

5

‘Unfree and unfair’?: Media intimidation in Fiji’s 2014 elections

David Robie

Introduction

Fiji was a media pariah among Pacific nations, as well as a political outcast, for much of the eight years after Voreqe Bainimarama’s military coup in December 2006. But while some media credibility was restored in the months leading up to the 2014 general elections and during the ballot itself, the elephant is still in the room: the 2010 Media Industry Development Decree (Fijian Government 2010). While this Decree remains in force, Fiji can hardly claim to have a truly free and fair media.

Just seven months out from the September 17 elections, Fiji was ranked 107th out of 179 countries listed in the 2014 World Press Freedom Index prepared by the Paris-based global media freedom organisation Reporters Without Borders (RSF). That ranking was an improvement on the previous year (RSF 2014a), rising 10 places from the 2013 ranking. The major reason for this improvement was the adoption of the new Constitution on 6 September 2013, criticised as

it was in many quarters during that year, and the promise of ‘free and fair’ elections by 30 September 2014. The elections gave Fiji’s ranking a further boost, rising 14 places to 93rd (RSF 2015).

There was considerable hope among news media and civil society groups that the general elections would open the door to a free media climate, which had been lacking since the coup. Over the past few months there has been a marked improvement in public debate and news media have been relatively more robust in terms of published political comment and debate, particularly in news columns and in letters to the editor.

A major problem previously had been a ‘divided media’ and a void in professional leadership by the now-defunct Fiji Media Council, which had been ‘accused of failing to handle ethical lapses and controversies satisfactorily or fast enough’ (Morris 2014, p. 3). According to Ricardo Morris, editor of *República* and president of the recently revived Fijian Media Association, who spoke at the 20th Anniversary of *Pacific Journalism Review* conference in Auckland about the problems facing the media industry some seven weeks after the elections:

[I]t can be argued that such division was one reason [why] it was easy for the military government to force the Media Decree in 2010. The government justified its actions with reference to some of the unscrupulous journalist practices that should rightly be condemned. And I should point out here that the Fiji Media Council’s legacy does live here in the form of the code of ethics for media workers embedded in the Media Decree.

We realised a bit too late that we were all in this together despite our personal political views or those of the companies that we worked for. United we stand, divided we fall. (Morris 2014, p. 3)

Barriers to freedom of information

In a joint submission (RSF 2014b) to the United Nations Human Rights Council Second Universal Periodic Review, the Auckland-based Pacific Media Centre (PMC) and Paris-based RSF argued that the Constitution, described by the Fiji government as ‘coup proof’, still restricted freedom of the press in four particular areas (CCF 2013). The first criticism is that too much executive power is placed with

the offices of the Prime Minister and the Attorney-General, as they control nearly all appointments to the judiciary and independent commissions. The Attorney-General has far wider powers than are given to holders of the equivalent office in other Commonwealth constitutions. The Constitution does not provide the necessary structural protections for the judiciary to be seen to be independent. Secondly, the Chief Justice and President of the Court of Appeal will effectively be political appointments and there is a risk of abuse of power. Journalists are worried that the judiciary could be used by government officials to their own advantage. Fearing judicial reprisals if they criticise the government when covering its activities, many journalists have continued to censor themselves.

Thirdly, the Bill of Rights is weakened by 'severe limitations on many rights'. For example, future governments will no longer need to justify before an independent court that laws which limit rights are 'necessary in a free and democratic society' (as in the abrogated 1997 Constitution). In what is known as the 'claw-back clause', they will simply need to show that a limitation is 'reasonable' (s.6.5.c). Previously there had been a state clampdown on independent journalists, bloggers and netizens (Robie 2009; Walsh 2010). This so-called claw-back clause makes them vulnerable to selective government pressure in the future.

Fourthly, there are also few avenues under the Constitution for citizens to participate in and ensure 'good and transparent government'. While there has been more vibrant debate in online commentaries and letters to the editors in the Fiji national press in recent months in the lead-up to the elections, there has nevertheless been a climate of self-censorship that has prevailed for the past eight years. The Constitution does not give clear enough guarantees of freedom of expression that cannot later be curbed by an unscrupulous government.

The 2013 Constitution makes provision for the new national Parliament of Fiji to pass a law after the elections to allow members of the public to exercise their right to access information (s.150). This Freedom of Information provision is the same as in the 1997 Constitution, except there is now no longer any requirement for such a law to be passed 'as soon as practicable'. As well as Freedom of Information, the new Constitution provides some safeguards for a free press in Fiji while 'simultaneously allow[ing]' the curtailment of such rights if the government wishes. Chapter 1 proclaims the

values of ‘human rights, freedom and the rule of law’, but does not specifically declare freedom of the press. However, section 17 under the Bill of Rights provides for the ‘right to freedom of speech, expression, thought, opinion and publication’, including ‘freedom of imagination and creativity’. It further specifically states ‘freedom of the press, including print, electronic and other media’ as a right. Even so, section 17(3) says the law ‘may limit, or authorise the limitation’ of these freedoms in the interests of national security, public safety, public order, public morality, public health and other circumstances, including the curbing of ‘ill will between ethnic or religious groups’. Under section 17(4), the right of citizens to be free of ‘hate speech’, whether directed against individuals or groups, is endorsed. While a preliminary reading of these media freedom rights may suggest conflict with some of the draconian provisions of the 2010 Fiji Media Industry Development Decree, section 17(3) may in fact be providing a legal cloak justifying these elements of the Decree (Fijian Government 2010).

Mixed responses by government on issues of media freedom

In October 2012 the High Court in Suva ruled that the major daily newspaper, *The Fiji Times*, was in contempt of court over an article republished in November 2011 from a New Zealand national weekly newspaper, the *Sunday Star-Times*, that questioned judicial independence in Fiji. Chief editor Fred Wesley and former publisher Brian O’Flaherty had been found guilty but were not actually sentenced until February 2013. A High Court judge fined the newspaper FJD\$300,000 (US\$160,000) and ordered it to publish an apology within 28 days, fined publisher O’Flaherty FJD\$10,000 (US\$5,300) and also sentenced editor Wesley to six months’ imprisonment suspended for two years. The penalties were widely criticised as being unreasonably harsh and condemned as politically inspired, *The Fiji Times* being unpopular with the Fiji government (Loanakadavu 2013).

