

Political Background

History

Most authorities agree that the first inhabitants of Fiji came into the Pacific from South-East Asia via Indonesia. The first European contact with Fiji was in 1643 by the Dutch explorer, Abel Tasman. English navigators, including Captain James Cook, made further explorations in the 18th century. The first European settlers were shipwrecked sailors and runaway convicts from the Australian penal colonies. Sandalwood traders and missionaries came by the mid-19th century. In 1874 Vunivalu Ratu Seru Cakobau ceded Fiji to the British Crown. From 1879 to 1916, the British administration brought Indian workers to Fiji as indentured labourers to work on the sugar plantations. After the indentured system was abolished, 60 per cent stayed on as independent farmers and businessmen. In Fiji today, indigenous Fijians comprise 51 per cent of the population and Indo-Fijians 44 per cent.

Following a constitutional conference in London in April 1970, Fiji became a fully sovereign and independent nation within the Commonwealth on 10 October 1970. For 17 years after independence, Fiji was a parliamentary democracy. During that time Ratu Sir Kamisese Mara and the Alliance Party dominated political life. During this time the Fijian and Indo-Fijian communities were roughly balanced numerically, but political power rested in Fijian hands. However the 1987 elections brought a shift in the political landscape in favour of the Indo-Fijians. When Dr Timoci Bavadra's coalition installed a Cabinet with a substantial ethnic Indian representation, extremist elements played on fears of domination by the Indo-Fijian community. The result was two military coups in quick succession and a racial situation that has remained troubled.

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1987 Coups

Lt-Col Sitiveni Rabuka, Chief of Operations of the Royal Fiji Military Forces, staged the first military coup on 14 May 1987. The stated reasons for the coup were to prevent inter-communal violence and to restore the political dominance of the ethnic Fijian community. In September, the Governor-General, Ratu Sir Penaia Ganilau, and the two main political groupings reached agreement on a government of national unity. Colonel Rabuka then staged a second coup on 25 September 1987 objecting to the participation of the deposed coalition government in the proposed government and the exclusion of the military from the negotiations. The Military Government declared Fiji a Republic on 10 October 1987.

The Military Government failed to request the Commonwealth Secretary-General to seek the agreement of other Commonwealth member states to Fiji's continued membership of the Commonwealth under its new constitutional and governmental arrangements. At the 1987 Commonwealth Heads of Government Meeting (CHOGM), in Vancouver, Canada, Heads of Government

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On 6 December 1987, Sitiveni Rabuka returned the reins of government to civilian control. Former Governor-General, Ratu Sir Penaia Ganilau became President, Ratu Sir Kamisese Mara was named Prime Minister and a new cabinet composing civilians and four military officers, including Sitiveni Rabuka, was formed. This government promulgated a new Constitution on 25 July 1990, which while restoring parliamentary democracy, contained features that remained at odds with the ethos of the Commonwealth. A general election was held in 1992 and Major-General Rabuka was named Prime Minister. In a snap election called in February 1994 his party won the majority of seats and he retained the position of Prime Minister.

The Development of the 1997 Constitution

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The 1970 independence Constitution provided for a 52-member lower House with 'communal' – racially reserved – representation. The breakdown was 12 Fijians, 12 Indo-Fijians and 3 for other racial groups. The remaining 25 seats were allocated on a 10:10:5 ratio, with voting on a racially mixed basis. Following the 1987 military coups and the rescinding of the 1970 Constitution, this arrangement was replaced in 1990 by a new Constitution whose dominating feature was a full-scale reversion to communal representation. The 70 seats would be divided on the basis of 37 Fijians, 27 Indo-Fijians, 1 Rotuman (representing the Fijian Island of Rotuma) and 5 for other races. The (appointed) Senate would consist of 24 Fijians, 1 Rotuman and 9 others. The Prime Minister had to be a Fijian member of the House of Representatives.

