

REFUGEE STATUS APPEALS AUTHORITY
NEW ZEALAND

REFUGEE APPEAL NO. 72009/2000

AT AUCKLAND

Before: P Millar (Member)

Counsel for Appellant: Ms L Ramesh

Appearing for the NZIS No appearance

Date of Hearing: 14 July 2000

Date of Decision: 7 December 2000

DECISION

[1] This is an appeal against from a decision by a Refugee Status Officer of the Refugee Status Branch of the New Zealand Immigration Service (RSB), declining the grant of refugee status to the appellant, a national of the Republic of Fiji.

INTRODUCTION

[2] The appellant is a 42 year old Indian male who arrived in New Zealand on 25 April 1998 with his wife and two children. He applied for refugee status on 18 December 1998 and his application was declined by the RSO in a decision dated 13 April 2000. It is from this decision that he now appeals to this Authority.

[3] At the beginning of the appeal hearing the appellant stated that for the last five days he had been suffering from influenza and he requested that the hearing

be adjourned for one week as he did not feel well. The appellant said that he had not seen a doctor but had remained at home taking "home remedies". The appellant's representative asked that the hearing be adjourned while the appellant attempted to obtain a medical certificate in line with the Authority's requirements as set out at 25.1 of Practice Note 2/99 (1 October 1999). The Authority advised the appellant's representative that the medical certificate had to be provided before an application for an adjournment could be considered. As no such certificate had been provided and as the appellant's condition did not appear to the Authority to be such that he could not give evidence in the proper manner, the Authority advised the appellant's representative that the appeal hearing would proceed. From that point the appellant gave evidence in support of his refugee appeal without difficulty, responding fully and directly to the Authority's questions.

[4] By letter dated 28 September 2000, the Authority provided the appellant's representative with country information. The appellant was invited to provide submissions and evidence in relation to this information and his appeal generally by 13 October 2000. By letter dated 11 October 2000, the appellant's representative provided submissions and further country information. However, the appellant's representative also requested that the Authority allow more time for further country information to be produced on the appellant's behalf.

[5] By letter dated 13 October 2000, the Authority advised the appellant's representative that the Authority would allow until 17 November 2000 for any further information to be submitted. By letter dated 15 November 2000, the appellant's representative provided further country information but requested that the Authority grant an additional period of three months for further submissions to be made and further country information to be provided.

[6] By letter dated 16 November 2000, the Authority advised the appellant's representative that no further extensions of time would be allowed as the appellant's representative had already been granted an additional period of one month within which to provide further information.

[7] By letter dated 17 November 2000, the appellant's representative again provided further submissions and country information.

[8] All of the submissions and information received from the appellant's representative since the conclusion of the appeal hearing have been taken into consideration by this Authority in determining this appeal.

THE APPELLANT'S CASE

[9] The appellant married his wife in 1982 and has two children from that marriage. The appellant's parents are deceased and he has two brothers who live in Fiji and three sisters who live in other countries. His sisters left Fiji one or two years after the coup of 1987. One brother SUR, lives in Lautoka, and the other, SOL, lives in Suva. The brother SUR works as a driver for a freight company and the brother SOL works as a carpenter joiner.

[10] Although born in R, the appellant appears to have lived most of his life in Suva. The appellant attended school for 12 years and then commenced working for a carpentry business for five or six years. From that time he became an accounts clerk, working in a civil engineering company until that company closed in 1988. He was then unemployed for a few months before, in 1989 he began work for a private company as a credit controller. He did this work for one year before the company closed down and in 1991 commenced work for another private company as a credit controller. He ceased employment with this company in 1996 and then worked for a local newspaper as a credit controller, remaining with this organisation until one week before he left Fiji on 25 April 1998.

[11] In 1982, the appellant graduated from the Fiji School of Technology with a Certificate in Commercial Studies and also received a Business Accounting Certificate from the Fiji National Training Council. In 1993, the appellant received a Certificate in Business Studies from the same body.

