

January 2010 — Issue 27

Embargoed until midnight 27 January 2010. Media may report 28 January.



Time for a fresh approach Australia and Fiji relations post-abrogation

by Richard Herr

Executive summary

The abrogation of Fiji's 1997 Constitution on Good Friday 2009 has profoundly altered the views of most observers on the restoration of parliamentary democracy in Fiji. The government of Prime Minister Frank Bainimarama has publicly charted a new course involving constitutional change and no elections before 2014. As much as critics may doubt that the new roadmap announced by Bainimarama in July 2009 will be followed, the government insists its timetable is non-negotiable.

Short of regime change in Fiji, the choice for Australia in terms of relations with the Fiji Government for the intermediate future is either to wait for events to take their own course or to re-engage at a political level. The first option risks exacerbating the tensions that currently exist. The second requires a change of tack to enable both sides to find a new and effective way to enable discussion of mutual interests to resume, including the return to parliamentary democracy.

This paper argues that it is time for a fresh approach by Australia to prepare the grounds for a more effective re-engagement with the Government of Fiji. For this to occur, there's a need to eliminate some of the more important irritants that have festered for three years and have intensified feelings of distrust within the Fiji Government.

1. Rebalance the regional relationship

Limiting the reach of the Pacific Islands Forum suspension to Forum-only events is essential to restore effective intra-regional harmony. Using Forum sanctions to influence broader multilateral relations has put pressure on the Pacific Islands regional system with dysfunctional outcomes. Fiji should be readmitted to the PACER Plus negotiations without conditions but with the expectation that it will play a positive role in these talks.

2. Avoid undiplomatic language

There's a case for reappraising and avoiding provocative public rhetoric in dealing with the Bainimarama Government. Changing the rhetoric will not, on its own, lead to any immediate results as a basis for re-engagement. Nevertheless, anything that lowers the temperature in the relationship will give other changes more credibility.

3. Abandon indefensible travel bans

Travel bans against family members and those who remained at their posts after the 2006 coup are unfair. They should be eliminated without insisting on a quid pro quo from the Bainimarama Government. Such a gesture would not mean that all the travel bans or other sanctions should be rescinded: even the Bainimarama Government has not proposed this.

4. Relax defence bans

Australia should be able to follow the American example to ensure that appropriate military connections exist. The United States has managed to maintain a defence relationship throughout, in part by accepting that agreeing to disagree is a more useful tactic than turning the linkage into an instrument of the sanctions regime.

5. Cooperate on non-traditional security issues

Positive re-engagement with the Republic of Fiji Military Forces and the Fiji Government would be facilitated by working cooperatively on non-traditional security matters, such as search and rescue and disaster management. It would be helpful to develop joint activities with non-Forum multilateral agencies to re-establish useful working relationships.

Background

The *Fiji Sun* editorial for 30 September 2009 offered a view that is increasingly resonating around the Pacific Islands region. It interpreted Prime Minister Frank Bainimarama's meeting with Commonwealth Secretary-General Kamlesh Sharma and his address to the United Nations General Assembly as setting in concrete the roadmap for Fiji's return to parliamentary democracy.

The editorial argued:

If Australia, New Zealand, Europe and the Commonwealth want to play a meaningful role in Fiji's future, they are the ones who need to rethink their stance. They need to start taking a new tack if they want to be involved. Like it or not, they need to engage with, rather than try to isolate, Commodore Bainimarama, his government and the Republic of Fiji Military Forces.¹

Few critics of the present Government of Fiji will agree with the paper's position, pointing

to the newspaper's tendency to be supportive of the government in recent months. There is a growing awareness in some quarters, however, that nearly three years of Australia's 'line-in-the sand' posture has had virtually no effect on the Bainimarama Government.² It is particularly significant that the Commonwealth Secretariat's Special Envoy, Sir Paul Reeves, recently called for a new start in relations on the grounds that the existing strategy was not working.³ And there are signs that the majority of the Fijian people are getting on with life as usual, although the quality of this remains a focus for critics.⁴

Ironically, one of the major justifications for a rethink of Australia's approach to Fiji is an event that hardened attitudes against the present government: the abrogation of Fiji's 1997 Constitution on Good Friday 2009. This was an enormously liberating act for the interim government of Prime Minister Bainimarama. After nearly thirty months of struggling with a constitution that the interim government found odious, it simply abandoned the effort.⁵

Being free of the constitutional restraints has changed the way the government presents itself at home and abroad. It has dropped *interim* as an adjective for identifying the status of the government.⁶ It regards the political slate as wiped clean and the clock on restoring parliamentary democracy as reset.

