is that, prior to the coup, some of us journalists had been holding meetings in an attempt to revive a journalists' association. Our first meeting was held at that very building now known as the Democracy Shrine.

A day or two after the peaceful protests at the Democracy Shrine began, I received an email from a colleague with whom we had been planning this journalist association revival. She wanted the group to issue a statement in support of the pro-democracy protestors. I was among those who quickly shot down the idea. For one thing, I was so busy covering the coup, I had no time to be drafting and issuing press releases. Some of my other colleagues argued along ethical lines; we report the coup, not participate in it. After some thought, and after re-reading the arguments of the colleague who had proposed the idea of a press statement, I changed my position and supported the idea. I thought the trick would be in the way the statement was written. It need not sound too condemning, yet it could still express the hope and wish that, despite what had happened, the military would stay true to its promise of keeping the media free, and propose that harassing journalists as well as other media industry workers like radio announcers and comedians would do no one any good.

Our proposal was never carried out because it did not get support. But this reflected much of what happened in the news media in Fiji after the coup. There are many scared journalists and reporters in the country. True, the Fiji Media Council and the Pacific Islands News Association issued statements about the



military's harassment and intimidating tactics.<sup>22</sup> But we all know that one or two press statements would not have had much impact.

Today, hardly a whisper is heard when a journalist is taken in by the military. Maybe editors think that the best way to handle the matter is to simply report the facts. But what good does that do? Does it in any way discourage the military from harassing more journalists? We have seen no signs of that.

## Conclusion

I was struck recently by the candid and frank views of Netani Rika, news director of Fiji Television, who told Radio Australia's Pacific Beat program about his detention by the military.<sup>23</sup> What impressed me the most was his sheer honesty in relating what would have been a traumatic and scary experience for anyone. Rika's story made me wonder as to how I would have reacted had I been in his place. One thing is for sure, fear would almost kill me. Like Rika and most other journalists in Fiji, I did not become a journalist because I wanted to be superman. I couldn't even make it into our first 15 in rugby at the all-boys boarding school I attended in Tailevu.

But then, who am I if I no longer live up to and defend the ideals and principles of free speech, and the free and healthy flow of information, the prerequisites to a free press? How can I call myself a journalist if, when such ideals are threatened, I simply turn my eyes the other way and wish that all was well?

I think the time for the media in Fiji to take a good look at itself, on how it responds to the constant cycle of coups, is long overdue. It can no longer be 'business as usual', for the simple reason that it is NOT business as usual in Fiji right now. Perhaps that mirror we hold up to society ought to be turned our way, so that the news media in Fiji can take a good, hard look at itself. We have to follow another path to break the coup culture in Fiji. Staging a coup to stop future coups simply won't work. The solution I believe lies in the pooling of resources and in unity of purpose. Peacefully using the powers of influence it has been entrusted with, the news media can be a force for the good of all in Fiji.

## ENDNOTES

<sup>1</sup> Fatiaki, D. 2001. Speech at Attorney-General's Conference, 12–14 December 2001, *Legal Lali*, vol. iv: pp. 12–16.

<sup>2</sup> Recollections of author.

<sup>3</sup> <http://www.fjitime.com/editorsforum.aspx>

<sup>4</sup> *The Fiji Times*, 9 April 2007.

<sup>5</sup> [www.cdi.anu.edu.au/CDIwebsite\\_1998-2004/asia\\_pacific/asia\\_downloads/PacFut.Aitsi.pdf](http://www.cdi.anu.edu.au/CDIwebsite_1998-2004/asia_pacific/asia_downloads/PacFut.Aitsi.pdf)

<sup>6</sup> *Islands Business*, March 2007.

<sup>7</sup> *The Fiji Times*, 7 December 2007; *The Fiji Times*, 8 December 2007.

<sup>8</sup> *Fiji Sun*, 6 December 2006.

<sup>9</sup> *Fiji Sun*, 29 January 2007.

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- <sup>10</sup> *Fiji Sun*, Whispers, 29 January 2007.
- <sup>11</sup> *Fiji Sun*, 27 January 2007.
- <sup>12</sup> *The Fiji Times*, 30 December 2006.
- <sup>13</sup> *Fiji Television*, 6 pm news bulletin, 24 April 2007.
- <sup>14</sup> *The Fiji Times*, 9 April 2007.
- <sup>15</sup> Pareti, S. 2007. 'Sugar's Coup de Grace', *Islands Business*, April 2007.
- <sup>16</sup> 'Fiji businesses suffer under Aussie sanctions', *ABC News Online*, 30 April 2007.
- <sup>17</sup> <http://www.radioaustralia.net.au/pacbeat/stories/s1910316.htm>
- <sup>18</sup> *Fiji Sun*, 26 December 2007; *Fiji Sun*, 27 December 2007.
- <sup>19</sup> Recollections of author.
- <sup>20</sup> Recollections of author.
- <sup>21</sup> *The Fiji Times*, 4 December 2006.
- <sup>22</sup> *The Fiji Times*, 7 December 2006; *The Fiji Times*, 8 December 2006.
- <sup>23</sup> 'Pacific Beat', *Radio Australia*, 29 May 2007.

# 14. State control and self-censorship in the media after the coup

Russell Hunter

## Government/media relations post independence

Fiji's media grew exponentially in the three decades following independence. With that growth and diversification came a radically altered relationship between the media and the government.

At independence the media consisted of *The Fiji Times*, then a reliably pro-establishment organ, and the government radio station, which, while nominally independent, could be relied upon not to rock the boat too much. By 2006, Fiji had three national dailies, a range of magazines, a flourishing independent radio industry and a monopoly television broadcaster. Per head of population Fiji had and continues to have among the greatest choice of local media in the world. This is highly unlikely to continue to be the case, of which more later.

It is likely that this increased diversity – and increased competition – pushed the media into a more independent, even adventurous, frame of mind, as each outlet fought fiercely to establish and/or maintain market share. In the media there is no more deadly executioner than a bored audience.

The friction between the media and the government perhaps reached its height in December 1996, when the Rabuka government first said it would approve my appointment as editor-in-chief of *The Fiji Times*. On the basis of this approval, I left my job on *The Australian* in Sydney and travelled to Suva – only to discover that the Fiji government had changed its mind. It took the joint intervention of Prime Minister Rabuka and Home Affairs Minister Paul Manueli to have my work permit approved. It was to become a depressingly familiar experience.

*The Fiji Times* had been perceived as anti-Rabuka-government (as opposed to anti-government) – which may well have been a fair assessment from the point of view of the cabinet. But *The Fiji Times* had quite rightly taken a very firm line on the National Bank of Fiji scandal, roasting the government mercilessly on what was arguably the worst and most expensive debacle in Fiji's short history. Apart from the \$220 million it cost the people of Fiji there was another, less immediately obvious, outcome. This was the propensity of this and successor governments to, often quite deliberately, confuse the national interest with the government's interest. The affair also established a lasting atmosphere of tension between government and media. This tension, however, was, if anything,

healthier for the national good than was the all-too-cosy relationship that had prevailed.

Perversely, when the media and the government were in something resembling an accord in the run-up to the 1999 election – with what was at the time described or perhaps hailed as the Rabuka-Reddy concordat – the people of Fiji overwhelmingly rejected the government, bringing the Fiji Labour Party (FLP)-led People's Coalition to power with, by Fiji standards, a convincing election victory. The country's first and so far only prime minister of Indian descent, Mahendra Chaudhry, rode a wave of multicultural goodwill and national optimism the like of which Rabuka and Reddy could not have imagined. Chaudhry, however, lost the general goodwill within a matter of months – and blamed the media. His justification – or the lack of it – in so apportioning culpability is less relevant here than the fact that Chaudhry became convinced of his own rhetoric – that the media had a 'hidden agenda' to unseat him. The media in general responded that the agenda was so well hidden that none of them could find it. *The Fiji Times* ventured so far as to say that Chaudhry had his own hidden agenda, which was to pick a fight with the media in order to concoct a reason to introduce harsh and government-imposed controls. In a particularly angry speech to the Pacific Islands News Association convention in Suva that year Chaudhry warned of legislation if the media did not mend its ways. Mahendra Chaudhry's dislike (or worse) of the media was now in the public arena – and Chaudhry has never been one not to act on his dislikes or to refrain from settling scores, real or imagined.

In early 2000, *The Fiji Times'* request to extend my work permit was declined and, after a judicial review upheld the Chaudhry government's right to make that decision, I left Fiji on 3 May 2000 – Press Freedom Day – only to return on 12 August to the news (to me) that I was suspected by sections of the, by now media-paranoid, FLP of being in some way connected with the Speight coup that had toppled the Chaudhry government. Otherwise, it was suggested, why would I have come back? Of course, there was no connection whatsoever but the myth, as myths do, lived on.

The fact that the post-coup Qarase government fared no better with the media than had its predecessor made little impact on the closed minds of the myth-makers, and the voice of the FLP was unusually stilled as the nation's fourth coup, in December 2006, drew ominously nearer. Despite their widespread opposition to the Qarase government's overtly racist and divisive policies, the section of the media that routinely expresses editorial opinion, the daily newspapers, was unanimous in the view that another coup would be nothing short of catastrophic for Fiji. Thus was the stage set for a confrontation, the result of which is likely to be a much truncated and state-controlled media in Fiji.

## The immediate post-coup impact on the media

When the Republic of Fiji Military Forces took over the running of the country on 5 December 2006, its leaders could not have been unaware that it did so against a background of almost unanimous media disapproval, if not outright hostility. And when Mahendra Chaudhry emerged as the most powerful of the interim line ministers, the media knew there would be challenging times ahead. For, if the military distrusted the media, Chaudhry detested it – or at least those sections of it over which he could not exercise control.

Within days of the takeover, coup-maker and self-appointed interim Prime Minister Commodore Voreqe Bainimarama declared that he would uphold media freedom, a statement of which *The Fiji Times*, somewhat forlornly, reminded him daily, directly above its masthead on its front page. Nevertheless, within days of the coup, the military moved. A team of soldiers appeared in uniform at *The Fiji Times*' office in central Suva, announcing that they were there to ensure that no 'inciteful' material would find its way into the newspaper's pages. A team of soldiers was to be posted in the newsroom to vet all content. Courageously and rightly, *The Fiji Times* declined to publish under such circumstances. The paper's senior management declared that it would cease publication until the soldiers were removed. A military team also visited the offices of the *Fiji Sun* on the same evening but arrived only as the last truck was leaving the premises with the next day's issue, giving the *Fiji Sun* an advantage over its rival, which did not publish.

The following morning, Commodore Bainimarama declared that it had all been a mistake, a miscommunication, and the soldiers were withdrawn. However, it is all but certain that, had *The Fiji Times* management not stood firm, military censorship would have been imposed.

*The Fiji Times* editorial stance was resolutely opposed to the coup, its instigators and its ramifications. It was illegal, trumpeted the Times, as was the appointed interim government and all its doings. The *Fiji Daily Post*, controlled as it was by Laisenia Qarase's nephew, was, in the military mind, beyond the pale. The *Fiji Sun* adopted the slightly more pragmatic view that the military-backed interim government was a fact that had to be dealt with, while opposing the quite dreadful military excesses that were beginning to emerge.

It is a matter of record that quite harmless dissenters were rounded up late on Christmas Eve 2006, taken to the military camp in Suva and tortured. Others who voiced disapproval were hunted down and given similar treatment. A former minister, overheard criticizing the military in a Suva bar was, within minutes, taken by a team of soldiers to the military HQ and beaten after having been forced to run around the parade square. One man died, beaten to death, while in military custody for reasons that remain unclear. Another died as a

result of being in military and police custody. The trials of the suspects, arrested and charged months later, proceed at snail's pace.

What is not recorded is the military's intimidation of the media, which was as brutal as it was pervasive. One employee, who to this day prefers to remain anonymous for fear of a return visit by military thugs, was savagely beaten by a gang of up to ten men unworthy of the name soldiers. His medical report was a litany of serious injuries inflicted by blunt instruments, mostly army boots. The mental injuries inflicted on him and his family can only be guessed at. This man had been wrongly identified as a journalist. In fact, he worked in the company's administration section and had no connection with, or influence on, editorial policy. No apology has been received and no charges have been laid. An official complaint to the Fiji Human Rights Commission was, in effect, fobbed off. When the man's chief executive officer complained to the military he was told to keep quiet about the incident or risk a repeat.

A photographer who recorded the somewhat violent arrest of a suspect was kicked, punched and bodily thrown into the back of an army ute. He was detained at the camp for several hours. When his employer organization complained, it received the warning: 'If you say he was beaten, he will be'. The media organization, fearing for the safety of its staff member, reported that he had been 'manhandled'.

Late one Friday evening in January 2007, the military arrived in what appears to have been platoon strength at the home of the *Fiji Sun's* political editor. Armed with assault rifles, they demanded that he come out. Luckily for him, but less so for his seriously traumatized family, he was away at the time. The soldiers told his wife that her husband was required to appear before a senior military officer at 2pm the following day. He did so, waited until 4pm and went back to work. The following day he was summoned again, this time by telephone, and, after another long wait, was ushered in only to be told he had to 'tone it down a bit'. Asked what precisely was meant by that, the officer would only repeat the phrase. To the present day, this very senior journalist has not been told what was expected of him.

There were other threats, including one from a senior officer who would, he said, 'come and get me' if the *Fiji Sun* did not retract a particularly frivolous piece from New Zealand that the editor had elected to publish. But by now a pattern was emerging: Any media organization that published or broadcast something the regime did not particularly savour could expect a threat of violence. The accuracy or otherwise of the material did not appear to be an issue as far as the government and the military were concerned. Its very existence was sufficient to generate angry threats.

The print media, in particular the daily newspapers, came in for special attention. In a conversation with the independent chair of the Fiji Media Council,

Commodore Bainimarama expressed his extreme anger and dissatisfaction with the dailies. He did not give a specific reason and, since such conversations ceased after this encounter, it has not been possible to ascertain one. Nevertheless, it was abundantly clear that the interim prime minister's anger was profound. Whether or not this reflected the view of his minister of finance is not known.

## Self-censorship

It was at about this time that self-censorship began to become apparent in the nation's media. There was neither arrangement nor agreement on this; it was simply born of fear for the safety of personnel and the survival of individual businesses. By this time publisher of the *Fiji Sun*, I recall making the point very strongly to the senior editorial staff that we would better serve our readers by continuing to publish than by going down with all guns firing. Judging by the coverage and comment, this appeared to be the prevailing view across the industry. Thus, the military's routine denials of what was frequently undeniable were published and broadcast. A page one report and picture on the abduction and torture of the so-called democracy activists, with the central figure in a neck brace, explained merely that she had forgiven her 'alleged' attackers. But at least the newspaper published the story, even if not in the way that might have been expected. The other media ignored it. This was just one example of self-censorship at work. There were many others, of greater or lesser import, but what emerged from the months of self-censorship was a media prepared to accept restrictions in return for survival. Despite winning what might be called the first round – with *The Fiji Times'* refusal to accept military censorship – the media backed down by 'recognizing the need' for self-censorship, resulting in readers, listeners and viewers being deliberately and knowingly less than well served.

A major difficulty at that time was the absence of guidance from the military as to what would and what would not be considered acceptable. Possibly deliberately vague statements on 'inciteful' comments left editors wondering what the reaction might be to any given story. It also gave the military the excuse to intervene on a case-by-case basis without having to lay out a cohesive policy. Thus, decisions about whether or not to publish were now driven not only by truth and public interest but also, increasingly, by concern over what the military might think and how it might react. It was a fateful retreat, and Fiji's media may well wish to examine its behaviour – though, as will be seen, any such exercise may well be academic. The experience taught the military and the interim administration that media control was not only desirable, but also achievable.

The media cooperated by 'controlling' its coverage during the time of the emergency regulations imposed by the interim administration after the coup, but these could not be imposed indefinitely if the support of aid partners and

regional neighbours were to be maintained or recovered. With the lifting of the emergency regulations came a ray of hope for the media. The print media again led the way with news reports and commentaries that might not have run – at least not in that form – under the emergency regulations. There was surprise, relief and not a little confusion when it became clear that there would be no hostile military reaction and that journalists were not threatened. The media began to do what it and most of its audience regarded as its job. Editors felt able to publish news and comment based on what they saw as the public interest rather than on the anticipated reaction of the authorities. Fiji again had a media whose diversity offered a growing range of content. It was a false dawn.

### **The Fiji Human Rights Commission and the Anthony Report**

The Fiji Human Rights Commission (FHRC) was established under the 1997 constitution to oversee and protect the human rights of all those living within the Fiji jurisdiction. It can hear and adjudicate on complaints. It can make recommendations to the government. It can take up and prosecute the complaints of the downtrodden, the mistreated and the marginalized. It is in many ways a court of last resort for those who feel their human rights have been infringed.

The FHRC, then, was the obvious forum for redress for those tortured, humiliated and intimidated by the regime and its military puppeteers after the coup. Those seeking such redress, however, were almost universally doomed to disappointment. Those, for example, deemed by the FHRC to have accepted private apologies from the military were informed that there was nothing further the Commission could do. Meanwhile, the Commission's director, in a public report, had reached what ousted Vice-President and former High Court judge Ratu Joni Madraiwiwi described as the 'perplexing' conclusion that there had been no coup in December 2006 as the ousted Qarase government had been illegal in the first place. The media was less restrained, describing the report as bizarre, incredible and unfathomable. Many leading lawyers were equally flummoxed, one taking the public view that law was far too serious a subject for sociologists such as the director (who also has a law degree) to pronounce upon. The director, through the chair of the Fiji Media Council, sent a message to the publishers of the *Fiji Sun* and *The Fiji Times* that she would not hesitate to take action if further derogatory comments were offered – to which both replied that they would take that advice under consideration. No legal action was ever forthcoming but that was not to be the end of the matter.

In the meantime, the FHRC director – soon to become commissioner – was increasingly and overtly offering support for what most of her fellow lawyers regarded as an illegal regime. The structure of the FHRC is that the commissioners set policy, which is implemented by the director. However, by this time the director was acting alone, claiming the imprimatur of the FHRC for actions that the commissioners clearly neither condoned nor ordered. This culminated in an



exercise that would represent the greatest threat to the independence of the nation's media in modern times.

In August 2007 advertisements appeared in the dailies calling for submissions to an FHRC-commissioned inquiry into the independence of the nation's media. Most media representatives were deeply suspicious of the terms of reference; they asked for clarification, which to the present day has not been forthcoming. In the absence of a reply, most began to form the view that the inquiry was no more than another attempt to deliver control of the nation's media to the State, and declined to take part in the exercise without clarification of the terms of reference – which, in the event, were for the most part ignored by the consultant brought in from Hawai'i to deliver judgment, Dr James Anthony. Dr Anthony, 74, was not the director's first choice by a long way. A number of lawyers and academics declined the consultancy; a New Zealand-based race relations specialist agreed to take on the task only to withdraw at the last moment. This, said the director, was the result of illegal interference by New Zealand-based Pacific reporter and prohibited immigrant Michael Field who would be 'dealt with'. He's still waiting to be 'dealt with'.

The irascible Dr Anthony arrived in Suva and spent some three weeks doing 'research'. This took the form of anonymous interviews, which he seemed to accept at face value where it suited his preconceived and openly admitted view that Fiji's media was a 'white man's club' run by a cabal of eight or so white expatriates who met in secret conclave to decide what would and what would not be published or broadcast. An invitation from the *Fiji Sun* – in response to his report – for him to spend as much time in their offices as he wished in order to discover how ridiculously warped that view was, and to learn how fiercely competitive the media had become since he had left the country more than half a century ago, was ignored.

Dr Anthony's report is a shockingly sloppy piece of work, especially considering his claim to academic credentials. It is a litany of factual inaccuracy, hate speech, *non sequiturs* and blatant misrepresentation, all interlaced with a thick rope of racism that, had it been written by and of another race, would have been deemed 'inciteful'. All of his so-called informants hid behind anonymity. Their statements are no more than opinion offered as fact, the like of which would cause a first year journalism student to be failed. He railed against the figments of his own racial bitterness in, for example, calling for the removal of all foreign – that is to say white – journalists working in Fiji. His research seemed to have missed the fact that there were none. His conclusions were founded on totally unreliable and inaccurate observations and anonymous opinions unworthy of the term research. At best, his racial bitterness was cynically used by sections of the government, through the FHRC director, to produce the report they wanted; at

worst, he permitted his personal prejudices to overcome the basic tenets of proper academic research.

One of his recommendations was that a seven per cent levy be imposed on all media advertising and all licence income in order to finance a media tribunal. This body would oversee the media and, among other punishments, impose fines on erring journalists, their editors and organizations. The process to be followed was not specified, but it is impossible to even imagine that membership of such a tribunal would escape State appointment and thus control. The money raised by the levy would also be used to establish a media training authority to 'train' journalists and promote a close and harmonious relationship between the State and the media – much along the lines of the Singapore model. Just how that model could be successfully imposed on Fiji – any more than could the Queensland Road Traffic Act – was not explained.

The end result would, indeed, be to deliver control of the media into the hands of the State – but there would be little left to control. Unless the accountants and lawyers can find legal ways around the legislation – or more likely the decree – the seven per cent Anthony levy will cripple this vibrant and growing industry. The likely survivors are *The Fiji Times* and Fiji Television, though the ability of both to provide quality local content will be drastically reduced. The government radio stations – assuming they will be subject to the levy – will need ever more public funds to stay alive. The future for the rest will be bleak indeed. When asked by me in a radio debate what he had to say to those who would lose their livelihoods as a result of his report, Dr Anthony had no answer. He was equally unable to give a straight answer when asked if he was aware that there were no foreign – white or otherwise – journalists working in Fiji and that the only three foreign white personnel were in managerial as opposed to editorial positions.

Curiously, Dr Anthony's research seemed focused on relations between the People's Coalition government of 1999–2000 and the media, or more precisely the battle between Mahendra Chaudhry and the media. Both Qarase governments had had, if anything, a testier time with the media and they had also sought to gain control through a media bill, which was eventually abandoned due to widespread public opposition. Equally curiously, the staunch opposition to that bill by the then director, and now commissioner, of the FHRC was not recorded in Anthony's report.

Meanwhile, not long before Dr Anthony arrived in Fiji, a page one report appeared in the *Fiji Sun* saying that a member of the interim government had failed to submit tax returns for three years. The following day, August 7, an official complaint on the matter was made to the police commissioner by a former staff member of the Fiji Islands Revenue and Customs Authority (FIRCA); no action was taken by the authority. The story, however, created a tidal wave of

public interest, which only intensified some 10 days later when a subsequent *Fiji Sun* report revealed that the same minister had failed to pay tax on, or even disclose the existence of, bank accounts held in Australia and New Zealand. Thus began a long-running series of news reports and feature articles by *Sun* columnist Victor Lal, a former Fiji journalist and now an Oxford-based academic. They created a storm of interest.

## Expulsions

As the Lal reports gained momentum, the question on the nation's lips was increasingly: Who is the minister? In fact, however, the identity was one of Fiji's worst-kept secrets, the name easily available on any number of internet blogs and freely passed by word of mouth. Finally, in *The Fiji Times* of 22 February, Chaudhry challenged the media to name the minister at the centre of the furore. He didn't have long to wait – the following day the *Times* page one splash read: 'It's Chaudhry'. The next day, 24 February, the *Fiji Sun* followed with another Lal exclusive: 'Now for the REAL story – how Chaudhry got his millions', a detailed account of Mr Chaudhry's no-longer-secret bank accounts, with detailed documentation of deposits and withdrawals. The fact that one of the deposits – AU\$500,000 – was channeled through the Indian Consulate in Sydney attracted particular attention. The government of India has yet to explain it.

The following day, 25 February, while driving home from work at about 8pm, I received a call on my cell phone from an acquaintance who informed me that Mr Chaudhry's son, Rajendra, had been telling people that I would be out of the country by the following Wednesday. My partner and I were discussing this when two men arrived at our house claiming to be from the department of immigration. One of them probably was. Dressed in a departmental uniform, he was affable, said 'bula', shook my hand and advised that he was sorry to arrive so late but had been to our previous address and had only just managed to locate me. He asked for my passport, explaining there was a minor anomaly to be cleared up. Foolishly, perhaps, I gave it to him. He then asked to see my partner's passport as well as that of our 13-year-old daughter. He returned theirs but not mine, all the while insisting that we talk not in the house but under the light in the driveway. As he slipped my passport into a manila folder he withdrew from the folder a green government form signed by the permanent secretary for immigration; it gave me seven days in which to leave the country. The departmental representative asked me to go with him to his office to 'arrange the formalities', but when he could not or would not say what these formalities might be I declined to go, pointing out that the order gave me seven days to leave and that I intended to comply with it. On his repeated insistence that I accompany him, I began to call the company lawyer.

Almost immediately, four or five people – obviously military but unarmed and out of uniform – burst into the compound calling 'let's go now', 'hurry up', 'get

in the vehicle' and so forth. One even brought my shoes from the porch. 'Don't waste our time', shouted the driver of the waiting twin-cab 'just get in the vehicle'. They told my wife and the company lawyer that they were taking me to their office in Suva. So, crammed into the rear of the twin-cab between two burly soldiers, I was whisked off into the night. It soon became plain that the destination was not Suva but Nadi, the site of the international airport. My mobile phone was taken from me a minute or so into the journey and, on arriving in Nadi, I was held in isolation at a house in Cawa Street until the next morning, when a different group of four soldiers took me to the airport. The *Fiji Sun* has been able to identify the Suva-based army captain who escorted me to Air Pacific flight FJ911 bound for Sydney. I was wearing the clothes I had been wearing when abducted the night before. I had next to no money with me.

Meanwhile, the *Fiji Sun* lawyer, some good friends and the Australian High Commission had been active. High Commissioner James Batley's repeated demands for consular access to me was met with a wall of silence from officials, all of whom denied knowledge of my whereabouts. Our lawyer, sensing what was going on, had arranged for an early morning court sitting, at which he was granted an injunction preventing the state from removing me from the country. It was ignored.

About an hour from Sydney, my passport was returned to me by one of the extremely sympathetic and seemingly ashamed cabin crew, along with the green form I had seen the night before. The words 'seven days' were by now blacked out. I was met at Sydney airport by a horde of TV, radio and print journalists – which confirmed my view that the Fiji military had once again shot itself in the foot as far as public and international relations were concerned.

The familiar denials followed. This was an exercise carried out solely by the immigration department with no military involvement whatsoever, it was alleged: The chief executive officer of the *Fiji Sun* had been deported because he was a threat to national security based on 'credible' evidence. This evidence has never been produced, although there was a hint that an illegally hacked email exchange between myself and Lal proved the case. The mail in question had been obtained by a disgruntled former employee who appears to have sold it to a third party. It also reached Nikhil Singh in Sydney, an ex-Fiji TV reporter and now FLP mouthpiece employed by the journalists' trade union, which, as part of its mission statement, is sworn to uphold media freedom. Singh emailed the material to the Fiji and the regional media, most representatives of which regarded it as a typical exchange between a reporter and publisher and ignored it as irrelevant. The notable exceptions were Fiji TV and the government radio station.

I have still not been told why I was abducted from my home and deported, though it was frequently stated that it was in no way connected with the *Fiji Sun's* coverage of the Chaudhry tax saga. At this time I was receiving a host of

calls and emails. Referring to the denials, one caller paraphrased William Shakespeare: 'Methinks they dost protest too much'.

Again curiously, some ten days after my removal, Mr Chaudhry gave an interview to the government radio station, purporting to 'clear the air on Russell Hunter'. The interview included the following statements by Mr Chaudhry:

The deportation of Russell Hunter has nothing to do with my own case. But it has been made out as if he was deported from here because he was writing about me when there is no truth about it. ...Mr Hunter was still in Fiji for eight and a half years as a publisher. He was supposed to train a local a long time ago but he kept renewing his work permit. ...[H]e has [had] a grudge against me [since] I was the minister for information. I refused to renew his work permit and specifically his work permit was that he must train a local to take over which he did not do. ...[W]e did not review his work permit, he took us to court and lost in the court case but then the 2000 coup happened and the Qarase government allowed him to stay. How can a foreign journalist stay here for eight and a half years without training a local and getting renewal of work permit?

This is revealing. When the People's Coalition government had declined to renew my work permit in 2000, then Prime Minister Chaudhry had told all who inquired (including the managing director of my then employer, *The Fiji Times*) that he was not dealing with my case and had no knowledge of it. He referred all inquiries to his Attorney-General. It has taken him eight years to reveal the truth – that it was entirely his decision. Readers can decide who has a grudge. They can also decide whether the coverage of Chaudhry's tax affairs had 'nothing to do' with my treatment.

So, depending on who anyone chooses to believe, I was abducted from my home in the dead of night by a gang of thugs for not training a replacement, or I was abducted from my home in the dead of night by a gang of thugs for being some unspecified security risk. I have still not been told why I received such treatment and I no longer expect to be told.

And Chaudhry would certainly be aware that while at *The Fiji Times* and again at the *Fiji Sun* I had designed and implemented training programs for cadets, reporters, sub-editors and editors. He would also be aware that when I was appointed publisher and CEO of the *Fiji Sun* (a non-editorial position) my former understudy at *The Fiji Times* replaced me as editor-in-chief and continues to hold that position. He would be equally aware that the government is the nation's biggest employer of expatriate personnel and that at least one consultant in his very own FIRCA has been in place for more than 30 years without being required or even invited to train a local replacement.

In a poignant postscript to my abrupt departure from Fiji, some friends, acquaintances, supporters and the merely curious gathered for a farewell function. It was a very emotional occasion, during which a friend of the senior civil servant who had cooperated in my deportation order told my wife that the senior civil servant in question prayed daily for forgiveness and that he also sought forgiveness from us. I choose not to record my wife's answer. However, if he reads this, as I imagine he will, he will know that I have forgiven him. Life's too short to hold grudges, Mr Chaudhry.

A week after the Times publication of the tax story, Chaudhry issued a defamation writ claiming \$1 billion in damages. The *Fiji Sun* expected a similar claim. Both have announced their intention to defend these actions.

However, some three months on no writ had been received by the Sun, and the Times case had not progressed. And with the forced departure of Times publisher, Evan Hannah, on May 1, 2008, it seems a reasonable bet that there is no intention on the part of Chaudhry to pursue the case.

Mr Hannah was taken from his home, by the same group that abducted me, on the eve of World Press Freedom day – and a day after the interim Prime Minister had declared that his government supported media freedom. It is clear that it supports media freedom only within the ambit of government control and that it intends to implement the Anthony report, discredited as it is.

And, finally, the senior civil servant whom I have forgiven played exactly the same role in the deportation of Hannah. Mr Hannah is not a vindictive person and will in all likelihood offer forgiveness if asked. But from how many others will this man seek forgiveness?

# **LAW AND THE CONSTITUTION**

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# 15. The impact of the coup on Fiji's judiciary

**Graham Leung**

The December 2006 coup had important ramifications for Fiji's judiciary.<sup>1</sup> It was Fiji's fourth coup in a little under 20 years. What was significant about this one was the extent to which senior members of the Bench and Bar appear to have been complicit, either before the event or subsequently. There is as yet an incomplete awareness in the wider community about the sanctity of the rule of law. In circumstances such as a coup, where the ordinary person looks to lawyers for leadership and guidance and finds instead ambivalence and dissembling, the implications, both immediate and long term, are serious.

It is both instructive and revealing that those who overthrew the established legal order, whether in uniform or otherwise, nevertheless felt the need to legitimize their actions in legal terms. In his first remarks after executing the coup, military commander Commodore Frank Bainimarama invoked the 'doctrine of necessity'. It was the first indication that the military had been assisted by elements in the legal fraternity. The extent of the commander's familiarity with the principles relating to necessity indicated as much.

Perhaps the only caveat was that the doctrine had been misapplied: There *was* no crisis – other than the one created by the military by way of its public statements and its defiance of the government in the months preceding the coup.

It was the contention of the military that it had been left with no choice but to intervene, following the alleged refusal of the Qarase government to deal effectively with purported widespread corruption and abuse of office. The military claimed the President had been prevented from either dissolving parliament or declaring a state of emergency by the machinations of some of his advisers, including the Vice-President.

The truth is less inspiring: There was in fact no basis for the President to intervene constitutionally. There was no evidence that the Prime Minister had lost control of the machinery of government, other than by the military's gradual seizure of the state apparatus.

The military had originally sought to exploit the President by making him serve as a cloak to shield their actions. When that failed, they intervened directly.

The Commodore proceeded to appoint himself acting President on 7 December 2006, reposing in himself the executive authority of the State that is nominally vested in the President by section 85 of the constitution. Section 96(1) states that

authority is exercised only on the advice of cabinet or a minister or some other body prescribed by the constitution.

Subsection (2) provides that the President may act independently where there is specific provision for that course. It was pursuant to this assumption of executive authority that, on 3 January 2007, the Commodore purported to suspend the Chief Justice on unspecified charges.

Not since the coups of 1987 had the judiciary been directly assailed. At that time, a few of the judges were arrested and incarcerated. Several resigned, both after the first coup in May and the second in September.

In seizing power, the Commodore pledged, *inter alia*, to uphold the constitution, respect the independence of the judiciary and protect human rights. On 3 January 2007, the director of the Fiji Human Rights Commission (FHRC), Dr Shaista Shameem, a lawyer, issued a 32-page document, which was described as an 'investigation report based on an assessment of the commander's assumption of legal authority'.

It concluded thus:

The result of this investigation and assessment of the legality or otherwise of the assumption of executive authority by the RFMF is that authority was assumed over a Government that was first of all established on a foundation of illegality in 2001, and secondly over a Government that was elected unconstitutionally in 2006. Between 2001 and 2005, the Government put in place unconstitutional policies and legislation that, in addition, violated Fiji's obligations under the ICERD as pointed out by the CERD Committee in 2002.<sup>2</sup>

Dr Shameem asserted that the military had the capacity to invoke human rights and welfare powers pursuant to section 94 of the 1990 constitution and section 112 of the 1997 constitution. Leaving aside for a moment the better view, that the provision she sought to import from the 1990 constitution has been repealed, the position she assumed was not only problematic but also destructive of the rule of law. The claims of the unconstitutionality of the Qarase governments (2001, 2006) are hollow: No legal challenge was ever mounted during their tenure.

The FHRC report bears a remarkable resemblance to the Commodore's first post-coup remarks, where he set out at length the rationale and legal justification for the coup. The similarities do not end there. Dr Shameem has been openly supportive of the military's heavy-handed tactics in dealing with human rights activists and other dissidents since 5 December 2006. She has constantly reminded the public of the need to observe circumspection in an environment where human rights have been curtailed. Coming from the director of the Commission, in a situation where the legalities concerning the issue of human rights are a debatable issue, the credibility and standing of the Commission has been seriously

compromised. This is reflected in the relatively low number of human rights abuses reported to the Commission as compared with the matrix of cases compiled by several human rights organizations.

As if this developing symbiosis between the Commission and the military were not enough, the Fiji judiciary remains bitterly divided. The origins of this schism can be traced to the 19 May 2000 coup. At that time, the then Chief Justice, Sir Timoci Tuivaga, and two of his colleagues chose to engage with the military government that had taken control on the back of George Speight's failed putsch. These dealings were confined to vetting the Judicature Decree which, *inter alia*, improved the conditions of the Chief Justice. This provoked an outcry from colleagues on the Bench as well as from the then president of the Fiji Law Society (FLS). Sir Timoci Tuivaga was succeeded by Hon. Daniel Fatiaki as Chief Justice in 2002. Fatiaki was one of the judges who had supported his predecessor in his relations with the military government.

The division between Fatiaki and three other judges, Byrne, Gates and Shameem JJ, who adopted an appropriate legal distance, was not remedied and continues to the present day.

In one of her remarks at an international gathering of judges, Madam Justice Shameem put the lessons learnt from May 2000 eloquently:

What are those lessons? Firstly, to stay out of the fray in a political crisis. Secondly, to uphold the law as long as it is possible to do so. Thirdly, to avoid collaborating with those whose actions may become the subject of constitutional litigation. Fourthly, to resign only when it becomes impossible to continue in office without legitimising the usurpers.<sup>3</sup>

On 15 January 2007, while the Chief Justice remained suspended for unspecified offences, Madam Justice Shameem proceeded to chair the Judicial Services Commission (JSC). She justified her role on the basis of an opinion obtained from a Queen's Counsel. This, despite the fact that she, surely, would have known there was no specific provision in the constitution authorizing a substitute to chair the JSC in place of the Chief Justice.

Under Section 131(1) of the constitution of Fiji 1997, the JSC comprises three members: The Chief Justice, who is chair of the Commission, the chairperson of the Public Service Commission (PSC), and the president of the Fiji Law Society at the time being. Justice Shameem would have been aware that the chair of the Public Service Commission's appointment was legally suspect since he had been appointed by the army commander. Therefore, the only valid and justified member of the JSC at the time was the president of the Fiji Law Society

It was at that 15 January meeting that the JSC, as constituted, purported to appoint Mr Justice Anthony Gates as acting Chief Justice. The fact that he had apparently been consulted in advance and that Justice Shameem had obtained

an opinion justifying her chairing of the JSC indicates a measure of prior knowledge. It was Gates J. who made the following remarks in *Jokapeci Koroï & Ors v Commissioner of Inland Revenue & the Attorney-General Lautoka High Court*:

Unruly persons are unlikely to seek validation for their usurpations from judges. Nor should the courts give their sanction when application is eventually made under the doctrine of effectiveness, for there is no such force behind it. In this regard, I respectfully differ from Kelsen. Judges should expect and anticipate that the usurpers will see them removed. So be it. Judges do not represent the law. The doctrine of effectiveness has no moral underpinning, and judges do no honourable business therefore in according lawfulness to de facto administrations.<sup>4</sup>

Yet it troubled neither of them that the Chief Justice had been illegally suspended. The apparent minutes of the meeting have since been made public by the interim Attorney-General.

Although the acting chair of the JSC is reported as saying the pressing purpose of the JSC meeting was appointments to the Bench, the sole business appears to have been the appointment of an acting Chief Justice.<sup>5</sup>

On 18 January 2007 the President purported to issue a 'Presidential Instrument Of Notice Of Suspension Of Chief Justice Upon Establishment Of A Tribunal To Investigate Serious Allegations Of Misbehaviour Made Against Him'. Executive power had ostensibly been returned to the President on 4 January 2007. He proceeded to appoint the Commodore as interim prime minister on 5 January 2007, and the members of the interim cabinet on 8 and 9 January 2007.

Chief Justice Fatiaki was also suspended from office pursuant to section 138(4) of the constitution. Over four months since notice to that effect was published in the *Fiji Republic Gazette*, charges have still to be laid and the Tribunal is still to be appointed.

The fact that the country's highest-ranking judicial officer can so blatantly be sent on leave for constitutionally dubious reasons is shocking. The response of the legal profession was, regrettably, supine and insufficient. It was reduced to insipid mutterings about 'following the law'.

There has similarly been arbitrary removal of senior public servants and members of statutory boards and directors of state corporations without any semblance of natural justice. Those chief executive officers in the public service who had remained unscathed since 5 December 2006 were removed by the Termination of Contracts of Employment (Public Service Senior Executive Service) Promulgation 2007, gazetted under Presidential fiat on 18 January 2007. These measures have been allegedly undertaken as part of the military's commitment to 'cleaning up' the government and its related entities.

Human rights abuses continue, albeit at a reduced level.

Since 5 December 2006 there have been two deaths in military custody. I respectfully cite their names, Nimilote Verebasaga and Sakiusa Rabaka, in order that they are more than footnotes in history.

Verebasaga, aged 41, left a wife and four children. Sakeasi was only 19 and is mourned by his mother and father. The depth of their pain cannot be imagined. And yet the military have stonewalled efforts by the police to investigate while pledging their full cooperation.

There have also been instances of blatant thuggery, as policing and security roles have become blurred. In June 2007, a civilian, Tevita Malasebe, was reportedly assaulted and died while in police detention. Human rights activists and other dissidents are subjected to intimidation. Who does one complain to or seek relief from when the Commission is compromised, and the courts are yet to pronounce on the legality of the military takeover of 5 December 2006?

Let me acknowledge that the level of abuse and degrading treatment is not on the scale as that inflicted elsewhere. But that is of little comfort or assurance to our citizens, men and women, who have been placed in harm's way.

One is reminded of John Donne's words, 'And every death diminishes me for I am part of the main'.

What is hard to forgive is the air of uncertainty, apprehension and fear that the increased profile of the military has created in our midst. The sense of helplessness in the face of the arbitrary power of the state, as deployed by the military, is a palpable reality.

At one level, the courts continue to function unfettered, as the interim Attorney-General would have us believe. The business of trying civil and criminal cases does indeed continue. At the same time, the acting Chief Justice, as *de facto* chair of the JSC, proceeds with appointments to both the magistracy and Bench.

The reappointment of Mr Justice John Byrne has not been widely publicized. A further two appointments have also allegedly been made but apparently kept *in pectoram*. Despite the fact he is an appointee under the present regime, the acting Chief Justice has allocated to Justice Byrne a case brought by the chair of the Bose Levu Vakaturaga (BLV) (the Great Council of Chiefs) challenging its recent suspension by the interim government.

In like vein, one may well question the decision by acting Chief Justice Gates to hear the case brought by ousted Prime Minister Qarase against the Commodore and the interim government.

Following the takeover of 5 December 2006, Fiji's Vice-President was 'removed' from office by the military. He was simply told to vacate both the position and his residence. Both the head of state and the deputy are appointed by the BLV,

a body that advises the government on matters concerning the welfare of indigenous Fijians.

Although the BLV met post 5 December 2006 and passed resolutions recommending a gradual return to democratic rule, the Commodore and the military ignored them. Finding his position increasingly untenable, the Vice-President tendered his resignation to the BLV on 26 January 2007. The BLV met on 11 April 2007 to appoint his successor. In such circumstances, the President makes a nomination and forwards it to the BLV for endorsement or otherwise. The process has hitherto been a formality.

On this occasion, the BLV rejected the nomination on the ground that the nominee was part of the interim government.

Angered by this decision, the latter suspended the BLV. While its reaction was understandable, the decision can only be characterised as a fit of pique. Whatever the motives or the reaction, the BLV was perfectly entitled to act as it did.

The FLS has not been as robust in its opposition as it was in 2000.

Then, it and the military were largely allies, although the former did attempt to abrogate the constitution and declined to reinstate the Chaudhry coalition government in accordance with the ruling in the Chandrika Prasad case.

There is a serious rift in the legal profession, which lends every appearance of not being independent.

Some senior lawyers tacitly support the military coup, driven to do so by their dislike of the ousted government and its policies. The legal profession has been found wanting and compromised. One of the two persons who visited the Chief Justice in January this year, and effectively caused him to be sent home, was a lawyer, admitted to the Bar and still practising.

The vice-president of the FLS was publicly admonished on national television by a former president of the society for telling Australian television viewers that the legal profession felt that the judiciary was compromised.

This has had the effect of confusing the general population. However, most lawyers are totally against the interim administration and are dismayed by the subtle but serious way in which the rule of law has been undermined.

Since 5 December 2006, the president of the FLS and other lawyers have had concerns about their personal safety. Two lawyers involved in the case against the interim government brought by the BLV were taken to the army barracks for questioning. In the weeks after the coup, a leading legal practitioner was treated similarly and, reportedly, assaulted in what was clear intimidation. In what may have been an unrelated incident, the house of Janet Mason, a New Zealand lawyer who was advising the Great Council of Chiefs, was burgled. She and her husband were, reportedly, assaulted at the time of the home invasion.

The FLS president, somewhat naively, allowed himself to be persuaded by initial reasoning that the 15 January 2007 session of the JSC (discussed above) was for purely administrative purposes.

The benefit of hindsight has proved otherwise. What must not be lost sight of is this: The opprobrium in which the previous government was held by some because of its affirmative action policies and ambivalence about 'rule of law' matters, in no way justifies or excuses the events of 5 December 2006.

It is a sad indictment on the legal profession in Fiji that it has been less than united in its position on the coup of December 2006. The commander and the military were emboldened in their actions by the succour they received from some of our number, as well as by well-intentioned members of civil society who welcomed the social objectives espoused by the military.

Parallels with totalitarian regimes were erroneously and extravagantly drawn to tarnish the ousted government and justify the military intervention.

The result was a bemused general population, perplexed over the legal arguments offered for and against the coup.

The world must know that things in Fiji are not normal, despite what the spin doctors and their apologists will tell you.

After the Fiji coup of December 2006, ousted Prime Minister Laisenia Qarase was effectively banished to his remote home island of Vanuabalavu in eastern Fiji until September 2007.

Despite having filed a legal challenge against his ouster and the legality of the current military administration, he was not been permitted to return to Fiji's capital Suva for many months. The judge presiding over the constitutional challenge, acting Chief Justice Gates, declined to make any order that the military not impede any attempt by Qarase to visit Suva. It is hard to explain why an administration which has the backing of the military would be apprehensive about allowing an unarmed individual back onto the mainland.

Some judges lend the appearance of not being independent and impartial. When aspersions are cast on the independence of the judiciary, it is cause for alarm.

Freedom of expression is severely curtailed. The media practises self-censorship, and many people are afraid to speak openly against the interim administration or to criticize it. Some of those who have done so have been summarily taken to the barracks. All have returned sullen and silent.

Peceli Kinivuwai, the acting national director of the SDL, (the political party headed by the deposed prime minister) was taken to the barracks for questioning many times during 2007. On one occasion, he was seen looking bruised on television the following night. As a result of the covert suppression of dissent, overnight a number of 'blogs', 'bloggers' and 'blogsites' have appeared. This

has allowed a free flow of ideas and kept alive, for those who have access, a large measure of freedom of conscience and expression. The military succeeded in shutting off completely one blogsite that vociferously criticized it and its backers.

Government-sponsored students at the University of the South Pacific have been warned that if they were caught blogging they would have their scholarships removed. On 3 June 2007, the vice-president of the FLS, Tupou Draunidalo, was prevented from leaving Fiji for the LAWASIA conference. She was told she was on a travel ban; this despite having been told by the head of immigration a few days earlier that she had the freedom to leave Fiji.

She returned home and negotiated with the authorities. She was eventually allowed to leave.

And yet the world and Fiji were advised that the six-month state of emergency that the country had been under had ended prior to these events.

Draunidalo has been particularly vocal against the coup and events in Fiji since December. It is not difficult to make the connection as to why she was stopped at the airport. At a special general meeting of the profession in February 2008, I made a short unremarkable statement along the lines that all coups, wherever they happened and whatever the circumstance, were wrong and illegal. A few days later, however short-lived, I was placed on a travel ban.

