

CHAPTER 8: NEW FOUNDATIONS

Problems will always torment us, because all important problems are insoluble; that is why they are important. The good comes from the continuing struggle to try and solve them, not from the vain hope of their solution.

Reinhold Niebuhr

The world will go on somehow, and more crises will follow. It will go on best, however, if among us there are men who have stood apart, who have refused to be anxious or too much concerned, who were cool and inquiring and had their eyes on a longer past and a longer future.

Walter Lippman

For Jai Ram Reddy, a fair and just constitution was the absolute prerequisite to addressing the problems facing the people of Fiji. To that end, the review of the 1990 Constitution was a matter of the highest urgency for him. 'You can talk about the land problem, or the economic problems, or the law and order problems,' he said, but the 'truth is that solution to all these is dependent on the kind of constitution that is put in place and the kind of government that emerges from it. A government that has a captive vote bank confined within a single community will never be able to govern for the good of all. That is the bottom line.'¹ Many in his party and community were sceptical about the possibility of a fair and comprehensive review of the constitution. 'What will you do if there is no change to the constitution?' people asked him. 'I am confident that good sense and goodwill [will] prevail and the review will be successful,' he replied, probably more in hope than with conviction or certainty at that stage. And he urged people to take a broader, non-communal, view of the review exercise. 'Please remember

this,' he told the sceptics. 'The review is not simply a communal issue. This is not a matter of Fijians versus the Indians. There are thousands of people of all races — and varying political beliefs — who see the need for a just constitution and are prepared to work for it.' Certainly, his own party, the National Federation Party, had made a whole hearted commitment to the review process 'in good faith, and we intend to remain firmly on course and give it our best until the process is exhausted.'

From early 1995 to 1997, the review of the 1990 Constitution was Reddy's foremost concern. He listened carefully to counsel from his most trusted advisors and colleagues. He reached out to people outside the traditional political arena, to academics and trade unionists, among others. He raised funds to have access to the best legal advice available, which came in the person of Professor Yash Ghai. He welcomed every opportunity to build bridges with leaders of other communities to allay their fears about his motivations. The diplomatic community was regularly briefed in case their assistance was needed when the crunch came. Luncheon gatherings were addressed along with party meetings, speeches given to mark national occasions (such as the 'Year of the Indigenous People.') Newspapers and news magazines carried long and comprehensive interviews about his views on this controversial subject or that. The old suspicion of 'the media,' the ditherings and deflections were a matter of the past as Reddy actively sought to communicate his vision for Fiji to a larger audience. There were costs though as well. Deep and draining engagement with the review process, in all its facets, also meant less time for Reddy to attend to the routine affairs of the party, less time with the party's grassroots supporters, listening to their concerns and problems that only regular visits and consultations could provide, and as he had so assiduously done in the early part of his career. These matters were left none too successfully to the party's parliamentary members and to the party's hierarchy. Reddy was a remote figure, getting remoter by the day as it seemed to some of the grassroots supporters. Labour, on the other hand, spent a great deal of its time nurturing its roots and re-invigorating its links, with what results we shall see in the next chapter.

SETTING UP THE CONSTITUTION REVIEW COMMISSION

Once the Terms of Reference for the Commission to Review the 1990 Constitution were approved, Sitiveni Rabuka appointed Deputy Prime Minister, Filipe Bole, to take charge of the review exercise, canvassing ideas about the machinery for the process, the membership of the Commission and other related matters. The choice of Bole was interesting. He was close to Rabuka. He was a teacher at the Queen Victoria School when Rabuka was a student there. In 1987, Bole had been a key member of the nationalist Taukei Movement, which was instrumental in orchestrating the overthrow of the Bavadra government. He was at the forefront of the April protest march which had presented a seditious petition to the Governor General, Ratu Sir Penaia Ganilau. He had been a member of the Military Government between September and December in 1987, and then a member of the Ratu Mara-led Interim Administration. In 1993, he was a cabinet minister in the Rabuka government. Now a changed man, or so it appeared, he pushed the idea of genuine power sharing in a truly multi-ethnic government.²

The idea of a Government of National Unity had been mooted by Rabuka early in his first term, but Reddy, while welcoming the idea, had said that his first priority was the review of the constitution as any kind of genuine cooperation under the 1990 Constitution was simply not feasible. Rabuka had intended to use that document as a framework for his concept of a broad based government. Bole wrote that the 1990 Constitution was generally acceptable to the Fijian community as safeguarding their interests. It had given them the control of the executive, the parliament and the civil service; recognized the national role and importance of the Great Council of Chiefs; and had provided the necessary constitutional legitimacy for affirmative action for indigenous Fijians and Rotumans. Yet, despite all these 'achievements,' Bole recognized the 1990 Constitution ultimately to be a 'divisive' document, which did not promote 'national reconciliation, togetherness, and unity which are vital to the maintenance of political stability in Fiji.' Political stability, Bole realized, 'was ultimately the most important

factor in attracting increased overseas capital investment in private sector development in Fiji.³

The 'only way to strengthen national unity is to consider arrangements that would induce in members of the Indian community, and in particular their political representatives, a much greater identification with, and participation in, national decision-making affecting their interests and welfare as well as those of the other communities,' said Bole. In any such arrangement of power sharing, however, Indo-Fijians would have a minority role because the 'government would keep fully intact all the safeguards and gains which the Fijian and Rotuman communities have secured under the 1990 Constitution.' Co-option and destruction might be one way of describing the approach mooted by Filipe Bole, but that would be too simplistic. The statement reflected a genuine concern that in fundamental ways, the 1990 Constitution was not working, even, or especially, for the indigenous Fijians. The children of the Fijian elite benefitted disproportionately from the affirmative action programs of the government. Disregarding the principles of meritocracy in the civil service had led to gross inefficiency and nepotism. Procedures of accountability and good governance were breaking down if they hadn't done so already.

In response to Filipe Bole's exploratory paper, Jai Ram Reddy presented his own 'theme paper' on 13 August 1993 in which he broadly outlined his thoughts on what kind of constitution would be most appropriate for Fiji.⁴ In his view, the five priority areas for Fiji — pillar principles, they were called — were the promotion of racial harmony and national unity, the restoration of full democracy, the social and economic development of all the people of Fiji; social justice and equal development of all regions and communities in Fiji (unlike the 1990 Constitution which favoured the indigenous community), and the respect and legitimacy for Fiji in the international community which had been eroded considerably since the 1987 coups and the decreed imposition of the 1990 Constitution. For Reddy, it was imperative to 'abandon the notion that one community can only benefit at the expense of another.' The zero-sum mentality had to be jettisoned

for good. If multiracialism meant anything, it meant above all, 'the fair representation of all communities in the legislature and the government as well as in other public policy making and administrative institutions.' A political system which excludes one or more communities from a share in the government or in policy making is incompatible with multi-racialism,' he said, continuing:

The NFP is aware of the heavy responsibility which rests on the leaders of all communities to ensure that the constitution provides for genuine multiracialism. Our people have been fashioned for decades, both before and after independence, to think in terms of communal politics and rivalries, an attitude unfortunately reinforced by the coups and the 1990 Constitution. It is for the leaders of all the political parties to provide leadership and persuade their followers of the necessity and value of a national and multi-racial approach, rather than to yield to their prejudices and racist rhetoric. As we know from our own and foreign experiences, the cost of failure of wise leadership and statesmanship in ethnically divided societies can be horrendous and incalculable.

Several things become clear. There was an acknowledgement on the Fijian side, even if grudging, that the 1990 Constitution was not working, and that the Indo-Fijian community had to be involved in the processes and apparatuses of government. It was also clear from Reddy's statement that he had in mind a fundamental re-assessment of the political culture which had developed in Fiji over a long period of time, and the charting of a new course for the nation that was inclusive and representative. It is remarkable that Reddy was able to articulate this view to the very person who had carried out the coup.

The thawing of relations between Reddy and Rabuka, and improvement in race relations more generally, was a direct result of Reddy's sensitive and tactful approach. Unbeknownst to the public, it was encouraged in the mid-1990s, by players outside the political arena, who assumed a dispass-

sionate and trusted role of genuine friends of all the people of Fiji. Among them, according to Reddy, was the American Ambassador Don Girvetz who privately nudged Rabuka to a more open-minded position and who arranged private meetings between the two leaders to air their concerns away from the glare of public scrutiny. In these meetings, Reddy recalls, he spoke with utter frankness about his deepest fears and doubts and what he thought were the best course of action for Fiji. Reverend Ilaitia Tuwere, the president of the Methodist Church, played a similar role. Later, as the report of the Commission was being considered by the Joint Parliamentary Select Committee, the Speaker of the House of Representatives, Dr Apenisa Kurusiqila, was to play an equally seminal role. It will be recalled that to start the review process, Rabuka appointed a Cabinet subcommittee which was subsequently expanded to include Jai Ram Reddy and Mahendra Chaudhry.

The three agreed that the review would be completed in time for the 1997 general elections to be held under a revised constitution. Further, the review would not be confined to the electoral provisions of the 1990 Constitution but would be broadly based, covering the entire document, including 'a consideration of the system of government considered most appropriate for Fiji.' This was a tacit acknowledgement of the general inappropriateness of the adversarial Westminster system of parliamentary democracy which Fiji had adopted since 1966. Further, they agreed that the new constitution would be 'autochthonous,' developed by people within the country, unlike the independence constitution which was negotiated by Fiji's political leaders in London. Finally, the cabinet subcommittee agreed to appoint a Joint Parliamentary Select Committee whose job it would be to recommend to cabinet the size and composition of the review commission and generally assist the commission in its work by, among other things, developing consensus about the content and character of the new constitution. The JPSC was multiracial, comprising 14 members appointed by the Government and 11 Opposition nominees.⁵ At first, no one had any idea about the appropriate size of the Commission. In November 1993, the

Cabinet agreed on a eight-member body to be chaired by a person from overseas who possessed 'vast experience in multi-racial, multi-cultural environment,' preferably someone from Malaysia, three Fijians, two Indo-Fijians, one Rotuman and one General Voter, and assisted by two legal counsel, one local and one expatriate.⁶ Subsequently, for reasons unknown, the SVT proposed a eleven-member commission, made up of a chairman (Fijian), deputy chairman (Indo-Fijian), SVT nominees (two), and one nominee each representing the General Voters, NFP, Labour, Fijian Association, All National Congress, Rotuma and the State Services.

The proposal did not get far, with the patent under-representation of the Indo-Fijian community on the Commission. Reddy wrote to Rabuka on 3 May 1994: 'I personally see no value in our proceeding in this way, and unless the composition of the Commission reflects a fair principle of representation (as, for example, parity between the two major sides or one based on the votes of a party in the last general election), we shall withdraw from the present review.' There was another area of disagreement. The government insisted that the Commission consist of local people who represented major political parties or groups in parliament and who were familiar with local languages and customs. '[A]ny foreign participation would be confined to the role of expert consultants and advisors only,' because 'the exercise would only be meaningful if it was undertaken by people whose lives would be affected by changes that would be implemented and who had the relevant language and cultural understanding of the different sections of the Fiji multi-ethnic and multi-religious society.' Reddy differed. 'We agree that the majority of the members must be from Fiji, but we do not consider that the presence of outsiders, whose principal task would be to suggest alternative solutions and to offer compromises between different local positions, would detract from the home grown nature of our constitution.'

The government also proposed that the members of the Commission should be appointed by the major political parties represented in parliament, and not by other interest groups, such as, for instance, the Great Council of Chiefs, or the President, or the churches, because 'this would better

facilitate communication with the Joint Parliamentary Select Committee and the public of Fiji as well as provide an impetus to the bi-partisan consensus building process that was vital to the exercise.' Reddy was strong on the consensus-building process and on the supremacy of the parliament in the formulation of the constitution. This was no small achievement in the circumstances as there were many Fijians who sought a greater role for indigenous institutions (the church and the chiefs, for instance). As one of them said to me, the church and the chiefly system were the only long-lasting institutions in Fiji, able to survive political turmoil, and they should therefore have a dominant role in the review process if the constitution was to be an enduring one.⁷ The government envisaged the review to be a two-stage process. In the first phase, the Commission would prepare an interim report and submit it to parliament for consideration. Parliament's comments would then be incorporated by the Commission in the final report. The exercise was expected to take about two years. But things turned differently in the end. The government's proposal for an eleven-member Commission was quietly dropped as too unwieldy and expensive. Reddy felt it was better to have a smaller commission comprising representatives of the two main communities with an outside chairman. The ultimate responsibility for fashioning the constitution, he argued, would rest with the elected representatives of the people in parliament. And that, as we shall see, was how things turned out.

Also quietly dropped was the two-stage proposal as cumbersome and potentially fraught. Reddy rejected the idea outright. He wrote to Rabuka: 'The task of the Commission is difficult enough without the additional complication of periodic reports (and approvals?) The periodic reports may give rise to misunderstandings, even acrimony, and will slow down the process (already in danger of missing the constitutional deadline for review.)' 'Our view of the Commission,' Reddy continued, 'is that of an independent and professional body which makes in its own deliberate judgment recommendations on the best constitution for Fiji. Once it has done that, its recommendations will no doubt receive political scrutiny.' Reddy's view

prevailed. For a while, the SVT insisted that the chairman should be an indigenous Fijian, but this was rejected outright by both NFP and Labour, even though the government had in mind the Chief Justice, Sir Timoci Tuivaga, who had privately expressed an interest in the job.⁸ Both NFP and Labour threatened to boycott parliament if the government refused to budge on the issue. Reddy was convinced that only a person of international standing and credibility would give the process the necessary legitimacy in the eyes of the people, and the international community. That was his 'insurance policy.'

An impasse developed. Kelemedi Bulewa, the Attorney General and a man of nationalist bent strongly linked to the Taukei Movement, was adamant that the chairman would have to be a local while the Opposition, as Harish Sharma put it, 'could not think of any one person in this country who could look at Fiji's problems dispassionately and impartially.'⁹ Reddy reminded Bulewa of Rabuka's undertaking at the very outset of the review process to have an outside chairman of the Commission. The situation had changed, Bulewa argued; all previous agreements were now to be re-visited. 'We have told Cabinet,' he said, that 'in fact we are going to re-look at the whole thing, not only the chairmanship, but the composition of the Commission itself. As far as we are concerned, we are keeping an open mind about the whole thing. We have demonstrated that in the process of our discussions and I do not know what we can do further than that.' Reddy replied bluntly that 'if the earlier agreement was not honoured by Government,' then he saw no need for a vote on the candidate as demanded by Bulewa, 'and Government should do the review on its own.' It was then suggested that two names should be forwarded to the President for him to choose one.

Reddy again objected. He pointed out that the President would appoint according to the advice of the Cabinet, and the Joint Parliamentary Committee was merely an advisory body to the Cabinet. If two names were put to the President, he would pick the name that the Cabinet would recommend, as provided for under the constitution. That was why it was

important, Reddy argued, to ascertain whether the Government side would abide by the earlier agreement (with Rabuka) that the chair would come from outside. If that commitment was not honoured, then there was no point in continuing the review exercise. But if that issue were to be resolved, then Reddy would be happy to provide names for consideration. The JPSC agreed to collect a list of names for future consideration. And the Committee, at Inoke Kubuabola's suggestion, agreed that Reddy and Rabuka meet privately to sort out the niggling issues on the review process between the Government and the Opposition. The chair of the commission was the 'stumbling block,' but it was resolved when Rabuka said that he was 'morally obliged' to get the chair from overseas because he had given that undertaking to the late Ratu Sir Penaia Ganilau.¹⁰

A number of prominent individuals from across the world were identified as potential chairs of the commission. Reddy forwarded the names of Sir Telford George, a former Chief Justice of Tanzania and Bermuda and a member of the commission which had reviewed the constitution of Trinidad in 1974; Sir Robin Cooke, of the Supreme Court of New Zealand; Sir Graham Speight, a retired New Zealand judge and former President of the Fiji Court of Appeal, and Sir Paul Reeves, former Governor General and Anglican Archbishop of New Zealand. The names of Eddie Durie, Chief Judge of the Maori Land Court, and of Sir Ian Thompson, former senior Fiji colonial civil servant living in retirement in Scotland,¹¹ were subsequently added to the list. Reddy initially leaned towards Durie, a distinguished judge and a Maori as well. The combination seemed right to him. Durie was versed in the law and as a Maori, also understood the aspirations and anxieties of the indigenous people of the Pacific. Durie was honoured, he told me, but was unavailable because of his all-consuming Maori Land Tribunal work.

Some Fijian members of the JPSC were wary of having a person from a legal or jurisprudential background to chair the commission, fearing that he or she might be too enamoured of constitutional niceties and legal principles and precedents to fully and sympathetically grasp the thoughts and

feelings of the Fijian people (which might be in contravention of international principles). A constitution, the argument went, was more than simply a legal document. It was a moral compact among the citizens about their country and its future and, therefore, required a much more inclusive input into its formulation. Of course, the skills of legal counsel would be readily made available to the Commission. The JPSC eventually agreed informally that the chairman should not be a lawyer or a judge.

The final choice of chairman came down to Thompson and Reeves, and Filipe Bole flew to Scotland and New Zealand to interview both men. Reddy was not keen on Thompson even though he respected his long and distinguished record of service to Fiji, including to the sugar industry as the Sugar Tribunal. He felt Thompson was too close to the Fijian elite (he had fought alongside them during the Pacific War and served for long periods in the Fijian Administration), too integral a part of Fiji's colonial and early postcolonial past to bring detachment and objectivity to the task of chairing the review.¹² Thompson would have brought with him an intimate knowledge of Fijian thought and feeling, but his impartiality and detachment were an issue.¹³ The JPSC unanimously recommended the appointment of Sir Paul Reeves. It was, in my view, an inspired choice. Reeves (b. Dec. 1932) was an indigenous Pacific Islander, proud of his cultural heritage and sensitive to the concerns and aspirations of the indigenous people of the Pacific Islands. He had spent time at the United Nations as an observer of the Anglican Consultative Council. He was a knight of the realm, which carried weight among a people respectful of authority and hierarchy. He had been the Governor General of New Zealand. And he was a former Anglican Archbishop and Primate of New Zealand as well. Reeves, then, had the gravitas appropriate for the job. He was also, as I later discovered, considerate, sensitive and inclusive, a good listener and a great consensus builder. He kept the Commission on an even keel and diffused many a potentially explosive situation during submission hearings with good humour and Christian grace.

