

Guarding the Guardians
Accountability and Anticorruption
in Fiji's Cleanup Campaign



PETER LARMOUR



EAST-WEST CENTER

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Guarding the Guardians

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Executive Summary

An avowed purpose of the Royal Fiji Military Force's coup in December 2006 was to root out and clean up what it alleged was widespread corruption. In this policy paper, Peter Larmour examines the vices and virtues of anti-corruption campaigns, and how the military government under Commander Voreqe "Frank" Bainimarama approached the issue of corruption during its first few months in power.

First, it considers how much corruption there was in Fiji before the coup. Second, it analyzes the 2007 cleanup campaign: the purges, complaints, and investigations that culminated in the establishment of a Fiji Independent Commission Against Corruption (FICAC). Third, it explores who watches over powerful institutions in Fiji: the police, the ICAC, the president, and other agencies. The essay concludes by offering comparisons with anti-corruption efforts in other countries, particularly in the Pacific Islands region.

Based on publicly available sources, corruption in Fiji is examined at both the conceptual and operational levels. Larmour notes a striking difference between reports of public perception of corruption and reported personal experience with corruption. He underscores that public perception of corruption is not tantamount to legally actionable evidence of corruption, a significant challenge that confronted Fiji's military.

During 2007, the cleanup campaign government adopted several methods: purging of senior officials and board members; gathering of public complaints; and investigating by police, soldiers, auditors, or ad hoc committees. While it remains to be seen what the outcomes of these cascading and open-ended investigations will be, concerns have been raised about due process. Moreover, in the face of a compromised judiciary and the absence of a functioning parliament, there is little oversight. To the extent that the military has attempted to restrain the media, this too has weakened public trust. Without a system of checks and balances, an increasingly critical question for the anti-corruption campaign becomes "Who will guard the guardians?"

Guarding the Guardians

Accountability and Anticorruption in Fiji's Cleanup Campaign

Introduction

Like many other coup leaders, those who instigated Fiji's December 2006 coup justified their actions in terms of ridding government of corruption. There were other reasons for the coup, (Lal 2007, Fraenkel 2007), but this paper is concerned with the regime's objective to rid government of alleged pervasive corruption at all levels. As leader of the Royal Fiji Military Forces (RFMF), Commodore Voreqe "Frank" Bainimarama prior to the coup had pressured the civilian government, warning, "If the government is not going to take on this cleanup campaign, the military will do it for them" (*Fiji Times* December 1, 2006).

Bainimarama was referring to the then-ruling Soqosoqo Duavata ni Lewenivanua (SDL), the United Fijian Party, which had originally been created as a vehicle for the interim civilian-led government that Bainimarama himself had installed in the turmoil that followed the previous coup in 2000. Under Prime Minister Laisenia Qarase the SDL had gone on to win general elections in 2001 and 2006. During this time aid donors and development banks became increasingly vocal about government corruption in the region. Adopting their rhetoric of "good governance," Bainimarama told the people of Fiji that government had become deeply corrupt.

Because anti-corruption campaigns oppose the inherent badness of corruption, they often escape critical evaluation.

This paper explores what this case shows about the vices as well as virtues of anti-corruption campaigns. There is a new international interest in corruption, and a huge scholarly literature on this subject (e.g., Heidenheimer et al. 1989). There is also a smaller literature on anti-corruption campaigns; for example, Akos Szilagyi has analyzed the role of *compromat* (compromising

materials) in the ruthlessly personal, tit-for-tat politics of post-communist Russia (2002). Because anti-corruption campaigns oppose the inherent badness of corruption, they often escape critical evaluation. Yet such campaigns may displace attention from policy issues; reduce government effectiveness (Anechiarico and Jacobs 1996); undermine fledgling democracies (Tisne and Smilov 2004); or covertly reshape institutions in the image of the West (Hindess 2005).

A key question that emerges from this literature is “Who guards the guardians?” The accountability question is an old and fundamental one in politics. Who will protect us from leaders—democratic as well as authoritarian—who abuse their power? It is a pertinent question to ask of coup leaders who appoint themselves as guardians, particularly since Parliament was suspended and the media was constrained.

