



**FIJI HUMAN RIGHTS COMMISSION**

# **Freedom and Independence**

## **of the Media in Fiji**

### **A Report**



# FIJI HUMAN RIGHTS COMMISSION

GPO Private Mail Bag  
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## Preface

In May 2007, eminent freedom of expression international Non-Governmental Organization, Article XIX, approached the Fiji Human Rights Commission to write a short piece on freedom and independence of the media in Fiji for Article XIX's 20<sup>th</sup> anniversary publication. The previous entry for Article XIX had been written in 1987 and covered topics such as freedom of expression, political systems, the coup of 1987, and social and economic issues as well as media technologies. Article XIX requested FHRC to up-date the entry under the additional headings of media ownership, media workers, censorship and new technologies.

The FHRC found significant gaps in the available material on the media industry, especially on the extent to which media independence and freedom existed in Fiji. This in turn raised questions about whether the right of the public to accurate and balanced information was adequately protected. An inquiry by an independent consultant, pursued under section 7 of the Human Rights Commission Act, seemed to be the most appropriate way to conduct a study of media freedom and independence, including of issues emanating from the political upheavals of 2000 and 2006. FHRC was also sent critiques of the Fiji media landscape authored by NZ journalist David Robie who had previously held the prestigious position of Head of University of the South Pacific's Journalism School.

In July, FHRC appointed former New Zealand Race Relations Conciliator, Mr Gregory Fortuin, who was familiar with Fiji, to undertake the Inquiry. Mr Fortuin had also been an elections observer with the Pacific Island Forum Observer Mission during the 2006 elections. He was provided with the terms of reference which generally were drafted in accordance with the framework of questions initially sent to FHRC by Article XIX for its anniversary publication

From the very outset, the FHRC's media inquiry attracted what can best be described as hostile reaction from the mainstream media and other stakeholders. Almost immediately after details of the proposed inquiry was announced to the public, including the name of the consultant who had been appointed, a number of individuals, some associated with the media, took the extraordinary step of contacting Mr Fortuin in New Zealand urging him to withdraw from the appointment.

Mr Fortuin informed the Commission that one of these individuals, journalist Michael Field, telephoned him to tell him that he (Fortuin) would be lending 'credibility to the discredited Human Rights Commission Director and coup apologist' and that he would 'be manipulated by the director for her own purposes'. Mr Fortuin reported that Field and 'two lawyers' from Fiji told him that the report of the Commission 'had already been written' but that it 'needs a credible person to publish it'.

Such deliberate obstruction of the FHRC by Michael Field can be dealt with pursuant to section 47 of the Human Rights Commission Act which prohibits anyone from wilfully hindering the Commission's work. Wilful obstruction is a criminal offence under our law. A complaint in this regard has been lodged with the police in Fiji. FHRC has also requested the Fiji police to liaise with the New Zealand police in this regard.

From July 28<sup>th</sup> - August 1<sup>st</sup> other members of the media industry attempted to manipulate Mr Fortuin's responses to their questions about his appointment and responsibilities. The FHRC closely monitored news reports in Fiji and New Zealand and our officers were disturbed by the media's active harassment of Mr Fortuin. He was hounded not only by Fiji media but also by the media in New Zealand. The persistence of the harassment was not merely that which could be expected of 'news hounds'. There was active obstruction of the proposed inquiry into the extent of media freedom in Fiji. For example, the Dominion Post of Wellington published a false report without factual verification from the FHRC. FHRC's written response to the Dominion Post's report was apparently not published, leaving the NZ public with only the Post's viewpoint on the Inquiry. In another report, Stuff.co.nz, an on-line press outlet owned by John Fairfax Holdings, a NZ and Australian media conglomerate, falsely reported that Mr Fortuin had 'backed off the media job after Fiji media objected'.

Mr Fortuin was indeed placed under immense pressure from Field and others to pull out of the Inquiry. He did withdraw, but not for the reasons the media falsely reported. If FHRC's letter to the Dominion Post had been published, Stuff.co.nz would have had to apologise for stating so gleefully and wrongly that the Fiji media had been successful in making Mr Fortuin withdraw from his appointment.

Fortunately, the FHRC was almost immediately able to locate an eminent consultant whose name it subsequently refused to reveal to the media, suspecting that he would similarly be harassed. Despite clamorous demands from reporters to divulge the name of the replacement consultant, FHRC did not do so until it was too late to impede the inquiry.

Nevertheless, the media did its best to hamper the work of the replacement consultant Dr James Anthony. On July 27<sup>th</sup>, the day before he arrived in Fiji, a letter signed by the largest media agencies, Fiji Times, Fiji Sun, CFL and Fiji TV was sent to FHRC seeking detailed explanations for the terms of reference of the Inquiry. The letter contained such perplexing questions as 'Why is ownership an issue in relation to media freedom?' (page 2 of the letter which is annexed to Dr Anthony's Report at Appendix 3). The questions in it are adequately addressed in Dr Anthony's report. Readers will no doubt draw their own conclusions about the purpose of such questions. Hopefully, the link between media freedom and media ownership is no longer shrouded in mystery for the authors. But by refusing to take part in the Inquiry unless the FHRC provided the answers to their questions, most of which only the Inquiry could reveal in any event, the media industry denied itself a golden opportunity to allow their right to freedom of expression and independence to be protected. They became part of the problem.

On August 1st, the Media Council Chairperson, Daryl Tarte, wrote to the FHRC protesting that the inquiry 'came as a surprise' as the Council expected to be consulted 'during the planning stage of the project'.

The Council has no legislative basis; at best it can be described as a media industry-funded NGO. Why it felt it needed to be consulted in the planning stages of a statutory-based human rights inquiry into freedom and independence of the media, a mandate of the FHRC, whose responsibility, in any event, includes examining whether or not the Council itself was fulfilling its own responsibility to the public, is anyone's guess. Clearly the industry and the Council had no desire to cooperate and indeed attempts were made to throw many barriers in the way of the Inquiry, which impeded progress.

The FHRC nevertheless continued to provide industry members and the Media Council with ample opportunity to change their minds about cooperating in their own interest. This was largely ignored. Instead, one or two of these media agencies unwisely singled out the consultant himself for personal jibes, including over his qualifications. For example, an email message from Fiji Sun editor-in-chief Russell Hunter to FHRC reveals a surprisingly personal attack aimed at Dr Anthony.

Email communication to FHRC dated August 2<sup>nd</sup> from Fiji Sun's Russell Hunter (RH):

RH 'Can we be very clear on this? Is the FHRC really saying that a (very short) stint as a spin doctor for an obscure politician in an imploding government some 30 years ago qualifies Dr Anthony to pronounce and recommend legislation on the entire media industry of a sovereign nation? And is it also really saying that leading a strike nearly half a century ago gives him some human rights status? I'd appreciate a response as the Fiji Sun intends to comment on this'.

FHRC (replied) 'It is not for the Fiji Sun to judge the weight of Dr Anthony's experience but to report his credentials accurately for the Fiji public's interest. The Fiji public would be very interested to know that Dr Anthony is doing this work as he is part of Fiji's history. Perhaps Mr Hunter is not aware of that, but that does not give the Fiji Sun the right to denigrate Dr Anthony's credentials. There is another inaccuracy, this time in Mr Hunter's email- that Dr Anthony will 'pronounce and recommend legislation on the entire media industry in a sovereign nation'- where did Mr Hunter get that idea, FHRC will be interested to know. The Fiji Sun response to our Inquiry is not particularly helpful, and they need not report anything at all if they do not want to. But to write inaccuracies is another matter- it is against the Media Council's Code of Conduct'.

The Commission did not forward this email message to Dr Anthony, preferring that he undertake the Inquiry with an open mind, but Hunter's views about Dr Anthony's credentials were printed in the Fiji Sun just days later.

The sheer doggedness with which the media industry interfered with the Media Inquiry overall is surveyed by Dr Anthony in his Report. He was even denied the natural justice avenue of the Media Council Complaints mechanism when he attempted to lodge a complaint with the Council complaints sub-committee, describing the response from the Council's Bob Pratt to his inquiries in a Fiji TV Close Up programme as 'stonewalling'.

Negative reactions of the media industry to human rights scrutiny in the public interest are not unique to Fiji. Other human rights commissions have faced similar obstacles. For example, in August 2000, the South African Human Rights Commission, which has similar statutory powers as the FHRC, announced an inquiry into racism in the South African media. Its report *Faultlines: Inquiry into Racism in the Media* attracted merely 13 submissions (from a population of millions), compared to the 61 responses received in FHRC's recent inquiry.

What is interesting, though, is that the media industry's reaction to the inquiry of the South African Human Rights Commission was similar to the hostility faced by the FHRC. The media industry in South Africa (as in Fiji) became vituperative and slanderous. Its monopoly over the vehicle of information gave it the power to publish falsehoods, insinuations, editorial presumptions, and to blatantly disregard all media codes of conduct and ethics. Clearly there is no real protection available from such attacks from the media industry. In South Africa, the strident objections of the media industry to the South African Human Rights Commission's inquiry into media racism were so obstructive that the Commission announced its intention to exercise its statutory powers to subpoena members of the industry.

Powers of subpoena are also available to the FHRC but it resisted the urge to exercise them pursuant to its conviction that the industry had the freedom of choice whether or not to participate in any inquiry. When primary sources of information were not forthcoming the consultant pragmatically considered secondary sources. Thus he was obviously able to interview reporters and others from media agencies and had little trouble getting the information he sought from confidential informants.

However there were some serious repercussions for some of these informants. On one occasion, a senior journalist contacted the FHRC in tears, barely able to speak as she tried to explain why she could not provide information to the consultant; reportedly there was a prohibition in place. This kind of unwarranted dominance exerted on journalists in Fiji by editors and publishers is not healthy. A free media must be able to operate without fear, favour or victimization, from within the industry as well.

An analysis of the news reports during the weeks of consultations showed that the Fiji media continued to place emphasis on the media inquiry rather than on the 2006 Elections Inquiry simultaneously being conducted by the FHRC. Naturally the media would be expected to take more interest in the media inquiry but some reactions were quite inexplicable. For example, the Fiji Sun employed the tactic of using up its valuable advertising space, under the somewhat provocative title, 'You be the Judge', to twice publish the original letter from FHRC requesting industry cooperation for the Inquiry accompanied by response from the four agencies, Fiji Times, Sun, Fiji TV and CFL. This approach did not draw much public response.

A particular document obtained by the consultant attracted adverse reaction. This is the document contained in Appendix 7. It is a list of purported members of a company called the Duavata Initiative, formed as the fundraising arm of the SDL political party. The inclusion of this document in the Draft Report invoked threatening responses, as can be seen from the attachments to Appendix 10.

But the allegation that Fiji TV, Fiji Times, CFL, Fiji Sun, FBCL and PB were members and/or funders of the SDL party/Government 'Duavata Initiative Ltd' company could not be ignored for obvious public interest reasons and required closer scrutiny in view of the reactions. If there was nothing illegal about fundraising for political parties, why did the inclusion of this document in the Draft Report attract so much indignation? Other companies were also named as members of the Duavata Initiative Ltd. and, even though the FHRC was interested in the alleged membership only of media companies, the list had to be reproduced in full in the Draft Report. Accordingly, the FHRC contacted not only the named media companies but the others as well for verification of their membership in the Duavata Initiative.

Relevant documents in relation to the Duavata Initiative query are contained in Appendix 10. The FHRC approached this issue by writing to all companies on the list requesting information. The FHRC's generic letter to the companies and entities on the list is included in the Appendix. Most respondents denied involvement in Duavata Initiative.

The FHRC has decided that the best way to deal with this aspect of the report is to employ a three-pronged approach- it has requested the Interim Prime Minister to forward the Report to the appropriate government authorities to review as they see fit; it has forwarded information in relation to lawyers to the Fiji Law Society requesting an independent review; and it has included in the Report any additional evidence or related information that was relevant to the responses so that members of the public have the opportunity to make up their own minds on this part of the Inquiry.

The formation of Duavata Initiative may raise important legal issues, given the prohibition on conflict of interest pursuant to section 156 of the 1997 Constitution and the Government of Fiji Manual of Ministerial Practice and Procedure (also in Appendix 10). This can be taken up further by the relevant government agency. However, the FHRC in this Report is only concerned with whether any of the media agencies was involved in fund-raising for the government or a political party, or both, which would compromise freedom and independence of the media. In response to its follow-up queries, the FHRC had also been sent copies of other publications about Duavata Initiative, including a magazine article and a front-page article in the Fiji Sun, as well as the Duavata Initiative Limited registration certificate. These have been included as part of Appendix 10.

The Draft Report was sent to media agencies and personnel likely to have an interest in it or be affected by it, to provide a further opportunity to be heard. A number of people who had not made submissions but had been passed on a copy of the Draft Report by another party also corresponded and provided additional responses. Given these responses, FHRC considered whether the Report required amendment. All responses and additional material were forwarded to the consultant for his perusal and amendments, if necessary, to the Draft Report. The consultant agreed that the responses should also be included in the Report to allow the public to make up their own minds. This completes the report but makes it somewhat bulky. Nevertheless the FHRC wants to ensure that all documents relevant to the follow-up inquiry are also made available in the Report.

The FHRC is aware that the media and others may not accept parts of the Report. However they have been provided with several opportunities to be heard. Whether any of their suggestions, and indeed objections, could make a difference to the substantive recommendations was an issue that the consultant determined in consultation with FHRC.

The conclusions of the Report are important. In summary, Dr Anthony concludes, on the basis of his findings and responses received, that:

1. A Media Tribunal should be established in Fiji.
2. The Media Tribunal should be independent of any government control
3. A Media Development Authority should be established.
4. The authorities should consider facilitating the enactment of legislation that provides penalties for the publication or broadcast of any material that can incite sedition or that is in breach of the Public Order Act
5. FHRC should take necessary steps to recommend to the government a 7% tax across the board on all media advertising revenue and a further 7% on all revenues generated from licence and monthly user fees on consumers; this monies generated to be used to fund all activities and the mission of the Media Tribunal and Media Development Authority
6. FHRC should take necessary steps to strongly recommend to government that all existing work permits in the media industry not be renewed and that no further work permits be issued.
7. A second tier of recommendations to government should include scrutiny of 'interlocking directorates' in the private sphere from the perspective of their limitations on democracy.

Given the opportunity provided by Dr Anthony to make additional suggestions pursuant to his Report, the FHRC recommends that the two new institutions proposed should have separate duties. The Media Tribunal should be given responsibility to provide expeditious inquisitorial assessment of allegations made against the media and, where necessary, provide a judicial remedy for aggrieved persons. Persons aggrieved by the media should be able to appear in person before the Tribunal to seek justice and not be forced to incur the expenses involved in employing lawyers to take cases of defamation or libel through the courts or use the cumbersome Media Council complaints process. The Tribunal should be empowered under its own legislation to order compensation and damages.

Secondly, the FHRC recommends that the Media Development Authority be established along the lines adopted by Singapore. The function of the Media Development Authority will be to monitor the operations of the media organizations and undertake training to raise the standard of news reporting, meet the need for skills and technical expertise required by modern media, build cooperation between government and the media, as well as the public, and to ensure media responsibility in accordance with the laws of Fiji and human rights laws internationally.

It would be apparent by now that any proposal to inquire into Freedom and Independence of the Media quickly becomes a contentious issue. The media sees itself as the fourth estate and defender of rights and freedoms of the people and therefore any attempt to delve into issues other than freedom for the media is likely to be treated with a great deal of suspicion. Any attempt to monitor the media similarly attracts extreme reaction.

The FHRC considers that media freedom is an important part of transparency and accountability of civil governance. The media prefers to self-monitor and, in theory, this is how it should be. Without media scrutiny so many aspects of government would be hidden from public view. Any untoward pressure on the media to conform to standards of government or indeed any other control mechanisms would also involve a violation of Article XIX of the International Covenant on Civil and Political Rights (ICCPR).

However, the FHRC instigated an inquiry into freedom and independence of the media to assess whether the media in Fiji were free and independent from all influences and forces, not just those of governments, past or present. It is also important to know whether journalists are paid enough to be truly independent, whether their conditions of work are in conformity with international and local labour standards, and whether ownership issues generate any particular impediments to accurate and fair reporting. The public have a right to all possible information including the right to receive a range of information to make up their minds about their own interests and welfare. Sometimes the very survival of a community, or a people, will depend on their ability to receive balanced and accurate information from the media. Consider what would happen if the media deliberately decided to withhold information that is vital for a community to protect itself. The media would be perceived to be colluding in any harm caused to that community.

The media also has the capacity both to prevent societal conflict, as well as to cause it. This is why media freedom in international law and in the 1997 Constitution of Fiji has so many limitations on the idea of a 'free press'. Whether the media in Fiji has participated in causing or exacerbating conflict in Fiji since 1987 is something that the industry itself should carefully consider given the impressions that Dr Anthony collected from those he interviewed for this inquiry.

The scrutiny of the media by the FHRC on behalf of the public is a duty of the FHRC. It has the statutory responsibility to make recommendations to the government on any issue that affects the public interest. An industry that is supported by the public, that is, by consumers of news and information, should be able to cope with probing questions regarding its compliance with basic human rights standards. The media should be able to conduct its own business transparently if it expects people, especially public officers, to do the same.

The media industry is probably the best example of globalization there is- it has the capacity to reach the far corners of the earth and is powerful enough to allow governments to be deposed, to manipulate our thinking and, through advertising, make consumer decisions for us all. It is inevitable that an entity that has so much wealth, influence and power would sooner or later be assessed for its compliance with laws protecting rights and freedoms of others. It can accept this with good grace and professionalism. It is surprising, and indeed unfortunate, that the issues brought to the fore in this Report have attracted so much ire. The consultant was not in a position to write anything other than what his informants, especially the public, told him. His Report contains their views.



Media freedom has a purpose; the media must be free to provide real news to the people. But if the media has fettered itself by forging alliances with political, ethnic, sectarian or any other forces, it cannot be relied upon to provide correct information and news. Under these circumstances the principle of media freedom may be exploited as a shield to avoid public scrutiny.

The people of Fiji still have faith in our media probably because they do not have a choice. This remarkable Report by Dr Jim Anthony, written under extraordinarily difficult circumstances, should be seen by the media as an opportunity to undertake a comprehensive self-review so that public confidence in media freedom and independence can be preserved and reinforced in Fiji.



Dr Shaista Shameem  
**CHAIRPERSON.**

February 2008

**Postscript:** As this Report was being finalized the media reported that the Publisher of the Fiji Sun, Russell Hunter, had been detained by immigration officials overnight and put on a flight to Australia. News reports stated that he was allegedly involved in a series of email exchanges which breached the Immigration Act. Our inquiries with Immigration officials revealed that reasons for Hunter's removal will be announced by the Minister of Immigration later.

## INTRODUCTION

This report was commissioned by, and written for, the Fiji Human Rights Commission (hereafter "FHRC"), an independent, statutory national human rights institution established by the 1997 Constitution of the Republic of the Fiji Islands. I was commissioned to undertake an analysis of whether, and to what extent, the media of Fiji was free and independent according to international human rights law derived from Article 19 of the Universal Declaration of Human Rights, the International Covenant of Civil and Political Rights and the 1997 Constitution.

The FHRC provided me with some background legal material derived from the international human rights Non-Governmental Organisation, Article 19's previous work in Fiji, as well as its guidelines established internationally with respect to freedom of the media as well the right of the public to information. It also provided me with some correspondence from media organisations which had been received by the Commission in the days leading up to my arrival in Fiji to commence the Inquiry. All such background material was extremely relevant to my Inquiry.

An analysis of freedom and independence of the media in a complex country like Fiji is not easy, especially in the tight framework provided. Fiji has a particular history encompassing colonialism, infiltration of plantation economies, and modernization /globalization, Communication technologies were introduced against this context. Within the tight framework time also had to be set aside for the many submissions made by members of the the public as well as by media stakeholders. However, a subject such as freedom and independence of the media is unlikely to be exhaustive even if more time had been allocated to the Inquiry. Fortunately, those who made submissions tended to provide similar accounts of their experience with (and in) the media in Fiji.

Compared to other analyses that have been provided by academics, journalists and socio-political media commentators this report could be considered to be an original perspective into the media. While a number of commentators of media operations in Fiji have made somewhat similar observations, this report does, I believe break new methodological and conceptual ground. It is people centred and 'in the public interest' This is a literary report in no insubstantial part: it sets out the ebb and flow of the data gathering process—what I did, how people responded, the collage of themes they addressed and created as they engaged me in intimate conversation. I watched body language, eye contact, the immediate

milieu in which they lived their working lives. I made note of how they expressed their feelings, their passion, their disappointments, their hopes—the things, the attributes, that make them human as they talked about the rights that are related to their being human and how, in several cases, they perceived those rights as being important to this and future generations.

Human communication, in my view, is brittle at the best of times. I kept reminding myself of this as I listened to each interviewee. I kept reminding myself, too, that while Fiji has an extremely high literacy rate (almost 95 percent of the population) English is nevertheless a second language for most of my informants. They stutter and stumble as they try to give shape to what is in their minds, struggling constantly to be clear, as they attempt to cross the fragile divide between speech and understanding. I received submissions in English and Fijian languages with English being the most common language of communication

Underlying much of what I heard and what was implied is that media resources—particularly those that have to do with the new, constantly changing, twenty-first century communications technology, is a part of the people's common heritage. It has long been established in this country that the land "belongs" to those who are gone those who are now

living and those who are yet to be born. A part of the corpus of the new technology which will shape our lives in ways that are now barely imaginable is part of what I have called in some of my writing: **our intergenerational equity**, a vital part of what is ours to cherish and protect—in the public interest, for the public good, and in the interests of future generations. This is a conceptualization of our human rights in a very special, intimate, real sense.

This report is written with the human rights perspective in mind which is what I have been commissioned to do by the terms of reference- since it has been commissioned by the Republic of Fiji's premier, independent Human Rights organization. It should be published in all three official languages of the country.

The Report makes clear that media in the Information Age wields great power—especially in a small, fragile, heterogeneous community such as this is. With great power comes great responsibility. When those who are charged with great responsibility fail to meet their obligations to act reasonably and in the public interest, then someone must step in and make course corrections.

'Self regulation' by the media, having been given some two decades, more or less, to prove itself, has failed . This report addresses that issue in as measured a way as is consistent with my mandate and makes recommendations that are, on the one hand, cautious; on the other, perhaps, severe, but such severity as there is, it is a severity that is tempered with good sense and driven by thinking that has its roots in serving the public interest: more than anything else. The public interest includes everyone, that is, every citizen of the Fiji who is fully protected within the parameters established by law on the basis of the Compact provisions in Chapter 2 of the 1997 Constitution.

It is my observation that Fiji's thinking for over a hundred years has been almost exclusively "Viti Levu centered". This must change in the national interest and it must change now—care always being taken to balance the intrusiveness of change and its unintended consequences with the deliberate protection of language, art, culture, and, protection also of the social, physical and non-tangible aspects of the environment.

In operational terms Vanua Levu, Taveuni and other rural areas must enter into the calculus of our considerations—especially with respect to bringing them into the Information Age. "Ring topology" may well be the technology to accomplish this—thus extending both fibre optics cable

technology and satellite services to both Vanua Levu and Taveuni. as well as to other islands.

A conservative investment by a telecommunications advanced nation such as India, for example, could yield high dividends and generate much goodwill. The governments of the United States, China and France too, if properly approached, have much to offer, perhaps in a partnership arrangement with Fiji, for public investment.

But such initiatives, as well as others canvassed in this report, require proactive steps to be taken by the FHRC, among others, as part of its mandate to protect and advance the human rights of all of our people. It has the capability of doing so. It should do so. In this Report, I have signposted some of the methods by and through which this can be achieved.

September 2007

## Executive Summary

This is an independent report commissioned by the Fiji Human Rights Commission about the media in Fiji: about newspapers (the print medium), radio (voice), television (visual) and the 21<sup>st</sup> century communications technology on which all three of the other "branches" of the media depend and with which they are all inextricably connected. The elements which make up the 21<sup>st</sup> century communications technology are: fibre optics cable, satellites, the geostationary orbit and the radio spectrum.

Who owns and controls the media and related technology is of enormous importance to the people of Fiji: those who are now living and the many generations yet to come.

This report takes the view that the international telecommunications technology on which the print, voice and visual sections of the media is now increasingly dependent is part of our nation's common heritage, a part of what I referred to in an essay published by Oxford University Press in 1990 as "**intergenerational equity**"<sup>1</sup>

How the media serves the people of Fiji is of the greatest importance to democracy in Fiji: how elections are reported, how both government and private enterprise function, how governments once elected are treated and more.

The media claims that it is a "watch dog". This report poses the question: "Well, who precisely is it that appointed the media to be the "watch dog" it claims to be? Whose job is it, if anyone's, to keep watch over this self described, and, apparently, self appointed, "watch dog." Is this "watch dog" a law unto itself with no law to govern it? Does the "watch dog" called the media only keep watch over the institutions and personnel of government or does its responsibility extend to covering, and fairly reporting, on the activities of private enterprise (the entities which provide the media with substantial advertising revenues on which its very existence depends)? Such questions, either implied or posed explicitly, are canvassed in this report.

This report is based mainly, but not exclusively on a total of 61 interviews conducted over a two week period in the first part of August ,

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<sup>1</sup> James M. Anthony, "Conflict Over Natural Resources in the Pacific," in Lim Teck Ghee and Mark J. Valencia (eds.), *Conflict Over Natural Resources in South-East-Asia and the Pacific*, Oxford University Press, 1990, pp. 182-247 at p. 237.



2007. Relevant details of the research design and the methodology used in administering an open ended questionnaire are spelled out in the body of the report.

This is not the first report done on the media in Fiji. In 1996, following lots of complaints about the media, and long festering concerns held by then Prime Minister, Sitiveni Rabuka<sup>2</sup> (as can be gleaned from the details provided in the report itself) an investigation into the media was conducted by a well known British organization. None of the members of that research team spoke either Fijian or Hindi and none of them had much in the way of experience about the history or politics of Fiji. In any event, the British research team produced a report. It was called the "Thompson Report" and it made one important recommendation: it recommended what is called "self regulation" and to this end it also advised that a Media Council be established.

The Thompson Report noted that what was intended to be an entity to regulate the media had existed for some years but that it had fallen into disrepair and so there was a need to build on the ashes of what had existed. And so, as this report makes clear, a new Media Council was established after the Thompson Report was issued.

**It is important to note that the authors of the Thompson report took a narrow view of what it considered to be "the media". It did not address those matters which are here identified as the 21<sup>st</sup> century international communications technology.**

Two years after the Thompson Report was issued and the new Media Council was established. Then Prime Minister Sitiveni Rabuka's government introduced a Media Control Bill for consideration by Parliament. The Bill was killed partly as a result of political pressure from the media.

Then came 1999. In the general elections of that year a Labour government was resoundingly elected. One newspaper in particular, the *Fiji Times*, is reported by informants in a position to know, to have deliberately set about to bring down the Chaudhry government at any cost, by almost any means. Information provided by interviewees is buttressed by data in the published professional literature. The Media

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<sup>2</sup> Several attempts were made to contact former Prime Minister Rabuka in order to secure his cooperation in providing information related to this inquiry. The various attempts made to contact him failed.

Council, whose Chairman, Daryl Tarte, had alleged close ties to the then publisher of the *Fiji Times*, did nothing.

Then came the events of 2000. The story is well known to most of the people of Fiji. The *Fiji Times* particularly, as well as other sections of the media, created an atmosphere of high tension and hatred against the new government from its very first days in office. An unruly terroristic mob seized control of Parliament, took many members of the Chaudhry government hostage, and wreaked havoc in the city of Suva and other parts of the country. Reliable and well informed sources say that the print media (the *Fiji Times* in particular) did not just report the news but acted as participants in creating and fanning the fires of the mayhem and disorder that followed. It was not as if this was a one time occurrence. For the *Fiji Times* especially this was part of a long established pattern: race baiting, news invention, slanted, unsourced, imbalanced reporting: mangled, yellow journalism at its worst.

The Media Council might have taken a look at what had happened and examined the role the media had played in the devastating events of the year 2000 and the subsequent mutiny of a section of the Royal Fiji Military Forces. But here, again, the Media Council did nothing.

In the year 2003 the first elected Qarase government introduced a second Media Control Bill. Under heavy political pressure this second Bill also died. Its fate was decided, in no small part, by powerful sections of the media.

The Media Council, which appoints all of its own members (the industry representatives as well as the so called "public members") has sat by and done next to nothing in all the years from 1996 till now. For one thing, the Media Council, with a budget that has, apparently, never exceeded \$30,000 a year, was incapable of doing very much. The Media Council had a fancy Code of Ethics on paper but that seemed to be the beginning and the end of its commitment to "self regulation". The Media Council had an office, so its has been reported: an office that was for the most part empty. It is reported to have had one staff member about whose qualifications not much is known. The Media Council had a 'Complaints Committee' in whom most of the informants I interviewed had little or no confidence.

Most of the informants who provided data for this report had nothing good to say about the Media Council. The interviewees, many of them with long and considerable experience in media matters, had long written

off the Media Council as being "next to useless, a paper tiger, a do nothing organization." In an aside, one informant told me that the Media Council was dead but that it would not lie down so that it could be given a decent burial!

**This report concludes that the Media Council, after ten full years of existence, has been a failure. "Self regulation" has thus failed too.**

From at least one of the highest levels of the interim government I received detailed information on how at least one major leader of the 1987 coup was forced, after reflection, to concede that he had been duped by the media into believing that the Bavadra government was simply an "Indian puppet" government out to dismantle the underpinnings of Fijian ownership of ancestral lands under native customary tenure and other privileges which guarantee and fortify the paramountcy of Fijian interests. At the same highest levels of government there were private, frustrated and frustrating reviews of what to do about the media which was now increasingly seen to have misused its unfettered freedom and turned it into license: license to divide and despoil a fragile polity.

The Fiji Human Rights Commission, established under the provisions of the 1997 Constitution, began to take notice of the disorder spawned by sections of the media as evidenced, particularly, by the events of 1999 and 2000 and what appeared to be a long standing pattern that showed no signs of changing at the hands of the "self regulators."

The Fiji Human Rights Commission, acting on its own motion and deliberate judgment, decided that the time had come to take another look, to seek another way.

This report is that "other look, that other way."

The recommendations in this report are measured and, I believe, appropriate to the media problems with which a small, fragile, heterogeneous, multi racial society such as Fiji is faced.

A 7% tax on all media revenue from advertising and from license fees is recommended. This source of revenue is designed to create a fund to establish a Media Tribunal. Its task will be several: to train journalists, work with industry representatives and others (such as the Media Center at the University of the South Pacific), raise the level of news reporting skills, empower politicians, bureaucrats, office seekers and others with appropriate skills so that they might deal more effectively with their

counterparts in the media, to help build both informal and formal bridges of understanding: to proactively begin, in short, the process of bringing relevant players together in partnership to create a media subculture that is relevant for, and sensitive to, the rainbow of differences, cultural sensitivities and common aspirations of all of Fiji's people.

In addition, the Media Tribunal will set about establishing community radio and community/public television as well as providing the necessary professional competence, through training and financial assistance, to as broad a section of Fiji's people as possible so that they will become meaningfully involved in the Information Age and the enormous range of opportunities that lie at its heart. **In no small part this will involve an investment in the scarcest of Fiji's scarce resources: its human talent, its own people.**

Part of the Tribunal's responsibility will be to both educate and empower, not just those who live in and around principal populations centers, but those who live in other parts of Fiji as well—on Vanua Levu and Taveuni and the islands around them. The Media Tribunal will chart its own course, seek out, as the voyagers of old did, the stars that will guide its destiny—in appropriate consultation with relevant sections of government and other sections of the country. Here, the Media Tribunal will face an old problem of politics: how to get all of the relevant players in on the action and still get some action. It can be done.

The Media Tribunal will look, for example, at distance learning, seek partnerships with those who are already involved in this enterprise and broaden its base of operations.

The Media Tribunal will be free to seek supplementary funding and innovative technical expertise from the array of nations with which Fiji is expanding its diplomatic relations: China, India, countries of Latin America and of the Caribbean. Looking in the same direction, the Media Tribunal ought not to forget that there are opportunities aplenty in the United States where there are a wide range of governmental and non-governmental organizations which can, and will, provide assistance if the right kinds of initiatives are taken by appropriately trained and sophisticated personnel.

This report recognizes that Fiji is a society that is imperiled by a multiplicity of uncertainties. Fiji is still trying to come to terms with how best it might govern itself democratically. Constitutions on paper, no matter how elegantly contrived or how lucidly crafted, do not, in and of

themselves, lead us down primrose paths to democratic greatness, democratic nirvana. When latent divisions in a fragile society are exacerbated by irresponsible elements in the media even the most reluctant governments must act—and act decisively.

My recommendation in this report is that the Fiji Human Rights Commission recommend to government that it borrow selectively from recently enacted media legislation in Singapore (recently adopted by Tonga, incidentally) and create an administrative entity to enforce such legislation with penal sanctions that are timely, measured and appropriate to Fiji—on grounds of what Article XIX of the Universal Declaration of Human Rights calls “necessity”. Like Singapore, Fiji should perhaps aim to be a disciplined society—or certainly, more disciplined than it is now, almost four decades after cutting its formal colonial ties to Britain.

The recommendation for the Fiji Human Rights Commission to get government to act on the matters canvassed here, given Fiji’s realities, are driven in no small part by this aphorism: ***“There are wise restraints that make us free.”*** The restraints that I recommend are timely, necessary and in the public interest broadly construed. The restraints are long overdue. They are not designed to be permanent. At the end of five years the restraints ought to be reviewed with as much public consultation as is consistent with good sense and the national interest.

It is hoped that once the Tribunal is funded and staffed it will use community radio and community/public television not just to report news fairly and accurately and creatively but also to do something else: give all of our people an opportunity to tell their stories, to access the archives of traditional knowledge and experience across the barriers of race and culture and to share these stories in such a way that we have a better appreciation of who we are and how we can better work together: recognizing our differences, seeking our strengths, exploring the sources of our discontent, searching constantly for common ground so that we may, all of us, or as many of us as possible, build a common, human future together.

The power and promise of 21<sup>st</sup> century media technology and the transmission and deployment of information, this report argues, are resources of very great importance. The time has come for all of us, together, to come to the realization that these are national assets and that their ownership and control will determine one of our futures.

This report urges the Fiji Human Rights Commission to make strong recommendations to the Interim government to protect our nation's ownership of these resources for this and future generations and to act with despatch with respect to these matters.

Finally, in order to round off this Executive Summary: I have recommended in the strongest terms that this report be translated in its entirety into both Fijian and Hindi and am assured that it will be as soon as funds become available. As an immediate compromise, I have made a strategic concession to something that lies close to the heart of my independence: *this Executive Summary will, I am assured, be translated into both Fijian and Hindi before the report is publicly released and the translated versions of the Executive Summary will be publicized in the print, visual and voice media and thus made available to that part of Fiji's citizenry for whom English is but a second language, if that.*

*Executive Summary [Valeleka ni macala ni kena dikevi na sala ni vakadewataki i tukutuku].*

Oqo e dua na vola tukutuku tu vakaikoya ka a vakadonuya na Matabose ni Dodonu ni Lewe ni Vanua e Viti me vakarautaki me baleta vakatabakidua na kena dau vakadewataki na i tukutuku e Viti. Oqo, me baleta na Niusipepa, [Na i tukutuku wiliki] na veika e dau rogoci e na retio, kei na veika e saravi ka rogoci ena retio yaloyalo. E wili tale tikoga kina na vei taba ni vakau se ciqomi tukutuku e tiko ena i ka 21 ni seinituri ka ra vakanuini kina na tolu na taba ni tukutuku ka ra dui sema taucoko kina. Na veika eso e vakavuna na taba ni tukutuku e nai 21 ni seinituri sai koya na:

Wa livaliva ni keveli [cable], opotiki [optics], setilaite [satellites], na misini ka dau cowiri e maliwa lala [geostationary orbit] kei na veika e baleta na retio [radio spectrum].

O cei e taukena ka cicivaka na sala ni vakadewataki tukutuku kei na kena veigacagaca uasivi e ka bibi sara vei ira na lewe i Viti - ko ira era bula tiko kei na kena kawa tamata mai muri.

Na i vola tukutuku oqo e raica ni mona livaliva ni veitaratara e veiyasai vuravura [international telecommunications technology] okoya e tabaki [wiliki], rogoci kei na tabana ni retio yaloyalo ko koya eda sa mai vakararavi tu kina e sa mai tiki tu ni noda yau talei [common heritage], a tiki ni dua ni vola au a vola ka a tabaki ena Oxford University Press e na yabaki 1990 ka a yacana na "intergenerational equity"<sup>1</sup> – e dua nai yau me maroroi ka me yaga vei keda ena gauna oqo ka vakatalega vei ira na noda kawa mai muri.

Na kena qarava na vanua oqo o Viti na sala ni vakadewataki tukutuku [media] e dodonu me bibi kina na tu galala e Viti. Na kena dau tukuni se vakarautaki e dua na kena i tukutuku vinaka ni veidigidigi, kei na kena qaravi na vei cakacaka vaka matanitu kei na tabana ka ra tu vakataki ira, na kena mai dagavi yani e dua na matanitu ka digitaki mai vei ira na lewenivanua kei na veika tale eso.

E tukuna o ira na kena dau ni sala ni vakadewataki tukutuku ni ra rawa ni ra wiliki me ra "Dau ni Yadrava ka wanonova na veika e yaco tu ena noda vanua" [watchdog]. Na i tukutuku volai e vakarautaki oqo e taroga tiko na taro: O cei sara mada ka lesia na sala ni vakadewataki tukutuku [media] me "Dau Yadrava ka Wanonova na Veika e yaco tu vei keda" me vaka e sa mai tukuni wavoki tu oqo. O cei na nona cakacaka, kevaka e dua, me vakaraica/se wanonova tiko yani na veika e sa mai vakaturi koya ga vakataki koya oqo, se vakayacani koya tu oqo me "Dau Yadrava na veika e yaco vakavolivoliti keda tu". Sega li ni "dau ni yadra" oqo, e lawa ga vakataki koya? ka sega ni dua na lawa e vauci kina? Na "dau ni yadra" oqo, e dau yadrava ga na vei tabana vakamatani kei ira na vakalesilesi vakamatani se na nona i tavi e vakatetei yani ka robota yani na kena volai nai tukutuku me baleti ira na tabana e tu vakataki koya /sega ni taba ni matanitu [sa i koya oqo ko ira e vakavure bisinisi mai na i lavo lelevu ka vu ni nodra bula voli kina na dau vola i tukutuku]? Na taro vakaoqo, e tarogi vakadodonu se vakababa era vakamatatataki e na vakadidike oqo.

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<sup>1</sup> James M. Anthony, "Conflict Over Natural Resources in the Pacific," in Lim Teck Ghee and Mark J. Valencia [eds], Conflict Over Natural Resources in the South-East and the Pacific, Oxford University Press, 1990, pp. 182-247 at p. 237.

Na i tukutuku ni vakadidike oqo e yavutaki vakabibi, ka sega ni vakatabakidua ga e na 61[ono sagavulukadua] na veitarotarogi e a ciqomi e na loma ni rua na macawa ni tekivu ni vula o Okosita, 2007. Na veika ka vakayacori ena veivaqakai se vasokumuni tukutuku oqo e sa vakamatatataki tu e na loma ni tukutuku ni vakadidike oqo.

Oqo e sega ni matai ni tukutuku ni vakadidike me vakayacori ena tabana ni dau ni tukutuku e Viti.

E na yabaki tinikaciwa ciwasagavulu ka ono [1996] e na kena muria tikoga yani na levu ni kudru a ciqomi me baleti ira na Daunitukutuku, ka kuria yani na kauwai a tiko vua na Paraiminisita e na yabaki 'oya ko Sitiveni Rabuka z.[e rawa talega ni wiliki mai na kenai vakamatatata ni vola tukutuku oya], e a dua na vakadidike e na tabana ni tukutuku e a vakayacora e dua na soqosoqo kilai levu mai Peritania. E sega ni dua vei iratou na lewe ni timi ni vakadidike 'o ya e a bau kila se vosataka na vosa vaka Viti se vaka Idia. A sega talega ni dua vei iratou a bau bula voli e Viti me a kila na i tukutuku makawa ni vanua kei na tukutuku bula vaka Politiki kei Viti. Ia, a qai mani mai soli e dua na tukutuku ni vakadidike qo. E a mani vakatokai nai vola tukutuku qo me "Thompson Report" ka a mani dua na kena vakatutu bibi: 'o ya : E a vakatututaki sai koya na "self regulation" [dikevi koya vakataki koya] mai na ka oqo a mani vakasalataki me tauyavutaki na Media Council. [soqosoqo ni veika e baleta na kena vakasavui na i tukutuku volai, retio se retio yaloyalo].

Na Thompson Report e a raica ni i naki me vakatulewataka na Dau ni tukutuku a bula tu mai e na vica na yabaki, ia a sa mai luluqa ka vinakati me vakamaucokonataki mai na vei ka e sa mai vo. Ia, ni mai oti na kena kaburaki na Thompson Report, e a vakamatatataki, ni a mai vakaduri e dua na Media Council [soqosoqo ni veika e baleta na kena vakasavui na i tukutuku volai, retio se retio yaloyalo]

**E bibi me kilai ni o iratou na vola na Thompson Report eratou a rai sara vakaqiqo me baleti ira na "dau ni tukutuku"[media]. Eratou a sega ni vakadikeva sara na veika eso e kilai tiko ena i ka 21 ni Senitiuri ni veika ni veitaratara vakalivaliva ena veiyasai vuravura [21<sup>st</sup> century international communications technology].**

Ni oti e rua na yabaki ni kena mai vakaturi na Thompson Report , e a mani tauyavutaki na soqosoqo ni veika e baleta na kena vakasavui na i tukutuku volai, retio se retio yaloyalo – na Media Council. E a qai mai vakatura yani na matanitu nei Sitiveni Rabuka na Paraiminita ena gauna 'o ya e dua na Bili ka vakatokai na Media Control Bill me vakasamataka na Palimedi. E a mani mai sogoti vakavo tu na Bili oya baleta ga na veileti vaka politikiki e ra a biuta yani na veitabana ni tukutuku.

Ni yaco mai na yabaki 1999. e na veidigidigi ni yabaki oya a mai winitaka vakavinaka kina na Soqosoqo ni Labour Pati na veidigidigi. E dua na niusipepa, na Fiji Times, e ra kaya na dau ni vakadidike, e ra vakaitutu e na vanua ni dau kila ka, na kabani ni pepa oqo a nakita me vakavuna na kena kau sobu mai na matanitu nei Chaudhary veitalia ga na gaunisala cava e muria me vakayacori kina.

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2 E a sagai vakavica me ia na veitaratara kei na Paraiminisita Vakacegu Rabuka e na nona mai kerei me bau vervuke e na soli tukutuku e na vakadidike oqo. Na sasaga kece a sega ni vakavotukana.



Na vei tukutuku taucoko e ra a mai solia ko ira na vakatarogi e tabea tu yani e na ka dau tabaki e na vakatagede ni vola wiliki toro cake [professional literature]. E a kila kasamataki ni a sega ni cakava kina e dua na ka o koya nai Liuliu ni Media Council, Daryl Tarte ena gauna o ya ni rau a veivolekati sara kei koya na i vakalesilsei ka dau tabaka na niusipepa ni Fiji Times.

A sa mani mai yaco sara na veika eso ka vakayacori e na yabaki rua na udolu [2000]. Na kena i talanoa e kilai vakalevu tu vei ira na lewei Viti. Na Fiji Times vakabibi, kei ira tale na lewe ni dau ni tukutuku [media] tale e so, era a vakavurea e dua na draki ni veicacati kei na kena cati na matanitu vou tekivu mai na nona matai ni siga ni veiluitaki. E a dua na i lawalawa sega ni tarovi rawa a taura vakakaukawa na Palimedi, ka tauri vakalewe levu na lewe ni Matanitu nei Chaudhary, era a vakacaca e na koro turaga o Suva kei na so tale na yasai Viti. E ra kaya na tukutuku niutaki mai na dua na tikina dei ni na tukutuku tabaki/wiliki [vakabibitaki tiko na Fiji Times] e a sega ga ni vola nai tukutuku ia a vakaitavitaki koya e na kena vakatetei ka irivi na cagi ni vakamakama ni veilecayaki kei na baya ni bula ka muria yani. Oqo a sega ni dua na ka e sa qai mai vakayacora vakadua ga. Vakabibi ki vua na Fiji Times oqo e sa dau matau ka tiki ni vakarau makawa mai: kena vakayagataki na kawa tamata cava [race baiting] kena buli na i tukutuku [news invention] raici ga ni dua na yasa ni tukutuku, sega na kena vuna, ka sega ni tukutuku vakadeitaki, na vakatagedegede ni volai tukutuku lolovira taudua.

Na Media Council ka dau raica ka vakadikeva na nodra vakaitavitaki ira na tabana ni tukutuku [media] e na kena vakayacori na veika eso a yaco ena 2000 kei na nodra a via taura vakakaukauwa na keba ni Mataivalu e dua na kena i wase ni Mataivalu [Republic of Fiji Military Forces].ia, eke, e a sega ni vakayacora e dua na ka na Media Council.

E na yabaki 2003 na matai ni matanitu nei Qarase a vakatura cake tale yani nai karua ni Media Control Bill. E na vuku tale ni so na vakacuru vakasama vakapolitiki na i karua ni bili oqo a mai mate laivi talega yani. Na veika e baleta na Bili qo, e a mai vakatau tu vei ira na vei tabana kaukauwa ni dau ni tukutuku.

Na Media Council, e digitaki ira taucoko na lewena [ko ira era matataki ira kei iratou na mata mai vei ira e ra kilai voli me ra "lewe ni vanua raraba"]. O iratou oqo era dabe voli ga ka ra sega ni bau cakava e dua na ka e uasivi cake me tekivu sara mai na yabaki 1996 me yacova mai na gauna oqo. Me vaka ni sega soti ni levu nai lavo me cicivaki kina na Media Council [rauta ga e \$30,000], e lailai talega vaka kina na veika e ratou rawa ni cakava. E tiko ena Media Council e dua na i vakarau ni tovo ni cakacaka se Code of Ethics. E rairai totoka ni volai vakaivola nai vakarau ni cakacaka oqo, ia, sai koya ga oya na tekivu kei na tinitini ni kena tutaka yani na "self regulation."- "Se dikevi koya vakataki koya"] E tukuni, ni Media Council e dua na kena vale ni volavola, ka dau lala tu ga ena vuqa na gauna. E tukuni talega ni dua voli ga na kenai vakalesilesi ka sega tu ni kilai na cava soti na nona vakatagedede ni vuli. E tiko talega ena Media Council e dua na Tabana ka dau ciqoma eso na kudru mai vei ira na leweni vanua ["Complaints Committee"]. Era vakaraitaka eso na dauvolai tukutuku ni sega se lailai na nodra vakanuini kina.

E lewe levu vei ira na mai soli tukutuku, ena vakadidike oqo, era sega ni kaya e dua nai tukutuku vinaka me baleta na Media Council. E lewe levu vei ira era vakatarogi ka levu

sara na nodra kila ka dede ena veika ni tabana ni tukutuku [media matters], era sa raica tu na Media Council me "tawa yaga tu, vakatautauvatataki kei na dua na taika pepa ga, e dua na tabana sega ni dau rawata/cakava e dua na ka." Ia, e tukuna e dua ka mai vakatarogi, ni Media Council a sa mate, ia, e sega ni davo e ra me rawa ni vakayacori vei koya e dua na veibulu vinaka.

**Na i tukutuku ogo e mai vakadeitaka ni sega ni rawata e dua na ka na Media Council ni oti vinaka e tini [10] na yabaki na kena cici tu mai. Na "Self Regulation" se "Dikevi koya ga vakataki koya" talega e sa mai luluqa.**

E a ciqomi e dua nai tukutuku mai vei dua e vakaitutu cecere ena Matanitu Tu Vakawawa [Interim Govt], me baleta e dua vei ira na liutaka na vuaviri ni 1987 ni a veretaki, oti na nona rai lesu, ni a vakabauta voli nai tukutuku e kaburaka na media [dau ni tukutuku] ni nona matanitu nei Bavadra e vaka walega e dua na dau caka lomadra na Idia ["Indian puppet"] kai naki ni matanitu nei Bavadra me luvata laivi na vei yavutu ni veilitaki cecere ni kawa i taukei e na nona qele kei na na nona i yau vakamareqeti vakavanua kei ira na nona dodonu, kei na veika ka vakadeitaki tu me baleti ira na kawa i taukei. Mai nai tutu cecere talega ni matanitu e cake, e a ciqomi eso na vakatutu vuni ni kena sega ni taleitaki/se gadrevi me baleta na kena raici tale na nonai tavi na dau ni tukutuku [media] baleta ni kila vakalevu sara e na mata votu na nona vakayagataka tiko vakatawa dodonu na nona galala tawa yalani me vakayagataka me i laiseni, se laiseni ni wase ka vakarusa e dua na i wasewase malumalumu e so.

E sa tekivu me vakadikeva tiko mai na Matabose ni Dodonu ni Lewenivanua, [Fiji Human Rights Commission] [tauyavutaki e na yavu ni vakavulewa ni 1997] na veika e baleta na Tabana ka qarava nai tukutuku volai, se kaburaki ena nona vakatoboka na kena vakatetei na veivakacalai mai vei ira eso na tabana ni dau ni tukutuku [media] me vaka e vakamataliataki, e na veika eso e mai yaco e na yabaki 1999 kei na yabaki 2000. E laurai sara me dua nai tuvatuva balavu ka dau muri wasoma ka kilai ni sega ni dua na sasaga ni veisau e na ligadratou na matabose se soqosoqo ka ratou raici ratou tikoga vakairatou.- "self regulators" [dikevi ratou ga vakai ratou].

Na Matabose ni Dodonu ni Lewenivanua, e na nona mosoni ga vakataki koya kei na nona vakatulewa matau, a mani nanuma ni sa yaco mai na kena gauna me vaka raici tale mada, me vakasaqarai e dua tani tale na sala.

Na vakadidike kei na i vola tukutuku ogo sai koya na "rai vou koya, se na sala ko ya".

Na vakatutu e kunei e na i vola tukutuku ogo e vakarautaki kau vakabauta ni na veiganiti kei na vei leqa e sotava tu na veitabana ni tukutuku ena noda vanua lomani. E oka talega kina na veimataqali veimaliwai eda donumaka tu vaka mata tamata.

E sa vakaturi me tauri mai e vitu na pasede ni vakacavacava [7% tax] ni lavo e rawati mai ena ka e dau tabaki kei na kena mai na sasaumi ni laiseni: Na i lavo e rawa mai kina ena qai vakacurumi kina dua na tobu ka me tauyavutaki kina e dua na matabose ni Veivaqagai ni Tabana ni Tukutuku [Media Tribunal]. Ena vica toka na kenai naki: dua na nodra vakavulici na dau ni vola i tukutuku mera cakacaka vata kei ira na vakalesilesi ni tabana ni tukutuku kei na eso tale [me vakataki ira na tabana ni vakau i tukutuku ena

Univesiti ni Ceva], vakatorocaketaki na vakatagedegede ni kila ka me baleta na kaburaki tukutuku, vakauqeti ira na dau ni politiki, o ira na Mata ni vanua ko Viti ki vanua tani, o ira na vaqara cakacaka e na vei valenivolavola kei ira tale eso era e tu vei ira na kila ka eso me vukei ira me rawa ni ra veitaratara vakavinaka sara kei na nodra i tokani vakacacacaka e ra tiko e na veitabana ni Tukutuku [media], me vukei na kena tarai cake na i sema ni veikilai kei na veinanumi: Me tekivu vakayacori taumada sara yani, na kena vakayauyautaki mai na veitabana yadua taucoko, mera duavata e na kena vakasucumi e dua na i tuvatuva ni tabana ni tukutuku [media subculture] ka veiganiti, ka kilikili kina drodrolagi ni duidui, kei na veirokovi ni kena dokai na duidui tovo, kei na gagadre raraba ni tamata kece e Viti.

Me kuria yani, na Media Tribunal ena ia sara ka me tauyavutaka na Retio kei na retio yaloyalo e na vei yasana ka ia talega na na soli vakasala, vakavulici kei na veivuke vaka i lavo ve ira na taba tamata raraba e Viti me ra yaco me rawa ni ra vakaitavitaki ira kina tukutuku ni veigauna [information Age] kei na veika lelevu e tiko sara e loma. **Io, oqo e na wili kina na kena niutaki na ka e lailai voli e Viti sa i koya na taledi e tu vei ira na lewenivanua.**

E tiki ni cakacaka ni Tribunal, me ia na veivakavulici kei na vakayaloqaqataki E sega ga ni vei ira e tu voli ga oqo e na saqata lelevu e Viti, e wili talega kina o ira e ra tu mai na vei yasa i Viti ; me wili kina ko Vanua Levu, Taveuni, kei na vei yanuyanu wavoliti ira. Na Media Tribunal e na vakadavora ga na nona kosi, vakasaqara, me vakataki ira na dau soko e liu, na kalokalo me vakaraitaka na vanua e gole kina – me ia na kena bosei vata kei ira na kena tabana ni matanitu kei na so lewe ni vanua e Viti. Eke, na Media Tribunal e na sotava e dua na vadi makawa ni politiki: me na rawa vakacava vei koya me kumuni ira taucoko vata na dui vei mata me ra duavata ka ra vakaitavi vata. E na rawa ni vakayacori oqo.

Na Media Tribunal e na vakasaqara, me vaka na, vuli vakayawa [distance learning], vakasaqara na veitokani kei na duavata kei ira e ra sa vakaitavitaki ira tu ena veika vakaoqo ka vakarabailevutaka na nona yavu ni qaravi cakacaka.

Na Media Tribunal e na rawa me vakasaqara talega eso na kenai kuri ni veivuke vakailavo kei na vakasala mai vei ra na kenadau e ra tu mai na vei matanitu e sa vakatetea yani kina o Viti na nona veimaliwai vinaka me vakataki: China, India, vei matanitu vaka Letini Ameika kei na Karebiani. Me rai tiko ga e na rai tautauvata, na Media Tribunal me kua ni guilecava, na veika lelevu ka vuabale e tu e Mereke [United States] ni tu kina na veimataqali veivuke vaka matanitu kei na non-governmental organizations e rawa ni soli veivuke. Ena rawa qo kevaka e vakayacora o ira na kena dau ni kila ka cecere na kerekere oqo.

Na i tukutuku volai oqo e ciqoma ka raica ni o Viti e dua na vanua e kunei kina na vei mataqali vakaririko eso. E se saga tikoga o Viti na gaunisala cava e rawa ni cicivaki koya kina vaka savasava ka tautauvata [democratically]. Na vei yavu ni vakavulewa e ra kunei e na pepa veitalia sara na kena toqai vakamatau se vakamatatataki tu vakavinaka, e na sega ni kauti keda sobu kina gaunisala me uasivi sara kina na bula vakatautauvata, se me bula veiluitaki me vakalomalagi. Ia kevaka eso na tabana sega ni dau vosa cake mai e na dua na vanua malumu ni ra vakacacani mai vei ira e so na tabani ni tukutuku. [media].

Na noqu vakatutu e na tukutuku volai oqo sai koya na Matabose ni Dodonu ni Lewenivanua me na vakatura ki vua na matanitu me kerea mai na lawa ni tukutuku [media legislation] e Singapore, e sa qai vakaturi vou ga oqo, [ na kena eratou sa qai vakamuraia vou mai Tonga e na dua na gauna lekaleka sa oti] me na mai tauyavutaka yani e dua na kena valenivolavola vakataki koya [administrative entity] ka me na vakaqacacotaka vakakaukauwa na tiki ni lawa oqo, me na sala vata kaya yani na totogi ni kena sega ni muri e na kena gauna donu, ka me na vakarautaki vinaka me na veiganiti e Viti – e na davodavo ga e kaya na Article XIX of the Universal Declaration of Human Rights e vakayacana me “ Gadrevi Bibi”[necessity]. Me vakataki Singapore, o Viti e dodonu me sasaga yani me dua na vanua bula ena bula vaka i vakarau [disciplined society], ka ni sa oti qo vasagavulu [40] na yabaki na nona sa mai tu vakataki koya mai vei Peretania.

Na vakatutu vei ratou na Matabose ni Dodonu ni Lewenivanua me uqeta na matanitu me na vakayacora na veika kece e ra sa vakaturi tu eke, me vaka ni o Viti e dau kilai tu nai vosavosa koya : E tu eso na veivakasala yalomatua ka dau vakavuna na noda galala.[“There are wise restraints that make us free”]. Na veika e veivakataotaki tiko au vakatura e vaka i tuvatuva ka vakagauna, e na vukudra na lewe ni vanua me rawarawa na kena wiliki. Na senicodo oqo, sa dodonu me duri makawa, io e na sega ni mai davo tu yani vakadua. Ni oti e lima na yabaki na veika e tukuni tiko oqo e dodonu me dikevi tale ka me ra na vakaitavi kina na lewe ni vanua raraba, e na yalo ni cakacaka vata kei na duavata.

E sa vakanuini tu ni na gauna e sa na mai vakailavotaki kina na Tribunal kei na kena vakailsilesitaki, e ratou na vakayagataka na retio kei na retio yaloyalo - sega walega ni ratou na kaburaka nai tukutuku vakadodonu ka dina, ia, me ratou na cakava talega na na veika oqo: me soli na galala vei ira na lewe ni vanua me ra tukuna na nodra i talanoa, ka mera na curuma yani na vei vanua ni maroroituki tukutuku makawa ni noda dui vanua ni bula e na gauna makawa sara, kena i vakarau ni bula o ya kei na i tovo, me robota na dui kawa tamata kece e ra duidui tovo, ka meda rawa ni da veiciqomi tovo kei na i vakarau baleti keda vakataki keda ka me da rawa ni cakacaka vata kece. E yaga me da na dui kila na noda duidui, me rawa kina, ni o keda kece sara me da tara cake e dua na noda kaukauwa, vakasaqara na vurevure ni noda sega kina ni vakacegu, vakasaqara wasoma e dua na naki levu, ka me rawa kina, meda na tara cake e dua na mataka vinaka mai muri.