The government nominated Tomasi Vakatora (1926–2006) as its nominee on the Commission. Vakatora was an experienced civil servant, a former Alliance Minister, Speaker of the House, and sometime businessman.¹⁴ He had served on the Falvey Committee in 1987 and was, in fact, one of the architects of the 1990 Constitution which he would be reviewing for its suitability to Fiji's multi-ethnic society. And the people of Fiji did not need to be reminded of his altercation with Reddy in December 1983 which, as we have already seen, led to Reddy's resignation from parliament. Vakatora's nationalist credentials as the victor over Sakeasi Butadroka were impeccable. Many in the NFP were genuinely disappointed with Vakatora's appointment, viewing this as a not too subtle SVT ploy to derail the entire review process. Even Vakatora's former friends in the Alliance party warned me about him. After all, they said, how could an architect of the hugely controversial and racially-lopsided 1990 Constitution recommend its replacement with a fairer one? 'He will be the final brick wall,' one of them said to me, with foreboding, beyond which nothing will penetrate.¹⁵ True to his nature, Reddy never once spoke to me about Vakatora. In the event, all the misgivings about him proved unfounded.

Vakatora was a tough and skilled negotiator with well developed debating skills which he put on full display; he was a Fijian proud of his heritage and history. But he was also, in the end, a fundamentally fair man. He had been an architect of the 1990 constitution, but he was also prepared to listen and to change his mind. He had his spats with other members of the commission; he was a man of explosive temper, but never once did the two of us exchange harsh words. For him, I was the representative of a large ethnic community to be accorded respect befitting such a representative. 'I was determined to have a cordial working relationship with him [Lal],' Vakatora wrote, 'based on mutual trust and understanding of each others' point of view.' He continued, 'When the Commission ended its work 15 months later, we had established a bond of friendship which would last forever.'¹⁶ I felt the same about 'Tom.'



*Fiji Constitution Review Commission with President Ratu Sir Kamisese Mara.
From left: Brij V. Lal, Sir Paul Reeves, Ratu Mara,
Tomasí Vakatora. Courtesy of Fiji Times*

Reddy proposed me as the Opposition's nominee on the Commission. I have never directly asked Reddy why he chose me above others who themselves had indicated availability, and attacked both me (and Reddy) bitterly for a long time afterwards.¹⁷ Reddy justified his choice to journalist Madhur Singh this way: 'We picked Brij Lal because we know from experience that he is totally committed to Fiji, even though he may live in Canberra. He knows the history of the Indian people here and their struggles and he is very sensitive to the aspirations of the Indian people. He has written so much about it that I would have thought that this would be pretty self evident thing. And I did not pick him. He is the unanimous choice of both the NFP and the Labour Party. We decided Dr Lal would be the best man for the job.'¹⁸ I had met Reddy briefly a few times before the appointment

and corresponded once or twice; I had given the keynote address to the 1993 National Federation Party annual convention in Nadi. He had read some of my writings and seemed to like what he had read. People he spoke to about me were generous in their comments about my ability but cautioned Reddy about my lack of political experience. 'Vakatora will eat him alive for breakfast,' one of them said. Reddy had a different approach in mind. 'Leave the politics to us,' he said to me at the beginning of the review process. 'Try and understand the fears and hopes of the Fijians. See if you can find some middle ground,' or words to that effect. I suppose he already knew where I stood on Indo-Fijian fears and concerns.

Still, it was a big decision for him. Much was riding on the review of the constitution, including his own political future. I came to know much later that Labour had in mind Don Dunstan, the late reformist Premier of South Australia with long Fiji connection (he was born there); but Reddy wanted someone from his own community, someone sufficiently dispassionate and detached from the local scene to represent it on the Commission.¹⁹ He had the numbers in parliament and that sealed the matter for him. Once he had nominated me, Reddy scrupulously maintained his distance. He never once asked me about our work. I respected and admired his integrity and professional conduct. The Commission was assisted by its own legal counsels, Jon Apted and Alison Quentin-Baxter. Alison was the retired Executive Director of the New Zealand Law Reform Commission with experience of constitutional advising in the Marshalls and Niue. Alison was a great asset to the commission, with her tireless energy, meticulous preparation and impeccable professionalism and fair-mindedness. A harder working, more dedicated person I have never come across in my entire professional life. Apted was resourceful and intelligent, with sound understanding of the local scene. Walter Rigamoto, as Secretary, completed the make up of the commission. It did not occur to me then but it was a balanced commission: a Fijian, an Indo-Fijian, a General Voter and a Rotuman, with two expatriates!

REVIEWING THE CONSTITUTION

The Terms of Reference for the Commission, an historic achievement of consensus and compromise that would have appeared impossible just a few years before, considering the bitterness generated by the coups, required the Commission to recommend constitutional arrangements to meet the present and future needs of the people of Fiji, and promote racial harmony, national unity and the economic and social advancement of all communities. These arrangements had to guarantee full protection and promotion of the rights, interests and concerns of the indigenous Fijian and Rotuman people, have full regard for the rights, interests and concerns of all ethnic groups and take into account internationally recognized principles and standards of individual and group rights. The Terms of Reference also required the Commission to 'facilitate the widest possible debate throughout Fiji on the terms of the constitution of Fiji and to inquire into and ascertain the variety of views and opinions that may exist in order to formulate provisions of a constitution that would meet the needs of a multi-ethnic and multi-cultural society.' The Terms of Reference were so wide-ranging that it prompted some cynics to wonder what they actually meant and whether they could be reconciled into a workable formula.

The provision regarding wide consultation troubled Reddy who told parliament that this 'widest possible consultation is unnecessary.'²⁰ Mahendra Chaudhry agreed, adding that 'this was a concession we had to make.' Their hesitation was based on experience. They feared perhaps that a public enquiry would revive old hostilities, politicize the atmosphere and potentially derail the review process, embroiling it in endless 'consultations' with various levels of Fijian society until the review exercise went nowhere, except into the dust bin of history. Reddy felt that the inquiry would reveal nothing new because what the different communities wanted, or did not want, was already too well known to warrant re-visiting. The Commission could simply read the submissions given to previous enquiries. The Commission did not share this view. It was determined to make its

own independent assessment, although it had access to papers submitted to, or prepared for, earlier enquiries. The Commission knew that its report would lack credibility without public input. The people of Fiji should be bound into the process for it was, after all, their constitution that was being reviewed. We expected to hear discordant, even disquieting voices from time to time; there would be public posturing and grandstanding; and some people might use the Commission hearings to push their own political agendas.

Some of our fears were realized as both Vakatora and I were attacked by people for one reason or another. That was the price to be paid for living in an open, democratic society. I recall one 'staged' confrontation vividly. Fijian nationalist leader Iliesa Duvuloco attacked me in Suva and gained much coverage on the television and in the newspapers.²¹ A few weeks later, when I met him in Tailevu, during the course of our Commission's visit there, he put his hands around my shoulders and said, 'Doc, I hope you did not mind my attacking you. I needed the publicity.' He was contesting a by-election in Tailevu and wanted to impress his voters that he could stand up to anyone, including a member of the Commission! From July to November 1995, the Commission travelled the country by boat, car and air, receiving over eight hundred oral and written submissions from individual citizens, community, religious, cultural and other interest groups, and all the major parties. The NFP encouraged its various branches and members around the country to make their own private submissions, but there was not a single Labour branch which appeared before the Commission in its own right, leaving the submission to its leader, Mahendra Chaudhry. Most of the submissions were made in public, and they were deeply moving in their sincerity and honesty.

Supplementing the submissions were research papers especially commissioned by us.²² One set of papers dealt with local issues such as the performance of the economy, education, the relationship between state and religion, land tenure, the structure and functioning of Fijian institutions, gender relations, the concerns of minority communities and the like. The

aim was to enable the Commission to increase its knowledge of the local context in which the 1990 Constitution functioned, and to deepen its understanding of some of the issues raised in the submissions. The other set, written by eminent scholars from around the world, focused on systems of power sharing in ethnically divided societies, alternative electoral systems, the place of indigenous and human rights in international law, protection of fundamental rights, and so on.

Early in the Commission's deliberations, the need to view Fiji's constitutional experience in comparative perspective became clear. Malaysia, Mauritius and South Africa, seemed to offer experiences and perspective of particular relevance. Malaysia was recommended by many Fijians. Its pro-indigenous (*bumiputra*) policies, legislative protection of indigenous interests and their integration into the country's political system, the special place of Malay culture and the overarching role of Islam, the relationship between religion and state, all resonated with issues in submissions made to the Commission. Historically, Fijians had served in Malaya fighting insurgent communism in the 1950s, and the older generation had fond memories of the place. Malaysia was pushed hard by Dr Ahmed Ali, who had been Fiji's High Commissioner there and who had secured the services of a retired Malaysian judge (Yatim Zachariah) as a consultant to the government, but he does not seem to have played an active role in preparing the government (SVT) submission.

The second country the Commission chose to visit was Mauritius, a multi-ethnic island state in the Indian Ocean. At the time of its independence in 1968, two years before Fiji's, it had been lagging behind Fiji in nearly all sectors of the economy. Three decades later, it was ahead in virtually every sphere. The Commission wanted to fathom the reasons for this incredible transformation and see if there was any correlation between the constitutional system and economic performance. There was indeed. The constitution was non-racial and it forged a deep and abiding sense of national unity and identity. When, from my Fijian perspective and background, I asked a political leader how many Indian members there were in

parliament, he replied, somewhat puzzled: 'I don't know. We don't look at the race of our parliamentarians. We look at the party.' That was true, but only up to a point, as I discovered later.

The third country the Commission visited was South Africa. In the mid-1990s, it was undergoing perhaps the most massive exercise in constitutional engineering in modern times, steering a deeply divided and racially polarized society from its brutal apartheid past towards a non-racial, multiparty democracy. The Commission wanted to gain a sense of the nature of the problems in the transition, particularly the use of the mechanism of a government of national unity to effect change. We learnt in South Africa that the enforced power sharing provision was a transitional measure which would be discarded once the full transition had been made. 'Why should the ANC [African National Congress] with two thirds of the votes share power with the National Party?' ANC Secretary General Cyril Ramaphosa told the Commission.

The comparative exercise was immensely educative, reinforcing the fundamental point that each country had devised particular constitutional arrangements to suit their particular social and political needs. There was no one-size-fits-all. Nonetheless, there were certain common threads. Everywhere, there was recognition of the need to share power among the various ethnic groups. Everywhere there was explicit recognition, if not actual institutionalization, of ethnicity. And everywhere there was a strong commitment to an overarching sense of national unity, its importance underlined by a history of ethnic conflict and tension.

SUBMISSIONS

The most anticipated submissions were from the SVT and the NFP-FLP, and these are discussed below. First, it is necessary to sum up the general thrust of what was presented to the Commission. There was widespread recognition, among both indigenous Fijians and Indo-Fijians, that Fiji's political and social structures, instead of bringing people together, had kept them apart for more than a hundred years, with the result that people

continued to live, think, and work in racial compartments. Members of both groups noted that, in rural communities, Fijians and Indo-Fijians co-existed amicably happily. Many Indo-Fijian individuals and groups expressed their commitment to working with Fijians towards restoring full democracy and establishing a genuinely harmonious non-racial multicultural society, assuming, of course, that this was what Fijians themselves wanted. Racial cooperation was better than confrontation. Some adverted to the world-wide need to take account of the rights of indigenous people. Fijians, too, stressed that while indigenous interests were paramount, this should not affect the interests and traditions of other communities. No one should feel their interests threatened in what was their own country. A multiracial society was one in which different communities respected one another, interacted, learnt from each other's culture and languages and lived together in trust.

Some thought that a lasting solution would depend on foregoing racial politics and building mutual trust, while others argued strongly that Fiji must abandon the habit, introduced by the colonial government, of thinking, making decisions, legislating and carrying out other activities on a racial basis. The constitution should make people focus first on belonging to the country and only after that on belonging to a particular group. But that trust, some argued, should be built only on the confidence of the different ethnic groups in their own identity in relation to that of the other groups. While the Indo-Fijian population was decreasing rapidly, there was some fear still among the indigenous people that they might one day be swamped and Fiji taken out of their control. However, Fiji's biggest asset was that, despite each group's fears and mistrust, the ordinary people were basically decent and well-mannered, which had enabled Fiji to avoid violence so far.

Many Indo-Fijians expressed their commitment to social and economic advancement of all the people of Fiji. They urged that a new constitution should enable Fiji to solve its serious social and economic problems such as access to land, unemployment, poverty and homelessness, in a spirit of cooperation, trust, tolerance, sound planning, team work and innovative

and creative use of resources. The country's enormous potential could not be realized until its citizens were united in their diversity, and discussed together such concerns as those of the Fijians about not being in the main economic stream and of Indo-Fijians about mushrooming squatter colonies on the fringes of the urban centres. The Indo-Fijian business community could take the initiative in training young Fijians in business and as apprentices. It was necessary to move away from the stereotype that all Indo-Fijians were educated and prosperous. Nor was it true that Indo-Fijians controlled the economy. The banking sector was not in their hands, nor was the gold mine. It was also wrong to suggest that Fijians had no significant role in the economy. Whilst they were not well-represented in the visible aspects of commercial life like shop-keeping, transport and tourism, they owned one of the country's most productive asset, land.

Many submissions pointed out that in many rural areas, members of the two communities spoke each other's language. Even so, a number of Indo-Fijians acknowledged that they could have done more to learn Fijian culture, tradition and language. Some Indo-Fijian schools already had a large number of Fijian students, and were promoting the teaching of Fijian to students, but it was not an examinable subject for non-Fijians. Multi-ethnic schools encouraged communication and trust among the children. Although some schools were still categorized as 'Fijian' or 'Indian,' almost 58 per cent of the 672 primary schools and almost 91 per cent of the 142 secondary schools were multiracial. However, stereotypes still took the place of understanding among the different communities of one another's language and culture. Aside from language and culture, submissions also raised the issue of national identity, a common name, the relationship between church and state, equal citizenship and gender equity.

Two issues understandably featured prominently in many submissions. One was land, which was sometimes seen as a more important concern than the constitution, especially for Indo-Fijians whose thirty-year leases under the Agricultural Landlord and Tenant Act were beginning

to expire and in many cases not being renewed. Many Fijians wanted to be sure that their ownership would not be disturbed, used as they were to hearing their leaders tell them in the past that if they were not united and resolute in their demands, their lands might slip away from them. Ownership was not a privilege for Indo-Fijians, as reflected in the terms upon which leases were given. Some Fijians thought that some or all state-owned land should be returned to Fijians, which subsequently happened. Freehold land, alienated before Cession in 1874, should also be returned to their rightful indigenous owners, an emotionally appealing but legally fraught proposition even at the best of times. Some submissions insinuated that renewal of leases to Indo-Fijians should be conditional upon their accepting the principle of Fijian political paramountcy. As one submitter told the Commission, 'the question of Fijian leadership in this country is an important equation in the debate [and] it would be naïve to ignore the point.' To 'ignore the relation between tenancy and political power would be to misunderstand the post-1987 Fiji.'

Others disagreed. For Indo-Fijians, the main issue was a constitutional guarantee of the security of tenure. They wanted some obligation placed on the government to provide land for those in all communities who became landless through no fault of their own. For many tenants, the thirty year lease, as provided under ALTA, was insufficient to encourage good husbandry and land improvement. Tenants everywhere would agree with that sentiment. They wanted longer leases, perhaps up to fifty years. Alternatively, if the landowners wanted the land returned, the displaced tenants should be compensated to enable them to start somewhere else. Many wanted land to be viewed from a national perspective. If the leases expired and were not renewed, everyone would suffer, including the landlords. That is indeed what has happened. Once productive cane farms reverted to bush, and former tenants clogged up the squatter settlements around the urban centres of Viti Levu. Although Fijian landlords have belatedly recognized their self-defeating view, many tenants are reluctant to return to the uncertainty of temporary leases.

The second issue of particular significance was the character of representation in parliament. On this, opinion divided sharply. Many indigenous Fijians saw themselves as having an inviolable, God-given right to rule Fiji for all time. Since it was their leaders (high chiefs) who had ceded Fiji to the United Kingdom in 1874 in the first place, Fiji should at independence in 1970 have been returned to them, and not to the multiracial nation that Fiji had become in the course of the 20th century. The new comers, the *vulagi* or guests, were entitled to remain in the country where they were born, to work and prosper, but they should never aspire to political leadership. This is the overriding theme of the Fijian nationalist scholar Asesela Ravuvu's provocative, coup-justifying book, *The Façade of Democracy*.²³ Some Fijians justified Fijian dominance on the curious grounds of land-ownership; Fijians owned 83 per cent of all land in Fiji and they wanted that proportion reflected in the allocation of political power. Unless Fijian paramountcy, understood as political control, was accepted by the other communities, some Fijians asserted, Fiji would be fated to go through another, possibly worse, crisis. For the nationalist-minded Fijians, the 1990 Constitution was near-perfect. It had been blessed by the Great Council of Chiefs. Through the preponderant number of Fijians in parliament, it assured their political leadership (the lesson of 1994 seemed to be lost on them). For these and other reasons, many wanted the 1990 Constitution retained. It was suggested that the claim of other races to equality of treatment was itself an abuse of the democratic right which those groups had been accorded. Put simply, the other races, with their superior commercial skills, should help the Fijians, not try to jump ahead of them.

Indo-Fijians saw the 1990 Constitution as having been imposed on them. They regarded it as discriminatory in not allocating seats to communities on the basis of proportionality. Consequently, they saw themselves as relegated to permanent opposition, to third class citizenship, to use their phrase, a state of affairs which did not reflect their earnest desire to co-exist with all the other ethnic groups and make a full contribution to the country and its government. They saw the 1990 Constitution as dividing the people

along racial lines, so that people focused on the advancement of their own community rather than that of the nation. Because the government was required to be an indigenous Fijian institution, it was perceived as having lost the ability to mediate fairly between the communities. Indeed, many in the Indo-Fijian community regarded the constitution as a mandate for widespread arbitrary discrimination against them. They wanted a new constitution to heal the wounds by including express recognition of a permanent place for them in the country of their birth.

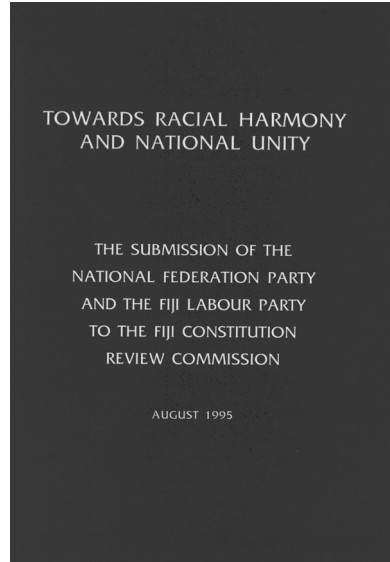
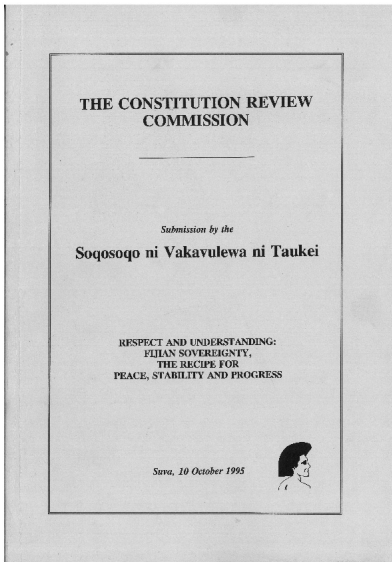
Strident, pro-nationalist views were expected from some quarters. The Methodist Church, for instance, had long declared its hand in favour of Fiji being controlled by the indigenous community and Christianity being installed as the state religion. Various provinces had expressed similar sentiments in the past. The Taukei Movement, ever its fiery self though now in slight disarray, stood up defiantly as the unyielding champion of Fijian rights. 'Blood will flow' sentiments appeared in some submissions, stated in a matter-of-fact manner, not in any violence-threatening way. But all eyes were now on what the SVT would say to the Commission. Its leaders had strongly defended the 1990 Constitution; many were its beneficiaries. And it was, after all, the umbrella organisation for the indigenous community blessed by the Great Council of Chiefs. Yet, it was also true that Sitiveni Rabuka had worked closely with Jai Ram Reddy in setting up the review process, in drafting the Terms of Reference for the Commission and appointing its members.