The conviction that there is a new electoral clock ticking is a fundamental element of how the Bainimarama Government views the future. As much as critics may doubt that the new roadmap announced by Bainimarama in July 2009 will be followed, the government insists its timetable is non-negotiable.

Herein lies the problem for Australia in pursuing any effective re-engagement with the Bainimarama Government. Prime Minister Bainimarama is unwilling to discuss

the issue that his opponents most want to promote now—the timing of the restoration of parliamentary democracy. Short of regime change in Fiji, the choice for Australia in terms of relations with the Fiji Government for the intermediate future is either to wait for events to take their own course or to re-engage at a political level.

The first option risks exacerbating the tensions that currently exist. The second requires a change of tack to enable both sides to find a new and effective way to enable discussion of mutual interests to resume, including the return to parliamentary democracy.

Rebuilding trust is essential for a new approach, but trust is a two-way street. It will be a complicated process as there are no guarantees that each side will respond as the other might wish. One side can, however, start the process.

This paper argues for a fresh approach by Australia to prepare the grounds for a more effective re-engagement with the Government of Fiji. There is a need to eliminate some of the most important irritants that have festered for three years and have intensified feelings of distrust within the Fiji Government.

The Good Friday ‘coup’

Critics of the Bainimarama Government tend to underestimate the degree to which the interim government attempted to operate within the strictures of the 1997 Constitution until the Court of Appeals decision in April 2009.

For example, the three judges who delivered the judgment were all expatriate Australians who had been appointed by the interim government. The interim government had sufficient trust in its judiciary to allow its legality to be decided even by a bench

comprised of magistrates from one of Fiji’s most vocal detractors.

The decision broke down the final resistance to abrogation of the 1997 Constitution. The effect of the freedom of a clean slate was extraordinary: President Iloilo declared himself head of state and reappointed Commodore Bainimarama as Prime Minister. All positions under the Constitution, including those of the judiciary, were declared vacant but, by decree, all laws were reinstated. This was the pattern for weeks following abrogation. Some elements and personnel of the previous order were restored without break. Others were suspended or permanently dismissed.

President Iloilo issued a Public Emergency Regulation (PER) by decree. This gave public safety authorities emergency rule powers including censorship of the media. The PER was to last for a month but it has been renewed regularly since it was issued.

Prime Minister Bainimarama asserted that abrogation did more than reset the political clock in Fiji: it created a ‘new order’ for the country. President Iloilo, acting on advice, announced that there would be no elections until 2014 as a result of abrogation. This was confirmed on 1 July 2009, when Bainimarama gave a speech to outline his new roadmap. He labelled it a *Strategic Framework for Change* for Fiji’s return to parliamentary democracy.⁷ And he reaffirmed the government’s position that his reform plans would have to be in place before elections could be held in 2014.

Work on a new constitution would not begin until 2012 and would be completed in 2013 to allow elections to be held the following year. Bainimarama’s new roadmap made it clear that substantial additional political developments must be completed before the projected 2014 elections: a compatible electoral system has to be devised and the machinery for holding elections will have to be put in place.

The People's Charter

The *People's Charter for Change Peace and Progress* drafted in 2008 by the National Council for Building a Better Fiji (NCBBF) lies at the heart of the government's strategy for the eventual restoration of parliamentary democracy.

It was the inspiration of an expatriate, former senior civil servant, John Samy, who Interim Prime Minister Bainimarama recruited to formulate the content and procedure for achieving the democratic changes that he asserted were the grounds for deposing Laesenia Qarase from office.

The People's Charter, widely perceived at the time as Bainimarama's exit strategy, was intended to be a structured consultation by which community leaders, political parties and the interim government would agree on the country's ills and the best means to address them in order to secure a multiracial, democratic Fiji.

Backers of the process were disappointed early with elements of the international community for failing to support the Charter initiative. They felt it weakened the willingness of political parties and others within Fiji to engage with it.

Without international financial support, the People's Charter was forced to depend upon the interim government for funding. In addition, Bainimarama served as co-chair of the NCBBF, which included amongst its members a large minority drawn from the interim government. These features convinced critics that the process was essentially an interim government device to build support for the regime and its agenda.

Most of those opposed to the interim government, but who were invited to participate, refused to take up the NCBBF

seats reserved for them. A few who initially participated later withdrew.

The interim government argued that the broad agenda of the People's Charter and the extensive consultations leading to the final document, both within the NCBBF and subsequently with the wider community, made the Charter a genuine blueprint for democratic reform.

The Charter would secure this outcome by reforming the electoral system to eliminate race as a factor in voting and in parliamentary seats; abolishing constitutionally mandated power-sharing amongst the political parties; and reducing the excessive influence of unelected and unaccountable traditional chiefs. Reform of the civil service, improved use of the land, more efficient and fair distribution of public services, and growing the national economy were all critical objectives of the Charter.

