

Democratic Intervention, Biketawa and The 2006 Fiji Military Coup¹

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Abstract

This paper examines the Biketawa Declaration and its relevance to the 2006 coup in Fiji. The paper considers the role of the regional community and its approach to the restoration of parliamentary democracy in Fiji as a facet of contemporary Melanesian politics. Particularly important to this assessment are the grounds provided by the regional system for democratic intervention by imposing sanctions on the interim regime to promote the restoration of democracy. It argues that the use of international sanctions as a form of intervention has not worked the way its sponsors had hoped.

Introduction

On 5th December 2006, Commodore Voreqe (Frank) Bainimarama ordered the Republic of Fiji Military Forces to depose the Government of Laisenia Qarase. This was the fourth coup in Fiji since 14 May 1987.² The ‘events of December 2006’, as this military coup is frequently described locally, set in train a series of international responses to restore parliamentary democracy in Fiji. Regional relationships have been a significant factor in organising and legitimating the reaction of the international community. The region’s leadership through their principal political association, the

¹ A version of this article appeared in *La Nouvelle Revue du Pacifique / The New Pacific Review* 4(2) December, 2009: 55-68.

² The first coup on 14 May 1987 was carried out by Lt Col Sitiveni Rabuka and was wholly a military affair. The second one occurred on 25 September 1987 when recently promoted Brigadier Rabuka intervened when he expressed dissatisfaction with the arrangements under the Interim Prime Minister Ratu Sir Kamisese Mara led Deuba Accord. The third, on 19 May 2000, began as a civilian attempt to seize power but was later aided by rebel military forces.

Pacific Islands Forum, took the lead in imposing sanctions under the Biketawa Declaration. Although the international reaction to the 2006 coup was based on the specific circumstances of that event, the strength of feeling was undoubtedly grounded in long standing images, both within and outside the region, of the presumed fragility of the Melanesian states, which had originally led to this Declaration. In particular, there is a perception that the maintenance of democracy is an ongoing challenge within these developing economies where state building remains a critical priority. This paper considers the role of the regional community and its approach to the restoration of parliamentary democracy in Fiji as a facet of contemporary Melanesian politics. Particularly important to this assessment are the grounds provided by the regional system for democratic intervention by imposing sanctions on the military-backed interim Government to promote the restoration of democracy in Fiji.

The Biketawa Declaration by the leaders of the Pacific Islands Forum broke significant new ground with regard to the protection of democratic values within the South Pacific region and perhaps even globally when first promulgated in 2000. Since the end of the Cold War in 1989, there has been increased worldwide emphasis on 'good governance' in aid relationships. While, the concept of good governance has caused some controversy both with regard to its intent and its impact, there have been aspects of the concept that support important elements of democracy. However, coups in Fiji and Solomon Islands in 2000 provoked the Forum leadership to go further in asserting protection of civic values by drafting the Biketawa Declaration to add 'democracy' to regional obligations. Since then, the Declaration has been used by members of the regional body as a basis for non-coercive intercession in Papua New Guinea, the Solomon Islands, Nauru, Tonga and Fiji. Nevertheless, the application of the Biketawa-based sanctions against post 2006 Fiji is substantially different in character from other regional usages. The intercessions in the other cases were with the compliance of the affected states sometimes regarded as 'cooperative intervention', at least by the country that has been in the vanguard on these occasions - Australia.

The current sanctions against Fiji are imposed against Fiji's wishes and not based on cooperative engagement with the interim Government. Indeed, the Government of Commodore Bainimarama has repeatedly railed against the sanctions and sought their removal or, if this was not forthcoming, a reduction in their severity. Yet, it is especially evident in the wake of the 2008 Niue Forum that sup-

port amongst the Forum Island countries (FICs) for maintenance of the sanctions has only strengthened. The substantial nature and duration of the sanctions regime against Fiji raise significant questions about these measures at a number of levels. What legitimates the sanctions as a form of democratic 'intervention'?³ Is the international community supporting democracy or merely the return of the previous Government? Are the sanctions fair? And, are they prudent in terms of a politically cost effective intercession? These four questions on the influence external actions including the suite of sanctions and their value to the restoration of parliamentary democracy in Fiji provide the primary framework for the following analysis.