The SVT submission, a small monograph really, was presented to the Commission not by Sitiveni Rabuka, the leader of the party, but by cabinet ministers Isimeli Bose and Attorney General Etuate Tavai, flanked by supporters and senior party members.²⁴ The submission was a strident, uncompromising re-statement of the hard-line Fijian viewpoint. 'The basic premise of the review,' the submission said, 'is that the 1990 Constitution is here to stay but that what is desirable in the interests of all communities in Fiji, and to help promote multi-racial harmony and national unity in Fiji, is to make its provisions more considerate of the position and sensitivities of

all communities in Fiji's multi-ethnic and multi-cultural society.²⁵ But that would only be possible if the control of parliament and government was in Fijian hands, a prominent constitutional and national role for the Great Council of Chiefs was prescribed, along with a constitutional guarantee for affirmative support programs for the Fijian and Rotuman communities.

Fijian right to political control was justified because Fijians were the first settlers of the land, having arrived in the islands some 3500 years ago and legitimized by 'internationally recognized principles of sovereignty of the indigenous people based on historical experience and legal status.' The argument was reiterated that Fiji would enjoy political stability only if Fijian supremacy was recognized by the other communities. Fijians would share power from a position of strength, not on equal terms. There was nothing intrinsically wrong with a race-based electoral system; it was a reality that Fiji had acknowledge and accept. The submission was littered with gratuitous insult to the Indo-Fijian community, which rubbed salt on a raw wound. 'The leopard never changes its spots,' the submission said, referring snidely to the Indian community. 'It probably has never occurred to Indians that Fijians do not simply trust them politically.' Indians were grasping, ungrateful and disloyal. 'With what they are now demanding, particularly the barrage of abuse and condemnation of Fijian aspirations, it is obvious that the professed spirit of goodwill has been forgotten.' These words were unnecessary, unprovoked insult.

So, what did the SVT want? Fijians should be recognized as the 'autochthonous inhabitants' of Fiji, and Christianity be the official religion of the state. The President and the Vice President should be appointed by the Great Council of Chiefs. The Senate should comprise 14 Fijians appointed by the President on the advice of the Council of Chiefs, one Rotuman similarly appointed on the advice of the Council of Rotuma, eight appointed by the Prime Minister, five by the Leader of the Opposition and six others by the President from amongst the professions to provide technical and professional advice to the Senate. The House of Representatives would comprise 90 members: 58, or two third, indigenous Fijians and two Rotumans, one



SVT and NFP–FLP contrasting submissions to the Fiji Constitution Review Commission. Both were substantial monographs.

European, one Chinese, two representing Pacific Islander communities, two Part-Europeans (Vasu), four Muslims and 20 Indians. Fourteen seats might be contested in national or cross-voting constituencies ‘provided it did not dilute or interfere with the two-thirds majority for members belonging to the Fijian and Rotuman communities.’ Fijian language, customs and culture should be taught as examinable subjects at least till Form Six in all schools in Fiji, and the Great Council of Chiefs should be recognized in the constitution as the ‘supreme forum for determining, promoting and protecting the interests and aspirations of the indigenous people in harmony with the trust exchanged in the Deed of Cession of 1874 between Ratu Seru Cakobau and other high chiefs of Fiji on the one hand and Queen Victoria of Great Britain on the other.

The submission dismayed many people who were hoping for a more accommodating, inclusive and moderate stance from the ruling party, especially since it had raised hopes of reconciliation by working with other parties in initiating the review process. Tomasi Vakatora seemed untroubled by the submission, which increased my anxiety. But he was later to say that the SVT submission was one among many before the Commission, and that it would be given its due consideration in our deliberations. Years after we had submitted our report, I asked one of the SVT leaders about its hard-line submission. 'What did you expect,' he said with a chuckle. 'We put forward our case the best we could and it was for the Commission to make up its mind about it.' Rabuka said at the time: 'The SVT committee felt it had to honestly report these views of the grassroots Fijian people to the Commission as a matter of public and political duty to the people who voted for the SVT.' The view of the ordinary people,' he said, 'even though unpalatable to some people, should not be swept under the carpet.'²⁶

Jai Ram Reddy, who had invested so much energy and political capital into the review exercise, was genuinely disappointed, even angry. 'It is an irresponsible document which fosters division and hatred in our divided society,' he said of the SVT submission. 'It is a recipe not for integration, for bringing our various people together into a united, progressive and peaceful nation. It is, instead, a recipe for further polarization. It negates the very foundation upon which our society is built.' The submission, he said, 'claims to be inspired by Christian belief, yet it is a negation of fundamental Christian values. It is full of hatred of fellow human beings. It is calculated to increase the Fiji Indians' sense of rejection by the indigenous community. Not content to insult, abuse and ridicule Fiji's Indian community, and its leaders, both dead and living, the submission seeks to castigate the entire Indian race here and elsewhere in the same breath.'²⁷ The SVT submission, Reddy continued, was 'filled with falsehoods and distortions.' 'Contrary to what the SVT claim, Indians have never impeded the advancement of indigenous Fijians or questioned their legitimate rights. It is difficult to es-

cape the conclusion that the authors of the SVT submission want to create discord among various communities and groups.'

Whether deliberately intended or not, that was the effect the submission had. Reddy began to prepare his people to expect the worst. He was almost philosophical in his public addresses at the time. Some people recall him being deeply depressed. 'Life has never been easy for any individual or community or country,' he told the annual Andhra convention in 1996. 'We can't have peace and happiness all the time. Difficulties must be borne and solutions must be found. We must not lose hope. We must continue our struggle for justice and equality. The good times will come.' People must not be obsessed with success. 'Whether we succeed or not is another matter,' he said. 'But we should not stop trying. Injustice dies out in the end. God watches over us. Learn from your forebears.'²⁸ Reddy's dismay with the tone and tenor of the SVT submission was clear, but there were also many Fijians who were pained by its strident rhetoric. Among them, strangely enough, was Sitiveni Rabuka. When the parliament convened, he let it be known privately to people that the SVT's submission was SVT's submission but that he would do everything in his power to have the constitution changed. He had heaped all the misery upon the people and he would help remove it himself. Filipe Bole was similarly heard to say that the SVT submission did not reflect the full range of opinion in the GCC or even the SVT. But not all Indo-Fijians were surprised with the submission. Among them was Mrs Irene Narayan who felt 'vindicated' by it because the submission said things she herself had been telling the Indo-Fijian community: that Fijians would never relinquish power to other communities.²⁹

The NFP-FLP submission, also a small monograph widely distributed through-out the country, was prepared by the former coalition's constitutional advisor Yash Ghai in close consultation with Jai Ram Reddy and others.³⁰ Looking back, it seems surprising that Reddy would agree to a joint submission with Labour, funded by supporters of his own party, especially in view of its attitude and track record, since the 1992 general elections, of attacking the NFP at every opportunity, and of Mahendra

Chaudhry vowing to end Reddy's political career. Some within the NFP wanted the party to make a separate submission, but Reddy was persuaded by Ghai not to break the coalition for, after all, on matters of the greatest importance to the Indo-Fijian community, the two parties stood side by side. For Reddy, as always, the longer term interests of the Indo-Fijian community came first. This was no time for division and political opportunism. Solidarity was what was needed at a critical time facing his people. It was for this reason that he had backed the Labour candidate Gaffar Ahmed for a by-election in Tavua in 1995 when he was challenged by some of NFP's own supporters who had formed a separate Janata Party.

Jai Ram Reddy presented the NFP-FLP submission with eloquent and dignified advocacy. He pleaded for a non-communal approach to Fiji's myriad problems. 'We have not sought to promote the interests of our supporters at the expense of other people of Fiji for we do not think that that approach is fruitful,' he said. 'We believe that all the people of Fiji share a common destiny, and that the country will not progress unless there is a tolerance and accommodation of different views and interests. The interests that different communities have in common far outweigh what some may perceive to be their separate interests. Our proposals are based on the necessity to build on these common interests.' He reminded everyone of the 'constraints' of Fiji's colonial history, but added: 'Our leaders face a heavy responsibility, for, if they continue to encourage people to suspect and fear members of other races, Fiji is headed for disaster.' For Reddy, it was a matter of utmost urgency that 'we must move away from using race as the primary basis for the organisation of our country.' The non-acceptance of Indo-Fijians as an integral part of Fiji was a major source of crisis in the country, he added. There was a need to move away from stereotypes which saw Indo-Fijians as 'haves' and indigenous Fijians as 'have-nots.' Much had been made of the significance of the Deed of Cession, Reddy reminded the Commission, but for him, that document held no greater significance than the Independence Order of 1970. The parenthesis opened by one had been closed by the other. And he hoped



Jai Jam Reddy making the NFP–FLP submission, Sept 1995 at the Parliament Complex. From the author's collection

that the review would lead to another covenant, mutually agreed upon, like the independence constitution.

The NFP–FLP submission agreed, as the SVT submission had suggested, that the Preamble should acknowledge the indigenesness of the Fijian people and include a reference to the Deed of Cession while mentioning the contribution of other communities to Fiji's development. In a further concession, the Coalition agreed to have the Great Council of Chiefs nominate the head of state, and proposed greater autonomy for the body, electing its own chairperson and having its own secretariat. The state should 'have special responsibility to ensure the provision of land, adequate to the needs of non-native communities, in particular the Indo-Fijians who become landless on the expiry of ALTA leases.' Affirmative action programs should be non-racial and available to the disadvantaged members of all communities irrespective of ethnicity. The

submission recommended the ‘proportionality principle’ where the share of a community in public service, educational institutions, and official programs would be proportionate to their share in the population. The 71 seat House of Representatives would comprise communal, national and special women members (when necessary), of whom 31 would be elected on communal and 40 on national seats. The communal seats would be single member constituencies (14 each for indigenous and Indo-Fijians, one for Rotuma and two General Electors) and 40 seats would be contested through the List System of proportional representation. Finally, any party with more than 20 per cent of the seats in parliament would be entitled to representation in the Cabinet in proportion to its seats in parliament.

DIAGNOSIS AND RECOMMENDATIONS

The submissions from political parties, individuals and community groups, were often moving in the transparency of thoughts and emotions they expressed. For us listening to submissions across the country was a profoundly educational and humbling experience. The country once again listened to a wide range of often diametrically opposed views, but without rancour or ill-will that some had predicted and others feared. People and political parties said their piece and expected the Commission to square the circle, to reconcile the irreconcilable. The Commission had fulfilled an important role in re-starting a sober national conversation about the country and its future. This was no mean achievement in the circumstances, especially in view of the marked polarities of the 1990s. The tensions and uncertainties are difficult to capture now.

It is not possible to cover all areas in the Commission’s report. For the sake of brevity, I shall focus on two sets of issues only. The first, and perhaps the most critical, concerned the election to and the composition of parliament. That question lay at the centre of the ‘web,’ as Tomasi Vakatora put it, and was at the forefront of all the submissions because the way power is acquired and used lies at the heart of government. It was also

the one central area of disagreement between the major parties and communities. And the second concerned the functioning of the institutions of government and issues of social justice and human rights. From the outset, the Commission believed that unless the systemic nature of Fiji's constitutional problems was grasped, there was little hope of devising constitutional arrangements which would not give rise to the same problems in the future. From the evidence before it, the Commission concluded that it was Fiji's constitutional arrangements which had hampered the process of nation building and impeded effective cooperation among the communities, which otherwise had shown remarkable tolerance and respect for each other's traditions. Fiji's constitutional problems, the Commission concluded, arose from four features of the constitutional arrangements. Two were understandable responses to Fiji's multi-ethnic society: the principle that Fijian interests should be paramount, and the communal system of representation; and two reflected the Westminster system of government that Fiji inherited at independence: the role of political parties and the principle that a government must command the support of a majority in parliament. These four underpinned both the 1970 as well as the 1990 Constitutions.

The principle that Fijian interests should always remain paramount was deeply embedded in the Fijian psyche as almost second nature, and deployed by Fijians of all political persuasions. The principle was expressly enunciated by the colonial government from the early years of the 20th century, partly reflecting a genuine concern for the position of indigenous Fijians (for whose culture and traditions colonial officials and Europeans generally had a deep romantic fascination: an idyllic set-up to be preserved for its own sake), and partly serving to deflect the growing Indo-Fijian demand for equal political representation (Europeans hiding behind the Fijian *sulu*, so to speak), and partly serving to guide political change at a pace acceptable to the colonial state. The notion crept into the colonial political discourse silently and became an uncontested part of the political culture of Fiji. As we have seen, it became the focus of intense negotiations among the

main political actors as Fiji hurtled towards independence in the 1960s.³¹ But the early colonial government and even the Fijian hierarchy understood paramountcy as a 'protective' principle: that is, in the management of Fijian affairs, in the adjudication of intra-Fijian disputes, the Fijian view, as represented by the Great Council of Chiefs, would prevail, be paramount.

As independence approached, the principle of paramountcy turned from a protective to an assertive one: that is, from paramountcy as a privilege to paramountcy as a right. Fijian now leaders argued that Fijian interests could be secure (paramount) only if they had political control of the country. As other communities dominated the economy, Fijian leaders argued that it was only natural that Fijians should control the levers of political power. Indo-Fijian leaders agreed to the entrenched legislative protection of Fijian landownership, culture and separate system of rural administration. It was the National Federation Party during the independence negotiations which had proposed veto power for chiefs' nominees in the Senate. For indo-Fijian leaders, protecting specific Fijian interests was one thing, equating paramountcy with political control was another. They did not see the paramountcy of Fijian interests as involving the perpetual re-election of a predominantly Fijian government. If the democratic process gave the opportunity, they saw no reason why they should not vote in a government in which they could participate. Differing interpretation of the meaning of Fijian paramountcy, then, was one contentious issue.

Another was the system of representation in parliament. From the very beginning, the electoral system in Fiji had been communal. This arrangement grew out of the colonial state's view that separate representation of the different communities was natural and desirable, not to mention the obvious fact that the system enabled the government to keep the communities apart as much as possible, accentuating its own role as an impartial and indispensable mediator. Until 1966, Fiji had only communal roll, with voters in each community electing members from their own community. Later, the communal rolls were complemented by cross-voting rolls, allowing members belonging to the three main communities to be elected by

all voters. This system also represented a compromise between the Fijian and European desire for complete communal representation and the Indo-Fijian ideological commitment to a non-racial common roll. Under the 1990 Constitution, as we have seen, all cross-voting seats were abolished and replaced with communal seats.

The third feature of Fiji's political arrangement was that all parties were essentially ethnic, claims to multiracialism by them notwithstanding. Even the Fiji Labour Party, ideologically non-racial, had been able to attract only motley Fijian support. And the final feature was the winner-take-all Westminster system, where the Prime Minister is the leader of the party or combination of parties that commands majority support in the House of Representatives. In Fiji it meant that one political party, dominated by one ethnic group, was perpetually in power and another ethnic group was continuously out of it. This arrangement, as Reddy pointed out to the Commission, corroded the morale of half the population constantly on the outer and devalued the currency of common citizenship. Nor was the 1990 Constitution working for the people whose interests it was theoretically intended to protect, the indigenous Fijians. The goal of permanent Fijian political unity had been proven to be untenable: the SVT government had fallen on the floor of the House in November 1993 because of dissident Fijian votes, not because of the Indo-Fijian opposition. And the emphasis on race and racial patronage had effectively hobbled the institutions and processes of good governance from which everyone, including most ordinary unconnected Fijians, suffered.

So, what was the way out? The Commission was convinced after listening to the submissions that the people wanted all communities to play some part in the cabinet, and that voters should be able to cast votes for at least some candidates from communities other than their own. They disagreed on the means of achieving that end and the pace in the direction of multi-ethnicity, but the broad goal was widely shared. The Commission agreed that progress towards the genuine sharing of power was the only way to resolve some of Fiji's constitutional problems, the only way to attain

national unity, racial harmony and the social and economic advancement of all communities. Constitutional arrangements which promoted multi-ethnic government should be the primary goal. Such arrangements, moreover, should protect the rights and interests of all citizens, particularly of the indigenous communities. And they should provide incentives to political parties to strive for multi-ethnic cooperation, and for the political process to move gradually but decisively away from communal representation. The principle of Fijian paramountcy should be recognized in the old protective sense, in ensuring effective Fijian participation in a multi-ethnic government, and in securing the fruits of affirmative programs of social and ethnic justice based on a distribution of resources broadly acceptable to all. Fijian interests should not be subordinated to those of other communities.

The goal of an inclusive, democratic, open and free multi-ethnic society was reflected in a number of the Commission's early recommendations. Fiji should be named the Republic of the Fiji Islands, which would give all citizens, if they wished, the opportunity of calling themselves 'Fiji Islanders.' The name did not take off. All three principal languages of Fiji — Fijian, Hindi and English — were recognized. The Compact section of the constitution enshrined values and principles which should underpin the governance of the country. These embraced respect for the rights of all individuals, communities and groups, including protecting the traditional ownership of Fijian lands and the observance of lease arrangements between tenants and landlords; the right to freely practice religion, language, culture and traditions; the right of indigenous communities to governance through separate administrative systems; political freedom and full and equal citizenship rights for all, including women; respect for the democratic process; fair and inclusive government and the need to negotiate in good faith to reach agreement to resolve differences and conflicts of interest (instead of resorting to force); and non-racial public policies. A strong and up-to-date Bill of Rights was recommended; and it formed a distinctive feature of the constitution. The Great Council of Chiefs was recognized in the constitution, as the SVT wanted.

