

**Recommendations to the  
Commonwealth Ministerial Action Group  
on the Political and Human Rights Situation in  
the Fiji Islands**

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### **Fact Finding Mission To The Fiji Islands**

In addition to CHRI's ongoing programme work, and on invitation from a member of civil society in a Commonwealth country where events have brought into doubt the protection of human rights, CHRI can sponsor a Human Rights Fact Finding Mission to travel to that country to investigate the status of human rights.

On invitation from the Citizens' Constitutional Forum (CCF), a Suva based Fijian non-governmental organisation, CHRI sponsored a Human Rights Delegation to travel to the Republic of the Fiji Islands (Fiji) from 27 August – 5 September 2000 on a Fact Finding Mission.

It is evident Fijian civil society has been lacking a voice in the dialogue which will determine the future of Fiji. Their lack of input into the debate to date has been exacerbated by the failure of successive international delegations to properly consult with civil society when visiting Fiji in the wake of the 19 May 2000 failed coup.

Therefore, the purpose of the Human Rights Delegation travelling to Fiji on a Fact Finding Mission was to consult widely with Fijian civil society, human rights defenders, community groups and the Fijian people to better understand the -

- present status of human rights, democracy and the rule of law in Fiji and the extent the coup had led to breaches of fundamental human rights;
- best way Fijians believe democratically elected government can return to Fiji and
- most suitable process for achieving this end.

The Human Rights Delegation consulted with over 25 civil society organisations and community groups from Suva, Nadi and Lautoka on the main island of Viti Levu, as well as travelling to regional areas to discuss the above issues with rural communities and consulting with civil society groups which have been working on the second island of Vanua Levu.

The Human Rights Delegation visiting Fiji consisted of **Michael Dodson** (Institute of Aboriginal and Torres Strait Islanders Studies, Canberra) and **David Pargeter** (Director, Justice World Mission Uniting Church of Australia, Sydney). **Mitchell O'Brien** served as rapporteur and logistics person.

CHRI has been a keen observer of the human rights situation in Fiji. The following recommendations to the **Commonwealth Ministerial Action Group** and the background paper are based on the report of the Fact Finding Mission to Fiji and the information collected from media and civil society sources till date.

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## **Recommendations to the Commonwealth Ministerial Action Group (CMAG)**

- Though the democratic process has been re-established in the Fiji Islands - with the successful conduct of elections under international supervision – Fiji should be readmitted to the councils of the Commonwealth only after a constitutionally appropriate government has been installed. The new cabinet must be constituted in strict adherence to the power sharing provisions of the 1997 Constitution especially in light of the recent decision of the Fiji Court of Appeal.
  - The CMAG should request the Secretary General to send an envoy or a group of eminent Commonwealth representatives to mediate an amicable resolution of the current political situation and facilitate the participation of all eligible political parties in the government of Fiji.
  - Failure to honour the power sharing provisions of the Constitution will mean that Fiji has not met its obligations under the *Harare Declaration* and should remain suspended from the councils of the Commonwealth until a constitutionally appropriate government is formed.
  - No review of the Constitution must result in a dilution of the human rights presently preserved in the Fiji Bill of Rights or the preservation of positions of political power for specific ethnic groups. The *International Declaration on the Elimination of All Forms of Racial Discrimination* provides that all members of a society must be able to enjoy rights free from racial discrimination. Any reservation of political power or positions to particular ethnic groups would be in direct violation of international law.
  - The CMAG should request the Secretary General to dispatch a follow-up mission to Fiji upon its readmission to the councils of the Commonwealth. This mission may be mandated to study the human rights situation, particularly - the condition of citizens displaced and rendered homeless due to race based violence and the mechanisms adopted by the new government to resolve the vexed issue of possession and use of agricultural land. The findings of this mission should be widely publicised.
  - The Commonwealth and its member nations should encourage and support the introduction of programs and law reform, which protect and advance the rights of women in Fijian society.
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## Background Paper

### 1. Introduction

George Speight's attempted civilian coup of May 19, 2000 has acted as a catalyst, unlocking the divisions which underscore Fijian society. The perception of the Fiji islands as a model multi-racial democracy has been shattered and in its place is a confused picture of division. Divisions have emerged within a number of communities in Fiji, including the indigenous Fijian community, the Indo-Fijian community, the military; the judiciary; amongst traditional chiefs; as well as regional divisions. The struggle for power has turned individual against individual, region against region and has called into question the validity of indigenous power institutions.

The return to democracy and the installation of a democratically elected government in Fiji is but the first step in healing the divisions which now characterise this Pacific island state. The challenge for the Commonwealth is understanding the important issues which still affect this nation and to act in a way so as to assist this member of the Commonwealth achieve the aim of once again being a model multi-racial democracy.

The international community must learn from the mistakes it made after the 1987 coups and ensure that the message conveyed to Fiji and the world this time around is that disaffected members of society who are not pleased with the policy direction of a constitutionally elected government must not be able to redress their grievances by plotting a coup. Democracy, the rule of law and human rights must not be sacrificed for the political and financial gain of a few.

The Commonwealth must take a principled stand towards the return to democracy and the preservation of human rights in Fiji. The Commonwealth Human Rights Initiative (CHRI) Fact Finding Mission to Fiji discovered that civil society's voice is clear and unequivocal in asking the international community, to stand strong on its commitment to democracy and the rule of law and to assist Fiji in its transition to democratic rule under the 1997 Constitution.

The Commonwealth must not only help Fiji on its path back to democracy, but also persist in working to ensure human rights are protected and that the divides, which now jeopardise this multi-racial democracy, are healed.

### 2. The Democratic Elections 2001 – A Synopsis

At the 2001 democratic elections the United Fiji Party (SDL) won 31 seats in the 71-seat parliament and the Fiji Labour Party (FLP) gained 27 sets. As no party won a clear majority, once again government had to be formed by entering into a coalition with minor parties.

The Fiji parliament elected at the 2001 elections met for the first time on October 1, 2001. Under the 1997 Constitution, the President swears in as Prime Minister the leader of the party, the President believes will be able to command a vote of confidence in the first session of Parliament. Fiji's President chose to swear in the interim Prime Minister and leader of the SDL party, Laisenia Qarase as the new Prime Minister. On being notified of the President's intentions, it was up to Qarase to form his cabinet. According to the Constitution, when forming the cabinet the Prime Minister must allow for representation from all major parties elected to the parliament.

The election process was generally regarded as free and fair. The United Nations Fijian Electoral Observation Mission (UNFEOM) felt that the election results reflected the will of the people of Fiji.

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The Commonwealth Observer Group, headed by Sir Henry Forde QC MP, reported that the general election had not been perfect in every respect, but they were of the view the election can command the confidence of the people of the Fiji Islands. The Observer Group went further saying that after observing as much of the process as they could they were strongly of the view that the conditions did exist for a free expression of will by the electors and that generally the results of the elections reflected the wishes of the people.

Some concerns were expressed by civil society about the conduct leading up to the elections, in particular the selective voter education provided particularly to indigenous voters, as compared to Indo-Fijian voters, however the election itself is considered to have been free and fair.

### 3. Formation of the Cabinet

Fiji's latest crisis has arisen out of the Prime Minister's refusal to follow specific provisions of the 1997 Constitution. Section 99(5) of the 1997 Constitution provides that the Prime Minister must invite every political party that secures ten percent or more seats in Parliament to join the cabinet. The aim of this provision is to ensure that all parties, irrespective of ethnic background work together for the common good of Fiji.