[12] In 1987, on 13 or 14 May, the appellant was holding a Hindu prayer gathering at his home when a group of Fijians entered the house, pushed the appellant around, threatened the people present, and stole the family's food. The police attended the appellant's home but no arrests were made. The appellant believes this is because the police would not arrest Fijians. The appellant referred to another occasion in December 1987 when he was pushed by Fijians outside his home. Also, on two occasions, Fijians threw stones at his house, breaking the windows. The doors to the appellant's car on one occasion were damaged by Fijians, and on four or five occasions Fijians stole the appellant's wife's handbag.

The appellant complained to the police about the theft of his wife's handbag, but no action was taken. On one occasion, the appellant was robbed and his watch and wallet was stolen, and on several occasions he was threatened a number of times but not actually physically assaulted.

[13] The appellant also complained that his Fijian neighbours would often steal his clothes and vegetables and pull down the fence to his home. Prior to leaving New Zealand the appellant sold his house to Fijians at a great loss.

[14] The appellant also complained that when he was working for a communications company, certain Fijian officers were making decisions that should have been made by him. These persons would also write bad reports about the appellant which were provided to superior officers in the organisation.

[15] Since leaving Fiji the appellant has remained in contact with his brothers. Prior to the coup of May this year, the appellant's brother told him that crime was a problem in Fiji. However, the appellant did not claim his brothers had been the victims of crime. As concerns events during the coup, the appellant stated that his brother SUR told him over the telephone, two weeks prior to the appeal hearing, that people were not going to work, food was difficult to obtain, and he was working only three or four days per week as business was very quiet. SUR was also having problems in the housing estate where he was living in a village in Lautoka but did not elaborate due to the telephone calls being very expensive. SUR did not mention that he had been harmed but the appellant believed this is because SUR would be too scared to mention anything of this nature over the telephone believing that the telephone line would be tapped.

[16] One week prior to the appeal hearing, the appellant spoke to his brother SOL on the telephone who said that Fijians were going into houses in the neighbourhood and stealing property, and that in the last two or three weeks he could not find work and was living off his savings. Also, SOL's two children, who had worked in garment factories, were out of work. SOL did not mention that he had been attacked.

[17] The appellant is afraid that if he returns to Fiji he will not be able to find work and will be forced to pay very high rents to obtain accommodation which he did not believe he could afford.

THE ISSUES

[18] The Inclusion Clause in Article 1A(2) of the Refugee Convention relevantly provides that a refugee is a person who:-

"... owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence, is unable or, owing to such fear, is unwilling to return to it."

[19] In terms of *Refugee Appeal No. 70074/96* (17 September 1996), the principal issues are:

- (a) Objectively, on the facts as found, is there a real chance of the appellant being persecuted if returned to the country of nationality?
- (b) If the answer is yes, is there a Convention reason for that persecution?

ASSESSMENT OF THE APPELLANT'S CASE

[20] Before an assessment of the issues can be made the Authority must first assess the appellant's credibility. The Authority found the appellant to be reasonably sincere when giving evidence and accepts his account of events as credible.

[21] In the Authority's view, the isolated incidents of harassment and discrimination suffered by the appellant, even when considered cumulatively, do not amount to a sustained and systemic violation of core human rights entitlements the standard regarded in refugee law as amounting to persecution (see *Refugee Appeal No. 2039/1996* (12 February 1996)).

[22] Furthermore, there is no country information before the Authority that prior to the coup, Fiji-Indians were the victims of persecution. In this regard, according to the *United States Department of State* "Country Reports on Human Rights Practices for 1999: Fiji" (April 2000, obtained from internet 25 February 2000) ("the DOS report") Fiji-Indians were subjected to occasional harassment based on race but there were no credible allegations of government involvement in such incidents which the police investigated, sometimes resulting in arrests. The DOS report also states that Fiji-Indians encountered some discrimination in the civil service and

regarding land tenure, particularly in the case of Fiji Indian farmers. However, the DOS report contains no evidence that Fiji-Indians were subjected to persecution prior to the coup.

[23] Such a finding is consistent with the appellant's account of his life in Fiji in that he was the victim of some isolated harassment and theft and appears to have encountered some discrimination in his work, but remained employed throughout his life in Fiji and has not suffered any harm tantamount to persecution.

