

1. The enigmas of Fiji's good governance coup

Jon Fraenkel and Stewart Firth

Fiji's December 2006 coup defied the assumptions upon which that country's post-independence history had hitherto been written. Until then, it had been assumed that the indigenous Fijians would control the country's politics. Even in the 1970s, 1980s and 1990s, when numbers of indigenous Fijians and Fiji Indians were close to parity, election victories by parties with predominantly Fiji Indian support had each entailed constitutional crises (April 1977) or coups (1987, 1999-2000). Writing of the 1987 election with the benefit of hindsight, one scholar described the objectives of the leftist and multiracially oriented but largely Indian-backed Fiji Labour Party – which briefly formed a government before the military coup of that year – as 'the politics of illusion'.¹ Fiji's 'Façade of Democracy', as Asesela Ravuvu called it at around the same time, concealed an unwritten rule that indigenous Fijians would remain politically 'paramount', which carried echoes of the assurances given to natives by Fiji's first colonial governor, Sir Arthur Gordon.² Were that structural hegemony breached, as in 1977, 1987 and 1999, there could be no doubt – many thought – that ethnic Fijians would react violently, and successfully restore their control over the nation's political life, even if the economic sphere remained largely under Fiji Indian control.

Bainimarama's 2006 coup demolished those political axioms in several ways. It overthrew a government elected only seven months earlier with the support of 80 per cent of the indigenous Fijians. The Fiji military, which had spearheaded the ethno-nationalist coup in 1987, was now responsible for a coup that would – it was claimed – forever eradicate the politics of race. A month after the military seizure of power, and – despite the hostility of core ethnic Fijian institutions, such as the Great Council of Chiefs and the Methodist Church – an interim government was appointed; it included leader of the Fiji Labour Party, Mahendra Chaudhry, the deposed 1999-2000 Prime Minister and arch-rival of Laisenia Qarase, the ethnic Fijian Prime Minister overthrown by Bainimarama's coup. The 'politics of illusion' appeared to have finally triumphed, as the new government set about restructuring the Great Council of Chiefs, fighting corruption and setting plans for a reform of the communally oriented electoral laws. Yet, in the longer view, claims that the 2006 coup had superseded the politics of race proved premature, and the 'good governance' coup, rather predictably, threw up its own host of indiscretions and foibles. Mahendra Chaudhry and his Fiji Labour Party departed, claiming never to have supported

the coup. Delay of elections was acknowledgement by the interim government that the new order, even two years after the coup, remained highly precarious.

The 2006 coup, in the longer view, might indicate the end of an era during which the bipolar conflict between politicians representing the indigenous Fijians, and those representing the indo-Fijians, dominated the political stage. Alternatively, it might prove a brief hiatus which, by serving to inflame ethno-nationalist passions, delays that inevitable shift away from bipolar politics. Even if the coup were, like all its predecessors, ultimately to fail, would it not leave enduring marks on the polity? Could Fiji Indians ever again claim to be victims of history, equating the injustices of the 1987 and 2000 coups with those of indenture? Would ethnic Fijians ever again insist on political paramountcy, and blatantly disregard international axioms about inclusiveness and equality? Would the Fiji military ever depart the political stage, or would it – like armies in Indonesia or Turkey – establish for itself a permanent guardian role? These enigmas, together with the controversies about the causes of Fiji's 2006 coup, are the issues addressed in this book.

Fiji is not a weak or failed state. Most children go to school; at least half the population is urban; the literacy rate is high; the health system is passable; and government administration is efficient by Pacific island standards. Fiji has a diversified export sector based on sugar, garments, gold, and niche products such as Fiji Water. Tourism and remittances supplement foreign exchange earnings, and keep the current account roughly in balance. On the UN Human Development Index, Fiji ranks with countries like Iran, Tunisia and Paraguay, not with poor Pacific neighbours such as Solomon Islands, Papua New Guinea and Vanuatu.

Fiji is, however, notorious for political instability: Regular overthrows of government have earned the country the journalistic epithet 'coup-coup land'. The 2006 coup confirmed its reputation as a country with endlessly unfulfilled promise. As the 'coup to end all coups', this was an event that rested on a paradoxical justification, namely, that the military – by temporarily abolishing democracy – would restore it later in a form that would solve Fiji's political problems once and for all. Fiji's problem since independence in 1970 has not been state weakness but rather the ethnic divisions created in colonial times by the British, who imported labourers from the Indian subcontinent to work on sugar plantations. By the end of World War II, their descendants, by a slight margin, formed a majority of the population, and Fiji has struggled ever since with the task of balancing the political claims of the indigenous Fijians against those of the Indian-derived population. The rapid growth of the military forces after independence created another combustible influence, and the military has been the final arbiter of Fiji politics since it staged the first coup in 1987. Although the military was not the catalyst for Fiji's second coup, in May 2000,

the fate of George Speight's rebellion was ultimately sealed by the internal balance of forces within the military. Fiji's third coup, on 5 December 2006, represented a reversion to a straight military coup, although in other respects it differed markedly from its predecessors.³