Setting the Scene: Simplified Complexity

Given the complexity of the events leading to 5 December 2006 and the contested status of claimed 'facts', this section makes an attempt at a brief setting of the scene.⁴ The Government of Laisenia Qarase was installed as the result of a coup in May 2000 that attempted to overturn the election of Fiji's first Indo-Fijian Prime Minister, Mahendra Chaudhry a year earlier. The tortured path and the basis for its ascension to power are as complex as they were disputed. At least two critical features of these events impacted on the events of 2006 through their influence on Commodore Bainimarama. The disloyalty of the troops who mutinied in November 2000 and attempted to kill him made Bainimarama deeply suspicious of the sway of ultra-nationalist politicians and led him to demand an oath of personal loyalty to him by the senior officers. Those who did not accept this condition were purged early in 2004 (Fraenkel and Firth, 2007: 35). This purge appears to have been fairly effective as a civilian-based attempt to remove Bainimarama in weeks before the coup failed in the face of military solidarity.⁵ Secondly and more importantly in motivational terms, these series of events served as a 'learning curve' that appears to have en-

³ The word 'intervention' used here more broadly and in a conventional sense, which is probably closer in meaning to the word 'intercession' than in the more restrictive, limited international legal usage, which implies a coercive intrusion into the internal affairs of a state.

⁴ An extended coverage of 2006 coup is found in Fraenkel and Firth (2007).

⁵ In October 2006, Prime Minister Qarase persuaded President Iloilo to sack the Commander and replace him with Colonel Saubuliniyau while Bainimarama was overseas but Saubuliniyau declined the Presidential nomination when his fellow officers backed Bainimarama.

trenched in Bainimarama's mind a personal responsibility for the actions of the Government he put into power. He undertook a close watching brief on the Qarase Government and increasingly felt alarm at the direction it began to take shortly after he installed it.

Rumours of Bainimarama's dissatisfaction with the Qarase Government emerged publicly from 2003 and deepened in succeeding years. The military campaigned against this Government's return in the May 2006 elections and was seriously disappointed when Qarase won by one seat in results deemed by some to have been suspicious. Civilian critics also regarded the Qarase Government's agenda as having swung towards Speight's ultra-nationalist objectives, which were basically racist (tending toward 'apartheid'). Bainimarama had a number of specific areas of grievances. He believed that the Qarase Government had been too merciful to those involved in the 2000 coup and indeed allowed some back into public life prematurely. He was strongly opposed to proposed legislation, the *Reconciliation Tolerance and Unity Bill*, which would formalise this. Similarly, Bainimarama saw in the *Qoliqoli Bill* and the *Land Tribunal Bill* as advancing the ultra-nationalist agenda of the 2000 coup plotters. Indeed, the Qarase Government had already presided over the return of a small but politically significant amount of land into the indigenous Fijian land system. It passed legislation in 2002 that had the effect of increasing Fijian ownership of land from 84 to 87% thus positioning Qarase to build on his ultra-nationalist base and extend his support amongst Fijian voters for the 2006 general elections (Prasad and Tisdell, 2006: 81-2).

These factors and a perception that cronyism and corruption characterised the Qarase Government, led Bainimarama to present his action in overthrowing the Government as a 'clean-up campaign', or, in the view of others, as a counter-coup to restore Fiji to democratic order and one that would be non-racial in content.⁶ This argument was to be an important factor in the post-coup Government's reaction to international sanctions. However, for critics, Bainimarama was accused of sedition and was facing charges prior to the coup so his motives for acting were considered suspect. The divide within Fiji regarding the path to the December 2006 coup has been driven so deeply into contemporary Fiji that it would be difficult to find anyone who did not prefer one interpretation of the circumstances to the other. Yet, the perception of whether there was

⁶ See, for example, Qalo and Kikau (2006).

just cause for the coup profoundly influences the willingness to find justice in the subsequent sanctions under democratic intervention.

The International Status of Democratic Intervention

Historically the sovereign state was deemed to have virtually complete autonomy internally; a norm of international law known as the doctrine of non-intervention. Over the years since the Peace of Westphalia in 1648, the doctrine of non-intervention has proved neither absolute nor unchanging. However, the establishment of the United Nations in 1945 has significantly revised the degree to which the doctrine could allow a state to remain inviolate within its own borders. Threats to international security (including an ill-defined notion of 'good order') can give rise to international authorisation, normally through the Security Council, to circumvent the general norm of non-intervention. Potentially more limiting to the concept of non-intervention is a new principle known as the 'responsibility to protect'. The case for embracing the new principle was made in a report of the same name by the International Commission on Intervention and State Sovereignty in 2001 sponsored by the Canadian Government (Evans and Sahnoun, 2002). The 2005 World Summit endorsed the concept and in 2006 the Security Council passed a resolution reaffirming elements of the World Summit's statement regarding the obligation of states to protect their own people from crimes against humanity. Essentially, the concept argues that every state has an obligation to its own members to provide some fundamental protections from abuse including from the state itself. The basis for the responsibility to protect hangs on a view that sovereignty is a 'gift' of the international community. Thus, the international community has a right and, even more, a duty, to protect people from their own Government, if necessary by coercive international humanitarian intervention. Although it is not yet a norm of international law, the growing positive response to the concept of a 'responsibility to protect' demonstrates the change in attitude by the international community toward restricting the doctrine of non-intervention when human rights are violated. In time, its logic could come to be used to support a stronger and more general validation of the concept of democratic intervention.

