



# *Nadudukilagi*

Na Nodra i Tikotiko Vakaturaga na  
Gone Marama Bale na Roko Tui Dreketi  
Lomanikoro, Rewa

Ph: (679) 3684673

P.O. Box 3554, Nausori

Thursday 4<sup>th</sup> April, 2013

Col Pio Tikoduadua,  
Permanent Secretary for the Prime Minister's Office,  
Government Buildings,  
Victoria Parade,  
**SUVA.**

Dear Sir,

**Re: Submission on the Interim Government's Draft Constitution - 2013**

We, the undersigned, in our indigenous traditional roles as Turaga i Taukei, and on behalf of the people of the Vanua o Rewa, hereby register our gravest objection and opposition, in the strongest possible terms and in fact rejection of the Draft Constitution of the Interim Government, which was released on Thursday 21<sup>st</sup> March, 2013, on the following grounds:

1. Failure to acknowledge the important place in Fiji's history of the iTaukei distinctly as the first settlers, ahead of other ethnic groups who followed much later and now also call Fiji home.
2. Removal of entrenched legislations that had safeguarded indigenous institutions, resources, traditions and culture, and as well as the protection of their rights.

As customary chiefs we wish to remind you about the very reasons why this country was annexed as a Crown Colony in 1874 to Queen Victoria and her heirs and successors was to protect group rights of the iTaukei relating to our customary lands, our chiefly and customary institutions. Those rights were recognised within the Deed of Cession (clauses 4 and 7) and have remained entrenched in every constitution of this country until removed by the Draft Constitution of the Interim Government.

The removal of entrenched legislations could lead to the iTaukei losing control of their resources like land and traditional fishing grounds through a relatively simple process like amendments to legislation such as the Native Lands Act.

3. Termination of the Great Council of Chiefs (GCC), and removal of any role that it may play in the governance of the country as a whole, and as custodian of iTaukei traditions and culture.

At the 81<sup>st</sup> Cession of the UN Human Rights Committee for the Elimination of Racial Discrimination (CERD), members of the esteemed committee had warned that the termination of the GCC, the abstraction of the term 'Fijian', and the various amendments to the Fijian Affairs Act and the Native Lands Act to consolidate

Government control of these institutions was contrary to the purpose and intent of the ILO Convention 169 and 2007 UN Declaration of the Rights of Indigenous Peoples (UNDRIP). The 81<sup>st</sup> CERD Committee's resolution is a very strong indication to the Interim Government that it must consult fully with the Haukei and obtain their prior and informed consent before it changes any legislation or policy affecting them.

4. Failure to acknowledge the role of the Christian faith in the transformation of the country, and the establishment of the foundation of modern Fiji that is now enjoyed by all and sundry. Even with introduction of other religious groupings, Christianity is still by far the largest in the country up until today.
5. Severe limitations placed on many rights, and continuation of many decrees introduced by the Interim Government since it came into power that are repressive in nature, threaten human dignity and personal integrity, and that discourages public participation in community and national development.
6. Over concentration of power in the Prime Minister, and Attorney-General, in addition to the continuation of many decrees introduced by the Interim Government indicate continuing dictatorial type of leadership, and consolidation of powers that were obtained illegally.
7. There is no guarantee of independence for the judiciary with the Chief Justice to be appointed on the advice of the Prime Minister. The Chief Justice could therefore be subject to political interference, which could be avoided by having the appointment processed through an independent commission.
8. Key positions that are normally independent like the Director of Public Prosecutions, Auditor-General, Governor of the Reserve Bank, Commissioner of Police, Commissioner of Prisons, and Supervisor of Elections could be subject to political interference as they are to be appointed either by the Prime Minister or Attorney-General. These positions should be filled by the Public Service Commission or such other independent body like the Constitutional Officers Commission as in the 1997 Constitution.
9. The Prime Minister as Commander-in- Chief of the Republic of Fiji Military Forces (RFMF), and as the appointing authority for the Commander of the RFMF, along with the responsibility to be conferred on the RFMF under section 130 (2), for it to ensure at all times the security, defence and well being of Fiji and its residents, signals continued militarisation of the governance of the country while undermining the supremacy of an elected Parliament. The RFMF should be subject to control by and subservient to Parliament and Government, with its role to be defined by these institutions.
10. Immunity has no place in a country where everyone is equal before the law. Treason is the most serious offence in a democracy. There are people who have served or are still serving prison sentences for their role in the coup of 2000 in particular. It is only fair and proper that people who commit treason should be held to account and face severe punishment for the economic upheaval and social displacement that they cause. There should not be any exceptions for whatever reason. The inclusion of immunity in the Draft Constitution of the Interim Government provides for such exceptions and should be removed as it only encourages the continuation of the coup culture in Fiji when it is imperative and in everyone's interest that it be brought to an end.