On being sworn in as Prime Minister, Qarase refused to allow Mahendra Chaudhry as leader of the Labour Party to join his cabinet, citing the provision in the Constitution as unworkable. Only one Indo-Fijian who was part of the erstwhile interim administration headed by Qarase, finds a place in the new government.

Immediately Chaudhry expressed his concerns saying that a cabinet which does not have a representative from the second largest party in Parliament has consigned 44 percent of the population (namely the Indo-Fijian community) to permanent opposition.

Qarase's failure to adhere to the 1997 Constitution resulted in Chaudhry commencing legal proceedings seeking a declaration that the government has been formed illegally. On 15 February 2002 the Fiji Court of Appeal declared that the cabinet of Prime Minister Qarase had been formed illegally as it did not include representatives from the FLP. According to this ruling, Qarase must now invite the FLP to join his cabinet.

The actions of the new Prime Minister are of grave concern to human rights workers. Even before the 2001 Parliament had sat, Qarase and the SDL party already heralded their willingness to disregard the 1997 Constitution, and consequently the rule of law, when it did not suit their nationalist purposes. Such action does not bode well for democracy in Fiji. Combined with racist overtures expressed by Qarase leading up to the election and his claims of a need to reinforce indigenous paramountcy, it is clear that human rights may still be under threat in Fiji.

Fiji must be readmitted to the councils of the Commonwealth only after a constitutionally appropriate and democratically elected government has been installed. Qarase must form a cabinet which adheres to the power sharing provisions of the 1997 Constitution. Failure to honour the power sharing provisions of the Constitution will mean that Fiji has not met their obligations under the *Harare Declaration* and should remain suspended from the councils of the Commonwealth until a constitutionally appropriate government is formed.

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#### 4. The Commonwealth's Reaction

After the attempted coup of May 14, the Commonwealth Ministerial Action Group (CMAG) acted to suspend Fiji from the councils of the Commonwealth for violation of the principles contained in the *Commonwealth Harare Declaration*.

The Commonwealth decided, on the announcement by the Fijian interim administration that fresh elections would be called under the 1997 Constitution, that a Commonwealth Observer Group would travel to Fiji to oversee the election process.

The Sixteenth Meeting of CMAG at Marlborough House between 3-4 September, 2001 agreed to recommend to the Commonwealth Heads of Government that provided the Commonwealth Observer Group present at the elections in Fiji judged the electoral process free and fair, then with the formation of a new elected Government in accordance with the Constitution, democracy would have been restored. Thus Fiji would no longer be in violation of the principles contained in the *Commonwealth Harare Declaration*. Fiji's suspension from the councils of the Commonwealth would therefore be lifted, and Fiji would be eligible to attend the Brisbane Commonwealth Heads of Government Meeting (CHOGM) in October 2001.

Since the 3-4 September meeting of CMAG, the Commonwealth Observer Group has proclaimed the elections as free and fair. However, on September 20 2001, the Secretary General of the Commonwealth, Don McKinnon indicated the Commonwealth's concerns that the second precondition has not been met because Qarase has refused to include opposition members in his cabinet as directed by the constitution.

In its seventeenth meeting held on December 20 2001, the CMAG resolved to recommend to the Heads of Government, lifting of Fiji's suspension from the Commonwealth's councils, keeping in view the progress made in the restoration of democracy.<sup>1</sup> Fiji's reinstatement could not be formalised as CHOGM was postponed due to difficult global circumstances following the September 11, tragedy at the World Trade Centre, New York. On January 30 2002, at its eighteenth meeting CMAG decided to keep Fiji on its agenda and monitor the situation through its Special Envoy, as legal proceedings questioning the constitutionality of Prime Minister Qarase's government had been instituted.<sup>2</sup>

Now that the Fiji Court of Appeal has declared unconstitutional, Prime Minister Qarase's attempt to keep FLP out of the Cabinet, Fiji must be reinstated in the Commonwealth's councils only after a government has been formed in strict adherence to the scheme laid down by the 1997 Constitution. The Commonwealth must not soften its commitment to the *Harare Declaration* and reinstate Fiji while a government that has been formed in violation of the Constitution continues to be in power.

In keeping with the mandate of the *Millbrook Action Programme 1995*, the Secretary General should send an envoy or a group of eminent Commonwealth representatives to mediate an amicable resolution of the current political situation and facilitate the participation of all eligible political parties in the government of Fiji.

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<sup>1</sup> See Commonwealth Secretariat website - [http://www.thecommonwealth.org/dynamic/press\\_office/](http://www.thecommonwealth.org/dynamic/press_office/)

<sup>2</sup> Ibid.

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## 5. The Return to Democracy - but what about the preservation of Human Rights?

### 5.1 Constitutional Reform

It is unclear whether the new government will embark upon a policy of constitutional reform. Qarase when acting as the military sponsored unelected interim Prime Minister established an illegal Constitutional Review Commission. Twice the High Court ordered that the Constitutional Review Commission had been created illegally and therefore should cease its activities. However the Constitutional Review Commission continued the process of reviewing the 1997 multi-racial Constitution. It is clear Qarase holds the 1997 Constitution in contempt and his party campaigned on a platform of adequate representation of indigenous Fijians and to protect and promote the development of indigenous Fijians; in essence the notion of indigenous paramountcy.

If the new administration seeks to reform the 1997 Constitution, there must not be any dilution of the human rights presently preserved in the Fiji Bill of Rights or the preservation of positions of power for specific ethnic groups. The military already attempted to dilute human rights contained in the 1997 Constitution when it repromulgated the Constitution after the 19 May attempted coup.

Further, claims of indigenous paramountcy must not be used to justify the preservation of political power for one ethnic group. The *International Declaration on the Elimination of All Forms of Racial Discrimination* provides that all members of a society must be able to enjoy rights free from racial discrimination. Any reservation of political power or positions to particular ethnic groups would be in direct violation of international law. As part of ensuring the divisions in Fijian society are healed, the Commonwealth must not permit racism to be entrenched in the Fijian Constitution.

### 5.2 Social Justice Act

In late December 2001 the *Social Justice Act* was passed by the Fiji Parliament. The *Social Justice Act* aims to provide affirmative action programmes for the benefit of disadvantaged groups in Fijian society. This Act has come under fire for being racially biased and for implementing Qarase's nationalistic 'pro-indigenous interests' agenda which in a previous incarnation was released as part of a 'blueprint for administration' during his tenure as head of the military-backed interim administration in 2000.

The basis for claims that the legislation is racist is that, while the Act claims to alleviate poverty by targeting groups who are the most underprivileged, the Schedule of Affirmative Action programmes in the legislation is heavily slanted towards indigenous needs. The absence of proportionate poverty alleviation programmes aimed at Indo-Fijians is not justifiable, especially when acute poverty equally affects the Indo-Fijian community. It is clear that the Act promotes the interests of some ethnic groups over others'.

### 5.3 Fiji rolls from one coup to another

Fiji has had a turbulent time since gaining independence in 1970. The first sign of disquiet arose in 1987 when Fiji was thrown into disarray by two successive coups – one on 14 May and the other on 26 September 1987.