The country's 85-year-old President is being asked to promulgate new policies despite the fact that, under section 45 of the constitution, law-making powers are vested in a bicameral legislature of which he is the titular head. Earlier this year the President 'promulgated' a new law establishing a so-called Fiji Independent Commission Against Corruption (FICAC).

Esala Teleni, the deputy commander of the Fiji army, became deputy commissioner of FICAC, until he relinquished the position to instead become chief of police. The legality of that law is now under scrutiny before the courts. Even more worrying are reports that FICAC is apparently investigating homicides. Such crimes, in a normal democratic state, are ordinarily within the province of an independent police force.

Fiji's rulers do not have the mandate of the people. They do not have any proper legal basis or legitimacy. While the regime professes that the constitution of Fiji is intact and has not been abrogated, all the signs point to grave departures from constitutional procedures that are corroding the lawful and proper governance of Fiji.

To paraphrase Dame Sian Elias, while Fiji is ruled by rules, it is not ruled by law.

Tyranny, arbitrariness and spite have perverted the rule of law.



In future, the only effective protection for the rule of law, and indeed democracy, is a basic awareness by ordinary people of what the principle means, and how critical it is to their rights and their day-to-day existence.

So much so, that it may well demand the ultimate sacrifice, for history demonstrates that an ideal is far more hallowed when its *raison d'être* has been struggled for and defended.

The legal profession in Fiji has little to celebrate. If it is to consider itself worthy, it must redeem itself and reject the easier path of ambivalence, equivocation, silence and cowardice.

I again harken to the advice of Dame Sian: 'Law is a thinking profession'.

I extend an invitation to every 'thinking lawyer' of Fiji to join this glorious march towards freedom and democracy. Posterity will judge Fiji's lawyers – and whether or not, in the country's hour of need, they stood up for the rule of law.

In the aftermath of Fiji's coup, many of our friends have been perplexed, and wondered how and what assistance they could render, not just the profession but the country as a whole. Such well-intentioned sentiments are appreciated.

It reminds us that, in the struggle to uphold the rule of law, we are not alone. A word of advice. Fiji is a complex country. It has had four coups in 20 years. It has its fair share of failed politicians, troublemakers and opportunists. It is easy to be seduced by the charm and smiling faces, not to mention the beaches.

But the unsophisticated and untrained outsider who does not understand the political architecture of Fiji and the machinations of its politicians runs a real risk of stepping into the lion's den. I would respectfully suggest that this is a lesson that one ignores at one's peril.

## ENDNOTES

<sup>1</sup> This chapter draws on remarks made by the author at the 20th Biennial LAWASIA Conference, Hong Kong, 8 June 2007.

<sup>2</sup> Shameem, S. 'The Assumption of Executive Authority on December 5th 2006 by Commodore J. V. Bainimarama, Commander of the Republic of Fiji Military Forces: Legal, Constitutional and Human Rights Issues', 3 January 2007, available online at <http://www.humanrights.org.fj/publications/2007/Investigation%20Report%20on%20Events%20of%20December%202006.pdf>. ICERD stands for International Committee on the Elimination of Racial Discrimination.

<sup>3</sup> Justice Nazhat Shameem, Paper presented at a meeting of the International Commission of Jurists, Queensland Branch, 21 July 2004.

<sup>4</sup> *Koroi v Commissioner of Inland Revenue* [2001] FJHC 138; HBC0179.2001 (24 August 2001), High Court, Lautoka, available at: <http://www.pacii.org/cgi-bin/disp.pl/fj/cases/FJHC/2001/138.html?query=Koroi%20Inland>.

<sup>5</sup> *The Fiji Times*, 17 January 2007.



# 16. The erosion of judicial independence

**Graham Leung**

Fifteen months after the coup, Fiji is drifting inexorably towards the abyss. As every day goes by, new examples of the capricious and unprincipled assertion of power without authority emerge. The new status quo is the product of an equilibrium of fear – on the one hand, the people fear the instruments of power and being pressed into silence and, on the other hand, those who wield power in Fiji fear the light of any objective scrutiny and debate. As a result, the authorities have become habituated to the use of coercion and intimidation to control the free circulation of ideas and beliefs. Intimidation, coercion and oppression have become the working tools by which an unholy alliance of opportunists and miscreants is being maintained in power. The national conversation about the most important issue of the century has been silenced. The people fear the government and the government fears its own people. What has happened to Fiji, romanticized in happier times by its people as ‘The way the world should be’?

Over the past year or so, we have been given countless lectures on the need for good governance, accountability and transparency. The US State Department Country Report on Fiji for 2007 concluded ‘much government decision making was not transparent’. Fiji’s citizens have been denied the government they elected and must live in fear of that which has displaced it. They have been repeatedly told that ‘the Constitution is still intact’ and that it has not been abrogated. And yet the constitutional framework of government has been swept away and replaced by what amounts to a far from benign dictatorship. We have been reassured that the interim regime supports not just the rule of law, but the spirit behind it. And yet, our Court of Appeal judges have resigned *en masse*, our Chief Justice is summarily turned out of his office, and all the voices of protest and outrage within the country are silenced by the threat that they will be prosecuted as being racially intolerant or a danger to national security. It is appropriate to ask what has been the administration’s record, judged by its own standards? Do its actions match its rhetoric? Does it practice what it preaches? Or is this a case of ‘do as I say, not as I do’?

A few brief and far from definitive examples illustrate the point:

- Civilians who have questioned the regime have been variously described as liars, corrupt, opportunistic, power-hungry troublemakers bent on inciting

disaffection. Some have been arrested, assaulted, detained, humiliated and/or threatened by military personnel. Some have died.

- The right to dissent and freedom of expression is circumscribed.
- Most dissenters have been denigrated and harangued, often in expensive advertisements paid from the public purse. Others have been harassed and slapped with travel bans.
- The media has practiced self-censorship and been regularly criticized.
- In contrast, collaborators and sympathizers have been rewarded with appointments to seats on various government companies and boards.

The fiction that all that is being done is within the constitution is central to the moral claims of the interim government. It permits those responsible to cloak themselves in virtue. It is by this fiction that many have fallen into the conversationally convenient, but legally wrong, habit of referring to those responsible as a 'government'.

What we are effectively seeing is a re-writing of history. The 'victors' are sanitizing the record.

## Transparency

The architects of the 'People's Charter' call for a system of governance that is characterized by 'transparency and accountability'. Yet, on 17 September 2004, Fiji's highest appellate court, the Supreme Court, comprising the suspended Chief Justice, Justices Robert French and David Malcolm, confirmed a decision of the Court of Appeal that the Auditor General was legally required to audit the regimental funds.<sup>1</sup> For his part, the commander – and now interim prime minister – Commodore Bainimarama was legally required to allow the Auditor General access for audit purposes to the records and accounts of the regimental funds. There has been no credible evidence that, as a result of the Supreme Court's decision, the regimental funds have been opened for scrutiny by the Auditor General.

The deaths in military custody of Nimilote Verebasaga and Sakiusa Rabaka are now before the courts, but only after the civil authorities were prevailed upon to act. There was only grudging and reluctant cooperation from the military itself. Is this just a continuation of past practice? The brutal killing of Counter Revolutionary Warfare Unit (CRWU) soldiers in military custody in late 2000 remains uninvestigated and the perpetrators have not been prosecuted. Is this the measure of reassurance ordinary citizens can expect from an institution that has made much of its security role? It cannot prescribe accountability and openness for others and not expect to have that standard applied to itself. This is not about pointing fingers or casting blame on anyone. It is about taking responsibility for the alleged wrongdoing of its members, as a result of which families have experienced trauma and tragedy.

Even governments are accountable under the law. It has been several centuries since the prosecution and subsequent conviction and execution of King Charles I in 1649 for treason established the principle that even an absolute monarch must bend to parliament and the law. But in 2008, in Fiji, it seems that those who are driving the country have little or no regard for the law and none at all for parliament. It may be argued that the ousted government was little better. Perhaps that is true. But it does not excuse.

## Threats to judicial independence

At a conference of government lawyers in 2007, the Commodore brushed aside allegations that the judiciary had been compromised and said: 'Many such allegations come from the very lawyers who have the most to lose from an independent judiciary'. He then went on to say 'We must preserve the true independence of our judiciary and help make it stronger'.<sup>2</sup> But events before and since that conference have shown that judicial independence has been steadily weakened.

What the Commodore failed to say is that some of the country's most senior judges have themselves pointed to serious threats to the independence of the judiciary and the effective administration of justice. In a statement issued on 3 September 2007, a senior judge of the Court of Appeal, Sir Thomas Eichelbaum, issued a statement on behalf of Justices Barker, Ford, McPherson, Penlington and Smellie saying that 'Justice Gates had taken the administration of the Court out of their hands. He had not consulted them about the sittings held last week and had not even had the courtesy to ask about their availability'. The judges felt that their services were not required and so they resigned. Earlier this year, Justice Roger Coventry resigned from the High Court Bench, bringing to at least ten the number of judges who have left Fiji since December 2006. For a relatively small judiciary, in a small country, that is a remarkable number to depart over such a short period. When the judges themselves start 'voting with their feet' and complaining about the undermining of judicial independence, it is hardly a show of confidence in the judiciary and the direction it is taking. Are they, too, to be accused of playing politics or of being manipulated? Can their determination to defend their judicial independence be somehow dismissed as unimportant?

The Commodore has accused lawyers of 'judge-shopping'. But the same standards did not, apparently, apply to supporters of the military regime. In a confidential letter dated 10 September 2007, the military-appointed commissioner of police complained to the Secretary for Justice and Solicitor General that 'adverse reports have been received against Justice Winter and Justice Jitoko for engaging in talks against the RFMF [Republic of Fiji Military Forces]....It would be appreciated in the interest of justice that no cases related or associated with RFMF or its members be presided over by these two judges'. Coming from the

head of the police force, the commissioner's letter was even more brazen because it could be construed as amounting to a conspiracy to defeat justice. That was at least the view of Justice Winter, who felt at the time that the Penal Code had been broken by the Commissioner himself. What this incident also revealed was that the independence of the police had been compromised. This is hardly surprising given that its head was the second-in-command of the army at the time that it seized power in the December 2006 coup.

The judges criticized were never given an opportunity to defend themselves against the scurrilous allegations which the commissioner assumed to be factual. Justice Winter said at the time, 'The Police Commissioner's action may also constitute a real risk to the authority and independence of the court'. Ironically, in the light of the Commodore's remarks, the commissioner was himself effectively engaging in judge-shopping.

The acting Chief Justice has made no public effort to defend the judges criticized. Nor did the interim Attorney-General stand up to defend 'his' judges. Justice Winter has since resigned. This is to be contrasted with the Attorney-General's swift defence of Justice Scutt when she was the brunt of public criticism after controversially applauding a Fiji Human Rights Commission report casting doubt on the results of the 2006 general election. The Attorney-General was reported to have said that criticism of Scutt was not based on principle but on a personal and political agenda. Owing to the protection of powerful political patrons, judge Scutt felt able to make statements of a politically partisan and controversial nature. Although she was publicly pilloried for this indiscretion, she remains on Fiji's High Court.

There is an increasing perception that some elements in the judiciary think that judges are beyond criticism. At an admission ceremony for new lawyers in February 2008, Mr Justice Devendra Pathik said:

It is a matter of great concern that of recent [sic] the suing of Judges has become a trend. Is it the idea to grind the judicial system to a halt? The Courts will not allow that to happen. Authorities going back to 1880s do not allow that when a Judge is performing his duty. There is such a concept as 'judicial immunity' and legal practitioners should know that if they know their law well.

The judge was referring to a recent recusal application that he had dismissed. To suggest there was a 'trend' of such cases was perhaps an overstatement. But the comment illustrates just how sensitive some judges are to the suggestion they disqualify themselves from hearing a suit.

At a time when the country's parliament has been suspended and the media is under constant siege, there is a more onerous duty cast upon the judiciary to

protect the citizenry against the tyranny of the State, and to uphold fundamental rights and freedoms.

Mr Fali Nariman, a respected senior advocate of the Supreme Court of India, recently applauded two Indian judges who he referred to as having indulged in some loud introspection and criticism. These judges were reported as saying, 'Judges must have modesty and humility and not behave like Emperors'.

Mr Nariman concludes his article by saying:

No – we don't need judges who behave like emperors.

What we do need are those:

whom the lust of office does not kill;

whom the spoils of office cannot buy;

who possess opinions and a will;

who have honour; and will not lie;

who can stand before a demagogue

and damn his treacherous flatteries without winking;

tall men (and women), sun-crowned, who live above the fog

in public duty and in private thinking.<sup>3</sup>

There is little question that lawyers have a professional obligation to respect the dignity of the courts. But that does not place judges above fair and measured criticism. It is all too easy to forget that, although judges interpret the law, they are not above it.

But what do outsiders think of Fiji's judiciary? Michael Field, a seasoned journalist who has long followed events in Fiji, had this to say:

The Fiji court system is actually dominated by hard working ethical judges and some of them are even known to excuse themselves from cases where unconstitutional process is under way. But others, motivated by their own role in the coup and self interest, seem willing not only to risk their own reputations, but that of the entire Fiji judiciary.<sup>4</sup>

## **Blurring of functions**

In February 2008 it was reported on national television that a private law firm, A.K. Lawyers, acting for a limited liability company, had written to the RFMF seeking assistance in enforcing a court order in their client's favour. However well intentioned, the purported use of the military to enforce a court order was misguided and inappropriate. There are established procedures for enforcing judgments of the court. Invoking the help of the army is not one of them. Incidents such as this have merely added to the corrosion of the rule of law by

circumventing judicial procedures, and wrongly conveying to the military that they might have a role to play in enforcement proceedings. The blurring of the policing and military roles has contributed to a perception that the law enforcement agencies in the country are not independent.

## Freedom of expression

Over the last year or so, persons like Pramod Rae, Ro Teimumu Kepa, Mick Beddoes, Shamima Ali, Reverend Tuikilakila Waqairatu, Kuini Lutua and many others who have expressed opinions on the current situation or commented on various issues, including the policies of the current administration, have been publicly vilified by the interim administration and its lackeys. The US State Department Country Report on Fiji for 2007 noted that, while the constitution provides for freedom of speech and of the press, 'the government did not fully respect these rights in practice'.<sup>5</sup> Recently, John Ryder, a member of the Provincial Youth Forum, was taken in by military officers for questioning. His 'crime' was trying to organize a youth rally. The police scuttled the rally, saying it would be threat to national security: Never mind the right to freedom of expression and assembly enshrined in articles 31 and 32 of the constitution. And yet the administration insists that the constitution is alive and has not been abrogated.

What is conveniently overlooked is that it is that same constitution which guarantees the right of assembly and free speech and the equality of all (including government) before the law. The right of free speech includes the right to criticize as well as to praise, to applaud as well as to condemn. It includes the right to be unpopular, wrong, irrational, illogical and even perverse. The National Council for Building a Better Fiji calls for a 'sustainable democracy', yet one of the fundamental freedoms, the right to free speech – and thus a free media – is under constant threat. The right of equality before the law is the right to hold a government to the same standards it seeks to impose on its citizens – to insist on due process and an impartial judiciary. These rights have all but disappeared.

Sir Gerard Brennan, a former Chief Justice of Australia, has remarked:

The right to peaceful dissent is not merely something to be tolerated. It is an important safeguard of peace and order; it is a feature of a free society under the rule of law. Subject to the ordinary laws governing the limits of free speech, restriction on the freedom to dissent or to contribute fairly to political discussion is an impairment to the rule of law.<sup>6</sup>

It is difficult to see how 'true democracy' can be promoted when one of its basic tenets, free speech, is regularly curtailed.



Too often in Fiji, the rhetoric of 'threats to national security' has been in the mouths of those with a motive to suppress and oppress and an interest in maintaining silence, however sullen, in the face of wrongdoing.

## **Accountability**

The London-based International Bar Association (IBA), comprising more than 195 law associations from around the world, had planned a March 2008 mission to assess the independence of the judiciary in Fiji. Despite the organization's assurance to the regime that they would not impinge in any way through pressure or influence on the courts, the administration's chief apologist accused the IBA of 'being manipulated by powerful elite'. A regime that has lectured the country *ad nauseam* on the need for good governance, transparency and accountability refused to apply the same standards to itself. The IBA mission would have been an excellent opportunity for the regime to demonstrate just how independent the Fiji judiciary is. The suggestion that the IBA might interfere with ongoing constitutional cases, was a little far-fetched. It is almost as ridiculous as suggesting that the environmental organization Greenpeace would participate in the killing of whales.

Delegates of the proposed IBA mission included a senior judge from Queensland and senior legal practitioners from the Asia-Pacific region and beyond. Reacting to the government's 'ban' on the mission, Supreme Court judge Roslyn Atkinson, who was to be a member of the mission, said, 'I hope that they reconsider and allow the visit to proceed in the interests of openness and accountability'. What the regime's paranoia about external oversight showed was a fear that respected jurists, who had conducted missions to Zimbabwe, Pakistan and Guantanamo Bay, might discover the real situation on the ground. Perhaps the simple truth would have been unpalatable. At the time of writing, the interim administration has apparently had a change of heart and agreed to allow the IBA to visit Fiji.

## **Attack on press freedom**

Another pillar of democratic governance, press freedom, has been under assault from the interim regime. The regime managed to grab the headlines in Fiji and overseas for the cruel and callous manner in which it abducted and deported Russell Hunter, the publisher of the *Fiji Sun* in February 2008. What happened was typical of a police state. No due process was followed. Mr Hunter was picked up from his home in Suva at night and taken away by a group of people who, Mr Hunter suspects, included representatives of the army. His abductors did not even allow him time to pack a suitcase, or put some money in his pocket. They confiscated his mobile phone, thus leaving his fearful family wondering about his fate.

Apart from the more sinister aspects of this incident, there was a decided lack of transparency and accountability in the manner in which the newspaper

publisher was bundled out of Fiji. In fact, there was no transparency, and no accountability.

The persecution of Mr Hunter followed disclosures by his newspaper relating to allegations of tax evasion by interim Minister for Finance Mr Chaudhry, and large overseas deposits held by him.

The Media Council of Fiji and many international media organizations strongly deplored the treatment given to Mr Hunter. The local council asked whether or not other foreign media persons would be dealt with in this way.<sup>7</sup> It asked what would happen when a local journalist did whatever Mr Hunter was supposed to have done. Would he or she be incarcerated?

### **Excluding the courts' jurisdiction**

Russell Hunter was expelled despite a court order against this. The interim minister for immigration refused to elaborate on the reasons for Hunter's deportation. Instead, he sought refuge behind a cloak of secrecy, on the ground of national security. There was a decided lack of transparency and accountability in the manner in which the newspaper publisher was bundled out of Fiji.

On the back of Hunter's expulsion in late February, the regime changed the law to allow such expulsions, and to deny the victims legal redress. In an extraordinary edition of the gazette, published on 26 February 2008, it was stated that decisions of the Minister for Immigration under section 13(2) of the Immigration Act 2002 [*sic*] 'shall be final and conclusive and shall not be questioned or reviewed in any court'. The section sets out a category of persons who are described as a 'prohibited class'; a category that includes persons in respect of whom a deportation order has been made. The new 'law' sought to 'oust the jurisdiction' of the courts. In lay terms, the amendment prevents the courts from questioning the exercise of ministerial power vested in the immigration minister. This questionable law removes the normal checks and balances designed to ensure that the State is acting according to proper legal procedures. It puts the minister's actions beyond judicial scrutiny. In an environment in which it is said the constitution has not been abrogated, one may well ask 'how can this be possible?'

What was even more disturbing was that the law was backdated by a day. Even, assuming that a military regime in a caretaker mode can, through a compliant President, make new law, this attempt at preventing the courts from their traditional function of 'checking' governmental or executive action is a further example of the gradual and continued undermining of the rule of law. This back-dating was clearly calculated to legalize the forced removal from Fiji of a specific individual and is, on this account if no other, contrary to the most fundamental of principles of constitutional law.

Sir Gerard Brennan says:

If the rule of law is to apply universally, the jurisdiction of the courts to judicially review an exercise of administrative power is essential. To the extent that the courts are denied jurisdiction to review judicially an exercise of administrative power, the power is beyond control by operation of law. If the courts are denied jurisdiction to enforce the law governing the exercise of power, the repository of the power can refuse to obey the law with impunity and the rule of law is negated.<sup>8</sup>

## Double standards

Addressing the Pacific Islands Business Forum in August 2007, Commodore Bainimarama said, 'To tackle corruption, strong and committed leadership is required'. He then quoted from the former Prime Minister of Singapore, Lee Kuan Yew, who had said:

The moment key leaders are less than incorruptible, less than stern in demanding high standards, from that moment the structure of administrative integrity will weaken and eventually crumble...Only when we uphold the integrity of the administration, can the economy work in a way which enables (us) to clearly see the nexus between hard work and high rewards...instead of hoping for a windfall through powerful friends and relatives or through greasing contacts in the right places.<sup>9</sup>

No one would disagree with the Commodore's endorsement of Lee Kuan Yew's views on corruption. They are noble principles worthy of emulation. The real question which must be asked is whether or not the interim administration is keeping to the lofty principles so eloquently articulated by the Commodore. The taxpayers of Fiji are entitled to ask whether or not he has demanded of his ministers the high standards he says he espouses and which he expects of other citizens.

Respected prosecutor Peter Ridgway, no friend of the ousted government, said in a recent interview that Fiji had become 'filled with a thousand little treasons being committed on a daily basis, by police, military, people in power'.<sup>10</sup> A slight exaggeration perhaps, but the message is clear. In light of the emerging and known facts, who can disagree with his rather sobering assessment of events in post-coup Fiji? But then maybe Ridgway is lying? Or is he just another expatriate troublemaker? It is hard not to conclude, despite all the spin, that the grave departures from constitutionalism that I alluded to in a speech in Hong Kong in June last year continue. More likely they have intensified.

## ENDNOTES

- <sup>1</sup> *Commander, Republic of Fiji Military Forces v Auditor General*, Supreme Court of Fiji, 17 September 2004
- <sup>2</sup> Bainimarama, 'Address at the 9th Attorney General's Conference 2007', 30 November 2007, [http://www.fiji.gov.fj/publish/page\\_10719.shtml](http://www.fiji.gov.fj/publish/page_10719.shtml).
- <sup>3</sup> *Journal of the Commonwealth Lawyers Association* Vol. 17, No.1 April 2008, p.26.
- <sup>4</sup> Michael Field, 'Ethics, media, kidneys and Bainimarama's perversions', 27 February 2008, <http://www.michaelfield.org/Baini%20ethics.htm>.
- <sup>5</sup> <http://www.state.gov/g/drl/rls/hrrpt/2007/100520.htm>.
- <sup>6</sup> The Hon. Sir Gerard Brennan AC KBE, 'The Role of the Legal profession in the Rule of Law', Supreme Court, Brisbane, 31 August 2007, available [www.lawcouncil.asn.au/shared/2441848483.pdf](http://www.lawcouncil.asn.au/shared/2441848483.pdf).
- <sup>7</sup> Indeed, in May 2008, the publisher of *The Fiji Times*, Fiji's largest circulation newspaper, Australian Evan Hannah, was similarly deported, despite orders from the High Court restraining the expulsion, and hours after interim Prime Minister Bainimarama had delivered an address honouring World Media Freedom Day.
- <sup>8</sup> The Hon. Sir Gerard Brennan AC KBE, 'The Role of the Legal profession in the Rule of Law', Supreme Court, Brisbane, 31 August 2007, available at [www.lawcouncil.asn.au/shared/2441848483.pdf](http://www.lawcouncil.asn.au/shared/2441848483.pdf) p.13.
- <sup>9</sup> Bainimarama, 'Opening Address at Pacific Islands Business Forum', Radisson Resort Fiji, Denarau, 6 August 2007, [http://www.fiji.gov.fj/publish/page\\_9704.shtml](http://www.fiji.gov.fj/publish/page_9704.shtml).
- <sup>10</sup> Peter Ridgway, interviewed on 'Fiji's Faltering Freedoms', ABC, *The Law Report*, 4 March 2008, <http://www.abc.net.au/rn/lawreport/stories/2008/2177850.htm>.

# 17. The rule of law and judicial independence amidst the coups and attempted coups in Fiji since 1987

## Tupou Draunidalo

The purported ‘coup’ or rebellion<sup>1</sup> of 5 December 2006 had a major impact on the Fiji judiciary, and the rule of law. But it did not come out of the blue. The judicial schisms that were exposed in early 2007 followed a pattern established much earlier, in the wake of the 1987 and 2000 coups. This chapter examines those earlier events, showing how they shaped the legal fraternity in Fiji and set the stage for the late 2006 crisis.

When Lieutenant Colonel Sitiveni Ligamamada Rabuka and the Fiji Military Forces entered the parliament of Fiji with arms on 14 May 1987 to remove from office the recently elected prime minister and cabinet, the rule of law in Fiji faced its biggest challenge since Fiji was ceded to Britain in 1874. A High Court judge who heard the news of the coup while he was hearing a case is reported to have adjourned his court immediately and, upon rising to his feet, told the court ‘God Save the Queen’. It is fair to surmise that the judge’s words were metaphorical for ‘God save the rule of law’ or ‘God save the common law’ – that which was transported to Fiji from England by the Queen’s men in 1874.

Twenty years, one coup and three attempted coups later the judge’s lament could not be more fitting. After May 1987 the deposed prime minister and his colleagues filed proceedings in the High Court of Fiji, challenging their removal from office. Before the High Court could rule on the legality of the removal, Rabuka removed the Governor General and abrogated the 1970 constitution. Some judges resigned from the High Court; some magistrates from the magistracy. They resigned as they felt they could no longer hold appointments in a situation where the supreme law of the land was being assaulted by armed revolutionaries. After this exodus of judges and magistrates, the new regime appointed replacements.

Members of the Fiji Law Society (FLS) were vocal in their opposition to the coup. Some refused to socialize or work in courts presided over by judges appointed by the regime. A number were harassed and imprisoned for their efforts. With the passage of time and firm control of the government by the military, a new, 1990, constitution was promulgated by the first President of the new republic.

A general election was held in 1992 and the coalition parties that had been deposed from power in 1987 contested under the new, raced-based constitution.

Rabuka (now Brigadier General) led the indigenous-based political party, *Soqosoqo ni Vakatulewa ni Taukei* (SVT), to victory. To many, it appeared as though the revolution that had begun on 14 May 1987 had been successful. The two legal prerequisites of 'effective control' and, 'acquiescence' appeared to have been met, and the legitimacy of the new order had been sealed by the general election.

In 1997, the parliamentary leaders of the two main communities in Fiji, then prime minister Rabuka and Jai Ram Reddy, after many months of negotiations, brokered a new multiracial constitution; it was unanimously passed by parliament as the supreme law of the land. It was a historic occasion – full of hope and optimism. Unfortunately, the 1997 constitution received a baptism of fire in the events leading up to, during and after the 1999 general election. Both Rabuka and Reddy suffered a heavy defeat at the polls. Fiji Labour Party (FLP) leader Mahendra Chaudhry emerged triumphant and became prime minister. But Chaudhry has never shown the necessary understanding of the indigenous psyche to evade political trouble; and deputy PM Adi Kuini Vuikaba Speed, the leader of the Fijian Association Party – the largest indigenous parliamentary party following the 1999 polls – was enduring persistent health problems and internal party dissension over her moderate politics. On 19 May 2000, George Speight (with the assistance of seven members of a specially trained unit within the Republic of Fiji Military Forces (RFMF)) entered the House of Representatives and held government members hostage for fifty six days.

That event opened an ugly phase in Fiji's political history. After the hostages were released and Speight and his supporters arrested, the new order (and, by association, the legitimation of the removal of the elected government) was consolidated in law by:

- the President of Fiji, Ratu Iloilo, who scheduled early elections for August 2001;
- the commander of the RFMF, Commodore Bainimarama, who swore on an affidavit that he could not guarantee national security if the People's Coalition government was returned to power; and
- Mahendra Chaudhry, who told the President he wanted to go to the polls rather than risk a vote of no confidence in a recalled House of Representatives.

Days after Speight had attempted to overthrow the elected government and the 1997 constitution, a judge of the High Court, Ratu Joni Madraiwiwi, and two magistrates resigned – amidst allegations that the Chief Justice and two other judges of the High Court had drafted decrees to replace the 1997 constitution to assist Commodore Bainimarama and to 'save the state' from the hostage-takers inside parliament. The allegations were made by two other judges of the High Court, Justices Nazhat Shameem and Anthony Gates, and supported by the FLS led by its president, Mr Chen Bunn Young. The FLS and the accused judges exchanged heated correspondence. Some members of the FLS were banned from

appearing before the judges who had allegedly assisted in drafting the military's post-coup decrees.

For their part, the judges against whom the allegations were made strenuously and consistently denied the allegations. No official complaint was ever made to the Judicial Services Commission. No tribunal was convened or evidence tendered to support the allegations. On the contrary, the Judicial Services Commission – under the 1997 constitution and after the 2001 general election – appointed one of the accused judges (Mr Justice Fatiaki, as he then was) to succeed the retiring Chief Justice.

The details of the fraught relationship between some judges of the High Court since May 2000 are part of the public record. In *Citizens Constitutional Forum v President [2001] FJHC 28* ('CCF Case'), His Lordship Mr Justice Fatiaki opened his ruling on an application that he remove himself from the matter for apprehended bias by saying:

It is my unpleasant duty to rule on this interlocutory application by the applicants seeking my disqualification from further hearing this matter on the ground of bias. I say unpleasant advisedly firstly because of the very nature of the application which places me in somewhat of an invidious position; and secondly, because of the unprecedented spectacle of me being confronted with the affidavits of two (2) serving colleagues on the bench.

In this Notice of Motion filed on 30.4.2001 counsel for the applicants seeks an order or declaration that I am 'automatically disqualified from hearing or adjudicating upon the matters raised in the applicant's Originating Summons' alternatively, that '... in all the circumstances of the case ... I disqualify myself ...'

The grounds advanced in the Motion are as follows:

- (1) that I have 'common cause' with H.E. the current President in the issues raised by the applicants such as to automatically disqualify me from continuing any further with this case;
- (2) that I have 'effectively prejudged the same or closely related issues' as those raised in the applicant's substantive Originating Summons such that 'any reasonable bystander would entertain a well-founded apprehension of possible bias on my part';
- (3) that the first applicant the CCF has called on H.E. the President 'to institute an inquiry into my conduct with a view to my removal from office' and this is reason enough for the CCF to apprehend possible bias on my part in determining the case;

(4) that 'in light of all the facts and circumstances' deposed in the affidavits filed in support of this Motion I should disqualify myself 'in order to maintain public confidence and that of the applicant's in the eventual decision on the substantive application'.

In my view grounds (3) & (4) as framed, are not proper grounds for the application, rather, both refer to specific and general evidential matters placed before me to consider in my ruling on grounds (1) & (2). Be that as it may counsel candidly admitted that ground (4) was a 'catch-all' ground. It was not addressed in any meaningful way and I do not propose to deal separately with it in this ruling.<sup>2</sup>

Amongst the affidavits urging the Chief Justice to remove himself were two from High Court judges John Edward Byrne and Nazhat Shameem. Despite his criticism of the litigation, Justice Fatiaki did recommend the appointment of another judge:

... consonant with what might be considered an excess of caution on my part, and mindful of the applicants deposed belief (however misguided) that I might unconsciously succumb to the human temptation to exact revenge for their calls for an enquiry with a view to my removal, I have decided to take the exceptional step of referring the file back to the Chief Justice for reassignment to another judge for the hearing of the substantive Originating Summons as he sees fit.<sup>3</sup>

Another case, four years later, also indicates the bitter schisms that became hallmarks of Fiji's judiciary in the wake of the 2000 coup. In 2005, Justice Nazhat Shameem applied to the Supreme Court to intervene in an appeal brought by Ratu Rakuita Vakalalabure. Ratu Rakuita had been found guilty by assessors of treason-related offences stemming from the 2000 coup. Justice Shameem had sentenced Ratu Rakuita. Ratu Rakuita appealed. One of the three judges scheduled to preside in the appeal case, Justice French, fell ill shortly before the case was heard and Chief Justice Fatiaki appointed Mr Justice Scott in his place. At this juncture Justice Shameem applied to intervene in the hope that Justice Scott might be replaced. The Supreme Court summarized its ruling as follows:

The Supreme Court today published its reasons for refusing the application of Madam Justice Shameem to intervene in the pending proceedings of Ratu Rakuita Vakalalabure v The State ... Shameem J argued that the level of hostility between Scott JA and herself was such that Scott JA would be biased in determining the appeal, which challenged on legal grounds the conviction and sentence she had handed down at the trial ... A differently constituted Supreme Court has ruled that Shameem J does not have any right to intervene in the Supreme



Court proceedings; and that it is inappropriate for leave to be given to her for that purpose.<sup>4</sup>

The ruling detailed the animosity prevailing between the two judges:

On behalf of the applicant [Shameem], it was submitted that Scott JA was automatically disqualified from sitting on the appeal from Shameem J because of his “past and ongoing implacable hostility and animosity” towards her. That submission was supported by reference to one matter, in particular, that emerged from the affidavit sworn by Shameem J on 19 October 2005. It concerned a letter dated 29 January 2003 written by Scott JA to the Chief Justice in which he advised that he would not be attending a judges’ retreat scheduled for February 2003. He explained that the events of May 2000, and subsequent months, had resulted in a very serious split in the judiciary. He said that in his opinion three judges, Byrne, Shameem and Gates JJ “were guilty of grave misconduct” which resulted in the judiciary in general, and himself in particular, having been brought into disrepute. He said that as a result he had had no social dealings for the past two years with the three judges.<sup>5</sup>

A third indication of the way frictions among senior judges influenced critical court cases in the wake of the 2000 coup is given in *Ratu Inoke Takiveikata v The State*.<sup>6</sup> The appellant was a traditional high chief of a large province in Fiji (Naitasiri) and he was tried in the High Court, with Justice Gates presiding, for inciting mutiny in November 2000, an event linked to the coup earlier in that year. The assessors found the accused guilty on a number of counts and not guilty on other counts. Mr Justice Gates overruled the assessors and convicted the accused on all counts and sentenced him to life imprisonment. In the wake of that conviction, Mr and Mrs Brodie approached the lawyers of the accused to advise that, at the beginning of the trial of the accused, the couple had met Mr Justice Gates at a cocktail function and, in the course of exchanging pleasantries, the judge had told the couple that he would ‘put [the accused] away’. The lawyers filed their appeal papers, narrowing in on the ‘bias’ or pre-judgment of the accused by Mr Justice Gates. The Brodies and the judge deposed affidavits for the appeal and they were all examined and cross-examined. By the time the Court of Appeal sat to deliberate on this case, the military had executed its 2006 coup, Chief Justice Fatiaki had been suspended, and Justice Gates had been elevated to Chief Justice (in a manner described below). Judges on the Court of Appeal declared their intention to resign, unwilling as they were to serve under a military-installed Chief Justice. However, before departing, in an astonishing ruling, they found that the Brodies’ account of what transpired was accurate, and that Gates was biased. They upheld the appeal, ordered a new trial, and provided that Ratu Inoke Takiveikata be released.

These divisions in the judiciary, born out of the upheavals of 2000, reached their climax in the forced removal of Chief Justice Fatiaki from his chambers on 4 January 2007 following the 5 December 2006 rebellion. Eleven days later, on 15 January 2007, the military-appointed interim Attorney-General purported to convene a meeting of the Judicial Services Commission to appoint an 'acting Chief Justice'. That meeting was chaired by Justice Nazhat Shameem. It appointed Justice Anthony Gates as acting Chief Justice. The then president of the Fiji Law Society attended the purported meeting and was the only constitutional member of the Judicial Services Commission present. The other two constitutional members of the Commission, the chair of the Public Service Commission and the Chief Justice, had both been forcibly removed from office by the military.

In March 2007, the association of lawyers for the Asia Pacific region, LAWASIA, sent an observer mission to Fiji to report on the status of the rule of law and the judiciary after the December 2006 rebellion and the forced removal of the Chief Justice by military personnel. The mission interviewed a cross-section of stakeholders, including the military and civilian usurpers, various judges and lawyers. The mission published its observations and recommendations, which included the comment that, 'members of the legal profession must be entitled to speak openly about all of these issues without the fear of intimidation by the military'.<sup>7</sup>

Notwithstanding, two lawyers for a statutory body suspended by the military were taken to the army camps for questioning and I, as vice-president of the Fiji Law Society, was committed for contempt proceedings by the usurper Attorney-General Aiyaz Sayed-Khaiyum for discussing notorious facts regarding the state of the judiciary.

In addition, prior to the visit by the LAWASIA mission, a critic of the regime and, the senior partner at the biggest law firm in Fiji, Mr Richard Naidu, was abducted from his home by soldiers (in full view of his wife and young children) and taken to an unknown location where he was assaulted for some hours.

The LAWASIA mission's report also stated, 'the rule of law in Fiji may be compromised by the on-going uncertainty as to the status and future of the suspended Chief Justice Fatiaki and the on-going public perception right or wrong, that the judiciary is politicized and divided'.<sup>8</sup> Nevertheless, the Chief Justice remained suspended. The Tribunal looking into allegations of misconduct against the Chief Justice was itself adjourned to allow the courts to determine the validity of its own establishment.

There are other signs that the military-backed interim regime has flouted the rule of law and rejected scrutiny by other respected international legal organizations. In February 2008 the International Bar Association arranged to send a mission to Fiji; it was refused entry by the usurpers. The regime has also

rejected a request from the UN Special Rapporteur on the Independence of Judges and Lawyers for an observer mission to Fiji.

At a dinner hosted by the Council of the Fiji Law Society for the visiting LAWASIA mission, one of the LAWASIA delegates confided that he could not fathom how the judiciary in Fiji managed to operate in the post-2000 atmosphere of animosity and venom. Other delegates agreed, saying that in their combined years of legal practice they had never encountered such dysfunction in their various jurisdictions.

The FLS fought the removal of the Chief Justice and challenged the constitutional validity of the purported meeting of the Judicial Services Commission convened to appoint the new acting Chief Justice. As the then vice-president, I am proud to say that the FLS took action against both decisions, and stood firmly for the rule of law. There were differences of opinion amongst FLS members but the majority maintained their principles despite attack from the military regime. Nevertheless, some, mostly senior, members, refrained from supporting this stance out of caution, fear, opportunism or support for the December 2006 rebellion.

A Judicial Review of the activities of the Judicial Services Commission in the wake of the 2006 coup is, at the time of writing, before the courts, and delays in proceedings have sparked further public feuds between the president of the FLS and the usurper Attorney-General. The opinion of three overseas senior counsels is that the purported meeting was not convened lawfully. The military regime refused to allow the entry into Fiji of the FLS' counsel of choice, Dr John Cameron, a breach of the FLS' constitutional right. Dr Cameron had been a magistrate in Fiji until the September coup of 1987; he has been a long-time resident and been adopted by an indigenous land-owning unit. Earlier, Dr Cameron had conducted many proceedings against the post-1987 coup regime for the benefit of victims of that coup (including the deposed prime minister, Dr Timoci Bavadra, and his colleagues).

In June 2007, the former president of the FLS, Mr Graham Leung, presented the issues currently affecting the rule of law and judiciary in Fiji to the 50th anniversary LAWASIA conference in Hong Kong. He pointed out that what distinguished the 2006 coup from those in 1987 and 2000 'was the extent to which senior members of the Bench and Bar appear to have been complicit, either before the event or subsequently'. Mr Leung also made comment about the Judicial Services Commission's appointment of an acting Chief Justice:

It was at that meeting [purported meeting], that the Judicial Services Commission ['JSC'], as constituted, purported to appoint Mr Justice Anthony Gates as Acting Chief Justice. The fact he had apparently been consulted in advance and that Justice Shameem had obtained an opinion

justifying her chairing of the JSC indicates a measure of prior knowledge.<sup>9</sup>

As a result of the purported JSC meeting – all expatriate judges of the Court of Appeal and High Court of Fiji either resigned, did not renew their contracts, or terminated their contract. One of those judges, the Honourable Mr Justice Roger Coventry, at the beginning of his farewell speech to members of the Fiji Law Society in December 2007 said:

It is with great sadness that I stand here this evening. If there could be some other course consistent with principle whereby I could to stay then I would take it. I regret there is not.<sup>10</sup>

His Lordship continued:

In the latter part of last year came the resignation of the entire panel of the Court of Appeal. The reasons they gave were clear and understandable. Whilst legally the system may continue, it is an unsatisfactory state of affairs.<sup>11</sup>

His Lordship ended by reminding the very many lawyers present at his farewell that ‘acquiescence [to usurpers] is the friend of illegality’.

Prior to the resignation of the Court of Appeal panel, the usurper Attorney-General made scathing remarks against the retiring president of the Fiji Court of Appeal, the Honourable Mr Justice Gordon Ward at the 50th anniversary LAWASIA meeting.

Not long after His Lordship refused to renew his contract his private home at Pacific Harbour near the capital Suva was burnt to the ground, investigations into the fire are continuing.

The regime imposed punitive measures on members of the FLS who were vocal dissenters against the military regime and critics of the purported JSC meeting.

Very early in their rebellion, the regime announced that it would withdraw all government work from two prominent private law firms (Munro Leys and Howards).

Overseas travel bans were imposed on Graham Leung. Other violations of human rights have been experienced by senior lawyers. Mr Leung has complained about computer hacking and tapped telephones at his law firm.

As vice-president of the FLS, I also had my share of trouble with the authorities, associated with both my work for the society and for clients opposed to the military regime. This included questioning by police on complaints of sedition, a ban on overseas travel and committal proceedings for contempt of court. On 20 November 2007, the court allowed the applicant to withdraw the proceeding. The following passage is extracted from the first paragraph of His Lordship’s

ruling, three weeks later, on the state's application for leave to appeal his judgment and orders:

On 20<sup>th</sup> November 2007 I gave my 'Ruling Upon Application to Discontinue Action and Costs'. Leave was granted for the applicant to withdraw the proceedings. Assessed indemnity costs in the sum of \$20,000 (Twenty Thousand Dollars) were awarded against the applicant. In essence I found that that Attorney General had been irresponsible in bringing the proceeding, they were brought for an ulterior purpose and that it was "beyond understanding how the Attorney General could put Ms. Draunidalo at risk of imprisonment and fine for words she uttered when he himself had used far stronger words only a few days earlier" about the President of the Court of Appeal.<sup>12</sup>

In December 2007, the leader of the 2006 rebellion, Commodore Bainimarama, attacked the members of the legal profession while speaking at the annual Attorney-General's conference. He alleged that the profession failed to properly regulate itself, indulged in 'judge-shopping', and had many unethical members. The FLS president rebuffed him.

At present, the Court of Appeal is comprised entirely of persons associated with, or appointed by, the purported Judicial Services Commission.

In October 2007 Mr Justice Davendra Pathik struck out an application by one Angenette Melania Heffernan for Mr Justice Pathik to recuse himself from hearing the substantive matter. In the matter, Ms Heffernan sought the adjudication of her applications by a judge not having any association whatsoever with the purported meeting of the Judicial Services Commission on 15 January 2007.<sup>13</sup> The respondents in the matter were Messrs Justices Byrne and Gates and, the usurper Attorney-General and, it should be noted that the appointments of Messrs Justices Pathik, Byrne and Gates are all before the High Court of Fiji *inter alia* the Fiji Law Society Judicial Review questioning the constitutional validity of the purported meeting of the Judicial Services Commission.

In striking out the application for recusal, Mr Justice Pathik ruled that lawyers and the public in general should not question the appointment of judges nor the acts and decisions of persons appointed as judges, as judges enjoy immunity from such proceedings.<sup>14</sup> The FLS has recently decided to intervene as *amicus* in the related constitutional redress case, and any appeal from that decision. The rulings in the matter from Messrs Justices Pathik and Hickie<sup>15</sup> (as single judge of Court of Appeal) speak for themselves.

The constitutional case brought by the deposed government was heard by three adjudicators appointed by the same JSC whose composition is under challenge before the courts. The panel comprises Justice Gates, Byrne and Pathik. At the time of writing, the country awaits the decision of that panel to determine the

legal status of the December 2006 rebellion, the fate of the government elected in May 2006, and, more broadly, the future of our evolving and fragile democracy. Some of Fiji's lawyers and judges have shown great wisdom and courage during the last twenty years. Others have not. If the challenges ahead are to be met, the legal profession must, in the words of Graham Leung, 'redeem itself and reject the easier path of ambivalence, equivocation, silence and cowardice'.<sup>16</sup>

## ENDNOTES

<sup>1</sup> As the perpetrators of the December 2006 events claim that the constitution has not been abrogated, and that it remains intact, I use the term rebellion rather than coup in this paper.

<sup>2</sup> *Citizens Constitutional Forum v President [2001]* FJHC 28

<sup>3</sup> *Citizens Constitutional Forum v President [2001]*

<sup>4</sup> *Vakalalabure v State [2006]* FJSC 3; CAV0003U.2004S (1 May 2006)

<sup>5</sup> *Vakalalabure v State [2006]*

<sup>6</sup> Criminal Appeal No AAU065 of 2004.

<sup>7</sup> Report of visit to Fiji by LAWASIA Observer Mission, 25–28 March 2007, LAWASIA, Secretariat GPO Box 980 Brisbane Qld Australia 4001.

<sup>8</sup> Report of visit to Fiji by LAWASIA Observer Mission, 25–28 March 2007

<sup>9</sup> Speech by Mr Graham Leung, Former President of the Fiji Law Society at the 50th Anniversary of LAWASIA, Hong Kong, June, 2007. Reproduced as Chapter 15, this volume.

<sup>10</sup> Written Farewell Speech of His Lordship Mr Justice Roger Coventry at the Tanoa Plaza, December, 2007.

<sup>11</sup> Written Farewell Speech of His Lordship Mr Justice Roger Coventry.

<sup>12</sup> Miscellaneous Action No. 0053 of 2007, High Court of Fiji at Suva, Civil Jurisdiction

<sup>13</sup> *Angenette Melania Heffernan v John Edward Byrne & Ors*, Civil Action HBM 105 of 2007; I declare that I have at various intervals appeared for the Applicant Ms. Angenette Heffernan.

<sup>14</sup> *Angenette Melania Heffernan v John Edward Byrne & Ors*, Civil Action HBM 105 of 2007

<sup>15</sup> *Angenette Melania Heffernan v John Edward Byrne & Ors*, Civil Appeal ABU 34 of 2007

<sup>16</sup> *Angenette Melania Heffernan v John Edward Byrne & Ors*, Civil Appeal ABU 34 of 2007, p.9.