Nevertheless, democratic intervention, as Halperin and Galic's survey (2005) shows, is not yet a component of the somewhat better established principles of humanitarian intervention. While it is true

that there are international treaties that assert elements of rights that support democracy and political rights, these have not coalesced into agreed international norms nor do they provide guaranteed rights for international intervention to protect them. Thus, bases for democratic intervention are even less clear and less well implemented than for the inconsistently applied norms for humanitarian intervention. And, as with humanitarian intervention, there is arguably an issue of timing since the 'ounce of prevention' would be worth much more than the 'pound of cure' if early intercession were possible. A preventative engagement to preserve an existing democracy, albeit fraught with myriad practical complexities, could be easier to achieve than restoring one overthrown by a coup. It would be necessary to know that the external influences were forestalling a coup rather than merely interfering in the internal affairs of a sovereign and democratic state, of course, just as it would be to identify the precise moment to intervene. There are few clear cases where the opportunity for a pre-coup intervention could be made out. One such occasion was the Solomon Islands in early 2000. Had Prime Minister Bart Ulu'falu's request to Australia for a small number of police to stabilise the situation in Honiara been honoured, the June 2000 coup may have never occurred. If successful, a modest pre-coup intercession might have obviated the damage of the following three years and the vast expense of the RAMSI intervention.

Public opinion often appears to be in front of the international legal practice with regard to democratic intervention, at least in western democracies. Increasingly, the public appears willing to accept, and even expect, that the international community will react to resist anti-democratic coups. Perhaps this explains why so many in democratic states appear to believe that 'democratic intervention' is self-justifying and so reactions to anti-democratic coups should be automatic. Both opinion and international practice tend to be limited, however, to restoring overturned democracies rather than intervening to impose democracy where it was not previously present. This orientation now may be more accentuated in the public's mind especially since the neo-conservative debacle in Iraq and a broader awareness that democracy, as a system, can be restored much more easily than it can be imposed. Overall, for the present, the reality is that there is no international norm for democratic intervention and, consequently, there is considerable inconsistency in the response of the international community to specific anti-democratic events raising doubts about the legitimacy of such intervention.

Legitimizing Democratic Intervention in Fiji

While the general international basis for democratic intervention may be ambiguous, the regional sanctions against Fiji's interim Government do rest on more solid political, if not legal, foundations. Current regional sanctions against Fiji appear based largely on the Forum's 'Biketawa Declaration', which asserts a claim to, and provides a procedure for, democratic intervention. Under the Declaration issued by the Forum in the wake of the events in Fiji and the Solomon Islands in 2000, the Forum leaders committed themselves to, *inter alia*, 'upholding democratic processes and institutions'.⁷ The Declaration also contains options for sanctions including 'if necessary, targeted measures.' Since 2000, the Biketawa Declaration has been used as a basis for military and police intercessions in the Solomon Islands and to a lesser extent elsewhere in the region. It has been employed as well to legitimate monitoring activities in support of good governance. Nonetheless, the Biketawa Declaration, being a declaration, is essentially a diplomatic statement of agreement not a treaty. Thus, it does not carry legal weight but rather is a political agreement amongst the Forum members. The non-legal status of the Biketawa does not lessen its political force but it means any activities carried out in its name are acts of political will, not legal obligation.

Just how legitimate this makes the Biketawa sanctions is open to speculation. States can impose sanctions as acts of 'retaliation' that serve to penalise another state for some offense against the state imposing the sanction. These activities are not illegal acts but are 'unfriendly' even if there is presumed cause. Nevertheless, the use and value of sanctions of this type very much depend on power relationships irrespective of their legitimacy in international law and politics. The powerful can impose sanctions with little risk since retaliation with counter-sanctions or other measures would be imprudent and impractical.

The weak must endure their imposition because they have little or no capacity to resist or threaten counter-measures. All the same, the powerful prefer to have their actions accepted as legitimate and therefore international authorisation is a useful mechanism for reducing the resistance to the use of their strength. Thus, the legitimacy of the regional sanctions as a form of democratic intervention

⁷ <http://www.forumsec.org/resources/article/files/Biketawa%20Declaration.pdf>

under the Biketawa Declaration has been very important diplomatically to Australia and New Zealand. Yet, while legitimacy may not be in question for the Forum states regarding the sanctions, the fairness of their application may be.