The coup leader, Colonel Sitiveni Rabuka removed the democratically elected government of Timoci Bavadra, abrogated the 1970 Constitution, declared himself head of state, proclaimed Fiji a republic, and announced the formation of a new Council of Ministers. As a consequence of these actions the

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Commonwealth Heads, meeting at the 1987 CHOGM in Canada expelled Fiji from the Commonwealth.

#### **5.4 The birth of the 1997 multi-racial Constitution**

After a period of military rule, what has been coined the 1990 Constitution, was decreed into existence by the Fijian President without consultation or public participation in its drafting. The 1990 Constitution contained a clause, which required a constitution review seven years from the date of promulgation.

At the 1992 general elections, the first under the 1990 Constitution, the Soqosoqo Vakavulewa ni Taukei (SVT) came to power and Colonel Rabuka became Fiji's first democratically elected Prime Minister since the 1987 coups. Colonel Rabuka governed Fiji, firstly as head of the military and then as Fijian Prime Minister from 1987 to 1999.

In 1994 a three person Constitutional Review Commission headed by Sir Paul Reeves began their work of reviewing the entire Constitution. The Constitutional Review Commission's work led to the introduction of the groundbreaking 1997 Constitution.

The 1997 Constitution was unanimously approved by the Great Council of Chiefs (GCC), the highest decision making body within indigenous Fijian society. Furthermore the 1997 Constitution was passed by both houses of Parliament elected by the people of Fiji under the 1990 Constitution.

The 1997 Constitution has been heralded in Fiji and internationally as being a fair constitution that balances indigenous rights with the interests of minority groups. For the first time in 1997 the Constitution of Fiji conferred constitutional recognition on the GCC as the body which is responsible for the appointment of the President, Vice-President, and 14 members of the upper house of Parliament (the Senate). The GCC appointed members of the Senate, in essence, are given a constitutional veto on all matters affecting Indigenous Fijians. In addition the Constitution provides for the special entrenchment of legislation affecting land and governance of indigenous issues.

The allocation of ethnic based proportional representation in the lower House of Parliament ensures a guaranteed Indigenous Fijian majority, and constitutional amendment to change the proportion of indigenous representatives in the lower house cannot be passed without the express permission of Indigenous Fijian parliamentarians.

Furthermore, the Constitution provides that when interests of different ethnic groups do not correlate, the indigenous community's interests are paramount. The Compact of the Constitution provides for land ownership according to Fijian custom and affirmative action in favour of Indigenous Fijians.

Civil Society have embraced the 1997 Constitution, although they recognise that there has been widespread, and some groups argue, justified disquiet about the electoral system. However, the content of the Constitution has been heralded by all as a document which brought together the interests of all Fijians, therefore is a document which should be protected and used as a tool to reconcile the divides in Fijian society.

#### **5.5 The Political Currents Leading up to the May 19 Attempted Coup**

After the introduction of the new Constitution and in the lead up to the 1999 election approximately 200 leases held by Indo-Fijians over native Fijian land were scheduled to expire. In order to appease

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indigenous nationalists, who opposed the extension of the leasehold, Prime Minister Rabuka adopted a hard line towards extension of native land leases.

As a consequence of the hard line stance of the SVT party, the National Federation Party (NFP), who mainly represented the Indo-Fijian cause, joined in coalition with the SVT party in the hope of gaining some concessions for Indo-Fijians. The coming together of these two unlikely coalition partners left the FLP led by Chaudhry, as the main opposition party and representative of Indo-Fijians. Furthermore the alliance between the indigenous SVT party and the Indo-Fijian NFP alienated many nationalist voters who once supported the SVT.

The 1999 general elections were the first to take place under the new 1997 Constitution. FLP won an impressive victory gaining 37 of the 71 seats in parliament. They were able to form government in coalition with a number of smaller parties under the banner of the People's Coalition. The People's Coalition was made up of the Party of National Unity (PANU), Fijian Association Party (FAP) and Veitokani ni Levenivanua Vakaristo (VLV).

It is generally thought that the sweeping victory could be attributed to an effective campaign against the excesses of the Rabuka government and the focus on what has been termed 'bread and butter' issues which Rabuka had neglected.

However, the People's Coalition was formed out of a common intent of ensuring Rabuka and the SVT did not return to government, mainly as retribution for the coups of 1987. He had not been forgiven for the coups of 1987 by one side, and was punished by Indigenous Fijian parties and voters for breaching the traditional protocol regarding the appropriate place for commoners in the traditional Fijian social hierarchy dominated by chiefs.<sup>3</sup> As such, the People's Coalition was based on opposition to Rabuka rather than common policy objectives. Time showed that this was an unstable basis on which to form a coalition.

(a) **Too Fast Too Soon**

On gaining power the Chaudhry government started to implement a reform agenda which included making the government's engagements with the private sector more transparent and scrutinising government appointments and contracts more closely. The Government also increased revenue through a crackdown on corporate tax evaders and sought to recover money missing due to the National Bank scandal. Corruption investigations commenced against public service officials appointed by Rabuka and some were in turn removed.<sup>4</sup>

One government official targeted by the new administration was George Speight, who was removed from his position as Chairman of the Fiji Hardwood Corporation due to suspected corrupt practices. Speight allegedly accepted payments from an American company who sought access to Fiji's mahogany reserves.

In addition to all these reform initiatives the Chaudhry administration sought to find an impasse to the stalemate which had arisen under the Rabuka leadership between Fijian landholders and Indo-Fijian

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<sup>3</sup> Lal, Brij V "Chiefs and Thieves and Other People Besides': The Making of George Speight's Coup" *The Journal of Pacific History* Vol.35 No.3 2000 at p.286.

<sup>4</sup> Snell D and Prasad "Behind the Fiji Crisis: Politics of Labour in an Ethnically Divided Society" *Arena* No.15 2000 at p. 47.

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farmers over the expiration of leasehold over native land. The government sought to do this by offering a relocation allowance to Indo-Fijian farmers who did not have their leasehold extended. Nationalists viewed this as Chaudhry looking after his own constituency.

Further, poverty alleviation programs targeted towards the poorest people were viewed as being Indo-Fijian focused as the most disadvantaged Fijians tend to be rural dwelling Indo-Fijians.

**(b) Race and Land: Whose land is it anyway?**

Chaudhry also sought to reform the Native Land Trust Board (NLTB) which regulated leasehold of indigenous lands and was a Fijian institution in its own right conferred with the responsibility of looking after native lands.

Eighty three per cent of land in Fiji is under native tenure (which means owned by Indigenous Fijians), with the majority of the productive land leased to Indo-Fijian farmers. Under the 1966 *Agricultural Landlords and Tenants Ordinance* many Indo-Fijian sugar cane farmers, or homesteaders obtained 30 year leases over the native land at relatively low rentals. These leases commenced expiring in 1997, at which time some Fijian owners sought to reclaim their land to cultivate themselves, rezone for commercial or residential purposes, or simply used the threat of non-renewal to obtain higher rentals.

In light of the fact that some farmers were unable to extend their leasehold or were unable to afford higher rentals, the Chaudhry government wrote off the previous government's loans to cane farmers and established a \$F20 million resettlement scheme. In circumstances where farmers refused to be resettled elsewhere to farm, the government provided compensation. The main beneficiaries under this scheme were Indo-Fijian cane farmers. In response to the outcry which followed financial assistance was also offered to land owners who wanted to reclaim and farm their own land, however no payments were made to Fijian land owners prior to the attempted coup.

