

Dialogue

Making Multiparty Government Work in Fiji: A Case for Building Consensus Democracy through a Permanent Joint Multiparty Parliamentary Committee

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Introduction

Multiparty governance is a thorny issue in the overall debate on deliberative democracy. The classic power indices relating to political representation assumes that the party winning the most seats forms the government. These assumptions are largely reflected in the 'winner takes all' systems of Australia, United Kingdom, Canada and the United States. However in Europe, especially in Nordic countries, multiparty governance with mixed electoral systems, aimed at promoting better representation of smaller parties, remains a norm, since electoral reform started in the Weimer Republic in Germany in the early twentieth century. More recently, Fiji in 1997 and New Zealand in 1998, moved away from the first past the post electoral system to a more mixed preferential and proportional forms of representation.

In ethnically divided societies such as Guyana, Trinidad, Suriname, Sri Lanka, South Africa, Bosnia, Rwanda, and Fiji, precise electoral engineering is not only impossible but impractical. Evidences from Guyana, South Africa, Bosnia, and Rwanda indicate that politics of 'inclusion', with defined politico-constitutional structures, backed by good leadership, can lessen inter-ethnic tensions and provide a national framework for multiethnic political discourse. In some cases, truth and reconciliation systems, like the ones established in South Africa and Rwanda, assisted inter-ethnic conciliation, whereas in Fiji, the Racial Tolerance and Unity Bill (RTU) created further cleavages because civil society and the opposition political parties were largely disengaged from the initial process.

Following the racially divisive 2006 General Election in Fiji and the

formation of a multiparty government, the question that still remains is whether consensus democracy as dictated by the Constitution will flourish and diminish inter-ethnic tensions and hostilities. Moreover, with a lack of defined institutional structures detailing consultative processes in a multiparty government, there remains a possibility that instead of building and maintaining consensus democracy in Fiji, the multiparty cabinet may become dysfunctional or possibly divided along party or racial lines.

As a remedy, the paper looks at a committee system and proposes a permanent Joint Multiparty Parliamentary Committee (JMPC) for Fiji to build consensus on proposed legislations.

Multiparty Governance

Power sharing is a concept popularised by Lijphart in his seminal work on democracy in divided societies in which he developed the political framework for consociational and consensus forms of government (1984; 1995: 863-64). Most importantly perhaps, power sharing at the executive level allows for power sharing without mandating a grand coalition of all significant parties and, therefore, without eliminating significant partisan opposition in Parliament (Lijphart, 2004: 103).

Most studies on multiparty government have focused on the design of the multiparty systems. However, little has been said about how different parties with often competing ideologies or interests or communal, ethnic and provincial allegiances, may provide political as well as cabinet stability within a framework of multiparty government. The argument to be made here is that government parties, in pursuit of their own interests, have the incentives to seek, and the means to secure, a policy agenda that accommodates (in as much as possible) the preferences of all partners in a coalition (Martin, 2004: 446). There are a number of instruments available to multiparty governments, and among them are inner-cabinet committees of coalition leaders, inter-ministerial committees, Parliamentary leadership groups, and party summits (Martin, 2004: 448).

Lanny Martin of Rice University in Houston argues that lawmaking is a challenge for coalition governments because it inherently demands cooperation and compromise by parties with divergent policy goals (2004: 457). While academics recognise that the concept of power sharing is by and large problematic, there is, however, a need to develop Parliamentary based multiparty institutional frameworks for both executive and non-executive bills, especially in divided societies. This kind of consensus democracy removes the focus away from inter-party competition to building 'consensus' using the Parliamentary committee framework.

Committee System

In parliamentary democracies, a committee system is utilised to build consensus and to create constructive avenues for discourse with the civil society on issues of national importance. Select committees, made up of small number of elected officials, often look at specific issues and report back to the parliament or the senate.

A select committee system is used in many countries, including the United Kingdom, Australia, New Zealand, and Canada. In the United States, select committees are established by a simple majority in the Congress. However, special Congressional Committees are also created to perform functions that are beyond the capacity of select committees.

