

CHAPTER 10: THE ROAD TO ARUSHA

*In the deserts of the heart
Let the healing fountain start
In the prison of his day
Teach the free man how to praise*
W H Auden

After the elections, Jai Ram Reddy returned to his private practice in Lautoka. But starting all over again was not easy for someone who had been away from the law for so many years, when the field of law itself, its practice and its needs and demands, had moved on. He rented an office in the city and made a start, but after a hectic lifetime in the public arena, mundane matters of criminal and civil litigation did not engage his imagination or spirit. For several months, he was listless, brooding, withdrawn. His friends and colleagues were concerned. He deserved better. There was talk of Reddy succeeding Sir Timoci Tuivaga as Chief Justice. He would have been an excellent choice, Sir Timoci told me. But since there was no vacancy at the top yet, Sir Timoci sounded Reddy out for the President of the Fiji Court of Appeal. Reddy mulled over the invitation and eventually agreed. He was appointed over the initial objection of the Labour members of the Parliamentary Sector Committee on the Judiciary who, according to Ofa Duncan, feared that constitutional cases might come up and Justice Reddy could use his position to wreak revenge on them for his defeat. Reddy was appointed in early 2000, but resigned in August of that year after the overthrow of the Peoples' Coalition government. He was not only a lawyer and judge, he said, but also one who had been intimately involved in the formulation of the constitution, and he couldn't in good conscience continue on the bench as if nothing had happened when anti-democratic

forces were running rampant, wrecking state institutions and making a mockery of the things that mattered most to him, affronting his sense of professional honour and personal integrity. He would remain in office until the hostages were released, and then he would leave.

Reddy's resignation was not to last long. The following year, after the restoration of the constitution by the courts, he was invited back to his old job, much to the relief of people like the Attorney General Qoriniasi Bale, who regarded Reddy as one of his mentors and who had been a Reddy supporter from the very beginning. This time, Reddy told himself, he would serve out his five year contract. He was now more reconciled with the past, more settled in his Domain quarters. The old laughter and gaiety and dinner parties were beginning to return to the Reddy household. But just when things were beginning to settle down to a pleasant routine, the Fiji Government nominated Reddy for a judicial appointment to the United Nations' International Criminal Tribunal for Rwanda. Initially, it was expected to be a part-time, on-call appointment, which would enable Justice Reddy to continue with his Appeal Court work. By the time it was realized it would not be this way, it was too late, Bale told me this with some regret because Justice Reddy was beginning to restore a semblance of efficiency and regularity to the work of the Court. Reddy was appointed to the Tribunal by the United Nations General Assembly on 21 May 2003. He finished his term in December 2008.

The Tribunal was set up by the United Nations in Arusha in 1994. Its purpose was to prosecute people responsible for committing genocide in that country and other breaches of international humanitarian law between January and December 1994.¹ Sometimes called 'a tropical Switzerland in the heart of Africa' for its high elevation, mild climate, and scenic beauty, Rwanda has a sad and haunting history. Rwanda is what might be called an ethnically divided society comprising two principal communities, the Hutu and the Tutsi. Tutsis, traditionally herdsman, were an immigrant community who had arrived in Rwanda some six hundred years back from the northern parts of Africa. Although the Hutus, the first settlers of the land, outnumbered them in landownership and personal wealth, they were no match for

the Tutsis. Under Belgian colonial rule, the divide between the two communities created by history, culture and custom, was deepened as the Tutsis were given privileges, in government employment, for example, that were not accorded to the Hutus. Animosity between the two groups increased. In 1956, the Hutus led a rebellion against the Tutsis, with the loss of over one hundred thousand lives. Many Tutsis dispersed to neighbouring countries, formed a militia under the Rwandan Patriotic Front, and waited for their turn to strike.

A Hutu-led government came to power at independence in 1962, and the discrimination against the Tutsis continued. In 1990, the Patriotic Front attacked the Hutus and a civil war began. Three years later, a ceasefire was arranged through the agency of the United Nations, and an attempt made to devise a multi-party cabinet to accommodate the two communities. But the Hutus, viewing themselves as victims of generations of Tutsi power and privilege, refused to countenance any Tutsi presence in government. In April 1994, a plane carrying Rwanda's president was shot down, and Tutsis were immediately suspected of involvement in the attack. This led the Hutus to launch their 'final solution' to the Tutsi 'problem.'