Na kaukauwa kei na veika e yalataki ena vuravura ni tukutuku e nai ka 21 ni Senituri kei na kena vakadrodroi ka vakatetei ni tukutuku e vunautaka na vola tukutuku oqo, e yau bibi sara. Sa yaco mai na gauna oqo vei keda kece sara, me da na kila ni oqo nai yau bibi ka raraba ia, na kena taukeni kei na kena cicivaki e na vakadeitaka e dua na noda mataka vinaka mai muri.

Na i tukutuku volai oqo e dodonu me uqeta na Matabose ni Lewenivanua me solia e dua na vakatutu bibi sara vua na matanitu tu vakawawa me na taqomaka na kena taukeni nai yau oqo vei keda nai taba qo kei ira na taba tamata mai muri kei na kena vakasavui nai tukutuku eso oqo.

Meu mai tinia, niu mai uruca yani na i tukutuku matailelevu ni veivaqai ni kena vakadewataki nai i tukutuku e Viti, au sa vakatura yani vakabibi na kena vakadewataki vaka Viti ka vaka Idia na i tukutuku volai ogo ka'u nuitaka ni na qai vakayacori me vaka kina ena gauna ga sa na rawa kina na kena i lavo. *Au dau gadreva ena yaloqu taucoko me na vakadewataki vaka Viti kei na vaka Idia na i tukutuku volai ogo me rawa ni yacovi ira yani na lewenivanua ka ra sega ni rawa mera wilika na kenai tukutuku vakavalagi.*

## संक्षिप्त में वर्णन ( Executive Summary)

यह एक स्वतंत्र रिपोर्ट फीजी मानव अधिकार वाली कमिशन द्वारा फीजी की समाचार माध्यम पर कमिशन की गई है, जैसे की समाचार पत्र, रेडियो, और टेलीविज़न तथा 21<sup>शताब्दी</sup> की जितने भी कम्प्यूनि केशन के विगयान पर आधारित की गई है.

कौन समाचार माध्यम का मालिक है? और कौन सभी विगयान को चलाता है?. या फीजी के नागरिको के लिये एक ज़रूरी सवाल है.

यह रिपोर्ट हमारी ध्यान उस ओर करती है की जो वदेशी साधन जैसे समाचार पत्र, रेडियो इत्यादी से तलूख रखती है. अबहमारी देश की सन्सर्किती और समाज पर निर्भर है.

मै ने इस को अपनी एक निबनध जो 1990 मै ओक्सफोर्ड यूनीवर्सिटी प्रेस में प्रकाशित की गई. जिस का विशय थी; Intergenerational Equity<sup>1</sup>.

फीजी में समाचार मध्यम किस तरह से हमारी लोगो को आमचुनाव की जानकारी, सरकारी और गैर गुप्त कार्य तथा नडर सरकार का सम्मान, लौगतन्त्र (Democracy) के लिये बहुत ही महतपूरन विशय है.

समाचार माध्यम कहती है की वा एक पहरादार है. (watchdog) या रिपोर्ट या सवाल करती है की, समाचार माध्यम को या ज़म्मेवारी किस ने दी?. किस की या ज़िम्मेवारी है की वै इस पहरादार पर पहरा दारी करे?

क्या या पहरादारी अपने आप से एक कानून है?. क्या इस के पास कोई कानून हौती है जिस के सन्चालन हौती है?

क्या समाचार माध्यम केवल सरकारी सन्सथा और सरकारी करमचारी पर पहरा देती है?

क्या समाचार मध्यम न्याय पूर्वक ढंग से गुप्त कार्य पर अपनी रिपोर्ट दैती है?. जिस से समाचार माध्यम को बहुत मुनाफा हौती है?

या रिपोर्ट अुन भेट वारता के दौरान मै अुन दो हफते के दौरान लिखा हे. (औगसत के पहतला दो हफते में)

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<sup>1</sup> 'James Anthony', "Conflict over Natural Resources in the Pacific" in Lim Teck Ghee and Mark J. Valencia (ed, Conflict over Natural Resources in South East-Asia and the Pacific, Oxford University Press, 1990-pp.182-247 at p237

ने 1996से ले कर आज तक कुछ नहीं की. मीडिया काँन्सिल की जो बजेट है वो कभी भी तीस हजार से ज़्यादा नहीं थी. मीडिया काँन्सिल का जो कोड ऑफ इथिक्स है वो सिर्फ कागज पर है. मीडिया काँन्सिल के पास इक दफ्तर है, मगर इक ही करमचारी ही है, जिस कइ पड़ाइ लिखाइ की बारे में किसी को पता नहीं. मीडिया काँन्सिल के पास इक शिकायत वाली कमीटी है मगर हमारे भेठ वारता के दौरान लोगो ने कहा की अुन्हे इन पर भरोसअ नहीं है. ज़्यादा लोगो ने कहा की अुन्हे मीडिया काँन्सिल की बारे में कुछ अषा कहना ही नहीं था. भेठ वारता वाले लोग में वे भी थे जिन्हो ने बहुत ही लम्बे समय से समाचार माध्यम से तालुक रखते थे. कुछ ने कहा की काँन्सिल इक कोइ भी काम की ससथा नहीं है , इक कागज की शेर, मरा हुवा और अुसे दफनाने की वक्त आ गया है.

या रिपोट कहती है की जब से मीडिया काँन्सिल की सथापना हुवी थी, दस र्सल पहले मीडिया काँन्सिल इक नाकाम ससथा है,और अपने आप से नियतित करने वाली विशय भी ना काम रहा.

इन्टारिम सरकार के इक पहुचे हुवे वेक्ती ने हमे ये बतलाया की 1987 के सपताह पलटाव के बाद अुन्हे समाचार माध्यम द्वारा या विशवास करनी पड़ी की बवाँडरा की सरकार इक हिन्दुहतानी कटपुतली थी, जिसे अदिवासी काइवित्ती की ज़मीन और समपती को तोड़ने में इसतमाल की जा रही थी. उचे सरकार ने नेतागिरी को समाचार माध्यम का या रवइया देख कर बहुत गुस्सा आती है कयू की वे इसे भेद भाव पैदा करने वाला के रूप में देखता है.

फीजी मानव अधिकार वाली कमिशन , जिस की स्थापना 1997की समविधान के द्वारा हुवी है ने अप ने आप से, (ownmotion)वाली ताकत के आधार पर या निरनय ली की वक्त आ गया है जब समाचार माध्यम और 1999, 2000 वाली तनाव को ले कर एक और जाँज करे.

या रिपोट ही "Other look, that other way" है, याने की हम एक और तरह से देखे.

या रिपोट के सिफरिश सही तरफा की है और मेरे खयाल से समाचार माध्यम के जो समस्या फीजी की समाज में है , बहुत ही तालुक रखता है.

. सात पर सेन्ट टेक्स सभी आमदनी माध्यम जो एडवाटाइसिंग और लाइसेन्स फीस के रूप में है की सि फारिश की जाय. एक फंड बनाया जाय जो एक मीडिया टइब्विनल की सथापना करे गी. इस का खास काम होगा की वे पतरकार को तैयार करे ताकी वे भी और ऐसे लोगो के साथ काय कर सकें. इस में शा मिल है यूनिवैसटी ऑफ साउथ पेसिफिक,या जो समाचार लिखने और जो समाचहर लिखने और तैयार करने वाली कला को बढ़ावा देगा. इस के अलावा जो नेताय है, उन्हे भी इम्पावर करे गा. और भी करमचारियो को भी आसानी हो गी ताकी सभी दूरियो को हटाया जाय और एक नइ दिशा और सभी साथ में काम करे.

इस के अलावा, मीडिया टइब्विनल जन्ता के लिये, कोमिबनीटी रेडियो और टेलिविजन और उन्हे व्यसायि क रूप से टैनिंग औपैसे र्पदान की जाय ताकी फीजी के लोग नइ टेकनोलोजी सीख सकें.

ये एक तरह से एक पूँजी लगाने के रूप में फीजी की बहुत ही छोटी साधन है, याने की यहाँ के लोग , अपने ही लोग.

टइब्विनल की इक और जिम्पदारी होगी की वा उन सभी लोगो जो फीजी में रहते है इस के बारे में जानकारी दे.

मीडीया टैडबिवनल अपनी ही माँग बनाय गी, जैसे जहाजी लोग पुराने जमाने मे तारे से अपनी डेसटनी और दिशा बनाते थे. या सब तभी मिले गा जब हम सअरकार और अन्य विभाग सत राय और सल्लाह करेगी. एक समसया आयगा जो पुराने खिलाड़ी से तालुख रकती है. इन्हे कैसे हम इसतमाल कर सकते है.

मीडीया टैडबिवनल जो ओर ऐसे साथियो को खोज निकालेगा जो ऐसे काम कर रही है, ताकी उन के काय मे बड़ावा मिले.

मीडीया टैडबिवनल पैसे की माँग China, India, Countries of Latin America, Carribean , जहाँ पर फीजी अपनी मेल मिलाप बड़ा रहा है, से करेगा. टैडबिवनल ये ना भुलाय की United States मे भी बहुत ही सरकारी और गैर सरकारी ससथाय है जो हमै सहायता परदान करेगी, अगर सही ठग की तरीकअ इसतमाल की जाय.

या रिपोट ये मान्ती है की फीजी की समाज कई अनिरिचत विशय से गुजर रही है. फीजी इस वक्त या सोचता है की कैसे वा पजातर सरकार पर लौटे. कितनी भी अच्छी समविधान हमे पँजातन्ता पर नही ले जाता है, ना ही निरवाना. जब समाचार माध्यम एक सी समाज को गुमरह करती है, तो सरकार न भी चह ते हुवे भी कदम उठाती है.

मेरा फीजी मानव अधिकार वाली कमीशन से सिफारिश है की वाह सरकार से सिफारिश करे की अभी हा ल मे सिगापुर और ततोगा मे जो लेजिसलेशन , याने की कानून तैयार की गइ है, उसे इसतमाल करने पर गौर करे. एक ऐसा ऐन्टाइटी जो कानून जैसे पीनल सक्शन जो फीजी के लिए सही है, जैसे ArticleX IX, यूनिवर्सल डेक्लेरेशन औफ हिवमन राइटस. सिगापुर की तरह, फीजी को भी एक जिम्मेवार समाज हो ना चाहिये. जैसे अभी चालिस साल बाद हम बर्टन से समबध समाप्त करने के बाद है

फीजी मानव अधिकार वाली कमिशन से ये सिफारिश सरकार के लिये है जैसे ये जो सही गुकावट है, हमे मुक्त करेगी.

या जरूरी है, और पाँच साल बाद इसी पर पूनविचार होगी, ताकी जन्ता से विचार विर्मश कर के सही दिशा और देश के हित मे काम हो.

या आशा की जाती है की जब टैडबिवनल को कर्मचारी मिल जायगी , तब वा कोमिवनीटी पबलिक टै लविजन , सिर्फ समाचार के लिए नही, परन्तू , लोगो को अपनी कहानी , समाज से जुडे हुवे कहानी, जात पात वाली कहानीयाँ, ताकी हम सब एक ही मकसद , और एक ही मानव समाज बनाय.

21<sup>st</sup> सैन्चरी का जो समाचार माध्यम का टेकनोलोजी जिस से हम जानकारी देते है, हमारे लिए बहुत ही महतव रखती है. वक्त आ गया है की जब हम ये राश्ट के समपती के बारे मे ध्यान दे , ताकी इन के स्वामित्व और नियतन हमारी भविश्य की फैसला करेगी.

या रिपोट फीजी मानव अधिकार वाली कमिशन से कहती है की वा इनटारिम सरकार से सिफारिश करे की वा हमारी इस मूल्य समपती को बचाय ताकी हमारी आने वाली पीड़ी के लिए सम्भाला जाए.

उस मे, मै ने ये सिफारिश की है की या रिपोट हिनदी और काइवीती भाशा मे भी तैयार की जाय. या मेरे दिल के बहुत ही करीब का विशय है.



## **FREEDOM AND INDEPENDENCE OF THE MEDIA:**

### **AN INQUIRY**

**Consultancy Report by J.M. Anthony, Ph.D.**

#### **1. THE ASSIGNMENT**

##### **1.1 Scope of the Report**

1.1.1 I was commissioned by the Fiji Human Rights Commission, an independent legal statutory authority under the laws of Fiji, to conduct an inquiry into, *inter alia*, the freedom and independence of the media in Fiji, into matters related to a historical overview of the range of media available in Fiji and to inquire, also, into matters related to ownership of the media and the scope of its operations. In so doing, my assigned task included my taking into account the requirements of Article 19 of the Universal Declaration of Human Rights and such other human rights instruments that might be related to the promotion of the freedom and independence of the media as well as the reciprocal obligations of the media to issues related to balance—the public's right to know and the media's obligation to report without censorship, without being driven by a private agenda, deliberately contrived or inadvertently held.

The full text of the terms of reference is attached hereto, made a part hereof, and is annexed as Appendix 1 of this report. I interpreted my terms of reference to give considerable flexibility.

The closing date for receiving submissions was extended by the Director of the Commission to August 15. While I was not a party to that decision, if the date of the Inquiry was not extended to August 15, fewer respondents might have been interviewed and less research would have been possible. The amount of time allocated for this Inquiry was just enough to allow me to get to a point in the data gathering process where I had sufficient information on which to write a report that may not be the last word on the subject but, at the same time, appropriately comprehensive for the FHRC to consider the pertinent issues and then to decide what more might next need to be done.

1.1.2 I was not expected to undertake any legal drafting and therefore have made no attempt to draft any legal instruments that FHRC or others may require in future in connection with matters that are contained in, or arise out of, the recommendations made in this report.

1.1.3 A summary of my Conclusions and Recommendations is set out at the end of this report.

## 1.2 Operational, Lexical and Stipulative Definitions

1.2.1 'Fiji', as used in this report, refers to the Republic of the Fiji Islands, an independent, sovereign State in international law, a member of the United Nations in good standing.

1.2.2 The term "Fijian" used in this report refers only to the indigenous people of the Republic of Fiji as by Constitution. Other people who are citizens of the Republic of Fiji are referred to by other terms, for example, Indo-Fijians (constitutionally they are 'Indians'), whites (when relevant, and specific to the historic point being made who may also be either citizens of Fiji or who live in the Republic under one permit or another, and may also be referred to constitutionally as Others), and other ethnic groups or races, specifically identified.

1.2.3 Since the word 'media' is possessed of both some elasticity as well as some imprecision, it is broken into four principal constituent categories: print (newspapers and other hard copy printed material); visual (television); voice (radio) and a fourth category, consisting of disparate, but related, Information Age technology elements that drive, and are now intimately connected with, and constitute an inseparable, seamless part of 'the media' known most commonly by the acronym,

ICT (Information and Communication Technology). (**Appendix 2**: shows diagrammatic representation of ICT segments in Fiji)

This fourth category consists of radio frequency bandwidth, fibre optics cables, satellites, the geo-stationary orbit and related technologies. These are here conceptualized as 'public trust assets' for which the State is trustee on behalf of this and future generations of the people of Fiji. These assets are part of the common heritage of all the people of Fiji, part of what I described in an essay published by Oxford University Press in 1990, as a nation's **intergenerational equity**. These public trust assets derive their legal status from the Public Trust Doctrine which requires States to take proactive steps to protect these assets from expropriation. These public trust assets are, in short, part of our national patrimony: a part of our common heritage—akin to other public trust assets such as potable water, for example. In short, in laypersons' language, these are human rights, protected by Article 19 of the Universal Declaration of Human Rights, the Republic of Fiji's Constitution and the statute that governs the legal foundations from which the Fiji Human Rights Commission derives both its legitimacy and its powers.

**As Fiji makes its journey back towards the pathways and forms of democracy questions regarding foreign ownership and control of the**

media, including foreign ownership and control of Information Age technologies (ICT), must figure in the calculus of the nation's considerations. Here, too, the FHRC must play a useful and proactive role.

### **1.3 Research Design: background and pathways of data collection**

#### **1.3.1 Subjectivities**

I arrived in Fiji on July 31, 2007. I am no stranger to Fiji. Although I now live in Hawai'i, I was born in Fiji and left, after a stint as a union leader, for higher education abroad. The year: 1961; I was 24.

My first two degrees are from the University of Hawai'i. My Ph.D. was awarded by the Australian National University in 1971. By professional training I am a political scientist and a Pacific Historian, in that order. I have studied and written about Fiji for over 40 years. In 1967 I co-authored and published a book on the crucial Legislative Council Elections of 1963—"crucial" because this was the first occasion when Fijians voted in national elections. No small part of that study involved a detailed content analysis of all of Fiji's print media related to the elections.

I speak all three of Fiji's principal languages—in the following order of competence: English, Bauan (“Fijian”) and Hindi.

For this consultancy I used “Fijian” and English interchangeably—switching from one to the other in the course of a single interview - to great advantage. I also used Fiji Hindi, though sparingly. Doors open when one speaks the languages of the place where one is doing research, trying to collect information, waiting for the rare piece of serendipitous information to drop out of a conversation. That I am both from, and of, Fiji matters to informants. That I speak the principal dialect and languages of this place matters. It matters too, that my umbilical cord is buried here and that people know that, Fijians particularly. Human communication may be brittle at the best of times but these nuances of connectivity give me a small advantage

Over the past five years I have been working on a book on Fiji Politics since 1977 to the present time. This is essentially a continuation of the book I published in 1967 on the 1963 elections. Three chapters of that book will cover issues related to ownership and politics of the media in Fiji and the consequences of that ownership and cross ownership for democracy in the Republic.

Prior to taking up this assignment—indeed one of the reasons I accepted it—was because I had already read a substantial amount of the professional literature on “the media” in the United States and in the “Third World”. I have, moreover, followed events associated with the introduction of cablevision to Hawaii and the establishment of both Public Television and Community Access Television: with particular emphasis on matters related to funding, strategic management, community training and the collection and dissemination of material related to what I call the “archives of traditional knowledge”—of telling the stories of indigenous and other people and recording them for this and future generations, mostly, but not exclusively, using both the visual as well as the voice medium. In the language of the Information Age this is a part of what is called “local content”.

“Local content,” in my view, is a part of the right that people have to information about themselves, essential to their sense of national integrity and historical continuity with respect to their language, art and culture. “Local content” is an essential part of that important but elusive concept, **balance.**

Implicit in the notion of balance are matters like fairness and openness that are related to something else: legitimacy: the feeling that, all things

considered in an imperfect world, the media in Fiji, perhaps the print media especially, has the right “feel” to it. In Fiji that right “feel” about the English language press, for example, radio and television also, is not held by a range of people across the board in our community. Former Prime Minister, Sitiveni Rabuka, after things settled down, as will be seen from the summary of one of my interviews, felt strongly that the media tends to create its own private agenda driven reality. With Chaudhry, freely and fairly elected Prime Minister in 1999, the media did not even allow him the courtesy of a honeymoon. They went after him from day one. One high level insider told me confidentially as I was working on this report that she saw it from the inside: up front and close. In the Fiji Times, at the top, the word was out: “Get Chaudhry.” It was as if the Fiji Times top brass could not stand, and would not stomach an “Indian” Prime Minister. Chaudhry did not just “feel” that things were not right; he knew that they were out to get him. Qarase felt the same thing, probably to a lesser extent, so that he was impelled to introduce the ill fated media bill in 2003.

1.3.2 Since arriving in Fiji on July 31, I surveyed- in many cases, resurveyed, an extensive repertoire of hard copy information: reports, books, government documents, and information from various sources provided by people I interviewed. Much of this material was already



familiar to me with since I had reviewed it in the course of doing research on the second book to which I have made reference.

1.3.3 I interviewed a total of 61 respondents. Each interview lasted, on average, 45 minutes to an hour. One interview, a memorable one, lasted almost two and a half hours. I had travelled from Suva to Lautoka on a Saturday to interview that informant. It was well worth the day long, exhausting, return trip by road.

For all interviews, I used an open ended interview schedule—an instrument that allows for considerable flexibility so that an interview is more like a conversation than an interrogation designed to elicit information that fits neatly into compartmentalized categories. The early interviews were recorded by Hansard reporters who then transcribed them giving us a verbatim transcript. For several of the interviews I took notes in the course of the interview. All interviews, except three were 'one on one'. There was one telephone interview. Each person interviewed was given my personal assurance that her/his identity would be held confidential along with an assurance that if I drew on any interview material for citation in this report, the author from whom the material originated would not be identified. I intend to fully honor that commitment.

I am deeply in the debt of every informant who agreed to meet with me. I cannot thank each by name but when this report enters the public domain I hope each informant will consider his or her time well spent over a matter that is of vital concern to human rights and of getting at some long unresolved issues of pressing, public importance.

This report was written for the Fiji Human Rights Commission but it could not have been done without the people who helped, with such unstinting generosity, with their time, their good humor and their deep and abiding commitment to sharing—in this case—of information to which they were privy. Sharing lies at the heart of what makes all of us who live on small specks of land in this vast ocean the very special people that we all are—and—that we strive to become.

My academic experience in teaching research methods and interview techniques to University students was immensely useful in this exercise. It was a rewarding experience to re-access those long unused skills and put them to practical purpose in the real world again. At the age of 72 it was a pleasant surprise to rediscover the nuances of this research methodology. Every interview was special. Each interview yielded at least one nugget of information, even if it was a referral to someone special I should see for some intricate matter related to a question I had

raised. All in all, a hectic two weeks of back-to-back interviews over what often were ten hour long days, though exhausting, were immensely satisfying. A number of interviewees provided written submissions either in support of their oral presentations, or instead of them.

Interview data and written submissions were not the only source of information on which this report is based. I had already done a considerable amount of library/internet research on a wide range of media related issues before coming to Fiji for this consultancy. After arriving in Fiji I asked staff assigned to assist me to retrieve a wide range of hard copy material—some available ‘on line’, some library source material and some from other sources.

1.3.4 It is public knowledge that some potential informants from the media refused to participate in this inquiry. Four of them, essentially members of the Media industry, wrote a letter dated July 27, 2007 to the Director of the Fiji Human Rights Commission setting out their objections. That letter is appended to this Report and appears as **Appendix 3**. The letter speaks for itself.

1.3.5 In a letter dated 1<sup>st</sup> August, 2007, Daryl Tarte, Chairman of the Fiji Media Council, wrote to the Director of the Fiji Human Rights

Commission. This letter, too, is attached hereto and is marked as **Appendix 4.** It, too, speaks for itself.

1.3.6 There was an exchange of eMail correspondence between Daryl Tarte, Chairperson of the Fiji Media Council and myself. The messages speak for themselves. Both are attached hereto and are marked as **Appendix 5.**

1.3.7 A foreign journalist, publisher of an English language daily newspaper, apparently openly hostile to the Inquiry, and one of the four signatories to the July 27 letter referred to above, as well as a member of the Media Council, attacked my integrity and professional qualifications. An editorial comment he wrote was not based on any prior consultation with me. Problems have arisen regarding my making a formal complaint I had contemplated filing with the Media Council over this matter. Tarte, the Chair of the Media Council's Complaint Committee, became openly hostile to me personally and, in my view, lost any reasonable claim to either independence or impartiality to review any complaint I might make.

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The record will show that I had a private meeting with Tarte on the afternoon of August 6<sup>th</sup>. Among other things I suggested to him that he

could show some leadership by advising his Media Council colleagues that it was in their interests to cooperate with the Inquiry on such matters covered by the terms of reference with which they felt comfortable and to put on a "back burner" those issues that they did not wish to discuss. I stressed that this was the appropriate way to deal with their issues. Daryl Tarte, for his part, attempted to persuade me that the Inquiry ought to be postponed, deferred to a "later time." He in turn wanted me to persuade the Director of the Fiji Human Rights Commission to defer the holding of the Inquiry to a "later time." I made it plain to Tarte that I did not think that I was in a position to do this and said that I would check with independent counsel as to the propriety of my speaking with the Director of the Commission on this matter and that I would get back to him by eMail the next day. In the event this is what happened: I had a discussion with independent counsel, determined that it would be improper to make any representations to the Director of the Commission and advised Tarte accordingly. As noted, the relevant eMail message to Tarte is attached as **Appendix 5**

A Russell Hunter who, sources said, had trouble with the Chaudhry Government over his work permit when the Labour Government was in place in 1999, began making international inquiries about my qualifications to conduct the Inquiry. Initially, this information was

provided to him by the Director of the Commission, Dr. Shameem. In addition, I left a voice mail message on Hunter's phone, asking him to call me for any further information. Hunter never returned my message. Sooner after the Fiji Sun ran an editorial attacking my professional qualifications to conduct the inquiry—without any right of reply from me. I recognized this as part of an old pattern of sleazy journalism.

I talked to the Director of the FHRC and we decided that I ought not to get involved in the Hunter/Fiji Times/Daryl Tarte side show which seemed to be emerging. Our common view was that I should address the tactics of the Fiji Times and Hunter's Fiji Sun when I wrote this report which, of course, is the reason for this particular paragraph of this Report. My view was that Tarte had probably realized that he and his colleagues had made a strategic mistake by deciding that they would boycott the Inquiry. So now, after the deadline to make submissions had passed, the Fiji Times, Fiji Sun, and possibly others, as well as some members of the Media Council (one or two participated secretly), had launched a media campaign in a vain attempt to discredit the Inquiry. The Director of the Commission, in an effort to be conciliatory, recommended to me that Tarte and his colleagues be allowed to make submissions to me even though the deadlines for receiving submissions had passed and I was more than half way through writing my report. I warned the Director of

the Commission that I would have to seek the advice of 'outside' (i.e. outside of the Commission) independent counsel before I would agree to what she had proposed to Daryl Tarte. Nothing came of Dr. Shameem's conciliatory gesture in any event, as there was no response to her offer. Nevertheless, the Fiji Times and The Fiji Sun continued their obscene offensive and I continued to write my report with Dr. Shameem faced with the unpleasant task of dealing with Hunter and Tarte and the Fiji Times.

The media across the board were invited to make submission to the Inquiry in the same way as everybody else. They chose not to attend. I will not speculate about their motives. The media must bear full responsibility for what appears to me to be their foolishness to which, of course, they are entitled.

I have, and will continue to seek the advice of the legal counsel regarding matters related to this injury to my professional reputation. A copy of the offending editorial is attached as Appendix 6.

1.3.8 Prior to my arrival in Fiji the Human Rights Commission had invited interested members of the public to make submissions to this Inquiry. A single public notice was placed in each of the English

language dailies. Notices were also sent by mail and by eMail to members of the public, NGOs and media stakeholders as well as political parties and social groups.

After I arrived in Fiji I also drew up a list of interviewees that I thought might be able to provide information that might be useful to the Inquiry. These persons were contacted by either eMail or by telephone. They were, without exception, cooperative; I interviewed all of them.

1.3.9 Many 'line journalists' from the print, voice and visual media were reportedly instructed by their supervisors not to cooperate with this Inquiry. Fearing loss of their jobs, some 'line journalists' did not, in fact, provide any information, while some went out of their way to make submissions, strongly insisting on anonymity, emphasizing that if they were found to have participated in this Inquiry they might be 'black listed' or worse, sacked, by the industry and their employers. One former journalist came to see me personally, hand carrying a written submission without his name on it and talked extensively with me for about an hour repeatedly seeking my assurance that I would not tell anyone that he had come to see me. Other references to details of the information gathering process are included in the text of the report where summaries of the interviews are set out.



1.3.10 My thanks are due to the Director of the Fiji Human Rights Commission, Dr. Shaista Shameem. I made it clear to her before I accepted this assignment that I would be wholly independent and fiercely so. She gave me her word that my independence would be complete and she fully honored that commitment.

I might add that I interviewed personnel representing the highest levels of the Royal Fiji Military Forces. They were all forthright, answered all the questions I had for them and treated me with every courtesy. I also interviewed the Interim Prime Minister. He also was forthright, fully cooperative, and answered such questions as I put to him.

No attempt was made by anyone to influence my thinking, how I might proceed to carry out the Inquiry or how I might report my findings. This report is my work product and mine alone.

I thank the staff of the Commission for their assistance, their courtesy, their good sense and their sense of humor. Thank you Marika, Sova, Agnes, Kitione, Lai, Reggie, Vanessa, Joseph, Filimone, Elenoa—and Freddie,- without whose help I would not have been able to cope with two computers hooked up in my hotel room as I “went to press” to

produce this report. This is as much my report as it is theirs—except that I bear full responsibility for both its strengths as well as whatever there might be in the way of its weaknesses.

Last, but far, far from least, I bow my head in humility and reverence to the ancient spirits of this land—*na kalou vu*—whose assistance and protection we all sought as each *sevusevu* was acknowledged as we sat around a *tanoa* on several occasions drinking *yaqona*. Without *na wai ni vanua* no report that gets completed is ever really completed—and even after the results of an inquiry are put to paper and make it into the daylight of the common forum no report is ever likely to bear any fruit unless the spirits of old have given it their blessing.

## 2. THE MEDIA IN FIJI: SOME HISTORICAL BACKGROUND AND ITS PRESENT STATUS

### 2.1 The Political Terrain

2.1.1 On the 5<sup>th</sup> page of their 1996 report on the Media in Fiji the Thompson Foundation (hereafter the “Thompson Report”) quotes John Cole (former Political Editor at the BBC) in his memoir, *As It Seemed to*

*Me*, with reference to the relationship between British politicians and the media in the mid nineties:

Politicians and the media seemed to be on a course of mutual injury, if not destruction.... Institutionally all was not well. In the words of matrimonial law, here was a relationship in danger of having 'irretrievably broken down.'

It is both reasonable and plausible to argue that the relationship between the media and politicians in Fiji has long been irretrievably broken—it was irretrievably broken in 1996 when the then government commissioned the Thompson Report; it was irretrievably broken when sections of the English language media attacked the Chaudhry government with such ugly persistence in 1999 as the Labour Party set out with such clarity in a detailed report submitted to this Inquiry and when the Qarase government introduced the Media Bill in 2003.

It is reasonable and plausible to argue that the relationship between certain sections of the English language print medium especially and politicians is irretrievably broken, and has been so for some time, as I write this report. The interviews I conducted and the summaries that are set out in the body of this report shed some light on how and why the relationship has broken down irretrievably.

Ten years ago the Thompson Report said there was still “common ground, flexibility and good will” between politicians and the media. In my view this was a contrived reality manufactured by the authors of the report to put the best face on a situation that had deteriorated but which they were not prepared to face—or, to admit.

In its 2003 report called MEMORANDUM on the Media Council of Fiji Bill, the London based NGO, Article XIX, said: “We make no comment on the effectiveness or otherwise of the existing Media Council of Fiji, a matter which is beyond our mandate.” It was the Pontius Pilate approach to a nettlesome problem.

The same report noted that the government of the day (2003) was of the view that “the existing voluntary council [was] ineffective and [had] fail[ed] to curb media abuses.”

The relationship between the media (print, visual, voice) and the present interim government and large sections of the English language reading community is, in my view, “irretrievably broken”. What is also “irretrievably broken” is the relationship between the media and important sectors of the people of Fiji. “Self regulation” by the Media

**Council has failed.** And it has failed despite the fact that it was put on notice at least some four years ago that it was “ineffective and had failed to curb media abuses.”

This view is shared by a wide range of informants who provided testimony.

2.1.2 I am fully aware of the strictures with respect to both freedom of the press and freedom of expression contained in Article XIX and the linked provisions in Fiji’s 1997 Constitution (Section 43 (2)) with respect to the same matters. I am also aware of the regulatory basis on which the provisions of the International Covenant on Civil and Political Rights (ICCPR) rests. I am not unaware of the fact that Fiji has not ratified the ICCPR but that Section 30 of Fiji’s Constitution covers, in broad measure, the ICCPR’s strictures.

2.1.3 I am fully aware of the two reports done by Article XIX (the organization) on the Media Council of Fiji Bill prepared in September 2003 and their Submission on the Broadcasting Licensing Bill (August 2006). Both of these Bills, like the Bill that the government of the day introduced after the issuance of the Thompson Report, were ‘still born’.

No Media reform legislation has been passed by any government since the calamitous events of 1987.

## **2.2 Sense of Place**

2.2.1 The clock high up above government buildings across the street from the Holiday Inn where I am staying and where I am writing this report has been stopped at thirteen minutes after one since I got here and has probably been stopped at that hour for months. Nobody notices. When I pointed this out to the Hansard reporters assisting me they disputed that the clock had in fact stopped, coming back later to apologise for not having noticed and to acknowledge that I was right. Fiji is like that: people tend not to notice—well, some things, any way.

This being a Saturday morning and having been up since 4 a.m. I took a brisk walk to the Suva Market. It is still as dirt ridden as I remember it from fifty years ago. Saturday morning customers abound: Fijians, Indians/Indo-Fijians, and a few whites, some “others”— they’re all there buying this, talking about that: cell phones at the ready. The symbols and the substance of proletarianization and rampant, small time consumerism, but consumerism nonetheless, are to be seen everywhere

I ask about prices in either Bauan or Hindi, sometimes in English. Crabs run from a high \$75 for a bundle of four large ones to \$35 dollars for a bundle of six smaller ones. A bundle of fish—depending on size and kind—costs, or is quoted as, between \$6 on the low side on up to \$25 and more. A good bundle of taro costs around \$12; a basket of tavioca much less. There are customers aplenty. People go about their lives. The Hibiscus Festival will be at its peak this week end. I find it boring but other people don't. They walk around Albert Park: smiling, sad, long faced, some just stare into space holding hands with someone or just looking around, maybe lost, maybe not.

I look up at the clock above the old colonial government buildings. In two weeks it has moved to 1.31—a total of 18 minutes. Time moves slowly here—or clocks do. Some things work and some don't. And some work—but differently here.

The bottom line is that life goes on.

2.2.1 There have been three major bumps in the road since Fiji officially ceased to be a British colony in 1970: in 1987, in 2000 and then in December 2006. On each of these occasions the media has come into confrontation with partisan forces seeking political supremacy. That may

not be a characterization with which everyone might agree but it ought to be neutral enough for purposes of this narrative. Compared with some similar events in other countries outside of the Pacific so-called 'Arc of Instability' there have been few incidents that one would characterize as having left a large number of casualties or done great permanent damage. If the events of 1987 and 2000 left a swathe of scars, the event of 2006 did not.

The media knew, the print media in particular, some ten years ago that there was public dissatisfaction with the manner in which they were doing their job. And they appear to have done little to change except to paper over the cracks in a façade of long standing and seek refuge in the concept of media freedom to defy public scrutiny of their hegemonies of operations.

Given the most recent events, the political significance of which is yet to be ascertained, this, I think, is as good a time as any to be doing a report on the media in Fiji for the Fiji Human Rights Commission



### 3. THE ORIGINS OF REGULATION/SELF REGULATION

#### POLARITY

#### 3.1 The Media Council and its Predecessor

The Media Council was established after the Thompson Report was completed and presented to government—around 1998, though the Report does not carry an actual date of submission.

3.1.1 The present Media Council's predecessor was called the Fiji Press Council. The Thompson Report notes: "There was no doubt among those we consulted that the Fiji Press Council had, at least in recent years, proved ineffective in its principal task of dealing with complaints against the press." In my view, the Thompson Report was putting the best face it could on what was commonly described as a 'failed' institution.

3.1.2 The Media Council, in its reincarnation, has a total of seventeen members including its Chairman, Daryl V. Tarte, who was a survivor and carryover from the failed Fiji Press Council. Six of the members of the Council are industry representatives, one represents the Government and there is a representative also from the University of the South Pacific. Eight of the so-called "public members" are selected by the Chair in

consultation with his eight industry colleagues, the Deputy Secretary for Information and a representative from the University of the South Pacific (USP) School of Journalism.

3.1.3 Attempts to get information about the Council's by-laws, when and how frequently it meets, whether it gives due public notice of its meetings and whether it keeps minutes failed. I have, however, been provided with the Council's Annual Financial Statement for 2003. It has an annual budget of approximately \$30,000. With this budget, it is little wonder that the Media Council does as little as it does. In its 10 year long existence it has made no apparent attempts to raise 'soft money' through grants or to build effective partnerships—with, for example, the USP's Media Center and other entities and initiatives taken by the University or Government although it does have an apparently tenuous connection with the fledgling USP School of Journalism.

3.1.4 The central issues regarding the Council's structure have to do with its independence and the manner in which its members are appointed. The "industry members" pretty much appoint themselves. The Ministry of Information nominates its own representative and is appointed by Tarte, perhaps in consultation with the industry members. The same procedure applies to the appointment of the USP School

Journalism appointee. And the so-called "public members" are also appointed in the same way.

3.1.5 This method of Media Council membership selection in the name of self regulation simply smells. It certainly is not designed to generate confidence. Not only is it not impartial, it is not even seen to be impartial. No wonder then that almost every informant I talked with about the Council had nothing positive to say about it. The responses ran from descriptions such as: "a toothless tiger, incompetent, a white man's club, a farce, not worth anything, useless." Plainly, the Media Council, like its predecessor, the Press Council, had degenerated into being "ineffective". I do not think that it was ever effective. It was a paper organization to start off with. The Media Council set itself up to apparently appear to the population at large that it would "do something". In point of fact it did next to nothing of any consequence. It never even addressed critical issues set out in its own Code of Ethics. In the past ten years its entire budget, I was informed, never exceeded much beyond \$30,000. Besides its almost daily notice in the Fiji Times advertising the existence of its Complaints Procedure it does not appear to do much else of any significance.

It is little wonder that Daryl Tarte, the Council's long time Chairman resisted the holding of this Inquiry and why he tried so hard to dissuade me in my private meeting with him from proceeding with this Inquiry. He did not want the spotlight of public attention being focused on a 'do nothing' organization that is known more for its *shibai* (a Japanese word meaning 'window dressing') than for anything else. In failing to lead the Media Council, Daryl Tarte failed whatever there has been in support of free and independent journalism in Fiji.

3.1.6 Indeed, the Media Council's failure underscores the failure of 'self regulation.' The media Council had an opportunity over a ten year period to get its act together. It could not.

By deciding to launch a Media Inquiry pursuant to Article XIX of the Universal Declaration of Human Rights and human rights generally and dealing with the reciprocal question of whether, in keeping with the tenor and substance of its own Code of Ethics, the Media Council was honoring its obligations to the people of Fiji, the Fiji Human Rights Commission has opened up a veritable Pandora's Box.

3.1.7 My responsibility was to explore alternatives, consider options, taking into account the strictures of Article XIX and give appropriate

consideration to the submissions made to me by those who decided, unlike the Council and its principal affiliates, to cooperate with, and participate in, this Inquiry. It is to this matter, the submissions made to the Inquiry, that I now turn.

3.1.8 A particular submission should be mentioned here in more detail. In what was, perhaps, the most thorough submission made to the Inquiry, after detailing abuse piled upon abuse by the media, the person submitting argued that the time for talk is over and government must now step in. He argued for Singapore-type intervention, which, incidently, Tonga has recently adopted. The submission was for a **Media Tribunal** with strong powers, capable of delivering swift and severe sanctions where appropriate. Besides this any new Tribunal must be 'user friendly'—not simply 'user friendly' on paper. It has not escaped my attention that the Media Council has an advertisement carried daily in the Fiji Times. But here, again, with a Complaints Committee stacked with appointees who appear not to inspire confidence of the members of the public and seem to have little credibility with the community at large the advertisements are seen to be largely a charade. At its core, the Complaints Committee lacks legitimacy. It is in fact reported to be a dead letter.

The evidence tendered by the informants who either participated in the Inquiry or sent in written submissions was overwhelmingly that the Media Council had failed. For its part, as already noted, the Media Council's principal members and its Chair refused to participate in the Inquiry, although their lack of cooperation was strategised by four members of the Industry as a series of questions about the Terms of Reference and essentially were a subterfuge for their own investigations into the Terms of Reference to avoid a human rights scrutiny. They could have come to make submissions on any matter within the Terms of the Reference but they chose not to do so. Daryl Tarte might have provided the necessary leadership to encourage the members of the Media Council to come forward in a constructive spirit. Daryl Tarte chose not to do so.

#### **4. THE PRINT MEDIUM**

##### **4.1 The Scope**

4.1.1 Details of the scope of the print media in Fiji are listed in **Appendix 10**. The details are sufficiently well known that they require little in the way of elaboration here.

Matters related to the print media canvassed in the **Thompson Report** speak for themselves. It is important to note that besides hard copies of

the local English language papers there are now on line editions available the world over through the internet. I have said elsewhere that of particular note is the Fiji Times on line “Your Say” column which attracts two ways, perhaps ‘many way’ is a more apt description, vigorous debate on a given issue or a series of issues in any day. There is little editorial interference or censorship. The points of view expressed are wide ranging, unfettered—some go off the “deep end” but they are points of view nonetheless, all worthy of being hung out, exposed in the daylight of the common forum. Some people, I suppose, learn from the sometimes vigorous exchanges that take place; some, no doubt, do not learn anything. Some use this on line opportunity to simply restate their deeply rooted prejudices. Nevertheless, the bottom line is that they get whatever message they have to air, out. This admirably serves the public’s right to know.

4.1.2 But embedded in the admirable openness of the Fiji Times Your Say column is a very important question: Why is it that the print version of the Fiji Times and the other papers sold on the streets of Suva are so marked by distortion, one sidedness, annoying grammatical errors and bad to terrible prose, breaches of the rules of good journalism.

4.1.3 What is important for this Inquiry is to set out in summary, but with some precision, what appears to me to be the essence of the problem. At its core, this has to do with the disturbance of 'balance' in news reporting through what amounts to a pervasive, long standing system of "censorship" at the editor and sub-editor level. All three English language newspapers, the Fiji Times especially, veto opinions or hard news items with which their own ideology differs. The peoples' right to know is thus determined by what editors and sub-editors decide is what they should know. This was brought home to me by a wide range of informants. They range from the highest levels of the former and current administrations, the military to former line journalists once employed by one or several of the English language newspapers, senior politicians, academics with long experience of the print media in Fiji and the Pacific and quite senior people in the Interim Government. The message from all of these people is clear: on some important issues the English language press has a point of view, an ideological predisposition, an apparent private agenda that has destructive consequences for a brittle, heterogeneous society such as Fiji is. Surely, my informants reason in one way or another, editors and sub editors, newspapers, if I may reify them, have a right to a set of values.



But to what extent do they have a right, based on these values, these ideological predispositions, to censor contrary opinions particularly when they are carefully modulated and reasonably argued, albeit expressing a view that does not dovetail with the views of editors and subeditors..

#### 4.1.4 “Gagging” their employees”:

To recap the main points of the submissions made to me I begin with a summary of how top management from media outlets gagged their employees from participating in this Inquiry:

- an employee of Fiji TV said they (ie employees) were under instruction not to speak to the Inquiry consultant without getting approval from management;
- a senior employee of Communications Fiji Ltd: said that William Parkinson (owner of CFL) had instructed him not to answer any inquiries by, or on behalf of the Media Inquiry consultant, and that all inquiries were to go through him (Parkinson);
- Bob Pratt of the Media Council said that Mr. Tarte had instructed him not to reply to any requests for information and that all

comments on behalf of the Council would be made by Tarte himself;

- The Fiji Times' position was that all inquiries would be addressed by Mr. Hannah and nobody else;
- Fiji Times executives had called a meeting of staff who were told that the terms of reference were not satisfactory and that their (journalists) best interests would be served by not participating in the Inquiry since that would give credibility to the Human Rights Commission.

4.1.5 Writing in 2002, Lynda Duncan said this (in part) of the media in a Pacific Journal Review article:

- Described the *Fiji Times* as “a foreign owned” newspaper, part of the Rupert Murdoch news conglomerate;
- Identified Russell Hunter, an Australian, associated with the *Fiji Times*, as having had his work permit extension refused by the Chaudhry government (Russell Hunter is now publisher of the *Fiji Sun*);

- “The Fiji Times was several times singled out by The Chaudhry government for bitter criticism and at one stage was accused by Chaudhry (1999) of “fanning the fires of sedition and racism”, a charge that the FT rejected. The Fiji Times was considered a vocal critic of the Chaudhry government and its editors were generally thought to have a personal distaste for Mahendra Chaudhry and his style, particularly towards the media (Robie, 2000b);
- The Fiji Times displayed strong support for the interim government despite the lack of mandate from the voting public and urged the entire nation to back this administration because it could be “trusted to chart a way forward for people of all races” (5 July 2000). Democracy then appeared to be the right political system for Fiji as long as Fijians, and especially the Great Council of Chiefs, dominated the leadership positions;
- Instead, both papers (The Fiji Times and the Daily Post) tended to write sensational statements rather than promoting audience thought. They both neglected to place events in a social or political context.

#### 4.1.6 From an anonymous informant:

“...self censorship has been practiced by many practitioners in many newsrooms. In an internal training workshop I was told by a senior editor that there is no investigative journalism in Fiji. This is as blatant an example of self censorship I have seen. Another example would be the slant in which stories are written or broadcast about the Military from all media outlets nowadays.... Since many corporate organizations and government departments had realized the value of public communications they are more proactive in dishing out propaganda to ensure any negative publicity caused by their dealings is kept secret”. [Quoted as submitted with grammatical and other errors]

4.1.7 I next present, in summary, themes that emerge from a wide range of interviews conducted between August 2 to August 15, 2007. These summaries set out themes accompanied by brief annotations:

- A senior public servant in a critical position close to the apex of the structure of power in the Interim government tells me that his relationship with the media has deteriorated considerably in the last six months, trust has broken down; there is marked hostility.

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The problem seems to be at the editor and sub editor level. Line journalists do their reporting then their work gets gutted and distorted at the editor, sub-editor level.

- Another source points to the ever present problem of line journalists being recruited 'on the cheap'. They do not stay too long. They are under prepared intellectually. They write poorly. Journalism becomes a waystation to somewhere else, something else where pay and working conditions are better. High staff turnover generates problems related to continuity, institutional memory. When asked about the Media Council for training and protection of journalists the reply I get is that it is 'a joke'.
- Another informant associated with the USP admits that working with the media has been frustrating. There is a marked tendency to misrepresent. The media does not seem to be non-partisan. For example, it has not been neutral to the Fiji Labor Party. Their statements are mangled, misrepresented. The problem, a recurring theme, is at the editorial, sub editorial level. Journalists are lazy, do little research, have little training. They are not paid well. The Media Council with a budget of \$30,000 a year on average is a failure. Nobody has much confidence in the people who are on the

Media Council or its Complaints Committee. The Complaints Committee processes some complaints every year but the main problems are not addressed, and not likely to be addressed. People in the community do not have the time or expertise to face the Complaints Committee and argue with them. The three members of the Complaints Committee are seen as being “part of the system”. Self regulation has not worked, and is not likely to work. The great problem with the media is that it is “advertiser dependent”

- A former employee in the print media who worked there for nine years or so complained that there was no grievance procedure where employees can get a hearing. Often, he says, relations between co-workers is not good. Employees spy on each other, try to curry favor with the bosses at the editor, subeditor level. Lots of people who work, for example, at one major daily English language paper have complaints but cannot have them addressed or even raised because of the fear of losing their jobs.
- I meet with a major investor in the media with cross ownership in several sectors across the board—print, visual, voice. We talk

over tea and a wide array of biscuits. His office is spacious. This informant's economic reach is, by any standards, enormous, octopus-like, hydra-headed perhaps. We chat amiably. I ask him about the Media Council. He is non committal, evasive. He refers me to other people—names like Parkinson, Tarte, and Wilson come up. He says I should see them. They have all the answers. I ask him pointedly about control of the media by cross ownership and its implications for democracy. He deflects my question. I talk to him about the 'Duavata initiative' and 'Yasana Holdings'. He shrugs both off. His is a deeply rooted free market orientation. From the commanding heights of his power and influence he claims not to know details of what is happening on the ground—how journalists do their day to day work; whether there are problems at the editor, sub editor level, whether the media create their own version of reality. I ask him what he has read about the media in general. He claims not to be a reading person. I ask him, finally, about freedom of the press in Fiji and the Interim government. He says everything is OK. Some problem in the beginning but that is over. He says that he can work with anyone, that he has good relations with everybody. We finally shake hands. He has to be off to Sydney that night. Business—again. I am plied with samples of what one of his factories produces. He

invites me to come back. I walk down the stairs, catch my ride back to the office; pass through the security gate where we get waved through without a check.

- This informant is young, local, expansive, experienced in the ways of the media. He has set out on his own. He is technical smart. Has a good, overarching grasp of media technology, what makes it work, what opportunities beckon. He does not want to miss the opportunities that lie ahead. He is resentful of increasing foreign penetration of the local communications market and speaks to me of his frustrations: of the country giving important assets away. Fijian Holdings comes up as an important player in the media. We talk about that—especially the conversion of a \$20 million loan into a \$20 million grant. Local content comes up: there is little of it he says. He has applied for a TV licence, hopes to get it. He has had considerable experience in the private sector media. His experience has embittered him somewhat. He reminds me that this is a small town (referring to Suva). He does not say it in so many words but what he means is that to survive locally you “you must go along to get along”. We discuss ownership and control issues related to the media. I raise Article XIX with him. He says that he does not know much about it but he emphasizes that the Media



Council has blown it. The Media Council is a 'do nothing' organization.

- This informant is visually disabled. She talks about the constant battle against ignorance in the media—how they never seem to get it right—how they are always battling media insensitivity. The Media Council has never contacted her, she says. She warms to the idea of community radio and community tv about which, she says, the Media Council has done nothing. She talks warmly of new publications, like *Turaga* and *Marama*. She deplors the fact that the media never come to see her. There is something wrong with the media, she says, wistfully in her carefully measured tone.
- I interview a group from a local NGO. There are three of them. They talk about the absence of "local content" in the visual medium. They address profitability issues related to the media and how that is a restrictive feature that impact on media quality. Their leading spokesperson talks about the absence of a Journalist's Union and how workers in the industry are not protected from management sanctions. The very independence of line journalists is a serious problem. Line journalists' work product often gets "rubbished" by editors and sub editors; their

work gets mangled, distorted. Line journalists have no power, no protection. They emphasize how the problem of the media is in, at, the editor, sub editor level. These are the people (the editors and sub editors) who make the news, make up the news, invent reality, distort, cause problems. There is little accountability to the public interest. They review the Thompson report and the Article XIX report and the two media bills following each—how each failed. They concede that self regulation has failed. They say that the Media Council's Code of Ethics sounds and looks good on paper but is not worth much. But what to do? One of their spokespersons mentions a senior white journalist, now deceased, and says that he was part of efforts made to get rid of David Robie who was far too critical and dangerous to media hegemony, media power in Fiji. On the Media Council: they say that it is a failed institution. I have got their message.

- A case study in miniature: from an informant high up in the hierarchy of a section of the Interim government. We are sitting in his small, very modest furnished office. I begin by asking him to give me some historical background on what, derived from his personal knowledge, has happened with respect to the media since May, 1987. This is a summary of his account. He speaks without

notes. One of the catalysts for the 1987 coup, perhaps the most important one, was the very misleading, religion-driven, racial incitement by the media. Much was *created* by the media. The media, in short, particularly the English language print medium and its appendages, were engaged in the dark arts of inventing reality. After the December 5<sup>th</sup> takeover, the military began to analyze the role of the media industry in the polarization of Fiji's two major races, which had deepened and widened over the years. The power of the media was found to be in the hands of about eight whites (mostly expatriates) operating in the shadows, acting in concert as members of a private club, deciding not only what to print but also deciding what not to print. And this power not to print, the power to censor news, the power to decide what was fit to be printed, to be aired, was a power that was exercised with both dexterity as well as stealth. It was power that was exercised in the 'corridors of power' - away from the daylight of the common forum, away from the spotlight of public attention. But it was the exercise of power to protect interests other than the public interest. It was the exercise of power to protect the power of a complex web of cross owners sitting in crucial positions on wide range of Board of Directors. What one local author has previously

called an “oligarchy of barons” once white, now of various shades, their hands in almost “every major pie” in this country.

It was recognized that the media had consistently blown things out of proportion and among others, Rabuka has already stated that the media was very substantially responsible for creating the problem with which Fiji was faced and by which he had been sucked in. Rabuka saw himself as being the dupe of a disinformation campaign. Rabuka himself apparently admitted, privately, that he was caught up in the hysteria generated by the media.

During his period of governance, talks were held with the military hierarchy and a number of others about regulating the media: papers were prepared, advisory groups formed and reports were sent to Rabuka. One such report recognized that there were 8-9 whites (mostly expatriates) in key positions in the media who were determining the content, the direction and the shape of newspaper and other media messages to the nation on key issues. They were, in fact, inventing reality, shaping our minds, distorting the facts—saying one thing in public but doing something else behind the scenes.

This report, which had drawn on the expertise of various sources and which had been formulated around November 1987, was leaked and articles appeared in local newspapers and were widely read. It was savaged by several sections of the media.

The Fiji Sun, for example, was scathing about the report. Subsequently, the Fiji Sun office and production facilities in Lami were closed by the military. The military thought the media had to be regulated so they convened a meeting of a group of local academics, mostly indigenous. Several meetings were held in consultation with the academics about regulating the media but nothing materialized.

When Rabuka was still in the military he was very confrontational in dealing with the media, threatening them indirectly that if they stepped out of line, "he would take them in". When Rabuka went into politics he severed all ties with the military. He thus lost the leverage he had while he was in the military. The media ganged up on him.

Fiji's Intelligence Services worked on obtaining intelligence information on a number of people who were plotting or being used to destabilize the Rabuka government. Files were opened on some of these individuals, as part of normal intelligence gathering by any government.

The consensus in the army still was that the media had to be controlled against what it was feeding the general public: everything that “was negative and almost nothing that was positive”, as this source put it.

The media has ‘hated’ the military since the events of 2000, my informant tells me, and particularly since 2001. When court martial trials were being held, the military had to fight not only the defendants but the media which was ‘twisting everything’ to suit its own agenda.

An application was made in military and civil court to ban the media from being in the court room. It took 4 – 5 months to get the courts to come around. “In 2000 we all saw the media people nakedly and unashamedly camping out with Speight and, also in Labasa, being a propaganda mouthpiece for them – accomplices before, during and after these events,” my informant noted.

According to the informant, the media thought they were untouchable, beyond the reach of any kind of regulation. The core of the problem, its heart, appeared to swirl around a handful of expatriates, their hands on the levers of power in the mainstream media. This small group constituted a network, a club, who were strategically located, operating as

an interlocking directorate on boards of strategic organizations as political and economic masters. And they are still there.

A company, "Duavata Initiative" for example, was fundamentally a money generating body to fund SDL. "Duavata" was to be, and, in fact became, a membership organization for a network of around 140 of the countries' largest companies, state-owned enterprises, media agencies, telecommunications, Government and other investment companies, advertising agencies, legal firms, the banking industry, and tourism corporations. These members would pay \$15,000 each for initial membership and an annual subscription of \$4,000. This would qualify many of them to get government contracts. He names names, showing the linkage to the agricultural scam. He sets out the details of yet another example of apparent corruption, the \$250 a sq. ft. rental at Nadi Airport had been corruptly reduced to \$88 until the military intervened to address this issue. Another illustrative example of how things work: Fiji Daily Post shares were sold to Mesake Koroi. Qarase in fact gave government's share to Koroi. Koroi is Qarase's first cousin and editor-in-chief, Robert Wolfgramm's wife is Mesake Koroi's daughter. The media never reports these apparent conflicts of interest.

In a very real sense, the blame for December 5<sup>th</sup> 2006 might be placed on the arrogance of SDL which was being rabidly supported by the media despite its being driven by a crooked set of principles, my informant says: once more, part of the media was taking sides, becoming partisan, as reflected in its slanted reporting.

4.1.8 The Container of Arms incident was another case in point of slanted reporting. It had long been a standard practice for arms imported by the Army to be picked up by its men with proper papers and brought into safe-keeping at the Armory in Nabua. On one occasion preceding December 5, 2006, Police Commissioner Andrew Hughes sought to make an exception of this and tried to prevent the army from taking custody of the arms consigned to them. Hughes' intention was to divert the arms to the Police Tactical Response Team, reportedly in preparation for using them against the Army if there was a showdown. The military went down to Suva Wharf early in December at 4:00 a.m. As soon as it was first light, the container of arms was lifted off the ship, put on a trailer, moved up to Camp and placed in the Armory. By the time Hughes realized what had happened and protested the Army was in firm control of the armaments meant for it. Tensions between the army on the one hand, and the police (under foreign leadership and control) on the other, were beginning to escalate.



Another incident involving eight Australian army officers from Australia was reported. These officers reportedly boarded a plane secretly in Sydney through a backdoor "with a quantity of arms in boxes". Army Intelligence found out about this and advised the Defense Attaché at the Australian High Commission in Suva that these officers would be treated like mercenaries and shot on sight. By this time the 8 officers were almost in Sigatoka. The military high command was in a meeting when it was interrupted by a telephone call to the Commodore from the Australian Chief of Defense, admitting that the eight were his men and they would be promptly put in uniform. Behind this move were reportedly people like Qarase, Kotobalavu and others of the SDL, including its business support base. The relevance of all of this which occurred before December 5 for the Media was that *the military called a press conference of all the media and released this information to them in detail but the media failed to report any part of the story whatsoever*. By any standard, said my informant it was a huge story, especially for the print media to investigate. It was certainly prime material for an investigative report. But nothing happened. I ask him this question: so if a story is not reported we are left with a comfortable pretense that it never happened. Yes, he says: Andrew Hughes, an expatriate Australian, put in charge of Fiji's Police Force, was allegedly part of all of this clandestine planning. This finally led to his resignation and 'removal'. Hughes was

collaborating with the Qarase government as part of a counterveiling force against the Army.

After December 5th, and on many occasions, the media refused to even acknowledge reports that were sent in by the Army's Public Relations Section. It was as if the Army had been 'black listed' by the media, and declared "persona non grata."

