

Fijian regime seeks to stall two threatening court cases

Will Marshall
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The military-appointed regime in Fiji and key members of the judiciary are going to great lengths to delay two court cases, both of which have the potential to destabilise, if not remove, the current government.

The unelected government of Prime Minister Laisenia Qarase is determined to cling to power until elections scheduled for August, hoping to then form a new Fijian nationalist administration that will have some semblance of political legitimacy.

In the meantime, it is seeking to prevent further exposure of the involvement of its members and other Fijian leaders in businessman George Speight's coup attempt last year. Significant sections of the state apparatus have strong sympathies for the racist demands advanced by Speight to exclude Indo-Fijians, who form nearly half of the country's population, from positions of political power.

The first case, which has had some coverage in the international media, is a much-delayed preliminary hearing to determine whether there is sufficient evidence to proceed with treason charges against Speight and 12 associates for seizing parliament on May 19 last year and holding Chaudhry's ministers hostage for 56 days.

In the second case, which has been less publicised but may threaten the regime more directly, several of Chaudhry's ministers and the Citizens Constitutional Forum (CCF) are asking the High Court to order President Josefa Iloilo to reconvene the ousted parliament. This would essentially mean dismissing the Qarase government and paving the way for Chaudhry's Peoples Coalition to return, provoking another political and constitutional crisis.

Speight's hearing has caused the regime problems for months. Originally, the military commanders and the Qarase administration had no intention of placing Speight on trial. They are heavily implicated in his coup and owe their current positions of power to it.

Members of the armed forces' elite Counter-Revolutionary Warfare unit participated in Speight's hostage-taking, which only ended when military chief Commodore Frank Bainimarama signed the Maunika

Udruvaka agreement with Speight, endorsing Qarase's installation and promising a full amnesty to all those who participated in the parliamentary siege.

The military later reneged on the accord and arrested Speight's group, initially on minor charges, after coming under intense pressure from Australia and other international powers to do so. The Western powers insisted on Speight's trial as part of their attempts to marginalise the coup leader and to stabilise the political situation in Fiji for the return of international investment.

But it was obvious that Speight retained considerable support within the military and the judiciary. When Chief Magistrate Salesi Temo indicated that he was prepared to release Speight on bail, there was a fresh international outcry and the military and Qarase felt obliged to issue treason charges, which carry the death penalty. Many months later, while Speight remains in detention on a small island, his committal hearing has yet to get beyond opening formalities. It was postponed again in farcical circumstances on June 11—the third such adjournment in as many weeks.

Despite Speight's open ridiculing of the proceedings as "a game, a picture-show circus," Chief Magistrate Temo granted him a full month's adjournment to find a new replacement lawyer. Speight's nominated legal representative, Singapore-born Navin Naidu, was found to be a fraud and is now facing charges of forging his law degree and attempting to pervert the course of justice.

By twice switching lawyers, Speight has successfully held up the proceedings for a total of six weeks. Magistrate Temo has been perfectly willing to accept Speight's delaying tactics. He and other members of the Fijian elite have every reason to allow the case to drag out, because it may provide detailed evidence of their direct involvement in Speight's plot.

The head of the coup investigation, police Assistant Superintendent Waisea Tabakau, recently warned that cabinet ministers in the current government, five Great Council of Chiefs members, army officers, civil servants and 10 Indo-Fijian businessmen were being investigated and

could soon be charged. Others still under investigation are former prime minister Sitiveni Rabuka, who staged a military coup in 1987 and Lieutenant-Colonel Filipino Tarakinikini, who was the military's spokesman for months following the coup.

When the hearing originally opened on May 29, New Zealand-based prosecutor Gerard McCoy QC told the court that witnesses would expose the identities of those who masterminded the coup. McCoy also stated that during the hostage crisis Speight had told Chaudhry their names, and the former prime minister would reveal them in his evidence.

Speight's hearing is now scheduled to resume on July 2, but there is no guarantee that it will go ahead. During a brief court appearance on June 25, Speight told Magistrate Temo that the government should be on treason charges with him. The caretaker administration was illegal and as such had no power to pass any laws in the country. "They should be here standing with me as they're just as illegal as I am," Speight said.

When and if the hearing finally proceeds, it is expected to last up to four months. More than 240 witnesses will be called and hours of video evidence screened. As a result, the case is unlikely to finish before scheduled August elections, in which Speight has declared his intention to stand as a candidate.

The second legal case is potentially even more explosive. The CCF and several ousted ministers are challenging President Iloilo's decision to re-install the Qarase administration as a caretaker government after the Fijian Court of Appeal ruled on March 1 that it was illegal.

The Court of Appeal, comprised of five judges from other former British colonies, declared that the military had wrongly abrogated the 1997 Constitution when it declared emergency rule following Speight's coup. But the judges did not order the recall of parliament or the reinstatement of Chaudhry's government.

While claiming to accept the verdict, Iloilo consulted the Great Council of Chiefs and then asserted his "reserve powers" under the Constitution to dissolve parliament and re-appoint Qarase, pending elections.

When the current case opened, CCF lawyer Sir Vijay Singh argued that Justice Daniel Fatiaki should disqualify himself from the case. Singh provided evidence that just after the May 19 coup, Fatiaki, together with Chief Justice Sir Timoci Tuivaga and Justice Michael Scott, provided legal advice to then president Mara to dismiss the Chaudhry government.

Fatiaki dismissed the CCF's application for him to step aside, but later referred the matter back to the Chief Justice, citing professional and personal commitments. Chief Justice

Tuivaga then stalled for time and finally appointed another of the judges named by the CCF—Justice Scott—to preside over the case.

According to some reports, the judgment may be delivered in mid-July but the government is determined to prevent any recall of parliament, even if the decision goes against Iloilo. The Elections Office has announced that it is answerable only to Iloilo, and, in another blatant attack on democratic rights, the government has de-registered the CCF in an apparent bid to de-rail the court case.

These manoeuvres highlight the difficulties facing the regime. Qarase's government has committed itself to carrying out many of Speight's racist demands, including rewriting the Fijian Constitution to bar Indo-Fijians from high political office and strengthening measures to protect and subsidise ethnic Fijian businesses.

At the same time, it has sought to appease the Western powers by attempting to cloak itself in legality, staging elections in the wake of the March 1 court ruling that it is an illegal government. While the capitalist powers, led by Australia, have refused to support Chaudhry's return to office, they have maintained limited sanctions on Fiji, insisting that the elections proceed.

The tensions wracking the regime were highly visible last week when the army was placed on full alert after reports of a planned mutiny. Soldiers patrolled the main army barracks, barricades were erected at its entrance and many police and plainclothes military personnel were out on the streets of the capital.

While Commodore Bainimarama later reported that the incident arose from a hoax bomb call, the alert revived memories of November 2 last year, when members of the Counter Revolutionary Warfare unit who had participated in Speight's coup seized an armoury and other sections of the military headquarters. Eight soldiers were killed, seven wounded and 39 charged with mutiny as a result.



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