The singular importance of the People's Charter for the next three years was evident in the Prime Minister's 1 July 2009 declaration of a *Strategic Framework for Change* where he said that the constitutional development to begin in 2012 would derive its impetus from the recommendations under the Charter.

The pre-abrogation transition schedule for the return to parliamentary democracy involved a series of Charter-based reforms that were expected to be implemented more or less concurrently or, at least, within a relatively short period of time. The post-abrogation reform strategy, by contrast, will take longer, will be delivered sequentially, and is focused initially on administrative reform rather than progress across a broad political front.

Critics continue to deny the need for the Charter or that its reforms can justify the government's prolongation in office.

Reconsidering the need for re-engagement

The issue for external critics posed by abrogation is not whether they believe the Fiji Government's new approach to returning to parliamentary democracy, rather it is how to adjust to a process that the Fiji Government has stated is not open to fast tracking. Even the recently opened register for a National Dialogue Forum, a positive and somewhat surprising addition to the roadmap that will allow for some public participation before 2012, does not purport to change the Prime Minister's endpoint of elections in 2014.⁸

Australia has two choices in view of the Fiji Government's post-abrogation strategy. It can adapt to the new circumstances or persist with the policies of the last three years. To persist with the same policies will continue the present futile impasse with Fiji. If the critics' suspicions are unfounded, acting on them prevents a potentially productive re-engagement with Fiji, needed if Australia is to make a cooperative and constructive contribution to the restoration of parliamentary democracy.

At the beginning of November 2009 relations between Australia and Fiji deteriorated with the tit-for-tat expulsion of each other's head of mission. Australia and New Zealand have concentrated hard on Bainimarama's exit strategy from power since December 2006. That's now left little wriggle room in terms of their own capacity to exit from their current strategy that is failing to meet the objectives held for it.

Whatever the possible basis for the strong approach taken initially, the premises upon which it was based are no longer valid.⁹ The abrogation of the 1997 Constitution rewrote all expectations, internal as well as external, regarding the timing of the return to parliamentary democracy. Prime Minister Bainimarama's declaration of the

new strategic framework on 1 July 2009 underscored his determination on this point.

Standing pat on the existing dysfunctional relationship will not lead to constructive outcomes for either side. Equally, it is not possible to proceed to a positive engagement without some backtracking by one, or preferably both, sides since there are genuinely felt grievances regarding relations over the past three years. However, neither side can assume constructive re-engagement can be accomplished unilaterally. It is no more possible for Commodore Bainimarama to fall on his sword to appease his critics than it is for Australia to beat a craven retreat from its principles regarding parliamentary democracy.

There have been several opportunities for a new start. The governments of both Australia and New Zealand have changed since the events of December 2006. In each case, those who felt a new course was needed held to the hope that a change of government might redirect the approach to Fiji. Virtually every such opportunity went begging; the Government of Fiji expelled a journalist or a diplomat at a critical juncture. This made concessions on sanctions appear politically unpalatable to either the Australian or New Zealand domestic constituency.

Critics of the Fiji Government use such events to advance the argument that these prove the Fiji Government has acted in bad faith. Waiting for the other side to make the first gesture has, however, allowed the diplomatic wounds to fester to the point of becoming gangrenous.

This is not to say the relationship between Australia and Fiji is utterly fractured. Many routine matters have continued to be administered, including commercial ties and tourism (see Box p.6). The tensions that do exist, however, are concentrated at the higher policy levels that are vital to a healthy bilateral relationship.

Fiji–Australia business

Australia has had strong business and commercial ties with Fiji since the earliest days of European involvement in these islands. Australian businesses have operated in Fiji since the mid-1800s and were such a significant factor in the economy of Fiji that the colony was even considered a candidate during the 1890s for inclusion in the Australian federation.

Today, Australia is the largest foreign investor in Fiji with over \$2 billion in investments. Despite the current political difficulties, the business relationship has continued virtually unchanged in many areas. According to Australian government figures, the current bilateral trade is worth around \$1.6 billion per year.

While business-to-business relationships are generally described as strong by the industry communities in both countries, the Australia - Fiji Business Council has expressed concern that the current policies are inhibiting new investment and unnecessarily affecting profits.

As a developing economy, Fiji continues to require foreign direct investment to grow its GDP sufficiently to meet its national development goals. Simply to create enough employment for school leavers, it is estimated that Fiji requires a growth in the GDP of 5% per year. However, Fiji has averaged only about 1% since the 1987 coup. As a consequence of this underperformance in the economy, the country has suffered from chronic unemployment, underemployment, and substantial emigration. The result has been a long-term decline in living standards for most people.

