
Fiji Constitution Submission

Local Modernist
Conservatism & Land
Economist Academia - 12
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Proposed Submission by Paula D Raquekai, commoner of the Vunisekoula family, tribesman of Nakadruma/Teiteiciva, a subject of the “Tui Vanua Levu - Vanua Kingdom”, in the District of Saqani, Cakaudrove Province on behalf of the Local Modernist Conservatism Academies and Fiji Islanders (Both Kai Viti-“itaukei”, Indo-Fijians and Others) of the Republic of the Fiji Islands

Psalms 103: 8

**“The Lord is Merciful and Loving,
slow to become angry and full of constant love”.**

Glory be to Him

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1.0 United Nations Declaration on the Rights of Indigenous Peoples

I submit that the UN Declaration on the Rights of Indigenous Peoples (the Declaration) be stated in the Preamble of the Constitution as the basis of the relationship of the state and the nation with the indigenous Fijian people. Note the Declaration below and my comments in italics/ bold. Note that Fijian in this submission refers to indigenous Fijian as in the Fijian Affairs Act; because it's current use by the regime is without the indigenous people's consent

i.e. "Fijian" includes every member of an aboriginal race indigenous to Fiji and also includes every member of an aboriginal race indigenous to Melanesia, Micronesia or Polynesia living in Fiji who has elected to live in a Fijian village; (Fijian Affairs Act, definitions).

The main reasons that the native Fijian people are insisting that the Declaration be recognized in the Constitution and be implemented are as follows:

- *The Fijians, the indigenous people of Fiji, as the people occupying and owning this land of Fiji prior to European contact, whose chiefs, ceded Fiji to Great Britain in 1874, are a distinct people whose ancestral home is Fiji, with their own distinct language, traditional governance structures, chiefs, social systems, ownership systems, communal lands (90% of Fiji), villages, traditional fishing grounds, waterways and estuaries, forests and other natural resources; exist and continue to exist and perpetuate ourselves in this land Fiji; irrespective of the political circumstances which come and go from 1874 to today 2012; the indigenous Fijian people are here forever as a distinct and self conscious entity,,,,,, as recognized in the Declaration and International Conventions;*

- *States can suppress indigenous human rights as is happening now in Fiji;*

- *The military, even though made up of Fijians, can be an instrument of suppression by a dictator and by the state to suppress / marginalize indigenous human rights;*

- *The events of 2006 to date have taught us the Fijian people that there is no guarantee of security in our own ancestral lands hence the need for protection from state/ military / corporate/ business/rogue capitalist and non indigenous alliances;*

- *Fiji is on a 3 legged stool made up of the government, the vanua (indigenous Fijian society including customary tangible and intangible land values) and the church. When these 3 are in harmony all is well. This proposal will bring harmony to the 3 legged stool and stability, prosperity and peace to Fiji;*

- *The existence of the indigenous people of Fiji (the Fijians or Kai Viti) is a fact and cannot be brushed aside or denied. This must be recognized in the Constitution.*

Recommendation:

The suggested Clause in the Constitution to read:

“This Constitution gives effect to the United Nations Declaration on the Rights of Indigenous Peoples as adopted by the sixty first session of the UN General Assembly on 13 September 2007, and that all necessary measures and actions are taken by the state, the Fijian people and all Fiji Islanders to ensure its full dissemination, recognition and implementation”.

Please be reminded that this Declaration does not affect other Fiji Citizens in any way and in fact recognizes and respects all international human rights conventions. This Declaration is merely a protective instrument for the indigenous Fijian people. It is their indigenous human right.

Please note the content of the Declaration and my comments (in bold and italics) as follows:

The General Assembly,

Taking note of the recommendation of the Human Rights Council contained in its resolution 1/2 of 29 June 2006, by which the Council adopted the text of the United Nations Declaration on the Rights of Indigenous Peoples, Recalling its resolution 61/178 of 20 December 2006, by which it decided to defer consideration of and action on the Declaration to allow time for further consultations thereon, and also decided to conclude its consideration before the end of the sixty-first session of the General Assembly, Adopts the United Nations Declaration on the Rights of Indigenous Peoples as contained in the annex to the present resolution. 107th plenary meeting 13 September 2007

Annex

United Nations Declaration on the Rights of Indigenous Peoples

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations, and good faith in the fulfillment of the obligations assumed by States in accordance with the Charter, Affirming that indigenous peoples are equal to all other peoples, while recognizing the right of all peoples to be different, to consider themselves different, and to be respected as such,

1. See Official Records of the General Assembly, Sixty-first Session, Supplement No. 53 (A/61/53), part one, chap. II, sect. A Affirming also that all peoples contribute to the diversity and richness of civilizations and cultures, which constitute the common heritage of humankind, Affirming further that all doctrines, policies and practices based on or advocating superiority of peoples or individuals on the basis of national origin or racial, religious, ethnic or cultural differences are racist, scientifically false, legally invalid, morally condemnable and socially unjust;

Note that this Declaration does not advocate any paramountcy of Fijians over others in Fiji and the rights and freedoms of the non indigenous are guaranteed by the Constitution.

Reaffirming those indigenous peoples, in the exercise of their rights, should be free from discrimination of any kind. Concerned those indigenous peoples have suffered from historic injustices as a result of, inter alia, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests,

Recognizing the urgent need to respect and promote the inherent rights of indigenous peoples which derive from their political, economic and social structures and from their cultures, spiritual traditions, histories and philosophies, especially their rights to their lands, territories and resources;

Recognizing also the urgent need to respect and promote the rights of indigenous peoples affirmed in treaties, agreements and other constructive arrangements with States;

Welcoming the fact that indigenous peoples are organizing themselves for political, economic, social and cultural enhancement and in order to bring to an end all forms of discrimination and oppression wherever they occur;

Convinced that control by indigenous peoples over developments affecting them and their lands, territories and resources will enable them to maintain and strengthen their institutions, cultures and traditions, and to promote their development in accordance with their aspirations and needs;

Recognizing that respect for indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of their land resources and environment;

Emphasizing the contribution of the demilitarization of the lands and territories of indigenous peoples to peace, economic and social progress and development, understanding and friendly relations among nations and peoples of the world;

Recognizing in particular the right of indigenous families and communities to retain shared responsibility for the upbringing, training, education and well-being of their children, consistent with the rights of the child;

Considering that the rights affirmed in treaties, agreements and other constructive arrangements between States and indigenous peoples are, in some situations, matters of international concern, interest, responsibility and character;

Considering also that treaties, agreements and other constructive arrangements, and the relationship they represent, are the basis for a strengthened partnership between indigenous peoples and States,

Acknowledging that the Charter of the United Nations, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, as well as the Vienna Declaration and Programme of Action;

Affirm the fundamental importance of the right to self-determination of all peoples, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development;

Bearing in mind that nothing in this Declaration may be used to deny any peoples their right to selfdetermination, exercised in conformity with international law;

Convinced that the recognition of the rights of indigenous peoples in this Declaration will enhance harmonious and cooperative relations between the State and indigenous peoples, based on principles of justice, democracy, respect for human rights, non-discrimination and good faith;

Encouraging States to comply with and effectively implement all their obligations as they apply to indigenous peoples under international instruments, in particular those related to human rights, in consultation and cooperation with the peoples concerned;

Emphasizing that the United Nations has an important and continuing role to play in promoting and protecting the rights of indigenous peoples;

Believing that this Declaration is a further important step forward for the recognition, promotion and protection of the rights and freedoms of indigenous peoples and in the development of relevant activities of the United Nations system in this field;

Recognizing and reaffirming that indigenous individuals are entitled without discrimination to all human rights recognized in international law, and that indigenous peoples possess collective rights which are indispensable for their existence, well-being and integral development as peoples;

Recognizing that the situation of indigenous peoples varies from region to region and from country to country and that the significance of national and regional particularities and various historical and cultural backgrounds should be taken into consideration;

Solemnly proclaims the following United Nations Declaration on the Rights of Indigenous Peoples as a standard of achievement to be pursued in a spirit of partnership and mutual respect:

Article 1

Indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law.

