

# THE PROPOSED CONSTITUTIONAL GUARANTEE OF INDIGENOUS GOVERNMENTAL POWER IN FIJI: AN INTERNATIONAL LEGAL APPRAISAL

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## INTRODUCTION

Among the newly independent island States with heterogeneous populations that emerged following decolonization, Fiji was widely regarded as a model of multi-racial democracy. Fiji gained independence in 1970 from British colonial rule, and progressed rapidly into the world of modern politics with a constitution and government patterned after the British system. This system was suddenly eroded by two successive coups on May 14 and September 26, 1987.<sup>1</sup> The coup's leader, Colonel Rabuka, removed the democratically elected government of Bavadra, abrogated the 1970 Constitution, declared himself head of state, proclaimed Fiji a republic, and announced the formation of a new Council of Ministers.<sup>2</sup> These actions generated both regional and international repercussions. Most of the South Pacific States condemned the coups and the overthrow of the constitutional government of Fiji.<sup>3</sup> The Commonwealth Heads of Government, meeting in Canada on October 18, 1987, expelled Fiji from the Commonwealth.<sup>4</sup>

Confronted with mounting economic downturn and political impasse, Rabuka named Ratu Sir Penaia the first President of the Republic, and stepped down as the head of state on December 6, 1987.<sup>5</sup> The new President appointed Ratu Sir Kamisese as Prime

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1. On May 14, 1987, Colonel Rabuka, the coup leader, stormed Parliament, took the newly-elected government hostage and suspended the constitution. While political peace negotiations with the Governor-General were in progress, and racial riots escalated, Rabuka launched his second coup on September 26, 1987, annulled the constitution and assumed full control of the government.

2. See Post Courier, Papua New Guinea, Oct. 1, 1987, at 8; *id.* Oct. 2, 1987, at 1; see also Pac. Islands Monthly, Nov. 1987, at 10-15.

3. See Pac. Islands Monthly, Nov. 1987, at 13; Post Courier, Papua New Guinea, Oct. 2, 1987, at 8; Bell, *The Unquiet Pacific*, in CONFLICT STUDIES 205, at 4-6 (published by The Centre for Security and Conflict Studies, The Institute for the Study of Conflict, London, England).

4. See Pac. Islands Monthly, Nov. 1987, at 12.

5. See Post Courier, Papua New Guinea, Dec. 7, 1987, at 7. Ratu Sir Penaia resigned

Minister of a civilian cabinet.<sup>6</sup> This post-revolutionary regime is required to enact a new constitution for the Republic of Fiji ensuring that the indigenous Fijians will always be in control of the government.<sup>7</sup> The indigenous control requirement violates basic principles of international law, and the international legal implications of such a condition are serious.

Compliance with the requirement that indigenous Fijians control the government would be discriminatory and would substantially prejudice the ambient population. A “gradation” among the citizens of the State would be created, resulting in unequal rights and duties. The introduction of a caste-like racial system would have a disastrous impact on the multiracial equilibrium of Fiji. The overall situation cannot be permitted under international law, which forbids racial discrimination and promotes human rights for all. As a party to the 1965 International Convention on the Elimination of All Forms of Racial Discrimination,<sup>8</sup> Fiji has a greater obligation to reflect nonracial policies in its future constitution. This article will analyze Fiji’s international duty to oppose racism, and how a constitutional guarantee of an indigenous government would undermine this duty.

Under the proposed arrangement, all non-native racial groups will be permanently deprived of their equal rights to participate in governing their country—a basic human right recognized in, and protected by, international law. The greatest danger of this deprivation is that subnationalism and group consciousness may develop among the aggrieved races. The political unity and territorial integrity of Fiji is likely to be threatened. The persistent denial of inter-

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as the Governor-General of Fiji after the proclamation of the Republic.

6. Kamisesse lost his position as the Prime Minister in the April 1987 election. *Pac. Islands Monthly*, May 1987, at 10. Of the 21 cabinet ministers, ten took part in the military government of Rabuka and four are army colonels (including Rabuka). *Pac. Islands Monthly*, Jan. 1988, at 12.

7. Rabuka claims that his military actions are intended to ensure the birthright of the native Fijians. He reasons that prior to British rule, the territory was administered by traditional chiefs, but “at independence the sovereignty of the country was never returned to the chiefs [and] now they want it back.” His proposed brand of democracy prescribes that elections must be held purely on a communal basis and that the majority seats in Parliament must be reserved for natives so that they can always form their own government “in the land that belongs to them.” *See Post Courier*, Papua New Guinea, Oct. 1, 1987, at 8; *id.* Oct. 2, 1987, at 8. One of the reports of the Constitutional Review Committee also echoed the same submission. It was suggested that in the Chamber Parliament of 70 seats, 40 seats should be reserved for the natives. *See Pac. Islands Monthly*, June 1987, at 16.

8. International Convention on the Elimination of All Forms of Racial Discrimination, Mar. 7, 1966, 5 I.L.M. 350, 60 AM. J. INT’L L. 650 [hereinafter *Convention on Racial Discrimination*].

nal self-determination in the form of equal rights may persuade the aggrieved races to seek territorial secession as a way to restore their rights and interests. Should such an event occur, it will be detrimental to the regional order and beyond. It is therefore in the best interest of Fiji to explore other viable, nondiscriminatory means for the protection of indigenous rights which will concomitantly foster multiracial integration.

## I. THE GROUNDS FOR INTERNATIONAL INTERVENTION IN DOMESTIC RACISM

Modern States seldom consist of a single racial group. The notion of a modern State "presupposes the existence of socio-economic-political structures capable of allowing the co-existing pursuit of whatever ideological differences are combined under that umbrella."<sup>9</sup> There are numerous politically stable States that contain more than one distinctly identifiable racial group. The formation of new States composed of only one racial group is neither possible nor desirable in view of the existing complexion and facts of international life. It is possible to produce an endless list of distinct ethnic groups in various regions of the world, who have almost no chance of viability as independent entities. This is why the U.N. Charter contemplates a plural society composed of various racial, linguistic and religious groups sharing a larger common identity with their state.<sup>10</sup> It advocates racial integration and a multi-racial existence.

