

20. 'Democracy' versus good governance

Mahendra P. Chaudhry

Fiji's intelligentsia – be they academics, politicians, clerics, the legal fraternity or the suddenly vocal human rights activists – have been deeply divided by the events of 5 December 2006 and the best way forward for the nation.

From day one, a marked delineation in thinking has been obvious between those who see the takeover of government by army commander Commodore Voreqe Bainimarama as timely, the only escape route for Fiji from the imminent national disaster posed by six years of misrule by Laisenia Qarase's *Soqosoqo Duavata ni Lewenivanua* (SDL) government; and others who champion a return to the Laisenia Qarase-style 'democracy' no matter how flawed – a view articulated by our neighbours Australia and New Zealand, certain non-governmental organizations (NGOs), academics and lawyers, who appear to argue that Fiji should return to pre-5 December 2006, at whatever cost to the nation.

They want the government of Laisenia Qarase reinstated despite the blatant misrule, the racially divisive policies, the flouting of the rule of law and of the constitution, the endemic corruption it spawned, and its failure to prudently and responsibly manage state finances and the national economy, driving both to the brink of near bankruptcy.

Failing this, the group wants a return to immediate elections and parliamentary rule.

Among those sympathetic to the espoused mission of the army-backed interim administration are, surprisingly, hitherto strong defenders of democratic principles and the rule of law: Certain members of the judiciary, a select few from academia, some from the business community, some in the top hierarchy of the Catholic Church, several fairly articulate members of the public – as evidenced from letters in newspapers – and the Fiji Labour Party (FLP).

This group, deeply concerned at the manner in which Fiji had stagnated under the SDL regime, believe in the substance rather than the shadow of the democratic process ... they are people who strongly believe that aspects of our governance are fundamentally wrong and must be rectified, as a matter of priority. Unless this is done first, genuine democracy – and, along with it, long-term peace and harmony – will continue to elude us.

They believe good governance is a necessary pre-requisite for genuine democracy, rather than a by-product. This is a philosophy that is increasingly shaping the thinking of some prominent people in the international arena.

Take for instance, the 2007 comment on democracy by candidate for the Republican nominee for the US presidency, Rudy Giuliani:

America has a clear interest in helping to establish good governance throughout the world. Democracy is a noble idea, and promoting it abroad is the right long term goal of US policy. But democracy cannot be achieved rapidly or sustained unless it is built on sound legal, institutional and cultural foundations ... It can only work if people have a reasonable degree of safety and security. Elections are necessary but not sufficient to establish genuine democracy. Aspiring dictators sometimes win elections, and elected leaders sometimes govern badly and threaten their neighbours.

History demonstrates that democracy usually follows good governance, not the reverse. US assistance can do much to set nations on the road to democracy, but we must be realistic about how much we can accomplish alone and how long it will take to achieve lasting peace.¹

Somewhat similar sentiments were articulated by Lord Paddy Ashdown, High Representative to Bosnia and the European Union Special Representative 2002–06, in an interview given to the *BBC World Service* on 30 June 2007. Speaking of his four years in Bosnia, Lord Ashdown stated that the international community had got its priorities wrong in Bosnia. He believed the pressure for a general election by the international community was misplaced: As a first priority, the people of Bosnia required jobs, security and stability. 'The challenge for us is to bring governance to the global stage. If we can do that, we will live in less turbulent and more prosperous times' he has since maintained.²

Likewise in Fiji. The crux of the issue for us here is Qarase-style 'democracy' versus good governance, equity and social justice. The international community and those who articulate their views, need to take a much more analytical look at the situation in Fiji.

An immediate general election or a return to the pre-5 December 2006 Fiji will simply recreate the problems and the flawed system of democracy that prevailed under the Qarase government with its injustices, rampant corruption and disdain for the rule of law and the constitution.

These are matters of good governance that need to be urgently addressed if we are to move forward as a nation. If there is consensus on anything, it is the acknowledgement that, over the past 20 years, coup-riddled Fiji has floundered along, experimenting with one system after another, struggling to come to grips

with a multitude of problems that are, often quite simplistically, attributed to its multi-ethnic society.