Article 2

Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity

Article 3

Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

Self determination is a human right for the native Fijian people to elect their own representatives in the new parliament and so as the freedom of other ethnic groups to choose theirs on pro-rata basis of their population

The group favors both the native Fijian and the Indo-Fijian Communal Seats in the Provinces but criteria for candidates should be reviewed accordingly.

Article 4

Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.

Self government and autonomy is exercised via the Great Council of Chiefs, the Provincial Councils and the District Councils. These institutions must be put on Referendum to ALL stakeholders (native Fijians, Indo-Fijians and others) to decide and not be pushed onto their throat to swallow as in the current practice. Native Fijians and their institutions must evolve towards self government and autonomy that would enhance prosperity and peace.

Article 5

Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State;

The Indigenous people have a right to maintain their own chiefly, traditional, provincial, district and cultural systems and to evolve and review these themselves without state or non indigenous interference.

Article 6

Every indigenous individual has the right to a nationality.

Fiji must have a national identity and could be “Fiji Islander” as we are now called the Republic of Fiji Islands. The National Anthem should be both in the native Fijian and English languages because the cultural diversity of the Republic of the Fiji Islands.

Recommendation: The above to be resolved via a National Consultation Workshop.

Article 7

1. Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person;

Indigenous rights activists must not be victimized and labeled as racists. Such actions are simplistic and counterproductive. However, open discussion of the concerns of Fijians as indigenous people must be encouraged. Since the coup of 2006, native Fijians have who have expressed concerns about their rights have been victimized and their human rights abused. The elected representatives of Fijians have been removed by the gun, harassed, assaulted and still continue to be thrown into prison.

2. Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group;

Article 8

1. Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture;

The action of the current regime is equivalent to forced assimilation and colonization. The native Fijian people want to determine their future and not be subjected to the social engineering of a regime they did not elect and which is forced on them by the power of the gun. The native Fijians also do not want non indigenous like Mr. Aiyaz Kaiyum telling them what is good or not good for them. That is for them (native Fijians) to determine and decide themselves. At this point I remind the Commission of the Kaiyum thesis in Hong-Kong that is publicly available online:

• *Fijian institutions are caught in a time warp - let's review them gradually with full participation of all stakeholders;*

- Cultural autonomy must have a sunset clause - this will demise the native Fijians forever in their own land;
- Labeled chiefs as a cartel of hereditary chiefly families - let the ALL stakeholders to decide for themselves and not merely a one sided thesis thought;
- GCC a threat to the state - let's put on referendum for the people of Fiji to decide;

The above views are the driving force in the regimes current changes and the moderate thinkers reject these because it was formulated and implemented without the native Fijians consent. It is simplistic and displays ignorance, contempt and total lack of understanding of how the native Fijians value and respect their indigenous systems of governance and its institutions. For the majority of the native Fijians their traditions, values and identity is in their hearts and will never be destroyed. Even when an institution is destroyed legally (e.g. GCC) the traditional indigenous system is a living organism providing meaning, security, structure and social cohesion in Fijian society. It contributes to national cohesion and stability and therefore must be strengthened and be a major partner in the future of our nation. The current drive to create a national identity without due regard for or the consent of indigenous Fijian society is a recipe for future instability. A National Identity is good but is must be formulated via a process of full consultation and consensus and this can never happen properly under an unaccountable & unelected leadership or through force and lack of consultation.

2. States shall provide effective mechanisms for prevention of, and redress for:

- (a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;
- (b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources;
- (c) Any form of forced population transfer, which has the aim or effect of violating or undermining any of their rights;
- (d) Any form of forced assimilation or integration;
- (e) Any form of propaganda designed to promote or incite racial or ethnic discrimination directed against native Fijians;

It is clear here that the state must provide for mechanisms for redress. The integrity of all the people of Fiji has been deprived by the overthrow of a government that was elected and other actions such as the use of "Fijian" to label everyone. The integrity of the native Fijians has also been deprived by the on-going insults by regime cronies and also by acts such as the abolition of the Great Council of Chiefs and suppression of Fijians voices at the provincial and village levels by threats, informers and bribery via development assistance.

Article 9

Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. No discrimination of any kind may arise from the exercise of such a right;

Article 10

Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return;

Article 11

1. Indigenous peoples have the right to practice and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artifacts, designs, ceremonies, technologies and visual and performing arts and literature;

2. States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs

The Ministry of Fijian Affairs should be more active and organize activities and competitions in traditional Fijians art, craft and dances. The bastardization of traditional dances by mixing it with other non indigenous dances and music must be limited or totally prohibited to ensure sustainability.

Article 12

1. Indigenous peoples have the right to manifest, practice, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains.

2. States shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with indigenous peoples concerned.

Article 13

1. Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons.

2. States shall take effective measures to ensure that this right is protected and also to ensure that indigenous peoples can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means.

Article 14

1. Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.

Fijians have a right to educate their young in the Fijian language and if they choose to in accordance with their religion i.e., Christianity which they have widely adopted; Students who attend other schools displaying religions other than their own should be free to abstain from participating in religious activities not of their own religion.

1. Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination.

2. States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.

Article 15

1. Indigenous peoples have the right to the dignity and diversity of their cultures, traditions, histories and aspirations which shall be appropriately reflected in education and public information.

This should be adequately reflected in the Education system and in the media. As such Ratu Sukuna Day should be restored as a day for the Fijians and the nation to celebrate the indigenous culture (e.g. traditional dances competition etc). The Queen's Birthday should be restored because of the role of the UK of Great Britain in the development of the nation and the native Fijian people - recommend that the government put these issues on referendum for all the people of Fiji to decide rather than shoving onto them to swallowed, it is a democratic and humility way of good governance and tolerance.

2. States shall take effective measures, in consultation and cooperation with the indigenous peoples concerned, to combat prejudice and eliminate discrimination and to promote tolerance, understanding and good relations among indigenous peoples and all other segments of society.

Article 16

1. Indigenous peoples have the right to establish their own media in their own languages and to have access to all forms of non-indigenous media without discrimination.

The media is flooded with non indigenous images. There must be a balance somewhere. The indigenous Fijian languages are to be preserved and maintained nationally.

Note Below:

Promoting the language rights of indigenous peoples:

At least 43 per cent of the 6000 languages spoken in the world are endangered, according to estimates by the United Nations Educational, Scientific and Cultural Organization (UNESCO). Of these, many belong to indigenous peoples.

“When a language dies a culture and a form of understanding of the world dies together with it,” said Javier Lopez Sanchez, Director General of the National Institute for Indigenous Languages. “Language is culture. It’s a fundamental tool to understand the world and how social organizations work at all levels.

Through language and culture human beings are able to interact.”