What power the President has, or does not have, has become a matter of conjecture and controversy in Fiji post-2006 military coup. The Commission was clear in its mind that the President should have much the same powers as the Governor General in the Westminster tradition. Executive power would rest with the Cabinet, and the President would be bound to act on the advice of ministers. The ceremonial role of the office of the President would continue to be important, with the incumbent expected to symbolize the unity of the nation, command the loyalty and respect of all the communities and be impartial in the discharge of duties. There would be clearly spelt out matters on which the President could properly act in his or her 'own deliberate judgment,' but within the bounds of the conventions of the parliamentary system of government. Most people in Fiji were happy with the view that the President should be an indigenous Fijian in symbolic recognition of Fijians as the first settlers of the land. The Commission recommended that the President and the Vice President be elected without debate by an electoral college comprising members of both houses of parliaments. The Joint Parliamentary Select Committee (JPSC) rejected this proposal, reposing that power in the Great Council of Chiefs.

The Commission recommended the retention of the bi-cameral Westminster system, but suggested important changes in the composition of the two houses as well as the method of election. Both houses were to be elected. The Senate would comprise thirty five members, two each elected from the fourteen provinces and six appointed by the President on the advice of the Electoral Commission (to represent communities and groups unrepresented or underrepresented in parliament) and one from Rotuma. The Commission was convinced as it travelled around the country that members of all communities had a strong sense of territorial identity through birth and residence as well as shared or complementary interests (passion for football in Ba, for instance). In rural areas, many people were able to speak both Fijian and Hindi; indeed, in several places, some Indo-Fijians indicated their desire to make their submission in the Fijian dialect of the

area. For these reasons, the Commission recommended that the Senate be elected by voters from all communities resident in the province, to strengthen the sense of common identification with the province and their economic and sometimes social inter-dependence. The result, it was hoped, would be that provincial concerns would be articulated from provincial rather than racial perspective. The JPSC did not agree, recommending instead the more traditional pattern of nominations by the Great Council of Chiefs, the Prime Minister and the Leader of the Opposition. Perhaps some thought that independent provincial representation might lead to the creation of an independent centre of power that might impinge on the legitimate legislative functions of the House of Representatives.

The arrangements for electing members of the House of Representatives understandably attracted the greatest attention nationally and internationally. The Commission approached this delicate task with certain objectives in mind, consistent with the spirit of its Terms of Reference: they should encourage multi-ethnic governments; comply with international standards of equal suffrage; be based on a more open system of representation, and provide a gradual but decisive means of moving away from the arrangements embedded in the 1990 Constitution. Many submissions supported the existing arrangements, and, as seen above, many Fijians wanted to see them even more heavily weighted in favour of the indigenous communities. Equally, many submissions from all communities wanted at least some seats to be filled on a non-racial basis. Many wanted a return to the cross-voting system of the 1970 Constitution, viewed now through rose-tinted glasses and forgetting that the arrangement was fraught and only marginally successful in bringing about more conciliatory politics. The Commission recommended a seventy-seat House of Representatives, made up of forty five seats elected from open non-racial (that is, common roll) constituencies and twenty five from temporarily reserved (communal) seats, with twelve for Fijians and Pacific islanders, ten for Indo-Fijians, two for General Voters and one for Rotumans. The allocation of the reserved seats was based on the actual population size of the different ethnic groups and on past historical factors.

The fundamental point, beyond the precise figures and projections, was that the allocation was seen to be fair by the different communities, and it mostly was. The twenty five reserved seats represented approximately 36 per cent of the seats in the House of Representatives and open seats 64 per cent, the minimum necessary to allow them to spur the development of multi-ethnic politics. As a further incentive to the emergence of multi-ethnic governments, the Commission recommended that 45 open seats should be elected from fifteen-three member constituencies, the boundaries drawn in such a way as to ensure that the constituencies were heterogeneous while taking into account the traditional criteria such as geographical features, administrative and recognized traditional areas, means of communication and the mobility of the population.

That is, they should be composed of members of different communities to force political parties to appeal for votes from communities other than their own. The chances of candidates of a community-based party succeeding would depend on the extent of support from other communities. The level of heterogeneity would naturally vary, given the nature of population distribution (the number of Indo-Fijians in the Koro Sea constituencies could never be large), but the goal of multi-ethnicity was to be aimed for in drawing up the electoral boundaries. The average distribution of 60 per cent of one community and 40 per cent of another was achievable in most areas. The JPSC acknowledged the force of the logic underpinning the Commission's recommendations, but decided in the end to stick with predominantly communal representation. That is, of the seventy one seats, forty six would be contested from racially reserved constituencies and the remaining twenty five from open, non-racial constituencies.

A final important innovation the Commission recommended was in the method of electing members to parliament. Fiji, like most ex-British colonies, inherited the British voting system at independence, best known as the first-past-the-post, in which the winning candidate is the one who gets the maximum number of votes. A logical system when the choice is only between two communities, it is widely considered unfair when there are

more than two candidates. Further, it denies the voters the possible range of preferences. Acknowledging the critical role electoral systems play in determining political outcomes, the Commission identified and ranked a number of criteria against which to evaluate the available options. These, in order of importance and consistent with the Commission's Terms of Reference, included the encouragement of multi-ethnic governments, recognition of the role of political parties; incentives for moderation and cooperation across ethnic lines; effective representation of constituents; effective voter participation; effective representation of minority and special interest groups; fairness between political parties; effective government and opposition; proven workability; and legitimacy.

All electoral systems meet some of these criteria more than others. In the Commission's view, the Alternative Vote, also known as Preferential Vote, best met all the criteria. The AV is based on the same principle as second ballots, but avoids the need for a second election at a later date. It is in effect a refinement of the first-past-the-post system in that it requires voters to rank candidates in order of preference. To be elected, the candidate must have a majority of votes cast. The AV theoretically provides incentive for vote pooling by requiring the winning candidate to obtain more than 50 per cent, and it allows parties to trade preferences. Again, ideally only moderate parties with conciliatory policies would agree to trade preferences, and persuade their supporters to honour the agreement. Sadly, this principle was observed more in the breach than in observance as political parties, such as the Fiji Labour Party, used the AV system to garner as many votes as it could, going even to the extent of giving first preferences to parties which were diametrically opposed to its own philosophy, as we shall see in the next chapter. For Labour beating the NFP was the main priority and, of course, winning the elections.

THE REPORT AND THE REACTION

On Friday 6 September 1996, the Commission submitted its report, titled 'Fiji Islands: Towards a United Future',³² to President Ratu Sir Kamisese

Mara at a ceremony at Government House. The submission date had been delayed by three months (the Commission's original Terms of Reference required the submission of the report no later than 30 June), which fuelled speculation that the Commission was internally at loggerheads about the most important recommendations. Nothing could have been further from the truth: all the major issues had been resolved by January 1996; but the sheer bulk of material covering a wide range of subjects required an extension. It was generously granted. The final 800 page report was tabled in parliament on 10 October: a significant date in Fijian history — the dates of Cession in 1874 and Independence in 1970. The report was generously received and the Commission's commitment and thoroughness complimented.³³ What struck Mara and most people in Fiji was that the report was unanimous. That once unthinkable achievement, Mara said, 'means they have achieved consensus and thus given us all an example, and perhaps also an optimism, that the nation as a whole can arrive at such a consensus.'³⁴

Prime Minister Sitiveni Rabuka, a seemingly changed man now, not the fire-breathing Fijian nationalist and religious extremist of a decade ago, spoke warmly of the Commission's 'painstaking' and 'meticulous' work done with 'outstanding thoroughness and care.'³⁵ 'We want a Constitution,' he said 'that gives everyone fair and equitable opportunities of full participation in the governance of their country.' An exclusive approach,' he continued 'with sole concentration on one's own communal or political and economic interests, sadly, will not work and can only be counterproductive. National unity and a positive environment for the economic and social advancement of everyone in Fiji must be our overriding goal.' He spoke about the need to take 'good care of one another,' about 'national unity and racial harmony,' and about progressive and inclusive leadership. This was the same man whose party, the SVT, had made a hard-line submission to the Commission, advocating Fijian political control at all times.

Jai Ram Reddy commended the Commission for 'producing what is clearly a thorough and comprehensive document, whatever our respective views may be on the specific recommendations contained therein.'

But comprehensive and rich though the report was, Reddy cautioned, the document was not an end in itself. 'It is just another step in the fulfilment of our collective commitment that we made some four years ago, and have repeatedly affirmed both inside and outside this House, to work towards a consensus that will result in a constitution that is broadly acceptable to all the people of this country.' And he urged his fellow parliamentarians 'as the representatives of all the people of this country ... to make good that commitment.' Reddy had no illusion about the difficult road ahead, given the bitter political legacy of the previous decade and the embers of bigotry and ethnic chauvinism not completely extinguished. Nonetheless, he said, 'I am confident that if we are sincere in the commitment that we have already made, and work hard at the task at hand, a consensus is possible. There is too much at stake for us to allow ourselves to be overwhelmed by distractions and difficulties that we will undoubtedly face. We are bound to succeed if we keep our minds firmly on our ultimate goal: to create a united and prosperous Fiji not only for ourselves but for generations to come.' 'We cannot fail,' Reddy continued, 'and we must not fail and I believe that the people of this country, of all races and political persuasions, expect nothing less from us, their leaders.'

Words of hope and optimism from the three principal leaders of Fiji, but the immediate reaction from (predictable) quarters was different, ominously so. Reddy watched with mounting dismay and a sense of despondency as anger erupted against the report. The Fijian nationalists, led by the ever irrepressible Sakeasi Butadroka and the recently visible champion of Fijian rights (but once a member of the Fiji Labour Party), Iliesa Duvuloco, among others, formed an ad hoc Coalition Against the Reeves Report with a handful of unrepresentative Muslim groups to reject the report, a copy of which was actually torn apart, spat upon and burned in a *lovo* (earthen oven).³⁶ Abdul Faruq Hassan of the Fiji Muslim Political Rights Movement said that the Reeves Report had 'declared war on Fijians and Muslims,' who had been 'stabbed in the back.'³⁷ The rejectionists threatened to hold protest

marches throughout the country, but nothing happened. Nonetheless, the nationalists' views were widely aired in the media, causing much concern. More seriously, perhaps, three cabinet ministers had to be reprimanded by Rabuka for working closely with the nationalists 'in drawing up a campaign plan against the recommendations of the report which they did not find acceptable.'³⁸

As months passed, an orchestrated campaign was launched to have the report discussed and rejected by the various Fijian provincial councils. At first, the reaction was uniformly hostile, as province after province registered their displeasure at what they saw as the whittling down of the protection of Fijian interests, for showing 'blatant disregard of the legitimate rights of the Fijian people,' to use the words of the Tailevu Provincial Council.³⁹ Kadavu Provincial Council, led by its parliamentarian Jim Ah Koy, rejected the report in its 'totality' because the Commission had ignored the spirit of its submission, claiming that it, the Commission's, 'philosophy that the 45 open seats would bring peaceful co-existence and multiracial harmony is based on imaginary ground,' saying that it was 'an utopian vision to create a multifaceted people in an impractical world.'⁴⁰ Macuata Provincial Council's Ratu Tevita Vakalalabure said that the Commission's report was 'just good enough to be thrown into the sea. It sold Fijian rights and makes us nothings in our own country.'⁴¹

Senior ministers such as Inoke Kubuabola, Kelemedi Bulewa and Jim Ah Koy, the first two of whom were actually members of the Joint Parliamentary Select Committee, led the anti-report campaign.⁴² It was not immediately clear whether they were articulating their own private opinion or those of their constituents or imposing their own preference on the people. Kubuabola suggested a referendum, while Ratu Finau Mara, son of the President, declared the Commission's recommendations on seat allocation illegal because only those 'who are beneficiaries of the Native Land Trust Act, Rotuman Land Act and Banaban Land Act' were entitled to reserved seats. By Ratu Finau's logic, the 1970 Constitution too was illegal! Others produced even more novel reasons for rejection. In a document that was

clearly the handiwork of Dr Ahmed Ali, the coup-supporting former High Commissioner to Malaysia and now head of the Policy Analysis Unit in the Prime Minister's office who had admitted advising the authors of the SVT submission, it was argued that since none of the commissioners was a lawyer, they were unqualified to review the Constitution.⁴³ 'These three men are clearly not jurists. For the purpose of reviewing the Supreme Law, they are to be regarded as laymen and as laymen they are not competent to review the Supreme Law of Fiji.'⁴⁴ The fact that the Commission had two legal counsels to assist it was lost on Ali. And it was conveniently forgotten that the committee which prepared the 1990 Constitution was chaired by a non-lawyer, Paul Manuelli.

The second ground suggested for rejection was that the Commission had altered the Terms of Reference by adopting a mission statement as the basis of its work. But there was no secrecy about this: the Commission had shared the statement with the full Joint Parliamentary Select Committee at its first meeting in June, a month after beginning its work. And the third reason for rejection was my presence on the Commission allegedly because I was 'biased against the indigenous Fijians, biased against their chiefs and extremely biased against the 1990 Constitution,' that somehow I had exercised preponderant influence on the Commission's thinking. Reddy rubbished Ali for indulging 'in anti-constitutional reform propaganda openly without regard for the fact that he was being paid for by the taxpayers of the country.' Ali denied impropriety but admitted helping the SVT prepare its submission. Reddy was furious at the anti-report campaign emanating from various government circles. 'I can't help thinking that all this is a prelude to sabotaging the whole review process,' adding that 'I have never heard of a government that had set out to discredit a commission that [it] itself had created.'⁴⁵ The government's behaviour, vacillating and prevaricating, was curious, to say the least. Rabuka admitted privately to being badly advised. He was being pressured by his hard-line colleagues to reject the report, to stay faithful to the aims of the coup he had executed. But Rabuka was on a roll. He was sympathetic to the advice that he should take a more states-

manlike approach to the constitution, distance himself from colleagues with parochial, chauvinistic vision. In June 1997, he publicly repudiated the SVT submission that equated indigenous sovereignty with political control.

He told parliament that there was 'no provision in the Draft Convention [on the Rights of Indigenous Peoples] nor is there any intention that there should be provision, that would confer on members of any indigenous community anywhere in the world, inherent rights of paramountcy or predominance over other citizens. For that itself would be a breach of the natural birthright of every individual in any country, to equality before God and the laws of his or her country, as well as the Charter of the United Nations itself.'⁴⁶ Instead, Rabuka argued, the intention of the international conventions was to 'obligate the State authorities in the countries concerned to ensure that members of their indigenous communities, as individuals and as groups, are given the same fundamental rights and freedoms as constitutionally guaranteed for all citizens, and further that these indigenous communities are given full rights of self-determination to maintain themselves as a distinct ethnic and cultural entity, and to administer their own affairs to ensure the good governance and welfare of their members.'

Rabuka was right of course. The international conventions authorized full partnership, not paramountcy, of indigenous or other interests. This is precisely what the Commission had been arguing. But for Rabuka to embrace the argument in its totality and to articulate it publicly and against strong opposition to the views held by his senior colleagues was remarkable. By the mid-1990s, Rabuka had grown in confidence and maturity. He had seen the treachery and betrayal of his own people and members of his own party who spread salacious stories about his private life and plotted his downfall. He had deciphered their narrow self-interest masquerading as Fijian interest. And his exposure as prime minister to others beyond his community had broadened his horizon. He put his position to me this way sometime in 1998. His people were saying 'Dabao, Dabao: Press the Peddle, Press the Peddle, Go faster, Go faster.' 'I can't do that,' Rabuka said. 'I have to look at the safety of all my passengers first.

This is what this job [prime ministership] teaches you.' And the fact that he was dealing with Jai Ram Reddy, who was consistent and transparent in his public thoughts and private pronouncements, helped greatly. A rapport was rapidly developing between the two men, chalk and cheese in many ways, and that too at a time when good relations really mattered. Reddy could and did talk to Rabuka openly and frankly about his doubts and fears, and over time Rabuka came to trust him as he could not trust some of his own colleagues in the SVT. Rabuka's exposure to overseas leaders helped change his thinking as did the advice of disinterested parties in Fiji itself, including members of the diplomatic corps. The timing was right.

JOINT PARLIAMENTARY SELECT COMMITTEE⁴⁷

The first working meeting of the Joint Parliamentary Select Committee took place at the parliamentary complex on 9 October 1996 at which a small bi-partisan subcommittee comprising four members each from the government and the opposition sides was authorized to lay out its *modus operandi*. It comprised of Jai Ram Reddy, Sitiveni Rabuka, Inoke Kubuabola, Kelemedi Bulewa, Leo Smith, James Raman, Mahendra Chaudhry and Krishna Datt. The Committee decided that the full JPSC of twenty five members would be divided into five sub-committees, each of which would consider specific sections of the long report and report back to the main group in due course. This was a suggestion made by Reddy and adopted by the sub-committee. The step-by-step approach would enable the participants to identify areas of consensus and disagreements for more prolonged discussions and negotiations later on. The JPSC would be chaired by Rabuka, much to the annoyance of some in the SVT, including Isimeli Bose, who wanted him to be there as the advocate of the Fijian people and as a 'sounding board' for his team in the Committee.⁴⁸

Rabuka saw himself as the Prime Minister of Fiji and 'all the people therein,' and his chairmanship to 'ensure that the views of all groups are given a fair hearing and due weight in the consensus.' He had made a com-

mitment to the review process, and he would see it through. It turned out to be a significant decision. Rabuka had crossed his Rubicon. He severely and publicly chided members of his own party (Adi Litia Cakobau, for instance) who continued to espouse by now a jarring nationalist line. Reddy recalled Rabuka as a decisive and disciplined chair, clearly a man used to leadership. Both Rabuka and Reddy were advised not to become members of any of the five sub-committees, but to remain outside the committee process and fill the important roles of a sounding board, a source of independent advice, breakers of impasse, providers of overarching leadership. It turned out to be a wise decision.

The Joint Parliamentary Select Committee was required to consider the Commission's report and secure the passage of agreed amendments and changes to the constitution. The JPSC obtained a legal draftsman from Australia (Dennis O'Brien of Minter Ellison) to draft sections simultaneously as agreement was reached. No records were kept of the discussions in the subcommittees except for the decisions reached. Bad for historians, but this method of minimal note taking had merit. Most importantly, it encouraged participants to engage in wide ranging and uninhibited discussions of contentious issues, enabling them to express the fears and anxieties of the communities they represented. Parenthetically, the Reeves Commission itself had adopted a similar approach in its own deliberations, recording viewpoints without attribution. All agreements reached were provisional until the very end, giving the commissioners flexibility in negotiation. This approach was Tomasi Vakatora's idea.

