



UNITED PEOPLES PARTY

Different Cultures One People

October 1 2012

The Chairman
Fiji Constitutional Commission
Parliament House
SUVA

**RE: Recommendations to the
Constitutional Commission**

On behalf of the United Peoples Party, we respectfully submit for your consideration the following recommendations for inclusion in the process currently underway.

We submit the following recommendations be considered as amendments to the 1997 constitution.

1. The State

1.1. We propose that our sovereign democratic state be called the ' **The Fiji Islands**'

2. Supremacy of the Constitution

2.1. The supremacy of the constitution must be absolute and no citizen or elected or appointed officer of the state, individual or group, including the President, Vice President, Prime Minister, Leader of the Opposition, Speaker of the House, Chief Justice, Police Commissioner, Military Commander or any other person of authority can abrogate or declare through decrees the removal of the constitution.

2.2. Only a vote more than 75% of the elected members of parliament and then only after nationwide public consultations with the people and a verifiable consensus for the parliament to proceed.

3. State & Religion

3.1. We reaffirm that although religion and the state are separate, the people of the Fiji Islands acknowledge that worship and reverence of God are the source of good government and leadership

4. Language

4.1. We believe that English, Fijian and Hindustani should have equal status as the languages of the Fiji Islands.

4.2. We recommend that the 3 main languages be taught in all schools starting from primary school so that we create a multi lingual society that will help remove the remaining elements of mistrust because of a basic lack of understanding of each other's languages

5. Compact

5.1. We recommend the retention of the Compact as stated in the 1997 constitution and we further recommend that appropriate amendments be made to incorporate the Shared values, vision and Principals as recommended in the People's Charter for Change FOUNDATION FOR THE COMMON GOOD:-

5.2. In particular

- Equality and dignity of all citizens
- Respect for the diverse cultural, religious and philosophical beliefs
- Unity among the people driven by common purpose and citizenship.
- Good & Just governance
- Sustained economic growth
- Social & economic justice
- Equal access to the benefits of development including access to basic needs and services
- Merit based equality of opportunities for all

6. Citizenship

6.1. **Common Name:** We support the use of the name '**Fijian**' be reserved for our itaukei community and that all other citizens of Fiji be known to as '**Fiji Islanders**'

6.2. We further submit that the issue of a common name is a matter that can only be properly discussed and debated in an all inclusive process to be conducted by our soon to be reestablished democratically elected parliament.

6.3. **Dual Citizenship:** We support the provision of dual citizenship provided that appropriate provisions are put in place to ensure no abuse of the privilege including but not limited to ensuring that the holder of a dual citizenship elects to vote in only one of the countries of their citizenship and that safeguards are put in place so that their advantage of dual citizenship does not unfairly disadvantage the single citizenship opportunities of **Fiji Islanders**.

7. Bill of Rights

7.1. We recommend the retention of the provisions of the Bill of Rights set out in the 1997 constitution.

7.2. We further recommend the following be incorporated into this section:-

- I. Only a duly elected parliament can waiver or restrict any of the rights outlined in Chapter 4.
- II. Any elected member of the executive [cabinet] parliament, senate, or member of the judiciary, civil service, police and military who supports a group that has usurped the authority of an elected government, to waiver or reduce the rights of the citizens as laid out in this chapter will be guilty of the offence of Treason against the people.

8. Social Justice

8.1. Retain and strengthen this Chapter by incorporating where appropriate recommendations from Pillar 2 and Pillar 8 of the People's Charter for Change covering:-

- ✓ Develop a national moral vision for the common good
- ✓ Conduct national interfaith dialogue and sharing of spiritualities
- ✓ Promote shared national values through the national education curriculum
- ✓ Ensure teaching of the vernacular [Vosa Vakaviti , Hindi]and comparative study of major religions
- ✓ Promote multi cultural education
- ✓ Phase out institutional names that denote racial affiliations
- ✓ Promote national vision, narratives, rituals and symbols. One national anthem to be in the 3 languages; flag ceremony to be observed in all schools and important state functions
- ✓ Review and revitalize the National Youth Service Scheme
- ✓ Eliminate racial categorization in all government records and registers

8.2. Create a specific section to obligate government to specifically deal with and work towards the elimination of poverty totally over a realistic and achievable period of time.