Both language and culture are interdependent pillars on which the identity of a people is maintained. They provide cohesion within and outside communities. This was argued by participants in a panel discussion on the role languages and culture play in promoting and protecting the well-being and identity of indigenous peoples held at the September session of the Human Rights Council in Geneva 2011.

Their aim was to identify measures taken by States to validate and revitalize indigenous languages. Opening the discussion, the UN Deputy High Commissioner for Human Rights, Kyung-wha Kang, noted that the loss of indigenous languages was a tragedy on a global scale.

“As indigenous languages die, so too do integral parts of indigenous peoples’ cultures, a process that often involves violations of indigenous peoples’ human rights to culture, language and even self-determination,” Kang said. “Without the appropriate linguistic terminology available to express indigenous philosophies and concepts, indigenous peoples lose some of their ability to accurately define themselves in accordance with their traditions and to convey these traditions to future generations. At the same time, the world loses some of its cultural history and human knowledge.”

2. States shall take effective measures to ensure that State-owned media duly reflect indigenous cultural diversity. States, without prejudice to ensuring full freedom of expression, should encourage privately owned media to adequately reflect indigenous cultural diversity.

Article 17

1. Indigenous individuals and peoples have the right to enjoy fully all rights established under applicable international and domestic labour law;

2. States shall in consultation and cooperation with indigenous peoples take specific measures to protect indigenous children from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development, taking into account their special vulnerability and the importance of education for their empowerment;

3. Indigenous individuals have the right not to be subjected to any discriminatory conditions of labour and, inter-alia, employment or salary;

Article 18

Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision making institutions.

The Fijian people must choose their own Fijian Provincial communal reps into Parliament, the Tikina Councils, the Provincial Councils and the Great Council of Chiefs. The Senate should also be retained with the 14 members from the Fijian Provinces chosen by the Provincial Councils. Indigenous institutions must gradually attain autonomy so that they operate only to enhance the development of the Fijian people rather than be exploited by the government of the day

Article 19

States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

This Article has been continuously breached since 2006. The name Fijian which belongs to the Fijian people and identifies them as a distinct indigenous people in the Fijian Affairs Act has been stolen and the GCC abolished. The Land Bank has been established without any consent from the native Fijian people or the consent of all the other ethnic groups.

Article 20

1. Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities;

3. Indigenous peoples deprived of their means of subsistence and development are entitled to just and fair redress;

The protection of Fijian resources (forests, fisheries, waterways, marine life etc including intangible asset values) must be guaranteed in constitution.

Article 21

1. Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security;

2. States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities.

Article 22

1. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities in the implementation of this Declaration;

2. States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination;

Article 23

Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions;

Article 24

1. Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals. Indigenous individuals also have the right to access, without any discrimination, to all social and health services;

2. Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health. States shall take the necessary steps with a view to achieving progressively the full realization of this right.

Article 25

Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.

Article 26

1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.

2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.

3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

Article 27

States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples' laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.

Article 28

1. Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.

An Indigenous Land Claims Tribunal (similar to Treaty of Waitangi Tribunals) must be established to implement Article 28. An immediate concern to be resolved is the Suvavou claims on Suva Peninsula. Mangrove destruction and land reclamations are currently going on without the consent of the indigenous. These state lands are for public usage and not commercialized and sold as long term leases - especially where the mangroves of fisheries of the Suvavou/ Rewa peoples are destroyed. Lands are being alienated to foreign interests. Crown Leases and Lands acquired for state use should be returned to the original indigenous owners; especially those not used for public use and now commercialized.

2. Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress.

Article 29

1. Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.

With the increase in mines and other environmentally destructive activities Fijians of later generations will be left with a degraded environment hence Article 29 is urgent. Mining is not a sustainable development and EIA should be the prime determination model of any mining activities in Fiji

2. States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.

3. States shall also take effective measures to ensure, as needed, that programmes for monitoring, maintaining and restoring the health of indigenous peoples, as developed and implemented by the peoples affected by such materials, are duly implemented.

Article 30

1. Military activities shall not take place in the lands or territories of indigenous peoples, unless justified by a relevant public interest or otherwise freely agreed with or requested by the indigenous peoples concerned.

The majority of the native Fijians do not want any guns or armed individuals in their lands; whether military, police or individuals.

2. States shall undertake effective consultations with the indigenous peoples concerned, through appropriate procedures and in particular through their representative institutions, prior to using their lands or territories for military activities.

Article 31

1. Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge (TK) and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional
2. In conjunction with indigenous peoples, States shall take effective measures to recognize and protect the exercise of these rights.

Article 32

1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.
2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.

This must be activated with urgency. The consent of Fijian landowners and resource owners must be obtained.

The Constitution must recognize Fijian ownership of all resources including water, minerals, fisheries, estuaries within Native Land boundaries and adjacent areas. Any resources based development must have the Fijian owners as equal partners. The state must facilitate. An urgent, internationally supervised, audit must be conducted.

3. States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

Article 33

1. Indigenous peoples have the right to determine their own identity or membership in accordance with their customs and traditions. This does not impair the right of indigenous individuals to obtain citizenship of the States in which they live.
2. Indigenous peoples have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures.

Article 34

Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards.

Customary Law must be given full recognition in the new constitution but must not undermine the law of land

Article 35

Indigenous peoples have the right to determine the responsibilities of individuals to their communities.

Article 36

1. Indigenous peoples, in particular those divided by international borders, have the right to maintain and develop contacts, relations and cooperation, including activities for spiritual, cultural, political, economic and social purposes, with their own members as well as other peoples across borders.

The state must facilitate our relationships with other indigenous peoples of the world and with international indigenous rights institutions and research facilities (e.g. Australian Universities Indigenous studies centers, UN Office of the Special Rapporteur on the Rights of Indigenous Peoples) so that best practice indigenous governance is practiced and recognized in Fiji and regularly monitored and benchmarked.

2. States, in consultation and cooperation with indigenous peoples, shall take effective measures to facilitate the exercise and ensure the implementation of this right.

Article 37

1. Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honor and respect such treaties, agreements and other constructive arrangements.

2. Nothing in this Declaration may be interpreted as diminishing or eliminating the rights of indigenous peoples contained in treaties, agreements and other constructive arrangements.

Article 38

States, in consultation and cooperation with indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration.

We call on the state to begin negotiations with the indigenous Fijian people on the implementation and constitutional recognition of all Articles of this Declaration; as soon as Parliamentary democracy is restored.

Article 39

Indigenous peoples have the right to have access to financial and technical assistance from States and through international cooperation, for the enjoyment of the rights contained in this Declaration.

Fiji must as soon as possible invite the UN Rapporteur on the Rights of Indigenous Peoples to visit Fiji, meet Fijian leaders and conduct an audit on the state of the indigenous Fijian people against this Declaration which is to be used as a benchmark.

Article 40

Indigenous peoples have the right to access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies for all infringements of their individual and collective rights. Such a decision shall give due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights

Article 41

The organs and specialized agencies of the United Nations system and other intergovernmental organizations shall contribute to the full realization of the provisions of this Declaration through the mobilization, inter alia, of financial cooperation and technical assistance. Ways and means of ensuring participation of indigenous peoples on issues affecting them shall be established.

Article 42

The United Nations, its bodies, including the Permanent Forum on Indigenous Issues, and specialized agencies, including at the country level, and States shall promote respect for and full application of the provisions of this Declaration and follow up the effectiveness of this Declaration.