11. There is no transparency in the process adopted by the Interim Government for public consultation on the Draft Constitution, which should rightfully be the responsibility of an independent body. There is no guarantee that public submissions will be taken into account when the Draft Constitution is finalised, to ensure that it properly reflects the will of the people.
12. There is no proper transitional arrangement for the return to a democratic form of Government. Under the terms of the Draft Constitution, the Interim Government will continue in office until a new Parliament meets following the proposed election that is due by the 30<sup>th</sup> of September, 2014. This could place them in a position to influence the outcome of the elections, especially with some of its members expected to participate, and with the wide ranging powers at their disposal.  
A transitional administration should be responsible for the conduct of the elections to ensure that it is free and fair before handing over to a Government that is elected by the people.
13. If adopted in its entirety, it will be almost impossible to amend the Draft Constitution of the Interim Government under its defined process. Any amendment will require support by three-quarters (75%) of the members of Parliament before it can be put for referendum by the Electoral Commission. Another three-quarters (75%) support by registered voters in the referendum is required before the amendment can be adopted. A more reasonable threshold would be two-thirds support on both occasions.

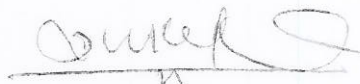
You will no doubt appreciate that our objection to, and rejection of the Draft Constitution of the Interim Government is based on the very good grounds that we have outlined above. In fact they reflect the position that we have held since the 5<sup>th</sup> of December, 2006. We have been consistent and steadfast in saying that the military takeover of the legally elected Government on that date was illegal.

Our position was vindicated when the Court of Appeal ruled along the same line on the 9<sup>th</sup> of April, 2009. The Court of Appeal also ruled that the 1997 Constitution remained the supreme law of the land, and that elections ought to be held under its provisions for the return to democracy.

We must reiterate our belief, and suggest for the Interim Government's consideration that the way forward for Fiji is as outlined in the Court of Appeal ruling noted above. If there are indeed good grounds for making changes to the 1997 Constitution as determined by the people then we would like to suggest further that such changes should be made by an elected Parliament.

Thank you for giving us the opportunity to make this submission. We look forward to your response, and an opportunity to discuss it with you.

Yours faithfully,



Ro Teimumu V. Kepa  
Na Gone Marama Bale na Roko Tui Dreketi  
Vanua ó Rewa  
Vale Levu  
Lomanikoro  
**REWA**



Ratu Isoa Damudamu  
Na Tui Noco (Veisosomitaki)  
Vanua ó Bureonoco  
Nabudrau  
**NOCO**



Dona Takalaiyale  
Na Liuliu ni SauTuraga (Veisosomitaki)  
Lomanikoro  
**REWA**



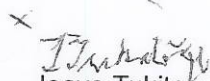
Ratu Meli Todua  
Na Tui Toga (Veisosomitaki)  
Vanua ó Naqavoka  
Navatuyaba  
**TOGA**



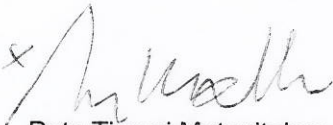
Saiasi Navulagilagi  
Na Tunidau (Veisosomitaki)  
Vanua ó Nadilo  
Muana-i-Cake  
**VUTIA**



Kimi Mudunavosa  
Na Tui Suva (Veisosomitaki)  
Vanua ó Nadonumai  
Suvavou  
**SUVA**



Joave Tukitoga  
Na Rokobaleni  
Vanua ó Navukavu  
Navukavu  
**MUAIVUSO**



Ratu Timoci Matanitobua  
Na Tui Sawau  
Vanua ó Nacurumoce  
Dakuibeqa  
**SAWAU**



Ratu Kevueli Tavainavesi  
Na Tui Raviravi  
Vanua ó Raralevu  
Nawaisomo  
**RAVIRAVI**