In June 2013 a prominent Fiji Television sports editor, Satish Narayan, was forced to resign after he had complained on camera that the daughter of the country’s leader, Prime Minister Voreqe Bainimarama, was playing music too loud at an outdoor event. The high school

athletics event was organised by the Fiji Sports Council, whose chief executive was Bainimarama's eldest daughter, Litiana Loabuka. The broadcaster was threatened with the loss of its licence if the editor did not leave (Field 2013).

In August 2013, the executive director of the Citizens' Constitutional Forum (CCF) was sentenced to three months imprisonment suspended for one year for contempt of court after publishing an article about the Fiji judiciary in the organisation's newsletter. The article outlined research by the United Kingdom's Law Society, which had reported that the judiciary in Fiji was not independent. Executive director Reverend Akuila Yabaki, who is also the newsletter's chief editor, and the CCF were ordered to pay FJD\$20,000 (US\$10,700) in fines and court costs (PMW8385 2013).

This climate of intimidation over the months leading up to the elections hardly encouraged a vigorous and independent media. Even though the prosecutions had not come under the umbrella of the Media Decree, but rather through the Public Order Decree, the 'chilling' impact was effectively the same. The medley of decrees and regulations stifle the practice of 'truly robust and critical journalism', as Morris has argued: 'Sometimes you get the impression that everybody with a little power to exercise will unreasonably limit journalists in their work. And it's not only locals doing it' (Morris 2014, p. 4).

The media blackout: 'Draconian and unenforceable'

A total of 450 journalists and media staff were accredited to cover the elections—33 of them working for foreign news groups, arguably the largest team ever assembled to cover a Fijian general elections (MIDA 2014). Certainly, surprisingly, given limited media commitment to international and Pacific news coverage, New Zealand had the largest contingent, numbering 15, more than double the number of journalists from Australia. The largest group was from the pro-FijiFirst Auckland station Radio Tarana (6) and, apart from the *New Zealand Herald*, Radio New Zealand, Television New Zealand, and MediaWorks representatives, controversial right-wing *Whale Oil* blogger Cameron Slater was there as a freelance correspondent. The largest of the local

media election teams was the state-run Fiji Broadcasting Corporation (97 accredited staff), followed by *The Fiji Times* (80)—double that of their rival, the *Fiji Sun* (40). The University of the South Pacific's journalism school also had 40 student journalists accredited, including one on assignment from New Zealand's Auckland University of Technology (AUT). Another AUT student journalist was also a member of the *Republika* team's eight accredited staff. Small international teams represented Agence France-Presse, Al Jazeera, *Asahi Shimbun*, Kyodo News, Nikkei, Nippon Hoso Kyokai and others.

The Electoral Decree imposed a two-day media blackout in Fiji just ahead of the general elections (Fijian Government 2014). News media and journalists faced jail time or fines if they provided any election coverage from 7.30am on Monday 15 September until close of polls at 6pm on Wednesday 17 September. The blackout banned all political advertising on radio and television and required all campaign posters to be removed. News media were allowed to publish information provided by the National Electoral Office only if they submitted their reports to the Media Industry Development Authority (MIDA) for 'vetting' before publication. The International Federation of Journalists (IFJ) and RSF strongly condemned this ban, with IFJ's acting Asia-Pacific director Jane Worthington describing it as a 'gross violation of the freedom of the media ahead of one of the most pivotal elections in Fiji's history' (IFJ 2014) and RSF's Asia-Pacific head Benjamin Ismail saying the ban was 'draconian and unenforceable' (RSF 2014c). The Decree also applied to international journalists if their media was accessible to the Fijian public. As I wrote at the time on my media transparency weblog *Café Pacific*:

BLACKOUT DAY—day one of the 'silence window' in Fiji leading up to the close of polling in the general election at 6pm on Wednesday. And this is under the draconian threat of a \$10,000 fine or five years in jail for breaches.

These are the penalties cited in a media briefing distributed to journalists covering the elections last week. But a closer reading of Part 4 'Electoral campaigns and the media' in the Electoral Decree 2014 reveals that there are even harsher penalties of up to \$50,000 and 10 years in jail for offenders.

And this could include social media offenders.

(Robie 2014a).

In an interview with Radio New Zealand *Mediawatch* presenter Colin Peacock, who has a keen interest in digital media developments, the Pacific Media Centre's Thomas Carnegie was told the penalties were 'unduly harsh' and would restrict political debate just when it was needed the most (PMC 2014). Confusion and frustration was evident in Suva as the global media contingent tried to get a handle on the full implications of the decree for their news operations. Some media tested the apparent boundaries.

Pacific Scoop and Radio New Zealand broadcast stories about a massive hoarding with an imposing image of FijiFirst leader Voreqe Bainimarama, which appeared to be violating the blackout. But when journalists challenged this apparent breach, MIDA defended the 'buckle up' billboard as a road safety advertisement and part of ongoing ordinary government business (Anneberg 2014).

According to the Section 118 media guidelines:

Media must not allow any political activity, including advertisements, interview and political actors, and conduct debates or commentaries that would be deemed to be advocacy or has the potential to influence voters—e.g. no candidate can be interviewed on a radio talkback show [after] 7.30am.

Publication of all material pertaining to political activity in the mainstream media, including magazines, must cease at 7.30am on Monday. Anything published in magazines prior to the blackout period may remain as is.

(Fijian Government 2014)

But during this 'silent' period, the media were still expected to report on electoral 'administration' activity. RSF criticised the Fiji authorities for not explaining how the Decree would be enforced and ultimately nobody was reported to have been prosecuted under the provisions. RSF's Benjamin Ismaïl commented:

The scale of the censorship imposed by this decree is out of all proportion. While restrictions on publishing opinion polls, projections, partial results and even political advertising are completely understandable, banning all political commenting for several days and introducing prior censorship is both draconian and unenforceable.

