

Tutaka

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एकता | STANDING IN SOLIDARITY

The Quarterly Newsletter of the Citizens' Constitutional Forum Ltd - CCF



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Release on CSOs undermines justice

The Citizens' Constitutional Forum described the release of eight soldiers and a policeman convicted of manslaughter, as an abhorrent decision that undermines the rule of law.

"The eight soldiers and a police officer were serving sentences of four years and four months for a very serious crime of manslaughter of a teenage boy in early 2007. To release them on Compulsory Supervision Orders (CSO) two months after their sentencing undermines the authority of the courts to sentence and shows bias and unfair discrimination. These early releases are abhorrent to the rule of law," Chief Executive Officer Rev Akuila Yabaki said.

"Manslaughter is a serious crime. Normally, only those prisoners who have committed minor offences are released on

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Reconsider Constitution abrogation

The Citizens' Constitutional Forum described the purported abrogation of Fiji's internationally-acclaimed 1997 Constitution on 10 April 2009 as unfortunate.

The ruling in the case of Chandrika Prasad in 2001 made it very clear that the 1997 Constitution can only be varied or removed through the provisions in the document.

"The April 9 2009 ruling provided an opportunity for the President to reappoint an

independent interim government. There was no need to abrogate the Constitution," CCF Chief Executive Officer Rev Akuila Yabaki said.

CCF urged the President to reconsider the purported abrogation of the 1997 Constitution. "The purported abrogation contradicts Ratu Iloilo and Bainimarama's own assurance of upholding the Constitution over the past two years," Rev Yabaki said.

Jugdment affirms supremacy of Fiji's 1997 Constitution



Justices of Appeal (JA) from left: Ian Lloyd, presiding judge Randall Powell, and Francis Douglas, confer during the Qarase appeals case hearing.

The Citizens' Constitutional Forum welcomed the judgment delivered on 9 April 2009 by the Fiji Court of Appeal, which ruled that the prerogative powers of Fiji's Head of State to act in a crisis did not continue to exist after the enactment of the 1997 Constitution.

A summary version of the ruling is published on pages 6-7.

"The rule of law was upheld through this judgment. The Court reaffirmed that no one is above the law," CCF CEO Rev Akuila Yabaki said.

"The judgment provided an opportunity for Interim Prime Minister Commodore Voreqe Bainimarama to make a graceful exit to enable the country to move forward," Rev Yabaki said.

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Editor's notes

This issue of *Tutaka* is published during a time when Fiji's media is being heavily censored.

Two journalists arrested on May 9 2009 for writing a story on soldiers convicted of manslaughter being released on CSOs, were finally released on May 11.

In these challenging times for democracy in Fiji, members of civil society must continue to work together, to keep each other informed of issues and activities.

People must continue to work for the betterment of the people of Fiji. Ordinary citizens of Fiji remain oppressed and disempowered.

It is a long process, but if members of civil society can work together, a true and vibrant democracy will be achievable for Fiji.

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CCF appears as 'friend of court'

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CCF called on Bainimarama to relinquish power as Interim PM and pave the way for the President to appoint distinguished people to a caretaker government - people independent of the litigation, who could take the country to elections.

CCF was granted leave to appear as 'amicus curiae'

(friend of court) in the Fiji Court of Appeal case of *Qarase v Bainimarama and Others* heard from 6-9 April 2009. Queen's Counsel (QC) Dr Melissa Perry and Junior Counsel Ms Nicola McGarrity represented CCF.

The focus of CCF's submission was on the supremacy of the Constitution and the rule of law, which means all government action must be authorized by law. "The Consti-



QC Dr Melissa Perry (right) explains the implications of CCF's submission in the Qarase appeals case to CCF Steering Committee members. Looking on are Junior Counsel Ms Nicola McGarrity (middle) and Ms Tupou Draunidalo, who also represented CCF.

tution creates, empowers and binds the institutions of government," Dr Perry said.

That everyone in Fiji must obey the Constitution was reaffirmed by Justice Douglas' statement in response to the Solicitor-General's oral application for a stay, after the delivery of the judgment.

CCF was also represented by Ms Tupou Draunidalo. The lawyers were assisted by CCF legal officer Ms Kate Schuetze.