### A. *General International Directive*

The secular, multiracial, multicultural and multilingual connotation of Statehood promoted by the U.N. Charter leads the U.N. to denounce all forms and manifestations of racism. This prohibition has been thoroughly internationalized by the U.N. through a constant flow of authoritative resolutions, declarations and conventions.<sup>11</sup> The U.N. Charter is premised upon the dignity, equality and worth inherent in all human beings. Member States have pledged themselves to take joint and separate action, in cooperation with the U.N., to promote universal respect for human rights for

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9. Bassiouni, *Self-Determination and the Palestinians*, 65 AM. SOC. INT'L L. PROC. 32 (1971).

10. See generally, U.N. CHARTER.

11. See, e.g., *infra* notes 13-23 and accompanying text.

all, without distinction as to race or other attributes.<sup>12</sup> The building of a world society, free from all forms of racial segregation and discrimination, is one of the preconditions for the enjoyment of human rights. This basic concern, shared by all communities, has prompted the U.N. to outlaw racism wherever it exists and in whatever guise. This attitude is demonstrated in several documents.

1. *The 1960 Decolonization Declaration*: This document proclaims the urgency of an unconditional end to all practices of racial segregation and discrimination.<sup>13</sup>

2. *The 1963 Declaration on the Elimination of All Forms of Racial Discrimination*:<sup>14</sup> This document also affirms the necessity of speedily eliminating racial discrimination throughout the world. It reasons that racial discrimination harms not only those who are subjected to it but also those who practice it. The Declaration calls on all States to take effective measures to revise governmental and public policies which have the effect of creating racial discrimination, and to rescind any discriminatory laws and regulations. It also prescribes that States pass legislation expressly forbidding racial discrimination and combat those prejudices which lead to racism.<sup>15</sup> In particular, this declaration provides that no discrimination by reason of race, color, or ethnic origin shall interfere with the enjoyment of political rights by any person. This proscription includes the right to take part in the government of the country, directly or indirectly.<sup>16</sup>

3. *International Convention on the Elimination of All Forms of Racial Discrimination*: The institution of racism received its greatest blow from this landmark agreement, unanimously adopted by the U.N. in 1965.<sup>17</sup> The preamble reflects the sentiment and attitude of the U.N. members towards racism and the concerns which led to the agreement. The Convention perceives racism as an inherent evil and a major obstacle to the protection and promotion of human rights and fundamental freedoms for all. Racism prevents the sociocultural development of all peoples in a State, and it stultifies international economic cooperation.

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12. See U.N. CHARTER arts. 55(c) and 56.

13. *Declaration on the Granting of Independence to Colonial Countries and Peoples*, G.A. Res. 1514(xv), at preamble para. 9 (1960) [hereinafter *Decolonization Declaration*].

14. G.A. Res. 1904 (xviii), Nov. 10, 1963, reprinted in 58 AM. J. INT'L L. 1081-84 (1964).

15. *Id.* at arts. 4 & 5.

16. *Id.* at art. 6.

17. G.A. Res. 2106 (xx), Dec. 21, 1965; see also *Convention on Racial Discrimination*, *supra* note 8.

Racism is also regarded as a potential threat to world peace and security. The world community is convinced that any superiority based on racial differentiation is "scientifically false, morally condemnable, socially unjust and dangerous," and that there is no "justification for racial discrimination in theory or in practice anywhere."<sup>18</sup> The total illegitimacy of racism is taken for granted. In essence, the Convention calls for an immediate elimination of all racial discrimination. The Convention unequivocally guarantees the equal political rights of all citizens of a State, in particular the right to participate in the government of the country.<sup>19</sup> The Convention imposes definite obligations upon State parties to adopt the necessary measures for the speedy elimination of all existing forms of racial discrimination within their territories, and the prevention of future racist legislation and practices.<sup>20</sup> States also have an affirmative duty to promote understanding between races in their jurisdiction, and to assist in building an international community free from all racial segregation and discrimination.<sup>21</sup>

The most elementary concern of the international community is to establish minimum conditions for dignified human existence. This concern is incorporated in the Convention. The absolute prohibition of racial discrimination is no longer indefinite and elastic but has become a part of solemn international obligations.<sup>22</sup> The practice of racial discrimination infringes upon human rights and fundamental freedoms for all, and is decried by the U.N.<sup>23</sup>

### B. *Specific Implementation of Anti-Racial Policies*

To achieve the U.N. Charter objective of human rights and fundamental freedoms for all in a multiracial State, all forms of racism must be abolished. The U.N. has reiterated this precondition on many occasions, particularly in resolutions condemning the for-

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18. Convention on Racial Discrimination, *supra* note 8, at preamble para. 6, 5 I.L.M. at 352, 60 AM. J. INT'L L. at 651.

19. Convention on Racial Discrimination, *supra* note 8, at art. 5c.

20. *See id.* at arts. 2-7.

21. *See id.*

22. For an account of the Convention and its legal effects see N. LERNER, *THE U.N. CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION* (M. Nijhoff 2d ed. 1980).

23. For an evaluation of the Convention, see Reisman, *Responses to Crimes of Discrimination and Genocide: An Appraisal of the Convention on the Elimination of Racial Discrimination*, 1 DEN. J. INT'L L. POL. 29 (1971). Nagendra Singh, President of the International Court of Justice, observes: "Basic to human rights is the concept of non-discrimination." N. SINGH, *ENFORCEMENT OF HUMAN RIGHTS IN PEACE & WAR AND THE FUTURE OF HUMANITY* 1 (M. Nijhoff ed. 1986).

mer white racial minority regime of Rhodesia, and the current white Afrikaaner racist regime of South Africa.

1. *Rhodesia*: The U.N. castigated the revolutionary Smith regime of Rhodesia in 1965 as illegal, and succeeded in campaigning for the universal non-recognition of Rhodesia.<sup>24</sup> There is nothing in international law or in the U.N. Charter which forbids revolution within a State.<sup>25</sup> There is also no rule of international law which proscribes the emergence of a revolutionary regime in a State. International law generally does not deal with the legality and constitutionality of domestic activities.<sup>26</sup> Consequently, some scholars doubt whether the U.N. stand on Rhodesia reflects the international legal position, or rather, by declaring the regime illegal, the U.N. exercised certain juridical powers which are absent in the Charter.<sup>27</sup> Admittedly, the Rhodesian situation and the regime arising therefrom could be illegal under constitutional law. But it is difficult to maintain that the revolution was illegal under international law. From where did the U.N. derive its authority to declare the Rhodesian situation illegal?