The mass killing of Tutsis began. Almost one million people died before the horrific violence was brought under control. The genocide took place in the full glare of the international media. 'Although on a large scale,' one report said, 'this genocide was carried out entirely by hand, often using machetes and clubs. The men who'd been trained to massacre were members of civilian death squads, the Interahamwe ('those who fight together'). Transport and fuel supplies were laid on for the Interahamwe — even remote areas were catered for. Where the killers encountered opposition, the Army backed them up with manpower and weapons. The State backed the Hutus and 'politicians, officials, intellectuals and professional soldiers deliberately incited (and where necessary bribed) the killers to do their work.' The report says that 'Tutsi men, women, children, and babies were killed in the thousands in schools. They were also killed in churches: some clergy colluded in the crime. The victims, in their last moments alive, were also

faced by another appalling fact: their cold-blooded killers were people they knew — neighbours, work-mates, former friends, sometimes even relatives through marriage.’

ICTR’s task was to determine whether the accused committed genocide, crimes against humanity and war crimes in Rwanda. Over the course of its work since 1994, some seventy persons were arrested, including the Prime Minister and fourteen government ministers, prominent administrators and military officers, leaders of the media and representatives of the clergy. Of these forty two persons were tried. Six were acquitted, eight pleaded guilty and the rest received life imprisonment. During his five and a half years at the Tribunal, Judge Reddy usually served in Trial Chamber I with Judge Eric Møse of Norway and Judge Sergei Alekseevich Egorov of Russia. He was the presiding judge in one trial, Mpambara, and a member of the bench in three others: Gausmbitsi (Mayor of a region of Rwanda), Serugando, and Basogara and others (Military One case). Basogara was by far the most complex case Judge Reddy heard in Chamber I. The trial and the judgment made international headline. The case involved four military officers who were charged with multiple counts of genocide. The case lasted 408 trial days, during which 242 witnesses were heard. The Chamber rendered over 300 decisions, and the transcripts from the proceedings amounted to more than 30,000 pages. The written judgment of 18 December 2008 was 606 pages long. It was a monumental trial, unprecedented in the Tribunal’s history. Three of the accused received life sentences, and the fourth was acquitted.

Judge Reddy is reluctant to talk at length about his Arusha work and experience, partly because some of the Tribunal’s judgments are on appeal. And then there is his lawyerly caution and reticence to remember as well, his reverence for the protocols of the law, as Peter Thomson put it. But there is no doubt that Jai Ram Reddy made an indelible impression on the work of the Tribunal. His principled stance won him the admiration of many, including the legal officers of the Tribunal, who assisted the Trial Chamber in drafting the rulings and judgments. Wrote one of them upon

Judge Reddy's retirement:

It has been such a great pleasure working with you these past few years. You have been a great example of a fair and just judge. Some judges bear the title of honourable by virtue of their position, but you do because of your wisdom, fairness and a sense of justice. Even though your mandate technically expires today at midnight, you will always remain the consummate judge.²

Fellow judges were equally laudatory in their praise of Judge Reddy's contribution. Former President of the International Criminal Tribunal for Rwanda, Judge Eric Møse wrote:

During his time in Arusha, Judge Reddy made significant contributions to international criminal justice. He was an extraordinary judge, fair and efficient. In all his activities, he demonstrated his eminence, constantly maintaining the highest standards of judicial and human integrity. He was highly respected and admired. It was a sheer privilege to sit with Judge Reddy on the bench. He immediately saw the core of the matter, irrespective of its complexity. When addressing intricate legal problems, he drew on his extensive judicial experience, profound insight and a human touch. He possessed the rare gift of being open-minded but yet principled, cooperative but firm. His commitment to fairness was unwavering. He was an appreciated colleague and a treasured friend. Judge Jai Ram Reddy has left his mark on the world map.³