Community workshops underway in 2009

The Grassroots Education Workshops on Constitution, Human Rights, Citizenship and Good Governance have been underway in communities in the three focal provinces of Tailevu, Naitasiri, and Ra.

"To date, in 2009, the CCF education team has conducted eight community workshops and two Community Leaders Workshops," Education Support Officer, Bulutani Matai said. "Out of these eight, three were for Indo-Fijian communities, two were for mixed groups comprising Fijian and Indo-Fijian participants, and four were for in-

digenous Fijian communities."

The workshops were conducted by Community and Field Officer Mrs Sereima Lutubula and Education Support Officer Mr Bulutani Matai, for:

- Tovata Settlement, Naitasiri
- Rewa Nari Sabha, Waila, Naitasiri
- Kalabu Village, Naitasiri
- Tacirua Village, Naitasiri

- Nausori Rural Women's Association, Nausori, Tailevu

- Vuci Community, Nausori, Tailevu
- Deepwater Community, Korovou, Tailevu
- Naganivatu Village, Naitasiri.

Two Community Leaders' Workshops were held at Vitawa Village in Rakiraki for the district of Navatu, and at Vaileka, Rakiraki.

Initially, the 2009 commu-



Sereima Lutubula (sitting) with participants from the Nausori Women's Association at the Nausori workshop.

nity workshop schedule was disrupted slightly due to the unexpected flooding in January this year. This flooding affected most communities within the CCF's focal provinces. Finally, the first workshop got underway at Tovata Settlement on February 18.

"Tovata settlement is a peri-urban community about 8 miles from Suva City but within the province of Naitasiri. The workshops were initially on the three issues of Constitution and Human Rights, Citizenship, and Good Governance," Bulutani

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Women participants at the Deepwater Community workshop in Korovou. Translation in Hindi was also provided.

Radio play “The Looting” hits local airwaves

CCF’s radio play “The Looting” hit the airwaves in March with the first broadcast of the English version on Radio Fiji Gold (100.4FM) on Sunday, 15 March 2009 at 2pm.

The play aired for 20 minutes followed by a short question and answer session by Presenter Peceli Rokotuivuna, with CCF’s Chief Executive Officer Rev Akuila Yabaki and Communications and Advocacy Officer Mosmi Bhim.

Peceli, who usually hosts the early morning Breakfast Show on Radio Fiji Gold, was pleasantly surprised after the listening to the radio play. “Such a radio play has different impacts on the poor and the rich from the Fijian and Indo-Fijian communities. All in all, it was a very good idea and it would be good if production of such radio plays can be continued,” Peceli said.

Peceli says they continued talking about issues raised by the radio play on the early morning breakfast shows. One feedback they received from listeners was: “why dig up something again from the past”? Other listeners’ feedback was that we need to be constantly reminded about how bad things got in 2000.

The recording for CCF’s second radio play on the theme ‘Racism’, finally got



Radio Fiji Gold presenter Peceli Rokotuivuna (left) asks Mosmi Bhim a question after the first broadcast of the play on 15 March 2009.

underway in mid-January at the ReelTime. The radio plays are part of the Media and Social Justice project which began in April 2006 and funded by the Evangelischer Entwicklungsdienst e.V., also known as the EED (a German-based organisation).

The play is titled “The Looting” and is based on acts of looting, terrorizing and destruction of property of some Indo-Fijian families living in Muaniweni in May 2000, by fellow indigenous Fijians. The play has five scenes, nine major and five minor voice characters.

“For some people, listening to the play gave them an opportunity to discuss the events that have happened and an opportunity to share how worried they are about how bad

things were going,” Peceli commented.

“The play sounds dramatic because this (looting and terrorising of Indo-Fijians in Muaniweni) happened to a few people only. Others went on with their daily lives. Even now, the play makes it more valid to discuss those incidents,” Peceli said.

Peceli feels that radio is more flexible for use as a communication medium because people can listen to it, while engaged in a different range of activities and locations. “With television, people need to sit in one place and concentrate, whereas with radio, people can

do other things and listen to programmes at the same time,” Peceli said.

The play was aired on the second English station of Fiji Broadcasting Corporation Limited (FBCL) 2Day FM at 2.45pm on the same day, with questions and answers from host Allen.