Six months after the 2006 takeover, we organized a workshop in Canberra, drawing together the speakers whose contributions form the backbone of this book. The event had to be held in Australia because public emergency regulations prohibited people from speaking out against the coup in Fiji. Such public events in Canberra are quickly reported in Fiji through radio or syndicated newspapers or global wire services. Some of the Australian journalists who attended the event understood few of the issues. The Australian Broadcasting Corporation (ABC) reported, quite irresponsibly and inaccurately, a 'secret gathering' of 'critics of the interim regime'.⁴ The story was echoed by *The Fiji Times*, potentially threatening returning speakers with military harassment.⁵ In fact, keynote speakers, such as Ratu Joni Madraiwiwi and Jioji Kotobalavu, spoke openly and on the record, and no sessions were held, as reported, 'behind locked doors'.⁶ Some speakers feared military retribution and invoked Chatham House rules, much to the consternation of journalists hungry for stories about Fiji. A week or so after the event, the Fiji media grasped the significance of what had been said at the workshop, sparking considerable debate within Fiji. No such belated in depth coverage occurred in Australia. To their credit, the ABC did privately apologize for the errors, but they never corrected the omission.⁷

The collection of papers assembled here includes some written after the June 2007 workshop. It deliberately reflects a variety of views about Fiji's post-coup politics, economics and sociology. No effort has been made to oblige authors to follow any sort of uniform point of view, to the point that as editors we have often – sometimes with a certain degree of frustration – not corrected errors of fact, far less interpretation. Fiji has long had a rich national dialogue and has confronted a unique set of problems. We believe it best to allow that dialogue room for expression – for example, by bringing together such diametrically opposed views as those of Laisenia Qarase and Mahendra Chaudhry in a single volume. Our intention is not only to set down an array of opinions for the historical record, but also to encourage a less inflammatory, more measured and more intelligent style of discourse about Fiji politics. In the wake of Fiji's most recent coup, it is difficult to be confident that such an endeavour has been or will be successful. Yet, oddly, Bainimarama's coup and the ideology that inspires this reflect a continuation of, rather than a departure from, Fiji's characteristic national dialogue about the confrontations of ethnic difference in the post-independence era. Frustrated by the seeming failure of efforts to accommodate those rivalries, the coup sought to supersede the politics of race

by military force, and then to selectively engage the previous protagonists in a nation-building project.

The central question of Fiji politics since independence remains unresolved: Who should rule and for whom? Three constitutions have emerged as answers to that question – those of 1970, 1990 and 1997 – and further changes to the constitutional arrangements are likely. Each of the three coup-makers – Sitiveni Rabuka in 1987, George Speight in 2000 and Frank Bainimarama in 2006 – has sought to impose his own solution. Rabuka and Speight wanted to entrench indigenous Fijian predominance. Bainimarama wants a new (though imposed) multiracialism and equal citizenship. Whatever the differences between them, each coup-maker has believed the same thing: that he had the right to overthrow a popularly elected government. The assumption of all three coups was that an accommodation was not possible on the basis of democratic processes, through the post-election brokering of coalitions to forge governments.

Once a coup takes place, the route back to democracy is complex, fraught and laborious; the most pronounced difficulties are usually political. George Speight's takeover in 2000 gave a hint of how hard and unpredictable that road might be. Yet, what followed that coup offered hope. The army intervened and installed a government of civilians. That government, unexpectedly, accepted a decision from the courts that its rule had no legal foundation and Fiji went to an election in 2001. The military accepted the result of the election, even if it balked at the coalition government that emerged.

Fiji proceeded constitutionally to the next election, in 2006, and, again, the army – at least initially – accepted the result. Although the military commander mounted a relentless campaign against the government before and after the election, people thought he would confine himself to rhetoric and keep his men in the barracks. Many hoped that Fiji had re-established democracy on a permanent basis, especially as the newly elected government implemented the power-sharing provisions of the constitution. Meantime, however, tension between the military leadership and the civilian government was reaching a climax. On 5 December, after weeks of threats, Bainimarama ordered his flak-jacketed soldiers onto the streets of Suva, and removed the government of Laisenia Qarase.