Both Reddy and Rabuka spoke at the first meeting of the JPSC sub-committee (along with other members as well). Reddy said:

As representatives of the Indian community, we have no desire either now or at any time in the future to politically dominate the indigenous Fijian community. Just like the indigenous Fijians, we too have our deeply felt doubts, fears and anxieties about our future in this, the land of our birth. We need to move away from the language of dominance to a language of partnership. Like

any productive partnership, we need to redefine our relationship in such a way that we can all work together for the common good of all our people. The leadership today needs to cast its mind not to the next general election, or indeed to the one after that, but perhaps two generations hence to define the kind of country we would like to see our great grandchildren inherit.⁴⁹

Rabuka urged the members to strive for consensus, and to be sensitive to 'the genuine fears and deep-seated anxieties' of the different communities. 'We can neither coerce conformity nor impose uniformity,' he said, urging leaders to 'move at a pace that is acceptable to our people so that they can adjust to changes and absorb [them] peacefully in their lives.' This was a far way away from the SVT submission of just a few months ago. A cautious tone is evident in his statement, the need to make haste slowly, but Rabuka would confound everyone by his deftness and dexterity as the review process unfolded.

Time was of essence, Reddy reminded the members of the sub-committee, no doubt conscious of the angry things being said about the report and the whole review process by many in the media, all suggesting delay or, perhaps better still, complete derailment. The 1990 Constitution itself stipulated that the constitution 'shall' be reviewed before the end of seven years after its promulgation. 'The review is mandatory, and the time frame is prescribed,' Reddy reminded everyone. That meant a very narrow window of opportunity. He suggested the simultaneous drafting by the legal draftsman of issues upon which consensus was reached, so that at the end of the process the sub-committee would 'at least have a draft bill to look at.' His suggestion was accepted. Mindful of the intense discussions that would take place, and acrimony generated, Reddy suggested the suspension of the sitting of both Houses of Parliament in the early part of 1997 to avoid divisiveness which parliamentary debates tended to generate and to deal with the constraints of time. 'We need a period of intense dialogue in an atmosphere of peace and calm if we are to arrive at a consensus.' The suggestion was not taken up.

There is no written record of the proceedings of the Joint Parliamentary Select Committee, except a written summary of the main conclusions and amendments. The summary begins: 'The JPSC met regularly and at length in a spirit of dialogue and compromise. The JPSC considered in detail the recommendations of the sub-committees and, following its deliberations on the sensitive and onerous issues before it and having regard to the national good for the peace, order and good governance of Fiji, resolved the framework of a new constitution to be adopted by Parliament.' Of the 694 recommendations of the Commission, the JPSC adopted 577, amended 40, and rejected or made redundant 77. Consensus, I have been told, was easily achieved on the non-controversial recommendations concerning the provision for good governance, the structure and functioning of state institutions, the Bill of Rights, and so on.

The bland language of the above summary masks bitter impasse on some of the most important issues, such as those concerning the composition of parliament. Sub-committee C, dealing with these issues, was chaired by Ratu Inoke Kubuabola, and had another hardliner on it, Attorney General Kelemedi Bulewa. Kubuabola would by now be familiar as a Taukei Movement member, one of the instigators and planners of the 1987 coup, and an ardent champion of Fijian nationalism. He had come of political age in the aftermath of the 1987 coups, and racial representation was the only system he knew. As a Fijian communal member, he categorically rejected the idea of forty five open seats. That, he said, would be the derogation of everything the Fijians had gained in the 1990 Constitution and no Fijian politician could ever countenance voluntary political suicide for his people. Fijian politicians were blamed for the impasse. Parenthetically, in one of those strange ironies that abound in Fijian politics, Kubuabola joined Bainimarama's interim military regime as Foreign Minister in July 2009 and became, outwardly at least, a champion of non-racialism. Whether this was rank opportunism or a genuine change of heart, only time will tell.

Fijians, however, were not the only ones who were ambivalent about open seats. Many Indo-Fijians were also reluctant to embrace the dilution of

the racially-reserved seats, contrary to their public pronouncements. It was not only the Fijians who feared opened seats, Reddy said. 'Indians fear it as much. It is not [only] Fijians who can be outvoted, the same can happen to Indians, given their numbers, given the fact that their population has decreased and they are a minority.'⁵⁰ Open seats might throw up uncertainties which could potentially annihilate the community. The risks were just too great in a rapid move away from racial representation. They pointed to entrenched legislation in the constitution, such as the Agricultural Landlord and Tenant Act, which could be jeopardized with the reduction of Indian members in parliament. Then, Fijians could do whatever they liked: *manmaani*. As Reddy said in 1993, his party would welcome common roll 'albeit on a limited scale.'⁵¹ His mind was turned to another kind of political representation which accepted the reality of race but provided for power-sharing among the major communities. This was paramount in Reddy's mind whatever electoral system was in place.

For all his intransigence, though, Kubuabola and other Fijian hardliners knew that the national mood was for some form of compromise, and that some concessions would have to be made. But it was Reddy who took the lead and suggested a compromise. If the SVT agreed to accept in toto the Reeves Commission recommendations regarding the judiciary, the protection of human rights, the freedom of information and others that covered governance and administration, in other words the things that really mattered, he would consider accepting the reversion of the electoral recommendations, that is, forty six reserved seats and twenty five open. Rabuka, to whom Reddy made the suggestion, agreed to put the proposal to his caucus (it was accepted). The NFP-FLP members of the JPSC were relieved, some even ecstatic at the potential breakthrough, including FLP's Krishna Datt and Shiu Sharan Sharma. This was the best that could be hoped for in the face of the Fijian nationalist intransigence. And it fitted in perfectly with the consociational vision of guaranteed group representation Reddy had in mind. That is how the composition of parliament prescribed in the 1997 Constitution came about. Reddy asked that the constitutional

settlement should be seen in its proper political context. The agreements that were made, he said, 'were made within the context of Fiji as we found it, a Fiji that was hopelessly divided, is hopelessly divided, a Fiji which had not one but two military coups, a Fiji in which the indigenous people are not prepared to accept a system of open voting at present.'⁵² At least a start had been made in the right direction, and for Reddy that was a positive development in itself. To those who pointed to the retention of a large number of racially reserved seats, Reddy was blunt: 'The truth is different races perceive their interests differently. It is a fool's dream to think that somehow by adopting a particular electoral system you can just remove ethnicity as an equation in politics.'⁵³

There was another feature of the 1997 Constitution which had not been recommended by the Commission, but which the JPSC introduced. It was an idea Reddy had been advocating for many years: genuine power sharing between the two principal communities of Fiji through the normal processes of parliamentary democracy. Rejecting the winner-take-all approach of the Westminster system, the JPSC recommended mandatory power-sharing. Any political party with more than ten percent of seats in parliament would be constitutionally entitled to be invited to serve in cabinet in proportion to its size in parliament. Would this not be a prescription for political paralysis? How could two political parties, fighting an election on diametrically opposed platforms, be expected to work harmoniously in cabinet? And what would happen to the role opposition in parliament? Reddy was aware of the potential problems, which is why he still favoured the pre-election coalition arrangement; but this power-sharing arrangement would ensure, when all else failed, that no major political party — which in Fiji meant no major ethnic group, because parties were organized on racial lines — would be excluded from power, as had invariably happened under the 1970 Constitution. 'The multi-party cabinet will not be a grace extended to us but it will be our right,' Reddy said.⁵⁴ And he wondered loudly whether it might not be a good idea to suspend the normal operation of party politics for a while to give the novel approach some time to prove

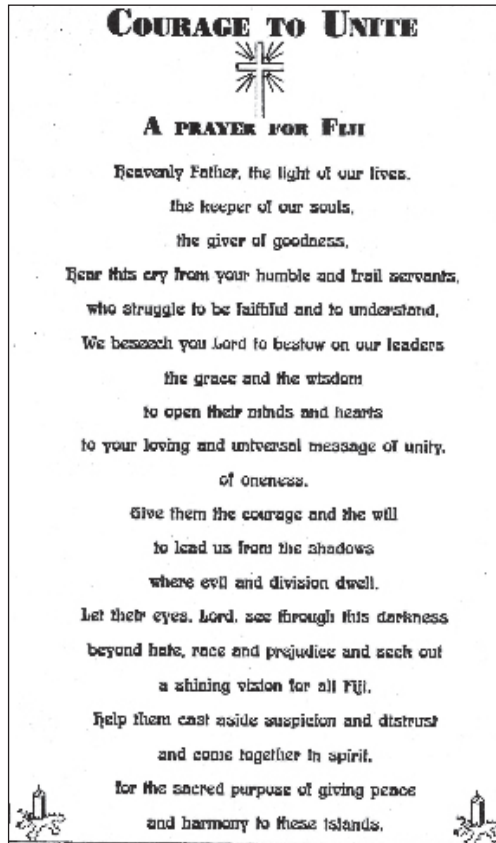
its worth. That, in the company of ordinary politicians, was too much to expect. The power sharing arrangement, like the Alternative Vote idea, rested on certain assumptions, among them the expectation that political leaders would eschew the politics of extremism in favour of enlarging the common space, that they would give the new system a genuine try. But that, as history was to show, was too much to hope for.

THE STORMY PASSAGE

The Constitution (Amendment) Bill, 1997 was introduced in parliament on 23 June 1997 by Sitiveni Rabuka and seconded by Jai Ram Reddy. It was the conclusion of a long and turbulent journey, a conclusion which could not have been imagined just a few years before: Rabuka and Reddy, arch political foes, hammering out a constitution that jettisoned the confrontational values of the past to forge a new destiny for Fiji. But was there, among others in parliament, a genuine change of heart or were members voting for change under duress? Rabuka was the first to speak. 'We cannot make any real progress in promoting national unity in Fiji unless and until we have representatives of all communities sitting together in Cabinet and sitting alongside each other on both sides of this Chamber,' he said. The new constitution was 'an honourable beginning of an adventure into the future.' There would be problems ahead, many challenges to face, but he was 'convinced that the best way of facing and resolving our common problems is to develop honest and free dialogue and to arrive at consensus solutions that are practical and generally acceptable to the majority of our citizens. We have to look to the future in terms of conflict prevention.'

Rabuka must have been aware of rumblings amongst his ranks; many, after all, had been campaigning publicly against the Reeves report. That is probably why he said: 'I make a special plea to all honourable Members to be constructive in your contribution to this debate. This is not the time or occasion for small-mindedness or for grand-standing on parochial and narrow sectional interests. This is not the time to instil and ignite fears based on ignorance and prejudices. We cannot agree on everything nor

*Matt Wilson's specially
composed prayer for Fiji
with 'Jai' and Sitiveni
Rabuka in mind*



can we expect perfection. There will always be opportunities in the future to improve on this document. That will be in the hands of the younger generation and their descendants who will have the benefit of experience to do so.⁵⁵ He went on in that vein about a new chapter opening for Fiji, about other nations learning from Fiji's experience. But not all of Rabuka's SVT colleagues supported the Bill; many were decidedly lukewarm and ambivalent. The reason for their lack of enthusiasm lay in the perception that, somehow, Fijian paramountcy enshrined in the 1990 Constitution had been whittled away. The aims of the coups, whatever they were, had not been realized. Isimeli Bose, who had taken the lead in presenting the SVT

submission to the Commission and who was reportedly its principal author, summed up the ambivalence of his colleagues:

My heart likes to believe and wants to believe that the Bill embodies the dream, the vision, the goals and aspirations of many of our people. Indeed, in terms of economy, investment, in terms of trade in the environment of globalization and in terms of the advancement of the country and its people, in the context of liberalization, there is absolutely no doubt the Bill provides the foundation and framework and signals to the world that we are liberated leaders ready to take on the challenge before us. Yet, my head tells me that we have to be pragmatic, to look at realities, and to learn from history. A lot of Fijians, at least those I know, do not like the comprehensive changes we are now proposing. Whilst they have been silent, it is an ominous silence underlying the truth in the culture of silence. Their silence does not mean they have accepted the changes. If an election were held tomorrow, many of us would find it difficult to retain our seats.⁵⁶

Ratu Finau Mara, the parliamentary leader of the Fijian Association Party, spoke similarly:

The Fijians, through their chiefs, surrendered their political, military and spiritual control to the Christian god after the missionaries arrived. The Fijians again through their chiefs surrendered their land and reefs to the United Kingdom through the Deed of Cession. The Fijians again surrendered political dominance of their destiny and fate to a multi-racial Parliament after independence. Now the Fijians are being requested to surrender political control of their own people to multi-party cabinets, by the international community [in collaboration] with local parties, religious groups and political activists. While this is what the word democracy might encompass, I am not certain if the gradual erosion and fragmentation of tribal boundaries is what the Christian God wishes us to surrender.⁵⁷

Jonetani Kaukimoce, of the SVT, said that the 'report of the Reeves Commission left most Fijians, most of our provinces, dissatisfied, and the overall feeling was that 'most of the Commission had come to the task with their minds made up, and thus did not objectively give due weight to the submissions made by the Fijians.'⁵⁸ During the debate, Fijian members, including those who had signed the JPSC agreement (such as Inoke Kubuabola), asked for further changes to meet Fijian nationalist aspirations. One was that Fiji should be made a Christian state. It was an old argument, now only of rhetorical value. Even the President of the Methodist Church, Reverend Dr Ilieta Tuwere, distanced himself from that position, saying that it was more important to live by the Christian faith than to declare the nation a Christian state. Another change the Fijian members wanted was the election of twenty five open seats from provincial constituencies. Reddy rejected the proposal outright, calling it a 'blatant attempt to gerrymander.' There were only two provinces, Ba and Macuata, where Indo-Fijians outnumbered the Fijians. 'From the Indo-Fijian point of view, it will put them out of the frying pan into the fire and it will do nothing to advance the cause of multiracial politics.'⁵⁹

Facing the prospect of defeat, the hard-line Fijian members demanded a 'free' vote on the JPSC report. Kubuabola led the charge. The constitution, he said, was 'a matter of such importance that freedom must be permitted. There is no point in enshrining several freedoms in our constitution and begin by denying our parliamentarians our right and freedom of choice in what is a matter of conscience.'⁶⁰ It was a fantastic demand of ill-intent. The JPSC report was a political agreement, carefully negotiated by the leaders of all the major parliamentary parties. Now, even those who had signed it wanted the freedom of conscience to vote against it, because the defeat of the agreement was their real motive in asking for a free vote. The Opposition was aghast. But Rabuka agreed with the demand for a free vote, with the proviso that if the Amendment Bill was defeated, he would go to the polls immediately with the JPSC report as the central issue in the campaign. The threat worked, and the critics backed down. Reddy watched the shenani-

gan and contortions of the government members with deepening dismay. The Bill was passed, he later told me, but with no particular enthusiasm on the Fijian side. The 'unmistakable impression' some of them conveyed was 'of deep suspicion and indeed of distrust.' Rabuka was in a clear minority. Reddy cautioned his people against public celebration of the passage of the Bill, because he knew deep in his heart how uncertain and reluctant the support had been from the Fijian side and how vulnerable Rabuka really was, although he probably did not realize the full extent of his vulnerability. He resolved to stand by Rabuka, to give him all the support he needed to make the constitution work because SVT members were unlikely to.

Strong negative reaction from the Fijian members was expected, but the sharp attack from Labour leader Mahendra Chaudhry caught everyone by surprise. Assuming the pristine moral ground, Chaudhry attacked the Joint Parliamentary Select Committee, and especially Rabuka and Reddy, for what he called 'self-interest and short term contingencies.' The reversal of the Reeves formula for open and reserved seats was condemned, along with the re-introduction of provincial representation for Fijians, and the rejection of the multi-member constituencies in favour of single member ones. 'All those references to multi-racialism that we have been subjected to so far, from both sides of the House, and both inside and outside of Parliament, are just hollow and mere rhetoric as far as the electoral arrangements are concerned,' he said⁶¹ Chaudhry then rounded on Rabuka and Reddy, without actually naming them. Rabuka and other coup perpetrators 'must show remorse for what they did, and the best way to show this is through an apology to those who were wronged and who suffered as a result of their actions. There is no permanent remedy in just papering over the cracks with a lot of rhetoric about multi-racialism and national unity.' (He had not asked for an apology from Rabuka in 1992, when he had offered his support to Rabuka to become Prime Minister!) And Reddy was accused indirectly of 'selling out' the interests of the Indo-Fijian community again by accepting nineteen rather than twenty reserved seats for Indo-Fijians, which Chaudhry alleged their numbers entitled them

to. Invoking the name of Mahatma Gandhi several times in his speech, Chaudhry said 'I am only too aware that mine is a voice in the wilderness. The rest of my colleagues are happy enough to settle for the shadow rather than the substance of multi-racialism.'

Chaudhry was right in one respect. His was certainly a voice in the wilderness. And among those who disagreed with him were his own colleagues on the Joint Parliamentary Select Committee, Shiu Sharan Sharma and Krishna Datt, both of whom had been privy to the intense and difficult negotiations which had preceded the final JPSC report. Labour, it should be noted, had members on the sub-committee chaired by Inoke Kubuabola which considered the electoral arrangements and the composition of parliament, and it was the failure of that group to reach a consensus that had led to a request for Reddy to intercede with Rabuka directly. Reddy recalled Chaudhry telling him before he met Rabuka: 'Jai, make sure the Indian seats are entrenched' For him then to cavil later seems curious. It is possible that Chaudhry was genuine in his convictions, and should be given the benefit of the doubt, though he never raised these issues later when he was Prime Minister.

There is another explanation: political survival. Chaudhry stood to gain everything and lose nothing by criticizing aspects of the constitution in whose formulation he had a hand. He knew the Amendment Bill would be passed anyway, with or without his support. If he voted against it, he might be the only one doing so, and what a great political disaster that would be. Chaudhry was too astute to be caught in a cul-de-sac. By taking the stand he did, he could keep his political power dry and his ideological purity intact and blame the others, especially Jai Ram Reddy, for the shortcomings of the constitution, for its deviations from the recommendations of the Reeves Commission (which he successfully did in the 1999 general elections). Throughout the review process, Chaudhry had played the second fiddle to Reddy: it was Reddy who had the initial discussions with Rabuka on the review of the constitution; it was Reddy who had taken the lead in preparing the Coalition submission; it was Reddy that the Indo-

Fijian community looked to for guidance on matters of crucial import; and it was Reddy who was emerging as a national leader respected by the other communities. Political survival thus dictated that Chaudhry quickly remove himself from Reddy's shadow and carve out an independent niche for himself. His performance in parliament then was designed, in part at least, to achieve that end. 'The FLP,' Chaudhry said, 'will not be a party to sacrificing Fiji on the alter of racial politics once again nor can it be a party to any constitutional arrangement that undermines the interest of any one community in Fiji and is not fair to all its people.' But then he turned around and signed the Constitution Amendment Bill, which was passed unanimously.

Reddy had been boiling inside as he listened to criticisms and calls for amendments to the JPSC report, especially by people who had been members of it, their speeches of pure political opportunism and peculiar venom, the chicanery and duplicity of honourable members of parliament.⁶² He was at his incisive best. How could people (like Inoke Kubuabola, for instance) sign the report of the JPSC and than stand up in parliament and say with complete impunity and a straight face, 'I disown my own agreement because I am free to do so,' in the name of freedom of speech, especially as they were present on the Committee not in their individual capacities but as representatives of their parties? If that were allowed, agreements would cease to have any meaning at all. Reddy explained why Fiji should not be made a Christian state and why the various declarations on indigenous rights were not applicable to Fiji, asserting that 'there is no treaty or convention in the world that sanctions the discrimination of one group of people by another, in the name of ethnicity or indigenesness.'