4.1.9 Another incident illustrates this further. In 2005 a report was issued by a professor from Australia working in collaboration with local academics, recommending that the RFMF, then numbering 3,854 be reduced to 800 which would be for purely ceremonial purposes with no further peacekeeping mission responsibilities. On this occasion the informant was summoned to return from Australia to an urgent strategic meeting in Lami where the report was taken apart piece by piece. It was clear that the data used in the report was contrived to fit the agenda of those people who wished to eliminate the effectiveness of the RFMF. The report was eventually dismissed by the military. Up until this time the RFMF was somewhat naïve about the world of realpolitks. It has now taken steps to acquire a proper grasp of politics so that it can better deal with many issues that are political in origin and political in nature with respect to the constitutional role of the military in Fiji. The RFMF has

finally come to the realization that there is a significant difference between being *PARTISAN* and being *POLITICAL*. By its very nature the RFMF is political as it is immersed in politic and must be immersed in politics to protect its institutional integrity and continuity in the national interest given Fiji's unique circumstances. Fiji is a fragile state as political events of the last twenty years have underscored. Part of the RFMF's mandate, is to protect the peace at home and to defend the nation's sovereignty and territorial integrity. This is no different from, say, the United States Army—it is very much engaged in the business of politics but, at the same time, it is NOT partisan as an institution. Active members of the United States armed forces, as individuals, may be Democrats or Republicans but the Army as a whole, as an institution, holds no affiliation with any political party. The RFMF is no different.

4.1.10 Training is deficient in the media industry. Most of my informants complained that the print media offered little in the way of systematic training of their cadets. They stated that all of the print media, bought entry point labor as cheaply as they could. Most of the line journalists did not stay long because of low wages. Continuity has suffered and continues to do so under this weak and irresponsible employment strategy

The quality of written English and the quality of news stories in general were subjects that arose time and time again during the course of the interviews. Some line journalists I interviewed said that they would write stories with a particular bent only to have sub-editors and editors 'trash' their stories without explanation. This, they identified, was part of the reason why the quality of journalism was so low.

One informant put it like this:

"Perhaps we should keep an open mind about bringing in legislations [sic] not to control the media but to ensure that what the media is [sic] giving out to the public is fair, unbiased and unethical [presumed typo]. I also think that legislations [sic] in place should be for the benefit of our very own journalists for instance to look at the salary structures of journalists (increase starting salary), to have avenues in place in case they are being mistreated and so forth."

Another voice:

"I don't think the Media Council has done a good job when it came to hate speech and sexual minorities; they were absolutely hopeless and it was only due to the FHRC that the Methodist Church was controlled."

As requested to do so by my brief, I specifically inquired of journalists and others connected with the profession, as to why it was that journalists had no union or association to represent their interests. There was no single, unequivocal answer to this question. The mix of answers ranged

from “we are too divided” to “we are afraid to lose our jobs.” But the effects of journalists not having a union was clear: they were vulnerable not simply to losing their jobs but also to being constantly bullied, harassed, and intimidated by editors and subeditors.

There was little apparent recognition on the part of the respondents I interviewed that it was important for journalists to be organized into unions so that their integrity and independence might be protected. The impression I got was that a union would be nice but it was fraught with the possibility of employer sanctions—firing, blacklisting and so on.

- In my interview with two senior members of the military, both with extensive experience in dealing with the media, I receive some insights into how the RFMF has observed media operations. One of my informants tells me how, in his view, editors have their own agendas. If what we say, he tells me, does not fit in with the editor’s values and his/her perspective, it is either twisted and misrepresented or simply not reported at all. I ask him about Daryl Tarte and the Media Council. He refers to both Tarte and the Media Council as “toothless tigers”. He reminds me that Daryl Tarte is a ‘white’ man. Division of the two races, namely Indian (Indo-Fijian) and Fijian continues to be, my informant says, part of

the media's—particularly the print media's—preoccupation. He says, with emphasis, that **the media wants to rule the place—to shape our thinking according to what they think we should know.** He seems to say that the media creates divisions in society, especially racial divisions. Although he does not say so in so many words he implies that Fiji is a “fragile democracy” as evidenced by the ebb and flow of events since 1987 at least. The other RFMF informant recalls a panel discussion he attended on media freedom in which a local senior female journalist, who did some interviews and undertook analysis which she illustrated by way of power point presentation in a public forum, is also a participant. She asks: “Why should Fiji have a military? The Cold War is over. The Fiji military should be disbanded, demobilized.” My informant says that he was stunned by her simplicity, naivete and what he decries as her ignorance about how the world really works. It is obvious, he says to me, that she knows nothing about inter and intra state wars, about Fiji being a part of an ‘arc of instability’, where even Fiji’s territorial integrity might be at stake given that the world is possessed of multiple uncertainties. She is, says my informant, a good example of a journalist who is both under informed and undereducated—and under trained

My informants also cite the case of an incident in Savusavu. Fiji TV had called the RFMF to comment on an alleged killing of a civilian by a soldier. Contact was made with Savusavu and after ascertaining that no such thing had happened, Fiji TV was called and so informed. And yet, on the six o'clock news, Fiji TV ran a news story claiming that there had been a death and that a soldier was being questioned. And they continued to run the story unfazed by the information that the RFMF was giving them.

I asked my informants what they knew about Daryl Tarte and the Media Council. My informant replied that he had only met him once on a panel discussion and that they had never officially met each other. In fact 'I don't know him. He has never asked to see me'. He says the Media Council is like a "toothless tiger". He says he knows that that because he goes to the office, (which) they share with Pacific Islands News Association (PINA). He said he always found the [Media Council] office to be empty. Apparently he even said that to Tarte himself during the public Panel discussion.

As I am pondering this answer the second informant says [referring to the media]:

“They also have power. Here, the media also have power of the pen ... because they cause a lot of conflict. They change stories, and do so much damage ... and they do it everyday. ... as long as there are Australian and New Zealand immigrants, in terms of Editors coming in, this thing will continue. Maybe [my colleague] is saying that it could improve in the next couple of years, but I do not see that happening unless they change. ... I do not think that [things] will improve because of those expats (expatriates) that come in from New Zealand and Australia as Editors.”

Reporting on the days immediately prior to the events of December 5, 2006 my informants say that New Zealand and Australia had thoughts about a possible armed invasion of Fiji. None of that was reported in the Fiji Times and the other media. Is that due to the fact that critical positions in the media are controlled by Australians and New Zealanders?

The discussion turns to the strategic positioning of expatriates from Australia and New Zealand:



“... it involves the media circle, strategically repositioning in others very important positions in several important organizations. The word ‘hegemony’ comes into the discussion ... these two [Australia and New Zealand] are the ones that could control the Pacific islands ... they seek strategic goals.”

And the implication is given to me that the human rights of this and future generations of Fiji’s people are at stake but the local media are silent on it. There is no investigative reporting on this issue. The media, in short, are not just known for what they report but what they also do not report. The ‘commanding heights of the media’ are controlled, so the inference goes by people who have their own agenda. One of the informants uses the term “fragile democracy” to describe Fiji and goes on to say that:

“We have not matured enough...” and, therefore, special steps must be taken, of necessity, to exert a measure of carefully modulated control of the media in the public interest ... until we grow up ... and the media grows up and stops pushing its own agenda”.

- Another informant speaking in confidence talks to me about Vodaphone and its relationship to Amalgamated Telecom and other entangling alliances. He talks of a small number of people acquiring strategic positions on the Boards of several media organizations (cross media control). He reminds me of how TVNZ helped set up Fiji TV and how Fiji TV depends on TVNZ for much of its programming material. He deplores the lack of local content. He draws my attention to the fact (as he says) that after Fiji TV shuts down in the evening, ABC comes on. He emphasizes to me that both TVNZ and ABC are in a strategic position to interpret the world to us, to shape our minds, our thinking.

For my part I think of all of this as media imperialism, one important way of perpetuating the colonization of our minds.

- I interview a young local person who has come up through the ranks in several media entities over a decade and a half or so. He expresses concern about cross media control (cross ownership as well as control). He says that he has been invited to join the Media Council but has refused. He poses the question as to whether “we” (the country) are being intelligent about how we manage our media resources: band width, the geo-stationary orbit, other key resources

built into the new 21<sup>st</sup> century, rapidly changing communications technology. He discloses that he has now formed a corporation of his own (with the assistance of colleagues) to venture into the print media and into TV. He talks about personalities who move along the pathways of bureaucratic power in the communications sector of government and its appendages. He names people talking about who gets promoted over who; who gets to occupy a strategic position; who gets passed over. He draws a map of how power—bureaucratic power—is shaped and how it tends to function. The theme of ‘local content’ comes up again. There is embarrassingly little of it, he says emphatically.

- Another informant is an older gracious and deferential man and serves now at the apex of a religious/spiritual organization of long standing in Fiji. Speaking softly in carefully measured tones, thinking before he answers my questions, he says there is no investigative reporting in answer to a broad question I pose about what he can tell me about the media in Fiji and his experience of it. He says the quality of media reportage across the board has not changed much since 1976. More time, he says, is spent not on improving news coverage but on selling papers, selling advertisements on radio and TV.

- The Media Council is another gap— it appears not to be doing its job. He says he relies more on the overseas media—and adds, the media does not appreciate and enhance and focus on our diversity, Fiji's uniqueness. The media does not tap into our riches. We need a 'rainbow media'—referring to Nelson Mandela's term. The press, he says, does not help with appreciating our diversity. He turns to ownership and control issues and talks about cross ownerships: how slots at the heights of the ever-enlarging media domain, including ICT, is being controlled by those with economic power. I ask him about Article XIX and tell him, in summary what it stands for. He says that he is not familiar with it but if any steps are taken that have to be taken to make the media more responsible, they have to be taken now—there should be no further postponement as this nettle must be grasped now. I lead him into a discussion of parts of ICT as constituting a corpus of resources that are a part of the country's intergenerational equity—resources that belong to this and future generations. The media, he says, does not focus on this. He agrees that it is a proper issue to be addressed and that it must be addressed now, rather than later—somewhat like not closing the stable door after the horse has bolted.

- My next informant is an expressed SDL- aligned journalist. He expounds on his belief in, and commitment to, what he calls “passionate journalism.” He wants to celebrate and develop local genius. He resents what he calls “parachute journalists”. “Expatriates” should not be allowed to fill local jobs in any part of the media, he says with a firm, but calm demeanor. And then he says the media is in business and business is business—the first priority of business is turning a profit. Media integrity comes after that. I interject with this question: How far after turning a profit does media integrity come? He looks up at the ceiling, closes his eyes, thinks for a minute and then says: “I don’t know; but after.” He hands me a free copy of the most recent issue of his magazine. And, as I get ready to leave, I ask him: What do you think of the Media Council? “I don’t think of them very often. My job now is to make a profit at what I am doing.”

My next informant emphasizes that Fiji is a potentially volatile society—as long as the media is selective in its reporting, always twisting things, failing to report accurately, the fragility of our society is at stake. This is the time to do this inquiry he says with emphasis—our human rights are at stake here—and I speak, he says, as a member of the business community. Perhaps the Fiji

Human Rights Commission can feed the results of this Inquiry into the return to democracy process. He talks about licensing TV and radio and addresses cross-ownership issues, the rise of monopolies, which he deplors. Some parts of the new technology belong to this and future generations. Wisdom, he says, dictates that we act in the national interest—for this and future generations. Is that the FHRC's job I ask? Yes, he says—these are some of our most basic human rights.

- Another informant talks about the media being one of the seven or eight pillars of integrity in any community... world wide. Perhaps, he says, some restraining of the media might be necessary. He discusses England and how long it took the English to become “democratic” with its media freedoms emerging... slowly... by trial and error... over a long time. He ponders this but remains noncommittal. He says that he has talked to Daryl Tarte of the Media Council about investigative journalism and its importance in “our kind of society”, which is still emerging (from colonialism), but that Tarte has been slow about doing anything. And during the 40 years since colonialism he says Fiji has had at least four major political upheavals, and three constitutions, and it is fragile.

- A very senior member of SDL presents himself with a view to making a submission. He has read the public notice about the Inquiry and he has come to share his views with me. We are meeting in the FHRC conference room. He tells me that he feels very uncomfortable about being where we are meeting although he also says that he is pleased to have come because, having heard about me, he wanted to meet me personally. We decide to postpone our meeting to another place where he might be more at ease, at dinner, but he does not show up.
- My next informant is an expatriate. She is a contract employee at the University of the South Pacific. For logistical reasons her interview was split into two parts, held on two separate days.

We talk about missed opportunity: community television and community radio. We talk about the difficulties that arise from bureaucratic structures at the USP and in government. There are 'good people' in government dealing with media issues, technology but they are hampered by money considerations and inter bureaucratic turf battles. We talk about how it is that there appears to be misunderstanding, sometimes, between media

representatives and people who are making the news. So she writes a paragraph setting out some ideas:

*"Massaging the Media:*

There is a great need for workshops for people making the news, to receive training in demystification of the media, how to deal with and cooperate with various forms of media, personal presentation, ways of providing information through good interviews, and how to manage damage control. These could be conducted for government and indigenous representatives, public servants, NGOs, private enterprise and academics. The template for such workshops exists and would require adaptation to local circumstances."

Our conversation turns to bridging the University/community gap. She reminds me that some 85% of the University's budget comes from Fiji. The conversation turns to the GILAT satellite system, USPNet, AARNET, establishment of a Global Development Learning Center, Video Conferencing—about planning long term, about really using USP as a Pacific Hub. We talk extensively about public television and community based television. We agree that funding is invariably a problem. I make a mental note of the



funding issue. Local content comes up again. **We talk about local programming and local content being made part of the requirements of any broadcast license including television licenses.** She shows me a copy of an eMail from an overseas consultant and other documents about ICT capacity building and related issues. USPNet, she argues, is underutilized. I ask what involvement has there been on the part of the Media Council in this wide range of possibilities. The answer I get is none. With a budget of around \$30,000 a year and no discernible proactive leadership there is a yawning gap between promises made and performance. The public interest is not well served at all. And the rights of this and future generations seem to be imperiled. She leaves me with several documents as part of her submissions.

In large part her submissions represent excellent ideas but there is apparently little co-ordination to achieve this, mainly because of the serious bureaucratic problems. Coordination is lax and problematical. There are signs of activity in disparate parts of a wide ranging system in Fiji- USP, local Ministries, the Forum Secretariat, local organizations but there is little in the way of a strong direction given or mandated which understands what is at stake.

- Another informant talks of radio being a high pressure system for journalists who spend two to three years in the system and then move on. Those with higher qualifications have a greater tendency to leave. We talk of the programming principle: “by Fijians, for Fijians, in Fijian”; local content for local people. I ask him point blank about the Media Council. He replies without hesitating. Looking me straight in the eye he says: “White man’ club; a toothless tiger.” It’s the same recurrent theme—a ‘do as little as next to nothing’ organization, with an office that is reportedly always empty of any semblance of life. This informant also talks of the desirability of local content but without much hope. In reference to the Ministry of Information he says it is the licensing agency, though its hands are tied. He states that licenses are the vehicle by which we are giving away a key national resource: band width. He prefers to the 4 FM and 2 AM stations owned by FBCL and the five FM stations owned by the Parkinson controlled CFL. He says that Fiji is drowning in Australian, BBC and NZ ‘foreign content’. Later, in another follow up interview he discusses funding sources, local content, learning from American sources, and modifying American models for use in Fiji. I ask whether we could get Indian satellites as a source of doing what needs to be done. He

concur that help should be taken from wherever it is offered and that it should be done pro-actively.

- Another informant, a senior faculty member at USP involved in some aspects of media education, and undergraduate teaching. I ask him about the Media Council, its budget, its internal operations, how it makes decisions. He claims not to know. He does believe, he says, in the protection of human rights related public trust assets in the media field.
- And now to one of the most rewarding interviews of this consultancy. It is the 11<sup>th</sup> of August, a Saturday. We have traveled from Suva to Lautoka to meet and interview a respondent before heading back to Suva. Government, this informant says, ought not to control digital technology which is an empowerment tool. Government, he says, has no understanding of digital technology and the opportunity cost of monopoly. Service quality is poor. He says that there used to be a Fiji IT Council but (former minister) Ahmed Ali disbanded it. He also says that Telecom has made a few million but the country could have made a billion. He raises the matter of the Forum's digital strategy. **He emphatically drives home the**

point that the USP arrangement with Fintel could have been replicated by Government but it did not take up the opportunity. The Ministry of Education and/or the Ministry of Information did not indicate any expression of interest to USP. He explains the economics and the politics of what Fintel does and how the wholesaling and retailing systems work, particularly with respect to the internet. He talks about a proposal from the French government to connect Fiji up to its new digital system (the French version of the Southern Cross cable system). He talks about the Indian telecommunications umbrella over Africa. And stresses that India has more satellite capacity than the US. Indian technology is 'state of the art' for education and long distance learning. He emphasizes that in the international communications technology game those who do not get ahead will be left behind and will fall further and further behind. When \$100 notebooks hit the market yet another ICT revolution will be unleashed. To ride this tiger and get on this bandwagon, diplomatic initiatives would help and should be encouraged pro-actively. It is a matter of politics. He theorizes that Australia and NZ are worried about India's power in the ICT arena. Since Australia and NZ want to maintain their hegemony in the Pacific, India's incursion into

the region is a source of concern to both. He theorizes, also, that India/China rivalry is likely to spill over into the Pacific region. Since both India and China have become dialog partners in the Forum Secretariat this ought to be recognized as an important development. It is not unrealistic to theorize that there will be competition for turf between these two new powers to the region.

I raise the issue of print media ownership. My informant says that oversight of undue concentration is important. I ask him what he thinks about taxing certain sources of media revenue and using it for all the things that the Media Council might have done but has not and is not likely to. He agrees with this in principle. And the suggestion is that government would be kept at a distance but the Tribunal would be the recipient of the revenue generated by taxing the media at bay. To be credible, I say, the recipient of the tax generated revenue must be free of the taint of government control. I ask him what he thinks about the Media Council and he says: the Media Council thinks more about itself and its members' profits. It is not concerned about the "nation". Besides, he says, the Media Council is a 'white man's club'.

- One informant telephones me and says that he has a book to show me, From Election to coup in Fiji The 2006 Campaign and its Aftermath by Jon Fraenkel and Stewart Firth. He has several sections highlighted in yellow. He reads them to me and says: "That's my submission. I want you to put it into your report." Here are the sections:

As argued in *Speight of Violence*, the Fiji media had a role in creating the environment that led to the 2000 Speight coup. The Rupert Murdoch-owned *Fiji Times*, then under particularly intellectually barren editorial leadership, engaged in unethical, unsourced and frequently wrong scandal-mongering about the Chaudhry government. Chaudhry was right at the time: 'Since taking office, my government has had occasion to be extremely disgusted by the antics of some elements in the media who have used the medium of the newspaper and television to further their own personal agendas to discredit the government'. (p. 177) [Emphasis added]

And, on p. 180: The media approached the election coup in a post coup mode, although few involved in the day-to-day coverage had even reported the 2000 coup, such is the high turnover in the domestic Fiji media. **The three dailies provided a mishmash of stories about problems around the country, but with no coherent wrap. It was all tree counting without seeing the forest. Fiji TV, other than providing a platform for a somewhat confused leaders debate, was giving to providing lots of numbers but no pattern.... The real talent in election coverage this time around was found in radio, which seemed to have acquired a maturity it had not had in the coup**

**or the last election.... Politics in Fiji is about the clique, the club and the corrupt.** [emphasis added]

He hands the book to me. It's yours, he says. I take it back to my hotel room. The quotes, I think, are a part of a pattern. I read and re-read the quotes highlighted in yellow. The commanding heights of the media as clique and club linked to corruption of a particular kind. Interesting. Not a conspiracy, I think to myself, but maybe something like what Owen Scott describes as an 'oligarchy of barons' in his book, Deep Beyond the Reef: they meet, they drink together, they swap yarns, they visit each other's homes, they party together—they have a "common understanding" about what's good for Fiji. They have a private agenda. They hold tightly on to the skirts of their immediate principals who provide them with advertising revenue. They talk privately to elites in various sections of the community including the media barons, the ones that are staking out claims in cross ownership of radio and television and the new international communications technology. They do not sit by candle light at night and plot. But they are a Mafia of sorts. And—and this is important—those who control and direct the flow of news, particularly news on controversial issues, rely heavily on a coterie of high-powered lawyers on retainer. These lawyers protect

the monied and the powerful, and intimidate lesser mortals. This is brought into sharp relief by an informant whose evidence is set out below.

As I thumb through *Speight of Violence* I notice another section that bears citing in this report (from p. 62):

The Rupert Murdoch-owned *Fiji Times* decided, almost by default and as a result of one particular reporter, that they were going to get rid of Chaudhry. Reporter Margaret Wise tore into Chaudhry with many an unsourced story which the paper had no qualms about publishing.

What was known to the newspaper, but not shared with readers and now a matter of court record, was that she was Rabuka's lover and had a child by him....

Wise was eventually fired, but long after Chaudhry had been brought down. A one time close associate of Rabuka and now a civil rights advocate, Jone Dakuvula, told journalism lecturer David Robie the *Fiji Times* agenda 'was to de-legitimise the elected government by creating a climate of scandal, loathing and fear so the Fiji Labor Party, at least, would not be able to effectively implement its manifesto'.

I was ill at ease about accepting at face value the foregoing assessment made by the authors of *Speight of Violence*. I cast around for an informant from inside the *Fiji Times* and found one (by dint of plain good luck) who once held a



senior position on its editorial staff. I will call the informant 'X'. This is what 'X' told me:

The editorial and sub-editorial staff of the *Fiji Times* refused to accept the writing on the wall [the fact of the Chaudhry government's election]. They were anti - Chaudhry in the most racist way. They were determined not to let Chaudhry have any kind of a honeymoon. They mocked and ridiculed the new government. People from rural areas who came to pay their respects to the new government were made fun of, mocked in the newsroom.

Daryl Tarte, a crony of Alan Robinson's, then publisher of the *Fiji Times*, ruled against Chaudhry's son in a complaint brought by him. When 'X' wrote an editorial criticizing Tarte's decision, 'X' was summoned to Robinson's office. Robinson, red in the face, berated 'X'. Robinson claimed that Tarte's decision was a sensitive matter. When 'X' asked Robinson why Tarte's decision was a sensitive matter, there was no reply from Robinson who demanded that 'X' apologise to Tarte. Robinson began thumping the table. 'X' refused to budge and began thinking of resigning. 'X' was denied the promotion 'X' had been promised. Robinson now claimed that 'X's' English was not good enough and denied any commitment concerning promotion. As 'X' told me what had happened X also said: Journalists are not protected; they are at the mercy of editors and sub-editors. 'X' says: there is no media accountability. And adds: You are treated like shit here. If you are mediocre here you are OK; if you have a touch of brilliance, and you are local, you are suspect. The media is incestuous and close-minded; it perpetuates ignorance and trades on it.

I ask her: How come, almost 40 years after so called independence, Fiji is still stuck with foreign control of the media? Good question, she answers—and then adds: the only locals who survive here are ones who are apparently toadies and who suck up to editors and sub-editors. “The media as the colonial plantation?” I quip. ‘X’ laughs. “Well, I’m outta here now. I am valued and appreciated where I now am.”

Well, what do we have here, I ask myself. “A media culture of deceit, rotten at its core?” Looks like it, smells like—both from the outside as well as from the inside. There is a longstanding pattern of deceit here, not just occasional lapses of bad reportage.

- One evening, rather late at night, there’s a knock on my hotel room door and an informant comes in, wanting secrecy. He tells me that I have to keep in mind that the big law firms in Suva are retained by the media ‘big boys’. The big law firms protect the big media organizations. They intimidate and silence people. Because their power is known. Ordinary people do not have the money to fight them. This fact and the weakness of defamation laws (as one lawyer has already pointed out to me) silences people. This situation breeds irresponsibility on the part of the media. They know—they think—they cannot be touched. This is how accountability is undermined. Checking at the University I am told that nobody has conducted any research into the

structure of power in the community of lawyers and the kind of role they play in society for the great and the powerful.

My informant tells me that the people of Fiji have rights to freedom of speech and freedom to sue. But the editors of the media, the 'big boys', they know that they have the power of the big law firms to place them above the law so to speak.

- I comb through verbatim accounts presented to me by a wide range of informants. Some of the responses have been taken down verbatim by Hansard reporters and transcribed. The same themes that emerge in the material cited in the preceding sections of this report which draw on wide ranging interviews I have conducted:
  - Journalists lack training
  - Journalists, by and large, do not write well in English or think clearly
  - Journalists appear to be poorly read
  - Journalists appear not to be paid well and a stint in journalism is a way-station to something better—continuity suffers as does the quality of news reporting

- Non-unionized journalists have no security of tenure in their jobs and are at the mercy of editors, sub-editors and publishers
- There is a pronounced tendency for media workers across the board to cover their shortcomings by hiding behind “media freedom” .
- Self regulation has failed—a fact seen by even some members of the Judiciary based on documents that I have been able to review.
- The School of Journalism at USP has long missed the mark and continues to do so.

An example of the clumsiness of the media in reporting ‘news’ in Fiji was reflected in the reportage of former Red Cross Director, John Scott and his male companion’s double murder as set out in Owen Scott’s book, Deep Beyond the Reef.

Another example, is one that is closer to home, and of recent origin, associated with my own attempts to have my point of view published by the Fiji Times:

On August 11, 2007 and then, again the following day, on August 12, 2007, the Fiji Times published two articles by Brij Lal, a Fiji born Indian, an academic historian attached to the Australian National University. The articles were entitled: “Fiji: Like a duck treading water,” and the second, “GCC suspension unlawful: Dr. Lal.”

Brij Lal is a frequent contributor to the Fiji Times. His views are apparently frequently sought by the Fiji Times or he offers his views on a wide range of political issues and they are, apparently, invariably published. Since the events of December 5th, 2006 Brij Lal’s views on political events in Fiji have regularly appeared in the pages of the Fiji Times. There have been few, if any contrary views to those of Brij Lal’s on the political issues that he has addressed.

The day after the second of Brij Lal’s articles appeared I wrote an opinion piece commenting on his two articles. The Fiji Times refused to publish my opinion piece and in fact completely ignored it, not even bothering to respond to it. This, so it seems to me, is the iron law of Fiji Times hegemony at work. They probably have another term for it—editorial license, maybe; maybe something else. But the bottom is this: their way or the highway. As has been seen from the interviews and summaries of the written submissions, this is a cause for considerable public concern.

Clearly, so it seems to me, most reasonable and informed people would agree that Brij Lal's is not the last word on politics in Fiji. Brij Lal is a historian, not a political scientist but this notwithstanding, since historians like those with backgrounds in other disciplines, have a right, and indeed, perhaps an obligation, to comment on matters of public importance. Brij Lal, like anyone else, does not have a monopoly on wisdom; neither is he (or anyone else) entitled to space hogged in any newspaper either because he may have an "in" with editors and sub editors or because his (or anyone else's) ideological predisposition converges with theirs. For this reason, Brij Lal's interpretations ought to be subject, in the interests of balance, to comment by other people who might not share his views.

When balance of news and opinion presentation is disturbed by editorial censorship of contrary views the rights of the public to "equal time", to equal exposure to different opinions is violated. The public's right to know is thus undermined. This is the thematic concern that many of the respondents that I interviewed expressed. They range from respondents across a wide spectrum of people frustrated by their treatment at the hands of the media across the board. The *Fiji Times*, it seems, is the worst offender. The 'first newspaper published in the world today', the oldest

newspaper printed in Fiji has yet to exercise its proper responsibilities in the public interest.

In my considered view there has been no attempt by the Media Council to get its hands around the serious problems with the media identified in this report. In a young country in terms of “years since independence”, struggling in many ways to come to terms with itself, to work out for itself a democratic modality that fits—that is possessed of that very special quality that sociologists and political scientists call “legitimacy”—that special sense when a thing or a system feels right—to invoke a Fijian expression: *savasava ka dodonu talega*. The standoff between “the press/the media” and important segments of the political leadership of this country has been in existence for much too long. Time for a change of direction, change of nuance, some fine tuning that is carefully modulated, measured: one step at a time.

Of course the media response to this report is predictable: its leaders will argue that they are committed to, and in fact practice, balance. That they do not have a private agenda. Denial will be piled on denial. Russell Hunter and his colleagues (who, by the way, get paid Australian rates) will argue that there are “good reasons” why they fail to report important stories: the Black Hawk incident, the presence of Australian frigate,

HMAS Newcastle and amphibious support vessel, HMAS Kanimbla found at 18 degrees 0 35 S. and 177 degrees 13 E, 32 nautical miles SW of Vatulele, under circumstances where hostile intent cannot be ruled out and the territorial integrity of Fiji is at least theoretically threatened. Eight Australian citizens, members of Australian armed forces, enter Fiji by the back door with metal containers said to contain arms and that story too is ignored in large part, should give reasonable people grounds for very grave doubts about Fiji's media doing a conscientious job in news reporting. That investigative reporters were not assigned to look into stories like these is not reassuring to say the least.

These are indicators of failure. There are failed states and failed newspapers and Fiji happens, in my view, to have a disproportionate number of failed media. The English language newspaper component of the print media fails, time and again, to report the news, get to the bottom of what our people have a right to know—and in depth when circumstances warrant.

When this report surfaces, it will, no doubt, generate yet another inconclusive battle of definitions, circularity of reasoning and harassment of those, probably mostly of the Fiji Human Rights Commission, for having the courage to seek an independent review and consider the issue



of media freedom and independence. This Inquiry has revealed that the people of Fiji want an exposé of the violation by the media industry of their right to a free and independent media for the purposes of obtaining fair, balanced and accurate information.

The time has come to break this cycle.

### **CONCLUSIONS & RECOMMENDATIONS**

The press, radio and television are called the media because each is the medium for the transmission of information. If a medium distorts a message because the instruments of its transmission are not up to the task, it ill serves the purpose of its freedom. And when it declines to correct its errors, and the error of its ways, its abuses—and thus endangers—its own freedom. We should not be casual about liberty, nor should we confuse liberty with licence. But we should also respect an aphorism recited before all graduating classes of Harvard University: There are wise restraints that makes us free.

--the late Sir Vijay Singh

The trajectory of the evidence, the repetitive thematic representations used by a wide range of informants to set out facts, opinions, thoughts, passions are clear and unmistakable.

In reaching the conclusions that I have, I have, of course, also drawn on my own knowledge of Fiji which, by any standard, is as deep as it is wide, spanning at least half a century. For the past five years or so I have been working on a new book on the politics of Fiji from 1977 to now. Three chapters of that book will examine the media in Fiji. This book follows on the seminal study I co-authored and published in 1967 on the 1963 elections: important because those were the elections in which Fijians (Taukei) voted for the first time. Part of the research undertaken for that book involved a detailed content analysis of media reportage on those elections.

A plain reading of the totality of the submissions made to me, together with other information on which I have been able to draw, leads me to the conclusion that the time has come, within the confines of Article XIX, and consistent with the principle that "there are wise restraints that make us free" to lay the foundations for some "wise restraints." These 'wise restraints' ought to be imposed, in the first instance, for a period of seven years, to be reviewed in the fifth year by open public hearings.

### **Establishment of a Media Tribunal and Media Development Authority**

There should be the establishment of a Media Tribunal and Media Development Authority. For five years, under the wise and prudent tutelage of the proposed Media Tribunal, a 'cooling off period' should occur, during which all parties can contribute to, and build, both formal and informal pathways for a better, more responsible way to report news in a young, fragile polity striving to come to terms with both domestic and foreign dilemmas.

The proposed Media Tribunal shall be independent of any government control.

The precise legal status, size and by the by-laws which will govern the Media Tribunal shall be framed after this report is adopted by government. This too will be a task for the government's legal drafting department.

I recommend that the size of the Media Tribunal be kept small, at no more than five persons. It is beyond the scope of my assignment, as part of this report, to provide a job description for the person who might be appointed Chief Executive Officer of the Tribunal. I should be happy to

provide job description criteria after this report is adopted by government as a separate assignment.

The first five years will also be a period of re-education, consolidation and protection of the rights of journalists as working women and men, properly trained to do the work that is theirs to do with distinction, fairness and balance.

The 'wise restraints' shall be culled from the Singapore legislation on the establishment of a Media Development Authority and the powers entrusted to it. Due notice shall be taken of the version of the Singapore legislation recently adopted by Tonga. This will be a task for the parliamentary or Attorney General's legal draftsmen. This task is beyond the scope of my assignment.

#### **Further legislation**

I further recommend that a close look be taken at the Singapore Sedition Act which provides penalties for the publication or broadcast of any material that can excite sedition, or that is in breach of the Public Order Act.

As this option is explored the fact that Fiji is a fragile, relatively young, heterogeneous society, must be taken into the calculus of considerations of those assigned the task of implementing these recommendations. Fiji ought not to consider itself to be in a straightjacket bound by arbitrary and capricious standards set and imposed by others. Even as great a democracy as that of the United States adopts a Homeland Security Act, curtailing certain rights so as to protect the nation at a time when it is perceived to be imperiled.

### **Taxation**

That the FHRC shall take such prudent steps as are, in its judgment, necessary to recommend to government a 7% tax across the board on all media advertising revenue and a further 7% on all revenues generated from license and monthly user fees on consumers. The monies generated shall be used to fund all the activities and the mission of the Media Tribunal.

### **Media Positions**

The FHRC shall take such steps as are in its judgment necessary to strongly recommend to government that all existing work permits in the media industry not be renewed and that no further work permits be

issued. (for some background information on this issue, see Sir Vijay R. Singh, *Speaking Out*, pp. 243-244.)

### **Training and Education**

The Media Tribunal, upon its establishment, shall, as a first order of priority, begin a program of training qualified local persons for editorial, sub-editorial and publisher positions in the print media.

The mission of the Media Tribunal shall be: to build community; to invite, encourage and educate as large a diversity of voices as possible by using 21<sup>st</sup> century media technology; to provide as wide a diversity of local programming as possible and to inform and engage a community of viewers, readers and listeners across age, gender, class, race and geographical locus.

One of the Media Tribunal's principal responsibilities at the outset shall be to develop a program of community radio and community/public television in consultation, in the first instance, with as wide a section of informed stakeholders as is possible, consistent with good judgment and available funds from the proposed 7% tax and from 'soft money sources' (grants and donations) which the Tribunal shall be legally empowered to tap.

**Ownership of the Media and Interlocking Directorates**

Foreign control of key sections of Fiji's media has important human rights implications and, by the same token, implications for the future of democratic politics in Fiji. The relevance of cross directorates (or "interlocking directorates" as they are known in the US) must be noted (see Appendix 7 attached). This should be especially noted by the FHRC with a view to making a second tier of recommendations to government.

### POSTSCRIPT

Report writers have their own style, their own approach to report writing. I have my own style, my own approach, as must be obvious from this effort. I believe that reports should be living documents in the sense that they should be possessed of a life and vibrancy of their own.

Just as I was about to close this report off I received, first, a telephone call from a woman. She said she wanted to talk to me. I asked her what was it that she had in mind. She said that she was from the Fiji Sun. I told her that I was not taking calls from the media; that Dr. Shameem was, and I hung up. She called again. My assistant answered the phone. It was the same woman. I asked my assistant to tell the woman to put her questions in writing. I then received this gem. I quote her exact words and a copy of her fax is attached, with my reply, as Appendix 8:

**“We have information that is in contrary to reports that you were once an academic of the University of Hawaii.  
Correspondence made with the University established that there is no record of a Dr. James Anthony of Hawaii.  
I would therefore appreciate if you can please respond to the questions below**



1. Can you confirm whether or not you were or is an academic from the University of Hawaii.
2. How would you respond to the information obtained from the university about your status being a non existing.
3. Your background will somehow put into question the credibility of the inquiry carried out—can you please come out clean with your qualifications relevant and puts you in a better position to carry out this inquiry.

After I read this I did not know whether to laugh or to cry. At Appendix 8 you will see my reply; it speaks for itself. If this isn't murder of the English language, I don't know what is.

This comment is warranted, however: This little vignette is a gift from God. It shows, in miniature, the cancer that has long been consuming the print media in Fiji. We shall see tomorrow what nonsense the Fiji Sun produces under Sallyshni Devi's by line. But, then maybe, after Ms. Devi reads my reply, she will decide to write her story anyway but leave her by-line out. Who knows? "Only the event," as Tennyson tells us, "will teach us in its hour." I will not wait with bated breath.

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# APPENDIX 1

## APPENDIX



### FIJI HUMAN RIGHTS COMMISSION

GPO Private Mail Bag  
SUVA, FIJI ISLANDS

#### **Freedom and Independence of the Media: An Inquiry**

The Fiji Human Rights Commission has commissioned an independent Inquiry into Freedom and Independence of the Fiji Media. An independent human rights consultant has been appointed to conduct the Inquiry and report his Findings to the Commission. The Inquiry is based on the requirements of Article 19 of the Universal Declaration of Human Rights and other relevant human rights instruments protecting and promoting freedom and independence of the media.

The general Terms of Reference of the Inquiry are as follows:

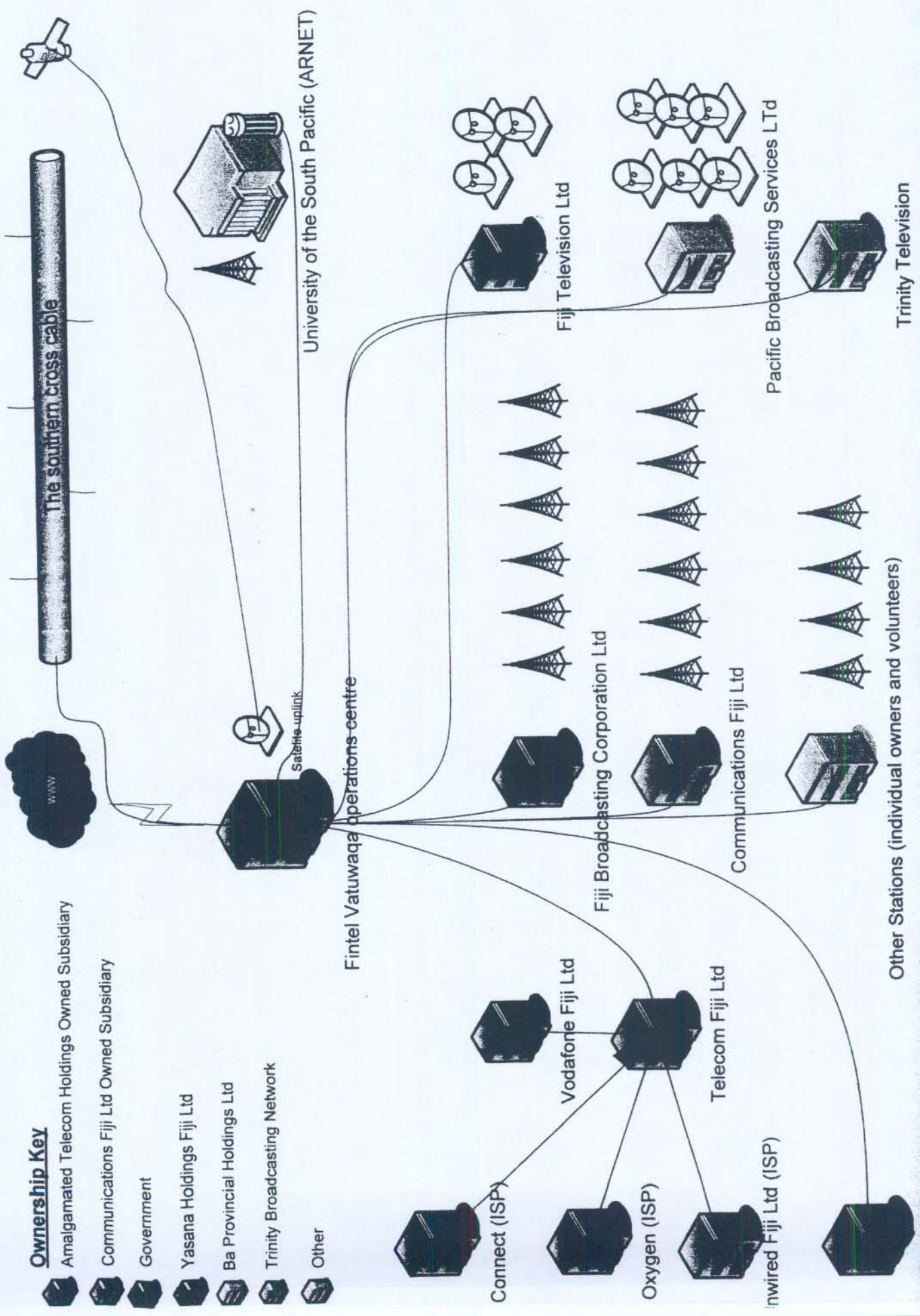
- (i) To provide a historical overview of the range of media available in Fiji, including ownership and scope of operations
- (ii) To review international human rights and other laws and policies with respect to freedom and independence of the media and assess Fiji's compliance with them
- (iii) To review whether the Fiji media comply with international standards of corporate responsibility for media freedom and independence
- (iv) To review laws and policies on the right of the public to information
- (v) To review the extent to which the public's right to accurate, reliable and up-dated information is protected in Fiji
- (vi) To review current systems in place to protect journalists and media personnel from violations of their rights
- (vii) To review whether work conditions of media personnel comply with constitutional provisions on fair labour relations
- (viii) To review whether journalists have freedom internally to discharge their functions in the public interest to the extent required by international human rights law

Members of the public should address their submissions to Mr. J. Fortune, Media Inquiry, Human Rights Commission, Private Mail Bag 100, Suva, or deliver to Level 2, Civic Tower, Suva.

**Deadline for submissions is August 4th 2007.**

FIJI SUN - MONDAY, JULY 23, 2007

## APPENDIX 2





**APPENDIX 3**

Communications Fiji Limited

Fiji Television Limited

Fiji Times Limited

Sun (Fiji) Limited

July 27, 2007

Dr Shaista Shameem,  
Director  
Fiji Human Rights Commission,  
Level 2, Civic Towers  
Victoria Parade,  
Suva



**RE: Human Rights Commission Inquiry into Freedom and Independence of the Media**

Dear Dr Shameem,

We refer to your letter of July 20, 2007, to several of the undersigned.

We are sufficiently alarmed at your proposed inquiry into freedom and independence of the media that we take this opportunity to make several points.

Your letter refers to the Fiji Human Rights Commission's obligation under the Human Rights Commission Act to conduct annual public inquiries into topics of general human rights interest. You then state that freedom and independence of the media is an important human right that the Commission seeks to promote and support, and the Commission needs more information in this regard, hence the inquiry.

The undersigned media organisations do not accept that the FHRC seeks to promote and support the freedom and independence of the media. You make reference to having assisted a number of media personnel who complained of human rights violations during this latest political turmoil. We are aware of a number of media professionals who have chosen not to report human rights violations to the FHRC. When questioned, they have stated they have no faith in the FHRC's commitment to seek remedies or properly represent their interests. Others who have sought your assistance report results far short of expectations.

The undersigned media organisations, in any case, take little comfort from some of the conclusions you, as the FHRC's director, drew in your January report into the causes of the December 2006 coup, particularly those related to freedom of speech and freedom of movement.

Those conclusions mitigate against the certainty that the FHRC's inquiry into freedom and independence of the media will be impartial and free of a hidden agenda.

We make the following further points:

In the first paragraph your letter refers to "significant gaps in analyses" of the media uncovered during your research for Article 19. It would have been helpful if you had been specific about the nature of these gaps, and made the research results available to the media.

Your second paragraph refers to previous attempts to legislate on issues affecting the media, yet gives no justification for this reference in the context of your proposed inquiry. This is always a sensitive issue for media, and the lack of qualification for this reference is disturbing.

Your third paragraph makes reference to the Commission's view that the media's relationship with governments has not always been cordial, and seems to attempt to qualify this general assessment with the stark statement: "You will no doubt be aware of David Robie's analysis of the media's role in politics in Fiji." The linking of these threads is odd.

Firstly, it is true the relationship between the media and governments is sometimes strained. It would be unusual, in a democratic country with a free media, if this were not occasionally so. Why the FHRC would see this as a relevant subject for inquiry is mystifying. Secondly, it would be disingenuous for the FHRC to accept David Robie's analysis of the media's role in Fiji politics as conclusive or even accurate. Certainly no major media organisation invests any currency in his conclusions. It would be erroneous to suggest, as your letter appears to do, that the normal strains in media-Government relationships are explained entirely or at all by Robie's research.

You then make reference to the lack of a "press union or similar association" to represent media professionals, yet do not attempt to suggest how this affects media freedom and independence, or why such a presence or lack of it requires review.

We understand Mr Greg Fortuin has withdrawn from the inquiry. It is not moot, however, to point out your claim that he is a "human rights expert" falls short of reality. We intend no slur to Mr Fortuin when we point out his professional background is mostly in the financial sector, not media, and his more recent, and relatively brief, role of Race Relations Conciliator in New Zealand would not appear to elevate him to the status of "human rights expert". His Fiji experience as an NZ-appointed observer of the 2006 election might give him some limited insight into Fiji, but not into human rights. Why the hyperbole?

That the inquiry will also be based on interviews with NGOs and "other stakeholders", including Government ministries and political parties, inspires no confidence. We would ask that you remember the media has one agenda -- to get impartial information to the public as accurately and quickly as possible. Every NGO, Government ministry and -- especially -- political party has a separate and narrow agenda of promoting their views and biases as widely as possible. These "other stakeholders" will always criticise the media for not wholeheartedly embracing their view -- and often their view alone. We suggest it will require a steadfastly independent person with extensive media experience -- as participant or practitioner -- to properly understand and report on this.

The general terms of the inquiry also beg some questions, for example:

- Item (i): *To provide a historical overview of the range of media available in Fiji, including ownership and scope of operations. Why is ownership an issue in relation to media freedom?*
- Item (iii): *To review whether Fiji's media comply with international standards of corporate responsibility for media freedom and independence. What international standards? Do you mean various codes of ethics to which media organisations and journalists subscribe? Legislative controls? How do you measure compliance if such international standards can be found? This is an open-ended item, capable of being abused and misinterpreted.*
- Item (v): *To review the extent to which the public's right to accurate, balanced and up dated information is protected. This is an absurdly open item. The public has no stated or legislated or implied "right" in this sense. Instead, media organisations normally subscribe to a code of conduct which implies a "duty" to this service. Furthermore, what is intended by the expression "up-dated"?*
- Item (vii): *To review whether work conditions of media personnel comply with constitutional provisions on fair labour relations. We believe the work conditions of any employees fall under the purview of the Department of Labour, who are quite capable of investigating these conditions. In any case, what does this have to do with media freedom and independence? If it has any relevance, you have not attempted to explain it.*
- Item (viii): *To review whether journalists have freedom internally and externally to exercise their functions in the public interest to the extent required by international human rights law. No journalist is "required" to "exercise their functions in the public*

interest", whether under international human rights law or otherwise. What does "internally and externally" mean? Within and outside the newsroom, within and outside the country?

Taken in its entirety, your letter is of great concern to the undersigned.

We also note the Commission yesterday (July 26) sent a letter to newsroom staff at several organisations. In this letter you state that the consultant will follow the general terms of reference, and that this includes "newsroom personnel's views" on a list of several items that are not included in the general terms of reference, and have not been specified to us media organisations.

You also state in your penultimate paragraph of this latest letter that the review will "assist the Commission to protect and promote media freedom and independence *in the interest of the public* as well as the profession" (our emphasis).

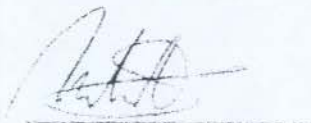
You have chosen not to share this extended scope of the inquiry with us, and have also stated for the first time a specific focus on perceived public interest. Both items indicate you are prepared to be selective in the information you offer us. It cannot be surprising that we then view the whole process with some suspicion.

We doubt the purpose of this inquiry, and the purpose to which any collected data will be put.

We believe the inquiry represents the incursion of a biased FHRC into areas where it could improperly invoke human rights causes to control the media.

Without specific assurances and direct consultation regarding all the concerns raised above, we cannot participate in this inquiry.

Yours sincerely,



**William Parkinson**  
Managing Director  
Communications Fiji Limited  
Email: [william@fjn96.com.fj](mailto:william@fjn96.com.fj)  
231 Waimanu Road  
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Date:



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**APPENDIX 4**

# The Media Council

1<sup>st</sup> August 2007

Dr Shaista Shameem  
Director, Human Rights Commission  
Civic Towers  
Suva.



Dear Dr Shameem,

I refer to your letter of 20<sup>th</sup> July, which was sent to the Fiji Media Watch, inviting the assistance of the Council into a 'Human Rights Inquiry into Media Freedom and Independence.'

This came as a surprise to me. As it is one of the Council's fundamental objectives to safeguard the freedom and independence of the media, I would have thought there would have been some consultation with the Council during the planning stage of this project. Had this happened we may have been able to avoid some of the confusion that has now arisen.

You will have received the letter from some of the media organizations in which they raise a number of important issues. These matters will need to be resolved before there can be any further progress as far as the Council is concerned.

I would also point out that Fiji and the media industry has gone through very difficult times since December last year and we are all still trying to manage the situation. Until such time as the political and social environment stabilizes it would be unwise to carry out such a far reaching inquiry. I would strongly advise you to defer this project until a more appropriate time in the future, and, before any implementation, to consult with the industry on any terms of reference.

Yours Sincerely

A handwritten signature in black ink that appears to read "Daryl Tarte".

Daryl Tarte  
Chairman.

A handwritten note in black ink that reads "deferring the inquiry?" with a question mark.

MEDIA COUNCIL (FIJI) LTD

GPO Box 11852 Suva, Fiji Islands Phone: (679) 345 0484 Fax: (679) 331 7055 E-mail: rjfpratt@connect.com.fj

**APPENDIX 5**



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Old Mail

Sent

Spam (73)

Recently Deleted

Contacts

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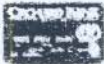
Re: re. Media Council

Jim,  
 Thank you for your email. My colleagues and I have written to HRC stating our concern  
 courtesy of a reply. We are not being uncooperative nor disputatious. This inquiry was  
 before any consultation and we were not given any opportunity to question it before we  
 now claim that it is too late to call for a deferment is unrealistic. I believe our position  
 part of a HRC initiative for a planned return to democracy, the HRC is going about it  
 All the contacts for the Council members was emailed to the HRC the same day we  
 Without the input of the main stakeholders into this inquiry it will be meaningless and  
 the HRC.  
 The Director should understand this.  
 Sorry I can't help further. I enjoyed our far ranging chat the other day.  
 Regards  
 Daryl.

----- Original Message -----

From: [djant@aol.com](mailto:djant@aol.com)  
 To: [tartedv@unwired.com](mailto:tartedv@unwired.com)  
 Sent: Wednesday, August 08, 2007 1:10 PM  
 Subject: re. Media Council

Please see enclosed.  
 Thx.



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Today on AOL



**From:** drjant@aol.com

**To:** tartedv@unwired.com.fj

**Subject:** re. Media Council

**Date:** Wed, 8 Aug 2007 1:10 pm

**Attachments:** Draft.doc (26K)

Please see enclosed.

Thx.  
Jim Anthony

AOL now offers free email to everyone. Find out more about what's free from AOL at [AOL.com](http://AOL.com).

Dear Daryl:

I thank you for the informal chat we had yesterday afternoon.

I have had discussions with independent Counsel assigned to me about the propriety of my raising the issues you mentioned with the Director of the Human Rights Commission. The legal advice that I have received is that it would be improper for me, as independent Consultant, to have consultations with, or to arrange to have you have consultations with, the Director of the HRC.

I regret, therefore, that since "this train (ie. the inquiry) has already left the station", as I put it to you in our conversation yesterday, it might be best if you and your Media Council colleagues were to make submissions directly to me on whatever issues that might be relevant to the inquiry.

Please keep in mind, Daryl, what I said yesterday: It might be that this inquiry might well be part of the overall initiative for the planned return to democracy. If this is the case it would be unfortunate if you and your Media Council colleagues were, or were seen to be, uncooperative, persnickety or unduly disputations with respect to this important initiative.

There is opportunity here, so it seems to me, for you to play a creative leadership role in bringing the others around to a more defensible posture.

I look forward to receiving the e-Mail contact information you undertook to provide me.

Again, my thanks, for meeting yesterday. I am, of course, available for further exploratory talks if you think they might be useful. E-Mail will work.

Aloha –

Jim Anthony, Ph.D  
Independent Consultant  
Fiji Media Inquiry

## APPENDIX 6

# Source of mystery

## FijiSUN

As the latest "independent" media inquiry rumbles along, it is increasingly defined not by its sources of information but by the absence of them.

We are assured by the director of the Fiji Human Rights Commission that "heaps" of people have come forward. However, we are not permitted to know who might be part of those "heaps."

We do know, however, that none of those who might be presumed to be the first to be called have been called.

None of the members of the Fiji Media Council have been invited to give evidence to the "independent" inquiry. The council consists of industry and public members. It has a disciplinary procedure and a code of ethics (which, apparently, the commission has asked for and been given). Media industry members cannot sit on the complaints committee and have no access to it other than through written submissions - unless the committee decides to call for oral evidence. Its decisions are respected if not always agreed with by the nation's media organisations. It is, above all, independent and fair.

It is also transparent, something the FHRC would



do better to simulate rather than shroud its inquiry in secrecy.

For example, representatives of the nation's mainstream media organisations are still awaiting a reply from the commission to their highly relevant questions regarding the inquiry's terms of reference, many of which appear to have little or no relevance to media freedom and independence.

At least one non-government organisation invited to respond to the inquiry is in the same situation.

Then there is the "independent" consultant hired to conduct this inquiry. Again, transparency is sadly lacking. All we are told by the commission is that Dr James Anthony has massive experience in the areas of human rights and media. We have deliberately avoided the term "heaps".

However, the only specifics we have from the commission are that Dr Anthony led the oil workers' strike of 1969 that led to riots that destroyed much of the nation's capital. This, we are assured, gives him some human rights status. Then, it is learned (again from the commission) that he once spent a few months as a spin doctor for an obscure minister in the imploding Whitlam government in Australia. This, it seems, qualifies him to sit in judgment on the entire media industry of a sovereign nation.

It is known that Dr Anthony is a widely respected academic in the area of cultural studies.

Why he has been chosen to conduct an inquiry into Fiji's media is something of a mystery.

Unless, of course, genuine media experience and expertise was regarded as a drawback.

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## LETTERS

### Fiji Law Society

Efereemo Lilloama  
Nadi

Congratulations to them for the hard work they have done through the years in defending clients.

Some clients have had their sentences either reduced or dismissed and those clients seeking compensation have benefited and improved their daily lives like the Monasavu landowners. Congratulations to them and their lawyer.

As is normal procedure, money for such settlements is deposited in the lawyer's trust account then distributed by the lawyer. This is understandable.

For me, however, it's more complicated. After six years of court proceedings the defendants finally gave an offer for settlement out of the court which I was advised by my lawyer not to accept. But then my lawyer went on behind my back without my consent and accepted the offer.

If it wasn't for the registry of the High Court Lautoka advising me that the matter was already settled, I would not have known the outcome after one year and four months.

To date, I have not received any money that was deposited into the lawyer's trust account and I have been advised time and time again on many occasions upon visiting his office in Lautoka that the matter is waiting for an appeal date. This is nonsense.

I request the president of the Fiji Law Society to address such issues which are damaging to the society.

I have filled a complaints form and sent it to the society and after three months there is still no reply. So I went to the police in Lautoka. A report was taken by CID Constable Harish and until now I have not received a reply.

I suggest that dishonest lawyers who are dishonest and charge high fees to clients should have their practices revoked because these are the very people in whom we place our trust and they betrayed us.

I hope that other clients are not facing the same situation.

### Water supply

Jone V Navakamoa  
Minister for Local Government

I thank Villiame Gavoka for raising his concerns on the water problems in Cuvu in the newspapers.

It is unfortunate that he has dragged the Minister of Youth, Mr Leik Ram Vayeshnoi's name into the equation. He has access to my land line and mobile numbers and he should have raised his concerns with me as Minister responsible for water and sewerage services.

Unfortunately, he has politicised the whole issue by referring to the term of the SDL Government and dragging Mr Vayeshnoi and the Interim Administration into the picture. Mind you, Sigatoka and Fiji also experienced water problems during the term of the SDL Government.

The current water problems are due to the failure of previous governments to fully address the problems, provide enough resources for routine maintenance and infrastructure upgrade but importantly develop new water sources and infrastructure in line with demand and growth in population, housing estate and industries.

Fiji's water problems cannot be solved in eight months or one year. Give me and the Interim Government five years and you will see the improvements we will make to our water supply systems.

In short, Cuvu and Sigatoka areas have been facing intermittent water supply over the past months because four electronic high lift pumps at the Matovu pumping station had broken down in 2008.

During my visit to the Matovu Pumping Station in June, only one high lift pump was working. The pumps send treated water from the reservoir to the bulk distribution mains and network. Therefore,



lesser volume of water is being pumped through the bulk distribution main to the Korotogo and Cuvu reservoirs.

Upon my return, I instructed the Divisional Engineer Western and the project manager in Suva to have the high lift pumps repaired by the service contractor. The service contractor had repaired one of the pumps and now two high lift pumps are pumping water into the bulk distribution pipeline.

Despite the repairs, low water pressure and intermittent water supply were still experienced by consumers. The supervisor at Sigatoka wanted to identify the problems so that the solution could be put in place. A leak detection exercise was conducted for the bulk pipeline that is supplying treated water to the Korotogo and Cuvu reservoirs.

Apparently, a major leak was detected last Saturday afternoon on the bulk pipeline inside the cattle farm at the Nacocolevu Hills. The leak was repaired by staff on Monday. Following this repair, there should be a boost in the water pressure and supply in the bulk pipeline to the Korotogo and Cuvu reservoirs.

Space and time do not allow me to fully elaborate on the plans that the Ministry has in improving water supply systems throughout Fiji. However, Villiame Gavoka may care to drop into my office for me to fully explain to him.

### Tourism denial

Radiko Qareqeretaba  
Cuvu, Nadroga

There's been too much talk, and no meaningful, useful and productive action by sections of the Government on the vital and necessary revival of Fiji's tourism industry - a revival which will benefit the nation's economy.

At a Pacific Asia Travel Association conference in Tokyo in the 80s which coincided with the 6th Year of the Uruguay talks on GATT (General Agreement on Tariffs and Trade) the retired Japanese general who gave the keynote address began by saying "The Uruguay talks have been going on for so long, I've forgotten what GATT stands for. I think it now stands for "Gather around, talk and talk. I hope PATA does not follow this example."

