

P911 PRASAD, G. The Fiji case.

GIYANNENDRA PRASAD

THE FIJI CASE : IS IT A FIGHT FOR INDIGENOUS RIGHTS
OR SMOKE SCREEN FOR POLITICAL POWER ?

LLM RESEARCH PAPER
INDIGENOUS PEOPLE AND THE LAW (LAWS 546)

LAW FACULTY
VICTORIA UNIVERSITY OF WELLINGTON

WELLINGTON 1992

e
AS741
VUW
A66
P911
1992



LIBRARY BRANCH OF THE FIJI CASES

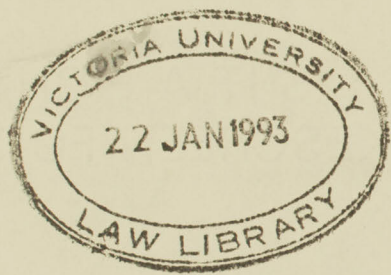
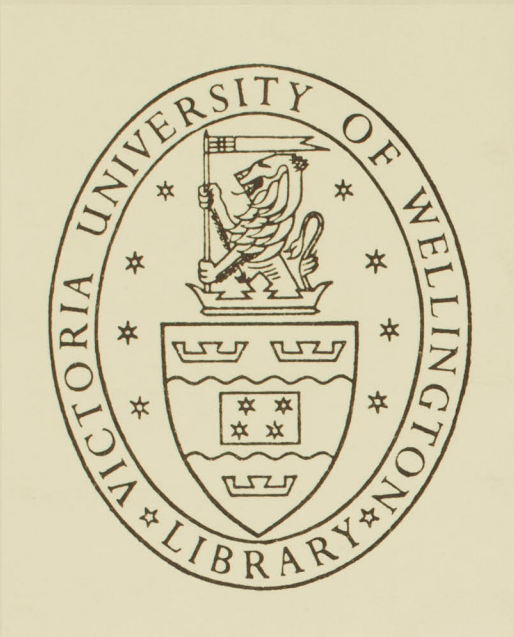


TABLE OF CONTENTS

	Introduction	
1.	May 14 and After	1
2.	Reasons Advanced for the Coup 'De Tat	11
3.	Indigenous Fijian Rights and the Coalition Government	23
4.	Indigenous Rights and the 1970 Constitution	31
5.	Path to the 1990 Constitution	40
6.	1990 Constitution and Indigenous Rights	48
	Conclusion	

INTRODUCTION

CHAPTER 1

This paper is in five chapters. The first narrates the political events as they unfolded in Fiji since the 14 May 1987 military coup. The purpose of this is to provide the background for the discussion in the ensuing chapters.

In the second chapter some of the explanations for the military coups in Fiji are discussed. As the discussion shows there a wide range of explanations have been provided. Some are more plausible than others. But some appear to be inter-linked.

The third chapter deals with the question whether the Bavadra government posed a threat to the rights and interests of the indigenous Fijians. This is based on the premise that indigenous Fijian rights were already protected. Hence in the fourth chapter the relevant provisions in the 1970 Constitution is examined to see the extent to which indigenous rights were safeguarded.

The fifth chapter looks at the process leading to the adoption of the 1990 Constitution. In the final chapter some critical aspects of the 1990 Constitution are looked at to see how the new Constitution protects indigenous Fijian rights.

The question that this paper as a whole addresses is whether the military coups and the ensuing events were to protect indigenous rights or is there something more behind this facade of the need to protect indigenous rights.

CHAPTER 1

MAY 14 AND AFTER

It was about 10:00 am Thursday, 14 May 1987, veteran trade unionist and Taukei leader, Taniela Veitata was making his maiden speech as an opposition member of the Fiji parliament.

"Peace is quite distinct from the political philosophy of Mao Tse Tung when he said that political power comes out of the barrel of the gun", he intoned. "In Fiji there is no gun". But few minutes later there were many. Ten gun wielding and masked soldiers entered the Fiji's parliament.

"Sit down everybody sit down", shouted their leader Lt Col Sitiveni, Rabuka the third ranking officer of the Royal Fiji Military Forces (RFMF). "This is a military takeover", he continued.¹

Moments later members of a month old Coalition government were taken to the Queen Elizabeth Barracks in Suva to be held in detention. The small Pacific archipelago described by Pope John Paul II as the symbol of hope and peace was thrown into political turmoil.² And the world reacted to the news of the stunning event with shock and condemnation.

Rabuka announced the abrogation of the constitution, suspended the judiciary and declared himself to be the Chief of an interim council of ministers.³ His superior, the Commander of the Royal Fiji Military Forces, Ratu Epeli Nailatikau, who incidentally was away in Australia at the time of the coup, was suspended and so was the chief of staff, Col Jim Sandy.

The Chief Justice, Sir Timoci Tuivaga advised the Governor General, Ratu Sir Penaia Ganilau that it would be illegal to swear in Rabuka's council of ministers.⁴ Thus the coup leader's effort to gain legitimacy failed. Foreign governments continued to recognize the governor general as the sole constitutional authority in Fiji though the coup leader had announced the suspension of the Constitution.⁵

The Governor General in a national radio broadcast condemned the coup, declared a state of national emergency and assumed executive authority. He emphasized that the constitution was the supreme law of Fiji; that it had not been overridden, and all duly appointed public officers remained in office.⁶

He called on the armed forces, the police and the public service to return to their lawful allegiance in accordance with the oath of their office and their duty of obedience without delay.⁷

However, Rabuka ignored the Governor General's orders. The coup leader announced his council of ministers. It included Alliance leaders and members of the avowedly racist Taukei movement which had mounted widespread demonstrations against the newly elected Bavadra government.⁸

The opposition leader, Ratu Sir Kamisese Mara together with a member of his former Alliance Ministers accepted positions on the Council set up by Rabuka just days after the coup.

Rabuka headed the Council beside being Minister of Home Affairs and thus controlled the country's police and the armed forces. The Governor General and Rabuka tussled for control of the country. The armed forces prevented radio broadcast of the former's statement.⁹

The Chief Justice was told that the Constitution would be abrogated; the regime would govern by decree and after an interval a constitutional conference would be convened. The judges appointments was to lapse, but they would be reappointed on May 18 under a new oath of allegiance.¹⁰ Rabuka appeared to be gaining the upper hand.

On May 17, 1987 the governor general swore in Rabuka as Head of the Government in a secret ceremony, and agreed to swear in the rest of the council later in the week.¹¹

However, on 16 May 1987, Supreme Court Judges and the Chief Magistrate had already met the governor general where they agreed to continue their normal duties and to refuse any directives from the military appointed regime. The constitution remained in effect, they argued. They assured the Governor General of complete and undivided loyalty, and readiness to continue to exercise duties in accordance with the laws of Fiji and their oath of office.¹²

The governor general appeared to have heeded the advice of the judges and refused to swear in Rabuka's council of ministers.

A special meeting of the Great Council of Chiefs (GCC) was convened to discuss the political crisis and the constitutional issues. The meeting was convened illegally as the Minister for Fijian Affairs who is authorized to convene such meetings was still in detention.

The meeting came out in support of Rabuka. The Governor General also changed in favour of the coup leaders and told the council of chiefs meeting that "as a native Fijian and who is blessed with chiefly status, the interests of the indigenous Fijians are those that he held and shall always hold dear and close to his heart."¹³

His subsequent actions further gave credence to the claim that Ganilau, if not overtly supportive of the coup, was sympathetic to its aims.¹⁴

The governor general dissolved parliament and dismissed the government.¹⁵ Deposed Prime Minister, Bavadra and his Cabinet Ministers were released following an application for habeas corpus.

Ganilau assumed executive authority. He appointed a 19 member council of advisors dominated by Alliance members and Taukei leaders. Rabuka was its chairman and was in charge of security matters and had control over the Fiji Royal Military Forces, the Royal Police Force and Fiji Prisons Service.

Meanwhile, the NFP-Labour Coalition challenged the legality of the dissolution of the parliament claiming that it was not done on the advice of the Prime Minister as required by the country's constitution. Further, they argued, that the Governor General's emergency powers do not allow him to dissolve parliament and that the purported agreement between the Governor General and those who had seized power unlawfully was without any legal or moral foundation.¹⁶

On 29 May 1987, Dr Bavadra made an application in the Supreme Court seeking a declaration that the dissolution of the parliament was illegal.

A week later, the Governor General decreed the public emergency (maintenance of supplies and service) regulations which gave him and certain government officials wide powers to secure essential services and reversed the presumption of innocence in relation to offenses under the regulations.¹⁷

On 3 July 1987 the Governor General appointed a Constitutional Review Committee to propose amendments that will guarantee indigenous Fijians interests with full regard to the interest of other people in Fiji.

On 17 August 1987 the Committee presented its report to the Governor General. It was unable to reach a consensus and thus produced both a majority and a minority report.¹⁸

The majority consisting of members of the Alliance Party, Great Council of Chiefs and the Governor General's nominees advocated several changes to increase Fijian representation in the legislature and to reserve various offices of the state for Fijians. However, the minority who were representatives of the deposed Coalition government recommended the retention of the 1970 Constitution.¹⁹

The release of the two reports further divided the nation. The Indo-Fijian emigration continued. The economy worsened as investor confidence slumped. The ethnic and political tension grew worse.

In such circumstances, Ratu Sir Penaia Ganilau led bipartisan talks from 4 to 22 September 1987 between the deposed government and the opposition leaders to end the political impasse. As a gesture of goodwill and reconciliation, Bavadra withdrew the legal challenge against the Governor General's dismissal of his government and the dissolution of parliament.

On 22 September 1987 the parties concluded the Deuba Accord. It agreed upon a Caretaker Council of State consisting of equal number of representatives from both the sides headed by the Governor General. Its mission was threefold; to restore democratic rule; re-establish the respect for law and order and put the economy back on a sound footing.²⁰

Rabuka rejected the compromise because in his view the agreed terms of the Accord would frustrate the aims of the coup. Therefore, before the ink could dry on the agreement, Rabuka staged the second coup. Coalition leaders, their supporters, trade unionists, journalists and judges were arrested and detained. The regime went to the extent of arresting two of the Supreme Court Judges, Justice Rooney and Justice Govind.²¹

The governor general and the members of the judiciary protested but to no avail. On 28 September 1987 Rabuka announced that he had revoked the constitution, advised the Governor General that he would be dismissed if he continued to resist the new government.

On October 1, Rabuka declared himself the head of a military government, revoked the constitution and assumed powers to legislate by decree. On October 7, he declared Fiji a Republic. Two days later, he appointed a 21 member executive council drawn from the Alliance with Mara as Foreign Minister.

A Decree was issued on 14 October 1987. It placed serious restrictions on fundamental rights and freedom and gave the military and police unlimited powers of arrest, seizure and detention and this was followed by widespread violation of human rights.²³

The New Zealand Prime Minister, David Lange described the decree as the third coup. "It is perfectly plain that the Internal Security Decree gives Rabuka extraordinary powers as Minister responsible for internal security and indeed creates the first police state in the region", he added.