The paradoxes and contradictions of the 2006 coup outdo anything in Fiji's modern history. This was not a coup of Fijian nationalists against a predominantly Fiji-Indian-supported coalition that had just emerged victorious at the polls, as in 1987 and 2000. It was a coup against a strongly indigenous Fijian-backed government that had been elected, with over 80 per cent of the ethnic Fijian vote, only seven months earlier. Like 1987, it was a military coup. Speaking before the United Nations in September 2007, Bainimarama called it a coup to end the coup culture, insisting that measures to 'clean up' the country and

eradicate racism would set Fiji firmly on a new trajectory and end forever the bitter cycle of ethno-nationalist coups. The coup was in the name of 'good governance', anti-corruption and anti-racism, and appealed to the rather severe moral values of Fiji's urban elites. In a decisive stroke from above, Bainimarama would remove bad politics and bad politicians; he would dispel bad inclinations such as greed and prejudice; and he would comprehensively remake Fiji so that it could eventually be returned to democracy in virtuous shape. The democracy so far practised in Fiji, he told the UN, 'was marked by divisive, adversarial, inward-looking, race-based politics. The legacy of leadership, at both community and national levels, was a fractured nation'. He would make the nation whole again through a People's Charter for Change, Peace and Progress, which would be the 'fundamental foundation' for future governments.⁸ Like some latter-day Robespierre, he would lead his people to goodness and unity.

'I am not a politician, nor do I aspire to be one', said Bainimarama, projecting an image of the Republic of Fiji Military Forces (RFMF) as standing above politics. Sentiments of this kind were attractive to segments of Fiji society, particularly those who saw themselves as progressive individuals, or socio-ethnic classes floating serenely above the vulgar and pernicious ethnic divisions of Fiji society. Bainimarama's coup generated different controversies and alignments from its predecessors. In contrast to those earlier takeovers, the military drew support from social justice advocates, Catholic liberation theologians and civil society activists, as well as from some of Fiji's eastern chiefs. Paradoxically, this was the coup of the Fijian 'moderates', frustrated at being pushed aside by the centrifugal and bipolar pressures of Fiji's racial politics, and eager to reclaim for themselves a role in government.⁹ Importantly, Fiji Indians generally supported the takeover and, after only a brief hesitation, Mahendra Chaudhry and his faction of the Fiji Labour Party (FLP) leadership declared their willingness to participate in the post-coup interim government. The north Indian religious organizations, the Arya Samaj and Sanatan Dharam, also involved themselves in the interim regime's initiatives, although the Fiji Muslim League, and the south Indian religious organizations remained more circumspect (Prasad, chapter 10).

We know less about the 2006 coup than we do about the 2000 coup.¹⁰ What part did the 'dynastic ambitions' of the families of Ratu Sir Kamisese Mara and Ratu Sir Penaia Ganilau, referred to in this volume (Qarase, chapter 21), play in the coup? Were these the 'shadowy figures' warned about by Police Commissioner Andrew Hughes in November 2006, or did the planning and inspiration stem primarily from within the RFMF, as Bainimarama himself alleged? Was the FLP's involvement in the interim administration a pragmatic post-coup adjustment, as Chaudhry claimed, or was there some pre-coup collusion between Labour politicians and the military command? Why did the coup go ahead, despite the deal that appeared to have been reached and the major concessions that appeared to have been made by Qarase in New Zealand only days earlier?

How did the commander manage to transform the 99 per cent ethnic-Fijian RFMF, whose officers had voted strongly for Qarase's government only seven months earlier, into a force capable of overthrowing that same government? (Firth and Fraenkel, chapter 6)

More fundamentally, was Bainimarama's objective – to create an uncorrupted and racially harmonious Fiji – a utopian project masking other motives? Or did he genuinely believe that only a fresh start, imposed from above, could set Fiji on a stronger economic, social and political footing for the future?

The 2006 coup divided civil society organizations, judges, academics and politicians, as well as, more broadly, triggering an unfamiliar ethnic realignment. Amongst the opponents were, predictably, the ousted SDL government, the Great Council of Chiefs and the Methodist Church (Norton, chapter 5; Newland, chapter 9; Qarase, chapter 21), but hostility spread far and filtered wide through the Fijian community. Not all opponents of the coup assumed a Fijian nationalist perspective. Some, before the event, had sympathized with the commander's criticisms of the Qarase government. Union leader Kuini Lutua had vigorously defended Fiji's nurses under the Qarase government, and did so again by refusing to accept wage cuts under the post-coup interim government (Lutua, chapter 12; Naidu, chapter 11). Leader of the opposition Mick Beddoes' two-member party split down the middle when his colleague Bernadette Rounds Ganilau joined the interim government. Many journalists, human rights activists and women's organizations were strongly opposed, although few had warmly endorsed the Qarase's government's program (Buadromo, chapter 26; Cox, chapter 18). Lawyers, too, were vocal in their opposition to the coup, and baulked at the suspension of Chief Justice Daniel Fatiaki; at the Judicial Services Commission's appointment of Justice Gates as his replacement; and at the resignation of numerous judges from the Fiji Court of Appeal (Leung, chapter 15; Draunidalo, chapter 17). Many were drawn towards opposition to the coup by the unconstitutionality of the RFMF's actions, the appointment of military officers to top civil service positions, the threatened long-term reinforcement of the RFMF's presence in Fiji's political life, and the danger that even a 'coup to end all coups' would in fact serve to *strengthen* the 'coup culture'.