Sanctions Applied

Following the execution of the coup, Australia and New Zealand reacted swiftly to impose the sanctions threatened in the months leading up to December 2006. Amongst the targeted measures were 'smart' sanctions inflicting travel bans not only on members of the interim Government but on their families as well. The inclusion of family members was particularly harsh on a number of accounts. Perhaps most important was that a relatively large number of Fiji Islanders have family members living or working abroad in Australia and New Zealand. In addition, Fiji has long placed a high reliance on these two economically advanced neighbours for educational and professional training. Thirdly, countries such as the United States did not include family members in their travel bans. Links with the RFMF were cut and New Zealand's Prime Minister Helen Clark sent a request to the United Nations to cease using RFMF personnel in its peacekeeping operations. Many, but not all, donors reviewed their aid to Fiji and some programmes or projects were cut, frozen and/or had new conditions imposed on them based on a return to democracy or progress in this direction by the interim Government.

The Biketawa Declaration provided the primary justification for Forum members to legitimate the regionally based sanctions against the interim Government but its reach was not limited to just these states. The United States, the Delegation of the European Commission, the Asian Development Bank and other missions and agencies also acted to review and restrict their assistance to Fiji largely in the wake of the regional sanctions. However, without the institutional leadership of Australia and New Zealand, none of the extra-regional responses were as vigorous as those within Forum framework. Indeed, even within the Forum, the sanctions under the Biketawa Declaration were unevenly applied. No FIC appears to have applied travel restrictions on Fiji officials or acted independently on any regional assistance projects or other activities. As far as the FICs were concerned, the primary use of Forum mechanisms under the Biketawa Declaration were those used to establish moni-

toring arrangements including a Fiji-Forum Joint Working Group and Forum Ministerial Contact Group to assess compliance and progress toward the restoration of parliamentary democracy. These mechanisms were important as part of the regional approach, of course, but, critically for the other Forum island members, these elements of the process were not overtly punitive toward Fiji. They could even be seen as supportive of the interim Government insofar as they assisted with the lifting of punitive sanctions in the long run.

Fairness of Sanctions: The Vulnerability of Small States

As ambiguous as the concept of ‘democratic intervention’ may be, it is clear that such intercession can only be used against small states. Thus, power is always a factor in the application of sanctions to support democratic values. The fact that power determines when sanctions are enforced necessarily undermines their ‘fairness’ just as it does their consistency. This is not to assert that sanctions to resist anti-democratic coups are unfair by definition. Rather, the motives of those willing to apply power to protect democracy need to be carefully scrutinised and assessed. The powers applying sanctions need to be mindful of their obligations not to use power arbitrarily as much, if not more, than other states in the international community that help to legitimate sanctions but are unable to apply them.

Small island states are vulnerable to international pressure to an extraordinary degree for two main reasons. Perhaps the primary basis for this observation is that they have been highly dependent on a favourable international climate for their political existence. The reality of this became evident in 1983 when the United States invaded Grenada ostensibly to preserve democracy and to protect it from foreign intervention. The action sent shockwaves around the globe as the issue of small island state vulnerability became an instant cause célèbre for international organisations, security analysts and students of sovereignty. Secondly, and very pragmatically, the asymmetries of power are a fact of life for the very small. These inequalities affect their relations with virtually every other state at every level and in every way.

Since Fiji is a small state rather than a microstate⁸, it is not as

⁸ Microstates are variously defined. This paper uses the 500,000-population benchmark, which finds three FICs as above microstate status – Solomon Islands, Fiji and PNG. Another definition, sometimes used by the UN sets the

vulnerable to external pressure as most of its FIC neighbours in general terms. Nevertheless, the interim Government has increasingly argued that the FICs' vulnerability has impacted on Fiji through their acquiescence in the Forum to sanctions imposed under Biketawa Declaration. The supporters of the interim Government as well as the interim Government itself have sought to blame the two Forum powers, Australia and New Zealand, for these sanctions. Interim Prime Minister Bainimarama made this a theme of his address to the 63rd General Assembly in 2008.⁹ In addition, Fiji's scholarly Acting High Commissioner in Canberra, Kamlesh Arya, attributed the use of regional mechanisms to pursue sanctions to 'cheque-book diplomacy' implying that the support of the FICs against Fiji was purchased.¹⁰ Prior to the 2008 Niue Forum, a contrast was drawn between the Forum statements and the generally more supportive line amongst FICs when the two regional powers were not present as, for example, at the Melanesian Spearhead Group meeting in May 2008 in Port Vila, Vanuatu. As noted above, the interim Government's complaint against sanctions as being a result of Australian and New Zealand pressure through the Forum is not unfounded. Beyond monitoring arrangements, the primary sanctions have tended to be bilateral in nature and centred on the actions of Australia and New Zealand. Moreover, the energy and effort in initiating and promoting both the case for sanctions and sanctions themselves have come from the two Australasian states. The uncompromising language used by these two to vilify the interim Government and its leadership have not been adopted by FICs even after the disappointment of Bainimarama's failure to attend the 2008 Niue Forum.