A close examination of the U.N. posture on the Rhodesian situation reveals that it was declared illegal not because the revolution was forbidden under international law, but because the circumstances surrounding the revolution and various acts of the revolutionary regime were unlawful under international law. The revolution was perpetrated by a racial minority to deprive the equal rights and self-determination of the majority peoples of Rhodesia. Immediately following the seizure of power, the regime promulgated various repressive and discriminatory domestic laws. Its constitution established a constant white minority racial rule in Rhodesia. The bulk of the population was denied its right to take part in the legislature and government. The regime was "based upon a systematic denial in its territory of certain civil and political rights, including in particular the right of every citizen to participate in the government of his country, directly or through representatives elected by

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24. For various U.N. resolutions on Rhodesia, see 60 AM. J. INT'L L. 912-26 (1966); Cefkin, *The Rhodesian Question at the U.N.*, 22 INT'L ORG. 649 (1968); Okolie, *Southern Rhodesia in International Law After the UDI*, 1 GLENDALE L. REV. 307 (1976).

25. Higgins, *International Law, Rhodesia and the UN*, 23 WORLD TODAY 94-96 (1967).

26. 1 G. SCHWARZENBERGER, A MANUAL OF INTERNATIONAL LAW 49, 69 (4th ed. 1960); 1 D.P. O'CONNELL, INTERNATIONAL LAW 137 (2d ed. 1970); Tinoco Claims (U.K. v. Costa Rica), 1 U.N. Rep. 381 (1923).

27. Halderman, *Some Legal Aspects of Sanctions in the Rhodesian Case*, 17 INT'L & COMP. L.Q. 700-01 (1968).

regular, equal and secret suffrage.”<sup>28</sup> The regime thereby effectively installed racist policies and removed human rights.

The policies of the Smith regime repudiated numerous basic norms of international law and engendered international repercussions. The regime created a justification for unilateral humanitarian intervention by individual States. The situation in Rhodesia involved elements of aggression in the most comprehensive sense.<sup>29</sup> Potential and actual threats to peace and security of the State escalated.<sup>30</sup> Therefore, the situation was well within U.N. jurisdiction. Under various international instruments such as the U.N. Charter,<sup>31</sup> the Universal Declaration of Human Rights,<sup>32</sup> the Decolonization Declaration,<sup>33</sup> and the Convention on the Elimination of Racism and the Covenants on Human Rights,<sup>34</sup> the U.N. succeeded in preparing a strong case against the Smith regime and in making the overall situation a legitimate concern for the world community.

The constitution, internal laws and administrative policies of Rhodesia were judged by the U.N. to be against specific international obligations undertaken by Rhodesia. The proposed constitution of Fiji, once enacted, will also effectively establish racial discrimination among the Fijians, and remove the equal rights of all citizens in defiance of concrete provisions of Fiji’s international obligations. Under the proposed constitution, Fiji is likely to militate against one of the basic purposes of the U.N.—the protection and promotion of human rights and justice in providing equal rights for all human beings. This dimension of the constitution is comparable to the Rhodesian situation. The proposed Constitution of Fiji will not survive if measured in terms of the documents that the U.N. invoked in assessing the lawfulness of the Rhodesian constitution. The proposed racist features of the Fiji constitution repudiate various international documents proscribing racism, which will be relied on by the U.N. to justify any action intended to generate pres-

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28. Fawcett, *Security Council Resolutions on Rhodesia*, 41 BRIT. Y.B. INT’L L. 112 (1965).

29. McDougal & Reisman, *Rhodesia and the U.N.: The Lawfulness of International Concern*, 62 AM. J. INT’L L. 10-11 (1968).

30. Fenwick, *When Is There A Threat to the Peace?—Rhodesia*, 61 AM. J. INT’L L. 754 (1967); Gupta, *The Rhodesian Crisis and the OAU*, 9 INT’L STUD. 55 (1967).

31. See generally U.N. CHARTER.

32. See Universal Declaration of Human Rights, Dec. 10, 1948, 43 AM. J. INT’L L. 127 (Supp. 1949).

33. See *supra* note 13.

34. See *supra* note 8.

sure on Fiji to fulfill its international obligations.

2. *South Africa*: The U.N. also finds the apartheid policy of the white Afrikaaner regime of South Africa to be a species of racial discrimination. The majority black peoples are not represented in the legislature or the executive branches of government. Political positions in these organs of the government are restricted to the white race.<sup>35</sup> This policy deprives the majority black peoples of their equal civil and political rights, including their right to participate in the government of their country.

The *Bantustan* scheme of the regime, which follows a policy of racial segregation against an identified black majority, is vehemently condemned.<sup>36</sup> Since 1952, the U.N. has conducted a strong campaign demanding the realization of equal rights in South Africa.<sup>37</sup> The actions and policies of the regime are stamped as forms of racial discrimination and, as such, have received the full brunt of antiapartheid attack.

### C. *The Grounds for U.N. Intervention*

The basic duty of the U.N. is to attain its purposes.<sup>38</sup> Among the U.N. Charter provisions, Articles 55 and 56 cover nearly every aspect of human life and matters pertaining to the internal order of a State. These are not mere statements of distant aims but involve precise legal obligations. Article 55 requires the member States to promote universal respect for, and observance of, human rights and fundamental freedoms for all. Article 56 requires individual member States to take joint and separate action for the achievement of the purposes enumerated in Article 55.

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35. See Electoral Consolidation Act 46, 1946, §§ 1 and 3(1); Republic of South Africa Constitution Act 32, 1961, §§ 34(d), 46(c), 68(2).

36. Richardson, *Self-Determination, International Law and the South African Bantustan Policy*, 17 COLUM. J. TRANSNAT'L L. 185 (1978). Under the *Bantustan* scheme, the indigenous black population of South Africa is confined exclusively to their place of birth. They are not allowed to relocate to other areas of the country, particularly the white regions. Thus, the *Bantustan* system denies freedom of movement within South Africa to the black community. See also notes and documents of Dept. of Pol. and Sec. Council Affairs, U.N. Centre Against Apartheid.

37. For various resolutions on South Africa, see H.S. CRUZ, RACIAL DISCRIMINATION 148-95, 202-13 (1971). For information on the denial of equal rights in South Africa, see U.O. UMOZURIKE, SELF DETERMINATION IN INTERNATIONAL LAW 76 (1972); SOUTH AFRICA AND THE RULE OF LAW (1960); C.G. WEERAMANTRY, APARTHEID—THE CLOSING PHASES? (1980).