(RSF 2014c)

During the blackout, Bainimarama was also able to gain some political mileage on freedom for 45 Fijian peacekeeping soldiers at a thanksgiving ceremony at a venue next door to the election National Media Centre less than 24 hours before polling stations were due to open on 17 September. The UN peacekeepers, who had been serving in the Quneitra Crossing demilitarised zone between the Israel-occupied Golan Heights and Syria, had been held captive for the two weeks since 28 August by Jabhat al-Nusra, a Syrian rebel group linked to al-Qaeda but a rival to the Islamic State of Iraq and the Levant (ISIL), which had seized large swathes of Iraq and Syria (Vuru 2014; Weaver 2014). According to media reports in Israel, United Nations negotiators secured the release of the Fiji hostages through payment of a US\$25 million ransom by the Qatar government. This deal 'made a mockery of UN and Western leaders' rhetoric against doing deals with terrorists and paying ransoms for the release of hostages' (Ben Zion 2014). UN and Fiji government sources have never admitted the truth of this claim.

The elections provided an important opportunity to change the way Fiji addressed human rights, stated Human Rights Watch (HRW) in an analysis barely a week before the elections (HRW 2014). Among key rights challenges raised by HRW were freedom of expression, allowing human rights' defenders to carry out their peaceful work, judicial independence, labour rights, and constitutional reform. In letters addressed to the five major parties fielding candidates, HRW appealed to them to 'seriously address' and give priority to these issues after the elections. None of these concerns bothered *Whale Oil* blogger Cameron Slater, who was on the ground in Fiji covering the elections just days before the New Zealand ballot. He reported:

Fiji has voted, and rejected racism.

SODELPA has been spanked; they stood on a platform of racism and lies and the electorate has resounding [sic] rejected those policies.

The early votes that came in were from traditional iTaukei areas in the North and even there Bainimarama was winning. That was the point at which I saw the smiles erupt ...

Today is the start of a promising future for Fiji. The people have voted to reject racism and voted for progress and the vision of Frank Bainimarama and Fiji First for Fiji.

(Slater 2014)

A week after the elections were over, a senior HRW research associate, Shaivalini Parmar, followed up by acknowledging the credibility of the ballot, saying the fact that it had proceeded 'without significant disruptions' was a positive outcome (Parmar 2014). She pointed to the strong endorsement by international electoral monitors overseeing the elections as an important indicator. So too was the relatively quick praise from previously critical countries such as Australia, New Zealand and the United States, although Parmar noted they were overlooking Bainimarama's 'troubling human rights record'.

Elections are a mandate to act and Bainimarama needs to make a commitment to concrete human rights reform. Real reform would involve bold steps to reverse a culture of impunity that has been a significant marker of Bainimarama's rule.

If Bainimarama is committed to democratic change, he should create a 100-day plan to restore human rights and media freedom, and to reform laws that restrict rights. He needs to make explicit policies to improve the country's human rights record after eight long years of military rule.

The Fiji First party should break with abusive policies that the military rulers long carried out, by revoking draconian laws and policies that restrict the media and passing other laws to ensure judicial independence. (Parmar 2014)

At the time of writing this chapter, the 100-day honeymoon had lapsed with little indication of a shift around the media laws. Shaivalini Parmar also referred to 'significant barriers' preventing the realisation of fundamental rights, saying that media freedom was of key concern:

Newsrooms no longer host censors as they did at certain times in the post-coup period, but continuing allegations of government intimidation and interference with the media indicate much more progress is needed. (Parmar 2014)

An example of the ongoing intimidation was a statement by MIDA's Ashwin Raj to the UN Human Rights Council Universal Periodic Review (UPR) in Geneva in October in which he accused Al Jazeera and Radio New Zealand of 'racist, unbalanced and inaccurate' reporting during the elections and claimed they had 'apologised and retracted' (PMW9034 2014b). Typically, Raj was long on obscure wordage but short on facts and Radio New Zealand (RNZ) responded with a denial. In a subsequent RNZ report claiming Raj

had 'changed his tune', chief executive Paul Thompson stated he had written to the UN saying there had been no apology over the racism, imbalance or inaccuracy claim. Raj then withdrew the racism allegation and redirected it against Al Jazeera without substantiation (PMW9062 2014c). Accusing Raj of 'amnesia' over the previous eight years of military-backed rule, economist and media commentator Professor Wadan Narsey (2014) said his ready condemnation of Al Jazeera, Radio New Zealand International and local journalists for 'running alleged "hate speeches"' and his reluctance to subject the Bainimarama Government to the same scrutiny 'might suggest that MIDA is being used more to regulate the media in the interests of the Bainimarama Government'.

Ashwin Raj's abrasive and biased style of tenure at MIDA has contrasted sharply with that of his low-key predecessors, professors Subramani and Satendra Nandan, who constantly sought a collegial approach to integrity and ethics, and a 'fresh air of freedom and responsibility of the highest kind' (Nandan 2014, p. 18). The founding chair of MIDA, Dr Nandan, an emeritus professor at the University of Canberra, presented a thoughtful view of freedom of expression in *República* some months prior to the elections (Nandan 2014). He argued that the greater the power, the greater the responsibility, referring to the news media faced with a recent history of coups.

In Fiji, too much damage has been done by tendentious propaganda by a few that has frayed the fabric of the Fijian society at so many levels of social harmony and political growth of a young democratic nation. And once a nation (and a person) suffers heart attacks, it must take care of its daily diet and exercise both restraint and responsibility. This is never more important than during an election. (Nandan 2014, p. 20)

In Nandan's view, the 2014 general elections has made a major contribution to ending corrupt political and disinformation practices of the past. He argues that the Electoral Commission ought to be able to strip a party which, or a member of Parliament who, wins a seat on the basis of falsification of facts as a 'deterrent to unscrupulous demagogues' (p. 21). Nandan condemned an opposition political leader for claiming during the election campaign that native land tenure in Fiji was in jeopardy.