This is exactly what seems to be happening in the Fiji Government's treatment of tourism today. A few months ago, none other than the RBF governor told the nation at the Fiji Tourism Forum that tourism was the only industry well poised to return immediate financial returns to Fiji.

The FVB and the Tourism Action Group led by Bill Gavoka and Damend Gounder made numerous presentations to government, before government finally promised to provide \$2 million to help tourism promotion.

Then the Minister for Finance said: 'show me how you've spent your budget before any other funds are released - which is a fair requirement, but as far as the industry is concerned, it has been met.

All acquittals required by the minister had been provided. Yet, the industry is still waiting.

From another angle, the government statisticalian painted a scenario of minimal reduction in both tourism numbers and tourism earnings on the first quarter of this year. This was vigorously challenged by tourism leaders FIHTA president Dixon Seeto and FVB chairman Patrick Wong So, another round of talks is scheduled to straighten out the matter.

The authorities should be reminded that whilst all this talking is going on, days are passing us by. They should also be reminded that hotel beds and airline seats are the most perishable commodities around.

An Air Pacific seat that is vacant when the plane takes off is exactly like a hotel room that is vacant at the end of the day.

They are lost forever. The government agency FTIB is spending a fortune promoting the Prime Minister's Exporter of the Year Awards (EYA) and the Minister for Commerce, Industry and Investment, in launching the EYA, declared the theme for this year is "revitalising exports: the key to economic growth." He also said "The Government is committed to providing the necessary resources to ensure successful export performance."

Show us, because tourism, all experts say, is the key to immediate economic growth.

Letter of the week Wins this classic novel



### Write to the SUN

Readers letters are welcome. They should be sent to the Editor, Fiji Sun, Private Mail Bag, Suva, by fax on 330 9469 or by email to [letters@sun.com.fj](mailto:letters@sun.com.fj). Letters are published at the editor's discretion and may be edited for clarity, legality or space reasons. All letter writers should give a telephone number for verification purposes. Letters with false names will not be published. Priority will be given to letters not published or submitted elsewhere.

## APPENDIX 7

## **DUAVATA INITIATIVE LIMITED**

### **Members listing.**

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Vinod Patel  
SunCourt  
R.C.Manubhai

#### **Garments industry**

United Apparel Limited  
Mark One  
Ranjit Garments

#### **Media Industry**

FIJI TV  
Fiji Times  
Fiji Sun  
FBCL  
CFL  
PB

#### **Banking Industry**

ANZ  
WESTPAC  
ADB  
FDB  
Merchant Finance  
Colonial

#### **Tourism Industry**

Tabua Investments  
Denarau Investments Limited  
Matapo Limited (MOMI BAY)  
Natadola Holdings  
Fiji Beach Resort  
Holiday Inn  
Hexagon Group of Hotels

**Motor Industry**

**Asco Motors  
Nivis Motors**

**Telecommunication industry**

**TFL  
VODAFONE  
DIGCEL  
ATH**

**Construction Industry**

**Fletcher Construction  
Ragwan Construction  
Construction Fiji Limited**

**Accounting Firms**

**BDO  
Deloitte  
KPMG**

**Architects firm**

**Architect Pacific  
Yellow Architects**

**IT INDUSTRY**

**Datec  
VT Solution  
Utech  
Information Systems Services**

**Legal Firms**

**Munro Leys  
Jamamedas & Associates  
Howard's**

**Khan & Co**  
**Q .B. BALE & Associates**

**Government & Other Investment Companies**

**Unit Trust of Fiji**  
**Fluga Investments**  
**FTIB**  
**Fiji Investment Corporation**  
**Yasana Holdings**  
**Fijian Holdings**  
**Meridan Consulting**  
**FNPF**

**Other firms**

**FMF**  
**BLUE GLAS**  
**FIJI GAS**  
**POST FIJI**  
**POLY PRODUCTS**  
**SAMBA**  
**C.J.PATELS**  
**TAPPOOS**  
**MOTIBHAI**  
**PACIFIC AGENCIES**  
**M.C.SAATCHI**  
**HIKJACOB**  
**CARPENTURES FIJI LTD**  
**NZ TRADE COMMISSION**  
**L.J.HOOKER**  
**AMRIT PROPERTY**  
**GOKALS**  
**JANTY ENTERPRICES**



**DUAVATA INITIATIVE LIMITED FRAME WORK.**

**POLITICAL CONSULTANTS : MARK TEXTOR (AUSTRALIAN FIRM )**

**LOCAL CONSULTANTS : ATMA MAHARAJ**

**FINNACEL DIRECTORS : NALIN PATEL & DR NUR BANO ALI**

**MANAGING DIRECTOR / FINNANCE CONTROL ADDMIN : JOEL SAHAI**

**DIRECTORS OF THE COMPANY:**

**PM : LAISENIA QARASE**

**MINISTRY OF FINANCE : RATU JONE KUBUABOLA**

**MINISTRY OF FOREIGN AFFAIRS : KALIOPATE TAVOLA**

**MINISTRY OF TOURISM : PITA NACUVA**

**MINISTRY OF COMMERCE : TOMASI VUETILOVOI**

**AG; QARINIASI BALE**

**SECRETARY OF THE COMPANY : RATU JONE KUBUABOLA**

**LEGAL FIRM AND CONSULTANTS : MUNRO LEYS**

**BUSINESS ARMS : BHACIBHAI PATEL : VINOD PATEL & AJAY AMIRT : AMIRT PROPERTYS**

**PRIME MINISTERS THINK TANK 2002-2005**

**MAC PATEL : MOTIBHAI GROUP OF COMPANIES**

**DAVID AIDNEY : WILLIAM & GOSLIN**

**MARTIN DARINZA : TABUA INVESTMENT**

**NALIN PATEL : DELOTTTRIE**

**NUR BANO ALI : BDO**

**HARRY PUNJA : FMF**

**ATMA MAHARAJ**

**JOE MAR**

**SITIVENI WELEILAKEBA: FIJIAN HOLDINGS**

**APPENDIX 8**

12 Amira Street,  
Wailu Bay,  
Ph: 3307 555  
Fax: 309 469

**FijiSUN**

# Fax

<b>To:</b> James Anthony	<b>From:</b> Sallyshni Devi
<b>Fax:</b> 3300251	<b>Pages:</b> 1
<b>Phone:</b> 3301600	<b>Date:</b> 27/08/07
<b>Re:</b> Academic Background	<b>CC:</b>

**Urgent**     **For Review**     **Please Comment**     **Please Reply**     **Please Recycle**

Ni sa bula vinaka

I would be very grateful if you could please clarify some information for me with regards to your academic background.

We have information that is in contrary to reports that you were once an academic of the University of Hawaii.

Correspondence made with the university established that there is no record of a Dr James Anthony being an academic there.

I would therefore appreciate if you can please respond to the questions below

1. Can you confirm whether or not you were or is an academic from the University of Hawaii?
2. How would you respond to the information obtained from the university about your status being a non-existing.
3. Your background will somehow put into question the credibility of the inquiry carried out - can you please come out clean with your qualifications relevant and puts you in a better position to carry out this inquiry?

I would appreciate a response at your earliest

Thanks

SALLYSHNI DEVI  
NEWS REPORTER  
SUN FIJI NEWS LIMITED  
SUVA  
MOBILE: 9946398  
PHONE:(679) 3307555 EXT 139  
FAX (679) 3311455  
Alternative email: sallyshni\_devi@yahoo.com

Ms. Sallyshni Devi, SUN FIJI NEWS LIMITED

**BY FAX: 331-1455**

**From: Dr. Jim Anthony**

Your questions and my answers:

1. I am NOT on the faculty of the University of Hawaii and have not claimed that I am. I have made it clear on several occasions since I arrived in Fiji on August 1 that I am the Executive Director of a non profit, Honolulu based, ngo called the Hawaii—Laieikawai Association (H-LA). I have been the Executive Director of that organization since 1989. A substantial part of my responsibilities as CEO of H-LA has to do with matters related to the environment and Hawaiian cultural issues. I also monitor the media in Hawaii with respect to the coverage of native Hawaiian issues. Since community television and community radio came into existence in Hawaii in the mid late 70s I have followed that development closely, monitored its performance, done liaison work with community activists learning 'the ropes' related to gathering and preserving information related to the archives of traditional knowledge. The organization I work for funds and acts as fiscal sponsors for a wide range of native Hawaiians and others who work in community television, community radio and others who make documentaries.

Moreover, in the 80's I was a consultant to the United Nations University in Tokyo where I was attached to the Regional and Global Studies Division and worked also with the Communications Division on media imperialism and the emerging fibre optics and satellite technology. In 1990, Oxford University Press published a book of five essays on Natural Resources in the Pacific. I am the author of one of those essays. Part of my essay deals with what I then called "new frontier resources" – the geo-stationary orbit, satellites, radio bandwidth, fibre optics cable—issues that I then saw, way ahead of my time, as issues related to "intergenerational equity."

For the last five years I have been working on a book on Fiji politics since 1977 to the present time. Three chapters of the book have to do with ownership and control of the media in Fiji. In the course of doing research for this project I have read widely on matters related to the media. I am intimately familiar, for example, with developments from after the Rabuka coup in 1987 and since that time.

The book on the politics of Fiji from 1977 till now is a sequel to the book I published as coauthor on the 1963 elections in Fiji when Fijians voted for the first time. Research for that book involved an extensive content analysis of English language, Fijian and Hindi newspapers published in Fiji.

I have earned the following academic credentials: a B.A. with Honors (Political Science), 1964; an M.A. also in Political Science (1966)—both from the University of Hawaii. And a Ph.D. in Pacific History and Politics from the Australian National University.

2. Your second question, as ungrammatical as the first, is answered by the details provided above.

3. Your third question is also embarrassingly ungrammatical but I will answer it nonetheless

My background does NOT call into question the credibility of the Inquiry in which I have been involved. In fact the credibility of the Inquiry is enhanced by my impeccable qualifications and experience which I have outlined in summary above.

You have your facts all mixed up—the problem originates with you.

You obviously do NOT write standard English as your whole message makes clear.

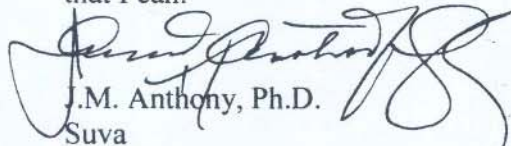
Your suggestion that I should “come out clean” is plainly offensive, rude and a breach of the canons of good taste and professional conduct.

I have stated and restated what my qualifications are and how they are relevant to the Media Inquiry. I set them out here again. I invite you to fully and accurately publish what is contained in this message in full and complete response to your questions.

I put you on notice that I reserve the right to include the text of your message and my response to you in the body of the report I am writing. May I say with all the honesty and sincerity that I can bring to this communication that your command of English, or lack of it, exemplifies the disease that has long consumed parts of the print media in Fiji. You are an embarrassment to the English language and an even greater embarrassment to professional journalism.

Feel free to call me if you have any questions. Since you obviously have serious problems with written English and probably, also have a limited command of spoken English, I should be delighted to converse with you in Fijian.

You have my personal assurance that I am available to help you in any reasonable way that I can.



J.M. Anthony, Ph.D.  
Suva

August 26, 2007 3.25 pm.

## APPENDIX 9

## LIST OF INFORMANTS/INTERVIEWEES

(by category)

Communications Industry	6
University	6
Broadcasting	4
Government	6
Ngos	5
Military	3
Media Council	1
Business/Private Sector	3
Judiciary	3
Former Journalist	6
Lawyer—private practice	4
Church	2
Public—individuals	3
Union	3
Political Parties	5
Local government	1
<b><u>TOTAL</u></b>	<b><u>61</u></b>

**APPENDIX 10**



①



# FIJI HUMAN RIGHTS COMMISSION

GPO Private Mail Bag  
SUVA, FIJI ISLANDS

Date: 19<sup>th</sup> December, 2007

The Board Chairman

~~WT Solutions~~

~~14 Riley Street~~

Fax: 3318121

Telephone: 3318117

Dear Sir/Madam

**Re: Request for information.**

The Fiji Human Rights Commission in July 2007 appointed independent consultants to undertake inquiries into a number of public interest issues.

During the course of one of the inquiries, an informant provided a list of members of the Duavata Initiative, a private company formed in 2002.

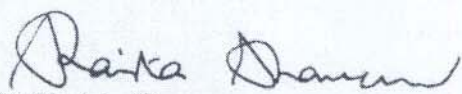
Your company was one of those listed as a member. The consultant has requested the Commission to seek further specific information on the membership of the company.

The Commission requests your response to the information we received that your company was, or still is, a member of the Duavata Initiative.

②

I would be grateful for your response at the earliest opportunity, and preferably within 14 days.

Yours sincerely,



Dr Shaista Shameem  
**CHAIRPERSON,**  
Fiji Human Rights Commission

FAX: IN/OUT  
TIME 21/12/2007  
DATE 2 40pm

Level 2, Civic Tower  
Victoria Parade  
SUVA

Phone (679) 3308577  
Fax: (679) 3308661  
Email: [info@humanrights.org.fj](mailto:info@humanrights.org.fj)

**Subject: FW: Emailing: Image0020, Image0021**

3

**Date:** Monday, December 31, 2007 10:21 AM

**From:** Elenoa T. Turagavuli <eturagavuli@humanrights.org.fj>

**To:** Shaista Shameem <sshameem@connect.com.fj>

---

**From:** Markone online account [mailto:markoneapparel@hotmail.com]

**Sent:** 28 December 2007 16:24

**To:** Human Rights Commision - Information

**Subject:** FW: Emailing: Image0020, Image0021

Dear Dr Shamim,

In response to the attached faxed letter, I wish to confirm membership.

If you seek further information, please do not hesitate to contact me.

Regards

Mark Halabe

---

> From: accounts02@markone.com.fj  
> To: markoneapparel@hotmail.com  
> CC: mark@markone.com.fj  
> Subject: Emailing: Image0020, Image0021  
> Date: Thu, 27 Dec 2007 12:24:58 +1200

>  
>

> The message is ready to be sent with the following file or link attachments:

>

> Image0020

> Image0021

>  
>



Executive Office  
Level 7, ANZ House  
25 Victoria Parade  
P.O. Box 170, Suva, Fiji

Telephone: (679) 3213701  
Fax: (679) 3314527

4

ROBERT BELL  
GENERAL MANAGER, FIJI

7<sup>th</sup> January 2008

Dr Shaista Shameem  
The Chairperson  
Fiji Human Rights Commission  
GPO Private Mail Bag  
SUVA

Dear Dr Shameem

**REQUEST FOR INFORMATION, DUAVATA INITIATIVE**

I refer to your letter regarding ANZ and the Private Company the Duavata Initiative. ANZ is not a member of Duavata Initiative nor has it been at any time.

Yours sincerely

<b>FAX: IN/OUT</b>
TIME 8:25am
DATE 08/01/2008

Laurie Mellsoy  
Managing Director

5

**Colonial**

10 January 2008

Dr Shaista Shameem  
Chairperson  
Fiji Human Rights Commission  
Level 2 Civic Tower  
Victoria Parade  
Suva

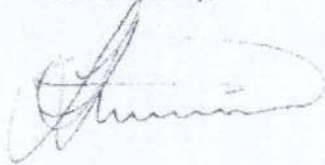
Level 12 Suva Central Building,  
Cnr of Renwick Rd. & Pratt Street,  
Private Mail Bag,  
Suva, Fiji Islands.  
Telephone : (679) 321 4454  
Facsimile : (679) 330 3448  
Mobile : (679) 999 4840  
Email: lmellsop@colonial.com.au

Dear Dr Shameem

### Request for Information

I refer to your letter to our board chairman dated 19 December 2007 and advise that Colonial is **not** a member of the Duavata Initiative Limited.

Yours sincerely,



<b>FAX: IN/OUT</b>
TIME <u>12:15 noon</u>
DATE <u>10/01/2008</u>

A MEMBER OF THE COMMONWEALTH BANK OF AUSTRALIA

*"Colonial - Serving Fiji since 1876"*  
Colonial Fiji Life Limited • Colonial Health Care (Fiji) Limited • National Bank of Fiji Limited

TOTAL P.01



**Fiji  
Development  
Bank**

6

Development  
Bank Centre  
360 Victoria Parade  
GPO Box 104  
Suva FIJI  
Tel 3314866  
Fax 3314886

Reference *TAB/vtg  
Misc/F*

11 January 2008

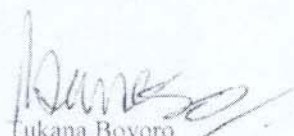
The Chairperson  
Fiji Human Rights Commission  
Level 2, Civic Tower  
Victoria Parade  
SUVA

Dear Madam

Re: REQUEST FOR INFORMATION

We refer to your letter of 19 December 2007 and confirm that the Fiji Development Bank has nothing to do with the Duavata Initiative.

Yours faithfully

  
Fukana Bovoro  
CHIEF EXECUTIVE OFFICER



Asian Development Bank

7

South Pacific Subregional Office (SPSO)

2 January 2008

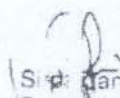
Dr. Faista Shameem  
Chairperson  
Fiji Human Rights Commission  
GPO Private Mail Bag  
Suva  
Fax: 3308-661

Dear Dr. Shameem:

**Request for Information**

With reference to your inquiry of 19 December 2007, the Asian Development Bank and its South Pacific Subregional Office will be available to respond to any questions we can help you with.

Yours sincerely,

  
Siriparvenpaa  
Regional Director

Low 15 -a Merama Building  
81 Colonial Street, Suva, Fiji

Tel: +679 331 8101  
Fax: +679 331 8074

adbspso@adb.org  
www.adb.org

<b>FAK: IN/OUT</b>
TIME 9:55am
DATE 04/01/2008



**Merchant Finance**

8

24<sup>th</sup> December 2007

Chairperson  
Fiji Human Rights Commission  
GPO Private Mail Bag  
SUVA

Dear Madam

**RE: REQUEST FOR INFORMATION**

We refer to your facsimile dated 19 December with regards to Merchant Finance & Investment Company Limited having any affiliation with Duavata Initiative.

Please be informed that Merchant Finance was never a member of the Duavata Initiative nor did the Company make any contributions towards the Duavata Initiative.

We hope this suffices your request.

Yours faithfully

**RAKESH KUMAR**  
**COMPANY SECRETARY.**

<b>FAX: IN/OUT</b>
TIME <u>2:15 pm</u>
DATE <u>24/12/2007</u>



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Page 1 of 1

**Elenoa T. Turagavuli**

**From:** Rounds, Martina [MRounds@colonialfiji.com.fj]  
**Sent:** 21 December 2007 16:15  
**To:** Human Rights Commission - Information  
**Subject:** Request for Information - Duavata Initiative  
**Importance:** High

Dear Dr Shaista,

We received your fax query today but unfortunately will not be able to provide you with information within the required time as we are currently working with skeleton staff. Once we are back in full operation in the New Year, we will make the necessary enquiries and forward any appropriate information to you.

Kind regards and Compliments of the season!  
Martina Rounds

PA to Managing Director

Ph. (679) 3214 454

Fax. (679) 3303 448

Mobile. (679) 9994 866

email. mrounds@colonialfiji.com.fj [Please note this is my new e-address effective immediately]

24/12/2007

10



DENARAU  
ISLAND RESORT

## DENARAU ISLAND RESORT

Tabua Investments Limited  
Box 9347 Nadi Airport FIJI

Telephone : 679-675-0251

Facsimile : 679-675-0182

e-mail : [tabuainvestments@denarau.com](mailto:tabuainvestments@denarau.com)

website: [www.denarau.com](http://www.denarau.com)

website: [www.denaraubeachresort.com.fj](http://www.denaraubeachresort.com.fj)

16 January 2008

Dr Shaista Shameem  
Chairperson  
Fiji Human Rights Commission  
GPO Private Mail Bag  
Suva

Dear Dr Shameem

Thank you for your letter of 19 December 2007.

Please note that at no time has Tabua Investments been a member of the Duavata Initiative.

As a foreign investor, Tabua Investments remains apolitical, and has always supported the Fiji Government and its leaders of the day.

Should you require any further information please do not hesitate to contact me.

Yours faithfully

A handwritten signature in black ink, appearing to read 'M. Darveniza', with a stylized flourish at the end.

**Martin Darveniza**  
Managing Director & CEO

HEXAGON  GROUP OF  
HOTELS

HEAD OFFICE

142 Torak Rd, Suva, P.O. Box 12807, Suva Ph 330 8488, Fax 330 1470  
Email: hexagongroup@connect.com.fj, www.hexagonfiji.com, www.shaishalresort.com

11

Grand Eastern Hotel  
P.O. Box 841  
Lalawa, Fiji Islands  
Ph: 881 1022  
Fax: 881 4011  
grand@connect.com.fj

27<sup>th</sup> December 2007

Grand Hibiscus Serviced Apartments  
P.O. Box 17097  
Nadi Airport, Fiji Islands  
Ph: 672 0044  
Fax: 672 1071  
west@connect.com.fj

Dr. Shaista Shameem  
Chairperson  
Fiji Human Rights Commission  
GPO Private Mail Bag  
SUVA

Grand Malenian Hotel  
P.O. Box 10410  
Nadi Airport, Fiji Islands  
Ph: 672 2438  
Fax: 672 0429  
malenian@connect.com.fj

Grand West's Villas  
P.O. Box 260  
Nadi, Fiji Islands  
Ph: 672 4833  
Fax: 672 5015  
grandwest@connect.com.fj

Dear Madam,

Hexagon (Leasehold) (Properties) Ltd  
P.O. Box 12807  
Suva, Fiji Islands  
Ph: 330 8488  
Fax: 330 1470  
hexagongroup@connect.com.fj

In response to your fax requesting for information, our Board Chairman is overseas and has requested that I respond to you

Our company, the Hexagon Group of Companies has not been a member of the Duavata Initiative

Isotane Terrace  
P.O. Box 13097  
Nadi Airport, Fiji Islands  
Ph: 672 0044  
Fax: 672 0071  
west@connect.com.fj

Melanesian (Properties) Ltd  
P.O. Box 12807  
Suva, Fiji Islands  
Ph: 330 8488  
Fax: 330 1470  
hexagongroup@connect.com.fj

Yours sincerely,

Grand Cottage  
P.O. Box 10807  
Nadi Airport, Fiji Islands  
Ph: 672 0044  
Fax: 672 0071  
west@connect.com.fj

  
Dixon Seeto  
GROUP MANAGING DIRECTOR

Sasani (Moru)  
P.O. Box 9530  
Nadi Airport, Fiji Islands  
Ph: 670 6100  
Fax: 670 9084  
sasani@connect.com.fj

FAX: IN/OUT  
TIME 2:30pm  
DATE 27/12/2007

Suva Motor Inn  
P.O. Box 2500  
Suva, Fiji Islands  
Ph: 331 2973  
Fax: 330 0381  
suva@connect.com.fj

The West's Motor Inn  
P.O. Box 10997  
Nadi Airport, Fiji Islands  
Ph: 672 0044  
Fax: 672 1071  
west@connect.com.fj

West Motor Lodge  
P.O. Box 10007  
Nadi Airport, Fiji Islands  
Ph: 672 0044  
Fax: 672 0071  
west@connect.com.fj



12

**Fiji Beach Resort & Spa**  
Managed by Hilton

14<sup>th</sup> January, 2008

Dear Dr Shameem,

Thank you for your letter dated 19<sup>th</sup> December, 2007, received by mail on the 8<sup>th</sup> January, 2008.

Please be informed as the General Manager of the Fiji Beach resort & Spa, I am not aware of the "Duavata Initiative" and am unable to facilitate your request for information.

Yours sincerely,

Brice Péan  
GENERAL MANAGER



# Asco Motors



TOYOTA TSUSHO (SOUTH SEA) LTD  
 RATU MARA ROAD NABUA  
 GPO BOX 305 SUVA, FIJI  
 PH. 328 4888 FAX. 327 0328  
 BRANCHES  
 SUVA NADI LAUTOKA BA LABASA  
 WEBSITE: www.asco.com.fj  
 WEBSITE: www.toyota-southseas.com  
 EMAIL: info@asco.com.fj



16/12/07  
 13

BRANCHES  
 NADI AIRPORT (24hrs)  
 SHERATON ROYAL DENarau RESORT  
 SHERATON RD RESORT  
 SHANGRI LA FIJI RESORT  
 KOROILEVU  
 KOROITOGO  
 SUVA  
 NAIASOR  
 WEBSITE: www.avis.com.fj  
 EMAIL: info@avis.com.fj

December 27, 2007

Dr. Shaista Shameen  
 Chairperson  
 Fiji Human Rights Commission  
 Level 2, Civic Tower  
 Victoria Parade  
 Suva  
 Fiji Islands



Dear Dr. Shameen

**Re: Request for information – Duavata Initiative**

Thank you for your letter of December 19, 2007 requesting information in relation to the Duavata Initiative.

I have spoken to a number of our senior employees both currently employed and previously employed with Asco Motors, and no-one has any knowledge of Asco Motors having any involvement with the Duavata Initiative.

My conclusion is that the company does not have, and has not had any involvement whatsoever with the Duavata Initiative, therefore we are unable to assist you with your investigations.

Yours sincerely,

Ian T. McLean  
 General Manager/Director  
**Toyota Tsusho (South Sea) Ltd**

14



vodafone

7<sup>th</sup> January 2007

Chairperson  
Fiji Human Rights Commission  
Private Mail Bag  
Suva

Dear Sir/Madam

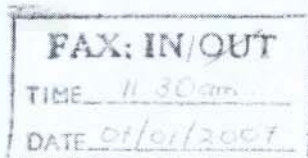
In answer to your queries dated 19<sup>th</sup> December 2007, a fund raising dinner was held by DI sometime in 2005 for which tickets were sent to us. Vodafone purchased a table of 10 and was attended by Vodafone staff.

I confirm that Vodafone Fiji is not a member of DI and has no financial interest to it.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Aslam Khan'.

Aslam Khan  
Managing Director



Vodafone Fiji Limited

Head Office: 168 Princes Road, Tamavua, Private Mail Bag, Suva, Fiji. Telephone: (679) 331 2006. Facsimile: (679) 331 2007.

Registered Office: 168 Princes Road, Tamavua, Suva. Registered in Suva No. 10668 Val Registration No. 50-10599-D-9.



15

File Ref.: 13/03

31 December 2007

Dr. Shaista Shameem,  
Chairperson,  
Fiji Human Rights Commission,  
Level 2, Civic Tower,  
Private Mail Bag,  
**SUVA.**

Dear Madam,

**Re: Request for Information**

I refer to your letter dated 19 December 2007 that was addressed to our Chairman, and wish to advise that Amalgamated Telecom Holdings Limited ('ATH') is not and has never at any stage in the past been a member of the Duavata Initiative.

ATH is a publicly listed company, and as such avoids associating with or contributing to political organizations.

Clearly the list that you have been given purporting to include ATH as a member of the Duavata Initiative is a fabrication by an informant that lacks credibility.

In the event that you require further clarification on the above matter, please do not hesitate to contact the undersigned.

Yours faithfully,

Tomasi W. Vakatora,  
**ACTING CHIEF EXECUTIVE OFFICER.**

Level 4, Provident Plaza Two, 55 Eleri Street, PO Box 11643, Suva, Fiji Islands. Phone: (679) 330 8700 Fax: (679) 330 8044

**TELECOM FIJI LIMITED • VODAFONE FIJI LIMITED • FIJI DIRECTORIES LIMITED  
INTERNET SERVICES FIJI LIMITED ('CONNECT') • XCEED PASIFIKA LIMITED • TRANSTEL LIMITED**

*Communications have never been in better hands*

<b>FAX: IN/OUT</b>
TIME <u>9:35am</u>
DATE <u>04/01/2008</u>

**Raghwan**

**Construction Co. Ltd.**

January 3, 2008

Ref No: 02/ 2008

Fiji Human Rights Commission  
G.P.O. Private Mail Bag  
SUVA

**Fax: 3308661**

Dear Madam,

**Request for Information**  
**Duavata Initiative, Private Company Formed 2002**

Thank you for your letter of 19<sup>th</sup> December 2007 in respect of the above.

We confirm that Raghwan Construction Company Limited together with its subsidiary companies:

- (1) Park Albert Development Limited
- (2) Course Money Limited
- (3) Timber Laminators Limited

Have no association with the Duavata Initiative, a private company formed in 2002

The writer can be contacted for further clarification or information sought.

Yours sincerely,  
**RAGHWAN CONSTRUCTION**

.....  
**VIJAY RAGHWAN**

**FAX: IN/OUT**

TIME 9:30am

DATE 04/01/2008

LOT 18 BULEI ROAD, LAUGALA BEACH ESTATE, SUVA, FIJI. TELEPHONE: 339 1211, 339 1975, 339 2176  
PO BOX 3661, SAMABULA, FIJI ISLANDS. FACSIMILE: (679) 334 0117. E-Mail: raghwan@connect.com.fj



**Subject: FW: Attention : Dr Shaista Shameem**

**Date:** Friday, December 21, 2007 5:01 PM

**From:** Elenoa T. Turagavuli <eturagavuli@humanrights.org.fj>

**To:** Shaista Shameem <sshameem@connect.com.fj>

17

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**From:** Leanne Fong [mailto:leannefong@constructionfiji.com.fj]

**Sent:** 21 December 2007 15:32

**To:** Human Rights Commission - Information

**Cc:** 'Rodney A Fong'

**Subject:** Attention : Dr Shaista Shameem

Further to your letter dated 19th December 2007, we are not nor have we ever been a part of or involved with the Duavata Initiative in any shape or form what so ever.

We trust this clarifies, however pls do not hesitate to contact us should the need arise.

With regards,

*Leanne Fong*

Construction (Fiji) Limited  
PO Box 4093  
Samabula  
Ph: 332 3881  
Fax: 332 3884



18

Suva Central  
Ranwick Road  
Suva

PO Box 32  
Suva  
Fiji Islands

Telephone (679) 330 1155  
Fax (679) 330 1312  
Email suvaoffice@kpmg.com.fj

**Private and confidential**  
Dr Shaista Shameem  
Chairperson  
Fiji Human Rights Commission  
Level 2 Civic Tower  
Victoria Parade  
Suva

Our ref FJADMN07-C-  
RespToFHRCL1912-L2712-  
LA.doc

Fax: (679) 3308661

27 December 2007

Dear Madam,

**Response to your letter of 19th December 2007**

We acknowledge receipt of your letter dated 19<sup>th</sup> December 2007.

We advise that KPMG is not, and has never been, a member of the *Duavata Initiative* (advised by you to be "a private company formed in 2002").

Should you have any queries please contact us.

Yours faithfully

Michael Yee Joy  
Managing Partner

<b>FAX: IN/OUT</b>
TIME <u>12:15pm</u>
DATE <u>27/12/2007</u>

19

A R C H I T E C T S P A C I F I C

Architects Pacific Limited 108 Army Street PO Box 1171 Suva Fiji  
Phone +679 330 3855 Fax + 679 330 2174

mail@architectspacific.com  
www.architectspacific.com

The Commissioner  
The Fiji Human Rights Commission  
Level 2 Civic Tower  
Victoria Parade  
SUVA

by Fax # 3308577

Attn: Dr S Shameem

19<sup>th</sup> January 2008

Dear Madam


**DUAVATA INITIATIVE**

Your letter dated 19<sup>th</sup> Dec'07 and received by fax on 7<sup>th</sup> January 2008 refers.

None of our employees nor the Directors of Architects Pacific Ltd have any knowledge of such a company and certainly we have no relationship with it that we know about.

We are therefore very surprised to be asked such a question about being 'listed as a member'. We think that your informant must be wrong. Perhaps you can tell us how we came to be so listed?

Yours faithfully

  
Gilly Huggett  
Director  
Architects Pacific Limited

**FAX; IN/OUT**  
TIME 9am  
DATE 09/01/2008

20

24<sup>th</sup> Decernber 2007

Fax: (679) 3308 661

The Chairperson  
Fiji Human Rights Commission  
Level 2  
Civic Tower  
Victoria Parade  
Suva

**ATTENTION: DR SHAISTA SHAMEEN**

Dear Madam,

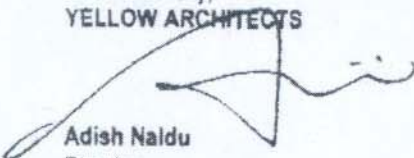
**REQUEST FOR INFORMATION**

We acknowledge your letter to us dated 19<sup>th</sup> December 2007 requesting information on Duavata Initiative.

This letter serves to confirm that Yellow Architects (nor me personally) have never been a member of this Company.

We hope this clarifies our position.

Yours faithfully,  
**YELLOW ARCHITECTS**

  
**Adish Naidu**  
Director

**FAX: IN/OUT**  
TIME 9:30 am  
DATE 24/12/07

- Architects
  - interior designers
- 
- 79 Cakobau Road, Suva  
Fiji Islands
  - GPO Box 151, Suva  
Fiji Islands
  - (679) 331 4690
  - (679) 331 4458
  - (679) 331 4140
  - (679) 999 7770
  - adish@yellowarchitects.com
  - www.yellowarchitects.com

21

# VT Solutions

[www.vt-solutions.com](http://www.vt-solutions.com)

1 February 2008

The Chairperson  
Fiji Human Rights Commission  
Private Mailbag  
Suva, Fiji Islands

### Request for information – Duavata Initiative

We refer to your letter dated 19<sup>th</sup> December 2007 (fax copy received 21<sup>st</sup> December 2007) and respond as follows:

1. VT Solutions is not, and never at any point in time was a member of the above scheme nor were we ever approached for any such membership
2. Your "informant" is obviously grossly misinformed given our clear stand on the matter and this is of grave concern to us. We are not politically biased or politically affiliated and would like your informant to come forward with some substance before feeding the ever so available rumormongers. You will understand that such misinformation in the current climate can cause irreparable damage to our reputation and I assure you that we do not take this lightly.

Regards



Shallesh Sharma  
Managing Director

Information System Services

Level 19, 1001-1003

55, Deception Road

SPO Box 100

Suva

Fiji

Tel: +677 336 8422

Fax: +677 336 1107

22

Information  
System  
Services

8 January 2008

Dr Shaista Shameem  
Chairperson  
Fiji Human Rights Commission  
GPO Private Mail Bag  
SUVA

Dear Dr Shameem

I refer to your letter of 19 December, 2007 requesting information.

I am the owner of Information System Services (ISS) and advise that I have no knowledge of Duavata Initiative Limited.

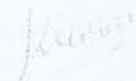
I can also confirm as I am solely in charge of management of ISS and after making all reasonable and diligent enquiries of ISS staff that:

1. ISS has had no dealings with Duavata Initiative Limited either in a business or other capacity;
2. ISS has never owned and does not now hold shares in Duavata Initiative Limited ;
3. ISS has never applied for shares or to become a member of Duavata Initiative Limited; and
4. ISS has never been a member and is not now a member of Duavata Initiative Limited.

I am happy to assist in any further enquires you may have on this matter , as a matter of natural justice I believe that I should be entitled to know the name of your informant and the exact nature of his allegations.

I hope this satisfies your request.

Yours faithfully  
INFORMATION SYSTEM SERVICES



Kumar Patel  
Director

MUNRO LEYS

MUNRO LEYS (Fiji) Limited  
P.O. Box 114, Suva, Fiji  
Phone: 330 8601  
Fax: 330 8602  
Website: www.munroleys.com

23

CONFIDENTIAL

02 October 2007

Our ref: M993-073 J.A vs  
Your ref:

The Director  
Fiji Human Rights Commission  
Level 2, Civic Tower  
Victoria Parade  
SUVA

By facsimile 330 8601  
Also by hand delivery

#### Media Inquiry Report

We understand that you have now circulated Dr Anthony's draft report for comment to certain news media, including two of our clients, Fiji Times Limited and Fiji Television Limited.

This draft report makes reference to Duavata Initiative Limited (DIL), an organization directly linked to a political party, which, it is reported, costs \$15,000 to join with a further annual membership fee of \$5,000.

The draft report alleges that Munro Leys:

- (a) is a member of DIL;
- (b) is "legal consultant" to DIL.

Both allegations are completely false.

These allegations defame Munro Leys. They suggest that this firm is politically aligned. That is not true. Such allegations are of concern to both of our above clients (also falsely accused of being DIL members) and would be of concern to many others who rely on us for independent and unbiased legal advice on many politically controversial matters.

You will no doubt rejoin that this firm formed DIL, which is a company limited by guarantee. That is correct. Munro Leys performed this work and billed it on a fully-paid basis. No favours were sought or given; no work has been done for DIL since.

Our records show that this firm has in the last 10 years also acted for or given legal advice and assistance to virtually every major political party (including the Fiji Labour Party). Some of this work has been charged at full commercial rates. Other work has been *pro bono* when the firm judged that it was in the public interest to assist.

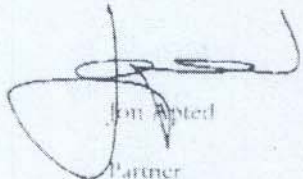
24

It is one thing for a law firm to provide legal advice and assistance to a political party. It is another to be a member of a political party or an organization with links to one. Munro Leys has never been a member of a political party or organization, nor has any of its partners ever been.

We request that these allegations be deleted in your final report. It would be unhelpful of us to threaten legal action; but we need to advise, in fairness, that if these allegations remained we would take legal action against both the organization and the individuals who authored and/or promoted/published this report. If you are unmoved by threats of legal action, then we believe procedural fairness requires you to act appropriately when you have been notified of this error.

Please contact us if any clarification is required.

Yours faithfully  
**MUNRO LEYS**



Jon Apled

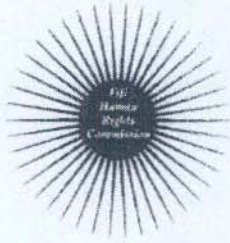
Partner

Direct Dial +679 322 1812

[jon.apled@munroleys.law.com.au](mailto:jon.apled@munroleys.law.com.au)

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# FIJI HUMAN RIGHTS COMMISSION

GPO Private Mail Bag  
SUVA, FIJI ISLANDS

25

03<sup>rd</sup> October, 2007

Mr Jon Apted  
Munro Leys  
Pacific House  
Butt Street

Dear Mr Apted,

## Re: Media Inquiry Report

Thank you for your letter dated 02<sup>nd</sup> October, 2007 on the above subject.

I forwarded your letter to Dr Jim Anthony for his response on the matters you raised.

He has responded in terms of the attached letter which I forward to you for your attention.

Yours sincerely,

Dr Shaista Shameem

**CHAIRPERSON.**

**Fiji Human Rights Commission.**

P.O. Box 629, Ka'a'awa, HAWAII 96730

October 2, 2007

**BY FAX (330-8661) AND BY eMAIL ATTACHMENT**

Dr. Shaista Shameem  
Director  
Fiji Human Rights Commission  
Level 2, Civic Tower  
Victoria Parade  
SUVA, FIJI

Dear Dr. Shameem

A letter addressed to you and dated 02 October, 2007 signed by Jon Apted, a partner in the Fiji law firm, Munro Leys, has been drawn to my attention.

I have noticed, with some interest, the following sentence in the first paragraph on page 2 of the letter: "Munro Leys has never been a member of a political party or organization, nor has any of its partners ever been." With respect to this sentence I wish to place before you the following questions:

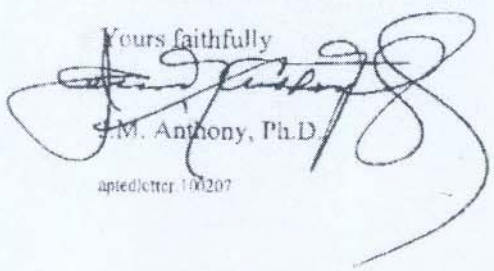
1. Is it, or is it not a fact, that Mr. Richard Naidu, (father's name Ram Krishna Naidu, is a partner in the Munro Leys law firm?
2. Is it, or is it not a fact, that said Mr. Richard Naidu was a spokesperson for, and a member of, a political party with which the late Dr. Timoci Bavadra was associated?

I should be most grateful if you would please take such steps as in your judgment are necessary to get answers to the two foregoing questions.

There are other aspects of Mr. Apted's letter which call for additional scrutiny and, perhaps other action. I am inclined to hold off on addressing these other issues until I have heard from you about the two questions I have posed.

Your attention to this matter is appreciated.

Yours faithfully

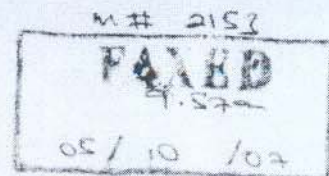
  
S.M. Anthony, Ph.D.

aptedletter.100207

MUNRO LEYS

Munro Leys, Lawyers & Notaries Public  
Pacific House, Butt Street, GPO Box 149 Suva, Fiji  
Phone +679 331 4188 Fax +679 331 2672  
Web [www.munroleyslaw.com](http://www.munroleyslaw.com)

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CONFIRMATION  
OF FAXED  
DOCUMENT

05 October 2007

Our ref: RKN:ves  
Your ref:

Dr Shaista Shameem  
Director  
Fiji Human Rights Commission  
Private Mail Bag  
SUVA

By facsimile 330 8661


"Media Inquiry Report"

Your letter to Mr Apted enclosing Dr Anthony's queries has been passed to me.

The answers to Dr Anthony's questions are as follows:

1. Yes.
2. No. I worked for Dr Bavadra as a personal service to him. I was never a member of the Fiji Labour Party; nor did I speak for it.

Yours faithfully

  
Richard Naidu

Partner  
Direct Dial +679 322 1816  
[richard.naidu@munroleyslaw.com.fj](mailto:richard.naidu@munroleyslaw.com.fj)

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# TAUKEIS BASH BAVADRA MAN

28

Taukei warriors armed with war clubs and spears yesterday attacked and brutally assaulted the spokesman for deposed Prime Minister Dr Timoci Bavadra.

Mr Richard Naidu, 24, was later treated at the Colonial War Memorial Hospital for a gash on his head and cuts and bruises.

He did not want to comment on the incident.

"The incident speaks for itself. I don't want to make an issue of it."

Mr Naidu stopped his car across the road from the Suva Travelodge and went to have a look at a group of Taukei protesters in front of Government Buildings about 2pm.

About a dozen of the Taukei men had put on warpaint and armed themselves with spears and war clubs.

They chanted and performed war dances around a *lovo* pit.

When they spotted Mr Naidu they chased him across the road into the Travelodge lounge.

They attacked him with clubs and spears inside as scores of horrified guests looked on.

"I saw these warriors kicking and punching and slashing someone with the clubs and spears," one witness said.

"We saw his shirt torn off and blood all over him."

The hotel's assistant manager, Mr Steve Kirkpatrick, went to Mr Naidu's help.

The mob turned on him, hurling him on a sofa and battering him with war clubs.

But his intervention broke up the gang which dispersed soon after.

Mr Naidu was taken to a hotel room. The hotel's management called the army which took Mr Naidu to hospital.

A policeman standing in the Travelodge was asked if he would be going outside to control



RICHARD NAIDU:  
Bashed.

the crowd and make arrests.

"I know what I am doing," he said.

The protesters said they wanted Dr Bavadra to drop his court action against the Governor-General.

Dr Bavadra is challenging the legality of the dissolution of Parliament by Ratu Sir Penaia.

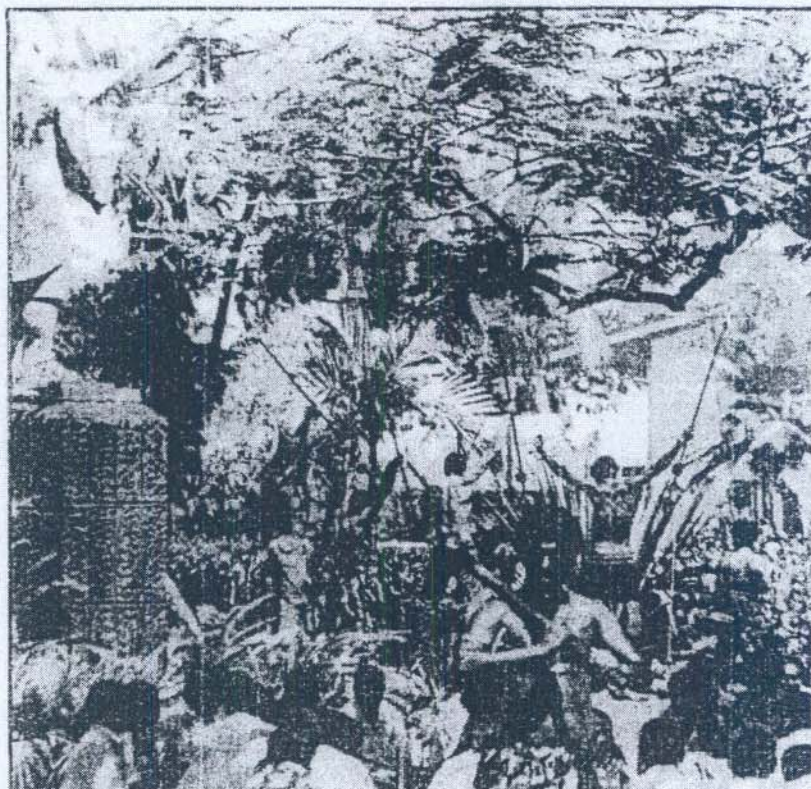
Yesterday's group of protesters was from the three *vunua* of Bua, Cakaudrove and Macuata lit the *lovo* fire beside Ratu Sir Lala Sukuna's statue in front of Government Buildings.

"We just want to show the judges and Dr Bavadra that this *lovo* is going to be the ultimate end," a Taukei Movement spokesman said.

"This is not a threat to anyone. All we are trying to demonstrate is that if all else fails this is going to be the end," the spokesman said, pointing at the *lovo*.

On Thursday night members of the Taukei Movement told the coup leader Colonel Sitiveni Rabuka that they intended to demonstrate in the grounds of Government Buildings.

"We are out to get what we want ... that is drop the case and Fijians



TAUKEI men in warrior costumes perform a war dance around a *lovo* pit under Ratu Sir Lala Sukuna's statue at Government Buildings yesterday.

Picture by ASAELI LAVE

be given political superiority," the spokesman said.

"While the crucial talks between the Coalition and the Alliance is going on the demonstration is to show them that the Taukei Movement's views should be considered also," he said.

The spokesman for the Taukei Movement, Ratu Meli Vesikula, said it was "most unfortunate" that Mr Naidu had been beaten up.

"Mr Naidu should have acted intelligently and not have gone to the place in the first place," he said.

He said the movement had a permit to assemble in front of the Government Buildings.

Colonel Sitiveni Rabuka said last night on Radio Fiji an "outsider"

had intruded into the gathering at the Government Buildings.

The protesters were provoked by the intruder.

Colonel Rabuka said Mr Naidu held dual citizenship — for Fiji and New Zealand. He should decide whether he wanted to be protected by Fiji's laws or New Zealand's.

The army was there to keep the crowd under control, he said.

Ratu Meli said he condemned the attack on Mr Naidu but could not guarantee it would not happen again.

He said the Fijian people had "reached the end of their tether".

"Enough is enough. We have had enough defiance, arrogance and Coalition's disrespect."

Ratu Meli was not sure

if the group would assemble outside Government Buildings again.

The Coalition's I Tupeni Baba said the took "strongest exception" to yesterday's incident.

"He is our public relations man who is committed to peace at goodwill himself and need not be subjected such brutal tactics," said.

Dr Baba said he understood no permit had been given to the group to demonstrate.

Army Press office Lieutenant Erani Volava told The Fiji Times was the police's responsibility to remove the group from Government Buildings.

"If the police knew they couldn't handle then they should have let us know," he said.

**JAMNADAS & ASSOCIATES**  
BARRISTERS & SOLICITORS, NOTARY PUBLIC



Dilip K Jamnadas LLB (NZ)  
Renee D S Lal LLB (USP)

LEVEL 6  
BNPF PLACE  
VICTORIA PARADE  
SUVA, FIJI

YOUR REF  
OUR REF

PO BOX 14824 SUVA  
PHONE (679) 3311511  
FACSIMILE (679) 3306164  
E-MAIL [info@jamnadas.com](mailto:info@jamnadas.com)  
WEBSITE [www.jamnadaslaw.com](http://www.jamnadaslaw.com)

10<sup>th</sup> October 2007

**The Fiji Human Rights Commission**  
GPO Private Mail Bag  
SUVA

Dear Madam

**RE: FIJI HUMAN RIGHTS COMMISSION MEDIA REPORT  
REPORT BY DR. JAMES ANTHONY**

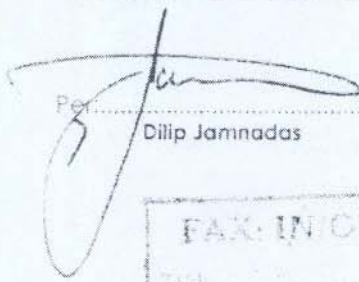
Our attention has been drawn to the Media Report ("Report") commissioned by the Fiji Human Rights Commission by Dr. James Anthony.

We have on reliable information that our firm has been identified as a member of the "Duavata initiative", contributing a once off membership fee of \$15,000.00 and our annual subscription of \$4,000.00. Membership entitles the obtaining of government contracts. The Report does not identify the source of this information.

Our firm is not a member of the Duavata initiative nor have we had any dealings whatsoever with the company. We therefore ask that any reference to us be removed from the Report immediately. Should the Report be published in its current form, we will have no choice but to commence proceedings against the Fiji Human Rights Commission and the author of the Report. Should we experience any losses, both direct and consequential we will seek to recover these at that time. We however hope that it does not come to that and our name be removed. In the meantime we reserve all our rights.

Should you wish to discuss any aspect of this letter please do not hesitate to contact our office.

Yours faithfully  
**JAMNADAS & ASSOCIATES**

Per   
Dilip Jamnadas



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Attn Dr Jim Anthony.

Our ref: 588

4 October 2007

Dr Shaista Shameem  
Director  
Fiji Human Rights Commission  
272 Victoria Parade  
Level 2, Civic Tower  
SUVA  
FACSIMILE: 330 8661

FACSIMILE & BY HAND

Re: Report of Dr Jim Anthony

We refer to the above and in particular to page 60 of Dr Anthony's report which deals with the "Duavata Initiative".

The report states *inter alia* that a number of legal firms were implicated in paying \$15,000.00 each towards the "Duavata Initiative". Appendix 7 then refers to Howards as being a contributor to the "Duavata Initiative Limited".

We categorically deny any involvement with or contribution to the "Duavata Initiative" as alleged in Dr Anthony's report. The allegation is completely false and erroneous. We ask that it be retracted and a public apology issued.

We will consider legal action in defamation should the consultant decline to correct these errors.

Yours faithfully  
HOWARDS

Graham Leung  
Email: [gleung@howardslaw.com.fj](mailto:gleung@howardslaw.com.fj)

Hdats:20071004 ltr FHRC.R

B

FAX: IN/OUT  
TIME 04/10/07  
DATE 2:50pm

C

FAX: IN/OUT  
TIME 3:05pm  
DATE 04/10/07

Graham Everett Leung  
LL.B. (Hons) (UK); LL.M. (UCL);  
Member of the Bar of England and Wales

William Wylie Clarke  
BA (Hons) LL.B. (Hons) (UK);  
Member of the Bar of England and Wales

Jan Madz'wini  
LL.M. (Mc Gill)  
Member of the Bar of Ontario

TERRALEX  
LL.M. (Mc Gill)  
Member of the Bar of Ontario

Ian D Roche  
Dip. Law (Sydney)  
Member of the Bar of New South Wales

Sensu Lewenigla  
BA (USP); LL.B. (USP); FOLP  
Member of the Bar of Fiji

Jay Shree Raniga  
LL.B. (USP); FOLP  
Member of the Bar of Fiji

# Samba!

Samba Limited Level 6 FNPF Place Private Mail Bag Suva Fiji Islands Telephone +679 33 00 855 Email mail@samba.com.fj Fax +679 33 03 052

17 October 2007

The Director  
Fiji Human Rights Commission  
272 Victoria Parade  
SUVA

*Elena  
please fax to  
Dr Anthony  
+679 33 03 052  
M.C.  
19/10/07*



*27/27*

*32*

Dear Director

**Re Duavata Initiative membership - draft Media Inquiry Report by Dr James Anthony**

It has been brought to our attention that Samba! has been listed in Dr Anthony's report as a member of the Duavata Initiative Ltd. Dr Anthony has been misinformed. It is a pity he did not follow one of the basic rules of journalism and check his facts. Our company is not, and never has been, a member of the Duavata Initiative.

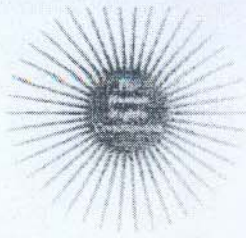
Would you please forward copies of this letter to both the author of the Inquiry Report, and the author of the DI membership list, so that the necessary deletion can be made? Thank you.

Yours faithfully

A large, stylized handwritten signature in black ink, appearing to be "D Sansom".

Dominic Sansom  
Managing Director  
Samba!  
Private Mail Bag  
SUVA

<b>FAX: IN/OUT</b>
TIME <u>3-20 pm</u>
DATE <u>19/10/07</u>



# FIJI HUMAN RIGHTS COMMISSION

GPO Private Mail Bag  
SUVA, FIJI ISLANDS

33

12th October 2007

The Minister of Foreign Affairs and Trade,  
New Zealand Ministry of Foreign Affairs and Trade,  
Wellington,  
New Zealand.

Dear Minister,

During a recent inquiry conducted by a Human Rights Commission of Fiji into the extent of freedom and independence of the media in Fiji, an informant provided the independent consultant appointed to undertake this task with a list of members of Fiji's (previous) SDL Government's 'Duavata Initiative Limited', a company that was formed in 2002 to fund certain objectives. The exact nature of the company is as yet unclear but it was registered as a limited liability company with the (former) Prime Minister as one of the directors.

The New Zealand Trade Commission is on the list supplied to us of members who contributed to the Duavata Initiative. To be a member, companies and statutory organizations were required to pay a membership fee of \$15,000 up front, and then \$5000 annually.

Before the Human Rights Commission of Fiji goes any further with its inquiry into the Duavata Initiative Limited, I respectfully request your Ministry to investigate whether the NZ Trade Commission based in Fiji was in fact a member of the company.

I would be grateful for an early response, as our independent inquiry into the company is currently underway. I can provide you with any other details of the company that you may require.

Yours sincerely,

Dr Shaista Shameem  
**Chairperson**





MINISTRY OF  
**FOREIGN AFFAIRS & TRADE**  
MAHATU MOREKI

135 Lambron Quay  
Private Bag 18 901  
Wellington 5054  
New Zealand

644 499 8000  
644 472 9596

10/27

34

31 October 2007

FJI/NZ/2

Dr Shaista Shameem  
Level 2, Civic Towers  
Victoria Parade  
Suva  
FIJI

Dear Dr Shameem

By direction of the Minister of Foreign Affairs, Rt Hon Winston Peters, I am replying to your letter of 12 October. This letter is also sent on behalf of Hon Phil Goff, to whom a copy of your correspondence was forwarded.

New Zealand Trade and Enterprise has confirmed that the New Zealand Trade Commission in Suva has never been a member of, or contributed financially to, the Duavata Initiative.

Yours sincerely

Michael Green  
For Secretary of Foreign Affairs and Trade

# SDL COMPANY raised \$1.7m

## No tax paid on funds raised for 2006 election

By VICTOR LAL

A Fiji Inland Revenue and Customs Authority audit into the Soqosoqo Duavata Ni Lewenivanua's company, the Duavata Initiative Limited, ordered by the interim Finance Minister, Mahendra Chaudhry,

found that it had collected over \$1.7million in donations between 2005 and 2007.

The report also revealed that businessman Baitu Khan made a telegraphic transfer of \$100,000 on March 7, 2006 to DIL but another cheque of \$20,000 was dishonoured in 2006.

The DIL's receipts for the period January 1, 2005 to October 31, 2007 were over \$1.7 million, according to the report dated January 15, 2008, which recommended that the directors should be re-interviewed to explain the source of the large deposits and the destination of large withdrawals.

FIRCA assumed that the \$1.7million represented donations or contributions by members, presumably in the large business sector.

Total withdrawals for the same period, according to the report, from two accounts in a Suva bank were over \$1.8million.

Mr Chaudhry, according to FIRCA sources, tabled the report in a special Cabinet meeting the next day on January 16, 2008. According to the sources, he also wanted FIRCA to find a way to tax DIL.

Continued: Page 4

www.sfm.com.fj



See Page 9

WIN A 4X4

35

# SDL raised \$1.7m to fight general election

• From Page 1

Khan recently pleaded not guilty to five counts of conspiracy to murder interim Prime Minister Commodore Voreqe Balmimarana, Mr Chaudhry, interim A-G Aliyaz Saved-Khaiyom, and two senior military personnel Colonel Samuela Saumataua and Lieutenant-Colonel Sitiveni Qililo.

A day after Khan's contribution to the DIL, the Fiji Labour Party had, on March 8, 2006, lodged a complaint with the DPP and then Police Commissioner Andrew Hurbes about the distribution of funds by the SDL through DIL.

The FLP had claimed that the funds distributed by the SDL to needy people were an attempt to buy votes.

According to the FIRCA report, DIL was incorporated on January 6, 2003 as a private company limited by guarantee and not having a share capital. The original directors were deposed Prime Minister Laisenia Qarase, and Cabinet Ministers Ratu Jone Kubuabola and Kalipate Tavola.

In May 2003, the leader of the Fiji Democratic Party and later FIRCA chairman and now an interim Cabinet Minister Filipe Bole, had attacked the formation of the DIL saying the Qarase government was devoid of conscience and had discarded all sense of balance, decency and fairness in order to remain in power. Mr Qarase defended DIL, saying it was meant to raise funds for the ruling SDL party by providing it with ongoing income support.

But Mr Bole said registration of the company was tantamount to overt bribery and corruption of the first magnitude. He had questioned how decent and honest people would stand up to such a high level onslaught for funds.

Mr Bole said the government leadership did not seem able to see the conflict of interest between its official and private capacities.

The 26 objectives of the company, according to the FIRCA report, were widely drafted, with the first

being as follows: "To provide financial, social, administrative, structural support and other assistance for political organisations which support free enterprise within Fiji." The report noted that the DIL was not registered as a taxpayer and a title search showed no properties were owned. Two directors were interviewed in November 2007. They advised that the company was a non-profit one and did not undertake any commercial activity. The main source of income was donations from members.

