

# Tensions continue to wrack Fijian government

Peter Byrne  
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Two recent court cases highlight the tensions wracking the Fijian political establishment nearly two years after businessman George Speight led elite soldiers and thugs in a coup that ousted Mahendra Chaudhry's Labour Party-led Peoples Coalition government. Both court cases had potentially explosive implications for Prime Minister Laisenia Qarase's unstable, racially-based government.

The first case involved a bid by Chaudhry to demand that he and his Labour Party colleagues be allocated posts in Qarase's cabinet. Qarase's government, which includes two members of Speight's racist Matanitu Vanua (Conservative Alliance) Party, is essentially carrying out the program of the May 2000 coup. Ethnic Fijian businessmen and land-owning chiefs are receiving subsidies and privileges, while Indo-Fijians, who represent almost half the population, are excluded from political power.

On February 15, the Court of Appeal upheld Chaudhry's claim under the 1997 Constitution and, in effect, declared Qarase's government unconstitutional. The judges ruled that because Labour obtained more than 10 percent of the seats in parliament at last August's election—it won 28 of the 71 seats—it was entitled to a proportional number of cabinet positions. They declared that “power sharing amongst all communities” in Fiji was a “key concept” in the Constitution.

The Constitution, adopted by 1987 military coup leader Major General Sitiveni Rabuka at the behest of the region's major powers, Australia and New Zealand, entrenches communalism by maintaining separate voter rolls for Fijians of Indian descent and indigenous Fijians, and providing for the leaders of the “communities” to share office. It also protects the power of the chiefs, represented by the Great Council of Chiefs, which appoints the President and some Senators.

After last year's election, Chaudhry, who was the country's first Indo-Fijian prime minister, asked to share power with Qarase, whose Soqosoqo Duavata ni Lewe ni Vanua (SDL) party failed to win an absolute majority. The SDL polled just 45 percent of the vote, despite widespread use of government subsidies to buy votes in rural villages. Nevertheless, Qarase brushed aside the constitutional requirement and formed a government of indigenous businessmen, chiefs and former government bureaucrats. No-one of Indian descent was included.

While ruling that Qarase had breached the constitution, the judges—two from New Zealand, one from Australia and a British judge from Tonga—gave him leeway to remain in office. He was not ordered to immediately appoint Labour ministers, nor did the

judges declare the government illegal. Instead, they simply offered a legal opinion and sent the case back to the High Court—a lower court—to decide.

Before the hearing, Qarase had stated several times that if the case went against him he would ask President Josefo Iloilo, another beneficiary of Speight's coup, to dissolve parliament and call fresh elections. Nonetheless, the day after the ruling Qarase flatly rejected it and indicated he would stay in office for a full five years. To give his response a fig leaf of legality, Qarase announced an appeal to the Supreme Court, which is being hastily reconstituted after being abolished by the military government that assumed power following the May 2000 coup.

Qarase's response reveals the instability of his government. In the first place, it suggests that he rests on an extremely narrow base, and could well lose an election. Secondly, it underscores how far he is beholden to the nationalist and chauvinist elements who backed, or were whipped up behind, Speight's coup. Qarase and his advisers fear that to allow Chaudhry to join the government could trigger an ugly backlash from these quarters.

In an effort to shore up his position, Qarase has resumed the SDL's agitation for changes to the Constitution to remove the “power sharing” provisions and further entrench the privileged interests of ethnic Fijian leaders. He has an openly partisan ally in Chief Justice Timoci Tuivaga, who said he would ask the Supreme Court to review the Constitution itself. “The 1997 constitution has to be looked into. This constitution is the cause of our problems. There is no question of it.” Tuivaga has appointed himself to the Supreme Court, and personally appointed the other two judges, breaching a constitutional requirement to consult the Judicial Services Commission.

If Qarase is prepared to flout the Constitution and defy a court ruling to keep Chaudhry out of his administration, Chaudhry is equally desperate to join the government. Just as in the 1990s, when he sought an accommodation with Rabuka, his primary concern is to shore up the fractured political system and restore profitable conditions for investors. In the wake of the coup, foreign investment has plunged, tourism has suffered severely, racial tensions are simmering and thousands of Indo-Fijian teachers, doctors and technicians have fled the country. Moreover, the coup badly split the central institutions of rule, the military and the judiciary, and the government has been dogged by revelations about its flagrant vote-buying.

Qarase, a former merchant banker, has striven to appease global

investors by cutting corporate taxes and fast-tracking investment approvals, but his regime's protectionism and corruption in favour of local entrepreneurs remain obstacles. Chaudhry advocates taking steps to open and restructure the economy to satisfy the financial markets.

