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COMMUNIQUE DE PRESSE - COMUNICADO DE PRENSA

Fiji Government Should Respect Rule of Law by Ending Emergency, Restoring Constitution and Judges, and Holding Timely Elections

16th April 2009

The International Commission of Jurists (ICJ) condemns the purported abrogation of the constitution in Fiji and the summary dismissal of the entire judiciary under the pretext of establishing a "New Legal Order."

On April 9 2009, Fiji's three-member Court of Appeal unanimously ruled that the current military regime had assumed power illegally following the coup in December 2006, and directed President Ratu Josefa Iloilo to replace the government of Commodore Frank Bainimarama with an interim administration until democracy could be restored through free and fair elections held as soon as possible.

Rather than comply with the Appeal Court's judgement, on April 10 President Iloilo purported to abrogate the constitution, reappointed Commodore Bainimarama to the post of prime minister for a period of 5 years, announced a "New Legal Order" under which all of Fiji's judges would be replaced, and indicated that elections will not be held until September 2014.

"By attacking the judiciary for fulfilling its role as guardian of the rule of law, the President of Fiji has erased the separation of powers and strengthened an unaccountable military regime," said Roger Normand, director of ICJ's Asia Pacific Programme.

In response, the Fiji Law Society has rejected the abrogation of the constitution and dismissal of judicial officers, calling on judges, magistrates and lawyers to continue working at the courts, and for lawyers to silently protest outside the courthouses. Following a protest by lawyers in Suva and Lautoka, the President of the Fiji Law Society, Dorsami Naidu, was detained by the authorities under the Public Emergency Regulations promulgated by the military government.

"I was released from detention after spending 24 hours in custody where I was threatened with charges of sedition," said Mr. Naidu. "But I was only speaking the truth. The majority of lawyers in Fiji do not recognise the abrogation of the constitution and do not acquiesce in the new legal order."

Commodore Bainimarama, the 2006 coup leader, has declared a 30-day state of emergency, granting police extraordinary powers to detain and arrest people, and instituting a pervasive system of military censorship. Under the state of emergency, the authorities can

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ban any news deemed likely to cause “disorder” or “promote disaffection or public alarm or undermine the Government or the state of Fiji.”

Under international law, a state of emergency may only be declared in response to a grave threat to the nation, and any emergency measures undertaken must be proportionate to such threat. The ICJ is deeply concerned that in Fiji the state of emergency is being used to perpetuate an unlawful regime, and that overbroad restrictions on free speech are being used to stifle legitimate political opposition.

“The President has no powers to abrogate the 1997 Constitution and dismiss the judiciary without the consent of the people of Fiji. Popular acquiescence to a new legal order can only be determined in the absence of fear, without the intimidation of the military junta, and in an environment where there is free and open debate and discussion,” said Imrana Jalal, ICJ Commissioner and former National Human Rights Commissioner of Fiji. “However, the regime is actively suppressing dissent through censorship and intimidation of the media and members of the legal community.”

It is reported that Ministry of Information censors, accompanied by uniformed police and military officials, are based at news outlets and have prohibited the publication of any information critical of the military regime. Most newspapers have refused to print any news of the political events and the ABC Australian radio station has had its transmitters cut off. This follows a pattern of suppression of media freedom by the Bainimarama government. In 2008, the publishers of The Fiji Times and the Fiji Sun were deported to Australia for articles calling for a return to democracy.

The ICJ calls for the immediate restoration of the constitution and reinstatement of the judiciary, and the revocation of the state of emergency and accompanying restrictions on human rights, especially freedom of expression. The ICJ further calls on the Government to respect the decision of the Fiji Court of Appeal and give way to an interim administration pending democratic elections.

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