The company's funds are used for: (a) general office administration (50 per cent); (b) members' benefits (30 per cent); and charity (10 per cent) for example scholarships for the poor.

FIRCA carried out a search of one of the banks in Suva where the directors advised the company's accounts were held. On November 29, 2007, the bank provided bank statements for accounts 7591733 and 7195493 for the period January 1, 2005 to October 31, 2007. The bank notified FIRCA that the company held no other accounts or interest-bearing deposits. It however, according to the report, stated that Mr Qarase had given the bank a \$300,000 guarantee on March 28, 2006.

FIRCA provided a detailed analysis of account number 7591733 of all the deposits and withdrawals by the DIL.

On January 1, 2005 the DIL had an opening balance of \$25,186 on that account and it had a closing balance of \$25,979.80 on December 31, 2005. Between January 1, 2006 and December 31, 2006 it had \$118,397.72, with deposits in between the period of \$966,043.00 and withdrawals of \$1,094,484.40. There were also dishonoured cheques of \$1000.

On January 1, 2007, there was an opening balance of \$118,379.99 and a closing balance of \$61,083.65 on October 31, 2007.

The statements, the report stated, showed some deposit transactions with Ballu Khan, such as \$20,000 dishonoured cheques in 2005 and telegraphic transfer of \$100,000

not appear that the fund-raising by the company fell into the definition above. Section 17 of the Act specifically exempts from tax the income of charities, clubs, societies, associations, trade unions, co-ops etc. While the list does not mention political organisations, "Duavaka Initiative is set up more in line with these other non-profit bodies rather than a "trade or business".

It went on to note: "If the company can be considered a "club", and the donors "members", then the doctrine of mutuality applies whereby the income is exempt. The income of the company is owned by the members who have contributed, and under the doctrine only income from external sources should be taxed. The company's articles are similar to most clubs e.g. upon winding up any funds must be given to another organisation with similar aims."

The FIRCA report concluded that it was of the view that there were no tax risks associated with the company as it was in receipt of exempt income. No further investigations were done on that basis since December 2007 and, in any event, most of the auditors look leave over the holiday season.

As Key Performance Indicators within FIRCA are driven by revenue raised, there is general reluctance to pursue cases which will not contribute to the auditors revenue results, it noted.

Nevertheless, there were some further actions which could be undertaken to ensure the tax compliance of the directors and members of the company. In relation to the company, FIRCA recommended that searches for other accounts could be conducted with all Fiji banks to locate accounts not disclosed by the directors. In relation to the accounts, bank statements could be obtained for the periods not already held - between incorporation on January 6, 2003 and December 31, 2004, and November 1, 2007 to date.

Large transactions could be vouched with the bank (i.e. the cheque forms and deposit slips

obtained) to trace the source of the deposits and the destination of the withdrawals. The report however pointed out: "Note that this is a time consuming task for the bank as they have to search voluminous archives. Details of withdrawals from the vouching may point toward other bank accounts not disclosed."

The information-gathering powers under the tax laws, the report stated, would permit such vouching to be made. "The purpose of the exercise is to determine where the member obtained the funds to make a contribution to the company. Note that contributions to political organisations are not tax deductible. It may be that the funds came from undisclosed profits of the members, or amounts disguised as deductible business expenses," it said.

The financial statements of the company should be obtained. Under the Articles of Association the company must keep records for inspection by members, and produce a profit and loss account. The source records of the company, recording contributions of various members, should also be inspected. The directors could be re-interviewed to explain the source of the large deposits and the destination of large withdrawals.

If 50 per cent of the withdrawals (\$0.9 million) were spent on "general office administration", it would be interesting to see what this was actually expended on, the report commented.

The report suggested that FIRCA's Financial Intelligence Unit may provide information if the company's funds have been moved offshore, or deposits received from offshore. From January 1, 2008 FIRCA's secrecy provisions have been amended to allow information to be given to both FIU and FICAC.

Finally, the directors could be audited in their own right to determine if they had received income or withdrawals of funds from the company. Neither Mr Chaudhry or the SDL, could be reached for comments.

# DUAVATA INITIATIVE debate

STORY: STANLEY SIMPSON

**T**he vision: "To be the catalyst for an equitable society in Fiji."

The mission: "To engage supporters of free enterprise in Fiji in assisting the SDL to provide an inclusive, strong and responsive Government that builds co-operation and networks between stakeholders for the enduring benefit of Fiji."

The theme: "Building strong innovative networks."

Such were the bold words on the opening page of the prospectus for the Duavata Initiative (DI) at its formation in December 2002.

When news of the creation of the Duavata Initiative trickled into the public domain, it caused quite a stir among the media, in parliament, in the Senate and among NGOs.

Critics were outraged at what they saw as a vehicle and convenient avenue for soliciting and collusion between the SDL government and members of the private sector and business community. There were claims that financial support for the Duavata Initiative and therefore the SDL government, would see businessmen and companies receive undue favours, kickbacks and influence that would be corrupt, non-transparent and against standard principles of good governance.

The SDL party however remained firm that DI was a private company legally registered with the Registrar of Companies, did not breach our electoral laws, was the most transparent and accountable political fundraising vehicle in the country, and that there was nothing wrong or sinister with its operations.

Five years later, even a year after the SDL government was ousted by the military, the Duavata Initiative continues to generate controversy and debate.

Was it an implicit attempt to solicit support for the SDL in return for government favours and for corruption and kickbacks, or was it simply a part of the SDL party structure to raise funds for party campaigns and initiatives?

Former Prime Minister Laisenia Qarase says the the Duavata Initiative is based on an Australian model where similar "clubs" exist to fund and support certain political parties

However internet research by Mai Life shows that the Australian political funding model has been heavily criticised as not being transparent and accountable enough, some arguing that it is in essence a form of bribery.

On Australian political donations, political researchers Sally Young and Joo-Cheong Tham from the Australian National University are quoted in Wikipedia as saying: "There is inadequate transparency of funding. Moreover, there is a grave risk of corruption and undue influence due to corporate contributions and the sale of political access."

Mr Qarase and SDL officials consistently state in response to critics that the details of the DI initiative are with the registrar of companies. But the details at the Registrar of Companies reveal only what the public already know – the current Directors of the Company, the individuals (former ministers in the SDL government) who were Directors of the company but who resigned in 2004, as well as the stated objectives of the company.

What it does not reveal are the names of people or business who contributed to the Duavata Initiative and for many critics, this detail lies at the heart of the matter.

"It is only when we know who contributed to the Duavata Initiative, are we able to assess whether there was corruption involved, or if there were indeed kickbacks to those who supported the SDL party and contributed to DI," says a political observer.

Mr. Qarase however told Mai Life that there was "nothing to keep secret" and since membership of DI ceased in December last year after the military takeover, "no names can be given."

He declined to give any names of past contributors, only saying that in 2006 membership consisted of 32 SDL Parliamentarians and "about 40 others from outside."

"Names of former members cannot be revealed without their express authority. It would be unjust to reveal names without proper authority," says Mr. Qarase.

The 2002 membership form for the Duavata Initiative obtained by Mai Life reveals that members and contributors to DI were promised that their membership would be kept strictly confidential.

"Please note that membership of the Duavata Initiative is strictly confidential and the Committee reserves the right to refuse membership to applicants," states the membership form.

Those who filled in the membership form had to either enclose a payment of \$5,000 for the first year of membership in 2003 – based on a minimum of three years commitment, or \$15,000 for a three year membership from 2003 to 2005.

Aside from the normal addresses and details required in a membership form, applicants had to fill in their company name and the type of business they were involved in.

In his invitation letter to foundation members (also contained in the Prospectus) then Prime Minister Laisenia Qarase outlined the highlights of being part of the Duavata Initiative.

"The Duavata Initiative, launched in December 2002, will become

an essential supporter group of the SDL Party in Fiji," he wrote.

Membership is drawn from leading business, professional and community men and women, who share a commitment to fostering a strong and vibrant private enterprise system in Fiji, through their support of the SDL Party."

"We are totally autonomous in our activities and membership is strictly confidential."

"The initiative offers members regular access to political leaders through a diverse programme of activities including private boardroom briefings, business luncheons, forums and social events. These activities enable members to contribute to policy development, be active and informed on issues, participate in stimulating and thought-provoking discussions and meet with like-minded business men and women on an informal basis."

"The annual membership payment is \$5,000 per annum. Members are entitled to admission to all regular Duavata Initiative functions."

"Should you wish to discuss the benefits of membership in more detail, please don't hesitate to contact me, or my co-trustees Ratu Jone Kubuabola, Kalipate Tavola and Tomasi Vuetiavoni."

The letter was signed Hon. Laisenia Qarase, Chairman of trustees.

The prospectus noted in its programme targets that the DI would provide on-going support for the SDL to enable it to fulfil all requirements of its mandate, facilitate the maintenance of its position as a strong on-going political force, and empower it to assist in the rebuilding of the nation.

"The most important membership group will be the Foundation Members who are the first 100 members to commit to the payment of F\$5,000 per annum for a minimum of the next three years."

Apart from member benefits that included private board room lunch briefings with Ministers and Parliamentary leaders, and annual members reception with the Prime Minister and other senior Ministers, members were also privy to government policy information.

"Members will have access to information provided by the SDL party, including briefing notes, ministerial speeches and policy papers on various aspects of government policy," the prospectus notes.

Of the annual income that was to be raised under the Duavata Initiative, 15 per cent was allocated for services to member events and 35 per cent was to go towards the SDL secretariat, 30 per cent was directed towards party communications and networks including training and development of potential SDL candidates, as well as supporting the Young SDL Movement and the SDL Women's Wing.

"A further amount of 10 per cent of resources available will be allocated... to various charitable organisations and institutions in Fiji, specially targeting education, and poverty alleviation, particularly for disadvantaged and homeless young people, orphans and older members of the Fiji Islands community who need assistance with food, shelter and medical conditions."

The remaining 10 per cent according to the prospectus would be held in a separate fund to be called the Duavata Initiative Fund to create a strong capital base for the SDL in the future.

Initially the Directors of the Company were Laisenia Qarase, then Finance Minister Ratu Jone Kubuabola and then Foreign Affairs Minister, Kalipate Tavola.

However, records from the Registrar of Companies show that the three all resigned as DI Directors on the 22nd of March 2004 to be replaced by Marica Karikaritu, Mere Samisoni and Joel Sahai.

Hansard documents obtained by Mai Life show that the formation of the Duavata Initiative was strongly opposed by Fiji Labour Party Senators, particularly by Senator Atu Emberson-Bain on the aspect of Ministers being Directors of the Company, and the potential for conflicts of interest. Mai Life has a summary of that Senate debate in the next pages.

Emberson-Bain specifically referred to Section 156 (1) and (2) of the 1997 Constitution which among other things, directs public office holders not to "place themselves in a position in which they have, or could be seen to be having, a conflict between their private interests and their public duties."

Two weeks after Emberson-Bain raised the issue in Senate on 5 March, the three Cabinet Ministers including PM Qarase resigned as Directors from DI on 22 March.

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"One assumes that their resignation was an admission that what they did was unlawful, and at the very least unethical, and certainly unconstitutional," Emberson-Bain told Mai Life.

Mr. Qarase denied this saying that their Directorship was only an administrative formality.

"Our directorship was necessary only to complete the legal requirements of registering a company. We resigned once this was completed."

Mai Life however notes from information obtained by the Registrar of Companies that while the three Ministers were appointed Directors in November 2002, they did not resign until 22 March 2004, a year and four months later.

"There must have been some mistake in the filing of the necessary papers," says Mr. Qarase. "We certainly did not operate as Directors for long."

Emberson-Bain says that while there was no Code of Conduct legislation in place as stipulated under Section 156 (3) of the Constitution, legislation was not required for the Constitution to be followed.

"The Constitution already gave directives on what is possible for public office holders and cabinet ministers."

Emberson-Bain also reveals that the Senate debate showed an "utter lack of willingness of disclosure" from the government side to the questions she asked.

The former Fiji Labour Party senator says even getting her questions on the DI onto the floor of the House was difficult, and she pushed for almost six months to get her questions answered.

Electoral and political party funding is a controversial issue in many democracies, particularly with the transparency and accountability of the contributions to guard against kickbacks and possible corruption.

The British Labour Party for instance is currently embroiled in scandal over money they received from their third largest donor. According to the BBC, property developer David Abrahams admitted he had made donations to the British Labour Party through "friends". Abrahams gave more than 1400,000 to Labour through Janet Fidd and Ray Fraddock as, he said, he did not want to "seek publicity".

Under British electoral law, people making donations on behalf of others must give full details of the person providing the money, and British politicians have labelled the arrangement by Abrahams as "plainly not transparent". The UK Electoral Commission has asked the British Labour Party to explain the donations.

In Fiji, some have also criticised the Duavata Initiative for being elitist, exclusive and therefore non-transparent.

"If you paid your \$5,000, you got heard and seen on government matters," says an observer.

"You were treated better politically and had better access to government decision-making than the rest of the community who did not put money in."

What cannot be proved however, until details of who the financial contributors were are released, is whether the contributors and members directly benefited or directly influenced government policy decisions based on their membership and enhanced access.

While initiatives like the DI are not uncommon in other developed countries and political parties in the western world, in many of these countries they have put up checks, balances and safeguards to curtail the possibility of corruption and collusion.

Central to these safeguards is that the contribution must not be done in secret, but the full details of the contributor must be made known and transparent, including the total amount they have contributed.

The question for the SDL is why was there strong emphasis on the confidentiality of members and contributors to the Duavata Initiative.

Also, what exactly and specifically were the benefits - or what privy information did DI members receive at private board room luncheons with senior ministers, including briefing notes and policy briefings.

For instance, did the members of DI get to know about government tenders before they were put out?

"No. Never," says Mr. Qarase.

"The benefits to members consisted only of access to briefings by important guests from both overseas and locally, and evening functions such as cocktails and dinners."

"There were no special favours to members."

Proving otherwise in the absence of information is difficult, and for

now we can only rely on the SDL's word that they did not do anything unethical under the DI.

The SDL's Duavata Initiative could indeed be a pioneering initiative by a political party in Fiji, and it seems most likely that other political parties will follow their lead in the future. The problem for some lies in the secrecy; and in how the party used its members of cabinet and Ministers to form and become Directors of the company, when party officials could have done so themselves.

It is imperative that laws on electoral and political party funding be strengthened.

All political parties, including the Fiji Labour Party receive contributions and funding from supporters, that are to date undeclared.

## Nothing to keep **SECRET**

**Initiative was the most transparent and accountable in the country's political history, says Qarase**

**Mai Life:** Why was the Duavata Initiative formed?

**Mr. Qarase:** The Duavata Initiative (DI) was formed to provide a source of funds for the Socosoco Duavata ni Levuvenivana (SDL) Party. A private company, Duavata Initiative Limited, was registered to provide the legal vehicle for this project. The company has only two shareholders holding a nominal share of \$1 each. This is the minimum required for the registration of a company. The company does not have any other shareholding.

The DI is in effect a "Club" whose members pay an annual membership fee. Membership is only valid if the annual fee is paid.

Members of DI consisted of all SDL Parliamentarians and those who wish to join the "Club". Membership is open to all who believe in democracy, its principles and practices.

The Memorandum and Articles of Association of DI Limited and its annual returns are filed with the Registrar of Companies. They are public documents.

**Mai Life:** Where did the SDL get the idea from?

**Mr. Qarase:** Similar "Clubs" exist in Australia and New Zealand for the same purpose. Similar "Clubs" probably exist in other democracies of the world. Our DI had its origin from the Australian model.

**Mai Life:** Some would argue that the DI was formed so the SDL could exploit its privileged position of being in government to solicit funds for its own ends?

**Mr. Qarase:** All political parties require funds, without exception. A party that has no funds cannot survive. Political parties use different methods of raising funds. The Fiji Labour Party and the New Alliance Party raised huge sums of money for the last General Election and no one knows how the funds were accounted for.

The SDL Party raised funds too and the funds have been accounted for in the annual returns to the Registrar of Companies and Registrar of Trade Unions.

The DI is not only a legal vehicle but it is also a transparent and accountable entity.

**Mai Life:** Why are the names of members and contributors to the DI kept strictly confidential?

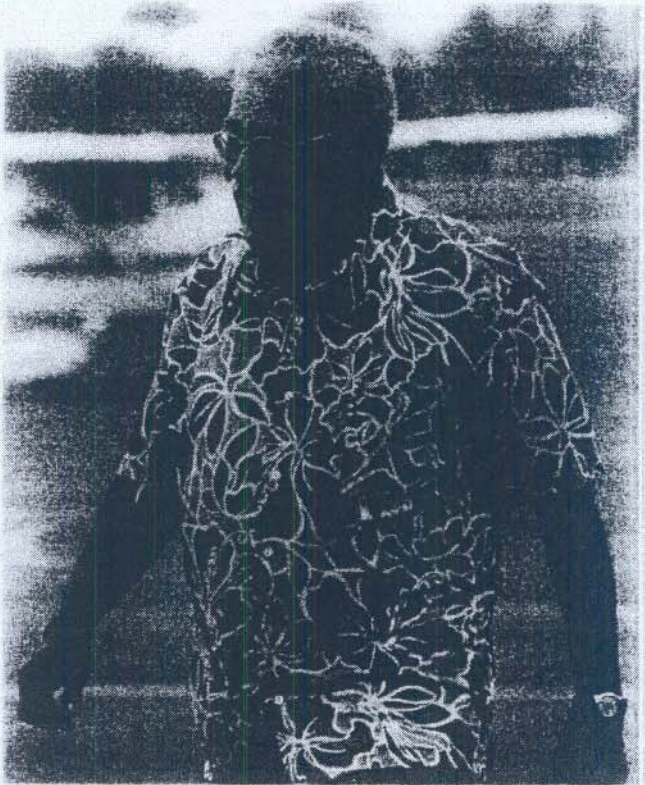
**Mr. Qarase:** Membership is on an annual basis. Membership is only

In the interest of transparency and good governance this must change.

While the SDL has been singled out because they were in government, in essence the Fiji Labour Party should also provide the names of people and companies that fund their campaign so that there is transparency and accountability all round.

Mai Life understands on good authority that many companies contribute to all or to both the major political parties before the elections to keep on their good side.

There is certainly nothing wrong with contributing funds or showing your support towards a political party - this is a free country - but contributions to political parties including the full amount must be disclosed to safeguard against corruption and kickbacks.



current if the relevant fee is paid. As from 1st January, 2007 the DI has no membership because of the coup. Membership fees were paid to 31.12.2006 and all memberships expired on that date. In 2006 membership consisted of 32 SDL Parliamentarians and about 40 others from outside. In 2007 membership is zero. Therefore no names can be given.

**Mai Life:** Doesn't this go against transparent party and electoral funding principles that are used all over the world?

**Mr. Qarase:** In Fiji the SDL party's vehicle for raising funds is the most transparent and accountable in the country's political history. No other political party has given full disclosure to the Registrar of Companies and the Registrar of Trade Unions than the SDL Party. The SDL Party also complied fully with the rules given under the Electoral Act in relation to fundraising.

**Mai Life:** If people are happy to contribute to DI and the SDL, why would they have to keep their support a secret - if gives rise to suspicion doesn't it? (Are they perhaps worried about the image of being associated with the SDL/ or for questions to be raised about their support?)

**Mr. Qarase:** As mentioned above the DI has no members today. There is therefore, nothing to keep secret.

**Mai Life:** Weren't you concerned that those who contribute to the DI would do so to curry favour with government?

or expect certain privileges and favours from government for their contribution?

Mr. Qarase: Those who contributed to the DI were persons who believe in democracy, its principles and practices. They also believe in the SDL Party's values and policies. They did not join the DI for favours from the Government.

**Mal Life: Why did you, Mr. Tavola and Mr. Kubuabola resign as DI Directors?**

Mr. Qarase: Our directorship was necessary only to complete the legal requirements of registering a company. We resigned once this was completed.

**Mal Life: Was it conflict of interest that you as cabinet ministers were Directors of DI and the Finance Minister was the Company secretary?**

Mr. Qarase: There was never any conflict of interest in our very short directorship of DI Limited. All of us involved resigned once the company was registered.

**Mal Life: You say that you as Ministers were Directors for a very short time and your directorship was only necessary to complete legal requirements, however records show that you were appointed Directors in November 2002, and only resigned your Directorship in March 2004 (1 year 4 months) - some would argue that that is not a short time to be Director?**

Mr. Qarase: There must have been some

No other political party has given full disclosure to the Registrar of Companies and the Registrar of Trade Unions than the SDL Party. The SDL Party also complied fully with the rules given under the Electoral Act in relation to fundraising.

mistake in the filing of the necessary papers. We certainly did not operate as Directors for long.

**Mal Life: Some argue that you resigned as Director of DI because you were breaching Section 156 (1) and (2) of the constitution?**

Mr. Qarase: No.

**Mal Life: Are you able to reveal how much money in total was raised by the DI and how this was disbursed and used? Will you ever reveal who the members of the DI are?**

Mr. Qarase: I do not know the total amount collected annually as membership fees. I can say, however, that the annual total was rather small. The DI funds have been used to meet part of the operating costs of the SDL Party. A proportion of DI funds was allocated to assist charities. As mentioned above the DI does not have any members today. Therefore, there

is nothing reveal. Incidentally, membership of DI is open to all including the Interim Government Ministers, so long as they believe in democracy and can pay the membership fee.

**Mal Life: What benefits did members of the DI receive for their \$5,000? What special favours?**

Mr. Qarase: The benefits to members consisted only of access to briefings by important guests from both overseas and locally, and evening functions such as cocktails and dinners. There were no special favours to members.

**Mal Life: Were they for instance, as some are claiming, informed of government tenders and policies before they were put out to the public?**

Mr. Qarase: No. Never.

**Mal Life: Could the DI be said to be an elitist initiative i.e. only those who can pay the \$5,000 receive special favours from the SDL government?**

Mr. Qarase: No.

**Mal Life: Some argue that the only way to assess that there was no corruption with DI is to reveal the names of members in 2003 - 2006, to prove that these members did not receive kickbacks etc from government?**

Mr. Qarase: Names of former members cannot be revealed without their express authority. It would be unjust to reveal names without proper authority.

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## Debate on the Duavata Initiative in the Senate on March 5, 2004 from the Hansard report

**HON. SENATOR DR. A. EMBERSON-BAIN** asked the government, upon notice:

Why is the *Duavata* Initiative Limited (DIL) registered under the Companies Act, and allowed to trade commercially, if it is only meant to facilitate the establishment of a Trust Fund? Why is it not registered under the Charitable Trust Act?

- (d) Is it true that a sum of approximately \$400,000 has been paid, or is about to be paid, to the DIL by certain individuals or their business company/companies?
- (e) If so, who will be the beneficiaries of this money, and what is its purpose?

**HON. SENATOR Q.B. BALE** (Attorney-General and Minister for Justice) - Mr. President, Sir, I rise to reply to the question raised by the honourable Senator.

Because its ultimate objective is political and not exclusively charitable in character, that is why it is not registered in the Charitable Trust. The purpose of bodies registered under the Charitable Trust Act must be entirely charitable in character.

- (d) I am not at liberty to divulge this, not only because I do not have the authority of the Board of Directors of the Company to do so, but there is no legal obligation on the Company to make such disclosures, unless, of course, I am shown a legal authority which convinces me to the contrary. A principal reason for this logic is that these funds belong to those who support the initiatives and they give their contributions or membership subscriptions voluntarily. Their decisions are not the business of this august House, with respect. If the Fiji Labour Party (FLP) establishes a similar body or company, similar rights will be respected.

- (e) The beneficiaries are the members of SDL and the party as whole. The purposes are set out in the Memorandum of Association of the Company, which I am sure, the honourable Member and most of the members of the FLP are aware of.

- (g) Cabinet has nothing to do with this Company and does not own it. There are people in Cabinet who are not members of the SDL party and it cannot be said that the company is owned by Cabinet. Some members of Cabinet are subscribers to that and I can inform the House now that since this matter came out, arrangements were already in place to transfer from the subscribers/shareholders to other party members and therefore, will not and will take it further away from the honourable Ministers of the Government. Cabinet has nothing to do with this company or its corporation.

**HON. F. ANTHONY** - Sir, I rise to ask a supplementary question. The honourable and learned Attorney-General in response to part (a) of the question stated that one of the objectives of the DIL was political. Can the honourable and learned Attorney-General please elaborate on what he meant by the



**EMBERSON-BAIN: Is it true that a sum of approximately \$400,000 has been paid, or is about to be paid, to the DIL by certain individuals or their business company/companies?**

objective being political?

The second question is, if one of the objectives of the DIL is political and the Directors of that Company happen to be the Prime Minister, the Minister for finance and other senior ministers in Government, is there not a conflict of interest insofar as good governance and transparency goes? Is there not a likelihood of some kick-backs being given to the Government because of some favourable decisions that it would make in the position that the Directors hold in the current Government?

**HON. SENATOR Q.B. BALE**

As the honourable Member who raised the question knows fully well, it is political in the sense that the fund being put together under this Company's objective is to help a political party in its operations. That political party need not be in Government, it can be outside, in the sense that the FLP is at liberty to do the same thing. They are not in Government, but they can do the same thing. In regard to the second question, what is being done there is transparent because the honourable Prime Minister and some senior Ministers are involved. They may be Cabinet Ministers now but basically they are politicians. They are in transit, like everyone else when they are holding positions. There is nothing in law to prevent a politician (regardless of what position he holds), to form a company of this type, insofar as good governance and transparency are concerned, including buzzwords surrounding these philosophies. This is done in a way that will be audited and transparent to those who donate the money and who believe in the objectives of that company. They know all the

details, because it is properly audited, so how transparent can one get? I do not know how the Fiji Labour Party does these things for itself.

**HON. SENATOR F. ANTHONY** - Will the honourable Prime Minister or the Ministers who are Directors of the *Duavata* Investment Limited (DIL) accept donations from business houses that benefit from the decisions that they make in their positions as Prime Minister and Ministers of this Government? Sir, will they and have they done that so far?

**HON. SENATOR Q.B. BALE**

The answer is, the company and not the Directors individually that has the authority to receive subscriptions and not donations from those who associate themselves with the objectives of the company.

**HON. SENATOR DR. A. EMBERSON-BAIN** - He says that there is nothing in law to prevent this political activity on the part of the Prime Minister and his Cabinet ministers.

My question, Sir, if that is the case, does he not agree that this represents a conflict of interest, (as pointed out by my fellow colleague, the honourable Senator Anthony) and it is also in fact, unlawful? It is in direct breach of Section 156 (1) and (2) of the Constitution, which stipulate that there is nothing in law to prevent this. Does the honourable and learned Attorney-General therefore, deny the fact that under Section 156 (1) and (2) of the Constitution, which are very specific provisions and stipulate that Ministers, along with other public office holders, must conduct themselves in relation to the performance of their public duties as not:

- (a) to place themselves in position in which they have, or could be seen to be having a conflicting between their private interests and their public duties, to compromise the fair exercise of their public duties;
- (b) to use their offices for private gain (well it remains to be seen whether this happens but it exists at present under the Memorandum of Association);
- (c) to allow their integrity to be called into question; or
- (d) to cause respect for, or confidence in, the integrity of the Government to be diminished.

I would suggest to the honourable and learned Attorney-General that on that on just about every count under Section 156 of the Constitution, the Prime Minister and the Ministers who have signed up as Directors of this Company are in breach of that and I ask him to deny that, Sir.

**HON. SENATOR Q.B. BALE** -

I am not sure what was the supplementary question that I should deny. Sir, I will give the honourable Senator, a breather. She was so excited over this, I almost could not follow her question but I will try my best. Sir, to answer, "Owned by Cabinet" that is a notion that is very strange, coming from an honourable Senator who has a very



of intellect. If the company is owned by Cabinet, it remains as Government's property, regardless of who is in government. This company will not remain with this Cabinet, it goes with the *Sogovago Duavata ni Levuivama (SDL)*, whether they are in government or not. To me, it is a notion that I cannot understand and I am sure that the honourable Senator also does not understand, if she thinks about it. I am usually instead of being excited over the President, Sir, Section 156 at this time is indicative, it requires the Parliament to make a law preparing at this stage. I can confirm to this august House that a team has just returned last week from Papua New Guinea to see how exactly they apply their Code of Leadership Conduct. I hope to bring that to the House. It will spell out the details of how to implement the provisions of the section that has been pointed out.

**HON. SENATOR DR. A. EMBERSON-BAIN.**

I appreciate the efforts of the honourable Attorney General to take us on a merry-go-round but my question specifically relates to Section 156 (1) and (2). He is responding to Section 156 (3) which is about the Constitutional obligation of the government to bring in place a Code of Conduct. My question was related to sub-sections (1) and (2). Did he not agree that the behavior of the Prime Minister and the Ministers in taking on the directorship of DIL is in breach of Section 156(1) and (2)? He is responding to 156(3) which is irrelevant.

**HON. SENATOR Q.B. BALE.**

(a) Now Mr President, Sir, the answers that I have explained will explain to the honourable Senator Emberson-Bain the reasons why I believe, and we believe on this side of the House, that there is no conflict of interest. I understand that she may differ with that, but she will have to deal with that in her own way. We do not believe nor consider that it involves conflict of interest.

**August 31, 2004 from the Hansard report**

**HON. SENATOR DR. A. EMBERSON-BAIN** asked the Government, upon notice:

Can he confirm whether Ministers of the SDL Coalition Government still hold Directorships in the Duavata Initiative Limited?

If the answer is in the negative, then when did they resign and what were the reasons for their resignation?

**HON. SENATOR Q.B. BALE (Attorney-General and Minister for Justice).** - Mr President, Sir, I rise to respond to the question as follows:

No. That is a matter that is in public domain now because it would have been filed with particulars of directors with the Registrar of Companies and all those interested, including the honourable Senator Dr. Emberson-Bain is free to have a look.

**HON. SENATOR DR. A. EMBERSON-**



**BALE: I am not at liberty to divulge this, not only because I do not have the authority of the Board of Directors of the Company to do so, but there is no legal obligation on the Company to make such disclosures**

**BAEN.** - Mr President, Sir, I do not believe that the honourable and learned Attorney-General has answered part (b) of the question and he is obliged to answer to this. I do not think he can either his way out of this one. I do think he has to give us this information in the public interest and I am entitled to expect an answer. Not only when they resigned, but for the reasons for their resignation. I would give him one more opportunity...

**HON. SENATOR Q.B. BALE.** - Mr President, Sir, I think the honourable Senator probably did not hear me right. My answer was that, this is a private company and the documents in relation to all these issues are probably registered in the Registrar of Companies' Office and all members of the public, including the honourable Senator, are entitled to view them. I do not think I am free legally to stand here in this august House and read out particulars of a private company in which government is not involved as such. I am not sure where that question was coming from, unless it was just aimed at trying an attempt to discredit this Government.

**HON. SENATOR DR. A. EMBERSON-BAIN.** - The honourable and learned Attorney-General says it is a private Company and he is not obliged to give us information. We have four or five Ministers, including the honourable Prime Minister on the Board of this Company, so that makes it a quasi-public Company in the sense that we have the senior members of the Government represented at Board level on this Company. So to suggest that it is

a private Company and I should go and search for this information elsewhere, is really evading his responsibilities as Minister for Justice in responding to this question. I would like to know then if the reason for resignation of these Ministers is because they are occupying the position of Directors on this Company was in direct breach of section 156(1) and (2) of the Constitution. I had raised this matter, Sir, at an earlier meeting of the House where the honourable and learned Attorney-General did not give an answer to that question and I am now asking it again since they have resigned as a result of the pressure that we had put them under. They knew it was constitutionally not correct for them to be holding the directorships. It is very interesting to know that they have subsequently resigned. So, I would like to know whether the reason for their resignation has to do with the fact that the honourable and learned Attorney-General, perhaps, may give some sound legal advice on this occasion and advised his Prime Minister and the other Ministers that actually their holding directorships in this company, was in direct breach of the Constitution which was what our position was.

**HON. SENATOR Q.B. BALE.** - I am just trying to explain that I am not at liberty to delve into the private workings of a private Company unless it is a Government Company. For that reason too, as Attorney-General and Chief Legal Adviser to the Government, I am not obliged to, and I did not advise any Company on any matter including this one. So I am not sure why I am being taken in task in this august House to answer to the workings of a private Company. I have stated in my response to the question by the honourable Senator that the Ministers involved are no longer directors of that Company. The question really has been fully answered. Why they resigned is none of my business and in my respectful humble view, anyone else's business.

**HON. SENATOR DR. A. EMBERSON-BAIN.** - I feel very dissatisfied with the way the honourable and learned Attorney-General handled part (b) of the question. I have asked something quite legitimate, the reason for their resignation. He is taking us on a journey, of being a private company and playing around with words, Sir, but the fact of the matter is, at the time of their resignation, they were ministers of this Government and Government and were holding directorships of this Company. I have asked this question for an oral answer, but the honourable and learned Attorney-General is consistently refusing to answer the question.

**HON. SENATOR Q.B. BALE.** - The honourable Senator is asking me to give the reasons for their resignation. I have given my answer that I do not know the reason and I am not entitled to know it and neither this august House, as it is a private company. That is the link between the issues that I was raising. Now, if the honourable Senator does not want to accept that, that is her problem, not mine, but I have given the answer required of me. That is my obligation under the Standing Orders, Sir.

# Australian model not so good 48

**S**DL leader and ousted Prime Minister, Laisenia Qarase says the Duavata Initiative is based on the Australian model. A search on the internet shows that there are similarities and differences between the Duavata Initiative and the Australian model.

According to Wikipedia:

"In Australia, the majority of political donations come in the form of financial gifts from corporations, which go towards the funding of the parties' election advertising campaigns. Donations from trade unions also play a big role, and to a lesser extent donations from individuals. Donations occasionally take the form of non-cash donations, referred to as gifts-in-kind.

The Australian Electoral Commission regulates donations to political parties, and publishes a yearly list of political donors. Donors can sometimes hide their identities behind associated entities.

### Corporate political donations

Between the years 1995-1998, corporations donated \$29 million to Australian political parties. The largest corporate donor during this period was Westpac. By the year 2002-2003, the amount of corporate funding to Australian political parties had risen to \$69.4 million. In 2004-2005, the Labor Party raised \$64.8 million from the corporate sector, while the Liberal Party raised over \$66 million. Most of the large corporate donors conduct business in an area greatly affected by government policy, or are likely to benefit from government contracts.

### Corporate fundraising

In Australia, there is a growing trend for MPs to become directly involved in the corporate fundraising efforts of their parties. Ministers and staff are encouraged to engage

with donors and business supporters, with the aim of raising cash for their political parties. It is known for business leaders to pay \$1,000 to get near a federal minister.

When political parties lodge their return to the AEC, they are not forced to divulge the identities of corporations attending party fundraising events. This allows companies to deny they are political donors.

### Trade union political donations

The Australian Labor Party is the main beneficiary of trade union donations in Australia. During the years 2004-2005, trade unions donated \$49.68 million to the Labor Party's head office. Critics have accused the unions of buying seats at ALP state conferences. In 2001-2002, money from trade unions amounted to 11.85% of the Labor Party's income.

### 2006 law change

In May 2006, the Australian government increased the disclosure threshold for political donations from \$1,500 to \$10,000. In announcing the laws, the government said it will result in a "fairer" and "more competitive" electoral system, however, failed to discuss how the changes achieved these goals.

Critics allege the new law will increase the chances of corruption, by making political donations harder to track, and by making conflicts of interest harder to detect. The change in disclosure allows corporations to secretly donate up to \$90,000 spread across national and state branches of political parties without public disclosure of that funding. Donations up to \$1,500 were also made tax deductible.

### Associated entities

Despite the Australian Electoral Commission publishing a yearly list of political

donors, it is often difficult to ascertain who made the donation, as political parties sometimes use associated entities as front organisations to hide the source of the donations.

Front organisations such as the Cornack Foundation and John Curtin House Limited provide individuals and corporations with a means of passing funds to the major parties anonymously. Under the current electoral act, these organizations are not required to disclose where the donations came from. Associated entities have become huge political donors in Australia, in 2003-2004 donating \$72.6 million to political parties.

### Criticism of political donations

The Australian Shareholders Association has called for political donating to end, arguing that the donations are a gift and a form of bribery.

Political researchers Sally Young and Joe Cheung Tham from the Australian National University concluded:

"There is inadequate transparency of funding. Moreover, there is a grave risk of corruption as undue influence due to corporate contributions and the sale of political access."

Some critics say Australia should follow the example of the United Kingdom, where corporate donors must disclose their political donations in the company's annual report to shareholders.

Other critics have called for limits to cap the amount that corporations and unions can donate to political parties, similar to the \$5,000 personal donation limit in Canada, with a similar ban on union and corporate donations. Some point to the success New Zealand has had, limiting the amount of money that political parties can spend on their election campaigns.

## Travel, Adventure and Discovery

Sail with the people of Fiji



Day	Event	Time
Monday	Depart Suva	06:00pm
Tuesday	Arrive Savusavu	05:00am
	Depart Savusavu	06:00am
	Arrive Tavuni	10:30am
	Depart Tavuni	02:00pm
	Arrive Savusavu	06:30pm
	Depart Savusavu	05:00pm
Wednesday	Arrive Suva	08:00am
	Depart Suva	05:00pm
Thursday	Arrive Savusavu	05:00am
	Depart Savusavu	06:00am
	Arrive Tavuni	10:30am
	Depart Tavuni	02:00pm
	Arrive Savusavu	06:30pm
	Depart Savusavu	05:00pm
Friday	Arrive Suva	05:00am
	Depart Suva	05:00pm
Saturday	Arrive Savusavu	04:00am
	Depart Savusavu	05:00am
	Arrive Tavuni	10:00am
	Depart Tavuni	11:00am
	Arrive Lautoka It	01:00pm
	Depart Lautoka It	03:00pm
	Arrive Tavuni	05:00pm
	Depart Tavuni	06:00pm
	Arrive Savusavu	10:00pm
	Depart Savusavu	12:00am
Sunday	Arrive Suva	10:00am

Shipping



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GOVERNMENT OF FIJI

# Manual of Ministerial Practice and Procedure

(Notes for the Guidance of Ministers)

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*Cabinet*

4. Ministers are responsible for ensuring that major matters of policy are submitted to the Cabinet for consideration, together with anything which statutorily must be. In deciding what to submit, a Minister bears in mind that any power he exercises individually is carried out within the collective responsibility of the Cabinet as a whole. If he submits too much it may be thought that he is not prepared to carry his share of that responsibility: if too little, he may lose the confidence of his colleagues. So the decision can be difficult. If in difficulty, any Minister may consult the Prime Minister, who will in any case co-ordinate Government activity in all its aspects and who should therefore be kept fully informed about the important developments by all Ministers. There is a Manual of Cabinet Procedure which sets out the system of handling Cabinet Papers.

*Ministers*

5. A Minister will be entitled to expect :
- (a) all the facts from a department's experience and files which might influence a decision he has to take;
  - (b) completely candid and independent advice from his Civil Servants. They should never refrain from giving advice which they think may be unacceptable to a Minister but should tell him plainly and fairly what they know and what they think;
  - (c) complete loyalty irrespective of the personal views of his Civil Servants. It is not possible to achieve a proper working relationship without this;
  - (d) that while a Civil Servant should state his views fully and fairly before a decision is made, he should, after it is made, accept and support that decision and carry it out irrespective of his personal views;

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## MINISTERIAL PRACTICE AND PROCEDURE (Notes for the Guidance of Ministers)

*Issued with the authority of the Prime Minister*

*[Initially issued in January 1978  
Revised and issued October 1993]*

### ***Introduction***

1. Under the ministerial system Ministers, after listening to and considering the advice put forward by their Civil Servants, have the last word on policy matters and give the final decisions. They are personally and politically responsible for each and every act of their Ministries.

2. Problems can sometimes result. But there is no reason why they should, for one of the traditions of the Civil Service has always been adaptability. There is a need for understanding on the part of Ministers of the position of Civil Servants, but an even greater effort is required of the Civil Servants. The purpose of these notes is to provide guidance to Ministers (whether or not they are also members of the Cabinet) in the proper discharge of their ministerial responsibilities. It is expected that Ministers will strictly adhere to them.

3. It is a basic principle that a Minister must ensure that no conflict exists, or appears to exist, between his public duty and his private interests. This principle should be observed by a Minister in the arrangement of his private affairs on assuming ministerial office, and while he continues to hold office he should not allow a situation to arise in which his personal or private interests interfere with the proper performance of the duties of his office. In the application of the principle, the conflict of interest must be sufficiently direct and substantial to exert or appear likely to exert an influence on the impartial performance of public duties. Further detail is given at paragraph 19 *et seq.*

(e) that while it is primarily the Minister's responsibility to watch the political effect of policy decisions and of administration, Civil Servants should nevertheless, have a due appreciation themselves of the political consequence of their actions.

6. In return, power and responsibility imposes an obligation on the Minister. Since it is he who has the last say in making decisions and is responsible for the running of the Ministry, he has the responsibility of explaining and defending his Ministry before Parliament and the public. This includes, should the need arise, defending any Civil Servants in his Ministry who may be attacked. The Civil Servant cannot defend himself; it is the Minister who must do so, for it is the Minister who is responsible for the acts of his Civil Servants.

7. Although the general obligations of either side can thus be stated quite clearly, it is not always easy to define what is properly the task of the Minister and that of his Civil Servants. A Minister naturally can take only a few of the decisions that have to be made in the business of the Ministry. This is how it should be because his object should be to lay down broad policy as it is related to the policy of the Government and to public opinion and not to be concerned in the details of day to day business. If he gets too involved in detail, then he ceases to be a Minister and becomes a Civil Servant. For these reasons a Minister needs to acquire the technique of delegation and to draw a distinction between what is important and what is routine. This, of course, does not explain where the boundary between "policy" and "administration" lies; and it is precisely because no comprehensive explanation can be given that mutual understanding and goodwill are of such importance. It is in turn because of this that an attempt has been made to spell out mutual obligations at some length.

#### *The Relationship of the Ministers with the Secretaries to their Ministries*

8. The Secretary to a Ministry has to advise his Minister about policy, that is, about problems on which governmental decisions are to be taken, or about new proposals which need to be put to the House of Representatives or about how best to give effect to its wishes.

9. Subject to the general directions of his Minister, he should also ensure that policy decisions once taken, are effectively carried out. He thus has to convey these decisions to the appropriate department, division, branch or section of his Ministry. In doing so, he should not be expected to give directions about the detailed way professional work should be executed.

10. He should bring to his Minister's notice at the earliest opportunity any important communications received in the Ministry; inform his Minister on any important development; and keep him fully briefed on any matter likely to be the subject of press comment or political controversy. When a matter is of sufficient importance he should see that the Prime Minister is kept in the picture by sending a minute to the Secretary to the Cabinet for the Prime Minister's information.

***The Relationship of Ministers and Secretaries to Departments, Divisions, Branches or Sections of a Ministry***

11. Professional and/or technical advice will be given to the Minister by the appropriate department, branch or section of the Ministry through the Secretary. Such advice should be considered together with financial, political, social and other inter-dependent factors so as to give the Minister as complete a picture as possible. This is the responsibility of the Secretary.

***Public Service Matters***

12. The principle is that, to preserve the impartiality of the Public Service, no Minister is ordinarily involved in or consulted about a range of matters affecting it. Thus none has responsibility for appointments, promotions or discipline. Thus, too, a Minister does not as a rule give directions to or make enquiries about staff except through the Secretary to his Ministry.



13. A Minister may nevertheless have a very proper interest in certain service arrangements. For instance, he may sometimes want to be consulted about postings. This does not mean that he needs to be informed of - still less to decide on - them all; for he should not become unduly involved in detail. But where a posting may involve public controversy or is of particular interest or importance, the Minister certainly ought to know what is contemplated. No firm rule can, in the circumstances, be laid down about exactly when consultation is desirable. It is a matter of judgement. Moreover one Minister may have different wishes from another. The best guidance which can be given is that when in doubt a Secretary should inform the Minister.

14. It must be made absolutely clear that appointments, promotions, transfers and discipline are the sole prerogative of the Public Service Commission which is totally outside and independent of the Public Service, except where indicated in the Constitution.

#### *Financial Matters*

15. The allocation of funds is usually regarded as a policy matter; accounting for them is a matter of administration. Hence a Minister will wish to discuss and give directions about draft estimates and about virements, and will need to know when supplementary provision may be required. But Civil Servants are accountable for controlling approved expenditure.

#### *Legislation for Cabinet and Parliament*

16. Standing Orders of the House require that "A Bill must be published in the Gazette not less than three days prior to the sitting at which it is intended to read it for the first time." This means the earliest a Bill can be taken in Parliament after approval by Cabinet is the week following the Cabinet which approves it. And though there may be no objection to this with some minor legislation, longer time can reasonably be expected for the study of major or more controversial legislation.

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17. Once the Parliament and the Cabinet timetables are approved, these dates are the basis for the Parliament sitting to which a Bill may be referred. Bills and legislation should keep coming forward, but the date of their approval by Cabinet will determine the date on which they can be introduced in Parliament, and these dates, in each case, will be closely examined. Any proposal submitted too late will have to wait for the next meeting of Parliament.

18. This also includes Supplementary Financial Provision. While Ministries tend to be late in producing the figures and there is always a rush, it is necessary to do justice to requests for extra money in the House and to this end the figures should first be examined in Cabinet. Therefore, all supplementary estimates will be examined in Cabinet. This will enable the Minister of Finance to answer queries if the relevant Minister cannot be in the House. This means that the Minister of Finance must have the Supplementary Estimates in Cabinet Office one week before the Cabinet meeting to discuss them. This has even earlier implications for other Ministries.

### *Rules Governing the Conduct of Ministers*

19. Ministers will be expected to devote the whole of their time to duties of their offices, and will receive appropriate remuneration from public funds. It will therefore be necessary for them at the time of their appointment to divest themselves for the period of their office of any outside interests which may conflict with their public responsibilities. So far as private business and professional practices are concerned, this ruling should be interpreted as requiring a severance of active connection.

20. There are, in addition, what may be regarded as "rules of obligation", the breach of which may be regarded as exposing a Minister to removal from office. These rules are based on generally established custom and usage and any serious infringement of them, even though not punishable by law, would expose such Minister to the loss of office :

- (a) all directorships held by Ministers must be resigned except honorary directorships, directorships in connection with philanthropic undertakings, and directorships in private companies which are not primarily engaged in trading, but deal wholly or mainly with family affairs or interests; \*
- (b) on assuming office, Ministers should cease to hold official positions in trade unions and should cease from active participation in their affairs;
- (c) Ministers ought not to enter into any transactions whereby their private pecuniary interests might, even conceivably, come into conflict with their public duty; \*
- (d) No Minister is justified in any circumstances whatever in using official information which comes to him as a Minister, for his own private profit or for that of his friends;
- (e) No Minister ought to put himself, or allow himself to be put, in a position to use his official influence in support of any scheme or in furtherance of any contract, in regard to which he has an undisclosed private interest;
- (f) No Minister should use his influence to support the candidature of any person for admission to, or promotion within, the Civil Service;
- (g) No Minister ought to accept any kind of favour from persons who are in negotiation with, or seeking to enter into contractual or proprietary or pecuniary relations with Government;
- (h) On assumption of office, Ministers should disclose to the Prime Minister in confidence a full list of their holdings of stocks and shares in all companies which have interests in Fiji or abroad whether or not at the time such companies are parties to any Government contracts; the Minister should use the strictest discretion in deciding in circumstances where his private interest and public duty may conflict whether he could properly continue to hold such stocks and shares.

- (i) Ministers should also disclose to the Prime Minister any shares they acquire subsequent to taking up office, and preferably consult him prior to their acquisition.
- (j) Ministers should scrupulously avoid speculative investments in securities as to which, from their position and special means of early or confidential information, they have, or may have, an advantage over other people in anticipating market changes; and,
- (k) Ministers should not practise journalism whilst holding office, or make any communications to the Press, other than in their official capacity. This prohibition does not, however, of course, extend to writings of a literary, historical, scientific, philosophical or romantic character.

21. The above rules are by no means exhaustive, but they serve to illustrate the manner in which holders of high public offices in the service of the State, are expected and required to conduct themselves.

#### *Use of Vehicle*

22. Vehicles are to be used solely to meet the transport needs of authorised users while attending to official business or while participating in a function as a Minister of the Government of Fiji. Family members and others may accompany an authorised user in a Minister's vehicle, but may not make use of the vehicle for unofficial purposes. A wife who is invited in her official capacity to attend a function may use the official vehicle.

#### *Use of Vehicles and Social Functions*

23. A Minister may, under these rules, use an official vehicle to attend a social function to which he has been invited in his official capacity.

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Vehicles shall not be used to transport authorised users to recreational activities except as an alternative to returning home at the end of the day. Once a driver delivers an authorised user to his destination at the end of the day, the vehicle will return to the base.

*Discipline*

24. Authorised users should address any complaints about the punctuality, appearance, dress and manner of drivers to the officer responsible in his Ministry.

*Change of address of authorised users*

25. Any change of address of authorised users should be immediately communicated to those concerned. This includes street name and number, telephone number and if possible any permanent identifying features of the residence.

*Minister's Car Advance*

26. A Minister may apply for and receive a Government loan to purchase a private vehicle under approved conditions and be eligible to claim mileage for official journeys.

Under these rules, claims can be made only when dates, distances and journeys are recorded and submitted monthly. It is appreciated that this is an onerous duty to impose on Ministers. On the other hand, it is difficult to see how otherwise proper accounting of public funds is to be achieved, even in Ministers' own interests in facing public criticism. It is, however, not considered that the present rules of accounting individually for journeys should be relaxed.

Ministers may claim mileage allowances for journeys between house and office.

### *Acceptance of Gifts by Ministers*

27.(1) Ministers should carefully avoid all transactions which can give colour or countenance to the belief that they may thereby be influenced in the conduct of Government business.

#### *(2) Gifts from Members of the Public*

- (i) In the event of a Minister having received a gift from a member of the public not realising until later that the gift was of substantial value, the Minister should, if it can be done without causing personal offence, return the gift under cover of a personal note explaining that, although the spirit in which it is tendered is appreciated, to accept it would be embarrassing as it would involve a breach of the ministerial code.
- (ii) If the gift cannot be refused at the time or afterwards returned without giving personal offence, then the right course is for the Minister to deposit it in the Ministry of Finance and, if he wishes to retain it, to purchase it at an official valuation.
- (iii) There may also be occasions where a gift is not substantial but the manner or circumstances of its presentation will counsel that it should be declined.

#### *(3) Gifts from other Governments*

- (i) When gifts are received in a Minister's official capacity from dignitaries of other Governments in friendly or ceremonial interaction there may be occasions when goodwill and understanding will be upset by a refusal to accept, and it may then be necessary for the gift, even of value, to be retained in Fiji.

- (ii) Except in very exceptional circumstances the solution is for gifts of this kind to be handed over to the Ministry of Finance, the Minister retaining the right to purchase it at an official valuation and for return presents, if unavoidable, to be at Government's expense.
- (iii) In certain exceptional cases, however, it may be considered desirable for such gifts to be associated with the post held by the Minister and not with the Minister himself and then the solution might be for the gifts to be kept on display in the Ministry or the Minister's official residence, details having been reported to the Ministry of Finance.

(4) It is most important that there should be full publicity whenever gifts, received from foreign dignitaries, have to be retained in Fiji.

(5) If any gift is accepted under (3)(iii) above, the Prime Minister should be informed.

(6) Finally, the application of these rules must inevitably be a matter for individual discretion by Ministers but, where there is any doubt, the Prime Minister should be consulted.

*Travelling Overseas by Ministers*

28.(1) *Expenses*

Ministers travelling overseas on duty may be paid a daily allowance in advance, the amount of the advance to be that provided for by the UNDP Daily Subsistence Allowance Rates plus 50% and Ministers will be accountable in respect of the duration of the stopover in the countries visited to ensure that the correct per diem allowance has been received by the Minister, upward or downward adjustments being made where necessary. As an alternative, Ministers may claim the actual cost of board and lodging and, in addition, in order to cover incidental expenses, the following sums:

Prime Minister	F\$100 per day
Ministers	F\$ 70 per day

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Necessary travelling expenses may be claimed.

The cost of necessary official entertaining may be claimed (i.e. official dinners, lunches or receptions). Where possible, the scale of entertaining should be agreed with the Minister of Finance before departure.

Receipts **must** be produced especially for major expenses such as hotel bills. Only minor expenses for which receipts are not normally given, will be reimbursed, the claim for which must be itemised on a Declaration Form.

(2) *Class of Travel*

Journeys will normally be made by air and the class of travel will be business class. The President, Prime Minister and Deputy Prime Minister will be entitled to first class reservations.

(3) *Spouses*

A Minister's spouse will not normally be entitled to travel with the Minister at Government expense. The spouse may only do so with the prior approval of the Prime Minister in very special circumstances such as for State occasions.

Spouses of the President and Prime Minister are excepted from this ruling and may accompany them at Government expense when they are travelling on official duty.

(4) *Personal Accident Compensation*

A personal accident compensation scheme for Members of Parliament is set out in detail in a Memorandum of Understanding which was approved by Cabinet as Parliamentary Paper No.3 of 1979.



### *Subsistence Allowance - Local Tour*

29. Ministers may claim at the rate of F\$100 per day to cover the cost of accommodation and meals whilst on official duty outside Suva.

The allowance is met from the travelling vote within the Ministry.

### *Medical Treatment for Ministers*

30. All current medical and dental charges applicable to senior civil servants for treatment, hospitalization, drugs, and all other hospital services shall also apply to Ministers of the Government.

The prior approval of the Prime Minister is required for the reimbursement of costs incurred by Ministers for local specialist treatment or for necessary medical treatment overseas.

### *Malaria Precautions*

31. Attention is drawn to the dangers of visits to countries where malaria is endemic, and the Ministry of Health considers that there is need for those visiting such countries to take Prophylactic Chloroquine tablets. The dosage is 100mg to be taken daily a week before such visit is undertaken, for the duration of the visit, and for at least 4 weeks after visiting the malarious area. The necessary prescription can be filled by the Divisional Medical Officer, Central Office, Rodwell Road, Suva and the Medical Officer-in-Charge of Civil Servants Clinic at Lautoka Hospital.

### *Guards of Honour*

32. These notes have been prepared to give an outline of the form and procedure adopted by Commonwealth Guards of Honour and are suggested as a guide to a Civilian (VIP) who may be required to inspect them.

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33. As its name implies, a Guard of Honour is mounted to honour a visiting dignitary. The occasions when a Guard is mounted are regulated by Queen's Regulations.

34. A Guard of Honour may consist of up to 100 all ranks including at least two officers. A Colour Party and Colours may be included when the unit mounting the Guard of Honour possesses Colours. A Band is usually in attendance.

35. A Guard may be commanded by an officer of Field rank (Major or Captain). Ceremonial uniform is worn and the Officers carry swords.

36. The Guard is drawn up in inspection order (two ranks open order) before the arrival of the VIP. Once leaving the car, the VIP should be escorted to a position in the front and centre of the Guard. The Guard Commander will then give the command "*General Salute*" and the Band will play the appropriate bars of music. If a hat is worn by the VIP, it should be removed during the General Salute. The Guard is then brought to the order. The Guard Commander will march up to the VIP, salute with his sword, report the Unit from which the Guard is formed, the number of Officers and men on parade and invite the VIP to inspect the Guard of Honour. The Guard Commander is addressed by his rank, e.g. "*Major*" or "*Captain*".

37. The Guard is inspected from left to right commencing with the front flank. During the inspection, the band plays light inspection music, usually in slow time. During the inspection each man should be inspected and usually one or two members of the Guard are spoken to by the VIP - possibly old soldiers (indicated by their medals) or perhaps very young soldiers. After inspecting the front rank, the rear rank is inspected from right to left. If Colours are on parade, the Guard Commander will salute as he passes in front of the Colours. The VIP should look at the Colours as he passes them. (A formal eyes left is not necessary).

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38. On the completion of the inspection of the rear rank, if the Band is on Parade, the Guard Commander will escort the VIP to the Officer Commanding the Band who will report the Band to the VIP. It is normal for the Band to be inspected; but this is confined to the front rank only.

39. Following this, the Guard Commander will accompany the VIP back to a position on the right flank of the Guard, salute and will take his leave. Before he does leave, however, it would be appropriate for the VIP to comment on the turnout and drill of the members of the Guard. The VIP then leaves the Guard (he could either leave by car or possibly enter a building).

40. Sometimes a second "general salute" is given although this is unusual. Under these circumstances the Guard will remain at the "present" until VIP is clear of the flank of the Guards.

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61

**ROSS G McDONALD**

PO Box 1155,  
Suva, Fiji Islands

Tel: (679) 330 3409 Fax: (679) 330 5747  
Email: [ross.mcdonald@creditcorp.com.fj](mailto:ross.mcdonald@creditcorp.com.fj)

9 October 2007

Dr Shaista Shameen  
Director  
Fiji Human Rights Commission  
Level 2  
Civic Towers  
Victoria Parade  
SUVA

Dear Madam

**Media Enquiry Report by Dr James Anthony**

I write to you as a Fiji citizen, described as a "whites" in the Report. I am also the Chairman of Directors of the Fiji Times Limited.

I have read the report and find it blatantly racial, deeply offensive and insulting and a scurrilous attack on the integrity of both myself, other "whites" in Fiji, and to the Board and Management of the Fiji Times.

It is a litany of unsubstantiated half truths, misinformation, innuendos, falsehoods, malicious gossip and down right lies. Indeed it contains many of the deficiencies for which the author so loudly accuses the media of being guilty.

That a body such as the Human Rights Commission has accepted this report and distributed it, so that it has now reached the public arena for comment beggars belief.

The Report seriously slurs the credibility, image and standing of the Human Rights Commission that is the very institution charged with the protection of human rights, civil liberties and justice that your Report violates. Sadly your acceptance of the Report seriously deprecates your own credibility, professionalism and scholastic achievement.

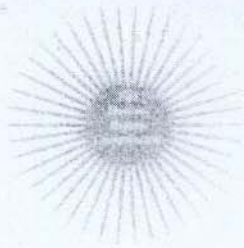
You should be aware that in view of the defamatory contents of the report I am considering legal action against its author, yourself and the Human Rights Commission.