The Hindi version of the play was aired on FBCL’s Radio Fiji 2 at 2.15pm on Sunday 4 April. Programme host Shaleshni Sen interviewed Mosmi Bhim and the play was well received by listeners. Indo-Fijian listeners, particularly from rural areas called.

Below are the English translations of some of the comments by listeners: “the programme was very good and well produced.

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Conciliation Resources visit CCF in March

Conciliation Resources (CR), the London-based partner organisation of the CCF, recently sent two representatives to visit CCF as part of an annual programme.

CR has been a partner of CCF for the last seven years and their representatives Andy Carl and Craig Collins visited CCF from 2-6 March 2009. CR is an international non-government organisation (NGO) that focuses on worldwide peace building initiatives.

In September 2008, CCF received a UK Department for International Development (DFID) funding as part of a worldwide CR project. This funding further strengthened the relationship between CR and CCF. The funding to CR is for a global project that supports partner NGOs working for change in governance towards sustainable peace.

According to CCF Project Manager Ciaran O’Toole, the two main purposes for the CR visit was: firstly on the practical project management level to help CCF finalise the monitoring and evaluation element of CCF’s ‘Strengthening Fiji’s Democracy’ programme; and secondly to enable them to meet key people and gain a better understanding of the Fiji political situation.

“They met with diplomats, political parties and NGOs. Their visit to CCF, as with every visit from CR, brought fresh ideas and perspectives to our organi-



Andy Carl (left) and CCF Finance Officer Lillian Thaggard, at a dinner organised for their visit.

sation’s programme and outlook. It is expected that such visits will occur at least twice per year,” Mr O’Toole said.

Sampari: a star for celebration against racism

By Marie-Pierre Hazera

Sampari – ‘the Morning Star’ - is the name the independence flag of West Papua, a region that remains colonized by Indonesia.

This is why Damien Faure and Jérôme Bonnard, two French filmmakers, chose to call their documentary on West Papua: Sampari.

This year, the Citizens’ Constitutional Forum (CCF) and the Pacific Concerns Resource Centre (PCRC) jointly celebrated the International Day for the Elimination of Racial Discrimination by screening Sampari at the Suva Civic Centre on 26 March 2009.

Professor Vijay Naidu, a director of CCF and Tupou Vere, Director of PCRC, introduced the documentary to an audience of approximately 80 people including diplomatic representatives.

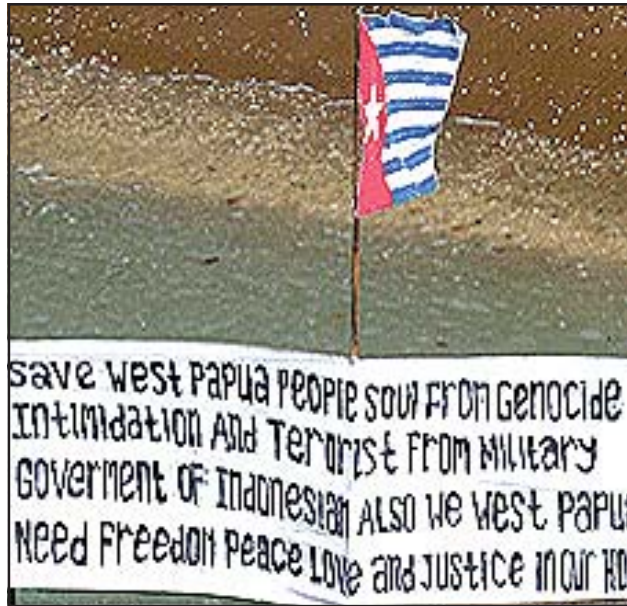
In his introduction, Prof Naidu reminded the audience that colonisation was one of many manifestations of racism. In the Pacific, unlike other parts of the world, colonisation is not a thing of the past but still a reality, Prof Naidu said.



Pictured at the screening of ‘Sampari’ are (from right): Prof Vijay Naidu, Ciaran O’Toole and Ms Tessa Mackenzie from CCF and Ms Tupou Vere from PCRC.