This was the background to the 1995 decision by the Rabuka Government to establish a Constitutional Review Commission chaired by Sir Paul Reeves, a former Governor-General of New Zealand. The Commission was asked to review the 1990 Constitution, and make recommendations to meet the present and future needs of all in Fiji to encompass racial harmony, national unity and economic and social development. The Commission was to take cognisance of internationally recognised principles and standards of individual and group rights, including their full promotion and protection; the interests and concerns of indigenous Fijian and Rotuman peoples; and the rights, interests and concerns of all ethnic groups in Fiji.

The Commission reported in 1996. Its central recommendation was that there should be multi-ethnic representation based on the Westminster system. "Power sharing" it said, "should be achieved through the voluntary co-operation of political parties or increased support for a more genuinely multi-ethnic party". It proposed that communal seats reserved on a racial basis should continue (12 for Fijians, 10 for Indo-Fijians, 2 for General Electors and 1 for Rotumans) as a transitional measure but that "the people of Fiji should

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move gradually but decisively away from the communal system of representation". A further 45 members should be elected on a non-racial basis, through 15 three-member constituencies. It also said that the Prime Minister should be a Fijian of any race.

On the basis of consensus reached by representatives of a Joint Parliamentary Select Committee, a Constitutional Amendment Bill incorporating most of the Commission's recommendations was unanimously passed through both the House of Representatives and the Senate and on 25 July 1997 the President formally assented to the Bill.

The successful conclusion of the 1997 Constitution brought Fiji back into line with the fundamental political values of the Commonwealth. The Constitution confirmed the status of Fiji as a sovereign democratic Republic, but with constitutional arrangements that satisfied the criteria for Commonwealth membership. It was on this basis that Fiji was readmitted to the Commonwealth and attended the Edinburgh CHOGM in 1997.

1999 Election

Following the General Election of May 1999, held under the 1997 Constitution and its new electoral process (compulsory preferential voting and new electoral boundaries), Labour Party leader Mr Mahendra Chaudhry became Fiji's first non-indigenous Prime Minister. The Labour Party and its People's Coalition partners, the Fijian Association Party (FAP) and the Party of National Unity (PANU), won close to 70 per cent of the total seats in Parliament. Shortly after being sworn in as Prime Minister, Mr Chaudhry announced an inner cabinet in which two-thirds of the members were indigenous Fijians.

The George Speight-led Coup and Military Government

George Speight and a group of his supporters took Prime Minister Mahendra Chaudhry and his cabinet hostage on 19 May 2000, holding them for 56 days in Fiji's Parliament until 3 July 2000. After declaring a State of Emergency, the President, Ratu Sir Kamisese Mara announced that he had taken steps to dismiss the Prime Minister and the Cabinet. He also prorogued Parliament for six months to pave the way for the appointment of an interim government and proposed to embark on a review of the Constitution, in line with the recommendations of the Great Council of Chiefs. On 29 May, as the situation worsened, President Mara resigned and the Commander of the Military Forces of Fiji, Commodore J V Bainimarama assumed executive authority by declaring martial law and proclaiming that Fiji would be run by a military government until such time as peace and stability returned.

On 30 May, Commodore Bainimarama issued the Fiji Constitution Revocation Decree revoking the Fiji Constitution Amendment Act 1997 with effect from 29 May 2000. He declared that all decrees promulgated by him in his capacity as Commander and Head of the Interim Government of Fiji should be regarded as law. A second decree issued by the Interim Government of Fiji on the same day (existing Law Decree 2000) stated that the existing laws in force immediately before 29 May should continue in force but should be read with such modifications, adaptations, qualifications and exceptions as

may be necessary in view of the Fiji Constitution Amendment Act 1997 Revocation Decree 2000.

The Commonwealth Response

On 24 May, Commonwealth Secretary-General Don McKinnon visited Fiji, accompanied by a United Nations Special Envoy to express their concerns and to meet the key actors in the crisis. On 6 June, the Commonwealth Ministerial Action Group on the Harare Declaration (CMAG) decided that, given the events which had taken place, Fiji should be suspended from the councils of the Commonwealth pending restoration of democratic government and the rule of law. CMAG decided to dispatch a Ministerial Mission to Fiji to assess the situation and report at its next meeting in September 2000. CMAG also called for the Commonwealth principles of good governance, democracy and the rule of law to be upheld in Fiji and for a timetable to be set for the restoration of constitutional rule and democratic government.

