

# AMNESTY INTERNATIONAL

## Public Statement

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### **Fiji: Human rights protections must be upheld**

Amnesty International urged the Interim Government of Fiji to comply with its obligations under international human rights law as violations continue to be reported more than two months after a military coup in the country.

While the Fijian authorities have made repeated assurances about their human rights commitments since the coup on 5 December 2006, most notably in Interim Prime Minister Commodore Voreqe Bainimarama's statement on 19 January 2007, human rights provisions in the Fijian constitution are being violated under the state of emergency declared on 5 December 2006, which was most recently extended for a further 30 days on 5 February 2007.

The organization expressed particular concern at continuing reports of threats made against critics of the coup, arbitrary detention and torture and other cruel, inhuman or degrading treatment or punishment (other ill-treatment) of civil society activists and media professionals as well as other men and women.

Amnesty International is highly concerned over President Ratu Josefa Iloilo Uluivuda's announcement on 18 January 2007 of a decree, known as the Immunity (Fiji Military Government Intervention) Promulgation 2007, which granted "full and unconditional immunity from all criminal or civil or legal or military disciplinary or professional proceedings or consequences" to the Disciplined Forces in the country who were involved in the coup and all other persons who acted under their command, in the run-up to 5 December 2006 until 5 January 2007, the day after President Uluivuda resumed executive authority over the interim government. Despite repeated assurances by the Interim Attorney-General Aiyaz Sayed-Khaiyum that the Fiji Human Rights Commission would handle complaints of human rights violations with the government's full support, the fact that the persons covered by the above decree cannot be held accountable for any human rights violations that they may have committed seriously jeopardises the state of human rights and the rule of law in Fiji. This decree entrenches the legacy of impunity experienced in Fiji in recent times.

Whilst the above decree provides that victims of human rights violations since the coup could be granted *ex gratia* compensation, under the requirements of international law and standards, this is not an adequate substitute for full investigations and prosecution of suspected perpetrators, as well as reparations for the victims, including compensation the level of which is either agreed by the victims or set by the courts.

Amnesty International therefore urged the authorities to immediately repeal the Immunity (Fiji Military Government Intervention) Promulgation 2007.

The organisation noted the statement on 14 February 2007 by the Interim Attorney-General that any member of the military forces and the police found abusing their "powers or authority shall be disciplined by the respective agency" and that the military forces and the police will put in place measures to prevent "infringements of individual rights". All reports of human rights violations, including intimidation and threats against critics of the coup, and of torture and other ill-treatment of individuals taken into military custody,

must be investigated promptly, independently and effectively. The government should also reaffirm that the police force has the primary responsibility to receive and investigate complaints of human rights violations that may amount to crimes. Perpetrators of such violations, including those who ordered such violations and regardless of rank, must be brought to justice.

Amnesty International urged the authorities to not delay further an independent and impartial investigation into the death in military custody of Mr Nakelo Verebasaga. Mr Verebasaga, a land surveyor, was taken into military custody at the Queen Elizabeth Barracks on 5 January 2007. He was pronounced dead at the barracks hospital several hours later. The results of the investigation into the causes of his death should be made public and the individuals responsible for his death should be brought to justice.

According to reliable information, during the recently reported crackdown on suspected drug dealers and prostitution, several men and women were beaten up in military custody for allegedly growing marijuana. Additionally, there are concerns that sex workers may be at risk of sexual violence in detention. The organisation called on the Fijian authorities to ensure that they comply with Fiji's obligations under international human rights law and Fiji's own constitution, including full respect for the right not to be subjected to torture or other ill-treatment under any circumstances, and the right not to be arbitrarily detained.

Moreover, the military demonstrated blatant disregard for the rule of law when it placed the Chief Justice Daniel Fatiaki and Chief Magistrate Naomi Matanitobua on leave on 3 January 2007. A judiciary independent of the executive branch and not subject to dismissal by it is fundamental to the protection of human rights.

The military authorities have also repeatedly warned specific individuals to not incite the public against the government. Amnesty International urged the Fijian authorities to ensure that no one is prevented from or penalized for the peaceful exercise of their rights to freedom of expression, association or assembly. The organization underlined the need for all detentions to be subject to prompt and independent judicial control and the right to challenge the legal basis of such detention to be respected. Anyone who has been taken into custody must be released, unless charged within a reasonable time with a recognizably criminal offence and a civilian court has determined that there are compelling reasons that justify their continued detention.

The organisation further called on the Fijian authorities to ensure that all human rights defenders in Fiji are able to carry out their legitimate activities without fear of harassment, intimidation or arbitrary detention or other violations, in line with international human rights standards and constitutional guarantees for the protection of human rights.

## **Background**

Commodore Voreqe Bainimarama seized power from the Fiji government on 5 December 2006, following protracted disagreement with the Fiji government, which he accused of leniency towards those responsible for a coup in 2000 and other failings.

Fiji has had four coups in the last two decades. On 19 May 2000, an armed indigenous Fijian group held members of Parliament and the ethnic Indian Prime Minister hostage; the hostages were held for up to 56 days. Commodore Voreqe Bainimarama declared martial law, ended the hostage crisis and then transferred power to an interim civilian administration. At least 15 people were killed and thousands of civilians were displaced in the context of the coup. An attempted mutiny by military members suspected of seeking to remove the military commander and to free coup leaders not released on bail took place in November 2000, during which soldiers beat four of the mutineers to death. However, those responsible have not been brought to justice. The civilian administration deposed in the December 2006 coup had proposed widely opposed legislation to establish a Reconciliation and Unity Commission with the power to recommend amnesty for "politically motivated" crimes committed in connection with the May 2000 coup and to grant compensation to those affected by such crimes. The proposed legislation promoted impunity for human rights violations.