# 18. The coup d'état and the Fiji Human Rights Commission

**Noel Cox**

The report of the Fiji Human Rights Commission ('the Commission'), 'The Assumption of Executive Authority on December 5th 2006 by Commodore J.V. Bainimarama, Commander of the Republic of Fiji Military Forces: Legal, Constitutional and Human Rights Issues', is a remarkable apology for the military regime in Fiji. There are two elements in it that lead to this conclusion. The first (which has two parts) is the assertion that:

The RFMF overthrew an illegally constituted, unconstitutional Government which was acting against the public interest in violation of public security and public safety protections in the Constitution.<sup>1</sup>

This amounts not only to a condemnation of the previous (civilian) government as illegal, but also to an endorsement of a political role for the Republic of Fiji Military Forces (RFMF). The second element is the assertion that the overthrow of the government was not merely in the interests of the country, but was legal, under the doctrine of necessity.

Both of these arguments are contentious. The first because it is not the role of the military to act as a political arbiter – it is for the courts to decide if a government acts improperly or illegally (or indeed is illegally or irregularly constituted); the second because, while the doctrine of necessity provides limited legal justification for certain acts in defence of the constitutional order or the stability of a country, it does not allow for military coups against *de facto* or *de jure* governments.

The failure of the Commission to criticise the coup – indeed its endorsement of it – is a dangerous development in an already difficult situation fraught with risk to the future stability of civil society. If the Commission cannot bring itself to champion the paramouncy of the rule of law, and instead encourages the military to adopt an active political role, then the constitution of the country is in serious, and probably long-term, trouble.

## **Background**

While the origins of the 2000 coup can be traced to the 1987 coups, the circumstances of the 2006 coup are relatively clear.<sup>2</sup> In the words of the Commission's report:

In December 2006 the Commander of the Republic of the Fiji Military Forces, Commodore J. V. Bainimarama, announced that he had assumed executive authority of Fiji, President of Fiji, and declared a State of Emergency. He advised that the country would, in the meantime, be run by a military council, but the ministries would continue to function under their respective Chief Executive Officers.<sup>3</sup>

The situation was criticized overseas and in Fiji, and the Commission issued its report largely in response to requests for advice from those unsure of the legal status of the military coup.<sup>4</sup>

In response to a the number of requests from members of the public, on 4 January 2007 the Commission's director, Dr Shaista Shameem, issued a paper outlining the Commission's view of the legality of the Commodore's actions. The Commission's stance is apparently in favour of 'security, defence and well being'<sup>5</sup> at the expense of constitutional orthodoxy or legitimacy. But whether or not this army-imposed stability can be maintained in the longer term, in the absence of respect for the rule of law, is unclear. The history of Fiji since 1987 suggests that it may not be possible.

It is curious that the coup should be categorized by the Commission as a 'constitutional re-arrangement'.<sup>6</sup> While the Commission reflects only one viewpoint, it is a statutory body, and its pronouncements will have influence within Fiji, if not abroad. The Commission should have made it clear that the constitutional order cannot be so readily changed, even if the doctrine of necessity does legitimate otherwise illegal emergency action. Admittedly, it does note that a constitution may not easily be abrogated, but it too readily allows the military the discretion to overrule – or overthrow – the civil government. It concentrates on the positive role the military is expected to play:

For constitutional bodies such as the Commission, the military currently exercises effective authority in Fiji. The RFMF is now reportedly set on a course to destroy corruption, introduce good governance and accountability, and prepare the country for census and elections. The Commission will monitor the process by which this is being done through the appropriate provisions of the Constitution.<sup>7</sup>

Good governance should begin at the top – and include allegiance to the principles of the rule of law, which includes the subordination of the military to the civil authority. So, what did the Commission have to say about the legality of the commander's actions in terms of necessity, civil government, emergency action and the role of the military?



## Necessity

The assumption of power by the military was justified by the commander of the RFMF on the basis of the doctrine of necessity. There may have been some evidence of irregular or illegal actions by the government but, rather than condemning the military putsch as illegal, the Commission backed it as justified. In doing so it relied on a novel application of the doctrine of necessity:

The Commander cited the doctrine of 'Necessity' as expressed in the Fiji cases of the *State v Chandrika Prasad*, *Yabaki v The President*, and the Pakistani case of *Musharaf*. In these cases the courts established the parameters within which 'duty of necessity' could be invoked by the person de facto or de jure claiming to exercise the 'reserve' power of the head of state or sovereign.<sup>8</sup>

'Necessity' is the necessity for the action of governmental authorities – not for one of the uniformed bodies of the State – to overthrow the legitimate political organs of the State. In this case, the 'exercise [of] the 'reserve' power of the head of state or sovereign' was by the armed forces commander, in declaring a state of emergency, temporarily assuming the office of President, and establishing a *de facto* military regime. It is scarcely credible that action on this scale could be justified under the doctrine of necessity, in any circumstances.

Events in 2006 were similar to those in 1987, when an illusion of constitutionality had also been invoked by the then Lieutenant Colonel Sitiveni Rabuka, third-ranking officer in the RFMF, as he rebelled against his senior officers and imprisoned them and other political opponents. Because the Governor-General remained in office and Rabuka, initially at least, wished to use him in order to give at least some patina of legitimacy to his actions, subsequent legal action focused upon the Governor-General's action in dismissing the government.

In accordance with the wording usual in modern Commonwealth constitutions, s 72 (1) of the Fiji Constitution of 1970 stated that '[t]he executive authority of Fiji is vested in Her Majesty'.<sup>9</sup> Under s72 (2), that authority might generally 'be exercised on behalf of Her Majesty by the Governor General'. However, neither powers conferred by the Constitution nor the implied emergency powers gave legal validity to the Governor-General's action of 19 May 1987,<sup>10</sup> which involved dissolving parliament and declaring all ministerial offices vacant.<sup>11</sup> This was done on the initiative of the Lieutenant Colonel.

As the Governor-General was bound to dissolve parliament only on the advice of the prime minister,<sup>12</sup> the dissolution would be invalid unless covered by the emergency prerogative or the necessity doctrine. Because the Fijian constitution itself precluded relying on the emergency prerogative for this purpose;<sup>13</sup> the second – the doctrine of necessity – had to be relied on. A merely *de facto* dissolution<sup>14</sup> by the Governor-General, in excess of his power, might still be

legally effective to bring a parliament to an end.<sup>15</sup> But arguments of legality masked the true situation, which was that the director of operations of the RFMF had seized power and was manipulating the legitimate civilian authorities through force, the threat of force, and spurious quasi-legal arguments of ‘necessity’. In reality it was a simple case of military dominance; the civil government – including the Governor-General – was powerless to stand in its way (and many of the political elite were secretly or openly supportive of the objectives of the coup leader).

The 2000 coup, and that in December 2006, reflected a similar approach to governance: Political intervention by the commander of the RFMF to remove a government of which he didn’t approve, behind the camouflage of legality.

Neither the 1997 constitution nor general principles of constitutional law, permit the armed forces to assume executive authority in such a manner. Martial law is the suspension of normal law. When this is done by the military acting at the behest of the civil authorities, justified by extreme circumstances, it is regrettable but not illegal.<sup>16</sup> But the current situation is not merely martial law; it is the military deliberately supplanting the civil government. It is without the consent of political leaders, and indeed against their wishes, and is therefore nothing less than a military coup. In no foreseeable circumstances can the military abrogate the constitution, or flout its provisions in such a manner – and purporting to assume the powers of president, and appointing a new prime minister, amounts to the *de facto* suspension or abrogation of the constitution. Whether or not it is also *de jure* is a matter only time (and the courts) can tell.

## **The claimed illegality of civil government**

The Commission’s basis for the claimed ‘necessity’ was that the military had to intervene to dismiss a government that was itself illegal:

We come to the conclusion then, that the use of ‘duty of necessity’ in 2001 by the President, Ratu J. Iloilo, himself a 2001 appointee of the Council of Chiefs, was unconstitutional given, as the Court of Appeal said, the circumscribed circumstances in which that duty can be used. If that decision was unconstitutional, so were the subsequent events: the appointment of the caretaker Prime Minister to dissolve Parliament; the appointment of another caretaker Prime Minister, Laisenia Qarase; and the holding of the 2001 elections.<sup>17</sup>

It is worrying that the Commission would deny to the prime minister the right to rely on ‘necessity’, and yet to allow this, in a much broader set of circumstances, to the commander of the RFMF. The military has no right to act independently, except in the most extreme circumstances, such as the entire absence of the civil government. Even if the post-2001 government had been irregularly appointed, that would be for the courts to decide, not the military.

The argument followed by the Commission traces the purported illegality of the government and includes the 2006 election:

The elections of 2001 were therefore based, not on an extra-constitutional duty of necessity, but on a series of executive decisions that were pronounced, albeit obiter, by the Court of Appeal as unconstitutional. The validity or legitimacy of the 2001 elections is therefore questionable. For 5 years, from 2001 to 2005, the Government of Laisenia Qarase, after elections, proceeded to rule on the basis of an act that was unconstitutional.<sup>18</sup>

Technical illegality would indeed be a serious matter, but the government was generally accepted as the *de facto* government of Fiji – and most regarded it as the *de jure* government also. It is one thing for the leader of a military coup to attempt to justify his actions by criticizing the legitimacy of the government he has overthrown – but for the Commission to do so is deeply disturbing.

## Emergency action

There can be no doubt that the power of a head of state, under even a written constitution, extends by implication to executive acts. It also extends to legislative acts taken temporarily (that is, until confirmed, varied or disallowed by the lawful legislature) to preserve the constitution, even though the constitution itself contains no express warrant for them.<sup>19</sup>

This principle has been applied in Grenada, where the Governor General's powers in this respect were approved by the Grenada Court of Appeal.<sup>20</sup> This limited necessity doctrine has also been applied in Canada, to validate a body of legislation which had been unconstitutionally enacted.<sup>21</sup> The essence of the emergency powers is that they implicitly enable the executive authority to act to preserve or restore the constitution where it is under revolutionary attack or otherwise in crisis.<sup>22</sup>

But rather than acting to bolster the constitutional government, the RFMF undermined it – and was supported in this by the Commission, which also criticized the role of the Great Council of Chiefs (GCC), the body which, *inter alia*, appoints the President:

The GCC, as the appointing authority of the President, also acted illegally in instructing the President to summon the new Parliament. In fact, in March 2001, the legal Government of Fiji was still the Labour Government. The subsequent acts by the executive appointing body, the executive, the appointment of two Caretaker Prime Ministers, dissolution of Parliament and the holding of new elections were all illegally facilitated.<sup>23</sup>

The Commission did its best to impugn the previous regime:

During the course of its first five year term, the Qarase Government did everything in its power to undermine the Constitution, especially the entrenched Bill of Rights. It expanded beyond reason all the limitation clauses in the Bill of Rights provisions, especially those in section 38, to justify its anti-human rights and discriminatory policies.<sup>24</sup>

The Commission is entitled to criticize the actions of previous governments. But emergency action by government agencies is only justified in exceptional circumstances, and the effective overthrow of a civilian government would rarely be justified or justifiable, unless the 'government' were clearly neither the *de jure* government, nor an effective *de facto* government. The military exists to serve the civilian government, not the other way around.

### **A permanent political role for the military?**

What may be seen as the most serious problem highlighted by the Commission's report, but which may not be confined – indeed is not confined – to the Commission, is the view of the constitutional and political role of the military. The Commission begins by observing that:

... the Constitutional position of the military has never really been articulated since 1990 and a question could have easily been referred to the Supreme Court for its opinion to avert potential public security threats. Certainly the Human Rights Commission saw the military's role as expressed in section 94 of the 1990 Constitution and imported into section 112 of the 1997 Constitution as being of constitutional interest. Section 94 (3) of the 1990 Constitution states: 'It shall be the overall responsibility of the Republic of the Fiji Military Forces to ensure at all times the security, defence and well being of Fiji and its peoples'.<sup>25</sup>

This is effectively adopting the argument used at times in Latin America and elsewhere, where repeated military coups were launched 'for the good of the country'. Section 94 cannot be read to allow the RFMF to overthrow a civil government, even if that government might be irregular in some manner, or even acting improperly. It is for the courts, not the military, to decide the legality or otherwise of a government.

That is not to say that the doctrine of necessity has no role to play. The Court of Appeal of Fiji, in *Republic of Fiji v Prasad*<sup>26</sup> quoted with approval Professor F. M. Brookfield's *Waitangi and Indigenous Rights Revolution, Law and Legitimation*:

The courts, then, are under a duty to uphold the legal order of which they are part. But in doing so they may sometimes recognize as valid emergency action taken by the executive government or its armed forces

which would be unlawful in normal circumstances but which is justified in times of extreme crisis by the principle of necessity ...<sup>27</sup>

The court's duty to uphold the legal order is qualified by other manifestations of the necessity principle, one of which, as recognized by the courts in some modern cases under written constitutions, has allowed temporary and strictly limited deviations from the constitution for the express purpose of safeguarding it, or for preserving the rule of law. Although the quote above refers to 'action taken by the executive government *or its armed forces*', there is a presumption that any action by the forces would be on the initiative, or with the consent, of the government – not directly opposed to it. The doctrine of necessity cannot be used to justify a military coup against the duly constituted government of the land.

It is only under an extraordinary and frightening situation that the military can take unilateral and illegal action on its own initiative. It is unclear that such a situation prevailed in Fiji in 2006. The onus is on the military to show that such action was necessary – and a mere assertion of 'necessity' is not sufficient justification for overthrowing an apparently lawfully appointed government. The Commission was disappointing in its analysis of the situation:

It is now apparent that the 2006 elections were not held in compliance with the Constitution. This finding questions the legitimacy of the result, and whether the rights of the voters were protected in accordance with sections 55 and 56 of the Constitution. It is doubtful that the Qarase Government was elected in compliance with the relevant provisions of the 1997 Constitution. The question of whether the Qarase Government was democratically elected is therefore also significant.<sup>28</sup>

Irregularity (if such there be) may mean that the government was illegal in a technical sense, but it was still the *de facto* (if not *de jure*) government. The assumption of power by the military is even more irregular, and it is unsatisfactory for the Commission to suggest that this is a 'more lawful' action. This rather absurd conclusion seems to have derived from an inadequate reading of case law, but also, more dangerously, from a rather naive approach to the principles of the rule of law. This is manifested in the following quote from the Commission's report:

What the Commander overthrew on December 2006 was not the legitimate and democratically elected Government of Fiji. Only an accurate assessment of boundaries based on up-to-date Census would be able to determine if any Government is the constitutional Government of Fiji. Therefore, whether there is an illegality or legality associated with the Commander overthrowing a Government which was elected

unconstitutionally and therefore illegally, may be a matter for the courts.<sup>29</sup>

The Commission returned to its attacks on the deposed government:

The Qarase Government was involved in massive violations of human rights in Fiji, constituting crimes against humanity, and made serious attempts to impose ethnic cleansing tactics in Fiji. The Commission attempted to thwart such inroads into constitutionality by a combination of persuasion and warnings, but ultimately, its funding was reduced, and even foreign government funding politicized by adverse reports on the Commission's investigations and analysis of Government's abuse of human rights and fundamental freedoms.<sup>30</sup>

Whatever the validity of such sweeping claims – which, if true, ought to have brought the opprobrium of the Commission upon the government at an earlier stage – it is followed by an incorrect view of the legality of the actions of the military.

The question of legality of the military takeover was unclear from the very beginning. There were a number of extra-constitutional principles invoked by the Commander in undertaking his 'clean-up'. The fact that he 'cleaned up' an unconstitutionally elected Government whose *raison d'être* from 2001–2006 was to make every attempt to sweep the Constitution aside at every opportunity and to impose policies and legislation which would have constituted a crime against humanity according to international law would be a consideration in any determination of legality in this case.<sup>31</sup>

Not only does this statement contain remarkable and contentious claims, especially with respect to international law, but also the Commission's report reflects an unsatisfactory understanding of the limits of the doctrine of necessity, and the role of the military:

The doctrine of necessity invoked by the Commander has not so far had the effect of abrogating the 1997 Constitution of Fiji, though some warnings have been given that it could be abrogated. The Commander had, on the first day of his takeover, declared a State of Emergency. Chapter 14 of the Constitution sets out provisions to be followed under a state of emergency. This Chapter allows Parliament to make a law conferring power on the President, acting on the advice of the Cabinet, to proclaim a state of emergency.<sup>32</sup>

Since the Republic of Fiji Military Forces (RFMF) commander was neither the president nor acting on the advice of the cabinet this was irregular – though not necessarily wholly illegal and void, if other factors existed to justify it. But the

report continues to reflect a curious belief that the commander of the RFMF has the legal power to change the law:

To date, the 1997 Constitution remains intact, but the reality is that the limitation clauses in the Bill of Rights provisions are more visible. The Commander announced on December 17th that he would consider abrogating the Constitution if that was the only way to obtain immunity for the actions of the RFMF on December 5 2006. This led many people to suggest ways to avoid abrogation since most want the Constitution retained. The view of the people is that the Bill of Rights provisions must remain. The Human Rights Commission would look very carefully at any amendments proposed to the Bill of Rights to ensure compliance with the spirit of the Constitution.<sup>33</sup>

It must be remembered that it is not easy to abrogate a Constitution that people have given to themselves, pursuant to the Preamble in the 1997 Constitution. The case of Chandrika Prasad, which the Commission prepared for solicitors for Prasad, is evidence of the difficulty with which constitutions can be removed.<sup>34</sup>

This view might be described as interestingly naive if it were not so serious. The Commission seems happy to condone the actions of the military while condemning those of the civil government. Members of the military are the servants, not simply of the political regime, but of the state, though they receive their orders from the political leadership. It is scarcely conceivable that the military, as an agency of the state, can have the power to abrogate the constitution. Force may render a constitution effectively abrogated, and the courts may well hold that this has occurred, but there should be no presumption that the military has a right to abrogate the constitution at will.

The Commission's report went further, and attacked Australia and New Zealand:

Upon hearing this New Zealand reaction in the news media, the Human Rights Commission staff telephoned contacts in New Zealand in an attempt to ask its Prime Minister to listen to different advice by sending envoys with a more accurate sense of reality and deeper understanding of the position of everyone in Fiji, though this did not transpire. She continued to make statements in the press which, inevitably, were ignored by the Commander. The Australian reaction was equally savage. Such reactions from Australia and New Zealand limited their ability to monitor, assist or play any role whatsoever to improve the situation.<sup>35</sup>

The essence of this comment seems to be a grievance that other countries have not acquiesced in the arguably illegal action of the Fijian military. It is possible that there may be practical or even legal justification for the commander of the armed forces to assume the executive authority of head of state, declare a state

of emergency, and proceed to run the country through a military council; but the probability is otherwise, and the onus is on the military to justify their actions – a justification that would be met with healthy scepticism from home and abroad.

Ironically, the Commission accused others of misreading the situation in Fiji:

The complete misreading of the situation, perhaps based on unreliable NGO information, assisted in producing ill-timed reactions and un-diplomatic language which made matters worse for the ordinary people of Fiji during the weeks leading up to and including the military takeover on December 5<sup>th</sup>. Such reactions and interventionist policy fostered a deterioration of the human rights situation in Fiji between Christmas Eve and Boxing Day.<sup>36</sup>

The political situation might have been misunderstood – and this paper does not consider that aspect of the situation – but constitutionally the situation is sufficiently clear.

Since 1987 there has been a growing tendency in Fiji to view the RFMF as a permanent part of the political scene. This is to embark upon a slippery slope from which recovery is hard. It is doubly hard when the risks are apparently not recognized by the statutory body charged with protecting human rights in the country. It is scarcely an exaggeration to say that the Commission's report is worrying and irresponsible in its support for a politically active military.

Further, there is a suggestion by the Commission that censorship and the enforced politicization of non-governmental organizations (NGOs) would be desirable. 'The role of the NGOs in being able to disseminate accurate information to their donors must be reviewed.'<sup>37</sup>

There is an endorsement by the Commission of the paramountcy of human rights – but this is coupled with an unusual interpretation of the constitution:

The Human Rights Commission continues to emphasise that human rights considerations are paramount and the military has been reminded a number of times that the Bill of Rights binds all levels of the State, including public officials. While 'duty of necessity' was invoked to dismiss the Government after allowing the Commander to 'step into the shoes' of the President, this duty must continue to be exercised pursuant to section 94 of the 1990 Constitution and section 112 of the 1997 Constitution. The principles of 'duty of necessity' established by Gates J in the Chandrika Prasad case is relevant in this respect and should be considered carefully. The duty is to uphold the Constitution and respect the rights and welfare of citizens is a fundamental duty which the military has undertaken to respect.<sup>38</sup>



This shows a serious misunderstanding of the role of the military. Further paragraphs in the report reinforce this impression:

The second issue is the new role in which the military finds itself in Fiji. In fact it is not a new role as the idea is provided for in the 1990 Constitution. Section 94 of the 1990 Constitution certainly envisaged an interventionist role for the military but, judging by the recent reaction of one of the Constitutional Review Commission members to the crisis, his original intention, (whether or not shared by everyone else on the Commission) may not have been to see the military in this way, given its history in looking after the welfare of only certain interests to the exclusion of others. Nevertheless, judging from the military's actions from 2001, it has increasingly regarded itself as being able to protect national interests. This means that the military sees itself as being able to exercise force for the public good. This is anathema to those who see a militarized society as objectionable and reflects some of the hesitation of the members of the public, in a hangover from the Cold War years, to accept an army to look after the good of all.<sup>39</sup>

and:

The RFMF has the capacity to invoke certain human rights and welfare powers under section 94 of the 1990 Constitution and section 112 of the 1997 Constitution Amendment Act.<sup>40</sup>

While some of those involved with drafting the 1990 constitution may have felt that s 94 gave the military some degree of independence, it is unwise to read ss 94 and 112 in this manner, and also highly dangerous. The Commission is itself arguably encouraging the development (if, indeed, it needs any encouragement, in a country that has had four coups since 1987) of the 'coup cycle', by giving support to the military, whose leaders could indeed be charged with high treason.

The Commission even goes so far as to suggest that the military should have a stronger institutional involvement in politics:

But there should be no vagueness about the expression of duty and responsibility of a military in the public domain. The Constitution should expressly state the agreed duty of the military, for example importing section 94 (3) of the 1990 Constitution into section 112 of the 1997 Constitution. An example of how this could be exercised is in exactly the way the RFMF mobilized to provide water to people who had gone without for days, the resolution of the Emperor Gold Mine issues for the workers, stopping armed home invasions, and so on. On the other hand, the military could itself become more knowledgeable [sic] about governance and politics, so that its force is seen to be exercised for the people rather than against them as Fiji has experienced in the past.<sup>41</sup>

This suggestion by the Commission would give the military *carte blanche* to intervene from time-to-time, as it sees fit, and transform it from being the military servant of the state to a political organ effectively at least co-equal with parliament, cabinet and the President; almost an authority of final appeal, like the Supreme Leader in Iran. The Commission elaborates on the 'limits' it envisaged for such an arrangement:

Since it has the constitutional power to ensure security and protect people, the military does not act unlawfully as long as it keeps to this objective. In view of the rampant abuse of power, privilege, illegalities and wastage of wealth of the Qarase regime, as well as its proposed discriminatory legislation which, if enacted, would have constituted a 'crime against humanity' under the International Law Commission's definition, and limited scope for an immediate judicial solution, there appear to be few options remaining to protect the people of Fiji from an illegal, unconstitutional, anti-human rights, and despotic regime. The Qarase Government relied on majoritarianism, and collaboration with some powerful members of the international community including close neighbours as well as some NGOs, to shield its extensive human rights violations in Fiji from scrutiny.<sup>42</sup>

It is probably reasonable to expect the military to intervene in the event of an 'illegal, unconstitutional, anti-human rights, and despotic regime', but it is questionable that the Qarase government amounted to this. It is beyond the scope of this paper to discuss whether or not the actions of the Qarase government might have constituted a 'crime against humanity', but such a claim is *prima facie* improbable. To allow the military oversight of the actions of government in the manner proposed by the Commission is highly irregular, and a rejection of the principles of the rule of law – ironic given the great reliance placed on the ostensible legality of the military's actions.

## The rule of law

While the acquisition of power may be legitimated by the passage of time, by election, treaty or similar action, the subsequent conduct of a regime must also conform to appropriate standards to maintain that legitimacy. This constitutional principle, which is part of the concept of the rule of law, is based upon the practice of liberal democracies of the Western world.<sup>43</sup> It means that what is done officially must be done in accordance with law.<sup>44</sup> In Europe, where an entrenched constitution is the touchstone for legitimacy of government,<sup>45</sup> there might be a general grant of power to the executive, and a bill of rights to protect the individual.

In the British tradition, and in those countries that derive from it, public authorities must point to a specific authority to act as they do.<sup>46</sup> In some respects,

the government in such a system has little more inherent formal authority than do individuals.<sup>47</sup> The State sees itself as the source of both law and power; legality prevails.<sup>48</sup> Thus, the emphasis lies on formal, objective, laws rather than subjective justice. Procedure rather than substance dominates. In Fiji since 1987, there have been some 'upheavals', but the courts recognized the re-establishment of constitutionality with the adoption of the 1997 constitution. All subsequent actions by the organs of the State should be in accordance with the *Grundnorm* thus established. The unilateral action of the military is not consistent with that standard. This gives the courts, not the civil or military servants of the state, the arbitral role.

This is done not merely because the courts operate in a neutral and dispassionate manner, but because the proper application of legal principles requires skill and training. As Sir Edward Coke, Lord Chief Justice of the Court of Common Pleas, said in *Prohibitions del Roy*, almost 400 years ago:

... causes which concern the life, or inheritance, or goods or fortunes of his subjects, are not to be decided by natural reason, but by artificial reason and judgment of law, which law is an art which requires long study and experience, before that a man can attain to the cognizance of it. The law is the golden met-wand and measure to try the causes of the subjects; and which protected His Majesty in safety and peace.<sup>49</sup>

Neither ministers, nor the president – and certainly not the commander of the RFMF – can unilaterally decide what action is legal and what is illegal.

Much of the legitimacy of a political system derives from the impartiality and objectivity with which it is administered.<sup>50</sup> Thus, the very exercise of authority legitimates that authority.

Dicey defined rule of law to encompass the liberty of the individual, equality before the law, and freedom from arbitrary government.<sup>51</sup> The scope of the concept is however rather fluid. As Joseph observed, it includes such meanings as government according to law; the adjudicative ideal of common law jurisdictions; a minimum of state intervention and administrative power. It also includes the need for fixed and predictable rules of law controlling government action; standards of common decency and fair play in public life; and the 'fullest possible provision by the community of the conditions that enable the individual to develop into a morally and intellectually responsible person'. It also includes the principles of freedom, equality, and democracy.<sup>52</sup>

Most writers now distance themselves from Dicey, and believe that his ideas of the rule of law should be subject to reappraisal.<sup>53</sup> But the subjugation of the military to the control of the civil government is a principle that has long been established in Commonwealth jurisprudence. To allow – nay, to encourage – the armed forces of a country to assume a political oversight role, is highly

dangerous and a retrograde step. It is depressing that a statutory human rights body could advocate such an approach, and a warning to the rest of the Commonwealth. The precise nature of democracy, and 'majoritarianism' (used in the report almost as it were something to be avoided) may be negotiable in Fiji, but without adherence to the principle of government according to law, then the country is in danger of declining into lawlessness.

The specious use of legal arguments to justify what is actually a military coup is not helpful, and no statutory body, least of all a human rights commission, ought to give support to such action. If the Commission will not take a stand in favour of the rule of law, then it is up to the legal profession collectively, and its members individually, to do so.

## Conclusion

One can understand the realpolitik motive for wanting to ensure strong and stable government, but for the Fiji Human Rights Commission to recognize – and indeed encourage – a political oversight role for the military is imprudent, as experience in Latin America and elsewhere has shown. Condemnation of a government for its actions is one thing, but to encourage the military to adopt the role of final arbiter is fraught with dangers.

The military owes its allegiance to the duly constituted civil authorities, and it is not for the armed forces to question the actions of the political leadership, or to purport to sit in judgement upon them. In an environment of the increasing politicization of the military, the actions of Commodore Bainimarama are not particularly surprising. But for the Commission to back the military is a serious blow for the long-term development not merely of democracy, but of the rule of law, in Fiji. It remains to the legal profession to educate the population – and perhaps most importantly, the military and political leadership – on questions of basic constitutional principles.

## ENDNOTES

<sup>1</sup> Fiji Human Rights Commission, 'The Assumption of Executive Authority on December 5th 2006 by Commodore J.V. Bainimarama, Commander of the Republic of Fiji Military Forces: Legal, Constitutional and Human Rights Issues' (Fiji Human Rights Commission, Suva, 2007), p.31 [hereafter "Fiji Human Rights Commission"].

<sup>2</sup> For a discussion of the origins of the 2000 coup, see, Cox, N. 2001. 'Republic of Fiji v Prasad: A military government on trial', *New Zealand Armed Forces Law Review* 5–9.

<sup>3</sup> Fiji Human Rights Commission, p. 1.

<sup>4</sup> From the original 1987 coup onward the extent to which legal arguments have been used to provide colour of right to what would, in most countries be instantly dismissed as illegal, has been remarkable.

<sup>5</sup> s 94 of the 1990 constitution and imported into s 112 of the 1997 constitution.

<sup>6</sup> Fiji Human Rights Commission, p. 28.

<sup>7</sup> Fiji Human Rights Commission, p. 28.

<sup>8</sup> Fiji Human Rights Commission, p. 2.

<sup>9</sup> Fiji Independence Act 1970, Fiji Independence Order 1970.

- <sup>10</sup> Fiji Royal Gazette, vol. 114, No 38, of that day.
- <sup>11</sup> Brookfield, F.M. 1998. 'The Fiji revolution of 1987', New Zealand Law Journal 250–56, 251.
- <sup>12</sup> s70 (1).
- <sup>13</sup> Attorney-General v De Keyser's Royal Hotel [1920] AC 508.
- <sup>14</sup> Victoria v The Commonwealth (1975) 134 CLR 81, 120, 178.
- <sup>15</sup> F. M. Brookfield, F.M. 'The Fiji revolution of 1987'.
- <sup>16</sup> The Crown can exercise powers not specifically conferred upon it to preserve constitutional order, as in Grenada in 1983, and Fiji in 1987; *Mitchell v Director of Public Prosecutions* [1986] LRC (Const) 35; Smart, P. St. J. 1986. 'Revolution, Constitution and the Commonwealth: Grenada', *International and Comparative Law Quarterly* 950.
- <sup>17</sup> Fiji Human Rights Commission, p. 4.
- <sup>18</sup> Fiji Human Rights Commission, p. 4.
- <sup>19</sup> Brookfield, F.M. 1988. 'The Fiji revolution of 1987'.
- <sup>20</sup> *Mitchell v Director of Public Prosecutions* [1986] LRC (Const) 35; [1987] LRC (Const) 127; Smart, P. St. J. 1986. 'Revolution, Constitution and the Commonwealth: Grenada.
- <sup>21</sup> Reference Re Language Rights under the Manitoba Act 1870 (1985) 19 DLR (4th) 1 (SCC).
- <sup>22</sup> Brookfield, F.M. 1988. 'The Fiji revolution of 1987'.
- <sup>23</sup> Fiji Human Rights Commission, p.5.
- <sup>24</sup> Fiji Human Rights Commission, p.5.
- <sup>25</sup> Fiji Human Rights Commission, p.6.
- <sup>26</sup> *Republic of Fiji Islands v Prasad* [2001] FJCA 2; [2001] NZAR 385 [Court of Appeal of Fiji].
- <sup>27</sup> Auckland University Press, Auckland, 1999, p.20.
- <sup>28</sup> Fiji Human Rights Commission, p.10.
- <sup>29</sup> Fiji Human Rights Commission, p.10.
- <sup>30</sup> Fiji Human Rights Commission, p.15.
- <sup>31</sup> Fiji Human Rights Commission, p.16.
- <sup>32</sup> Fiji Human Rights Commission, p.17.
- <sup>33</sup> Fiji Human Rights Commission, p.21.
- <sup>34</sup> Fiji Human Rights Commission, p.21.
- <sup>35</sup> Fiji Human Rights Commission, p.25.
- <sup>36</sup> Fiji Human Rights Commission, p.26.
- <sup>37</sup> Fiji Human Rights Commission, p.26.
- <sup>38</sup> Fiji Human Rights Commission, p.29.
- <sup>39</sup> Fiji Human Rights Commission, p.29.
- <sup>40</sup> Fiji Human Rights Commission, p.31.
- <sup>41</sup> Fiji Human Rights Commission, p.30.
- <sup>42</sup> Fiji Human Rights Commission, p.31.
- <sup>43</sup> Heuston R. 1964. *Essays in Constitutional Law* (2<sup>nd</sup> ed), London, Stevens & Son, pp. 40–41.
- <sup>44</sup> *Arthur Yates and Co Pty Ltd v Vegetable Seeds Committee* (1945) 72 CLR 37 at 66 per Latham CJ.
- <sup>45</sup> Hardin, I. and Lewis, N. 1987. *The Noble Lie: The British Constitution and the Role of Law*, Hutchinson, London, 1987, p 7.
- <sup>46</sup> *Entick v Carrington* (1765) 19 State Tr 1030 per Lord Camden.
- <sup>47</sup> Harris, B.V. 'The 'Third Source' of Authority for Government Action' (1992) 109 Law Quarterly Review 626.
- <sup>48</sup> Rushdoony, R.J. 1973. *The Institutes of Biblical Law*, Presbyterian and Reformed Publishing, San Francisco, p. 61.
- <sup>49</sup> (1607) 12 Co Rep 63; K&L 108; 77 ER 1342.
- <sup>50</sup> Royal Commission on the Electoral System. 1986. *Report of the Royal Commission on the Electoral System 'Towards a better democracy'*, Government Printer, Wellington, p.27.
- <sup>51</sup> *Introduction to the Study of the Law of the Constitution*, Introduction and Appendix by Wade E.C.S. (10<sup>th</sup> ed) Macmillan, London, 1959.

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<sup>52</sup> Joseph, P. 1993. *Constitutional and Administrative Law in New Zealand*, The Law Book Co, Sydney.

<sup>53</sup> Hardin, I. and Lewis, N. 1987. *The Noble Lie: The British Constitution and the Role of Law*, Hutchinson, London, p.3.

# PERSPECTIVES





# 19. The People's Charter: For or against?<sup>1</sup>

**Wadan Narsey**

The military junta is in the process of creating a 'People's Charter' for Fiji. The charter's objectives (ending racism and corruption and ensuring good governance) are praiseworthy. And the charter has the support of eminent persons, like Archbishop Petero Mataca. But the eminent persons forget the hard lesson of the 2000 crisis: That 'the method is just as important as the cause' and that how the charter is put in place is just as important as the good objectives themselves. The public are being asked to build a castle on a foundation of sand, violently thrown up on the beach by a military storm.

For two decades, Fiji has struggled, despite traumatic coups, peacefully to build a political consensus between our two major ethnic groups. This process culminated in the 1997 constitution, which was legally approved by all the institutions in the Fiji parliament, by all the major political parties representing all the ethnic groups in Fiji, and by the Great Council of Chiefs. This constitution is the only genuine lawful covenant between all our peoples. Central to this covenant is the multiparty provision by which any political party that had seven or more seats in the parliament would be invited into cabinet to help in the running of the country. This is invaluable protection, not just for minority groups like Fiji-Indians but for any geographical entity, like Vanua Levu or Western Fiji, which feels strongly enough to have its own party representing their own interests in parliament. This provision did not work well in 1999, nor in 2001. But it was beginning to work in 2006. This peaceful cooperation was violently overthrown by the military.

We keep hearing the call: 'Let us move on', 'Let us rebuild Fiji'. We would all like to do that. But why are eminent persons like Archbishop Mataca turning a blind eye to the violent, illegal origins of the charter? Commodore Voreqe Bainimarama, using the force of guns, illegally deposed the President. The Commodore illegally appointed an interim prime minister, who dissolved parliament. The Commodore illegally appointed a president. An interim government was appointed, with the Commodore as prime minister. There is no escaping the fact that a democratically elected government was illegally and violently deposed, on allegations of vote-rigging and corruption which, a year on, have yet to be proven.

The results of the 2007 census suggest that, even if any small voting irregularities are found and corrected, there would have been no substantial change to the

composition of the 2006 parliament or the multiparty government thereafter constituted.

The charter is coming in through the force of guns. Today the guns are in the command of the Commodore, whose stated objectives appear noble. Tomorrow, they may be in someone else's command, whose objectives may be less noble. What recourse will any citizen have (Archbishop Mataca notwithstanding), should those same guns again be turned on another government, with equally unproven allegations of wrong-doing? Far from ending the culture of coups, this 2006 coup has simply strengthened the 'coup mentality' in the Republic of Fiji Military Forces, in whose hands we taxpayers have entrusted the guns of violence and death. To support the charter initiative of this military junta, as the Archbishop does, is to legitimize the violent illegal methods that have created this junta.

A charter (like a constitution) is like any other piece of paper: It is only as good as the will of the people who support it. Despite the Archbishop's pious justification of the proposed charter, the only legal and popular covenant before us is the 1997 constitution. Any future charter must ultimately be consistent with the 1997 constitution, and approved by a parliament lawfully constituted under that constitution. That must require the support of all the major parties, including the *Soqosoqo Duavata ni Lewenivanua* (SDL). The military cannot thrust the charter down the throats of the Fijian community, the bulk of whom support a party that is rejecting the charter. And it is surely natural for them to do so because the charter is being created by a military that violently removed from government a party they backed in large numbers in May 2006, and by shadowy and not-so-shadowy figures riding on the military's back.

We should remember that many people rejected the reconciliation and *matanigasau* process that the Qarase government, with the support of the Methodist Church, attempted to force upon the Fiji Labour Party (FLP) in late 2004, despite the FLP's rejection of it as not being genuine. No doubt there were merits in that reconciliation and *matanigasau* process. And, no doubt, the Methodist Church leaders then, just like the Catholic leaders today, had very pious quotes from the Bible to support the process. But reconciliation could not be enforced if the victims did not wish to accept it for whatever reason. And neither will this charter survive if the leaders of the Fijian people feel that it is being thrust down their throat after their party has been illegally kicked out of office (just as the FLP was in 2000).

For the good of the country, the Commodore needs to return real authority to the pre-coup President, Josefa Iloilo, as he was appointed under the 1997 constitution. The President needs to recall the parliament elected under the 2006 election. The President needs to order the Commodore, and the leaders of the SDL and the FLP to meet and form a government of national unity, drawn from

parliament, the Senate and outside if necessary. Given the circumstances in which the military has taken on the role of 'guardian of good governance' (GGG), nothing whatsoever will be served by having an election in 2009. The government of national unity should run this country until 2011, the normal end of the term of the elected 2006 parliament, with the military continuing as GGG, but in the barracks where it belongs. Regardless of whether or not the Commodore likes it, Mr Qarase should be returned as the lawfully elected prime minister (just as Commodore Bainimarama should have returned Mr Chaudhry to that position after ending the 2000 coup).

No doubt Mr Qarase will be amenable to giving Mr Chaudhry the opportunity to continue as finance minister for another four years, and see what he can build out of the ashes we are in. That government of national unity would be required to consider honestly all positive initiatives of the military junta, such as the charter, the Fiji Independent Commission Against Corruption, electoral reform, etc. Those initiatives that are approved (if necessary with revision) would be subsumed under the constitution, with the necessary support of a lawfully constituted parliament.

To facilitate cooperation between the major political parties, the President would appoint an independently constituted committee of conflict resolution, which would hand down binding decisions on the two major parties should they disagree on any fundamental issue. A government of national unity would have the support of Pacific Islands Forum member countries, including donors.

It would have the support of a 'restored' judiciary, members of which would be spared the legal and moral contortions of adjudicating on the cases now in court.

The investor community (local and foreign) would be reassured and we should have healthy economic growth for the next five years – enough to fund blueprints, greenprints and any colour affirmative action for disadvantaged groups.

Such a government of national unity would have the support of all peoples of Fiji. We could then all, with a clear conscience, help with the process of building Fiji, the charter and any other positive initiative we can dream up.

## ENDNOTES

<sup>1</sup> This chapter was originally written in November 2007.



## 20. 'Democracy' versus good governance

**Mahendra P. Chaudhry**

Fiji's intelligentsia – be they academics, politicians, clerics, the legal fraternity or the suddenly vocal human rights activists – have been deeply divided by the events of 5 December 2006 and the best way forward for the nation.

From day one, a marked delineation in thinking has been obvious between those who see the takeover of government by army commander Commodore Voreqe Bainimarama as timely, the only escape route for Fiji from the imminent national disaster posed by six years of misrule by Laisenia Qarase's *Soqosoqo Duavata ni Lewenivanua* (SDL) government; and others who champion a return to the Laisenia Qarase-style 'democracy' no matter how flawed – a view articulated by our neighbours Australia and New Zealand, certain non-governmental organizations (NGOs), academics and lawyers, who appear to argue that Fiji should return to pre-5 December 2006, at whatever cost to the nation.

They want the government of Laisenia Qarase reinstated despite the blatant misrule, the racially divisive policies, the flouting of the rule of law and of the constitution, the endemic corruption it spawned, and its failure to prudently and responsibly manage state finances and the national economy, driving both to the brink of near bankruptcy.

Failing this, the group wants a return to immediate elections and parliamentary rule.

Among those sympathetic to the espoused mission of the army-backed interim administration are, surprisingly, hitherto strong defenders of democratic principles and the rule of law: Certain members of the judiciary, a select few from academia, some from the business community, some in the top hierarchy of the Catholic Church, several fairly articulate members of the public – as evidenced from letters in newspapers – and the Fiji Labour Party (FLP).

This group, deeply concerned at the manner in which Fiji had stagnated under the SDL regime, believe in the substance rather than the shadow of the democratic process ... they are people who strongly believe that aspects of our governance are fundamentally wrong and must be rectified, as a matter of priority. Unless this is done first, genuine democracy – and, along with it, long-term peace and harmony – will continue to elude us.

They believe good governance is a necessary pre-requisite for genuine democracy, rather than a by-product. This is a philosophy that is increasingly shaping the thinking of some prominent people in the international arena.

Take for instance, the 2007 comment on democracy by candidate for the Republican nominee for the US presidency, Rudy Giuliani:

America has a clear interest in helping to establish good governance throughout the world. Democracy is a noble idea, and promoting it abroad is the right long term goal of US policy. But democracy cannot be achieved rapidly or sustained unless it is built on sound legal, institutional and cultural foundations ... It can only work if people have a reasonable degree of safety and security. Elections are necessary but not sufficient to establish genuine democracy. Aspiring dictators sometimes win elections, and elected leaders sometimes govern badly and threaten their neighbours.

History demonstrates that democracy usually follows good governance, not the reverse. US assistance can do much to set nations on the road to democracy, but we must be realistic about how much we can accomplish alone and how long it will take to achieve lasting peace.<sup>1</sup>

Somewhat similar sentiments were articulated by Lord Paddy Ashdown, High Representative to Bosnia and the European Union Special Representative 2002–06, in an interview given to the *BBC World Service* on 30 June 2007. Speaking of his four years in Bosnia, Lord Ashdown stated that the international community had got its priorities wrong in Bosnia. He believed the pressure for a general election by the international community was misplaced: As a first priority, the people of Bosnia required jobs, security and stability. 'The challenge for us is to bring governance to the global stage. If we can do that, we will live in less turbulent and more prosperous times' he has since maintained.<sup>2</sup>

Likewise in Fiji. The crux of the issue for us here is Qarase-style 'democracy' versus good governance, equity and social justice. The international community and those who articulate their views, need to take a much more analytical look at the situation in Fiji.

An immediate general election or a return to the pre-5 December 2006 Fiji will simply recreate the problems and the flawed system of democracy that prevailed under the Qarase government with its injustices, rampant corruption and disdain for the rule of law and the constitution.

These are matters of good governance that need to be urgently addressed if we are to move forward as a nation. If there is consensus on anything, it is the acknowledgement that, over the past 20 years, coup-riddled Fiji has floundered along, experimenting with one system after another, struggling to come to grips

with a multitude of problems that are, often quite simplistically, attributed to its multi-ethnic society.

This search for a national charter for sustainable progress and peaceful coexistence, finally led us to the 1997 constitution, hailed by some as the apex of our political evolution, and held aloft as the 'only genuine lawful covenant between our people'.<sup>3</sup>

## **Flawed constitution**

While it may be the 'only genuine lawful covenant', there is also no denying that this constitution was seriously flawed from day one – deliberately damaged by the political leadership of Sitiveni Rabuka and Jai Ram Reddy when they wrote into it an entrenched communal electoral system.

This was an extremely myopic strategy, designed to serve vested political interests rather than the national interest, and an injudicious breach of the recommendations of the Reeves Commission Report that had strongly advocated Fiji move away from racially divisive politics by adopting a majority of open rather than communal, or race-based, seats.

Yet those who boisterously espouse the cause of 'democracy' today, failed to utter even a murmur of protest when the core element, the very spirit of this multiracial charter, was thus rendered 'undemocratic'. Apart from the entrenchment of voting along ethnic lines, the electoral provisions also violated the universal principle of 'a vote of equal value'.

In light of this, the current strident calls for a restoration of 'democracy' as practised in Fiji pre-5 December, is not only short-sighted, it is also counter-productive because, in this critical aspect at least, the 1997 constitution failed to pave the way for true democracy and nation-building in our plural society.

If we are to build a modern, progressive state, Fiji needs to move completely away from divisive and feudalistic/colonial hang-ups such as communal electoral systems, parochialism and provincialism, religious fundamentalism, and exclusivist policies.

Such anachronisms tend to spawn corrupt politicians and elitism throughout the corridors of power, while keeping the masses poor and subjugated. Feudalistic notions cannot have a place in a reformed society.

## **Multiparty cabinet: A farce**

Claims by critics of the interim administration that the multiparty provisions of the 1997 constitution were beginning to work in 2006, and that 'this peaceful cooperation was violently overthrown by the military', are politically naïve.

Anyone who believes that Mr Qarase was genuinely committed to making the power-sharing provisions of the constitution work, needs to take another look at what was actually happening.

His posturing on the multiparty cabinet was just that – a farce designed to portray an illusion of power-sharing. The nation knows that, after the 2001 general election, the FLP had to drag Mr Qarase through the High Court, the Court of Appeal and the Supreme Court before he acceded to the mandatory provisions of Section 99(5) of the constitution, which requires the prime minister when establishing the cabinet, to:

... invite all parties whose membership in the House of Representatives comprises at least 10% of the total membership of the House to be represented in the Cabinet in proportion to their numbers in the House.