In addition to these activities which were viewed as being pro Indo-Fijian the Chaudhry government proposed an amendment to the 1997 Constitution to reduce the NLTB's power to advise the President on land issues. Also, the government moved to introduce a Land Use Commission to work with land owners to identify better use for land, which would have circumvented the NLTB's role. This was portrayed by the SVT and nationalists as an attempt by an Indo-Fijian prime minister to deprive Fijians of their land and undermine traditional Fijian institutions. It is this land issue which ultimately united the Fijian nationalist movement.

**(c) The ramifications**

The SVT and the nationalists commenced a campaign of destabilisation aimed at undermining the Chaudhry government. Those who sought to destabilise the government played on racial divisions, distributing fliers, making public speeches and even using the pulpit to espouse the dangers presented by having an Indo-Fijian Prime Minister. Chaudhry was characterised as trying to steal Fijians' land and undermine the indigenous system and way of life.

The campaign was immensely successful, especially when aided by Chaudhry's uncompromising and hard-headed approach which alienated the media and even began to alienate supporters of his own party. There was a sentiment that Chaudhry had gone too far too fast.

On May 19, 2000 the destabilisation campaign reached a climax when thousands marched through the main streets of Suva demanding Chaudhry's resignation.

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Whilst the marches were occurring in central Suva the Fiji Parliament was in session. With attention focused on the march in central Suva, George Speight stormed the Parliament complex taking Parliament hostage. Speight demanded the dismissal of the Prime Minister and elected government, the abrogation of the Constitution, amnesty for him and his co-conspirators, the establishment of Fijian paramountcy and the election of a new purely Indigenous Fijian Government.<sup>5</sup> Members of the Fiji military's crack anti-terrorist unit were present and assisted storming parliament and securing the complex.

## 5.6 Post May 19, 2000 Scenario

For approximately five weeks violence, arson, larceny and looting prevailed. Indo-Fijians were the primary targets of the violence.

As the government was being held hostage in the Parliamentary complex, the President, Ratu Sir Kamisese Mara took over executive control of the country. On May 29 2000, under pressure from the military President Mara resigned in order that the military take executive control. The military, sympathetic to Speight's nationalistic cause, abrogated the Constitution, offered amnesty to the terrorists and commenced negotiations over the make-up of the interim administration and amendments to the Constitution.

Having achieved most of his objectives Speight impressed upon the military to accept his nominees for the interim administration. The military discontinued their dialogue with the terrorists and announced the make up of the militarily appointed civilian administration on July 4, 2000. The military backed civilian administration contained "a number of senators, nominated by the Great Council of Chiefs, who had been actively involved in the destabilisation campaigns."<sup>6</sup>

It was acknowledged that the interim administration was to act in a caretaker capacity only. However, subsequent to his appointment the military appointed interim Prime Minister, Laisenia Qarase announced that there would be a review of the 1997 Constitution to ensure that it preserved indigenous interests, felling of the mahogany forests recommenced and procedures for reviewing land ownership was introduced. Coupled with the release of the military backed interim administration's 'blueprint' it became clear that these unelected and unaccountable administrators were venturing into the domain of policy and law making normally reserved for a democratically elected parliament.

Displeased with the make-up of the military backed interim administration, Speight supporters went on a further rampage. Simultaneously there was a mutiny of soldiers in the northern town of Lambasa, the burning and looting of shops, occupation of police stations and government offices by the terrorists, and the take over of regional airports, tourist resorts and the main hydro-electric station which provided electricity to Suva and the main island.

In the face of what some called an imminent civil war the military agreed to sign the *Muanikau Accord*. The Accord had been negotiated with the terrorists earlier and provided that in exchange for Speight releasing the hostages and the terrorists relinquishing their weapons a full amnesty would be granted to Speight and his supporters and the military would hand over responsibility for selecting the interim administration to the GCC. Finally on 13 July 2000 the hostages were released and a new interim

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<sup>5</sup> Ibid., p. 48.

<sup>6</sup> Ibid., p. 49.

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administration was announced. Ratu Josefa Iloilo, the preferred choice of the terrorists, was appointed President. Qarase remained Prime Minister.

The make up of the new interim administration did not please Speight or his supporters and led to a new round of violence. The military responded with a rapid crackdown, arresting Speight, his advisers and hundreds of supporters on the basis that they had contravened the *Muanikau Accord* by failing to hand in their weaponry.

Commentators argue that the final make-up of the military backed interim administration represented an "alliance between Fiji's conservative business elite and traditional institutions and chiefs from different parts of the country."<sup>7</sup>

The interim administration, illegal as it was, went to the extent of amending, by decree, laws previously passed by a democratically elected Parliament and reversing the policy direction of the government. The discontinuation of the Land Use Commission, resumption of financial support to the NLTB and the removal of native land from the ambit of the *Agricultural Landlords and Tenants Ordinance* exemplified the interim administration's intent to govern as if they had been mandated to give policy direction to the country.

These actions, combined with the undermining of the Public Service Commission which acted as a watch dog over the public service, led to the perception that the different arms of government were no longer impartially serving the government of the time, rather were an extension of and promoting the agenda of the military backed interim administration.

Furthermore, amendments to the Bill of Rights when it was promulgated by decree, in particular amendments to the definition of 'equality' in order to permit discrimination against sexual minorities, indicated the interim administration was prepared to erode the human rights conferred on all Fijians under the 1997 Constitution when it did not suit their policy objectives.

After consulting civil society organisations, in particular civil society groups who represented sections of the Indigenous Fijian community, it became clear to CHRI that there was little public support for the military backed interim administration.

There were grave concerns that an un-elected administration, which consistently failed to consult the people, which was far from transparent, was not accountable to the people or Parliament, and which was not representative of Fiji's multi-ethnic and multi-religious society has directed the shape of Fiji's future for over the last year.

**(a) The Great Council of Chiefs (GCC)**

The Bose Levu Vakaturaga or the GCC holds a revered position in Fijian society, being a modern incarnation of a forum where chiefs from across Fiji can come together to discuss issues. The GCC is afforded special recognition in the 1997 Constitution and conferred the responsibility of nominating the President. Chiefs from all over Fiji are represented on the GCC resulting in an institution which is not necessarily cohesive.

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<sup>7</sup> Snell and Prasad, *op.cit.*, p. 52.

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The chiefs who supported Speight and his ultra nationalistic cause primarily came from the south eastern section of the island of Vanua Levu. Chiefs from this region had found it difficult to gain political positions since the 1987 coups, therefore were excluded from opportunities to further their personal wealth. In turn, their reduction in personal wealth had meant they exercised less influence within their traditional circles. The chiefs' inability to obtain political office can be attributed to the rise of the number of candidates who derived from the working classes. The move to elect commoners rather than the traditional custom of electing chiefs saw its genesis with the rise of Rabuka, a commoner, to the position of Prime Minister after the 1987 coups. Naturally, these chiefs saw merit in Speight's ultra nationalist cause.

In contrast the chiefs from the west were less supportive of Speight's cause and more importantly criticised his methods. The west's wealth and prosperity can be attributed to the steady flow of international tourists who flock to Fiji to visit international tourist resorts. Speight's terrorist activities threatened the corner stone of the west's continued prosperity. Despite these divisions the GCC remains the pinnacle of indigenous Fijian power.