This search for a national charter for sustainable progress and peaceful coexistence, finally led us to the 1997 constitution, hailed by some as the apex of our political evolution, and held aloft as the 'only genuine lawful covenant between our people'.³

Flawed constitution

While it may be the 'only genuine lawful covenant', there is also no denying that this constitution was seriously flawed from day one – deliberately damaged by the political leadership of Sitiveni Rabuka and Jai Ram Reddy when they wrote into it an entrenched communal electoral system.

This was an extremely myopic strategy, designed to serve vested political interests rather than the national interest, and an injudicious breach of the recommendations of the Reeves Commission Report that had strongly advocated Fiji move away from racially divisive politics by adopting a majority of open rather than communal, or race-based, seats.

Yet those who boisterously espouse the cause of 'democracy' today, failed to utter even a murmur of protest when the core element, the very spirit of this multiracial charter, was thus rendered 'undemocratic'. Apart from the entrenchment of voting along ethnic lines, the electoral provisions also violated the universal principle of 'a vote of equal value'.

In light of this, the current strident calls for a restoration of 'democracy' as practised in Fiji pre-5 December, is not only short-sighted, it is also counter-productive because, in this critical aspect at least, the 1997 constitution failed to pave the way for true democracy and nation-building in our plural society.

If we are to build a modern, progressive state, Fiji needs to move completely away from divisive and feudalistic/colonial hang-ups such as communal electoral systems, parochialism and provincialism, religious fundamentalism, and exclusivist policies.

Such anachronisms tend to spawn corrupt politicians and elitism throughout the corridors of power, while keeping the masses poor and subjugated. Feudalistic notions cannot have a place in a reformed society.

Multiparty cabinet: A farce

Claims by critics of the interim administration that the multiparty provisions of the 1997 constitution were beginning to work in 2006, and that 'this peaceful cooperation was violently overthrown by the military', are politically naïve.

Anyone who believes that Mr Qarase was genuinely committed to making the power-sharing provisions of the constitution work, needs to take another look at what was actually happening.

His posturing on the multiparty cabinet was just that – a farce designed to portray an illusion of power-sharing. The nation knows that, after the 2001 general election, the FLP had to drag Mr Qarase through the High Court, the Court of Appeal and the Supreme Court before he acceded to the mandatory provisions of Section 99(5) of the constitution, which requires the prime minister when establishing the cabinet, to:

... invite all parties whose membership in the House of Representatives comprises at least 10% of the total membership of the House to be represented in the Cabinet in proportion to their numbers in the House.

Forced to acquiesce, Qarase reduced this power-sharing provision to a mere mockery by allocating to the FLP ridiculously contrived ministries.

In 2006, he adopted a more pragmatic approach, offering the FLP some substantive ministerial portfolios but then completely derailing the partnership concept by refusing to consult with the FLP leadership on major national policies.

The FLP, for instance, was not consulted on the formulation of the 2007 budget, especially on the imposition of an increase in the value added tax (VAT) from 12.5 per cent to 15 per cent – a totally insensitive move that would have greatly intensified the hardship faced by our lower-paid workers and the poor.

Laisenia Qarase also shunned every overture I made as leader of the FLP to get bipartisan talks going on the highly contentious and divisive Promotion of Reconciliation, Tolerance and Unity (RTU) Bill (a misnomer because its main objective was to grant amnesty to those convicted for their part in the 2000 coup), and the Qoliqoli and Land Claims Tribunal bills.

The bills were ethno-nationalistic in design, with the potential to create deep fears and uncertainties among other races regarding their property rights and rights of access to foreshores and waterways. If passed, both legislations would have been a major deterrent to investor confidence in Fiji, particularly in the tourism industry.

Instead of agreeing to dialogue, Qarase suggested I raise my concerns at the Sector Committee, which is dominated by government members, and has failed to achieve any real dialogue on matters brought before it.

At a time when the nation faced serious financial, economic and governance issues, it made no sense for the Prime Minister to give top priority to pushing through these highly contentious and divisive legislative measures.

Thus, within a couple of months of the multiparty cabinet being set up, it was obvious that the Prime Minister had no intention of engaging in genuine

partnership with the FLP. Instead, he did everything possible to try and split the FLP and undermine its leadership.

Excesses of the SDL

Those who today so vehemently argue for the restoration of the government of Laisenia Qarase appear to have forgotten the excesses of his government, its lack of integrity and ethics, and the fact that, under his misrule, social distress rose markedly, with poverty levels escalating to more than 50 per cent.