Yours sincerely



RG McDonald

<b>FAX: IN/OUT</b>
TIME <u>3pm</u>
DATE <u>09/10/07</u>



# FIJI HUMAN RIGHTS COMMISSION

GPO Private Mail Bag  
SUVA, FIJI ISLANDS

62

File: Media Report correspondence RMc.

10<sup>th</sup> October 2007

Mr Ross G. McDonald,  
PO Box 1155,  
Suva.

Fax: 3305747

Dear Mr McDonald,

**Re: Media Inquiry Report by Dr James Anthony- your response**

I refer to your letter dated 9<sup>th</sup> October on the above subject. Thank you for your comments on the draft Report.

I have forwarded your letter to our consultant, Dr James Anthony for his consideration.

Perhaps you might have been unaware of the process engaged in by the Fiji Human Rights Commission with respect to the media inquiry. The draft report was sent to organizations, persons and institutions which might consider themselves to be adversely affected by it, for their comments and observations. Any comments, observations, suggestions or additional information received are then forwarded by FHRC to Dr Anthony for his attention. He may subsequently amend his Report according to the new information, suggestions etc provided. He will then submit his final Report to the FHRC for our action.

The Commission has not yet been presented with the final report; at present we are forwarding all correspondence in relation to the Inquiry to Dr Anthony. The deadline for receiving responses was October 10<sup>th</sup> 2007 but some stakeholders have asked us to extend it until October 12<sup>th</sup>. Further extensions may be granted upon request because

the Commission sees the Media Inquiry as being an important part of our work on freedom and independence of the media.

I really see no relation between the draft report as it stands and the credibility etc. etc. of the Human Rights Commission as you allege at paragraph 5 of your letter. The Commission engaged Dr Anthony to conduct an inquiry and present the Commission with a draft report which the Commission then disseminated to a number of interviewees and some others identified who may have an interest in the findings, to ensure that they were given a further opportunity to be heard. The Commission forwards these additional responses to Dr Anthony to allow him to amend and finalise his Report.

I trust this clarifies our procedure in relation to the Media Inquiry.

Yours sincerely,

Dr Shaista Shameem

Chairperson.

# The Media Council

*Please see  
to Dr. Jan*

26<sup>th</sup> October 2007



The Director  
Fiji Human Rights Commission  
Suva.

Dear Dr. Shameem.

With reference to the draft report presented by Dr. James Anthony, I enclose a copy of my response, dated 5<sup>th</sup> October, to your invitation to comment on the report.

This letter should be read in conjunction with the enclosed response to the Dr. Anthony enquiry prepared by members of the public serving the Media Council. It is appreciated that this response is outside the time allocated for responses. However members were of the opinion that in view of the numerous derogatory references made to the Media Council in the draft report their response should be permanently recorded, to be referred to and or published when considered appropriate.

Yours faithfully

Daryl Tarte  
Chairman

<b>FAX: IN/OUT</b>
TIME <u>4:00</u>
DATE <u>31/10/07</u>

MEDIA COUNCIL (FIJI) LTD

I wish to first make some general comments.

The consultant displays a complete lack of understanding about the role and functions of the Media Councils that operate in many parts of the world. These provide a model for the Fiji Media Council whose main functions are to promote high journalistic standards, safeguard the media's independence, uphold freedom of speech and expression, promote a code of ethics and provide an effective complaints procedure.

It is unfortunate that the consultant has nearly condemned the media in Fiji as 'misleading, corrupt, biased or the way they behaved and continued journalists, sub-officers and others, none of whom were recognized for their excellence at the recent FAVIC awards.

I also condemn the derogatory comments about the Media Council, public members and independent members of the Complaints Committee by unnamed sources. These persons were never exposed members of the community who give genuine services in compliance with the Media Council, the Council, which was said to him.

Although this inquiry is supposed to be about media freedom and independence, the recommendations, if ever implemented, would have a serious impact on media freedom and the viability of media businesses in Fiji.

I am astounded that the consultant has made little reference to the media situation here in Fiji following the events of December 3<sup>rd</sup>. These events had very serious implications on media freedom and independence. In fact one may have expected that this would have been one of the terms of reference. It is interesting to note that the consultant seems to have paid little regard to the terms of reference.

I now wish to comment on some specific errors and statements in the report.

Page 5 of your comments: No complaint was lodged with the Committee

Page 8 second last para. It is wrong to say the Council was established two years after the Thomson report.

Page 9 second last para. The term 'fancy codes of ethics' is an insult to the internationally

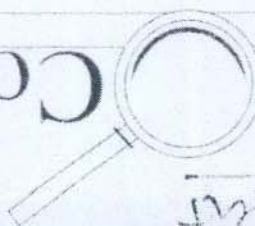
Thank you for your letter of 28<sup>th</sup> September in which you invite comments on the media inquiry report. As time is short, this will be a preliminary reply with a more substantive comment to be made in due course.

Dear Dr Shumane

The Director  
Fiji Human Rights Commission  
Suva.

5<sup>th</sup> October 2007

The Media Council



2

USAT

649

~~649~~

Dear press for  
ADR gin  
both stations  
copy for me.  
Ave  
Slip 2



(65)

respected Thomson Foundation who drew up the codes after widespread consultation with all sectors of society in Fiji. The codes are also reviewed regularly after public consultation.

Papa 1.3.6. Appendix 5. This has been edited and is incomplete and distorted.

Para 1.3.7 The claim that I was hostile to him is wrong. I had one friendly meeting with him at the Holiday Inn and never spoke to him again nor said anything about him other than to complain to you about his insulting attitude to Bob Pratt and some derogatory things he said about me. I suggest you read my letter to you of 23<sup>rd</sup> August.

Top page 28. At our talk at the Holiday Inn he asked if I would meet with him and you to try and find a way for the involvement of the media in the inquiry. I readily agreed but nothing happened. He makes no mention of this in his report. I also offered to give him the names and contacts of Council members so he could meet them directly. These details were given to you but he never made any attempt to contact the members.

Para3.1.3 No attempt was made to get details about the council though your office was told where they were available.

Para 3.1.4 I do not appoint representatives from the Ministry and the USP. They are members by virtue of the provisions of the Council constitution.

Para 3.1.5 It is wrong and derogatory to say that the method and membership of the Council "smells". Membership is covered by the constitution. The many statements in this paragraph are false, derogatory and not based on any reliable information.

Papa 3.1.8 The comments about the highly respected and independent members of the Complaints Committee who have given many years of service free of charge boarder on slander.

Part 4.1.4 No such instruction was given to Bob Pratt

Page 51. There is further insult to the members of the Complaints Committee

Page 60. "Daryl Tarte is a white man." What does this imply. The whole thrust of the report is blatantly racist.

Page 82. To say that the council is a "white mans club" is an insult to the many non whites on the Council. It says more about the consultant than the council.

Page 86. It is assuming a great deal to say "Daryl Tarte was a crony of Alan Robinson" It is also incorrect to say that "Tarte ruled against Chaudhry's son". No such ruling was ever given by me.

In conclusion I wish to inform you that I am seeking legal advice as to whether I should take action against Dr Anthony and the Fiji Human Rights Commission for false and defamatory statements in the report.

Yours faithfully



Daryl Tarte  
Chairman

FAX: IN OUT  
TIME \_\_\_\_\_  
DATE \_\_\_\_\_



66

9<sup>th</sup> October 2007

Dr Shaista Shameem  
Director  
Fiji Human Rights Commission  
Suva

Dear Dr Shameem

I write in response to the draft report resulting from the Media Inquiry conducted by consultant Dr James Anthony.

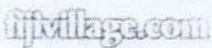
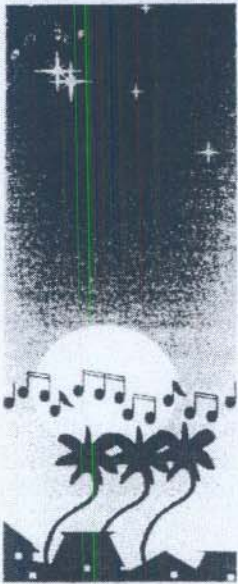
Before making detailed comment I wish to make some initial observations.

In your preamble to the report, you comment on "interesting revelations" with regards an accusation that certain media organizations were members of and directly funded the SDL parties Duavata Initiative Ltd. You included CFL in that list and I wish to, in the most vehement terms, deny this accusation and condemn your use of this "revelation" in your report, based it would seem purely on hearsay.

CFL has never contributed financially or otherwise to any political party. This has been company policy since our inception in 1985. Any inclusion of this unsubstantiated accusation in the final report will result in legal action.

As a member of a minority community in Fiji, I am also very concerned at the manner in which the European community has been referred to in this report and the way in which senior members of our community have been maligned in a racist and vicious manner. I find it incredible that the FHRC would put their name to a document that exhibits this racist tone particularly at a time when the FHRC and the Interim Government is vigorously promoting multiracialism and an end to racial division in public life.

The naked racist hatred displayed by your consultant in this report says much about him and his credibility revealing just how out of date he is with modern Fiji and its values and beliefs.



Communications  
Fiji Limited  
parent company of:  
Jr FM96, Legend FM, Nautaranga,  
Radio Sargam, VITI FM,  
Total Event Company  
& Fijivillage.com  
PNC: Nau FM & Yumi FM

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Finally, I find it extraordinary that a human rights body like FHRC working purportedly on behalf of an international human rights organization Article XIX can produce a report that proposes to fundamentally undermine the rights of the people of Fiji to a free media.

To the report itself it is a little difficult to know where to begin with a report so bereft of hard facts and dependent on the perceptions of anonymous contributors. Under these circumstances how can we accept any of these statements as having any credibility?

Instead, I will use this opportunity to educate and inform starting with an outline of the media industry in Fiji. I start with this because Dr Anthony seems obsessed with The Fiji Times, perhaps this is because when he left the country it was the only media organization of any substance.

A lot has happened since the 1960's and Fiji now, per capita, has one of the most competitive and diverse media industries in the world. For the record, currently, Fiji boasts three daily newspapers, at least two weekly vernacular newspapers, eight monthly and bi monthly magazines, 17 radio stations, at least three major local news based websites, one free to air television service combined with multiple satellite pay channels and with the issuance of new licenses we expect more TV outlets in the near future.

The result of this diversity is that there are very few places in Fiji where a citizen can't enjoy multiple radio channels in their first language, access to satellite or free to air TV, a choice of daily newspapers and a multitude of magazines and websites. This array of sources of information provides citizens with a huge range of perspectives on news of the day preventing the potential for manipulation as alleged in this report.

This list is by no means exhaustive as the industry is changing constantly reflecting a diverse industry that is strangely absent from the Anthony report. Your consultant makes much of ownership making the bizarre suggestion that a small group of largely "white" media owners are somehow plotting and colluding to determine the future of this country. A factual survey of ownership will reveal that Fiji's media ownership is also incredibly diverse with only one major outlet, The Fiji Times, being foreign owned. The rest range from small time owner operators to publicly listed companies to of course, the publicly owned FBCL. As for cross media ownership; where is it? Apart from the fact that many mainstream media operations also have a presence on the web there is very little cross media ownership in Fiji.

I wish to make one point about the ownership of Communications Fiji LTD that is reported as "Parkinson controlled". In fact, the largest single shareholders in CFL own 26% of the company, hardly control by any stretch. As a publicly listed company, CFL has a share register comprising 169 shareholders and this doesn't take into account the wider community represented by institutional investors like the Unit Trust of Fiji.

I turn in this context to the proposed 7% turnover tax aimed to fund this Media Tribunal. How this figure was reached is not explained. Based on estimates of current advertising revenues, this is likely to generate between \$1.4 million and \$2 million and would devastate the Fiji media industry. Remember a turnover tax comes straight off the bottom line. Based on my knowledge of the market, I would estimate that this would bankrupt all but three media operations and require a substantial increase in tax payer subsidy to the Government owned Fiji Broadcasting Corporation Ltd. The three privately owned survivors (The Fiji Times, Fiji TV and CFL) would be forced to drastically cut back services and staff to maintain profitability. I can't understand how this equates to assisting journalists and developing the media industry. Ironically, it would achieve just what the author of this report is trying to avoid, a much smaller less diverse media susceptible to the kind of manipulation that Dr. Anthony believes is present today.

Let us also remember that like any commercial enterprise in Fiji, media organizations pay tax and make contributions to TPAF on top of their other obligations.

With such a diverse media industry, there is a single factor that drives growth and development and its called competition. This is another reason why any suggestion of collusion is just ridiculous. While media organizations do work together at an industry level on certain issues and I will clarify these shortly, when it comes to product, competition is fierce. Our survival is dependent on producing the best possible product and our respective news rooms battle daily to outperform each other.

Your consultant also needs to understand how most news media organizations work. At CFL and in most other major news media outlets in Fiji, the independence of the editorial staff is fiercely protected from the rest of the organization. Senior management or for that matter any other staff members may provide news tips or story ideas but the editorial staff make the call on stories. In our case, our News Director, Vijay Narayan's job as Editor is to ensure our coverage is balanced, fair and accurate. He doesn't tolerate interference from me or any other team member because his personal credibility is "on the line" as a journalist and editor. The very fact that he is widely recognized as one of Fiji's top news professionals disproves once again the interference suggested in this report.

The media industry does "collude" on certain key issues like training, media freedom and accountability. Much is made of training in this report and there can, in my opinion, never be enough. The issue is developing financially sustainable training programs that are not dependent on external or foreign sources of funds. The media industry in partnership with the Media Council has worked hard to assist the development of the degree program at the USP, run several workshop based programs, initiated the Editors Forum as a form of training via promotion of debate on key issues, launched the Fiji Awards for Media Excellence (now in its

third year) and more recently, with the assistance of Ausaid helped start a Diploma in Journalism program at the Fiji Institute of Technology.

I was surprised that this last program was ignored by the consultant especially as the Diploma program at FIT, now in its second year, represents a major development for the industry providing the industry with access to trained recruits while also giving current journalists the chance to complete formal qualifications. The Fiji Media Council has been instrumental in the development of this program and the media continues to support the program extensively. This program is still in its infancy and there is much to be done but an important start has been made.

I am sure other respondents have provided detail on the role of the Fiji Media Council when it comes to accountability. I just want to remind your consultant that the FMC complaints tribunal is designed to offer to complainants a mechanism and structure that guarantees a wronged party right of reply or correction. Like most media/press councils, its purpose is not to hand out punishment, that is the role of a Court of Law, if a complainant feels that compensation is required for damages suffered.

This brings me to the gross historical inaccuracies portrayed as facts in this report. I find it incredible that the media can somehow be blamed for every coup since 1987. To suggest that the media deluded Sitiveni Rabuka to such an extent that he felt compelled to conduct the 1987 coups is just plain ridiculous. Similarly, the suggestion that the media "hated" Chaudary is equally crazy. This is particularly ironic for CFL as for much of that period CFL was beset by angry NFP politicians who claimed that our organization was in fact pro Chaudary.

Your consultant highlights three incidents in late 2006 that he claims were not covered by the media or more precisely the Military's perspective wasn't sufficiently covered by the Fiji media. He mentions the HMAS Kanimbla/ Black Hawk incident, the arms container incident and the Australian Special Forces/ diplomatic bag story. Attached is a detailed summary compiled by our News Director, Vijay Narayan of actual coverage of these events that disprove your consultant's assertions. The truth is that each of these stories was comprehensively covered.

The reality is that since 2000, the Fiji military have become accomplished media performers and have enjoyed extensive coverage. There would be many who would be surprised by the claim that the military were denied media space during this period, in fact there would be some in the community who would suggest the opposite was the case.

What has clearly been recognized by the RFMF is that in volatile political situations, a free media plays a critical role in not only providing information but also allowing the disputing parties to express their views openly, exposed to public scrutiny. This has the effect of "letting off steam" from what otherwise could be a violent situation. I believe the very fact that we

have been able to navigate our way through twenty turbulent years without substantial bloodshed is proof of this fact.

Deny freedom of expression even when the views are ugly and you force the disgruntled 'underground', encouraging them to adopt other means to get their voices heard. This has happened particularly at times when the mainstream media has been under threat like in 1999/2000 during the year Mr Chaudary was in office. Much of the "heat" created during that period that was used ultimately by Speight and his rebels to whip up support came from deliberate disinformation campaigns. The coalition Government chose to confront the media rather than counter these companies in an open and transparent manner, a lesson later learnt by the RFMF.

Earlier this year, there was much made of "blogs", some of which made outrageous and sometimes violent comment on the Fiji situation. The reason they popped up at that time was that the media was perceived to be under some pressure and so people turned to the internet to get the "real story" not believing the mainstream media. It was no surprise then that once the pressure was removed and things settled down the attraction of blogs faded. While on the subject of pressure, I am intrigued that this so called report on media freedom makes no attempt to investigate or to discuss the challenges and threats faced by journalists since December 5<sup>th</sup> 2006.

Fiji enjoys a media industry of which as a small developing nation we can be proud. Yes it could do a better job, there is no doubt about that (as could most other professions or industries) but the growth displayed over the last 30 or so years that I have been directly involved in the industry has been amazing. But there is much work still to be done but it can only come from a free and competitive media. It cannot be forced from above via a Media Tribunal that will inevitably become the tool of whoever is in political power.

Dr Anthony makes a call for "wise restraints" without specifying what these might be. The prospect of controlling those "wise restraints" is a tempting one particularly for a political leader not comfortable standing in the media spotlight but what is forgotten by those pursuing control is that the media doesn't just hold them accountable, it plays a much wider role in the community. If I can take three recent stories as examples, the tragic case of Shavneet Kumar, the story of the Lord Mayor of Suva's vehicle and the consumption of turtles at the Methodist Conference. Each story annoyed sectors of society and I am sure if Dr Anthony was still conducting hearings, would have generated disgruntled submissions but was the media wrong in asking the questions it did and would those same questions have been asked quite so vigorously in a controlled media environment like Singapore?

Dr Anthony talks of a cooling off period and the development of a partnership approach between journalists and those in the authority. This is reminiscent of the now discredited "development journalism" advocated by authorities largely in the African and Asian region in the 1980's. This lesson has already been learnt and the outcome clear. Remove the powers of journalists to ask difficult questions and you destroy a key element of the accountability process required to prevent corruption and poor governance. Conflict between journalists and those in power is inevitable and a sign not of a dysfunctional society but quite the opposite.

This conflict is contained by "wise restraints" that already exist;

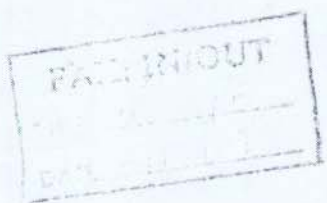
- Fiji boasts a diverse media industry that is largely locally owned and highly competitive;
- The Fiji Media Council has established a widely accepted code of ethics and a complaints tribunal process that provides an immediate level of accountability;
- The Courts of Law provides a further level of accountability offering the opportunity for the aggrieved to seek damages etc.

Dr Anthony has come up with the bizarre notion that the relationship between the media and the government is somehow irreparably damaged. This is simply untrue. There is naturally conflict from time to time between government representatives and journalists. That is the case in all countries with a free and independent media. However, the media in Fiji is relatively conservative and restrained in comparison to media in many other nations. Dr Anthony appears to be using his theory of a broken relationship and crisis to justify his thinly disguised proposals for curbing media freedom. In his estimation, the media isn't working and must therefore, be taken in hand, and be subject to controls.

To propose further restraints takes Fiji to a very dangerous place where those in power can hide from the immediate glare of media scrutiny and the disgruntled may be forced to seek other means to express their views. In this regard, this report appears to undermine the stated principals of the Interim Government those of multiracialism, transparency and accountability.

Yours faithfully

William Parkinson  
Managing Director



71(2)

9<sup>th</sup> October 2007

The Director  
Dr Shaista Shameem  
Fiji Human Rights Commission  
Suva

Dear Dr Shameem

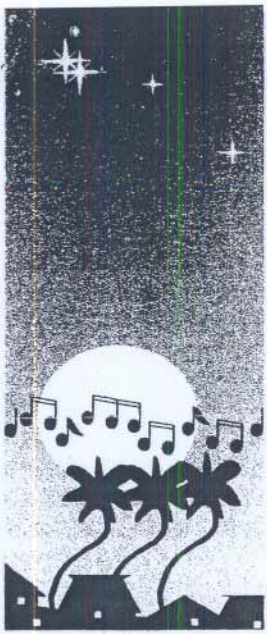
This is to confirm that our stations and website ran the following stories a number of times contrary to what had been said in the Media Inquiry Report.

Starting from November 1<sup>st</sup>, 2006, our stations, Legend FM, FM96, Viti FM, Navtarang and Sargam ran the stories on the incident at the Suva Wharf when armed soldiers removed the arms that had arrived in the country a few days earlier. The story broke on our stations on our midday bulletin and ran throughout the day and included interviews with the Police Commissioner at the time, Andrew Hughes and Military spokesperson, Major Neumi Leweni.

Our reporters were at the Suva Wharf when the ammunition was taken and I had also sent a reporter to the Police Commissioner's office to get full clarification on the incident at the wharf.

I now highlight the report carried on air in the English, Fijian and Hindi languages on all our five radio stations on November 6<sup>th</sup>, 2006. This followed a press conference called by the RFMF's Land Force Commander, Commodore Pita Driti. We ran a report on the evening of November 5<sup>th</sup> when the press conference was called and the details on the press conference on some Australian Officers coming in with silver boxes was again broadcast on all our 5 radio stations and published on our website, fijivillage.com on November 6<sup>th</sup>, 2006.

Finally, we also ran a number of stories on the Australian vessel, Kanimbla berthed just outside the Fiji waters. We started running the stories from mid November when the first announcement was made in Australia. On November 30<sup>th</sup>, 2006, we ran a number of stories on the military exercises held in anticipation of any foreign intervention. We had comments from Major Neumi Leweni after a press conference which he called at 11pm on November 29<sup>th</sup>, 2006. I was called by Major Leweni earlier in the night after we ran a story that the Australian Army Black Hawk helicopter crashed into the navy ship earlier that afternoon. Major Leweni confirmed that he would have a press conference just at the entrance of QEB in Nabua and I then arranged for a team of reporters to go to the military barracks while I stayed at our station headquarters, awaiting the information from QEB. Our coverage team finished off with the press conference at about midnight and the stories were run the following morning.



fijivillage.com

Communications  
Fiji Limited

parent company of:  
Fiji: FM96, Legend FM, Navtarang,  
Radio Sargam, VITI FM,  
Total Event Company  
& Fijivillage.com  
PNG: Nau FM & Yumi FM

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7. (H)

Legend News for 5pm TX : Nov 1st. VN

Major developments today as the military forcefully removed seven tonnes of army ammunition from the Suva Wharf without proper approval.

Police Commissioner Andrew Hughes has revealed that the military cancelled their joint press conference this morning and took the ammunition without the Import License.

Insert : 70004 - 1

Hughes says he is trying his best to find out why this action was taken by the military.

Insert : 70004 - 2

Meanwhile with confirmation that the seven tonnes of military ammunition has already been unloaded at the Queen Elizabeth Barracks in Nabua, the stand off between the disciplined forces continues.

According to Army Spokesperson Major Neumi Loweni they have all the necessary documents to show that the ammunition was removed legally by the RFMF as the Police Commissioner Andrew Hughes has issued an Import License.

Insert: 70109 - 1

71 (C)

Major Leweni says that the Commissioner should clarify these issues with the RFMF before making allegations. He also says that the international community is over-reacting and stresses that there is no cause for alarm as the RFMF will ensure that peace and stability is maintained at all times.

71 (4)

Legend News for 11am

TX : Nov 6th. VN

The Police Commissioner Andrew Hughes has refused to comment on the recent allegation made against him by the military.

When approached this morning about the comments made by the military calling on him to explain his actions to the nation after the RFMP intelligence discovered that he allegedly called in Australian and NZ police investigators into the country, Hughes simply walked away.

While speaking in a press conference last night, Colonel Pita Driti had said they have found out that Australian officers came in with silver boxes on Friday that were not checked by Customs upon their arrival.

Colonel Driti says senior army officers who attended a meeting chaired by Commodore Frank Bainimarama at QEB yesterday, have stressed that the Police Commissioner is now overstepping the line.

Insert : 76524 - 3

Colonel Driti also reveals that Hughes has also sought the assistance of NZ police.

Insert : 76524 - 4

\*\*\*\*

Legend News for Sam TX : Nov 30th. VN

The military completed its training exercise in the greater Suva area earlier this morning.

Soldiers were seen at key locations in Suva just before midnight. These places included Government House, the parliament complex and some other strategic locations like the telephone and electricity companies headquarters.

Several road blocks around the Suva area were set up after Legend FM News reporters saw about four truckloads of soldiers coming out of QEB at about 11 o'clock last night to set up snap checkpoints.

Assistant Police Commissioner Operations Jahir Khan confirmed to Legend FM news that Queen Elizabeth Drive along the Suva foreshore was closed during the three hour exercise.

Army Spokesperson Major Neumi Leweni says the exercise is in anticipation of any foreign intervention and the RFMF is taking pre-cautionary measures.

71 (f)

The military called a press conference at 11 oclock last night.

Major Neumi Leweni told journalists that the exercises are necessary and the members of the public should not be alarmed.

Insert : 70025 - 6

More Military exercises are expected to be conducted around the country. Commodore Bainimarama arrived in Fiji last night.

Meanwhile when contacted this morning, Prime Minister Laisenia Qarase said he will call a press conference later today following the military's announcement that they have started training exercises in anticipation of any foreign intervention.

Qarase says he will fully brief the nation about the issue and also make a statement about his meeting with Army Commander, Commodore Frank Bainimarama in Wellington yesterday.

At the military camp, it has been confirmed that the Army Commander will brief his senior officers about his meeting with Qarase today.

Stay with Legend FM News for developments.

\*\*\*\*\*

An Australian Army Black Hawk helicopter crashed into a navy ship and toppled into the sea off Fiji yesterday afternoon, killing at least one soldier while another was missing last night.

The army Black Hawk with four air crew and six members of the Special Air Services regiment, crashed during a training flight while trying to land on the transport ship HMAS Kanimbla, which was on stand by to rescue Australians in the event of a coup in Fiji.

Australian Chief of Defence, Air Chief Marshal, Angus Houston admitted last night that the cause of the latest crash may never be established because the helicopter was lost in 2,000 to 3,000 metres of water.

He said in a press conference at 11:30 last night that the helicopter is gone forever, given the depth of the water.

Air Chief Marshal Houston said the helicopter hit the landing deck, went over the side and sank very rapidly in deep water. He said nine of those on the helicopter were rescued, but one died after medical personnel from the Kanimbla spent a long time trying to revive him.

Fiji's military spokesperson, Major Neumi Leweni said in a press conference at 11 o'clock last night that they need to continue with their training exercises as the fact remains that foreign warships are off the Fiji waters.

Insert : 70025 - 2

\*\*\*\*\*

The NGO Coalition on Human Rights has today called on the President Ratu Josefa Iloilo to speak out against any regional intervention in the current political uncertainty in Fiji.

Chairperson, Virisila Buadromo says Fiji's democracy and democratic institutions must be protected from foreign armed intervention.

She also says Ratu Iloilo must re-assure Fiji's citizens who are currently living in an atmosphere of heightened fear and insecurity.

The civil society groups say while other national leaders are showing poor leadership, they are looking to the President's Office to lead the nation out of this difficult time.

Meanwhile, Foreign Ministers from around the region meet in Sydney tomorrow under the Biketawa Declaration where Prime Minister Laisenia Qarase will brief the ministers on the current situation in Fiji.

He said earlier this week that the ministers will have the freedom to make their own decisions:

INSERT: 71449 -03

\*\*\*\*\*

The United States is closely monitoring the situation in Fiji.

US ambassador to the United Nations John Bolton says they are conferring with other nations about a possible diplomatic initiative to help head off a coup.

US government spokesman, Ben Chang says they have made it clear to the Army Commander Frank Bainimarama and his senior officers that the US will suspend all assistance if the democratically elected government is overthrown.

\*\*\*

Police Commissioner Andrew Hughes who accompanied the Prime Minister Laisenia Qarase to New Zealand has gone on leave.

Hughes confirmed to Legend FM News from New Zealand yesterday afternoon that he has pending leave and is taking it to go for a break in Australia.

He says he is expected to return to Fiji sometime next month. Meanwhile, Moses Driver is now the Acting Police Commissioner.

When approached on the issue, Prime Minister Laisenia Qarase said he is not aware that Hughes has gone on leave. He said he will check with the Home Affairs Ministry.

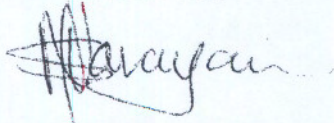


71 (j)

To prove that these stories actually went on air, I am attaching the actual radio scripts from November 1<sup>st</sup>, 6<sup>th</sup> and 30<sup>th</sup>, 2006 and I also include the audio comments of Colonel Pita Driti, Major Neumi Leweni and Andrew Hughes on a CD. These audio comments actually ran in our news bulletins after the press conferences.


Please do not hesitate to contact me for further clarifications.

Yours faithfully



**Vijay Narayan**  
**News Director**

<b>FAX: IN/OUT</b>
TIME <u>8am</u>
DATE <u>12/10/07</u>

  
72

Dr Shaista Shameem  
Commissioner  
Fiji Human Rights Commission,  
Suva  
9.10.07

Dear Dr Shameem,

### Media inquiry report

On Friday, September 28, you said on radio in response to the report by local lawyers on your finding that no coup took place last December that you could not take an anonymous report seriously and thought it best to ignore it.

I am strongly tempted to adopt the same approach to your consultant's report on your media inquiry, totally based as it is on unsourced, anonymous and unsubstantiated allegations and hearsay.

It is very clear that he has spoken almost exclusively to the disgruntled, the disappointed and the discarded. However, since this report will doubtless be presented as independent and authoritative, I feel obliged to respond in detail.

By way of introduction, I must say this report is riddled with inaccuracy. It is a long litany of opinion dressed up as fact.

It is clear that James Anthony began with his conclusion and worked backwards from there. Thus, anonymous statements that support his conclusions are treated with something approaching reverence while those (very few) that do not are derided, distorted or simply denied.

Your consultant makes much of the need for balance in the media but makes it abundantly clear that balance is not high – or even present – on his own agenda. Anonymous statements are taken at face value wherever they support his preconceived conclusions. No attempt has been made to check the veracity or otherwise of such statements against the published record. As you will see below many are grossly distorted or quite simply untrue.

Had Anthony taken the trouble to undertake the most cursory research, he would have very quickly discovered this.

Before I go into a detailed examination of his report, I must deal with his offensive allegation that The Fiji Sun has been or is a member of the Duavata Initiative Ltd.

# SUNday

I now offer you the opportunity, as publisher, to withdraw this baseless defamatory allegation before the final report is published.

I will now detail some of the more glaring inaccuracies.

Anthony claims to “break new methodological and conceptual ground. It is people centred and in the public interest.”

His methodology does indeed break new ground. It represents an absence of genuine research and makes no attempt at balance. Whether it is in the public interest is best left to the public to decide as is his claim that this is “a literary report in no insubstantial part.”

However, what he grandly calls the “data gathering process” is nothing short of farce. He has gathered no data. What he has gathered are a number of opinions mixed with hearsay and represented them as fact.

At 1.3.4 Anthony reports: “After arriving in Fiji I asked staff assigned to me to retrieve a wide range of hard copy material.” He does not (as usual) indicate what that range might have included but as we shall see, he appears to have not read **any** material that might have helped him to discover some truth. Or if he did he ignored it.

At 1.3.7 he claims: “Problems have arisen regarding my making a formal complaint (with the Media Council over a comment article). Tarte, the chair of the Media Council’s Complaint (sic) Committee, became openly hostile to me personally and, in my view, lost any reasonable claim to either independence or impartiality to review any complaint I might make.”

Here is the truth: Anthony called the secretary of the Media Council and demanded an immediate convocation of the Complaints Committee as he said he had a complaint to make. When advised of the complaints procedure he became abusive. He clearly was convinced that there should be a separate process just for him. Any disinterested observer would have quickly formed the view that it was in fact Anthony who had lost all claim to independence or impartiality. The nature of his complaint is still unknown. The Media Council will, I presume, respond more fully to this.

In the same section he claims: “I left a voice mail message on Hunter’s phone asking him to call me for any further information (on his qualifications for conducting such an inquiry). Hunter never returned my message (sic). Soon after, The Fiji Sun ran an editorial attacking my professional qualifications to conduct the inquiry – without any right of reply from me. I recognised this as part of an old pattern of sleazy journalism.” The truth: I have no voice mail facility. His claim that he left a message on one is perhaps best described as a mistake. He at no time sought to reply to the Fiji Sun editorial. Had he done so he would have been accommodated without question or editing. For some reason he does not report the one conversation he did have with me. At that time, if he had something to impart about his qualifications to conduct a media inquiry, he could easily have done so. All he said, however, was that he would send a copy of the Fiji Sun’s editorial referred to above to his lawyer. He then hung up. I have heard nothing from him since.

Anthony again: "The media across the board were invited to make submissions to the inquiry like everybody else. They chose not to attend. I will not speculate about their motives."

Had he read the newspapers at all he would have no need to speculate. He would be well aware of the motives of the four media organisations which were explained in some detail.

At 1.3.9 "Many 'line journalists' from the print, voice and visual media were reportedly instructed by their supervisors not to co-operate with this inquiry. Again, we have "reported" allegations, which would have been simple to check, accepted at face value. I personally have no knowledge of any 'line journalists' being instructed not to take part. Certainly that was not the case at the Fiji Sun.

Moving on to chapter two:

Among the "hard copy" he ordered from his local staff was evidently not the Thomson Report. Had he read it, he might have been able to spell it. But that does not prevent Anthony from denigrating it.

In chapter three your consultant displays his almost total ignorance of the Media Council and its processes which could easily have been remedied by interviewing some of the members. He was given the contact details of all of them but denied receiving them. He made no attempt to contact what are surely among the principal stakeholders. He does not, however, permit this shocking oversight to prevent him from misrepresenting the council.

At 3.1.7: "My responsibility was to explore alternatives, consider options (to the Media Council)." Really? I have been unable to find any mention of this in his terms of reference (which I shall also return to).

Now to 4.1.7: "Line journalists do their reporting then their work gets gutted and distorted at the editor and sub-editor level." Anthony, however, destroys his own argument by reporting what he gleefully describes as "a gem" of bad English in questions sent to him by a reporter. Without those hard working sub-editors, this is exactly what readers might be exposed to as a result of the shameful decline in the standards of the teaching of English at secondary school level. Those qualified to know tell me that the Fijian and Hindi language standards have fared no better. This, however, cannot be said to be the fault of the media. "Journalists are lazy, do little research, have little training." Coming from a man who took more than two weeks to complete 61 interviews of, say, average duration of one hour and who has abrogated any claim to genuine research, this is rich indeed. Anthony had more than ample time to do some real research. Or he could have had his staff do it for him. Sixty-one hours in more than two weeks is not a high work rate.

He then shares his experience of a "major investor in the media industry." His tone immediately alters. The investor's economic reach is "enormous, octopus-like, hydra-headed perhaps."

"He is evasive."

"He deflects my question" and so on.

On the other hand in response to those who share his critical preconceived view, this time of the Media Council, "I have got their message."

Then he proceeds to display quite astounding ignorance of the workings of this industry. Reporting what he claims to be a military analysis of the media since December 5 he reports what he claims to be a military source: "The power of the media was to be found in the hands of about eight whites (expatriates) operating in the shadows, acting in concert as members of a private club, deciding not only what to print but what *not* to print." (his emphasis).

Here's an offer. Anthony (and his military analyst informant) is invited to spend a day or even a week in our newsroom and attend all editorial conferences. Nothing will be hidden from him. Then he will – perhaps – understand how fiercely competitive this industry is. His claim that eight white people act in concert – leaving aside the offensive racist slur – will be laughed at by any real journalist in Fiji or anywhere else where a free media exists. Again, it would have been a simple matter to refute this claim through some very simple research.

The truth: There are two (white) expatriates at chief executive level in the Fiji media. All the others are Fiji citizens, two of whom happen to be white. There are no expatriate (or even white) editors. There is the fiercest of competition between, for example, The Fiji Sun and the Fiji Times. The notion of "eight whites (expatriates) operating in the shadows and acting in concert" is pure myth. It is also blatantly racist, something I think we both had hoped the Interim Government would outlaw.

In fact Anthony's recommendations are far more likely to bring about exactly the set of circumstances he quite wrongly sees as being in existence now.

And his lack of balance continues to disappoint. "When the court martial trials were being held, the military had to fight not only the defendants but the media which was 'twisting everything' to suit its own agenda." Is he not aware of the powers of the courts (martial or otherwise) to stop and punish journalists who 'twist everything'?

Again from the same anonymous informant: "In 2000 we saw all the media people nakedly and unashamedly camping out with Speight and also in Labasa being a mouthpiece for them."

Truth: Neither Anthony nor his informant can name one genuine media person (clothed or naked) who "camped out" with Speight (though there was no shortage of hangers-on and place seekers.) Two reporters were charged with being part of the occupation of the Sukanaivalu Barracks in Labasa. Both were acquitted.

Then comes the Duavata Initiative section which I have already referred to.

After some ranting, Anthony hurries on to his next flat lie – that the media did not report the conflict of interest in the transfer of Daily Post shares. Again the most basic of research would have proved that statement totally wrong.

Then he is privy (he says) to the knowledge that former police commissioner Andrew Hughes intended to divert a container of arms bound for the army to the police. Again, any perusal of the public record would have given him quite a different view.

He goes on in depressingly similar vein regarding the presence of Australian special forces personnel in Fiji: “The military called a press conference of all the media and released this information to them in detail but the media failed to report any part of the story whatsoever.”

Again, the merest glance at all his “hard copy” would have uncovered generous space devoted to the presence of these people. But again, Anthony much prefers hearsay to research.

In 4.1.10. “Most of the line journalists did not stay long because of low wages.” Typically he offers nothing in the way of a solitary fact to support this sweeping – and quite untrue – statement.

And again: Some line journalists ... said they would write stories with a particular bent only to have sub-editors and editors ‘trash’ their stories without explanation.”

I would like to think that if a news story had a particular bent, subs and editors would absolutely remove it. But that would not occur in Anthony’s world of journalism – unless, of course, the “bent” ran contrary to his views.

And this is of special interest. After the now familiar racist diatribe, this man offers the following: “Although he (another anonymous senior military officer ‘familiar with the media’) **does not say so in so many words** (emphasis added) he implies that Fiji is a “fragile democracy.”

So now we have it. Even if his informant doesn’t say what he wants him to say, he’ll quote him as saying it anyway.

And one of this report’s defining statements: “My informants say that New Zealand and Australia had thoughts about a possible armed invasion of Fiji. None of that was reported. Is that due to the fact that critical positions in the media are controlled by New Zealanders and Australians?”

Well, actually no. It’s due to the fact that at no time did Australia, New Zealand or anyone else ever consider an armed invasion of Fiji.

Again interestingly he writes with the sensitivity reserved for those who support his preconceived conclusion of a “young local person” who has come up through the ranks over a decade and half or so.” He may be young compared to Anthony, but 15 years in the media gives him some very valid experience. Nevertheless, he goes on: “He talks about personalities who move along the pathways of bureaucratic power in the communications sector of government and its appendages.” Not one name is offered.

And now to one of the most breathtaking cases of intellectual and academic dishonesty in this whole sorry charade. It involves a book that he says he is unwilling (for once) to take at face value. It purports to assess in part the coverage of the 1999 election by the media. It offers the view (gleefully welcomed by Anthony) that the Fiji Times in particular had an agenda to remove Mahendra Chaudhry from the Prime Ministership.

It reports that reporter Margaret Wise "tore into Chaudhry with many an unsourced story (it does not cite one) that the paper had no qualms about publishing.

"What was known to the newspaper but not shared with readers and now a matter of court record, was that she was Rabuka's lover and had a child by him.

"... Jone Dakuvula told journalism lecturer David Robie the Fiji Times agenda was to "deligitimise the elected government by creating a climate of scandal, loathing and fear..."

Amazingly "by plain dint of good luck" Anthony found a source who once "held a senior position on its (Fiji Times) editorial staff" who reveals to him that the paper's sub-editors and editors were anti-Chaudhry. She (the informant) was passionately pro-Chaudhry (though Anthony does not say so) and of course saw herself as the only unbiased journalist in the place. This same person goes on to tell Anthony how she was called into the presence of the then publisher who became red in the face, thumped the table and told her to apologise to the chair of the Media Council for criticising an adjudication that had gone against Mahendra Chaudhry's son. She further claimed she was denied a previously promised promotion as a result.

Some facts: I was at that time the editor-in-chief of the Fiji Times. If there had been an anti-Chaudhry policy I would have been aware of it. There was none. Our stories were sourced and in at least one instance backed by official documents.

Had there been an anti-Chaudhry agenda it surely would have manifested itself in the editorial comment column.

Here are some more facts. In the lifetime of the People's Coalition government the Fiji Times published 106 editorial comments relating directly to the Government. Of these, 52 were critical and 54 favourable. This information would have been readily available to Anthony had he sought it.

Again, a glance at the record would have shown that the court case concerning Rabuka's alleged paternity of Wise's child (he denied it) was in fact well covered by the media though the law restricts reporting only to that which is said in open court.

Jone Dakuvula was in no position to know what the Fiji Times agenda was – or even if there was one. But this did not stop David Robie – whose "research" methods are strikingly similar to Anthony's – from reporting it as fact.

As editor-in-chief any disciplining of a senior journalist could not have been carried out without my knowledge. I have no recollection of this alleged meeting with Alan Robinson, the Times publisher.

The Media Council does not have any record of such an adjudication. But in any case, by general agreement, adjudications of the Media Council are published in full and without comment by the media organisation affected – whether that adjudication be for or against it.

His informant told me at the time that my predecessor had promised her the editorship of the Times. He denies that to this day.

As an interesting postscript to this, when (some months later) the renewal of my work permit was declined by the Chaudhry government, Robinson was told by the minister allegedly dealing with the company's work permit application that it would be better for him if he appointed (he named Anthony's informant) as my replacement as editor-in-chief. Readers will easily make the connection.

It is important to note that all of these events happened eight years ago. I find it of more than passing interest that Anthony ignores the unwillingness of the Rabuka regime to grant the Times a work permit for me as it was convinced that the paper was anti-SVT. Why, I wonder, is this not an issue now? The SVT government made all the same complaints as Chaudhry did – yet this is completely ignored.

Then, in much more recent times, the SDL was equally convinced that the media was against it. It withdrew, for example, all government advertising from the Fiji Sun as punishment for what it regarded as an anti-SDL bias. Why are the (false) anti-SVT and anti-SDL allegations ignored and the (equally false) anti-Chaudhry claims made so much of?

Then this piece that Anthony himself would describe as "a gem". "Russell Hunter and his colleagues (who by the way get paid Australian rates) will argue that there are 'good reasons' why they fail to report important stories." He cites the Blackhawk incident, the presence of an Australian frigate, and a support vessel and the previously mentioned special forces personnel.

Had he bothered to check he would have found that these stories – and others – were covered by the local media. He then uses such blatant untruths as "indicators of failure."

He even uses the late and much lamented Sir Vijay Singh in an effort to shore up his call for media restrictions. In my very many conversations with Sir Vijay (as his editor) he always - absolutely always – came out strongly against any reduction in media freedom. We agreed that the situation was not perfect but that nothing better had yet been found. The existing restraints were considered more than sufficient.

Your consultant might also have quoted from the same column by Sir Vijay (Media Rights and Duties, June 1999, which probably due to oversight is not listed in the bibliography): "Freedom of the media is an aspect of our common fundamental human right; that of liberty of thought and its expression."

Anthony then proceeds to lay out his hopelessly flawed conclusions.

These will be well enough known but a few observations are required.

He wants to have open public hearings after five years to assess his "wise restraints." Why not have them before the "wise restraints" are imposed? Could it be that he knows the public will reject them? (You yourself note in your original notice of the inquiry that previous attempts at government control were abandoned due in part to public resistance).

He also wants to fine the media in advance of any wrongdoing by levying 7 per cent on revenue to fund his Media Tribunal. What is special about 7 per cent? Why not 6 per



cent, or 8 per cent or 20 per cent? He has pulled this figure out of the air (as he has done with much else in this document).

Has he even the faintest notion of the consequences of this for employment or even survival among the media houses? I suspect not. Does he honestly believe that political interests can be kept away from such a body? I suspect not. Does he honestly believe that media organisations run by hard-headed businessmen would continue to employ expensive expatriates if they could increase profit by appointing locals to the same positions? I suspect so.

Anthony is either unaware or at pains to ignore the training efforts now underway in our industry. But given the content and thrust of this report, that is not surprising.

Anthony's unforgivable lampooning of our reporter's questions does him little credit. However, he may like to be made aware that she is a graduate of the USP journalism programme.

In conclusion, this travesty of an inquiry has been flawed from the beginning. Even Anthony appears to agree, ignoring as he has done several of the terms of reference of which we sought clarification.

His report is hearsay, distortion and plain untruth, all interlaced with a common thread of racism. He says he thinks Fiji needs to be a disciplined society yet has not the remotest intention of living in such a society, preferring for himself the vast freedoms – including media freedom – of the United States of America, which would surely be a much more viable role model.

This racist document has no place in any human rights environment. It is a disgrace to a body like the FHRC that claims to support human rights. It should be withdrawn.

However, assuming that it will not be, I hope you will also post this reply on your website along with the final report itself – in the interest of balance.

Turning now to your letter that accompanies the report, you invite comment and, on behalf of the Fiji Sun, I accept your kind offer

You refer throughout to the experiences of "the commission" in setting up this inquiry. I suggest that "the commission" should be substituted by "the director".

You claim that the questions asked by the media organisations that sought clarification of the terms of reference are answered in this report. I beg to differ. But, as you rightly say, readers will make their own assessments.

You also quote an exchange of emails between myself and the commission's publicity officer (who I gather was speaking for you). I have no objection to this but suggest it would be more useful to readers if you quoted the exchange in full.

db

You accuse the media of being vituperative and slanderous and, of course, you are quite entitled to that opinion. However, I had hoped that the FHRC would have distanced itself from this disgracefully racist document that it is about to publish. Surely one of the commission's main tasks (as you yourself point out on page 5 of the Fiji Times of October 4) is to combat racism in all its forms.

In addition, then, to the reasons cited above it is all the more disappointing that you allow this racist document to be published under the name of a body sworn to uphold human rights and fight racism.

As you rightly point out, the Fiji Sun "used up valuable advertising space under the somewhat provocative title 'You be the judge' to twice publish the original letter from the FHRC requesting the co-operation of the industry ... accompanied by the response from the four agencies."

The use of valuable space reflects the importance placed on this issue. The two letters were published without comment so that readers could "be the judge." I cannot see what is provocative about inviting people to reach their own conclusions.

All journalists, I'm sure, are relieved that you will go to such lengths as stated in your introductory letter to protect them from harassment or degrading treatment.

Lastly, I both personally and professionally most urgently implore you to strike a blow for human rights by rejecting this report in its entirety.

Yours sincerely,



Russell Hunter  
Publisher

IN/OUT  
4/10/84  
11/10/84

# ibi

islands business international  
multimedia

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4 October 2007

Dr Shaista Shameem  
Director  
Fiji Human Rights Commission  
Level 2 Civic Tower  
Victoria Parade  
SUVA



Dear Dr Shameem

I write to you not so much as a media owner but as a citizen of this country, one who has lived here for 32 years, the first 15 as an expatriate, then as a citizen.

I also admit to being 50 per cent owner of a media company, its managing director and a member of the Fiji Media Council.

I read your covering letter to the Media Report. You had said Michael Field had urged your first choice, Mr Gregory Fortuin not to take the position because he would be 'lending credibility to the discredited Human Rights Commission Director'.

To allow this report to be released as it is, in my opinion, will do exactly the opposite and utterly diminish the credibility of your organization and yourself.

I can scarcely believe someone of your professional standing and intellect would have read this report without having very serious misgivings as to whether it should be published at all.

A work of such poor quality would never be published by our company in any of our publications.

Unfortunately the report is now in the public domain.

I will not go into the details of the report as more eloquent commentators can do much better than myself.

However I do request the report even at this late stage address what I consider its most offensive aspects.

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The whole tone of the report is offensively racial and critical of Europeans or 'whites'. The comments on the perceived power of Europeans and how it is allegedly wielded are inciteful and possibly criminally liable.

For your information Europeans do not run Fiji. Since independence Europeans have seen their political influence diminish and the number of seats allocated to 'others' shrink. Within the grouping of 'others' Europeans are a tiny minority. As one of this grouping I have accepted my lot.

Europeans do not run Fiji through the media and from the Media Council 'club house', cosy office meetings or house to house gatherings.

I have seen no collusion or concerted attacks and 'hate' against Mr Chaudhry or the Army or anyone else. Hate is a very strong term and we are fortunate in this part of the world not to have experiences of the sort of political and racial events that cause humans to truly hate one another.

This is not the Fiji of 1959 when the only media was the Fiji Times.

The media today is an intensely competitive industry. Stories are not swapped around or published in concert. They are gathered for the benefit of the media outlet that has invested the energy and money to gather them.

Dr Shameem, you personally know most of the executives in the media. It beggars belief that you subscribe to this line of misinformation presented by Dr Anthony.

Daryl Tarte was named and very poorly treated in the report. Dr Anthony may not agree with Mr Tarte but there is absolutely no reason to treat him in this way. He is a thoroughly decent, well meaning and contributing citizen of this country.

I am fully aware we live in difficult times in the development of Fiji as a nation.

As in 1987 I am starting to see defenders of current events using the excuse that one has 'to break eggs to make an omelette'.

I'm sure the sensitivities of a few Europeans are of little concern in the greater scheme of things.

But you are an upholder of the rights of all citizens of this county, the few Europeans included.

To initiate and endorse a report that is baldly racist, intends to wound, is riddled with bias and is incorrect in many of its facts, I am certain, violates the ethics and charter of your organization.

(83)

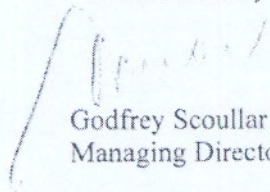
I suspect Dr Anthony's mind has been closed for many years and he had drawn his conclusions before he arrived on our shores. His 'informants' gave his report volume if nothing else.

And I'm sure you will face his wrath if you decline to endorse his report as a product of the Human Rights Commission.

But to retain any sense of dignity and respect for your commission within Fiji and internationally I don't think you have much choice.

There is still time to make a brave decision.

Yours faithfully



Godfrey Scoullar  
Managing Director

<b>FAX: IN/OUT</b>
TIME _____
DATE _____



84

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Friday, October 12, 2007

Dr Shaista Shameera,  
 Director,  
 Fiji Human Rights Commission,  
 Level 2, Civic Tower  
 Victoria Parade  
 SUVA

Dear Dr Shameem,

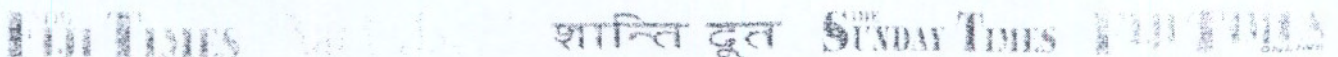
**Fiji Human Rights Commission Media Inquiry Report**

Thank you for the opportunity to respond to the Media Inquiry Report, commissioned by the Fiji Human Rights Commission.

At the outset I wish to record this company's distaste at the tone and findings of the report.

It is saddening, firstly, that such a report could be released by a body purporting to promote and defend human rights. That any study of such an important part of the social fabric would be conducted from its inception in such a combative and deceitful manner is astounding. Media freedom – and by inference the absence of legislative control – is of crucial importance to any democracy. The process followed in commissioning this report, and the report itself, show a scant regard for the dangers such inquiries can pose if not properly conducted.

Secondly, the poor quality of the report and its findings and recommendations indicates it does not deserve to be taken seriously. However, the state of public debate in Fiji at present suggests it is possible these oppressive findings could be used in an attempt to muzzle free speech while professing to simply be implementing the inquiry's findings. By necessity, therefore, we must respond, unsavoury as that is.



Fiji Times Limited is a member of:

- The Fiji Newspaper Publishers Association
- The Fiji Indian Newspaper Publishers Association
- Fiji People's Federation
- Fiji Labour Union of Journalists
- The Association of Business Editors & Publishers
- The Association of Journalists



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The FHRC launched the inquiry without stakeholder input into these terms of reference. This is regrettable. That the FHRC refused several requests to discuss and clarify the terms of reference with leading media companies is lamentable.

The wide-ranging – and at times contradictory – terms of reference pre-suppose that some form of formal external control of the media is the only method to “protect” the rights of media consumers. They also pre-suppose that media ownership is a key factor in the news published by media. Both suppositions indicate a prejudice – a bias – on behalf of the authors of the terms of reference.

It is startling that any report on media freedom in Fiji would fail completely to address the verified reports of physical, verbal and mental abuse media practitioners have faced at the hands of the military since the December 2006 coup. Your consultant simply ignores this reality.

The Fiji Times Limited puts the FHRC on notice regarding the allegations concerning the *Dumata* Initiative Limited contained in the report. The Fiji Times Limited is not a member of this body, nor has it ever been. It has made no contribution to any political party of any persuasion, and it is not aligned to any political party. To suggest otherwise is seriously damaging to our reputation. Our readers rely on our unbiased, balanced integrity. You have stated this does not exist. It is hard to imagine a more serious slur against a newspaper. Any suggestion of this allegation in the final report will attract legal action. Such legal action may be initiated at any time, on the strength of the publication of this report to date.

Several other areas of the report may attract a similar legal response. Fair – even if unfounded – criticism can be tolerated. Malicious and injurious falsehood will not.

I hope you are able to consider this response, and in particular its final recommendation that the report be withdrawn.

Yours sincerely,

*[Handwritten signature]*

EVAN HANNAH,  
MANAGING DIRECTOR

FAX: IN OUT  
DATE: \_\_\_\_\_

**Fiji Times**

शान्ति दूत

**SUNDAY TIMES**

**FUTURES**

**Fiji Times Limited is a member of:**

• Pacific Area Newspaper Publishers Association

• The Media Council (Fiji) Limited

• Pacific Islands News Association

• Fiji Employers Federation

• Audit Bureau of Circulations

• Fiji Visual Business Council

• The Newspaper Printers' Association

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# **Fiji Times Limited**

Response  
to

**Fiji Human Rights Commission  
Media Inquiry Report**

12<sup>th</sup> October 2007



## Executive Summary

The Fiji Human Rights Commission Media Inquiry Report should be withdrawn.

The report is defamatory, racist and inaccurate.

The report's conclusions and recommendations are flawed, and oppressive.

In this response, the Fiji Times Limited shows:

- The consultant distorts the FHRC's stated goals of the inquiry.
- The consultant recommends Fiji adopt an oppressive set of media laws based on Singapore's model. This legislation contains tightly restrictive licensing provisions and prison sentences for breaches of media laws. The consultant does not reveal this legislation has been heavily criticised by international media freedom groups, including Article 19.
- A recommendation to tax media 7 per cent on all advertising revenue will cause enormous damage to the industry, forcing some companies to close with consequent dismissal of media employees. The proposal would also cause business closures and unemployment in media's support industries.
- The consultant's recommendation to refuse to renew work permits of expatriates within Fiji's media is based on flawed evidence and conclusions, is ill-considered, and counter-productive to his stated aims.
- Almost all of the report's references to the Fiji Times Limited and *The Fiji Times* are incorrect, or invented. Most are also defamatory of the company's staff.
- Evidence and findings on "line" journalists is flawed, with a poor understanding of media practice, ignorance of existing union support for editorial staff, and an inaccurate and incomplete picture of training available to Fiji's journalists.
- Fiji's media is incorrectly blamed for "causing" Fiji's coups of 1987 and 2000. Anonymous evidence from military sources is treated as completely accurate.
- The Media Council of Fiji is defamed, its purpose misunderstood, and its practices vilified without evidence.
- An inappropriate and persistent racist attack is made on "whites" and expatriates in Fiji's media, who are incorrectly alleged to "run" Fiji's media.
- The consultant fails to understand the ownership of Fiji's media, and draws incorrect conclusions as a result.
- Fiji's media industry is incorrectly accused of being partisan to overseas interests in not publishing aspects of events leading to the 2006 coup. This response proves these allegations to be wrong.
- The consultant defames Fiji Times Limited (and other organisations) by incorrectly claiming this company is a member of the *Duavata* Initiative.

APICS issues  
briefly covered  
see

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## The report

This is a defamatory document.

It is a racist document.

It has not formally addressed any of the terms of reference.

The report's content and conclusions point more to a search for justification for strongly-held prejudices than an open inquiry.

The consultant's claim to "break new methodological and conceptual ground" with the report's style and presentation is an understatement. That he "watched body language, eye contact, the immediate milieu in which they lived their working lives" while taking evidence confirms his claim that the report is a "literary report in no substantial part". It is an approach more suited to a novel, not a report.

This response will address some issues by category, as they affect this organisation or its professional activities.

## Distortion of initial purpose

The consultant makes his case early in his Executive Summary (P.7) that this is not an inquiry about media freedom, but rather an inquiry into the freedom of media to operate as it wishes:

The media claims that it is a "watch dog". This report poses the question: "Well, who precisely is it that appointed the media to be the "watch dog" it claims to be? Whose is it, if anyone's, to keep watch over this self described, and, apparently, self appointed "watch dog." Is this "watch dog" a law unto itself with no law to govern it? ..."

He states (P.8): "This is not the first report done on the media in Fiji." It was our understanding the report was not supposed to be about media, but about media freedom.

He then gives his version (P.10) of how the FHRC came to commission the inquiry, after it:

... began to take notice of the disorder spawned by sections of the media ...

and further:

... what appeared to be a long standing pattern that showed no signs of changing at the hands of the "self regulators."

And that the FHRC:

... acting on its own motion and deliberate judgment, decided that the time had come to take another look, seek another way.

This report is that "other look, that other way."