9. The Parliament

9.1. We recommend the retention of Sections 45 to 49 of the provisions of the 1997 constitution and further suggest amendments to incorporate outcomes from the People's Charter Pillar 1 & 3 and in particular its provisions to:-

- ✓ Abolish communal representation system as provided for under the constitution and the Electoral Act 1998, and replace this with the use of a common roll system for all future elections.
- ✓ Establish a fair system of voting [not necessarily the open list proportional Representation system [pr] suggested.
- ✓ Incorporate anti discrimination laws to ensure no one is disadvantaged
- ✓ Removal of mandatory power sharing provisions
- ✓ Reduction of the voting age to 18
- ✓ Maintaining compulsory registration and abolish compulsory voting
- ✓ Establish an Anti Discrimination Act
- ✓ Government must be fully accountable, just and transparent to the people through parliament by:-
 - a. Ensuring there is a robust 'opposition'
 - b. Non partisan parliamentary committee system to be fully resourced
 - c. Allow people access to parliament through their petitions and proposals which must be acted upon

9.2 Parliament to be given adequate resources to conduct oversight on all constitutionally established agencies and organizations such as:-

- d. Ombudsman's Office
- e. Fiji Human Rights Commission

- f. Public Service Commission
- g. All government funded statutory corporate entities
- h. Commission Against Corruption
- i. Auditor General's Office
- j. The Fiji Police Force [Police officers Funds & Credit Unions]
- k. The Fiji Military Forces [Regimental Funds & Credit Unions]

Each of the organizations listed above MUST publish annually reports to be tabled in the House of Representatives no later than March of the following year.

- ✓ Establish a Freedom of information legislation

10. House of Representatives

- 10.1 We endorse fully the recommendations presented to this Commission by the United People's Party President in his personal submissions to the Commission at the Nadi hearings. Which covered the following:-

Boundaries, Redistribution, Voting & related matters, The Senate, Both Houses, Institutions & Offices, Executive Government, Executive Authority, President & Vice President, Cabinet & Government, Government Administration and the Prerogative of Mercy provisions.

- 10.2 As part of our recommendations in (12) of this submission covering the Judiciary, part of the terms of reference of the Judicial Inquest will cover the complete review of all judgments since December 5th 2006 to determine that no interference, manipulation or questionable conduct is evident in the case and that the final judgment was fair and just.
- 10.3 Anyone who has been subjected to a court case from December 5th 2006 until the first sitting of the newly elected parliament in 2014, must be permitted to register to vote and be permitted to contest the General Elections.
- 10.4 If after winning their seat, the Judicial Inquest finds that the verdict handed down in their court case under review was just and fair, then they must resign their seat and comply with laws pertaining to eligibility to contest the elections.
- 10.5 If the Judicial Inquest finds their case to be mishandled, unjust and unfair, then the accused record must be expunged, and their full liberties re-established with compensation awarded while all of the persons involved in the miscarriage of justice duly charged and prosecuted.

11. Boselevu Vakaturaga

- 11.1 As the political representatives of the minority community in Fiji, we recognize the unique place our indigenous people have in Fiji and the generosity they have demonstrated over decades towards all of the communities in Fiji by consenting to the use of their land and resources for the overall development and prosperity of all the people of Fiji.