The Australia - Fiji Business Council in both countries, while not supporting the coup, has long wanted an improvement in Fiji's governance, especially with regard to efficiency and transparency. With over \$2 billion in investments, Australian businesses want a speedy resolution to the current political impasse. The Australia - Fiji Business Council recently reaffirmed its opposition to the travel bans on Fiji arguing that business and investment cannot develop when there is uncertainty of freedom of movement.

Five recommendations to accelerate Australia's re-engagement with Fiji

1. Rebalance the regional relationship

The use of the Pacific Islands Forum to exert pressure on Fiji has steered the entire regional system into dangerous political waters, especially since the January 2009 special meeting of the Forum that agreed to the suspension of Fiji from the Forum's councils if the interim government did not agree by 1 May to elections before the end of 2009.¹⁰

The Forum Secretariat (ForSec) implemented the suspension without further consideration by, or direction from, the Forum Leaders.

The ban was re-endorsed at the July 2009 meeting of the Forum in Cairns where Prime Minister Kevin Rudd was host, and from which he became Chairman of the regional association for the following year.

There is now the prospect of up to a four-year suspension before Fiji will meet the Forum's demand for progress toward elections. The regional system cannot sustain the current level of tension and uncertainty and remain fully productive for this long.

The Forum's suspension has raised serious questions in the mind of the present Fiji Government as to the continuing value of Forum membership. These concerns have

Fiji's response to regional sanctions

Fiji has sought to identify Australia and New Zealand as regional 'bullies', especially since the special Leaders' Meeting in Port Moresby in January 2009, and has endeavoured to win Forum Islands Countries (FICs) support against the dominance of the two non-Islands governments within the regional system.

Prime Minister Bainimarama has appealed for support from the sub-regional Melanesian Spearhead Group (MSG), with some success. Neither Australia nor New Zealand is a member of the MSG. Papua New Guinea's Prime Minister, Sir Michael Somare, acting as spokesman for the MSG leaders after a mid-October 2009 meeting, said the MSG would work together to attempt to change Australia and New Zealand's general approach to the Bainimarama Government.

The Fiji Prime Minister recently suggested that, as Fiji will host the 2010 MSG meeting, he could invite those FICs not members of the MSG to attend as observers. The intention is clear: to use the MSG as a vehicle for diminishing the perceived use of the Forum as a regional mechanism against the Fiji Government.

Fiji has also targeted the Forum's administrative arm since its suspension

from the Forum. It has demanded stricter compliance from ForSec in meeting its obligations as an international organisation to the host government.

The Fiji Ministry of Foreign Affairs has insisted that ForSec operate within a proper statute of personnel so that it can monitor applications for visas. The fact that several of the high-profile appointments have been Australian has been seen by Canberra as part of a deliberate policy to counter Australian participation in ForSec by withholding or delaying the processing of visas, although Fiji points out that other nationalities have been similarly affected.

The Government of Fiji is aware of rumours that the ForSec headquarters should be moved from Suva as a sanction against the Bainimarama Government. This threat does not appear to faze the Fiji Government. But the effects of such an action would so threaten the fabric of the Forum itself that it could scarcely be entertained unless there were a complete collapse in regional relations.

Fiji has also intensified its extra-regional contacts as a counter to its regional constraints. It has pursued a *Look North* policy in recent years with special emphasis on China. Ties with India, Japan, Korea and Malaysia have been significant as well.

been heightened as regional sanctions have exceeded their compass; most notably by being used to interdict other relations, which were not subject to the Forum sanctions.¹¹

Fiji claims that Australian and New Zealand delegations to other international agencies' meetings have used their influence and votes to prevent development assistance to Fiji. The two governments have frequently asserted

that they do not impose economic sanctions on Fiji, although it has been acknowledged that international financial institutions have been discouraged from 'giving succour' to sustain the post-coup government.

The Fiji Government believes that its suspension from the Forum has disadvantaged it far more profoundly than it foresaw or expected earlier last year. And

it has now begun to mount a more resolute response to regional sanctions.

The privileged place of Australia and New Zealand within the Pacific Islands regional system has long been an occasional irritant to some Forum Islands Countries (FICs) at various times, but never as seriously as at the present time. Climate change, economic relations and the strengthening of regional institutional mechanisms through the Pacific Plan have been in the forefront of issues contributing to the current tensions. These issues and others have been exploited in the imbroglio between Fiji, Australia and New Zealand.¹²

For the moment, the Forum's actions on Fiji have been confined largely to the Forum, ForSec and some key activities of the Forum such as PACER Plus (see Box). The risk to the regional system and especially to key Australian and New Zealand interests, such as the Pacific Plan, is that the Forum will lose credibility as an effective, inclusive and balanced arena for making regional policy.