The [native land tenure] issue has been so falsely and fallaciously used in Fiji for so long that it's no longer funny: the Electoral Commission has the power, I think, to put an end to this kind of lurid and ludicrous propaganda. (Nandan 2014)

Four days before the elections, *The Interpreter* columnist Alex Stewart (2014) concluded that 'by world standards of elections after prolonged military rule, Fiji is doing well'. But he added a cautionary observation about allegations of unbalanced media coverage, participation of non-government organisations in the electoral process, and issues surrounding candidate nominations. All three points were made in response to a 'string of controversies and criticisms' of how the Bainimarama Government was approaching the transition to independence:

[A] truly free and fair election requires more than the absence of extra ballots stuffed into the box. Yes, voters need to be free to make their choice on the day, but the process by which they reach their decision also needs to be fair. In a free and fair election, political parties compete on as level a playing field as the system can enforce. This is where the election process in Fiji stands on shakier ground. (Stewart 2014)

As Stewart acknowledged, there had been repeated accusations by rival parties that Bainimarama's FijiFirst party had 'received unfair media advantages' (Fox 2014). ABC Radio's Liam Fox reported as part of a series of news stories and commentaries prior to the elections that 'while opposition parties and independents battle to be heard, Frank Bainimarama has no such worries, with every move of his FijiFirst Party relayed by the media' (Fox 2014). Stewart noted the 'strenuous denials' by both news outlets and by MIDA, adding: 'It is always difficult to distinguish between legitimate editorialising and bias. But the fact that these claims have persisted is concerning.'

Even two experienced postgraduate student journalists from AUT's Pacific Media Centre, on internship with *República* and *Wansolwara* as the first New Zealand-based students to cover a Pacific election, observed evidence of bias. Alistar Kata, an award-winning broadcast journalist with Ngapuhi and Cook Islands heritage, noted: 'From my unbiased vantage point as a student journalist from New Zealand, the local Fijian media coverage of the elections could sometimes be biased. I was surprised, shocked, at some examples of reporting that were allowed to air or be published' (*Spasifik* 2014, p. 18). But her

colleague, Mads Anneberg, an experienced Danish political journalist, was also impressed with an ability to make an impact with quality journalism: 'When you take strict media rules and recent censorship out of the equation, Fiji is a dream for the nostalgic journalist; in some ways it reminds you of the old days, like a Pacific Hunter S. Thompson novel' (*Spasifik* 2014, p. 17).

At least one Fiji-based researcher carried out a systematic analysis of local news coverage of the elections and concluded in a paper prepared for the 20th anniversary of the *Pacific Journalism Review* 'Political journalism in the Asia-Pacific' conference in Auckland in November 2014 that the elections were flawed with 'recently activated political parties struggling to have their voices heard' by the media. (Bhim 2015, p. 108). Mosmi Bhim, an academic at Fiji National University and a former researcher with the CCF, cited a litany of examples of where news media coverage had been unbalanced in favour of Bainimarama's party.

In an atmosphere of lavish campaign advertisements on billboards, public transport vehicles and the print and television news media by the post-coup Prime Minister Voreqe Bainimarama's political party FijiFirst, recently activated political parties struggled to have their voices heard. Two daily media companies—the Fiji Broadcasting Corporation and the Fiji Sun—displayed bias towards the FijiFirst party by providing them with excessive and preferential coverage and portraying other parties in a negative light; other media organisations attempted to give fairer coverage. (Bhim 2015, p. 109).

Referring to the Declaration on Criteria for Free and Fair Elections adopted by the Inter-Parliamentary Union Council in 1994 and using Fiji's new electoral and media legislation as a yardstick, Bhim produced considerable evidence to support her analysis. As a result of the media and other flaws, she argued that elections only satisfied some of the international criteria for 'free and fair elections' as 'all citizens were unable to participate freely and fully in the 2014 elections' (Bhim 2015, p. 108).

Bhim cited a report on ABC News explaining how MIDA planned to establish an independent unit to monitor media coverage of the election campaign in an attempt to identify political bias (ABC News 2014). The announcement was made by Raj at a media conference called to justify a complaint made against the ABC and

veteran Pacific correspondent Sean Dorney, who had been expelled by the Bainimarama Government in 2009. The ABC quoted Suva reporter Samisoni Pareti as saying:

they [MIDA] took offence to an interview that Sean Dorney did some weeks back [about a Melanesian Spearhead Group summit in Noumea, New Caledonia]. Apparently Mr Dorney made some remarks concerning the freeness of the media, or otherwise, in Fiji. So they took that up.

Little has been reported about this 'monitoring' of Fiji media since.

During the election campaign, in the wake of reported death threats against two Fiji women journalists on 9 September, Ashwin Raj appealed to Fijians to refrain from using the media, including social media, to incite violence through use of inflammatory language to intimidate voters (*Fiji Sun* 2014; RSF 2014d). Two women journalists—Vosita Kotowasawasa of the Fiji Broadcasting Corporation and Jyoti Pratibha of the *Fiji Sun*—reportedly received death threats over their previous day's coverage of the cancellation of a live TV debate between the leading contenders for the post of prime minister. Raj stated in a media conference: 'The media must also remain independent, give equal space to all political actors, must not be seen as aiding and abetting the agenda of one political party over others' (PMW8955 2014a). But as Bhim pointed out in her research paper, Raj made no mention of any inflammatory reporting by the Fiji Broadcasting Corporation or the *Fiji Sun* or against 'their biased reporting towards the FijiFirst party' (Bhim 2015, p. 117). This, argued Bhim, had led to questions being raised about the 'effectiveness and impartiality' of MIDA and whether such a body was actually needed.

Also speaking at the *Pacific Journalism Review* conference, Fijian Media Association president Ricardo Morris raised the issue of the 'fear that hangs over journalists and their media companies—fear of breaching the [Media] Decree and perhaps catching a fine, which could very well cripple any media company' (Morris 2015, p. 37). This threat, argued Morris, was even more serious for small, independent media operators and was omnipresent in the background during coverage of the election campaign. One overall outcome was that many times journalism 'presented to the people of Fiji is bland and unexciting'. Thus 'infotainment and puff pieces' could be much safer and more profitable.