[24] At the appeal hearing, the Authority advised the appellant that it would refrain from determining his appeal for a brief period to enable the Authority to examine how events unfolded in Fiji in light of the coup led by George Speight on 19 May 2000. The Authority advised the appellant that after that period of time his representative would be provided with country information upon which the Authority would rely in determining his appeal. What follows is a summary of events compiled from country information available to the Authority concerning events surrounding the coup.

Summary

[25] On 19 May 2000, members of the Fijian Military's Counter Revolutionary Warfare Unit lead by George Speight and the CRW founder, retired Major Ilisoni Ligairi, stormed parliament and took a number of hostages including the Prime Minister ("Chronology of Key Events in Fiji's Coup Crisis" *Agence France Presse* 12 July 2000) NEXIS ("the AFP Chronology"). On that same date, the President Ratu Sir Kamisese Mara declared a state of emergency (see the AFP Chronology). On 29 May 2000, the Army Chief Commodore Frank Bainimarama declared martial law, assuming executive authority and giving troops 'shoot to kill' orders to enforce a curfew (see the AFP Chronology). On 28 June 2000, military authorities announced that they would rule Fiji for two years following the expiry of a deadline for Mr Speight to agree to an interim civilian administration (see the AFP Chronology). On 3 July 2000, the military named an interim civilian cabinet with no Fiji-Indian members, and which was rejected by Mr Speight (see the AFP Chronology). On 9 July 2000, Mr Speight signed an accord giving the Great Council of Chiefs power to name a new President and Vice President to take over from the military in exchange for which the hostages were to be released (see the AFP Chronology). On 13 July 2000, the interim Prime Minister Mr Laisenia Qarase, produced a "Blueprint for the protection of Fijian and

Rotuman rights and interests in their advancement and development” (obtained from the Internet <http://209.15.72.151/crisis/blueprint.pht3>). According to the blueprint, its objectives were to safeguard the paramountcy of Fijian and Rotuman interests in a multi-ethnic and multi-cultural society; to protect their interests in terms of land tenure, and to ensure that only indigenous Fijians could become President and Prime Minister of Fiji.

[26] Then, on 13 July 2000, all hostages were released and the military handed executive power to the new President Ratu Josefa Iloilo, the choice of Mr Speight but also the Great Council of Chiefs (Naomi Larkin “Freed PM Embraces His Captors” *New Zealand Herald* 14 July 2000, Section B1). On 19 July 2000, the new President named Laisenia Qarase as Prime Minister and his cabinet included one Fiji-Indian as an assistant minister and rebel supporters were reported to be excluded from key positions (“Spurned Speight Threatens Unrest” *New Zealand Herald* 19 July 2000, Section B1). The President stated that he was dedicated to promoting national unity and that he could not appoint a cabinet expressly committed to excluding Fiji-Indians but it was also unrealistic to reinstate the government in office prior to the coup in view of “widespread disaffection” with some of the policies of its leadership (“Spurned Speight Threatens Unrest” op cit). On 26 July 2000, Mr Speight was arrested by the Fijian military along with three others for breach of an amnesty pursuant to which they were to return all weapons (“Speight Arrested” *Fiji Live* 26 July 2000 <http://fijilive.net/news.pht3?art=26/26x.html>). The interim Prime Minister Mr Qarase stated that Fiji’s revised constitution would be different from the 1997 document in that the review will ensure that all citizens continue to enjoy fundamental freedoms and that although no-one will be disenfranchised, the new constitution would have to address the concerns and aspirations of indigenous Fijians (“New constitution to be ‘radically different’ ” *BBC Summary of World Broadcasts* 9 August 2000, NEXIS). On 17 August 2000, Mr Qarase announced that a new constitution would be in force by December 2001 and general elections would be held no less than one year after that time. (“Interim Premier sees new constitution by December 2001” *BBC Summary of World Broadcasts* 19 August 2000, NEXIS). Two members of the commission responsible for rewriting the constitution would be Fiji-Indians (“Fiji rebel leader denounces charges” *AP Online* 25 August 2000, NEXIS).