Interim Government

On 3 July, after extensive negotiations, an acting Interim Government of 19 Cabinet members, headed by the former head of the Fiji Development Bank, Mr Laisenia Qarase, was appointed and the hostages released. On 9 July, the Muanikau Accord was signed by George Speight's group and the Interim Government, providing for the transfer of executive authority to the Great Council of Chiefs (GCC). Acting President Ratu Josefa Iloilo and Vice-President Ratu Jope Nauucabalavu Seniloli were appointed and a new, military backed interim civilian administration consisting of 20 Cabinet Ministers and 12 assistant Ministers, again headed by Interim Prime Minister Qarase, was installed with the support of the GCC.

CMAG Meeting in New York, September 2000

CMAG met in New York in September 2000 and considered the report of the CMAG mission to Fiji. It also heard presentations from Interim Prime Minister Qarase and deposed Prime Minister Chaudhry. CMAG noted the intention of the Interim Government to replace the 1997 Constitution within a year and to hold elections within two years. This timetable was rejected as incompatible with the provisions of the Millbrook Commonwealth Action Programme, and inadequate in terms of the need to promote national reconciliation and unity in Fiji. CMAG noted that the Great Council of Chiefs and the two Houses of the Fiji Parliament had unanimously endorsed the 1997 Constitution. Concern was expressed at the possibility of a constitution that incorporated restrictions on the basis of racial origin. Fiji remained suspended from the councils of the Commonwealth.

The Constitution Review Commission

After assuming office, Prime Minister Qarase presented a blueprint for affirmative action for indigenous Fijians. The blueprint included the creation

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of a new Constitution, which would reserve the positions of Head of State and Head of Government for indigenous Fijians. It also recommended the establishment of funds and endowments to enhance Fijian participation in business and revenue generation. On 5 October 2000 President Iloilo appointed a Constitution Review Commission (CRC) on the recommendation of Prime Minister Qarase. The CRC was tasked with reviewing the previous Constitutions of Fiji and examining the constitutions of other countries before making recommendations on new constitutional arrangements for Fiji. The CRC's hearings were largely boycotted by the Indo-Fijian community. The work of the CRC was suspended by President Iloilo when Labour Party President Jokapeci Koroi and others filed a writ stating that the CRC had no authority to draw allowances from public funds and that its hearings had no legal standing. Some members of the CRC continued work to produce a report. The report has been heavily criticised by other members of the Commission, political parties and members of the Indo-Fijian community.

The Commonwealth Secretary-General's Special Envoy

Justice Pius Langa, the Deputy President of the South African Constitutional Court, was appointed as the Commonwealth Secretary-General's Special Envoy to Fiji in December 2000, with the mandate of helping Fiji making a speedy return to democracy and the rule of law and to help forge national unity. He has made six visits to Fiji since his appointment, meeting with key individuals and organisations from all sections of Fijian society.

The Justice Gates and Court of Appeal Decision

On 15 November 2000, Lautoka High Court Justice Anthony Gates ruled that the 1997 Constitution remained in force and the actions taken to appoint the Interim Administration had been illegal. Prime Minister Qarase set in place an appeal of the judgment to the Fiji Court of Appeal. In March 2001 the Fiji Court of Appeal upheld the Gates decision and stated that the 1997 Constitution remained the supreme law of Fiji, that it had not been abrogated, Parliament had not been dissolved and that in effect the Interim Government had no legal standing. The Great Council of Chiefs subsequently urged that the Parliament be dissolved and elections held as soon as possible. President Iloilo accepted the resignation of the Qarase Government and then in a series of complicated moves, reappointed the Qarase Administration to act as Caretaker Government until elections could take place. Acting Prime Minister Qarase wrote to the CMAG meeting in London in March 2001 announcing the plan to hold democratic elections in the period 25 August to 7 September 2001.

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