The first part of this essay considers the extent of corruption in Fiji before the coup. The second analyzes the 2007 cleanup campaign: the purges,

**Who will protect us from leaders—
democratic as well as authoritarian—
who abuse their power?**

complaints, and investigations that culminated in the promulgation of a Fiji Independent Commission Against Corruption (FICAC). The third considers who guards the guardians in Fiji: the

police, the FICAC, the president, and other agencies. The paper then offers comparisons with anticorruption in other countries, particularly in the region, and draws conclusions. At the time of this writing elections have not been held and Fiji remains under military rule.

This study of Fiji draws on broader research about anti-corruption agencies, funded by the Australia Research Council, and a course on anticorruption. In the interest of full disclosure, it should be noted that I am a member of Transparency International’s Australian chapter. A significant source of information for events during the post-coup period is the *Fiji Times* newspaper, which I read systematically from December 1, 2006, through early April 2007. This was the period between military intervention and the announcement of the FICAC. The *Fiji Times*, owned by Rupert Murdoch, is the only one of Fiji’s three English-language newspapers regularly available overseas. I have supplemented this with documents available online, and references to the *Fiji Times* online until June 2007, and two recent reviews of the coup by Brij Lal (2007) and Jon Fraenkel (2007). I have not used information found in online blogs as these were hard to verify. The daily newspaper no doubt reflects the views and judgments (including self censorship) of journalists and editors. Initially, there were military attempts to deport the editor of the rival *Daily Post*, and to track down letter writers (*Fiji Times* March 25, 2007) and—later—bloggers. The *Fiji Times* reported that “a few journalists had been taken in by the military on

different occasions to be questioned” (*Fiji Times* March 13, 2007). In February 2008 *Fiji Sun* publisher Russell Hunter was deported after the paper published articles alleging that the interim government’s finance minister, Mahendra Chaudhry, hid some personal income. Subsequently, the *Fiji Times*’ publisher, Evan Hannah, was on very short notice forced to leave.

How Much Corruption Exists in Fiji?

“Corruption” is a strong but vague word in English, involving moral condemnation and a sense of decay. Sometimes domestic law does not define corruption as such, merely particular offenses that are easier to define and prosecute. Hong Kong’s Independent Commission Against Corruption (ICAC), which provides an influential model for other countries, works through a Prevention of Bribery Ordinance that applies to the “unauthorized receipt of benefits,” in both the public and private sectors. In Fiji, the FICAC and its companion anti-bribery promulgation follow a similar route. They provide no definition of corruption as such and, unlike in Hong Kong, limit their attention to the public sector. By contrast, the New South Wales ICAC legislation leans toward concerns about political partisanship. It defines corruption in terms of the “dishonest and partial” exercise of public office, and then lists acts such as bribery that may count as corruption.

It is hard to think about corruption without thinking about the proper relationship between government and business.

The new international concern with corruption is mainly economic. The World Bank’s definition of corruption sees it as a blurring of the proper division between public and private sector: “The use of public office for private gain.” So it is hard to think about corruption without thinking about the proper relationship between government and business, and—in Fiji—the public enterprises and indigenous corporations that straddle the line between them. The National Bank of Fiji,¹ for example, had already been brought down by incautious lending and corruption, and now the National Provident Fund retirement program is a particular cause for alarm.

Most people are against corruption but there are differences in what they count as corrupt activities. Newspapers and public opinion may take a different view than the law in terms of personal as well as official indiscretions, and petty as well as serious offenses. The self-appointed interim prime minister,

¹ For information on the National Bank of Fiji debacle, see the Archives of *Pacific Islands Report* at: archives.pireport.org.

Commodore Bainimarama, took a broad moral view, accusing the officials he purged of “lack of moral strength or incompetence or abuse of power and privileges and funds: ‘Basically they were corrupt’” (*Fiji Times Online* June 17, 2007). As will be expanded upon below, in the absence of a legal or policy framework, Fiji’s anti-corruption campaign initially took a broad, scattergun approach, responding to all sorts of rumors and complaints about the public and private sectors.

A persistent issue in Fiji, as in other parts of the Pacific, is the role played by traditional institutions and values. What exactly counts as “corrupt” in the context of traditional institutions and customary practices (Larmour 2006)?

**When does deference to chiefs
become undue pressure on voters?**

The problems of distinguishing *kere kere* (gifts) from bribes, or “caring and sharing” from nepotism and favoritism are familiar. When does deference to chiefs

become undue pressure on voters? Corruption is often a matter of drawing a line, rather than a simple question of either/or. Courts in Kiribati, for example, have been drawing careful lines between traditional gifts and bribes in election campaigns (Larmour 1997).