Fiji must as soon as possible invite the UN Rapporteur on the Rights of Indigenous Peoples to visit Fiji, meet Fijian leaders and conduct an audit on the state of the indigenous Fijian people against this Declaration which is to be used as a benchmark.

Article 43

The rights recognized herein constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world.

Article 44

All the rights and freedoms recognized herein are equally guaranteed to male and female indigenous individuals.

Article 45

Nothing in this Declaration may be construed as diminishing or extinguishing the rights indigenous peoples have now or may acquire in the future.

Article 46

1. Nothing in this Declaration may be interpreted as implying for any State, people, group or person any right to engage in any activity or to perform any act contrary to the Charter of the United Nations or construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States.

2. In the exercise of the rights enunciated in the present Declaration, human rights and fundamental freedoms of all shall be respected. The exercise of the rights set forth in this Declaration shall be subject only to such limitations as are determined by law and in accordance with international human rights obligations. Any such limitations shall be non-discriminatory and strictly necessary solely for the purpose of securing due recognition and respect for the rights and freedoms of others and for meeting the just and most compelling requirements of a democratic society.

4. The provisions set forth in this Declaration shall be interpreted in accordance with the principles of justice, democracy, respect for human rights, equality, non-discrimination, good governance and good faith.

2.0 Indigenous Fijian and National Identity

There is a lot of emotion tied to the use of the word “Fijian”. We need to stick to facts and look back in history.

The word *Fijian* is derived from the word *Fiji*. It referred to an indigenous Fijian in the Fijian Affairs Act and in other legal documents such as the Constitution and the Electoral Act. The word *Fiji* is derived from *Viti* which is what we the indigenous Fijians call *Fiji*. The Tongans knew *Fiji* as *Fisi* and early missionaries on arrival in Tonga interpreted this as *Fiji* and referred to the indigenous occupants as *Fijians*. Thus the name *Fijian* has been the official name of the indigenous people of *Fiji* ever since.

In the Fijian language the *Fijian* is a *Kai Viti*; which we Fijians know as someone who is indigenous, has a village in *Fiji*, is in the *Vola Ni Kawa Bula* and whose ancestral land is *Fiji*. Thus to use “*Fijian*” to refer to any national of *Fiji* is basically theft and deprivation of our identity. It is an outright theft of identity and a fraud.

Thus we suggest that *Fijian* is retained for the *Kai Viti*, the indigenous and all *Fiji* citizens shall be called *Fiji Islanders* in line with the name of the country i.e. Republic of *Fiji Islands*. The use of *Fijian* with any other word or for any other purpose should be prohibited with immediate effect. It is confusing the nation and contributing to an extend of anger amongst the native *Fijian* people.

2.1 Use of *i Taukei* to label the Indigenous Fijian

The use of *i Taukei* today is wrong and shows a lack of knowledge and just sheer ignorance. The word *i Taukei* is not the name of a people. It is a verb and it means *to own*. For example *Taukei ni motoka* means owner of a car or *taukei ni qele* means landowner and these 2 don't have to be indigenous Fijians. *Vinod Patel* is a *iTaukei ni Bisinisi* and *Sitosa*. Therefore, the use of *i Taukei* to label indigenous Fijians is meaningless and improper.

The on-going national identity crisis of the nation and the identity confusion/ problem of the non-indigenous population should not be made at the expense of the indigenous *Fijian* people.

2.2 Recommendation

A National Identity cannot be forced on the people but one must be formulated via consultation. It should not be shoved down our throats. It is too important to be treated in an uncivilized manner. It is a crucial issue and needs honest and open discussion. The non indigenous of *Fiji* cannot be left in a state of identity crisis. The National Identity crisis must be resolved. We propose the following:

- i) *Formation of a wider community based National Committee to Establish A National Identity for the Fiji Islands to be comprised of representatives of the Fijian people, other Fiji Islanders, NGOs, technical advisers such as those from the UN Human Rights Offices on Indigenous Rights;*
- ii) *They should conduct workshops throughout Fiji and gather views including that of the Fijian people in villages and provinces;*
- iii) *The objectives include an analysis of what is National Identity including common name, official proposal for a National Language and official recognition of a National Culture;*
- iv) *The options should be put to a National Referendum and to Parliament provided the referendum results in 50% or above result.*

3.0 Fiji Affirmative Action

Affirmative Action (by ethnicity, gender or socio economic status) should be included in the Constitution and reviewed as Affirmative Action plans are implemented. An audit should be conducted as soon as possible on intakes in national institutions since 2006. Places in national education institutions should be on quota basis and so should scholarships. The quota should reflect the ethnic makeup of Fiji as any future imbalances could be a source of dissatisfaction and instability.

Further an audit should be conducted on indigenous Fijian, Indo-Fijian and other businesses and how many have gone under since 2006 and why? In addition, an audit of government contracts since 2006 should be conducted, who these were awarded to and whether any conflict of interest or unscrupulous deals were involved. This is for transparency and accountability which should be modeled towards our future generation.

It should be noted that a pass in FSLC/ F7/ Foundation is a pass and such students should not be denied an opportunity for a university education or scholarship just because they didn't score an A pass. I just managed to pass my NZUE (232/400) in 1986 but got through university. Affirmative action must be evidence based.

4.0 Principle Heart of the Constitution

We must not forget that Fiji was "physically and spiritually" saved by the living words of God since 1830 when the first Christian missionaries namely Hatai, Arue and Tahaara arrived at Lakeba from Tahiti via Tonga and then 5 years later the two Methodist missionaries, William Cross and David Cargil who were both largely responsible for lightening the darkness sky of the Fiji islands with the words of God up until their deaths that parted them to contribute to the rich fertility soils of the land. The words of God and all other past, present and any future Christian denominations in Fiji were virtually sprouted from the early sacrifices of these men of God.

This piece of history is something that the indigenous Fijians will hold into their heart at all times just like any other faiths existing in the country such Hindus, Buddhist or Muslims and the current indigenous generation must not be held responsible in giving up these basic Christian principles of faith, forgiveness, hope and love for the sake of defiling the true course of destination set-out by these early men of God, which was later endorsed by the chiefs of Fiji on 10 October 1874 in Levuka during the "Deed of Cession of Fiji to Great Britain," that... "Civilization and Christianity be promoted within the islands"... (a copy of text deed cession is contained in the appendices). For the sake of inner peace, stability and prosperity of the Fiji islands, we strongly suggest that these principles be the corner stone of the constitution, this does not mean that the indigenous Fijians will ignore the rights and freedom of religion worships of other ethnic groups who called Fiji their motherland, the constitution must clear on this issue and any true loving Christian person will always acknowledge and tolerate the existence of other religious faiths.

A Christian State in the context of a true loving Christian person does not mean that it wants to force its faith unto other religions to become Christian, this must be clearly stated in the constitution because the Kingdom of God of the Living Lord, Jesus Christ belongs only to those that carries out the true words of God in their faith with actions and not by words only.

We therefore humbly and kindly request to all the different religious faiths in Fiji to please allow these Christian principles to be enacted as a corner-stone of the constitution, which in our believe and faith will save Fiji in the years to come as we eagerly awaits His second coming as promised by Him before he left his disciples more than 2000 years ago. There is only one more prophecy left to be fulfilled apart from the 7 trumpets prophecies that are mentioned in Revelation chapters 8-10. That prophecy is His second coming that we believe by faith that it is almost here now and in fact is right at the door. We will be failing out duty as children of God if we do not share the true words of God in these last days to all our non-Christian brothers and sisters. This is the corner-stone of our request to the CC that we hope must be stated clearly in your draft constitution for further discussion by those that may have any opposing views.