Forced to acquiesce, Qarase reduced this power-sharing provision to a mere mockery by allocating to the FLP ridiculously contrived ministries.

In 2006, he adopted a more pragmatic approach, offering the FLP some substantive ministerial portfolios but then completely derailing the partnership concept by refusing to consult with the FLP leadership on major national policies.

The FLP, for instance, was not consulted on the formulation of the 2007 budget, especially on the imposition of an increase in the value added tax (VAT) from 12.5 per cent to 15 per cent – a totally insensitive move that would have greatly intensified the hardship faced by our lower-paid workers and the poor.

Laisenia Qarase also shunned every overture I made as leader of the FLP to get bipartisan talks going on the highly contentious and divisive Promotion of Reconciliation, Tolerance and Unity (RTU) Bill (a misnomer because its main objective was to grant amnesty to those convicted for their part in the 2000 coup), and the Qoliqoli and Land Claims Tribunal bills.

The bills were ethno-nationalistic in design, with the potential to create deep fears and uncertainties among other races regarding their property rights and rights of access to foreshores and waterways. If passed, both legislations would have been a major deterrent to investor confidence in Fiji, particularly in the tourism industry.

Instead of agreeing to dialogue, Qarase suggested I raise my concerns at the Sector Committee, which is dominated by government members, and has failed to achieve any real dialogue on matters brought before it.

At a time when the nation faced serious financial, economic and governance issues, it made no sense for the Prime Minister to give top priority to pushing through these highly contentious and divisive legislative measures.

Thus, within a couple of months of the multiparty cabinet being set up, it was obvious that the Prime Minister had no intention of engaging in genuine



partnership with the FLP. Instead, he did everything possible to try and split the FLP and undermine its leadership.

## **Excesses of the SDL**

Those who today so vehemently argue for the restoration of the government of Laisenia Qarase appear to have forgotten the excesses of his government, its lack of integrity and ethics, and the fact that, under his misrule, social distress rose markedly, with poverty levels escalating to more than 50 per cent.

One of the most scandalous acts of the SDL government was the deal with the public sector unions on the eve of the 2006 general election, for salary increases backdated to 2004. This was a highly unethical, vote-buying scheme that would have cost the Treasury \$200 million – an amount that Mr Qarase knew the government was in no position to meet.

To meet his rash promise to the civil service, he tried to throttle the poor by raising VAT to 15 per cent.

This man, whose return to office is now being sought on the strength of the constitution, consistently and perversely violated the constitution in his six years in office. He stubbornly refused to enact code of conduct and freedom of information legislation even though required to do so by the constitution.

He failed to bring in anti-corrupt practices legislation despite repeated calls from the opposition. He released coup convicts from prison and continued to pay a number of them salaries while they were in prison. The Duavata Initiative Ltd was a scandalous operation, under the directorship of the Prime Minister and his senior ministers, to solicit funds for the SDL.

Both State finances and the economy took a battering in the six years of Qarase misrule. Growth was minimal and consumer-driven rather than based on sound productivity, and government debts were mounting. He was, in fact, gambling away Fiji's future.

Let me give some data to prove this.

- The Qarase government was borrowing heavily to fund government expenditure. As a result, the public debt burden doubled in six years from \$1.2 billion in 2000 to almost \$2.5 billion in 2006, standing at 52 per cent of the GDP.
- SDL's budget deficit stood at unacceptable levels, rising from 1.9 per cent in 1999 to 3.5 per cent of GDP in 2006.
- Fiji's exports fell sharply – from a value of \$996 million in 2000 to \$834 million in 2006; sugar falling from \$282m to \$215m; garments from \$332m to \$95m; and gold from \$70m to \$43m.
- Falling exports coupled with rapidly rising imports put a heavy strain on foreign reserves, which dropped precariously to less than two months of

imports in mid-2006. The garment industry had virtually disappeared as a result of his government's failure to negotiate better deals; the sugar industry had been run down; and the Vatukoula gold mine forced to close.

- To pay for his government's mounting extravagance and mismanagement, Qarase kept increasing duty on a wide range of food and consumer items; likewise, VAT went up from 10 per cent to 12.5 per cent, and then to 15 per cent in the 2007 SDL budget.
- In six years of SDL rule, state infrastructure declined to appalling conditions, with almost 50 per cent of allocated funding lost to corruption, with the ministers and top echelons of the public service acting hand-in-glove with private consultants and government contractors to defraud the system. This was particularly evident in water and road projects. The King's Road, for instance, already ten years in the making, has a cost over-run of \$40 million.
- Social distress was acute, as manifest in the escalating cost of living, deteriorating living standards and rising levels of poverty. More than 100,000 people in the Suva–Nausori corridor existed as squatters in makeshift housing, lacking proper water, sanitation and other amenities.
- Despite the much-vaunted affirmative action program for the *indigenous* people, their plight worsened considerably in the six years of Qarase rule, as agriculture and the rural sector stagnated, forcing villagers to move to urban areas in search of jobs and a better life. In 2006, 57 per cent of those lining up for the state's meagre family assistance allowance were Fijians; they made up the majority of people living in squatter settlements in the Greater Suva area, and 77 per cent of the total prison population.
- Many of the benefits of the so-called government blueprint were accruing to elite Fijians closely aligned to the SDL and its business associates. Our resource-based industries, the main source of income for the indigenous community, suffered as a result of neglect and lack of proper direction.
- Criminal activity rose to an all-time high, and home invasions left much of the populace terrified and insecure in their own homes .

Is this the government that the advocates of so-called 'democracy' want returned to office? They denounce the army takeover but what other recourse is there when a government becomes an imposition on the people, *but continues to hold power by rigging elections?*

Both the 2001 and 2006 general elections were rigged to ensure continuance of the Qarase government in office. This was in addition to the massive vote-buying that tainted both elections – the \$30 million agricultural scam in 2001 and similar abuse of State funds in 2006.

There is no doubt that another five years of Qarase rule would have been disastrous – with Fiji ending up a failed state. Under the type of 'democracy' practised by Qarase, and his arrogant refusal to heed good advice or to allow

the FLP as partners in government to help usher in elements of good governance, there was little hope for any improvement.

Checks and balances put in place to ensure good governance were being constantly undermined. Parliamentary procedures and standing orders, for instance, were often suspended to stifle debate and to ensure the easy passage of SDL's legislative measures. Fiji's destruction was inevitable, had the army not intervened. This explains why there was ready support for the army's objectives following the takeover.

## **Relations between the army and the government**

A few analysts have attributed the increasing animosity in relations between the SDL government and the army to a personality clash, or even to Voreqe Bainimarama's thirst for power. I am not so sure that this is an accurate analysis of what happened.

In fact, the origins of the army's anti-SDL stance can be traced back to the time when the Qarase government began to interfere with the judicial process involving those charged with treason and other criminal activities associated with the May 2000 coup and with the army mutiny later that year.

The government's sympathy for those charged and convicted for the terrorist activities of 2000 was all too obvious. It moved swiftly to commute George Speight's death sentence to life imprisonment; it abused ministerial discretion to issue Compulsory Supervision Orders in order to set free others sentenced to gaol; it decided not to renew the work permit of Peter Ridgway, Deputy Director of Public Prosecutions, who had successfully prosecuted a number of these coup-terrorists.

Under the guise of national unity and reconciliation, it brought in the RTU Bill to facilitate amnesty for those convicted and sentenced for their role in the upheaval of 2000.

When the army voiced its concern at government's defiance of the rule of law, instead of engaging in dialogue, Qarase tried, on a number of occasions, to remove Bainimarama as army chief.

Relations between the two further deteriorated when he removed the commander from meetings of the National Security Council, tried to push through the RTU, Qoliqoli and Land Claims Tribunal bills, despite strong opposition, and then set the police against the army.

Those who are today so quick to castigate the army for interfering in the nation's political life, must ask themselves whether or not they did enough to prevent the disaster. Where were the so-called watchdog organizations when Qarase was arrogantly flouting the rule of law, the constitution and internationally accepted norms of good governance?

In a democracy, civil society groups have a responsibility and an onus to speak out against and fight endemic corruption, racial discrimination, and systematic erosion of individual rights and freedoms. In Fiji, many of those who are quite vocal today in their defence of 'democracy', were part of the Qarase gravy-train – beneficiaries of the misrule, the corruption and the exploitation of ordinary people that characterized the regime.

Now that the takeover is a *fait accompli*, Fiji needs to use the opportunity to take candid stock of where it is headed as a nation, and put in place strategies to avoid similar pitfalls in the future. We are all agreed that our nation cannot afford any more coups ... but simply saying this will not avoid illegal takeovers.

We must use this interim period to take bold and concrete steps to fix problems assailing us as a nation. At the crux of the dilemma is the issue of good governance and the need for consensus, proper accountability and transparency.

## **The People's Charter**

These fundamentals must be addressed before any new government is put in place. As I see it, the only way forward is for the constitution to spell out key principles of governance that must be adhered to by all elected governments.

These should include, among other good governance provisions, principles related to social policies and to proper management of the economy and State finances, with restrictions on irresponsible borrowing and imprudent debt levels.

If we genuinely aspire to create a progressive, just and fair society then we must have the courage of our convictions to embrace substantial reforms – political, social and economic.

The People's Charter for a Better Fiji is an avenue through which such necessary reforms can be achieved by dialogue and consensus. There is no 'force of guns'<sup>4</sup> – community leaders and civil society, including political parties, have been invited to participate.

For the first time, a serious and genuine attempt is being made to address fundamental problems that have haunted us for 20 years or more – let us use the opportunity wisely to address those wrongs that have maintained a stranglehold on our nation for far too long for the benefit of a select few, and that have stifled national growth, equity and prosperity in the process.

The people of Fiji deserve better.

## ENDNOTES

<sup>1</sup> Rudolph W. Giuliani, 'Toward a Realistic Peace; Defending Civilization and Defeating Terrorists by Making the International System Work'. *Foreign Affairs*, 2007, 86(5):2–18.

<sup>2</sup> Lord Paddy Ashdown, speech accepting Honorary Degree, University of Greenwich, 19 July 2007; [www.gre.ac.uk/pr/articles/latest/a1416-lord-ashdown-honorary-degree](http://www.gre.ac.uk/pr/articles/latest/a1416-lord-ashdown-honorary-degree).

<sup>3</sup> See, for example, Narsey, chapter 19.

<sup>4</sup> See Narsey, chapter 19.



## 21. From fear and turmoil to the possibilities of hope and renewal once again

### Laisenia Qarase

The Republic of Fiji Military Forces (RFMF), led by Commodore Frank Bainimarama, plunged Fiji into yet another great crisis when it used force of arms to remove the SDL/Labour multiparty government on 5 December 2006. This act of treason had been building for some time. The Commodore had created fear and anxiety in the minds of the people through a series of threats to stage a coup.

When he finally acted, Commodore Bainimarama brutally knocked Fiji off the course it was then following for a secure and prosperous future, founded on a new political accommodation between the indigenous community and Fiji's ethnic Indian population. He imposed on Fiji a military dictatorship, which unleashed a reign of terror, intimidation and abuse of rights. Three people were killed and countless others subjected to ill-treatment and humiliation. I was threatened with arrest and death. The oppression continues. People are warned of the consequences of speaking out against the regime; some are denied their right of assembly, others have been placed without warning on travel 'black lists'; due process is often ignored; the rule of law is compromised and so is the judiciary. The legally appointed Chief Justice was forced out of office by soldiers, and constitutional processes were not followed in the appointment of an acting Chief Justice. Later, the entire Bench of the Court of Appeal resigned. In February 2008, a newly appointed judge broke the convention of judicial independence when she spoke out forcibly on a highly contentious issue in a public forum. The judge appeared to be siding with one of the regime's supporters. The acting Chief Justice was silent on this unprecedented breach of the rules. The interim Attorney-General tried to excuse it.

A team from the International Bar Association, which had planned a visit to consider the state of the law and the judiciary in Fiji, was refused entry. One member was turned away at Nadi International Airport.

There has been an assault on press freedom, despite an assurance by Commodore Bainimarama that such freedom would be respected. A campaign against the media by the interim government reached a peak when the Australian publisher of a daily newspaper was abducted from his home at night, and flown to Sydney the next morning. He was taken away without money, a change of clothing or even a toothbrush. His abductors cut him off from contact with his family, who

were left to wonder, in a state of quiet dread, about his fate. In March 2008, a group of journalists from the state broadcasting organisation, were summoned by senior army officers to explain a particular story. The publisher of *The Fiji Times* was called in by the interim Attorney-General, Mr Aiyaz Sayed-Khaiyum, in what was regarded as another act of intimidation.<sup>1</sup> There are now calls from a senior minister in the regime, Mr Mahendra Chaudhry, for licensing of the media.

An ill-conceived report on the media industry by an eccentric and inexperienced consultant hired by the Fiji Human Rights Commission – itself seen as a supporter of Commodore Bainimarama – is now under consideration by the government. It contains recommendations which can be interpreted as an attempt to tame media organizations and journalists.

### **The grip of the military**

In defiance of the international community and the wishes of the people, the military is constantly extending its grip through appointment of senior officers to sensitive and strategic posts in the public service, statutory bodies and state enterprises. When I last checked, about 20 army personnel had been recruited in this militarization of important and vital positions. The current commissioner of police, for instance, was formerly the RFMF's deputy commander. He has distinguished himself by attempting to directly interfere in the judicial process and giving the impression that part of his job is to protect the army. Under his leadership, senior police officers are divided among themselves. It is not surprising that the morale of the force is low and public confidence in the police has slumped. The permanent secretary for Justice is a military man; so is the Director of Immigration, the commissioner of prisons, and the heads of the national post company, the main airport company and the Fiji Independent Commission Against Corruption (FICAC). I am interested to know how FICAC can be independent when it is led by a military officer. This contradiction is typical of the corrupted governance of the interim regime.

The economy, which had been experiencing a prolonged phase of expansion, has been devastated; thousands of our citizens have lost their jobs, poverty has increased dramatically and inflation, at nearly 7.5 per cent, is at its highest level for 10 years.

### **Incompetence and bad governance**

The interim government, led by Commodore Bainimarama, is establishing new records for incompetence, inefficiency and bad governance, including lack of transparency and accountability, nepotism and cronyism, and failure to follow due process. Opponents of the regime are persecuted, sometimes violently. Stories and suspicions of corrupt, illegal and dubious activities abound.



Recently, it was revealed by the media that Mr Chaudhry, the leader of the Fiji Labour Party and the interim Minister of Finance, was the senior government figure alleged to have been involved in a well-documented case relating to tax returns. There are also questions about large sums of money held in overseas accounts. Articles about this had been running for many months. Commodore Bainimarama, despite his rhetoric about good governance and openness, stonewalled. He resisted calls for a full public investigation, and for Mr Chaudhry's resignation to allow this to take place. He seemed to think it was sufficient for the income tax authority to have conducted an internal inquiry! The details of this inquiry have never been made public. Commodore Bainimarama did not appear to understand that the broader issue was about fitness for office, and that an internal inquiry had no credibility. How could the tax department investigate its own minister? It was only when Commodore Bainimarama's own military council – which is probably the final authority in the land – asked for the controversy to be properly dealt with, that the interim Prime Minister finally decided that a three-person committee should conduct investigations. But this fell well short of what was required. The committee was not perceived to be independent, and its terms of reference were inadequate and restrictive. Questions emerged about objectivity and possible conflicts of interest. The committee completed its work secretly, in just a few days, and, by the time the interim Attorney-General made an announcement about it, the two overseas members were preparing to catch a plane out of the country. At no time were details provided about the criteria and procedure for selecting the inquiry members and the drafting of the terms of reference.

It was no surprise at all that the committee found in Mr Chaudhry's favour. This decision, however, was greeted with disbelief by large sections of the public. The local chapter of Transparency International (TI) was a prominent critic of the outcome and called for a new inquiry.

At the time of writing, Mr Chaudhry remained in office.

The interim Attorney-General had the cheek to brag that the inquiry was a study in transparency and accountability. That, again, was an illustration of the regime's bare-faced hypocrisy.

## **Falsehoods and deception**

Since December 2006, the interim government, established by Commodore Bainimarama, has turned itself inside out to justify its actions. It has become notorious for speaking falsehoods, attempting to deceive, and twisting events and circumstances to suit its own purpose.

The Commodore and Mr Chaudhry have ranted constantly about supposed vote-rigging in the 2006 general election, poor governance by the multiparty government, and a torrent of alleged corruption. Fiji, they said, was descending

into an abyss. There was no abyss. But there is now, and Fiji has been pushed into it by the coup.

In short, Commodore Bainimarama, Mr Chaudhry and the entire interim regime, invented a chronicle of lies and deceit that they then tried to sell to the people of Fiji, the international community, including the European Union, the Pacific Islands Forum, and even the United Nations.

Unfortunately for both the Commodore and Mr Chaudhry, and their interim cabinet ministers, this wave of falsehoods, unprecedented in the South Pacific, is recognized for what it is – nothing less than self-serving fiction to try to justify the unjustifiable. In the interim regime's realm of propaganda, the truth is violated to become a lie. A lie is paraded as the truth. In particular, comments by Commodore Bainimarama and Mr Chaudhry must always be treated with caution and suspicion. They have a classic credibility problem. The question that must always be asked is: What are the actual facts? How is it possible to verify what is being said?

I have asked myself many times, what has brought Fiji to this dark and desperate time? How could a country, which was progressing well and coming to grips with its challenges, be so broken and so tortured? Why has this been done to us?

## **A story of violence, hatred and revenge**

Some recent history creates the context for what has happened. It brings out a story of violence, revenge, hatred and thwarted ambition and contempt for the will of the people.

The *Soqosoqo Duavata ni Lewenivanua* (SDL) party, which I lead, was voted into office for the second time in May 2006. It had joined with the Fiji Labour Party (FLP) in a constitutional power-sharing arrangement that produced a genuinely representative multiracial government. The first attempt to achieve this, following the 2001 poll, did not succeed because of disagreements over what I perceived to be certain conditions set down by the FLP. This led to court action that went against the SDL. My subsequent offer of ministerial portfolios was rejected by the FLP. I do not agree with Mr Chaudhry's perception that the positions I offered were of no consequence.

In 2006, negotiations for a multiparty cabinet, in accordance with the constitution, were ultimately favourable, although there was some hesitation and foot-dragging on Mr Chaudhry's part. He falsely argues that there was no consultation. This took place by letter and telephone discussions between the two of us. The Supreme Court had earlier ruled that consultation did not carry a right of concurrence: I did not have to agree with what Mr Chaudhry specifically demanded.

Mr Chaudhry finally had to bow to pressure from his own caucus, and the public, who were keen for the FLP to be part of the government.

The end result was a cabinet comprising Fijian and Indian leaders, with clear mandates from their respective electorates. I offered Mr Chaudhry a significant position. He chose not to be a part of this major initiative for multiracial cooperation. I have my suspicions about his motives; they relate to the military coup later in the year, which he was quick to support. He became a key member of Commodore Bainimarama's illegal interim cabinet, strengthening his position to the point that the FLP's policies rule the interim regime.

Despite Mr Chaudhry's refusal to join the 2006 SDL/FLP cabinet and his constant sniping from the sidelines, the ministers generally worked well together, with the possible exception of Mr Lekh Ram Vayeshnoi, a confidant of Mr Chaudhry, and one other FLP minister. It seemed to me that Mr Vayeshnoi was unable to come to terms with the concept of collective responsibility and mutual loyalty amongst ministerial colleagues.

## **Public support for the multiparty cabinet**

There was continuing support from all sections of the community for this new form of government. Even Commodore Bainimarama joined in the acclamation! This was very strange in view of the plans for a takeover that were already forming in his mind. The multiparty cabinet's policies were based on an amalgam of the SDL and FLP manifestos, and a comprehensive strategic development plan to guide Fiji's progress for a new term of parliament. I felt we had entered an era of hope. The future was indeed one of promise.

I should stress that a statement by Mr Chaudhry that the FLP, as part of the multiparty government, was not consulted on the formulation of the 2007 budget, was a blatant lie. I can think of no polite way of describing this claim. The FLP ministers were represented on all subcommittees of the cabinet, including the budget subcommittee. Extensive budget consultations took place among committee members, and in cabinet. FLP members participated fully and usefully in these deliberations. The intention to increase value added tax (VAT) in 2007 was a revenue measure. As Mr Chaudhry well knows, these are never disclosed to cabinet until the morning of budget day. The reason for this confidentiality should be obvious to anyone.

## **Recovery from 2000**

In the SDL's first period of office from 2001, the priority was to repair the massive social and economic damage caused by an insurrection in 2000. George Speight, a businessman, led an armed group into the parliamentary buildings in Suva. Supported by certain elements of the RFMF, Speight and his cohorts took hostage the government formed by Mr Chaudhry when he became prime minister in

1999. The Speight group was protesting Chaudhry policies that they claimed were anti-Fijian.

For 56 days, Fiji endured near anarchy. Parliament was a prison and a virtual fortress. Law and order collapsed in other parts of the country when Speight loyalists took matters into their own hands. They overran police stations and an entire rural town; Indian farmers and their families were terrorized, their property, belongings and livestock destroyed. Fiji was on the edge of total disaster.

Mr Chaudhry and his colleagues were released following an agreement between Speight and the military. Speight and members of his group were later arrested, tried, and gaoled.

I came to office, at the request of the military, to head a civilian interim administration charged with restoring stability, reviving the economy and getting the country back to parliamentary rule.

Within 15 months from the attempted coup, we went to elections and I led the newly created SDL Party to its first win.

During nearly six years in power, the SDL vigorously promoted reconciliation and social healing, multicultural understanding and national unity. We saw the SDL party as a rallying point for all citizens of Fiji at this critical moment in history. Our message to the nation was that we wanted a unified Fiji, with the rule of law prevailing and the safety and security of citizens and property assured.

We promised to work for the removal of barriers that separated the communities, and to replace animosity and fear with trust and cooperation. There was no racial boundary to our desire to serve Fiji.

This commitment to the welfare of all was embodied in the SDL's symbol of a dove and an olive branch. These represented the Christian ideals that formed our founding values. They spoke of peace, conciliation, rebirth and national renewal.

Our government brought in fresh measures to assist the poor and working people. We were also determined to close the economic gap between the Fijians and the rest of the populace. There was nothing racist about this. The policies we implemented were specifically provided for in the constitution. A guiding principle of the supreme law is that affirmative action and social justice should secure 'effective equality of access to opportunities' for the Fijian people, as well as for other communities, and for all disadvantaged citizens or groups. This constitutional ideal fitted well with our vision of a country where ethnic communities could live in harmony and prosperity. This was about removing inequities and inequalities that posed a threat to social stability. Our party felt

that failure to address these would put society at peril and deny social justice to a large section of the population.

There has been much distortion and misinformation about these affirmative action policies. They have been wrongly depicted as a deliberate attempt to marginalize non-Fijian communities. We always stressed that there was no intention of depriving others, and that our goal was to create an economy that had space for every citizen, and that generated wealth to be shared fairly. When this was achieved, Fiji would be a happier place and all of its citizens would reap the benefits.

We made it very clear that our government would enact programs of assistance for the poor and needy in every community. And that is exactly what we did. In fact, we were bound to do this by the constitution. Large numbers of the disadvantaged from our Indian and minority communities were recipients of scholarships and student loans, family assistance, support for small business and agriculture, rental subsidies, poverty alleviation and self-help projects. There was a particular focus on getting to grips with the emerging issue of squatter settlements.

Funding for education, health, infrastructure and rural development reached record levels. We conceived and started to put into effect extensive and ambitious schemes for lifting the living standards of rural communities. Combined, these formed a grand plan for remaking the economic and social landscape of the most deprived areas. There was a special focus also on breathing new life into sugar cane farming, which was in decline, mainly because the growers found it difficult to adapt to modern agricultural practices.

As far as I know, these initiatives have been abandoned.

We offered a solution to the sensitive land lease issue following the guiding principle of fairness to landowners and tenants. The proposals we made were a huge improvement over the existing lease terms. They were rejected by the FLP.

## **Growth in the economy**

Through a consistently applied policy of encouraging private enterprise, we succeeded in creating a very positive business climate leading to a high degree of confidence. Private sector investment began to pick up, approaching 18 per cent of GDP – up from a stagnant 10 per cent when we had come to office. Looked at from another perspective, the combined efforts of government and business generated a 70 per cent increase in investment of private capital.

This had a dramatic effect on expansion of employment, improvements to wages, and economic growth that registered an average of 2.8 per cent of GDP from 2002 to 2006, when it reached 3.6 per cent. The Bureau of Statistics confirmed a rate of 5.6 per cent in 2004.

Tourism, Fiji's main industry, enjoyed an unprecedented boom. Its workforce jumped from 43,000 to 50,000. An additional 5,000 jobs were forecast in early 2006. Arrivals were at record highs, with many new projects going forward. The construction industry, a critical indicator of economic performance, also experienced a rapid turnaround. Its workforce grew by several thousand. Shortage of skills became a real problem and plans were put in place to remedy this. Contrast this with the 40 per cent decline in employment in the industry after 2006.

Membership of the Fiji National Provident Fund (FNPF) by wage and salary earners is a good indicator of the numbers of people in permanent paid employment. Total membership of the FNPF at the end of 2005, stood at a record 316,791. This was a 48 per cent increase over 2001. In 2005 alone, more than 15,000 new members joined the Fund – again showing growth in paid employment.

The number of active employers registered with the FNPF was also a record. It stood at 5,620 at the end of 2005, up 13 per cent from 2002. These employers provide work for the people. In the last three years of our rule, 242 had joined the FNPF annually. Employment growth since the SDL took office was also indicated by the record number of new tax-payers.

Wages and salaries were gradually rising. The effect of this was reflected in the high rate of consumer spending.

Other elements of our economic fundamentals were satisfactory, with foreign reserves at an equivalent of three to four months of imports, and inflation at around three per cent. Government cash flow was sound.

The 2007 budget deficit was expected to be two per cent of GDP. Public debt was 52 per cent of GDP, which was at the higher end of the medium range. The deficit and debt were not about random spending. They were part of a carefully conceived strategy to rejuvenate an economy that had been in crisis-related recession.

Two areas of concern were our balance of payments position and the slow growth of exports. These problems were addressed in the 2007 budget of our multiparty government. They were also dealt with in the government's five-year strategic plan to 2011. An export strategy had been approved for implementation from 2007 to boost overseas earnings.

## **International endorsement**

The SDL's impressive record of government and economic management can be easily verified. A number of international organizations gave us their stamp of approval. Their independent commentaries and evaluations are an outright

rebuttal of the wild and dishonest claims about corruption and related issues by the Commodore and Mr Chaudhry.

Endorsements include:

- An Asian Development Bank report described growth under the SDL as solid, and noted the strong performance by the private sector. It listed our external debt outstanding, as the lowest among 12 Pacific Island states.
- The International Monetary Fund also commented favourably on Fiji's economic progress from 2000.
- In October 2005, Transparency International ranked Fiji at 55 in a corruption perceptions index, covering 158 countries. This exposed Mr Chaudhry's untruthful and malicious claim that Fiji was one of the most corrupt countries in the world. This nonsense had to be corrected by the local TI chair. According to the TI findings, Fiji was perceived to have less corruption than nations such as Brazil, Jamaica, Mexico, Poland, China, Sri Lanka, Romania, Argentina, Nepal, Philippines, Venezuela, Pakistan, Thailand, Trinidad and Tobago, India, Iran, Turkey, and Russia. Papua New Guinea, the other Pacific Island country listed, was at 130 on the perceptions list. For our government, Fiji's ranking gave us a benchmark for improvement.

A report by the Commonwealth Business Council classified Fiji as one of the best five performers in 2005 for introducing measures to reduce and eliminate corruption. The assessment was based on a survey of 32 Commonwealth countries. Fiji was ranked 4 for the reliability and effectiveness of its justice system. It was almost level with New Zealand for having balanced and effective business regulation. Fiji also did well in ratings for government – business relations, free media, effective government, efficient administration and future outlook. This survey outcome was not exactly reflective of the doomsday picture painted by Commodore Bainimarama and Mr Chaudhry.

During the SDL's first term, the World Bank ranked Fiji 34 out of 155 countries for ease of doing business. Fiji was well ahead of some nations with developed economies. This World Bank report, highlighting key factors of good governance, again demolishes the argument by the FLP and the military that Fiji was corrupt beyond redemption, and beset by a governance crisis. (It says much that 15 months after the coup, there's not been one conviction of an SDL minister on a corruption charge. I consider charges laid against me by FICAC, in connection with some share transactions from many years ago, to be political persecution. I deny any wrongdoing. At any rate, I dispute the legality of FICAC. It is also not independent because it is led by a senior army officer.)

The positive perception of Fiji was reinforced in an independent assessment by The Australian National University that was published in November 2004. This

noted there was no sign in Fiji of the widespread corruption that affects some other Pacific Island countries.

Fiji's Public Service Commission had set up a special unit to investigate corruption reports, and make enquiries if there was a suspicion of corrupt activity.

The SDL government enacted a Financial Reporting Transaction Act to counter money-laundering. This resulted in the setting up of a Financial Intelligence Unit to monitor and implement the Act.

A report and review of corruption and bribery laws was tabled in parliament. It was undertaken by the Fiji Law Reform Commission through a committee chaired by Justice Fatiaki, who later became Chief Justice.

Mr Chaudhry is again being less than honest in his reported comments on the issue of anti-corruption legislation. At a cabinet meeting late in 2006, the Attorney-General was instructed to draft an anti-corruption bill to be submitted to parliament the following February. It was to be based on several reports and studies prepared on the instructions of the SDL government.

Despite what Mr Chaudhry alleges, plans for code of conduct and freedom of information legislation were well advanced. Two bills were in the consultative stage in 2006 and were to be tabled in parliament during its sitting in February 2007. Mr Chaudhry would have been well aware of this.

### **Vote-rigging ploy**

Assertions of vote-rigging are a favourite ploy of Mr Chaudhry, especially when he has lost an election. He began to hammer this theme again after his party failed to get a majority in the 2006 campaign. He did the same in 2001 when the FLP did not get the parliamentary numbers. Commodore Bainimarama was quick to support Mr Chaudhry's predictable rigging refrain in 2006.

The fact is that Fiji does not have a tradition or record of cheating at the polls. No substantive evidence was produced after May 2006. That poll was the most scrutinized in Fiji's political history. A large number of international, regional and local observer groups carefully studied every aspect of it. They all declared that the elections were free and fair, although acknowledging that there was room for improvement in some of the organizational procedures. Of the 71 seats contested, legal action to challenge results was brought in only two constituencies. One was dismissed by the courts, while the other was withdrawn.

### **Why has Fiji been ravaged?**

In light of the information presented here, and the undoubted progress Fiji was making, I ask again why our country has been ravaged and traumatized by yet another military takeover? The answers lie in the personalities and agendas of Commodore Bainimarama and Mr Chaudhry, and the dynastic ambitions of family



members of two of our greatest leaders, Ratu Sir Kamisese Mara, and Ratu Sir Penaia Ganilau.

It is not difficult to uncover the root causes of Commodore Bainimarama's action. There is a strong suspicion that it was related to the Commodore's attempts to escape prosecution over the brutal killings of certain soldiers who were part of an attempt to assassinate him in a November 2000 mutiny. The police had complained that their investigations into this affair had been obstructed.

Many people believe the mutiny left deep and enduring scars on the Commander's psyche. This probably helped to propel him along his destructive course. He was also under investigation for other alleged offences, including two intended takeovers of government, and one of sedition. Commodore Bainimarama demanded that the police drop their inquiries into the allegations against him and other senior military officers.

In other words, he was attempting to evade the law. I understand that the police had completed their investigations and the laying of charges was imminent, just before the coup. Commodore Bainimarama had no legal way out of the problems he had created for himself. The only way he could avoid prosecution, was to take illegal action by overthrowing the government.

Another driving force for Commodore Bainimarama is the intense and obsessive dislike he has in his heart for me. I am puzzled by the depth of his feeling. I can only assume that it is linked in some way to the complexities of the situation in 2000 and my subsequent pursuit of a career as an elected leader, with strong voter endorsement. I was no longer an interim, unelected leader. In two elections I received popular backing and naturally followed policies based on the mandates of the electorate.

Commodore Bainimarama was greatly aggrieved when, out of political necessity, I formed a parliamentary coalition in 2001 with a Fijian nationalist group, the Conservative Alliance-Matanitu Vanua (CAMV). It could be that, in Commodore Bainimarama's mind, these MPs somehow became synonymous with those who had tried to kill him in the 2000 mutiny. It is significant that Mr Chaudhry tried to form an alliance with the CAMV. He also needed their numbers to achieve a parliamentary majority. This seems to have escaped Commodore Bainimarama's notice.

The rift between my governments and the military became more clearly defined when there were differences about the possible extension of the Commodore's contract of employment. The Commodore became very abusive in the course of discussions. We eventually agreed, as a gesture of good faith, to extend his term for a further five years.

## **The legal position on the military**

On two or three occasions before the military strike of 2006, there were reports of likely attempts by the army to remove the government. A number of senior army officers who spoke out about Commodore Bainimarama's mutinous plans were dismissed. The government was so concerned about what was happening that we asked the President to set up a Commission of Inquiry into the RFMF. The President at first agreed, but later backed away following pressure from the Commodore.

There was a continuing deterioration in our dealings with Commodore Bainimarama despite the government's best endeavours to engage with him in a professional and focused manner.

The relationship between the RFMF and the government should be based on the relevant laws. The constitution – the supreme law – and the Republic of Fiji Military Forces Act provide the statutory framework. Mr Chaudhry, in his criticisms against the SDL, ignores this legal aspect completely. The RFMF Act gives the commander the power to 'hire and fire' military personnel, to exercise discipline and directly control operational matters in the military. He is accountable to the minister responsible for the RFMF. Section 112 of the constitution provides for the role of the RFMF. This is specific and narrow. Neither the constitution nor the RFMF Act permit the military commander and the military to interfere in the running of government. There is no role for the military in Fiji's politics.

On numerous occasions from 2001 to 2006 the military commander did not respect higher authority, ignored the law and, in fact, became a law unto himself. He has been given wrong legal advice which he relies upon to justify the military's intervention in society. This advice is quite different from the provisions of Section 112 of the constitution. Unless he accepts his proper lawful role as military commander, and as long as he remains in that position, the security risk for the next elected government will be high.

It is a matter of record that disciplinary action had been instituted against Commodore Bainimarama during our time in office. The alleged offences were many and the evidentiary material sound. It was not possible to prosecute, simply because of the power of the gun and the accompanying lack of respect for authority. Dialogue with the Commodore, as suggested by Mr Chaudhry, was not possible because Bainimarama had finally withdrawn from discussions with the government. This is on the public record. Commodore Bainimarama was not removed from the National Security Council (NSC), as erroneously claimed by Mr Chaudhry. The military commander is not a member of the NSC. He attended meetings by invitation and was not invited to some of these because the security briefs from the minister of home affairs were sufficient for the

government's purpose. And, of course, Commodore Bainimarama himself became the greatest single threat to Fiji's security.

## **The SDL's 2006 election win**

The SDL's triumph in the 2006 election was a major blow to the Commodore. He had campaigned openly against us – using government resources – in the hope that the electorate would back the FLP or another group, the New Alliance Party. Even when the results were in, he was personally calling certain MPs to persuade them to go with the FLP. He was a man obsessed, but his efforts were to no avail. The statistics show that even his own soldiers supported the SDL. They still do.

I think the SDL's win, with just over 80 per cent of the indigenous vote, was a tipping point for Commodore Bainimarama. It led him towards a psychological point of no return.

What of Mr Chaudhry? What impelled him to be a part of Commodore Bainimarama's desperate plan? In 2000, Mr Chaudhry underwent an excruciating ordeal when he was brutally removed from power, taken hostage and physically assaulted. All right-thinking people sympathize with him. It would perhaps be understandable if he were driven to seek revenge. Knowing him and the dark side of his personality, I believe there is a revenge factor at work here. I think he even harbours a suspicion that the Commodore had a role in his overthrow. That would create an even more complex and negative dynamic within the interim cabinet. Different agendas for different motives – that is the basis for the entire interim government and that is why it is so dysfunctional.

In any event, the Commodore and Mr Chaudhry manage to identify with a common cause against the SDL. The information I received as prime minister confirmed that Mr Chaudhry and Commodore Bainimarama met several times before the coup. One of these meetings was in the FLP office in the parliamentary buildings. I understand Mr Chaudhry took the opportunity to discredit the SDL and made unsubstantiated allegations of corruption and bad governance. These allegations found fertile ground in Commodore Bainimarama's mind.

Another underlying theme is Mr Chaudhry's true feelings about the Fijians. There has been a widespread impression for many years that he has a racist attitude towards them, although he always denies this. Fijian perceptions were reinforced by some of his ill-conceived and insensitive policies when he was prime minister. He continues to be regarded with suspicion by a majority of Fijians. They simply do not trust him.

Since December 2006, the Fijians have been at the receiving end of the regime's so-called 'clean-up' campaign. There is a deep belief that the interim regime's attempts to weaken and devalue Fijian institutions, can be partly laid at Mr Chaudhry's door.

I agree with Mr Chaudhry about one thing, and that is that Fiji needs to move away from ethnic polarization and communalism. But this can only be achieved on the basis of trust, respect, and goodwill. These things have to be earned. Mr Chaudhry does not know how to go about this. He has little understanding of the Fijian psyche. These days, if you talk about ethnicity in Fiji, the interim regime says you are racist. I say, it is stupid and delusional in the extreme to pretend that race is not an issue in Fiji. We must deal with the situation as it is, and move on from there. That is what we were doing through our multiparty cabinet, strategic development plan and other initiatives.

### **Another element in the coup**

Another ingredient in the Bainimarama coup was the political ambitions of the founders of the New Alliance Party of Fiji (NAPF).

The NAPF had been formed by Ratu Epeli Ganilau to contest the 2006 election. Ratu Epeli is the son of one of our great leaders, the late Ratu Sir Penaia Ganilau, who served as deputy prime minister and president. He is married to the eldest daughter of Ratu Sir Kamisese Mara, the pre-eminent figure in Fiji politics for many years, who is viewed as the father of the nation. Ratu Sir Kamisese was the long-serving prime minister and also a former president.

The NAPF and the FLP had created an unofficial alliance for the election campaign. They found a keen partner in Commodore Bainimarama who, by this time, was thoroughly politicizing the RFMF in defiance of the constitution. Regular meetings took place between the Commander and Ratu Epeli Ganilau before and after the 2006 poll. (A few other prominent people, particularly lawyers, were also known to have advised Commodore Bainimarama on a possible takeover of the government.) The NAPF was comprehensively rejected by the electorate. It did not win a single seat. In fact, most of its candidates lost their deposits for failing to secure 10 per cent of the valid votes cast. This failure to win the confidence of the voters did not prevent the NAPF from accepting positions in Commodore Bainimarama's interim regime. The NAPF made it clear that, in its version of democracy, a popular mandate is not necessarily important. It appeared to believe that its candidates were the best and should, therefore, be in government, despite their loss in the elections.

Ratu Epeli Nailatikau, a former Speaker of the House of Representatives, who joined the interim administration as minister for foreign affairs and external trade, is also a son-in-law of Ratu Sir Kamisese Mara. He had been my loyal deputy when I was interim prime minister and he went on to become Speaker. Our government offered him a diplomatic posting when a new Speaker took office.

I sense that there is an expectation by these chiefs that Fiji somehow owes them a living, and that they should be part of any government leadership. That is

why Ratu Epeli Ganilau and Ratu Epeli Nailatikau came forward so readily to join forces with Commodore Bainimarama. They also had a common link with Commodore Bainimarama as they were both former commanders of the RFMF.

## **Government at the point of a gun**

In their efforts to pin the fault for Fiji's fate on the SDL, Mr Chaudhry and Commodore Bainimarama grab any opportunity to vilify the SDL and my leadership. We are guilty of countless sins, all within the perspective of their feverish and dishonest claims of 'bad governance'.

They choose to ignore, however, that what they are practising – illegal despotic rule at the point of a gun – is 'bad governance' in its worst form. The only way to get government in Fiji back to legitimacy is through the ballot box. There is no other viable option. Mr Chaudhry used to be a convinced democrat. That has changed. He now believes good governance is a 'necessary pre-requisite' for 'genuine democracy'. This reasoning is warped. Genuine democracy, however that might be defined, is essential for accountability, openness and the checks and balances of government, the rule of law, and an independent judiciary.

## **Frenzied opposition**

Our opponents worked themselves into a frenzy over three items of legislation. These were the Promotion of Reconciliation, Tolerance and Unity (RTU) Bill; the Indigenous Claims Tribunal; and the Customary Fisheries, or Qoliqoli, legislation. These measures were not 'pushed' through by the SDL, as asserted by Mr Chaudhry. Since independence in 1970, no other bills were the subject of more democratic consultation and scrutiny than these. The government listened to the public reaction and, as a result, the amnesty provision was to be removed from the RTU Bill.

The Qoliqoli proposal, in particular, was distorted, exaggerated and demonized. The military, the FLP and the NAP then used it as justification for the coup. This issue was not something plucked out of thin air by the SDL. It addressed a grievance the indigenous people had carried since just after the Deed of Cession in 1874. Ownership of Qoliqoli, which for centuries had belonged to the chiefs and people, was transferred to the State. The Fijians raised this on numerous occasions, but nothing was done to correct what they saw as a historical wrong. Previous governments in the independence era had the issue on their agendas. But, for whatever reason, they did not follow through. Perhaps it went into the too hard basket.

In June 1999, however, the legislation found a new champion: Mr Mahendra Chaudhry. When he spoke as prime minister to the Great Council of Chiefs, he pledged that his government would be following up on the 'drafting of legislation to confer ownership rights to all traditional fishing rights owners'. So there it

is. Mr Chaudhry obviously saw the Qoliqoli project as good governance and social justice. Then he did an unprincipled about-turn for sinister reasons of expediency. When I briefed the military after 2000 on our plans to implement the Qoliqoli legislation and other measures to address Fijian concerns, Commodore Bainimarama and his officers reacted with enthusiasm.

Then collective amnesia set in. Suddenly the Qoliqoli Bill was portrayed by Mr Chaudhry and Commodore Bainimarama and assorted supporters as legislation heralding the virtual end of the world as we knew it. It would lead to bloodshed, racial division, contravention of rights, and the destruction of investor confidence and tourism.

The wealthy owners of the exclusive Turtle Island Resort in the Yasawa Islands became prime movers against the bill and were in touch with Commodore Bainimarama. They contributed a substantial amount of money to the NAPF led by Ratu Epeli Ganilau, presumably in the hope that when he was elected to parliament he would stop the bill. Unfortunately for the resort's owners, the people did not want Ratu Epeli to represent them.

I did not agree to bipartisan talks on the Promotion of Reconciliation, Tolerance and Unity Bill, the customary fisheries or Qoliqoli legislation, and the indigenous claims tribunal because, as I have said, there were long and extensive democratic consultations on these throughout the country. These consultations were in addition to the detailed scrutiny of these items of legislation by the Parliamentary Sector Committees, in which the FLP was well represented.

The record of previous bipartisan talks on important issues was not impressive. The 2005 Constitution Amendment Bill, the Agricultural Landlord and Tenant Act Amendment Bill, the Native Land Trust Act Amendment Bill were all torpedoed in the House of Representatives by the FLP even though there had been bipartisan agreement on them.

Mr Chaudhry is in fantasy land when he alleges that I did everything possible to split the FLP and undermine its leadership. The truth is that he was having great difficulty coming to terms with the different mode of politics represented by the multiparty cabinet. This was a departure from the confrontational style Mr Chaudhry practises. He simply could not adapt and cope. The FLP at the time was splitting from within, and without any help from me. This was shown on prime time television news for a number of days. It was an exhibition of personal animosities, political gymnastics, intrigue and treachery.

I have provided a reasonably detailed overview of the SDL's track record in bringing Fiji back from near anarchy in 2000, starting the complex business of reconciliation and rejuvenating the economy. The facts discredit Mr Chaudhry's predictable attempts to paint a quite different picture to suit the rationalization that he and Commodore Bainimarama had developed for the coup.

## More misrepresentations

A number of additional misrepresentations by Mr Chaudhry require comment. In 2006, around 33 per cent of the population were living below the poverty line – and the entire thrust of our policies was designed to address this. There were very good prospects for generally increasing standards of living. Mr Chaudhry acknowledged the 33 per cent figure when he made his contribution to the budget debate in November 2006. In his 2008 budget address, however, Mr Chaudhry, as interim finance minister, asserted that poverty levels had increased to 50 per cent of the population. This was the equivalent of a confession that poverty had gone up by 17 per cent during the first 12 months of the interim government rule. Even Mr Chaudhry would have difficulty attributing this to the SDL! It was the coup that pushed more people into poverty – the coup combined with Mr Chaudhry's mismanagement of the economy. The job is simply beyond him.

Mr Chaudhry criticizes the agreement signed in 2006 between the Public Sector Unions (PSU) and the government. This was no different from the industrial relations framework signed in 2000 between the PSU and Mr Chaudhry's government. It covered the three years 2000–2003 and contained provisions for merit and cost of living allowance (COLA) increases. The 2006 agreement, which he condemns, was for the period 2003 to 2008. It also included merit and COLA increases. If the 2006 agreement was unethical, then, by Mr Chaudhry's logic, the same would apply to the 2000 agreement. However, there was nothing unethical about what we negotiated in 2006, it was designed to create long-term stability and efficiency in the public service. I question the \$200 million cost estimate put forward by Mr Chaudhry. The correct figure should be lower than this. In any case, under the SDL leadership, the government had the capacity to meet the additional cost – hence the agreement with the PSU.

Mr Chaudhry must accept a very large part of the responsibility for unsustainable public service wage and salary costs. In the 1970s, when he was general secretary of the Fiji Public Service Association, he was the initiator of two-tier salary/wage increases with a merit pay and COLA component. Through his bullying tactics against the Alliance government of Ratu Sir Kamisese Mara and then the SVT government of Mr Sitiveni Rabuka, he got away with huge increases. He was warned that government could not afford these, but he did not listen. As the consequence of this, the national operating budget has been squeezing out the capital budget.

When the SDL government decided to stop COLA payment in 2005, the issue was referred to arbitration. The arbitrator ruled in favour of the PSU. COLA continued. The SDL government believes that, as long as the current two-tier salary/wage increase system is in place, the allocation of adequate funds for

capital expenditure will not be possible, unless there is continuing economic expansion.