As corruption often takes place in secrecy, it is hard to say with certainty how much corruption existed in Fiji before the coup. A study carried out in 2001 for Transparency International (TI) identified several types of corruption that are as prevalent in Fiji, and provided examples or instances (Olaks Consulting 2001):

- **Kickbacks.** Extra payments for permits and licenses were “widely known to exist” though people were reluctant to come forward and complain. Sometimes services were deliberately provided slowly to elicit payments.
- **Greasing palms.** Bribes to officials in the Land Transport Authority (which certifies motor vehicles), as well as those in the Revenue and Customs Authority. For example, a customs official who died accidentally was said to have been found with large amounts of unexplained cash.
- **Nepotism/Cronyism.** Favoritism in recruitment, promotion, contracting, and outsourcing, facilitated by the public sector reforms of the 1990s, which delegated authority from the Public Service Commission.
- **Pulling rank.** Individuals used their high political or social status to bend the rules in their favor.
- **Unfair and unethical decisions on procurement.** Decisions were based on political interference.
- **Misuse and abuse of public funds.** Delegations had not been clearly communicated or monitored (e.g., in the National Bank of Fiji scandal).

There was also said to be corruption in the private sector, particularly:

- Overpricing by importers, by purchasing through offshore entities
- Bribery of supervising officials (Olaks Consulting 2001, 8–9)

Transparency International’s Corruption Perceptions Index (CPI), which is based on perceptions of journalists and investment risk analysts, in 2005 rated Fiji a below-average 4 on a scale of 0–10, with 10 being “highly clean” and 0 “highly corrupt.” This is relatively modest compared to other developing countries, which tend to cluster toward the “highly corrupt” end of TI’s scale. Fiji ranked 55 out of 158 states, on par with Bulgaria, Colombia, and the Seychelles (Transparency International 2005). Fiji was not included in either CPI 2006 or 2007. The index is not based on documentary evidence that would be of value to court prosecutions of individuals.

There are strong public perceptions of corruption within Fiji, and the military in launching the coup played to these sentiments. A survey of popular opinion in Fiji carried out for TI’s Global Corruption Barometer in August 2006 found that 47 percent of the population believed that “political life” was affected by corruption “to a large extent” (compared to 40 percent for “business environment” and 22 percent for “personal and family life”) (Tebbutt Research 2006). Among those who believe political life to be significantly affected by corruption, political parties were seen as most affected, and religious organizations least. Some sectors were perceived as more corrupt than others (see table 1). However, much smaller percentages of people who had dealings with each sector admitted to ever personally paying a bribe. Table 1 also shows Fiji doing the same, or better, than the worldwide average of bribery experience for each sector.

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The difference between perceptions and experience is striking. If the survey is correct, it suggests that people are not owning up to bribes they have paid, or that perceptions of corruption may be running ahead of actual instances of it. When presenting its survey results TI Fiji commented, “Many of the views seemed to reflect the experience of others because few people said they paid bribes although corruption took many forms other than bribery” (*Fiji Times* March 24, 2007). Yet it was bribery that the FICAC would target.

The TI survey found a closer correspondence between suspicion and experience of bribery in the questions it asked about the legal system. Fifteen percent

Table 1. Perception of Corruption and Bribes Paid by Sector in Fiji

| <i>Sector</i> | <i>Percent of Fiji population that perceived the sector as “extremely corrupt”</i> | <i>Percent of Fiji population that paid a bribe (of those who had contact with the sector)</i> | <i>Percent of world population that paid a bribe (worldwide average including Fiji)</i> |
|----------------------|--|--|---|
| Tax revenue | 25 | 3 | 3 |
| Utilities | 25 | 1 | 5 |
| Registry and Permits | 18 | 4 | 9 |
| Police | 22 | 7 | 17 |
| Medical Services | 20 | 2 | 6 |
| Legal/Judiciary | 19 | 5 | 8 |
| Education system | 19 | 1 | 5 |

Source: Tebbutt Research 2006 and Transparency International 2006.

of the people asked agreed that “the justice system is corrupt.” Eighteen percent thought that one needed to pay a bribe to get a “fair judgment,” with lawyers and the police being regarded as the people one had to bribe. Seventeen percent reportedly knew of a specific case of bribery (Tebbutt Research 2006). The report of a visiting mission by LAWASIA—the Law Association for Asia and the Pacific, a regional professional nongovernmental organization (NGO)—noted “allegations of corruption” in the Magistrates courts, and a danger that it might become institutionalized (LAWASIA 2007, 19).