[27] As concerns attacks on Fiji-Indians during this period, the Authority is aware of the following incidents. On 20 May 2000, shops in the Suva business district, mostly owned by Fiji-Indians, were looted following which police and army set up road blocks and 269 people were arrested (“Suva shops sacked by looters”

Sunday Star Times 21 May 2000, Section B2). In the village of Vunikesi, 70 kilometres from Suva, a number of Fiji-Indian families were attacked, their homes pillaged and one Fiji-Indian woman raped (Tony Wall “Racist thugs terrorise village” *New Zealand Herald* 24 May 2000). The same report noted that Fijians declared themselves protectors of local Fiji-Indians in a nearby village of Gusuisaeu. In late June, a number of Fiji-Indian families from Muanikau, Muaniweni and Naitasiri, small villages in rural areas, had been attacked and their homes broken into, causing them to flee to Lautoka where they stayed in a refugee camp. (Rowena Singh “Refugees live in fear” *Sunday Times (Fiji)* 25 June 2000, 6 and “Thugs target farms” *Fiji Times* 30 June 2000, 3). However, the same reports state that police and army claimed they did not receive complaints of break-ins and they continually patrolled the area. Another report referred to village elders from these areas stating it was safe for Fiji-Indians to return there (Sanawaka Inoke “Who really suffers in the nation” *Fiji Daily Post*, 30 June 2000, 6).

[28] On 9 July 2000, (before the release of the hostages and the arrest of Mr Speight) rebels seized Korovou, a town 40 kilometres east of Suva, taking government officials, police and soldiers hostage, with groups of Fiji-Indians taken off buses and captured, and being clustered on the pavement (“Coup rebels seize village” *Sunday Star Times* 9 July 2000, Section B2). The same report indicates that rebels were occupying military barracks on Vanua Levu (“Coup rebels seize village” op cit) and also two police stations on that same island in Seaqqa and Savusavu (Malcolm Brown “Hostage set for freedom as Fiji gets a new President” *Sydney Morning Herald* 10 July 2000) <http://www.smh.com.au/news/0007/10page1/page104.html>). Villagers in Vailevu, Labasa, took over an Anglican church as a result of land grievances and on 12 July 2000, army mutineers and some civilians took over a police station in Labasa (“Labasa church taken over”: “Labasa police station taken over” (12 July 2000) <http://:209.15.72.151/news/2007/art.htm> *Fiji Village News*). One hundred Fiji-Indian families were forced from their homes and farms after being attacked by Fijians from the Dawasamu area of Tailevu, north of Suva, described as a stronghold of Mr Speight and as a fertile and quiet farming area (“Fijians driving ethnic Indians from homes: reports” *Agence France Presse* 17 July 2000) NEXIS. The Authority notes that this incident occurred prior to Mr Speight’s arrest.

[29] Rebels in Labasa seized approximately 50 Fiji-Indians in that town holding them at Labasa barracks, and armed Fijians were attacking shops and homes (“Ethnic Indians seized by Fiji rebels/military” *Agence France Presse* 27 July

2000). However, not long after, the Fijian army gave the rebels 24 hours to surrender or face the consequences (“Speight moved to remote island prison” *Sunday Star Times* 30 July 2000, Section B11). Then Fiji-Indians living in Dreketi Valley were being terrorised and in some cases kidnapped and their crops destroyed (“Nightmare in Fiji paradise as youths attack Indian families” *Agence France Presse* 1 August 2000). However, a military crackdown was launched leading to the arrest of 37 rebels (“Fiji rebellion claims another life” *Deutsche Presse-Agentur* 3 August 2000). Following the crackdown, a house owned by Fiji-Indians in Labasa was burned by suspected rebels, an incident being investigated by the army (“Troops surround five armed rebels” *New Zealand Herald* 11 August 2000, Section B1). The same report states a hundred rebels had been arrested on Vanua Levu during the crackdown after Indians were targeted by gangs in Labasa and Dreketi. Subsequent reports indicated that the military had stopped the harassment of Fiji-Indians on Vanua Levu and regained control of the barracks earlier seized by the rebels (“Tropical Alcatraz” *The Economist* 12 August 2000, 26). Furthermore, Fiji-Indian and Fijian families shared food in traditional ceremonies of reconciliation on Vanua Levu as a result of the army presence on that island normalising the situation (“Army winning back support of populace” *New Zealand Herald* 14 August 2000, Section B3).