But Morris added that not all news media in Fiji faced the fear of the Decree: 'It is well-known that the *Fiji Sun* newspaper is unconditionally supportive of Bainimarama's vision for a "new Fiji" and will consistently praise any policies of the government and denounce anybody with a differing view.' To be branded with an 'anti-Fiji' or 'anti-government' label by the *Fiji Sun* could make 'life and business very difficult' for any media group. For example, almost all government advertisements have been booked with the *Sun* to punish *The Fiji Times*, the nation's oldest and possibly still most influential newspaper, for its past opposition to the government. Nevertheless, Morris was not entirely pessimistic about the future of media in Fiji. In spite of a 'huge brain drain' (Morris 2015, p. 36) within the media industry through migration of some of the country's senior media workers ever since the first two coups in 1987, there were signs after the elections that the political and media environment could be improving.

We have recently begun Parliamentary sessions and for the majority of those involved—from the Speaker, to MPs, the Secretary-General and journalists covering Parliament—it is a new experience. Learning parliamentary procedure and understanding the Standing Orders will take some time to master but we are getting there. In the meantime, the effects of dictatorship still hang over much of the process. (Morris 2014, p. 4)

The Media Industry Development Decree

The Media Industry Development Decree has clearly had an impact on the news industry by promoting a climate of self-censorship following the military censorship under the previous 2009 Public Emergency Regulation (PER). According to a national survey of the Fiji media conducted by the Pacific Media Assistance Scheme State of the Media and Communication Report in 2013, power had been delegated under the Media Decree 'to the Fiji Media Industry Development Authority (MIDA), which has an ongoing responsibility to censor material that is considered threatening to the public interest or order' (PACMAS 2013).

The report added that MIDA 'has the power to penalize journalists and media companies that publish content considered unsuitable'. However, in September 2013, then director of MIDA Matai Akauola, formerly general manager of the regional Pacific Islands News

Association, condemned Australian and New Zealand opposition to Fiji's 'homegrown solutions'. He told Pacific Media Watch in an interview that Australian and New Zealand media 'try to dictate to us how we live our lives' (Drageset 2013). But this is balanced by an acceptance that more vigorous debate has been allowed by the news media. In January 2014, Akauola told Radio New Zealand International:

There is freedom of expression so anyone and everyone can come on board into a nationally televised discussion on issues; we're talking issues and how to progress this nation rather than going back to the old political rivalries. (*Dateline Pacific* 2014)

For Bob Pratt, executive secretary of the defunct self-regulatory Fiji Media Council, the rulings that this body had adjudicated for a decade through its published code of ethics and practice, prepared by the Thomson Foundation, had been 'unanimously accepted' by all main media organisations. He has argued for a return to a self-regulatory regime (Pratt n.d.). However, because the council did not have the power to punish transgressors it had been labelled a 'toothless tiger'—and most of the complaints came from politicians. The council's codes were adopted as part of the Media Decree.

Prior to the implementation of the Media Decree, government called a meeting of media stakeholders and explained what was proposed. The decree used almost word for word the Council's code of ethics and practice. The main difference was the replacing of the word 'should' with the word 'must'. In addition, it made provision for offenders to be fined. The fines were excessive, but they were the answer to critics of the Media Council. Many of those who had loudly criticised the failure of the Council to punish now complained just as loudly at the ability to punish under the decree. (Pratt n.d.)

In a discussion paper about the Decree, Pratt conceded that the main offender during this period had been 'without doubt *The Fiji Times*—while they played lip service to the media codes they offended regularly and only issued limited retractions after a lot of pressure' (Pratt n.d.). However, he qualified this view:

It should be borne in mind that Fiji was not alone in facing problems with the Murdoch press. It was felt in some quarters that the lack of media freedom in Fiji stemmed from the intransigence of the old *Fiji Times* and it was believed that once the ownership changed, the pressure on the media would be relaxed; this, however, has proved not to be the case. (Pratt n.d.)

During the UN Human Rights Council's Second Universal Periodic review in October 2014, the Fiji government was presented with 39 recommendations, which included a review of the 2013 Constitution, and was invited to review, amend or repeal restrictive decrees—including the Media Decree. The Fiji government was also called on to 'end intimidation and harassment of those [who] express criticism of the State, to change the climate of fear and self-censorship and to ensure that no-one is arbitrarily arrested and detained for exercising their rights' (PIR 2014). Justice Minister Aiyaz Sayed-Khaiyum told the Council that the recommendations would be examined by Fiji and that relevant independent institutions and government agencies would be consulted.

Among recommendations over Freedom of Information legislation and the Media Decree were those by Germany (including a repeal of the Media Decree so that it would end intimidation and harassment of critics of the State) and Canada (a call for a review of the Decree and introduction of a Freedom of Information law that complies with international human rights standards to ensure respect for freedom of expression and protection of journalists). Also recommending a repeal of the Decree was the joint submission from the PMC and RSF, which called on the government of Fiji to:

- modify its Constitution in order to ensure independence of the judiciary and prevent any dissuasive effect or use of the judiciary to intimidate the media
- stop issuing indirect threats and refrain from any editorial interference
- take measures to ensure more transparency and access to information
- enact a Freedom of Information law with some urgency
- significantly encourage participation in public debate without hindrance
- revoke the Media Industry Development Decree and its draconian punitive measures against journalists, editors and media organisations and adopt a self-regulatory media framework encouraging a free press
- encourage international media reporting and scrutiny, and lift bans on individual journalists.

In July 2015, there was a modest improvement in the Decree with the stripping of the of the Media Industry Development Tribunal's power to fine individual journalists but, as critics said, this 'did not resolve the issue of media censorship in the country' (*ABC Pacific Beat* 2015). While Parliament was reported as having voted unanimously to remove the power of the tribunal to impose fines on journalists for breaching the Decree, the CCF's programme director Ken Cokanasiga was quoted by the ABC's *Pacific Beat* as saying 'this doesn't bring about any significant change to the restrictive media environment'.