Arguably, the Pacific Islands regional system would not be viable without Australian or New Zealand support. Equally, there cannot be an effective and comprehensive regional system without the full participation of Fiji. Should the Forum collapse, however, the Melanesian Spearhead Group (MSG) would still be viable as a regional association and Fiji is a member of the MSG.¹³ It is not in anyone's interest that the boundaries of support for the Pacific Islands regional processes be tested beyond their endurance. Yet the current tensions are spiralling outward, with no perceptible circuit breaker.

An obvious place to begin to reduce the regional pressure would be with the PACER Plus negotiations. Fiji is essential to their success and there is an argument that Fiji was improperly excluded.¹⁴ Abandoning extending the reach of the regional sanctions to third parties, such as occurred at the Pacific ACP Trade Ministers meeting, would also be a useful step in helping to restore mutual confidence in the integrity of the

PACER Plus problems

The Pacific Agreement on Closer Economic Arrangements (PACER) is a general agreement amongst the Pacific Islands Forum states to pursue closer economic ties through enhanced trade cooperation.

At the 2009 Pacific Islands Forum meeting in Cairns, leaders agreed to commence negotiations on a new round of regional trade and economic integration agreement, known as PACER Plus.

The same meeting decided to exclude Fiji from direct participation in these talks. The mechanism chosen at Cairns provided for an indirect process whereby Fiji is informed of the PACER Plus negotiations and allowed to respond to these through a Forum emissary.

The unequal relationship regarding these negotiations incensed Bainimarama. He rejected it immediately, stating that he would withdraw Fiji from both PACER and the Pacific Islands Countries Trade Agreement (PICTA) as well.

Fiji's Minister for Foreign Affairs warned other FICs at the start of the PACER Plus talks in Brisbane in October 2009 that Fiji would not be bound by any decisions made in its absence.

The Melanesian Spearhead Group has been concerned by Fiji's exclusion from direct participation in the negotiations as has the Australia - Fiji Business Council.

regional system, as well as restore faith with other international financial or development agencies that act cooperatively with the regional system.¹⁵

Disengaging from some negative use of regional processes could assist in taking the heat out of the regional pressure cooker. Fiji should be readmitted to the PACER Plus negotiations without conditions, but with the expectation that it will play a positive role in these talks. Limiting the reach of the Forum suspension to Forum-only events is essential to restore effective intra-regional harmony. Even more, Fiji's active participation in projects such as the Joint UNDP-Forum Secretariat conference on 'Security Sector Governance in the Pacific Region' should be encouraged to promote re-engagement through multilateral mechanisms.

2. Avoid undiplomatic language

One of the easier areas to assist in moving towards a more positive engagement should be to moderate the language of criticism that has been used at times by both sides. Some of this is beyond the control of Australian and New Zealand authorities: the media have attacked Bainimarama personally as well as his government in very strong terms. However, the tone was set by officials early and has not been effectively reversed, at least from the perspective of the Fiji Government.

The degree to which criticism is regarded as hyperbolic is very much in the mind of the recipient. Both sides feel strongly the fault lies with the other. For Fiji, sensitivity to perceived disrespect appears to have contributed, to some extent, to the decision to drop *interim* from its name since abrogation: it is the *government* and intends to remain so for the next five years.

The Howard and Rudd governments have felt entitled to express in the strongest terms their disapproval of both the interim

government and the post-abrogation Government of Fiji to demonstrate their principled commitment to parliamentary democracy. This approach has, however, had no positive effect. And it is likely to produce significant collateral damage in the Pacific Islands region. Canberra is being portrayed, with some success, as both bullying and arrogant toward smaller states.

There is a case for reappraising and avoiding provocative public rhetoric in dealing with the Bainimarama Government. Changing the rhetoric will not, on its own, lead to any immediate results as a basis for re-engagement. Nevertheless, anything that lowers the temperature in the relationship will give other changes more credibility.¹⁶

3. Abandon indefensible travel bans

Australia needs to make the *smart sanctions* smarter. The system of travel bans targeting members of the government and their immediate family members has proved dysfunctional in achieving its aims within Fiji. The use of military officers, serving or recently retired, in the public service has been partially dictated by the travel sanctions. The travel bans have worked to prevent others from being willing to take up these positions.

Insofar as the travel sanctions have restricted the number of civilians willing to be co-opted into senior posts with the interim government, they have reinforced, perhaps somewhat unfairly, the impression of an excessively military dominated regime. In contrast with previous coups, aided and abetted by politically experienced elites, the Bainimarama-led coup had to rely on less experienced and less well politically connected civilian support. And the interim government itself cut off access to some significant areas of public sector expertise through substantial dismissals after seizing power. Whether less draconian sanctions

would have allowed a greater diversity of experience to be recruited to assist the interim government is open to dispute: what cannot be disputed is that the sanctions were intended to deter such participation.