[30] More recently, following these events a Fiji-Indian woman died in a suspected arson attack on her home following telephone threats made to Fiji-Indian families living in the area near Suva airport (“Fiji travel ban eased; woman dies in suspect arson attack” *Deutsche Presse-Agentur* 17 August 2000 NEXIS).

[31] Finally, the Authority notes that, concerning incidents of lawlessness generally, rebels shot and killed two police officers, injuring three others in an apparent ambush on 8 August 2000 outside of Suva (“Forces probe Fijian ‘ambush’.” *New Zealand Herald* 9 August 2000, Section B1). The gang responsible was believed to be made up of Speight supporters and responsible for “terror attacks” on Fiji Indians in that area (ibid). The military then set up roadblocks around Suva and the capital was tense but quiet; the military hunting 100 rebels and searching for 25 military weapons missing since the coup (ibid). However, not long after, on 10 August 2000, 400 Fiji troops surrounded the gang suspected as being responsible for the attack, in the centre of Viti Levu and the military was expecting to make arrests within 48 hours (“Troops surround five armed rebels” *New Zealand Herald* 11 August 2000, Section B1).

[32] In addition to this information the Authority has also considered the appellant's evidence that he has remained in contact with his brothers in Fiji during and after the coup but was not told that they had been attacked. Although he claimed that his brothers would not discuss these matters over the telephone because of their fear that their calls were being intercepted, in the Authority's view, given their willingness to relate other news of an adverse nature to the appellant, had they been attacked they would have told him of this. Accordingly, the Authority finds that neither of the appellant's brothers have been attacked during the coup nor since.

Assessment of risk for Fiji-Indians

[33] In the Authority's view, the country information demonstrates the following:

- (a) During and after the coup led by George Speight there were incidents of civil unrest and some Fiji-Indians were the victims of racially motivated attacks and harassment. However, apart from the single report concerning an arson attack on a Fiji Indian woman's home near Suva airport, these random attacks have occurred in small villages in what appear to be relatively isolated rural areas. The only significant exceptions to this pattern were the incidents in Labasa during which rebels occupied a military barracks and during which some Fiji-Indians in that area were the victims of racially motivated harassment and violence. However, the Authority notes that the Fijian military, soon after, seized control of the barracks and restored law and order to that part of Fiji. Overall, it would appear that a small number of Fiji-Indians out of a population of approximately 300,000 were actually the victims of any harm let alone persecution. Accordingly it is Fiji-Indians from small villages in rural areas who are most at risk of being the victims of racially motivated violence or harm on any scale tantamount to persecution.
- (b) In the Authority's view, the chance of Fiji-Indians from urban areas, such as the appellant, being the victims of such harm is remote and falls well below the level of a real chance. The Authority reaches this finding not only in view of the small number of Fiji-Indians who were subjected to attacks and the fact that those attacks occurred in rural areas but also because the military has now regained control of the country, affording protection to the Fiji-Indian population. In this regard, all hostages have now been released, Mr Speight has been arrested and a new government has been appointed

which has stated that while a new constitution is to be drafted which will favour Fijians, it is the government's intention that no-one in Fiji is to be disenfranchised. In the Authority's view, the most likely harm the appellant will encounter on return to Fiji will be the random and isolated harassment he encountered during his life there. As already stated, this does not amount to persecution.

[34] For these reasons, the Authority is of the view that the appellant's fear of persecution is not well-founded.

The appellant's representative's submissions

[35] Following the hearing, the appellant's representative provided a number of articles obtained from the Internet and other publications which simply referred to Fiji-Indians in villages in rural areas being the subject of attacks and none of which demonstrated the appellant's fear of persecution was well-founded.