These are very high words of praise indeed from a distinguished international judge, but they are not surprising to those who have followed Reddy's long public career in Fiji. Integrity, fairness, a commitment to principles, clarity of thought, capacity for insight and a human touch, combination of firmness with flexibility: he displayed all these qualities in abundant measure throughout his career. It is just that his opponents chose not to see them. Reddy is glad he went to Arusha, although at first, having just resumed work as President of the Fiji Court of Appeal, he was reluctant to uproot. The Arusha experience enriched Reddy. New

areas opened up to him, both jurisprudential as well as geographical. He found the demanding work at the Tribunal intellectually fulfilling. He was widely respected by his peers and his contribution appreciated. Away from Fiji, on another continent, he found a peace of mind and heart and the opportunity to explore and savour things that would have been denied him in his own homeland. At long last, he found the honour and the warmth of appreciation and respect his own people had denied him. But then, the consolation, I suppose, is that prophets seldom receive recognition among their own people in their own lifetime.

Jai Ram Reddy is now in 'transition to retirement,' as he puts it, his working life almost complete. He left ICTR in December 2008, and declined an offer in May 2009 to be short-listed for a seat on the UN-sponsored Kenya Constitutional Court to spend more time with his family in New Zealand. He has the time now to relax, savour the small pleasures of life and reflect on a lifetime spent on the centre stage of public life with friends and former colleagues. Many of the old protagonists are either gone or in limbo. Ratu Sir Kamisese Mara passed away in 2004 after a long ailment, a lonely and broken man, removed from Government House in 2000 by the military combating the George Speight insurgency, his legacy of chiefly leadership of a united Fijian society overturned by George Speight-led insurrection, and his cherished Nehruvian dynastic ambitions unrealized. Sitiveni Rabuka lingered on the public stage for some years after resigning from parliament following the 1999 general elections as a Commonwealth envoy to the Solomon Islands, as (a commoner) chairman of the Great Council of Chiefs, and as a newspaper columnist and political commentator, increasingly finding solace in his faith, but a man very much on the margins of his society and far removed from the national stage upon which he had once played such a prominent role. Mahendra Chaudhry still heads the Fiji Labour Party and may yet make a political come back: that he cannot be written off is one of the important lessons of recent Fijian politics. He is far too skilled to be trapped easily, but even his strongest supporters concede that he is no longer the widely adored leader of his party he once

was, that his once stellar reputation for probity and judgment has dimmed and that his hold on his followers has fractured.

The Indo-Fijian community which Jai Ram Reddy led for a generation now lies hobbled in a cul-de-sac after a brief moment of hope and opportunity in the late 1990s. None of the problems facing it have been resolved. The land lease problem continues to fester. The sugar industry, which once formed the backbone of the country's economy and for which Indians were brought to Fiji in the first place, is visibly dying a slow death. Poverty levels are increasing as more and more displaced Indo-Fijians find a temporary shelter in the congested squatter settlements around Fiji's towns and cities. Race relations are outwardly calm but strained below the surface as accusations fly about who supported or did not support the 2006 coup, which deposed a democratically elected government headed by an indigenous Fijian. The consociational political pact which Reddy so patiently negotiated over a decade to resolve the country's constitutional conundrum and to give his people their just place in the broader scheme of things, now lies discarded. In so many ways and on so many fronts, Fiji is back to square (minus) one. Lewis Carroll's words in *Through the Looking Glass* are apposite: 'Now here you see it takes all the running you can do to keep in the same place. If you want to get somewhere else, you must run at least twice as fast as that.' Jai Ram Reddy's fate epitomizes the tragedy of modern Fiji: a country endowed with enviable human talent and natural resources better than most island nations of the Pacific, but strangely prone to self-inflicted wounds that hobble its prospects and dent its future, a veritable Churchill's Russia in the Pacific: 'a riddle, wrapped in a mystery, inside an enigma.'

Reddy now lives in New Zealand and makes periodic visits to Fiji to meet with family and friends still living there. But wherever he lives, Fiji is ever close to his heart, although he makes no public comment about the country. There is quiet distress at the state the country finds itself in: the violence and treachery of its leaders, the mounting human suffering, the erosion of the values of a decent, fair and humane society, the corruption of public morality, the lost opportunities and, above all, the betrayal of prom-

ise: all this when everything once seemed so within reach. ‘The promises have gone,’ as a Stanley Merwyn poem says somewhere, ‘Gone, gone, and they were here just now.’ Nonetheless, as Reddy repeatedly said throughout the 1990s, despite all the setbacks and pitfalls, the deceptions and the devousness, human beings live with the eternal hope that someday, somehow, the clouds of misery and despair will lift, that there will always be a dawn at the end of even the darkest night. *Kali raaton ke aage savera bhi hai.*