#### **(b) The Military as an Indigenous Fijian Institution**

The Fijian military was responsible for the 1987 coups and was a key player in the 2000-attempted coup. On both occasions the military acted in accordance with the indigenous cause. This raises questions as to why the Fijian military is so political and instead of being an arm of government has grown to become an indigenous institution all by itself.

During World War II, Fijians joined the Fijian Military Forces in great numbers to fight in the Pacific Campaign. The collective nature of Fijian society ensured their dependents would be provided for. Whereas Indo-Fijian rural based societal structure did not provide this collective support, therefore Indo-Fijians homesteaders were bound to their individual plots and did not join the military.<sup>8</sup> Ever since the Fijian Military Forces have been the bastion of Fijians and has grown to be an indigenous institution in its own right.

On 29 May 2000 the military did intervene to bring about law and order by imposing martial law and restoring calm. This is generally considered a proportionate response under the circumstances. However, the military went further requesting the President step aside, to allow the military to assume executive authority. The military then proceeded to illegally abrogate the Constitution by decree and offer amnesty to Speight and his supporters. These actions were in fact capitulating on three more of Speight's principal demands.

What is of grave concern for civil society is that the military, without any mandate from the people, engaged in political negotiations with the terrorists to determine the future governance structure of Fiji, including the composition of an unelected interim government. These negotiations manifested themselves in the *Muanikau Accord* in which the military agreed to transfer executive authority in Fiji to the GCC. The GCC are an unelected group made up from nominees from tribes in different provinces and the membership is purely Indigenous Fijian. The GCC then appointed the new President and Vice-President, who were also Speight's nominees, who in turn were given executive authority to appoint the military backed interim administration.

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<sup>8</sup> Roy, W.T. "Fiji Today – The Politics of Frustration" *The Round Table* No.305 Jan 1988 p.52 Footnote 10.

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From the very start it was evident that not only did the military not uphold the Constitution, they lacked the resolve to do so. They actively participated in negotiations which set in motion a process to review the Constitution, they agreed to the *Muanikanu Accord* which allowed Speight's supporters to be appointed as President and Vice-President and allowed Speight supporters to participate in the interim administration.

The military in Fiji clearly failed to defend democracy and protect the Constitution of Fiji passed by the duly elected representatives of the people. Their actions in the aftermath of the 2000 coup attempt showed that the military had an agenda which correlated with the demands of the terrorists. It appears the military capitalised on the failed coup by using it as a vehicle to impose their reform agenda on Fiji by military decree.

### (c) **The Native Land Trust Board**

The Native Land Trust Board (NLTB) was established under the *Native Land Trust Act* of 1940. The NLTB comprises the President of Fiji as president, the Minister for Fijian Affairs as chairman and a 10-member Board of Trustees.

The NLTB has been conferred the responsibility of administering native land for the benefit of indigenous landowners. As with the GCC the NLTB is a recent construct which has become a *de facto* Fijian political institution. The NLTB acts as a central land authority whose "bureaucrats have little incentive to explore better land uses; indeed they appear inconvenienced when the true owners want to experiment with new land uses."<sup>9</sup>

Native land includes native reserve and non-reserve land. Reserve land has been specifically set aside for the use, maintenance or support of the indigenous landowner and cannot be leased. Whereas, non-reserve native land may be dealt with by way of lease or licence.

Native land comprises 1,487,581 hectares which is 84 per cent of the landmass in Fiji. The Board currently administers 28,700 leases over this land. Many of the licensees are Indo-Fijian homesteaders and farmers. Fijian land owners receive rental or royalties for the use of the non-reserve land. Prior to May 19, 2000 the NLTB was opposed to the policies of the Chaudhry government and the establishment of the Land Use Commission.

The NLTB system of centralised leasing of land has been a source of friction between disenfranchised Fijian land owners who complain about the high administration costs associated with a central bureaucracy and Indo-Fijian tenants who experience great insecurity due to the process of renegotiating their leasehold with the NLTB.<sup>10</sup> Despite the Land Use Commission's intent to rectify some of these tensions, it was nevertheless disbanded by the interim administration in favour of the old system.

### 5.7 **What was different this time?**

The main difference between the coups of 1987 and the attempted coup of 2000 was that in 1987 the coups were perpetrated quickly and decisively by the army. Power shifted almost immediately from the elected representatives to the military. Whereas, in 2000 only certain factions of the military

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<sup>9</sup> Kapser W "Learning Racial Harmony: Fiji Needs New Constitutional Rules" *Policy* Autumn 2001 at p.10.

<sup>10</sup> Ibid.

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backed the attempted coup and power shifted from one group to another over a period of months until it finally settled with the second incarnation of the interim administration.

The ongoing power struggle meant that government ministers were kept hostage for just under 8 weeks, unlike the 1987 coups when ministers were released almost immediately.

The 1987 coups were organised and planned well ahead of time. In contrast the attempted coup was relatively unplanned with key leaders reportedly only joining the insurgents “shortly before the take over of parliament; George Speight two days earlier and Major Ilisoni Ligairi only 40 minutes beforehand”.<sup>11</sup>

Most importantly during the 1987 coups the motivation was clearly the nationalist cause and the preservation of indigenous rights.

Although these motivations were touted as the basis of the 19 May attempted coup, and Speight's goals were publicly supported by Rabuka and Qarase, it became evident that due to its unplanned character many players sought to manipulate the situation to achieve their own agenda. It is these mixed agendas which have unlocked the divisions which underscore Fijian society; whether they be divisions within the indigenous community, the military, the judiciary, divisions between traditional chiefs, and divisions between regions. For this reason democratic elections are but the first step in repairing the devastation triggered by Speight when he led terrorists into the Parliamentary complex on 19 May 2001.

#### **5.8 How was the 1997 Constitution saved?**

On November 15, 2000 the High Court of Fiji handed down a judgement in response to an application brought by Chandrika Prasad (Applicant), an indigent farmer, who claimed that he had been adversely affected by the armed invasion of Parliament on May 19 2000, the hostage crisis, the military takeover and the installation of the interim administration.

The Applicant sought certain declaratory orders in relation to these events. The Respondents to the application were the Republic of Fiji and the Attorney-General of Fiji (Respondents). The Court's finding confirmed that the 1997 Constitution was not abrogated by the attempted coup and that there is “no constitutional foundation of legality for the interim Government or for the Constitutional Review Commission” which they established to examine ways of amending the 1997 Constitution to promote indigenous rights.

This judgement paved the way for the establishment of a time line for the orderly return to democracy. General elections under the 1997 Constitution were called for August 2001, some 15 months after George Speight and his armed supporters stormed the parliamentary complex.

The role of the Commonwealth is no longer to advocate for the return to democracy, rather to assist Fiji work towards healing the divides which now mark this society and preserve the rights of minority groups in Fiji who have suffered due to the upheaval.

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<sup>11</sup> Fraenkel J "The Clash of Dynasties and Rise of Demagogues; Fiji's *Tauri Vakaukauma* of May 2000" *The Journal of Pacific History* Vol.35 No.3 at p.295.