The committee system as a means of fostering greater cooperation among parties with diverging views has existed in western European democracies for some time. More importantly perhaps, the committees in these democracies initiate legislation in the form of committee bills. However, there are only two national Parliaments in western Europe—Sweden and Iceland, and a number of sub-national (devolved) assemblies, including Scottish Parliament, where committees possess largely unrestricted rights of legislative initiative (Arter, 2003: 80). The important feature of the Scottish experience is the establishment of Consultative Steering Groups (CSG) that have the task of marrying traditional representative democracy with the elements of a form of participatory democracy (Arter, 2003: 81).

Strong Committees in the Scottish setting is aimed at fostering greater consensus with an emphasis on reducing partisanship. The Scottish Parliament has:

- Permanent and specialised committees with relatively small numbers of members;
- A proportional (by party) number of chairs selected by a committee;
- Committee deliberation both before and during the final plenary stages;
- The ability to initiate and re-draft bills; and
- The ability to invite witnesses and demand government documents (Cairney, 2006: 183).

The parliamentary committee system is not new for Fiji. Under both the 1970 and 1990 Constitutions, committees were provided for in the Standing Orders of the House of Representatives. These committees had to do mostly with regulating affairs of the House and dealing with Public

Accounts (Datt, 2006: 2). In 1996, the Government of Fiji established a Joint Parliamentary Select Committee on Constitution (JPSC) to achieve ‘consensus’ on the recommendations of the Reeves Commission Report, which was borne out of a desire by Fiji’s political leaders to move Fiji away from the racially weighted 1990 Constitution. The Committee membership was based on the population split of the time with 55 per cent of membership from indigenous Fijians and Rotumans and 45 per cent Indo-Fijians.

Joint Parliamentary Committee on Constitution in Fiji

On 10 September 1996, Fiji’s Constitution Review Commission report was tabled in Parliament. The (now late) President of Fiji, Ratu Sir Kamisese Mara in his address to the joint sitting of Parliament thanked the chairman of the Constitution Review Commission (CRC) and to fellow Commissioners, Brij Lal and Tomasi Vakatora for presenting a ‘consensus’ report (House of Representatives, 1996: 1026). Following the endorsement of the CRC report from the President, the former Prime Minister of Fiji, Sitiveni Rabuka, moved a motion in the House for the establishment of a Joint Select Committee on the Constitution, which:

shall consider and deliberate upon the report of the Constitution Review Commission to secure passage of such amendments and changes to the Constitution as may be agreed upon by and between the various parties and groups and or as deemed necessary or desirable (House of Representatives, 1996: 1028).

Sitiveni Rabuka spoke of consensus and unity. His statements were supported by the Opposition Leader Jai Ram Reddy. They agreed that all parties in Parliament would participate in the discussions and arrive at a consensus upon which the foundations of the new Fiji Constitution would be built. The 20 member JPSC comprised 9 members from the SVT (36%), 8 from the NFP (32%), 3 from the FLP (12%), 2 (8%) each from the General Voters Party and the Great Council of Chiefs, and one from the Fijian Association (4%).

The JPSC did not proceed with the spirit of consensus as anticipated. During the first few sessions of the Committee meeting, some cabinet members called on Prime Minister Sitiveni Rabuka to step down. A further sub-committee was established under the chairmanship of Ratu Finau Mara following the Lau Provincial Council meeting of 2-3 October 1996. By 9 October Fiji’s political parties had largely sorted out their differences and were willing to move the process forward, despite the fact

that a number of cabinet members and the Nationalist Party remained steadfast in their opposition to a common electoral roll.

The JPSC on the Constitution was the only time when political leaders of Fiji attempted to seriously build consensus on a divisive issue of constitutional reform.

Fiji has a system of select committees, which meets to discuss issues raised within Parliament. The Parliament also has 'sector committees' that examine Bills tabled in the House.

Under a multiparty power sharing arrangement, there is an urgent need for a committee system like the one operating in Scotland and other Nordic countries in order to achieve consensus regarding bills before they are introduced in Parliament.