Thus we humbly and kindly suggest that the following quotations from the living words of God in the Bible should be enacted in the constitution to remind all the citizens of Fiji in years to come that the Lord Jesus Christ loves everybody regardless of your ethnicity or religious faiths. His Kingdom only embraces those that embraces Him and follow His commands. We shall be answerable to Him individually for our actions in this world:

John 15:11-12: Jesus said, "I have told you this so that my joy may be in you and that your joy may be complete. My commandment is this: love one another, just as I love you".

1 Corinthians 13:13" *meanwhile these three remain: faith, hope, and love: and the greatest of these is love*".

We will be failing our moral duty and responsibility to the future citizens of Fiji and particularly to the future indigenous generations if these Christian principles are deliberately removed from the constitution despite our humble and kind request to CC. Let Him and you as members of CC be our witnesses in this presentation today.

5.0 Christian State or Secular State or Freedom of Religion or Provincial Religion

The issue of a Christian State should not be ignored by the current regime neither any future governments for that matter due to the important role played by the Christian missionaries during the early, middle and current history of Fiji. If Fiji is to choose between Christian State and Secular State we will be choosing the cross-roads between a prosperous nation and a morale dying nation.

Those who study history, know that history repeats itself the late Sir Winston Churchill once observed, "The farther backward you can look, the farther forward you can see" (What's behind the new world order, 1991, p1.). Along the same lines, the Prophet Jeremiah observed: "stand at the crossroads and look. Ask for the ancient paths, and where the best road is, walk on it and you will live in peace." For Fiji to have its morale status and future prosperity we should NEVER forget the Christian Principles of LOVE, FAITH AND HOPE...the new constitution should embrace these principles dearly in its contents to remind us and our future generations of God's gracious love to our nation since 1835 when the first Christian missionaries landed on our shore and brought the first lights to the darkness that was hovering the nation for more than thousand years. We live in a multi-cultural society with different region ideologies and our submission strongly upholds the principle of FREEDOM OF RELIGION with Christian principles (LOVE, FAITH AND HOPE) as cornerstone of our constitution. We strongly against the principle of Fiji being declared officially as a secular state - because with a simple reason that a secular state will mean a morale decaying value nation that forbids the principles of good morality living.

6.0 Establishment of a New Ministry of Education, Culture and Good Governance

This new ministry to be established as soon as practicable to teach our future generations of the importance of living as a multi-cultural society, whereby students will learn the culture, traditions and ways of living of other ethnic communities in Fiji. At the same time students should be taught at an earlier age the importance of good governance, accountability and transparency rather than at the later years of their studies. This will allow for greater understandings and tolerance in future and at the same will solve lots of ethnic tension problems.

The question of intermarriage between the different ethnic groups should be greatly encouraged under this new ministry. This will certainly solve lots of Fiji's racial problems in the later years just like the Caribbean's island nations.

The Christian principle of different colors one people, good governance and one true Living God could be easily achieved in future generations through the establishment of such ministry.

7.0 The Role of the Military & Police - Professional Qualifications and Composition

The military must be obedient to a democratically elected government at all times. This must be specific, made very clear and unequivocally stated in the constitution. Any military officer who utters a political comment must immediately be sacked and removed from the army because **any military officer who utters political comments is effectively a politician**. The current government leaders are politicians and should not try to fool us by saying they are not politicians. Anyone who utters a political comment is effectively a politician. The Constitution must specify a coup penalty; either life imprisonment or death.

The reform of the military and its re professionalization must be done as soon as possible with the assistance of Australia and New Zealand who has wide experience in military reform with the objective of creating a sustainable professional force whose main ethos is to uphold the constitution at all times, regional and community base engineering & civil works and to contribute to the UN multi-national peaceful force when demanded arises.

Military officers must have the courage to resign and enter politics if they want to be politicians. You cannot be both. This is a key element in any free and democratic society.

The FMF Commander and Police Commissioner must report to the Minister of Defense / Home Affairs and who should have the powers to appoint and terminate them. This must be clear in the constitution. Any grievances by the FMF Commander and Police Commissioner must follow the normal channel of law and must not be used to incite members of the forces to carry out illegal activities against the democratically elected government. This must be clearly stated in the constitution and the respective legislations of the two forces.

We proposed that an equitable composition of both forces should have a ratio of **50% indigenous Fijians** and **50% of other ethnic groups** which in our view would ensure long term professional standards and sustainability. We also proposed that the qualification level of an ordinary soldier and policeman/policewoman be raised to a form seven level standard which is competitive with the rest of the world.

However, we mindful of the fact that not all the future young generation of Fiji would attained the proposed required level and we therefore suggest a ratio of 70% to 30% be leverage on this basis (i.e. 70% of new recruits should passed form seven (7) level and 30% would be the discretion of the respective forces recruitment agencies. This would contribute effectively to the overall professional standards of the two forces.

We also proposed that **all future commissioned military/police officers** must have a formal undergraduate qualification from any recognized universities as part of their military/police qualifications. This will certainly raised the professional standard of our two forces and make them more competitive in the global defense and peaceful security markets and most importantly improving their professional integrity, leadership quality and ethical behavior within the forces and the public eye.

Likewise, we also proposed that in future the qualification standard for the **top 3 posts of the military and police including the army commander and commissioner of police** must have some business qualifications such as MBA (Master of Business Administration) together with their relevant military/police qualifications to ensure financial, professional and ethical responsibility in the overall operations of the forces. This will certainly in our view contribute to professional sustainability within the leadership hierarchy of the two forces.

8.0 The Independence of the Judiciary System & FICAC

The independence of the judiciary must be paramount. Today we see actions which make a mockery of the judiciary such as the non renewal of contracts of judges and magistrates who made decisions contrary to the wishes of the government. FICAC should not be selective in who it prosecutes. What about the others in the FHL case and the National Bank of Fiji fiasco?? Why haven't they been prosecuted? Obviously "Animal Farm" is at play here i.e. some are more equal than others. The appointments of magistrates in the judicial system of Fiji should NEVER involve any governments - it is an independent body that is vital to the morale integrity and prosperous of the nation and should be given only to an independent law appointment body of Fiji, whose members (suggest minimum of 3 and maximum of 5 members) should of higher law qualifications, good morale status, financial integrity and experience in law matters.

We strongly support the establishment of FICAC by the current regime, however, it is vitally important that this organization should be an independent body staffed by qualifies & quality personals to eradicate corruptions in Fiji and it must work closely with the Police and the DPP's office to prosecute those that wants to make mockery of the laws of the land.

9.0 The Question of Immunity

There should be no immunity provisions in the constitution; unless approved by an elected parliament. If you really believe that what you are doing is right, stick with it to the end. The fact that the current government is seeking immunity shows that it does not believe in its own legality. It created legal arguments for its actions in 2006 (e.g. doctrine of necessity) but now it seems that such arguments were not infallible. If a government does not believe in its own legitimacy, then the proper thing for it to do is to resign in the interest of the nation. If there is no legitimacy, no morality and no spirituality, the only thing driving it is self interest.

The current regime wants immunity on one hand while on the other it wants Fiji to be secular state rather than a Christian state. How irony is that? Given the fact that Christianity in our view is the only genuine faith that allows for forgiveness, reconciliation and true love as shown by its leader, the Lord Jesus Christ when he was crucified on the cross more than 2000 years ago so that man can leave forever just like Him when he comes back as He had promised (His Second Comings). Thus this question of immunity can be one of the frontline issues in the proposed Truth and Reconciliation Commission (TRC), as this is our proposed before going to the poll in 2014.