One of the more significant and provocative misuses of the asymmetry of power, from the interim Government's perspective, was New Zealand's approach to the post Niue Forum bilateral talks. In 2006, PM Qarase noted the importance of the bilateral talks when welcoming participants to the Post Forum Dialogue in Nadi.¹¹ This arrangement had been a part of the annual Leaders' Meeting since the arrangement was inaugurated by the Forum in 1989. Admittance to a partnership relationship was by agreement of the Forum leaders and attendance arrangements were administered by the Forum Se-

threshold at one million, in which case, Fiji would be a microstate.

⁹ http://www.fiji.gov.fj/publish/page_13023.shtml

¹⁰ <http://www.radioaustralia.net.au/programguide/stories/200808/s2349461.htm>

¹¹ <http://www.pacificleadersforum.fiji.gov.fj/news/41.html>

cretariat and the host Government of that year's meeting of the Forum. However, at the 2006 Forum it was agreed that the following year in Tonga there would be a plenary meeting between the Forum and the dialogue partners. Nevertheless, a press release by the Forum Secretariat after the 2007 Forum in Nuku'alofa showed that this plenary mechanism had not replaced the bilateral arrangements. It noted that the 'Post Forum Dialogue Partners welcomed the new process of engaging with the Pacific Islands Forum as a region and indicated their support in developing it further including through strengthened bilateral consultations with the Forum.'¹² New Zealand's offer to provide a venue for the post-Forum bilateral talks but to exclude Fiji from them on the basis that it would only provide transit visas for Fiji's delegation, was a breach of the meeting practices within the comity of the Forum. These talks were the responsibility of Niue; New Zealand's assistance was a continuation of the obligations that Niue accepted when it agreed to host the 2008 Forum. The interim Government did have a legitimate grievance at New Zealand's abuse of the Forum process but its critics appeared both unaware of the slight and unwilling to accept it as sufficient grounds for Fiji to refuse to attend the Forum. Australia's Prime Minister, Kevin Rudd, continued the name-calling, referring to Bainimarama as not being a 'person of substance' and that his failure to attend was to 'chicken out'.¹³

However, unlike the previous year in Nuku'alofa where Bainimarama was present, Australian and New Zealand criticisms did enjoy some genuine resonance with the FIC participants. Whatever reservations there may have been in the strong position taken by the two Australasian powers, the general position of the FICs moved genuinely closer to Australia and New Zealand after Niue. The interim Government had an opportunity to build on a relatively favourable reception at the May 2008 Melanesian Spearhead Group's Summit where Bainimarama delivered a strong speech in favour of the country's right to chart its own path for returning to parliamentary democracy (http://www.fiji.gov.fj/publish/page_11988.shtml). The failure to attend, and to confront its critics, has clearly eroded the interim Government's standing within the Forum and therefore diminished its capacity to challenge the legitimacy of

¹² <http://www.forumsec.org/pages.cfm/newsroom/press-statements/2007/pif-plenary-with-post-forum-dialogue-partners.html>

¹³ http://australianetwork.com/news/stories_to/2340590.htm

the sanctions imposed by the Forum. The consequence for the interim Government is that its attempt to play the victim in a regional power play has also been undermined significantly. The issue of the asymmetry of power that enabled the pursuit of the sanctions has not been sidelined entirely as a result of Bainimarama's tactical error of judgment in absenting himself from the Niue Forum but its utility to Fiji as a foreign policy lever appears less effective.

Pre-emptive Intervention: A Failure to Act?

In light of the asymmetrical power relationships within the Pacific Islands region, it might be argued that some form of pre-emptive intervention to support democracy in Fiji before the events of December 2006 might have been possible and effective. It is always difficult to establish that events would have taken a different course had Governments made different choices and pursued another course. Certainly, in the case of Fiji, there was nothing as explicit as there was with regards to the Solomon Islands in 2000. Then the Australian Government refused a request for assistance from the Prime Minister Bart Ulu'falu for a modest number of police. Had that request been honoured, the need for the massive RAMSI intervention three years later might well have been avoided. It is arguable that there were opportunities for the regional international community to act to prevent the 2006 coup whether any single act or moment could have been decisive is moot. Nevertheless, it is possible that some careful intercession by friendly democratic powers would have been more useful than what actually occurred in the years leading up to 2006 (Herr, 2007). The Australian Government, for example, was well aware of the tensions between Bainimarama and the Qarase Government, yet it appears that the Howard Government did not attempt to moderate Qarase's 'apartheid' policies despite fears from 2003 of a coup by the Commander of the RFMF due to his opposition to these policies. Astonishingly in light of later developments, even the conciliatory mechanisms of the Biketawa agreement were not used despite an increasing perception that a coup was imminent. Some critics have even intimated that there are grounds to believe Australia contributed to growing tensions between Fiji police and the RFMF in 2006 through political interference. Certainly the RFMF bristled at the warnings by the two Australasian powers that it would lose its UN peacekeeping opportunities if it overthrew the Qarase Government. Concern that these Gov-

ernments were far more anxious to prevent a coup than serve as intermediaries willing to broker an acceptable solution to Fiji's domestic political impasse was confirmed for senior members of the RFMF when, days before the coup, three Western ambassadors – Australia, UK and US – allegedly attempted to foment mutiny during a visit to Queen Elizabeth Barracks while Bainimarama was absent in New Zealand at an ill-fated last ditch meeting with Qarase.¹⁴