In the meantime, the Supreme Court Judges including the Chief Justice in a letter to the Governor General stated that " we are, of course, determined to continue to discharge our duties as long as your Excellency continues to exercise your lawful authority as the country's Governor General. On the other hand, we are resolved not to render services to any regime or organization, by whatever mode it may desire itself, which opposes your Excellency's lawful authority or attempts unlawfully to change the constitution".²⁴

However, on 16 October 1987 the Governor General resigned. The Queen attending the Commonwealth Heads of government meeting in Vancouver accepted Sir Penaia's resignation and severed Fiji's 113 years tie to the British Crown.²⁵ The Supreme Court Judges refused to subscribe to the oath of the new regime and were dismissed from office.²⁶ The new republican regime introduced a decree banning activities on Sunday.²⁷ Another decree saw the appointment of new judges.

In a surprise move on 5 December 1987, Rabuka dissolved his Council of Ministers and handed power to the newly appointed President, Ratu Sir Penaia Ganilau.²⁸

The President then appointed Ratu Mara as interim Prime Minister and a cabinet which included Rabuka and three other army officers.²⁹ Mara's task was to restore economic stability and parliamentary democracy under a new Constitution which will guarantee indigenous Fijian political supremacy.³⁰

The former Chief Justice also accepted his post to help restore the spirit of democracy.³¹ The three key posts of the state were now in the hands of the same persons as before the military adventures began.³²

On 30 May 1988 Australian customs officers uncovered a shipment of soviet arms - enough to start a small war - as one official described it - at Sydney's Darling Harbour bound for Fiji.³³

In March 1990, the *Qosa Levu Vakaranga* (SLV) considered the draft constitution. Within a week, authorities in Fiji claimed to have seized three tonnes of weapons in the west of Fiji. They said that it just was one third of a shipment smuggled into the country during April 1988. Later 22 people were charged with the arms related offences.³⁴

In September 1988 the government issued a draft Constitution. It maintained separate voting rolls; weighing the legislature in favor of Fijians and reserving key state positions for them. On 5 October 1988 a Constitutional Inquiry and Advisory Committee headed by a former army commander was set up to hear public submissions and make recommendations on the Constitution.³⁵

The government's draft Constitution proved to be unpopular and was widely criticised.³⁶ The Australian, New Zealand and the Indian government rejected it. The deposed NFP-Labour Coalition condemned it as racist and feudalistic.³⁷ Indian leaders saw it as an instrument of oppression and grave injustice to their people.

The Government announced its intention to hold the election in 1992. *Rebuke*
In August 1989, the CIAC handed its report to the government. The government then appointed American Constitutional expert, Professor Albert Blaustein to study the Cabinet's draft. He criticised it for its emphasis on race based voting rolls saying, "it smacks too much of South Africa."³⁸

He further said that the method of electing members of the lower house would appear too contrived to the outside World and would be subject to international criticism.³⁹

On 6 December 1989 Rabuka and two other military officers resigned from their respective Cabinet portfolios.

In March 1990, the Bose Levu Vakaturaga (BLV) considered the draft constitution. The chiefs proposed some changes, which were made and the final draft was approved by BLV meeting in June 1990. After the Cabinet considered the final draft the President promulgated the Constitution on 25th July 1990 by a Presidential decree.⁴⁰

However, some months later there was a further twist in Fiji's political situation. Rabuka called on the interim government to step down and refused the offer of deputy Prime Ministership in what he described to an "unpopular government which had lost credibility".⁴¹ The tension eased when he later apologized for his criticism of the interim government.⁴²

Later Rabuka resigned from the army and became the co-deputy Prime Minister. He reiterated his desire to lead the Great Council of Chiefs sponsored Fijian political party and to become Prime Minister.

The Government announced its intention to hold the election in 1992. Rabuka defeated two other candidates to become the SVT Party President.

The Labour and the National Federation Party as Coalition partners debated whether to participate in the general elections. The Labour Party argued that to participate in the election would grant legitimacy to the racist document as its elected members would have to take an oath of allegiance under a document they have rejected.

On the other hand the NFP countered by saying that it should fight the election on a single issue - to reject the constitution and then bring about changes to it from within the precincts of parliament.

The two parties fell out. However, just few weeks prior to the election Labour decided to contest the elections and fielded parallel candidates. It won 13 seats while NFP won the other 14 Indian Communal seats.

The Major General's SVT secured 32 of the 37 Fijian Communal seats. The other 5 seats went to rival candidates. Rabuka had to secure the support of the General Voters Party which had won 5 seats and the Labour parliamentarians to become country's third Prime Minister. In return for its support, Labour Party extracted a promise from the new Prime Minister that the Government will review the Constitution.

CHAPTER 2

REASONS ADVANCED FOR THE COUP'DE TAT

Since the events of 14 May 1987, a wide range of explanations have been given for the military coups in Fiji. While the focus of the present paper is the issue of indigenous rights, it is worth examining some of the other reasons advanced for the coups. Some appear to be inter-related.

The reasons for the coups perhaps could be placed in three broad categories : those involving around the personality and the aspirations of the coup leader, Rabuka; the internal racial, economic and political explanations; and the third category having foreign links and associations.

Some argue that reason for the coup revolve around the charisma and personal ambition of Rabuka. P Lewis Young observes that the modern coup leader is usually an officer who has achieved a certain level of rank and is limited in promotional prospects beyond this rank. Personal ambition and political course may become intertwined.⁴³

Colonel Rabuka (now Major General) seems to be a classical one. He had high personal standing within the Royal Fiji Military Forces and was the commander of Fiji's First Infantry Regiment as part of the United Nations Peacekeeping in Lebanon. the Colonel had prestige within the forces and distinguished himself as a Commander of Fijians in the Middle East.⁴⁴

Rabuka regarded his two superior officers - Brigadier Nailatikau and Colonel Jim Sandy as standing in his way for promotion. Rabuka was reportedly very bitter

about the way Ratu Epeli Nailatikau, Ratu Mara's son-in-law, had risen rapidly and gained position of Brigadier General and armed forces Commander.⁴⁵

In 1985, Brigadier Nailatikau planned to court martial Colonel Rabuka for allowing a Major under his command to quit his post in the UN Peacekeeping force in the Middle East and return to Fiji for the funeral of his father in defiance of orders. Ratu Sir Penaia Ganilau intervened to have the charge dropped.⁴⁶

At the time of the coup, Nailatikau was in Australia to receive two Australian built patrol boats for the Fijian navy at the time of the coup. Rabuka suspended Nailatikau and Jim Sandy upon seizure of power and subsequently replaced his commander. Within three years he became a Major General. The coup seems to have saved Rabuka's hitherto thwarted military ambition well.⁴⁷

Jim Sandy later claimed that the real reason for the coup was political opportunism. "Rabuka wanted to achieve power and this (the coup) was the way to do it". " He says he took power for the sake of the people but it is a question of power; said Catholic priest Fr Tom Rouse, who was expelled for taking part in anti-coup demonstration.⁴⁸

The developments in Fiji over the past few years have given credence to this claim. Rabuka initially declared that he was only a soldier but later he said he wanted to become the country's Prime Minister. After his resignation from the armed forces, he was appointed the leader of the Council of Chiefs sponsored Fijian political party, Soqosoqo Vakavulewa Ni Taukei.

In June 1992 following the first post-coup general election under the new racially weighted constitution, Rabuka became the country's third Prime Minister.

The second category of explanations for the coup are seen in relation to the racial, economic and political situation in Fiji.

Many interpret the events of 1987 as an attempt to restore the aristocratic chiefly elite back into office following their defeat at the April 1987 general elections. The Alliance Party which had governed Fiji since independence in 1970 was a predominantly Fijian political party with backing from the general electors and a small but decisive percentage of Indian support. It was supported by the Great Council of Chiefs which had becomingly highly politicised over the years.⁴⁹

The victory of the NFP-Labour Coalition government meant that Alliance's and the chiefs monopoly over political power had come to an end. The new government had threatened the aristocracy's exclusive hold on power.⁵⁰ After some of these chiefs had already tasted absolute power after independence, they did not wish to relinquish their grip on government or its trappings.

Rabuka himself has asserted that the military takeover was to return Fiji to the high chiefs as they had a god given right to govern Fiji.⁵¹ On this reason for the coup, Ranganui Walker had this to say, "the coup is nothing more than a shameful use of military power by an oligarchy that refuses to accept the winds of change."⁵²

The chiefs at the great Council of Chiefs meeting following the coup were quick to side with Rabuka and supported the coup. Ratu Mara, a high chief had little hesitation in accepting position on the Council set up by Rabuka a few days after the coup. While Mara has been vocal in his denials of any prior involvement, his subsequent actions must invite even the most generous minds to speculate on the possibilities.⁵³

The Governor General initially appeared to be standing firmly by the constitution as the Queen's representative. However, this facade was not maintained beyond a week. His subsequent actions helped to entrench the coup, claims a former Fiji magistrate, John Cameron.

The various Constitutional Review Committees and its terms of reference had an inbuilt bias towards the Taukei and chiefly interests. The government's intentions on the new constitution was clear from the outset. In a national radio broadcast on 15 March 1988, it was announced that the constitution would protect the rights of indigenous Fijians under an entrenched Fijian Chiefly leadership.

Further in every successive administrations after the coup including the present government, defeated alliance chiefs and taukei agitators have bounced back into the political forefront and their position is firmly entrenched in the 1990 constitution. One of the fiercest criticisms of the post-coup Fiji constitution is that it will allow Fijian aristocratic elite to stay in power in perpetuity.⁵⁴

Rabuka also claimed that he executed the coup to protect the rights and the land of the indigenous Fijians as they would be threatened by the Indian-dominated government. Rabuka further claimed that he did not want Fiji to run by an immigrant race.⁵⁵

Such a claim belies the fact that constitutional and non-constitutional safeguards fully protected the rights and interests of Fijians.⁵⁶

Another reason advanced for the coup by Rabuka was that he seized power at gunpoint on the grounds of mounting civil unrest and belief that the government would ask the military to act against their own people.⁵⁷

However, after the general election and change of government, it appeared that the transition had been smooth and widely accepted by the Fijian community. Even Mara appeared to have gracefully accepted defeat when he said:⁵⁸

Fellow citizens we have come to an end of a long, hard campaign. You have given your decision. The decision must be accepted. I am proud that we have been able to demonstrate that democracy is alive and well in Fiji. We must ensure a smooth transition to enable the new government to settle in quickly. There can be no room for rancor or bitterness. Fiji has recently been described by Pope John Paul as a symbol of hope for the rest of the world. Long may we so remain.

However, the outward calm obscured the fact that a significant number of Alliance figures were not prepared to accept the verdict of the people. The Taukei movement, fathered by the Alliance was born. It comprised Alliance and prominent Fijian members of parliament and it began organising and leading demonstrations against the new government on the pretext of safeguarding indigenous Fijian rights.

One of the founders of the Taukei movement, Alliance MP, Apisai Tora spearheaded a campaign of civil disobedience and called for changes to the constitution to ensure the continuation of the indigenous Fijian's paramount position. He accused the Indians of trying to:

"blackmail us with economic power. They won't learn our language or our customs. It is time for them to pack up and go".