## **Coup convicts**

Mr Chaudhry makes an accusation that I released 'coup convicts from prison and continued to pay a number of their salaries while they were in prison'. This is another lie. I did not release any coup convicts. I had no power to do this. Such releases were legally done by the appropriate authorities, following proper and lawful procedures. Payment of salaries, while in prison (if this happened) was a matter between a convicted person and his employer. Mr Chaudhry is vulnerable when he talks about this issue of early release. He was sent to prison for a traffic offence which resulted in the death of a woman in Suva. He was to serve a nine months sentence but was released from prison after only two weeks, to serve his sentence extramurally. What is the difference between the way Mr Chaudhry's sentence was administered and the administration of the sentences of the coup convicts he mentions?

Mr Chaudhry is telling lies again when he accuses the Qarase government of interfering with the judicial processes involving those charged with treason and other criminal activities associated with the May 2000 coup and the military mutiny later that year.

The SDL government never interfered with the processes of the judiciary and the law. Neither did it interfere with police investigations into the events of 2000. We knew it was important that justice should be done for the sake of the country and its people.

During six years of our rule, about 3,000 police investigations into the 2,000 insurrection and related matters were completed. Some 800 offenders were convicted. As for Peter Ridgway, the Deputy Director of Public Prosecutions, his contract expired and he did not want it extended. It is instructive to compare the legal record over what happened in 2000 with the omissions and failures of the interim government in relation to the 2006 coup d'état. The leading perpetrators of the 2000 insurrection were held accountable for their actions before the law. The same cannot be said for those who conducted the 2006 takeover. They have tried to gain immunity through a promulgation by the President of questionable legality.

At least three deaths of people in military/police custody remain unresolved. The police give no sign of being interested in investigating numerous cases of physical abuse by military personnel. Complaints about the illegal and indeed brutal behaviour of the interim government have been brushed aside. Mr Chaudhry's silence, and that of Commodore Bainimarama, in relation to all the intimidation, threats and ill-treatment is deafening.



## **The Duavata Initiative and FLP secrecy**

The purpose of the Duavata Initiative Limited (DIL) has been twisted by Mr Chaudhry on many occasions. The establishment of the DIL to raise funds for the SDL, and for other purposes, was based on similar initiatives in Australia. It was done in a transparent manner and widely publicized. The annual returns of the DIL are filed with the Registrar of Companies.

Compare the accountability and openness surrounding the DIL, with the secrecy which envelops FLP finances. Large amounts of money have been raised by Mr Chaudhry overseas. But the details of these are hidden and there is much confusion about what these funds are for. There is public concern about this.

Mr Chaudhry's claims that checks and balances for good governance were being constantly undermined by the SDL, does not stand up to scrutiny. His allegations that parliamentary procedures and standing orders were often suspended to stifle debate and to ensure the easy passage of SDL legislation are untrue. Mr Chaudhry's performance in terms of following parliamentary procedures was appalling. During the 12 months he was in office, as prime minister, about 40 to 50 bills were passed. Most of these had less than one day with Sector Committees. A good example was the bill for government to take over \$27 million in loans owed by cane farmers to the Fiji Sugar Cane Growers Fund Authority. The cane farmers form a vote bank for Mr Chaudhry. This legislation, involving a large commitment of public funds, was one of those items that was dealt with in the relevant Sector Committee in just a few hours.

## **A faltering charter**

The interim government is pouring funds and resources into the drafting of a 'People's Charter', which, it says, will provide a new, binding blueprint for Fiji. The charter is to be a panacea for every national ill, real and imagined.

However, large sections of the population and many community groups, are not supportive of this initiative. They believe it is a device by the interim regime to gain some form of legitimacy and vindication for the spurious case it has created for the removal of the multiparty government.

Commodore Bainimarama has expressed anger at the opposition to the charter plan. He has said many times that, if the population will not support it, then Fiji will not go to the polls in the first quarter of 2009. This timetable follows a commitment he gave to the people of Fiji and the international community in October 2007. But ever since then he has been equivocating. Now he is consistently linking the election to the charter.

The SDL bases its opposition on the following:

- There is doubtful legal authority for the proposed charter.

- The charter process lacks independence and autonomy – it is driven by the interim government and the military.
- Commodore Bainimarama has no popular mandate for the preparation and implementation of such a major initiative.
- The stated intention for the charter – to bind future elected governments for the next 15–20 years – is unacceptable; this is authoritarian and undemocratic.
- Suggestions that the provisions of the charter might be used to bring about constitutional and electoral change again raise fundamental issues. It is not the place of an interim government, backed by guns, to take such actions.

Many people believe that Mr Chaudhry is the initiator of the charter and that it will become a virtual manifesto for the FLP.

Commodore Bainimarama has said that the charter will provide him with an ‘exit strategy’. The SDL submits that a viable exit for Commodore Bainimarama and the interim cabinet is through a political solution to our national crisis. The People’s Charter cannot provide this solution. In fact, it has become divisive and created further divisions in the community.

## **A new road to elections**

A first step towards legitimacy is for a political forum to be established of the parties represented in the 2006 election and other key stakeholders. The task of this forum would be to discuss and negotiate on the issues that must be resolved, including the complex matter of amnesty. Preparations for a general election by March 2009 should proceed without delay. We have proposed to Commodore Bainimarama a pathway towards a poll. The main points are:

- Recall the 2006 parliament by late 2008.
- The interim government to resign just prior to the recall of parliament.
- The parliament will meet for one or two weeks to address crucial legislative and other matters.
- A small cabinet, consisting of parliamentarians, to be responsible for the affairs of government while the parliament is in session.
- I will tender my resignation as prime minister, and advise the President to dissolve parliament.
- A caretaker cabinet will take the country to a general election by March 2009.

This proposal is based on the provisions of our constitution and other laws. It is designed to ensure that the relevant legislation is followed as far as is practicable.

Fiji is going through a national nightmare. But if there is a willingness to act in the national interest and put hatred and anger to one side, then our country can

From fear and turmoil to the possibilities of hope and renewal once again

rise again. This will not be easy but we must never abandon hope and we must never stop believing in what is possible.

God bless Fiji.

## **ENDNOTES**

<sup>1</sup> In May of 2008, he too was expelled from Fiji.



## 22. Resolving the current crisis in Fiji – a personal perspective

**Jioji Kotobalavu**

Public reaction to the military coup of 5 December 2006 has taken several forms. First, there has been a reaction from those who were directly and personally affected; the victims of the coup and the 'clean-up' campaign. These included members of the ousted Qarase government; high officials in the civil service, statutory bodies, public enterprises and other organizations who have lost their jobs; and members of the suspended Great Council of Chiefs (GCC). For them, the focus of attention is the legality of the coup and other subsequent actions.

The second group includes those who have not been personal victims of the coup, but who, nevertheless, feel strongly about the overthrow of an elected government. These are people who believe very deeply in democracy and the rule of law.

The third group includes those who are political supporters of deposed Prime Minister Qarase and his *Soqosoqo Duavata ni Lewenivanua* (SDL) government, mainly comprising Fijians who have condemned the coup.

Fourthly, there are those who were strongly opposed to what they perceived to be the Qarase government's racist policies. Many in this latter group are from the Indian and 'other' communities, who have expressed support for the new regime even though they are also concerned about democracy and the rule of law.<sup>1</sup>

The focus of this chapter is on the reaction of the ordinary people, of all races and from all socio-economic backgrounds, who have been affected personally – not so much by the coup itself but by its consequences, especially the ensuing economic hardship that has affected people's daily lives. Like the earlier coups against elected governments (in May 1987 and May 2000), the 2006 coup has seriously undermined people's confidence about the future. There is a prevailing feeling of concern and uncertainty.

However, any commentary on the current situation, to be fair, has to acknowledge the sincere and determined efforts of interim Prime Minister Voreqe Bainimarama and his interim administration to restore normality, to prioritize law and order, to promote economic recovery, and to lay the groundwork for a better Fiji for all its citizens and multi-ethnic communities.

This chapter seeks to explain the situation in Fiji today, and make suggestions for consideration by those in authority. The suggestions are made in the hope

that they will contribute to an approach which will enable Fiji to secure a peaceful, prosperous and coup-free future.

### **The interim administration's aspirations**

On 5 December 2006, the commander of the Republic of Fiji Military Forces (RFMF), Commodore Voreqe Bainimarama, deposed the elected government of Prime Minister Laisenia Qarase and dismissed the country's parliament. This also ended Fiji's first venture into multiparty government – a form of government required under the constitution.

Interim Prime Minister Bainimarama duly announced a 'road map', based on a mandate from the President, which was to be regarded as the interim administration's mission statement. Its priorities included the maintenance of law and order and national security, the eradication of corruption, and the restoration of parliamentary government through elections 'after an advanced electoral office and systems are in place and the political and economic conditions are conducive to the holding of such elections'.<sup>2</sup>

The interim administration implemented its own budget for 2007. It has introduced measures both to reduce the cost of government, and to create job opportunities in the public service for new graduates and school leavers. It has also embarked on a 'clean-up' campaign to rid the civil service, statutory authorities and public enterprises of mismanagement and corruption. An independent body, the Fiji Independent Commission Against Corruption (FICAC), has been established to spearhead this initiative. Building on its declared intention to improve relations with Fiji's neighbours and the international community, the interim administration has been holding consultations with important bilateral partners and multilateral organizations. It has entered into a broad understanding with the Pacific Islands Forum and with the European Union (EU) that Fiji will return to parliamentary government through an early election, and that the interim government will ensure the full restoration of basic human rights and fundamental freedoms as provided for in Fiji's constitution. The interim administration is now proposing an advisory National Council for Building a Better Fiji (NCBBF) to assist with the preparation of a 'People's Charter' as a blueprint for Fiji's future governance.

On 31 May 2007, the interim administration lifted the public emergency regulations that had been in place since the coup. However, it cautioned the people that it would continue to deal with anyone who incites public instability and disorder, under the Public Order Act.

As in the 1987 and 2000 coups, the takeover of the elected government resulted in very serious consequences for democracy, the rule of law, and the economy. There is also concern about its impact on race relations – especially between the two main communities, the Fijians and the Indians. With coups having resulted

in the removal of three elected governments, people ask ‘what is the point in having elections?’.

## **The people’s concerns**

Since the coup, people have observed that individuals and groups have been taken in by the military for interrogation under the provisions of the Public Emergency Decree. The military has done this to ensure public order and national security. But the people have been very concerned by allegations of human rights abuses. There have also been restrictions on freedom of expression and freedom of movement. The people have now realized that the protection in the constitution for their basic human rights and freedoms is not guaranteed in all circumstances.

The military and the interim administration have reminded people that anyone with human rights complaints should seek the assistance of the appropriate authorities. But the credibility of the Fiji Human Rights Commission as an independent and impartial body under the constitution has been seriously compromised by the stance taken by the Commission’s director in relation to the coup. People’s confidence in the independence and integrity of the judiciary has been undermined by the suspension of Chief Justice Daniel Fatiaki, and the long delay in the appointment of a tribunal to look into the allegations against him. An acting Chief Justice has been appointed, but the constitutionality of this is being challenged. There has also been speculation that the judiciary has been divided by factionalism. People have been concerned that the police force has been weakened by the loss of many senior staff, and also concerned about the delays in police investigations into coup-related cases, including the death of two individuals allegedly during or following their detention for interrogation.

The legality of the 2006 coup remains an issue. Everyone agrees that this is best left to the courts to determine. There are in fact three cases on this pending in the High Court; one by deposed Prime Minister Qarase and some of his deposed ministers; another by the dismissed chief executive of the Fiji Cane Growers Council, Jagnath Sami; and another by several members of the suspended GCC.

In the meantime, the people are confused about the status of Fiji’s constitution and the compliance by the military and the interim administration with its provisions. The military has justified the coup on the ground of ‘necessity’; the army felt it must act to safeguard the nation from what it perceived to be corrupt practices and race-based policies of the Qarase government. The military decided not to abrogate the constitution, but to maintain and to uphold it.

However, various actions by the military and the interim administration since 5 December 2006 have raised questions about whether or not they have, in effect, suspended certain provisions relating to the conduct of executive government, parliament, the judiciary, the public service and emergency powers. Another

concern related to the law has been the perceived harassment and intimidation of people who have sought relief in the courts against the new regime. In this context, the people have welcomed the lifting of the Public Emergency Decree. Many, however, remain concerned whether or not this will lead to the full restoration of constitutional rights and freedoms. People are still wary that the Public Order Act might be used to curtail free movement and expression.

As regards the country's return to democracy, the people have been reassured by the interim administration's commitment to restore parliamentary government within three years. What is hoped for now is that it will announce firm timing for the elections, as it has been encouraged to do during on-going consultations with the Pacific Islands Forum and the EU. The Forum and the EU have been pressing for elections within two years.

In conjunction with preparations for the election, the people have supported moves by the interim administration to review and up-date constituency boundaries following the 2007 census. The interim administration has also announced its intention to review provisions in the constitution providing for community-based representation in Fiji's parliament. Whilst this is appreciated, the general feeling is that any review of Fiji's constitution should be considered as a separate and longer-term objective, so as not to delay Fiji's return to parliamentary democracy. The Fiji constitution itself has specific provisions covering procedures for its review. The interim administration can facilitate a constitutional review by identifying particular provisions and/or issues to be considered and the terms of reference for follow-up by the new parliament and government after the election.

One aspect of the institutional arrangement that has caused confusion is the direct and concurrent involvement of the military in the interim administration and the civil service. The people appreciate that it is interim Prime Minister Bainimarama's sole prerogative to decide whether to concentrate on his responsibilities as the head of government or on his responsibilities as the head of the RFMF.

What is considered important is for a clear separation of powers between, on the one hand, the military, and, on the other, the interim administration and the civil service.

In December 1987 the military facilitated such a separation of powers when it placed in office the all-civilian interim administration led by Ratu Sir Kamisese Mara. Again, in June 2000, the military put into office an all-civilian interim administration led by Laisenia Qarase.

As regards the civil service, the transfer to it, on professional merit, of military officers who have resigned from the RFMF is not new. It started in the British colonial service and has continued since independence in 1970. The RFMF was



recognized as a very good source of well-trained and professionally experienced administrators. However, as in the wake of the 1987 and 2000 coups, it is important to ensure a clear separation between the military and the civil service. Those who have been seconded to the civil service need to consider the option of resigning from the military before they take up their new responsibilities. Such a clear separation between the military and the interim administration and the civil service will ensure that there is no confusion as regards lines of authority and accountability.

At the time of the 2006 coup, the immediate and general concern of the people was related to the loss of democracy. Today, what they are most anxious about is their economic security. The economic impact of the coup is serious. The contraction in the economy is continuing. This is despite the best efforts of the interim administration to reverse the decline and to guide the country back to sustained economic growth. In fairness to the interim administration, the fundamental economic problems in Fiji in the past few years – which have impeded economic growth – have been the lacklustre performance of the export sector, the continuing increases in imports of consumption goods, the high operating costs of government, and the persistent low levels of investment, especially foreign, private sector investment. The decline and stagnation in exports has resulted from the loss of special markets for garment exports, the fall in sugar and gold production, and the reduction in prices for Fiji sugar in the EU markets and the closure of the gold mine at Vatukoula.<sup>3</sup>

The interim administration has taken drastic measures to cut costs in the public service. New initiatives for increased exports in agriculture, fisheries and forests have been introduced. However, the best growth and investment sectors – the tourism and construction industries – have been hard hit by the decline in tourist visitor numbers and the general atmosphere of uncertainty following the coup.

The withdrawal by the interim administration of the Public Emergency Decree was an important milestone for the tourism industry. Hopefully, it will lead to the early removal of travel advisories, which have resulted in a decline in visitor numbers from key tourism markets, like Australia, New Zealand, the USA, Japan and the United Kingdom. The restoration of tourist visitor numbers will, in turn, enable Air Pacific to review its current reduced operation and resume all air services.

At the individual level, people in Fiji are feeling the very difficult economic conditions which have followed the coup. When jobs are lost, and salaries and wages are cut, there is a heightened feeling of insecurity, and the primary concern is about the survival of one's family. There is a growing sense of despair and anxiety about the future. Ultimately, it will be the assurances and commitments that the interim administration makes as regards the rule of law and the country's

early return to parliamentary democracy that will greatly assist in restoring public confidence, and thus help to promote economic recovery.

## The nature of politics in Fiji

In the main, life in Fiji is race-based: First come concerns for oneself and for one's ethnic or cultural community; second comes concern for Fiji. It is a reflection of cultural differences in religion, customs and values. Fijians consider their security from their point of view as the *i Taukei*, or the host community, as landowners, and also as Christians.

Our Indian people, on the other hand, regard themselves as the tenant community and also as victims of all kinds of exclusion from government, the civil service, the military, government affirmative programs and the like – and of the coups of 1987 and 2000. Their concern for security has been heightened by the expiry of agricultural leases, and the declining number of Indians as a proportion of the population. For the other minorities, their sense of insecurity arises from a feeling of not being sure of their place in Fiji.

Politics in Fiji is based on race rather than differences in economic and social development policy. There is not, for example, one political party that advocates small government and a bigger role for the private sector, and another that favours big government and a role for the state in providing welfare assistance and support to the poor and the disadvantaged. Governments of all persuasions have generally been conditioned in their thinking by economists and bureaucrats that growth, high growth, and sustained high growth are the answers to Fiji's economic future. However, all governments have also supported high expenditure on assistance to the poor, through social welfare support and rural community development.

Fiji's political spectrum is characterized largely by extreme Fijian ethno-nationalism at the extreme of one side, and by pro-Indian activism at the periphery of the other side. The political centre represents those who believe in moderation, and a Fiji with an equal place and equal opportunities for all.

Fiji's prime minister from 1970 to 1987, Ratu Sir Kamisese Mara and his Alliance Party placed themselves from the outset at the political centre. Their policy was 'Fiji for All'. But Ratu Mara suffered politically from trying to hold onto the middle ground, first by his loss of Fijian support in the April 1977 election, and second in the election of May 1987, when he was deeply disappointed by what he felt was the lack of Indian appreciation of his multiracial policies. In 1987, Dr Bavadra, the prime minister in the Fiji Labour Party/National Federation Party (FLP/NFP) coalition, which won the election of that year, was not given the time to show where he stood. In 1992, the then prime minister, Sitiveni Rabuka, and his *Soqosoqo ni Vakavulewa ni Taukei* (SVT) party started as Fijian nationalists but, by 1997, Rabuka personally had moved to the political centre.

In the same period, Jai Ram Reddy and his NFP started from somewhere at the centre. But like Rabuka, by 1997, Reddy had personally moved to the political centre. The result was, first, a positive achievement – the Fiji 1997 constitution – and, second, a negative consequence – they were both defeated at the May 1999 election.

As regards Prime Minister Mahendra Chaudhry (1999–2000) and Prime Minister Laisenia Qarase (2000–2006), I would say that they are two of the same kind in their approach to politics in Fiji. They both strategically placed themselves at the centre of their side of the political spectrum. As politicians, their basic instinct was to protect their ethnic support base. Their policies in government, therefore, tended to be orientated towards their ethnic political constituents. But, of course, they were also committed to national unity and multiracial cooperation. The result was their failure to reach agreement on routine and non-politically controversial changes to the constitution, or to resolve the complex issue of the Agricultural Landlord and Tenant Act (ALTA); and their reluctance to establish a multiparty cabinet, as required by the constitution. There was also a negative impact in regard to the differing perceptions they generated about their government's policy direction. As a result, Fijians perceived that Chaudhry and his government were too Indian oriented and therefore, racist; while Indians perceived that Qarase and his government were too Fijian oriented and therefore, racist. Such perceptions were a major cause of the coups of 2000 and 2006.

This is a generalized overview of the political situation in Fiji since independence. There is no intention to cast any doubt on the sincerity of all our leaders in their claim that multiracial cooperation is the way to long-term peace and unity in Fiji. What is at issue, however, is the political inclination of our leaders in their response to the interests and concerns of their respective ethnic communities.

## **The implications of the 2006 coup on race relations**

Anyone reading the daily 'Letters to the Editor' columns in Fiji would not fail to see the differences in viewpoints reflecting ethnicity. Many on the Indian side have openly expressed their support for the coup and the new regime. One suspects that these are people who hold very strong feelings about the coups in 1987 and 2000. In their view, Indians were the victims of the two earlier coups and Fijians were the main beneficiaries. (For their part, the Fijians were indeed the main supporters of the 1987 and 2000 coups.) As regards the 2006 coup, the majority of Fijians have been reserved and silent; the ousted Qarase government had been supported by more than 80 per cent of Fijian voters at the May 2006 election. Many people of all races have expressed their disappointment about the 2006 coup and the subsequent disregard for the rule of law and for Fiji's constitution. Fortunately, differences in ethnic perspectives towards the 2006 coup have not led to open racial confrontation. Nevertheless, they are a reminder that the promotion of national unity and cooperation among the different

communities in Fiji must not be ignored: They must continue to be consciously supported and promoted. It is, suggested, therefore, that the interim administration gives priority to this in its proposed People's Charter, to be prepared by the National Council for Building a Better Fiji.

The interim administration can begin the process by initiating conciliatory dialogue with all political parties represented in the dismissed parliament. Promoting political reconciliation and cooperation would assist in creating a positive environment to facilitate not just speedy economic recovery but also a free and fair election. A political accord and consensus between all political parties that were represented in the last parliament would entail a binding agreement by all parties that the interim administration is to be supported in carrying out and completing its mandate from President Ratu Josefa Iloilo to return Fiji to parliamentary democracy.

In return, there would need to be agreement that those who have mounted legal challenges against what has happened would be allowed to continue to do so unhindered, in accordance with their constitutional rights. Also, members of the dismissed parliament would be financially compensated, subject to agreed conditions – as was done in 2000 by the interim administration at the time.

This comprehensive political accord would provide the necessary environment for a free and fair parliamentary election. Equally important would be the immediate positive impact of such an accord on restoring and lifting public and investor confidence. In times of adversity, such as that which Fiji is currently going through, all our leaders are called upon to exercise their power and leadership with even greater responsibility than usual for the greater good of our country.

As regards the proposal to review the constitution, and specifically the requirement for communal representation, any re-look at Fiji's constitution should also include an examination of the provisions relating to the formation of a multiparty cabinet (Section 99). The current provisions are simply politically unworkable. They work only if the entitled party is willing to accept the position of being a junior and unequal partner in the multiparty cabinet and in parliament. Fiji should, instead, build on the provisions of the compact chapter of the constitution (Section 6) and, in particular, the principle that in the formation of government, parties should consider joining in a voluntary coalition of willing political parties. This will be a genuine coalition of equal partners. This, in fact, was the kind of political understanding and cooperation that the two main proponents of the 1997 constitution, Sitiveni Rabuka and Jai Ram Reddy, entered into in the lead-up to the May 1999 election. They had agreed that, if their parties won at the polls, a Fijian would be prime minister and an Indian would be deputy prime minister. Had they won, they would have set a positive example for the

adoption of this kind of intercommunity cooperation in other areas of government – such as the appointment of the President and the Vice-President by the GCC.

## **The way forward**

With its commitment to promoting a non-racial Fiji, the interim administration now has the opportunity to secure greater political cooperation and understanding. The social justice chapter of the constitution (Section 44) ought also to be reviewed to clearly prescribe guidelines for affirmative action programs. Everyone agrees that the basic criterion for assistance should be the need of all disadvantaged and underprivileged individuals and groups, regardless of their ethnicity. In relation to expiring agricultural leases on native land under ALTA, attempts by previous governments to secure a resolution have been frustrated by political self-interest. Given its importance both for stimulating agricultural production and for intercommunity cooperation, the interim administration should consider legislation on this issue as part of its review agenda.

Changes and improvements in the constitution and in land legislation to facilitate greater cooperation among the communities in Fiji are important for a more facilitative legal framework. However, legislative action on its own is not enough. Patriotic feelings of national unity can only come from the heart. It is thus important for the interim administration to task its National Council for Building a Better Fiji to include programs for national reconciliation and unity in the proposed People's Charter. In this, Fiji should draw inspiration from the vision of Fiji's first prime minister, Ratu Sir Kamisese Mara. When accepting Fiji's formal instrument of independence on 10 October 1970, he told the Queen's Representative, HRH Prince Charles, that the people of Fiji were taking on the full responsibility of nationhood not only for themselves, but also for each other. Fiji is a country which, since independence, has continually been in search of its destiny as a multi-ethnic and multicultural society. Fiji's prime ministers and their governments have devoted themselves to efforts to realize this vision, but they have not succeeded. It is now for the interim administration to take up the challenge.

One of the great lessons of history is that people are confident and able to fully apply their creative abilities and energies when they are free – when there is no impediment to their enjoyment of their constitutional rights and freedoms. They are also confident when the law treats everyone equally and fairly, and when they are governed in the best collective interest. This is why there is a direct correlation between, on the one hand, democracy, the rule of law and good governance, and, on the other, economic dynamism. Repression, suppression and exclusion lead only to fear, frustration, lack of confidence, and economic decline and stagnation. This has been the experience not only of all liberal democracies but also of state socialist countries and nations with military regimes. Fiji has much to learn from this.

The interim administration is to be commended for its commitment to building a better Fiji through a corruption-free and non-race-based approach to governance. However, for Fiji to make rapid progress in economic recovery, it must respond to the people's concerns that there be an early return to democracy, the rule of law, economic security and long-term peace, stability and unity. The Book of Ecclesiastes in the Old Testament tells us that, in the ultimate, life here on earth has no real purpose. Therefore, enjoy it, for it is like chasing the wind! Now I do not share this rather pessimistic view of life. Where there is life, there is hope to make it better – that is our hope for Fiji.

What we critically need today is national leadership by people who have the courage, the vision and the commitment to stand firmly at the political centre, and to make Fiji a country that believes in, and cares for, all its people. For the citizens of Fiji, what is needed is a new attitude in our relationships with one another. In our multi-ethnic and multicultural society, our religious faiths may be different, but they are all centred on a common belief in an Almighty God whose love embraces all of us and is infinite and is boundless. It is love with no condition. Let us extend and share that same love as the binding force that draws us together.

The challenge for us all is to build a Fiji that is united, progressive in its economic and social development, proud of its cultural diversity, and committed to the rule of law, good governance, and the protection of our God-given environment.

## ENDNOTES

<sup>1</sup> The 'other' communities, known in electoral terms as the 'general voters', are those who are neither ethnic Fijian, Indo-Fijian nor Rotuman. They include Europeans, part-Europeans, Chinese, and other Pacific islanders

<sup>2</sup> Commodore Bainimarama's acceptance speech as Prime Minister, 6 January 2007, [http://www.fiji.gov.fj/publish/printer\\_8177.shtml](http://www.fiji.gov.fj/publish/printer_8177.shtml)

<sup>3</sup> The Australian company Westech Gold bought Vatukoula mine from Emperor Mines in 2007, was then taken over by River Diamonds, and resumed production. The workforce under the new arrangements was far smaller than it had previously been.

## 23. Mythic constitutionalism: Whither Fiji's course in June 2007?

**Joni Madraiwiwi**

Reflecting on the statement made by the commander of the Republic of Fiji Military Forces (RFMF), Commodore J. V. Bainimarama, upon seizing power and ousting the multiparty government of Prime Minister Laisenia Qarase on 5 December 2006, one is bemused by some of the commander's rhetoric. In his remarks he stated *inter alia*:

... The RFMF could have carried out unconstitutional and illegal activities, but had not done so and will not do so. It believes in the rule of law and shall adhere to the Constitution. It not only adheres to the rule of law and Constitution, but more importantly believes in adherence to the spirit of the law and the Constitution ...

There appear to have been three main reasons for the military intervention: Alleged widespread corruption and abuse of office reflected in the military's oft-repeated threat to 'clean-up' the government; the barely disguised hostility between the government and the military over the former's alleged involvement with and condonation of those associated with the storming of parliament and taking of hostages in May 2000; and the expanded role the military saw for itself following those events. The commander and his close coterie of advisers saw the military as the ultimate guarantor of the peace, a perception echoed constantly in public statements and private discussions.

With the military arrogating for itself the role of guardian and protector, the police force has become increasingly demoralized. The reform and rebuilding of morale implemented by Police Commissioner Andrew Hughes have dissipated gradually since his departure in November 2006. The military has blurred the boundaries between policing and security roles at the cost of police independence and autonomy. Paradoxically, the business community has been quick to embrace the expanded reach of the military. They welcomed the presence of checkpoints and the involvement of the military in policing as having a salutary effect on crime. Such tunnel vision is understandable but short-sighted. There has been a real undermining of the rule of law in the actions of the military. Neither has crime diminished, it has simply relocated elsewhere.

The breaches in human rights since the coup have been on a wide scale, culminating in the deaths of 41-year-old Nimilote Verebasaga and 19-year-old Sakiusa Rabaka. There have been two related objectives. The first was to intimidate and frighten opponents of the military. In this regard, skills acquired

in soldiering abroad have been deployed. The second objective was to consolidate further the role of the military, which readily attended to inappropriate calls for their intervention from many Indo-Fijians and other citizens frustrated or dissatisfied with the level of police investigations on their behalf. The helplessness of the ordinary citizen was heightened by the inexplicable stance assumed by the Fiji Human Rights Commission in (FHRC) in favour of the military. That has continued to the present day. It was the director of the FHRC who issued an elaborate justification for the military's actions of 5 December 2006, one that has emboldened and sustained the military in its peculiar understanding of what adherence to the constitution means.

As self-appointed guardians of the public interest, the military and the commander were able to enlist a disparate coalition to their cause. Between the 2001 election and the eve of the coup, the military played a generally useful, if somewhat vocal, part in the general debate on issues of national concern. There is little doubt that this helped to moderate the *Soqosoqo Duavata ni Lewenivanua* (SDL) government's inclination to pander to the nationalist and more extremist elements in its midst. When the commander finally mounted the coup, he had a ready constituency – beyond the command structure of his officers and foot soldiers. This consisted of the Fiji Labour Party and a large majority of the Indo-Fijian community, scarred by the events of May 2000 and by a sense of alienation from the SDL government and its policies. A majority of the minority communities also felt likewise – that is, marginalized and deprived of opportunities to benefit from government assistance. It also included the Roman Catholic Church hierarchy, a significant section of civil society, elements in the judiciary and in the professional classes as well as a portion of the private sector.

The interim government formed by the commander – after his appointment by the President as interim prime minister on 5 January 2007 – is revealing. While multi-ethnic in character, it has limited Fijian support. Those Fijian politicians who are in the interim cabinet were unsuccessful candidates in the election of May 2006. There is only one member of the SDL government represented, and he is there by default. The commander may well have had good reason for excluding the ousted SDL government, but it undermines his legitimacy. The interim government is unfortunately perceived by many in the Fijian heartland as the handmaiden of Mr Chaudhry. Many Fijians are convinced this was an Indo-Fijian coup. Still others think it was a Muslim coup because of the association with a few prominent Muslims. These perceptions, even if mistaken, pass for a reality from which conclusions are drawn. The actual explanation is less inflammatory: The interest of various individuals and groups happen to coincide with the military's. The coincidence was both opportunistic and principled, a few believing they were acting in the nation's interest.



The effect the commander has had in the short time he has held centre stage is profound. No other Fijian leader, Rabuka and Apolosi R. Nawai included, has so directly confronted the Fijian establishment and remained seemingly unscathed. He has, in turn, scorned the SDL government, the Methodist Church and the *Bose Levu Vakaturaga* (BLV) (Great Council of Chiefs). He has had verbal jousts with those of chiefly rank. In ousting the Qarase government and in the arbitrary dismissals and removals of government CEOs, statutory corporation CEOs and members of statutory and corporation boards, the commander has gutted the Fijian middle classes. These are the ranks from which Fijian leaders would be expected to emerge. For the future, he has ensured a sense of festering resentment that will be visited on the body politic in time to come. The suspension of the BLV, following its refusal to endorse the President's nominee for Vice-President on 11 April 2007, demonstrates further the commander's revolutionary status, in the cataclysmic sense of the term. The BLV itself is in many senses a symbol. In treating it in such a cavalier and contemptuous manner, the commander exposed the façade of its authority. This has compounded the erosion of traditional authority structures. That may not be such a bad thing, replete as it is with shibboleths and anachronisms which need to be cleared.

And what of this brave new world upon which the commander, the military and the interim government are embarked? One in which Fiji emerges as a tolerant, multicultural, multireligious society, where all its parts are comfortable with themselves and peacefully integrated with each other. It is a laudable goal. But can we be forced to embrace each other within months and years, when the process of change takes at least a generation? Asserting it is one thing, delivering that outcome quite another. Removing communal voting and ethnic categorization is merely the beginning of the facilitative measures to be taken. They will not in themselves assure the desired result.

Demographics and continuing emigration by other communities mean an ever-increasing indigenous proportion of the population. Irrespective of how the electoral boundaries are drawn, it is likely that a Fijian-dominated political party will form the next elected government. What will the commander and his fellow travellers do then? Many Fijians remain enamoured with the concept of the Indigenous Claims Tribunal and the Qoliqoli legislation. It resonates with what they believe indigenous rights comprise. As for the rationale of the Promotion of Reconciliation, Tolerance and Unity Bill: That has been made more topical in the light of the military's potentially treasonous conduct on 5 December 2006.

In its engagement with the Eminent Persons Group from the Forum and the European Commission, the interim government has stipulated a three year period as the timeline for the next election. This to be preceded by a census and an electoral redistribution on non-ethnic lines. Reading between the lines from

various statements attributed to the commander and the interim minister for finance, one senses that both would rather an even longer period. However, realpolitik obliges them to appear to accommodate the proposals of our neighbours and friends. The longer the period to election, the less the commander and Mr Chaudhry feel the SDL will return to the Treasury benches. We have already canvassed the reasons why this reasoning is flawed. In fact, the apologists for the coup among civil society support the calls in some quarters that there be less haste to election. They argue other initiatives must first be implemented to ensure a more equitable society in order to have a solid foundation for democracy. This presupposes that there is some requirement for social engineering of sorts to construct a democratic framework. The irony that these measures, which are best left to an elected government, are to be implemented by usurpers with a dubious mandate is lost on those apologists.

The centrepiece of the interim government's 'legislative' agenda is the Fiji Independent Commission Against Corruption (FICAC) Promulgation 2007. It was enacted by the President under section 85 of the constitution, which nominally vests executive power in him. The High Court will be ruling in due course on its constitutionality, following legal questions referred to the High Court in a recent case that FICAC was purporting to prosecute. Leaving aside that issue for present purposes, the capacity of the interim government to enact such legislation is a valid consideration. An executive whose mandate rests not in the popular will but on the force of arms has no authority to do so. The commander relied on the doctrine of necessity to sanction the actions taken by the military on 5 December 2006. It is trite law that the doctrine is of limited application and only authorizes *de facto* rulers to do that which is administratively necessary. It matters not that the commander restored executive authority to the President on 4 January 2007. The principle still applies because the interim government indirectly derives its authority from the coup. It and its legal advisers must be held to account for the legal fallacies they have so egregiously asserted since December 2006.

Despite these misgivings, the stated intention of the military, now championed by the interim government – to 'clean-up' the government, statutory bodies and corporations – has resonated widely. There is a profound sense of anger in the community, among all ethnic groups, at deep-seated corruption, cronyism, nepotism and abuse of office. However, apart from the work of FICAC, the arbitrary dismissals and removals that have been an integral part of this initiative have been misconceived. A majority of those targeted were not at fault. The mistake of a few was a close association with the previous government. For others, it was being singled out by the commander as potential sources of dissent. In six months of much publicity, and even more posturing, very few people have been proceeded against. This, from a military that has obdurately resisted any effort to investigate the deaths in custody of Counter Revolutionary Warfare

soldiers in November 2000, the full disclosure of the RFMF Regimental Funds, and the recent deaths of Verebasaga and Rabaka in military custody. The military cannot demand transparency and accountability from others, while resisting the application of a like standard for itself.

To its credit, the interim government has withdrawn the emergency regulations with effect from midnight 31 May 2007.<sup>1</sup> Although we are not privy to the military's intelligence reports, their sense of insecurity was obviously acute. Given their monopoly on ammunition and their ability to react rapidly to any situation, the continuation of the regulations appears to have been to reinforce their position vis-à-vis the general population rather than for the purpose of stability. Meanwhile, the interim government has recently proposed a high-level council and secretariat heralding a process of engagement with the wider community (as represented by key parties in civil society and the private sector). What is envisaged at the end of several months' consultations is a charter that reflects the broad principles upon which our future governance is to be based.<sup>2</sup>

The concept *per se* has some merit. However, the structure is cumbersome and there is a very real doubt that the voices of ordinary people will be heard. There are also continuing concerns about the legitimacy and mandate of those convening the gathering. Is this a genuine effort at drawing the people of Fiji together? Or is it merely an attempt by the interim government and its cohorts to cloak themselves in some mantle of popular acclaim? Moreover, the interim government has given little in return apart from the withdrawal of the emergency regulations. There appears to be divided opinion on this issue, although my sense is that the doubters appear more persuasive. The process is as critical as the outcome. However, one has not heard anything from either the commander or his senior ministers about engaging their opponents. If this were to become another talkfest, where the interim government preaches to the converted and is reinforced in its convictions, an opportunity for constructive dialogue and possible reconciliation would have gone begging.

Where the military and the interim government may have gone astray is in the scale of their objectives. In a relatively short space of time, whether it is two, three or five years is irrelevant, they wish to remake this country. It is a worthy ambition but unrealistic in the circumstances. Conducting a census and redrawing the electoral boundaries on non-ethnic terms are huge tasks in themselves, as are the reform of the public service, and the removal of corruption, to say nothing of the restoration of the economy. To envisage the beginnings of greater inter-ethnic integration several years hence seems to be an exercise in sublime optimism. Merely mouthing the rhetoric among the converted does not transform the concepts into reality. In asserting his vision of Fiji, the commander has also alienated Fijian religious leaders, who have great influence over their followers. They will be reinforced by upwardly mobile professionals and traditionalists

who are offended by the diminution of affirmative action policies. Together, they will either distance themselves from or circumscribe involvement with the interim government's policy of engagement.

As for inter-ethnic relations, this coup has seen little of the overt racism and tensions that followed the previous coups. The Fijian community has accepted the overthrow in sullen silence. Many Indo-Fijians see it as a measure of poetic justice for the indignities they suffered previously. Some of their leaders have expressed support for the military's actions. It is a reflection of how little we know each other. How will this play out in the future? There will probably be no inter-ethnic reprisals, but Fijians will more strongly endorse indigenously oriented policies in the government they elect. Political unity will not be the problem it has been, because of the preponderance of Fijian numbers.

The key to the interim government's survival rests on two factors: The performance of the economy and the holding of a general election. Should the former improve by the end of the 2007, the pressure on the interim government will ease slightly. However, this eventuality is debatable at this point. The public service unions appear to have muted their calls for industrial action over the five per cent wage and salary reductions and the lowering of the retirement age to fifty-five. The injection of funds into the sugar industry, assuming political targets are met, will be a real fillip to the economy. The electorate will be composed as long as it is satisfied the interim government is putting in place the necessary structures for an election to be held. It would even be prepared to allow it some leeway. However, the watchwords are commitment and movement. Even were the economy to worsen, the electorate would remain quiescent as long as it believed the interim government was genuine about delivering an election within a reasonable timeframe.

In hindsight, the military and the interim government's legal advisers, and by that reference is made to those in the shadows behind the interim Attorney-General, would have been better advised to have abrogated the constitution. The legal gymnastics they are obliged to perform, all the while chanting the constitution is intact like a mantra, would test a contortionist. The dilemma is that the legal apologists and their collaborators in the military wished to depart from the constitution without breaching it. We are still continuing on this 'Alice in Wonderland' journey. In the meantime, the courts are at once operating normally – as in trying criminal and civil cases – while coming under siege. The Chief Justice remains suspended on as yet unspecified charges. The appointment of the Tribunal to conduct the inquiry is still awaited. The acting Chief Justice was appointed in dubious circumstances by an improperly constituted Judicial Services Commission (JSC). The JSC for its part continues to make appointments despite the fact that its status may well be suspect. And appointees of the new regime are hearing challenges to the legal order post 5

December 2006. It is a very untidy state of affairs with little prospect of early resolution.

This retrospect ends where it began: With the military. The genus of the 2006 coup lies in the first one perpetrated almost two decades earlier. It is disingenuous for Sitiveni Rabuka to distinguish 'his' 1987 coup on the basis it was somehow intrinsically different. No coup against a democratically elected government can ever be justified, unless the government concerned is inflicting genocide or some other heinous crime against its own people. The present interim government may well acquire legitimacy in the courts through the doctrine of acquiescence, but it would have established a new legal order in the process. To continue to assert that the takeover of 5 December 2006 constituted an adherence to the constitution is not only absurd but also delusional. The only gratifying aspect of this travesty, in the absence of all the elaborate justifications, is the belated recognition by many Fijians that the only appropriate habitat for the military is the barracks. There being no external security threats as such, the military is now a law unto itself. Any meaningful attempt to prevent any further coups must deal with this issue. The sense of *puissance* conferred by the possession of arms is an intoxicating feeling we must cure. If not, we are destined to travel this weary path repeatedly in the future, periodic hostages to the messianic ambitions of one military officer after another. The ordinary people of our country, whose dreams are for the betterment of themselves and their families, deserve more.

## ENDNOTES

<sup>1</sup> The emergency regulations were reintroduced temporarily in September 2007.

<sup>2</sup> This initiative was overtaken by the formation of the National Council for Building a Better Fiji, which produced a *Draft People's Charter for Change Peace and Progress* in August 2008.



## 24. Creating a stable Fiji

### Joni Madraiwiwi

Two years ago, Fiji was on the threshold of having a multiparty cabinet. On that occasion, I used a Fijian saying, *'kunekunea na eloka ni dilio'*, to describe the rare opportunity it gave us to start afresh. The phrase is a reference to the rarity of finding the eggs of a particular bird. This is so because the bird in question actually lays its eggs in Alaska before returning to Fiji to live. We were unable to take full advantage of the moment and have since regressed. So what is it that can be done at this point to create the circumstances we so desperately seek?

There is a critical need for dialogue and engagement in fora in which the interim government and its political opponents can participate without preconditions. The National Council for Building a Better Fiji (NCBBF) can continue to develop the principles for a charter for good government. But there has to be another means for finding common ground. The onus is upon the regime, as the party holding the reins of power, to engage. Without this, the country will continue to drift, as divided and fractured as ever, with a charter and a new electoral system being imposed, and the constitution abrogated to allow the implementation of both. The implications, both internally and internationally, hardly bear thinking about. The tragedy is that many beneficial features in both the proposed charter and the electoral system would be discounted because of the manner of their implementation.

The NCBBF must proceed with haste on the drafting of the charter. Given the determination of the commander and the military to implement what emerges from the consultations, so be it. Just as Mr Qarase has said the commander must be given the benefit of the doubt in relation to a March 2009 timetable for a general election, so must we do likewise in relation to the charter. Let us see what emerges. The debate will centre on how the principles to be enshrined in the document are to be incorporated in the constitution. If the interim government wishes to force it and a new electoral system upon us, they have the backing of the military to silence dissent. But a new dispensation pushed on the people of this country will not be sustainable. In the long term, the will of the people will prevail. The 1997 constitution has been much maligned by a range of critics across the political spectrum. But it was unanimously approved by the representatives of the people of Fiji in parliament. And it was the result of one of the most concerted efforts to ascertain the views of ordinary people ever undertaken in our history.

There are mixed views about reconciliation. Who is to reconcile with whom and on what terms? Many careers and lives have been affected in the aftermath of

5 December 2006. Those are larger issues that will have to be dealt with over the longer term. However, there are some gestures that this interim government may wish to consider as a beginning. A large number of capable and professional people were arbitrarily removed without cause from the public service and statutory corporations. Some consideration could be given to reinstatement and/or compensation – I omit those against whom the regime may have allegations and cases. Overall, a climate of unease has infected the public service and statutory corporations at all levels. There is a reluctance to take responsibility without trying to second guess our political masters. In such circumstances, prevailing uncertainties are further compounded. The result is inaction, indecision and delays that undermine the delivery of services.

The advantages of some form of dialogue in the political arena are obvious. As long as this impasse continues, economic activity will decline and significant investments not eventuate. The sanctions taken by Australia and New Zealand have had an adverse effect on initiatives to strengthen the economy. Their removal depends on the actions of the interim government. While it appears that we will have to live with the regime for some time yet, within its limited space for manoeuvre, it has some options. First, it must take a more constructive approach to the private sector. Some of the recent decisions affecting this sector have not inspired confidence. Second, the tourist industry requires more support from the authorities. As this industry provides the shortest route to generating economic growth, it requires nurturing. Third, the interim government should consider establishing mechanisms for our citizens who are leaving in numbers to work abroad. For a good portion of those it is not permanent; they fully intend to return. Remittances are now a significant source of revenue. Professor Wadan Narsey has written extensively on these issues and how the government might take advantage of the phenomenon.

We need now to begin discussions on the role of the military. Since 5 December 2006, the extent to which it has entered the public service is a concern. This has blurred the boundaries between the former, as a disciplined service, and the latter, as a civilian organization. In practical terms, this is just as critical as the drafting of the charter. It is in the military that the ever present threats of coups lie. The commitment of the present military leadership to abiding by the charter will last only their tenure in control. Their successors may have other ideas. So these issues will require sensitive handling. Because the military has come to see itself as having a part to play in national affairs, its complete return to barracks may have to be gradual. A generation of military officers has grown to maturity in the shadows of four coups. They will not be easily weaned off their appetite for more.

The courts have not fared well since 5 December 2006. The decision of the commander, as putative President, to remove the Chief Justice has served to



exacerbate a schism in judicial ranks. An impartial and united judiciary is critical to the proper adjudication of the rights of individuals and parties – as it is when it comes to the judiciary overseeing the relationship between the state and its citizens. Yet, the apparent manner in which some of the parties have been dealt with, and the seeming partiality shown the state are matters of concern. They affect the image of the courts as the independent arbiter of rights. These issues are not raised to criticize or to compromise the standing of the courts. They are expressed in the hope that these disquieting incidents will be addressed. The divisions that have given rise to the present situation are not new. They are long standing. The acting Chief Justice, the interim Attorney-General as leader of the Bar, and the president of the Fiji Law Society have a heavy responsibility to heal the abiding fissures if lawyers are to make a positive contribution to stability.

As an attempt is made to re-establish parliamentary democracy and a more cohesive society, much will be asked of Fijian political leaders. They must demonstrate statesmanship. Quite simply, they will have to moderate the strong feelings that have been aroused in the past eighteen months. Accommodation is not to be confused with surrender. The need is to find a compromise. This does not necessarily mean abandoning some of the indigenous issues that are perennial, such as the ownership of *qoliqoli*, and the land claims tribunal. What it does require is engagement with other communities on the issues to find some basis for settlement. It may not be possible to do so in the end, but a concerted effort has to be made.