Experienced academic observers of Fiji, like Brij Lal or Jon Fraenkel, mostly concurred, in a qualified way, with these popular perceptions. Lal referred to the “massive scam” in the Ministry of Agriculture before the 2001 election,

Suspicious and allegations are aggravated by gossip and rumor—the ‘folklore of corruption.’

and commented that “evidence” of corruption (or mere incompetence and sheer carelessness) was everywhere (2007, 137). Fraenkel argued that “In one sense, corruption under the deposed government

was well known; especially in the government tendering process, in the immigration department, in the Native Lands Trust board, in the affirmative action campaigns and at the interface between foreign investors and government” (2007, 429).

Suspicious and allegations are aggravated by gossip and rumor—what Myrdal (1968) calls the “folklore of corruption.” Attorney Richard Naidu argued that, in deciding who to investigate and interrogate, “The military seems to be relying on gossip and rumour, just as everyone else in Fiji tends to

do” (*Fiji Times* December 18, 2006). Fiji traditionally has had a lively independent media, ready to report on unsubstantiated allegations of corruption—part of the media’s willing participation in fueling anti-corruption campaigns discussed more below. The proliferation of Internet blogs has tended to speed up the process.

University of the South Pacific (USP) political sociologist Steven Ratuva analyzed the low-level rumor mongering that ran in parallel with the high-level legal and constitutional arguments around the coup. Rumors about the misbehavior of leaders and their relatives, he wrote, were easy to start but almost impossible to stop. Some were based on real situations, some distorted, and some pure fantasies—but it was hard to tell which was which. Ratuva found the rumor mongering had been worse in the 2000 coup, but the availability of email had provided new opportunities for those for and against the 2006 coup. Members of the middle class intelligentsia were the worst offenders (Ratuva in *Fiji Times* January 15, 2007; see also Singh in *Fiji Times* February 2, 2007).

In Fiji, concern with corruption also carries with it a racial/ethnic/indigenous overtone—for example, in objections raised about affirmative action programs that favored indigenous citizens in scholarships, licensing, and land ownership (Cottrell and Ghai 2007). Fiji’s best-documented scandal, over the National Bank of Fiji, allegedly involved concessional loans to indigenous enterprises and to the relatives of bank officials (Grynberg, Munro, and White 2002). And Prime Minister Qarase and his gov-

Fiji’s best-documented scandal, over the National Bank of Fiji, allegedly involved concessional loans to indigenous enterprises and to the relatives of bank officials.

ernment leaned strongly toward indigenous interests. Resentment about affirmative action presumably contributed to the initial welcome many Indo-Fijians gave to the coup. More generally, divisions within and between groups, an electoral system that encourages appeals to communal feelings, and a legacy of distrust since earlier coups may have made members of every group exaggeratedly suspicious of corruption among the other racial, ethnic, religious, or provincial groups.

Allegations of corruption may also increase with visible economic inequalities among individuals or groups. Ivan Krastev (2004) noted that in former socialist countries, a neighbor’s sudden increase in wealth was more easily attributed to corruption, than merit, luck, or the workings of the market. Similar inequalities have been emerging in Fiji. Generational differences may also be growing. Younger people may be getting tired of the elderly, masculine, and rustic style of what one correspondent called “kava drinking

politicians.” Professionals of all kinds—military, academic, and legal—often display impatience with the compromises, backroom deals, and popular accountability involved in the practice of electoral politics, democracy, or even “politics” more generally—so-called “anti-politics” (Hindess 1997). Changes in party politics in Fiji may also have contributed to a heightened visibility of corruption.

The Cleanup Campaign

In the weeks and months following the December 5, 2006 coup, citizens anxiously awaited signals regarding how the military would proceed with its promises to rid Fiji of corruption. The cleanup campaign adopted several methods: purging of senior officials and board members; gathering of public complaints; and investigating by police, soldiers, auditors, or ad hoc committees. The interim Attorney General Aiyaz Sayed-Khaiyum moved quickly to establish the FICAC promised by the previous government.