However, if TRC is not an option (I hope not), then the current leaders should stand in the elections, get elected and file a motion for immunity in the new parliament. Rabuka's immunity went through Parliament tests and so should any other coup maker. Every coup maker should be treated the same. We sincerely hope that the 2006 coup would be the last one for Fiji and we hope that a new beginning could sprout from the establishment of the proposed TRC below.

10.0 Establishment of a Commission of Truths & Reconciliation- A Way Forward to Ensure Legitimacy

We proposed that the best solution to Fiji's current political problem is to establish a "Truth and Reconciliation Commission" (TRC) something similar to the one set-up in South Africa in the 1990s. This proposed TRC should take place first before Fiji goes to the poll in 2014.

We feel that without a genuine TRC there will be no long term peace solution for Fiji's political problem. We will continue to have a cycle of coups in future. We need to end this "mind sickness" now and the time is here right now in front us, we do not know what the future hold's Fiji only God knows that because He holds our future in His hands, but one thing is crystal clear to all of us and that is we must rebuild our beloved nation NOW! Our beloved country has been bleeding from this coup sickness for more than 20 years and every time we tried to stop the bleeding it continuously overflows not from the outside causes but from the causes within the inner part of the body and that is us every individual citizens of Fiji must be answerable to this problem.

Fiji being a Christian country despite the calls for a secular state should embrace the Christian principles of forgiveness, reconciliation and love to move the country forward.

Hence, we strongly believe that a TRC must take place first before the proposed poll in 2014. This TRC will eventually in our view lead to a formulation of a Promotion of National Unity and Reconciliation Legislation that would bring about a genuine solution to our political problem. This TRC could be a court like body that could allow for restorative justice that focuses on the needs of the victims and the offenders, as well as the involved community, instead of satisfying abstract legal principles or punishing the offender. Victims to take active role in the process, while offenders are encouraged to take responsibility for their actions, "to repair the harm they've done - by apologizing, returning stolen money from the national treasury or community service.

Restorative justice in our view should not only involve both victim and offender but the whole citizens of Fiji including those that were never directly involved in such situation (the innocent ordinary citizens) and should focuses on their personal needs. In addition, it provides help for the offender in order to avoid future offences. It is based on a theory of justice that considers crime and wrongdoing to be an offence against an individual or community, rather than the state.

Restorative justice that fosters dialogue between victim and offender and understanding and love shown by the ordinary citizens shows the highest rates of victim satisfaction and offender accountability.

In our view through this TRC the victims should be compensated either in monetary value or in kind to cushion off the great sufferings they endured under the offenders. On the other hand the offenders to go through counseling process to restore their loss psychology, physical, spiritual, social and economic ego and most importantly to embrace the love of the Lord Jesus Christ.

11.0 Government Transparency and Accountability

The Constitution should provide for a full audit of government actions, financial transactions and dealings since December 2006. This should include any back pay, contracts, irregular loans, trips funded by others etc. Any corrupt dealings must be investigated and prosecuted or refer to FICAC.

The Auditor General's reports for the last 20 years must be re-visited and investigated for follow up action and prosecution where need be. Everyone must be equal before the law.

However, if TRC is established then the above should be dealt accordingly by the body.

12.0 The Element of Lack of Trust in the Current Process but do we have a choice?

The Constitution Commission does not have my full-trust (I hope I am wrong) nor of the majority of the right thinking citizens of Fiji especially the majority of the right thinking indigenous Fijians. It is appointed by the current regime that is not our elected representatives. It is a government which came to power and continues to be in power by the power of the gun. It is a government without any legitimacy because the legitimacy of a government is from the people, from its morality and spirituality. This government lacks these 3 key elements. The Commission is made up of those who are linked to the regime by way of university links, members of NCBBF or have been regime beneficiaries. Our trust of the CC is lacking. In addition and worse, the current Government does not have any confidence in its own legitimacy. It recognizes this and is seeking immunity as a result. It confirms to us the people that the government and its appointees, including the CC know the illegitimacy of their situations.

Another obvious weakness in the CC is the absence of an independent indigenous rights expert. This is a major weakness given fact that indigenous Fijians comprise over 54% of Fiji's population and own almost 90% of the land resources. But do we have a choice? I don't think so and that's one of the only two reasons why I am today to give the views of some of the moderate thinkers of Fiji who do not only hold Fiji in their heart but the emotional cries, the dreams and aspirations of all the citizens whose wishes that one day we shall all join and united together to move our beloved nation forward to prosperity, peace and true freedom.

The only second reason I am today is through the Holy Spirit of the Lord Jesus Christ that inspires me with humility and as a true citizen of Fiji to appear before you as members of the flawed CC.

13.0 Guiding Principles for Constitution Review

The guiding principles seem to imply that indigenous human rights are racist. Ethnic voting and discrimination must be clarified. The right to elect our own indigenous representative into Parliament (Fijian Communal Seat) is a recognized human right in the UN Declaration. Affirmative Action to all affected citizens (all ethnic groups, who genuinely in need) must not be classified as discrimination.

14.0 Review Role of GCC and Lands Commission Tribunal

The new constitution should allow for the review of the role of GCC to the indigenous Fijians since its establishment over 100 years ago. The institution in our view fosters the traditional relationship of the various indigenous communities (the VANUA and MATANITU) which will enhance the intangible cultural values of the native Fijians in future. We recommend that the constitution should allow a provision for the native Fijians to recommence the re-establishment of GCC only if the majority of the Fijians want it and the GCC role MUST be reviewed to suit the concept of equity within the local indigenous community. At national level GCC could be best utilized in offering advisory role to any future governments regarding the general principles of governing the indigenous Fijian people.

We also recommend that a new constitution should allow for the establishment of an independent lands commission tribunal to solve existing land and native titles disputes that were widely viewed to be erroneously established in the 1920s by the late Ratu Sukuna due to some biased, traditionally disputes and unfounded recommendations at that time.

Thus we recommend that recommencement of GCC and its role be left with the indigenous Fijians to decide for themselves, where all stakeholders from village level to provincial level be involved directly in deciding this issue either through voting or awareness programs. The view of the majority in this regards MUST be respected and be reviewed at every 15-20 years.

15.0 Proposed House of Parliament

Fiji's current composition of parliament (1997 constitution) is not only over-sized but very expensive to the public and private stakeholders for the last several years. All future prospect of MP must be of sound financial background, a decent community member and should not be a declared bankruptcy. To allow for fairness to all stakeholders and indigenous Fijians alike we recommend that house of parliament is to be reduced to 53 members only and to be made-up of the followings:

1. All Fiji provinces to have 2 elected members only@14 = 28 members (1 must be a native Fijian rep from the province and 1 open to others)
2. Island of Rotuma to elect 1 member only@1 = 1 member of parliament
3. All major/minor urban centres to have 2 elected members only@12 = 24 members (open to all)

Total Proposed Membership of Parliament 53

Fiji to do away with the upper house because of its unfairness principle and burden to the stakeholders and all laws to be passed by HP MUST have 51% of MP's approval while any laws regarding native lands be passed only if 2/3 of the MP agrees.