- 11.1.1 The constitution of Fiji must therefore recognize the ‘special and unique’ place of our indigenous people and as part of this recognition we must incorporate into the constitution the **Bose Levu Vakaturaga** as the institution to oversee our iTaukei’s interests and aspirations, in particular with regards to the good governance and use of the land and natural resources of the itaukei and to co-operate and work with government and the people to ensure the itaukei benefit as well as the country as a whole.
- 11.2 The Bose Levu Vakaturaga should be fully independent of Government and other institutions and appropriate funding provided to assist in the establishment of income generating programs to ultimately allow the BLV to be self funding and sufficient.
- 11.3 The Bose Levu Vakaturaga should play an advisory role to the Parliament, the Senate. The Executive and the President
- 11.4 The members of the Bose Levu Vakaturaga should be appropriately remunerated and their areas of responsibility clearly spelt out
- 11.5 The members of the Bose Levu Vakaturaga as recipients of government funding, should be subjected to the same Code of Conduct as all other public office holders and members of parliament as stipulated in Chapter 11 Sec 156 in the 1997 constitution.

12 The Judiciary

- 12.1 With recent revelations raising the question of the lack of independence of our Judiciary from the Executive, there is a clear and present danger that the integrity of our judiciary may have been compromised and therefore we recommend that only a complete overhaul of our Judiciary and Ministry of Justice would allow the independence and integrity of our judiciary to be regained. With this in mind we make the following recommendations:-
 - 12.1.1 We propose therefore that following the first sitting of all new parliaments from 2014 and beyond. A special Independent Judicial Inquest be established, made up of 3 prominent High Court Judges sourced from the Commonwealth Secretariat to:-
 - a. Investigate the Judiciary and Ministry of Justice to ensure that all of the judgments and related matters since December 5th 2006 were free of all interference or involvement directly or indirectly of the Executive and any other institution including parliament, the police, the military and the President and where interference in cases is established,
 - b. Recommend the prosecution of the individuals involved through due process.
- 12.2 We further recommend the following deterrents be incorporated into the constitution:
 - a. Any members of the Judiciary, individually or collectively who collaborates with or assists the executive arm of government or President that may be established after the removal of an elected parliament will be guilty of the offence of treason.

- b. Immediately following the unlawful removal of an elected government through any means other than a general election all members of the Judiciary are to vacate their offices and these offices are to remain closed until such time as an elected parliament and government has been re-established.
- c. Under NO circumstances are members of the Judiciary to continue in office with the presence of an unelected government and anyone who sees fit to provide judicial services to an unelected government or the President, commits an offence against the people and will be held accountable.

13 State Services

13.1 We recommend retaining the provisions in the 1997 constitution Sec 140 to 155 we also recommend the inclusion of the outcomes from Pillars 4,5,7,9,10,11 be included in this section in particular:-

Pillar 4	Enhancing Public Sector efficiency, Performance effectiveness and service Deliveries
Pillar 5	Achieving Higher Economic growth while ensuring sustainability
Pillar 7	Establishing an integrated development structure at provincial level
Pillar 9	Making Fiji a knowledge based society
Pillar 10	Improving Health Service deliveries
Pillar 11	Enhancing Global integration and international relations

14 Accountability

14.1 We recommend that the provisions of the Code of Conduct Sec 156 as outlined in the 1997 constitution be retained with the following inclusions:-

The Commissioner of Police, Commander of the Military and all Commissioned and Non commissioned officers become subject to the Code of Conduct.

14.2 We further recommend that the outcomes of Pillar 3 of the People's Charter for Change be incorporated in particular:-

- ✓ Enact, and effectively enforce, a Code of Conduct for public servants, public and Independent constitutional office holders, municipal councils, members of parliament and persons who hold statutory appointments or governing or executive positions in statutory authorities.
- ✓ Develop a leadership model and vision which clarifies the legitimate roles of elected and Non-elected leaders in a democratic Fiji, with emphasis on honesty, integrity, Professional ethics and service to communities.
- ✓ Step up and enhance training and development of public leaders including parliamentarian, traditional, civic and community as well as youth and women leaders.
- ✓ Increase public awareness, including civic education at school level, on key leadership Principals.