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## **6. The Churches and the Indigenous Cause**

Despite early action in organising the peace vigil, for two weeks following the coup, the churches had, by and large, remained silent on crucial issues relating to the restoration of democracy and the protection of human rights. According to analysis by the Fiji Council of Churches Research Group, many indigenous church ministers had not condemned the attempted coup as being against the values enshrined in the Christian gospel in case they were seen to be against the indigenous cause.

The general perception held by Civil Society is that the church, especially the Methodist Church, appeared to condone the actions of Speight and support the military in its usurpation of control. It was felt that the Methodist Church supported the cause but not the method. It was generally believed that whilst the Methodist Church verbally condemned the coup, they supported it by their actions - particularly by their daily presence at the Parliamentary complex offering prayers and communion to hostage takers. Furthermore, the Methodist Church was conspicuously absent from a list of Church Leaders who condemned the coup in a media released dated June 7, 2000.

### **6.1 The Indigenous Cause**

The lay people of the Christian faith with whom we spoke, believed that the 'indigenous cause' was a blend of political supremacy over the Indo-Fijian community and the notion of a Christian State, which some Christian Churches have been lobbying in favour of for some time.

It is clear that the revised electoral system under the 1997 Constitution unexpectedly delivered democratic victory to the party that did not endorse the aspirations of a section of the indigenous community which believed in 'paramountcy' of indigenous interests over all other interests. It is equally clear that the election result set in motion a deliberate programme of propaganda designed to foster anti Indo-Fijian sentiment. What is concerning is that there is little evidence that the church, during this particular period, attempted to counteract this propaganda by publicly endorsing the principles of democracy and equality over indigenous paramountcy.

### **6.2 The Christian State and Religious Discrimination**

After the election of the Chaudhry government in 1999 parts of the Christian Church attempted to undermine the democratic process. This is illustrated by comments in the media shortly after the attempted coup whereby a Minister from Apostolic Gospel Outreach Fellowship International stated, "A government that's failed to make Fiji a Christian state will always be removed. God has removed the deposed Mahendra Chaudhry government because it was led by a non-Christian".

A disturbing form of human rights abuse in the shape of religious discrimination appears to have emerged in Fiji. The call for Fiji to become a Christian state again has created a degree of disquiet and angst among members of other religions.

### **6.3 The Failure of the Methodist Church to Encourage & Promote Human Rights**

There was general concern that the Methodist Church, which has significant influence over the social and political life in Fiji, did not support disadvantaged groups in the community nor the principle of democracy. The fact that there is ethnic division even within the structure of the Methodist Church, namely the division between the Indian circuit and a 'Fijian' circuit of the Methodist Church, exemplifies the lack of solidarity and empathy for disadvantaged and minority groups.

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The Methodist Church's support for the discrimination of sexual minorities through their endorsement of the amendments to the definition of equality in the Bill of Rights when it was promulgated by decree, further illustrates the church's lack of empathy to disadvantaged groups.

#### 6.4 The Methodist Church as an Obstacle to Democracy

It appears the Methodist Church has not reflected theologically upon its role in Fijian society, nor articulated its understanding of humanity and equality as compared to racism. Christianity in Fiji has become culturally and politically enmeshed to the extent that primary features like the nature of humanity and the pursuit of equality have been rendered secondary to indigenous paramountcy.<sup>12</sup>

It is worth noting that the current leader of the Methodist Church in Fiji is quite proud of the fact that many of his church elders were also members of the interim government. The church and State were clearly entwined in such a way that it made it impossible for the church to comment or reflect critically upon human rights issues facing Fiji. It has issued no call for an immediate return to constitutional democracy.<sup>13</sup>

The present leader of the Methodist Church in Fiji, faced with some very complex and difficult choices, displayed racist overtures in his understanding of what was happening in Fiji and the relationship between Indigenous Fijians and Indo-Fijians. Cultural nuances and differences are no excuse for discrimination on the basis of ethnic identity.<sup>14</sup>

When asked what he thought was needed in Fiji to enable Indo-Fijians to live free from violence and harassment the leader of the Methodist Church replied "All [Indo-Fijians] have to do is accept that they are visitors." The inference here is quite sinister - know your place and you will be safe.<sup>15</sup>

He went on to describe the relationship between Indigenous and Indo-Fijians by drawing upon the analogy of house owners and visitors. He emphasised that while the owner makes the visitor welcome (this is the Fijian way) 'the visitor is a visitor and is always a visitor.' When asked about the concept of loving one's neighbour he dismissed the implication of this piece of theology by declaring that it was a Jewish concept and not Christian.<sup>16</sup>

He went on to say that "We don't really hate Indians, only hate when they try to take our land away." His articulation of the political and consequent social paramountcy of Indigenous Fijians illustrated his support of 'the indigenous cause' over human rights.<sup>17</sup>

It is the opinion of the CHRI Fact Finding Mission to Fiji that Christian theology has been and is being perverted in order to support 'the Indigenous cause', paramountcy and discrimination. The leader of the Methodist Church was very clear about what he thought was the reason for the coup:

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<sup>12</sup> Reverend David Pargeter, Uniting World Mission, Delegate CHRI Fact Finding Mission to Fiji, August-September 2000.

<sup>13</sup> Ibid.

<sup>14</sup> Ibid.

<sup>15</sup> Ibid.

<sup>16</sup> Ibid.

<sup>17</sup> Ibid.

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“The Constitution was the main cause; it was rushed through. Indigenous Fijians do not like the Constitution, it does not protect their rights. Power is with the Prime Minister not the President.”<sup>18</sup>

It should be noted that this view is definitely not endorsed by all members of the Methodist Church or people of Christian faith. Some notable exceptions like the Rev Koroi have publicly denounced the role of the Methodist Church and called upon it to support the principles and process of democracy.

## **7. Race based violence and the divisions between minority groups**

Just as it was thought race relations were on the mend after 1987 and the development of the 1997 Constitution, the attempted coup of May 19, 2000 plunged race relations to an all time low. There is no doubt that the events which followed the invasion of the parliamentary complex, both in Suva and in regional areas has left scars within Fiji's ethnic communities which may take generations to heal.

Undeniably the most affected were Indo-Fijian rural communities who felt the brunt of the race violence which was unleashed after May 19, 2000. Thousands of Indo-Fijians were driven from their homes and off their leasehold and freehold lands in Tailevu, Naitasiri and Vanua Levu – these homesteaders now constitute Fiji's internally displaced people. There are hundreds of documented cases of groups of Indigenous Fijians in these rural areas committing gross human rights violations against Indo-Fijians, including severely assaulting adults and children over extended periods of time, sexually assaulting women and children, theft, looting, arson and destruction of property.

Only Indo-Fijians were targeted during this reign of terror perpetrated by what have been described as Fijian nationalists. Homes in some rural areas were raised, and Indo-Fijians were informed that if they return to their farms, irrespective of whether they have good title or not, they and their families will be killed. The justification offered by the Fijian nationalists perpetrating these human rights violations were that the farms constitute indigenous land, therefore do not belong to the Indo-Fijians. This is the case even if the Indo-Fijian farms were held as freehold land, leased from the crown or validly leased from Fijians.

Such claims indicate that concerns over ownership of land are at the core of these human rights violations, however, the motivation does not detract from the fact that a wave of terror swept through a number of rural areas in Fiji whereby people were targeted for violence because of their ethnic background.