The lack of Fijian participation in the commercial and private sector remains a concern. This perceived disadvantage provides fertile ground for exploitation by extremists. The business community must take up the responsibility of mentoring Fijians in a more visible and organized manner. At the same time, Fijians have an ambivalent attitude towards business and commerce. While wishing to participate, they are reluctant to abandon the costly rituals and obligations that are such a part of Fijian social life. Fijian leaders in the *vanua*, church and politics must attempt to create an enabling environment, so that the more enterprising among us are not perpetually torn between those conflicting demands. Those that achieve some success often find they are burdened with a plethora of obligations from less fortunate kin. Rusiata Nayacakalou, the brilliant Fijian anthropologist, remarked on this over four decades ago and we still face the same dilemmas.

In a multicultural and multireligious society like ours, religious leaders play a significant part. They are also respected figures. However, ethnic differences are reinforced by the religious divide. I accept that many Christian leaders and their flock are uncomfortable dealing with their Hindu and Muslim brothers and sisters at a religious level. The interfaith group has found the journey a lonely one. But it is surprising that there has been little interaction on community

concerns. Issues like the desecration of temples, the plight of the poor, HIV/AIDS, youth suicides, and teenage pregnancies could be considered and resources pooled. In Samoa, the churches have taken a very enlightened approach to the twin concerns of HIV/AIDS and youth suicides. It would convey powerful messages to the community. The gulf that prevails on theological principles ought not to preclude cooperation at this level.

Some would decry the persistence of ethnically based institutions in the education system. However, I am more concerned that more has not been done to inculcate a sense of citizenship in our schools and colleges. This must begin in preschool and kindergarten and continue until seventh form. Education is not only about preparing the next generation for the workplace: It is also, equally, about shaping the society of which it will be part. The teaching of Fijian and Hindi must necessarily be part of this development. There is an argument that this is irrelevant, as English is the language of international commerce and trade. But in local circumstances, it will create more opportunities for dialogue in terms communities find easier to relate to.

Civil society plays a positive role by providing a voice for the marginalized. This process must proceed apace. Creating a human rights culture is critical. Where the people of Fiji are more aware of the connections between their rights and good government, it emboldens them. In the end, the constitution, the charter and human rights treaties are just pieces of paper with words on them. The challenge is to build in the people of this country an awareness that they themselves are the best defenders of those rights. In the event that anyone seeks to take them away, they must use either the courts or peaceful civil action to defend them. They cannot be taken for granted.

There are no instant solutions to the challenges that face us. But as long as the contending parties are willing to engage in open and honest dialogue, we can begin to deal with them. It requires patience, forbearance, humility and goodwill to deal with the issues that divide. It also calls for maturity. Without this, the country will continue to drift and resentment will foster. Placing preconditions serves little purpose other than to maintain the impasse. There is a certain weariness among the ordinary people of this country. They want some resolution to the stalemate. Barking at each other and point-scoring does not advance matters further. Low levels of economic growth, collapsing infrastructure, the land tenure issue, poverty and squatters require the attention of a government that has the backing of the entire community. What needs to be done is clear. Do we have the wherewithal, the courage and the imagination to do it? The metaphorical search for the eggs of the *dilio* bird does not have to take us to Alaska, because the solutions lie in our midst.

# 25. Making votes count: The need for electoral reform

Rev. Akuila Yabaki

## Introduction

Fiji will be at the crossroads again in 2009. In a span of 10 years, since the first election under the 1997 constitution was contested in 1999, the country will have had four elections. The 1997 constitution – which ordains the alternative vote (AV) system, the use of a mix of open and communal seats, and the multiparty cabinet concept – had been expected to encourage moderation and accommodation, resulting in a more representative and multi-ethnic cabinet. This, sadly, has not happened. On the contrary, the racial groups have become more polarized, and political parties have played the race card to the maximum. The fact that we have had two coups in the past ten years also clearly shows that things have not worked out in the manner anticipated by the architects of the 1997 constitution.

The Citizens' Constitutional Forum (CCF) conducted an 'Elections Watch' workshop after the 1999, 2001 and 2006 elections. This chapter examines the findings and recommendations made at those workshops.

## The expectations and realities of the 1999 election

The 1999 election did not meet the expectations of the Reeves Commission; it did not deliver political moderation and cooperation. Leaders of the main parties were indeed conscious of the need to work with cross-ethnic partners – for example, the coalition – made up of the *Soqosoqo ni Vakavulewa ni Taukei* (SVT), the National Federation Party (NFP) and the United General Party (UGP) – designated an agreed first-choice candidate in each constituency. But cooperation between the Great Council of Chiefs-supported SVT and the NFP was exclusive rather than inclusive in character. Sitiveni Rabuka, as the leader of the SVT, represented Fijian interests and Jai Ram Reddy, as NFP leader, represented Indo-Fijian interests. Although the leaders claimed to represent entire communities, excluded were those sections with differing ideologies. Cooperation between the parties in the People's Coalition (the Fiji Labour Party, the Fiji Association Party and the Party of National Unity), and to some extent between these parties and the Christian Democrats (VLV, *Veitokani ni Lewenivanua Vakarisito*), was essentially an anti-SVT/NFP marriage of electoral convenience. Generally speaking, while there was a consensus between the parties on some issues, they remained divided by history.

'Above the line' voting was introduced to facilitate cross-ethnic electoral agreements. In practice, it meant that candidates did not need to interact with other parties or seek support from wider groups of voters once the agreements to trade preferences were struck by party leaders. Furthermore, the AV system did not guarantee parties fair representation. For example, the NFP won no seats although it polled one-third of the Indian vote.

In 1999, problems with the electoral process included evidence of political pressure placed on some voters (particularly ethnic Fijians).

Despite the existence of 25 open seats, it was suggested that only six seats were genuinely competitive in the sense of having a close balance between ethnic Fijians and Indo-Fijians.

## **The multiparty system**

Although the Reeves Commission did not recommend mandatory multiparty government in its constitutional review, a decision to introduce this was made by parliament. In the CCF's workshop following the 1999 election, the following points were made in relation to the multiparty cabinet provisions:

- The Constitutional review had not gone far enough in its proposals for multiparty, multi-ethnic government.
- The election results showed that the reality of ethnic-based voting had not changed. The concept of multi-ethnic, multiparty government remained a politician's issue not a people's issue, imposed from above by the constitution.
- There was a conflict between the acceptance by parliament of the Reeves Commission's rejection of proportional representation for parliamentary elections and parliament's decision to base cabinet membership on a certain proportionality of parties' parliamentary representation.
- There were unresolved legal questions as to whether or not parties could set conditions for cabinet membership.

As regards the electoral system, the CCF workshop drew the following conclusions after the 1999 polls:

- The new system was more expensive than the old – at F\$20 per vote instead of F\$6 per vote.
- Polling station and constituency boundary arrangements needed re-examination. The old system of designating voters to specific polling stations was felt to be more efficient.
- In spite of the good intentions of the framers of the constitution and electoral system, none of the parties had yet fully adjusted themselves to being multiracial in appeal – although the FLP did its best to represent wider social issues.

- The AV system was characterized as a voting system capable of producing capricious and unrepresentative results. It was noted that the SVT-NFP-UGP coalition won more first preference votes than the FLP but far fewer seats. Consequently, there was doubt that the AV system could form a stable basis on which to build a multiparty cabinet system.
- The election of members to the House of Representatives should be on a proportional basis, to underpin the proportional allocation of cabinet posts.
- There was a need for voter education under any new system.
- The political situation had changed for the better during the period of the constitutional revision. This was attributed to the democratic way in which the constitution was revised, and was reflected by the respect shown to it by all parties at that time.
- There was a need for some revision of the new voting arrangements.
- The party elites failed to engage with the wider electorate (or in some cases their own supporters). This was attributed in part to the introduction of 'above the line' voting.

Generally, there was some feeling of optimism that the spirit of the 1997 constitution, particularly the multiparty concept, was working. However, a year later, on 19 May 2000, a coup was staged by George Speight and his supporters; they claimed that indigenous Fijian land and resources were under threat by an Indo-Fijian-dominated government. The insurgency was brought under control by the military. However, the deposed Indo-Fijian prime minister and his cabinet were not restored to power. Instead, the country went to a fresh election in August–September 2001.

## **The 2001 election**

The 2001 CCF workshop revealed feelings of unfairness, injustice, hurt and manipulation, particularly among those who lost. For the first time, there were widespread claims that vote-rigging had occurred, although these claims were not given credibility by any of the international election observer missions. The coup had dampened the spirits of many, and may have been the cause of voter apathy, resulting in a lower turnout. The then Supervisor of Elections, Walter Rigamoto, revealed that the voter turnout at the polls was only 78.93 per cent, compared with 90.18 per cent in 1999. This, Rigamoto said, was a significant drop and could be attributed to factors such as apathy, the potentially long voter processing times, discontent with the voting system, and non-prosecution of those who did not vote in 1999. Missing names in the electoral registers also contributed to the low vote.

Rigamoto acknowledged that suggestions had been made that voter intimidation may also have contributed to the low turnout, although there was no real evidence to support this.

In 1987, 48 per cent of the voter population had not voted; 41 per cent did not vote in 1994. More people voted in 1999 than in the 2001 election. In 1999, invalid votes were around 9 per cent; in 2001, around 12 per cent.

Women's organizations felt that many women were apathetic. Some could not see why they should vote: Since their choices had been overturned in a coup, why should they participate? There were also feelings of fear. Women were scared about what would happen in a new election. The Fiji Women's Rights Movement in 2001 adopted a strategy aimed at helping people to understand democracy, and how free and fair elections are an important part of democracy.

Rigamoto raised the issue that they had been given only a few months to prepare for the election. Concerns were also raised at the CCF workshop that the country had gone to election too soon after the traumatic experience of the 2000 coup. One participant, Ratu Meli Vesikula, asked:

... how on earth can we prepare our people for a general election after a crisis as big as the coup? As far as I can see, there was no meaningful getting together for dialogue or coming closer together of leaders at the very top and at the higher levels of our country from May 2000 last year to the general election this year ... I can still see an impasse. So is a crisis time a good time to turn to the people in an election?

Concern was raised in the 2001 workshop that, while ordinary citizens want to live in a peaceful country, side-by-side, helping one another and caring for one another, the top level of the hierarchy were doing their level best to stop that happening.

People were not ready for the election. They were confused, their sense of justice was insulted. Having just taken part in a general election, they had hoped for something better – perhaps that leaders could get together and revive the parliament that they had elected – but that did not happen.

Other factors that influenced the voting environment included the security forces, the question of the intimidation of voters, the violence that took place in Dawasamu and Muaniweni areas, and threats about possible bloodshed if certain political parties were to win. The mere fact that international observer teams from around the world came to Fiji for the first time was interpreted as a hint of how serious the situation was.

After taking into account the low voter turnout and the number of invalid votes, the government of the country was chosen by only 65.9 per cent of the people. SVT candidate Filipe Bole's calculation that 30 per cent of voters did not vote is close to this figure.

The 2001 election saw political parties exploit to the full the different customs and traditions of the races and cultures in Fiji. Use of the race card characterized

the 2001 election, as did the promotion of the politics of fear. The winners were the political parties that most successfully exploited and manipulated traditional, ethnic, cultural and religious influences. Overall, these influences compartmentalized the voters, making them less free to express their will.

It was revealed that the *Soqosoqo Duavata ni Lewenivanua* (SDL) party attempted to avoid the direct verdict of the voters by presenting a *tabua* to the chiefs of the 14 provinces in order to seek their support and that of their people. This was described as exploitation and manipulation of Fijian tradition. Use of provincial councils to select candidates for political parties, or even to select independents, was another example of manipulation.

The third example of manipulation was the use of religion to promote political parties. It was revealed that Methodist ministers and stewards were directed – in writing – by the Methodist church president to campaign for and promote the SDL party. The president of the Methodist church was rewarded for this action by being given a seat in the Senate in 2001.

Caretaker ministers (in office during the period between the Chandrika Prasad judgment of March 2001 and the election) were accused of not resigning in time, and there were allegations that they misused government resources to promote their party. One of the major concerns associated with such abuse was the so-called ‘agriculture scam’ which entailed handouts of farming tools, implements etc, amounting to over \$16 million. These were distributed just prior to the election by caretaker government ministers who had become part of the SDL party.

An interesting observation was made at the 2001 CCF workshop: It was that the issue of justice is perceived differently by Fijians and Indians. For Fijians, the issue of justice was said to be concerned with domination. By contrast, the issue of justice for Indo-Fijians was supposed to be linked to self-respect. This was seen as further fuelling polarization on both sides. Indo-Fijians saw justice as re-assertion of their electoral rights; the SDL and others continued to use the reason ‘why we did May 19 was we wanted to take control’.

## **The 2006 election**

The 2006 results were similar to those of 2001. In fact, the claims of vote-rigging and voter manipulation increased in 2006, and there were court cases to challenge the results of some seats. The ethnic polarization in the 2006 election can be described as the worst in the history of Fiji, with the SDL winning almost all Fijian seats and the FLP winning almost all the Indo-Fijian seats. None of the other political parties won a single seat. This election played on the worst fears of voters. The moderate political parties were wiped out.

Although the 2006 election results showed a clear failure to achieve the spirit of the 1997 constitution, some hope was rekindled by the subsequent formation

of a multiparty government of SDL and FLP members in June 2006. However, the SDL's persistence in using racist policies was a clear indication that its commitment to multiculturalism was just a façade. The deteriorating relations between the SDL and the military resulted in the coup of December 2006. This was the first time that the Fiji military had removed a Fijian-dominated government. The reasons given by the military for the 2006 coup date back to the illegal takeovers of parliament in 2000 and 1987. This leads CCF to conclude that Fiji will only be able to move forward after it has reflected deeply on everything that has gone wrong since the 1987 coup, and found a way to mend the damage.

## **Comparing elections**

Both the 1999 and the 2001 elections were historic in their own ways. The 1999 election was the first under Fiji's new constitution. The 2001 election followed one of the most traumatic periods of Fiji's recent history. Both, then, were conducted at profound transition points: The 1999 one from a long period of racial exclusion to a more open and democratic order; the 2001 election taking the country from a period of governance by an unelected administration to that of an elected one.

In hindsight, perhaps since independence in 1970, we have taken for granted too many things about the electoral system and its ability to contribute to the goals of multiculturalism, national unity and, based on that, sustainable development. The 1977, 1982 and 1987 elections had revolved around competition between the two major communal blocks. Those elections had ultimately been decided by outcomes in the five or six marginal cross-voting seats where the two major blocks approached parity in numbers. It seemed a façade of electoral democracy, but in reality electoral democracy was being driven by communal competition.

Between 1968 and 1971, our leaders negotiated the framework within which elections were to be carried out in an independent Fiji. They preached the virtues of multiculturalism based on appearances of cross-ethnic political exchanges occasioned by the cross-voting seats. Had we taken a step back to reflect after two or three elections, and accepted that the cross-voting seats were largely working like their communal counterparts, we might have redrawn the electoral architecture earlier.

Elections need to be evaluated against a set of standards, as well as in terms of the aspirations they reflect. For a multiracial, multi-ethnic country like Fiji, where the issue of race can be made to assume an overriding significance, the question of electoral legitimacy is even more pressing. Elections must produce legitimate governments. But more than that, they must be seen to produce legitimate governments.



We have accepted that, for as long as the race card is used divisively in our communities, Fiji will need to have other enabling mechanisms to ensure that government is representative of a large cross-section of all communities. This might not be possible if we rely upon elections alone. Thus, the CCF workshops included discussion of the formation and operation of multiparty government. However, even the introduction of the 1997 constitution's multiparty system has failed to produce accommodation and moderation in Fiji's politics. There is generally a feeling that, although less than before, women continue to be excluded from decision-making and electoral representation processes.

## **Conclusions and recommendations**

On the basis of its workshops and further research, CCF has drawn the following conclusions.

1. It is important for voters to understand the process of governance, and why and how voting fits into the control over state power. They need to understand why their rights are important. Once people understand their civil and political rights, they can then understand how and why they should demand resources and development for their communities. More education on governance, citizenship, human rights and democratic processes are necessary for these results to occur.
2. If the true spirit of democracy is to be respected, political parties' manifestos and policies should be geared for the development of the whole nation. In Fiji's case, the fact that political parties only cater for particular ethnic groups means that, when they come into power, they do not have a national focus and thus propagate racial divisiveness and prejudice.
3. If racial elements were removed from the electoral system, all parties would be obliged to cater for the needs, aspirations and well-being of all members of the country. A party promoting policies that can be described as racially discriminatory should be disqualified from contesting the election. This would be in line with Fiji's obligations under the Convention on the Elimination of All Forms of Racial Discrimination.
4. The election system has been unkind to those reformed politicians who have publicly acknowledged wrongs. Those who once supported ethnic nationalist policies but came to embrace multiracialism have been treated poorly at the polls by their people. For example, Sitiveni Rabuka, Ratu Meli Vesikula and Ratu Epeli Ganilau have all suffered electoral defeat after such shifts in policy orientation. Fijian society is not providing space for Fijians to hold different views, as should be the case in a democracy. There needs to be more education about the true spirit of democracy, which provides for everyone's rights, needs, and identities to be respected.
5. After the workshop in 2006, CCF recommended that Fiji adopt an electoral system geared towards proportional representation. This could be the only

way forward for Fiji if the country wants to break out of the post-independence pattern of non-representation for certain ethnic groups in cabinet. The elected leaders of Fiji have shown a general unwillingness to give an appropriate number of seats in cabinet to members of the different ethnic communities. The only way that this problem may be rectified is a proportional representation system – a shift that is particularly important in light of the diminishing population of non-Fijian ethnic groups since the 1987, 2000 and 2006 coups.

6. Fiji needs to find a middle way to resolve the problems that have resulted in the four coups. Clearly, there has been no review of the constitution or the electoral system that might make this possible. In the aftermath of the 2000 and now the 2006 coup, dialogue has not been held to find a middle ground to take the country forward. CCF believes that the current People's Charter process will enable us to find this middle ground. South Africa was able to avoid bloodshed and is moving towards better times after adopting the middle way through the Truth and Reconciliation Commission. Northern Ireland took the middle way by means of dialogue between the two extremes sides, the Protestants and Catholics, who formed two opposing blocks in the population. A Community Relations Commission was formed by civil society representatives that presented a framework outlining what Northern Ireland could look like. Participants explored their differences from a strength-based position and realized that segregation was paralyzing every sector of the country. The Commission created the first integrated school and started inter-community projects. Closer to home, Bougainville, after losses of thousands of lives, has now a peace settlement, involving cooperation between participants. Fiji needs to go the middle way. This middle way can found through the charter process.

## 26. The impact of Fiji's 2006 coup on human and women's rights

### Virisila Buadromo

In December 2006, the commander of the Republic of Fiji Military Forces (RFMF), Commodore Voreqe Bainimarama, overthrew the Laisenia Qarase-led multiparty government by claiming to invoke the 'doctrine of necessity'. He defended his actions by citing legal precedent that supported his 'clean-up campaign' to eliminate corruption and racism in government.

Self-appointed President Bainimarama declared a state of emergency in Fiji, arguing that this was the only way that the army could fulfill the aims of its campaign. According to the military, certain fundamental rights and freedoms were suspended as a result of the state of emergency. It warned the public not to interfere or criticize the military in any way. The military did not issue any specific decrees stating which rights were suspended.

On 4 January 2007, after handing back executive authority to President Ratu Josefa Iloilo, Bainimarama was appointed interim prime minister. His cabinet was sworn in. It included a number of unsuccessful candidates from previous elections and a few members of the deposed multiparty cabinet. Bainimarama continued to hold the position of RFMF commander. He subsequently removed the Chief Justice, Daniel Fatiaki, and appointed acting Chief Justice Anthony Gates in his place. He also removed from office virtually all civil service heads of departments and heads of government-owned corporations, including members of boards who objected to his rule. Only those who agree with the military have been appointed to powerful positions in government and on boards of institutions.

A number of civilians have been illegally detained by the military since the takeover. Most have been taken to the Queen Elizabeth Barracks (the main military camp in Suva) where they have been subjected to acts of humiliation, assault and torture.<sup>1</sup> The military has maintained that this is necessary to eliminate any opposition to its regime to allow its 'clean-up campaign' to run smoothly.

Those assaulted and detained fall into two broad categories. The first is made up of those who have been openly critical of the military. This group includes prominent people like Qarase and members of the Qarase-led *Soqosoqo Duavata ni Lewenivanua* (SDL) political party, unionists, and human rights and pro-democracy advocates. On Christmas Eve, my partner and I were part of a group of six pro-democracy activists who were illegally detained and assaulted

by the army for several hours at the military camp. Several days later, we had travel bans slapped on us; these lasted almost three months. My partner and I were lucky; we managed to have our travel bans lifted. Others were not so lucky.

Women appear to have been subjected to particular indignities, including being threatened with rape. At the end March 2007 the detention of human rights activists appeared to have ceased because of the media attention they attracted.

The second group of those being unlawfully detained is made up of people who have been suspected or accused of committing crimes or misdemeanors, or of being critical of soldiers. Accusations are being made by various complainants, including neighbours, by-standers, other witnesses or random soldiers who are guarding military checkpoints or patrolling the streets in army trucks. The vast majority of accusations falling into this category are opportunistic and unsubstantiated; and many are 'grudge complaints'. Some examples include the abuse of a group of young men returning from a night out. They were assaulted because their taxi driver complained to the soldiers at a military checkpoint that the men were joking about the soldiers. Neighbours or former associates have made accusations against each other about perceived or real harassment, noisy merry-making, stone-throwing, drunk and disorderly behavior etc, which the military has responded to by unlawfully detaining people and assaulting them.

Most media organizations are practising self-censorship, as many journalists have been personally threatened and intimidated by the military. This has resulted in the mushrooming of anti-coup blog spots. In mid-2007, this resulted in the military hunting down bloggers. Those who have been accused of blogging have been illegally arrested, detained, questioned and warned. Those targeted include business people, civil servants and university students. A senior military officer was quoted in the media in May 2007 as saying that any students on a government scholarship found to be blogging will have their scholarships revoked.<sup>2</sup>

Two people have died during military detention. In both cases the military has denied responsibility for the deaths but admit they occurred while the people were in military custody. The army has openly admitted that 1,193 people have been 'disciplined' at the barracks for speaking out against the military. The military-appointed interim Attorney-General, Aiyaz Sayed-Khaiyum, has said that rights under the constitution have been limited by the state of emergency that purportedly exists in the country.

On 17 January 2007, a presidential decree promulgated by the interim government granted criminal and civil immunity to members of the RFMF for all actions, including the killing of those arrested or detained, during the duration of the state of emergency. It allows any member of the RFME, including members of the territorial forces, to execute any order during the duration of the state of emergency. The decree widens the growing power of the military to do whatever

it wants without accountability, and heightens the fear of civilians that human rights violations will continue with impunity.

The bill of rights included in Fiji's 1997 constitution protects fundamental rights and freedoms, including freedom from cruel, inhuman and degrading treatment, unreasonable arrest and detention, unreasonable searches, freedom of speech and movement, and the right to non-discrimination. These provisions bind all three arms of the state at all levels, including the military. Section 43 (2) of the constitution also enables the courts to apply international human rights laws without ratification. The courts in Fiji have used Section 43 to apply UN conventions in several instances; in effect, the international human rights obligations of the State have been promoted by the judiciary.<sup>3</sup>

Extraordinarily, the Fiji Human Rights Commission (FHRC) has openly supported the military's takeover and the latter's stand in relation to the limitation of human rights due to the purported existence of a state of emergency. Director of FHRC Shaista Shameem published a report on 4 January 2007 (the same day Bainimarama had himself appointed interim prime minister) essentially justifying the coup.<sup>4</sup> Amongst the justifications was that the Qarase government had been unlawfully elected both in 2001 and 2006 and was guilty of grave violations of human rights. Shameem's report also stated that the 2006 election was rigged, that the government was guilty of racism against Indo-Fijians, was corrupt and was attempting to pass into law three pieces of unconstitutional legislation. The only lawfully remaining Commissioner, Shamima Ali, has publicly distanced herself from the report.

The vast majority of citizens whose rights have been violated have not complained to the Commission because its independence has been seriously compromised and they fear further victimization if they take their experiences to the FHRC. As a result of its pro-military stand, the FHRC has been suspended by the International Co-ordinating Committee of National Human Rights Institutions for the Promotion and Protection of Human Rights, limiting its ability to work with UN bodies. It has also been suspended by the Asia Pacific Forum for National Human Rights Institutions, which the FHRC chaired until its recent resignation.<sup>5</sup>

There are daily violations of constitutionally guaranteed rights – freedom of speech, cruel or degrading treatment, and unlawful arrests or detention. These violations continue, and citizens are fearful of speaking out. On 5 April 2007 the emergency regulations suspending human rights were extended for a month.

## ENDNOTES

<sup>1</sup> Article 1 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment (CAT) defines torture as 'any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him ... information ... punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing

him or a third person ... when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity’.

<sup>2</sup> Leung, G. ‘Lawyers must cry freedom to the challenge in Fiji’, *The Fiji Times*, 9 June 2007.

<sup>3</sup> Courts have applied the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; the Convention on the Elimination of All Forms of Discrimination against Women; and the Convention on the Rights of the Child.

<sup>4</sup> Shameem, S. 2007. Director, Fiji Human Rights Commission, ‘The Assumption of Executive Authority on December 5<sup>th</sup> by Commodore J.V. Bainimarama, Commander of the Republic of Fiji Military Forces: Legal, Constitutional and Human Rights Issues’, 3 January 2007, at <http://www.humanrights.org.fj>

<sup>5</sup> See, Asia Pacific Forum of National Human Rights, ‘The role of the APF in Relation to the Application of the Paris Principles’, Conference for Commonwealth National Human Rights Institutions, Marlborough House, London, 26-28 February 2007, available [http://www.thecommonwealth.org/Shared\\_ASP\\_Files/UploadedFiles/AD78F055-BF5A-429D-BB69-A9458C733AAA\\_APFPresentationCommwNHRICConfPD.pdf](http://www.thecommonwealth.org/Shared_ASP_Files/UploadedFiles/AD78F055-BF5A-429D-BB69-A9458C733AAA_APFPresentationCommwNHRICConfPD.pdf), p7; 19th Session of the International Coordinating Committee of NHRIs, Palais des Nations, Geneva, Switzerland, 21–23 March 2007, available <http://www.asiapacificforum.net/services/international-regional/icc/icc-meetings/19th-icc-meeting/?searchterm=coordinating>

## **27. Reflections on Fiji's 'coup culture'<sup>1</sup>**

**Sandra Tarte**

Discussions about Fiji's politics inevitably revolve around military coups. For many years Fiji was preoccupied with the turbulence and aftermath of the two coups in 1987. Then it was the 2000 coup that preoccupied people. Now we have another coup to analyze, to explore, to use as our current reference point; one which took place in December 2006. This installed a military-backed and led interim regime, with the purported mandate of the President.

The periodic upheavals we have experienced over the last twenty years have given rise to the perception that we have a 'coup culture'. Whether this 'coup culture' is something we can overcome is perhaps the greatest challenge facing us as a nation. The notion of a 'coup culture' suggests a pattern of instability that is repeatedly being played out. However, the latest coup has been portrayed as different from the previous ones; according to its supporters it is the coup that will end once and for all the 'coup cycle'.

### **Was the December 2006 coup 'different'?**

Previous coups were carried out in the name of indigenous rights and were broadly popular among ethnic Fijians and Fijian institutions (including the Great Council of Chiefs (GCC) and the Methodist Church). The 2006 coup, by contrast, was carried out by the military in the name of good governance and anti-corruption. It was not even called a coup by the military: It was called a 'clean-up campaign'. Moreover, the coup-leader has expressly defied – if not ridiculed and marginalized – traditional Fijian institutions. Apart from suspending the GCC, there has been a suggestion from the interim regime of a non-indigenous President, and the formation of a state-based land use commission. Perhaps the most compelling feature of this coup has been the deafening silence of Fijian nationalism. The nationalist voice has been shut out. But the question remains for how long – given the highly emotive nature for indigenous Fijians of issues such as land, the presidency, and chiefly structures.

Previous coups put into office governments that pursued a nationalist (some would say racist) agenda (such as affirmative action for indigenous Fijians and land reform favouring Fijians). According to the current military commander, this nationalism – and the fact that it fuelled a culture of corruption – was the problem with the previous government. The 2006 coup was – ostensibly – against nationalism, racism and affirmative action; it installed an interim government comprising people who have been the voice of multiculturalism and political moderation.

Previous coups led to the abrogation of the existing constitution – usually to allow for a more pro-indigenous, racially-based constitution. This happened in 1987 (September). The constitution was also purportedly abrogated in May 2000 by the military, but the courts subsequently ruled that the constitution still existed as there was no legal basis for abrogating it. This time the military has not attempted to abrogate the constitution, claiming instead that all their actions have been about preserving it. There has even been a legal document drawn up purporting that the coup was legal because it overthrew an illegal regime (that events dating from 2000 were in violation of the constitution).<sup>2</sup> It remains to be seen, however, whether it becomes necessary to abrogate the constitution sometime in the future. We are also yet to see the outcome of any court challenge to the takeover.

Previous coups alienated the minority and non-indigenous races; in particular they were seen as ‘anti-Indian’ and they tended to unleash an anti-Indian backlash, manifesting at one level in attacks on rural Indian communities or on Indian businesses. The 2006 coup has been welcomed by many Indo-Fijians (grateful that at least this time they are not the targets). It is not that that this coup is seen as pro-Indian (although that is how some might see it); it is that this coup has been seen as redressing past injustices and grievances committed against Indo-Fijians in previous coups. And that this somehow makes it right. But that does not mean the backlash won’t happen. The great concern now is that the Fijian nationalist elements that have been side-lined represent a potentially dangerous and volatile force.

Previous coups created what appeared to be a fairly stark, if false, dichotomy in Fiji’s political culture – promoting indigenous rights on the one hand and the rule of the law on the other. There has been a strongly held view amongst Fijians that the government or the State should remain in indigenous Fijian control in order to safeguard Fijian interests and lift Fijian socio-economic standards (such as through affirmative action programs). That was the motivating force and rationale behind past coups: To put back into power a Fijian leadership that had been removed by the ballot box. The rule of law was secondary to Fijian rule. Moreover, individual human rights were viewed as antithetical to the more communal traditional Fijian authority.

This coup has thrown up a different – but also ironic – dichotomy. This time it is between social justice and good governance on the one hand, and the rule of law on the other. Past anti-coup/pro-democracy activists appear to have become transformed into sceptics of the relevance of legal democracy in Fiji. The arguments that are being heard now take the line that ‘It seems regrettable that those who condemn the military takeover are obsessed with the ‘violation of democracy’ perspective and fail to recognize the anti-racist and pro-people aspects of the takeover’. This could be termed the ‘social justice’ perspective.



So this is seen as a 'pro-people' and 'anti-racist' coup, which somehow makes it legitimate.

Furthermore, it has been generally claimed that the deposed government clearly showed how democracy could be manipulated to serve narrow Fijian nationalist interests. In other words, our democracy was not real democracy. It was deeply flawed and corrupt. Such a flawed democracy is not as legitimate and needs to be questioned and re-thought.

The third line of argument – following from this – is that democracy, as measured by elections, is not the panacea. Before we have elections we need to address many deep underlying issues. To do this, one person has even argued that we need a 'benevolent dictator' in Fiji to solve our problems. Until then we are not ready for democracy.

These arguments underpin the rationale for the promotion by the interim regime of the National Council for Building a Better Fiji. Its task is to develop a 'People's Charter' which would provide a roadmap for taking the nation forward, 'to transform Fiji toward better governance, sustainable participatory democracy, equity, stability, peace and progress'.

## **A coup is a coup is a coup**

Nevertheless, for all the differences between the various coups, there are still some striking and troubling parallels.

The argument that Fiji was not ready for democracy has been heard each time we have had a coup. In 1987, the popular refrain of Fijian nationalists was 'democracy is a foreign flower'. What Fiji needed, they argued, was a Fijian state, based on the prior rights of the indigenous Fijians, and elevating their institutions and their faith above others. Following the 2000 coup, the newly installed prime minister, Laisenia Qarase, suggested that Fiji was somewhere in the middle of a journey between communal democracy (or traditional governance) and liberal democracy – adding that it would be better if Fiji never fully reached its destination. In the latest coup, some outspoken critics of previous coups started to make similar utterances: Fiji was not a real democracy and perhaps we are not ready for democracy; perhaps what we need right now is a 'benevolent dictator' who will 'heal the cancers of corruption and racialism' so that 'normal legalities can truly be reasserted'.

Another parallel is the political role of the military. This is the obvious common thread throughout. Whether the military is acting for or against indigenous rights, whether it is called a clean-up campaign or a coup – the common element is that the military and its leaders have arrogated to themselves a political role, above and beyond that prescribed by law. This pattern began in 1987, it seemed to subside in the 1990s, but the events of 19 May 2000 catapulted the army back onto the political stage, however reluctantly. Since 2000, the military has not

fully departed this stage. It has been a political force, sometimes at the forefront, sometimes in the background, but always calling the shots (or trying to). The reason for this lies in the fact that the army (especially its current commander) sees itself as the saviour of the nation, having prevented the country from teetering over the brink of anarchy in 2000. The army – and, again, its current commander in particular – also experienced a bloody wake-up call with the mutiny attempt in November 2000. To them the enemy (radical nationalists and corrupt chiefs) – the threat – was still out there. That is why they seized power – to stamp out the threat once and for all. Moreover, it was the army that, after the 2000 coup, installed the leaders who ran the country from 2001 to 2006. This also gave the military the belief that they had the right to remove those same people (irrespective of the two elections that had subsequently confirmed them in office).

The third parallel relates to the human consequences of coups, whatever the cause they are promoting. We are all aware of the clampdown on certain freedoms (such as freedom of speech, freedom of assembly, freedom of movement) that almost always accompanies a coup. In 2000 the crackdown on freedom of speech was perhaps less notable. However, there was widespread terrorizing of (mainly) Indo-Fijian rural communities by (Fijian) civilian groups (sometimes working with police collusion and protection). Following the 2006 coup, the military showed no tolerance for dissent. Critics – whether real or imagined – were detained and ‘given a warning’ not to cause trouble. Two men, so far, have died as a result of this ‘warning’. Many have been intimidated (rather harshly) into silence. Human rights violations have been justified on the grounds of national security. This is a familiar catch-cry of military dictatorships that see any criticism as a potential threat to their control. More broadly, each of the coups we have experienced has created a new wave of injustice – people who have been wronged; people who have been victimized. This coup is no different. Injustices will breed resentments and conflicts and the need for yet another attempt at building reconciliation and nation-building.

The fourth parallel is that this coup, like all others, has exposed the deep divisions within our society – and created new ones. The divisions are racial; they are class; they are regional. But ultimately, they are political – and in a post-coup environment these political divisions run very deep. What makes a post-coup situation so unstable is the absence of any peaceful channels by which to resolve or bridge these divisions. One side holds the guns and that is why they have power. The other side must be silent. In the absence of democratic institutions, there are no obvious ways – short of violence – of redressing this situation.

New divisions have also manifested themselves in this latest coup. I alluded to this earlier when I mentioned how some human rights and civil society activists who have traditionally stood against coups have come out in support of (or at

least in sympathy with) this one. This is due to their animosity towards the deposed government (and its policies). Some members of the legal fraternity have also given their support to the new regime. As a result, the judiciary is divided; so is civil society – traditionally two of the most progressive forces in society.

The final parallel relates to the negative economic fallout of the coup stemming in part from the hostile response of our traditional allies and partners, and in part from the crisis in investor confidence engendered by the political instability and uncertainty. As the economy contracts (or at least stagnates), there is growing pressure – both international and domestic – to return to a constitutional democracy, within a clear and definite timeframe.<sup>3</sup>

### **Where to from here?**

I have reluctantly come to the view that perhaps the best thing we can hope for (work towards) is that the current regime (however illegitimate it is) succeeds. By succeed I mean that it safely steers the nation back to democratic rule. I don't believe that the commander will step aside voluntarily – and perhaps there are dangers if he does. I believe that a failure of this regime is the far worse option because it suggests – most likely – a fragmentation of the military and a violent power struggle erupting within the country.

My view of the future is a mixed one. On the positive side, we have always managed to muddle through and to find a way out of the political mess left by a coup. Sometimes it has taken years and the toll has been high (for example, in economic terms and in 'brain drain' terms). But there is a resilience about Fiji that defies the most pessimistic prognoses. There have been some hard lessons learnt but there have been some positive outcomes as well. For example, in the wake of the 1987 coups – in the decade that followed – Fiji witnessed a flourishing of civil society organizations stepping into the gaps left by a political establishment weakened and tainted by the military coups of 1987. These have, for the most part, been a positive force in Fijian society. The fact that they appear weakened by the latest coup is a cause for concern but this does not spell the end for civil society activism.

I also believe that two of the core policies of the Bainimarama regime hold the key to our future development as a nation. One is the campaign against corruption – corruption that in turn has been fostered by the mismanagement and abuse of affirmative action programs over the years. The failure to deliver on the part of our leaders because of corruption continues to fuel discontent and frustration, especially among our more marginalized Fijian communities which have been led to expect much more.

The other policy is the proposed removal of the communal-based electoral system that has encouraged racial polarization in elections and has caused politicians

to employ racially divisive and nationalistic tactics. I do not believe we will ever progress politically if we continue to be tied to the communal voting system; I don't think we will see truly national leaders (as opposed to parochial, ethnic leaders) emerge within the confines of the current communal system.

But for change to come about – whether it is change to eliminate corruption or change to remove communal voting – there has to be acceptance and understanding of the need for change. The charter process has so far not succeeded in building that necessary consensus. In fact, it is only reinforcing a coup-tendency to impose solutions by force.

On the negative side, then, the outlook for a coup-free future does not look very promising. If anything, the latest coup may have virtually sealed our fate as a coup-prone society. It would take a huge leap of faith to believe that somehow the coup 'solution' will never again be contemplated by a future military commander, or even his junior officers. Such a fate is shared with other countries in our wider neighborhood, such as Philippines and Thailand.

Moreover, while many people in Fiji appear to be ambivalent about democracy, there is also confusion over how a coup may be portrayed as 'right' or 'legal' when it is clearly a violent and destabilizing act that erodes the rule of law. We are becoming a nation that is increasingly unable to distinguish between right and wrong.

The means to carry out a coup will always be there (so long as we have a military). What needs to change is the belief that carrying out a coup is a justifiable (and just) political option. As the latest coup revealed, support (whether tacit or explicit) for a military takeover of a democratically elected government is widespread. This reveals the enormity of the challenge facing our society. Until we as a society – and our leaders in particular – can categorically renounce and reject the use of violence in our political life – democracy has little hope of becoming an entrenched force in our lives. And we will never realize our full potential as a country.

## ENDNOTES

<sup>1</sup> This is a revised version of a paper presented to the Leadership Fiji program, Suva, 21 March 2007.

<sup>2</sup> See Cox, Chapter 18 this volume

<sup>3</sup> For a discussion of the economic impact of the 2006 coup on Fiji, see Chand, chapter 7, this volume.

# 28. Fijian Ethno-Nationalism<sup>1</sup>

**Jone R. Baledrokadroka**

According to Jerry Muller, there are two major ways of thinking about national identity.<sup>2</sup> One is that all people who live within a country's borders are part of the nation, regardless of their ethnic, racial, or religious origins. This liberal or civic nationalist interpretation is the view taken by those drafting Fiji's People's Charter. But the liberal view has competed with – and often lost out to – a different view, that of ethno-nationalism. The core of the ethno-nationalist idea is that nations are defined by a shared heritage, which usually includes a common language, a common faith, and a common ethnic ancestry.

This chapter looks at the politics of identity and the phenomenon of ethno-nationalism, tracing the origins of the latter in indigenous Fijian history. Understanding our local brand of ethno-nationalism is critical to appreciating whether this needs to be incorporated into or excluded from the process of building the nation.

Ethno-nationalism draws much of its emotive power from the notion that the members of a nation are part of an extended family, ultimately united by ties of blood. It is the subjective belief in the reality of a common 'we' that counts. The markers that distinguish the 'in' group vary from case to case and time to time; and the subjective nature of the communal boundaries has led some to discount their practical significance.<sup>3</sup> But, as the inventor of the word 'ethno-nationalism', Walker Connor, an astute student of nationalism, has noted, 'It is not what is, but what people believe is that has behavioral consequences.'<sup>4</sup>

It was Sir Arthur Gordon's 1876 'Fiji for the Fijian' policy that planted the seed of modern Fijian ethno-nationalism. The formation of the Great Council of Chiefs in that year entrenched in the minds of the Fijian chiefs the notion of a Fijian political entity within a geographic realm.<sup>5</sup> The creation of the three *Vanua* Confederacies – Kubuna, Burebasaga and Tovata – was a kind of ethno-nationalistic traditional engineering in support of colonial rule. Prior to this, Fijian political consciousness was traced through folklore to the Nakauvadra/Vuda migration and the founding tribal state of Verata, around 1500–1600AD. It is doubtful that Fijian political consciousness can be traced to the Lapita people's eastward migration some 1000BC, or 3000 years ago. (The Lapita people, identified by their distinctive pottery style, were the first to move across the Pacific, probably from the Bismarck Archipelago in what is now Papua New Guinea.)<sup>6</sup> What role the Lapita people played in Fiji is uncertain, but it is now thought that they rapidly evolved into modern Polynesians, including the

New Zealand Maori. One possibility is that the present Melanesian stock of people in Fiji results from a migration wave later than that of the Lapita peoples. Ethno-nationalist beliefs were evident before indigenous Fijians converted to Christianity, as recorded amongst the so-called 'Kai Colo' in dealing with the Kai Wai, the 'them' of the 'out' group. Originally, adherence to a common Fijian (or interior Fijian) identity was in opposition to the encroachment of Christianity. An eye-witness account of Cakobau's Christianization war campaign in Ba was reported in *The Fiji Times* of 23 July 1870:

The mountaineers from Navosa came down to Nalotu, an inland district, hitherto subject to Ba and the advanced fortress, or Bai-ni-mua of the Ba people. They put up a war fence, and then Wawabalavu, the Navosa chief, called out and said, 'You Nalotu people, I am Wawabalavu. It was I who ate Mr Baker, and the Bau men. Do you trust the Lasakau men (fishermen and sea warriors of Bau). Don't, their trade is fishing.'<sup>7</sup>

The Nalotu people believed their fellow hillmen's rhetoric, the mountaineers were let into the fortress, and a frightful slaughter of native Fijians who had accepted Christianity ensued.<sup>8</sup> Hence, the blood bond now known as the Tako-Lavo relationship of Viti Levu hill tribes was used by Nawawabalavu to facilitate this treachery. Ironically, since independence, Wesleyan Christianity has morphed into Fijian ethno-nationalism, and became a key ideological influence behind the 1987 and 2000 coups.

The common feature of both pre- and post-Christian ethno-nationalism is the distrustful, hostile portrayal of the 'out' group. On 22 January 1875 at Navuso, Naitasiri, administrators, along with Ratu Cakobau and his two sons who had returned from Sydney, Australia, briefed some 800 hill chiefs and their tribal retinues on the implications of Fiji's new status as a colony. Ratu Cakobau and his two sons had carried back with them a strain of measles.<sup>9</sup> The resulting measles epidemic that hit Fiji from January to around June 1875 wiped out 30 per cent or 50,000 of the indigenous population. That tragedy came on the heels of forced conversion to Christianity. Colonial cession, which appeared to many as a foreign conspiracy, was still fresh in the minds of some of the chiefs amongst the Viti Levu hill tribes and the events became linked. The resulting distrust of 'them foreigners', as engrained in the Kai Colo psyche, has since been applied by ethno-nationalists to all migrants to our shores.

After this, ethno-nationalism lay dormant for some hundred years, except for Navosavakadua's Tuka sect and the early colonial indigenous commercial enterprise, Viti Kabani. Under colonial and monarchic rule, Fijians were content with being British subjects, even if this was largely only symbolic.<sup>10</sup> After independence, ethno-nationalism first re-emerged with Sakeasi Butadroka's cry of 'Fiji for the Fijians' – much to the annoyance of the chiefly led Alliance party

with its all-inclusive racial policies. This artificial political façade was hard-wired to fail, given the flawed compromise of the 1970 constitution.

As Norton argues:

... conflict between indigenous Fijians and immigrant Indians, though strongly based in economic and socio-cultural differences, has not been intensified by acquiring a function in the reconstruction of identities previously suppressed. Manipulation of ideals and symbols by Fijian leaders to secure popular support has tended to reaffirm established frames of routine social and political life within Fijian groups, rather than being an innovative assertion of distinctiveness in opposition to 'the other'.<sup>11</sup>

However, in the aftermath of the coups of 1987 and 2000, the triumph of ethno-national parties (as some would describe the SVT and, later, SDL) entailed a victory of traditional rural groups over more urbanized ones – those which possess the skills desirable in an advanced industrial economy.

In the wake of both those coups, and after the 2006 'guardian' coup, migration of victims economically penalized Fiji and economically rewarded those countries which opened their doors to the migrants. 'Forced' migration was driven by the majority group's resentment of the minority group's success, and the mistaken assumption that achievement is a zero-sum game. As seen elsewhere in the world, countries that get rid of their minority groups – whether Armenians, Germans, Greeks, Jews, or others – deprive themselves of some of their most talented citizens.<sup>12</sup>

As perceived by Fiji's military prior to the 2006 coup, ethno-nationalist ideology – as codified in the Qoliqoli and Promotion of Reconciliation, Unity and Tolerance bills – entailed insistence on a congruence between the state and the ethnically defined nation. The results were explosive. As Lord Acton recognized in 1862, 'By making the state and the nation commensurate with each other in theory, [nationalism] reduces practically to a subject condition all other nationalities that may be within the boundary'.<sup>13</sup> Analysts of ethno-nationalism typically focus on its destructive effects; understandably so given the huge human suffering it has often entailed: The first and second world wars were direct results of the destructive aspects of this phenomenon.