Reddy then reminded the House of how difficult it had been to achieve consensus in a deeply polarized atmosphere. When the review exercise began, he told them, the views of the different parties and communities were so divergent, the gulf so great that the 'best we could hope to seek to achieve at this stage was some middle ground where we could meet and which would constitute an accord amongst the majority of people involved.'

Ground had to be given, and everybody made concessions. 'No one can have it all their way, and also have an accord.' He then turned to those — he had Chaudhry in his sights, no doubt — who decried consensus politics and always spoke from extreme positions, seeking political advantage. Consensus was only possible among men and women of goodwill and good sense, Reddy said. 'Consensus was not for the belligerent and the self-righteous. Consensus making and consensus seeking would be quite foreign to their nature. Let us not allow them to hijack our agreed agenda of securing for our people a constitution that is broadly acceptable now, but leaving the room wide open for any further reform that they may seek and agree upon at a later stage.' This gradual, incremental approach, reaching out and cultivating the middle ground, an integral part of Reddy's political outlook, was an anathema to Chaudhry brought up in the confrontational culture of trade union politics.

Reddy then talked about open and reserved seats regarding which Chaudhry had taunted him. As mentioned, the sub-committee looking at the electoral system and composition of parliament was chaired by Kubuabola and included Labour's Krishna Datt among its members. The committee met from September 1996 to April 1997, without making any progress at all. The Fijians were adamant about retaining all communal seats. They would not move. There was an impasse. On 10 April 1997, Krishna Datt, Deputy Labour leader and member of the committee, approached Reddy and said to him: 'We have reached a deadlock; there is no progress possible. The SVT will not budge, they will not agree to anything but cross-voting; and we have decided in the sub-committee that you should meet the Honourable Prime Minister and talk to him about this issue.' Reddy had not usurped the role and responsibility of the subcommittee, he reminded the House, as was alleged.

Reddy and Rabuka met. Rabuka reiterated that the SVT was not prepared to move from the communal seats. Reddy rejected the proposal for cross-voting because it was a 'discredited system,' which had worked to the great disadvantage to the NFP ever since its introduction in 1966.

After a long conversation, as already mentioned, Reddy proposed twenty-five open seats and forty five communal seats, and Reddy also suggested entrenching the Indian communal seats. Rabuka provisionally agreed. The two leaders then took the consensus they had reached to their respective caucuses. There was no private deal, as Chaudhry had alleged. The Opposition group, to whom Reddy reported the discussion, included Labour's Shiu Sharan Sharma and Krishna Datt (Chaudhry was overseas attending a conference in Manila), unanimously agreed with the proposal and authorized Reddy to place it before Rabuka. When the two met again, Rabuka asked Reddy to consider reducing the number of Indian reserved seats from the previously agreed nineteen to eighteen, because the General Voters, represented by Leo Smith, insisted on three and not two reserved seats. Smith wanted an immediate answer, but Reddy refused. He would need the weekend to canvass the issue with his colleagues. They did not agree to the proposal for reduction.

When the Opposition group met on 14 April, Reddy explained to Chaudhry, who had by then returned from overseas, his discussion with Rabuka and asked him whether he had any reservations. Chaudhry had, about the number of Indian seats. At the next full meeting of the JPSC, the issue of the Indian seats came up again. Chaudhry then suggested that the nineteen Indian seats could be retained, and the three seats for the General Voters accommodated by increasing the size of the House from seventy to seventy one. The proposal was accepted. There would be attacks on Reddy's credibility and integrity for politically motivated reasons, but that did not unduly worry him. Speaking from 'the depth of my heart,' he said his conscience was clear. 'I have worked very hard and very sincerely to bring this review to a successful conclusion. I am not perfect. I do not know all the answers, and I may have made mistakes in the journey, but my intentions are pure. All I am seeking is a country where people of all races and communities can live as brothers and sisters in peace and harmony.' Would Reddy have jeopardized the agreement he had so patiently fashioned with Rabuka over one additional seat for Indo-Fijians? I doubt it. His mind was

focused on a bigger picture, a larger momentum, in which one seat would not make much difference.

The constitution which Reddy had worked so tirelessly to achieve was not the end of the journey but just the beginning, he said, and the constitution by itself would not solve Fiji's problems. A broad-based approach, from many fronts, was required to move the country in the direction the constitution was pointing. 'Our educational system must be changed so that the curricula and school texts reflect the multi-racial background and character of the country,' he said. We must learn the languages of the other communities.' The non-indigenous in particular must learn Fijian. In our day to day activities, we must be more open to the influences of other cultures, and we must develop social relations with members of other ethnic groups.'

Nation building was an enormous task that required the concerted efforts of everyone. 'We must not rely only on the Government and public institutions to mediate between the communities. There is a clear role for non-governmental bodies, trade unions, co-operatives, women's and youth organizations to carry forward this national agenda. Social organizations must take responsibility for the promotion of human rights and human dignity. All of us must make a firm commitment through the constitution and in other ways [to build] a united, peaceful, prosperous and just Fiji.' Reddy was speaking the language of reconciliation and reconstitution, of massive social and cultural and not only political and constitutional reform, which lay beyond the comprehension of those whose principal concern was the search for narrow political advantage. A statesman makes the occasion, as the saying goes, but the occasion makes the politician. Speaking during the 'Constitution Awareness Campaign' week in July 1997, Reddy put his finger on the central dilemmas and problems of politics in ethnically divided societies:

Seeking out the middle ground and holding it is not easy in a multiracial society because you are always being clipped from

both sides of the equation. But we must establish a middle ground, protect it and defend it if we are to remain a harmonious and peaceful society. Now we politicians endlessly talk about progress, prosperity and peace. Let me say that peace, progress and prosperity do not come for the asking. We can have peace, we can have progress, we can have prosperity when we establish a just society. Peace is the product of justice; we need to create a society where all our people irrespective of race, colour, religion or culture feel that they live in a just society.⁶³

While Reddy's character and integrity were being assaulted by his own people, with whom he had struggled and suffered for over a decade to achieve a fair and just future for his people, people he thought who knew better but chose to ignore the truth, it was people in other communities who came to appreciate Reddy's vision and purpose and honoured him in the way his own people did not. Among them was the Great Council of Chiefs. As the review process was proceeding through the JPSC, the GCC requested to be kept informed. When they were presented with the reports of the JPSC meetings, the Chiefs wanted certain changes. In particular, they wanted to have Fiji declared a Christian state as an essential ingredient of nation building. The JPSC received the request but, for obvious reasons, declined to entertain it. It was in the course of these exchanges that Rabuka accepted the idea (mooted by Adi Litia Cakobau, though the idea of non-Fijians addressing the GCC had originated with Ratu Josefa Iloilo, who was then the President of the Senate)⁶⁴ of Jai Ram Reddy addressing the Great Council of Chiefs. That would also silence his opponents in the SVT and 'the doubters in the Fijian community,' Rabuka said. 'There was no one better to put the case [of the constitution] than the eloquent Leader of the Opposition.'⁶⁵ Rabuka also accepted Reddy's suggestion and Mara (initially) agreed that Sir Moti Tikaram's name be put forward as the next Vice President of Fiji, but when the moment came, Mara changed his mind in favour of Ratu Josefa Iloilo (without consulting or informing Rabuka), thereby scuttling what would have been an important symbolic gesture of reconciliation.⁶⁶

The twists and turns of Fiji politics were many, and often mysterious. But the invitation to Reddy stood, and Reddy gave perhaps the finest speech of his political career. As rhetoric, it was almost perfect: the right pitch and fine choice of words, transparent and honest, sensitive without being supplicant, touching the right chord about duty, responsibility and reciprocity, about history and memory, destiny and destinations, and about fate and the future. It was Reddy's finest moment in politics, remembered warmly across time. The speech is reproduced at the end of this chapter. 'Mr Reddy's speech to the chiefs was a defining moment in our history,' Rabuka recalled, 'and sealed the support of the Bose Levu Vakaturaga for the new constitution.'⁶⁷ This assessment was widely shared, as already noted. Many leading chiefs had tears streaming down their cheeks as Reddy finished speaking. At his best, he had that effect on his audience. He was given a standing ovation, led by the President, Ratu Sir Kamisese Mara, no less.

A year later, on 29 July, 1998, speaking informally at the launch of the 'Constitution Awareness Campaign,'⁶⁸ Reddy gave what he called a 'personal perspective, a subjective perspective' on what had happened over the previous six years as Fiji embarked on its long and arduous journey of constitution-making. He began by recalling the words of a visiting scholar who told him: 'You know, I am a student of politics and I have never known any society where political power was taken away by force, by the use of force, and given back to the people in the way you have accomplished here in Fiji.' He thought the exercise unique. Reddy was clear in his mind what the reason for the remarkable turn of events was. It was, he said, due to 'one simple fact and that is the innate decency and the goodness of the people of this country. I believe that has been the single most important factor that has helped us accomplish this transformation.'

Reddy then spoke about what the constitution sought to achieve and about the problems that lay ahead. The constitution, he said, 'is an attempt on paper to move Fiji away from the confrontational politics of yesterday to a gentler, more consociational politics of the future.' For the constitution to work required 'transformation in each and every one of us.' There

were many days of despair and agony along the way, but there were two or three qualities that helped the process along. One attribute, Reddy said, was persistence: 'We didn't give up, we didn't walk away, we stuck to the programme that we made for ourselves. And we talked and talked.' But not all the talk took place in the formal setting of the Joint Parliamentary Select Committee meetings. 'There were many conversations, many discussions, much dialogue outside of the formal format where concessions were won or given, where thinking changed, ideas changed, new ideas were brought forward, mooted, accepted with qualification and without qualification.'

This rings true to me; this is how the most difficult issues concerning the composition of parliament were discussed between me and Tomasi Vakatora, away from the formal meetings of the Commission, behind closed doors or at retreats, where ideas could be discussed freely, off the record, leaving ample room for flexibility and change. 'This has been a great journey in communication,' Reddy said, 'and a great journey in learning from others what they think, how they felt, and telling them how I feel or those I represent feel.'

There was much ignorance about what the constitution was about, Reddy went on. And that had been the cause of so much upheaval in the past, the cause of coups. It was of utmost urgency 'to educate our people about what is in the constitution and their rights.' But instead of enlightening the people, the very people who had been involved in the formulation of the constitution were back in their constituencies misleading and misinforming their people. 'Let me be bold enough to say that there has been a constant cry that the interests of the indigenous Fijian people and the Indian people have [been] sold out under this constitution.' That, Reddy said, was a 'monstrous lie,' 'because this constitution does not sell out anything. Like all compromises, it has attempted to seek out the middle ground — a middle ground which caters for the needs, wishes and the aspirations of all our people.' Reddy was proud of the constitution, an accomplishment thought impossible just a few years back. He hoped that for an interim period of five to ten years, all political parties would embrace

*Jai Jam Reddy
giving his historic
address to the Great
Council of Chiefs,
1997. Courtesy of
Fiji Times.*



the concept of multi-party government to give Fiji a smooth transition to a new era. Party politics being party politics, that was too much to hope for. Reddy had played his part, and hinted ever so slightly that he might not be around for too much longer to shepherd the constitution through the turbulent days that lay ahead. The 'onus now is on those who will inherit this constitution,' he said. It was an 'enormous burden.' 'It is not a burden anyone can take lightly because if you fail in working this constitution in the way in which it is designed to work, then you will have nobody else to blame but yourselves.'

The mid-1990s would have to be one of the most remarkable periods in Fiji's modern history when old orthodoxies were overturned, and new paths forged in the most difficult and unpredictable of circumstances. It was the same Great Council of Chiefs which had endorsed the coup in 1987, backed Colonel Sitiveni Rabuka 'to the hilt,' sponsored an exclusively Fijian political party to pursue the interests of the Fijian people, and generously supported the course of action of the SVT government. Now, ten years later, despite the prodding of its own influential members, it was backing a non-racial constitution broadly acceptable to the majority of the people of Fiji. Equally remarkable was the transformation of Sitiveni

Rabuka. To most observers, the Rabuka of 1997 was not the same as the Rabuka of 1987. Then he was a simple military man called upon — as he insisted — to overthrow the Coalition government, variously justifying his actions as a divine injunction to save his people from ‘heathens, his cultural and traditional obligations to safeguard the rights and interests of his people, to forestall a bloodbath planned by Fijian extremists. Then, somewhere along the way, Rabuka changed. International contacts and travel, Rabuka said, ‘influenced me in my thinking,’⁶⁹ along with the broadening and sobering experience of being the leader of a multiracial country. There were still inconsistencies and exasperating off-the-cuff remarks, but he grew in the job, developing a more sophisticated understanding of the political dynamics of Fiji.

Rabuka was encouraged in his moderate path by his adversary, Jai Ram Reddy. Initially both were understandably sceptical of each other. Reddy, after all, was seen by many Fijians as the man who had masterminded the defeat of the Alliance party, and was high on the list of people the Fijian extremists would have been glad to dispose of. But over time, his political opponents came to see Reddy as a mature and responsible leader, a man of integrity and principled tenacity they could trust to keep his word. As Harish Sharma said, ‘Reddy is not a double-faced man. Rabuka must have been convinced that both he and Jai are striving towards a common cause of nation building.’⁷⁰ Trust, that rarest and most precious of gifts, was what Jai Ram Reddy was also able to win from the Fijian people. He had passed their test of fire, *agni pariksha*, as no other non-Fijian leader in postcolonial Fiji ever had, or was likely to in the foreseeable future.

INTERLUDE

REMARKS AT THE PRIZE-GIVING CEREMONY
OF QUEEN VICTORIA SCHOOL, MATAVATUCOU,
27 NOVEMBER 22, 1997

I am grateful to the principal of your school for inviting me to be with you this afternoon. As I put together some thoughts to share with you, I found myself reflecting on my own school days. I was pleased that I am not yet that old that my memory had faded.

Many recollections came flooding back. I remember all the mixed emotions one feels on an occasion such as this — sadness and loss, happiness and accomplishment and some nervousness about the future. You have reached the end of one stage of a journey — and the next stage is soon to begin. For the seventh formers, the new journey is a major change as you go on perhaps to other educational institutions or even begin a career.

Yes, for the seventh formers, the emotions of today will be the keenest. I can relate to your happiness and your sadness. Happiness because you must feel a sense of achievement and relief that a phase in your lives has come to an end, and another, perhaps more challenging and exciting, is about to start. You will be feeling a sense of sadness because you will be leaving an institution that has been part of your life for several years and that you have come to care about and perhaps to love. Some of you will be leaving good friends behind. Many of you will have established a bond with your teachers. You will be sad to part company with those who have taught you, have cared for you and generally acted as guide, philosopher and friend. You will bid farewell to the familiar, peaceful and friendly surrounding of this institution for the last time as students.

For those of you who are leaving, this must also be a day of thanksgiving. Thanksgiving for the unique privilege you have had to be part of this distinguished institution. QVS has a long and proud history. It has produced many distinguished leaders in every facet of our lives — from politics, to the professions and in traditional roles. Here you have had the benefit of teachers who are well trained and qualified to give you the best that our education system can offer. The physical facilities at the school are among the finest in the country. So you can truly be grateful for what QVS has given to you. I am sure that as years go by, you will be able to look back at your years at Queen Victoria School, with pride and an abiding sense of satisfaction.

A vast majority among you will return to the school in the new year. You will have earned your holidays after a year's academic work. For those of you who return remember that this opportunity will not present itself again. You must make the most of it. While not neglecting your sporting and other extra-curricula activities, you must aim for academic excellence. The world outside is becoming extremely competitive. Excellence is the key to success and you must lay the foundations for your own standards of excellence here, with the help of the school.

We live in extremely challenging times, with the world around us changing at a dizzying pace. We are witnessing a communications revolution in our time. The television, satellites, radio, newspapers, magazines, computers, fax machines, the internet — all are increasingly becoming part and parcel of our daily existence. They have a profound impact on the way we think and the way we do things. Profound changes are also taking place in the social and political aspects of our society. All of you will need to meet these challenges, as you adapt to and help shape a new exciting future for all of us here in Fiji. As I said earlier, many of you will move on to other

tertiary institutions where you will receive further training to meet the differing needs of our country — in politics, in commerce, in government administration, in law, the military, the police, in agriculture and so forth. All of you here this afternoon, and many thousands of young people around the country of different races and sexes, will determine the future direction of this country.

I would urge you today to think very hard about what I am going to say next. The choice for you is this: you can be part of a wholesome, united and prosperous Fiji where men and women — and children too — from all our races and political persuasions can live in peace and harmony. Or you can be part of a nation torn by racial strife and religious disputes — a nation at odds with itself. The young people of this country are uniquely placed to show us the way and to correct some of the mistakes made by my generation. 1997 has been a momentous year in Fiji's history, a year when we have, together, laid the foundations for an exciting new future. I am referring here of course to the amended 1997 Constitution which was unanimously approved by both houses of parliament and the Bose Levu Vakaturaga. These amendments seek to achieve a number of broadly based objectives.

Firstly, they aim to remove all forms of discrimination against people or groups based on race or gender. In this respect, the new constitution reaffirms those universal values enshrined in a number of international charters and conventions including the United Nation's charter itself. Secondly, the constitution, while recognizing the existence of separate ethnic communities within the nation, seeks to take the country away from purely ethnically-based politics to a more multiracial system. Thirdly, the constitution seeks to create strong incentives for Fiji's diverse communities to decisively move away from the confrontational type of politics to greater co-operation.

One of the most positive measures is the introduction of provisions which require that henceforth Fiji should have multiparty government rather than single party government. In the past, single party government has usually meant one race government — or it has been perceived as that. This new approach should usher in a new era of peace, harmony and representative rule.

The aims of the new constitution can be achieved only if the people of Fiji, and particularly the young, respond to the challenges it throws up. Fiji is a multiracial and multi-religious country. This means that often there are great diversities in thought and expectation between the communities. Fiji can prosper and progress only if these diversities are harmonized — and gaps that exist between our peoples are narrowed and bridged.

To achieve our national goal of peace and harmony and progress, there has to be a dramatic change in attitudes in our society. We need to move away from purely ethnic pre-occupations to a more national approach to our problems. We all need to understand that at the end of the day we are one people pursuing the same ends — peace, security, and progress for ourselves and our children. These can be better secured if we learn to work together and live together. That is the great challenge before all of us, and particularly the young. It is the challenge I present to you today.

You belong to a proud race of people. You have much to be proud of. While you must be firmly rooted in your own culture, language and traditions, you must also recognize you lose nothing, but gain much, by learning of, and about, the language, culture and ways of other communities around you. We live in a interdependent world — cultural isolation is no longer an advantage, it is a distinct disadvantage.