38. To attain its purposes, the U.N. makes use of several provisions in the U.N. Charter. For example, the General Assembly is authorized to discuss and recommend any measures under Arts. 10, 13(1.b) and 14. The Security Council can adopt various measures under Chapter VII of the Charter.

Article 56 uses the word "pledge" to create a legally binding obligation.<sup>39</sup> When member States pledge themselves to promote the U.N. purposes in Article 56, they assume obligations to promote respect for human rights.<sup>40</sup> Implicit in this legally binding obligation of protection and promotion of human rights and fundamental freedoms is the inevitable precondition of the elimination of racial discrimination. Member States therefore have a specific obligation to eliminate all forms of racial discrimination in their territories.

The practice of racial discrimination transgresses human rights. This, in effect, frustrates one of the U.N.'s purposes. Hence the U.N.'s authority to deal with racial discrimination springs from the breach of definite obligations under the U.N. Charter provisions.<sup>41</sup>

## II. THE PROPOSED CONSTITUTIONAL GUARANTEE AND THE PROHIBITION AGAINST RACISM

The assurance that the governmental power of Fiji must always be held by the indigenous Fijians would amount to constitutional recognition of the political supremacy of a particular race in a multi-racial State. This would permanently deprive the remaining racial groups of their equal political rights. The right of every citizen to take part in the government of his country is a fundamental human right conferred without distinction as to race, color or ethnicity.<sup>42</sup> The concentration of governmental power in a particular race carries with it the danger of establishing a race-oriented administra-

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39. A full discussion on this point may be found in Wright, *Recognition and Self-Determination*, 48 AM. SOC. INT'L L. PROC. 30 (1954); Nayer, *Self-Determination Beyond the Colonial Context: Biafra in Retrospect*, 10 TEX. INT'L L. J. 334 (1975); Schweib, *The I.C.J. and the Human Rights Clauses of the Charter*, 66 AM. J. INT'L L. 348-49 (1962); Petrenko, *The Human Rights Provisions of the U.N. Charter*, 9 MANITOBA L.J. 57 (1978); Newman, *Interpreting the Human Rights Clauses of the Charter*, 5 HUM. RTS. J. 283 (1972).

40. The report of the San Francisco Committee II/3 shares the view that "pledge" is in no way without legal force. The Committee was concerned with economic and social cooperation. Its views on Art. 56 are explained in M.S. RAJAN, U.N. AND DOMESTIC JURISDICTION 277 (1961).

41. See also U.N. CHARTER ART. 104. Article 104 of the Charter authorizes the U.N. to act in the territories of its members in any legal capacity necessary to fulfill its purposes. For arguments supporting the U.N. competence to deal with human rights violation cases, see Schweib, *An Instance of Enforcing the Universal Declaration of Human Rights Action by the Security Council*, 22 INT'L COMP. L.Q. 161 (1973); Corey, *U.N. Responses to Government Oppression*, 3 INT'L ORG. 102 (1968); Ermacora, *Human Rights and Domestic Jurisdiction*, 124 RECUEIL DES COURS 417-18 (1968-II).

42. See Universal Declaration on Human Rights, *supra* note 32. Article 21(1) of the Declaration categorically confers these political rights equally upon every citizen of a state and is recognized in the 1963 Declaration and the 1965 Convention on the Elimination of All Forms of Racial Discrimination. See *supra* notes 8 and 14.

tion, with the likely outcome being political domination and economic exploitation of deprived racial groups. These deprived groups would be reduced to second-class dependent citizens in a technically independent State. All of these features are characteristic of racism.

### A. *International Obligations to Eliminate Racism*

The preference of a particular race to the exclusion of all others in forming the government of Fiji clearly comes within the scope of "racial discrimination" in Article 1 of the 1965 International Convention on the Elimination of All Forms of Racial Discrimination.<sup>43</sup> As a party to the Convention, Fiji is under an obligation to condemn racial discrimination and to pursue a policy of eliminating racism; to engage in no act or practice of racial discrimination against any persons or groups; to amend, rescind or nullify any laws and regulations that create racism; to encourage integrative multi-racial attitudes in diminishing barriers between races; and to discourage anything which strengthens racial division.<sup>44</sup> Article 5 imposes an affirmative duty to provide equal political rights for everyone, including the right to participate in the government directly or through representatives elected by regular and secret suffrage. Article 7 requires the adoption of immediate and effective measures to combat prejudices which lead to racial discrimination and to promote understanding, tolerance and friendship among ethnic groups.

Fiji filed a reservation restricting its obligations under Article 5 of the Convention. The reservation relates to laws governing elections, indigenous land rights and school systems in Fiji.<sup>45</sup> This reservation, however, cannot insulate Fiji from its obligations under the Convention. It is a general rule of international law that a State cannot rely on its own legislation or domestic situation to limit the scope of its international obligations, and that a State is required to pass necessary legislation to fulfill its international obligations.<sup>46</sup>

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43. Convention on Racial Discrimination, *supra* note 8. The Convention was ratified and came into force on January 4, 1969. See Report of the Committee on the Elimination of Racial Discrimination, supp. no. 18 (A/35/18), U.N. Annex I, 133 (1980).

44. *Id.* at art. 2.

45. The reservation is quoted in McLachlan, *The Fiji Constitutional Crisis of May 1987: A Legal Assessment*, N.Z.L.J. 181 (June 1987).

46. There is ample judicial authority for such a rule. See *Free Zone (Fr. v. Switz.)*, 1932 P.C.I.J. (ser. A/B) No. 46, at 167 (June 7); the advisory opinion in *Exchange of Greek and Turkish Population (Greece v. Turk.)*, 1925 P.C.I.J. (ser. B) No. 10, at 20 (Feb. 21); *Finnish Ships Arbitration*, 3 R. Int'l Arb. Awards 1484; *Alabama Claims Arbitration* in MOORE, *INTERNATIONAL ARBITRATION* 656 (1872); see also *Declaration of the International*

Accordingly, Fiji cannot claim that its domestic laws relating to elections, land rights and school systems exonerate it from the international obligations imposed by the Convention.

Moreover, the Convention constitutes a coherent and integrated whole, and its designated purpose is to eliminate all forms of racial discrimination. The immunity sought by Fiji's reservation cannot be applied piecemeal to individual provisions, without regard for its effect on the objective of the Convention. It must be read in relation to other provisions and obligations, so that the very aim of the Convention is not frustrated. The reservation, if interpreted to be separate from the other proscriptions of the Convention, will reduce the entire Convention into an uncoordinated and self-contradictory document, leaving hardly any meaning to the expression: "the elimination of all forms of racial discrimination."