The travel bans regime is unduly harsh. New Zealand's Foreign Minister, Murray McCully, recently noted that their toughness on younger Fijians whose parents are part of the regime was an essential element in their effectiveness.¹⁷

Examples of smart sanctions in practice, however, raise serious questions as to their prudence. In October 2009, Justice Anjala Wati, a judge on the Family Court, believed she was refused entry into New Zealand when seeking to take her 20-month-old son to New Zealand for an urgent eye operation.¹⁸ Whether or not this ban was subsequently reversed on humanitarian grounds after it became public (as the Government of Fiji claims), it was one of the reasons Fiji's Prime Minister cited for the early November 2009 expulsion of New Zealand's head of mission from Suva.

The three Australian justices who delivered the Court of Appeal decision in April saw the dangers of sanctions on the Fiji judiciary: they made a plea for the international community to support the judiciary as part of returning Fiji to parliamentary democracy.¹⁹

A more commonplace example of the inherent unfairness of the smart sanctions was the experience of Inoke Ratu in January 2009. Inoke Ratu was one of the first Fijian players to be invited to join the Australian Football League under its International Scholarship list. He lost his chance to play when his visa was rejected by Australian Immigration because his father is a soldier with the Republic of Fiji Military Forces.²⁰

The most notable victim was George Nacewa, son of the former Official Secretary

to the President, Rupeni Nacewa. When New Zealand refused to renew George Nacewa's student visa, it provoked a prolonged diplomatic dispute between the two countries. Yet, Rupeni Nacewa held his position prior to the coup: like virtually all public servants in a similar situation, he did little more than remain at his post.

On coming to power, the Rudd Government relaxed the travel bans on some officials associated with the internal processes for restoring parliamentary democracy, but only those who were not subject to bans by virtue of being sanctioned under other categories, such as being members of the military or holding other governmental positions. And it is true that Australia and New Zealand have to some degree moderated the harshness of the bans by issuing visas on compassionate grounds on a case-by-case basis.

The young, those with unfortunate family ties and those who were unable to surrender jobs they had held for years have been the victims of sanctions. The provisions for including family members are unfair. They should be abandoned, without insisting on a quid pro quo from the Bainimarama Government. Such a gesture would not mean that all the travel bans or other sanctions should be rescinded: even the Bainimarama Government has not proposed this.²¹

4. Relax defence bans

The Republic of Fiji Military Forces (RFMF) regrets the loss of ties with the Australian and New Zealand military forces since the events of December 2006. Cooperative activities such as training exercises, participation in strategic planning seminars, the camaraderie of overseas postings, sporting competitions and the like were long valued by the RFMF. And this was assumed by the RFMF to be reciprocated.

Canberra broke the connection with the RFMF almost completely after the 2006 coup. The Australian Government cancelled cooperative defence related programs so quickly that some RFMF officers had only 24 hours to leave the country. Fiji's interim government did not retaliate against these and other acts that impacted on the defence linkages for several years. They hoped that these ties might be restored.

One area where Australia did not break off the defence connection was one that had been particularly relevant for the RFMF officers in Fiji. This was the role played by the defence attachés (DAs); both those who were posted permanently in Suva (Australia, New Zealand and US) or those who made regular visits as in case of the British and, to some extent, the French DAs. The relationship was celebrated within the defence corps. The RFMF officers, for many years, presented a ceremonial baton to the doyen of the defence attachés, who was able to call meetings, host or preside at dinners and, in general, serve as the centre of an important, albeit small, international company of defence representatives.

The US defence attaché has remained in place throughout from 2006. The other two resident defence attachés have been lost through the non-renewal of visas for replacements. Controversially, an Australian official who entered Fiji on a tourist visa was denied a long-term visa to serve as the new DA and ordered out of Fiji in December 2008 on the grounds that this tactic was a serious breach of diplomatic protocol.²²

The interim government argued that, given the absence of any defence relationship with the RFMF, Australia had no need for a resident DA. The Australian Government's counter-response, that the DA in Suva served a regional role as well, was dismissed as irrelevant to Fiji since this could be done through another mission in the region.

The mechanics of re-engaging with the RFMF will be difficult for both sides. It makes no sense, however, for Australia to refuse to have any connection with the one institution that Australia and virtually all the Fiji Government's critics believe hold the effective power in Fiji today. The United States has managed to maintain this relationship throughout, in part by accepting that agreeing to disagree is a more useful tactic than turning the linkage into an instrument of the sanctions regime.