The next century is a little over two years away. If we are to be ready as a nation for the next millennium, we need to act urgently on our

plans for a just and democratic society. I sincerely believe we in Fiji can build a model society, the kind that all human beings long for; a society where the basic needs of all citizens are satisfied, rich and poor, and all our languages, cultures, and art forms flourish and give us a sense of fulfilment. History has allowed us to dream freely; there is no embarrassment in dreaming of greatness for our country.

We must be well-informed and alert, build on existing strengths, keep a questioning mind, be unafraid of new ways of thinking and doing things, and remain in control of our national destiny. It is upon you — the young — on whom the responsibility falls for taking this country forward, united and in harmony with itself. The teaching you have received in this great school will help you develop not only your own lives, but the life of our country. Thank you and God Bless you all.

JAI RAM REDDY'S ADDRESS TO THE BOSE LEVU
VAKATURAGA, JULY 1997

*Ni sa tiqo saqa na Turaga na Presideti, na I Liuliu no noda Matanitu,
na Gone Turaga na Tui Nayau, na Sau ni Vanua ko Lau*

*Ni sa tiqo saqa na Turaga na I Liuliu ni Bose Levu Vakaturaga, na I
Talai ka Prime Minister ni noda vanua*

*Ni sa tiqo saqa Turaga kei na Marama bale, lewe ni
Bose Levu Vakaturaga*

*Ni sa tiqo saqa na Turaga kei Marama lewe ni
Bose Veika Vakaitaukei*

*Ni sa tiqo saqa na Turaga kei na Marama lewe ni
Matabose e Cake, I Seneti*

*Today I come before you deeply moved by what this moment means
— to you, to me, and to all the people of our motherland. In a time*

which future generations will remember as a defining moment for this country, the grandson of an indentured labourer answers the call of the Bose Levu Vakaturaga. And together we keep an appointment with history.

Never before has an Indian been invited to address this august body. I am honoured and humbled to be the first. And I am grateful for the opportunity to share my thoughts with you in person. I have made many speeches, in many places, and on many high occasions. But what I have to say this morning is for me the most important of them all.

The very fact of my being here says more about the true spirit of this young nation than any words can express. Our presence together in this forum is symbolic of the emerging mood of great optimism that is abroad in this land. We come to put the final seal on a troubled era and to open a new chapter of hope. And with your indulgence I will try and do justice to the occasion.

I come before you to speak from my heart. I come to speak to you of history, and of the making of history. I come to speak of fear and of the end of fear. I come to speak of truth and destiny.

Chiefs of Fiji, this Council and its members, together and individually, represent a great and binding power for this nation. Since time immemorial your ancestors have provided leadership and guidance for the Fijians. In ancient days, the chiefs of these islands were called upon to nurture and protect a people and their culture.

Yet they were not always united in this task. There sit here today men and women whose forebears were sworn and bitter enemies. Fiji was divided, torn asunder by war and hatred. Yet out of the fires of conflict the warring chiefs of Fiji slowly forged a common identity — recognizing that failure to do so could lead to continuing death and destruction. Those who, with Ratu Seru Cakobau, ceded these islands to Queen Victoria, did so in the belief that uniting to put an end to conflict would preserve their identity and way of life. And so it did.

Since the creation of this high Council, the Bose Levu Vakaturaga has been the source of Fijian unity. Through the turbulence of the past 100 years, successive generations of chiefs have passed down the wisdom of those who went before. You are the inheritors of this legacy.

Chiefs of Fiji, many of you descend directly from those far-seeing leaders who joined Ratu Cakobau in the cession of Fiji. So, too, the strands of history that led from their momentous decision to bring us to this day and this far.

From the coming of colonial rule, through Giriti, through world wars and depression, through profound social and technological changes, independence and coups, time and chance have brought together many threats which Ratu Cakobau and his fellow leaders could never have imagined. But, I would humbly suggest that, just as they were called upon to bind together a divided people for the mutual good, so is this great Council assembled here today, called upon again. You are called upon to be a foundation of unity for the islands your ancestors set upon the road to modern nationhood. Chiefs of Fiji, with the greatest respect and humility, I submit that you are chiefs, not just of Fijians, but of all the people of Fiji.

I said I would speak to you of truth. Plainly and honestly, then, I say to you this: the Indians of Fiji, brought to these shores as labourers, did not come to conquer or colonise. We, their descendants, do not seek to usurp your ancient rights and responsibilities. We never have. We have no wish, no desire, to separate ourselves from you. Fiji is our home. Fiji is our only home. We have no other. We want no other.

*Our ancestors came to this land in search of a better life, in search of a future they dreamed of for their children and their children's children. Though they travelled to these islands long, long after your ancestors, surely the dreams and hopes of those who landed from the *Leonidas* were no different from those who came ashore after the epic earlier voyages from the West.*

Let me reaffirm that we honour your place, and the place of your people, as the first inhabitants of Fiji. We recognize, and have always recognized, the unique and special role of this Council. We seek not domination, indeed, we cannot dominate — we are not the majority ethnic group in his multicultural nation: you are. What we seek is partnership. We seek a country whose children of all races grow up with a deep understanding and respect for each other's cultures, languages and traditions. We seek a country which encourages the best and the brightest — indeed, encourages all its people, or all races — to work together. We seek not to threaten your security, but to protect it. For in your security lies the basis of our own.

Chiefs of Fiji, I said I would speak to you of fear. This country has for far too long lived with fear, and we have for too long let fear stand between us and what we can become. You and your people have been afraid for your identity, for your way of life. You have been afraid of being dispossessed in the land of your ancestors, of being swamped by migrant people. For our part, Fiji's Indians — and to some extent other communities — have been afraid of always being second-class citizens, condemned to perpetual insecurity in the place of our birth, doomed to be eternal vulagi.

At some point in our history, there may have been justification for the fears of both communities. Indeed, politicians of both groups have at various times, capitalised on those fears, maybe with the best of intentions, but for their own ends. The political system from the independence period places emphasis on communal solidarity. All too often, it seemed to be, sadly, the Fijians for the Fijians and the Indians for the Indians.

In the struggle for votes, Fijian politicians found themselves aligned with Indians who were on the political fringes of their own community. Similarly, the Indians were associated with Fijian politicians removed from the mainstream of Fijian thought. There was intense rivalry, which, in turn, bred resentment. The Fijians felt the Indians were fragmenting

their people and Indians felt the same. In a way, elections became self-defeating. We had allowed fear to become our driving force — and there was fault on both sides. I think many of us who were involved see now that we were wrong. Yet, at the time, we seemed locked into this pointless cycle of inter-communal rivalry.

Chiefs of Fiji, I said, too, that I would speak of an end to fear. I reach out to you today, then, and I seek your blessings for a better way of life, a way without the fear that for so long cast its shadow over us. For the last several months, a multiracial, multiparty parliamentary committee, has been on a quest for a new direction in our national politics. This committee, as you know, comprises representatives of the main political parties, speaking for the vast majority of the electorate.

I am so proud to tell you, that for the first time, all of these parties are speaking with one voice. We have attained what previously seemed unattainable. We have found a comprehensive middle ground. By confronting our fears honestly and openly, we have let light into the dark corners of the national soul — and found hope. It is our belief that we have agreed on a constitutional formula which will encourage us — Fijians, Indians and everyone else — to stand together. We want to convert what has been a culture of confrontation into a culture of cooperation. In broadly-based national government, we can complement each other and concentrate together on the vital needs of a developing nation.

Perhaps the most far-reaching and visionary change advocated is the requirement for the leader of the parliamentary majority to have minority parties join cabinet, in proportion to the numbers they have in the House. Unlike the traditional Westminster system of confrontational government, this model demands that major political parties work together. If we can succeed, we may well find ourselves serving as an example for other multiracial nations. And, like the Prime Minister and other members of this committee, I believe we can make it happen. There is a risk, but it is a risk worth taking. And I pledge to you my unwavering

determination to do everything in my power to help it succeed. Like the chiefs of old, we must stand together, or we will surely fail.

I know that you have been closely observing constitutional developments. You have shared with us some of your concerns and I am sure they will come up during your meeting. It is not my place to report on the specifics. But I can assure you that issues you raised were given the most serious consideration by the entire committee. What I can say is this: I am convinced that indigenous interests you have solemn obligation to protect are in no way weakened under the arrangements we are now proposing. The protection of Fijian interests is in fact strengthened. No laws relating to the Fijian people or their land can be amended without the consent of the Fijian people.

In particular, this Council's nominees in the Senate would effectively retain a veto option over such legislation. The new constitution also specifically directs the parliament of Fiji to make provisions for the application of customary laws. These must have regard to customs, traditions, usages, values and aspirations of the Fijian and Rotuman people. In a further indication of the unanimous support of all other communities for the special place for the Bose Levu Vakaturaga, the new constitution leaves full authority for the appointment of the President and Vice-President of Fiji with this Council.

Though the Reeves report had suggested a different arrangement, the committee felt authority should remain with the chiefs. The Indian leadership fully supported this provision. We did so out of the respect we hold for this Council. We did so in the belief I spoke of earlier — that the members of this Council are not just the chiefs of indigenous Fijians, but of all Fiji.

In our deliberations we have been conscious that it is not just the eyes of Fiji that have been upon us. The international community, too, is intensely interested in the solutions we are finding. We should, therefore,

all be proud that our consensus not only satisfies the aspirations of Fiji's people. It will also win the acclamation of the world.

This opens the way for us to once again take our rightful place in the Commonwealth. I know this is your wish. It is the wish of Fiji's Indians as well. Like you, we look to the Crown as a noble and comforting symbol of unity. May the day soon come when Her Majesty can stand before you — indeed before us all — restored as the Queen of Fiji.

Chiefs of Fiji, you have done me a great honour today and I shall never forget it. Neither will the Indians of Fiji. We have written a page of our history this morning. So it is fitting that I conclude by speaking of making history.

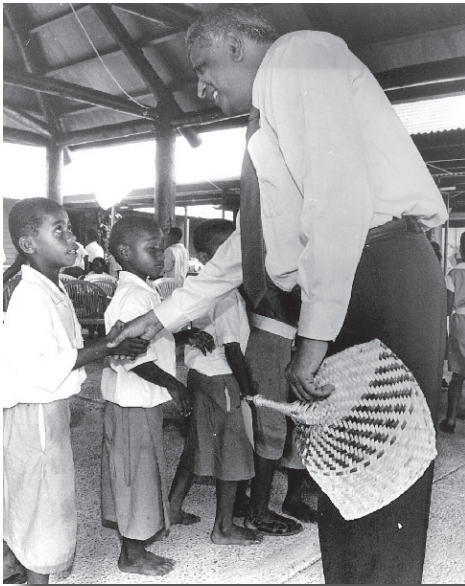
In one of his nation's darkest hours, that courageous and visionary American leader Franklin Roosevelt, said, and I quote: "To some generations much is given; of other generations much is asked. This generation has a rendezvous with destiny." Much was asked of Ratu Cakobau's generation of chiefs. Much is asked of this generation of chiefs. Much is asked of us all.

Let us, therefore, gather our courage and set ourselves, united, to the finishing of the noble task to which our history, our heritage, and our beloved motherland now call us. This generation must keep its rendezvous with destiny. And then, to future generations, much will be given. My Almighty God bless you, and all our people.

IN THE EYE OF THE STORM



With Emelita Wilson and Imrana Jalal.



*With Fijian Primary
School students.*

*Reaching out, being
feted after the passage of
the 1997 Constitution.*



*With Chief Emeka
Anyako, Secretary
General of the
Commonwealth, at
his home in Lautoka*



ANOTHER WAY:
ADDRESS TO THE NFP CONVENTION, 1996

When I spoke to you at Labasa last year, I detailed for you the review process to that date. I also addressed you at length on the Terms of Reference for the review, how that was arrived at, and how they were appropriate and fair to all interests. I also talked to you about the appointment of the Review Commission. It is important today for me to pick up the events since then.

You will recall that the Commission consisting of Sir Paul Reeves (as Chairman), Dr Brij Lal and Mr Tomasi Vakatora commenced work about the middle of 1995. You are also aware that before the appointment of the Commission, our party started preparatory work on our submission to the Commission. As early as 1993, we had engaged the services of Professor Yash Ghai for this purpose and his services proved invaluable in the discharge of that responsibility. At a meeting of the Working Committee held in this very hall on the 13th August, 1995, Professor Yash Ghai and I explained in great detail the submission for the approval of the party. On the 24th day of August, 1995, the National Federation Party made its submission to the Commission at Suva jointly with the Fiji Labour Party. The submission has been printed in a book form and is available for those of you who may be interested in it. The submission was comprehensive, and well received by people of all races in Fiji.

We sent copies of these submission to all the members of Parliament, to all Senators, to representatives of foreign governments and to our supporters and well wishers.

Today, I would like to record our gratitude and heartfelt thanks to Professor Yash Ghai and to Jill Cottrell who assisted him in compiling the submission. Funding for this mammoth task came from our supporters and well wishers and I would also like to record my

appreciation to them for their contribution. I also wish to record my appreciation to the government which gave us a sum of \$37,500 towards meeting the costs of preparing and presenting the submissions. I am also happy to report that supporters of National Federation Party throughout the country came forward in large numbers to make their views known to the Commission. I thank them also.

The review process is coming to an end. The Commission was to report to the President at the end of June 1996. I am advised that there will be some delay in this due to the complex nature of work involved, and the very extensive consultations that had to be undertaken. We can now expect the report to be handed to His Excellency the President towards the end of July or early August.

WHAT AFTER THE REPORT?

The process, after the Report is handed to the President, will be both difficult and delicate. How the political leaders, parties and the people handle the Report may well determine its destiny.

It is my belief that it will be unfortunate if the recommendations of the Commission were to become the cause for political posturing — or political football, if you like, before we have all had an opportunity to study and reflect upon the recommendations calmly and dispassionately. The Report will be nothing more than recommendations — but they will be recommendations of a Commission which will have arrived at them after a long, exhaustive, and painstaking inquiry. The credential of the Commission is beyond question — and they were appointed by consensus arrived at between all political parties represented in Parliament.. The recommendations, whatever they might be, will deserve the utmost respect and consideration. We should commit ourselves to respond to the Report in a responsible manner bearing in mind the considerations I have just mentioned.

It is expected that after the cabinet has had an opportunity to look at the Report, it will be tabled in both Houses of Parliament. Thereafter, a Joint Select Committee that was appointed by Parliament, again by consensus in August 1994, will begin to discuss the Report. This will, I have no doubt, prove to be a most difficult phase in the entire process. As you are aware, and my critics never cease to remind me, the 1990 Constitution is entrenched. What this means is that in order to effect any changes to the constitution all parties, senators and representatives of the Great Council of Chiefs, must agree to the changes. For the exercise to succeed we need an abundance of goodwill on all sides. There has to be an appreciation that an unjust and discriminatory constitution will in the long term be very harmful to this nation, and that there are international norms and standards of constitutional propriety that cannot be ignored. Tolerance and accommodation are at the heart of the exercise. We made a commitment to this process four years ago. We remain committed to seek out solutions that are just and enduring.

When we started, there were those who said that the review process will never get under way in earnest. It did. Then they said that there will never be an agreement on a fair and acceptable Terms of Reference. There was. Then they said that the ruling party will never agree to an overseas chairman and a balanced and independent Commission. It did. It is the same company that say that there will no meaningful and acceptable changes to the constitution. I cannot help thinking sometimes that they almost wish that this will not succeed, only so that they can say, 'We said so.'

Let me give them some thought for comfort. If at the end of the process so far we get a fair report from the Commission, that itself will be an achievement, irrespective of what is done to that Report. An independent assessment will have been made to the 1990 Constitution by a credible Commission for the first time since its

promulgation. The world will be able to judge for itself the merits and the demerits of the 1990 Constitution and what we have been saying about it.

If the process fails to produce the desired result, it will not be due to lack of trying on our part. We will have tried and failed. Not otherwise. But let us not be negative.

This process has come a very long way. Indeed, it has come such a long way that there is no turning back. The government has repeatedly committed itself both here and at other forums elsewhere not only to the review process but to actual reform that will take us to a constitution that is acceptable to all the communities in Fiji. As recently as the 20th of May 1996, the Prime Minister repeated this commitment in the House of Representatives in the course of a debate on a motion moved by Hon. David Pickering on the economy of Fiji.

INFORMAL MEETINGS

I also wish to report to you that there have been several informal meetings between us and representatives of government. While these meetings are informal, they have given us a useful opportunity to continue to contribute towards creating an environment in which meaningful dialogue on the constitution and other important issues can take place in the future.

The NFP, consistent with its stated objectives, will continue to participate in a sensible way in the ongoing dialogue. We place great value on these informal contacts. Let us not forget that when we started on this journey by deciding to participate in the elections under the 1990 Constitution, we drew heavy criticism. We were told the changes that we desire can never be accomplished by such a process. Since then by consistent application, through dialogue, through negotiations, we have accomplished much. We were able

to agree upon the Terms of Reference for the Review Commission, Terms that have come to be widely accepted as fair and reasonable. We have been able to agree upon the composition of a Commission of three able, dedicated, and competent commissioners. Their independence and neutrality is accepted without question.

We have also agreed to the composition of and Terms of Reference for the Select Committee that will look at the Report of the Commission. All this required much patience, perseverance and goodwill. All this seemed difficult, if not impossible, when we commenced this journey. I remain convinced that this process can be brought to a successful conclusion. A constitution that is acceptable to all the communities in Fiji is within our collective reach.

Let me also say that the solutions are here in Fiji and within the grasp of the leaders and people of Fiji. We can and must arrive at a constitutional compact that is just and fair, and will hold up to any international scrutiny.

GOVERNMENT OF NATIONAL UNITY

You have heard and read a great deal about the so-called Government of National Unity. There has been endless speculation about our party's position on the issue. Let me clear the air once and for all.

First and foremost, no one has invited the National Federation Party to join in any Government of National Unity. So the question of agreeing to join or not to join such a government does not arise.

Secondly, I have no doubt whatsoever that the current constitution does not lend itself to the formation of a Government of National Unity of any kind. Indeed, the one national issue over which we differ with the government is the imposed 1990 constitution. This division has to be narrowed and resolved before we can entertain any thought of going into a Government of National Unity.

Thirdly, having said that, let me say that we support the principle of Government of National Unity. Indeed, I have said many times before that it is the only way forward for this country. But, we must lay the correct foundations for such a government to be durable and to have credibility in the eyes of the people. I hope that the constitutional review process and the resulting constitution will lay the foundations for such a government to be formed for the benefit of all the people of this country.

Improving inter-communal relations is not only my business or the business of politicians. Each one of you as individuals have a contribution to make. The many races here are totally inter-dependent. We are all brothers and sisters. We need to lift ourselves above the many apparent differences that divide us and look to those larger and more enduring values that unite us. The people of Fiji will only have a bright future if they accept the truth of this assertion.