One of the most scandalous acts of the SDL government was the deal with the public sector unions on the eve of the 2006 general election, for salary increases backdated to 2004. This was a highly unethical, vote-buying scheme that would have cost the Treasury \$200 million – an amount that Mr Qarase knew the government was in no position to meet.

To meet his rash promise to the civil service, he tried to throttle the poor by raising VAT to 15 per cent.

This man, whose return to office is now being sought on the strength of the constitution, consistently and perversely violated the constitution in his six years in office. He stubbornly refused to enact code of conduct and freedom of information legislation even though required to do so by the constitution.

He failed to bring in anti-corrupt practices legislation despite repeated calls from the opposition. He released coup convicts from prison and continued to pay a number of them salaries while they were in prison. The Duavata Initiative Ltd was a scandalous operation, under the directorship of the Prime Minister and his senior ministers, to solicit funds for the SDL.

Both State finances and the economy took a battering in the six years of Qarase misrule. Growth was minimal and consumer-driven rather than based on sound productivity, and government debts were mounting. He was, in fact, gambling away Fiji's future.

Let me give some data to prove this.

- The Qarase government was borrowing heavily to fund government expenditure. As a result, the public debt burden doubled in six years from \$1.2 billion in 2000 to almost \$2.5 billion in 2006, standing at 52 per cent of the GDP.
- SDL's budget deficit stood at unacceptable levels, rising from 1.9 per cent in 1999 to 3.5 per cent of GDP in 2006.
- Fiji's exports fell sharply – from a value of \$996 million in 2000 to \$834 million in 2006; sugar falling from \$282m to \$215m; garments from \$332m to \$95m; and gold from \$70m to \$43m.
- Falling exports coupled with rapidly rising imports put a heavy strain on foreign reserves, which dropped precariously to less than two months of

imports in mid-2006. The garment industry had virtually disappeared as a result of his government's failure to negotiate better deals; the sugar industry had been run down; and the Vatukoula gold mine forced to close.

- To pay for his government's mounting extravagance and mismanagement, Qarase kept increasing duty on a wide range of food and consumer items; likewise, VAT went up from 10 per cent to 12.5 per cent, and then to 15 per cent in the 2007 SDL budget.
- In six years of SDL rule, state infrastructure declined to appalling conditions, with almost 50 per cent of allocated funding lost to corruption, with the ministers and top echelons of the public service acting hand-in-glove with private consultants and government contractors to defraud the system. This was particularly evident in water and road projects. The King's Road, for instance, already ten years in the making, has a cost over-run of \$40 million.
- Social distress was acute, as manifest in the escalating cost of living, deteriorating living standards and rising levels of poverty. More than 100,000 people in the Suva–Nausori corridor existed as squatters in makeshift housing, lacking proper water, sanitation and other amenities.
- Despite the much-vaunted affirmative action program for the *indigenous* people, their plight worsened considerably in the six years of Qarase rule, as agriculture and the rural sector stagnated, forcing villagers to move to urban areas in search of jobs and a better life. In 2006, 57 per cent of those lining up for the state's meagre family assistance allowance were Fijians; they made up the majority of people living in squatter settlements in the Greater Suva area, and 77 per cent of the total prison population.
- Many of the benefits of the so-called government blueprint were accruing to elite Fijians closely aligned to the SDL and its business associates. Our resource-based industries, the main source of income for the indigenous community, suffered as a result of neglect and lack of proper direction.
- Criminal activity rose to an all-time high, and home invasions left much of the populace terrified and insecure in their own homes .

Is this the government that the advocates of so-called 'democracy' want returned to office? They denounce the army takeover but what other recourse is there when a government becomes an imposition on the people, *but continues to hold power by rigging elections?*

Both the 2001 and 2006 general elections were rigged to ensure continuance of the Qarase government in office. This was in addition to the massive vote-buying that tainted both elections – the \$30 million agricultural scam in 2001 and similar abuse of State funds in 2006.

There is no doubt that another five years of Qarase rule would have been disastrous – with Fiji ending up a failed state. Under the type of 'democracy' practised by Qarase, and his arrogant refusal to heed good advice or to allow

the FLP as partners in government to help usher in elements of good governance, there was little hope for any improvement.