A President to be elected by all members of the public who will be the overall figure-head of the government and commander in chief of the Fiji Military Force, he or she must be a respected citizenship member of the Republic of Fiji, holds good qualification and of sound financial background and should not be a declared bankruptcy. The role of the President is limited only in the endorsement works of the Members of the Parliament, who are the legal representatives of the people of Fiji

We recommend that election to the House of Representatives (HP) and the President's Office to be done once every 4 years and no President can stay for another third term in the office.

The overall composition of the HP to be reviewed every 10 years and any increase or decrease should not be more or less than 5% of the previous HP unless it is decided by referendum.

16.0 Review of the NLTB Legislations - to boost the economics progress & sustainability of Fiji

The NLTA (Native Land Trust Act 134, 1940) and the Fiji Mining Act 146, 1966) MUST be reviewed accordingly in the new constitution to allow for more empowerment to the indigenous community on how to govern and manage its land resources based asset. This piece of legislation is the main obstacle to the progress of the indigenous people of Fiji; it is very old, long over-due and does not serve its purpose well in the modern era of sustainable land administration concept.

Section 4 of the NLTA legislation should be removed immediately to allow for more flexibility and empowerment to the indigenous people. However, the NLTB or itaukei Land Trust Board institute should be maintained as a government arm to oversee that all dealings on native lands in the land market are transparent, fairness, sustainable and are of accountability.

Likewise, Section 3 of the Mining Act should be removed immediately on all lands except Crown lands in Fiji to allow for the principle of fairness and equity of landownership under common law in Fiji. It MUST remember that under common law, the native Fijians own all lands and seas in Fiji well before the British annexed the country in 1874. The universal definition of land means:

... "the surface of the land (rocks/stone/grassland/trees/shrubs etc.), the subsurface of the land, which means all soils, rocks, stones and minerals down to the centre of the universe and vertically above surface up in the sky to infinity"....

However, the Department of Minerals Resources in Fiji should be maintained as a government arm to oversee that all dealings on native lands or freehold land for that matter in the land market are transparent, fairness, sustainable and are of accountability.

This review would allow the availability of more than 60% of the current 90% of customary lands in Fiji to be available in the market, which would enhance investments, estate management works, related employments and optimum returns to the indigenous community. The indigenous community should be given the FREEDOM and the LIBERTY to decide for themselves today (with must respect to the British Colony in 1940 and 1966 respectively) on how they wish to manage their most valuable asset given to them by God through their ancestors. Today Fiji is one of the poorest landowners in the world mainly due to the legislations above which in our view is locking the overall economic development of the indigenous people of this country.

17.0 Review of FSC, agricultural sector and the Fiji Coconut Industry - sustainability

The current regime is currently investing more than enough in the Sugar-cane industry which is vital to the economic well being of Fiji, however, we think that all the stakeholders especially the millers, growers and the landowners should be given more shares and rights in the industry for its long-term survival and direct economical benefits while the government through FSC to act as overseer only to ensure the long term sustainability of the industry.

Fiji is an agricultural nation that heavily relies on its agricultural sector for long term food security sustainability and therefore the constitution should greatly allow more research and technology in this area.

For example, the coconut industry, which was one of the first industries to be developed during the colonial era, is still struggling at this very moment due to lack of proper technology and incentives by governments of yesteryears to enhance productivity and investments. Diversification of agricultural activities is one way of empowering sustainable land management in the rural communities of Fiji.

18.0 Sustainable Land Management (SLM) to be integrated with National Planning Policies

The concept of Sustainable Land Management (SLM) should be integrated with national government policies immediately before it's too late for the country. We understand the level of work that is currently being carried out by the various government ministries and NGO's on this matter over the last several years, however, the present government is not taking a bold step forward to legislate laws and regulations or integrated them in the various government ministries strategic policies to ensure the sustainability of land resources in Fiji for the sake of the future generations and well being of the country.

The constitution should clearly spell out the importance of SLM in Fiji and the role expected to be played by each members of the citizen in Fiji in regards to the best practice of sustainable land management. Fiji has very fragile land resources in terms of size and rich biodiversity environment and given the current and potential level of land resource based developments in the next 5-10 years, our future generations are very high likely to be affected if we do not act now - legislations and policies should be strongly enforced to allow for awareness program in this SLM concept in the rural and urban communities alike.

19.0 Other Issues:

(i) Possible Roadmap to Ensure Legitimacy for the Current Government and the CC

The current government and the suggested process lack legitimacy. The Assembly being proposed lacks legitimacy because they are unelected and chosen by an unelected government. Nothing in this current process is via the will of the people. Only the will of the people legitimizes governments. We offer two possible solutions for the current government and the CC.

Possible Solution One:

To abide by the advice rendered in the decision of the Fiji Court of Appeal (FCA) on 9 April 2009 (Qarase vs. Bainimarama-Civil Appeal No ABU 0077 of 2008s). This is the only legitimate and credible way back to constitutional rule.

The FCA judgment advised that a caretaker Prime Minister be appointed with the specific mandate to oversee the process of holding general elections and restoring constitutional rule within a realistic time frame. Paragraph 156 of the judgment reads:

"The only appropriate course at the present time is for elections to be held that enable Fiji to get a fresh start. Taking cognizance of the principle of necessity... for the purposes of these proceedings, it is advisable for the President to appoint a distinguished person independent of the parties in litigation as caretaker prime minister to advise dissolution of Parliament and direct the issuance of writs for an election under s60 of the Fiji Constitution. This is to enable Fiji to be restored to constitutional rule in accordance with the Constitution."

We submit that His Excellency the President has the powers (Executive Authority Decree 2 of 2009) to take the following course of action appropriate to establishing a credible and legitimate process of returning Fiji to constitutional rule:

- 1. Based on the advice rendered in the Fiji Court of Appeal decision, His Excellency to appoint a caretaker Prime Minister - a distinguished person, independent of the political parties and the regime and one in whom the people can repose confidence - to advise dissolution of Parliament and direct the issuance of writs for an election under Section 60 of the Fiji Constitution;*
- 2. A caretaker administration is then set up with the specific mandate to oversee the process of holding general elections and restoring constitutional rule, within a realistic timeframe. This should be no longer than 12 months as we deem it is possible to hold credible elections within that period;*
- 3. The caretaker administration to assume full responsibility for the constitutional and electoral process;*
- 4. A President's Political Dialogue Forum (PPDF) is established following the appointment of the caretaker administration. The mission of the PPDF would be to assist the caretaker government and the Constitution Commission in obtaining consensus on the roadmap for the restoration of constitutional government via free, fair and credible general elections;*
- 5. The following appointments will be essential to oversee the entire electoral process:*
 - Electoral Commission*
 - Boundaries Commission*
 - Supervisor of Elections*

In the absence of a Constitutional Offices Commission (1997 Constitution), these appointments can be made by the President on the advice of a caretaker administration after due consultations with key stakeholders;

We believe there is no need to re-write an entirely new constitution but there is a need to establish TRC as the basis of a new beginning for Fiji and the 1997 Constitution should be used as the base document and amended to meet changes deemed necessary to move Fiji forward as one legitimate nation with one destiny.