Purges

The military government initiated different types of purges: of the levers of state power; of the governing party; and of chief executive officers (CEOs) and board members of state bodies. Students and staff also questioned the senior staff of their own educational institutions.

Levers of State Power. The first purge was essential to any coup, sidelining officials and organizations that might resist the instructions of the military: the chair of the Public Service Commission; the acting police commissioner (the commissioner was overseas); the deputy police commissioner; the assistant police commissioner responsible for combating crime; the supervisor of elections; and the solicitor general.

The long-serving head of the civil service, Jioji Kotobalavu, gracefully stepped down when the deposed prime minister returned to his home village, as if facing a democratic change of government. The only resistance to this first stage was from the Ministry of Finance CEO, Paula Uluinaceva. He bravely tried to limit the military’s capacity to govern by setting a limit to the amount departments could spend without authorization, but within weeks was relieved by the military. Later, Deputy Solicitor General Savenaca Banuve resigned “for personal reasons,” though the *Fiji Times* reported about a blog saying he had been reluctant to defend the interim regime against cases brought against the junta (*Fiji Times* May 11, 2007). Supervisor of Elections

Semesa Karavaki also later protested the unconstitutionality of his sacking. Several ambassadors were recalled within the next few months (*Fiji Times* May 11, 2007).

Comodore Bainimarama also replaced Ati Litia Qionibaravi with his own brother Ratu Meli Bainimarama as chief executive of the Fijian Affairs Board (*Fiji Times* December 15, 2006). The interim government later suspended the constitutionally recognized Great Council of Chiefs, after it refused to accept Bainimarama's nominee for vice president to replace Ratu Joni Madraiwiwi, who had resigned in protest against the coup. The RFMF sent Chief Justice Daniel Fatiaki and the Chief Magistrate Naomi Lomaiviti on leave (though the latter was allowed to return). Fatiaki controlled an important lever of state power, but the military was said to be particularly resentful of his alleged role in facilitating the 2000 coup.

The Governing Party. Soon after the coup was launched in December members of Parliament were summarily dismissed, and the military government also targeted officers of the SDL. SDL political advisers were sacked (*Fiji Times* December 19, 2006), and a number of former SDL officials were gathered up with NGO leaders for questioning at the barracks (*Fiji Times* December 11, 2006). The SDL national campaign director during the 2006 election, Jale Baba, was detained, questioned, and subjected to what he called “psychological bullying” for two days about the vote-rigging allegations and reports that he had allegedly sold a government vehicle. Notably the election had already been declared “credible” by a Commonwealth Observer Group organized to monitor the election, and Baba denied both the political and personal allegations (*Fiji Times* January 28, 2007).

Bainimarama argued that business people perceived that “things do not get facilitated in Fiji without money changing hands.” He cited an “initiative masterminded by Qarase and his Cabinet ministers to collect money and donations from rich businesses to fund their 2006 election campaign” (*Fiji Times* December 16, 2006).² The RFMF was fascinated with the details of SDL's

² A long article in the *Fiji Times* (February 1, 2007) provided a partial glimpse of SDL party funding. Each candidate had been expected to contribute FJD10,000 to the party, while funding their own expenses. One candidate, Mere Samisoni, described how she had paid her FJD10,000, and then paid another FJD45,000 over a six-month period. She had to borrow the latter funds from her own company's budget in order to pay for SDL office expenses and staff wages, and to transport *yagona* (kava) and other items. Ironically, another SDL candidate claimed he was forced to join Bainimarama's interim government because of the need to repay the FJD30,000 he spent on his campaign for the SDL.

system for tracking voters, calling in an SDL employee to explain it (*Fiji Times* January 1, 2007). It also briefly flirted with global con man Peter Foster, who had earlier befriended Fiji Labour Party and SDL individuals. Foster claimed to have taped conversations showing that the SDL had rigged the 2006 election by stuffing ballot boxes in Suva (*Fiji Times* January 1, 2007) and that Qarase had more than FJD2 million hidden away in offshore bank accounts (which Qarase denied).

CEOs and Board Members. A second wave of sackings, initiated in December 2006, targeted 13 CEOs and board members of statutory bodies and public enterprises (*Fiji Times* December 15, 2006): the chair, another board member, and CEO of Airports Fiji Limited; two members of the board of Post Fiji Limited; two members of the board of Ports Corporation; two members of the board of the Civil Aviation Authority; the executive chairman and chief executive of Air Terminal Services; the chairman of the board of Fiji Electricity Authority; and the chairman of the board of the Fiji Investment Corporation Limited.