If the diplomatic efforts to avert the December 2006 coup were relatively weak, other steps actually appeared to raise tensions. The RFMF was suspicious of some of the activities by external powers prior to the coup, some of which they regarded as intimidation or even pre-positioning to forestall a coup. Australia brought additional military resources into Suva shortly before the coup. This was subsequently attacked as heightened tensions by pre-positioning an intelligence capacity to assist Australian troops if needed to counter a military overthrow.¹⁵ Another focus for complaint was the sending of a small naval contingent to the area. More than 800 navy, air force and army personnel were sent as a taskforce made up of the *HMAS Kanimbla*, *HMAS Newcastle* and *HMAS Success* to waters near Fiji by Australia in early November 2006. The RFMF regarded the presence as a show of strength that was intended to intimidate. However, Canberra maintained that it was merely prudent preparation by having an immediate capacity to evacuate Australian citizens should the need arise. Tragically, a Blackhawk helicopter training accident on the *HMAS Kanimbla* cost the lives of two Australian servicemen during the exercise (Stuart, (2008).

Do Sanctions Support Democracy or the Previous Government?

The issue of whether the post-coup sanctions are intended to support democracy generally or are acts of subversion to support the ousted Qarase Government is a critical point of departure for the interim Government in responding to these punitive measures. In theory, sanctions in support of democratic change are intended to undermine a post-coup regime but it is not essential that this change be specifically directed to restoring an ousted Government. Nevertheless, Fiji's interim Government has generally regarded the sanctions

¹⁴ This intention is hotly denied by the powers involved; they argue that their purpose for the visit has been mischievously misrepresented. They asserted that the visit was merely to ascertain whether there was to be a military coup.

¹⁵ <http://www.abc.net.au/news/stories/2008/04/02/2206163.htm>

from 2006 as support for the deposed Qarase Government. Such external support for Qarase would have been expected and accepted initially by the interim Government.

However, Bainimarama appears to have also anticipated that, as with previous coups, a more pragmatic attitude would emerge over time to allow Fiji's traditional friends to work with the new Government on a return to an election-legitimated successor. In the event, the international community has declined to follow the path of returning quickly to a pragmatic engagement with the post-coup Government. Resident diplomats from Australia, New Zealand, the United Kingdom and the United States have been reported in the local media from time to time offering opinions on the path to restoring parliamentary democracy in Fiji. These have included demands that the interim Government adhere to the 1997 Constitution, that the overturned Parliament be reconvened and that the existing electoral arrangements be used in any new national elections. These interventions have been taken as clear signs of continuing support for restoring the Qarase Government. Naturally, the sanctions imposed in aid of these demands made them appear designed to achieve the same outcome.

Perhaps one of the more hurtful lines of intervention by some Western missions, from the perspective of the interim Government, has been the use of the local media to discredit the People's Charter.¹⁶ This perception of injury inflicted to assist the previous Government is linked to the importance interim Prime Minister Bainimarama attached to the People's Charter. Although the Peoples Charter is intended to be his means for returning Fiji to parliamentary democracy, it is not just a procedural issue for Bainimarama. The Charter has always been meant to embody a substantive content since it is to reverse or preclude discriminatory aspects of the 1997 Constitution including anti-democratic features such as race-based voting. That this banner of democratic reform failed to attract the comprehensive public support early expected for it begged some explanation especially as the success of People's Charter depended on the legitimacy of general community endorsement. The interim Government believed that the unwillingness of the international community to provide an independent funding base for the Charter process was deliberate and that it encouraged the non-participation of the Qarase's *Soqosoqo Duavata ni Lewenivanua* Party (SDL) and

¹⁶ This can be found at: www.fijipeoplescharter.com.fj/

other political parties in negotiating the Charter. Thus, the interim Government perceived its local difficulties in selling the Charter as stemming, in part, from the international community's failure to be more supportive of the NCBBF. Had external funding legitimated the Charter process then the NCBBF's ties to the interim Government would have posed fewer issues for the SDL and other parties that refused to become participants.