The Fijian reservation may be construed to embrace a variety of laws already enacted that provide special concessions. It may also be construed as protecting indigenous rights, which need not necessarily be discriminatory. Yet, it remains inconceivable how this reservation can exempt Fiji from its international responsibility under the Convention.

### B. *Rights of Underprivileged Groups*

Colonel Rabuka, the leader of the coups, claims that special constitutional measures must be adopted to ensure that Fiji is always ruled by the native Fijians and that the purpose of the revolution is to restore this "birthright."<sup>47</sup> On the contrary, numerous international authorities advocate the equality of all citizens of a State irrespective of their race, color, creed, birth or ethnicity.<sup>48</sup> While it is recognized that the indigenous peoples of colonial and non self-governing territories have the right to self-determination,<sup>49</sup> and

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*Law Committee on Rights and Duties of States*, [1949] Y.B. INT'L L. COMM'N 288, at art. 13.

47. See *supra* note 7.

48. For analysis of the growing concern of the world community for indigenous rights, values, interests and culture, see G. Bennett, *Aboriginal Rights in International Law*, Occasional Paper No. 37 of the Royal Anthropological Institute of Great Britain and Ireland (1978).

49. See, e.g., *Decolonization Declaration*, *supra* note 13; A. RIGO SUREDA, *THE EVOLUTION OF THE RIGHT OF SELF-DETERMINATION: A STUDY OF U.N. PRACTICE* (1973); Kaur, *Self-Determination in International Law*, 10 INDIAN J. INT'L L. 500 (1970); Menon, *The Right to Self-Determination: A Historical Appraisal*, 53 REVUE DE DROIT INTERNATIONAL ET DE DROIT COMPARÉ [R. DR. INT. DR. COMP.] 187 (1975). Self-determination is discussed in Part III, *infra*.

may exercise this right to become independent,<sup>50</sup> the right is fulfilled once independence is gained, and there is no inherent right to monopolize the government of the newly independent State. In the *Namibia* case, the International Court of Justice (ICJ) held that the establishment and enforcement of “distinctions, exclusions, restrictions and limitations exclusively based on grounds of race, color, descent or national or ethnic origin which constitute a denial of fundamental human rights is a flagrant violation of the purposes and principles of the Charter.”<sup>51</sup> In other words, all citizens of a State are equally entitled to all rights and subjected to all duties. In view of this legal position, it is difficult to substantiate the claim that the native Fijians, by dint of their “indigenesness,” possess a “birthright” to perpetually govern multiracial Fiji.

In fairness, it is conceded that the reservation of governmental power for the native Fijians may be necessary for the enjoyment of their indigenous rights. Provisions providing special measures or privileges for certain groups are common in many constitutions. These measures are devised to safeguard the rights of disadvantaged or underprivileged groups or areas in a State. Such measures may be of paramount importance to the even development of a State. However, it must be borne in mind that the sole aim of a “special measure” is to promote the equal rights of its beneficiaries. The question is: Do the native Fijians deserve a special measure to protect their right to participate in the government of Fiji?

The answer to this question is largely a matter of ascertaining whether the native Fijians have enjoyed equal political rights in the past. Since its independence in 1970, Fiji has been administered by the Alliance Government of Kamisese, a predominantly native Fijian government.<sup>52</sup> This government lost power in the April 1987 general election.<sup>53</sup> Until then, the native Fijians were effectively in

50. Different modes of exercising self-determination are enumerated in the *Declaration on Principles of International Law Concerning Friendly Relations and Cooperation Among States in Accordance With the Charter of the U.N.*, G.A. Res. 2625(xv), at principle v, para. 4 (1970), reprinted in 9 I.L.M. 1296 (1970) [hereinafter *Declaration on Friendly Relations*].

51. *Namibia (Namibia v. S. Afr.)*, 1971 I.C.J. 57 (Advisory Opinion of June 21). For a full treatment of the principles of equality and non-discrimination in international law, see W. MCKEAN, *EQUALITY AND DISCRIMINATION UNDER INTERNATIONAL LAW* (1983).

52. For an analysis of the native Fijians predominance through the alliance monopoly of government since 1966, prior to independence, see Nation, *Fiji: Post Independence Politics* in 2 MELANESIA: BEYOND DIVERSITY 602-03 (R.J. May & H. Nelson eds. 1982); Premdas, *Constitutional Challenge: The Rise of Fijian Nationalism*, 9 PACIFIC PERSPECTIVE 40-41 (1980).

53. The 1987 general election disrupted the indigenous control of Fiji's political power structure. Colonel Rabuka, the revolutionary leader, claiming to represent the wishes of the

control of the government, both directly and indirectly through their elected representatives, from the birth of Fiji as an independent State. This fact confirms that the native Fijians were by no means disadvantaged in the enjoyment of their political rights.

For the sake of argument, let us suppose that the native Fijians are politically underprivileged and their plight warrants special constitutional protection. The question then becomes: for how long would this special protection be essential? Special protection adopted for the advancement of a deprived group of peoples cannot continue indefinitely. Once a specific objective is attained, the special rights must be discontinued. The proposed special constitutional protection guaranteeing the governmental power of Fiji to be held permanently by the native Fijians would surpass the permissible limit of "special measures." In fact, the proposed reservation does not seem to be a special measure designed to ensure the equal enjoyment of political rights by the native Fijians. Rather, it appears to maintain separate rights for separate racial groups, and approaches the parameters of racial discrimination.

The proposed constitutional guarantee cannot be justified as a special measure to protect the rights of native Fijians. There is no evidence of past discrimination against the native population, and there is no limit on the duration of the measure. This guarantee undermines the U.N. objective to build a world society based on the principle of the dignity and equality of all human beings, free from racial discrimination and segregation. The guarantee defies numerous authoritative international instruments protecting human rights and prohibiting racial discrimination. The current regime adopts an official policy of racism through legislation, keeping various racial groups in subordination. The promotion of racial discrimination at a time when concerted international actions to eradicate racism have intensified, is likely to generate regional and international repercussions.