Bainimarama said he was concerned about the number of boards, their overlapping membership, and the opportunities they provided for political patronage and “empire building” (*Fiji Times* December 15, 2006). Behind his apprehensions lay broader questions of corporate governance: What is the role of boards? Which interests should members represent, and what expertise should they bring to them? Political scientist Scott MacWilliam argues that board membership has been an important avenue, and battleground, for the advancement of the Fijian business interests represented by SDL: membership of key boards forms the basis for access to privileged information, loans, and other assets, including acquisition of large farms and fishing licenses (2002, 139).

Educational Institutions. In the post-coup environment, Fiji’s educational institutions have also been a site of inquiry about corruption. Reminiscent of the 1960s cultural revolutions, albeit in a milder form, staff and students began to ask questions about the leadership of their own institutions. The student union at the Fiji College of Advanced Education in March 2007 asked the Education Ministry to investigate concerns they had about their social amenities fund. Students had boycotted classes for a day in support of an investigation (*Fiji Times* March 21, 2007). On March 30, the Fiji Institute of Technology director was reported cautioning staff against taking files off campus. Employees had apparently “colluded with their trades unions to illegally collect files and documents belonging to the institute and [transmitted] them

to the interim education minister's office, as well as the anti-corruption unit, to discredit the institute's council and management" (*Fiji Times* March 30, 2007).

On April 30, 2007, Anthony Tarr, vice chancellor of the regional University of the South Pacific, resigned only two years into his contract "citing personal and family reasons" (*Fiji Times* March 2, 2007). Inspector Nasir Ali, the policeman who headed the government's anti-corruption unit, then made thinly disguised allegations about an "educational institution" and personal benefits from a link with an offshore "technological entity." These accusations were blown up into a *Fiji Times* headline: "14 Million Racket" (March 11, 2007). The University of the South Pacific staff association began to ask questions about salaries being paid to senior administrative staff. In late March the interim minister for education, Netani Sukanaivalu, was reported to be investigating claims made in email messages of "exorbitant salaries" (*Fiji Times* March 27, 2007).

The purges created ample opportunity for harassment, disruption, and the settling of old scores.

Generally the purges created ample opportunity for harassment, disruption, and the settling of old scores. Recent reforms within long-established institutions like Airports Fiji Limited, the Fiji Sugar Corporation, and University of the South Pacific are likely to have created hostility toward the senior executives that the post-coup purges primarily targeted.

Complaints

The second approach taken by the military and interim governments was to invite and gather public complaints. In early February 2007, an RFMF team opened a Military Complaints Centre with an office in the government buildings in Suva, where people began to queue up with their allegations (*Fiji Times* February 3, 2007).

Complaints provide an anti-corruption campaign with an agenda, and may offer clues to something wrong. For example, a group of landowners, who had set up a roadblock to protest against the way the Fiji Hardwoods Corporation was preventing them from selling mahogany directly, said they had been assured by the RFMF that it would look into their grievances (*Fiji Times* January 12, 2006). But complaints may also be vexatious, trivial, out of date, and have little to do with corruption, however it is defined. The new interim government's permanent secretary in the prime minister's office, Pramesh Chand, described the mixture of allegations and complaints received by the unit: "They range from various issues like the provision of public services. Some people have been complaining that they had to pay a certain sum of

money for certain services and that someone has been deprived the first opportunity because they were not in the good books of some person” (*Fiji Times* February 2, 2007).

There were complaints about individuals and organizations and those relating to management and boards. Hence, Chand said, they would need to be categorized so that “those that can be dealt with procedurally can be sorted out straight away” (*Fiji Times* February 2, 2007). According to military spokesman Major Neumi Leweni, most cases received by the corruption investigation center at the Government Headquarters Buildings in Suva are “old cases that have been pending for years” (*Fiji Times* February 13, 2007).

By the end of March the military center had received 400 complaints (*Fiji Times* March 27, 2007). The *Fiji Times* noted wryly that the team had been a

Selecting what to investigate and what to drop is a highly sensitive issue.

“spectacular success—at receiving complaints.” The editorial argued that the center needed to set priorities and work within rules to ensure that accusations held up in court. It also questioned

whether the military should be straying into complaints concerning the private sector (March 29, 2007).

