



FIJI HUMAN RIGHTS COMMISSION

GPO Private Mail Bag
SUVA, FIJI ISLANDS

7th November 2007

The Editor,
Fiji Times,
SUVA

Dear Sir,

I refer to the letter of Ratu Epeli Vakalalabure of Natewa Village (FT 6/11/07 pg 10), on his comments regarding the alleged 'assassination plot' and the opportunity he took to remind the FHRC of its duties.

The FHRC can, of course, continue to explain its powers and duties time and again, but in light of recent events, some fresh points should be made in the public interest:

International human rights law carries with it responsibilities as well as rights. Responsibilities are described as 'limitations' in human rights law. Limitations to individual (and even group) rights are based on 'public safety, national security, public order, public health and public morality'. If Ratu Epeli Vakalalabure could look into his copy of the Fiji Constitution, he will be able to see for himself that most individual rights protected in the Bill of Rights chapter contain limitations based on public safety etc.

When serious crimes against the State are committed or alleged, and suspects apprehended, we inevitably find a tension, or internal contradiction, between claims to individual rights on the one hand and the right of the public to a safe environment on the other.

The FHRC deals with this contradiction within human rights law almost on a daily basis. It relies on cases tried in international courts to determine which way a particular complaint will be decided- on the side of individual rights or, alternatively, on the basis of public safety (public rights). So far, in relation to political up-heavals in Fiji since 2000, FHRC has been able to resolve the legal tension between individual rights and public interest. A good example is the processing of cases related to the 2000 illegal takeover of Parliament; FHRC could represent Chandrika Prasad in the 'public interest' and, at the same time, it could go to court to fight for Timoci Silatolu's right to get free legal aid as his 'individual right'.

Clearly, public interest elements in human rights law cannot be excluded or dominated by claims to individual rights and freedoms. When the Universal Declaration of Human Rights was being debated in 1947-8, there was much deliberation on the requirement, on the one side, to protect individual rights and, on the other (and simultaneously!), to up-hold the state's right to self-determination and political

autonomy.

Since 9/11 we have seen the tension between individual rights and national self-determination escalating in the way the United States processes people accused of terrorism. American television is filled with programmes graphically showing police brutality and in many cases the human rights 'victims' are the suspected Al Qaeda. In 1970's Britain, human rights 'victims', both on television and in real life, were the IRA.

New Zealand itself has recently arrested a number of people suspected of planning terrorist activity; incidentally, one of them, Tamaiti, was sent back to NZ from Fiji only a few weeks ago. Although he had been banned from Fiji since 2000, somehow he entered, and was at large for quite a few hours before he was deported on the next flight. A few weeks later he was arrested in New Zealand under its own homeland security legislation.

With respect to recent events in Fiji, the media and our Pacific neighbours will need to recall agreements such as the Aitutaki Declaration on Regional Security Cooperation, and the UN International Convention on the Use of Mercenaries to Impede Human Rights and the Right of Peoples to Self-determination which New Zealand ratified recently. These instruments will have a bearing on how Fiji will assess recent events. It is a complex and very serious issue.

On the Verebasaga and Rabaka cases, also mentioned in the letter, as is common knowledge, criminal investigation is underway in one case, the other case is in court. FHRC had referred both complaints to police for forensic investigation and up-dates are provided on our website and to the families. We seek to re-assure the families that the matter is still very much current and our files open.

FHRC's job is to explain human rights law, as it stands, to everyone, repeatedly if necessary. After all, as Ratu Epeli Vakalalabure quite rightly points out, we are the servants of the public. FHRC takes this role very seriously indeed. But our staff can also determine quite quickly which complaints or comments are not made in good faith, or where there is a conflict of interest that has not been disclosed and individual rights are claimed simply to mask activities against the public interest.

Dr Shaista Shameem
Chairperson,
Fiji Human Rights Commission.