However, if ethno-nationalism has frequently led to tension and conflict, it has also proved to be a source of cohesion and stability. Muller contends that, when French textbooks began with 'Our ancestors the Gauls' or when Churchill spoke to wartime audiences of 'this island race', they appealed to ethno-nationalist sensibilities as a source of mutual trust and sacrifice. In similar fashion, Ratu Sir Lala Sukuna, Fiji's first statesman, in recruiting Fijians for war duty, stated that,

as a nation, Fiji would not be recognized unless its sons sacrificed blood on the battlefields for freedom.<sup>14</sup>

As in European history, ethno-nationalism was not a chance detour. It corresponds to some enduring propensities of the human spirit that are heightened by the process of modern state creation. It is a crucial source of both solidarity and enmity, and, in one form or another, it will remain for many generations to come. One can only profit from facing it directly. Liberal democracy and ethnic homogeneity are not only compatible; they can be complementary. We as a nation will have to learn to live with it along with the intended civic and more liberal nationalism espoused by the draft People's Charter.

## ENDNOTES

- <sup>1</sup> First published in the *Fiji Daily Post*, 3 September 2008, and reprinted with permission.
- <sup>2</sup> Muller, J.Z. 2008. 'Us and Them: The Enduring Power of Ethnic Nationalism', *Foreign Affairs*, Mar/Apr 2008, p. 2.
- <sup>3</sup> Muller, 2008, 'Us and Them'.
- <sup>4</sup> Connor Walker, C. 1994. *Ethnonationalism: The Quest for Understanding*, Princeton University Press, Princeton, New Jersey, p. 75.
- <sup>5</sup> *Handbook of Fiji*, 1968. Government Printing Office, p. 76. Original from the University of California, digitized 7 November 2007.
- <sup>6</sup> Nunn, P.D. 2007. *Climate, Environment, and Society in the Pacific During the Last Millennium*, Elsevier, Amsterdam and London p. 31.
- <sup>7</sup> Gravelle, K. 1988. *Fiji's Times: A History of Fiji*, Published by The Fiji Times, p. 102.
- <sup>8</sup> 'Mountaineers from Navosa kill 370 in four towns in Ba on the North West Coast of Viti Levu', *The Fiji Times*, 23 July 1870.
- <sup>9</sup> Hays, J.N. 2005. *Epidemics and Pandemics: Their Impacts on Human History*, ABC-CLIO Publications, Santa Barbara, CA, pp. 297–298.
- <sup>10</sup> Kaplan, M. 1995. *Neither Cargo Nor Cult: Ritual Politics and the Colonial Imagination in Fiji*, Duke University Press, Durham p. 4.
- <sup>11</sup> Norton, R. 1993. 'Ethno-nationalism and the Constitutive Power of Cultural Politics', *African and Asian Studies*, Volume 28, Numbers 3–4, pp. 180–197.
- <sup>12</sup> Muller, 'Us and Them', p. 3.
- <sup>13</sup> Muller, 'Us and Them'.
- <sup>14</sup> Ravuvu, A. 1974. *Fijians at War*, IPS Publications, Suva, p. 4.



# 29. Ethno-Nationalism and the People's Charter<sup>1</sup>

**Jone Dakuvula**

It has been suggested that it is difficult to promote a common national identity – a national moral vision, narrative, rituals and symbols – because:

... national identities come 'naturally' where people are defined by a discretely bordered territory, a stable and sovereign political state, a common language, a common culture and a common history. A national consciousness is easiest when ethnic or race is singular rather than plural (such as in a multiracial, multicultural and multireligious country such as Fiji).<sup>2</sup>

However, in the modern world, there is hardly any country that fits such a narrow classical definition. Almost every country today is multicultural and multireligious. Countries where liberal and republican or secular nationalism first emerged, such as the United Kingdom and France, have considerable diversity of peoples within their borders. The United Kingdom consists of four 'nations', England, Scotland, Wales and Northern Ireland. The UK still struggles with constitutional reform to keep the Kingdom united, with Scottish nationalism in particular entailing a call for independence and to join the EU as a separate nation. France, the mother of republican nationalism, has to manage with Breton and Basque cultural nationalism. United States republican nationalism was inspired by the ideas of the French revolution of 1789, but the USA nevertheless became a melting pot model of liberal nationalism, even if that model is not relevant to the Fijian situation. The break-up of the Soviet Union and the end of its control over the former communist countries in Eastern Europe triggered recent attempts by nations that aspire to fit the narrow classical definition to create their own independent nation states. The consequences have been bloody, and the security and stability of some of these new nation states remains uncertain, as indicated by recent conflict between Russia and Georgia.

Fiji is not unique as a multicultural nation state wrestling with internal issues of ethno-nationalism. The 'People's Charter' is an attempt to build a stronger liberal and secular republican democratic framework in a multi-ethnic state that continues to be dominated by an ethno-Fijian nationalism. Fijian nationalists still feel insecure about their place in the nation state, despite the fact that ethnic Fijians are now an increasing majority of the population. The coups of 1987 and 2000 accentuated this insecure and inward-looking ethno-nationalism. Indigenous Fijian political leaders, especially since 2000, have pandered to the ideas of the

minority extremists, misrepresenting their own beliefs as representing the interests of the majority of indigenous Fijians. For example, the *Soqosoqo Duavata ni Lewenivanua* (SDL) has been led over the last eight years by those whose hardline ethno-nationalist beliefs do not reflect the views and attitudes of the great majority of the indigenous Fijians that have supported the party.

The military perpetrators of the 2006 coup, through the National Council for Building a Better Fiji (NCBBF) and the draft People's Charter, are now compelling indigenous Fijians to reconsider their attitude of compliant support for extreme political nationalism. The latter are also being challenged to reconsider their concepts of identity and nationhood and to acknowledge the inter-dependence of our communities, the basis on which to found our national stability and security. The hardline pursuit of ethno-nationalist policies during the five years that the SDL and Conservative Alliance–Matanitu Vanua (CAMV) were in power sharpened conflicts within the indigenous Fijian community, with the Republic of Fiji Military Forces (RFMF) in particular leading the opposition to the government. The result was instability and insecurity.

We now need to nurture new indigenous Fijian leaders who will distance themselves from extremist ethno-nationalism and build a moderate centre ground for governing coalitions that will respect and fairly include other ethnic groups. This means the election system has to be changed to a more democratic and simpler one that will better encourage a more enduring basis for voluntary interethnic cooperation as the basis of political stability, economic security and national development.

The prominence of extreme ethno-nationalism in this decade accelerated migration of many professional and skilled people – especially from the non-indigenous communities – and intensified internal migration of displaced farmers. This has contributed to poverty, low economic growth, low standards of achievement and shortage of skills in many areas. Fiji has been surpassed in the last three decades by less endowed countries that followed more effective economic, political and social strategies for development and nation building.

We need to resume and continue with the consensus-based nation-building project started by the *Soqosoqo ni Vakavulewa ni Taukei* (SVT) government when it introduced the 1997 constitution. That project was rejected by ethno-nationalists in 2000 and, on the heels of that rejection, the SDL/CAMV came to power and tried to use ethno-nationalism as the fundamental basis of 'nation-building'. This involved them promising a new ethno-nationalist constitution to be introduced after the 2001 election – although, in the event, court cases on non-compliance with the 1997 constitution threw the new government off track. Economic difficulties were also severe; over its five years in office, the SDL government achieved only about 1.7 per cent average annual growth in Gross Domestic Product. Politically, that experience has also been

very divisive. The SDL/CAMV project was not successful, and may have run its course since it was over-turned by the coup of 2006.

Andrew Heywood argues that:

Ethno-nationalism is based on loyalty towards a distinct population, cultural group or territorial area. It has racial and cultural overtones. Members of ethnic groups are seen – correctly or incorrectly – to have descended from common ancestors and the group is thus thought of as extended family groups united by blood.<sup>3</sup>

Jone Baledrokadroka's article on Fijian ethno-nationalism (Ch 27, this volume) illustrates this definition. I agree with Baledrokadroka's conclusion that 'liberal democracy' can co-exist with indigenous Fijian nationalism even though he has not spelled how this should be encouraged.

The draft People's Charter is an attempt to further reform our liberal/republican state so that the exclusivist tendency of indigenous ethno-nationalism is moderated and reoriented towards a broader concept of a multicultural, multi-ethnic nation state that stresses the civic principles of the nation as the regulator of political discourse and other interactions, thus contributing to the stability needed for overall national development.

Baledrokadroka argues that the promotion of a national moral vision, narratives, rituals and symbol is not problematic as these relate to the historical, cultural and religious diversity of the Fijian nation state. Furthermore, the People's Charter does not assume it can attenuate the primordial and ideological constructs of ethno-nationalism, nor that it can demythologize blood ties. It merely accepts the fact that nationalism in any form is a powerful and persistent ideology of belongingness that can evolve overtime. As Benedict Anderson pointed out, nations only constitute 'imagined communities'<sup>4</sup> And imagined communities evolve as they create their histories. The draft People's Charter accepts the meaning of the identity of the '*i Taukei*', which is an exclusive indigenous identity that has existed for 100 years. Usage of the term 'Fijian' as a common identity for all the country's citizens, and as an all embracing national identity, may not be acceptable to some at this juncture in our history but it should become normal for the young and future generations.

If the British and the French have been able to manage and moderate their internal sub-nationalist communities within overarching legitimate constitutional states, based on secular principles, there is no reason why Fiji cannot also achieve this in the long term if we have innovative and courageous leadership now. Those advanced countries have been through centuries of bloody ethnic and religious conflicts to get to where they are now and they still have their problems. Fiji's history of ethnic conflict is very mild by comparison and our fairly tolerant and peaceful country has a more positive track record to build on. Indeed, it would

justify pride amongst those who feel deeply that they belong here whatever their ethnic background and origins.

It is encouraging that the political parties and political activists who had been ardent indigenous ethno-nationalists appear to be shifting slowly towards the concept of an integrated, cohesive, multicultural national state. I say this despite the heightened level of opposition from the leading spokesmen of some political parties to the draft People's Charter. While, in the last 18 months, the opposition to the interim government has not presented a coherent alternative for the way forward to the people of Fiji, there has at least been a concession that the draft People's Charter advances 'noble principles' they cannot disagree with. They only disagree with the fact that the draft People's Charter has been initiated by a regime they regard as illegal and illegitimate. They have yet to answer the realistic question: Where do we go from here? Boycotting the proposed President's Forum where constructive dialogue needs to take place may only lead to marginalization of the publicly uncompromising ethno-nationalists, because the nation-building project will continue to forge ahead.

There is a growing realization that assertive and dogmatic ethno-nationalism is counter-productive to the desire of its adherents for national development and political stability. The lesson of history of many countries is that people can build something better out of a crisis.

## ENDNOTES

<sup>1</sup> An earlier version of this article was originally published in the *Fiji Daily Post*, 10 September 2008, and the article is republished here with the permission of the editors of that publication.

<sup>2</sup> *Fiji Daily Post*, 1 September 2008.

<sup>3</sup> Heywood, A. 2007. *Political Ideologies: an introduction*, Palgrave Macmillan, New York.

<sup>4</sup> Anderson, B. 1983. *Imagined Communities: reflections on the origin and spread of nationalism*, Verso, London.

# CONCLUSIONS



## 30. One hand clapping: Reflections on the first anniversary of Fiji's 2006 coup

**Brij V. Lal**

The tyranny of a prince in an oligarchy is not so dangerous to the public welfare as the apathy of a citizen in a democracy.

*Montesquieu*

Acquiescence is the friend of illegality.

*Justice Roger Coventry*

The first anniversary of Fiji's December 2006 coup passed uneventfully, without any rallies, protest marches or vigils – merely an exhausted, scarcely audible mutter from the populace hankering for some semblance of normality. A Fijian political activist once likened Fiji to a swimming duck: All calm on the surface but furiously churning underneath. Just how much turbulence there was among indigenous Fijians is difficult to gauge, but its existence was beyond doubt. To forestall any organized opposition, the interim administration slapped on several states of emergency.

Overall, 2007 remained a depressing and miasmic year, with much movement but little change. The military's much heralded 'clean-up' campaign, the principal reason for the coup, was stalled, mired in controversy about its legal validity and true purpose. No one was successfully prosecuted for the misdemeanours for which they had been unceremoniously sacked from office. The judiciary, to everyone's disappointment, remained as divided and demoralized as ever. The constitution remained intact, but often 'ignored or bypassed as deemed necessary'.<sup>1</sup> International vigilance, manifested in travel bans on members of the interim administration, remained despite official pleas for sympathetic understanding and assistance. Fundamental changes to the electoral system were mooted, including a common non-racial electoral roll, a common name for all citizens, and reform of important institutions of indigenous governance, but there was reservation among many who were already distrusting of the interim administration's motives and its counterproductive confrontational approach to sensitive issues. The metaphor of a duck crossing apparently placid water accurately described Fiji as it marked the first anniversary of the country's fourth coup.

By the end of 2007, blatant breaches of human rights – people hauled up to the military barracks, interrogated and subjected to degrading treatment for alleged 'inciteful' activities or comments or unproven criminal activities – were for the

most part over. However, the brutal police–military assault in early November 2007 on Ballu Khan, a Fiji-born, New Zealand businessmen suspected of masterminding an assassination plot targeting Commodore Bainimarama, interim Finance Minister Mahendra Chaudhry and interim Attorney-General Aiyaz Sayed-Khaiyum, among others, showed just how tenuous the respect for law and order remained. People observed silence and self-censorship for good reason. The eleven suspects who were apprehended in relation to the alleged assassination plot, among them 2000 coup convict and Naitasiri high chief Ratu Inoke Takiveikata, former intelligence chief Metusela Mua and former land forces commander Jone Baledrokadoka, continue to await trial.

Whether the assassination plot was genuine or a ruse to detract attention from the interim administration's own internal difficulties will be revealed in due course. Already, the initial charge of treason has been reduced to conspiracy to murder, with one suspect freed for lack of evidence. Police commissioner Esala Teleni implausibly implicated un-named foreign governments (no doubt he had Australia and New Zealand in mind) and even some local, again un-named, non-government organizations in a 'conspiracy and consolidated effort to disrupt the peaceful environment in Fiji'.<sup>2</sup> Yet again, there was no evidence. Teleni's assertion that Ballu Khan had suffered only 'minor injuries' – in fact, a fractured skull, broken ribs and other life-threatening internal injuries requiring a month in intensive medical care – served to underline the police commissioner's brazen disregard for the truth, seemingly symptomatic of a larger malaise.

## **The People's Charter**

An important part of the interim administration's plans for Fiji's future was preparing the so-called People's Charter. The charter's goal is to 'rebuild Fiji into a non-racial, culturally-vibrant and united, well-governed truly democratic nation that seeks progress and prosperity through merit-based equality of opportunity and peace'.<sup>3</sup> Formulated by a 43-member National Council for Building a Better Fiji (NCBBF), various committees look at issues of good governance; economic growth; social and cultural identity and nation-building; the role of Fiji's security forces in national development; enhancing livelihood; citizenship; and leadership and institutional reform. President Josefa Iloilo launched the charter project in October 2007, and appointed members of the NCBBF in January. Catholic Archbishop Petero Mataka and interim prime minister Commodore Bainimarama agreed to co-chair the NCBBF. Predictably, their appointment provoked controversy.

While Bainimarama's selection was politically necessary – his support was crucial for the project's success – it also politicized the process and impaired its neutrality in the public mind. It effectively ensured that his political opponents, to whom Bainimarama has shown little empathy, would boycott both the charter and the NCBBF. Curiously, Bainimarama expressed puzzlement at public scepticism



towards his participation, little realizing that he himself was the principal cause of it. John Samy, head of the NCBBF's Technical and Support Secretariat, claimed that the charter initiative was independent of the interim administration, but with Bainimarama as co-chair and several government ministers heading various of its committees, this was unconvincing. As Daryl Tarte, chair of the Fiji Media Council, said in his letter resigning his membership of the NCBBF, the process was clearly driven by the interim government, it was not autonomous and had been compromised.

Archbishop Mataka's inclusion dismayed many Catholics opposed to the military coup and the interim regime, and others who decried the Catholic Church's 'silent understanding' of the reasons behind the coup and the tacit moral support of its leaders.<sup>4</sup> Mataka is widely regarded as a man of complete integrity and unimpeachable character, and he promised not to be anybody's rubber stamp. But doubts remained. 'By accepting the position [of co-chair]', a Fiji Times editorial said, 'the Archbishop has unwittingly given his approval to the coup, the usurpers and the interim government. Regardless of how noble his motives may have been in accepting the post, the public will always see him and the church in a different light now'.<sup>5</sup>

The controversy continues to simmer, although the Catholic Church, or at least some of its leaders (Fr Kevin Barr, for example), has from the outset taken 'the ends justify the means', social justice over legal justice line, placing faith in the possibility of a positive, genuine, nation-building outcome from the military takeover. 'The legal/illegal paradigm being pursued in Fiji today seems to be getting us nowhere', Barr has written. 'It simply creates an endless cycle of negativity and stalemates.' A democratic society 'cannot be built solely on the rule of law. It demands that the law be balanced by principles of social justice, compassion and common sense. It may not always be helpful to fight for the rigid application of the law'.<sup>6</sup>

The charter has received mixed response from the people. Two principal Hindu organizations, the Arya Pratinidhi Sabha and the Sanatan Dharam Pratinidhi Sabha, have supported it and agreed to participate in the deliberations of the NCBBF. However, with apparently little widespread consultation – if letters to the editors in the local press are anything to go by – there remains uncertainty about rank-and-file endorsement of the leadership's decisions. Other Indo-Fijian religious and cultural organizations have refused to participate in the proceedings of the NCBBF. The Fiji Muslim League and Sangam (representing the South Indian community) are among them. The endorsement by Indo-Fijian cultural and social organizations, representing a large section of the community, sends yet another signal to those Fijians opposed to the coup that the Indo-Fijian community is silently (and sometimes not so silently) supporting the interim administration and benefiting from its policies. Yet, some of the most prominent

critics of the coup (such as Shamima Ali, Imrana Jalal, Wadan Narsey and Richard Naidu) are also Indo-Fijians.

All the talk about the charter in Suva means little in the countryside where Indo-Fijians suffer from the effects of a seriously ailing sugar industry and the dislocation caused by the expiry of land leases. Making ends meet, both in urban and non-urban areas, is becoming harder by the day as prices of basic food items and fuel keep rising and employment opportunities diminish. But perceptions matter and acquire a reality of their own. When an interim minister, the FLP's Lekh Ram Vayeshnoi, calls the coup a 'Godsend,' when academic Sukh Dev Shah describes it as 'divine intervention,' and as Indo-Fijian gloating becomes more audible on radio talk-back shows and in the letters to the papers, the indigenous Fijian perception becomes easier to understand – and harder to ignore.

Several Fijian provincial councils have also endorsed the charter, including Cakaudrove and Kadavu. But this endorsement is fraught and carries little weight. For instance, Cakaudrove's endorsement of the charter has been challenged by Ratu Naiqama, the Tui Cakau, the paramount chief of the province and a former minister in the Qarase government. A spokesman for the chiefly Lalagavesi clan of Cakaudrove, Epeli Matata, said emphatically that Ratu Naiqama and the whole province of Cakaudrove 'is not supporting, has never and will never support, the work involved in the People's Charter'.<sup>7</sup> Individuals from other provinces and regions have similarly offered strong contrary views – for example, Kadavu Provincial Council chairman Ratu Josetaki Nawaloawalo's enthusiastic support for the military takeover and subsequent events has been publicly challenged by people from his own province.<sup>8</sup>

Embroidering the provinces in the adoption (or rejection) of the charter is politically fraught, for no place is (and never has been) of one mind on any political issue. Provinces don't vote; people do. The power of chiefs to decide the destinies of their people, to be their sole spokesman and intermediaries with the outside, has long gone as travel, technology, education, the effects of a competitive market economy and exposure to broader forces of change have altered the fabric of Fijian society. Over the last two decades or so, political fragmentation rather than political unity under chiefly leadership has been the order of the day in indigenous politics. In the absence of strong, overarching leadership and broader unifying vision, dissension among Fijians will only grow. Signs of this are everywhere. It would be wise for the provinces to adopt a more neutral stance, as facilitators of political discourse among their people rather than as its arbiters.

While some support the charter opportunistically – a government contract here, an appointment to a statutory board there, a rare opportunity to network, a brief moment in the public limelight – there are also some who genuinely believe in the Utopian future the charter promises for Fiji. A genuine sense of frustration with the manner in which parliamentary democracy has been manipulated by

the ruthless politics of race, has led some academics and professionals, normally staunch supporters of parliamentary democracy and the rule of law, to endorse the shock therapy of the military coup. They want the racial system of voting abolished and see the preparation of the charter as the perfect opportunity to break the confining shackles of the past. Some believe it is sometimes necessary to go outside the law to preserve its spirit.

There are others who have little regard for 'people's democracy' and support the charter because, they say, people do not know what is in their own best interests, and that they are their own worst enemies and are invariably manipulated by self-seeking politicians. Hence, they argue, it is best to do their thinking for them, relieving them of the responsibility of making decisions for their future. The charter would put the nation's affairs on autopilot, with the elected parliament, when it finally eventuates, making only minor adjustments to public policy. Politics of the usual raw and vital type will be removed from the process of governance. The fundamentals of good governance will be permanently entrenched in the public sphere, and politicians will become irrelevant. 'Politics,' for these people, is a 'dirty' word which creates more problems than it resolves. 'Revenge of the nerds' is how one colleague described this category of charter supporters, meaning well-heeled bureaucrats, academics, international civil servants and the like.

The charter has strong critics as well.<sup>9</sup> The *Soqosoqo Duavata ni Lewenivanua* (SDL), the Methodist Church and the Fijian Teachers Association, among many others, have opposed it and refused to participate in the deliberations of the NCBBF. Their reaction is unsurprising. They see the charter as an attempt by the military to emasculate the SDL party and exclude people like Laisenia Qarase from standing for office in the future. They see it as neither a part of the constitution nor an act of parliament. How then, could the document be used to deprive people of their basic constitutional right? Given Bainimarama's uncompromising stance and vehemence, Qarase is right to be cautious, justifiably feeling that the military intends to use the charter as a blunt, coercive instrument to bludgeon him and his supporters into acquiescence – or, worse, political extinction.

Fijian nationalists oppose the charter because they see the document as diluting their privileged place in national life. They want a Fiji where Fijian aspirations and interests are respected and accorded primacy, not subordinated to the interests of others. For them, that is right and proper. This, after all, was what their leaders, from Ratu Lala Sukuna to Ratu Mara, told them – their vision endorsed by the departing colonial masters.<sup>10</sup> The interim administration's forceful rhetoric of non-racialism stirs their suspicion and stokes the embers of ethnic chauvinism, as does its efforts to reform Fijian institutions, such as the Native Land Trust Board and the Great Council of Chiefs (GCC), long cherished

as the guardians of the Fijian interest. The fact that many Fijians see Mahendra Chaudhry as the 'man running the government,' calling 'all the shots', with Bainimarama being a mere figurehead, adds a particular dimension to the drama.<sup>11</sup> One highly mobile and educated Fijian lady put the whole issue to me this way: 'It is okay to criticise individual Fijian chiefs who are corrupt or morally bankrupt. I do it all the time myself. But when you attack Fijian institutions, then my heart begins to hurt. They are a part of our cultural identity. That is what makes us what we are.' I suspect that her sentiments are widely shared by many other indigenous Fijians.

There are others whose opposition to the charter is ideological. For them the constitution is, and should always be, the supreme law of the land. They see the charter as a way for the military to supersede the constitution, rendering it a toothless tiger or, to change the metaphor, a hollow vessel to be filled with whatever ideology it wants. The affairs of the nation, they say, should be run by an elected parliament, the supreme repository of the people's freely exercised choice, not by unelected people serving in an illegal regime. The real problem for Fiji, they argue, is not the absence of a charter defining the principles and purposes of governance: The Compact in the 1997 constitution already provides for these. The real problem is the lack of respect for the rule of law and the verdict of the ballot box, of which the military is the principal culprit.

A charter, however well-intentioned, will not eradicate the deepening coup culture in Fiji or eliminate the troubling disrespect for the rule of law. Today, it is a commodore's charter; tomorrow it could be another colonel's political agenda. Former land forces commander Colonel Meli Saubulinayau, who resigned from the military in 2007 after a botched effort to replace Bainimarama as head of the military force, has expressed a widely held view that Fiji does 'not need another piece of paper as we already have one that talks about the law and what is legal. If you want to stop the coup culture, then you need people who have a spirit that wants to stay within the boundaries of the law'.<sup>12</sup> Fiji's coup culture could end only if the military, and especially its commander, decided to end it.

People are being asked to endorse a document which will profoundly affect their lives, but in whose formulation they have had a perfunctory say. The hand-picked drafters of the charter and the military have already made up their minds about what the charter's content and parameters would be: Bainimarama's railings against Qarase are proof enough of that. Normally in a democratic society, a document such as the charter would have been formulated *after* an extended period of consultation with the public, not *before* it. The interim administration has promised a national referendum on the charter. But this is easier said than done.

Referenda on controversial, divisive issues hardly ever succeed. A near-consensus would have to be reached among the major stakeholders if a referendum were

to have any realistic prospect of success. With all the major players poles apart, it is almost certain that a referendum on the charter will fail if there is a meaningful threshold for its successful passage. What is not sufficiently appreciated in Fiji is that a failed referendum will be worse than no referendum at all, closing off doors to further conversation which might otherwise have remained open. Referenda are risky propositions even at the best of times. A *Fiji Daily Post* editorial summed up the charter conundrum well:

The danger of asserting one-sided settlements is evident in that great chain of events that led to the rise of nuclear warfare at the end of WWII. By the same principle, a one-sided 'People's Charter' for Fiji may not have the ameliorative effect its enforcers hope for. To truly succeed, the charter, like the nation, must proceed by bipartisan agreements, by consultative dialogue that brings victors and vanquished to the table of compromise so that a just settlement is achieved.<sup>13</sup>

## The military

The military has assumed the role of guardian and facilitator of the charter. At first there was no discussion about the role of the military in Fiji's future. As Inspector Nasir Ali remarked in another context (investigating corruption), touching the military would be 'suicidal'. Following public comment, one of the working groups of the NCBBF has promised to look at the 'role of Fiji's security forces, including the military, in national development'.<sup>14</sup> 'Looking' is more likely to end up entrenching the military in the public-political sphere and enhancing its 'national' developmental role. Meanwhile, the military marches on undaunted. Since the coup, it has hardened its grip on the most important levers of power. Commodore Esala Teleni heads the police force, Colonel Ioane Naivalarua is commissioner of prisons, and Captain Viliame Naipoto heads the Department of Immigration. Several others have been placed in strategic positions in the civil service and in district administration. All this may not be tantamount to the 'militarization' of the civil service in the conventional sense, but it does corrode its morale and cause a 'clash of cultures' between the military personnel transferred to the civil service and those who have come from a civilian background.<sup>15</sup>

The established rules and procedures of public service are flouted with impunity because the protocols that govern the conduct of military operations do not always accord with those that regulate public service. And this, said *The Fiji Times*, was 'something known to be worrying many officers who have fought for years to lift the standard of the force'.<sup>16</sup> Former military spokesmen Lieutenant Colonel Mosese Tikoitoga has said that the 'Military Council was of the view that there needs to be more involvement of officers in the civil service because those who were there were not producing results and not doing their

jobs. The attitude of the civil service needs to be changed and those that didn't change should move on or be removed'.<sup>17</sup> The monitoring and assessment of the performance of the civil service is, or should be, the responsibility of the Public Service Commission, not the military, which itself, curiously, remains unaccountable to anyone except itself.

The checkpoints and the military patrols of the streets are gone, but the military's grip on the country has strengthened. There is a military council, comprising senior serving and former officers, whose representatives sit in on cabinet meetings, and make recommendations to Bainimarama on the performance of ministers and on other matters of importance. The council has no legal foundation, and its existence was revealed accidentally to the wider public late in 2007. But of its powerful advisory role there is no doubt. Bainimarama has vested the executive authority of the country in the military council, precisely how and when remains a mystery.

The early hope among some members of the deposed government of fomenting dissent in the ranks of the military has long vanished. Bainimarama's hold on the loyalty of his troops seems complete and unshakeable, despite occasional talk of restiveness in the ranks and the distant prospect of an uprising against him. He is the paramount chief of their *vanua*, which is the military. He is solicitous of the welfare of those under his command. The military intends for itself a permanent and visible presence in national life. The military, Captain Viliame Naipoto has said, 'is my answer to killing the coup culture'.<sup>18</sup> It is a thought filled with profound implications for the future of Fijian politics: Putting the colonels and commodores in charge of the nation to prevent future coups. It is probably too subversive – 'inciteful,' to use a currently fashionable word – to disband the military or, at least, substantially reduce its size and operational role. If the military remains adamant about its increased and more visible role in the affairs of the state, then we may have seen the last of the Westminster-type civilian democracy in Fiji.

## Elections

Will a general election be held in the early part of 2009?<sup>19</sup> This is an undertaking the interim administration gave to the Forum Secretariat in March 2007, and which Bainimarama affirmed at the Forum leaders meeting in Nukualofa, Tonga, in mid-October 2007.<sup>20</sup> An early election is doubtful as the interim administration has shown no enthusiastic commitment to putting in place the electoral infrastructure for holding one. Focused principally on the People's Charter, its public utterances on the subject are at odds with the reality on the ground. The FLP has opposed an early election, with Chaudhry saying that 'general elections will be held when the necessary groundwork is complete'.<sup>21</sup> Precisely what these words imply is difficult to decipher – what constitutes necessary

groundwork, according to whom, for what precise purpose? – but the intention to delay is unmistakable.

In a meeting with Indian officials in New Delhi, Chaudhry is reported to have mentioned June 2010 as the possible date for the next election,<sup>22</sup> echoing the date Bainimarama had mentioned in one of his early addresses soon after taking power. As the year ended, the military council was adamant that the election would be held only when the People's Charter had been accepted. This also became Chaudhry's mantra. 'The charter,' he said, 'should be put together first before the election because we need to address many problems we are facing in this nation. We have to address problems and put our fundamentals right before an election is held'.<sup>23</sup> Once again, what constitutes 'fundamentals', remains unclear. With widespread disagreement in the community over the charter, consensus is unlikely to be reached and, therefore, the election is likely to be delayed. The interim administration has promised to finalize the charter by the end of 2008, but at the present pace of progress, that is unlikely to be achieved.

The consequences of not holding a general election within a prescribed timeframe will be severe for Fiji. The European Union is unlikely to release funds to help restructure the ailing sugar industry. Travel bans will remain in place, leaving the vital tourism sector in the doldrums. And race relations, already severely strained, will harden even further. Reconciliation, if and when it comes, will be more difficult to achieve because emotions are deeply roused about who was, and was not, behind the coup and the events that have followed. Chaudhry's election-delaying position is understandable from a purely pragmatic, self-serving political stance: Why hold an election when you are already in power and enjoying the fruits (with the backing of guns no less) without being accountable to anyone? But it is also a short-sighted view, a Pyrrhic victory, and provocative in the extreme to those deposed from power by military force.

People in power in the FLP–RFMF interim administration appear unconcerned about the incontrovertible fact that a large cross-section of the indigenous Fijian community feels deeply humiliated. They are the outright majority of the population, and in their view they are the underprivileged ones who needed special assistance, who as the *taukei*, the indigenous inhabitants, were 'by right' entitled to control the levers of power. And now this: Unceremoniously tossed out of office, deprived of government handouts, and told to compete on equal terms with everyone else. The days of state-sanctioned pampering are over.

It is a timely, if severe, message relayed with unprecedented bluntness. If the SDL and the nationalists ever return to power, they would likely pursue an ethno-nationalist agenda with a vengeance never seen before in Fijian politics. It will be the politics of grudge and relentless score-settling all over again. This is a fear that lies deep at the back of the Indo-Fijian mind. This is the main reason why so many are so desperate for the military to succeed in its campaign. For,

if it fails, Indo-Fijians know they will be doomed permanently to a subordinate future in the cul-de-sac of Fijian politics from which escape will be difficult.

## The rocky road

Early in January 2008, Bainimarama reshuffled his cabinet, demanding more stringent performance from his ministers – some of whom, as the *Fiji Sun* noted, were ‘notable failures’ and some who saw ‘their appointments as opportunities to serve themselves and their political cronies rather than their nation while others have been inactive to the point of invisibility’.<sup>24</sup> Four new faces joined the interim line-up: Dr Jiko Luveni, a close relative of FLP party president Jokapeci Koroi; Filipe Bole, unsuccessful National Alliance candidate in the 2006 election (who, curiously, suggested that those opposing the People’s Charter should leave Fiji) a naval officer, Captain Lesi Natuva, and former FLP senator Tom Ricketts.

The new line-up revealed the true identity of the interim cabinet. FLP and National Alliance members controlled many of the most important portfolios: Finance, national planning, sugar industry and public utilities (Chaudhry, FLP), labour, industrial relations, employment, local government, urban development and housing (Vayeshnoi, FLP), trade, tourism and communications (Ricketts, FLP), education, national heritage, culture and arts, youth and sports (Bole, Alliance), defence, national security and immigration (Ratu Epeli Ganilau, Alliance) and primary industries (Alliance-leaning Jo Cokanasiga). It is an impressive haul by any measure, making clear where power lies in Fiji and why Chaudhry is so reluctant to hold an early election. Those who were dumped from the interim administration were promptly rewarded with appointments to the Public Accounts Committee (Transport Minister Manu Korovulavula, Minister for Women’s Affairs Laufitu Malani, Agriculture Minister Jainend Kumar). Taito Waradi, the sacked Commerce Minister, was appointed chairman of the Fiji Development Bank. In this revolving-door politics, no one really lost out. It was a pattern familiar from the past, and for which the Qarase government paid a heavy price.

The ‘clean-up’ campaign, the crucial *raison d’être* for the coup, has for all practical purposes stalled. Without any credible evidence of wrongdoing unearthed even after the most intensive searches,<sup>25</sup> or any successful prosecutions taking place, it is possible to wonder whether any wrongdoings occurred in the first place, or were merely politically motivated suspicions about the political loyalties and personal agendas of those targeted. The legal foundations of the Fiji Independent Commission Against Corruption have been questioned.<sup>26</sup> Launched with great expectations, it has been unable to deliver in a satisfactory manner. It remains without a chair after Malaysian lawyer and president of LAWASIA, Mah Weng Kwai, after initially accepting it, declined the appointment due to considerable pressure from the legal fraternity in Fiji.



The tribunal to investigate the charges against deposed Chief Justice Daniel Fatiaki, was appointed almost a year after he was sent on enforced leave – on full pay.<sup>27</sup> The division in the judiciary remains – and in public perception its independence impaired – despite acting Chief Justice Anthony Gates' assertion to the contrary.<sup>28</sup> In June 2007, Fiji Indigenous Lawyers Association president Samuela Matawalu called for the immediate resignation of Justice Gates, viewing his appointment 'with disdain' because it came about 'as a result of a conspiracy to remove the constitutionally appointed incumbent'.<sup>29</sup> Judges critical of post-coup developments and the patent illegality of some subsequent activities, have resigned. They include Justice Gordon Ward, president of the Court of Appeal, and High Court Judge Roger Coventry. 'I have been concerned with the speed with which cases of fundamental importance are progressing', Coventry told his farewell audience in January 2008. 'I am concerned that acts, which on their face appear to be unlawful, are being presumed lawful until the court rules otherwise. I am concerned that in circumstances that require a judge or judges to take a particular course of action, that that course is not being taken'.<sup>30</sup>

The resignation of the entire panel of the Fiji Court of Appeal was a matter of grave concern. Jurists from Australia and New Zealand have refused to serve on the Fiji courts, leading the Attorney-General to look further afield, to southeast Asia, India and Africa, but so far without success. Two judges from Malaysia appointed to the Court of Appeal last year have yet to take their oath of office, and may even refuse to do so. Meanwhile, judges from the High Court, with limited experience on the bench – some as little as a year – are sitting on the Court of Appeal and the tenure of some judges who are long past the retiring age has been extended. The 'stacking' of the Appeal Court is a matter of grave concern to the legal fraternity in Fiji. So, too, is the injudicious manner in which some judges make comments on controversial political issues.<sup>31</sup> The Fiji Law Society (FLS) has refused to recognize judges appointed since the 2006 coup because it believes that the appointments were in breach of the constitution. Judicial appointments are made by the Judicial Service Commission, of which the president of the FLS is a permanent member. Appointments were made without the FLS president's presence or participation.<sup>32</sup>

The interim Attorney-General, Aiyaz Sayed-Khaiyum, embarrassed both the Office of the President as well as the interim administration through flawed legal advice. He recommended the appointment of Adi Koila Mara as chair of the Constituency Boundaries Commission when she was clearly ineligible due to her former role as a GCC nominee in the Senate. Section 77 of the constitution prohibits appointment to the Commission of anyone who has been a member of parliament, or of a local authority or any other representative body prescribed by the parliament during the immediately preceding four years – to avoid conflict of interest. Perhaps a more grievous error was the breach of section 76 of the

constitution, which authorizes the President to appoint the chair of the Boundaries Commission, acting in his own deliberate judgment, following consultation with the Prime Minister and the leader of the opposition. Khaiyum took it upon himself to apologize for the wrong advice to the President. But it was not his advice to give in the first place, for the Attorney-General is the chief legal advisor to the government. He is a political appointee. The head of state seeks legal advice from the Chief Justice or other senior members of the judiciary. The Attorney-General had quite clearly crossed the line. But mistakes did not matter, or were routinely ignored: As a reward for loyalty and brazen outspokenness in defence of the interim administration, Khaiyum had his portfolios expanded in the January reshuffle to include public enterprises. In February 2008, he gained added negative publicity for preventing members of the International Bar Association from entering the country to look at the functioning of the judiciary in Fiji, claiming that the timing was inappropriate as a number of important constitutional cases were before the courts.

The most embarrassing episode to date in the life of the interim administration without doubt, is the revelations about Mahendra Chaudhry's irregular tax affairs. Oxford-based political commentator and former Fiji journalist Victor Lal had been publishing a series of articles about Chaudhry's tax affairs in the *Fiji Sun* without naming him. When, in February 2008, Chaudhry dared local journalists to name the errant, tax-evading minister, the *The Fiji Times* did precisely that.<sup>33</sup> Among the revelations was the non-disclosure to Fiji tax authorities of bank accounts that Chaudhry held in Australia and New Zealand, which over time had accumulated over \$1.6 million. He paid tax on interest earned only after the Fiji Islands Revenue and Customs Authority (FIRCA) discovered the deposits under a bilateral tax treaty. Bainimarama refused calls for Chaudhry to resign or step aside, as urged by the military council, or to have FIRCA officials working on the case (but who had by then been either removed or sent on leave) complete their investigation. 'The issue with Mr Chaudhry is just between him and myself and no one else', he said.<sup>34</sup>

An investigative committee with narrow terms of reference, hastily and secretly organized by the Attorney-General, cleared Chaudhry of any breach of the Fiji Tax Act, but many questions remained unanswered. It was revealed that large sums of money deposited in Chaudhry's Australian accounts came from India and had been channelled through the Indian Consulate in Sydney. The papers indicated that the money was a personal gift to Chaudhry, to enable him to settle in Australia because his life was in danger in Fiji, but Chaudhry had claimed that the money was being held in trust for his community. The FIRCA officials found no deed of trust or any other such document. Chaudhry claimed in January 2003 that he had not received any money from India when the documents showed that it was already in his account in Australia.<sup>35</sup> In December 2005, Chaudhry, in response to questions from then Prime Minister Laisenia Qarase, categorically

denied receiving money from India, indicating that people in the Indian state of Haryana had raised money in his name to 'assist with the struggle of the people of Indian origin here'.<sup>36</sup>

Chaudhry's opponents gleefully surmised that the tax saga would finally sink his career.<sup>37</sup> That is unlikely, though some former FLP party members have publicly criticized their leader for his participation in the military's interim administration.<sup>38</sup> The critics were peremptorily sacked from the party. Chaudhry's hold on the sugar belt remains strong. He has put his loyal supporters in important positions in the sugar industry. He is also the Minister for Sugar as well as the general secretary of the National Farmers Union, from which position he has refused to resign despite the appearance of a conflict of interest: He is, in this case, both the defence attorney as well as the presiding judge. What the saga has done is dimmed his reputation and tarnished his image as a clean crusader for good governance; muddied the high moral ground he has always claimed for himself and his causes. Mahendra Chaudhry will be remembered in future as much for his sad, sorry tax saga as for the courage and tenacity he has shown in his long and turbulent political career, the sacrifices he has made and the hardships suffered.

If Chaudhry was one casualty of the sordid tax affair, the Fiji media, in particular the publisher of the *Fiji Sun*, whose newspaper had broken the story in the first instance, was another. Russell Hunter was summarily deported under the cover of darkness in late February 2008 by the interim administration, for apparently violating the conditions of his work visa and because he was a threat to 'national security', however broadly that was defined. What precisely the visa conditions were, what 'credible evidence' of Hunter's wrongdoing the interim administration had, were never divulged to the public.<sup>39</sup> More troubling was the state's defiance of a High Court order prohibiting Hunter's expulsion.<sup>40</sup> A hastily introduced amendment to the Immigration Act made the minister of immigration's decision unchallengeable in the courts. A few weeks later, the publisher of *The Fiji Times*, Evan Hannah, was summoned to 'meet' Attorney-General Khaiyum about the coverage his paper gave to the affairs of the interim administration.<sup>41</sup>

Hunter's deportation (see chapter 14, this volume) and perceptions of intimidation of the media brought much local as well as international criticism to the interim administration. Chaudhry has also floated the idea of licensing the media along the Singaporean model, a curiously incongruous proposition coming from the leader of a party which professes to champion the cause of democracy. At the same time, the widely criticized, angry and rambling Fiji Human Rights Commission-sponsored report on the media in Fiji also made recommendations, the net effect of which would be further muzzling of the media.<sup>42</sup> As the interim administration struggles to provide a semblance of stability to the country, the media will continue to be blamed for all manner of things, inducing a degree of

self-censorship and fear of intimidation, and infringing its rights and responsibilities as the Fourth Estate.

When Bainimarama executed his coup, he expected the international community to support his 'clean-up' campaign. The FLP's participation in the interim administration also encouraged that thought. But the coup-makers underestimated the response of the international community. At a private meeting with local businessmen, Commodore Bainimarama was told, so I understand, that international resolve against the coup would be short-lived, weakening after about six months, whereupon normalcy would swiftly return, following the pattern of earlier coups. Clearly, that has not happened, nor is it likely to anytime soon. The election of the Rudd Labor government in Australia was touted by some in the interim administration, including Mahendra Chaudhry, as heralding the possibility of more understanding and dialogue between the two countries, leading hopefully to the relaxation of the travel bans on members of the interim administration and their families. That eventuality is hardly likely and would be politically unwise, contradicting Australia's long-held position on the importance of democratic rule in the region and beyond. Winning power through a democratic election after eleven years in the wilderness, Australia's Labor government could scarcely be expected to support a regime that had seized power through a military coup. Moreover, Australia formulates its policy on Fiji in consultation with its neighbours and allies, especially New Zealand, whose anti-coup stance was long-standing, and the European Union and the Commonwealth Secretariat. Labor's pre-election stance on Fiji was clear, 'The illegal seizing of power by Commodore Bainimarama remains an affront to democracy and justice'.<sup>43</sup> Labor leader Kevin Rudd was equally blunt, 'Democracy and the rule of law must prevail throughout the South Pacific region, so to see both stamped on by the military in Fiji is acutely unwelcome'.<sup>44</sup> How, in the face of these unequivocal declarations, could the interim regime expect cordiality from Australia defies credulity. Perhaps this was Fiji politics as usual again, words spoken for a gullible public's consumption, but not intended to be taken seriously.

## **The Fiji Human Rights Commission**

Early in 2007, the director of the Fiji Human Rights Commission (FHRC), Dr Shaista Shameem, gained considerable notoriety, both in Fiji and overseas, for her enthusiastic endorsement of the December coup, which brought her into a sharp verbal exchange with one of the Human Rights Commissioners, Shamima Ali, and with the Fiji legal fraternity generally. In her earlier report, Shameem had effectively blamed the Qarase government for causing the coup, holding it responsible for blatant abuses of human rights and for launching a program of 'ethnic cleansing.' She issued a second 'investigative' report on the coup in August 2007, claiming that the military takeover on 5 December 2006 was not

a coup. It was, instead, a constitutional removal of a corrupt, human rights-breaching government by the head of state who was exercising powers conferred upon him by section 86 of the constitution: 'The President is the Head of the State and symbolises the unity of the State.' The section, she contended, gave the president far-ranging 'sovereign prerogative powers' which he could exercise constitutionally at his discretion for the good of the state.<sup>45</sup>

Shameem's 'eccentric legal interpretation,' as her critics put it, was seriously flawed and largely disregarded. The simple fact is that under the 1997 constitution the executive does not enjoy unrestricted power. The President acts on the advice of the prime minister or cabinet except for 'very limited situations where he or she has discretion'.<sup>46</sup> The President's reserve powers are carefully prescribed and circumscribed. The limiting of the sovereign's power has been the thrust of constitutional development since the 18th century, when the concept of 'divine right to rule' began to be reined in. A coup by any other name is still a coup, and attempting to veil the 2006 coup as merely a constitutional removal of a government is, on the face of it, simply too inventive to take seriously.<sup>47</sup>

Not content with seeking to remove the legal legitimacy of the Qarase government, Dr Shameem authorized an enquiry into the fairness and validity of the 2006 election. Predictably, the three-person enquiry, chaired by local lawyer G.P. Lala, and largely boycotted or ignored by all except the FLP, found minor discrepancies in the counting of ballot boxes and some irregularities in the registration of voters that particularly disadvantaged Indo-Fijians. But most people in Fiji believed, as the international election observers had certified, that there was no massive rigging of the election and that the whole enquiry was a politically motivated affair designed to embarrass the Qarase government and to provide a thread of legitimacy to the interim administration. There was room for improvement in the electoral administrative arrangements, to be sure, but the final outcome would not have been affected. Still, politically inspired rumours of rigging persist, becoming a part of Fiji's political culture and raising doubts in the public mind about the legitimacy of election outcomes which have not gone one's way.

As the year ended, the ever combative Dr Shameem launched an enquiry into the funding of Duavata Initiative Limited, the commercial arm of the SDL Party. She was concerned about the manner in which the Initiative had solicited funds from donors before the election. The Duavata Initiative is a private, limited liability company registered under the Companies Act, legally entitled to solicit funds and pay tax on its generated income. The company is not required under Fiji laws to reveal its audited accounts, unlike a statutory organization such as the Native Land Trust Board or the Fiji Sugar Corporation. That the FHRC should undertake such an enquiry seemed only another politically motivated initiative,

raising further suspicions among indigenous Fijians, the overwhelming majority of whom support the SDL. A further question to be asked is whether or not it is an appropriate use of public money to have an enquiry into the fund-raising activities of a private company, when genuine abuse of human rights (the assault of Ballu Khan, the deaths of civilians in police or military custody) go uninvestigated.

