

Not Charter, not electoral reform, but the law

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As a nation, we are now horribly diverted into debating what is in the Charter, electoral reforms before elections, or what may be the economic growth rates this year and the next.

But the real issue is: why have the Charter supporters developed collective amnesia about the treasonous over-throw of a legally appointed government?

While the Interim Government keeps parroting that the 1997 Constitution is intact, the very coup basis of the Charter and the proposed Electoral Reform without the consent of an elected Parliament, effectively trashes the 1997 Constitution.

Why are Charter supporters not fighting for a return of the 2006 Parliament, which could legalise the Charter, Electoral Reform, the GCC Review, the FICAC etc within the 1997 Constitution?

And save a few tarnished reputations to boot.

What justification of the coup now?

It is horrifying that the nation no longer is discussing the coup supporters' allegations against Qarase's SDL Party of widespread electoral fraud and massive corruption. The nation has forgotten that the Chief Justice and many senior functionaries were removed from their posts.

Yet almost two years on, there has been no substantive evidence presented to justify any of the allegations or the illegal sackings.

Now all that is talked about is the implementation of the Charter and Electoral Reform, before any elections are held.

The Charter Trojan Horse

All that was predicted by Richard Naidu, Tupou Draunidalo and myself at the Media Forum debate on the Charter, has come true.

The Draft Charter is out. John Samy and his TASS team together with the assistance of the NCBBF, have produced another Development Plan of the kind that he was producing in the early seventies when he was the Director of the Planning Office.

In some respects it may be a better Development Plan with a good proposal for electoral reform. It certainly has one dangerous proposal that could totally undermine the independence of Government ministries, and of any Parliament eventually elected.

Worst of all, there is nothing of substance in this document to suggest that adoption of this Charter will discourage any coup in the future. It is a piece of paper like any other piece of paper like the 1997 Constitution.

Except that unlike this Charter, the 1997 Constitution had been unanimously passed by the Great Council of Chiefs and Parliament, with the support of all the political representatives of the people, and with full consultation throughout the country by the Reeves Commission.

It is abundantly clear that the Charter supporters, in their evangelical passion to “do good” are pathetically deceiving themselves that they believe in the sanctity of the 1997 Constitution.

The 1997 Constitution provides no justification for the removal of the lawfully appointed President, or the lawfully elected Government. Under the 1997 Constitution, no electoral reform is possible without the approval of the elected 2006 Parliament that was removed by the military coup.

Yet the Charter, which is born out of the trashing the 1997 Constitution requires the people of Fiji to agree to “pledge” that “We, the people of Fiji **COMMIT to** support the Constitution and the Peoples Charter as the foundation for rebuilding our Nation”.

The Electoral Reform Facade

Four years ago, Father David Arms, Jonathan Fraenkel and I were jointly preparing a pamphlet critiquing the current “Alternative Vote” system and the “First Past the Post” system, and proposing a Proportional System with a List element in it- along the lines currently proposed in the Charter.

All three of us accepted that both the Alternative Vote and the First Past the Post system has many weaknesses.

But there are dozens of countries everywhere in the world which also use these Alternative Vote or First Past the Post systems. And of course, sometimes the results have some degree of unfairness, for some parties.

But having accepted the rules, they accept the results and there is a smooth change of government.

It is therefore horrifying that the respectable David Arms (and Kevin Barr) should make the false claim that because of the weaknesses in the Alternative Vote system, the 2006 elections were unfair and unjust.

David Arms, Kevin Barr, Archbishop Mataka, John Samy and all the supporters of the Fiji Labour Party are supporting the Charter and electoral reform before new elections

are held. This is tantamount to disregarding the provision of the 1997 Constitution, and justifying the treasonous coup against the lawfully elected Qarase government.

They are effectively saying it is OK to use guns to remove a lawfully elected government, because it had a few faults and you disagreed with some of their policies.

Friends or Enemies of the Fiji Indians?

When John Samy retired from the ADB he made his real commitments known by investing his savings in NZ, where he also settled with his family.

But desperate to contribute to Fiji's development, he has now returned, only to play Russian Roulette with Fiji Indian lives.

And he came at an opportune time for those who did the military coup, because John Samy's Charter Process is now all that justifies the coup.

John Samy has hijacked former civil servants into the Charter Process. They are now apparently no longer bound by normal Civil Service rules, but responsible only to a foreign consultant.

It is horrifying that a such a large number of otherwise decent people such as Archbishop Mataka, Father Kevin Barr, father David Arms, Rev Aquila Yabaki, Jone Dakuvula, Kamlesh Arya, and all those in the NCBBF, think that they are fighting for equal rights for Fiji Indians.

Yet they ask the Fiji Indians to support the Charter Process and the illegal Electoral Reform. They implicitly ask the Fiji Indians to effectively accept and support the military coup.

They ask the Fiji Indians to effectively trash twenty years of patient peaceful negotiation with Fijians, which took them out of the wilderness created by the 1987 coup.

And, intellectually gutted by twenty years of emigration of the most educated and qualified, the Fiji Indians who remain, have blindly followed leaders who have trashed a century old proud Fiji Indian respect for the rule of law.

Only time will tell whether these Charter supporters turn out to be friends or foes of the Fiji Indians.

The real question

The real question before us now is not: do we support the Charter; or do we support electoral reform; or what will be next year's economic growth; or do we support a common name?

The real question is: do we support the rule of law all the time, or do we support a violent treasonous military overthrow of a legally elected government which we do not like?

The answer to that will determine the nature of the future of Fiji Indians who remain in this country, as a small minority alongside a large ethnic Fijian majority, whose astute racially divisive political leaders have always had a long Machiavellian memory.

Long after John Samy and his other consultants have gone back to NZ. Long after most educated Fiji Indian Charter supporters have emigrated. Long after the clerics have gone back to the sanctity and safety of their churches. Long after the coup leaders have gone on to greener safer pastures here or abroad.

The Three Judges and a Solution

While all know that “justice delayed is justice denied”, our three senior judges face a horrible dilemma.

The facts of December 2006 all point to the illegality of the coup. Yet to give that judgment would also make illegal the military removal of the Chief Justice, and make illegal the subsequent appointment of the Acting Chief Justice.

Yet a wise judgment by these three senior judges could still pave a constitutional way out of this horrible mess we are in.

They could order a recall of the 2006 Parliament; the formation of a Government of National Unity drawing on all the major political parties and independents coming through a newly constituted Senate; a multi-party agreement on parliamentary processes to incorporate consensus elements of the Charter, Electoral Reform, FICAC, the Great Council of Chiefs Review etc. into the 1997 Constitution; and a Parliamentary Truth and Reconciliation Commission to fairly consider, for the last time ever, amnesty issues for the events of 2000 and 2006.

These could all be taken in good time, with elections to be held in 2011.

Such a solution might also retrieve the many reputations (including some in the judiciary and the military) which have been sadly tarnished by the 2006 coup.

With investor confidence restored, the economy could conceivably still grow at rates of 10 percent per year or more, for the next five years.

Only that will provide any comfort to the hundreds of thousands of Fiji people, of all ethnic groups, who are below the poverty line, and who neither know nor care about pieces of paper like the 1997 Constitution or the Peoples’ Charter.