To end, I return to the beginning, to my conversation with Jai Ram Reddy on that hot, humid day on Teidamu Hill in April 2003. To my question about how he finally assessed his life in politics in Fiji, his emphatic reply was: ‘It has been a wasted thirty years.’ Reddy’s deep disappointment at his defeat is understandable, but Theodore Roosevelt is worth quoting again: ‘Far better it is to dare mighty things checkered by failure, than to take rank with those poor spirits who neither enjoy much nor suffer much, because they live in the gray twilight that knows not victory or defeat.’ Defeat, as we all know, is not by any means the worst of failures. Not to have tried is the true failure. Jai Ram Reddy’s rare achievement was to have witnessed and endured the worst that Fiji had to offer and still find hope and optimism in his fellow countrymen, someone who rose above the disunity and divisions that afflicted his country and his people, and, for a brief shining moment, managed to make hope and history rhyme. The glass-flat waters of the Nacilau Point still beckon as ever.

NOTES

1. All of this discussion is based on material easily accessible on the internet. My limited understanding of the Rwandan crisis is based on Christopher C Taylor, *Sacrifice as Terror: The Rwandan Genocide of 1994* (Oxford: Berg, 1990), and Gerard Prunier, *The Rwanda Crisis, 1959-1994. History of a Genocide* (London: Hurst and Company, 1995). I thank Anthony Regan for bringing these two books to my notice.
2. For obvious reasons, the identity of the correspondent cannot be revealed.
3. From a letter to me, 19 Feb. 2009.

BIBLIOGRAPHICAL GUIDE

For obvious reasons of space, I have kept reference to the published literature on modern Fiji in the text to a bare minimum. Professional researchers would (or should) know where to look for them, while lay readers are not likely to be particularly in need of them except for the occasional reference. What follows, therefore, is only a brief and selective guide to the published literature on modern Fiji.

For a general history of modern Fiji, see Brij V Lal, *Broken Waves: A history of the Fiji Islands in the 20th century* (Honolulu, 1992). The colonial foundations of Fiji are covered in JD Legge, *Britain in Fiji, 1858-1880* (London, 1958) and Peter France, *Charter of the Land: Custom and colonisation in Fiji* (Melbourne, 1969). For the sugar industry, a good starting point is Michael Moynagh, *Brown or White? A history of the Fiji sugar industry, 1873-1973* (Canberra, 1981). A recent account is in Padma Narsey Lal, *Ganna: Profile of the Fiji Sugar Industry* (Lautoka, 2008). Transition to independence is surveyed in Brij V. Lal, *A Time Bomb Lies Buried: Fiji's Road to Independence, 1960-1970* (Canberra, 2008), his edited collection, *Fiji: British Documents on the End of the British Empire* (London, 2006) and in various research papers of Robert Norton covering political developments in late colonial Fiji. His *Race and Politics in Fiji* (St. Lucia, rev. ed. 1990) is an important study from an anthropological point of view. For two accounts on or by two of the leading figures in the independence debate, see Brij V Lal, *A Vision for Change: AD Patel and the politics of Fiji* (Canberra, 1997), and Ratu Sir Kamisese Mara, *The Pacific Way: A Memoir* (Honolulu, 1997). Deryck Scarr's biography of Ratu Mara, *Tuimacilai: A life of Ratu Sir Kamisese Mara* (Adelaide, 2009) came out too late to be of benefit to this study.

The historical origins of the Indian community in Fiji are covered adequately in KL Gillion, *Fiji's Indian Migrants: A history to the end of indenture in 1920* (Melbourne, 1962), and Brij V Lal, *Chalo Jahaji: On a journey through indenture in Fiji* (Canberra and Suva, 2000). Adrian Mayer's *Peasants in the Pacific: A Study of the Fiji Indian Rural Society* (Berkeley, 2nd ed 1973) is invaluable. Grant Anderson's *Indo-Fijian Smallfarming: Profile of a Peasantry* (Auckland, 1974) treats the important theme of cane farming among Indo-Fijians. John Kelly's *A Politics of Virtue: Hinduism, sexuality and counter-colonial discourse in Fiji* (Chicago, 1991) is an important anthropological study of the cultural politics of the Indo-Fijian community in the 1920s. For the political angle on this period, see KL Gillion, *Fiji Indians: Challenge to European Dominance, 1920–1947* (Canberra, 1977). Ahmed Ali's *From Plantation to Politics: Studies on the Fiji Indians* (Suva, 1980) is useful for its perspective on the Muslims.