Roadblocks were set up, public meetings and marches were called and a couple of firebombs were launched.

In the week leading to the coup, however, it was evident that the Taukei movement's attempts to manipulate racial feeling and create tension was losing momentum and that street protests were attracting fewer and fewer demonstrators. There was hardly any indications of any impending civil unrest. The new Government also declared that it had not intended to use the military against its own people.⁶⁰

The writer has argued that the size, professionalism, experience and ethnic, family and traditional links between the army and the defeated Alliance party made military intervention inevitable. The country's armed forces had expanded over the years. It received defence aid programme which provided extensive training, equipment and facilities to Fiji's military.

The peacekeeping duties in the Middle East had added vastly to the experience and professionalism of the military. Fiji has been called to serve Allied interests, though there has never been any security threat to Fiji.

The defeated Alliance party like the military was predominantly Fijian. The ethnic, racial and chiefly appeal in Fijian community is very strong. Some in the Alliance party had military background. Others had family and traditional ties. In Fiji traditional loyalties and ethnic ties dictate politics. The loss of power by a Fijian political party comprising of chiefs, former military men and family members at the hands of the purportedly Indian dominated government must have been unpalatable to the military.⁶¹

There is yet another explanation for the 1987 military coups: that there was a tribal based conspiracy. Fiji is divided into three broad confederacies namely Kubuna, Burebasaga and Tovata. Historically, Tovata confederacy has dominated Fiji politics. But that suddenly changed in 1987. For the first time, a Westerner became the Prime Minister and political power had slipped from the hands of the Tovata confederacy.⁶²

The remarks of former Alliance Minister, Apisai Tora from the Ba Province from the west of Fiji, perhaps show the underlying tension in the Fijian society:⁶³

Let me speak for the silent majority of Fijians who came under the category of na kai Yasayasa Vaka Ra (people of the Western provinces), who suffer in silence at the heavy-handedness in the one sided distribution of power political wise and otherwise in the country, as has been the policy of the Fijian leadership and its predecessors, namely the British Colonial Administration, since time of the great Fijian Nationalist from the Western division, Apolosi Nawai there is heavy suspicion amongst us that the Fijians that we have been and still are, the victims of nepotism and conspiracy by at least three groups of people in this country, where the main stream of Fijian leadership are mainly drawn from namely, the confederacies of Kubuna in Tailevu, Tovata in Lau and Cakaudrove, and slightly from Burebasaga in Rewa, and probably one or two others but definitely not from the Western Division.

On another occasion, the leader of the Fijian Nationalist party Mr Sakeasi Butadroka, during debate in Parliament took the opportunity to launch a scathing attack against the paramount chiefs of eastern Fiji. He said:⁶⁴

"It is a Tovata government. The two Fijian members from Western Division where most of the economy is derived from; only one can become an Assistant Minister, the other not. They own land where most hotels are built, sugar industry and gold industry and nearly every economic development of the country depended on the western area Is this a Fijian government.

The coup showed that when the election of a multiracial coalition government threatened dominance of the chiefs of Lau and Cakaudrove, the parliamentary facade was simply brushed aside revealing the reality of tribal based feudal rule. The feeling of being left out from the political process bred the desire for the fourth Fijian Confederacy for Western Fiji.⁶⁵

There is a further reason for the coup which is inextricably linked with defeated Alliance party. Many believe that the coup was engineered by the outgoing Mara government to avert the revelations of corruptions in their administration.

Even as early as 1985, one of the country's dailies, observed that corruption was steadily growing in Fiji and spreading its tentacles in all sectors of community.⁶⁶

The allegations went right to the Alliance leadership and referred specifically the Mara Empire. The July 1985 issue of the Economist highlighted the relationship between political leaders and wealthy businessmen. Of the allegations involving Mara, that which received most attention involved the construction and subsequent leasing to the Department of Education of an office complex named Marela House, which was owned by the Mara Family. The rental paid for the building was said to be in excess of its market value.⁶⁷

Other allegations included the use of hurricane relief money and materials to construct a house for Apisai Tora, the Alliance's minister for communications, transport and works; the writing off of a four million dollar loan by the Fiji Development Bank to a company which had close family links with Peter Stinson, the Alliance's minister for economic development, planning and tourism; a pay of F\$52,000 by garment manufactures to the Alliance in return for not implementing the garment industry tribunal's recommendations in respect to minimum wages; a scandal over issuing of permits by the Taxi Control Board involving the head of the Licensing Authority, Jone Veisamasama, who became one of the key leaders of the Taukei Movement.⁶⁸

In the week prior to the elections, Bavadra had promised to investigate fully all allegations of corruption and introduce an anti-corruption legislation in parliament.⁶⁹ It is obvious that such investigations would have worried the Alliance leaders. In his reaction to the coups, the New Zealand Prime Minister David Lange said, "corruption is the real reason for the coup".⁷⁰

Ironically, following the military coup a Fiji security forces anti-fraud team had completed investigations of several organisations and handed its report to the then military chief, Brigadier Rabuka.⁷¹ But recently the Prime Minister, Major General Rabuka announced that he will not make public the findings of this investigation code named Operation Yavato; hence leaving many questions unanswered.

We have a third category of explanations which point a finger to external involvement in the coup. Some say that United States of America inspired the military coup. They argue that the new anti-nuclear and non-aligned policy of the Bavadra government threatened American interests in the Pacific.

They say that over the years Fiji was drawn closer to Western Alliance and particularly to the United States which provided significant amount of military and non-military aid to Fiji. But that changed when Bavadra government wrested power from a pro-US government. There was a likelihood of radical shift in its policy which was declared to be neither pro-west nor pro-east but pro-Fiji.⁷²

The advocates of this theory suggest that the presence of former CIA director, General Vernom Walters in Fiji just days before the coup can not be merely coincidental. The argument in favor of American involvement is further strengthened by similar US involvement in Iran, Brazil and Chile.⁷³

It must be stressed that the evidence of CIA involvement is largely circumstantial. However, there are too many coincidences for the possibility to be dismissed out of hand, and some involvement in the coup would certainly not have been inconsistent with the *modus operandi* of the CIA.⁷⁴

It is also obvious that strategic interests of the US in the South West Pacific region were seen by certain elements within the United States Administration of being under risk under Bavadra government.

After the first military coup, the Sydney Morning Herald quoted an unnamed Pentagon source as saying: "We are kinda delighted..... All of a sudden our ships couldn't go to Fiji, and now it can go."⁷⁵

Australian television journalist, Wendy Bacon claims intelligence organizations and foreign capitalists with close links with the ruling Alliance Party conspired to stage the coup to protect their business interest. These businessmen, she argued, were not happy with the victory of the new government.⁷⁶

One such businessman is Jefferey Reid, the General Manager of the Australian owned Emperor Gold Mine in the western town of Vatukoula where about 600 workers have been on strike since March 1991 demanding an end to discriminating work practices, better health and safety conditions and union recognition.

Dr Bavadra was a strong critic of this company. As he was a medical practioner in the area, he had seen the atrocious conditions of workers at the gold mine.⁷⁷ His government had intended to conduct an inquiry into the operations of the company.

Both the dailies recently reported that Fiji may have lost about FJ\$18 million as a result of concessions on royalties given by the past government.⁷⁸ The Rabuka government finally made a compulsory union recognition order on September 11, 1992.⁷⁹ However, the company intends to challenge the order in court.

Rabuka also justified the coup by declaring that he had saved Fiji from Libyan intervention. At a post-coup press conference he said non-alignment means outside forces like Russia and Libya would destabilize the region.⁸⁰

After the coup a Fijian broadcaster over the Radio Fiji spoke of arrest of Libyan soldiers outside the Great Council of Chiefs meeting and the seizure of arms caches supposedly hidden in Fiji for the Bavadra government.

Rabuka also asserted without a shred of evidence though, that some Coalition candidates had received sums of money from unfriendly external sources (Libya and Soviet Union amongst others) to overthrow the Fijian dominated pro-west Alliance government. Even todate the Libyan connection remains unsubstantiated.⁸¹

Therefore, a wide range of explanations have been given for the political upheavals of 1987. Some appear to be inter-linked. However, it does not appear to be linked with indigenous rights.

The events since the coup and the 1990 Constitution reinforce the view that the coup had more to do with political power than indigenous rights. Rabuka, from being an ordinary soldier has become the Prime Minister; the eastern chiefs still dominate Fiji politics and under the 1990 Constitution the chiefly elite have stranglehold both on the political process and political power. Those Alliance and Taukei leaders who were destined for political oblivion after the April 1987 elections have bounced back into the political forefront and have assumed power.

CHAPTER 3

INDIGENOUS FIJIAN RIGHTS AND THE NFP-LABOUR COALITION GOVERNMENT

Indian Dominated Government

At his press conference Rabuka justified the coup as being necessary to prevent the erosion of Fijian land and other rights by an Indian dominated government.⁸² He further said that he did not want Fiji to be run by immigrant race.⁸³

However the government was not Indian dominated. The Governor General, Ratu Sir Penaia Ganilau, was a high chief; the prime minister, Dr Bavadra was a Fijian; the cabinet had six indigenous Fijians, seven Indians and one General elector, reflecting the composition of Fiji's population.

Dr Bavadra in allocating the cabinet positions was sensitive to indigenous Fijian sentiments. Indigenous Fijians were allocated ministries which had traditionally been regarded as prerogatives of the taukei or the indigenous Fijians, such as Fijian Affairs, Home Affairs (this included army and police), the Civil service, Education, Agriculture, Forestry and Fisheries, Land, Mineral resources and Rural Development.⁸⁴

Bavadra himself took the portfolio covering Public Service, Home and Fijian Affairs. Further, one of the Fijian cabinet members, Ratu Jo Nacola was a chief and Dr Bavadra himself had chiefly links.

Ethnic Indians on the other hand were given portfolios which even under Alliance government had nearly always controlled by non-Fijians. The only exception was foreign affairs which had long been under Mara.⁸⁵

The new cabinet was evenly balanced in terms of racial representations. None of the previous Alliance cabinets were so evenly balanced. In 1982 for instance, Mara had given Indians only two cabinet port-folios. On the day Dr Bavadra announced his full cabinet, one of Fiji's dailies, in its editorial had this to say:⁸⁶

"The Prime Minister has obviously given great and careful thought to his selection..... Dr Bavadra has chosen to lead an extremely well balanced group of members to lead the government".

The new cabinet represented a major victory for multiracialism over communalism and some of the fundamental tenets of Fijian political history and culture.

Of the 28 Coalition parliamentarians in the House of Representative, 19 were Indians, 7 Fijians and 2 General electors. But the presence of the Indians in the Coalition did not mean Indian dominance in the government or the Fijian Parliament. Such claim belies the in-built safeguard in the Constitution to prevent one ethnic group to dominate another.

Since 1970 the two main political parties, the Alliance and National Federation party remained firmly oriented to racial divisions. The Alliance is based on the Malaysian model but has not been quite successful in providing a forum for inter-racial co-operation. It comprised of Fijian association; the Indian Alliance and the General Electors.