Conclusion: Restoring public-good journalism

Two months after the Fiji post-coup general elections, the First Vice-President of the European Union, Frans Timmermans, told a delegation of journalists in Brussels that sustaining quality journalism and putting media freedom back on track was high on his agenda. Among his commissioner responsibilities is a Charter of Fundamental Rights and he acknowledges that the crisis in the European media industry is affecting journalists' rights, jobs and journalism as a public good (EFJ 2014). The comments by Timmermans reflect a worldwide crisis affecting journalism in democratic societies, which has also seriously eroded the quality of journalism and media pluralism in Fiji's southern neighbours, Australia and New Zealand. 'Support for professional and good quality journalism must go hand in hand with transparent media ownership to regain trust in the media', remarked Timmermans (EFJ 2014).

My most recent book, *Don't Spoil My Beautiful Face: Media, Mayhem and Human Rights in the Pacific* (Robie 2014b), explored issues of media freedom and credibility in the Asia Pacific region and argued for a critical development journalism approach. The book included Fiji in the lead-up to the elections and offered several models on how a more vigorous brand of journalism, tempered by responsibility as a public good, could be achieved. This is not an isolated plea for better political journalism. Other authors, such as journalism educator Dr Angela Romano (2010) with her edited work on case studies on international journalism and democracy with 'civil engagement models', and Kunda Dixit (2010) have canvassed parallel concepts. Both argue for the empowerment of citizens. Even in a specifically

Fijian context, the head of journalism at the University of the South Pacific, Dr Shailendra Singh, and current opposition parliamentary finance and media spokesman Professor Biman Prasad, have argued along similar lines (Singh & Prasad 2008).

Removing the elephant in the room—the Media Decree—is not enough. While arguing in my book that Pacific journalists now have a greater task than ever in encouraging ‘democratisation’ of the region, including Fiji, and seeking solutions (p. 339), I identified the poor education of many journalists working in Fijian newsrooms and the constant creaming off of university journalism graduates to more highly paid regional and international non-government organisation jobs: ‘This continual loss of staff makes it very difficult to achieve stable and consistent editorial standards and policies’ (Robie 2014b, p. 345).

Ricardo Morris also identifies the ‘brain drain’ of journalists since the coups as damaging for the media industry. ‘The majority of young journalists in Fiji today have never worked in a completely free media environment’, he laments (Morris 2015, p. 38). ‘Many have grown up in a dictatorship and the repressive environment that it entails for the media and have known nothing else.’ Now, more than ever, Fiji needs journalists who not only know their craft, but have the critical and analytical skills provided at the university-based journalism schools, such as the University of the South Pacific and Fiji National University, to have the self-confidence to be truly committed public-good journalists in a partially revived democracy.

In January 2015, barely four months after the elections, opposition National Federation Party leader Professor Biman Prasad called for an end to the eight-year-long ‘siege’ of the nation’s news media and for the contentious Media Decree to be repealed. He declared that Fiji’s social, economic and political future could not be guaranteed unless there was free expression through a ‘free, fair and credible media’. He also made a plea for enacting the Freedom of Information Bill.

Where is the balance and fairness government is preaching about? Where is the accountability? ... [s. 22 which prohibits publishing material against the public interest or order] is like a noose around the media’s neck. This provision is unnecessary because offences are already adequately covered under [the] Crimes Decree [and] under the Public Order Act on racial and religious vilification, hate speech and economic sabotage. (PMW9104 2015)

Three months later, Dr Prasad steered an opposition motion in Parliament seeking a repeal or review of the Media Decree (Narayan 2015). Although it was defeated 17-24, with nine abstentions, the motion succeeded in opening a wider national debate and challenging the validity of the military-backed law, which has had such a shackling impact on the media. Dr Prasad described the Fiji media in his motion speech as having been 'under siege' since the 2006 coup, and the mediascape had been 'turbulent and devastating' since the imposition of the Media Decree. Except for a brief period after the 1987 coups, the work of the media had been 'remarkable, balanced, informative and impartial'. 'The Decree is regressive and suppresses media freedom because it imposes restrictions and prescribes heavy penalties', he said (Prasad 2015, p. 2). '[It] must be repealed or amended substantially because we believe the media should not be regulated by the state or any government. The restoration of democracy has seen little change in the behavior of large sections of our media and individual journalists ... as a result of the severe penalties.'

References

- ABC News 2014, 'Fiji to set up media monitor ahead of election', 27 March. Viewed 9 December 2014 at www.abc.net.au/news/2014-03-26/fiji-media-monitor/5347638.
- ABC Pacific Beat 2015, 'Fiji media changes not enough to lift censorship', 13 July. Viewed 2 December 2015 at www.abc.net.au/news/2015-07-13/fiji-media-changes-not-enough-to-lift-censorship/6614676.
- Anneberg, M 2014, 'MIDA defends Bainimarama's "buckle up" billboard as within Fiji election rules', *Pacific Scoop*, 15 September. Viewed 12 December 2014 at pacific.scoop.co.nz/2014/09/mida-defends-bainimaramas-buckle-up-billboard-as-within-fiji-election-rules/.
- Ben Zion, I 2014, 'Israel TV: UN had Qatar pay \$25m ransom to free Golan peacekeepers', *The Times of Israel* [Online], 10 October. Viewed 16 December 2014 at www.timesofisrael.com/report-qatar-paid-nusra-front-25m-ransom-to-free-un-golan-hostages/.