The sensitivity surrounding the efforts by West Papuans for independence from Indonesia, is demonstrated by the visit to the CCF office by His Excellency Mr Franciscus Guritno, Ambassador of the Republic of Indonesia, following the screening of Sampari.

Mr Guritno expressed concern about the



The Sampari flag is seen here in a protest by West Papua asylum seekers in 2006. Photo source: <http://www.indybay.org/newsitems/2007/07/07/18433905.php>

documentary and requested CCF CEO Reverend Akuila Yabaki not to have it shown again. Mr Guritno commented that screening of such a movie might jeopardize the good mutual relationship that Indonesia and Fiji were enjoying. Rev Yabaki suggested that Mr Guritno may be able to make available to CCF a movie that documents the opposite view.

Sampari tells the story of the tireless lobbying efforts of Viktor Kaisiepo to the United Nations in New York for recognition of the UN’s role in Indonesia’s annexation of West Papua in 1969 and for UN assistance to achieve the self-determination that the West Papuans were robbed of, at that time.

In the early 1960’s, West Papua was

well on the way to become an independent country.

However, the UN allowed for West Papua to be arbitrarily put under Indonesian administration. In 1969, Indonesia organised a referendum on independence with the United Nations turning a blind eye on the fact that this referendum was flawed.

It was called “Act of Free Choice”, but re-named later by the West Papuan “Act of No Choice”, as only a handful of male voters carefully handpicked by Jakarta were allowed to vote.

The result of this flawed referendum, of course, only confirmed Indonesia’s annexation of West Papua, which became an Indonesian province.

For the past 40 years since the referendum, the West Papuans have not stopped calling on the international community for a review of the Act of No Choice.

The Indonesian military has a strong presence in West Papua and is closely linked to the companies that exploit the riches of the abundant natural resources of the country: mineral resources, forestry, and fisheries. The military

behaves like an occupying power: detaining people, imprisoning them, sometimes torturing and even killing them. This has been endemic in West Papua. One typical situation that triggers this kind of repression is the simple raising of the Sampari flag.

A whole transmigration programme has been put in place. Jakarta has relocated tens of thousands of people from Java to West Papua. The Javanese have quite a different culture and have now progressively marginalized the West Papuans who feel discriminated, humiliated and dispossessed of their land and natural space. As mentioned in the documentary, they miss out on basic services like education and health care.

Peaceful resistance has been organised in West Papua. In an attempt to defuse tensions, a special autonomy law was passed by the Indonesian parliament in 2001.

This special autonomy was supposed to give more power to West Papuan authorities and also a share in the benefits from the exploitation of the mines. However, it has never been implemented.

Kaisiepo reminds us of the responsibility of the United Nations in the Indonesian takeover of West Papua. “Our plight started with the United Nations, it has to be solved with the assistance of the United Nations,” he says. And he is adamant that, “The Sampari is the flag the West Papuans one day will see at the United Nations.”

Life changing learnings from Colombia

By Rev Akuila Yabaki

This article was written by Rev Yabaki after participating in the "Peace for Life (PFL) Second People's Forum "Without Fear of Empire: Global People's Resistance", conducted in Bogota, Colombia, from 20-23 March 2009. The event was organized in partnership with Colombian NGOs led by Proyecto Justicia y Vida and a consortium of Colombian NGOs and social movements. Other local organizations, including progressive Christian groups like Red Ecumenica, were also represented at the Forum. Sixty-two international delegates from 22 countries and more than 300 local activists participated in the event. Participants adopted the 'Bogota Declaration 2009 - Faith and Resistance for Peace and Life in the Age of U.S./Global Empire'.

My immediate impression is that this trip to Colombia is a life changing experience. It is inspirational. For me it has led to an affirmation of faith that the world can be changed for the better if only people of faith (here, I do not exclude people who may have no religious faith) believe in themselves that the world can be changed and dig deep into themselves to find commitment and strength to fulfill the vision of a better world. By a better world, I mean where there is justice for the poor and oppressed, and peace for everyone.

Much of the strengthening of commitment I find comes from the indigenous communities, the Afro-Americans, the workers in their various organized unions, and the non-organized men and women who have no human rights in Colombia, but who have clear goals for peace and justice.



This young Colombian man has been on a hunger strike for 145 hours.