Chaudhry's other main concern is to channel continuing social unrest into legal manoeuvres and parliamentary politics. As a result of the coup, thousands of Indo-Fijian small farmers have been evicted, while the living and working conditions of ordinary people have declined. While the Labour Party's constitutional challenges—this was the second in two years—have not modified Qarase's program, let alone removed him, they have helped deflect popular discontent. In his initial response to the Court of Appeal ruling, Chaudhry said: "Conflict should be resolved through the courts and I am happy we have been able to do so."

Upon being rebuffed by Qarase yet again, Chaudhry restated his willingness to enter into a coalition with Speight's Conservative Alliance party, which would hold a majority in parliament. Demonstrating that there are no lengths to which he will not go to return to office, he has called for "reconciliation" with the coup leader and swapped preferences with Speight's party in a recent by-election.

The second court case, Speight's long-delayed treason trial on February 18, also underscored Fiji's political fragility.

The trial was shut down as the result of a deal struck with Speight and his backers to protect the organisers of his coup, who are known to include leading government ministers, chiefs, businessmen and military officers. Speight pleaded guilty in order to prevent any evidence being heard in the case. He was formally given a mandatory death sentence, but within hours President Iloilo commuted the sentence to life imprisonment.

In a piece of political theatre, Justice Michael Scott put on a black wig to announce the death penalty, but alluded to the plea bargaining deal that had been worked out. "By pleading guilty you have done the right thing ... and I am certain you will be given credit for the course you have taken."

The next day, the prosecution dropped treason charges against 10 of Speight's 12 co-accused, who pleaded guilty to unlawfully detaining persons and received jail terms of between 18 months and three years. Among them were two key figures in the military-intelligence apparatus—the army's former Counter-Revolutionary Warfare commander Colonel Ilisoni Ligairi and ex-intelligence chief Metsisela Mua. Two defendants, Timoci Silatolu and Josefa Nata, refused to plead guilty to a lesser charge. They were remanded to March 14 for trial on charges of treason.

Last year, the prosecution told a preliminary hearing that Speight's trial would reveal the identities of those who masterminded and bankrolled the coup. Cabinet ministers in Qarase's government, five Great Council of Chiefs members, 10 Indo-Fijian businessmen, several army officers and key public servants were under police investigation for involvement in the coup, as were Rabuka and Lieutenant-Colonel Filipino Tarakinikini, the military's spokesman in the months following the coup. The prosecution also stated that Chaudhry, who was held hostage for 56 days by Speight's forces, would testify to reveal the real coup leaders. In the lead up to the trial, Speight too threatened

to name names.

After his sentence was commuted, Speight told the *Fiji Sun*, in a written reply to questions, that he had no intention of exposing anybody, but if he did, "10 times the number of prison cells in the whole of Fiji would still not be enough to hold everyone involved". In return for his silence, Speight is confident that he will be released from prison within a few years. One of his lawyers, Ron Cannon, said the authorities had told him that "life imprisonment" would possibly mean seven years. Petitions and protests demanding a full pardon have begun in the west of Fiji's main island.

The Murdoch-owned *Fiji Times* commented in an editorial that Speight's guilty plea meant the truth behind the coup would never be known. "The reward for his silence and acquiescence is already a commuted jail sentence. A pardon may come later," it said. A precedent exists for a presidential pardon. One was granted to Rabuka, who ousted Chaudhry's Labour Party predecessor Timoci Bavadra and remained prime minister until 1999.

Chaudhry welcomed the outcome of the trial—a further indication of his willingness to appease the racialists. He praised Speight for pleading guilty, adding that the gunman who had held him hostage was being made a scapegoat for people with "wealth and power". Speight's plea, however, ensures that these people remain anonymous—a situation that suits Chaudhry. If the trial had exposed the high-level backing for the coup, it would have made Chaudhry's approaches to Speight's party more difficult, as well as opening up further ruptures in the political, business and military establishment.

It is no secret that the regime felt obliged to formally convict Speight in order to appease the Western powers, which have been demanding a return to more stable and constitutionally legitimate rule. Foreign Minister Kaliopate Tavola said the sentencing of Speight had put Fiji's international reputation "in a better position". The military administration originally signed an accord with Speight to end his hostage taking, granting him and all his supporters immunity, but later repudiated the pact under international pressure.

Australian media reaction to the outcome of the two cases has been mixed. Editorials generally backed the cynical deal with Speight, expressing relief that political tensions had not erupted, while urging Qarase to consider a rapprochement with Chaudhry for the sake of political stability. The Australian government seems likely to keep working with the Qarase regime, as it has been over the past year, in the hope that it can restore order and pave the way for the resumption of lucrative investments.



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