Currently, the Constitution (S74(3-5)) allows for 6 sector committees with the functions of scrutinising Bills. The Committees are on: Administrative Services, Economic Services, Foreign Relations, Justice, Law and Order, Natural Resources, and Social Services

Under the *Soqosoqo ni Duavata ni Lewenivanua* (SDL) Government (2001-06), there were a number of ad-hoc committees established, including ad-hoc committees on land, and sugar industry, both of which were to deal with two of the most crucial problems facing the country. However, despite the urgency of the issues, the committee on land became dysfunctional after the Fiji Labour Party refused to participate in the committee proceedings following the tabling of the Racial Tolerance and Unity Bill in June 2005.

The failure of the Joint Parliamentary Committee on Land suggests that there is an urgent need for developing consensus among various parties in the House before presenting a bill in Parliament. Under existing practices, bills introduced in Parliament and referred to various committees lay exposed to divisive party politicking.

The Government of Fiji can pursue a two pronged approach for achieving consensus and making multiparty governance work in practice.

Policy Coordination

Policy formulation and advice are an important element in good governance (Koenen-Grant and Garnett, 1996). Before consensus is developed at the committee stage, there is a need for a proactive policy unit in the Prime Minister's Office. In the United Kingdom, the objectives of the Cabinet Office are to:

- support the Prime Minister in leading the Government;
- achieve co-ordination of policy and operations across government;

- improve delivery by building capacity in departments and the public services; and
- promote standards that ensure good governance, including adherence to the Ministerial and Civil Service Codes.

Fiji needs a similar nature of Cabinet Office. The Office should ensure that consultation occurs between government agencies on proposed policy initiatives and assists in resolving differences between agencies. More importantly, it must be involved in liaising with joint multiparty committees / task forces, and working parties.

In Fiji, the Cabinet Office functions as a secretariat of Cabinet, arranging Cabinet meetings, collation and distribution of Cabinet records, and the issue of Cabinet decisions to the appropriate Ministries for follow up action. However, the current cabinet system gives full control over policies to one decision maker, namely the Prime Minister. This is where a consensus system based on Multiparty committee will ensure that control is fully shared among a number of political agents and interests (Spolaore, 2004: 119).

Cabinet Policy Unit

Fiji needs to have a fully resourced Cabinet Policy Unit (CPU). The CPU should have policy practitioners who can provide the Prime Minister and members of the Cabinet with expert policy advice.

The role of the CPU should be to:

- provide policy advice to Cabinet and Prime Minister;
- conduct research and prepare briefing papers to Cabinet on existing and new policies;
- act as a liaison between Cabinet and Joint Multiparty Parliamentary Committees and Attorney General's Office in finalising draft legislations and bills;
- disseminate policy drafts to other ministries for input and analysis; and
- act as a secretariat for the Cabinet.

Joint Multiparty Parliamentary Committee (JMPC)

The second part of the proposal is to establish a Joint Multiparty Parliamentary Committee (JMPC). The role of the Joint Multiparty Parliamentary Committee should be to engage in 'democratic bargaining' and promoting consensus with respect to draft Bills. The committee could

possibly comprise the following members 15 members:

- 7 members from the Soqosoqo ni Duavata ni Lewenivanua Party;
- 6 members appointed by the Fiji Labour Party (FLP);
- 1 member appointed by the United Peoples' Party (UPP); and
- 1 member from Rotuma.¹

The selection of the members must be from Parliament and not necessarily from those who are in cabinet. In this way, there will be even greater representation of parties in the legislative process.

The Attorney General's Office should be required to submit all draft bills to the JMPC, which should have the powers to:

- Refer the Bill back to the AG's Office for substantial amendments;
- Accept the Bill on 'as is basis';
- Refer the Bill to the AG's Office for minor amendments;
- Reject the Bill and refer the rejected Bill to the Cabinet Policy Unit for a re-evaluation, re-analysis and re-assessment;
- Seek public submission both written and oral into a proposed legislation;²
- Set up legislative working parties or specialist panels and look at global best practice models;
- Seek views directly from ministers, parliamentarians and senators on proposed legislations;
- Prepare 'consensus reports' on each draft bill; where a 'consensus report' is not possible, there should be a *majority* and *minority* reports, which should be annexed to the draft bill and presented to the Parliament for further debate.