Rev Yabaki outside a demonstration in Cali, Colombia, where three Colombians had been on hunger strike for more than 145 hours (6 days) to oppose privatization of this city.

Most governments in Latin America today are controlled by small elites or oligarchies and much of the opposition comes from other elites. So to understand political, social and economic processes in Latin America, one must understand the elites. These are those positions in society which are the summits of key social structures.

The Bogota Declaration of March 2009 explains the Colombian situation further: "Colombia today is burdened by the nightmare of more than 50 years of armed conflict, as guerrilla groups have waged an ongoing struggle against unjust Colombian governments.

"The present government exploits this long-standing conflict to advance the special interests of its elite, the 3 percent of the population who owns over half of Colombia's arable land. The conflicts inside the country are many and complex, but we lift our cry especially against the U.S. global empire, which, often with Europe's complicity, endlessly multiplies the people's pain," the Declaration states.

The conflict is political and internal but also exacerbated by the external interest of US global empire.

Internal legislations are made inflexible within Colombia to suit the greed of the select group of the G-8 countries who have, through their transnational companies, expropriated insensitively Colombia's natural resources, while exploiting its workers.

The fifty participants at the Second Global Forum witnessed the struggle against mindless privatization of the basic resources of water, sewerage, electricity and telecommunication.

There were 1000 people killed in Cali and further threats to kill more people who stand in the way of the relentless urge for

privatization. Women, children and the aged are being displaced. In particular, the indigenous and Afro-Colombian communities are being displaced and dispossessed from their land.

There is impunity for killers and there is a mounting move to take President Alvaro Uribe to the International Court of Justice to stop such impunity.

At the end of the conference, participants had a choice of two separate field trips. I chose to visit Cali, the third largest city in Colombia. There we met and expressed solid support to three people who were on hunger strike for 145 hours. They oppose a privatization which involves transfer of ownership from the city of Cali to direct control under President Alvaro Uribe's nuclear family.

Democratic security is only for the rich who use paramilitary forces; the military live in luxurious houses.

There is some hope today, as the power of the US global empire is in decline due first to its internal economic crisis and the unyielding resistance of victimized people in Iraq, Afghanistan and Palestine.

There are also rival powers in the world such as China, Russia and especially the new governments brought to power by the peoples' movements across Latin America (for example: in Venezuela, Brazil and Bolivia).

Against this background, the US is making a last ditch, desperate and brutal assault on the people of Colombia, in order to secure a hold over the Americas and by extension, over the entire world. The US is seeking to strengthen its strategic position in Colombia, which is located between Panama and Venezuela, Brazil, Ecuador and Peru.

Qarase v Bainimarama appeals ruling

SUMMARY OF JUDGMENT OF THE FIJI COURT OF APPEAL IN QARASE v BAINIMARAMA

1. On 5 December 2006 the First Respondent Commodore Josaia Voreqe Bainimarama (“the Commander”) being Commander of the Republic of Fiji Military Forces (RFMF) purported to assume the office of President of Fiji and to dismiss the Prime Minister Mr Laisenia Qarase (“Mr Qarase”). He then appointed an interim prime minister, who advised him to dissolve Parliament, and on 6 December 2006 the Commander purported to do so.

2. On 5 January 2007, the Commander purported to stand down as President. The President, Ratu Josefa Iloilovatu Uluivuda, then purported to ratify and confirm the actions of the Commander and the RFMF up until 4 January 2007, and he appointed the Commander Prime Minister of an Interim Government, and announced that until elections were held legislation would be made by promulgation.

3. Mr Qarase brought proceedings challenging the validity of his dismissal and the dissolution of Parliament.

4. On 9 October 2008, the High Court made a number of declarations. These included that the decision of President Ratu Josefa Iloilovatu Uluivuda to ratify the dismissal of Prime Minister Laisenia Qarase and the dissolution of Parliament were valid and lawful acts in the exercise of the prerogative powers of the Head of State to act for the public good in a crisis. Mr Qarase and others appealed that decision to this Court.

5. The Court is of the opinion that if such prerogative powers continued to exist after Fiji became a republic, they did not continue to exist in Fiji after the 1997 Constitution.