Others – the bitterest critics of the Qarase government – warmed to the claimed objectives of multiracialism, anti-corruption and 'good governance'.¹¹ The Ecumenical Centre for Research, Education and Advocacy (ECEA), influenced by liberation theology, saw the coup as upholding the interests of the poor and disadvantaged in the face of a neo-liberal and racist government. The advanced industrial democracies, ECEA activists argued, had experienced hundreds of years during which autocratic kings were toppled by force, and revolutions were used to overthrow unjust and unpopular governments. Under normal circumstances, the military should remain apolitical, but, they claimed,

circumstances were far from normal in Qarase's Fiji. This was a position, as Ratu Joni Madraiwiwi (chapter 23) argues, that might make sense in conditions of genocide, humanitarian catastrophe or tyranny, but not seven months after an election that had been deemed fair, if not perfect, by numerous international observers. In the wake of the formation of a multiparty cabinet following that election it made still less sense. Constitutional methods of redress existed for those who felt aggrieved in November and early December 2006. Even the bills that were so vigorously opposed by the coup-supporters, such as the Qoliqoli Bill, the Promotion of Reconciliation, Tolerance and Unity Bill (RTU Bill) and the Indigenous Claims Tribunal Bill, had been sacrificed by Prime Minister Qarase during negotiations in New Zealand, in a vain effort to halt the impending coup.

To such electoral arguments the coup's supporters responded that the voting process in Fiji was fraught and racially skewed, that elections had not been conducted in a constitutional manner, and/or that Fijians had been duped by church leaders and chiefs. Fiji Human Rights Commission (FHRC) director Shaista Shameem argued that the 2001 election was a flawed and improper constitutional response to the Chandrika Prasad judgement of March 2001. After the 2000 coup, she claims, the courts should have restored to office the previous government.¹² Yet that was a view rejected by the courts themselves.¹³ It was also abandoned by deposed Prime Minister Mahendra Chaudhry himself in March 2001, because he saw, at that time, that the political realities had moved on and that his leadership was unsustainable under such circumstances.¹⁴ The FHRC director also argued that the 2006 election was invalid because a census of population had not been held, as scheduled in 2006, and because the necessary redrawing of constituency boundaries had not occurred. Lawyer Richard Naidu responded scathingly that this was indicative of what happens when 'sociology types' study 'serious subjects like law'.¹⁵ Similar technical faults could be discovered with most elections in the world, and – if rigorously applied – no post-1987-coup Fiji election would be regarded as valid.

The validity of the 2006 election and those that preceded it were contested not only on the grounds of faulty constituency boundaries, but also – so Bainimarama increasingly alleged – because communal voting had, since independence, skewed outcomes in such a way as to reinforce racial polarization. This was the conclusion of an FHRC-sponsored review of the 2006 election, conducted by G.P. Lala, Taufa Vakatale and Waikato University's Dr David Neilsen, which claimed, largely on the basis of evidence presented at public hearings, that there had been ballot-rigging and fraud. The claims did not stand up to critical scrutiny, although they were increasingly to figure prominently amongst the regularly recited justifications for the coup by interim ministers (see Fraenkel, chapter 8).

Ultimately, the case for the coup rested not only on a negative assessment of the Qarase government (a viewpoint shared by many coup critics), but also on a claim that things were getting considerably worse, rather than better, in the wake of the May 2006 election (a viewpoint rejected by most of the coup critics). This was a key issue of debate in Fiji after the coup. Commodore Bainimarama himself returned to this theme again and again. He justified his coup on the grounds that 'Fiji's overall governance situation had regressed to a catastrophic level':

In the past years, Fiji's overall governance took a dramatic turn for the worse. In particular this was characterised by the politicisation of the prison service, and the criminal justice system. There was also a significant weakening of the key institutions of governance; a pervasive increase in corruption; serious economic decline combined with fiscal mismanagement; a sharp deterioration in the law and order situation; and a deepening of the racial divide in the country. The convicted coup perpetrators were prematurely discharged from prison, and certain coup perpetrators and sympathisers were appointed as senior Government Ministers and Officials. There were also a series of legislations that were deeply divisive and overtly racist. The 2006 general election was not credible. It was characterized by massive rigging of votes with the incumbent government using the state's resources to buy support. Fiji's overall situation by late 2006 had deteriorated sharply, heightened by massive corruption and lawlessness, a severe erosion of confidence and an economy on the brink of collapse.¹⁶