Numerous sources have indicated that these acts of violence had been fuelled by propaganda aimed at Indigenous Fijians prior to the failed coup. Propaganda disseminated by word of mouth via the ‘coconut telegraph’ and through some Christian church services, as well as through written fliers, depicting Indo Fijians as a sneaky ethnic group which had designs on taking the leadership of the country and stealing Fijians’ land. The source of this propaganda is not clear, however, when combined with the SVT's ‘destabilisation process’ whereby they consciously made every political issue a race issue after they were relegated to opposition in the 1999 elections, the scene was set for race based violence.

The Indo-Fijian communities felt helpless to stop the waves of racial violence which swept through Fiji. This is especially so considering there are verified eye witness accounts that members of the almost exclusively Indigenous Fijian military and police participated in the violence and looting.

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<sup>18</sup> Ibid.

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This activity has been condemned by the Fijian community and the churches, however the legacy and mistrust of these deeds will be felt for a long time to come. Before reconciliation can even be attempted the fate of these internally displaced people must be addressed.

## 8. Indigenous Fijian Community

The impact of the attempted coup on the Fijian community has been costly. Less so because of violence within the community or violence perpetrated against the community, rather because “old assumptions about the traditional structure of power have been questioned in novel and potentially significant ways.”<sup>19</sup> It is clear from the way the attempted coup was executed and the actions of different Fijian power institutions after May 19, 2000 that the attempted coup was about more than just race, but also Fijian rivalries and the quest for power within the Fijian community. George Speight has admitted “the race issue between Fijians and Indians is just one piece of the jigsaw puzzle that has many pieces.”<sup>20</sup>

### 8.1 Indigenous Paramountcy

Besides the infighting between the new guard which had its origin in the Rabuka years and the traditional powerbrokers in Fijian society, the most prominent Fijian issue to come from the May 19 coup is the call from some Fijian circles for indigenous paramountcy.

Obviously Fijian paramountcy means different things to different people, however, amongst political circles, and particularly amongst nationalists it means the preservation of political power for indigenous Fijians. It is claimed that indigenous paramountcy is needed in order to ensure protection of indigenous rights.

Nationalist calls for a review of the 1997 Constitution is based on an unfounded fear that the Constitution does not protect or advance indigenous interests or rights. It appears that this perception is a reaction to the fact that an Indo-Fijian was able to rise to the position of Prime Minister. Alternately, the claim that the Constitution does not protect indigenous interests could be used as an excuse to justify the entrenchment of the indigenous power base even further.

The flaw which underlies any claim that indigenous paramountcy needs to be introduced into the Constitution is the fact that the 1997 Constitution already preserves the rights of indigenous Fijians.

The Compact, which is included in Chapter 2 of the 1997 Constitution specifically provides for the paramountcy of the interests of the Fijian people. Furthermore, under the 1997 Constitution the President determines who will be sworn in as Prime Minister. The President is selected by the GCC (a Fijian institution), therefore the position of President will invariably be also held by a Fijian, and simply by virtue of the fact that the Great Council of Chiefs - a Fijian institution - nominates the President. There is little doubt that under the 1997 Constitution indigenous paramountcy is protected.

Some nationalists and those calling for amendments to the 1997 Constitution may be mistaking the difference between the rights and responsibilities outlined in the Constitution and the electoral system. There was obvious disquiet over the new preferential electoral system, which is accredited with

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<sup>19</sup> Lal, *op.cit.*, p.282.

<sup>20</sup> Interview in *Fiji Sun*, 10 June 2000 cited in Lal, *op. cit.*, p.282.

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handing power to Labour. Nationalists and those who advocate for indigenous paramountcy need not blame the 1997 Constitution for Labour gaining a majority at the 1999 elections, rather this should be attributed to a new electoral system and the electorate's displeasure with the excesses of the previous government composed of politicians predominantly from the indigenous SVT party.

## 9. Indo-Fijian Community

The Indo-Fijian community makes up more than 40% of the population, yet the impact of the attempted coup on this sector of the community and their future role in Fiji has largely been ignored. No solution can be found unless Indo-Fijians are included in negotiations and consulted on the future of Fiji.

Indians were brought to Fiji as indentured labourers from 1879 up to 1920. During this period more than 60,000 Indians were brought to Fiji and Indo-Fijians are now in their fourth generation.<sup>21</sup>

The indiscriminate selection of indentured labourers from all castes, and their subsequent equal treatment (albeit poor treatment akin to slavery) by employers in Fiji resulted in the erosion of the caste system.

The imbalance in the gender ratios of indentured labourers brought to Fiji and the destruction of the caste system, which acted as the main determinant of marriage partners, played havoc with the Indian family pattern and kinship system.<sup>22</sup> It has been argued that the kinship system was so distorted that by the end of the indenture period no attempt was made to recreate in Fiji the Indian village system based on an extended family. Rather, what emerged was “a pattern of nuclear families living in homesteads on leasehold cane farms centring on a sugar mill.”<sup>23</sup>

It is evident from this analysis that the expiration of rural Indo-Fijian leases over farming land and in extreme cases the terror experienced by Indo-Fijians who were driven from their farms by gangs of Fijians after the attempted coup threatens more than just Indo-Fijian livelihoods, but also the basis of rural Indo-Fijian community. It is estimated that between 1997 and 2000 more than 3,700 leases expired.<sup>24</sup>

In addition to the communities which grew from the indentured labourers are those communities which stem from free migrants, predominantly of Gujarati and Sikh heritage, who now form the bulk of small business in Fiji. They predominantly live in urban areas and have closer ties with India.<sup>25</sup>

### 9.1 The Indo-Fijian Exodus

There is little doubt that the violence, looting and arson have been far worse this time around than in 1987. For many Indo-Fijians who have the means or capacity this has been the last straw and they are

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<sup>21</sup> Roy, *op. cit.*, .46.

<sup>22</sup> Ibid.

<sup>23</sup> Ibid.

<sup>24</sup> For details please visit the following website - <http://fijilive.com/news/news.php3?art=19/19u.htm>

<sup>25</sup> Roy *op.cit.*, p.47.

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now setting their sights on establishing themselves in other countries. After the 1987 coups 70,000 – 80,000 people migrated from Fiji, most of them Indo-Fijians, to live in Australia, New Zealand, Canada and the United States.<sup>26</sup> There is consensus amongst Indo-Fijians that after the attempted coup anyone who has the means to emigrate will do so.

## 9.2 Indo-Fijian Concerns

Central to Indo-Fijian concerns is the belief that there should be parity in political power sharing between themselves and Fijians on account of the fact that they are the largest minority group, which in real size is comparable to indigenous Fijians, and the Indo-Fijian community contributes greatly to the economy and thus the prosperity enjoyed by all Fijians.

Indo-Fijians have always been marginalised when it comes to Fijian politics. Whenever Indo-Fijians have gained ascendancy in political power (the NFP-Labour Coalition of 1987 and the People's Coalition of 1999) they have been removed by armed insurrection with support of the Fijian community. Indo-Fijians are losing faith in the democratic system.

## 10. Women's Rights

There is little doubt that in practice and under the law there is disparity between the rights enjoyed by men and those enjoyed by women, despite the 1997 Constitution conferring equal rights on every citizen of Fiji.