15 The Ombudsman

15.1 We recommend that Sections 157 to 165 as outlined in the 1997 constitution be retained

16. The Auditor General

16.1 We recommend that sections 166 to 173 in the 1997 constitution be retained and that further Provisions are made to extend the responsibility of the Auditor General to include:-

- a. The auditing and presentation to parliament of all accounts involving employees of the state and where deductions at source are being made from the salaries of employees of the state.
- b. A full accounting of the deductions and its use and distribution made as part of the auditor general's annual audits.
- c. And that these audits include but not limited to the Military Regimental Funds and Police Credit Union funds.

17. Freedom of information

17.1 We recommend that Section 174 of the 1997 constitution be retained

18 Revenue & Expenditure

18.1 We recommend that Sections 175 to 181 be retained - ***Public Money to be Accounted for*** and make further recommendations that:-

- a. In the event of the illegal removal of the elected government or parliament by force of arms by any group, all accounts and payments other than salaries and pensions must be frozen and no civil servant or authorized officer can issue any payment until the 'elected government and parliament' are either reinstated or elected.
- b. All Banks holding government funds will be prohibited from dispensing any monies other than salaries and wages so long as the elected members of parliament and government are denied their right to govern. Any Bank, who disregards this, will be held accountable for and responsible for the full refund plus interest for all funds issued during the forced absence of parliament and the government. Any offending bank that makes payments outside of salaries and wages will be committing a capital offence against the government and people and will be dealt with according to law.
- c. Any civil servant or authorized officer that transacts payments for anything other than salaries and wages during the absence of the elected government or parliament will be committing a capital offence against the government and people and will be dealt with according to law.
- d. Any and all participants of an armed insurrection against the government of the day who are in the employ of the government must have their accounts frozen and all their entitlements cancelled or withdrawn with immediately effect.

19. Group Rights

19.1 We recommend that sections 185 to 186 be retained

20. Emergency Powers

20.1 We recommend that Sections 187, 188 and 189 *be retained* and that the following additional clauses be incorporated into this section:-

- 1) The President can only approve laws enacted by the people's representative in the House of Parliament and if the elected Parliament and Executive are removed by any other means other than through a General Election, the President Powers to assent to any laws become null and void.
- 2) In the event of a coup or the unlawful removal of the elected government and parliament, the President's authority to assign any powers or make any laws by decree or by other means is negated at the time of the unlawful removal of the government.
- 3) The President must always remain obliged to obtain his advice and direction to act from members of parliament & executive as the ultimate authority at all times.
- 4) The President cannot under any circumstances unless through an elected parliament abrogate or attempt to facilitate the abrogation in any way of the constitution and shall be guilty of a capital offence against the government and the people if attempting to use his or her position to do so.
- 5) The President cannot under any circumstances unless by an act of parliament:-
 - a. Grant any immunity to an individual or group or
 - b. Pardon any person who has been convicted of an act of treason or for aiding and abetting and act of treason

21. Amendments to the Constitution

21.1 We recommend that Sections 190 to 192 be retained.

22. Concluding Remarks

The UPP as a political party representing in the main, the minority community in Fiji has always strived to promote at every opportunity our stated objectives as set out in our constitution which calls for our party to

- a) Enhance, promote, foster. Preserve and protect the social, political and economic aspirations of all communities in Fiji and

- b) to create, enhance, , promote, foster and preserve a sense of national consciousness among all the citizens of Fiji, bearing in mind the aspirations and interests of all the communities that make up the family of Fiji and
- c) To contribute to the well being and advancement of the Nation of Fiji in a spirit of tolerance, understanding and goodwill and in accordance with the Rule of Law.
- d) To foster harmonious, social, cultural and political relationships among all persons of all ethnic origins and
- e) To encourage the participation of young people in active democratic political advancement.

In keeping with these stated guiding principles and objectives as members of the National Executive Committee, we submit our recommendations for and on behalf of the members and supporters of the United People’s Party.

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Millis M Beddoes
PRESIDENT

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Margret Rounds
Vice President &
Acting National Secretary