ALTA

Another issue of great concern to us is the impending expiry of all agricultural land leases. There appears to be some confusion between the expiry of leases as distinct from [the] expiry of ALTA.

ALTA is entrenched law. It will not and cannot expire. The only way to change ALTA is by an Act of Parliament. For such an Act to pass, you need to secure the majority prescribed by the constitution. ALTA does not and will not expire. What will expire is the leases.

Wherever a landowner agrees to renew expired lease, he must do so within the ambit of the provisions contained in ALTA. For example, ALTA prescribes that agricultural leases must be for at least 30 years. There is nothing in ALTA which stops or prevents any landowner from renewing his tenants' lease.

There is yet another confusion that exists about ALTA. ALTA does not apply only to native land. It applies equally to state owned land

and to freehold land. Furthermore, it affects all agricultural leases and not only sugar cane leases. Agricultural leases include all types of farming, including dairy farming, poultry and bee keeping. Thus ALTA affects all tenants' right across the board. Unfortunately, because the sugar sector is both organized and highly politicized, public discussion on ALTA tends to centre around sugar cane leases only. Let us not forget that the future of non-sugar cane farmers, most of whom are poor and unorganized, is equally important.

ALTA affects three types of land and I will deal with these separately for clarity.

PRIVATELY OWNED FREEHOLD LAND

There must be hundred of tenants on privately owned freehold land. Many of these are tenants in the non-sugar growing areas such as Sigatoka Valley, Bua, Cakaudrove, Navua, Nausori, Tailevu and other parts of Fiji. Equal number of these leases are to be found in the sugar growing areas.

This category of tenants and their future is rarely mentioned in public discussions on the subject. The government has yet to say what is being done for the future of these tenants. Are they going to be left entirely at the mercy of their landlords? When will these category of leases begin to expire and in what numbers? Has anyone attempted to find out, including the ALTA Unit that was created some time ago?

When the government says that only 48 or so ALTA leases are expiring in 1997, I do not believe it takes into account this category of leases. I do not see any good reason why these leases should not be extended immediately by law in the same way as was done in 1976. The hardship that will befall this group of tenants if they were left to the mercy of landlords will be horrendous. I believe that in that event most of them will be evicted.

STATE LEASES

Then there are the State leases. These are leases over land owned by the government. Much of this land formerly belonged to the CSR Limited. There are other leases as well on State land, land outside the sugar belt, and all not necessarily freehold. Some will be State Schedule 'A' and Schedule 'B' land. Again, I have never understood why these leases have to be for the same duration as native leases. For example, why should a tenant of a State agricultural lease be granted only 30 years' lease? When 'commercial' or 'residential' leases in urban centres are granted, they are for either 75 or 99 years. But for the tiller of the land, be it sugar cane farmer, rice farmer or a subsistence farmer, is his pursuit not as much 'commercial' as the undertaking of a shop keeper?

The government should set an example by granting long term agricultural leases in respect of State land. Such a policy will encourage most needed investment in the agricultural sector, particularly investment in long term tree crops. This is one category of land where there are no competing claimants as, for example, may be the case with native land where the owners may wish to reclaim their land for their own use. And as in the case of privately-owned freehold land, I do not see any reason why these leases cannot be extended by law.

NATIVE LAND

Then there are leases on native land. This is both difficult and sensitive issue and has to be handled accordingly. And given the fact that 83% of all land in Fiji is communally owned by the indigenous landowners, it is not surprising that the majority of the tenants are to be found on native land.

When I spoke to you last year at Labasa, I told you that government policy was to allow the issue of renewal of these leases on a case-by-

case basis, and essentially, as an exercise between the landowners and the tenants. If that policy had remained unchanged tenants whose leases expire, say in 1999 or 2000, would not know at this stage whether their leases will be renewed or will not be renewed. Since I spoke to you last year, there has been a change of policy. The Minister for Agriculture has now stated that the Native Land Trust Board is undertaking a comprehensive survey of all native leases, and by the end of 1996 will have ascertained exactly how many native leases will be renewed and how many will not be renewed. It must follow from what I have just said that it is impossible for any tenants on native land to know now whether his lease will or will not be renewed. This is unsatisfactory from the tenant's point of view, I know. I also understand that this exercise could have and should have started as early as 1992, as the problem was there staring us in the face.

Be that as it may, I express the hope that at least the size of the problem will be much clearer at the end of 1996 in so far as native leases are concerned. Here I will repeat what I said last year. The State cannot assume the role of a facilitator only. It has to be more actively involved in the search for solutions to the very sensitive and difficult problem or else we will have widespread chaos and suffering. On the one hand it is the undoubted rights of the landlord to his land and do as he chooses with it. On the other is the State's responsibility to ensure that the tenants are not impoverished by dispossession. There is the need to protect the national economy. And perhaps the fourth factor is to understand the sensitivity of not only those who own the land but also those who do not own any land. And that unfortunately has a communal dimension in Fiji. The problem has haunted Fiji for generations. It is one of the many factors that contributes to heavy migration of Indo-Fijians from Fiji. Temporary solutions were invoked as in 1966 and 1976. The time has come for us to seek more enduring and permanent solution to this problem.

In this regard may I say that there have been some encouraging signals from people in government. I hope these are real.

ACT (ALTA)

Then there is the question of Act — the legislation itself. From reports in the media it is clear that the government is undertaking a review of the legislation. The Act has been in place for some thirty years. Clearly a review is essential as many aspects of the Act from experience have been found to be unsatisfactory. But these aspects do not only relate to the concerns of the landlords but also of the tenants. There is much in the Act that the tenants want changed, particularly the rent-fixing mechanism — its frequency and so on. I hope that the government will soon initiate discussion with the representatives of the farmers and the opposition parties on this critical issue. Any attempt to impose solutions unilaterally will only bring forth resentment and resistance.

Before I conclude on this subject of land generally, let me tell you that some very useful discussions have taken place between the National Federation Party and the government. I believe the government is aware of the depth of the feeling within the tenant communities about their future on this critical issue. We will continue these discussions in the same spirit as with the discussion on the review of the constitution, and for the sake of our country's future and those of our children. I hope solutions can and will be found.

For us to achieve anything on this front, we have to move away from simply 'politicking' about land. Bold and brazen 'headlines' in the media will not help resolve this issue. As with the constitution, this issue calls for intense discussions, quiet negotiations, tact and goodwill on all sides if we are to get anywhere.

Having said all that on the subject of land, let me say that by far the most critical and the most challenging issue we face today is the review of the constitution. Only when a representative and just

political order emerges will we be able to begin to resolve the other issues, be it land, law and order, poverty or whatever.

LAW AND ORDER

This is a very worrying matter. People are shocked at the levels to which criminal activity has escalated in the country in recent years. Deviance is legion in Fiji. This situation cannot be allowed to continue. We all have a role in this. Prevention, detection and deterrence of criminal activity can never be the sole responsibility of the police and the courts. Society also has a role, and a critical role at that.

Let us begin at home. In recent years there have been a speight [sic] of housebreaking and robberies in which the thieves have targeted jewellery and money. Jewellery snatching from unsuspecting women in public places such as bust stands, markets and streets has become common place. Many of our sisters who marched yesterday will bear testimony to this. The question we need to ask is where is the jewellery going? Who are the receivers? Lest we forget, if there were no receivers there would be no thieves. We need to take a position on this. All those who receive stolen jewellery, indeed any stolen goods, are our enemies.

It is important that they understand what they are doing to all of us. The law relating to receivers is in need of urgent review, and the courts need to treat receivers with the utmost severity. Society must make its contempt for receivers of stolen jewellery and goods plain. They do not deserve any sympathy whatsoever.

When people cannot be safe in their own homes, when the sanctity of the home is invaded with impunity, when occupants therein are wantonly beaten up, robbed and even raped, one is obliged to ask: why? What has gone wrong with society? Indeed one has to ask if we ourselves are not part of the problem. There is an old English

adage which says that an Englishman's home is his castle. The truth is that everyone's home should be his castle. What this means is that you must be prepared to defend that castle. The right of self defence is sacred, and well recognized by the laws of all civilized societies including Fiji. Could it be that we ourselves offer little or no resistance to the invasion of our person and property? We can say all we like about the police and the government. But let us not forget that there is no way a policeman can be posted at each home while you go to sleep. Firstly, self preservation, and the preservation of your property, wife and children, is your responsibility. Are we doing enough in this direction? These are some questions that each one of us will need to ask and answer. Just the other night we all saw on television the sight of Suva Magistrate's court registry in the aftermath of the break-in there. Even our courts are no longer safe, not to mention exhibits and files. There is an alarming blatancy about the way in which crimes are committed in the society.

White collar crime is also on the increase. Look at what went on at the National Bank of Fiji, with the result that an important national financial institution has been brought to its knees. I express the hope once again that those responsible for criminal acts at the National Bank of Fiji will be brought to justice swiftly. I am surprised that despite the findings of Adams and Aidney, and more recently, the Reserve Bank of Fiji, not a single charge has been laid against anyone to date.

Referring to the law and order situation in the country, the National Economic Summit sub-committee report notes, and I quote:

The increase of complaints against some lawyers, police brutality, embezzlement, fraud and white collar crime highlights the ripple effect of the general decline in our institutions. All of this contributes to and appears to promote the instability and deviance prevalent in Fiji today.

The committee observed that this will continue for some years until the leadership improves through enlightenment, national dialogue and commitment in improving our political processes. There the committee was talking about leadership at all levels of society, including political, religious, trade unions and so on.

I want to conclude on this subject by sounding a word of warning. The reasons for crime are varied and complex. There are many factors at work, both social and economic. We all need to join hands in combating this social problem. It is tempting but highly dangerous to communalize this social problem.

FREEDOM OF THE PRESS AND CONTROLS

Just a few days ago we witnessed a very depressing and distressing episode when a columnist writing for the Fiji Times was 'gagged' by the government's threat to cancel his work permit. It will have come as a great relief for thousands of people when government reversed that decision. It was a foolish and short-sighted decision in the first place. Nonetheless, this episode comes in the wake of threats by government in recent months to introduce some legislation to regulate and control the media.

Is freedom of expression under threat in Fiji? If it is, it represents a dangerous turning point in the life of this nation. Fiji was a colony of the British Crown for close to a century before we gained independence in 1970. Liberal British traditions combined with Christian values, later reinforced by other tolerant cultural traditions, helped foster a relatively free and open society. The parliamentary system, the rule of law, including the courts and the common law traditions, respect for human rights, including freedom of speech, are all part of that tradition. In 1970, a Bill of Rights was included in the constitution which guaranteed these freedoms. The Bill is repeated in the 1990 Constitution (with exceptions).

It seems to me that these traditions are now threatened by some systems and values that are alien to this country. We are now told we need take Malaysia and Singapore as models in this area. God forbid! Do we really need any foreign models, when our own has served us well over the years, and they are cherished and valued by the people of this country? Any attempt to gag the press now when we are attempting to address national issues such as the review of the 1990 Constitution and ALTA may prove to be disastrous. It will send out altogether wrong signals. Freedom of the press is an important protection for minorities and marginalized groups. Indeed it is vital for a healthy society.

However, if the government does decide to bring any such measures, then we will be bound to join forces with all those who cherish these freedoms and raise our voice in opposition.

The next twelve months or so are critical. We are truly at the cross-roads. The decisions we make and the actions we take will decide the future of this country. Fiji's future lies in moulding this country into a truly multiracial nation. That will require time and concerted effort at all levels of society. It will require patience. It will require creativity. But it is possible. It has to be done because really There is No Other Way.

NOTES

1. This quote is from an address to the Fiji Youth and Students League during the visit of Mr Baleshwar Aggraval, undated.
2. After brief period as an independent (founder of the Fiji Democratic Party), Bole joined the military-led interim administration as Education Minister and a vocal supporter of the coup.
3. Quotes from a copy of the paper in my possession.
4. Quotes from a copy in my possession.
5. See *Hansard*, 14 Sept. 1993.
6. *Fiji Focus* (A ministry of Information organ), June, 1994.
7. Including my former graduate student, the late Tevita Baleiwaqa, to a conference in Bangi, Malaysia!
8. There were some who felt that Tuivaga's acceptance of the position might embroil the judiciary in unnecessary controversy. See Richard Naidu's assessment in *The Review Magazine*, Feb. 1995.
9. Quotes of JPSC meetings are from its minutes in Reddy's papers.
10. *Daily Post*, 10 Dec. 1994.
11. *Daily Post*, 6 Feb. 1995.
12. Some of Thompson's thoughts on and affection for things Fijian can be found in his 'Ratu Sir Penaia Memorial Lecture' to the Great Council of Chiefs on 18 July 1995.
13. For a reflection on Sir Ian Thompson, see Joni Madraiwiwi, *A Personal Perspective: The Speeches of Joni Madraiwiwi* (Suva: Institute of Pacific Studies, 2008), 266-269.
14. For a background, see his *From the Mangrove Swamps*, privately published, 1999.
15. The words are YP Reddy's, who was once with the Alliance Party.
16. Vakatora, *From the Mangrove Swamps*, 105-106.
17. See Harish Sharma's letter 'NFP record,' in *Fiji Times*, 13 Apr. 1997.

18. Interview with Madhur Singh, *Fiji Times*, 25 May 1996.
19. Reddy has told me that Labour also mooted the name of Richard Naidu, who had once been Dr Bavadra's spokesman and subsequently qualified as a lawyer.
20. *Hansard*, 22 Sept. 1993.
21. Bob Norton, who was in the audience, reminds me that I had 'fallen' into a trap laid by the nationalists. I now recall being irritated by Duvuloco who spoke to the Commission inebriated.
22. These are available in Brij V Lal and Tomasi Vakatora (eds), *Fiji in Transition and Fiji and the World: Research Papers of the Fiji Constitution Review Commission* (Suva: University of the South Pacific, 1997). The transcripts of the proceedings are at the Fiji National Archives and on microfilm at the Pacific Manuscripts Bureau.
23. Asesela Ravuvu, *The Façade of Democracy: Fijian struggles for political control, 1830–1987* (Suva: Reader Publishing house, 1991).
24. 'Respect and Understanding: Fijian Sovereignty, The Recipe for Peace, Stability and Progress: Submission to the Constitution Review Commission,' 10 Oct. 1995, 129 pp.
25. Quotes are from the submission in my possession. In an interesting irony, nearly all the historical quotes in the submission, justifying the Fijian position, were lifted word for word, comma after comma, from my book, *Broken Waves: A history of the Fiji Islands in the 20th century* (Honolulu: University of Hawaii Press, 1992). Isimeli Bose was at university with me. He gave me an autographed copy of the submission, with the words: 'To my friend Dr Brij Lal. I hope you will enjoy it!'
26. See also *Review Magazine*, Nov. 1995
27. *Review Magazine*, Nov. 1995, 17.
28. Speech reported in *Fiji Times*, 8 Apr. 1996.
29. This is based on notes of conversation Robert Norton had with Mrs Narayan and other leaders at the time.

30. 'Towards Racial Harmony and National Unity: The Submission of the National Federation Party and the Fiji Labour Party to the Fiji Constitution Review Commission,' Aug. 1995, 72 pp.
31. A summary is in my *A Bomb Lies Buried: Fiji's Road to Independence, 1960–1970* (Canberra: State Society and Governance in Melanesia Monograph, ANU E Press, 2008).
32. Published as *Parliamentary Paper* no. 34 of 1996.
33. See, for instance, Donald Horowitz, 'Encouraging electoral accommodation in divided societies,' in Brij V Lal and Peter Larmour (eds.), *Electoral Systems in Ethnically Divided Societies*" Fiji Constitution Review (Canberra: National Centre for Development Studies, 1997), 21-37, and Yash Ghai, 'Recommendations on the electoral system: the contribution of the Fiji Constitution Review,' *ibid*, 147-59
34. From his speech in parliament tabling the report.
35. Words from the *Hansard* of the proceedings in the House of Representatives.
36. *Daily Post*, 12 Sept. 1996.
37. *Daily Post*, 12 Sept. 1996.
38. *Fiji Times*, 26 Sept. 1996.
39. *Fiji Times*, 1 Apr. 1997.
40. *Daily Post*, 23 June 1997.
41. *Daily Post*, 19 Oct. 1996.
42. *Daily Post*, 12 Feb. 1997.
43. This is Jone Dakuvula's assessment also. See *Daily Post* 7 Apr. 1997
44. *Daily Post*, 28 Jan. 1997.
45. *Daily Post*, 29 Jan. 1997.
46. *Hansard*, 30 June 1997.
47. An incisive discussion of the process of negotiations is in Jill Cottrell and Yash Ghai, 'The Role of Constitution Building Processes in Democratization: Constitution Making in Fiji: Context and Process,' unpublished paper for International IDEA in my possession.

48. *Daily Post*, 24 Sept. 1997.
49. *Daily Post*, 10 Oct. 1996.
50. *Pacific Islands Monthly*, Sept. 1997, 24. Robert Norton has commented in private communication that AD Patel had always insisted that this would not matter, that the crucial thing in common roll was equality among individual voters, equality of citizenship. 'Without doubt, this was AD Patel's crucial claim.'
51. *Daily Post*, 26 May 1993.
52. *Pacific Islands Monthly*, Sept. 1997, 24.
53. Ibid.
54. The Review Magazine, Jan. 1998, 23.
55. *Hansard*, 23 June 1997.
56. *Hansard*, 30 June 1997.
57. *Hansard*, 30 June 1997.
58. *Hansard*, 27 June 1997.
59. *Hansard*, 30 June 1997.
60. *Hansard*, 26 June 1997.
61. *Hansard*, 30 June 1997.
62. *Hansard*, 30 June 1997.
63. Quote from a transcript of the speech, in the Reddy papers.
64. This is what he said: 'Maybe this apex of Fijian forum should try to entertain non-Fijian leaders to attend and observe. And when it happens they may address certain topics or issues to bring us together and I think it could be fruitful ... Fijians have always maintained that we are landowners and we are the indigenous [people] of the country. But I think we should also appreciate the contribution made towards the nation by other communities in Fiji. Other communities have contributed a lot and we have to consider that aspect of being together.' Adi Litia welcomed the idea. See *Fiji Times*, 6 June 1997.
65. Sitiveni Rabuka, Pacific Distinguished Lecture, The Australian National University, July 1999, 42.

66. Sir Moti Tikaram has confirmed to me that Rabuka approached him with the proposal and that he told him to proceed only if he had done his 'homework' properly. Private communication, 30 Sept. 2009.
67. Rabuka, Pacific Distinguished Lecture, 45.
68. From a copy of his speech given to me by Kamal Iyer, then an administrator at the office of the Leader of the Opposition.
69. *Pacific Islands Monthly*, Sept. 1997: especially a visit to Europe, speculates Reddy.
70. *Review Magazine*, Jan. 1998, 20.