[36] On 28 September 2000, the Authority provided the appellant's representative with the country information referred to above, and also advised of what was, at that stage, the Authority's provisional view that the appellant's fear of persecution was not well-founded. As stated at the beginning of this decision, submissions and evidence were provided by the appellant's representative and these are dealt with below.

(a) The appellant's representative submitted that the intentions of the current interim government of Fiji to produce a new constitution that will favour Fijians will lead to Fiji-Indians being disenfranchised and persecuted, the appellant's representative referring to country information to support this claim (The DOS reports for 1996, 1997, 1998; "Fiji: Uncertain future for justice and human rights" *Amnesty International* AI INDEX ASA 18/007/2000 – News Service Nr.138, 13 July 2000; "Fiji: Human rights under the interim military government" *Amnesty International* ASA 18/04/00 DISTR:SC,CO, 1 June 2000; "Fijians demand power says PM" *New Zealand Herald*, 11 October 2000, Section B3; "Politics with Victor Lal" *Dr Victor Lal*, undated, source unspecified; "Fiji: Wandering between two worlds" *B V Lal*, 1 June 2000, source unspecified). However, the country information referred to is either irrelevant or simply contains criticism of past efforts to discriminate in favour of Fijians and does not demonstrate that a

revised constitution will lead to this appellant suffering persecution. Discrimination in favour of Fijians existed for much of the time the appellant lived in Fiji and, as already stated, he has not suffered persecution. Furthermore, as already stated, the interim government has specifically stated that it does not intend to disenfranchise Fiji Indians and the country information before the Authority does not demonstrate that the current leadership intends otherwise.

- (b) The appellant's representative produced two newspaper articles in which the journalists concerned suggested that although Mr Speight was in custody, his ideas and aims would nevertheless prevail, including the eviction of Fiji-Indians from Fiji ("Speight in jail, but his ideas still figure in the post-coup Fiji" *Southland Times*, 17 August 2000; "Fiji slides into stagnant pond" *Sunday Star Times*, 16 July 2000, Edition A, p10). The Authority notes, however, that the current Fiji leadership has made no such claim and one could reasonably expect if Mr Speight held such influence with the current leadership he would not have been arrested and placed on trial. The claim made in the articles and by the appellant's representative is mere speculation unsupported by the country information on events in Fiji since the coup.
- (c) The appellant's representative submitted that the appellant's human rights would not be respected as there was no democratically elected government in Fiji. The appellant's representative put forward the following country information to support this submission: "Fiji faces expulsion without vote, says Goff" *The Dominion*, 9 September 2000, Edition 2, p2; "Standing up to the Commonwealth rebels" *The Evening Post*, 22 September 2000, Edition 3, p4; "Fiji and judiciary in dispute, *Northern Law News*, 10 November 2000; "Constitution case uproar" *Fiji Daily Post*, 14 November 2000; "Fiji slides into stagnant pond" *Sunday Star Times*, 16 July 2000, Edition A, p10). The appellant's representative also referred to the judgement of Gates J of the High Court in Lautoka, issued on 15 November 2000, in which his Honour held that the abrogation of the 1997 Constitution was illegal as was the appointment of the interim government by the military. Also referred to by the appellant's representative was the judge's criticism of Fijian judges who had assisted in drafting the decree made by the military government to take over Fiji. The Authority has considered the judgement of Gates J, and acknowledges the fact that the current government was not elected by the people of Fiji and that some judges are complicit in this state of affairs.

However, even though that is the case, the Authority remains of the view that, for the reasons already given, there is not a real chance this appellant will suffer persecution.

The military has taken effective control of the country and appointed an interim government which, although unelected, has stated that elections will be held and that Fiji Indians will not be disenfranchised as a result of constitutional measures to be taken to assist Fijians. Considering these matters and the fact that a small number of Fiji Indians actually suffered racially motivated harm during the height of the instability, the Authority is satisfied that sufficient protection is available to the appellant and his fear of persecution is not well founded.

