

PRESS RELEASE

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FUJI PROVIDES WARNING AGAINST INTERNATIONAL
"RACIALISM AND POPULISM", SAYS KIRBY

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**FJI PROVIDES WARNING AGAINST INTERNATIONAL
"RACIALISM AND POPULISM", SAYS KIRBY**

Justice Michael Kirby tonight called for continuing Australian pressure to improve basic human rights in Fiji. He was delivering the inaugural Tomoci Bavadra Lecture at Parliament House, Canberra. Justice Kirby is President of the Australian Section of the International Commission of Jurists. He is also a member of the Executive Committee of that Geneva based body. He was one of the signatories to a recent statement on the new constitution of Fiji criticising many of its features. Other signatories included Mr Gough Whitlam, Mr Don Dunstan, Mr John Dowd, the former Senator Janine Haines and Justice Kenneth Handley (NSW).

Justice Kirby said that a report issued by Amnesty International in London last week concluded that human rights were being seriously violated in Fiji. The report states that civil rights activists and journalists called before the courts in Fiji would be Fiji's first "prisoners of conscience" if they were convicted and imprisoned. The Amnesty report found that the accused had been charged for the non-violent exercise of their rights to freedom of expression, association and assembly even though these rights

were purportedly guaranteed under the "constitution" proclaimed by the Fiji régime.

Justice Kirby said that the International Commission of Jurists was greatly concerned about respect for the rule of law, protection of human rights and the independence of the judiciary and of lawyers in Fiji. He said that on all counts the situation in Fiji gave grave cause for concern".

Justice Kirby said that the 20th anniversary of the 1970 Fiji independence constitution had recently passed. No legal procedure had ever been adopted to revoke that constitution. Specifically, the new "constitution" proclaimed by the Fiji régime had no legitimacy either legal or popular. It had not been submitted to a referendum as the draft of the Australian constitution was before it was adopted in 1901 and as most modern constitutions are. Nor had it been established legally. It was established "at the point of the guns of the military force". That force had breached their oath of loyalty to the Queen and to the 1970 constitution.

"The legitimacy of the new constitution derives from nothing more than a military coup in which the rule of law was overthrown and since which human rights have been repeatedly abused in Fiji."

Justice Kirby said that the independence of the judiciary had also been attacked by the new régime. A Fijian judge of great distinction and integrity had been abused and humiliated, imprisoned and finally encouraged to leave Fiji. His only offence was his Indian ethnicity and his willingness

to speak up in court for observance of legality and the 1970 Constitution.

Justice Kirby said that the new 1990 "constitution" contained many serious flaws.

* It was permanently weighted against Fijians living in towns, who had voted for Dr Bavadra or who had abstained from voting for Ratu Mara's Alliance Party and were thus seen as a threat to the controlling oligarchy;

* It provided the Fiji military forces with "the overall responsibility ... to ensure at all times the security, defence and well-being of Fiji and its peoples". The military's notion of "well-being" might not be shared by the people themselves;

* It was heavily biased against the Indian population with 27 seats to 37 for Fijians although of roughly equal numbers in the population; and

* It had no legitimacy, being nothing more than a decree of those in de facto power.

Justice Kirby said that Dr Bavadra had been unlawfully deprived of office which had been democratically achieved by popular election. It was a tragedy that he had died. However his widow Adi Kuini Bavadra was valiantly continuing his struggle for constitutional principle and a truly multi-racial Fiji.

Justice Kirby said that the Australian Foreign Minister, Senator Evans, was to be congratulated for pointing out to the Fijian leadership that there was widespread concern throughout Australia about the position in Fiji. He said that the matter was one which transcended Party politics. The recent statement on Fiji had been signed by persons of different political persuasion or of none. It was important to send a message to people in Fiji of all races that Australians were concerned.

Justice Kirby also said that the developments in Fiji must be understood "in the context of wider global moves towards dangerous nationalism and populism". He said that it would be a tragedy if the libertarian developments in the Soviet Union and Eastern Europe were to descend into a revival of "old racial hatreds border disputes and populist politics" such as had been "all too evident" in the recent developments in Fiji.

Justice Kirby, who has just returned from a meeting in Budapest, Hungary, with representatives from all countries in Central and Eastern Europe said that concern about revival of nationalism, racial and linguistic tensions and political populism was expressed freely at the meeting. He said that developments in Fiji were a "tragedy" and that they provided a forewarning against similar developments elsewhere. He urged that Australians and Fijians should reflect upon this fact and particularly one year after the death of Dr Bavadra who had "fought valiantly" against these tendencies and for multi-racial democracy in Fiji.

For contact with Justice Kirby's office
telephone (02) 230 8203, fax (02) 235 1006.