Some of the allegations raised here had an element of truth, but were wildly exaggerated. Others, like the electoral claims and the allegation of economic collapse, were false. Prior to the coup, many had sympathized with the commander's concerns, including former Vice-President Ratu Joni Madraiwiwi, who says that the RFMF had played a 'generally useful if somewhat vocal part in the general debate on issues of national interest and concern' (Madraiwiwi, chapter 23). Convictions had been secured against the 2000 coup-leaders, including George Speight, but a number of traditional chiefs, including then Vice-President Ratu Jope Seniloli, had been controversially released on 'Compulsory Supervision Orders'. The RTU Bill threatened to provide an amnesty for those still incarcerated, but the bill had been temporarily shelved before the May 2006 polls and was unlikely ever to pass in that form through parliament. Allegations had been raised against several ministers in Qarase's cabinet, and Minister of Lands Ratu Naiqama Lalabalavu, the Tui Cakau, had served a short prison sentence for his role in the July 2000 mutiny at the Sukunaivalu Barracks at Labasa. Not all traditional chiefs escaped prison: Ratu Inoke Takiveikata, a former president of Qarase's SDL, was convicted for treason and sentenced to

life imprisonment. Ironically, it was after the 2006 coup that he was released, after the Court of Appeal ordered a retrial on the grounds that the presiding judge, Justice Anthony Gates, had privately indicated bias against the defendant.

Claims of a 'pervasive increase in corruption' were difficult to prove, but scandals over affirmative action distributions from the Ministry of Agriculture were sufficient to strengthen familiar FLP objections that Fijian leaders were rorting the system. The economy had, in fact, recovered reasonably strongly from the coup-related downturn of 2000, although sugar, garments and gold had stagnated and mahogany exports had failed to have the substantial impact on the balance of payments that some had anticipated. Tourism had boomed, particularly in the wake of the post-coup stabilization, and with this had come a knock-on boom in the construction industry. Major new resorts, for example at Natadola and Momi Bay were under construction, and the island of Denarau, near Nadi, had witnessed major development of holiday complexes, time-share villas and new resorts. Finance Minister Jone Kubuabola had been reasonably prudent, if unexciting. Objections to fiscal mismanagement could be reasonably focused on unsustainable levels of government debt, and the nexus between government debt-raising, the Fiji National Provident Fund and monopolies in the country's telecommunications industry. But these pre-dated the Qarase government and, once forged, the links proved hard to disentangle, as Bainimarama's interim government was to discover.

Fiji's coups regularly set the economy back by years, and this one was no exception, with economic effects worse than those of the coup of 2000 (Chand, chapter 7). Fiji's economy slumped in the year following the coup that was supposed to revive it. Tourist arrivals contracted by 8.3 per cent and hotel turnover by 6.6 per cent. Remittances fell an estimated 30 per cent, and activity declined across the country in building and construction, wholesale and retail trade, hotels and restaurants, and finance, insurance, real estate and business services, leaving an overall economic contraction of 6.6 per cent for 2007, compared with growth of 3.6 per cent in 2006. The projected 1.7 per cent growth for 2008, even if it eventuated, would not restore Fiji to the economic position it enjoyed when the Qarase government was deposed. In his speech on the 2008 budget, Mahendra Chaudhry was left to call for sacrifices, patience and understanding for the 'drastic surgery' he had undertaken on the nation's finances.

The situation was dire: That was Chaudhry's justification, and it was a key plank in the commander's case for invoking the 'doctrine of necessity' (Chaudhry, chapter 20). For this, the political crisis had to appear as something other than military-generated, as had been claimed in 1987 when the RFMF said it was intervening to forestall an uprising by the indigenous Taukei Movement. Before the courts, judges who owed their positions to the new order wrestled with

these conundrums in the *Qarase v Bainimarama* case against the constitutionality of the new order. The defence, cognizant of the precedents set by post-2000 cases, discarded reliance on the doctrines of 'necessity' and 'effectiveness', identifying them as impossible routes for the legitimization of the new order owing to the guidelines set down in the 2000 and 2001 Chandrika Prasad cases. Instead, defence lawyers harked back to a political philosophy that preceded the subordination of kings to constitutions or parliaments. State Queen's Counsel Guy Reynolds told the court that the actions of the President entailed political judgements informed by matters of national security, which could not be determined before the courts: 'The ultimate reserve power of the President is to preserve the state', said another State Queen's Counsel, Gerard McCoy: 'The separation of powers between the State and the President does not allow your Lordships to review the President's decision'.¹⁷ Despite ostensibly forsaking the doctrine of effectiveness, the defence trod the familiar route of claiming as evidence of 'acquiescence', Qarase's decision three days after the coup to sign himself 'former Prime Minister'; an inquiry by former Finance Minister, Ratu Jone Kubuabola, into his pension entitlements; and the Great Council of Chiefs' post-coup recognition that the Qarase government had been rendered ineffective.¹⁸ One of the judges, Justice Davendra Pathik, expressed in court his sympathies for the catastrophist interpretation: 'the country had gone to the dogs, so to say. Now, what could the President do in those circumstances bearing in mind that he had no powers under the Constitution?'¹⁹