- (d) The appellant's representative also submitted that the presumption of state protection could not be applied to Fiji in view of the illegality of the current interim government. The Authority finds that this has no bearing on the outcome of this appeal as the Authority does not rely on this presumption in finding that the appellant's fear of persecution is not well-founded. For the reasons given above, it is clear that there is not a real chance the appellant will suffer persecution in Fiji.
- (e) The appellant's representative submitted that Fiji remains unstable and in support of this submission referred to:
- warnings issued by the New Zealand government to its citizens to avoid non-essential travel in certain parts of Fiji (see "Tourists flock to 'unpredictable' Fiji" *The Dominion*, 30 September 2000, Edition 2, p3; "Tourists warned about holidays to Fiji" *The Evening Post*, 26 September 2000, Edition 3, p3);
 - the mugging of Gates J, the High Court judge in Lautoka, during which he was robbed;
 - an uprising within the military on 2 November (said to be attempt to assassinate Commodore Bainimarama) in which hostages were taken but subsequently released after order was restored, the former Prime Minister, Mr Rabuka being a subject of investigation for his role in the incident. (See "No more coups: army" *Fiji Daily Post*, 10 November 2000).

The appellant's representative submitted this latter incident was evidence of divisions among the indigenous Fijian population which have not been

resolved, and which, according to country information submitted by the appellant's representative, result in Fiji-Indians suffering harm (See "Fiji faces expulsion without vote, says Goff" *The Dominion*, 9 September 2000, Edition 2, p2; "An analysis of the current political crisis in Fiji" *T Teaiwa*, 22 May 2000, source unspecified).

In the Authority's view, these matters go no further than indicate that there may be divisions within the Fijian community between those who support Mr Speight and those who oppose him. However, the mutiny referred to above was rapidly quelled and, as already stated, the military has taken effective control of the country and appointed an interim government which has stated that Fiji Indians will not be disenfranchised. The country information does not demonstrate that there is a real chance Fiji will return to the instability of the time of the coup. At any rate, during the period of the coup and since then, it is Fiji Indians in isolated rural areas who bear the greatest risk of being the victims of racially motivated violence and continuing divisions in the Fijian community, which no doubt existed when the appellant lived in Fiji do not amount to evidence of a real chance this appellant will suffer persecution if he returns there.

Although the New Zealand government may have taken the step of warning its own citizens to take caution in travel to Fiji at this time, this does not demonstrate that the appellant's fear of persecution is well founded. When his fear is assessed in the light of the country information presented in the summary section of this decision it is clear that there is not a real chance he will suffer persecution.

The Authority regards the robbery of Gates J as no more than evidence that isolated robberies and attacks will continue in Fiji as they did when the appellant lived there. Such isolated and random incidents do not demonstrate that there is a real chance the appellant will suffer persecution.

The Authority adds that according to the article provided by the appellant's representative containing the warning from the New Zealand government, at the same time as issuing that warning, the government also stated that occasional attacks on Fiji-Indians continued in isolated areas. This merely confirms the Authority's view that it is Fiji-Indians from those areas who

have a greater risk of being harmed and not Fiji-Indians such as the appellant who have always lived in the urban areas.

- (f) The appellant's representative produced country information to the effect that increasing numbers of Fiji-Indian cane farmers had been and would be evicted from their lands on the expiry of their leases which their Fijian landlords refused to renew. In particular the appellant's representative referred to a camp being set up in Dreketi, in rural Vanua Levu, for Fiji-Indian families evicted from their farms, some of those families complaining of being harassed by gangs who had come to their homes demanding food, money and stock. The Authority acknowledges that Fiji-Indian farmers may be evicted from their lands if unable to renew their leases. However, the appellant has never derived an income from farming and has always lived in the cities where he has always been able to find employment. There is no country information before the Authority that Fiji-Indians living in urban areas are being evicted from their properties or that the appellant would be prohibited from obtaining accommodation because of his race should he return to Fiji. Accordingly, the eviction of a number of cane farmers in different parts of Fiji does not demonstrate this appellant's fear of persecution is well-founded.
- (g) The appellant's representative also provided country information ("Chaudhry pleads for Fiji refugee help" *The Press*, 8 August 2000, Edition 2, p3; "Chaudhry pushes case for refugees" *Evening Post*, 8 August 2000, Edition 3, p2) concerning appeals made by the former Prime Minister Mr Chaudhry for assistance to be given to Fiji-Indian farmers who had fled violence in rural areas of Fiji and remained in a refugee camp, which the Authority understands to be in Lautoka. Also provided by the appellant's representative was a newspaper article stating that the Fijian government would provide five thousand dollars per household for Fiji-Indian farmers who were the victims of violence during and after the coup. The assistance was said to be aimed at farmers currently on their farms or those expecting to return there. The appellant, as already stated, did not come from a rural area in Fiji and these matters do not demonstrate that his fear of persecution is well-founded. The Authority would note that if anything, this information demonstrates the government's willingness to take steps to protect Fiji-Indians in these areas.