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native Fijians, could not accept the resettlement of political power. He deposed the newly-elected government of Bavadra within a month of its installation. Superficially, one may argue that the military takeover was not a response to the failure of the new Bavadra government in running the country, but an effort to recapture the power lost in the 1987 polls. In other words, what was not achieved through ballots in April 1987 was eventually achieved by bullets in May 1987.

### III. THE PROPOSED CONSTITUTIONAL GUARANTEE AND THE FIJIANS' RIGHT TO SELF-DETERMINATION

The principle of equal rights and self-determination of peoples as enshrined in the U.N. Charter is comprised of two phases: external and internal. The external phase refers to the right of a people who are not yet independent to freely choose their future political status in the international arena. If they choose independence by establishing their own State, the people achieve their right to external self-determination. The people, as nationals of an independent State, are now entitled to the right to internal self-determination. This right allows them to elect and maintain a government of their choice. Internal self-determination also includes the right to be free from oppression and discrimination by the government or any other dominant group.<sup>54</sup> In other words, the right to external self-determination is extinguished when independence is gained, and is replaced by the right to internal self-determination.

#### A. *Self-Determination for all Peoples*

The promotion of external self-determination of peoples received its greatest boost at the end of colonialism. Many dependent peoples and territories throughout the world became independent through the exercise of external self-determination. The U.N. role in decolonization is part of its endeavor to protect and promote human rights for all. Once independence is achieved, it is imperative to care for the oppressed and deprived groups of peoples within the independent States. U.N. member States have assumed the responsibility "to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples."<sup>55</sup> The realization of this principle is recognized as a prerequisite for "the creation of conditions of stability and well-being which are necessary for" the attainment of the U.N. purposes.<sup>56</sup>

The term "peoples" to which the principle applies is construed to include all peoples, irrespective of their political status.<sup>57</sup> In its re-

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54. For a discussion on this point, see Cassese, *Political Self-Determination—Old Concepts and New Developments* in U.N. LAW/FUNDAMENTAL RIGHTS 137 (A. Cassese ed. 1979); Mustafa, *The Principle of Self-Determination in International Law*, 5 INT'L LAW 479 (1971); see also Menon, *supra* note 49, at 187.

55. U.N. CHARTER art. 55. For a full exposition, see Chen, *Self-Determination as a Human Right*, in TOWARD WORLD ORDER AND HUMAN DIGNITY 215 (M. Reisman & B.H. Weston eds. 1976).

56. *Id.*

57. See the advisory opinion of the I.C.J. in *Namibia (Namibia v. S. Afr.)*, 1971 I.C.J.

quest to the Commission on Human Rights to draft an article on the principle of equal rights and self-determination, the General Assembly resolved that the text must include that "all peoples shall have the right to self-determination"<sup>58</sup> and that "all States" should promote its realization in their territories.<sup>59</sup> In 1955, the U.N. Third Committee, unanimously approving the term "all peoples" in the draft, found the term comprehensive, universal and fully in consonance with the word "peoples" used in the Charter.<sup>60</sup> The 1960 Decolonization Declaration accords the right of self-determination to "all peoples" without drawing any distinction between dependent and independent peoples.<sup>61</sup> The inclusion of the expression: "all peoples have the right of self-determination" in the 1966 International Covenants on Human Rights denotes the general character of its beneficiaries. The Covenants impose the duty to ensure the realization of the right of self-determination on all party States.<sup>62</sup> The 1970 Declaration on Friendly Relations confers equal rights and self-determination on "all peoples" deprived and discriminated against in all States and territories. The Declaration specifies that all States have the duty to respect this right in pursuance of the U.N. Charter provisions.<sup>63</sup>

It is evident that the right to self-determination has a universal connotation. All peoples, whether they are exploited and discriminated against by overseas colonial powers or powers within existing States, are entitled to equal rights and self-determination. It is a continuing right with two successive phases--external and internal. Only when both aspects of the right are enjoyed by a people are their equal rights and self-determination deemed to have materialized. Many peoples in independent States are still discriminated against because of their race, sex, language, religion, color or ethnicity. It is not only incongruous with the essence of the right, but also self-defeating if a people, once they attain independence, are deprived of their equal rights and self-determination in the domestic sphere.

The population of Fiji is comprised of indigenes and settlers. The

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57 (Advisory Opinion of June 21).

58. G.A. Res. 421 (1950).

59. G.A. Res. 545 (v) (1952).

60. U.N. Doc. A/3077 (1955).

61. See *Decolonization Declaration*, *supra* note 13, para. 2.

62. *International Covenants on Economic, Social and Cultural Rights and on Civil and Political Rights*, G.A. Res. 2200, art. I (3) (1966), 6 I.L.M. 360, 368 (1967).

63. See *Declaration on Friendly Relations*, *supra* note 50.

former are the native peoples inhabiting the territory since time immemorial. The latter arrived from adjacent regions, mostly from India, providing cheap labor in the sugar cane industry. The settlers have resided in Fiji for many generations prior to independence. The right of these peoples to live together with the native Fijians and to consider themselves members of the Fijian community could not be ignored at the time of independence. All groups of peoples present in the territory at the time of independence, regardless of their race, ethnicity or place of origin, acquired Fijian nationality by due process of law.<sup>64</sup> All Fijian nationals are equally entitled to equal rights under law. They are all entitled to a government of their own choice and to the right to be free from oppression and discrimination. With these ends in view, the 1970 Independence Constitution of Fiji assured the equality of all nationals in the enjoyment of all political and constitutional rights.<sup>65</sup>

The proposed guarantee to entrust the executive authority exclusively to the native population implies that other racial groups would be permanently deprived of their equal political rights. They could be discriminated against in every sphere of public activities, keeping them in perpetual subjugation. The bulk of the population would be effectively prevented from enjoying their right to internal self-determination. The proposed guarantee would manifestly run afoul not only of the Universal Declaration of Human Rights,<sup>66</sup> but also of human rights provisions and the purpose of the U.N. Charter.<sup>67</sup> In advocating this proposal, Fiji contemplates violating the principle of equal rights and self-determination of peoples protected by international law.

#### IV. THE PROPOSED CONSTITUTIONAL GUARANTEE AND REGIONAL ORDER

The maintenance of international peace and security and the promotion of and respect for human rights are preeminent objectives of the world community.<sup>68</sup> Real and enduring world order may not be preserved without respect for human rights. This is why the interdependence between human rights and the sustenance of peace

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64. How the settlers gained Fijian nationality is discussed in Premdas, *supra* note 52, at 30-32.