When acting Chief Justice Anthony Gates, and Justices John Byrne and Davendra Pathik eventually passed down their verdict, five months later, they largely embraced the position of the State lawyers. The High Court found that 'exceptional circumstances existed', because 'the stability of the State was endangered', so the President was entitled to use certain 'prerogative powers' not provided for in the constitution. No consideration was given to the fact that the source of that instability was the commander of the RFMF himself, who as a result of the exercise of these prerogative powers was himself made interim Prime Minister. Those 'ultimate reserve powers', the judges found, dated back 1,000 years to the Norman Conquest. Supporting case history was sought from the British Raj, and wartime exigencies under colonial rule. It was as if no Commonwealth country, freeing itself from colonial rule, was empowered to write its own constitution in such a way as to constrain presidential powers. Despite claiming to be a 'purposive' interpretation of Fiji's constitution, there was no serious enquiry into the intentions of the framers of that constitution. The 1997 constitution – whatever its flaws – was essentially a compact between the leaders of Fiji's two largest communities, and it had sought to limit very precisely the scope of presidential powers. To ignore this cast into doubt the previously applauded integrity of Fiji's courts, and particularly of Justice Gates. The alleged rejoinder that this was done to defend, however besmirched, the

1997 constitution carried little credibility, for similar reasoning had clearly not figured at the time of the initial Chandrika Prasad judgment of November 2000, when the government might well have seemed likely to respond by abrogating the constitution.

Fiji's crisis twisted and turned in new directions after the 2006 coup, but the fundamental dilemma that has plagued the country since independence remained in place. The critics and supporters of the coup played out their well-rehearsed arguments in terms of the 'rule of law' against a post-coup pragmatism, with coup-sympathizers urging that the coup was a *fait accompli* and that the country needed to 'move forward'. The more utopian enthusiasts extolled what they saw as a 'revolution for clean up' against those they condemned as cynics and conservatives.²⁰ John Samy, and his coterie of ex-Asian Development Bank consultants, sought to steer a middle course. They claimed to be opposed to the coup but eager to seize the opportunities for development and electoral reform. The proposed 'People's Charter', they argued, was to provide an 'exit strategy' for the commander, who might otherwise be reluctant to cede military control. The opponents of the body charged with developing the charter, the National Council for Building a Better Fiji (NCBBF), condemned it as 'illegal' and 'unconstitutional', but this was not entirely accurate either. In itself, the NCBBF was just a talking shop, and only its enactment by presidential decree threatened to breach Fiji's laws. What was deeply misguided about the NCBBF was the view that Fiji could be usefully re-moulded as a result of the coup and that – despite many magnanimous statements about seats on the council awaiting the SDL, the Methodist Church and the chiefs, should they decide to participate – this could be done in the face of hostility from the majority Fijian community (Narsey, chapter 19).

In our previous volume examining the May 2006 election and its immediate aftermath, we examined Fiji's perpetual legitimacy crisis and offered an optimistic assessment of the situation in post-coup Fiji:

None of Fiji's previous coups has resulted in a lasting military government. Fiji is not Burma. Instead, both domestic and international pressures have encouraged a return to constitutional democracy as each wave of rulers seeks to consolidate its legitimacy. ... Therein lies the crux of Fiji politics; each social force that claims unilateral power for itself almost visibly struggles for a broader public consent, and cringes in the face of its unacceptability to one or other section of the community.²¹

This has also been the pattern since 5 December 2006. At first sight, the commander's moves seem to suggest the confidence of a man who will not be swayed. He sacked numerous appointees of the previous government. He confronted the Methodist Church and the Great Council of Chiefs and in doing

so challenged institutions held dear by most indigenous Fijians. He imposed states of emergency, claiming his critics were threatening state security. Faced with public service strikes in August 2007, he boasted that he did not have to worry about votes. He claimed to be governing constitutionally when it was clear he was not. He rejected criticism of his coup by Australia and New Zealand. He brought pressure to bear on the media (Pareti, chapter 13) and deported two Australian newspaper men, the *Fiji Sun*'s Russell Hunter and Evan Hannah of *The Fiji Times* (Hunter, chapter 14). For the first time in the modern history of Fiji, people began to keep their opinions to themselves rather than risk official repression. Above all, the commander established the NCBBF as the instrument that would confer legitimacy on his intervention and produce the blueprint for constitutional change.

The coup immediately created Bainimarama's first legitimacy problem: condemnation by Fiji's key bilateral and multilateral allies. These days the leader of a coup in a small developing country faces international pressure to hold an election and return to democracy as soon as his troops have intervened. US law requires American presidents to suspend aid to countries where coups have occurred. The European Union (EU) imposes democratic conditionality on its aid and trade dealings with the 79 member states of the Africa, Caribbean and Pacific group to which Fiji belongs, and has enshrined them in the Cotonou Convention. The EU, main buyer of Fiji sugar, extracted a promise of a 2009 election from the interim government in April 2007, and was actively engaged in pressuring the government from then on. A coup-leader in Suva must also take into account the pro-democratic stance of Australia and New Zealand – significant trading and investment partners with Fiji that influence the position taken by other organizations such as the Pacific Islands Forum and the Commonwealth. Australia's new Labor government, elected at the end of 2007, was as critical of the coup as its predecessor, and New Zealand opposed it from the start. A succession of overseas visits by members of the interim government, including trips to the United Nations in New York, the FAO in Rome and the Pacific Islands Forum in Tonga, were aimed at securing recognition for the post-coup regime, and at countering the hostile influence of close neighbours, Australia and New Zealand. In October 2007, Bainimarama made a commitment to the Pacific Islands Forum that an election would be held by March 2009, although that promise was abandoned in mid-2008 when the interim Prime Minister publicly declared, as many had anticipated that he would, that there would be no election in 2009.