On 31 March 2008, the FHRC issued yet another 'Special Investigations Report,' this time on an alleged Australian intervention in Fiji immediately before the 2006 coup. It claimed that Australia was in breach of international law by seeking to influence events in Fiji (by sending in SAS personnel), by despatching warships before the coup – ostensibly to evacuate Australian citizens when in truth the motives were more sinister – and, by, in concert with other countries, trying to incite mutiny within the ranks of the Fiji Military Forces against Commodore Bainimarama, who was then in New Zealand. The report provides a chronology of events leading up to the coup.

Australia has predictably rejected any ulterior motives other than the safe evacuation of its citizens in the state of emergency.<sup>48</sup> The Human Rights Commission's allegations are akin to those levelled against the United States in the 1987 coup.<sup>49</sup> The actual truth may never be known: Such allegations are easier to make than to prove. In this case, Dr Shameem had gone on a 'fishing expedition,' seeking explanations, drawing attention to omissions of factual information concerning certain episodes and events, highlighting contradictions in official responses; but there are no 'direct hits,' so to speak, no concrete proof of Australia's intention to intervene militarily in Fiji. And there the matter rests. One thing is clear: The report is not taken seriously even by neutral observers because of Dr Shameem's close identification with, and support for, the coup and the interim administration. This, we can rest assured, is not the last report that will emanate from the fecund pen (or word processor) of the director of the Fiji Human Rights Commission.

## Road map

As 2007 unfolded, the interim administration, grappling with the niggling problems of running a country amidst diminishing opportunities and sullen opposition, subtly changed the tune about its purpose. The military's rationale for the coup had been the removal of corruption and the promotion of good transparent governance. This rationale was now hobbled. The promise in the 'Road Map for the Return to Parliamentary Democracy' issued in February 2007 to 'introduce measures to kick-start the national economy' remained unrealized.<sup>50</sup> So too was the promise to 'resolve the land-lease issue,' and 'create more jobs for our people, provide them with better income and opportunities, and reduce poverty'. Instead, twelve months later, poverty was on the rise, squatter settlements were mushrooming, violent urban crime was a serious concern, the

tourism industry was down, and unemployment was rising.<sup>51</sup> The rhetoric of change and betterment could not hide the grim reality of despair on the ground.<sup>52</sup>

But Bainimarama remained unperturbed, seemingly oblivious to the many unresolved problems swirling around him. Indeed, one of the more fascinating developments of 2007 in Fiji was the growing ease and confidence, arrogance in the view of his critics, with which he was getting accustomed to and enjoying his power. He attended the Forum Leaders meeting in Tonga and addressed the 62nd Session of the UN General Assembly in late September. There, he continued to present himself as a selfless servant of his nation, a reluctant warrior who only entered the fray at the last minute to save his nation. He characterized a disintegrating Fiji under Laisenia Qarase, experiencing 'a pervasive increase in corruption; serious economic decline combined with fiscal mismanagement; a sharp deterioration in the law and order situation; and deepening of the racial divide in the country.' That was not all.

The convicted coup perpetrators were prematurely discharged from prison, and certain coup perpetrators and sympathisers were appointed as senior Government Ministers and Officials. There were also a series of legislations [*sic*] that were deeply divisive and overtly racist.<sup>53</sup>

This simplified and self-serving rendition of events needs little comment. But this was the message that the military and the interim government strove to propagate, often to their puzzlement, to unreceptive and unresponsive audiences.

In February 2008, Bainimarama appointed himself chairman of the GCC, thereby becoming the most powerful man in modern Fijian history: Head of the military, the government and the supreme body of the indigenous community. As chair of the GCC, Bainimarama will appoint, theoretically on the advice of the provincial councils, 52 members of the Council. He could 'suspend, discipline or dismiss any member who brings disrepute to the Council'. No Fijian, chief or otherwise, will be eligible for the membership of the Council if he or she has served a prison term, is an undischarged bankrupt, has contested a general election, was a member of parliament (both the House of Representative and the Senate) or was an office bearer of a political party in the preceding seven years.<sup>54</sup> This would rule out most significant Fijian leaders over the last decade. Bainimarama wants to depoliticize the GCC, but sees no contradiction in becoming its chair while occupying the highest political office in the land. What he will have at his command is a hand-picked GCC, which will enable him to influence the appointment of President and Vice-President. That, many believe, is his true motive in becoming the chair of the GCC.

## **Common roll**

As 2007 came to an end, Bainimarama championed with renewed vigour his proposal to create a truly non-racial society. In his 'Road Map' statement,

Bainimarama had talked of the need to 'rid the Constitution of provisions that facilitate and exacerbate the politics of race', and promised to appoint a Constitution Review Team to address this and other related issues. The team was not appointed; it had been overtaken by the NCBBF and the People's Charter; but Bainimarama continued to speak out in favour of non-racial politics. He proposed, for example, that all 71 seats in the House of Representatives should be contested from non-racial common roll constituencies. It was a radical proposal, breathtaking in its audacity, and the first of its kind in post-independence Fiji from a Fijian. Bainimarama seemed adamant about it too. The common roll cause, which had once aroused such passionate debate in Fiji, had effectively died in 1969 with the death of its tireless advocate, A.D. Patel.<sup>55</sup> Since then, every major political leader in Fiji, Fijian and Indo-Fijian alike, had accepted the 'reality' of race as the driver of Fiji politics and worked within its broad parameters.

The proposal drew a cautious response from SDL leader Laisenia Qarase. The 2007 census showed the indigenous Fijians comprising 57 per cent of the total population of 827, 900, while the Indo-Fijian proportion had declined to 37 per cent. The projections are for further decline as Indo-Fijians emigrate and their birthrate remains low. Qarase, like many other Fijian leaders, sensed an advantage in the numbers, which explains his cautious, but encouraging, support. Qarase is mistaken if he thinks that all Fijians will automatically vote for his party, though in the short run many might as the interim administration continues to alienate sizeable sections of the Fijian community. Qarase's willingness to consider a common electoral roll is predicated on his assumption of Fijian solidarity behind his party.

For his part, FLP leader Mahendra Chaudhry has opposed, rhetorically at least, the race-based election system although his stand on complete common roll is not clear. He will be challenged by many in his own community who prefer racially reserved seats because of the illusion of security it gives them, having known no other system. The issue becomes more urgent for them as their numbers dwindle. Thus, it should come as no surprise if the once ardent champions of non-racialism embrace a racially compartmentalized system with guaranteed racial representation.

But, at least on the face of it, all three principal leaders of Fiji – Qarase, Chaudhry and Bainimarama – are agreed on the need to move the country away from race-based politics, providing a basis for further dialogue between them. If there is disquiet about abandoning all the racially reserved seats in one clean sweep, the recommendations of the Reeves Commission for a gradual abandonment of racially reserved seats might be worth considering. The Commission recommended that two thirds (46) of the 71 House of Representative seats should



be contested from non-racial open seats and one third from racially-reserved ones, with a move to all non-racial open seats over time.

The evolving common ground on this issue notwithstanding, there are several obstacles. The first is Bainimarama's complete unwillingness to engage with Qarase face-to-face on any issue except strictly on his own terms. On 16 November 2007, Qarase wrote to Bainimarama, following earlier correspondence, seeking a meeting and suggesting a pathway out of the current impasse.<sup>56</sup> Among his suggestions was that the interim administration continue running the affairs of the country until parliament is recalled. The recalled parliament would sit at most for two weeks (for the lower house, and one week for of the Senate) to deal with urgent business. Just before the recall of parliament the interim administration would resign, paving the way for a caretaker cabinet comprising members of the ousted Qarase government to run the country for the duration of the recalled parliament. The prime minister would then resign and advise the president to dissolve the parliament, a caretaker government taking the country to the next general election. The proposal was sensible, if also somewhat convoluted, but worth serious consideration. As Qarase wrote:

Given the will, and allocation of resources, there is no reason why the right of the people to choose their own Government should not be returned to them by the earlier date. We urge Commodore Bainimarama to show good will by aiming for this. Such an action would help to create a more positive and conciliatory national mood. It would find favour with the majority of the populace who back the SDL.

Bainimarama informed the nation that, instead of pondering the matters Qarase had raised, he had thrown the letter straight into the rubbish bin. If Qarase wanted dialogue, he would have to embrace the People's Charter and raise his concerns there. Bainimarama's visceral dislike – hatred might be a more apt word – of the ousted prime minister has shown no sign of diminishing. Bainimarama seems to believe in the old maxim that treating your adversary with respect is giving him an advantage to which he is not entitled. Even entitlements due to a former prime minister have been denied to Qarase in what can only be called petty acts of petulant retribution, especially when Mahendra Chaudhry and Sitiveni Rabuka (and Tevita Momoedonu, who was prime minister for a few hours in 2000, enabling President Ratu Mara to dissolve parliament and call for fresh elections) receive their prime ministerial privileges. Qarase was the country's democratically elected leader for nearly six years.

The second problem flows from the first. Bainimarama insists that the next general election, whenever it is held, will be under a non-racial voting system. But how will the new system be given constitutional legitimacy if it is not authorized by parliament? A decreed electoral system, without the imprimatur of parliament, will find favour with no one. Instead, it will cause further friction

and division in Fiji. As the saying goes, it is better to debate a question without settling it, than to settle it without debate. But with the military insisting that its way is the only way, prospects of productive dialogue seem bleak.

There was a brief glimmer of hope in March 2008 when Commonwealth envoy and former chairman of the Fiji Constitution Review Commission, Sir Paul Reeves, visited Fiji to mediate between the different political leaders in an effort to break the political deadlock that Fiji found itself in. He had made the trip to Fiji at the invitation of Bainimarama. At first, the interim prime minister was welcoming, as were some of the other leaders, but then Bainimarama, at the behest of the military council, changed his mind and cancelled further meetings with Reeves. Perhaps an important reason for Bainimarama's change of mind might have been the position adopted by the FLP, which refused to participate in the discussions. 'How can it [the FLP] enter into a political dialogue with people whose legitimacy it is challenging?' a party statement asked.<sup>57</sup> The ousted SDL government had challenged the legality of the interim government in court. In any event, the consultations promised by the NCBBF were much broader and more inclusive and the SDL and other parties could join the dialogue through it. On the face of it, the FLP's position seems disingenuous: After all, it had no difficulty lending support to Sitiveni Rabuka in 1992 while challenging the legitimacy of the constitution that brought him to power. Reeves wanted to explore ways of returning Fiji to early parliamentary democracy, while the FLP wants to postpone the election to beyond 2009, after the People's Charter is in place. An important opportunity was missed.

If a week is a long time in politics, a year is an eternity. Fiji's tale of woes continues. Many issues which precipitated the crisis and held the country to ransom remain unresolved. But if there is one thing certain amidst all the chaos and uncertainty confounding today's Fiji, it is that the military is there to stay for the long haul. It wants for itself an entrenched role in the nation's affairs. The military will no longer simply be an instrument of the state. It will be the ultimate authority overseeing the affairs of the state. A militarized democracy seems in the offing for Fiji.

Despite all the provocation, there was no civil strife in Fiji. Fear of what the military might do, has led to a prudent appreciation of the realities on the ground. After all, the military have all the guns, and their behaviour shows they mean business. More importantly, the prudent reactions of those sections of the Fijian community most aggrieved by the coup have highlighted the serious leadership vacuum in the Fijian community. Laisenia Qarase's enforced exile on his remote island of Mavana in the Lau group deprived his supporters of a leader around whom they could rally. After returning to Suva, Qarase maintained a low profile, quietly consulting party colleagues about the impending court case and other related matters. He was being prudent: He had no choice. Most of his former

parliamentary colleagues were silent, watching the unfolding events from the sidelines. There was polite protest in the newspapers, although most grumblings remained around the grog bowl.

The GCC reacted similarly to the reforms in its internal structure and composition proposed by the interim administration. The determination to seek resolutions to the country's problems within the legal and constitutional framework augurs well for Fiji, but not too much should be taken for granted. It was refreshing to see those who once decried democracy as a foreign flower unsuited to Fijian soil, publicly embracing democracy as the only way forward. Such are the processes of political transformation in contemporary Fiji. But, as recent history has shown, perceptions and attitudes change fast. Today's self-proclaimed democrats could, without too much contortion, turn into tomorrow's autocrats; the roots of respect for the rule of law and constitutional processes remain very shallow.

The December coup raised a whole host of questions about the kind of society Fiji is and, more importantly, aspires to be. What kind of political culture does it want to bequeath to future generations? Will the military, from now on, be an integral part of the political process, as in Turkey or Thailand or even Pakistan? What role will traditional institutions play in the modern political arena? There were no answers to these questions in 2007. Much was promised, much less accomplished. Robert Rounds of Lautoka spoke for many when he wrote: 'I am tired of the continued promises and fancy choice of words. Fiji needs leaders, we need our leaders to give us reason to believe that we will one day be "the way the world should". Fancy words can only last so long. Leaders do not rule, they lead. Sadly no one is leading our Fiji.'<sup>58</sup>

## ENDNOTES

<sup>1</sup> '365 days later, what's different?' *Fiji Sun* editorial, 5 December 2007.

<sup>2</sup> *Fiji Sun*, 5 November 2007.

<sup>3</sup> *Building a Better Fiji for All through a People's Charter for Change and Progress*, Draft, Suva, April 2008.

<sup>4</sup> See, *Fiji Sun*, 30 October 2007, Verenaisi Raicola, 'All for the common good', *The Fiji Times*, 13 October 2007, and Raicola, 'The Way of the Charter', *The Fiji Times*, 27 September 2007.

<sup>5</sup> *The Fiji Times Online*, 'Church and politics', 25 October 2007.

<sup>6</sup> Kevin Barr, 'Law must be balanced by compassion, common sense', *The Fiji Times* 5 April 2008.

<sup>7</sup> 'Charter views mixed bag', *The Fiji Times Online*, 30 October 2007.

<sup>8</sup> 'Kadavu chief refutes claim', *The Fiji Times*, 18 January 2008.

<sup>9</sup> See Jioji Kotobalavu's thoughts on this, 'Done right, Charter can help', *The Fiji Times*, 29 October 2007. Also 'Lack of participation hurts Charter, Ratu Joni [Madraiwiwi]', *The Fiji Times*, 22 March 2008.

<sup>10</sup> For details, see my *A Time bomb Lies Buried: Fiji's road to Independence, 1960-1970*, ANU E Press, Canberra, 2008.

<sup>11</sup> 'The end is at hand', *Fiji Daily Post*, 15 March 2008.

<sup>12</sup> 'Army chief holds key to ending coup culture', *The Fiji Times*, 18 January 2008.

<sup>13</sup> 'The danger of one-sided enforced settlements', *The Fiji Times* editorial, 18 March 2008.

<sup>14</sup> 'Group to look at military role', *The Fiji Times*, 22 January 2008.

<sup>15</sup> See, Maika Bolatiki, 'Militarisation of civil service', *Fiji Sun*, 30 June 2007.

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- <sup>16</sup> 'Order of battle', *The Fiji Times* editorial, 20 July 2007.
- <sup>17</sup> 'Perform or move out, says army', *The Fiji Times Online*, 19 September 2007.
- <sup>18</sup> 'Naipoto backs military postings', *The Fiji Times Online*, 23 July 2007.
- <sup>19</sup> See, Maika Bolatiki, '2009 election: Fact or fiction', *Fiji Sun* 5 January 2008.
- <sup>20</sup> *Forum Communiqué, Thirty-Eighth Pacific Islands forum, Nuku'alofa, Tonga, 16-17 October 2007.*
- <sup>21</sup> *The Fiji Times*, 13 September 2007.
- <sup>22</sup> *The Fiji Times*, 9 June 2007.
- <sup>23</sup> 'No charter, no election', *The Fiji Times*, 5 April 2008.
- <sup>24</sup> 'Cabinet Changes Difficult' *Fiji Sun* editorial, 20 November 2007.
- <sup>25</sup> See deposed opposition leader Mick Beddoes' comments, 'No evidence on coup claim', in *Fiji Sun*, 12 November 2007.
- <sup>26</sup> Verenaisi Raicola, 'All about good governance', *The Fiji Times*, 17 November 2007. See also, 'FICAC faces uphill battle', *Fiji Sun*, 27 August 2007 and 'Demarcation of responsibilities', *Fiji Sun* 19 August 2007. Among other things, the Fiji High Court ruled that FICAC had no constitutional authority to prosecute cases, except through the office of the Director of Public Prosecution.
- <sup>27</sup> Fatiaki was charged for falsifying his income tax returns for the years 1998–2005, misappropriating an honorarium (\$5,000), and, in relation to the 2000 coup, 'actively and voluntarily' taking part 'in the discussion and preparation of advice to the then President to appoint a caretaker Prime Minister, to prorogue Parliament on the advice of the caretaker Prime Minister, thereby breaching his constitutional duty to maintain judicial independence from the executive branch', and in aiding and abetting the abrogation of the constitution'. *The Fiji Times*, 21 November 2007. On the face of it, the tax charges seem minor. And Fatiaki was not the only judge to be implicated in the constitutional saga following the attempted putsch of 2000.
- <sup>28</sup> Ceerieann Wilson, 'Is Justice Being Done?' *Fiji Sun*, 15 September 2007.
- <sup>29</sup> See, *fijilive*, 29 June 2007.
- <sup>30</sup> 'Fiji judge urges lawyers to speak out,' *fijilive*, 25 January 2008.
- <sup>31</sup> Such as Justice Jocelyn Scutt, who commended a highly controversial report prepared by the director of the Fiji Human Rights Commission, which alleged that the 2006 election was unfair to the Indo-Fijian electorate, when everyone else thought otherwise. See, *The Fiji Times* editorial 'Protect the judiciary', 19 February 2008.
- <sup>32</sup> See the article by Nicola Berkovic in *The Australian*, 11 March 2008.
- <sup>33</sup> 'It's Chaudhry', *The Fiji Times*, 23 February 2008
- <sup>34</sup> 'Step Aside', *The Fiji Times*, 6 March 2008.
- <sup>35</sup> Reported in the *Fiji Sun*, 17 February 2003.
- <sup>36</sup> For more details, see Victor Lal, 'Haryana letter tells of \$2m bank deposit', *Fiji Sun*, 24 February 2008.
- <sup>37</sup> See, 'Chaudhry is finished: Baba', *The Fiji Times*, 24 February 2008.
- <sup>38</sup> Among them was Nadi branch president of the FLP Vijay Prasad, who said that the FLP had made the 'biggest mistake' in joining the interim administration. *Fiji Sun*, 11 February 2008.
- <sup>39</sup> 'Real story behind the emails', *Fiji Sun*, 29 February 2008.
- <sup>40</sup> 'Order ignored,' *Fiji Sun*, 27 February 2008.
- <sup>41</sup> The interim government subsequently deported Evan Hannah on 1 May 2008.
- <sup>42</sup> The report was written by Hawaii-based former Fiji trade unionist Dr James Anthony.
- <sup>43</sup> The statement came from then Labor Foreign Affairs spokesman Robert McClelland, *Fiji Sun* 28 November 2007.
- <sup>44</sup> Quoted in Victor Lal, 'Australia shows the coup is not the way', *Fiji Sun*, 27 November 2007.
- <sup>45</sup> The report was posted on *fijilive* website and is also available from the Fiji Human Rights Commission Office, Level 2, Civic Towers, Victoria Parade, Suva.
- <sup>46</sup> This is from a response prepared for Commissioner Shamima Ali by a group of senior local lawyers rebutting Shameem's paper. Privately circulated.
- <sup>47</sup> This was also the opinion of three eminent constitutional lawyers: Sir Geoffrey Palmer, QC; Helen Aikman, QC; Alison Quentin-Baxter (New Zealand), and of Professor Cheryl Saunders (Australia).

<sup>48</sup> *fijilive*, 8 April 2008. Australian Foreign Affairs Minister Stephen Smith: 'This is just another device, another potential distraction to put the interim Fiji Government, the military Government, in the position of sliding out of a faithful undertaking that it gave to the Pacific nation states' to hold elections by March 2009.

<sup>49</sup> See my *Power and Prejudice: The Making of the Fiji Crisis*, New Zealand Institute of International Affairs, Wellington, 1988, pp. 31–38.

<sup>50</sup> The quote is from a typescript of the address, available from the Fiji Ministry of Information.

<sup>51</sup> On the incidence of poverty, see Wadan Narsey, 'Truth behind our poverty', *The Fiji Times*, 10 June 2007.

<sup>52</sup> For a discussion of the economic impact of the coup, see Chand, this volume.

<sup>53</sup> The speech is posted on the Fiji government website.

<sup>54</sup> *The Fiji Times*, 19 February 2008.

<sup>55</sup> For a history of the common roll debate, see my *A Vision for Change: AD Patel and the politics of Fiji* (Canberra, 1997), and the Fiji volume in the *British Documents on the End of Empire* (London, 2006).

<sup>56</sup> This draws on a copy of the letter from Qarase to Bainimarama in my possession. The gist of it was published in the media.

<sup>57</sup> 'Too late to begin political dialogue', *fijilive*, 13 March 2008.

<sup>58</sup> Robert Rounds, Letters to the Editor, *The Fiji Times*, 5 January 2008.



# 31. Fiji's Coup Syndrome

**Jon Fraenkel and Stewart Firth**

Fiji's 2006 coup was, in some ways, curious by international standards. It was not driven by poverty or economic backwardness, although that is often a 'common denominator' amongst coups.<sup>1</sup> Samuel Huntington's claim that successful coups are confined to countries with income per capita at less than US\$500 scarcely fits the experience of Fiji, where average income is more than four times that.<sup>2</sup> Fiji would also sit awkwardly alongside Samuel Finer's crude continuum between 'less developed' states, which, he states, are particularly vulnerable to military coups, and 'more mature' states, which are not.<sup>3</sup> Fiji is the most economically developed of its Pacific neighbours. Yet none of the others – bar perhaps the Solomon Islands – have witnessed coups.<sup>4</sup> The 2006 Fiji coup was not an expression of economic backwardness: It was a coup of the radicals amongst the westernized elite, who sought to superimpose a national consensus upon a divided social order. It was made possible only by the relatively large size and robustness of the military as compared with the fragmentary character of the civilian political order and the strategic weakness of the deposed government. It was a coup of utopians seeking to transcend, rather than mould, social forces that they deemed responsible for long-run ethnic disquiet and poor governance.

In a more familiar fashion, the architects of the coup said that they were inspired by a strong sentiment of anti-corruption, on the pattern of Thailand or, a decade earlier, Pakistan. Those elites and intellectuals in Fiji who identified with the 2006 coup had long professed sympathies for Singapore's Lee Kwan Yew's authoritarian modernism, together with his disdain for democracy, which he saw as promoting graft and inefficiency, and as serving as a restraint on development. Yet Bainimarama's coup showed little sign of turning Fiji into an Asian 'tiger economy', and the botched deliberations of the post-coup Fiji Independent Commission Against Corruption discredited the military's 'clean up campaign'. The anti-corruption objectives of the coup of the coup gradually faded from the political limelight. What became more important was the attack by the military and the National Council for Building a Better Fiji (NCBBF), on what has been called the 'fallacy of electoralism'.<sup>5</sup> Their argument was this: Despite regular elections, substantial sections of the population had been excluded from political power; efforts to promote moderation and inter-ethnic conciliation through democratic means had failed; and only a strong-arm regime, capable of withstanding electoral pressures, could promote modernization, development and inter-ethnic harmony.

Fiji's 2006 coup needs to be seen in the context of a long-running debate about institutional engineering in the wake of agreement over Fiji's 1997 constitution. Initial hopes that the alternative vote system, agreed as part of that constitution, would promote moderate parties and candidates came to little. The centrist parties obtained a significant share of the vote in 1999 and 2001, but were greatly disadvantaged under the new electoral laws. Fiji's voting system, which was supposed to have a 'centripetal' influence, in fact helped to 'hollow out' the centre, leaving Fiji, most starkly after the May 2006 polls, with two large ethnically-based political parties.

Another element of the 1997 constitution had been power-sharing mechanisms. All parties with over 10 per cent of seats in parliament were entitled to proportional representation in cabinet. Those rules did not work effectively after the 2001 election, but, after May 2006, Qarase formed a multiparty cabinet that included nine members of the Fiji Labour Party. Labour leader Mahendra Chaudhry stayed out, a decision that always appeared likely to serve as a death-blow for the new arrangements. When the 2007 budget was to be put to the vote, Chaudhry demanded that his colleagues in cabinet follow the party whip and vote against it, while Qarase insisted that his ministers accept Westminster doctrines of 'collective responsibility' and back the budget. Four ministers followed Chaudhry while Krishna Datt and Poseci Bune were expelled from the Labour Party. In the weeks before the coup, then, power-sharing was faltering as a solution to the country's problems.

Within Fiji, explanations of the 2006 coup often centre on personal antagonisms – evidenced by four years of regular outbursts by the military commander against Qarase and his government. Many people emphasised the commander's psychological difficulties in handling the trauma of the November 2000 mutiny, which had steeled his resolve to hunt down, court martial and imprison the perpetrators. Although such explanations may tell us something about personal motivations, they explain nothing about why or how the commander was able to obtain the backing of the Military Council or avoid a mutiny of the rank-and-file.

More plausibly, the antagonism between Bainimarama and Qarase can be explained in terms of the dynamics of institutional survival and consolidation. Qarase's SDL, forged in the midst of the 2000 crisis, saw its objective as being to advance a 'realistic' alternative to George Speight, who claimed to have intervened to save indigenous Fijians. The Blueprint for Affirmative Action for Indigenous Fijians and Rotumans became central to the *Soqosoqo Duavata ni Lewenivanua* (SDL) platform when it went to the election in 2001; and almost all SDL policies from then on aimed at placating indigenous Fijians, and at healing the splits that had emerged amongst Fijian parties in 1999 and made possible Mahendra Chaudhry's election victory. Qarase returned 40 per cent of state land



to indigenous ownership in 2002 – the so-called schedule A and schedule B lands – increasing the indigenous share of all land in Fiji from 83 per cent to 87 per cent.<sup>6</sup> He attempted something similar by promoting the Qoliqoli Bill, which would have returned traditional fishing grounds to indigenous ownership; and the Indigenous Claims Tribunal Bill, which would have established a court where Fijians could seek the return of yet more land, including freehold. He introduced the Promotion of Reconciliation, Tolerance and Unity (RTU) Bill in 2005 as a measure on which his government would stand or fall, unleashing a storm of criticism that the bill was actually aimed at giving coup perpetrators amnesty. His strategy throughout was to build a political base by appealing to Fiji's majority population, the Fijians, and to pose as their protector.

Conversely, the Republic of Fiji Military Forces (RFMF) faced a major split in 2000, when mutineers attempted to kill Bainimarama and reverse the defeat of Speight's pro-indigenous coup. Bainimarama survived as military leader but only just, and he now knew who his enemies were. To consolidate control in the country, Bainimarama clamped down on the coup-supporting areas of northern Tailevu and Cakaudrove with a harshness that was not forgotten or forgiven. Within the armed forces, traditionally seen as defending the indigenous Fijians, were officers who remained highly sympathetic to the Speight coup and its ethno-nationalist objectives. The task was to purge them from the force. One way was to demand a pledge of personal allegiance and force the resignation of those who would not give it, as happened in 2004. Another way emerged over time. As Qarase pursued his pro-indigenous political program, Bainimarama opposed it issue by issue, creating a series of controversies that he used as loyalty tests for his officers. Would they back Qarase or would they back him? Each controversy compelled officers to take a stand, and as they did so Bainimarama weeded out potential mutineers. In so doing, Bainimarama destroyed much of the professionalism in the senior officer corps, which coup-theorists like Samuel Huntington take as the major factor keeping the soldier out of politics.<sup>7</sup>

The clash between the two institutions – government and military – became inevitable after the 2001 election. Qarase could become prime minister only with the support of the Conservative Alliance–Matanitu Vanua (CAMV), the very group of nationalist Fijians who threatened Bainimarama's control of the RFMF. Bainimarama came to see every pro-indigenous move made by the government through this prism: This was a government, after all, that wanted to topple him as commander and halve the size of the institution he headed.

To begin with, Bainimarama was no friend of Mahendra Chaudhry. He declined to restore Chaudhry's government after Speight overthrew it. But the two came to share a common enemy in Qarase, especially after the emergence of the RTU Bill. The bill had the advantage for Qarase of rallying indigenous Fijians behind him in numbers sufficient to win the 2006 election – but the disadvantage of

uniting everyone else against him, from the FLP and the military to moderate political parties such as the National Federation Party and the National Alliance Party, civil society organisations, the legal profession, Indian religious bodies and the Catholic, Anglican and Seventh-Day Adventist churches. Qarase could win but not in a way that brought general acceptance that he had won legitimately.<sup>8</sup> When Bainimarama threw his counter-punch a few months later, he did so in the knowledge that he too had numerous supporters on his side. Qarase had played polarizing politics, and he paid the price.

There were three broad potential outcomes of Fiji's third coup.

A first possibility was a long-term consolidation of military authority, and the advent of a strong-arm regime. Might Fiji develop into a 'praetorian' or 'garrison' state, with the military coming to dominate the political system?<sup>9</sup> After the 2006 coup, soldiers rapidly assumed central positions in the government bureaucracy, following a pattern witnessed after the 1987 coup. Bainimarama became prime minister, thereby annihilating any perception that the 'interim government' was anything other than a military puppet. Two former military commanders were given positions in cabinet, and another leading officer became minister of works and transport. Senior and junior officers were deployed across the civil service, an appointment process justified on the grounds of alleged greater efficiency than civilian personnel. Fiji's Military Council exerted a continuing powerful influence over cabinet, as became clear when it successfully urged the sacking of interim Finance Minister Mahendra Chaudhry in mid-2008. On several occasions, Bainimarama voiced his opposition to any civilian taking the role of prime minister, and said Fiji's quarrelsome politicians were responsible for ethnic disquiet, endemic corruption and economic weakness.

There are several reasons why a 'praetorian state' is an unlikely outcome. Fiji's coup, like that in Thailand, was justified as a 'guardian coup', to use Samuel Huntington's phrase, aimed at improving public order, cleaning up corruption, promoting economic development and ridding the state of ethnic cleavages.<sup>10</sup> It was not what Huntington once described as a 'breakthrough' coup, in which military officers seize power purporting to act as an instrument of some mobilized social class or group. Fiji's Indians, although mostly supportive, did not mobilize behind the 2006 coup. Nor was this what Huntington called a 'veto' coup, where the army conservatively intervenes to forestall some threat of social revolution.<sup>11</sup> Guardian coups purport to be temporary expedients. They may entail a violent clampdown and suppression of dissent, but the army soon returns to barracks – as it did in Fiji in early 2007, with the dismantling of roadblocks and checkpoints. Normally, 'guardian' coups entail a lesser risk of violent loss of life than 'breakthrough' or, particularly, 'veto' coups, but, nevertheless, enhance the likelihood of protracted instability and further coups.

Fiji's coup was an unlikely catalyst for long-term military control over the state for another reason: It did not initially entail abrogating the constitution and, from the start, its perpetrators justified their usurpation of power only as a temporary expedient. The coalition that came together in support of the coup – Fijian moderates, the FLP, civil society activists, Catholic social justice advocates and others – were unlikely to have rallied easily behind an overthrow of the 1997 constitution. Judges, such as acting Chief Justice Anthony Gates, would have had to discard long-cherished ideals forged in the battle against those in the judiciary who, they felt, had consented to the attempted abrogation of the constitution on 29 May 2000. Preserving the constitution at all costs, and whatever the consequences, became an element in judicial considerations. Gates justified his 9 October 2008 verdict in the *Qarase v Bainimarama* case by claiming that to have ruled the interim government to have no legal standing would have encouraged military abrogation of the constitution. True, this coalition was just a convenient embellishment for the military commanders, and could have been dispensed with easily enough. But Bainimarama's government claimed legitimacy through appeals to anti-corruption, multiracialism and, oddly, the rule of law – all of which would have sat awkwardly alongside construction of a garrison state. The *Qarase v Bainimarama* decision, by upholding the legality of post-December 2006 interim rule by presidential decree, in fact laid open a purportedly 'legal' course for the commander to assume extraordinary powers, if he were able – officially as well as unofficially – to capture the office of the president. But, as of late 2008, little suggested the likelihood of a Burma-style military regime, enduring for decades.

A second possibility was a reasonably speedy restoration of some kind of constitutional government, following the pattern after the 2000 coup or, perhaps more plausibly – if in a more protracted and difficult way – after the 1987 coup. The conclusion to the 2000 coup was exceptional and seemed unlikely to be repeated. Ultimately, the RFBF itself defeated George Speight's insurrection and the law courts restored constitutionality. In the aftermath of the 2006 coup, the RFBF showed fewer open signs of divisions than in 2000, although these likely festered beneath the surface. Leading anti-coup officers were purged prior to the December 2006 takeover, and their replacements owed their positions to Commodore Bainimarama. The courts always seemed unlikely to follow the post-2000 coup trajectory. The 2001 Chandrika Prasad judgement, which overturned the post-George Speight interim regime, was an oddity in international jurisprudence. Worldwide, few coups have been reversed by court judgements. In still fewer cases have governments accepted verdicts from the courts that declared them unconstitutional. Besides, Fiji's courts were thoroughly transfigured by the 2006 coup in ways that did not happen after 2000. All six of the judges on Fiji's Court of Appeal resigned, and other judges who accepted appointments or renewal of contracts knew that, in doing so, they were swearing

allegiance to the new order. Such appointees are scarcely likely to pass down a ruling that Bainimarama's government is illegal.

A more plausible parallel is the 1987 coup, a fully-fledged military coup like that of 2006. Five years passed before Fiji returned to elective democracy in 1992. In the early 1990s, the prospects for a return to a more equitable and consensual settlement appeared bleak. The 1990 constitution, the brainchild of that coup, reserved the positions of prime minister and president for indigenous Fijians and gave the indigenous Fijians 37 seats in the 70-member assembly, leaving only 27 seats for the Fiji Indians. Ethnic Fijian paramountcy had been institutionalized and the military appeared to have assumed the mantle of its protector. Few could, at that time, have envisaged that coup leader Sitiveni Rabuka, who became prime minister in 1992, would, by the mid-1990s, embrace a compact with Fiji Indian political leaders. Few back then expected that yet another new constitution, that of 1997, would restore some balance between the Fijians and the Indians, and remove the core ethno-nationalist provisions of the 1990 constitution. Many emphasized the role of external pressure in encouraging Rabuka's *Soqosoqo ni Vakavulewa ni Taukei* (SVT) party to accept a constitutional compromise. Ruling without the consent of half of the population also proved an unattractive proposition by the mid-1990s, particularly for those more cosmopolitan ministers who yearned for a more stable and internationally respectable political order. Even with Fijian paramountcy built into the constitutional architecture, Rabuka's SVT had found itself having to broker deals first with Chaudhry's Fiji Labour Party and then with Jai Ram Reddy's National Federation Party.

Similarly, after the 2006 coup, Bainimarama discovered that efforts to legitimize his new order required an awkward accommodation with the victims of his own coup. In deliberations over the 'People's Charter', the absence of endorsement from key ethnic Fijian-backed institutions featured like a gaping sore. Negotiations soon ensued with Methodist leaders and even with Qarase himself, although, predictably, with little initial consequence since Bainimarama wanted abject acquiescence and not compromise. Efforts to change the constitution, in the absence of parliament, were unlikely to be accepted at home or abroad unless these had the endorsement of indigenous Fijian parliamentary leaders. Of course, had there been mass popular support for the coup and had Bainimarama become the demagogue he aspired to be, restoration of constitutional authority would have likely been rapid. The difficulty was that such backing was absent. The reason why Bainimarama reneged on the electoral timetable that was agreed with Pacific Islands Forum leaders was that an election seemed highly unlikely to deliver a government sympathetic to the ideals of the 2006 coup.

Back in the mid-1990s, Rabuka had envisaged that his constitutional deal would get popular endorsement from both ethnic Fijians and Fiji Indians. If he had

known that hostile parties, on both sides, would successfully collaborate to defeat his new coalition, would he have embraced that settlement? Might Bainimarama see a post-People's Charter election, under new voting laws, as a sure route to the triumph of his intended social revolution? Might hubris again turn to ashes, as the party he deposed in 2006 emerged triumphant at the polls? That was also the experience in Thailand, much to the dismay of the Thai army. Electoral reforms, Bainimarama hoped, would avoid such an outcome in Fiji. Yet, in truth, Qarase's SDL had nothing to fear from the proposed reformed voting laws. Provided they proved able to retain the 80 per cent of the Fijian vote they obtained in 2006, the SDL was likely to win the first post-coup election.

The post-2006 coup interim government always seemed unlikely to be long-term. Although it breached the commitment to an election by March 2009, there seemed little likelihood – as of late 2008 – that it would endure beyond 2010 or 2011. Its ministers were alleged to be unambitious technocrats who would not stand at the next elections. Bainimarama seemed unlikely to be able to repeat Rabuka's achievement of recycling himself as a civilian prime minister. In any case, he publicly professed a lack of political ambition, even if he evidently warmed to the exercise of power. Divisions between the interim ministers were carefully concealed, but the departures of Bernadette Rounds Ganilau, Poseci Bune and, most importantly, Mahendra Chaudhry and his Fiji Labour Party colleagues testified to the shifting political character of the coup. Would these regular ministerial reshuffles, combined with a malleable political agenda, eventually lead Fiji back to constitutional rule? Would the impossibility of achieving a stable model for post-coup governance in any other way eventually lead the military commander to seek a more robust and consensus-based settlement with those he had overthrown? If so, following the experience of Turkey, Brazil and Chile, it seemed likely that military leaders would seek for themselves a permanent and substantial influence over the governments that replaced them. This surely was what was meant by the passage in the draft People's Charter that sought to redefine 'the role of the Republic of Fiji Military Forces to bring it closer to the people'.<sup>12</sup>

A third, and seldom considered, alternative was a continuing cycle of coups, reinforced by the mounting political uncertainties and deepening economic decline that each unleashed. The 2006 coup advertised its merits as a 'coup to end all coups'<sup>13</sup>, but in reality it introduced a new dimension to the problem of seizures of power in Fiji. In so doing, it further weakened the Fiji state. Previous coups in Fiji had followed a reasonably predictable pattern, one envisaged by the colonial authorities in the dying days of the British administration. Whatever the intent of their leaders, they gained one-sided popular support from those who professed a desire to resist native peoples becoming outnumbered in their own land. Fiji's Indians might control economic power, so the argument went, but they would be prohibited from acquiring

political power. The 2006 coup, unlike those of 1987 and 2000, had no robust and durable mass social base, and, despite vigorous protestations to the contrary, it lacked a coherent social program or philosophy. In line with the bitter ethnic mechanics of Fiji's previous coups, it initially captured considerable Indian support. But, as the economy collapsed, as food and fuel prices soared, and as the interim government reconfigured itself to adjust to the departure of the Fiji Labour Party, the prospects for longer-term retention of Fiji Indian backing waned. Without that support, the coup would become more narrowly dependent on the force of arms for its survival. In the process, the prospects for some kind of counter-coup increased, as did the dangers of a violent retaliation by those whose authority might be threatened.

'Guardian' coups – for example, in Ghana, Nigeria or Uganda – have often led to a recurring cycle of military takeovers, interspersed with phases of weak civilian control. Once the ice is broken, Finer wrote in *The Man on Horseback*, coups tend to weaken the structures of civilian authority and render more likely a pattern of recurrent coups.<sup>14</sup> Coups spawn counter-coups. Those who acquire power by force tend, internationally, to be more vulnerable to a similar fate than those who gain office by legal means.<sup>15</sup> And if one usurpation breeds another, it opens a Pandora's box: Each logically becomes more cut-throat and poses more of a 'life or death' conundrum for its perpetrators. Fiji's future coup-makers, should they fail, are unlikely to face merely a prison sentence on Nukulau Island, as did George Speight after 2000. Amnesties, like that obtained by 1987 coup-leader Sitiveni Rabuka, seem less likely to present themselves as viable alternatives for those who fail to firmly establish their control. Prior to the 2006 coup, the military commander held a complacent and naïve view as regards the ease of inverting the political order and mounting his coup. As the realities of the inevitable post-coup legitimacy crisis became clearer, the dangers of failure also became more apparent and, with this, the political order became correspondingly more brittle.

In other words, the three alternatives considered above are not mutually exclusive, but any movement in one direction may reinforce the possibility of another. The avenue of reverting to constitutional rule and consensus may threaten newly acquired political powers, leading to the type of situation witnessed in September 1987, when the military intervened a second time to derail the Deuba talks and establish a strong-arm regime. The potential for counter-coups itself generates fuel for coup-instigators who feel safer under continuing authoritarian rule. Those incentives might logically lead historians of the coup d'état to imagine a global future of increasing coups, clampdowns and the spread of garrison states, as anticipated by Finer in *The Man on Horseback*.<sup>16</sup> But that prediction proved false, judging by the diminishing global frequency of successful coups and the global spread of a 'third wave' of

democratization.<sup>17</sup> The expectation of a coup-ridden global future proved wrong because it underestimated the central dilemma encountered by military regimes; difficulties associated with constructing consensus and establishing a legitimate and durable political order.

Those worldwide trends of the 'third wave' provide no cause for complacency in Fiji, which, after all, has departed from international patterns in numerous respects. The 2006 coup, more than its predecessors, introduced new and dangerous potential catalysts for future instability. Before that coup, it was possible to imagine that the coup phenomenon was dying out. First, despite some glaring exceptions, the core 2000 coup leaders – George Speight and his associates – had been sent to prison, serving as a seemingly strong deterrent to would-be future coup-makers. Second, as the Fijian majority grew, the likelihood of coups to establish Fijian paramountcy dwindled. Third, with the advent of a power-sharing government, Fiji seemed briefly to have found the seedling of a solution to long-run and bitter antagonisms. After the 2006 coup and the associated destruction of power-sharing, such optimism was no longer possible. What was certain, however, was that Fiji's political future would depend on the place found for its military forces: On whether or not they could be reduced in size and whether or not they could regain the professionalism and subordination to civilian control that appeared to be growing over the 1990s. If civilian control, judicial integrity and constitutional authority were to be durably re-established in Fiji, the process of doing so was sure to be measured in decades, not months or even years.

## ENDNOTES

<sup>1</sup> Londregan, J.B. and Poole, K.T. 1990. 'Poverty, the Coup Trap and the Seizure of Executive Power', *World Politics*, 42(2):151–63.

<sup>2</sup> Huntington, S. 1995. 'Reforming Civil-Military Relations', *Journal of Democracy*, 6(4):15. 'Countries with per capita GNPs of \$1,000 or more do not have successful coups; countries with per-capita GNPs of \$3,000 or more do not have coup attempts. The area between \$1,000 and \$3,000 per-capita GNP is where unsuccessful coups occur, while successful coups in Nigeria, Sudan, and Haiti were in countries with per-capita GNPs under \$500'; the Asian Development Bank gives Fiji's per capita income as \$US2,172. <http://www.adb.org/FijiIslands/country-info.asp>, while the UN *Human Development Report 2007/2008*, gives a figure, based on purchasing power parity, of \$US6,049.

<sup>3</sup> Finer, S. 1962. *The Man on Horseback; The Role of the Military in Politics*, Transaction Publishers, New Brunswick and London, (2002 edition).

<sup>4</sup> The partial exception is the coup in the Solomon Islands in June 2000, but this was followed by a speedy restoration of constitutional rule, and the courts – when they sat – did not rule the post-coup government illegal.

<sup>5</sup> Diamond, L. 1996. 'Is the Third Wave over?', *Journal of Democracy*, 7(3):22.

<sup>6</sup> Biman P. and Tisdell, C. 2006. *Institutions, Economic Performance and Economic Development: a Case Study of the Fiji Islands*, Nova Science, New York, p. 81.

<sup>7</sup> Huntington, S. 1957. *The Soldier and the State*, Harvard University Press, Cambridge, pp.82–85. For a critique, see Feaver, 'Civil-Military Relations' *Annual Review of Political Science*, 2, 1999, pp.235–6.

<sup>8</sup> Those strategic difficulties call to mind Pippa Norris's distinction between 'bonding' parties, such as Qarase's SDL, which appeal to a narrow ethnic base, and 'bridging' parties like Chaudhry's FLP which 'bring together heterogeneous publics into loose, shifting coalitions' (See, Norris, P. 2004. *Electoral*

*Engineering: Voting Rules and Political Behaviour*, Cambridge University Press, Cambridge, p.10). As Fiji indicates, the difference between these party types may be more strategic than real. The core support base for Chaudhry's FLP was solidly Indo-Fijian, but its political strategy was to achieve power by building a 'bridging' coalition. Qarase's SDL also sought to build broader coalitions, but by the time it did so – ahead of the 2006 polls – this was too late. The SDL already had a reputation, entrenched in public perception, as a 'Fijian' party. The only way that it might have shifted those perceptions, at that stage, was by substantial concessions to any coalition parties or other allies, however small in number, that were publicly identified with other communities.

<sup>9</sup> Perlmutter, A. 1969. 'The Praetorian State and the Praetorian Army: Towards a Taxonomy of Civil-Military Relations in Developing Countries', *Comparative Politics*, 1(3):383; Stanley, J. (ed.) 1997. *Essays on the Garrison State*, Transaction Publishers, New Brunswick, NJ.

<sup>10</sup> 'Democracy Defiled: The Coup Makes a Comeback', *The Economist*, 27 December 2006.

<sup>11</sup> Huntington, S. 1957. *The Soldier and the State: The Theory and Politics of Civil-Military Relations*.

<sup>12</sup> National Council for Building a Better Fiji, Draft Peoples Charter for Change, Peace and Progress, 5 August 2008, p.15.

<sup>13</sup> Statement by H.E. Commodore Josia Voreqe Bainimarama, Prime Minister of the Republic of Fiji Islands, 62nd Session of the UN General Assembly, New York, 28 September 2007.

<sup>14</sup> Finer, S. *The Man on Horseback*.

<sup>15</sup> Bienen, H. and Van De Walle, N. 'Time and Power in Africa', *American Political Science Review*, 83, 1989, p.26.

<sup>16</sup> '...military intervention, of which we are now seeing a good deal, will not only continue but become very much more common' (Finer, S. *The Man on Horseback* [2002 edition], p.238)

<sup>17</sup> Feaver, P. 1999. 'Civil-military Relations', *Annual Reviews of Political Science*, 2, pp.217–18; Huntington, S. 1991. *The Third Wave; Democratization in the Late Twentieth Century*, University of Oklahoma Press.



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