This is not what the FHRC told Fiji's media companies. There was no mention in any correspondence of finding "another way". If this was the true intention of the report, why was this not mentioned? Or has the consultant overstepped his brief?

The consultant states (P.14) he was asked to inquire into:

... issues related to balance – the public's right to know and the media's obligation to report without censorship, without being driven by a private agenda, deliberately contrived or inadvertently held.

On the next page, he states baldly:

I interpreted my terms of reference to give considerable flexibility.

Perhaps he did, indeed, overstep his brief.

**\* All punctuation errors are the consultant's.**

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## The Fiji Times Limited

As Fiji's largest media house, it would be surprising if Fiji Times Limited did not attract some attention from your consultant.

That it attracted such vituperative, inaccurate attention is also not surprising, given the general tone of his report.

It would appear Dr Anthony sees *The Fiji Times* in a completely negative light, and is not prepared to let the evidence change his views.

The report contains a wide array of inaccuracies and defamatory statements about this company, its management, directors, staff, and the newspapers it produces.

Some of those statements are listed here.

This section begins with a passage that highlights our distress at the report's inaccuracies and tone.

Dr Anthony states (P.47) that the position Fiji Times Limited took on the inquiry was that all inquiries would be addressed by the Managing Director, Evan Hannah, and nobody else. This is perfectly normal. The Managing Director is the nominated company officer to discuss company issues. If we are talking about the Fiji Times Limited's corporate position, the Managing Director is the person to do so, unless that task is delegated to someone else. No other employee should have to take responsibility for publicly stating a position determined by the Managing Director, or the board.

Dr Anthony then refers to a meeting the Managing Director held with editorial staff regarding the FHRC inquiry (P.47). This meeting was held after *The Fiji Times* published an article quoting you as FHRC director, saying you had been told some media executives were banning editorial staff from making submissions to the inquiry.

He quotes Mr Hannah correctly, however, he also quotes him selectively.

He does not include Mr Hannah's clear – and repeated – advice to editorial staff that they were free to meet your consultant, without fear of comeback or retribution. He also fails to note that the discussions about whether journalists' best interests would be served by assisting the inquiry were led by staff, not by the Managing Director.

If he was fully briefed by his informant, he has been disingenuous in not including that balancing information. If he was not fully briefed by his informant, he shows scant regard for fact-checking.

This is a perfect illustration of the dangers of accepting unsourced "evidence" without questioning its provenance, or attempting to check facts.

Your consultant spends some time musing on the "tactics" of Fiji Times Limited. He says we launched a campaign in a "vain attempt" to discredit the inquiry, and this was done when "Tarte had probably realized that he and his colleagues had made a strategic mistake by deciding that they would boycott the Inquiry" (P.27).

Firstly, your consultant seriously misunderstands Daryl Tarte's role as Media Council chairman. He is not our colleague, and Fiji Times Limited does not make strategic decisions based on the input of external sources.

Secondly, there was no strategic decision to "discredit" the inquiry. *The Fiji Times* in fact reported on the approach of media managers in seeking background and discussion with you as FHRC Director. To suggest other motives is simply incorrect.

It is therefore also incorrect to state, as he does, that we continued our "obscene offensive" (P.28), since we had not begun one.

Dr Anthony then suggests (P.43) Fiji Times Limited, along with other media companies, indulged in "a subterfuge for their own investigations into the Terms of Reference to avoid a human rights scrutiny". This is ridiculous. Our letter to the FHRC in Appendix 3 is perfectly clear, and without nuance.

Much of the report's content about this company and *The Fiji Times* follows a similarly inaccurate, unsourced, unverified vein, at times also malicious and defamatory.

*The Fiji Times* is alleged (P.8), by "informants in a position to know", to have:

... deliberately set about to bring down the Chaudhry Government at any cost, by almost any means. Information provided by interviewees is buttressed by data in the published professional literature.

This is simply wrong. *The Fiji Times* has never set out to bring down any government. The "professional" literature quoted by your consultant appears to be several academic papers, which have been widely rebutted by media, including *The Fiji Times*. The wealth of information to the contrary has been ignored.

The report continues, suggesting (P.9) it is "well known" to the people of Fiji that *The Fiji Times* "created an atmosphere of tension and hatred against the new government ...".

Your consultant goes on:

Reliable and well informed sources say that the print media (the *Fiji Times* in particular) did not just report the news but acted as participants in creating and fanning the fires of the mayhem and disorder that followed. It was not as if this was a one time occurrence. For the *Fiji Times* especially this was part of a long established pattern: race baiting, news invention, slanted, unsourced imbalanced reporting: mangled yellow journalism at its worst.

We completely refute these allegations. There is no evidence cited to support these insulting and defamatory claims.

We would suggest your consultant has indulged in the very sort of "unsourced, imbalanced" and "yellow" reporting of which he complains.

He refers (P. 21) to a "high level insider" who told him that in the Fiji Times Limited, "at the top, the word was out: 'Get Chaudhry'." Our library staff have at various times researched such claims, and we are happy to quote information from one of the company's former Editors-in-Chief here, with similar data: In the period the Chaudhry Government was in power, more than 100 editorials were published, which were almost exactly evenly split as either in favour or against the government. How

this constitutes a policy to "Get Chaudhry" is difficult to see without other evidence, which is again lacking from your consultant's report.

Informant "X" (P. 86) gives your consultant a decidedly one-sided view of *The Fiji Times*' approach to the "new" Chaudhry Government, and goes on to detail an alleged exchange between former publisher Alan Robinson and the informant. This is clearly a report from a disaffected staff member.

We have checked all relevant files, and contacted former executives, and have determined the allegations are at best a serious misreading of events by a self-serving former employee, and at worst another malicious falsehood. Why has your consultant not attempted to seek supporting or other evidence of these claims?

He goes on (P.87):

Well, what do we have here, I ask myself. "A media culture of deceit, rotten at its core?" Looks like it, smells like – both from the outside as well as from the inside. There is a longstanding pattern of deceit here, not just occasional lapses of bad reportage.

No, in fact what your consultant has is an extraordinarily damning set of absurd conclusions drawn from the most questionable of unsourced evidence, from one anonymous informant with a grievance.

Dr Anthony's understanding of media operations is also limited.

He states that all three English-language newspapers, but *The Fiji Times* "especially", veto opinions or hard news items with which their ideology differs (P.45-46). This is demonstrably ridiculous. There is no "ideology" in the newsroom of *The Fiji Times*. There is instead a commitment to accuracy, balance and fairness in news that our seasoned, Fiji-citizen editorial staff believe would be of interest to our readers.

There is also a heavy demand for space in our editorial pages, which means not all responses from our readers (in fact, on average less than 25 per cent) are published. Yet the responses that are published reflect the balance of the submissions – we do not exclude views from which we differ. Even a cursory reading of our letters columns and those submitted opinion pieces would confirm this – basic research your consultant overlooked.

His own experience, with submitting (once) an article to *The Fiji Times* commenting on articles by Dr Brij Lal, is commented on at length. He brings the full disappointment of a jilted suitor to the experience, suggesting that what we may call "editorial license" in fact "maybe something else". What, exactly? He attacks us for not publishing alternate views, when we in fact do so all the time. Again, basic research would dismiss this concern. We may have been discourteous in not contacting him to formally reject his offering, but this is hardly cause to label us the "worst offender" (P.91) in the public's "treatment at the hands of the media across the board".

Your consultant brings no other evidence other than his own experience, and concludes *The Fiji Times* is "yet to exercise its proper responsibilities in the public interest". He doesn't list what he believes those responsibilities to be, so it is difficult to rebut exactly, but we would point to 138 continuous years as Fiji's leading newspaper publisher to suggest we do, in fact, know our responsibilities to our readers.

Dr Anthony states the "great problem" with Fiji's media is that it is "advertiser dependent" (P.51) but does not explain why this is a problem. Advertising and circulation revenue allows media companies

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to employ the editorial staff to provide content. Without advertising revenue, there would be no media, unless it was heavily subsidised by either benevolent owners or Government. Certainly there would be little revenue for Dr Anthony to tax, as his recommendations suggest.

If Dr Anthony is attempting to suggest advertisers carry some power over editorial decisions, he is incorrect. Fiji Times Limited has established and widely-understood policies affecting all manner of business and professional behaviour, including a clear policy on the separation of advertising and editorial, editorial fairness, and general business conduct. All employees must read and acknowledge these policies on induction into the company. All employees are subject to these policies, and those of our parent company, News Corporation. While these policies are relatively new in their current form, they have always existed at The Fiji Times in some form or other. They are available as evidence if required.

The consultant's report delivers another unwarranted personal attack when your consultant quotes (P.83) from a book that states, in part:

The Rupert Murdoch-owned Fiji Times, then under particularly intellectually barren editorial leadership, engaged in unethical, unsourced and frequently wrong scandal-mongering about the Chaudhry Government.

Your consultant may not be aware of the dangers of repeating a defamatory statement simply because it has been published elsewhere. The quote is, again, selective, ignoring as it does a wealth of commentary to the contrary. Its worst failing, however, is to paint the then Editor of *The Fiji Times*, a talented and hard-working journalist, with the ill-considered slanderous views of the book's authors.

The defamation continues when Dr Anthony treats us to his reading (P.85) of *Speight of Violence*, by the New Zealand journalist Michael Field (who you have indicated you wish to prosecute). Your consultant states that he was "ill at ease" accepting the book's contents at face value, then finds an anonymous source, the aforementioned "X", to support the material.

However the claims within the text extracted from the book are a complete falsehood. The fact Wise was Rabuka's lover has been published, in our pages. Jone Dakuvula did not work for *The Fiji Times* at the time, so how would he know what *The Fiji Times'* position was (which was not, in any case, "anti-Chaudhry")? The fact David Robie used Dakuvula's opinion says more about Robie's questionable research than it does about *The Fiji Times*.

The fact your consultant has regurgitated all the vigorously and widely denounced material says much about this report.

## 'Line' journalists

The report touches on "line journalists" and their training, their work ethic, their skill, their environment, and more. The major problem with much of this material is that it is unstructured, and scattered throughout the report.

However the scant evidence offered and the conclusions your consultant draws from this shallow pool warrant some rebuttal of much of this data.

There is an "ever-present problem" of line journalists being recruited "on the cheap" (P.50).

They write poorly (P.50, 88), are "lazy, do little research, have little training" (P.50, 88), spy on each other (P.51), have their work "rubbished" and "mangled, distorted" or "guttled and distorted" by editors and sub-editors (P.50, 54-55), have no "protection" (P.50, P.55) and are "under prepared intellectually" and "poorly read" (P.50, 88).

Overall, a damning view of some of Fiji's hardest-working and bravest professionals.

Training is a continuous issue for Fiji's journalists, and by extension their employers. Various studies have all determined a need for further education of young journalists, and some progress has been made. This company also provides access for its editorial staff to an extensive and comprehensive on-line training program, through our parent company, News Limited. Yet this training does not overcome the departure from mainstream media of experienced professionals, who for the most part emigrate from Fiji.

All of our editorial staff embrace training, and strive to expand and develop their professional skills. To damn them as "lazy" and "under prepared intellectually" is harsh, but perhaps thoroughly in keeping with your consultant's bullying treatment of a young reporter from *The Sun* (Appendix 8).

This company recognises that most school leavers approach tertiary education – and the job market – with generally poor English language skills, and that there appears to be a gradual decline in these skills over recent years. We are not alone in this. This has also been recognised publicly, for instance, by the Media Council of Fiji, and by the University of the South Pacific in various seminars. It is not a failing of the media that this has occurred.

It is correct journalists do not have their own union. Several attempts to form such a union have fallen by the wayside, despite employer support and external aid funding.

Your consultant's fatuous view "that a union would be nice but it was fraught with the possibility of employer sanctions – firing, blacklisting and so on" bears no resemblance to the facts.

Membership of the Factory and Commercial Workers Union is available to our editorial staff, and 15 of our 52 editorial staff (29 per cent) are currently members. Not one member of editorial staff has had to seek union support over any disciplinary issue. Our editorial staff do not need "protection", but if they seek it, they have our own established grievance system to follow, should they not wish to take their problem to the union.

Your consultant, of course, is unaware of any of this, and did not seek to verify the statements of his informants.



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## "Irretrievably broken"

The consultant states (P32) that the relationship between the media and politicians has been "irretrievably broken" since the Thomson Report was commissioned in 1996. He presents no evidence for this.

He then states the relationship has been "irretrievably broken" since "sections of the English language media attacked the Chaudhry Government with such ugly persistence in 1999", and cites a "detailed report" submitted to the inquiry by the Labour Party. The statements are not expanded upon, and there is no copy of this report in the appendices.

He then includes the Qarase Government's attempted introduction of the Media Bill in 2003 as further proof of this perceived breach between the media and politicians.

Yet no evidence is tendered. As previously stated to the FHRC, it is a rare democracy where some tension does not exist at times between the media and politicians. To suggest this tension indicates an irretrievable breakdown in the relationship is not supported by any material within the report.

The consultant then states (P33) that the relationship between the media:

... and the present interim government and large sections of the English language reading community is, in my view, "irretrievably broken". What is also "irretrievably broken" is the relationship between the media and important sectors of the people of Fiji. [all sic]

Again, this sweeping statement is not supported by any evidence, and can be easily refuted.

## Coups and the Media

The consultant states (P. 37) that Fiji's media – "the print media in particular" – knew 10 years ago "that there was public dissatisfaction with the manner in which they were doing their job".

And they appear to have done little to change except paper over the cracks in a façade of long standing and seek refuge in the concept of media freedom to defy public scrutiny of their hegemonies of operations.

Yet the consultant does not provide any justification for these statements.

What façade? What cracks? What hegemonies of operations?

His statements, quite apart from their lack of evidence, defy belief in a country of fiercely competitive media. There is no "hegemony", as even a cursory review of Fiji's newspapers and broadcast channels will attest.

The consultant reserves some of his worst misconceptions for defining the "most important" catalyst of the coup in 1987, which he says was the "very misleading, religion-driven, racial incitement" of the media. He offers no proof for this startling statement, other than a reference to coup leader Sitiveni Rabuka's unsourced belief that he had been the "dupe" of a disinformation campaign, and that he was "caught up in the hysteria generated by the media".

It will be interesting to see what General Rabuka makes of this conclusion. We believe it to be entirely false.

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## Media Council of Fiji

The report is littered with references to the Thomson Report (and always with the incorrect spelling). It quotes selectively from the report, misunderstands its basis, and goes on to misunderstand the role of the Media Council itself.

The consultant is especially rude about the authors of the Thomson Report when he says its conclusion that there was still "common ground" between politicians and media was "a contrived reality, manufactured by the authors" (P. 33). One could level the same charge at Dr Anthony. His belief that there is currently no common ground between media and politicians is better served if he can coax readers to believe there was no common ground 10 years ago.

That the consultant can so blithely defame members of the Media Council, and at the same time so seriously misconstrue its role despite plentiful, publicly-available information, speaks volumes.

We are sure the Media Council will respond at length on these many inaccurate and spiteful statements.

## An oligarchy of barons: Eight 'whites'

One of the most disturbing aspects of your consultant's report is the constant recourse to racism. He makes much of the "whites" running the media, without explaining why, even if this were the case (and it is not), this is an issue.

Your consultant quotes research undertaken by the military after the December 2006 coup. He writes (P.56):

"The power of the media was found to be in the hands of about eight whites (mostly expatriates) operating in the shadows, acting in concert as members of a private club, deciding not only what to print but also deciding what not to print." [his emphasis]

He goes on (P.57) to refer to an:

... "oligarchy of barons", once white, now of various shades, their hands in almost "every major" pie in this country.

He gives absolutely no proof for this racist diatribe. There is no proof, anywhere, to support this statement.

There is no oligarchy.

The baseless findings continue when Dr Anthony refers to a report from an advisory group formed by Sitiveni Rabuka "during his period of governance", which:

... recognized that there were 8-9 whites (mostly expatriates) in key positions in the media who were determining content, the direction and the shape of newspaper and other media messages to the nation on key issues. They were, in fact, inventing reality, distorting the facts – saying one thing in public but doing something else behind the scenes.

This is a fantasy. Dr Anthony writes that the report was "savaged by several sections of the media". This is not surprising, since the report was baseless. Yet your consultant has chosen – again – to report these thoroughly disproven allegations, taking for himself the task of "inventing reality, distorting the facts". He offers not one shred of proof, for there is none.

He continues the racist attack (P.59) when he talks of the "problem" appearing to:

... swirl around a handful of expatriates, their hands on the levers of power in the mainstream media.

Again, he offers no proof, for there is none.

This approach continues when quotes another anonymous informant, who calls the Media Council a "white man's club" (P.82), yet Dr Anthony makes no attempt to determine whether this is true, or, it seems, to pause to consider the racist implications of such a statement. The current make-up of the Media Council of Fiji – which generally reflects the membership of previous years, has a large majority of non-white Fiji citizens of all races and gender.

The report's author has taken the opportunity to cast a slur on the late Robert Keith-Reid (P.55) when he refers to "a senior white journalist, now dead". Keith-Reid was a champion of local journalists, a champion of journalism training, and an internationally recognised journalist with outstanding

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fiercely independent qualities. A citizen of Fiji since Independence, he would have taken grave offence at being labelled a "white" journalist.

Just why is such racist material appearing under the name of the Fiji Human Rights Commission?

## Expatriates

Your consultant retains particular venom for expatriates, who are widely criticised in the report (in this he appears to be at one with the Director of the FHRC, as indicated in your preface).

He bluntly states expatriates "run" media content in Fiji.

In a lengthy reference to the "submission" of another anonymous informant (P.69), he includes references that state Australian and New Zealand editors cause conflict, distort news, and that this will continue as long as expatriate editors from those two countries are allowed to work in Fiji.

He then uses the presence of expatriates in Fiji's media to baldly state that these people are "seeking strategic goals" for their country of citizenship, that the "commanding heights" of Fiji's media are held by "people who have their own agenda" (p.70).

This is again stated without evidence.

It is all untrue.

He states (P.69) that his "informants" told him that in the days immediately before the December 2006 coup New Zealand and Australia had thoughts of a possible armed invasion of Fiji:

None of that was reported in the Fiji Times and the other media. Is that due to the fact that critical positions in the media are controlled by Australians and New Zealanders? [Consultant's emphasis]

In fact, local media did not report this because this was a fantasy. No such invasion was planned, or reported to media to have been planned, prior to the coup. Local media did report post-coup comments by members of the armed forces that they believed such an invasion had been considered. This is a fact Dr Anthony could have ascertained by simple research. (For the latest example, see *The Fiji Times*, Page 5, 21/06/07).

The consultant's report lays stress on his belief that expatriates distort the news available to Fiji's citizens, to suit some other agenda. This is fatuous, and there is no proof, anywhere, to support his claim. It is not surprising then that none appears in his report.

## Media ownership

The consultant's understanding of the ownership of Fiji's various media is erroneous.

He makes much of "interlocking" directorates (P.59) and that oversight of "undue concentration" of print media ownership is warranted (P.82).

There is no cross ownership of print media in Fiji. None.

There are, we understand, three "interlocking" directorates:

1. A private shareholder, who owns a majority of the *Fiji Sun* and holds a non-controlling interest in Fiji TV.
2. Another private businessman owns a non-controlling interest in Fiji TV and in the radio firm Communications Fiji Limited.
3. The Government (and, by extension, Yasana Holdings) own substantial interests in the Daily Post and Fiji TV.

This does not in any form constitute the "small group" the consultant believes (P.59):

... constituted a network, a club, who were strategically located, operating as an interlocking directorate on boards of strategic organizations [sic] as political and economic masters. And they are still there."

No names are given, No proof. Again, no evidence at all, for there is none.

Simple, basic research would have determined the truth of this matter.

## Lawyers

A curious tone throughout the report is the focus your consultant takes on Fiji's lawyers.

Fiji Times Limited, it seems, is damned for using Fiji's best lawyers (P.84):

... those who control and direct the flow of news, particularly news on controversial issues, rely heavily on a coterie of high-powered lawyers on retainer. Those lawyers protect the monied and the powerful, and intimidate lesser mortals.

Our retained lawyers protect us from law suits, by checking material we refer to them to ensure our printed material does not breach Fiji's comprehensive laws of defamation. If we are, however, sued for defamation, these lawyers help us defend ourselves in court. Your consultant fails to suggest what is wrong with this global practice.

However, he later suggests "ordinary people do not have the money to fight" the big media organisations and their law firms and this, along with "the weakness of defamation laws" silences people.

Civil legal actions in Fiji rarely require plaintiffs to pay for defendants' legal costs, so it is erroneous to suggest action cannot be brought by "ordinary people". Secondly, Fiji's defamation laws are very strong, contrary to your consultant's views. This is the view of many media practitioners and many consultants, including Article 19, the Australian Press Council and the Thomson Foundation.

Your consultant's later comment (P.88) that the media has the "power of the big law firms to place them above the law so to speak" is therefore also misguided.

Fiji's defamation laws subject defendants to a reversal of the burden of truth. Defendants must prove all claims made in published reports were true. They must also prove public interest. This is no light burden, and certainly not an environment that allows media to operate in the fashion described by Dr Anthony.



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## 'Partisan' media

The report is seriously flawed in its understanding of the media's role in coverage of events surrounding the December 2006 coup.

Your consultant suggests (P.61) that the "container of arms" incident was "another case in point of slanted reporting". His lengthy narrative of the incident fails to point out the obvious, that the media in fact reported what each "side" to the story had to say. The media quoted the then Police Commissioner Andrew Hughes, and also quoted military spokesmen. This is balanced reportage. As a secondary issue, had Dr Anthony read the coverage of this incident, he would also have seen that the container carried only ammunition, not arms. (For example, see *The Fiji Times*, Page 1, 2/11/06, and Page 3, 3/11/06).

Dr Anthony seems to suggest the media should have baldly stated the military's point of view, and the military's view alone.

In another example, your consultant refers to an incident involving Australian military personnel entering Fiji with a "quantity of arms in boxes" (P.62). In another lengthy narrative, he explains the military's position on the story, and then claims the media failed to report any part of the story whatsoever. This is simply incorrect, and could easily have been checked. (For example, see *The Fiji Times*, Page 1, 6/11/06, and Page 3, 8/11/06).

It is disturbing that your consultant seems to rely heavily on evidence gained from military sources, without even the most cursory of examinations.

He accepts even the most inaccurate statements as fact: The report states the media has "hated" the military since 2000 (P.59), and goes on to say the media was "twisting everything" to suit its own agenda in the coverage of the courts martial. The laws of contempt would have prevented that, and media would have been heavily sanctioned had it occurred, which, of course, it did not.

His references to the 2000 coup defy further belief. No member of the media "camped out" with Speight. Two journalists were charged with occupying barracks in Labasa, but were acquitted. Where is his evidence for these claims?

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## The *Duavata* Initiative

This company is not a member of the *Duavata* Initiative, and has never been. The allegation (P.60) is a slur on the company's board, management and employees.

Your consultant has taken an anonymous document at face value, and applied no sensible, or even cursory, research to the topic.

This company has never been a member of any political party, nor has it contributed to any political party, nor would it consider doing so. This has been the case since at least since 1987, when News Limited bought the company.

We are seeking legal advice on the publication of this malicious falsehood in the draft report, and our lawyers will be contacting you on this issue. However, we strongly suggest the allegation be removed from the final report.

For the record, this newspaper did not "rabidly support" the SDL Party. We did, however, despite your consultant's statement to the contrary, report the "apparent conflict of interest" regarding the sale of the Daily Post to Mesake Koroi. Again, a cursory glance at our published newspapers would have put this slur to rest.

## The recommendations

The consultant's recommendations are dangerous, misplaced, and derived from faulty evidence and therefore faulty conclusions.

Media Ownership: The consultant states that "foreign control of key sections of Fiji's media has important human rights implications" but does not justify that statement with any evidence. He makes much of the suggestion that expatriate Australians and New Zealanders control media content, but again does not prove this, and in fact cannot, for it is a lie.

His negative references to foreign ownership are naïve and paranoid. He fails to prove one negative implication from foreign ownership, and fails to investigate the possibility some positives could exist. There are many.

He states the "relevance of cross directorates" must be noted. We recommend the FHRC in fact note them for what they currently are – irrelevant. If the FHRC were to make a "second tier of recommendations" to government, as the consultant suggests, it will need to do so with evidence, completely lacking from this report, as to what the perceived problems may be.

Media Tribunal and Media Development Authority: The consultant recommends the establishment of a Media Tribunal and Media Development Authority, to operate for five years under the "wise and prudent tutelage" of no more than five persons before being subject to public hearings.

Why five years? He says this will be a period of "re-education, consolidation and protection of the rights of journalists as working women and men". This is the real politik speak of the 1960s. Journalists already have access to "protection" of their rights through union membership should they wish to join. Education is already ongoing in our newsroom. And what is meant by "consolidation"?

Does he intend that people trained by the Media Development Authority will then be placed in Fiji's newsrooms, without reference to each company's management?

Dr Anthony then states various parameters of the tribunal will be framed "after this report is adopted by government". We were of the impression the FHRC may make recommendations to government, which would then determine whether to adopt them.

Earlier in the report, the consultant refers to international media freedom body Article 19, and makes specific reference to its "guidelines established internationally with respect to freedom of the media" (P.1). Yet Dr Anthony makes recommendations that fly in the face of Article 19's promoted beliefs.

The Singapore model: Your consultant continues his diversion from Article 19's aims when he also proposes (P.12, 97) that Fiji borrow from the "Singapore" method of media control, which he attempts to promote further by asserting that it was "recently adopted by Tonga".

The Singapore model is decried by Article 19, who states: "Political, regulatory and structural control over Singapore media restricts and discourages the development of an environment where views can be expressed freely."

In its latest study of the media landscape in Singapore, Article 19 urged the government to "... review as a matter of priority all legislation and regulations relating to the media, including

foreign media and the Internet, and where necessary revoke or amend them to ensure compliance with international standards of freedom of expression and information.”

The US-based Committee to Protect Journalists describes Singapore's government as one of the world's most efficient engines of media control, that exerted “political, legal, and financial influence on the local and foreign press”. This is not praise.

The international media advocacy body Reporters Sans Frontières rates Singapore at 146 out of 168 on an international scale of press freedom, citing prison sentences for breaches of press laws, and the control of media licenses as key areas for review and repeal.

The introduction of similar legislation in Tonga was heavily protested. Thousands of people marched to protest the legislation. In the capital some 8000 marchers – many more than seen before in the country's history – marched with a petition to Parliament. The legislation was domestically seen as an attempt by the king and fellow royals to stifle debate. There can be little argument this was so.

It is disturbing Dr Anthony believes this is a reasonable model for Fiji. Yet this is the model Dr Anthony recommends, at the same time as he talks about Article XIX of the UN Charter. This is disingenuous.

Alarming, the consultant also suggests creating an entity to:

“ ... enforce such legislation with penal sanctions that are timely, measured and appropriate to Fiji, on grounds of what Article XIX of the Universal Declaration of Human Rights calls “necessity”.

It's worth looking at the context in which “necessity” is used in the United Nations' International Covenant on Civil and Political Rights.

As you are well aware, Article XIX reads:

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
  - (a) For respect of the rights or reputations of others;
  - (b) For the protection of national security or of public order [...] or of public health or morals.

The Declaration's conditional use of the word “necessary” clearly intends such restrictions to be a last resort, not an invitation to legislate.

We imagine any legislation to impose such restrictions would necessarily be based on substantial and conclusive proof that such necessity existed. This report provides none.

Further legislation: Dr Anthony then recommends the adoption of Singapore's Sedition Act. Fiji already has sedition legislation under the penal code, which simple research would have discovered. If the consultant believes the Singapore model is better suited to Fiji, he should state why.

Taxation: The consultant recommends a 7 per cent tax from advertising revenue and a further 7 per cent on some other revenues. Most media businesses will simply go out of business overnight if this measure were ever implemented. Any survivors would have to reconsider their position. The impact

on Fiji's media landscape – and its many employees, including among ancillary industries such as advertising agencies and production houses – would be devastating.

If no other part of this report illustrates the consultant's complete lack of understanding of Fiji's media, this will amply suffice.

Media positions: The FHRC is directed to "strongly recommend" to government that all existing work permits in media not be renewed, and none be issued thereafter. Dr Anthony spends much time in the report decrying the lack of training in media. The expatriates within Fiji's media conduct just such training.

Any dispassionate study of a privately-owned business will tell an observer that employing an expatriate in Fiji is an extremely costly exercise. It is only undertaken when necessary, and only if local expertise cannot be found. This last condition is enforced by the Department of Labour.

It is absurd, then, to regard expatriates as replaceable within Fiji's media. It is, by extension, even more absurd to spend as much time as the consultant has decrying the poor standard of Fiji's journalism, and then remove a major source of training and development in one swoop.

Training and Education: The consultant recommends, as a priority, training qualified local persons for editorial, sub-editorial and publisher positions in the print media (it is curious that at this point there is no mention of radio or TV). Any general look at the current situation in Fiji would have shown the consultant there is a dearth of "qualified" people for the positions he mentions. There are simply not enough media practitioners. He has not explained who train these people.

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## Conclusion

Dr Anthony claims the inquiry has revealed the people of Fiji want an exposé of the “violation” by media of “their right to a free and independent media for the purposes of obtaining fair, balanced and accurate information”.

To the contrary: The inquiry has shown that dangerous conclusions can be drawn from inaccurate, unsourced data, and that poor or non-existent research can lead to absurd recommendations.

Your consultant has brought a ready-made set of defences to the media’s “predictable” response (P. 92-94). It should be clear from the contents of this response that these defences are inappropriate.

Your consultant has done a grave disservice to Fiji, its media consumers, and to the many people working in Fiji’s lively, vibrant, and independent media.

The report should be withdrawn.

## Appendix 1

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### The Director's preface:

The preface detailing the FHRC's experiences in facilitating the inquiry is fanciful and unnecessary.

Its title, "Like running into a hornet's nest", suggests the FHRC prefers confrontation to discussion.

It is particularly sad that the report's provenance is based on "gaps" you found during research for Article 19. The FHRC states Article 19 is an "eminent freedom of expression international" NGO, and then launches an inquiry that strikes at the heart of the freedoms Article 19 defends.

As you did in your letter announcing the inquiry, you quote David Robie's critiques of Fiji media. It is a pity you have been unconvinced by the already numerous and robust rebuttals of Robie's findings over previous years.

Your threats to legally pursue New Zealand journalist Mr Field for his "obstruction" of your inquiry, mirroring as they do the threats made to Fiji's media after the inquiry was announced, do the FHRC no honour.

You refer to the letter to you from four of Fiji's leading media firms requesting clarification on aspects of the inquiry. Fiji Times Limited rejects totally the assertion that the letter "obfuscated" the terms of reference. Your later claim that Dr Anthony's report adequately addresses the questions raised in our letter is erroneous. His data on media ownership is seriously flawed; any recommendations drawn from this fiction fail the test of logical deduction at the first step.

The four leading media firms questioned the inquiry's focus on the relationship between ownership and media freedom. You state Dr Anthony's findings justify this focus. This is palpably incorrect, not least because his data is wrong.

The media companies questioned why the FHRC saw any relationship between media ownership and the ability of media to operate freely and without hindrance. That you would turn this into a question regarding the content of newspapers and electronic media, and suggest that this content is a by-product of media ownership, is offensive. In his report Dr Anthony has resorted to his similar previously published rhetoric, and suggested any "foreign" ownership, or private ownership, is by definition an obstruction to media freedom. This does not "answer" the question, in any sense.

It is disingenuous to draw parallels between the FHRC experience and that of the South African Human Rights Commission inquiry. The South African inquiry was based on perceptions that media had a role to play in dispelling racism in a deeply troubled country, and that the race of media staff – and their workplace behaviours – may be a factor in current media content. The media objections were based primarily on the premise that any inquiry breached media freedom. The media did not object because the inquiry was into the subject of racism.

No parallel exists between the two inquiries. The media in Fiji object to this report because it has no foundation whatsoever, and its terms of reference predispose it to attacking existing levels of media

freedom, rather than investigating whether media is able to operate freely as it should, free of Government and military interference.

Your preface also refers to foreign editors and publishers, and lists one instance (unsourced) that you use to suggest foreign editors and publishers treat staff poorly. This is not correct. All publishers and editors may discipline staff who do not act professionally, who step breach established guidelines and policies, or who produce unprofessional copy. No media manager or senior journalist – regardless of race – would treat people poorly because they are, for example, friendly with the FHRC Director, or want to speak to your consultant. This is not a race issue, but you have chosen to make it one. This is a disgraceful insult. There are very few foreign editors and publishers in Fiji, and as a lawyer you will appreciate a class action to remediate these allegations may be considered by this small but easily identifiable group.

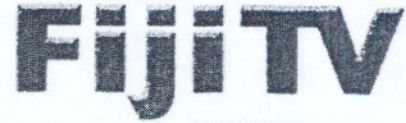
If your informant is telling you the truth, would she not be better off seeking legal redress herself, through the Labour Department? What other informants faced “serious consequences”? There have been none in our company. This point will be addressed in the main body of the response, when Dr Anthony’s unfortunate version of the meeting between management and editorial staff of Fiji Times Limited is published.

Your assertion that you may have “no option but to actively seek ways to protect ... citizens from cruel and degrading treatment by expatriates” is possibly the most disgusting statement this company has seen from any professional body. The statement is condescending to the intelligence of the people of Fiji.

On this issue Fiji Times Limited believes your organisation has an obligation to the complainant to act on this matter, if, as you seem to believe, the complaint has merit.

The allegation regarding the *Duavata* Initiative Limited has maliciously damaged this company. There is no truth to this allegation whatsoever, and it is irresponsible to call it an “interesting revelation”, suggesting the allegation is correct. It is not a revelation, but a slur. This will be subject to separate correspondence.





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10<sup>th</sup> October, 2007

The Director  
Dr Shaista Shameem  
Fiji Human Rights Commission  
Private Mail Bag  
**SUVA**

Ms Shameem,

**RE: Media Inquiry Report into Freedom and Independence of the Fiji Media**

I refer to your letter, dated 28<sup>th</sup> September 2007, and the Report by the consultant, Dr James Anthony, of the above mentioned inquiry.

While I thank you for the opportunity to comment on the Report, I will once again highlight Fiji TV's strong opposition to the way the inquiry was conducted and indeed, the findings by your consultant.

These are outlined at length in our response, which is attached for your perusal.

I am deeply concerned at the false allegation that the FHRC and its consultant has made with regard to Fiji TV's association with Duavata Initiative Limited.

This is a deliberate lie and highly defamatory.

To this end, please be advised that Fiji TV will take legal action to address this.

From our end, we believe that the FHRC and media have more to gain from working together in promoting the human rights of all Fiji citizens, rather than engaging in unnecessary cross-fire over more regulations.

It is with this in mind that I entreat you to empower, not muzzle, the media.

MESAKE NAWARI  
Group Chief Executive Officer

<b>FAX: IN/OUT</b>
TIME <u>8am</u>
DATE <u>12/10/07</u>

(112)

**FijiTV**

RESPONSE BY FIJI TELEVISION LIMITED  
TO THE FIJI HUMAN RIGHTS COMMISSION'S  
INQUIRY REPORT INTO THE FREEDOM AND  
INDEPENDENCE OF FIJI'S MEDIA

10<sup>th</sup> October, 2007

(113)

**Fiji TV**

## **A (Dis)Hornet's Nest Indeed!**

THE Report of the Fiji Human Rights Commission's (FHRC) Inquiry into Freedom and Independence of the Fiji Media (Media Inquiry) makes for interesting reading. While on one hand it raises interesting arguments by the FHRC for legislation on the media, the conclusions and recommendations in it have serious implications on the rights to information of every citizen in the Fiji Islands.

At the outset, Fiji TV wishes to make clear that it declined to participate in the Media Inquiry for the reasons and concerns clearly outlined in a joint letter with the Fiji Times, Fiji Sun and Communications Fiji Ltd and addressed to the FHRC. (See Annexure 1).

However, as the Media Inquiry Report has now been made widely available by the FHRC, Fiji TV wishes to defend its integrity and reputation by making the following observations:

1. Overall, the FHRC's Media Inquiry Report is so surreally ludicrous, blatantly untrue, unfounded, one-sided, ill-researched and compromised that it can only be labeled a sensationalized piece of fiction, conjured up by minds hell bent on pushing their own agendas, particularly the introduction of legislation - in whatever form - to control the Fiji media.
2. It is clear from the report that the FHRC and in turn, its Director, is now meddling into media affairs so as to promote its own power, authority and grip over Fiji's society. Instead of empowering the Fiji media and working closely with it to advance the rights of Fiji citizens, the FHRC (in the same vein as all political parties and leaders that have been at the helm of power) is now pushing for controls that will weaken and severely dilute the rights of individuals and the media, as enshrined in the 1997 Constitution.
3. The Media Inquiry Report fails to provide specifics on how the Fiji media have failed to meet their obligations. It also fails to identify the supposed "significant gaps" in which media independence and freedom exists in Fiji. This was requested off the FHRC's Director but at the time of writing this response, she still had not provided media companies with any conclusive evidence of this.
4. One of the features that leap out from the Media Inquiry Report is the tendency of its author and the FHRC to heap most, if not all, the blame on the media for the political problems in Fiji. This is quite unfair and below the belt, so to speak. Numerous research works exist which suggest the influences of other factors on these national problems - not the media.
5. For any democracy to work effectively, there will always be stand-offs between political powers and the media. By their very nature, media companies will not allow themselves to be the mouthpiece of Government, politicians or political parties. The sooner the FHRC realizes this, the quicker it can move on to issues of more pressing concern to the people of Fiji.

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**Fiji TV**

6. If anything, the environment in Fiji right now has stalled media freedom. Between December 2006 and May 2007, and again in August this year, Fiji TV received threatening telephone calls from the military when it broadcasted some news items that "offended" the junta. On December 5, 2006, military personnel walked into our newsroom and tried to censor our Late News bulletin. Fiji TV decided not to broadcast the bulletin in order to protect its independence. To date, three of our news reporters and one executive have been summoned to the military camp for questioning over news items.
7. In all these cases, the FHRC has neither stepped in nor offered to help in any form. Neither has it done anything for reporters from other media organizations that have faced similar threatening and intimidating actions. In that respect, where is the freedom and independence of the media that the FHRC purports to defend?
8. If indeed, the Media Inquiry is "people centered" and in the "best interests" of the Fiji people, it is disturbing, to say the least, that the views of the general public were not aggressively sought. The single public notice on the Media Inquiry was only published in the English language newspapers and not in the vernacular editions; it was not broadcast on radio or television, whose combined reach covers the entirety of Fiji's population; it was apparently emailed to some members of the public - ruling out the thousands of Fiji citizens who have no access to the internet; there were no public hearings held at any centre around Fiji; there were no translators available at any of the 61 interviews conducted by the consultant; and the interviewees themselves were handpicked by the consultant.
9. The simultaneous commissioning of the Media Inquiry and the Inquiry into the 2006 General Elections again raises serious questions on the true agenda and bias of the FHRC and its Director. Both inquiries involve issues of widespread national implications and it is quite baffling how they could be commissioned around the same time, with results expected back in such short time frames. The Director also issues a blatant lie when she accuses the media of not covering the Elections Inquiry. A review of media reports during the period in question will clearly show extensive coverage by the major media companies in Fiji on both inquiries.
10. The engagement of a single consultant for the Media Inquiry speaks volumes of the importance or rather, the lack of it, with which the FHRC lends to such an important issue. Indeed, it is quite unbelievable that only one person was engaged to carry out such a critical inquiry and be allowed to draw conclusions on issues he clearly has neither inkling of nor desire to better understand. His report clearly reveals his profound lack of knowledge and understanding of the local media plus the way of life in Fiji now.
11. The time frame of the Media Inquiry was 2 weeks, which by the consultant's own admission, was "tight" and "difficult". Compare this with the controversial South African Inquiry into Racism in the Media, which spanned over 2 years! Again, this raises concerns about the motive of the FHRC and its director, particularly the rush to roll out a report, whose recommendations have such widespread implications.

12. The tone of the Media Inquiry Report is condescending to all Fiji people in its choice of words and vain attempts at describing the way of life in this country. The consultant repeatedly refers to the Fiji of the 1960s, the era in which he last lived in Fiji. Much has happened since then, not least of which is the movement away from media control to one of freedom and independence. He describes a market scene in Suva plus the Government Building clock at length – what does this have to do with media freedom and independence in Fiji?
13. The dedication of the Media Inquiry Report to Fiji's "old spirits" and "kalou vu" is highly disturbing. This alone hints at evil and nefarious agendas which have no place in Fiji's society today. For the consultant to place such high respect on this practice is indicative of his character and the destructive path which the FHRC is trying to pull Fiji toward.
14. The Media Inquiry Report is also revealing of the clear bias of the consultant against New Zealand, Australia and any foreigner or person generally referred to as an expatriate. Indeed, he has publicly displayed his contempt of New Zealand and Australia through Fiji TV's own Close Up program. This is certainly ironic, given that he readily boasts of his Doctorate degree, which was apparently awarded to him by an Australian university.
15. The consultant also recommends the revocation of work permits held by expatriates in media companies. This is unconstitutional. The Immigration Act already has clear guidelines on the employment of expatriates in Fiji. Signaling out those in the media industry is not only unconstitutional but discriminatory as well. If the consultant's intent is to phase out "white" expatriates, what does he propose then for "coloured" expatriates?
16. It should also be noted that very few expatriates are employed by local media companies. Those that do are either foreign owned (which applies to the Fiji Times only, in which case it has every legal right to second managers from its headquarters in Australia to Fiji) or see enormous value and benefits in retaining these highly skilled expatriates. In Fiji TV's case, our General Manager Commercial and former CEO, Mr Ken Clark, is an expatriate. His vast knowledge and experience in the global television industry, which spans over 40 years, is of enormous value to the company. He has been instrumental in the growth of the company plus the training and development of local staff and managers, including the localization of the Group CEO's position. It is, therefore, unfair of the Media Inquiry's consultant to stereo type expatriates and to discount their contributions to local media organizations.
17. The consultant draws unsubstantiated conclusions between the training programs in media organizations (or rather, what he claims to be the lack of it) and the poor journalistic skills of its reporters. While Fiji TV does not wish to comment on other companies' programs, it will put forward the fact that in 2006 alone, the company spent over \$200,000 in HR training and development. Almost half of this amount went toward general and specialized training – local and overseas – for members of the news team. These training are reaping benefits now for the company, not just in the changed attitude of its news team but in the improved quality of their work. It also needs to be

remembered that media companies already pay 1% of their total employment costs to the Training and Productivity Authority of Fiji (TPAF).

18. Had the consultant bothered to check around, he would have been informed of the growing number of specialized training now available to news personnel in Fiji. The University of the South Pacific has a Diploma and Degree program in Journalism; the Australian Government backs the Journalism program at the Fiji Institute of Technology; and even TPAF runs specialized courses for reporters on a periodic basis. Graduates from all these programs are now filling newsrooms, Government agencies, NGOs and commercial organizations right across the country.
19. Poor English language skills in reporters, another complaint of the consultant, are almost exclusively blamed on media companies. This is quite unfair. Fiji's education system, individual backgrounds and upbringing and many other factors all contribute to this on-going challenge. At the very least, media companies are trying to address the problem by sending its employees to writing courses, voice training and public presentation classes and this is on-going.
20. Fiji TV maintains that it is the responsibility of each media organization to train and up skill its workers accordingly – not for a proposed Media Tribunal to do, as the Media Inquiry recommends. Why should Fiji TV pay, through increased taxes, for the training and development of reporters and other people that do not work for it? Media companies need to be proactive and creative in developing and implementing HR strategies that will grow its biggest capital – its people. In Fiji TV's case, for instance, we train and develop our team – across the board – because we recognize their value to the company and also as a way of rewarding them and retaining them within the company. In fact, our HR policy now requires team members to have some sort of formal qualification before they can be considered for promotions – a powerful incentive for employees to continuously seek further studies. The company also has its internal education scheme that will support funding of these programs.
21. There's mention in the Media Inquiry Report on the remuneration levels in newsrooms across Fiji. For the record, Fiji TV sets the benchmark in the Fiji media industry for salaries and benefits. We offer our team members salary and benefits packages that are 10% above market rates. That said, we still lose our news people - not to other media companies, but to other countries and increasingly now, to NGOs. In fact, a high number of trained journalists leave mainstream media to join NGOs, including the FHRC, taking up positions in areas ranging from Communications, Research and Public Relations to Marketing and Advertising. They are lured by higher salaries which are almost always pegged to overseas rates and funded by grants. But many also return to mainstream media as the unique challenges in it, which offer a different kind of excitement that other industries just can't offer.
22. There are also complaints by some of the consultant's secret informants of the lack of a Journalists' union. For his knowledge, collective bargaining is covered by Fiji's Labour and Industrial Relations Act, as well as the Employment Relations Bill. To that end, all employees in Fiji are free to form a

union and engage in collective bargaining with their employees. Or is the consultant suggesting that employers set up unions for employees?

23. The Media Inquiry Report is petty, unprofessional and vindictive in its approach. The consultant selectively chooses individuals and organizations, including Fiji TV, to tarnish and paint negatively so as to support his preconceived conclusions. He also puts forward many false allegations, with no supporting evidence, much less, thought to the implications of his actions. Case in point: local content on television. Fiji One, which is Fiji TV's free-to-air channel, contains more than 40% local content in its prime time programming hours. Locally produced programs that are broadcast on Fiji One include:
- a. One National News
  - b. Ulu ni Tukutuku
  - c. Khaas Khabre
  - d. Noda Gauna
  - e. Jharokha
  - f. Fiji This Week
  - g. Have Your Say
  - h. Close Up
  - i. Groove Thang
  - j. Total Sports
  - k. IQ Active
  - l. Get Set
  - m. Viti Nikua
  - n. Pacific Channel
  - o. Taste of the Pacific
  - p. Pacific Wave
  - q. Dateline
  - r. Vodafone Hibiscus Festival
  - s. Deans rugby final
  - t. IDC and other soccer tournaments
  - u. Colonial Cup and other rugby tournaments
  - v. Fiji Secondary Schools Athletics Finals
  - w. Primary Schools FMF Games
  - x. Tadra Kahani
  - y. South Pacific Games

This is a well known fact to some of the consultant's "secret" informants. In fact, his description of them hints at two disgruntled ex-Fiji TV employees, whose departures from the company are well known to them. During their time at Fiji TV, they chaired senior positions in the company which allowed them the freedom to make changes to and improve local content. They failed to do this. This is being executed now by a new and dynamic team, with rollout of more locally produced programs in the pipeline.

24. The Media Inquiry Report is contradictory in many instances. The consultant, in one of his recommendations, urges the local media to work with the University of the South Pacific's Media Unit. This is the same university that he publicly slagged, through the media no less, during his very short visit to Fiji. He also insists on no government involvement in the set up of the proposed Media Tribunal but then recommends legal experts of Government to draw up legislation relevant to it.

25. The Media Inquiry Report is so blatantly false and defamatory, it leaves one wondering as to the mental capacity of the consultant and the wisdom and agenda of the FHRC in appointing such a person. ***For the record, Fiji TV has never been approached nor is it a member of the SDL party or the Duavata Initiative Limited. To this end, Fiji TV will take legal action on the FHRC, its Director and the Media Inquiry's consultant as this allegation has been made a part of the final Report.*** Attaching to the Media Inquiry Report a copy of what is clearly a "made up" list of companies is not only defamatory but outrageously silly on the part of the FHRC, its director and the consultant. At the very least, proper checks should have been carried out first to verify the authenticity of the list.
26. The Report accuses the people of Fiji, particularly the media, of being "Viti Levu centered". This again illustrates the lack of knowledge and poor research carried out by the consultant. Fiji TV's services are available to 100% of the Fiji Group and Rotuma, with its signals distributed terrestrially and via satellite; AM radio signals reach 100% of the country while at least 80% of the population can access FM signals; newspapers are delivered daily to both Viti Levu and Vanua Levu; while internet and telecommunications links are improving dramatically due to on-going investments of the major telecommunications companies.
27. The consultant insists on the extension of fibre optic technology and satellite services to both Vanua Levu and Taveuni. Is he aware of the costs involved in fibre optic technology, let alone satellites? Is he not aware that satellite services for TV and telephone communications are already available to Vanua Levu and Taveuni via Sky Pacific and VTSat respectively? Again, his lack of research and desire to understand the situation in Fiji is highlighted.
28. There is a suggestion by the consultant for Indian satellites to be engaged for Fiji. Another pie in the sky scheme concocted by a mind seriously lacking in discernment. Fiji's geographical location alone completely rules out any clear reception of signals from Indian satellites. Fiji TV constantly struggles to gain access and clear signals from AsiaSat satellites and evidence from other companies that engage in similar services would indicate similar challenges.
29. The Media Inquiry Report expounds at length on issues of fairness, balance, media ownership and editorial independence. If the consultant had cared to thoroughly observe the operations of newsrooms around Fiji, he would no doubt be surprised by the considerable distance between the owners of media companies and the daily operations of its news team. In Fiji TV, for instance, there is a "no interference" policy by which our newsroom operates. Much to the chagrin of other business units within the company, our news team has reported cases against our own board of directors, managers, staff members, clients and business partners. It even highlights activities and statements by competitors! It is able to do this because the owners and top executives of the company do not interfere in the daily management of the newsroom. It's called Editorial Freedom.
30. It needs to be pointed out too that apart from these, the media brings to national attention many issues of public interest including the abuses to politicians and the Indo Fijian population during the May 2000 political



upheaval; the death and ill-treatment of civilians at the hands of security forces; medical negligence leading to disability and even death of innocent citizens; corruption in the civil service and statutory organizations; feel good stories like the excellent performance of the Fiji Rugby team at the recent Rugby World Cup etc... But all these were conveniently ignored in the Media Inquiry Report. Again, selective memory by the FHRC and its consultant.

31. The research methodology of the Media Inquiry certainly breaks, to quote the consultant, "new methodological and conceptual ground". New, because unlike credible inquiries, its findings are not supported by facts, hard evidence, concrete data or let alone views from a wide cross section of the Fiji public. Instead, it is centered on conversations carried out with unnamed sources during grog drinking sessions; an out-dated analysis of the Fiji media by a former USP lecturer whose relationship with local media was always strained; 1 telephone interview with an unnamed source; 58 "one-on-one" interviews with, again, unnamed individuals whose descriptions points to people with either hidden agendas or huge chips on their shoulders; no public hearings being carried out throughout the Fiji Group; and of course, dubious literacy research by the consultant and the FHRC team.
32. Another worrying aspect of the consultant's methodology is the imposition of his own views on interviewees. The report clearly quotes several instances where he plants ideas into the minds of his interviewees and then waits for their responses to back his claims. He talks about intimate conversation, body language, eye contact etc...Is he also a Behavioural Scientist?
33. In the interests of transparency, Fiji TV calls on the FHRC to reveal the names and identities of all 61 interviewees in the Media Inquiry. It has already set the precedent for this, whereby it promises to publish the names of all Fiji citizens that have lodged complaints with the United Nations. Why not the same transparent approach for the Media Inquiry?
34. The Media Inquiry Report quotes a Fiji TV employee as saying that our news reporters were required to get clearance from management before speaking to the inquiry's consultant. As a company listed on the South Pacific Stock Exchange, Fiji TV requires all its team members, including executives, to disclose all information they intend to go public with before they release this. It is our listing requirement and to comply with it, we incorporate it in all individual employee contracts and our HR policy and procedures. It is well understood and practiced by all Fiji TV employees so for the consultant to try and turn it into something it is not is merely cheeky and irresponsible. If anything, an email from the Media Inquiry's consultant was distributed to all our reporters and it was left to them to decide whether to take part in the inquiry or not.
35. The entire Media Inquiry Report is also centered solely and negatively on the news function of the media. It fails to acknowledge the other functions of the media, namely in providing entertaining, educational and compelling content to the different audiences it serves. In fact, the scope of the research conducted by the consultant is quite narrow, highlighted best by the select bibliography and on the mere fact that its findings are based almost entirely on the unchecked feedback of 61 interviewees. The report fails to mention

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**FIJITV**

whether these sources of information are representative of the different racial, religious, age, gender, social and economic groups in Fiji. Additionally, none of the media companies' published works including Annual Reports are quoted; with the exception of one, none of the 61 interviewees offer any form of support or positive acknowledgement for the local media; nor are any other published work or literature to this effect quoted throughout the report.

36. The consultant has failed dismally to keep within and address the terms of reference for the Media Inquiry. His report veers from one topic to another, he wanders off into unnecessary verbatim and is quite simply, "all over the place"! A lot of his focus is taken up by the print media, particularly Fiji Times, and he fails to analyse in-depth other media in Fiji, the scope of their operations, who their owners are or the environment that they have been operating in for at least the past 2 decades. He offers no thorough analysis of international media practices, focusing almost entirely on Singapore's model. Singapore is a country whose media industry is heavily regulated and yet, the consultant sees it fit for Fiji to move backward to that type of environment.
37. Furthermore, his recommendation for the set up of a Media Tribunal and a Media Development Authority smacks of the common "cut and paste" approach that overseas based consultants, unfamiliar with the prevailing environment in Fiji, commonly take when trying to address local issues. In Fiji, those who have been aggrieved by the media have the Fiji Media Council and Fiji Courts to raise their complaints with. This system is working well and all media organizations comply with and operate within the framework of this set-up.
38. Fiji TV strongly opposes the recommendation for the set up of a Media Tribunal. By its very definition, a tribunal is a body appointed to adjudicate or arbitrate on a disputed question or matter. What is being disputed here – the media's freedom and independence or complaints from certain sections of the community? The Constitution clearly addresses the first while the Fiji Media Council is effectively carrying out the second function quite effectively. Why recreate the wheel and waste taxpayers funds?
39. By not consulting the Fiji Media Council in the planning stages of the Media Inquiry and further discounting its position, the FHRC's bias and preconceived conclusions about the inquiry are quite obvious. Contrary to the consultant's ill-advised conclusion about it, the Fiji Media Council has been effective in addressing critical media issues including handling of public complaints. It has played a leading role in the promotion of self regulation, media independence and freedom. It has successfully led industry campaigns against attempts by Government to muzzle and introduce legislations for the media.
40. The Fiji Media Council has developed a robust Code of Ethics, which is used by most, if not all media organizations in Fiji, as the basis for their own news policy and procedures. For Fiji TV, the Council has certainly been an effective regulating body. Its grievance procedure works and all major media companies advertise and promote this, so members of the public know what steps to take when they have an issue against the media. On its part, Fiji TV is called before the Council's Complaints Committee at least two times a year to respond to complaints from the public which have been referred to the

body. These are deliberated on by the Council's public members, whose memberships are voluntary and publicly advertised as soon as they become vacant. When the Council finds in its deliberations that we have to issue an apology, we do so wholly and unedited. When complaints are referred to the Courts, we comply with the findings of the legal system.

41. If anything, the Media Council needs additional funds to further strengthen it. The Media Inquiry Report is certainly true that the \$30,000 annual budget it operates on is not enough. Membership is voluntary and those that hold executive positions are not paid to do the work required of them. Instead of viewing this as a negative, the FHRC is strongly urged to lobby for more funds from Government and other aid organizations to assist it. Again, we raise the question: Why recreate the wheel and waste scarce government resources and taxpayers funds?
42. The consultant proposes the set up of a Media Development Authority (MDA), equivalent to the one in Singapore. Cut and paste approach aside, an important point that he fails to mention is that unlike Fiji, Singapore's major media organization, MediaCorp, is owned by the Government. Singapore is also a prosperous economy, with a surplus national budget and the financial might and political will to effectively back the development, implementation and on-going monitoring of important policy decisions like the set up of its MDA. In fact, Singapore's MDA has a pro-business stance and works vigorously to promote the growth of the media industry – quite at odds with the recommendations and findings of the Media Inquiry Report.
43. The consultant's recommendation that a 7% tax be imposed on the revenue of media organization so as to fund the proposed Media Tribunal is preposterous at the very least. It clearly highlights his ignorance of the negative implications on media organizations and in turn, the Fiji economy. Not only will a 7% tax have implications right across the operations of all media companies, this cost will simply be passed on to very group whose rights the FHRC purports to champion – the people of Fiji.
44. The Media Inquiry Report, while recommending no government input into the funding of the Media Tribunal, is quite open to sourcing of funds from NGOs, aid organizations and other countries. These entities have their own agendas and like it or not, their funds always come with strings attached. On a Government to Government arrangement, where is the independence?
45. There is a recommendation for additional legislation to be put in to control the media i.e. a Sedition Act. Fiji already has a Public Order Act which adequately covers what the consultant proposes to have in the Sedition Act.
46. There are calls in the Report for more public service TV and radio. As Fiji TV has repeatedly pointed out to Government and organizations like the Consumer Council of Fiji, there is certainly room for this. But it is not the responsibility of the private sector to set up or fund. This is the Government's responsibility. It can use license fees from commercial media companies to fund these but to impose a 7% tax on our revenue is draconian and simply unfair. Taxes must be paid into general Government revenue and they cannot be used for a specific purpose as the report suggests.

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**FIJI TV**

47. To date, the private sector has had to pump in millions of dollars of shareholders' funds for the development and set up of communications and telecom infrastructure. Government has failed miserably to assist in this area. Yet, the Media Inquiry Report now recommends the concept of intergenerational equity to be adopted in Fiji. Fiji TV wishes to stress the point that only when Government invests directly in these assets and infrastructure should such a concept be introduced. Until then, they belong to the private sector entities that take on the risks of investing in them.
48. Finally, the structure and presentation of the Media Inquiry Report itself is not just poor but raises serious doubts about the relevant experience and research capabilities of the consultant. There's no table of contents, it has an exhausting 6 page Introduction that precludes the Executive Summary, it has an Executive Summary running to an astounding 7 pages, there is a clear lack of "ebb and flow" in so far as the content and relevance are concerned; and it has such a high incidence of highfalutin language that is absolutely unnecessary and laughable.

### CONCLUSION

Fiji TV is of the view that the Media Inquiry Report by Dr James Anthony is defamatory, slanderous, unsourced, imbalanced, mangled, ill-researched with tabloid style conclusions.