Bainimarama's second legitimacy problem was internal and more serious, for it provided the constant context for his regime's efforts to negotiate public acceptability. Most indigenous Fijians did not support him. Nor did a small but vocal number of Fiji Indians associated with the National Federation Party. Bainimarama rejected or ignored the criticism of leading Fiji chiefs, such as Roko

Tui Bau, deposed Vice-President Ratu Joni Madraiwiwi, and Rewa chief Ro Teimumu Kepa, the head of the Burebasaga confederacy. Ro Teimumu complained that the rights of the indigenous Fijians had been taken away because the interim government:

... dictates everything now and the people have no say. We are being threatened with changes to our chiefly system, which includes the Great Council of Chiefs and also the interim government has brought about a lot of changes that is affecting our everyday decision making. With all that's happening most of the villages around the country have not been able to get any sort of assistance and people are suffering.²²

By most accounts, the vast majority of indigenous Fijians agreed with her and blamed Bainimarama and Chaudhry for everything that went wrong. 'What has the Fijian nation and its people done to be treated this way in such a vicious manner', asked Fijian lawyer Savenaca Komaisavai, who was representing the Great Council of Chiefs in an action against the regime's edicts in early 2008: 'Who is [Bainimarama] trying to hoodwink here? We have laws in this country to follow. You don't just go and nominate yourself, especially a commoner like him'.²³

In the months after the military takeover, the commander carefully cultivated legitimacy by repeating over and over again alleged justifications for what he had done. Several days after the coup, clearly eager to present some sign of acquiescence by the various arms of state, he appeared on Fiji TV sporting a giant cheque reverting surpluses to government from the Pacific Fishing Company (PAFCO). Through 2007, various reviews and public forums were announced, with the number of respondents earnestly announced by the interim Prime Minister's Permanent Secretary Parmesh Chand and interim Attorney-General Aiyaz Sayed-Khaiyum, as if these were convincing proof of growing public support.²⁴ Ancient divisions in Fijian villages, and modern schisms amongst indigenous elites, were exploited in an effort to demonstrate popular enthusiasm, an endeavour fraught by constant mishaps and poor spin-doctoring. The quest for consensus was not open-ended: endorsement was to be on the commander's terms. As a gesture of conciliation, Bainimarama held several meetings with Qarase in 2008, but clearly wanted the deposed Prime Minister only to rubber stamp his various initiatives. The fundamental difficulty of ruling Fiji without consensus – also an insufficiently acknowledged dimension to Rabuka's difficulties in the early 1990s – made its presence felt again in the new post-coup setting. Would Bainimarama respond by lurching towards a long-lasting military order, or would the pressures eventually build towards some accommodation and a restoration of constitutional democracy?

The coalition that had been brought together in support of the coup may have been united by their desire to remain in power, but their various visions for

Fiji's future differed. Even by mid-2008, notably, Bainimarama had not abrogated Fiji's constitution. The courts eventually found themselves duty-bound to rule on the constitutionality of his regime, and their endorsement was met by universal opprobrium in international legal circles. Mounting evidence of economic crisis also cut away at what little legitimacy the regime could sustain, and the support of the Indian community was just as precarious as the position of interim Finance Minister, Mahendra Chaudhry, who the Military Council eventually forced out. A general election might be delayed, but it could not be forever avoided. No doubt the interim regime will seek, for some time, to herald and codify its achievements as lasting features of Fiji's social and political order, but there are few signs that it has sufficient coherence to guarantee for itself any protracted longevity.

ENDNOTES

¹ Scarr, D. 1988. *Fiji: politics of illusion — The military coups in Fiji*, University of New South Wales Press, Australia.

² Ravuvu, A. 1991. *The facade of democracy: Fijian struggles for political control, 1830-1987*, Reader Publishing House, Suva. See also the discussion of the 1946 'Deed of Cession' debate, in Lal, B.V. 1992. *Broken waves: a history of the Fiji Islands in the twentieth century*, University of Hawaii Press, Honolulu, pp.139–43 and Macnaught, T. 1982. *The Fijian colonial experience: a study of the neotraditional order under British colonial rule prior to World War II*, Pacific research monograph, No. 7, The Australian National University, Canberra.