The Charter is the a result of the deliberations of a specially constituted National Council for Building a Better Fiji (NCBBF) and the consultations the NCBBF undertook with the people of Fiji on the draft Charter.¹⁷ The NCBBF itself was established under authority of President Ratu Josefa Iloilovatu Uluivuda to separate the Charter process from the interim Government. The Charter has pursued a comprehensive review of Fiji's governance, economic and social systems to restore democracy and end the 'coup culture'. Initially, it had been proposed that the Charter would go to national referendum for confirmation. This was quietly dropped for a variety of, perhaps, mutually reinforcing reasons. The risk of re-opening political divisions once the Charter was drafted, the absence of demonstrated overwhelming public support during the period of drafting of the Charter, a fear that this could be used to amend the 1997 constitution and the need to secure broader political support from Fiji's party elites are amongst the rationales mooted for the apparent disappearance of the referendum option for legitimating the Charter.

Without international financial support, the Peoples Charter process was forced to depend upon the interim Government for funding. This factor, along with Bainimarama as co-chair [along side Archbishop Petero Mataca] and a large minority of members of the interim Government serving on the NCBBF convinced many critics that the process was essentially an interim Government device to build support for the regime and its agenda. These concerns were underscored at times by maladroit actions of interim Government in dealing with its critics.¹⁸ Thus, it mattered little to its opponents that the NCBBF had reserved seats for them to participate or that the agenda for its various deliberations was reasonably open.

¹⁷ Details of the NCBBF (membership, structure and operations) are found at: www.fijipeople charter.com.fj/. The author assisted the NCBBF as an honorary, part-time adviser on parliamentary and electoral reform (January–June 2008).

¹⁸ The unceremonious expulsion of two foreign media figures were amongst the more celebrated cause celebres serving as a focus for national and international concern over the interim Government's claims for democratic credentials.

The interim Government has taken a strongly different view arguing that it has sought to restore 'real' democracy. The agenda of the People's Charter and the extensive consultations leading up to the Charter and the subsequent public consultations are designed to make Fiji more democratic and participatory than at any time in its modern history. Reforming the electoral system to ensure that voters do not need to declare their race in order to obtain a ballot, that seats in Parliament are not dependent on race, and that all votes are counted and distributed fairly are,, the interim Government argues, thoroughly democratic by any standard. So too are the abolition of reserved seats, of constitutionally mandated power-sharing, and of the excessive influence of unelected and unaccountable traditional chiefs. Thus, the interim Government holds to the belief that international sanctions are not intended to restore democracy to Fiji but rather return the previous Government to power that maintained a highly discriminatory and divisive political system that embraced many elements that were anti-democratic and, often, violated basic human rights.

Cost Benefit of Intervention: The Effectiveness of Sanctions

Thus far, the post-coup sanctions do not appear to have assisted with the return to parliamentary democracy. Indeed, it is difficult to discern any direct positive impact from the international sanctions on Fiji since December 2006. The interim Government has failed to respond to any of the demarches by its critics. Interim PM Bainimarama has disavowed the promise made at the 2007 Nuku'alofa Forum to hold elections by March 2009 claiming it had been extracted by 'ambush'. By July 2008, he was prepared to announce publicly that he would not meet the March 2009 deadline but it was widely suspected that this would be the case several months previously. Bainimarama subsequently insisted that he would not hold elections until the changes proposed under the Peoples Charter were complete. The interim Prime Minister was explicit on this during his address to the United Nations when he advised the 63rd General Assembly that his Government would proceed to elections, 'only after we have achieved broad consensus in Fiji for a non-racial and truly democratic electoral system, and agreed on a Constitutional and legal way to introduce the changes' (http://www.fiji.gov.fj/publish/page_13023.shtml).

There were other grounds for taking a somewhat jaundiced

view of the efficacy of sanctions as an element of democratic intervention for Fiji. The lack of consistency and comprehensiveness undermined their effectiveness and, some suggest, their legitimacy.

The UN declined to move on the NZ proposal to exclude RFMF troops from participating in peacekeeping missions. Although the regional Biketawa Declaration was the justification for democratic intervention against the coup, it does not appear to have been whole-heartedly supported by the FIC membership of the Forum. Indeed, the failure of the FICs to impose their own bilateral sanctions under the Biketawa Declaration raises questions of how 'regional' was the adherence to the principles of the agreement or the actions taken in its name. The touted 'smart sanctions' hurt the interim Government but did not alter the Government's course. Moreover, they may have been dysfunctional, as they have interfered with making timely progress toward a return to parliamentary democracy. It seems many Fiji citizens living abroad or with families living overseas were unwilling to accept positions with the interim Government even though their participation may have helped to speed the return to democracy.¹⁹

As noted above, internally, sanctions have been seen by the interim Government as encouraging Qarase not to engage in the People's Charter process so undermining the capacity of the interim PM to implement his 'exit strategy'.