Checks and balances put in place to ensure good governance were being constantly undermined. Parliamentary procedures and standing orders, for instance, were often suspended to stifle debate and to ensure the easy passage of SDL's legislative measures. Fiji's destruction was inevitable, had the army not intervened. This explains why there was ready support for the army's objectives following the takeover.

Relations between the army and the government

A few analysts have attributed the increasing animosity in relations between the SDL government and the army to a personality clash, or even to Voreqe Bainimarama's thirst for power. I am not so sure that this is an accurate analysis of what happened.

In fact, the origins of the army's anti-SDL stance can be traced back to the time when the Qarase government began to interfere with the judicial process involving those charged with treason and other criminal activities associated with the May 2000 coup and with the army mutiny later that year.

The government's sympathy for those charged and convicted for the terrorist activities of 2000 was all too obvious. It moved swiftly to commute George Speight's death sentence to life imprisonment; it abused ministerial discretion to issue Compulsory Supervision Orders in order to set free others sentenced to gaol; it decided not to renew the work permit of Peter Ridgway, Deputy Director of Public Prosecutions, who had successfully prosecuted a number of these coup-terrorists.

Under the guise of national unity and reconciliation, it brought in the RTU Bill to facilitate amnesty for those convicted and sentenced for their role in the upheaval of 2000.

When the army voiced its concern at government's defiance of the rule of law, instead of engaging in dialogue, Qarase tried, on a number of occasions, to remove Bainimarama as army chief.

Relations between the two further deteriorated when he removed the commander from meetings of the National Security Council, tried to push through the RTU, Qoliqoli and Land Claims Tribunal bills, despite strong opposition, and then set the police against the army.

Those who are today so quick to castigate the army for interfering in the nation's political life, must ask themselves whether or not they did enough to prevent the disaster. Where were the so-called watchdog organizations when Qarase was arrogantly flouting the rule of law, the constitution and internationally accepted norms of good governance?

In a democracy, civil society groups have a responsibility and an onus to speak out against and fight endemic corruption, racial discrimination, and systematic erosion of individual rights and freedoms. In Fiji, many of those who are quite vocal today in their defence of 'democracy', were part of the Qarase gravy-train – beneficiaries of the misrule, the corruption and the exploitation of ordinary people that characterized the regime.

Now that the takeover is a fait accompli, Fiji needs to use the opportunity to take candid stock of where it is headed as a nation, and put in place strategies to avoid similar pitfalls in the future. We are all agreed that our nation cannot afford any more coups ... but simply saying this will not avoid illegal takeovers.

We must use this interim period to take bold and concrete steps to fix problems assailing us as a nation. At the crux of the dilemma is the issue of good governance and the need for consensus, proper accountability and transparency.

The People's Charter

These fundamentals must be addressed before any new government is put in place. As I see it, the only way forward is for the constitution to spell out key principles of governance that must be adhered to by all elected governments.

These should include, among other good governance provisions, principles related to social policies and to proper management of the economy and State finances, with restrictions on irresponsible borrowing and imprudent debt levels.

If we genuinely aspire to create a progressive, just and fair society then we must have the courage of our convictions to embrace substantial reforms – political, social and economic.

The People's Charter for a Better Fiji is an avenue through which such necessary reforms can be achieved by dialogue and consensus. There is no 'force of guns'⁴ – community leaders and civil society, including political parties, have been invited to participate.

For the first time, a serious and genuine attempt is being made to address fundamental problems that have haunted us for 20 years or more – let us use the opportunity wisely to address those wrongs that have maintained a stranglehold on our nation for far too long for the benefit of a select few, and that have stifled national growth, equity and prosperity in the process.

The people of Fiji deserve better.

ENDNOTES

¹ Rudolph W. Giuliani, 'Toward a Realistic Peace; Defending Civilization and Defeating Terrorists by Making the International System Work'. *Foreign Affairs*, 2007, 86(5):2–18.

² Lord Paddy Ashdown, speech accepting Honorary Degree, University of Greenwich, 19 July 2007; www.gre.ac.uk/pr/articles/latest/a1416-lord-ashdown-honorary-degree.

³ See, for example, Narsey, chapter 19.

⁴ See Narsey, chapter 19.