6. The powers of the President are those vested in him by the Constitution and the purported dismissal of Mr Qarase as Prime Minister and the dissolution of the Parliament were not in accordance with the Constitution and therefore the dismissal and the dissolution were unlawful.

7. However there is a very real question whether Mr Qarase remains the Prime Minister of Fiji, notwithstanding that he has not formally resigned. Moreover although we are of the view that his dismissal and the dissolution of Parliament were invalid, at this point in time it is difficult to ignore the fact that, however invalid, those events have occurred.

8. In our opinion the only appropriate course at the present time is for elections to be held that enable Fiji to get a fresh start.

9. In order to issue writs for elections the President requires the advice of the Prime Minister under s.60 of the Fiji Constitution. Although on one view the power of the President to appoint a person as a caretaker Prime Minister to advise a dissolution of the Parliament and the issuance of writs for an election only applies where a Prime Minister has been validly dismissed, we are of the view that it can also cover circumstances such as this where the Prime Minister has been validly appointed in his place.

10. These principles would at least enable the President on the advice of an Interim Prime Minister to dissolve Parliament and to issue writs for fresh elections under sections 109 and 60 of the Fiji Constitution in circumstances (a) where the Prime Minister had ceased to hold office in circumstances not contemplated by the Fiji Constitution (b) where he had resigned without a successor being appointed and (c) where no provision was made for that eventuality in the Fiji Constitution. To this limited extent, we believe we can take cognizance of the principle of necessity or the de facto doctrine for the purposes of these proceedings.

11. Whilst of course we are not in a position to govern the exercise by the President of his discretion, it would seem to us that it would be advisable for the President to overcome the present situation by appointing a distinguished person independent of the parties to this litigation as Interim Prime Minister, to advise a dissolution of the Parliament, assuming it is not already dissolved, and to direct the issuance of writs for an election under s.60 of the Fiji Constitution. This would enable Fiji to be restored to democratic rule in accordance with the Fiji Constitution, and quash any arguments about the legitimacy of Mr Qarase’s Governments or the Republic as currently constituted. In recommending this course, we are also fortified by the public statements of both the President and the Commander that the mandate of the Interim Government was to uphold the Fiji Constitution and that the Interim Government was anticipated to take the people smoothly to the next elections. We urge the parties to these proceedings to cooperate with that process.

12. We make it clear that we are not deal-

ing, in these proceedings, with the validity of any acts of the Interim Government. The cases recognise that acts done by those actually in control without lawful authority may be recognised as valid or acted upon by the courts, with certain limitations, including that they are reasonably required for the ordinary orderly running of the State. As all the parties agreed, it was not in anyone’s interest for the Court to declare that all legislation proclaimed since January 2007 was invalid. Until those matters are considered and ruled upon by the Courts it must be assumed that the acts of the Interim Government are lawful and valid.

13. We do however propose to grant a declaration to the effect that the dismissal of Mr Qarase and the other Ministries of his Government and the dissolution of Parliament was unlawful and in breach of the Fiji Constitution and that the appointments of the Commander as Prime Minister and his Ministers were not validly made.

14. We also propose to declare that it would be lawful for the President to appoint a person as Interim Prime Minister, solely for the purpose of advising a dissolution of the Parliament and to give advice to the President that writ for the election of members of the House of Representatives be issued.

Declarations and Orders

15. The Court hereby:

(1) Declares that:

(a) the assumption of executive authority and the declaration of a State of Emergency by the First Respondent;

(b) the dismissal of the First Appellant from the Office of Prime Minister and the appointment of Dr Jona Baravilala Senilagakali as Caretaker Prime Minister;

(c) the advice that Parliament be dissolved by Dr Senilagakali;

(d) the order by the First Respondent that the Parliament be dissolved;

(e) the appointment on 5 January 2007 of the First Respondent as Interim Prime Minister and of other persons as his Ministers by President Uluivuda;

(f) the purported Ratification and Validation of the Declaration and Decrees of the Fiji Military Government Decree of 16 January 2007, subsequently renamed as a Promulgation of the Interim Government of the Republic of Fiji, by which decree President Uluivuda purported to validate

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Submission by CCF on Indigenous Rights

The Citizens' Constitutional Forum (CCF) made a submission on the 2007 Declaration on the Rights of Indigenous Peoples on 18 February 2009.