Australia should be able to follow the American example to ensure that appropriate military connections exist. The political and administrative influence of the RFMF is unlikely to diminish any time soon. And, even if regime change should occur, it is far from clear that such a change would remove the RFMF from its present role as a significant political actor.

5. Cooperate on non-traditional security issues

Positive re-engagement with the RFMF and the Fiji Government would be more likely by working cooperatively on non-traditional security matters, such as search and rescue and disaster management. These matters are important to both countries as well as the region at large, an appreciation enhanced by the 2009 tsunami. Usefully, such projects tend to require working with Fiji in multilateral settings and require multi-agency cooperation.

Working through agencies such as the UNDP on ongoing multilateral projects would allow some of the bilateral tensions of the past three years to be moderated by the involvement of a broader range of participants. Cooperation on meeting the challenge of transnational crime remains a high priority within the region for a number of international agencies. The Fiji Government is considering the possibility of legalising

casinos. Australia's experience with a secure regulatory environment to prevent corruption and other forms of criminal activity would be especially helpful.

Concluding remarks

There are significant constraints on what either side can do to put their relations on a positive footing easily or quickly. A lack of political will is a significant factor, despite rhetoric from both sides that they stand ready for a full rapprochement.

The Fiji Government's pathway to democratic elections in 2014, as problematic as it appears to its critics, still very much depends on the commitment and personality of the Prime Minister to stay the course. Commodore Bainimarama, in turn, has increasingly depended upon the support of the RFMF, backing which appears to be holding firm.

The restoration of effective relations between the Fiji Government and Australia has been made both more difficult and yet more necessary since the abrogation of the 1997 Constitution. Abrogation has changed significantly the timeframe for the return of parliamentary democracy while deepening the doubts of those sceptical before Good Friday 2009.

Australia and New Zealand took a leading role in attempts to reverse the coup by putting pressure on the interim government through bilateral and regional sanctions and by promoting broader international restrictions on Fiji. Their efforts were not, however, intended to be sustained over an extended timeframe: abrogation of the Constitution has challenged the assumptions about the prospects of the time needed for the restoration of parliamentary democracy.

The degraded state of relations between Australia and Fiji cannot be restored to their pre-coup status without addressing

the profound distrust between the two governments. That will have to be turned around before significant re-engagement can be successful.

The confidence-building processes might be pursued through any number of appropriate tactics. To be successful, however, it will be essential to eliminate some of the critical irritants in the bilateral relationship. *Debridement* is the removal of dead or foreign material from a wound. It is often an essential part of repairing an injury and restoring a person to health. Disengaging from the antagonising attitudes and measures of the past three years might serve to clear away some of the irritants that Fiji perceives as damaging to the relationship. And it is to be hoped that Fiji will respond by contributing its share to debriding the diplomatic wounds.

There is no guarantee that Fiji will respond in a way that will completely satisfy the Australian Government or critics of the Bainimarama Government. The attitude of the Government of Fiji has hardened in the face of the external pressure applied to it while consolidating its control internally. Canberra has been loath to reward what it sees as misplaced intransigence. But waiting for Suva to make the first gesture has been unproductive. The result has been an ongoing impasse with no suggestion that success is imminent.

Canberra does not have to accept the view from Suva that, since Australia and New Zealand initiated the measures against the Government of Fiji, they have the primary responsibility for ending the current impasse. Nor is it essential that Australia agree with the Bainimarama Government that the Government of Fiji has identified its own pathway to the restoration of parliamentary democracy and, therefore, that it has complied with the demands of the Forum and the Commonwealth Secretariat for progress

in this direction. It is merely necessary that the Australian Government believe that the current impasse should be broken.

Hopefully, the Bainimarama Government will respond in a positive fashion. The process of re-engagement has to begin somewhere, sometime by someone to produce a more productive relationship for the peoples of both Australia and Fiji. Eliminating some of the negatives in the current bilateral relationship is a necessary first step toward re-engaging positively.