On Fijian society, an accessible introduction is in Asesela Ravuvu, *Vaka Itaukei: The Fijian Way of Life* (Suva, 1983); an earlier romanticised version is in GK Roth, *Fijian Way of Life* (Melbourne, 1953). Cyril Belshaw, *Under the Ivi Tree: Society and Economic Growth in Rural Fiji* (Berkeley, 1964), and Ray Waters, *Koro: Economic Development and Social Change in Fiji* (London, 1969) provide two acute analyses of the economic dilemmas facing the Fijian people on the eve of independence. OHK Spate's *The Fijian People: Economic Problems and Prospects* (Suva, 1959) is very much worth consulting still. Isireli Lasaqa, *The Fijian People before and after Independence, 1959-1979* (Canberra, 1984) is also worth consulting for an indigenous Fijian take on developments affecting his people. An account of the Fijian leader, Ratu Sir Lala Sukuna, is in Deryck Scarr, *Ratu Sukuna: Soldier, Statesman, Man of Two Worlds* (London, 1980). Sukuna's papers published in *Fiji: Three-Legged Stool* (London, 1984) are worth consulting for a chiefly view of things.

EK Fisk, *The Political Economy of Independent Fiji* (Canberra: 1970) offers an orthodox race-based analysis of Fiji's economic and development dilemmas on the eve of independence. On the state of the Fiji economy

at the time of the first coup of 1987, a good starting point is Rodney Cole and Helen Hughes, *The Fiji Economy, May 1987: Problems and Prospects* (Canberra, 1988). On the coup itself, there are several studies from a variety of viewpoints and ideological predispositions. For three studies, see Brij V Lal, *Power and Prejudice: The Making of the Fiji Crisis* (Wellington, 1988), Robert Robertson and Akosita Tamanisau, *Fiji—Shattered Coups* (Sydney, 1988), and Deryck Scarr, *Fiji: The Politics of Illusion: The Military Coups in Fiji* (Kensington, NSW, 1988). A special issue of *The Contemporary Pacific*, edited by Brij V Lal, (vol. 2: 1, 1989), is devoted to the 1987 coup and its immediate aftermath. Kenneth Bain provides a personal perspective in his *Treason at Ten: Fiji at the Crossroads* (London, 1989). Arlene Griffin provides a sample of literary and creative responses to the events following the first coup in her edited volume, *With Heart and Nerve and Sinew: Post-Coup Writing from Fiji* (Suva, 1990).

The 1990s politics are covered in my *Another Way: The Politics of Constitutional Reform in Post-Coup Fiji* (Canberra, 1998) and in my *Islands of Turmoil. Elections and politics in Fiji* (Canberra, 2006). Among scholarly journals where important contemporary Fiji material is published, these are the most noteworthy: *The Journal of Pacific History*, *Pacific Economic Bulletin*, *Asia Pacific Viewpoint*, *The Contemporary Pacific: A Journal of Island Affairs*, *The Journal of Pacific Studies* and occasionally in *Pacific Studies*.

Among the now defunct Fiji newspapers worth consulting for the period covered in this book, special mention should be made of *The Review: A Magazine*, *The Weekender*, *Pacific Islands Monthly*, *Islands Business*, *The Hindustani*, and the *Fiji Sun*. All these newspapers and many others are available at the National Archives in Suva, which remains the pre-eminent place for research on Fiji. The Pacific Manuscripts Bureau at The Australian National University contains much valuable Fiji material not available elsewhere, including the archives of the Fiji Independent News Service. The Noel Butlin Archives of Business and Labour and the Pacific Archives at the Menzies Library of The Australian National University

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are also worth consulting for private papers relating to Fiji, including this author's. The Public Records Office at Kew Gardens, United Kingdom, has the most complete set of correspondence on colonial Fiji.