65. See Nation, *supra* note 52, at 606.

66. Universal Declaration of Human Rights, *supra* note 32, at art. 21.

67. See U.N. CHARTER arts. 1(3), 13 (1.b), 55(c), 62(2), 68, and 76(c).

68. See U.N. CHARTER art. 1. The four U.N. purposes under Article 1 can broadly be reduced to these two.

and security has long been acknowledged.<sup>69</sup> Order and justice are interrelated.<sup>70</sup> Justice cannot be administered unless order prevails and order cannot be sustained if justice is denied. An effective balance between them in the forthcoming Republican Constitution of Fiji is therefore imperative.

#### A. *The Need for National Unity*

In a multiracial State like Fiji, various racial groups coexist by accommodating each other's interests, rights, and values.<sup>71</sup> The proposed constitutional guarantee would interrupt the existing multi-racial equilibrium in Fiji and endanger political stability. The situation may incite counter-coups as a means of redressing the persistent deprivation of equal rights. Repeated constitutional crises will not only inhibit the development of Fiji's national identity, but will also lead to the collapse of its political fabric and unity.

It is, however, not certain that the nonindigenous racial groups will employ violence as a means of remedying their grievances. There is no gain to anyone in encouraging the disintegration of Fiji. But if greater political unity and territorial integrity is desirable, then specific constitutional measures are warranted to foster it. Otherwise, Fiji will be confronted with difficulties in maintaining peace and unity among its constituent races due to their questionable loyalty. The Fijian patriotism of all racial groups cannot be expected to grow in a vacuum of nonparticipation in national governmental affairs. The feeling of common nationality flourishes only through active participation in national powers and responsibilities. The proposed constitutional guarantee militates against any attempt to develop a common Fijian nationality. Consequently, there may be a large-scale deflection of loyalty from the Fijian government.

Alienation of racial groups is precisely what caused the disintegration of the Federation of Pakistan in 1971. The ruling elite failed to promote Pakistani nationalism in East Pakistan. The unilateral imposition of an unrepresentative regime in Pakistan, and

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69. The view is presented fully in Wiseberg, *Humanitarian Intervention: Lessons From The Nigerian Civil War*, 7 HUM. RTS. J. 61 (1974); Nanda, *A Critique of the U.N. Inaction in the Bangladesh Crisis*, 49 DEN. L.J. 67 (1972); Dugard, *Towards the Definition of International Terrorism*, 67 AM. SOC. INT'L L. PROC. 97 (1973).

70. For an explanation of what order and justice are in international law and how they are related, see Bull, *Order vs. Justice in International Society*, 19 POL. STUD. 269 (1971).

71. A full exposition of this point may be found in M.R. ISLAM, *THE BANGLADESH LIBERATION MOVEMENT: INTERNATIONAL LEGAL IMPLICATIONS* 271-73 (1987).

the consistent denial of equal rights and internal self-determination for the Bengalese contributed significantly to the secession of East Pakistan as the Republic of Bangladesh.<sup>72</sup> If Fijian nationalism experiences a similar crisis, brought to fruition by the persistent denial of internal self-determination, there is a possibility of a separatist claim by the aggrieved racial groups.

### B. Territorial Integrity

State unity and integrity are indispensable for the maintenance of a stable and organized world order. With this end in view, Article 2(4) of the U.N. Charter confers on States a right to territorial integrity. It must be stressed that no legal right is absolute. Each right is restricted by a corresponding legal duty. A State's right to territorial integrity under Article 2(4) of the Charter is balanced by its responsibility to respect the human rights of its citizens under Article 1(3) of the Charter. The unity and integrity of a State is therefore based on a foundation of strict respect for human rights. Accordingly, the right of Fiji to territorial integrity is contingent upon its duty to respect the human rights of its citizens.

The 1970 Declaration on Friendly Relations<sup>73</sup> is described as "the most authoritative Statement of the principles of international law relevant to the questions of self-determination and territorial integrity."<sup>74</sup> The Declaration was created under the direct authority of the U.N. Charter,<sup>75</sup> and codifies the Charter provisions on the seven selected principles of international law, creating legal rights and duties.<sup>76</sup> The Declaration clearly states that "the principles of the Charter which are embodied in the Declaration constitute basic principles of international law."<sup>77</sup> As such, the Declara-

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72. *Id.* at 288-90.

73. *Declaration on Friendly Relations*, *supra* note 50.

74. *The Events in East Pakistan, 1971*, Geneva: The Secretariat of I. Com. Jur. 67 (1972). See also Rosenstock, *The Declaration of Principles of International Law Concerning Friendly Relations: A Survey*, 65 AM. J. INT'L L. 714 (1971); Johnson, *Toward Self-Determination: A Reappraisal as Reflected in the Declaration on Friendly Relations*, 3 GA. J. INT'L & COMP. L. 155 (1973).

75. See U.N. CHARTER arts. 13 & 14.

76. International organizations play a useful role in filling in the gaps in existing international law. See the joint separate opinion of the I.C.J. in *Fisheries Jurisdiction (U.K. v. Ice.)*, 1974 I.C.J. 46 (Judgment of July 25); Schachter, *The Quasi-Judicial Role of the Security Council and General Assembly*, 58 AM. J. INT'L L. 962 (1964); Sahovic, *Codification of the Legal Principles of Co-Existence and the Development of Contemporary International Law*, in *PRINCIPLES OF INTERNATIONAL LAW CONCERNING FRIENDLY RELATIONS AND COOPERATIONS* 9 (M. Sahovic ed. 1972).

77. Schachter, *The Relation of Law, Politics and Action in the U.N.*, 109 RECUEIL DES COURS 165 (1963-II).

tion creates concrete legal obligations under the U.N. Charter and international law.

Principle V of the Declaration deals with equal rights and self-determination of peoples. Paragraph 7 of this principle spells out the right of a State to territorial integrity and is divisible into three interrelated parts. The first part protects the territorial integrity of a sovereign State: “[N]othing in the foregoing paragraphs shall be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States. . . .”<sup>78</sup> This protection is not extended to all States. The rest of the provision singles out which States are entitled to this protection. The second part provides that only those States that are “conducting themselves in compliance with the principle of equal rights and self-determination of peoples enjoy this protection.”<sup>79</sup> To comply with the principle of equal rights and self-determination of peoples, the paragraph concludes, a State must possess “a government representing the whole people belonging to the territory without distinction as to race, creed or color.”<sup>80</sup>

The right of a State to territorial integrity is no longer unqualified. It is tempered by a corresponding duty which requires the State to provide a representative government to ensure equal rights and self-determination of all peoples under its territorial control. If people within a State have a representative government and enjoy human rights, those people are enjoying their equal rights and self-determination. Any attempt aimed at total or partial disintegration of the territorial integrity or political unity of the State is thereby prevented.