Endnotes

- 1 'Clear message from the PM', *Fiji Sun*, 30 September 2009, p. 6.
- 2 See for examples calls for a new approach in Anthony Bergin, 'Fiji won't change outside the tent', *The Australian*, 8 May 2009, <http://www.theaustralian.news.com.au/story/0,25197,25444635-7583,00.html>; Peter Thomson, The Folly of Canberra's Stand Against Fiji, <http://kauri.aut.ac.nz:8080/dspace/bitstream/123456789/2563/3/AFBC%20Speech%2014.9.09.pdf> and Terence O'Brien 'Former ambassador criticises push to ban Fiji from peacekeeping', *Island Business*, 29 September, 2009 http://www.islandsbusiness.com/news/index_dynamic/containerNameToReplace=MiddleMiddle/focusModuleID=130/focusContentID=16846/tableName=mediaRelease/overrideSkinName=newsArticle-full.tpl3.
- 3 'Sir Paul Reeves says sanctions against Fiji aren't working', Radio New Zealand International, <http://www.rnzi.com/pages/news.php?op=read&id=50695>.
- 4 See, for example, the argument of economist and former shadow finance minister Dr Wadan Narsey that only the speedy restoration of democracy will revive the economy of Fiji. <http://www.theaustralian.com.au/news/nation/coup-culture-risks-starving-people-of-fiji/story-e6frg6nf-1225795565541>.
- 5 'Qarase vs. Bainimarama: Court of appeal judgement', *Fiji Times*, 9 April 2009, <http://www.fijitimes.com/extras/Qarase-vs-Bainimarama-Court-of-appeal-judgement.pdf>.
- 6 Michael Field, 'Bainimarama says he is the future', <http://www.stuff.co.nz/world/2341423/Bainimarama-says-he-is-the-future>.
- 7 http://www.fiji.gov.fj/publish/page_15376.shtml.
- 8 The proposed National Dialogue Forum is to meet in February 2010 to prepare for the 2012 constitutional forum. Participation requires compliance with the principles of the People's Charter. <http://www.fijilive.com/news/2009/11/14/21615>. Fijilive.
- 9 Prime Minister Kevin Rudd, however, has insisted that 'we'll maintain a hard line' immediately after the expulsions. <http://australianetworknews.com/stories/200911/2732438.htm?desktop>.
- 10 Pacific Islands Forum Secretariat, 'Pacific Islands Forum Special Leaders' Retreat Communiqué', <http://www.forumsec.org.fj/pages.cfm/newsroom/press-statements/2009/forum-leaders-special-retreat-communicue-on-fiji.html>.
- 11 This was evident at the Pacific ACP meeting of Trade Ministers held in Samoa in June 2009 where the Forum Secretariat excluded Fiji from participation despite the absence of ACP sanctions against Fiji.
- 12 There has also been concern about the coordination of development assistance by donors approved through the Cairns *Compact on Strengthening Development*

Coordination in the Pacific at the 2009 Forum. FIC suspicions were raised when Australia used its chairmanship of the Forum to press for rapid implementation of the Compact. This meeting appeared to have involved only ForSec and New Zealand but did not include a single FIC.

- 13 Some believe it is significant that China has been a substantial backer of the MSG institutionally, especially through its contribution to building the MSG headquarters in Port Vila. Against these fears, it is important to note that Beijing has not shown any interest in promoting or exploiting intra-regional tensions.
- 14 Both Australia and New Zealand reject the argument of New Zealand lawyer Jane Kelsey on this point but it appears to command some regard amongst the FICs. A synopsis can be found at http://www.nzherald.co.nz/pacific-islands-forum/news/article.cfm?c_id=1502729&objectid=10588873.
- 15 The definition of 'Forum meetings and events' subject to sanctions has been reviewed and according to some the EU/ACP meetings issue has been resolved. This does not appear to be understood in the same light by all those affected by cooperative programs.
- 16 Prime Minister Kevin Rudd recently likened the Fiji Government to someone needing to be quarantined for the safety of others. He explained that Australia will not allow a 'coup culture' to spread and 'that's why we'll maintain a hardline in relation to this regime.' Earlier, Foreign Minister Stephen Smith's use of 'pariah' to describe Fiji was deeply resented.
- 17 Speech by Hon Murray McCully, Minister of Foreign Affairs 18 September 2009, reported <http://www.beehive.govt.nz/speech/address+nz-fiji+business+council#at>.
- 18 'Fiji regime condemns New Zealand's rejection of visa for judge', Radio New Zealand International, 19 October 2009 <http://www.rnzi.com/pages/news.php?op=read&id=49767>.
- 19 <http://kauri.aut.ac.nz:8080/dspace/bitstream/123456789/2076/3/Qarase-vs-Bainimarama-Court-of-appeal-judgement.pdf>.
- 20 'Fijian AFL recruit's visa rejected', ABC News, 15 January 2009 <http://www.abc.net.au/news/stories/2009/01/15/2467075.htm>.
- 21 http://www.fiji.gov.fj/publish/page_16147.shtml.
- 22 <http://www.fijilive.com/news/2008/12/24/12009.Fijilive>.

Acronyms

DA	defence attaché
FICs	Forum Islands Countries
ForSec	Forum Secretariat
MSG	Melanesian Spearhead Group
NCBBF	National Council for Building a Better Fiji
PACER	Pacific Agreement on Closer Economic Arrangements
PICTA	Pacific Islands Countries Trade Agreement
PER	Public Emergency Regulation
RFMF	Republic of Fiji Military Forces

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