In their endeavor to try and introduce legislation to control the media, the FHRC and Dr Anthony, have a lot to learn from a recent ruling of High Court Judge, Justice Jitendra Singh in the case of Arvin Datt f/n Chandar Datt vs Fiji Television Limited, Civil Action No HBC 214 of 2007 stated in para 23: "***It is critical at this juncture, when Parliament is not sitting and there is no usual Ministerial accountability as such, that the freedom of press assumes a greater significance in matters of public interest***".

Fiji's current environment only stresses the need for the media to be the watchdog for society. It is the agent for free flow of information in any country. It must be allowed to do so fully and with the support of organizations like the FHRC. It should not be muzzled or heaped with more regulation.

In fact, self regulation is working effectively for the local media and to suggest otherwise is simply indicative of one's bias and hidden agenda. Fiji TV therefore urges the FHRC to discount the Media Inquiry Report by Dr Anthony and focus instead on working with the media to promote the human rights of all the people of Fiji.

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ANNEXURE 1

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Communications Fiji Limited  
Fiji Television Limited  
Fiji Times Limited  
Sun (Fiji) Limited  
July 27, 2007

Dr Shaista Shameem,  
Director  
Fiji Human Rights Commission,  
Level 2, Civic Towers  
Victoria Parade,  
Suva



**RE: Human Rights Commission Inquiry into Freedom and Independence of the Media**

Dear Dr Shameem,

We refer to your letter of July 20, 2007, to several of the undersigned.

We are sufficiently alarmed at your proposed inquiry into freedom and independence of the media that we take this opportunity to make several points.

Your letter refers to the Fiji Human Rights Commission's obligation under the Human Rights Commission Act to conduct annual public inquiries into topics of general human rights interest. You then state that freedom and independence of the media is an important human right that the Commission seeks to promote and support, and the Commission needs more information in this regard, hence the inquiry.

The undersigned media organisations do not accept that the FHRC seeks to promote and support the freedom and independence of the media. You make reference to having assisted a number of media personnel who complained of human rights violations during this latest political turmoil. We are aware of a number of media professionals who have chosen not to report human rights violations to the FHRC. When questioned, they have stated they have no faith in the FHRC's commitment to seek remedies or properly represent their interests. Others who have sought your assistance report results far short of expectations.

The undersigned media organisations, in any case, take little comfort from some of the conclusions you, as the FHRC's director, drew in your January report into the causes of the December 2006 coup, particularly those related to freedom of speech and freedom of movement.

Those conclusions mitigate against the certainty that the FHRC's inquiry into freedom and independence of the media will be impartial and free of a hidden agenda.

We make the following further points:

In the first paragraph your letter refers to "significant gaps in analyses" of the media uncovered during your research for Article 19. It would have been helpful if you had been specific about the nature of these gaps, and made the research results available to the media.

Your second paragraph refers to previous attempts to legislate on issues affecting the media, yet gives no justification for this reference in the context of your proposed inquiry. This is always a sensitive issue for media, and the lack of qualification for this reference is disturbing.

Your third paragraph makes reference to the Commission's view that the media's relationship with governments has not always been cordial, and seems to attempt to qualify this general assessment with the stark statement: "You will no doubt be aware of David Robie's analysis of the media's role in politics in Fiji." The linking of these threads is odd.

Firstly, it is true the relationship between the media and governments is sometimes strained. It would be unusual in a democratic country with a free media, if this were not occasionally so. Why the FHRC would see this as a relevant subject for inquiry is mystifying. Secondly, it would be disingenuous for the FHRC to accept David Robie's analysis of the media's role in Fiji politics as conclusive or even accurate. Certainly no major media organisation invests any currency in his conclusions. It would be erroneous to suggest, as your letter appears to do, that the normal strains in media-Government relationships are explained entirely or at all by Robie's research.

You then make reference to the lack of a "press union or similar association" to represent media professionals, yet do not attempt to suggest how this affects media freedom and independence, or why such a presence or lack of it requires review.

We understand Mr Greg Fortuin has withdrawn from the inquiry. It is not moot, however, to point out your claim that he is a "human rights expert" falls short of reality. We intend no slur to Mr Fortuin when we point out his professional background is mostly in the financial sector, not media, and his more recent, and relatively brief, role of Race Relations Conciliator in New Zealand would not appear to elevate him to the status of "human rights expert". His Fiji experience as an NZ-appointed observer of the 2006 election might give him some limited insight into Fiji, but not into human rights. Why the hyperbole?

That the inquiry will also be based on interviews with NGOs and "other stakeholders", including Government ministries and political parties, inspires no confidence. We would ask that you remember the media has one agenda – to get impartial information to the public as accurately and quickly as possible. Every NGO, Government ministry and – especially – political party has a separate and narrow agenda of promoting their views and biases as widely as possible. These "other stakeholders" will always criticise the media for not wholeheartedly embracing their view – and often their view alone. We suggest it will require a steadfastly independent person with extensive media experience – as participant or practitioner – to properly understand and report on this.

The general terms of the inquiry also beg some questions, for example:

- Item (i): *To provide a historical overview of the range of media available in Fiji, including ownership and scope of operations. Why is ownership an issue in relation to media freedom?*
- Item (iii): *To review whether Fiji's media comply with international standards of corporate responsibility for media freedom and independence. What international standards? Do you mean various codes of ethics to which media organisations and journalists subscribe? Legislative controls? How do you measure compliance if such international standards can be found? This is an open-ended item, capable of being abused and misinterpreted.*
- Item (v): *To review the extent to which the public's right to accurate, balanced and up dated information is protected. This is an absurdly open item. The public has no stated or legislated or implied "right" in this sense. Instead, media organisations normally subscribe to a code of conduct which implies a "duty" to this service. Furthermore, what is intended by the expression "up-dated"?*
- Item (vii): *To review whether work conditions of media personnel comply with constitutional provisions on fair labour relations. We believe the work conditions of any employees fall under the purview of the Department of Labour, who are quite capable of investigating these conditions. In any case, what does this have to do with media freedom and independence? If it has any relevance, you have not attempted to explain it.*
- Item (viii): *To review whether journalists have freedom internally and externally to exercise their functions in the public interest to the extent required by international human rights law. No journalist is "required" to "exercise their functions in the public*

interest", whether under international human rights law or otherwise. What does "internally and externally" mean? Within and outside the newsroom, within and outside the country?

Taken in its entirety, your letter is of great concern to the undersigned.

We also note the Commission yesterday (July 26) sent a letter to newsroom staff at several organisations. In this letter you state that the consultant will follow the general terms of reference, and that this includes "newsroom personnel's views" on a list of several items that are not included in the general terms of reference, and have not been specified to us media organisations.

You also state in your penultimate paragraph of this latest letter that the review will "assist the Commission to protect and promote media freedom and independence *in the interest of the public as well as the profession*" (our emphasis).

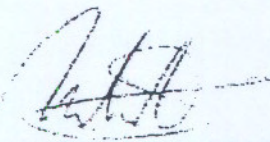
You have chosen not to share this extended scope of the inquiry with us, and have also stated for the first time a specific focus on perceived public interest. Both items indicate you are prepared to be selective in the information you offer us. It cannot be surprising that we then view the whole process with some suspicion.

We doubt the purpose of this inquiry, and the purpose to which any collected data will be put.

We believe the inquiry represents the incursion of a biased FHRC into areas where it could improperly invoke human rights causes to control the media.

Without specific assurances and direct consultation regarding all the concerns raised above, we cannot participate in this inquiry.

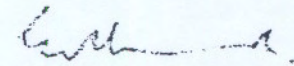
Yours sincerely,



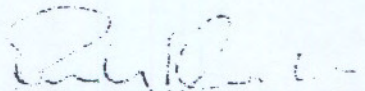
William Parkinson  
Managing Director  
Communications Fiji Limited  
Email: [william@fm96.com.fj](mailto:william@fm96.com.fj)  
231 Waimanu Road  
Suva  
Date:



Mesake Nawari,  
Group Chief Executive Officer  
Fiji Television Limited  
Email: [mesaken@fjiv.com.fj](mailto:mesaken@fjiv.com.fj)  
20 Gorrie Street,  
Suva  
Date:



Evan Hannah  
Managing Director  
Fiji Times Limited  
Email: [ehannah@fjitime.com.fj](mailto:ehannah@fjitime.com.fj)  
117 Victoria Parade,  
Suva  
Date:



Russell Hunter  
CEO/Publisher  
Sun (Fiji) Limited  
Email: [russellh@sun.com.fj](mailto:russellh@sun.com.fj)  
17 Amra Street,  
Walu Bay  
Date:



GOOD  
LEADERSHIP  
FOR A SECURE  
AND STABLE FIJI



SDL

66 McGregor Road  
G. P. O. Box 17889  
Suva  
Phone: 3301 544  
Mobile: 9925 025

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18 April 2005

Chief Executive Officer  
Fiji Television Ltd  
Gorrie St  
Suva.

MSN

Attention: Mr. Mesake Nawari

~~AA~~

① This will give us  
opportunity to have  
dinner with the  
Minister of Info

② Including Mr + Mrs Ali,  
Fiji TV management -  
MSN, TP, JU, all other managers.

FUNDRAISING DINNER

Please accept our invitation to be a critical part of the above fund raising function scheduled for 21 April 2005 at the Vine Yard Palace in Suva. For a contribution of \$1,000 to the event you have the honour of hosting the Minister for Information, Hon. Dr Ahmed Ali, and Mrs. Ahmed Ali at your table, which will have a seating capacity of 10. The Prime Minister and other Ministers will also be present with their respective spouses.

Enclosed are 8 tickets for you and other high performers from your organization and friends who may benefit from the evening.

Attached also please find a programme for the evening which will include an 8 course meal and traditional Fijian entertainment.

Additional tables with 10 seats may be acquired for an additional \$250 each.

We look forward to your attendance and remain

Yours sincerely

Jale O. Baba  
National Director

Abhyash!

→ Mr. write a cash cheque for Dinner  
with the Minister of Communication.  
→ An opportunity for us to discuss  
about our future communication industry and  
→ Mr. also give us relevant information  
regarding our investment in  
Pacific etc.

ASD  
2/19/05

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**FIJI TELEVISION LIMITED**

G P O Box 2442 Government Buildings  
Suva, Fiji.

Phone: (679) 330 5100 Fax: (679) 330 1080  
E-mail: info@fijitv.com.fj

**PAYMENT ADVICE**

23267

Pay To: Cash

Date: 20/04/2005

Payment for: Fundrasing Dinner

500.00  
500.00

**TOTAL** \$ 1,000.00

Prepared By:

Checked By: AZ

Approved By:

Received By:  
Name: Date:



FIJI



CO.NO.15518

99243

**CERTIFICATE**

(Under the Companies Act)

I, ABHI RAM CHARAN, Acting Registrar of Companies of Fiji, DO HEREBY CERTIFY that

DUAVATA INITIATIVE LIMITED

has this day been incorporated under the Companies Act and that the Company is limited.

GIVEN under my hand and seal this 6th day of January, 2003.



ACTG. REGISTRAR OF COMPANIES

Copy

No. of Company:

Company Form No. 208

481 93119

**THE COMPANIES ACT, 1983**

**DECLARATION OF COMPLIANCE WITH THE REQUIREMENTS OF THE COMPANIES ACT, ON APPLICATION FOR REGISTRATION OF A COMPANY**

Section 19(2)

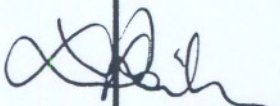
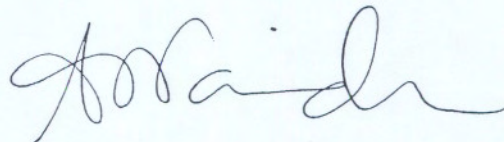
Name of Company: **DUAVATA INITIATIVE LIMITED**

Presented by: **MUNRO LEYS,  
SOLICITORS,  
SUVA, FIJI.**

I, **ASHWANI NAIDU** (Father's name Rama Naidu) of Suva, do solemnly and sincerely declare that I am a Barrister and Solicitor of the High Court engaged in the formation of **DUAVATA INITIATIVE LIMITED** and that all the requirements of the Companies Act, in respect of matters precedent to the registration of the said Company and incidental thereto have been complied with.

AND I make this solemn Declaration conscientiously believing the same to be true and according to the Statutory Declarations Act.

DECLARED at Suva this 6<sup>th</sup> day of ]  
December 2002 before me: ]



A Commissioner for Oaths

Lorraine Reiher BA, LLB

Commissioner for Oaths Suva, Fiji



**PARTICULARS OF DIRECTORS AND SECRETARIES AND OF ANY CHANGES THEREIN**  
(Section 202)

125590

Name of Company : DUAVATA INITIATIVE LIMITED  
Presented By : DUAVATA INITIATIVE LIMITED

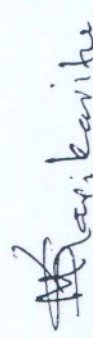
**PARTICULARS OF PERSONS WHO ARE DIRECTORS OF THE COMPANY AT THE DATE OF THIS RETURN AND OF PERSONS NOW CEASING TO BE DIRECTORS**

Name	Any former forename or Names & Surname	Nationality	Postal Address	Business occupation and particulars of other directorships	Date of Birth	Changes
Marica Karikaritu	-	Fiji Islander	66 McGregor Road SUVA	Company Director	-	Appointed 22/03/04
Mere Tuisalalo Samisoni	-	Fiji Islander	Flat 5, Cakobau Apartments Ratu Cakobau Road, SUVA	Company Director	-	Appointed 22/03/04
Joel Jagat Prakash Sahai	-	Fiji Islander	6A Jayaben Place, Samabula PO Box 5391, RAIWAQA	Company Director	-	Appointed 22/03/04
Hon. Laisenia Qarase	-	Fiji Islander	GPO Box 2353, SUVA	Prime Minister	-	Resigned 22/03/04
Ratu Jone Kubuabola	-	Fiji Islander	GPO Box 2353, SUVA	Company Director	-	Resigned 22/03/04
Kaliopate Tavola	-	Fiji Islander	PO Box 317, NADI	Company Director	-	Resigned 22/03/04

**PARTICULARS OF EACH PERSON WHO IS A SECRETARY OF THE COMPANY AT THE DATE OF THIS RETURN**

Name	Any former forename or names and Surname	Postal Address	Changes
Marica Karikaritu	-	66 McGregor Road SUVA	Appointed 22/03/04
Ratu Jone Kubuabola	-	GPO Box 2353, SUVA	Resigned 22/03/04

Dated the 17 day of May, 2004.

  
 Signed..... x  
 DIRECTOR or SECRETARY

967268 13.38 24/05/04  
 24/05/04 KLT# 967261

NO. OF COMPANY:

THE COMPANIES ACT, 1983

COMPANY FORM NO. 203

42122

**PARTICULARS OF DIRECTORS AND SECRETARIES AND OF ANY CHANGES THEREIN**  
(Section 202)

NAME OF COMPANY: **DUAVATA INITIATIVE LIMITED**

PRESENTED BY: **MUNRO LEYS, Solicitors, Level 3, Pacific House, Butt Street, Suva**

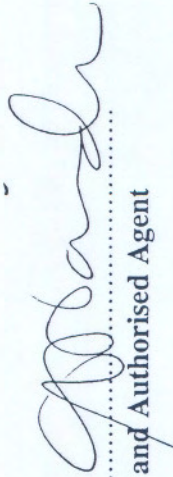
**PARTICULARS OF PERSONS WHO ARE DIRECTORS OF THE COMPANY AT THE DATE OF THIS RETURN AND OF PERSONS NOW CEASING TO BE DIRECTORS**

Name	Any former forename or names and surname	Nationality	Postal Address	Business Occupation and particulars of other directorships	Date of Birth	Changes
Laisenia Qarase	-	Fijian	GPO Box 2353 Suva	Director	-	Appointed 27.11.2002
Ratu Jone Kubuabola	-	Fijian	GPO Box 2353 Suva	Director	-	Appointed 27.11.2002
Kaliopate Tavola	-	Fijian	GPO Box 317 Nadi	Director	-	Appointed 27.11.2002

**PARTICULARS OF EACH PERSON WHO IS A SECRETARY OF THE COMPANY AT THE DATE OF THIS RETURN**

Name	Any former forename or names or surname	Postal address	Changes
Ratu Jone Kubuabola	-	GPO Box 2353 Suva	Appointed 27.11.2002

Date: 6/12/02

Signed:   
Solicitor and Authorised Agent



FIJI

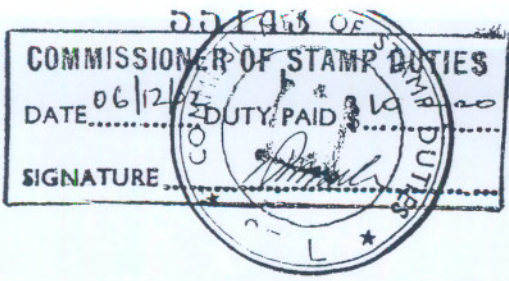
THE COMPANIES ACT (1983)

MEMORANDUM OF ASSOCIATION

of

DUAVATA INITIATIVE LIMITED

A PRIVATE COMPANY LIMITED BY GUARANTEE  
AND NOT HAVING A SHARE CAPITAL



**FIJI  
THE COMPANIES ACT (1983)**

**A PRIVATE COMPANY LIMITED BY GUARANTEE  
AND NOT HAVING A SHARE CAPITAL**

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**MEMORANDUM OF ASSOCIATION**

**OF**

**DUAVATA INITIATIVE LIMITED**

1. **THE** name of the Company is Duavata Initiative Limited.
  
2. **THE** registered office of the Company will be situate at Suva or at such place as the directors shall from time to time determine.
  
3. **THE** objects for which the Company is established are:-
  - (1) To provide financial, social, administrative, structural support and other assistance for political organisations which support free enterprise within Fiji.
  - (2) To promote awareness of the programs and initiatives undertaken, organised and supported by the Company.
  - (3) To identify and secure funding to finance the objects of the Company.
  - (4) To perform or do any acts or things incidental to any of the foregoing principal objects of the Company.
  - (5) To purchase, take on lease or in exchange, hire or otherwise acquire and to deal in and hold any lands of any tenure, buildings, premises, easements, licences, rights, privileges, concessions, machinery, plant, and any real or personal property of any kind whatsoever.
  - (6) To erect, construct, install, enlarge, alter, manage, work and maintain, shops, stores, offices, residential premises, and other buildings, installations, facilities, works and conveniences of all kinds and to

contribute to or subsidise the erection, construction, installation, working, maintenance and management thereof.

- (7) To sell, lease, mortgage, charge, exchange or dispose of, turn to account or grant rights (including option to purchase) over or otherwise deal with the business undertaking, assets, property (whether real or personal) or rights of the Company or any part thereof for such consideration as the Company may think fit including for cash or for shares (whether fully or partly paid up) debentures or securities of any other Company or partly for such shares debentures or securities.
- (8) To apply for design, register, purchase or otherwise acquire any trade names, trade marks or other marks, patents, patent rights and privileges, copyrights, letters of registration, processes, formulas, licences, concessions and the like conferring an exclusive or non-exclusive or limited right to use any name, mark, device, brand or invention which may seem capable of being used for any purpose of the Company or the acquisition of which may seem calculated directly or indirectly to benefit the Company and to sell, dispose of, turn to account, deal in, use, exercise or develop the same or grant licences, leases or other privileges in respect thereof.
- (9) To purchase or otherwise acquire, carry on and undertake all or any part of the business including goodwill, property, goods, chattels, effects, choses in action and liabilities of any person co-partnership or Company.
- (10) To hold any property either in the name of the Company or in the name of any trustee or trustees.
- (11) To lend and advance money either with or without security; to give credit to any person or Company; to guarantee and give guarantees, indemnities or bonds for the payment of money or the performance of contracts or obligations by any person or Company; to secure or undertake in any way the repayment of moneys lent or advanced to or the liabilities incurred by or other engagements of any person or Company; and otherwise to assist any person or Company.
- (12) To invest the moneys of the Company in such manner and upon such terms and conditions as may from time to time be determined by the directors and to vary sell or dispose of all such investments.
- (13) To borrow or raise money or receive money on deposit with or without security and with or without allowance of interest thereon and upon such terms and in such manner as the Company may think fit.
- (14) To secure the repayment of any money borrowed or to be borrowed or the payment of the whole or any part of the purchase money of any property acquired by the Company or the payment or performance of any debt

liability contract guarantee or other engagement incurred undertaken or to be entered into by the Company in any way and in particular by mortgage or other charge or by granting a lien or by the issue at part or at a premium or discount of debentures or debenture stock perpetual or redeemable or repayable or otherwise and with and subject to such rights powers privileges and conditions as may be thought fit or by the issue of bonds notes preference shares or promissory notes and for the purposes aforesaid or for any other lawful purpose to charge the undertaking and all or any of the real and personal property and assets present or future and all or any of the uncalled capital for the time being of the Company and collaterally or further to secure any securities of the Company by a trust deed or other assurance and to redeem and pay off any such securities.

- (15) To make draw accept endorse discount negotiate execute and issue promissory notes bills of exchange bills of lading warrants debentures and other negotiable instruments or documents necessary for carrying out all or any of the objects of the Company.
- (16) To insure the Company against loss or contingent liability arising in any manner whatsoever from the conduct of its business and to insure any servants of the Company against or in respect of risks, accident, fidelity or otherwise as may seem expedient.
- (17) To adopt such means of making known the business or products of the Company as may seem expedient and in particular by advertising in newspapers and other literary publications, by circulars and other literary matter, by radio and television and in cinemas, and to promote exhibitions and competitions and to offer and grant prizes, bonuses, rewards, premiums and donations of such a character and on such terms, gratuitous or otherwise as may seem expedient.
- (18) To subscribe, donate or guarantee money for charitable or benevolent objects or for any exhibition or for any public, general or useful object.
- (19) To appoint or authorize the directors of the Company to appoint either with or without remuneration agents, attorneys under power, local directors or other persons or corporations under power of attorney or otherwise in Fiji or in any other part of the world to carry out and complete all or any of the objects of the Company and to arrange, conduct or manage the business or businesses of the Company or any matter or concern whatsoever in which the Company is now or may from time to time be or become or be about to become interested or concerned with the same powers as or with some limited powers than the directors of the Company have and from time to time revoke or cancel such appointments and authorities and to remove and if thought desirable re-appoint such agents, attorneys, directors or other persons or corporations and determine their powers and to appoint any person or persons, Company or corporation as the attorney or attorneys, agent or agents of the Company in

any part of the world with full powers to do all such acts matters and things as may be thought necessary and expedient in the interests of the Company and to delegate such powers of appointment to any person or persons, Company or corporation and from time to time revoke such appointment.

- (20) To enter into any arrangements with any government or authority, or municipal, and to obtain any rights, privileges and concessions which the Company may think it desirable to obtain within the Company's objects or any of them and to carry out such exercise and comply with any such arrangements, rights, privileges and concessions.
  - (21) To expend money in any way which the Company may think fit with a view to improving or protecting the value of the undertaking or any business or property of the Company or of otherwise promoting or protecting its interests.
  - (22) To procure the Company to be registered incorporated or recognized in any part of the world and there to carry on business and to do all things necessary to give the Company or any branch or office thereof or any Company subsidiary thereto a legal domicile in any country.
  - (23) To act as agent or in any other representative capacity for any person or persons or body or bodies corporate.
  - (24) To pay all costs, charges and expenses including brokerage, commission or other remuneration of and incidental to the formation and establishment of the Company and to remunerate in cash any person, firm or Company for services rendered or to be rendered in relation to the formation and establishment of this Company or the conduct of its business.
  - (25) To carry out all or any of the objects of the Company and do all or any of the above things in any part of the world and either as principal, factor, agent, contractor or trustee, or otherwise and by or through trustees, factors or agents or otherwise, and either alone or in conjunction with others.
  - (26) To do everything necessary, desirable or incidental to the accomplishment of any of the purposes or the exercise of any one or more of the powers herein enumerated or which shall at any time appear conducive to or expedient for the protection or benefit of the Company.
4. **THE** income and property of the Company wheresoever derived, shall be applied solely towards the promotion of the objects of the Company as set forth in this Memorandum of Association, and no portion thereof shall be paid or transferred, directly or indirectly by way of bonus or otherwise, to the members of the Company.

Provided that nothing herein contained shall prevent the payment in good faith of

remuneration to any officers or servants of the Company or to any member of the Company in return for any services actually rendered to the Company or for goods supplied in the ordinary and usual way of business, nor prevent the payment of interest at a rate not exceeding the rate for the time being fixed for the purpose of this paragraph by the Articles of Association on money borrowed from any member of the Company or reasonable and proper rent for premises demised or let by any member to the Company, but so that no director shall be appointed to any salaried office of the Company or any office of the Company paid by fees and that no remuneration or other benefit in money or money's worth shall be paid or given by the Company to a director except repayment of out-of-pocket expenses and interest at the rate aforesaid on money lent or reasonable and proper rent for premises demised or let to the Company.

- 5. **THE** liability of the members is limited.
- 6. **EACH** member of the Company undertakes to contribute to the property of the Company, in the event of it being wound up during membership or within one year after cessation of membership, for payment of the debts and liabilities of the Company contracted before the member ceased to be a member and of the costs, charges and expenses of winding up and for the adjustment of the rights of the contributories among themselves, such amount as may be required, not exceeding twenty dollars (\$20).
- 7. **ANY** property whatsoever which remains after the winding up or dissolution of the Company and after satisfaction of all its debts and liabilities will not be paid to or distributed among the members of the Company, but will be given or transferred to some institution or organisation having objects similar to the objects of the Company being the provision of financial, social, administrative, structural support and assistance for political organisations which support free enterprise within Fiji provided that such institution or organisation shall also prohibit the distribution of income and property among its members.
- 8. **TRUE** accounts shall be kept of the sums of money received and expended by the Company and the matter in respect of which such receipt and expenditure takes place, and of the property, credits and liabilities of the Company and, subject to any reasonable restrictions as to the time and manner of inspecting the same that may be imposed in accordance with the Articles of Association for the time being in force, shall be open to the inspection of the members.

WE the several persons whose names, addresses and descriptions are subscribed are desirous of being formed into a Company in pursuance of this Memorandum of Association.

Names, addresses, description and signatures of subscribers	Witness to respective signatures of subscribers
<b>Laisenia Qarase</b> Prime Minister GPO Box 2353 Suva <i>[Signature]</i>	<i>[Signature]</i> Witness Name: <b>Q.B. BALE, L.L.B.</b> Occupation: <b>BARRISTER &amp; SOLICITOR</b> Postal Address: <b>G.P.O. BOX 16677 SUVA</b>
<b>Kaliopate Tavola</b> Minister for Foreign Affairs GPO Box 2220 Suva <i>[Signature]</i>	<i>[Signature]</i> Witness Name: <b>Q.B. BALE, L.L.B.</b> Occupation: <b>BARRISTER &amp; SOLICITOR</b> Postal Address: <b>G.P.O. BOX 16677 SUVA</b>
<b>Ratu Jone Kubuabola</b> Minister for Finance GPO Box 2353 Suva <i>[Signature]</i>	<i>[Signature]</i> Witness Name: <b>Q.B. BALE, L.L.B.</b> Occupation: <b>BARRISTER &amp; SOLICITOR</b> Postal Address: <b>G.P.O. BOX 16677 SUVA</b>
<b>Tomasi Vuetilovoni</b> Minister for Commerce GPO Box 2118 Suva <i>[Signature]</i>	<i>[Signature]</i> Witness Name: <b>Q.B. BALE, L.L.B.</b> Occupation: <b>BARRISTER &amp; SOLICITOR</b> Postal Address: <b>G.P.O. BOX 16677 SUVA</b>
<b>Pita Nacuva</b> Minister for Tourism GPO Box 1260 Suva <i>[Signature]</i>	<i>[Signature]</i> Witness Name: <b>Q.B. BALE, L.L.B.</b> Occupation: <b>BARRISTER &amp; SOLICITOR</b> Postal Address: <b>G.P.O. BOX 16677 SUVA</b>

DATED this 27<sup>th</sup> day of November 2002.

**FIJI**

**THE COMPANIES ACT, 1983**

**ARTICLES OF ASSOCIATION**

**of**

**DUAVATA INITIATIVE LIMITED**

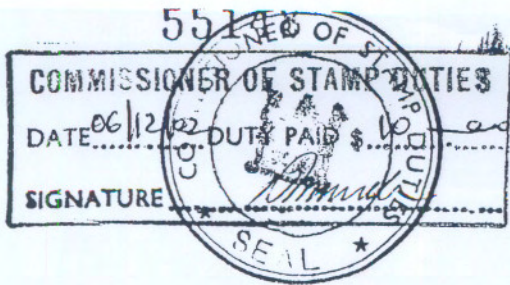
**PRIVATE COMPANY LIMITED BY GUARANTEE  
AND NOT HAVING A SHARE CAPITAL**



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FIJI

THE COMPANIES ACT, 1983

PRIVATE COMPANY LIMITED BY GUARANTEE  
AND NOT HAVING A SHARE CAPITAL

ARTICLES OF ASSOCIATION

of

**DUAVATA INITIATIVE LIMITED**

INTERPRETATION

1. In these articles, unless there be something in the subject matter or context inconsistent therewith:-

"the Act" means the Companies Act, 1983, and, when any provision of the Act is referred to, the reference is to that provision as amended by any law for the time being in force;

"the company" means Duavata Initiative Limited;

"directors" and "board" means the directors for the time being of the company;

"General Meeting" means an ordinary general meeting or an extraordinary general meeting and any adjourned holding thereof;

"members present at a meeting of the company" means members personally present or by proxy or attorney;

"month" means calendar month;

"the office" means the registered office for the time being of the company;

"ordinary meeting" means an ordinary general meeting of the members of the company duly called and constituted and any adjourned holding thereof;

"the seal" means the common seal of the company;

"secretary" means any person appointed to perform the duties of secretary for the company;

expressions referring to writing shall, unless the contrary intention appears, be construed as including references to printing, lithography, typewriting, photography and other modes of representing or reproducing words in a visible form;

words importing the singular only shall include the plural and vice-versa;

words importing the masculine gender only shall include the feminine gender;

words importing persons include partnerships, associations, companies and corporations whether incorporated or unincorporated;

all other words or expressions defined in the Act or any statutory modification thereof in force at the date at which these articles become binding on the company shall have the meanings so defined, and words or expressions contained in these articles shall be interpreted in accordance with the provisions of the Act as in force at the same date.

MEMBERS

- 2. The number of members with which the company proposes to be registered is 5, but the directors may from time to time register an increase of members
- 3. A person ceases to be a member of the company if:
  - (a) that person resigns by notice in writing to the company
  - (b) that person is expelled pursuant to a special resolution of the Company
  - (c) (i) being a natural person, that person dies or becomes of unsound mind or whose estate is liable to be dealt with in any way under the law relating to mental health;
    - (ii) being a corporation or other body corporate is struck off the Companies Register or any like statutory register.
  - (d) if that person cannot be located at the address stated on the register of members and
    - (i) fails to respond within 21 days to a written notice, from the Company Secretary delivered to that address, to advise its new address; and

- (ii) cannot, after the exercise of reasonable efforts by the Company Secretary, be found within a further 7 days.
- 3. The subscribers to the memorandum of association and such other persons as the directors shall admit to membership shall be members of the company.

**GENERAL MEETINGS**

- 4. **General meetings.** An annual general meeting of the company shall, in addition to any other meeting, be held once in every calendar year and not more than fifteen months after the holding of the last preceding annual general meeting at such place as may be determined by the directors, provided that so long as the company holds its first annual general meeting within eighteen months of its incorporation it need not hold it in the year of its incorporation or in the following year. Any general meeting other than an annual general meeting shall be called an extraordinary general meeting. The company shall specify any annual general meeting or extraordinary general meeting as such in the notices calling it.
- 5. **Extraordinary general meeting.** The directors may, whenever they think fit, convene an extraordinary general meeting, and extraordinary general meetings shall also be convened on such requisition, or, in default, may be convened by such requisitionists, as provided by section 134 of the Act. If at any time there are not within Fiji sufficient directors capable of acting to form a quorum, any director or any **two members** of the company may convene an extraordinary general meeting in the same manner as nearly as possible as that in which meetings may be convened by the directors.
- 6. **Notice.** Subject to the provisions of the Act relating to special resolutions, every general meeting shall be called by twenty-one days notice in writing at least, exclusive of the day on which it is served or deemed to be served and of the day for which it is given. The notice shall specify the place, the day and the hour of meeting and, in case of special business, the general nature of that business, and shall be given in the manner hereinafter mentioned or in such other manner, if any, as may be prescribed by the company in general meeting, to such persons as are, under the articles of the company, entitled to receive such notices from the company.

Provided that a meeting of the company shall, notwithstanding that it is called by shorter notice than that specified in this article, be deemed to have been duly called if it is so agreed:-

- (a) in the case of a meeting called as the annual general meeting, by all the members entitled to attend and vote thereat; and

(b) in the case of any other meeting, by a majority in number of the members having a right to attend and vote at the meeting, being a majority together representing not less than 95 per cent of the total voting rights at that meeting of all the members.

7. **Business.** All business shall be special that is transacted at an extraordinary general meeting, and also all that is transacted at an annual general meeting, with the exception of consideration of the accounts, balance-sheets, and the report of the directors and auditors, the election of directors in the place of those retiring, and the appointment and fixing of the remuneration of the auditors.

8. **Non-receipt of notice.** The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person entitled to such notice shall not invalidate the proceedings of any meeting.

**PROCEEDINGS AT GENERAL MEETINGS**

9. **Quorum.** No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business; save as herein otherwise provided, two members present in person shall be a quorum. For the purposes of this article and articles 10 and 11 "member" includes a person attending the meeting as the attorney, proxy or duly authorised representative of a member (including a corporate representative in terms of s.141 of the Act or article 25).

10. **Absence of quorum.** If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened at the request of members, shall be dissolved; in any other case it shall stand adjourned to the same day in the next week at the same time and place, or to such other day and at such other time and place as the directors may determine, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the members present (being not less than two) shall be a quorum.

11. **Chairman.** The chairman, if any, of the board of directors shall preside as chairman at every general meeting of the company, or if there is no such chairman, or if he is not present within fifteen minutes after the time appointed for the holding of the meeting or is unwilling to act, the members present shall elect one of their number to be chairman of the meeting.

12. **Adjournment.** The chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfurnished at the meeting from

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which the adjournment took place. When a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

13. **Voting.** At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded:-
- (a) by the chairman of the meeting;
  - (b) by at least two members present in person;
  - (c) by any member or members present in person and representing not less than one-tenth of the total voting rights of all the members having the right to vote at the meeting; or

The proxy, attorney or other duly authorised representative of a member may demand or join in demanding a poll.

Unless a poll is so demanded a declaration by the chairman that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of proceedings of the company shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution. The demand for a poll may be withdrawn.

14. **Poll.** If a poll is duly demanded it shall be taken in such manner and either at once or after an interval or adjournment or otherwise as the chairman directs, and the result of the poll shall be the resolution of the meeting at which the poll was demanded but a poll demanded on the election of a chairman or on a question of adjournment shall be taken forthwith.
15. **Casting vote.** In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting at which the show of hands takes place or at which the poll is demanded shall be entitled to a second or casting vote.
16. **Voting in person and by proxy.** Every member shall have one vote. A member entitled to vote may vote in person or by proxy or by attorney and on a show of hands every person present who is a member or is the proxy, attorney or other duly authorised representative of a member shall have one vote (but shall not vote in more than one such capacity).

- 17. **Mental health.** A member who is of unsound mind or whose person or estate is liable to be dealt with in any way under the law relating to mental health may vote, whether on a show of hands or on a poll, by his committee or by his trustee or by such other person who properly has the management of his estate, and any such committee, trustee or other person may vote by proxy or attorney.
- 18. **Debts paid.** No member shall be entitled to vote at any general meeting unless all moneys presently payable by him to the company have been paid.
- 19. **Objections.** No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered, and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection made in due time shall be referred to the chairman of the meeting, whose decision shall be final and conclusive.
- 20. **Proxy instrument.** The instrument appointing a proxy shall be in writing (in the common or usual form) under the hand of the appointor or of his attorney duly authorised or, if the appointor is a corporation, either under seal or under the hand of an officer or attorney duly authorised. A proxy may but need not be a member of the company. The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.
- 21. **Voting for or against.** Where it is desired to afford members an opportunity of voting for or against a resolution the instrument appointing a proxy shall be in the following form or a form as near thereto as circumstances admit:-

“Duavata Initiative Limited”

I/We, \_\_\_\_\_, of \_\_\_\_\_ being a member/members of the abovenamed company, hereby appoint of, \_\_\_\_\_, or failing him, \_\_\_\_\_ of \_\_\_\_\_ as my/our proxy to vote for me/us on my/our behalf at the (annual or extraordinary, as the case may be) general meeting of the company, to be held on the day of \_\_\_\_\_, \_\_\_\_\_ and at any adjournment thereof.

**Signed** this \_\_\_\_\_ day of \_\_\_\_\_

This form is to be used <sup>\*in favour of</sup> the resolution. \_\_\_\_\_ against

\*Strike out whichever is not desired. (Unless otherwise instructed, the proxy may vote as he thinks fit).

22. **Deposit of proxy.** The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a notarially certified copy of that power or authority shall be deposited at the registered office of the company, or at such other place within Fiji as is specified for that purpose in the notice convening the meeting, not less than forty-eight hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or, in the case of a poll, not less than twenty-four hours before the time appointed for the taking of the poll, and in default the instrument of proxy shall not be treated as valid.
23. **Proxy vote.** A vote given in accordance with the terms of an instrument of proxy or attorney shall be valid notwithstanding the previous death or unsoundness of mind of the principal or revocation of the instrument or of the authority under which the instrument was executed, if no intimation in writing of such death, unsoundness of mind, revocation as aforesaid has been received by the company at the registered office before the commencement of the meeting or adjourned meeting at which the instrument is used.
24. **Resolution in writing without meeting.** Subject to the provisions of the Act, a resolution in writing signed by any director and by members (or being corporations by their duly authorized representatives) shall be as valid and effectual as an ordinary resolution duly passed at a general meeting of the company.
25. **Corporations.** Any corporation which is a member of the company may, by resolution of its directors or other governing body, authorize such person as it thinks fit to act as its representative at any meeting of the company or of any class of members of the company and the person so authorized shall be entitled to exercise the same powers on behalf of the corporation which he represents as that corporation could exercise if it were an individual member of the company.

### **DIRECTORS**

26. **Number of directors.** The number of directors shall not be fewer than 3 nor more than 6. The company may from time to time by ordinary resolution passed at a general meeting increase or reduce the number of directors. The directors are Laisenia Qarase, Ratu Jone Kubuabola and Kaliopate Tavola.
27. **Rotation of directors.**
- (a) At each annual general meeting of the company from the passing of these articles, one-third of the directors for the time being, or, if their number is not a multiple of three, then the number nearest one-third, shall retire from office.



- (b) The directors to retire in every year shall be those who have been longest in office since their last election but, as between persons who became directors on the same day, those to retire shall be determined by lot.
- (c) A retiring director shall be eligible for re-election.

28. **Directors at time of adoption continue in office.** The directors holding office at the time of adoption of these articles shall remain in office subject to these articles.

29. **Directors - removal.**

- (a) The company in a general meeting may by resolution remove any director from office.
- (b) The members may by notice in writing to the company remove any director appointed under article 30 (a) hereof.

30. **Appointment - generally.**

- (a) The members for the time being of the company conferring rights to vote at all general meetings of the company may by notice in writing to the company at any time and from time to time appoint any persons to be directors.
- (b) The total number of directors appointed shall not exceed the maximum fixed by or in accordance with these articles.

31. **Remuneration.**

- (a) The remuneration of the directors shall from time to time be determined by the company in general meeting. That remuneration shall be deemed to accrue from day to day.
- (b) A resolution of the directors temporarily suspending or reducing or postponing payment of such remuneration or any thereof shall bind all the directors for the time being.
- (c) The directors may also be paid all travelling, hotel, and other expenses properly incurred by them in attending and returning from meetings of the directors or any committee of the directors or general meetings of the company or in connection with the business of the company.
- (d) If any of the directors shall be called upon to perform extra service or exercise any special professional skills or engage in travel for any purpose of the company he shall be paid all traveling outlays and such additional sum by way of remuneration as shall be fixed by the directors.

(e) All payments made to a director under this article shall be out of the funds of the company.

32. **No particular qualification.** No particular qualification for directors shall be required.

33. **Directors - other offices.**

(a) A director may hold any other office or place of profit under the company (other than the office of auditor) in conjunction with his office of director for such period and on such terms (as to remuneration and otherwise) as the directors may determine.

(b) A director may be or become a director of or hold any other office or place of profit under any company promoted by the company or in which it may be interested, whether as a vendor or shareholder or otherwise, and no such director shall be accountable for any benefits received as a director or member of or holder of any other office or place of profit under such company.

34. **Contracts.** No director or intending director shall be disqualified by his office from contracting or entering into any other arrangement with the company either with regard to his tenure of any such other office or place of profit or as vendor, purchaser, or otherwise, nor shall any such contract or any contract, transaction or arrangement entered into by or on behalf of the company in which any director shall be in any way interested, be avoided or be rendered voidable, nor shall any director be liable to account to the company for any profit or benefit arising from any such office or place of profit or realised by any such contract, transaction or arrangement by reason only of such director holding that office or of the fiduciary relation thereby established.

35. **Voting on such contracts, etc.** A director may as a director vote in respect of any contract, transaction or arrangement in which he is so interested as aforesaid and may on behalf of the company sign and may authorise or join in authorising the sealing by the company of and also sign any document instrument or deed effecting evidencing or in any manner relating to any contract, transaction or arrangement in which he may be interested notwithstanding any rule of law or equity to the contrary.

36. **Disclosure of interest.**

(a) Every director shall observe the provisions of the Act relating to the declaration of interests of directors in contracts or proposed contracts with the company or any office or property sold by the directors which might create duties or interests in conflict with their duties or interest as directors. A declaration made pursuant to this article shall be made at the first meeting of the directors held after he becomes a director or (if already a

director) after he commenced to hold the office or to possess the property and the secretary shall record every declaration so made in the minutes of the meeting at which it was made.

- (b) Subject to any resolution of the company or the directors, the failure of a director to make any declaration required by the Act nor the failure of the secretary to record any such declaration in accordance with article 36(a) shall not of itself avoid any contract, transaction or arrangement entered into by or on behalf of the company or render the director liable to account to the company for any profit or benefit derived by him.

37. **Directors - vacation of office.** The office of director shall become vacant if the director:-

- (a) ceases to be a director by virtue of the Act;
- (b) becomes bankrupt or makes any arrangement of composition with his creditors generally;
- (c) becomes prohibited from being a director by reason of any order made under the Act;
- (d) becomes of unsound mind or person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
- (e) resigns his office by notice in writing to the company;
- (f) shall have been absent without permission of the directors from three consecutive meetings of the directors held during that time.

**POWERS AND DUTIES OF DIRECTORS**

38. **Management of company.** The management and control of the business and affairs of the company shall be managed by the directors, who may pay all expenses incurred in forming and registering the company, and may, in addition to the powers and authorities conferred on them by these articles, exercise all such powers and do all such acts and things as are within the scope of the memorandum of the company which are not hereby or by the Act expressly directed or required to be exercised by the company in general meeting but subject nevertheless to the provisions of the Act and these articles and to any regulation from time to time made by the company in general meeting, provided that:-

- (a) no such regulation shall invalidate any prior act of the directors which would have been valid if such regulation had not been made;
- (b) any sale of the company's main undertaking and any payment or remuneration to any director for services in connection therewith shall

only be made subject to the approval or ratification thereof by a general meeting of members;

(c) in the event of it being proposed to make any such payment or remuneration as aforesaid the notice calling the general meeting at which the making of such payment is to be proposed shall give particulars (including the amount) thereof.

39. **Powers of borrowing.** The directors may exercise all the powers of the company to borrow money (including borrowing money by overdrawing the company's banking account to the extent permitted by its bank) and to mortgage or charge its undertaking, property or any part thereof and to issue debentures and other securities whether outright or as security for any debt liability or obligation of the company or of any third party and to guarantee the payment of any debt or liability or the performance of any obligation of any third party.

40. **Local boards.** The directors may establish any local boards or agencies for managing any of the affairs of the company, either in Fiji or elsewhere, and may appoint any persons to be members of such local boards, or any managers or agents and may fix their remuneration and may delegate to any local board, manager or agent any of the powers, authorities and discretions vested in the directors, with power to sub-delegate, and may authorise the members of any local boards, or any of them, to fill any vacancies therein, and to act notwithstanding vacancies and such appointment or delegation may be made upon such terms and subject to such conditions as the directors may think fit, and the directors may remove any person so appointed, and may annul or vary any such delegation, but no person dealing in good faith and without notice of any such annulment or variation shall be affected thereby.

41. **Appointment of attorneys.** The directors may from time to time and at any time by power of attorney under the seal appoint any corporation, firm or person or any fluctuating body of persons, whether nominated directly or indirectly by the directors, to be the attorney or attorneys of the company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the directors under these presents) and for such period and subject to such conditions as they may think fit and any such power of attorney may contain such provisions for the protection and convenience of persons dealing with any such attorney as the directors may think fit, and may also authorise any such attorney to sub-delegate all or any of the powers, authorities and discretions vested in him.

42. **Cheques, etc.** The directors may open and maintain a banking account or accounts at such bank or banks as they may select and may at their discretion from time to time transfer any such account to any account at any bank. All cheques, promissory notes, drafts, bills of exchange, and other negotiable instruments, and all receipts for money paid to the company, shall be signed, drawn, accepted, endorsed, or otherwise executed as the case may be in such manner as the directors shall from time to time by resolution determine.

43. **Minutes.** The directors shall cause minutes to be made in books provided for the purpose:-

- (a) of all appointments of officers made by the directors;
- (b) of the names of the directors present at each meeting of the directors and of any committee of the directors;
- (c) of all orders made by the directors and committees of directors
- (d) of all resolutions and proceedings at all meetings of the company, and of the directors, and of committees of directors;

and any such minutes shall be signed by the chairman of the meeting at which the proceedings were held or by the chairman of the next succeeding meeting and any such minutes so signed or purporting to be so signed shall be receivable as prima facie evidence of the matters stated therein.

44. **Registers, Books and Returns.** The directors shall cause to be kept and entered up all registers and books as required by law and to be furnished to the Registrar of Companies from time to time whenever necessary and within the prescribed times all Notices, Returns and Particulars as required by law and without prejudice to the generality of the foregoing shall particularly cause to be kept and entered up the following:-

Register of Members (section 114), Register of Debenture Holders (section 90), Register of Mortgages and Charges (sections 98 and 99) and Register of Directors and Secretaries (section 202);

and to be furnished to the Registrar of Companies the following:-

Notice of Registered Office (section 110), Allotment of Shares (section 56), Annual Return (section 127), Particulars of Mortgages and Charges (sections 98, 99 and 100), and Particulars of Debentures (sections 90 and 91).

**PROCEEDINGS OF DIRECTORS**

45. **Proceedings of directors.** (a) The directors may meet together (whether in or outside Fiji) for the dispatch of business, adjourn, and otherwise regulate their meetings, as they think fit.

- (b) Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes the chairman shall have a second or casting vote.
46. **Quorum.** The quorum necessary for the transaction of business of the directors shall be 50% of that number of directors then holding appointment. A director interested is to be counted in a quorum notwithstanding his interest.
47. **Special meetings.** Any director may at any time, and the secretary upon the request of a director shall, call a special meeting of the directors at the registered office of the company or at the place where meetings of the directors for the time being are customarily held, by giving not less than seven days' notice in writing signed by him or on his behalf to each of the other directors stating the place, the day, the time and the objects of the intended meeting, and such notice may be given personally or by sending the same through the post or by facsimile to the address supplied to the company by such other directors for that purpose and in default of such address having been supplied then to the director's last known address.
48. **Directors - Alternate or substitute.** (a) Any director, with the approval of a majority of the other directors, may appoint any person to be an alternate or substitute director in his place during such periods as he thinks fit. A director shall have the power to remove his alternate director at his absolute and unfettered discretion. Any person while he so holds office as an alternate or substitute director shall, except as regards the power to appoint an alternate director, be subject in all respects to the terms and conditions existing and reference to the other directors and shall be entitled to notice of meetings of the directors and to attend and vote thereat as a director when the appointor is not personally present and where the person appointed is himself a director to have a separate vote on behalf of the appointor in addition to his own vote.
- (b) An alternate or substitute director shall not require any particular qualification and shall *ipso facto* vacate office if the appointor vacates office as a director or removes the appointee from office. Any appointment or removal under this article may be in writing under the hand of the director making it including by facsimile or in such other manner approved by the directors. Any such appointment or removal not made by letter shall be so confirmed as soon as possible, but may be acted upon by the company meanwhile.
- (c) At any meeting at which an alternate or substitute director is present as such he shall be deemed a director for the purpose of constituting a quorum and for all other purposes, save that he shall not be taken into account in reckoning the minimum or maximum number of directors allowed for the time being. He shall not be entitled to remuneration from the company but the company may reimburse him for all travelling and other expenses incurred by him in attending meetings of directors or otherwise on the company's business.
49. **Power of continuing directors.** The continuing directors may act notwithstanding any vacancy in their body, but if and so long as their number is

reduced below the number fixed by and pursuant to these articles as the necessary quorum of directors, the continuing directors or director may act for the purpose of increasing the number of directors to that number or of summoning a general meeting of the company to elect new directors, but for no other purpose.

50. **Directors - Chairman.** The directors may elect a chairman of their meetings and determine the period for which he is to hold office; but if no such chairman is elected, or if at any meeting the chairman is not present within ten minutes after the time appointed for holding such meeting, the directors present may choose one of their number to be chairman of the meeting.
51. **Committees.** The directors may delegate any of their powers to committees consisting of such member or members of their body or such other person or persons as they think fit; any committee so formed shall in the exercise of the powers so delegated conform to any regulations that may from time to time be imposed on it by the directors.
52. **Proceedings of committees** Except that no committee may delegate its powers unless expressly empowered so to do by, and unless otherwise directed by, any regulation made by the directors under article 51, the meetings and proceedings of any committee shall be governed by the provisions contained in these articles for regulating the meetings and proceedings of the directors. So far as these articles are applicable, the words "the committee" and "a member of the committee" shall be substituted, respectively, for the words "the directors" and "a director".
53. **Acts of directors valid in spite of defective appointment.** All acts done by any meeting of the directors or by a committee, or by any person acting as a director, shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment or continuance in office of any such director, member of a committee or person acting as aforesaid, or that they or any of them were disqualified or had vacated office or were not entitled to vote, be as valid as if every such person had been duly appointed or had duly continued in office and was qualified to be a director, member of a committee or person acting as a director (as applicable) and as if such person were so entitled to vote.
54. **Resolution in writing without meeting valid.** A resolution made without any meeting of directors or of a committee and evidenced in writing under the hands of all the directors or of all members of such committee, shall be as valid and effectual as a resolution duly passed at a meeting of the directors or of such committee.
55. **Contemporaneous communication.** For the purposes of these articles the contemporaneous linking together by telephone or other means of communication of a number of the directors, not less than a quorum, or then sufficient number of the members of a committee validly to constitute it, shall be deemed to constitute a meeting of the directors, or of such committee, whether or not any director or member of such committee is out of Fiji, and all the provisions in these articles as to

meetings of directors or of committees shall apply to such meetings, so long as the following conditions are met:-

- (a) all the directors or members of such committee shall be entitled to notice of every meeting by telephone or other means of communication and to be linked by telephone or such other means for the purposes of such meeting. Notice of any such meeting may be given by telephone or other means of communication;
- (b) each of the directors or members of a committee taking part in such meeting must be able to hear each of the other directors taking part at the commencement of the meeting;

and a minute of the proceedings at any such meeting shall be sufficient evidence of such proceedings and of the observance of all necessary formalities, if certified as a correct minute by the chairman of the meeting and another director or the secretary, or, in the case of a meeting of a committee, if certified in accordance with any regulation made by the directors pursuant to article 51 hereof.

#### SECRETARY

56. **Secretary.** A secretary shall be appointed by the directors for such term, at such remuneration, and upon such conditions as they may think fit; and any secretary so appointed may be removed by them.

#### SEAL

57. **Seal.** The directors shall provide for the safe custody of the seal, which shall only be used by the authority of the directors or of a committee authorised by the directors in that behalf and every instrument to which the seal is affixed shall be signed by a director and shall be countersigned by a secretary or by a second director or by some other person appointed by the directors for the purpose.
58. **Duplicate seals.** The directors may provide for duplicate common seals for use in any other place or country in which the company is registered or acquires real or personal property or enters into any contract or otherwise functions.

#### ACCOUNTS

59. **Books of Account.** The directors shall cause proper books of account to be kept with respect to:-
- (a) all sums of money received and expended by the company and the matters in respect of which the receipt and expenditure takes place;
  - (b) all sales and purchases of goods by the company; and



- (c) the assets and liabilities of the company.
60. **Books, where to be kept.** The books of account shall be kept at the registered office of the company or at such other place or places in Fiji as the directors think fit, and shall at all times be open to the inspection of the directors.
61. **Inspection of books.** The directors shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounts and books of the company or any of them shall be open to the inspection of members not being directors, and no member (not being a director) shall have any right of inspecting any account or book or document of the company except as conferred by law or authorised by the directors or by the company in general meeting.
62. **Profit and loss account.** The directors shall from time to time in accordance with sections 150, 152 and 159 of the Act, cause to be prepared and to be laid before the company in general meeting such profit and loss accounts, balance sheets and reports as are referred to in those sections.
63. **Balance sheet.** A copy of every balance sheet prepared under the last preceding article (together with every document required by law to be annexed thereto) shall be sent to all persons entitled to receive the same, in accordance with the provisions of the Act.
64. **Audit.** The provisions of sections 161 to 165 of the Act shall apply to the appointment of, and duties of, auditors.

#### NOTICES

65. **Giving of notices.** A notice may be given by the company to any member either personally or by sending it by post to him to his registered address or by facsimile to him at such facsimile number as he may have given to the company.
66. **Notices by post.** (a) Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying, and posting a letter, envelope or wrapper containing the notice, and to have been effected, in the case of an address within Fiji, on the day following, or in the case of an address outside Fiji, on the seventh day after the date of its posting. A certificate in writing signed by the secretary, manager or other officer of the company that the letter, envelope or wrapper containing the notice was so addressed and posted shall be conclusive evidence thereof. Any notice to be sent to an address outside Fiji shall be posted by airmail.
- (b) Where a notice is sent by facsimile, service of the notice shall be deemed to be effected by properly transmitting it to the last facsimile number of the member communicated by the member to the company. A notice so sent is deemed to be have been served on the day following production of a transmission report by the

machine from which the facsimile was sent which indicates that the facsimile was sent in its entirety to the member's nominated facsimile number.

67. **Notices of general meeting.** Notice of every general meeting shall be given in any manner authorised by these articles to:-
- (a) every member;
  - (b) a member's trustee or attorney entitled to such notice in consequence of the death or bankruptcy of the member, where the member but for his death or bankruptcy, would be entitled to receive notice of the meeting; and
  - (c) the auditor for the time being of the company.

No other person shall be entitled to receive notices of general meetings.

#### **WINDING UP**

68. **Winding up.** If the company is wound up any property whatsoever which remains after satisfaction of all the company's debts and liabilities will not be paid or distributed amongst the members but will be given or transferred to some institution or organisation having objects similar to the objects of the Company being the provision of financial, social, administrative, structural support and assistance for political organisations which support free enterprise within Fiji provided that such institution or organisation shall also prohibit the distribution of income and property among its members.

#### **INDEMNITY**

69. **Indemnity.** Where, in any proceedings, whether civil or criminal, to which any director, secretary or other officer, agent or auditor for the time being of the company is a party, relating to acts performed by such person acting in such capacity, judgment is given in his favour or he is acquitted or an application under section 403 of the Act is granted to him by the Court, such person shall be indemnified out of the assets of the company against any liability incurred by him in defending such proceedings.
70. **Secrecy.** Except where necessary for the performance of their respective duties towards the company or under compulsion or obligation of law or when officially required to do so by the directors or by any general meeting of members, the directors, secretary, auditor and all other officers, agents, employees and clerks of the company shall be bound to secrecy with respect to all, and all such persons shall if and when required by the directors sign a declaration in a book or on a form or forms to be kept for that purpose that he will not reveal or make known to any

person or persons whomsoever any, transactions of the company with its clients or customers and all matters relating thereto and of the matters affairs or concerns which may come to his knowledge as a director, secretary, auditor, other officer, agent, employee or clerk.

WE, the undersigned several persons whose names and addresses are subscribed being subscribers to the Memorandum of Association hereby agree to the foregoing Articles of Association.

Names, addresses, description and signatures of subscribers	Witness to respective signatures of subscribers
Laisenia Qarase Prime Minister GPO Box 2353 Suva <i>[Signature]</i>	<i>[Signature]</i> Witness Name: Q.B. BALE, L.L.B. Occupation: BARRISTER & SOLICITOR Postal Address: G.P.O. BOX 16677 SUVA
Kaliopate Tavola Minister for Foreign Affairs GPO Box 2220 Suva <i>[Signature]</i>	<i>[Signature]</i> Witness Name: Q.B. BALE, L.L.B. Occupation: BARRISTER & SOLICITOR Postal Address: G.P.O. BOX 16677 SUVA
Ratu Jone Kubuabola Minister for Finance GPO Box 2353 Suva <i>[Signature]</i>	<i>[Signature]</i> Witness Name: Q.B. BALE, L.L.B. Occupation: BARRISTER & SOLICITOR Postal Address: G.P.O. BOX 16677 SUVA
Tomasi Vuetilovoni Minister for Commerce GPO Box 2118 Suva <i>[Signature]</i>	<i>[Signature]</i> Witness Name: Q.B. BALE, L.L.B. Occupation: BARRISTER & SOLICITOR Postal Address: G.P.O. BOX 16677 SUVA
Pita Nacuva Minister for Tourism GPO Box 1260 Suva <i>[Signature]</i>	<i>[Signature]</i> Witness Name: Q.B. BALE, L.L.B. Occupation: BARRISTER & SOLICITOR Postal Address: G.P.O. BOX 16677 SUVA

DATED the 27<sup>th</sup> day of November 2002