- Bhim, M 2015, 'FIJI: "Stifled aspirations": The 2014 general election under restrictive laws'. *Pacific Journalism Review*, vol. 21, no. 1, pp. 108–25. Viewed 2 December 2015 at search.informit.com.au/documentSummary;dn=244748207892188;res=IELHSS.
- CCF (Citizens' Constitutional Forum) 2013, 'An analysis: 2013 Fiji Government Constitution'. Viewed 5 December 2014 at news.ccf.org.fj/wp-content/uploads/2013/10/CCFS-CONSTITUTION-ANALYSIS1.pdf.
- Dateline Pacific* 2014, 'Fiji Media Industry Development Authority pleased with industry', Radio New Zealand International [Audio interview], 10 January. Accessed 9 December 2014 at www.radionz.co.nz/international/programmes/datelinepacific/20140110.
- Dixit, D 2010, *Dateline Earth: Journalism as if the planet mattered*, IPS Asia-Pacific, Bangkok.
- Drageset, D 2013, 'New MIDA director attacks NZ, Australia for 'dictating' to Fiji media', Pacific Media Watch (PMW), 30 September. Accessed 9 December 2014 at www.pmc.aut.ac.nz/pacific-media-watch/fiji-new-mida-director-attacks-nz-australia-dictating-fiji-media-8422.
- EFJ (European Federation of Journalists) 2014, 'EC First Vice-President backs journalists to defend quality journalism and reinstall journalism as a public good', European Journalists, 28 November. Accessed 14 December 2014 at europeanjournalists.org/blog/2014/11/28/ec-first-vice-president-backs-journalists-to-promote-quality-journalism-and-reinstall-journalism-as-a-public-good/.
- Field, M 2013, 'Fiji TV editor "quits over criticism"', Stuff.co.nz., 19 June. Viewed 9 December 2014 at www.stuff.co.nz/world/south-pacific/8815729/Fiji-TV-editor-quits-over-criticism.
- Fiji Sun* 2014, 'Death threats for women journalists', 10 September. Viewed 5 December 2014 at fijisun.com.fj/2014/09/10/death-threats-for-women-journalists/.

Fijian Government 2010, 'Media Industry Development Decree 2010 [Decree No. 29 of 2010]', *Government of Fiji Gazette*, vol. 11, no. 69. Viewed 5 December 2014 at www.pmc.aut.ac.nz/sites/default/files/file_bin/201010/Decree%2029%20%20Media%20Industry%20Development%20Decree.pdf.

Fijian Government 2014, 'Electoral Decree 2014 [Decree No. 11 of 2014]', *Government of Fiji Gazette*, vol. 15, no. 28. Viewed 13 December 2014 at www.electionsfiji.gov.fj/wp-content/uploads/2014/03/Electoral-Decree-2014.pdf.

Fox, L 2014, 'Fiji opposition groups say intimidation, lack of coverage means September polls won't be free and fair', ABC News, 6 June. Viewed 11 December 2014 at www.abc.net.au/news/2014-06-05/an-fiji-opposition-groups-say-elections-won-27t-be-free-and-fair/5501788.

HRW (Human Rights Watch) 2014, 'Fiji: Candidates' positions on rights in spotlight'. Viewed 12 December 2014 at www.hrw.org/news/2014/09/07/fiji-candidates-positions-rights-spotlight.

IFJ (International Federation of Journalists) 2014, 'IFJ condemns media blackout in Fiji', [Media release]. Viewed 13 December 2014 at www.ifj.org/nc/news-single-view/backpid/33/article/ifj-condemns-media-blackout-in-fiji-before-election/.

Loanakadavu, N 2013, 'Times fined \$300,000', *The Fiji Times* [Online], 21 February 2013. Viewed 9 December 2014 at www.fijitimes.com/story.aspx?id=225792.

MIDA (Media Industry Development Authority) 2014, 'Local, international & freelance media registered for Fijian elections 2014 coverage as of 15/9/14' [Statement]. See also: '450 media workers to cover Fiji's 2014 election' (15 September 2014), *Republika*. Viewed 13 December 2014 at republikamagazine.com/2014/09/450-media-workers-to-cover-fjis-2014-election/.

Morris, R 2014, 'Fiji media regulation: Emerging from "worst of time" to "best of times"', *Pacific Media Centre Online* [Online], 1 December. Viewed 12 December 2014 at www.pmc.aut.ac.nz/articles/fiji-media-regulation-emerging-worst-times-best-times.

- Morris, R 2015, 'Fiji media regulation: emerging from "worst of times" to "best of times"'. *Pacific Journalism Review*, vol. 21, no. 1, pp. 34–39.
- Nandan, S 2014, 'Media freedom with integrity and ethics', *Pacific Journalism Review*, vol. 20, no. 2, pp. 17–22. Republished from *República Online*.
- Narayan, V 2015, 'FIJI: Opposition MP's bid to repeal Media Decree defeated', 16 May. Viewed 27 June 2015 at www.pmc.aut.ac.nz/pacific-media-watch/fiji-opposition-mps-bid-repeal-media-decree-defeated-9276.
- Narsey, W 2014, 'MIDA chairman changes his tune. Wadan Narsey on Fiji – for fairness and freedom' [Weblog], 19 November. Viewed 11 December 2014 at narseyonfiji.wordpress.com/2014/11/19/mida-chairman-changes-his-tune-19-nov-2014/.
- PACMAS (Pacific Media Assistance Scheme) 2013, 'State of Media and Communication Report'. Viewed 11 December 2014 at www.pacmas.org/profile/pacmas-state-of-media-and-communication-report-2013/.
- Parmar, S 2014, 'Ending a culture of impunity in Fiji', Human Rights Watch, 25 September. Viewed 12 December 2014 at www.hrw.org/news/2014/09/25/ending-culture-impunity-fiji.
- PIR (Pacific Islands Report) 2014, 'Fiji yet to fully respond to UN Human Rights Review', Pacific Islands Development Program, East-West Centre, November 3. Viewed 11 December 2014 at pidp.eastwestcenter.org/pireport/2014/November/11-03-02.htm.
- PMC (Pacific Media Centre Newsdesk) 2014, 'Fiji media blackout penalties "unduly harsh", says NZ news watchdog', *Pacific Scoop*, 15 September. Viewed 12 December 2014 at pacific.scoop.co.nz/2014/09/fiji-media-blackout-penalties-unduly-harsh-says-nz-news-watchdog/.
- PMW8385 (Pacific Media Watch) 2013, 'Rights advocacy group has "grave concerns" over media freedom court case', 19 August. Viewed 12 December 2014 at www.pmc.aut.ac.nz/pacific-media-watch/fiji-rights-advocacy-group-has-grave-concerns-over-media-freedom-court-case-8385.