The National Federation Party, on the other hand with its roots in the sugarcane fields, drew support predominantly from the Indian community. Its efforts to win Fijian support has not been always successful.

However, it must be noted that Fiji's electoral system has reinforced the narrow racially based political parties. At election times each political party has exploited each communal group's fears and anxieties, which further polarised the two major ethnic groups.⁸⁷

In explaining the reasons for the formation of the Fiji Labour Party, its leader said;⁸⁸

"it came into existence because of the failure of the Alliance government to safeguard the basic rights and interests of majority of our people. It took the decency and goodness of our people for granted. During the last 15 years, more and more people have become jobless. The standard of large number of people has declined; there has been a failure to adequately provide the essential needs of our ordinary people in health, housing, education, pensions, especially for soldiers and mine workers. The poor have annually been asked to make sacrifices while the rich have prospered under the Alliance government. The current policies of the Alliance government will further erode the standard of living of an increasing majority".

The high unemployment rates, a stagnant economy, inflated food prices, low wages and attacks on unionised labour together with the unilateral imposition of twelve months freeze without reference to the long established consultative body - the Tripartite Forum (composed of government, employers and the trade union groups) and the failure of the NFP opposition to tackle these in any effective manner culminated in a call for the establishment of a new worker oriented party which would confront these problems.⁸⁹

The new party avoided any specific reference to race or ethnic divisions and was genuinely committed to multi-racialism and to work for all the people whether they were workers or farmers, rural or urban dwellers. It sought to appeal to the lower socio-economic groups across all the racial spectrum. It changed the emphasis of the race discourse to a broader consideration of economic and social justice.

At the first annual conference on 19 July 1986, the Labour leader had this to say:⁹⁰

"we are determined to bury the politics of race and fear. The people of Fiji, we feel, will no longer tolerate the racist political rhetoric of the few self seeking persons who seek power by playing on prejudice and fear. We believe in the unity of needs and interests that bind us together".

He repeated this message when a few months later he said; "it is time we redirect our efforts to create bridges across races, across religions, across classes and across groups of whatever kind, and emphasize those things that are common".

Within months of its founding conference, branches of the labour party had been formed throughout the country with a combined membership of over 6,000. In September 1985 the party made its first electorate contest for the Suva City Council. It came out ahead of the other parties, winning eight out of twenty seats, enabling it to appoint the country's first Labour mayor. Then a few months later, in a parliamentary by-election, it came only 241 votes short of defeating the ruling Alliance party candidate.⁹¹

The phenomenal popularity of the Labour party can be largely attributed to its appeal to ordinary people - both indigenous Fijians and Indo-Fijians. This worried the governing Alliance Party and its leaders.

It orchestrated a campaign to discredit the leading Fijian members of the Fiji Labour Party. One of the strongest claims was made by Alliance Deputy Prime Minister, Ratu David Tonganivalu who reportedly said;⁹²

"all land in Fiji is being threatened by the designs of the Fiji Labour Party, and Labour's, Dr Timoci Bavadra, Dr Tupeni Baba and Mr Joeli Kalou wanted to remove the chiefs from politics. This will destroy the link between the Turaga(chiefs) and the Vanua (land)..... The Turaga and Vanua were one - one can not exist without the other..... The chiefs were a bulwark of security for all and custodians of Fijian identity; land and culture..... to remove chiefs would pave the way to instability".

The Alliance had always stressed the party's connection to the chiefs, tradition and land to strengthen its electoral bases and, thus, dissuaded the Fijians from joining the Fiji Labour Party.

But Dr Bavadra's response was swift. He stressed that Fijians must recognize the difference between their traditional obligations and their constitutional rights. His views were best summed up as follows:⁹³

In the contest that democracy provides us, one person's vote is exactly the same as another's. A chief; be he over so high in traditional system, does not have five votes where his people have four..... In previous elections, the Alliance fear tactic used to include asking the people whether they wanted an Indian Prime Minister; now with the historic voting of all races, under the umbrella of the Coalition, the leader is a Fijian, so the question is whether a non-chief should be Prime Minister.

One would thus imagine that if an equivalent chief from another province challenged Ratu Sir Kamisese Mara, the Alliance question would be: "Can we let a Prime Minister of Fiji come from any other province but Lau?"

Dr Bavadra had questioned the sincerity of chiefs towards their ordinary people, when he said,⁹⁴

" the deepening frustrations of ordinary Fijians is a matter of greatest concern. The Alliance has claimed an exclusive right to promote the welfare but now our brothers and sisters realize that they have been used for too long to serve the interest of minority few in power".

The Coalition leader took up the argument that Fijians have become more and more economically backward through being restricted to their conventional life style in the face of the rapidly developing cash economy. He claimed that the chiefs were not doing anything for the ordinary Fijians and that they were not getting the benefits from the land. Rather, the rental monies were going to line the pockets of the chiefs.⁹⁵

The Coalition Leader believed that something needed to be done to ensure that the land is put to better use; that benefits from the land are better distributed; and decisions about land are made in a more democratic fashion.⁹⁶

The Coalition was keen to seek greater efficiency and accountability in the running of the Native Land Trust Board which administers 83% of Fiji's land area, designated as native land. The Labour leader had said:⁹⁷

"Steps must be taken to rationalize the benefits derived from land use in Fiji. The system must be rationalized so that all Fijians, not just a few benefit. I feel that we must discuss a more equitable distribution of income within the landowners."

The new government wanted to continue programmes to promote Fijian participation in business and to end the regional disparity in allocation of resources and development.⁹⁸

Further it wanted greater worker participation in industry management, minimum wages in selected industries like garment industry, joint venture management in the interest of people of Fiji.⁹⁹

In his opening address to parliament following the election of the Coalition government, the Governor General, Ratu Sir Penaia Ganilau said:¹⁰⁰

"on matters relating to the welfare of the Fijian people the government policy rests fundamentally on the recognition of Fijian rights as enshrined in the Constitution of Fiji. Government remains firmly committed to protecting those rights and interests."

There is hardly any evidence that the new government threatened indigenous rights and interests. As one writer points out:¹⁰¹

It was not so much the absence of legitimacy which led to the coup or the desire of the Fijian chiefs and their military agents to prevent a strong sense of legitimacy by shortening the elected government's tenure to a few weeks and thereby preventing it from developing more liberal institutions and national consciousness over-riding ethnicity and feudalism.

CHAPTER 4

INDIGENOUS RIGHTS AND 1970 CONSTITUTION

House of Representatives

The electoral system under the 1970 Fiji Constitution had been described as highly complex, based on existing communal loyalties but with incentives towards cross communal appeals. Everyone was registered under his communal roll (Indian, Fijian and general Electors) and then the national rolls.

Each voter had four votes: one for his communal candidate and three for the National seats. For instance, a Fijian voted for his Fijian candidate and also for the Fijian National, and Indian National and General Electors National candidates.

The constitution allocated strict parity between Indian and Fijian representation though Indians were marginally in the majority. Thus of the 52 seats in the Lower House, 22 each were reserved for Fijians and Indians. Out of the 22, 12 each were decided on the basis of their communal rolls and the other 10 each were national seats with ethnic reservation.¹⁰²

This formula reserving equal number of seats to each ethnic group was designed to prevent the domination of one group by the other. After the 1987 General Elections, 19 of the 28 parliamentarians were Indians, 7 Fijians, and 2 General Electors. However, Indians in the Coalition government were still a minority in the parliament contributing only 42 per cent of all elected members.¹⁰³

The other 8 seats were allocated to General Electors (comprising of Europeans, part-Europeans, Chinese, etc); 3 on Communal rolls and 5 on National rolls. On Fiji's electoral representation, Professor Yash Ghai remarks:¹⁰⁴

"This formula not only discounted the majority status of Indians, but gave a misleading impression of parity between the major communities - for in practice the General Members would, on the evidence of history and contemporary practice, be expected to side with the Fijians. Indeed, their high representation - out of proportion to their numbers (for a population which is about 4% of the total, they have nearly 16% of the seats) was fought by the Fijians precisely for this reason."

The 1970 Constitution can thus be seen as incorporating, if not a built-in Fijian majority, at least a strong tendency (confirmed by and large by post-colonial experience) in that direction. Even after 1992 elections under the 1990 Constitution, the General Elector parliamentarians backed Rabuka for Prime Minister and were rewarded with three Cabinet positions. The Indians making about one half the country's population have none.

The Senate

The Senate as the Upper House with similar functions as the House of Lords in the United Kingdom expressly recognised the principle of Fijian paramountcy. Of the 22 Senators, 8 were appointed by the Great Council of Chiefs, 7 by the Prime Minister, 6 by the Leader of Opposition and 1 by the Council of Rotuma. On the evidence of history and practice since independence in 1970, both the Prime Minister and the Leader of the Opposition had Fijian nominees.¹⁰⁵

Consequently, at any given point in time, even if a party representing the majority of Fijians is in Opposition, Fijians have a permanent majority in the Senate by law as well as practice.¹⁰⁶

The Constitution also entrenched those legislations that affected or impinged on Fijian social system, Fijian Administration, land ownership, Fijian Affairs. The idea was to protect special rights of indigenous Fijians (as taukei-ni-qele, analogous to Maori concept of taugata whenua).¹⁰⁷

The legislation that were entrenched were:

- a) Fijian Affairs Act
- b) Fijian Development Fund Act
- c) Native Lands Act
- d) Native Land Trust Act
- e) Rotuma Act
- f) Rotuma Lands Act
- g) Agricultural Landlord and Tenants Act
- h) Banaban Lands Act
- i) Banaban Settlement Act

Some of these deserve special mention. The Fijian Affairs Act established the Fijian Administration - described by one commentator as a state within a state. It also constituted the Great Council of Chiefs, comprising indigenous chiefs, appointed officials, nominated persons and Fijian parliamentarians.¹⁰⁸

The Council had powers to appoint 8 members to the Senate. It deliberates on all matters affecting and relevant to the Fijian people and makes proposals and recommendations for the well being of the Fijian people. The Council wields enormous power and has always acted as a spokesperson for the Fijian people.¹⁰⁹ For instance, in 1982, it passed a resolution calling for changes to the 1970 Constitution to guarantee paramountcy of Fijian interests.

Its strength perhaps was most obvious after the 1987 coups. It had met more frequently than it would otherwise do to deliberate on policy and constitutional matters. During this period, according to Tagupa the Great Council of Chiefs acted as a virtual parliamentary surrogate.

Its position has been further strengthened and entrenched in the 1990 Constitution. It is more than an advisory body. In fact, it is directly involved in the political process through its political party which is now in government.

The Fijian Affairs Act established the Fijian Affairs Board which is an executive body with powers similar to those of the Council of Chiefs. It further has powers to establish and oversee Provincial Councils. The Board has to be consulted by the Minister of Fijian Affairs on any bill affecting Fijian interests.¹¹⁰

The Native Land Act is another legislation that was entrenched in the 1970 Constitution. It preserved Fijian customary ownership of 83% of the land and regulated its use and ensured that such land was not alienated. The Act vested the Fijian controlled Native Land Trust Board with powers to grant leases over land not used by the indigenous Fijians.¹¹¹

The Fiji Indians have rarely challenged the customary rights of the Fijian people - they have largely accepted the special position accorded to Fijians in their own country including the ownership of the land.¹¹²

Notwithstanding such acceptance of the special positions of Fijians, the Indians have a genuine insecurity and anxiety about their future in Fiji as they are leaseholders on native land. Such insecurity moreso after the coup has resulted in emigration of Fiji Indians mostly to Australia, New Zealand and Canada. The threat of non-renewal of leases was used to instil fear after the coup, to coerce Indians to submit to the demands of the coup leaders.