Often the reason women do not enjoy the same rights as their male counterparts is due to the competing claims for the preservation of customary norms as compared to the advancement of individual human rights.<sup>27</sup> The need to balance these claims in traditional societies is made abundantly clear in the 1997 Constitution through the recognition not only of individual rights, but also of group and customary rights.

The reason that individual and customary rights are perceived as competing claims is because one is based on equality and the other on a system of patriarchy.<sup>28</sup> Customary rules aim to maintain male power structures within the community, whereas the only power women are able to exercise is through informal means.<sup>29</sup>

These competing claims are clearly evident in Fiji where often the rights or special needs of women are not being addressed, whether it is through lower wages, unequal access to education or restricted access to health services.

Beyond this academic paradigm the aftermath of the May 19, 2000 attempted coup has had a dramatic impact on the rights of women in Fiji.

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<sup>26</sup> Lal, *op. cit.*, p.283.

<sup>27</sup> Brown K & Corrin Care J "Conflict in Melanesia: Customary Law and the Rights of Women" *Commonwealth Law Bulletin* July and October 1998 at p.1334

<sup>28</sup> Id at p.1335.

<sup>29</sup> Ibid.

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The Fiji Women's Crisis Centre (FWCC) has recently released a report, which suggests that the social repercussions of the coup have been far greater than previously thought.

According to the FWCC due to the attempted coup and the events which followed women's lives were changed “in many ways from a multitude of factors; job losses, pay cuts, fear and insecurity, sexual assaults, domestic abuse, family tensions, land issues and emotional trauma.”<sup>30</sup>

The FWCC report also describes how the process of working to eliminate violence against women has been affected by the coup. The report highlights how the professionalism and sensitivity of the police force and the process of legislative reform have been set back significantly.

The main points to come out of the FWCC report<sup>31</sup> are that:

- 72% of the women in paid employment either lost their jobs, or suffered pay reductions or reduced working hours as a result of the attempted coup.
- Many employers who reduced their staff, laid off the female workers first. This was mostly due to the fact that women’s earnings are not seen to be as essential to the household as the man’s earnings.
- Some women also reported that they had lost their job out of fear of going to work.
- The number of surveyed households with a weekly income less than \$50 more than doubled after the attempted coup.
- In some areas children, in particular girls were kept home from school out of fear for their safety.
- 14% of women surveyed had experienced either verbal or physical abuse that was coup-related, including racist abuse, threats of violence and stoning.
- Sexual violence was used systematically as a means of terrorising Indo-Fijian families.
- 34% of women surveyed said that they did not feel safe in their own homes.
- 1 in 3 women did not think it was safe to send their children to school.
- Over half the women surveyed reported feeling worry, confusion, frustration and depression as a result of the coup.
- Suicide rates in the year after the coup were higher than in the year before
- 11% of married women said that verbal abuse from their partners had increased or begun because of the coup.
- The Interim Administration re-imposed value added tax (VAT) on basic foods soon after they came into power. The People’s Coalition had previously lifted VAT on basic food items. The interim administration also approved a rise in bus and taxi fares. The poor were hit hardest by these changes. Many of the respondents mentioned the price rises in the questionnaire, showing that it significantly affected a large portion of the population.

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<sup>30</sup> <http://www.fijiwomen.com/>

<sup>31</sup> <http://www.fijiwomen.com/>

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Some of the follow-on effects of these increases were also mentioned; children were not being sent to school, the quality of meals was reduced and families were finding it difficult to keep up with bills and rent.

It is clear that in order to counter the detrimental effect that the attempted coup has had on women's rights in Fiji a number of initiatives need to be undertaken by the new government.

For instance, reform in areas of the law, which discriminate against women, and the enforcement of laws, which aim to protect the rights of women, must be undertaken immediately. The law must be sensitive to the special needs of women and a government must act to ensure that the law develops to take this into account.

Equal access to education, training and employment opportunities for women and girls must be provided if the position and status of women in Fijian society is to improve. In addition there needs to be better access for women to higher and tertiary education irrespective of ethnic background.

Women's health needs to be fully supported and adequately funded. Too often women put the needs of the family above their own; it is time for Fijian society to prioritise the health of women.

Finally programs need to be implemented which aim to review any religious social structures which inhibit women developing to the fullest potential.

## 11. Conclusion

Fiji epitomises ethno-cultural diversity, which is also one of the outstanding characteristics of the Commonwealth. For more than four generations both Indigenous and Indo-Fijians have lived together facing fortune and adversity. Almost three decades after independence Fijians came together to forge a Constitution that would satisfy the maximum possible aspirations of all communities. The 1997 Constitution was put together through a process of widespread consultation hitherto unparalleled in the history of Fiji. While there might be some dissatisfaction over the complex electoral system this is not enough reason to throw away the Constitution lock stock and barrel. Since May 2000 members of the Fiji judiciary have on more than one occasion faithfully performed their role of upholding the Constitution whenever it has been undermined and subverted by those who temporarily exercised control over state power.

The overwhelming desire of civil society in Fiji is to find ways and means of settling long-standing disputes within the mechanisms provided for by the Constitution. The Commonwealth must support this predominant sentiment and use its good offices to find an amicable solution to the current political situation in Fiji.



**Civil Society Groups Consulted During CHRI Fact-Finding Mission to the Fiji Islands**

Arya Pratinidhi Sabha of Fiji  
Catholic Women's League  
Citizens' Constitutional Forum  
Columban Fathers  
Fiji Council of Churches Research Group  
Fiji Council of Social Services  
Fiji Human Rights Commission  
Fiji Law Society  
Fiji Manufacturers Association  
Fiji Media Council  
Fiji Methodist Church  
Fiji Muslim League  
Fiji School of Medicine  
Fiji Trade Union Congress  
Fiji Women's Crisis Centre  
Fiji Women's Rights Movement  
Girmit Centre Displaced Persons Camp  
Human Rights Group  
India Sanmarga Ikya Sangam  
National Council of Women  
NGO Youth Network  
Pacific Concerns Resource Centre  
Suva Chamber of Commerce  
Women's Action for Change  
Young Men's Christian Association  
Young Women's Christian Association

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### THE COMMONWEALTH HUMAN RIGHTS INITIATIVE

The Commonwealth Human Rights Initiative (CHRI) is a non-partisan non-profit independent international non-governmental organisation mandated to work towards the practical realisation of human rights in Commonwealth countries. Human rights advocacy and education are at the core of all CHRI's activities, and the aims and ends of all its reports and investigations.

CHRI was born out of an awareness that although the Commonwealth countries have shared legal principles and values, little has been done to set human rights standards within the association itself or to promote a culture of human rights.

CHRI aims to raise awareness of and adherence to internationally recognised human rights instruments and declarations made by the Commonwealth Heads of Governments, and more particularly the values embodied in the Harare Declaration.

CHRI was based in the United Kingdom until 1993, when the head office moved to India. The Trustee Committee office in London continues to support the work of the headquarters based in New Delhi. In May 2001 CHRI opened a new office in Accra, Ghana in order to develop human rights interventions particularly appropriate to the context of Commonwealth Africa.

CHRI is working in the following areas:

- \* **Right to Information**
- \* **Police Reforms**
- \* **Prison Reforms**
- \* **Constitutionalism**
- \* **Human Rights Advocacy**
- \* **Biennial Report on Human Rights Issues to the Commonwealth Heads of Government Meeting (CHOGM).**

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