CCF made the submission in response to an invitation by the office of the United Nations High Commissioner for Human Rights (UNHCHR).

The annual topic for this report was "Lessons learned and challenges to achieve the implementation of the Rights of Indigenous Peoples to education".

Submissions were required to address Article 14 of the declaration which provides for:-

- the right of indigenous peoples to establish and control their educational systems and institutions;
- the right to access all levels of education

without discrimination; and

- the right to access, where possible, education in their own culture and language.

CCF's submission highlighted problems in Fiji such as the performance gap between indigenous and non-indigenous students and the drop out rate of indigenous students at higher levels of education.

Key proposals to achieve the implementation of the rights of indigenous peoples to education included:-

- Having an effective, means based affirmative action program that is non-discriminatory;
- Addressing the funding gap between rural and urban schools;
- Educating on indigenous rights in the context of other human rights; including

respect for minority groups, multiculturalism and gender equality;

- Ensuring the education system rewards performance based on merit;
- Addressing the key factors (such as poverty) which contribute to the early discontinuance of studies; and
- Encouraging the integration of schools to raise multicultural awareness and reduce racial discrimination.

"CCF encourages the implementation of an education system that promotes indigenous rights consistent with a human rights based approach, and our submission was directed to this issue," CCF legal officer, Kate Schuetze commented.

The full text of CCF's submission to the UNHCHR is available on the CCF website: www.ccf.org.fj.

Community workshops in 2009

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said. "The concept of Constitution was separated from Human Rights and roped into our training module as a separate topic after concern was expressed by participants that they had little understanding of it; let alone having ever seen the Fiji 1997 Constitution."

Similar concerns on the Constitution were received from other communities. Almost all participants had never seen any of Fiji's past three Constitutions. "The publication by CCF of a simplified version of the 1997 Constitution was handy to them. A few people in communities where we conducted workshops after the abrogation of the 1997 Constitution, raised their disagreement of its abrogation and asked where Fiji was heading to without a Constitution and a democratic government," Bulutani explains.

Human rights topics continued to generate a lot of interesting discussions among participants in all workshops. Interestingly, almost all communities have some prior knowledge of human rights. Most of them heard of human rights through media, word of mouth and a few had attended some workshops on human rights. Basic rights such as rights of women, rights of the child, and the right to education were highlighted in the pre-assessment questionnaires. Most indigenous participants raised their concern over the clash of human rights and traditional structures.



Participants at the workshop in Kalabu, Naitasiri.

Lack of human rights awareness and training from rights advocates to grassroots were mentioned as the contributing factor to misinterpretations and misconceptions about human rights in village communities we visited. Responsibilities while exercising rights were emphasized, Bulutani said. "Another area that took a lot of clarification was citizenship, especially for indigenous communities, when it comes to defining a citizen of Fiji. They had this perception that only indigenous Fijians are citizens of this country. A key message to all communities and participants was their act of citizenship," Bulutani explains.

Good governance also was a new term to participants. "Most managed to connect some principles of good governance to their traditional leadership and they easily identified bad governance or absence of good governance principles at existing leadership levels in our country," Bulutani said.

Radio Play "The Looting"

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We need to have more such programmes."

"If these problems of looting and terrorising of Indo-Fijians could be solved, then there would be no need for migration of Indo-Fijian people overseas."

"I live in a village where Indian and Fijian people live together. We share everything and help and respect each other. We don't have the problems of racism in our area that is portrayed in the play."

"Yes, we Indo-Fijians also need to teach our children not to be prejudiced against Fijians. We need to respect each other and not say bad things about people of the other race when they are not there."

Host Shaleshni also interviewed Mosmi as a guest for the Yuva (youth) radio programme. The Hindi version of the play was aired for a second time on FBCL's Radio Mirchi at 8pm on Monday 6 April.

The Fijian version of the play was aired on FBCL's Bula FM station at 2.30pm on Sunday 12 April. It was aired for a second time on FBCL's Fijian station Radio Fiji 1 at 7.30am on 13 April - Easter Monday. The broadcast of the play was followed by an interview of Rev Yabaki.