Is There a Way Forward?

By 2009, there were several 'irons in the fire' with regard to finding a political accommodation to ease the path in restoring parliamentary democracy. These included the 'moli tea' private talks between interim PM Bainimarama and the deposed PM Qarase that began in May 2008. Somewhat earlier, the Secretariat of the Commonwealth of Nations offered good offices to provide Sir Paul Reeves as an international mediator but this subsequently ran afoul of those critical of his previous involvement in the process leading to the 1997 constitution of which the interim Government opposes. Possibly an extension of the Commonwealth's initiative but rather separate in practice was President Iloilo's 'political dialogue' process, which did not get underway. None was entirely promising in the

¹⁹ ANZ officials dispute this consequence of smart travel sanctions on the ground that election related positions related were exempt. However, some internal critics of the interim regime hold there was an effect that was unhelpful.

process but hopes were still held that at least one might bear fruit despite the evidence and the obstacles that beset any political dialogue that might take off.

Certainly, the way forward became more problematic following the Niue Forum, both because of the threat of elevated sanctions as well as the hardening of support amongst FICs for sanctions. The Niue Forum set in train a process to expel Fiji from the Forum if it did not adhere to the 'promise' made by interim PM Bainimarama to hold elections by March 2009, despite the clear statement by the interim PM subsequently he would not do so.

The present situation plainly cannot persist. Existing sanctions are hurting Fiji but not enough to force a change in direction by the interim Government. It does not appear that intensifying these will be any more effective. The interim Government's desire to secure the changes embodied in the People's Charter may present an obstacle to flexibility on its side. On the other hand, if the Charter becomes a *sine qua non* for admission to a political dialogue, the price is likely to be perceived as too high with the result that much of the useful and constructive aspects of the Charter will be de-legitimised.

The prospects for the future appear highly fraught with all parties manoeuvring for advantage in an increasing uncertain international economic climate. As one knowledgeable Australian official remarked, the status quo in Fiji 'is not the worst that could happen there'. There are no guarantees of a peaceful transition back to parliamentary democracy. Shortly after the Niue Forum, New Zealand's then Defence Minister, Phil Goff, canvassed the possibility that civil disorder could occur requiring direct military intervention to extract New Zealand citizens from a disintegrating Fiji.

The deaths that occurred during the George Speight coup in 2000 were a result of a breakdown within the RFMF when rebel troops attempted to support the coup. A mutiny by elements of the RFMF at some point in the future against the interim Government could be an even bloodier affair. The risks of violent civil strife would escalate if civilians became involved directly or in the wake of subsequent military purges seeking retribution. These scenarios appear extreme on the basis of what has occurred historically but then it would take something on the scale of these for Goff's concerns to have any validity.

Former Vice President of Fiji, Ratu Joni Madraiwiwi, made one telling observation on the way forward in an address in New Zealand when he said, 'In spite of the divisions that have been exac-

erated by the December coup, it is absolutely critical that the next government is one of national unity' (Madraiwiwi, 2008). Many thoughtful observers believe he is correct but the means for securing such a Government require some prior political dialogue and accommodation. Whether these will require an intervening election is not yet clear although it appears that Ratu Joni expects that it should. There has been some speculation that there may be a 'transition Government' established to follow the interim Government without necessarily the complication of an election. Such an arrangement might appeal as a way of securing some power-sharing while the knotty legal and constitutional problems were worked out in a more leisurely pace. Even this will require the revival of the political dialogue that seemingly has been stalled since the promising moli tea talks in May 2008. A politically negotiated, and agreed, means to restoring parliamentary democracy can be the only way forward but how long it will take to get this process back on track is impossible to predict.

What does seem clear is that the use of international sanctions as a form of democratic intervention has not worked the way its sponsors had hoped. These can scarcely be seen to have been efficacious or timely in their influence on the internal politics of Fiji to return to parliamentary democracy. From an Australian and New Zealand perspective, the application of these sanctions may have created a long-term impediment to good relations with the single most regionally significant island member of the Pacific Islands Forum. Links with the RFMF have been damaged severely and the RFMF has replaced training and other ties with the ANZAC defence establishments to some extent with support from China, India and Malaysia. Weaknesses in the Biketawa Declaration have been exposed. It can really only be employed effectively where the target state is supportive as in the case of the Solomons, or, perhaps, where it is too weak to resist. The impact on regional relations and cooperation on intra-regional security and good governance may only be clear when Fiji is fully restored to parliamentary democracy and diplomatic relationships amongst all members of the Forum are on an even keel again. However, if democratic intervention is to be practical at the regional level, especially within the large and complex societies of Melanesia, the sanctions regime will have to operate more smoothly than it has in the case of post 2006 coup Fiji.

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