What happens if a State disregards the duties owed to its nationals? The Declaration on Friendly Relations provides all peoples in a plural society with a high degree of internal self-government to develop cultural, social, economic and political institutions. This is the basic tenet of the principle of equal rights and self-determination of peoples. The enjoyment of equal rights and self-determination is lacking in unrepresentative regimes controlled by dictators, military oligarchs or racist groups. So formulated, the Declaration neither recognizes the titles of these regimes over their peoples nor protects their territorial integrity. These regimes may not legitimately in-

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78. *Declaration on Friendly Relations*, *supra* note 50, at principle v, para. 7.

79. *Id.*

80. *Id.*

voke paragraph 7 of Principle V to preserve their territorial integrity and political unity. People within these States, deprived of their equal rights, may resort to any self-help remedy to reclaim their rights. The remedy employed may even dismember the territorial integrity and political unity of the State. Nonetheless, such action is justified by the regime's failure to comply with the principle of equal rights and self-determination of peoples.

Principle V of the Declaration on Friendly Relations thus creates a "check and balance" between the rights of States and of peoples. People are barred from contravening the political unity and territorial integrity of a State that respects their equal rights and self-determination. Conversely, a State is vulnerable if it suppresses the human rights of its nationals under the cloak of territorial integrity.

The Republic of Fiji is entitled to political unity and territorial integrity only if its government represents the whole population and provides adequate guarantees of equal rights and self-determination for all. But under the proposed guarantee of governmental power for the native, Fiji would not be in compliance with the principle of equal rights and self-determination. As such, Fiji would not be entitled to the insulation of territorial integrity under Principle V. The unrepresentative character of the proposed Fijian government and its potential violation of the principle of equal rights and self-determination makes the regime illegal. This illegality furnishes a justification for counteraction which may end up impairing the political unity and territorial integrity of Fiji.

Postulating that there would be no political future for nonindigenous Fijians, they may attempt secession to safeguard their rights, interests and values. Implementation of a new delimitation of the existing boundaries of Fiji would not be simple and orderly. Bitter and destructive use of force seems to be the usual pattern in every secessionist attempt. Should such an eventuality occur in Fiji, it would obviously have a radical impact on the *status quo* of regional peace and stability, and would undermine the global order.

### C. Regional Order

International law does not generally concern itself with the legality or illegality of domestic activities within a State. The constitutionality of a regime is not a legal criterion of its international personality, competence or recognition. A valid domestic act, however, may infringe on international law. Various acts of the South African government, for example, are legitimate under its national

laws, but are contrary to international law. This is because "State sovereignty represents no more than the competence, however wide, which States enjoy within the limits of international law," and every State is under a duty to bring its national laws and constitution into harmony with international law.<sup>81</sup> Viewed from this perspective, the constitutional status of the post-revolutionary regime in Fiji may be immaterial under international law. But any internal policy of the regime inconsistent with international law may be a matter of legitimate international concern.

International concern may grow even if the interests of other States are not directly involved or imperiled by the proposed constitutional guarantee in Fiji. The reason for this is that every State is expected to maintain a minimum standard of human rights for nationals. When States do not maintain this standard, international jurisdiction becomes operative. In this era of emphasis on human rights, systematic suppression of human rights in a State produces deprivatory effects not only on its own peoples, but also upon peoples outside the border who share the same expectations.<sup>82</sup> This is precisely why internal violation of human rights engenders international repercussions. The consistent deprivation of equal rights and internal self-determination of non-native Fijians may be a factor contributing to instability in the South Pacific.

### CONCLUSION

The proposed constitutional guarantee in Fiji will breach two principal objectives of the U.N.—the promotion and respect for human rights and fundamental freedoms for all, and the maintenance of international peace and security. As such, the overall situation will come well within the competence and jurisdiction of the world community and its forum—the U.N. The nature and content of the forthcoming Republican Constitution of Fiji may be an influential factor in the decisions of many members of the world community to either recognize or oppose the post revolutionary developments in Fiji.

The political unity of Fiji depends upon the success of racial inte-

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81. J.G. STARKE, *AN INTRODUCTION TO INTERNATIONAL LAW* 81 (7th ed. 1972).

82. In its advisory opinion in the Namibia case, the I.C.J. held that the condition of human rights within a state and the quality of international public order are interrelated. *Namibia (Namibia v. S. Afr.)*, 1971 I.C.J. 57, 72 (Advisory Opinion of June 21). Human rights cannot be consistently denied in a country without international consequences. See the Secretary General's statement in 8 U.N. MONTHLY CHRONICLE, Jan. 18, 1977, at 34.

gration in yielding a common Fijian national identity. Political unity will endure if national identity strengthens. To accomplish this, the identity, values, interests, and rights of all racial groups must be recognized in a constitution that creates a comprehensive identification with Fiji. All racial groups must have reasonable expectations that it will be more advantageous for them to remain within the existing Republic of Fiji. To this end, internal self-determination in the form of equal rights for the constituent racial groups is a viable and stable means of ensuring the political unity of multiracial Fiji.

This is not to assert that the native Fijians are not entitled to any constitutional protection for their indigenous rights. Indeed, there is growing concern for indigenous rights, interests, values and culture at the international level. This trend represents an advance in fundamental human rights of indigenous peoples throughout the world. Indigenous rights in Fiji may be protected effectively through positive and constructive means. One possible course is to enact a range of legislation protecting indigenous rights. Alternatively, various statutes under the 1970 Constitution, dealing with major rights of the native, may be amended to safeguard indigenous rights in more concrete terms. It is not necessary that the legislation be discriminatory and prejudicial.

All racial groups must have a right to participate in the governmental power structure of Fiji. Through this process all racial groups will become wholehearted citizens, showing their unqualified loyalty and allegiance to the Republic of Fiji. This arrangement will not only maximize the political unity and territorial integrity of Fiji, but will also minimize the disruption to the regional and world order. In performing these tasks, the Republic of Fiji is under a duty to bring all laws and the constitution in conformity with international law.