At a post 1987 elections speech, defeated Alliance Minister and Taukei leader warned:¹¹³

"Already two million acres of our land, most of our best and most fertile land has been leased to 24,000 tenants, of whom 18,000 or 75% are non-Fijians. Those who do not want us; those who do not want our chiefs, they should vacate our land."

It must be emphasized that to amend any of the above listed legislations affecting Fijian customs, rights, interests and land, not only there must be a three quarters majority in each House, but it also must get the support of the six out of the eight nominees of the Great Council of Chiefs in the Senate. This for all practical purposes amounts to a veto.¹¹⁴

The Fijian majority in the Senate and the veto power given to the Great Council of Chiefs was potentially the most potent weapon the indigenous Fijians had if there was a threat to their rights or interests. No government or ethnic group could tamper with their interests only with the agreement of the indigenous Fijians.

Ironically, the establishment of the Senate and veto power over certain legislation was proposed by Indian leaders to give weighted representation to the Fijians. On this concession, Dr Robert Norton said:¹¹⁵

"it was arguably the most generous and trusting gesture by one group of leaders to the other during negotiations for independence."

Apart from the various institutional safeguards and constitutional guarantees which made it extremely impossible for any government to embark on any changes in Fijian society, the Coalition government itself was committed to preserving the integrity and power of indigenous Fijian institutions intact.

The 1970 Constitution expressly allowed affirmative action programmes for the benefit of indigenous Fijians who lagged behind the other communities in education and commerce.¹¹⁶ The Alliance government had incessantly put into place policies which were designed to bridge the gap between the indigenous Fijians and the other races in these areas.

In the education sector fifty per cent of all government scholarships both locally and overseas were reserved for indigenous Fijians. In 1985 the government felt a need to provide more funds for indigenous Fijian education. A further FJ\$3.2 million dollars was set aside solely for Fijian tertiary education to be administered by an exclusively all taukei Fijian Affairs Board, quite outside the jurisdiction of the Ministry of Education and thus beyond the purview of the parliament.¹¹⁷

However, such assistance has not always brought success. The failure rate among senior Fijian secondary school students and their counterparts at the Foundation level (equivalent of NZ form 7) at the University of the South Pacific has been high.¹¹⁸

Further, the assistance has not gone to those who need it most. Some complained of nepotism and bias in favor of Eastern Fijians. In 1986, Dr Bavadra, leader of the Fiji Labour Party observed:¹¹⁹

"It is important that we remind ourselves that the government resources poured into Lakeba(Lau) are derived from wealth produced by other in the country..... they only serve to increase regional inequality and take resources away from places where they could be of more benefit to the nation. It is time that we stopped viewing the rest of Fiji as serving the interest of a few centres in the East. The people of Lakeba are entitled to a share in the national wealth, but just a share. It is time that we had a government that is more truly national in outlook."

Such bias in favor of the Eastern Fijians is borne by the monies spent on indigenous Fijian education. Between 1984 and 1986 of the FJ\$2,507,506.57 Fijian scholarship funds disbursed by the Fijian Affairs Board, \$528,099 (21%) was spent on Lau with a population of only 13,894 or 4.2% of the Fijian population in 1986. Ba, the largest of the Fijian provinces (55,296 or 16.8% of the Fijian population) received in the same period only \$156,085 or 6.2% of the total allocation. The Tovata Confederacy (Lau, Cakaudrove and the islands) altogether received 55% of all the scholarship.¹²⁰

The point that must be made is that the 1970 Constitution allowed the government to launch affirmative action programmes. However, it was the Alliance government's failure if it did not monitor it carefully.

Apart from education, the government also assisted indigenous Fijians for commercial ventures. The Business Opportunity and Management Assistance Scheme (BOMAS) was initiated in 1975 following a Great Council of Chiefs resolution to bridge the commercial gap between Indians and Fijians.¹²¹

The Fiji Development Bank offered preferential financing potential Fijian Entrepreneur through such programmes as commercial and industrial loans to Fijian schemes, The Joint Venture Loans Scheme, and others. As Dr Brij Lal notes:¹²²

"It would be reasonable to say, then that any Fijian who showed any commercial incentive and potential was encouraged and supported by the government. The Coalition government itself was committed to continuing programmes designed to promote Fijian participation in business."

In May 1989, while addressing A'otearoa/New Zealand and Human Rights in the Pacific and Asia Region, UNDP consultant, Dr Suliana Siwatibau pointed out:¹²³

In the particular case of Fiji, the Constitution formulated and adopted at its independence recognised special rights of Fijians over their land and waters and made other positively discriminatory provisions. The current problems in country result partly from the ignorance of many Fijians of the degree of entrenchment of those rights; and the demand by some for an extension of indigenous Fijian rights.

It was during the Constitutional Review Committee's deliberations that the widespread ignorance of the people of their political and constitutional rights became most obvious. The report of the committee noted:¹²⁴

"Whilst many submissions made to the committee showed a good understanding of the existing provisions and mechanisms of the 1970 constitution, it was also often evident that this has only been acquired recently after the events of May 14. The unavailability of the constitution in Fijian and Hindi was frequently stated to have contributed to a general unawareness amongst many in Fiji of their political and constitutional rights."

There is little doubt that the majority of Fijians did not understand the extent to which the 1970 constitution protected their rights. Thus when the spectre of an Indian dominated parliament blithely sweeping away their rights was raised, many Fijians would genuinely believe that this could happen.

The problems in the Fijian society had to do with the failure of the Alliance government. There was a mal-distribution of wealth. Those who were most in need were not assisted. The affirmative action policies were not evaluated as they are not without shortcomings.

While on one hand the Alliance leaders wanted the people to retain their culture and tradition, they also wanted them to succeed in cash economy. On the admission of its leaders both options are not always compatible.

But if the Fijians had failed in business or education then it does not necessarily follow that their rights and interests were not protected or the Coalition government had threatened their interests. The truth is that the change of government threatened the position of those who benefitted from the status quo. Of course when the opportunity arose they fully exploited the ignorance of the indigenous Fijian people to their advantage to regain what they had lost.

CHAPTER 5

PATH TO THE 1990 CONSTITUTION

On 10 June 1987 the Governor General, Ratu Sir Penaia Ganilau had announced his intention to preserve the framework of legality and outlined his plans for the restoration of constitutional rule. Ganilau emphasized:¹²⁵

"Timing dictates that the committee will need to deliberate, receive representations and reach its conclusions fairly quickly. Members of the public will be given an opportunity to make submissions to this committee. The aim of this committee will be to produce a report which will be presented to me. I will then form a council of reconciliation to arrive at a consensus to agree on proposed changes to the constitution and to agree on a Covenant of national reconciliation if that consensus is reached.....the recommendations will need to be translated into an Act of Parliament to be passed in accordance with the present constitution. To achieve that I will need to call for new elections under the present constitution for a House of Representatives. Under the Covenant of National reconciliation, a formula will have to be agreed to for a national state of candidates which, as far as I can call on the goodwill and understanding of the people of Fiji, will result in an uncontested election."

By that time it has become apparent that the Governor General was no longer the neutral and impartial guardian of the Constitution. His bias was further confirmed when on 23 June 1987, he provided further details of composition of the 16 member Constitutional Review Committee (CRC) and its terms of references.

The committee chaired by former Alliance Attorney General, Sir John Falvey, comprised predominantly Alliance, Taukei and Chiefly interests who advocated the changes to the Constitution. Thus one commentator responded:¹²⁶

it does not seem unreasonable to assert that the CRC's purpose was merely to arrive at some consensus as to the means by which the paramountcy of Taukei interests was to be constitutionally assured.

There is even a further criticism. The committee was hurriedly assembled following upon the coup and the purported assumption of executive authority by the Governor General under the Constitution. A state of public emergency had been declared. Public meetings and the right to assemble were severely curtailed. Army presence was widespread. Almost daily there were reports of people and particularly persons of Indian origin being arrested and detained without just cause. One of the representatives of the deposed government who was a member of the "minority" on the committee was arrested and detained for twenty four hours.¹²⁷

The minority group described the atmosphere as follows:¹²⁸

"Throughout the period of our deliberations a climate of oppression and intimidation by the armed forces had prevailed in the country. A constitutional review in these circumstances can hardly do justice to all interests."

One commentator said that "given the prevailing influence of taukei interests upon the sixteen member CRC, the fundamental question of adequate representation and impartiality always remains a serious challenge to the committee's legitimacy".¹²⁹

The minority which comprised representatives of the Coalition government echoed similar views in their report:¹³⁰

"we throughout were heavily concerned that the majority ... in effect became advocates for the great Council of Chiefs submissions and insisted that they ought to be accepted and contained in the recommendations".

The terms of reference of the committee showed similar bias towards the aims of the coup; of giving Fijian political supremacy. The Governor General on a national radio broadcast on 7 June 1987 had said:

"the motivation of reviewing the constitution was to look at ways and means of strengthening the political rights of Fijian. As you are aware that protection of indigenous Fijian rights is ingrained in the Constitution. The Constitutional review will be looking at further strengthening these rights".

The committee received 800 written and 161 oral submissions and gave its report on 14 August 1987. The committee was not unanimous in its report. The majority report as expected recommended an increase in Fijian representation in the legislature and reserving key positions of state for the Fijians.¹³¹ In its report, the minority observed:¹³²

the majority wholly focussed on the Great Council of Chiefs submissions, giving us at times impressions that those were the only submissions worthy of consideration. In fact, the majority have conducted themselves on the basis that only the views of Great council of Chiefs represent the views of all the indigenous Fijians.

The minority argued that the 1970 constitutions adequately protected the rights and the interests of indigenous Fijians. It argued that the majority of the submissions favoured changes in cross voting along the lines recommended by the Street Commission.¹³³

It further said majority recommendations if adopted would promote racial discrimination. It said that though Fiji Indians comprise 48.6% of the population they will be allocated 22 seats; the Fijians with 46.6% of the population will have 40 seats; and the general Voters with 5% of the population will be given 8 seats. This would mean that 48.6% of the population will have 31% of the seats; the Fijians with 46% will have 56% of the seats and General Voters will have 11% of the seats.¹³⁴

In the end far from reaching an agreement, the CRC had further divided opinion and it became clear that the following stages of the Governor General's scheme would become unpracticable. Perhaps it was such realizations that led to the Governor General to initiate the discussions that resulted in the Deuba Accord.