- PMW8955 (Pacific Media Watch) 2014a, 'Don't use social media to incite violence, pleads MIDA chair', 10 September. Viewed 9 December 2014 at www.pmc.aut.ac.nz/pacific-media-watch/fiji-dont-use-social-media-ignite-violence-pleads-mida-chair-8955.
- PMW9034 (Pacific Media Watch) 2014b, 'MIDA accuses Al Jazeera and RNZ of racist reporting', 30 October. Viewed 12 December 2014 at www.pmc.aut.ac.nz/pacific-media-watch/fiji-mida-accuses-al-jazeera-and-rnz-racist-reporting-9034.
- PMW9062 (Pacific Media Watch) 2014c, 'Media authority changes tune on "racism" allegation', 24 November. Viewed 12 December 2014 at www.pmc.aut.ac.nz/pacific-media-watch/fiji-media-authority-changes-tune-racism-allegation-9062.
- PMW9104 (Pacific Media Watch) 2015, 'FIJI: Opposition calls for end to "siege" of media, repeal post-coup law', 15 January. www.pmc.aut.ac.nz/pacific-media-watch/fiji-opposition-calls-end-siege-media-repeal-post-coup-law-9104.
- Prasad, Biman, 2015, 'Debate on motion to repeal or amend the Media Decree 2010', Speech by the opposition National Federation Party leader Professor Biman Prasad, 15 May. Viewed 26 June 2015 at www.pmc.aut.ac.nz/sites/default/files/file_bin/201505/NFP%20LEADER%20-%20MEDIA%20DECREE%20MOTION%20150515.pdf.
- Pratt, RJF n.d., 'The Media Decree', [Discussion paper believed to have been written in 2011 by the former Executive Secretary of the Fiji Media Council and provided by him to the author in correspondence, 27 January 2015].
- Robie, D 2009, 'Behind the Fiji censorship: A comparative media regulatory case study as a prelude to the Easter putsch', *Pacific Journalism Review*, vol. 15, no. 2, pp. 85–116. Viewed 9 December 2014 at www.pjreview.info/issues/behind-fiji-censorship-comparative-media-regulatory-case-study- Prelude-easter-putsch.
- Robie, D 2014a, 'Fiji pre-election 'politics' blackout stirs media protests, frustration', *Café Pacific*, 15 September. Viewed 12 December 2014 at cafepacific.blogspot.co.nz/2014/09/fiji-pre-elections-politics-blackout.html.

- Robie, D 2014b, *Don't spoil my beautiful face: Media, mayhem and human rights in the Pacific*. Little Island Press, Auckland.
- Romano, A (ed.) 2010, *International journalism and democracy: civic engagement models from around the world*. Routledge, London and New York.
- RSF (Reporters Sans Frontières/Reporters Without Borders) 2014a, '2014 World Press Freedom Index'. Viewed 12 December 2014 at rsf.org/index2014/en-index2014.php.
- RSF (Reporters Sans Frontières/Reporters Without Borders) 2014b, *Universal Periodic Review: Pacific Media Centre and RSF Written Submission*, UN Human Rights Council Universal Periodic Review – 19th session, 11 September 2014. Co-authors: Hélène Sackstein, Benjamin Ismail and Dr David Robie. Viewed 5 December 2014 at en.rsf.org/fiji-universal-periodic-review-pacific-11-09-2014,46934.html.
- RSF (Reporters Sans Frontières/Reporters Without Borders) 2014c, 'Authorities ban all electoral coverage 48 hours ahead of historic poll', 16 September. Viewed 13 December 2014 at en.rsf.org/fiji-authorities-ban-all-election-16-09-2014,46965.html.
- RSF (Reporters Sans Frontières/Reporters Without Borders) 2014d, 'Two women threatened during Fiji election campaign', 11 September. Viewed 9 December 2014 at en.rsf.org/fiji-two-women-journalists-threatened-11-09-2014,46928.html.
- RSF (Reporters Sans Frontières/Reporters Without Borders) 2015, 'RSF World Freedom Index'. Viewed 2 December 2015 at index.rsf.org/#!/.
- Singh, S and Prasad, B 2008, 'Media, democracy and development in Fiji: The last 20 years' [Special edition], *Fijian Studies: A Journal of Contemporary Fiji*, vol. 6, nos 1 & 2.
- Slater, C 2014, 'Fiji election: Clear win for Bainimarama', *Whale Oil* [Blog], 18 September. Viewed 2 December 2015 at www.whaleoil.co.nz/2014/09/fiji-election-clear-win-bainimarama/.
- Spasifik* 2014, Spring, 'Setting the standard in student journalism', Viewed 16 December 2014 at www.spasifikmag.com.

- Stewart, A 2014, 'Fiji's election: Fair and free?', *The Interpreter*, 11 September. Viewed 11 December 2014 at www.lowyinterpreter.org/post/2014/09/11/Fijis-Elections-A-step-forwards.aspx?COLLCC=2390445858&.
- Vuru, A 2014, 'Relief as Fijian soldiers freed in Syria', *Mailife*. Viewed 16 December 2014 at www.mailife.com.fj/relief-as-fijian-soldiers-freed-in-syria/.
- Walsh, C 2010, 'Political blogs on Fiji: A "cybernet democracy" case study', *Pacific Journalism Review*, vol. 16, no. 1, pp. 154–77. Viewed 12 December 2014 at www.pjreview.info/articles/political-blogs-fiji-cybernet-democracy-case-study-572.
- Weaver, M 2014, 'Militant group releases UN peacekeepers held hostage in Syria', *The Guardian* [Online], 11 September. Viewed 16 December 2014 at www.theguardian.com/world/2014/sep/11/jabhat-al-nusra-releases-hostages-fijian-syria.

This text is taken from *The People Have Spoken: The 2014 Elections in Fiji*, edited by Steven Ratuva and Stephanie Lawson, published 2016 by ANU Press, The Australian National University, Canberra, Australia.