Political tensions rise in Fiji ahead of court ruling

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Political tensions are coming to a head in Fiji with the country's highest court—the Court of Appeal—due to sit on February 19 to rule on the legality of the interim government of Prime Minister Laisenia Qarase. The police have banned all demonstrations on the day that the case opens.

In a test case supported by the deposed government of Mahendra Chaudhry, the court will hear an appeal against a November 15 ruling by a single High Court judge—Justice Anthony Gates—that the 1997 constitution remained in force despite the attempted coup last May 19 led by Fijian businessman George Speight.

Gates held that the military acted illegally on May 29 when it declared martial law, abrogated the constitution, forced President Sir Kamisese Mara to step aside and installed Qarase's government under an accord with Speight.

Gates proposed that the current president, Ratu Josefo Iloilo, a Speight supporter, reconvene the deposed parliament and appoint a government of national unity that could command a majority in parliament. Iloilo, Qarase and the military chief, Commodore Frank Bainimarama, rejected the ruling, however, and the interim government has continued in office pending the appeal.

Gates' decision has undermined the Qarase regime's legal legitimacy but it still continues to rest on the support of the armed forces, the landowning Great Council of Chiefs and the ethnic Fijian business layers that backed Speight's coup. The regime has adopted an Economic Blueprint of handing concessions, subsidies and privileges to non Indo-Fijian business operators and plans to impose a new racially-based constitution before allowing elections in 2002.

Moreover, the Western powers, led by Australia, New Zealand and the US, have maintained ties with the regime, while calling on it to find a solution to the political turmoil through the legal process. They have renewed demands for early elections and the formation of a more stable and credible government.

Investment, both international and local, has plunged since Speight's coup, the tourist trade has collapsed and the eviction of Indo-Fijian sugar farmers has hit sugar production, as well as creating an internal refugee crisis. Thousands of workers have lost their jobs and many business and professional people have fled the country. Following Value Added Tax price rises for food, fuel and other essentials, an estimated 50 percent of the population is now living in poverty, worsened by the non-payment of “destitute” allowances.

The US ambassador to Fiji, Osman Siddique, stepped up the pressure on the regime last week, after being reappointed by the Bush administration. “Fiji should return to democratic rule and honour the 1997 Constitution,” he said. “I urge all concerned to respect the rule of law and to commit themselves to a speedy return to democracy.” Numerous important investment projects were on hold, he stated, because no one wanted to invest in or visit a place that was unstable and did not respect law. A US retailer, the Cost-U-Less chain, has already closed one of its major outlets in Nadi, the site of the international airport.

It is not clear how the Court of Appeal—whose members are Australian, New Zealand and Papua New Guinean judges—will rule. A verdict against the government would almost certainly provoke a political crisis. If the government defied such a ruling, it would face international condemnation and isolation, as well as opposition among small farmers and the working class poor. If it accepted the decision, it could face a violent backlash from those who backed Speight.

On January 19, five ethnic Fijian parties sent a letter to Police Commissioner Isikia Savua warning that there would be bloodshed and anarchy if the 1997 constitution were reimposed and a government of national unity installed. The five parties—Soqosoqo ni Vakavulewa Ni Taukei, a faction of the Fijian Association, Veitokani ni Lewenivanua Vakarisito, New Nationalist Party, and Fijian Nationalist Vanua Tako Lavo Party—tempered their rhetoric in early February. Under pressure from the police and the army, they said they would support any decision taken by President Iloilo in response to the court ruling.

In a preliminary hearing last month, Justice Sir Maurice Casey of the Court of Appeal refused the government's application for a stay-order against Gates' ruling. Casey stated that Gates' decision “does not have any legally coercive effect” so there was no need to suspend it pending the appeal. Casey's ruling contradicted the text of Gates' judgment, which called for the appointment of a new government.

Casey also allowed the interim government to present new

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evidence when the full hearing begins on February 19. Casey stated: “A major factor in assessing the legality of the present administration is said to be the extent to which it is effectively the government of the country and receiving public support. This court cannot close its eyes to any relevant developments over the months following [Gates' earlier] hearing.”

Anthony Malloy, a barrister representing the interim government, said the court would have to rule on who is the effective government in Fiji, not its constitutional legitimacy. Qarase's opponents would have to prove that there is a rival competing government. A ruling on this basis could open the way for the court to uphold the legality of the unelected administration.

Government of national unity

The military, which has been badly split by Speight's coup, has been hedging its position. Its spokesmen have stated that they support Qarase and Iloilo, but that they will also stand by the Court of Appeal's decision. Commodore Bainimarama said the military would not tolerate a repeat of Speight's May 19 hostage-taking. At the same time, he did not support an immediate return to parliamentary democracy. “Like everybody else, we want to move towards democracy. But at the same time we have to be pragmatic,” he said.

In late January, the army addressed the National Security Council, which consists of military commanders, government ministers and the president, on possible scenarios arising from an unfavourable court decision. One option was for the army to support a government of national unity and seek foreign intervention if it could not control national security.

This submission was leaked to the Murdoch-owned *Fiji Times*, which has backed the Qarase regime. When the newspaper condemned the army for playing politics, the military responded by insisting that it remained loyal to Qarase and Iloilo, but declared that its primary responsibility was to ensure public safety—the official justification for May 29's declaration of military rule.

Qarase seems intent on clinging to power. Speaking at a Pacific Islands leaders conference in Hawaii at the end of January, he called for an end to outside interference and stated that Fiji was not ready for liberal democracy. One plan presented to President Iloilo provides for the government to continue in a caretaker capacity for at least eight months until elections are held.

In an attempt to stabilise the situation, leaders of Chaudhry's Labour Party have been holding discussions with Qarase and Iloilo about the formation of a national unity government. Deposed Deputy Prime Minister Tupeni Baba, in particular, has been involved in negotiations since September. Iloilo recently denied a newspaper report that he was considering a list of proposed cabinet ministers for a unity coalition, headed by deposed Women and Culture Minister Lavinia Padarath.

On February 3, the Labour Party caucus re-elected Chaudhry as parliamentary leader, heading off challenges from Baba and Padarath, but indicated that the leadership would be reconsidered after the court decision. Following the vote, Chaudhry initially declared that he would refuse to participate in a unity government. Two days later, it was reported that he would lead a Labour Party delegation into talks with other parties on forming a coalition.

The emergence of Baba and Padarath, both ethnic Fijian politicians, as possible replacements for Chaudhry, an Indo-Fijian, in leading a coalition with Qarase demonstrates the extent to which the Labour Party has accommodated itself to the racist and business elements backing Speight.

Publicly, the interim regime has maintained that a national unity government is unacceptable. The proposal has drawn support, however, from Great Council of Chiefs chairman Sitiveni Rabuka, the leader of the 1987 military coup. Rabuka, who ruled as prime minister until 1999, has called for the 1997 constitution to be reinstated but amended to strengthen its protection of ethnic Fijian interests.

The deep divisions running through the military, police and judiciary are also evident in the continual delays in Speight's trial for treason. Under his original deal with the army, Speight and his supporters were granted immunity from prosecution. After international pressure, he was first arrested on weapons offences and later charged with treason when it appeared that he would be granted bail.

Having dragged on for six months, his trial was adjourned again last week. Chief Magistrate Salesi Temo indicated that he would delay the case until after the Court of Appeal ruling. *Agence France Presse* reported last month that police and government officials were sabotaging the prosecution. According to an anonymous source, senior police had set up “hit squads” to intimidate witnesses and the police investigating the case. They had also blocked Department of Public Prosecutions requests for assistance from New Zealand evidence specialists.

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