[37] In his submissions, the appellant's representative submitted a number of articles and documents to which he made no specific reference in his submissions. The Authority notes that this information simply duplicates the information specifically referred to by the appellant's representative in his submissions and which the Authority has found does not amount to evidence that this appellant's fear of persecution is well founded.

[38] Since writing to the appellant's representative on 28 September 2000 the Authority has continued to review the situation in Fiji but finds that there is no country information which would cause the Authority to alter its view as to the risk of harm for Fiji-Indians; certainly no such country information was produced by the appellant's representative.

[39] The appellant's representative, as already stated, requested a further period of three months to provide country information. However, having closely examined the events of the coup and events occurring shortly thereafter, the Authority is satisfied that it is in a position to determine this appeal and no useful purpose would be served in delaying publication of a decision for such a further period. This is especially the case as the appellant's representative could provide no satisfactory reason nor country information demonstrating why the Authority should delay determination of this appeal for that further period.

[40] The Authority also notes that enclosed with the appellant's representative's submissions of 17 November 2000 was a "notice of intention to call a witness". In this regard, the appellant's representative requested that the Authority reconvene the appeal hearing to hear the evidence of the witness AB who is said to have been a member of the Fiji parliament for the period of one month prior to the coup in 1987, and a human rights activist involved in groups advocating the promotion of human rights in Fiji.

[41] Prior to receiving this notice, the Authority, on two separate occasions, advised the appellant's representative that, should he wish to have the Authority receive evidence from any witness, a statement of the evidence to be given must be provided to the Authority beforehand. Notwithstanding this specific instruction, no such statement was provided by the appellant's representative. Instead, the appellant's representative broadly submitted that this particular witness, through his past experiences, would, if called to give evidence, make a number of claims being the same as those made by the appellant's representative in his submissions.

[42] The Authority has carefully considered the appellant's representative's request but finds that no useful purpose would be served by reconvening the appeal hearing to take the evidence of this witness. The claims said to be made by this witness are no different from the arguments already put forward by the appellant's representative which the Authority, for the reasons already given, rejects and finds are of no assistance to this appellant.

[43] On the contrary, the Authority is firmly satisfied that it has been apprised of all relevant country information regarding the situation in Fiji, the Authority reaching the view, upon on the basis of that information, that the appellant's fear of persecution is not well-founded.

[44] In his various submissions, the appellant's representative put forward the oblique and incomprehensible submission that there had not been a "change in circumstances" in Fiji and that his client's fear of persecution was therefore well founded. It was not at all clear to the Authority precisely what was meant by this comment. The Authority can only reiterate that it has conducted thorough searches of country information to be apprised of conditions in Fiji for Fiji-Indians before, during and after the coup, and is thoroughly satisfied that for the reasons given above, there is not a real chance this appellant will suffer persecution if he returns to Fiji.

CONCLUSION

[45] Objectively, on the facts as found, there is not a real chance that the appellant will suffer persecution if he returns to Fiji.

[46] For the reasons given above, the appellant is not a refugee within the meaning of Article 1A(2) of the Refugee Convention. Refugee status is declined. The appeal is dismissed.

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[P Millar]
Member