All draft Bills and legislations must be submitted to the JMPC, which

¹ Membership is based on the 2006 election result. SDL won 50.7% of total seats whereas FLP won 43.6%. UPP and independents won 2.8%. Under strict interpretation of the Constitution, the independents and UPP would not be entitled to representation. However bringing UPP and independents into the JMPC will ensure that the Committee has the best possible representation of parties, including independent viewpoint. Under the strict aggregation of the result, SDL is entitled to 8 and FLP 7. For a JMPC to function, SDL could give up one place to Rotuma and similarly FLP could give one place to the UPP.

² Citizen participation remains a cornerstone of any political system. The case for democracy derives its basic normative rationale from the principle that government decisions should reflect the consent of the governed (Fischer, 2003: 205).

must reach consensus on the drafts before submitting them to the AG's Office for finalisation.

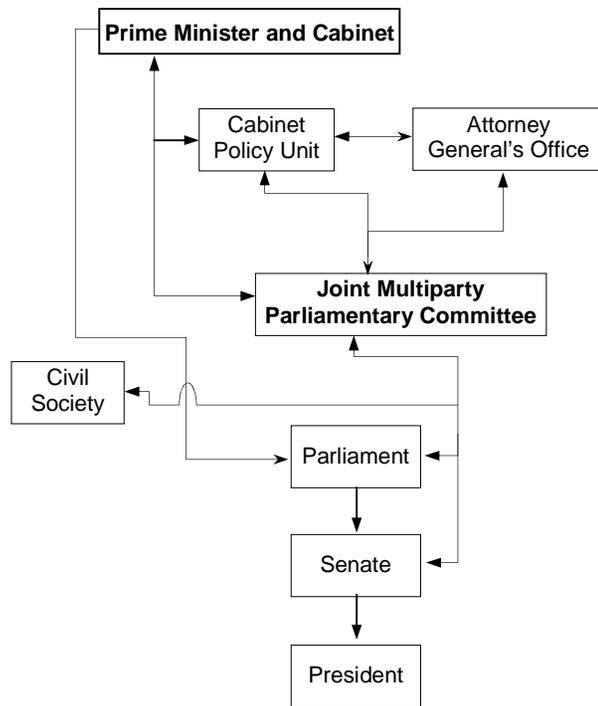
Once the final legislation is ready, the Government introduces the Bill in Parliament for debate. However since consensus is already achieved at the JMPC level, the Parliament becomes more a debating forum rather than the chamber for oppositional or adversarial politics. This way, deliberative democracy is institutionalised and multiethnic aspirations are reconciled well before a proposed legislation is introduced in Parliament. Currently, bills are first introduced in the House and then possibly submitted to the sector committees to further scrutinize and deliberate on the bill. The current practice opens up room for partisan politics at the committee stage, because the bill, at this state, does not require any form of a consensus test.

Multiparty governance mandates that consensus over bills is established before introduction in the Parliament. Moreover, the cabinet office and the cabinet policy unit can provide necessary support to the Prime Minister and the multiparty cabinet members on policy issues. After all, the policy unit in the cabinet office should provide detailed research, analysis and review of policy initiatives within a policy development framework.

If a bill is based on a sound policy, there will be greater cabinet cohesiveness as well as better inter-party relationship, which can be strengthened at the JMPC level. Once the draft legislation passes the committee stage, consensus will be much easier to achieve at the political party level. However, there still remain provisions for a majority and minority committee reports in cases where consensus is unattainable.

In conclusion, the 1997 Fiji Constitution recommends a list of committees that can be activated following the introduction of bills in Parliament. However, considering racial divisions that exist in Fiji, and that these divisions permeate Fiji's party system, there is an urgent need to ensure that a functional cabinet policy unit and a multiparty committee framework are established to support multiparty governance as dictated by Section 99 of the Constitution. This two pronged strategy will ensure that there are necessary institutional structures in place to enhance consensus democracy in Fiji.

Multiparty Governance Structure: Deliberative Model



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