The Deuba Accord had agreed that a Commission of Inquiry with a constitutional expert as its chairman would be established to make proposals for a permanent constitutional solution acceptable to the people of Fiji. Such an inquiry was to take into account the aspirations of indigenous Fijians for the betterment of their constitutional, economic and social interests.¹³⁵

However, the Deuba Accord was sabotaged by the second coup. The coup leader explained the reasons for the second coup:¹³⁶

"When I looked at the caretaker or the Interim Government, I realised that they would have the [NFP-Labour] Coalition having equal numbers as Alliance Party and the Governor General would have his own input..... If now we allow the Coalition to come in then the chances

of achieving my coup objectives were really nil. That is why I had to re-exert military authority yesterday".

After the second coup, Rabuka appointed himself the Head of the Council of Ministers, revoked the Constitution, and declared Fiji a Republic. On these chain of events Tagupa remarked:¹³⁷

"the declaration of Fiji republic was an explicit acknowledgement that the constitutional reformation process had not secured the paramountcy of Taukei interests as defined by the military and that political elites would not be permitted to once again negotiate a political settlement that would in any way dilute such expectation."

When Rabuka's Council of Ministers took over following the second coup, his Attorney General and Justice Minister was given the responsibility of preparing a draft Constitution. This draft was submitted to Army Legal Unit which produced its own draft.¹³⁸

When Ratu Mara took over from Rabuka's Council of Ministers, his task, amidst other things, was to restore parliamentary democracy under a new Constitution which guaranteed Fijian political supremacy.¹³⁹

A Cabinet Committee under the Chairmanship of Ratu William Toganivalu considered the Military draft, the Falvey Report and the BLV draft. The BLV draft was prepared in the wake of the first coup and formed the basis of the Falvey majority report.¹⁴⁰

The Cabinet Committee after considering the three different drafts prepared its own. The Cabinet draft was criticised within Fiji and abroad as well.¹⁴¹ Notwithstanding such criticism a Constitutional Inquiry and Advisory Committee headed by a former Army Commander, Col Paul Manueli, was set up.

However, it can be said that the draft Constitution which resulted from the marrying of the BLV draft, the military and the Falvey majority report, the new Committee's terms of reference and the interim government's declared intention of increasing Fijian parliamentary representation pre-empted the outcome of the review.

Such a view is perhaps best summed by the Late Dr Bavadra, who in a letter to the chairman of the Constitutional Inquiry and Advisory Committee said:¹⁴²

"we are fully aware of the pressures upon the members of your Committee to rubber-stamp the draft Constitution in accordance with the expressed wishes of the interim government."

Nonetheless the Committee received submissions from 15 November 1988 to May 1989. A total of 32 hearings were conducted in 14 urban and rural areas. The Committee reported to the President on 30 August 1989 in the following terms:¹⁴³

"the Committee took into account the prevailing circumstances, evaluated public opinion and put together what the Committee believes are proposals for a constructive Constitution. Some of these proposals contain recommendations for various changes. The Committee believes that these proposals should lead to the building of an interdependent, multi-racial, multicultural society in Fiji. It could, given goodwill on all sides, ultimately pave the way for a better future."

However, it is the writer's view the new Constitution raises more concern for Fiji's future than optimism and hope.

The process of the Constitution making was fundamentally flawed and thus its legitimacy will always be doubted. In fact from the outset the government ignored the calls of deposed NFP-Labour Coalition and its leaders for genuine dialogue and discussion on the draft Constitution. In its submissions, the Coalition said:

"we ourselves as a party which won the last general elections have been completely excluded from the process, although we have on so many occasions declared our willingness to take part in discussions on the Constitution. No provision has been made for the adoption of the Constitution by the people through a referendum or a representative or constituent assembly. The ultimate decision has been with the Cabinet and the military."

In fact the NFP-Labour Coalition government was not allowed to hold meetings to discuss the Constitution. The news media due to the Internal Security Decree were exercising self-censorship as journalists feared detention and harassment. The people were not freely expressing themselves as they had already experienced widespread violations of human rights following the coups.

But even worse was the threat from the interim government that the army would take over again if the draft Constitution was not approved. Such threats made the public question the wisdom of setting up of a Constitutional Inquiry and Advisory Committee and the futility of making submissions to the Committee.¹⁴⁴

Instead of building bridges between the different races, the constitutional process would have generated even greater suspicion, anxiety and bitterness amongst the people. Arguably, it has even further polarised the two major races.

Perhaps the most repugnant feature of the draft Constitution was the racially based voting system. An American Constitutional expert, Professor Albert Blaustein, hired by Fiji's interim government, had proposed abolishing of communally based voting system. His advice was to make it more democratic and internationally acceptable. He said:¹⁴⁵

"Rolls based on race.....especially a roll for voters who are neither Fijian, Indian or Rotuman sounds too South African. And to achieve such a system you are forced to maintain a system which also smacks of South Africa."

The government dismissed criticisms by saying they were merely personal opinions of Professor Blaustein even though it was the government's own expert who was telling about the weaknesses of the Constitution.¹⁴⁶

The Rabuka government following the May 1992 elections has announced its intentions to review the Constitution.

It was possible, if the government had the political will, to put the Constitution to a test of popular opinion of the people and conduct a national referendum. But it is more likely that the Constitution would have been rejected by the people. Such a rejection would have undermined the intention and agenda of the Alliance, Great Council of Chiefs, the Taukei movement and the military.

CHAPTER 6

1990 CONSTITUTION AND INDIGENOUS RIGHTS

On 25 July 1990 the Constitution was promulgated by a Presidential Decree. The response to the Constitution was swift. The NFP-Labour Coalition condemned the Constitution as racist, authoritarian, feudalistic, divisive and in breach of international human rights conventions.¹⁴⁷ The Coalition claimed that the government had ignored the views of the majority of the people of Fiji. Coalition leader Adi Kuini Bavadra announced that it will boycott the general election under the new Constitution.

The international reaction to the Constitution was harsh. New Zealand's Associate Foreign Minister, Fran Wilde, said that the new Fiji Constitution is disappointing because it discriminates on racial grounds. She added that it appeared not only to discriminate against Indians but also against the sections of the Fijian population.¹⁴⁸

India responded by saying that it deprived the majority of the people of Fiji of their rights along racial lines. It pledged to campaign against it at every possible international forum and block Fiji's re-entry into the Commonwealth.¹⁴⁹

The Australian Foreign Minister, Senator Gareth Evans said; "that Australia believed that any Constitutional framework which perpetuated racial divisions and undemocratic principles such as the negation of the principle of the majority would be counter productive".¹⁵⁰

Mr Justice Michael Kirby, the President of the Australian section of the International Commission of Jurists said that it was as bad as the apartheid laws in South Africa.¹⁵¹

Great Council of Chiefs

In the 1990 Constitution, the Bose Levu Vakaturaga or the Great Council of Chiefs has assumed the pre-eminent political position. In a national radio broadcast on 25 July 1990 in promulgating the Constitution, the President had this to say:¹⁵²

.....the Constitution was approved by the Bose Levu Vakaturaga; whose status has been recognised as an important institution in the social, political and economic organization of the Taukei-ni Vanua-the Fijian people.

This recognition acknowledges the historical role of the Great Council of Chiefs in guiding the destiny of the Fijians. It was functioning as a forum for Fijian leadership and government before the arrival of the western civilization and has continued to the present day to exercise the authority in promoting the welfare and way of life of Fijians. The Great Council of Chiefs derives its authority from the status of its members associated with their chiefly lineage. As a consequence the Constitution formally recognizes the Great Council of Chiefs and vests in it a number of important functions.

It is responsible for the appointment and removal of the President.¹⁵³ It will select 24 Fijians for appointment as Senators and has important consultative role on special measures to promote indigenous Fijian interests.¹⁵⁴

It is obvious from these provisions that an unelected body has been given wide powers. The ordinary indigenous Fijians therefore would be left out from deciding on important matters like election of the President or appointment of Senate positions.¹⁵⁵

Furthermore, the acts of the Great Council of Chiefs has been excluded from the review of the Ombudsman.¹⁵⁶ It may also be placed beyond criticism as Parliament is authorized to curb the right of expression to preserve it's reputation, dignity and esteem.¹⁵⁷

The Bose Levu Vakaturaga is essentially a body of chiefs handpicked by the regime (its precise composition is a matter for the government under the Fijian Affairs Act). Prior to 1987 the BLV consisted of all elected Fijian members of the House of Representatives, 8 chiefs and 7 others appointed by the Minister of Fijian Affairs, and representative of each of the Province.¹⁵⁸

However, since the coups the members of the legislature have been excluded. The elections for Provincial Councils have been replaced by appointment by Presidential Decree.¹⁵⁹

It is likely that the wide powers of the BLV with little or no accountability; the degree of immunity it enjoys; exclusion of elected members of the House of Representatives from it and removal of the powers of the ordinary Fijians to appoint their representatives may generate friction between chiefs and the commoner Fijians. Such friction is likely to undermine the status of the BLV.

The Electoral System

The elections for members of the House of Representatives is strictly on racial basis. In addressing the UN General Assembly Australia's Foreign Minister, Senator Gareth Evans noted:¹⁶⁰

"The Fiji Constitution builds new and far reaching racially discriminating principles into the Fijian political system."

The Constitution has abolished the national or what is often referred to as cross voting seats. These seats had provided an incentive for candidates to appeal to voters of communities other than their own, laying a broader basis for political campaigns. They were regarded as the bridge to non-racial politics.

Notwithstanding that strong arguments were made in favour of the national seats, they have now been removed. In 1975 the Street Commission had also recommended a shift away from the communal voting system to one which will promote greater inter-racial co-operation.¹⁶¹

In its submission to the Street Commission, the National Federation Party (Labour's coalition partner) had argued:¹⁶²

the communal roll element in the present system perpetuated interests and led to communal confrontation and conflicts. It was an impediment of the successful working of democratic government because it forced representatives to sub-ordinate national interest to communal interest and prejudice.

But the new Constitution will compartmentalize the different races in Fiji. This was obvious from the racially based parties that have emerged participated in the 1992 elections. The minority group in the Constitutional Review Committee had expressed its fears in these terms:¹⁶³

"We believe that the abolition of the cross or national voting will result in extreme communalism and racial prejudice. This will reinforce socio-economic and cultural disparities. The inter-dependence and common needs and aspirations of our people will be artificially divided by entrenched political Communalism. Race will be exploited at the expense of national unity."

It can be asserted that the division of Fiji on racial lines cannot be in the interests of indigenous Fijians or Fiji as a whole. In the long term it will polarize the different communities in Fiji.

There is also unfairness in the distribution of the parliamentary seats. Out of the 70 seats of the House of Representatives indigenous Fijians have 37, Indians 27 seats, Rotumans 1 and General electors 5.¹⁶⁴ This gives the indigenous Fijians despite their status of being a minority a permanent majority over all other communities combined. Because the government is from the House of Representatives, this means that all power is vested in the Fijian members permanently excluding other communities from ever holding power. The Indian community which comprises about one half of the country's population will remain in perpetual opposition.