The "Looting" will be aired again on the above stations in July 2009. It is also due to be broadcast once on the Hindi and Fijian radio stations of Communications Fiji Ltd.

The play aims to raise people's awareness of why racist activities are a violation of human rights and a crime and teach people how to prevent acts of racism.

Universal human rights continue to exist

In the period of uncertainty following the abrogation of Fiji's 1997 Constitution on April 10 2009, the Citizens' Constitutional Forum (CCF) advises residents that their human rights continue to exist as these are guaranteed under the Universal Declaration of Human Rights (UDHR).

From April 10, the Public Emergency Regulations were activated by decree for 30 days in Fiji, resulting in censorship of the news media and restriction on some human rights, such as a ban on political rallies and the requirement of a police permit for public events involving a gathering of people.

These emergency regulations have been extended for another 30 days from May 10.

"The current interim regime is not recognising the existence of the 1997 Constitution. However, according to Chapter 15 of the 1997 Constitution, it can only be var-

ied or replaced through the procedures outlined in that Chapter," CCF Chief Executive Officer Rev Akuila Yabaki said.

"The April 9 Court of Appeal ruling stated that until any promulgations or decrees are tested in a court of law, people should consider them lawful and valid.

CCF therefore advises citizens to respect any promulgations or decrees until they are declared invalid by a court," Rev Yabaki said.

Human rights continue to exist because these are guaranteed in the UDHR which was proclaimed in 1948.

However, in order for human rights to be adequately protected, there must be a fully functioning, independent judiciary in place, Rev Yabaki said.

CCF advises that the following human

rights may not be derogated, even in a state of emergency:

- Right to Life
- Freedom from Cruel or Degrading Treatment
- Freedom from Unreasonable Searches or Seizure
- Rights of Arrested, Detained or Charged People
- Right to a Fair Trial and Access to Courts or Tribunals
- Freedom of Religion and Belief
- Right to Vote by Secret Ballot
- Right to Equality Before the Law and not to be Discriminated Against
- Right to an Education
- Protection Against Compulsory Acquisition of Property.

Qarase v Bainimarama appeals ruling

(continued from page 7)

and confirm the dismissal of the First Appellant as Prime Minister of Fiji, the appointment of Dr Senilagakali as Caretaker Prime Minister and the dissolution of Parliament;

were unlawful acts under the Fiji Constitution.

(2) Declares that in the events that have occurred it would be lawful for the President acting pursuant to section 109(2) of the Fiji

Constitution, or as a matter of necessity, to appoint a caretaker Prime Minister to advise a dissolution of the Parliament and



QC Dr Melissa Perry making the submission to the Court of Appeal, on behalf of CCF on April 7 2009.

the issuance of writs for the election of members of the House of Representatives.



The Appellant former Prime Minister Laisenia Qarase (middle) at the Court of Appeal hearing with supporters former Home Affairs Minister Mr Josefa Vosanibola (left) and former MP from the CAMV party Mr Samisoni Tikoinasau (right) who is also George Speight's brother.

Release on CSOs

(continued from page 1)

CSOs. The government should publicly explain the need to release these prisoners," Rev Yabaki said.

CCF is concerned there is no opportunity for judicial review of the decision to release the prisoners as there is no High Court. CCF is alarmed that the Interim Government is behaving in a partisan manner and giving preferential treatment to soldiers and police men who support the regime. The Qarase government had released 10 people on CSOs, who had been convicted for offences of unlawful oath, unlawful assembly, possession of firearms and wrongful detention, in relation to the May 2000 coup. Seven of those released were chiefs, two were former army officers and one a politician. CCF successfully challenged the early release of former Vice-President Ratu Jope Seniloli under a CSO on supposed medical grounds after his conviction for taking an unlawful oath. The Court found a perception of bias in the government's decision to release him early.

"CCF is alarmed that the military is making a mockery of the justice system in a similar manner as the Qarase government. Commodore Voreqe Bainimarama as Caretaker Prime Minister and Police Commissioner Esala Teleni are blatantly disregarding respect for justice by these acts of favouritism for army and police officers," Rev Yabaki said.

"The Military has not learnt any lesson from the way the law was disrespected in 2000. This will set a bad example to young people and it will definitely send the wrong message to soldiers," Rev Yabaki said.