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[Home](#) > FIJI: Stalemate in Fiji: Compromise is possible if both leaders genuinely desire.

FIJI: Stalemate in Fiji: Compromise is possible if both leaders genuinely desire.

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Paper 772

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by Dr. S. Chandrasekharan

It is more than a month since the Supreme Court delivered its verdict and true to his word, Prime minister Qarase wrote a formal letter inviting the FLP of Mahendra Chaudhry to join the cabinet. Since then, the two leaders have met many times to iron out their differences and now Qarase has given Chaudhry a deadline till the end of the month to respond to his invitation to join the multi party Cabinet, failing which Mr. Chaudhry would be deemed to have opted to be in opposition.

Chaudhry in the mean time appealed for regional intervention in a statement addressed to the Pacific Islands Forum which was in session in New Zealand. He drew another unfortunate parallel that if the group was using the declaration on security and governance to intervene in Solomon Islands, why that same declaration could not apply to Fiji. The situation in Solomon Islands is not the same as in Fiji whereas in the former, there was a total breakdown in law and order and other countries had to intervene to restore order. It is not the case in Fiji.

On 26th August, Radio Australia reported that Chaudhry had received a letter from Prime minister Qarase, agreeing to a meeting later this week. Chaudhry is also reported to have said that his party is entitled to 17 seats instead of 14 offered by the Prime minister and that if the meeting does not provide a solution, the Fiji Labour Party will return to the Supreme Court seeking further clarification. This would mean that the problem of a multi party cabinet may get prolonged.

It looks that the Supreme Court route is very much in the cards. It is already two years since the elections took place and political instability has continued. It was hoped that the Supreme Court verdict in favour of the Fiji Labour Party would once and for all settle the differences between the two leaders. But

what we see is that both leaders believe in confrontation and not reconciliation and the Supreme Court cannot help them in this matter.

Is the 1997 Constitution unworkable? So it seems and the two leaders on the opposite sides of the racial divide are out to prove it.

We have in the past consistently put forward the view that the 1997 Constitution is the best that could have happened to the Indo Fijians and that the constitution provides a fair share of power to all communities, with checks and balances so that no community however large or powerful gets an uneven advantage to the detriment of other communities.

Elsewhere in a detailed paper ([Paper no. 741 of SAAG](#) [1]), a point was made persuasively by Mr. Victor Lal of Oxford University that the 1997 Constitution had certain inherent problems and that the judges cannot be made to be veto players in politics. He added that the power sharing concept was from the post Apartheid South African Constitution where it had failed and that this concept had the elements of civil discord and political chaos.

It is not clear whether the differences between the two leaders are such that these cannot be narrowed. As Mike Beddoes has said - both leaders are posturing rather than trying to solve the country's political deadlock.

Some points of differences that have come to light are

- * Chaudhry's proposal is for a government of national unity (which he has publicly espoused) and this is not acceptable to Prime minister Qarase who would go strictly by the Supreme Court verdict on the multi party cabinet and Article 99 of the Constitution and nothing more.
- * According to Chaudhry, the portfolios offered are inadequate.
- * Chaudhry has criticised the large size of the cabinet. He said that the 36 member cabinet which is more than the total number of MPs in the house and if one adds the six assistant ministers there would be 42 office holders in a house of 71 which does not make sense.
- * Qarase is very clear that the size of the cabinet and the assignment of portfolios are the prerogatives of the Prime minister that cannot be interfered with. With regard to the number from the opposition, the Constitution is clear. It says that "In establishing the Cabinet, the Prime minister must invite all parties whose membership in the House of Representatives comprises at least 10 percent of the total membership of the House to be represented in the cabinet **in proportion to the numbers in the House.**" (emphasis ours)

The basic difference between Qarase and Chaudhry is in the interpretation and the intent of the 1997 Constitution which endeavours to give a fair share to all communities in the governance of the country. While Qarase would, now after the Supreme Court verdict and not before, prefer to follow the letter of the law, Chaudhry would prefer the cabinet to be a coalition one as a fore runner to peace, stability and racial unity.

Under Article 6 of the 1997 Constitution, certain principles though not justiciable have been made in the conduct of the government. Of these, there are three significant ones-

Sub section h says-*in the formation of a government, and in that government's conduct of the affairs of the nation through the promotion of legislation or the implementation of administrative policies full account is taken of the interests of all communities.*

Sub section i says- *to the extent that the interests of different communities are seen to conflict, all the interested parties negotiate in good faith in an endeavour to reach agreement.*

Sub section j says- *in those negotiations, the paramountcy of Fijian interests as protective principle continues to apply to ensure that the interests of the Fijian community are not subordinated to the interests of other communities.*

Taken together both Qarase and Chaudhry have valid points in their favour. While Qarase was the care taker minister, he created the SDL-(United Fiji Party) in an attempt to consolidate his support and unite the Fijian votes. His party in coalition with others obtained a majority which he considers as a mandate to protect Fijian interests. On the other hand, the Mahendra Chaudhry's FLP was started as a multi racial party though in actual fact in the current elections, its support has been mainly from the Indo Fijian community and he sees perhaps that a coalition cabinet on the lines of a government of national unity (GNU) is best for Indo Fijians.

This is the basic difference, but both could come down from their perch and accept a little compromise in the interest of the communities and the country.

Category:

Papers [2]

Countries:

Fiji [3]

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Links

[1] <file:///C:/Users/Sid/Desktop/saag/www/papers8/paper741.html>

[2] <http://www.southasiaanalysis.org/papers>

[3] <http://www.southasiaanalysis.org/fiji>