A US State Department Human Rights Report said that the new Fiji Constitution has abridged the rights of citizens to change future governments peacefully.¹⁶⁵

The rules of the composition of the Senate are also discriminatory. Of its 34 members, 24 are Fijians, 1 Rotuman and 9 others. The provision for a majority of the representatives of the Fijian chiefs gives them a veto over any constitutional changes as well as any change in rules affecting Fijian land, customs or customary rights reinforcing the chiefly stranglehold over the constitutional and political system to the exclusion of other races.¹⁶⁶ The Indian community notwithstanding the size of their population has been allocated 3 of the Senate positions in the 1992 Senate.

However, numerical majority in parliament is not necessarily compatible with safeguarding indigenous interests as this also has created potential for conflict and tension. Dr Bavadra in a personal letter to Ratu Sir Kamisese Mara, had this to say:¹⁶⁷

"Your belief that indigenous Fijians interests and aspirations will be best protected and promoted in future through racial dominance in parliament is mistaken and wrong. It is mistaken because we indigenous Fijians are more divided politically now than before the coups.....Numerical superiority of seats in parliament is not going to magically unite the indigenous Fijians on issues that affect us as people."

Indeed Dr Bavadra's words have proved to be prophetic. The Fijian community has been wrought with divisions. Such was most obvious at the time of selections of Fijian candidates of BLV sponsored Soqosoqo-Ni-Vakavulewa-Ni-Taukei. Indigenous Fijians who missed official selection stood as rival candidates and 5 won.¹⁶⁸

Consequently, the BLV sponsored party failed to get an outright majority in the 1992 elections. Out of the 37 seats it lost 5 to rival candidates. Thus the party had to rely on the backing of the General Voters Party to form a government. In future further divisions in the Fijian Community is inevitable as frustrations with the chiefly domination of Fiji politics is likely to grow.

Discriminations Against Fijians

The electoral laws are designed to weaken the influence of the urban Fijians. They mostly comprise educated and working class commoner Fijians who are becoming increasingly critical of the chiefly system and their stronghold on political power. It was urban Fijians who had voted in significant members for the NFP-Labour Coalition that led to its victory at the polls in 1987.

However, in the 1990 Constitution urban Fijians are allocated only 5 seats out of the total of 37 Fijian seats even though they constitute 33% of the Fijian population.¹⁶⁹ Such a discrimination is likely to reinforce further divisions between the urban and the rural Fijians.

The other 32 Fijian representatives will be appointed by the rural Fijian Provinces. Even in the rural areas there is an inbuilt bias which supports the chiefly aristocratic hold on power.¹⁷⁰

For instance Ba, with a population of 55,000 (1986) census has 3 seats but so is Lau; former Prime Minister, Ratu Sir Kamisese's home base with a population of 14,000 people. Rewa/Naitasiri which elected a Fijian who became a member of Dr Bavadra's Cabinet is to have 4 seats for a population of 98,000 while Namosi from Eastern Fiji has 2 for 14,000.¹⁷¹ This amounts to a case of gross gerrymandering.

There is still another obstacle facing indigenous Fijians. While voters by section 49(4) must have two years' residence in the constituency in which they are enrolled or established they are eligible to be enrolled in the whole 'Vole Ni Kawa Bula' (VKB), the register of Fijians in their traditional clan units.¹⁷²

A great many of them are not so enrolled. Not only have one third of Fijians moved into towns, but many have moved to other provinces. Many of these Fijians have sought in this way to escape the burdens and restrictions of the communal system under chiefly rule.

The Fiji Constitution Inquiry and Advisory Committee Report remarked as follows:¹⁷³

The Committee notes that a considerable number of Fijians live in rural areas of other Fijian Provinces and, as such, would not fulfil the requirements for registration as urban Fijian voters. They could well be

disenfranchised if not catered for in another way. The Committee also notes that a number of Fijians, many of them adults, are not registered in the VKB. The complicated and lengthy process to be followed to register these adult Fijians in the VKB could inhibit a sizeable number of Fijians from voting. They will therefore be ineligible to vote as Fijians.

The Interim government consulting only with the Council of Chiefs appointed by them, has ignored the problem raised by its own Committee, in order to force Fijians to 're-establish their traditional ties with their own provincial communities'.

It is clear therefore that significant numbers of Fijians will be unable to vote despite the claim of the army and the military-backed regime that the overthrow of the elected government and subsequent rule by military-backed decrees has been undertaken to protect the indigenous Fijians.¹⁷⁴

Human Rights

The Constitution contains a Bill of Rights which follows a similar Bill in the 1970 Constitution but it also contains a few more exceptions than the earlier Constitution. The right to vote is more restricted now. Freedom of expression may be limited by laws for the purpose of protecting the reputation, the rights and esteem of institutions and values of the Fijian people, the GCC and traditional Fijian system.

The discrimination against Indians and commoner Fijians in the electoral system, the racial quota in civil service and reservation of key state positions to ethnic Fijians¹⁷⁵, the legislature's ability to deprive citizenship¹⁷⁶, the denial of citizenship to foreign husbands of Fijian women¹⁷⁷ are some illustrations to show that the Fiji Constitution is in breach of international human rights conventions including some

that Fiji has ratified.

The Constitution allows the legislature and the government by legislation passed by a simple majority (which in practice could mean by members of ethnic group), ostensibly to safeguard state security against real or imaginary threats to suspend any provision of the Constitution including those allegedly protecting human rights. These derogations from or suspension of human rights are beyond any legal or other challenge.¹⁷⁸

The military is placed under command of the senior military officer instead of the legally elected civilian authority. It vests the overall responsibility on the military to ensure at all times the security, defence and well being of Fiji and its peoples. This is seen as recipe for continued military intervention in the life of the community.¹⁷⁹

The International Commission of Jurists aptly sums up its position on the constitution as follows,¹⁸⁰

.....it is an elaborate attempt to clothe entrenched rule by a self-perpetuating feudal oligarchy with the trappings of representative government, denying to a proportion of indigenous Fijians and the overwhelming majority of Indo-Fijians, an effective voice in the choice of those who should govern them and the laws by which they should be bound.

CONCLUSION

A period of five years after the military coups has assisted to provide a better understanding of the fateful events of 1987 in Fiji. It is with the benefit of this hindsight that this paper is written.

Perhaps the most significant justification for the coup given by Col Rabuka (as he was then) was that the coup was intended to safeguard indigenous Fijian interests as they were threatened by an Indian dominated government. But the truth is that the new government was not given enough time to see if it did pose a threat to indigenous Fijian rights.

The meteoric rise of his power both within the military and on the political scene do suggest otherwise. From being an ordinary soldier, he became Major General and now he is the country's Prime Minister. His personal tale perhaps shows that the coup had more to do with his political ambition.

Since the coup the defeated Alliance leaders who also spearheaded the Taukei Movement have been restored to office. Even the likes of Mara and Ganilau sided with the aims of the coup. The Eastern chiefs bounced back into prominence and their position to stay in office is permanently guaranteed in the 1990 Constitution.

If the coup was about indigenous Fijians then why is there a gross gerrymander against the western commoner Fijians and the urban Fijians. Is it because the urban Fijians who are more prone to put the Fijian chiefly leadership under scrutiny?

The coup perhaps did prevent any revelations of corruptions in the Mara government. A committee set up by General Rabuka to investigate alleged improprieties in past governments will not publish its findings.

Obviously, if the coup was to do with indigenous Fijian rights then it should not have taken 19 months for a Fijian government to grant compulsory union recognition to a predominantly Fijian union of mine workers in Vatukoula.

The Great Council of Chiefs or BLV is now the most powerful body in the country. It appoints the President, the majority of Senators in upper house and its political party is likely to be in government in perpetuity because of the guaranteed Fijian numerical supremacy in parliament.

Obviously the multi-racial government of Dr Bavadra posed a threat to the racist politics of the Great Council of Chiefs.

Further the claim that the Coalition government threatened Indigenous Fijian interests is not correct. The Bavadra government was committed to protection, preservation and enhancement of Fijian interests. Most significantly, the 1970 Constitution provided enormous institutional safeguards to the Indigenous Fijians. As we have seen the problem was not the lack of protection of Fijian rights but the failure of the past governments to explain to the indigenous Fijians the extent of those rights.

The Constitutional process by which the 1990 Constitution was a farce. The bias in the composition of the various committees; their respective terms of reference; the President's public endorsement of Fijian political supremacy; the climate of fear and uncertainty that surrounded the public hearings; the threat of further military intervention if the government's draft had cumulatively determined the outcome of the constitutional deliberations.

But the Indigenous Fijian community cannot achieve justice by perpetrating injustice against another community. The Fiji Indian Community has been totally ignored and shut out from the political process. They have virtually no political voice under the new constitution as they are likely to remain in permanent opposition thus polarising the indigenous Fijian and the Indian communities even.

Many educated Indians have left Fiji and the emigration continues. For instance there is serious shortage of trained teachers and doctors. In the long term the Fijian community will also pay the price as the loss of skilled people means the quality of services offered to the indigenous Fijians will also be affected.

The new Constitution has also unleashed even greater divisions in the Fijian Community. Because of these divisions the Great Council of Chiefs sponsored political party could not win an outright majority in the House of Representatives following the 1992 general elections.

The coups in Fiji had little to do with indigenous rights. The issue of indigenous rights became a convenient vehicle to obscure the true motives and intentions of the perpetrators of the coup. It was to do with political ambitions of fallen Alliance leaders, chiefs as well as the coup leader and the retention of political power in the hands of the aristocratic elite. The subsequent events in Fiji are the testimony of the real intentions of all those behind the political upheavals of 1987.

FOOTNOTES

- 1 Daily Hansard Parliament of Fiji 14 May 1987 p 142
- 2 Island Business Suva December 1986
- 3 Time Australia 25 May 1987 pp 13-18
- 4 For Eastern Economic Review 20 May 1987 p 11
- 5 For instance see comments of New Zealand Prime Minister, David Lange in Fiji Times 15 May 1987 p 2
- 6 Yash Ghai "A Coup by Another Name? The Politics of Legality in The Contemporary Pacific Vol 2 1990 No. p 13
- 7 Idem
- 8 Ibid p 14
- 9 Idem
- 10 Idem
- 11 Idem
- 12 Idem
- 13 Scarr Deryck Fiji: Politics of Illusion NSW University Press 1988 pp 87-88
- 14 Lal Brij V Power and Prejudice Wellington 1988 pp 87-88
- 15 See Proclamation No 3 Fiji Royal Gazette 19 May 1987
- 16 Island Business June 1987 p 13
- 17 See Public Emergency (Maintenance of Supplies and Service) Regulations 9 June 1987
- 18 Above No 14
- 19 Above No 6 p16