³ Many authors talk of four coups, including, in addition to the May 1987, May 2000 and December 2006 coups, the September 1987 derailment of the Deuba talks, which had aimed at providing a settlement between the coup-makers and those who had been overthrown. We do not regard that event as constituting a coup d'état.

⁴ 'Australian seminar examines Fiji coup', *ABC Radio*, 5 June 2007.

⁵ 'Fijians secretly address Australian workshop', *The Fiji Times*, 6 June 2007.

⁶ The afternoon part of the event was a smaller seminar-style event not because of the sensitivity of the papers presented, but because speakers were work-shopping work-in-progress, rather than delivering prepared public lectures.

⁷ Email from Deborah Steele, Executive Producer, News and Current Affairs, ABC Radio Australia, 8 June 2007.

⁸ Statement by H.E. Commodore Josaia Voreqe Bainimarama, Prime Minister of the Republic of Fiji Islands, 62nd Session of the UN General Assembly, New York, 28 September 2007.

⁹ See Fraenkel, J. 2007. 'Bipolar realignment under the alternative vote system', in Fraenkel and Firth, *From Election to Coup in Fiji: The 2006 Campaign and its Aftermath*, Institute of Pacific Studies, Suva, and Asia-Pacific Press, Canberra, pp.368–378.

¹⁰ In 2000, most of the major revelations as to who was involved and what were the objectives were raised repeatedly in speculative opinion columns in Fiji's vibrant media. For the six years afterwards, extensive police enquiries revealed little more than what was already known, or at least rumoured and susceptible to solid readings between the lines, by careful observers.

¹¹ 'Unlike the 1987 and 2000 coups, which were carried out in the name of "indigenous Fijian rights", this coup was in the name of multiculturalism', 'Time of Uncertainty, Opportunity', Paulo Baleinakorodawa, Father Kevin Barr and Semiti Qalowasa, *The Fiji Times*, 19 December 2006.

¹² Shaista Shameem, Director, Fiji Human Rights Commission, 'The Assumption of Executive Authority on December 5th by Commodore J.V. Bainimarama, Commander of the Republic of Fiji Military Forces: Legal, Constitutional and Human Rights Issues', 3 January 2007, <http://www.humanrights.org.fj>. We offered Shaista Shameem the opportunity to include this document as an appendix to this volume. She declined, apparently under the belief that we might 'make profit' from its publication. Clearly, the director of the FHRC has as deluded an assessment of the economics of the publishing world as she has

of the legal complexities of post-coup Fiji. Neither authors nor editors have made any profit or earned any royalty from the publication of this book or its predecessor.

¹³ *Yabaki v President of the Republic of the Fiji Islands*, High Court of Fiji, 11 July 2001. 'I do not believe that it would be feasible to turn the clock back to May 2000 or even to March 2001. I believe that it would create a legal and administrative nightmare', Justice Scott concluded. The appeal was heard in 2003, two years after the 2001 election, when judges found the issue 'moot', concluding that the 'situation which existed in 2001 has now been overtaken' (*Yabaki v President of the Republic of the Fiji Islands*, *Court of Appeal*, 2003).

¹⁴ See Firth, S. and Fraenkel, J. 2007. 'Introduction: Changing calculus and shifting visions' in Fraenkel and Firth, *From Election to Coup: The 2006 Campaign and its Aftermath*, Institute of Pacific Studies, Suva, and Asia-Pacific Press, Canberra.

¹⁵ 'Prominent lawyer dismisses FHRC report', *The Fiji Times*, 4 January 2007.

¹⁶ 'Statement by H.E. Commodore Josaia Voreqe Bainimarama, Prime Minister of the Republic of Fiji Islands, 62nd Session of the UN General Assembly, New York, 28 September 2007

¹⁷ 'President cannot be challenged: State', *fijilive*, 6 March 2008; 'Court powerless on Ratu Iloilo, says QC', *The Fiji Times*, 19 March 2008.

¹⁸ 'Qarase: No call made for help', *The Fiji Times*, 13 March 2008; 'Qarase Govt was incapable: GCC', *fijilive*, 13 March 2008; 'Iloilo wrong, lawyer says', *The Fiji Times*, 14 March 2008.

¹⁹ *Qarase v Bainimarama*, transcript of court proceedings, available online at <http://203.97.34.63/Qarase%20v%20Bainimarama.htm>.

²⁰ 'Coup a revolution, says Vayeshnoi', *fijilive*, 25 June 2007.

²¹ Firth, S. and Fraenkel, J. 2007. 'Preface: Fiji's perpetual legitimacy crisis' in Fraenkel and Firth *From Election to Coup: The 2006 Campaign and its Aftermath*.

²² 'Fiji Paramount Chiefs to Fight Bainimarama at UN: "Our rights have been taken away"', *fijilive*, 7 May 2008.

²³ Lawyer questions Bainimarama's authority', *fijilive*, 22 February 2008.

²⁴ See for example, '9 Provinces for Charter: PM's Office', *The Fiji Times*, 9 October 2007.