This is the best and the only legitimate way forward for Fiji that would test the integrity of any proposed constitutional assembly by the current regime. However, in our view this option will never be entertained at any cost if the current regime still controls the proposed constitutional assembly. Thus we are offering the second possible solution

The following roadmap is therefore suggested to legitimize the current illegitimate situation:

- i) Complete this constitution review process and compile report;*
- ii) All military personnel who want to stand in 2014 elections must resign by 31 December 2012 (including PM and Ministers);*
- iii) All Government Ministers must resign by 31 December 2012; note that (ii) and (iii) are very important to ensure that state assets and tax payers' money are not used to bribe the people. This happened after the 1987 coup and prior to the 2002 elections.*

We are fed up of coup makers turned politicians making use of our tax payer's money for purposes of gaining political power and material gain for themselves and their cronies and families. The people of Fiji have had enough suffering at the hands of politicians/ coup makers. The current lot is not different;

- iv) President appoints a Caretaker Government effective 1 January 2013 to take country to 2014 elections, no member of Caretaker Government must have any links to the military and the political parties;*
- v) US, Australia or NZ to second a new Commander of FMF and new Police Commissioner from 1 January 2013 to begin process of de politicizing the FMF, Police and process of professionalization; any military/ police officer who engages in or utters political comments after 1 January 2013 must immediately resign or be sacked immediately to protect the independence and integrity of the FMF / the Police and the process of professionalization;*
- vi) Establish the TRC - to begin the process of a new beginning for Fiji from 2014 and beyond*
- vii) Elections in 2014 held under a revised 1997 Constitution and no one with military links must be involved in election process to protect the independence and integrity of the elections;*
- viii) 1997 Constitution reviewed under relevant provisions by the elected Parliament taking into consideration the report of this review.*

(ii) Vision for Fiji

The way we see Fiji now is that we the indigenous Fijians are being subjected to forced multiracialism by an unelected government and by force (generally characterized by “dokadoka, viavialevu” and unilateral decisions). We are now subjected to a new Colonialism from within. It does not have to be this way. There has to be consent and consensus for any change and its must be from the bottom up. It must be done by our elected reps and not a government imposed by force on us. Our Fijian chiefs and leaders must be consulted. This is not being done. The result is bitterness and anger

What is happening is a superficial rushed manner of trying to create a artificial multiracial society. You cannot build a united nation by force, insults and lack of manners (vosa dokadoka, viavia levu) .

There is hardly any intermarriage and the ethnic groups are basically leaving peacefully side by side but not integrating. People prefer it that way. We need to build on this. We need to build on commonalities but at the same time respect our differences. We need to first of all peacefully co exist and then progress.

Mutual Respect Through Peaceful Co Existence (Mr TPCE) is the Way forward (and not forced Artificial Multiracialism and Theft of Identity from the Fijian People or the weakening of Fijian institutions as is happening now.)

A first step is to establish the indigenous Fijian people in the Constitution as suggested here. This will not impact in any way on the rights of the non indigenous as their rights (as per Universal Human Rights Declaration) cannot be superseded by the said Declaration on Indigenous Rights. The second step is to establish a National Identity via the process identified in (2) above - Fijian and National Identity. We must give our non indigenous communities a sense of belonging and identity. The Legitimization Process is as suggested in (19) (i) above.

- (iii) *Same sex marriage must be forbidden in Constitution as it is contrary to our Christian Teachings, however, the principles of LOVE and CARE should be always extended to those that publicly showcase their desire to exist at all times;*
- (iv) *There should be mutual respect for all religions and the true Sabbath day (Saturday) should be respected;*
- (v) *Rap Vulgar / Music must be banned in public places & transport;*
- (vi) *All nightclubs must close at 3am up to Friday, 12 mid night Saturdays and only 21 years old and over allowed in (its sad to see young people staggering out at 5am - "sa vakaloloma saraga na bula");*
- (v) *Liquor must be banned in Fijian villages and Fijian communal lands and no liquor outlets in non town areas;*
- (vii) *Appointments in the Civil Service and other state linked entities must be on merit and not based on political loyalty or ethnicity;*
- (viii) *Distribution of Lease moneys to be reverted to prior practice (ie Turaga Taukei etc), however, 10%-20% all mataqali lease money should be deposited in a trustee account agreeable by at least 50% of the legal and rightful mataqali members;*
- (ix) *The CC should avoid using the word Fijian Diaspora in its ads. As stated Fijian refers to indigenous Fijian (as we prefer). The word diaspora originally referred to the dispersion of the Jews from Palestine following the Babylonians' conquest of the Judean Kingdom in the 6th century bc and again following the Romans' destruction of the Second Temple in ad 70. It means a dispersion of a people, language, or culture that was formerly concentrated in one place. The CC should not use the term Fijian Diaspora without clarifying what it really means. The use of the word Fijian must be resolved first. It should be noted that some Fiji Indians (especially leaders) perceive themselves as part of the Indian Diaspora and are indeed members of GOPIO (Global Organization of Peoples of Indian Origin) and regularly attend its meetings. There is nothing wrong with this but it adds to the confusion as to what is the Fijian Diaspora which for the first time is being used publicly. As stated, national consultations on a National Identity is the preferred process;*
- (x) *All Fiji Islanders are to be educated and made aware of the Declaration and educational and public education programmes be held to improve and better race relations in Fiji and that dialogue mechanisms be established (eg. Joint Fijian village/ Fiji Indian committees and visit programmes to establish personal contact and better relations). Note that this is already happening and is the resilience in Fiji which must be built upon.*
- (xi) *National Teams must sing the National Anthem in the both the indigenous Fijian and English languages and not English alone, which is a foreign language*

20.0 Conclusion

It is apparent from reports we have been able to gather about views expressed at the public consultation sessions of the CC, that there is significant opposition to the granting of immunity to the coup makers while there is support for the retention of the 1997 Constitution which the Court has ruled remains in place and has not been abrogated.

This brings us back to the point made earlier. This process is being driven by the regime in a direction that suits its agenda. It is fundamentally flawed, is not participatory and not conducive to a free and open environment for discussions and debate on important national issues that confront us.

The question we pose is: How does the Commission propose to deal with the provisions of Decrees 57 and 58 that, according to its own admission, undermine the independence, integrity and credibility of both the CC and the current process itself?

How does the CC propose to deal with this dilemma? Given that their oath of office requires them to discharge their duty: "faithfully and conscientiously with the best interests of the people of Fiji at heart and without fear, favor, bias, ill will or injustice".

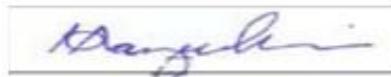
We beg the members of the CC to carefully consider transitional arrangements to democratic rule and make adequate provision in the draft constitution for the same, including the appointment of a caretaker government to take charge of the process of returning Fiji to constitutional rule via free, fair and credible elections. Otherwise as suggested in this submission the establishment of truth and reconciliation commission to start a new process for a new Fiji that is acceptable to all its citizens.

Jesus is the Light that shines in darkness and the only hope for Fiji:

John said concerning Jesus, "In Him was life, and that life was the Light of men." Jesus is the Light that shines in a dark world. Jesus said to His Church, "Ye are the light of the world." He also said, "Let your light so shine among men that they may see your good works, and glorify your Father which is in heaven." The Church, the Preacher, and the individual Christians are all lighthouses along the coastline.

The world sails the seas of life looking for safe harbor, and the Church is the only guide to their safety. If our light goes out, wandering souls will perish. This is the cornerstone of indigenous Fijians belief and their general perception is that if the Christian Principles are inserted and maintained in our very foundation of the law of the land, which is the constitution in this case then surely Fiji will continue to be the yardstick of hope to the rest of the world until His second coming. Glory be to Him always!!

May The Good Lord Jesus Christ Continue to Bless Fiji and Its Peoples!



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