- 20 Blaustein A & G H Flanz(ed) Constitutions of the Countries of the World - Fiji New York August 1990 p vii
- 21 See international press release of Amnesty International
12 November 1987 pp 1-2
Also see country report on Fiji in ICG publication The Review
No 41 1988 p 11
- 22 Above No 6 p 18
- 23 The Fundamental Freedoms Decree No 12 effectively outlawed any activities
contrary to the views of the interim government.
It was widely used to harass, detain and intimidate people of
Fiji Indian origin and their leaders.
Fiji - Arrests under a new Internal Security Decree published
by Amnesty International August 1988
- 24 A similar letter was sent to the Governor General on 16 May 1987
- 25 Pacific Islands Monthly Suva November 1987 p 10
- 26 Above No 6 p 18
- 27 Sunday Observance Decree 1987 No 20 9 November 1987
- 28 The Fiji Times Suva 7 December 1987 p 1
- 29 Idem
- 30 The Evening Post Wellington 1 July 1987
- 31 The Evening Post Wellington 19 January 1988
- 32 Above No 6 p 19
- 33 The Dominion Wellington 7 November 1988 p 11
- 34 Idem
- 35 Above No 22
- 36 The Dominion Wellington 21 September 1988 p 12
Sydney Morning Herald Sydney 21 September 1988 p 4
- 37 Baba T & A Bain (ed) Bavadra Prime Minister, Statesman, A Man
of the People Suva Fiji 1990 pp 269-275
- 38 The Fiji Times Suva Fiji 21 February 1990 p1

- 39 Idem
- 40 Mataitoga I "Constitutional Making in Fiji: the Search for a Political Solution" in 21 VUWLR 1991 pp 235- 237
- 41 The Fiji Times Suva Fiji 7 June 1991 p1
- 42 The Evening Post Wellington 13 June 1991 p6
- 43 P Lewis Young "Fiji : Anatomy of the Coup De'tat" in Asian Defence Journal August 1987 p 7
- 44 Idem
- 45 Idem
- 46 Times on Sunday Sydney 12 July 1992 p 12
- 47 Above No 43
- 48 The Evening Post Wellington 28 April 1987
- 49 On politicization of the Fijian Administration see Tagupa W E H "The 1987 Westminster Constitutional Crisis in Fiji" in Pacific Studies Vol 12 No 1 November 1988 pp 115-119
- 50 The South July 1987 p 2
- 51 See generally Dean E & S Ritova Rabuka: No Other Way Melbourne 1988
Fiji Sun Suva 17 August 1987 p 1
- 52 New Zealand Listener 27 June 1987 p 86
- 53 Hagan S "Race, Class and the Coup in Fiji" in Bulletin of Concerned Asian Scholars Vol 19 1987 No 4 p 17
- 54 Dakuvula J "Essay on the Military Alliance Constitution" unpublished paper Wellington 1988
- 55 Above No 51 Chapter 3
- 56 Brookfield F M "The Fiji Revolution of 1987" in NZLJ July 1988 p250
See also McLachlan Campbell "The Fiji Constitutional Crisis of May 1987" NZLJ June 1987 p 175
- 57 Sydney Morning Herald 18 May 1987 p 7
- 58 Fiji Sun 13 April 1987 p 1

- 59 Ghai Y in The Minority Rights Group Report on Fiji London
No 75 1987 p 7
- 60 Sydney Morning Herald 16 May 1987 p 45
- 61 Prasad G "Too Big for the Barracks-The Fiji Military and the 1987
Constitutional Breakdown" unpublished paper Wellington 1988
- 62 The Dominion Sunday Times Wellington 21 June 1987 p 8
- 63 The Daily Hansard Parliament of Fiji 2 December 1975 pp 1768-71
- 64 The Daily Hansard Parliament of Fiji 26 May 1977 p 117
- 65 Above No 53
- 66 The Fiji Times Suva 28 August 1985 p 6
- 67 Above No 53 p 13
- 68 Idem
- 69 The Fiji Times Suva 17 March 1987
- 70 The Australian 19 May 1987
- 71 The Evening Post Wellington 26 February 1988
- 72 Wypijewski J "The Fiji Coup-Was the US Behind It?" in The Nation
August 15-22 1987 pp 117-120
Wilkes Owen "US Involvement in the Fiji Coup" Wellington 1987
also see Above No 61 pp 22-28
- 73 Idem
- 74 Above No 53 pp 14-15
- 75 Sydney Morning Herald 16 May 1987
- 76 NZ Listener 26 December 1987 pp 18-21
- 77 Above No 37 pp 122-128
- 78 The Fiji Times Suva 2 September 1992 p 1
The Daily Post Suva 2 September 1992 p 1
- 79 The Fiji Times Suva 12 September 1992 p 1

- 80 Above No 51 pp 44-54
- 81 Above No 14 p 87
- 82 Network News TVNZ 25 May 1987
- 83 Idem
- 84 Above No 14 pp 11-14
- 85 Idem
- 86 The Fiji Times Suva 15 April 1987 p 6
- 87 See Report of the Street Commission Parliamentary Paper No 24 1975 p 4. This Commission chaired by Prof. Harry Street was appointed to review Fiji's electoral system as part of the undertaking by both the Alliance and the NFP at the 1970 Constitutional Conference.
- 88 "What Fiji Labour Party Stands For?" in Socialist Action Review Vol 9 No 1 Jun/Jul 1987 p 1
- 89 Robertson R T "The Formation of the Fiji Labour Party" in NZ Monthly Review October 1985 pp 1-5
- 90 Above No 88
- 91 Idem
- 92 The Fiji Times Suva 14 March 1987 p 1
- 93 The Fiji Times Suva 31 March 1987 p 12
- 94 Above No 37
- 95 Above No 53 p 11
- 96 Above No 14 p 25
- 97 Idem
- 98 Ibid p 23
- 99 Ibid p 29
- 100 See Governor General's address to Parliament outlining Coalition government's policies on 11 May 1987

- 101 Anthony B Van Fossen "Two Military Coups in Fiji" in Bulletin of Concerned Asian Scholars Vol 19 No 4 1987 p 25
- 102 Above No 14 pp 10-11
- 103 Idem
- 104 Above No 59 p 13
- 105 McLachlan Campbell "The Fiji Constitutional Crisis of May 1987" NZLJ June 1987 p 176
- 106 Idem
- 107 Idem
- 108 Above No 59 p 10
- 109 Idem
- 110 idem
- 111 Idem
- 112 Above No 53 p 7
- 113 Fiji Sun Suva 22 April 1987
- 114 Above 59 p 11
- 115 Norton R Race and Politics in Fiji NSW 1990
- 116 Section 15(3)
- 117 Above No 14 p 15
See also Clive Whitehead's Education in Fiji Since Independence-A Study of Government Policy 1986
- 118 Above No 14 p 15
- 119 Above No 37 p 41
- 120 Above No 14 p 54
- 121 Ibid p 16
- 122 Idem

- 123 Siwatibau S "The Pacific and Human Rights" in Proceedings of NZ and Human Rights in the Pacific and Asia Region Wellington 1989 p 29
- 124 Report of the Constitutional Review Committee Parliamentary Paper No 21 Jul/Aug 1987
- 125 The Fiji Times Suva 10 June 1987
- 126 Above No 49 p 108
- 127 CRC's Minority Report Suva 1987 p 2
- 128 Idem
- 129 Above No 49
- 130 Above No 127 p 4
- 131 Idem
- 132 Above No 6 p 17
- 133 Above No 127 p 4
- 134 Ibid p 9
- 135 Above No 40 p 233
- 136 Island Business Suva October 1987 p 16
- 137 Above No 49 p 106
- 138 Above No 40 p 234
- 139 Ibid p 235
- 140 Idem
- 141 The Dominion 21 September 1988, The Deputy prime Minister of NZ, Sir Geoffrey Palmer is reported to have said that the draft Constitution needed to be improved in certain critical aspects and had also called for the exclusion of the "military elements" from any future Fijian government.
The former Australian Prime Minister, Bob Hawke was also critical of the Constitution when he said that he wanted to see the view of the majority of Indo-fijians taken into account (see Sydney Morning Herald 21 September 1988)
The NFP-Labour Coalition had announced that it will not participate in any elections based on the racially weighted Constitution.

- 142 Letter to the Chairman of the CIAC by Dr Bavadra 6 January 1989
- 143 Submissions on the Draft Constitution of Fiji to the Fiji Constitutional Inquiry and Review Committee by the NFP-Labour Coalition
16 January 1989 p 1
- 144 Above No 20
- 145 The Fiji Times Suva 21 February 1990
- 146 The Fiji Times Suva 22 February 1990
- 147 For more detailed analysis see report of NFP-Labour Coalition
A Fraud on the Nation July 1990
- 148 The Evening Post Wellington 26 July 1990 p 14
- 149 Ibid p11
- 150 The Evening Post Wellington 2 August 1990 p 9
- 151 The Dominion Wellington 22 October 1990
- 152 See full text of speech of President Ganilau delivered on Radio Fiji
25 July 1990
- 153 Section 31
- 154 Section 55
- 155 Above No 147 p 36
- 156 Section 135(v)
- 157 Section 13(2)(d)
- 158 Above No 147 p 37
- 159 Idem
- 160 Address to UN General Assembly 2 October 1990
- 161 Above No 87 p 12
- 162 Ibid p 13
- 163 Above No 127 p 13
- 164 Section 40, 41

- 165 Radio New Zealand News 21 February 1991
- 166 Section 54, 55
See above No 147 p 24
- 167 22 October 1989 p 5
There were altogether 6 political parties involving indigenous Fijians.
Hence in some Constituencies there was a 6 way battle for one seat.
- 168 Section 48(2)(b)
See also ICG statement on the Fiji Constitution No 45 December 1990
p 43
- 169 Section 41(2)(a)
- 170 Above No 147 p 43
- 171 Above No 168 p 34
- 172 Section 49(4)
- 173 Report of the Fiji Constitution Inquiry and Advisory Committee 1989
- 174 Above No 147
- 175 Section 127
- 176 Section 29
- 177 Section 26
- 178 Section 162 and 163
- 179 Section 94
See Above No 168 p 43
- 180 Above No 168 p 43

BIBLIOGRAPHY

1. Dean & Ritova Rabuka No Other Way NSW 1988
2. Lal BV Power and Prejudice, Wellington 1988
3. Baba T&A Bain(ed) Bavadra Prime Minister, Statesman Fiji 1990
4. Scarr D Fiji : Politics of Illusion, NSW 1988
5. Nayacakalou RR Leadership in Fiji Melbourne 1975
6. Tinker, Hugh et al Fiji: Minority Rights Group 1987 Report No. 75
7. NFP/Labour Coalition Manifesto Suva, 1987
8. Ali A. Fiji Indians and Politics of Disparity New Delhi, 1976
9. Robertson RT Fiji Shattered Coups NSW 1988.
10. Bain K Treason at Ten London 1989.
11. Prasad S Coup and Crisis Suva, 1988
12. Naidu V State, Class & Politics in the South Pacific University of Sussex 1988

13. Norton R Race and Politics in Fiji QLD 1990
14. Howard M Race and Politics in an Island State Vancouver, Canada 1991
15. Harder C The Guns on Lautoka: The Defence of Khan Auckland 1988
16. Lawson S The Prospects of a Third Military Coup in Fiji Canaberra 1989

VICTORIA
UNIVERSITY
OF
WELLINGTON

LIBRARY

A Fine According to Library
Regulations is charged on
Overdue Books.

LAW LIBRARY

WD 2230384

PLEASE RETURN BY

4 APR 2006
TO W.U. INTERLOANS

VICTORIA UNIVERSITY OF WELLINGTON LIBRARY



3 7212 00383981 6

r Prasad,
Folder Giyannendra
Pr The Fiji case