That same month, the Native Land Trust Board (NLTB) reported that the Military Complaints Centre had received “about 1300 land related complaints from members of the public against the NLTB” (*Fiji Times* March 6, 2007). The NLTB devotes much of its time resolving low-level disputes among owners and tenants over money and boundaries, and must inevitably have accumulated a history of grievances easily distilled into suspicions of corruption. The acting general manager of the NLTB, Joveci Tuinamua, was reported to be waiting to hear from acting Commander Esala Teleni as to how the board should tackle these complaints.

There were many complaints against the military itself. In February an unidentified NGO released documentation of about 200 cases of “human rights abuses, breaches of the constitution and rule of law since December 5.” People who for a variety of reasons ran afoul of the interim government were taken to barracks, humiliated, made to perform physical exercises, and warned against repetition of a range of often petty offenses and against criticism of the military or interim government. Soldiers were described as “short-fused” and “younger soldiers are reported to be assaulting, arresting and detaining persons without any justifiable reason” (*Fiji Times* February 25, 2007). Lawyers also described military interference in civil and commercial litigation. Eventually this arbitrary, sometimes violent, harassment seems to have led to a death of a youth in military custody (*Fiji Times* February 26, 2007). The RFMF, lamely,

asked people to complain to it about mistreatment by soldiers. Bainimarama later apologized for excesses of the soldiery.

The military also had complaints of “civilians verbally abusing soldiers” (*Fiji Times* February 18, 2007). Ironically, in responding to the 400 popular complaints against the government, the new interim government found itself provoking 200 complaints (as recorded by NGOs) and having 81 complaints of its own against the public.

The link between complaints and investigations is tricky. Selecting what to investigate and what to drop is a highly sensitive issue for the reputation and survival of an anti-corruption agency or campaign. If it is not responsive to popular concerns the investigating agency loses legitimacy. Investigators must also take on the major figures (who can afford a robust legal defense). And its resources are inevitably limited.

Anti-corruption agencies may set a test of seriousness or practicability in responding to complaints. To be considered by the New South Wales ICAC, for example, the matter must be important enough to put the perpetrator’s job or career at risk. There is also a need to ensure that the power to choose which complaints to investigate is not abused. Fiji’s legislation merely relies on the good judgment of the commissioner to investigate those complaints that he considers practicable.

Investigations

During the early months of 2007 the interim government attempted to follow through on promises of strengthening public sector integrity, initiating three kinds of investigations. The first, undertaken by the RFMF, involved soldiers collecting files and bringing targeted individuals to the barracks, sometimes overnight, for questioning. Jon Fraenkel notes that the military, with its network of former officers and reservists seeded throughout the government, was well placed to know where corruption might be found (2007, 429). Unfortunately investigations of corruption blurred into investigations of dissent or petty crime. Interviews blurred into harassment threats and physical bullying. Lawyer Richard Naidu claimed the military was picking up people it had already deemed “unacceptable” and “no evidence has been produced that they were corrupt” (*Fiji Times* December 18, 2006).

The second type of investigation followed the initial purge of senior officials, CEOs, and board members. The military initiated or provoked a series of open-ended “reviews” or “audits” of public bodies.

- The RFMF suspended the chair and CEO of the Sugar Cane Growers Council Jagannath Sami and sacked the eight members appointed by the

(SDL) government. It claimed “serious concerns were raised by the farming community regarding the council’s operations” and said it would be investigating “abuse of office, misuse of funds and irregularities in elections of the board of directors” (*Fiji Times* December 28, 2006).

- The Fiji Ports Authority chief executive and finance manager was sent on leave to allow investigations by the police (*Fiji Times* January 11, 2007).
- The Fiji National Provident Fund board sent its general manager and deputy on leave while they carried out a “thorough and clinical inquiry” into recent board investments (*Fiji Times* January 27, 2007).
- The board members of Fiji Pine Limited were directed by the interim minister to sack their chief executive. (The board chairman said the members had no problems with his performance but were just doing what the minister told them to do.) (*Fiji Times* February 2, 2006).
- Four senior Lands Department staff were reportedly “sent on indefinite leave” over land sales (*Fiji Times* February 6, 2007).
- The acting CEO of the Fisheries and Forestry Ministry was sent on leave “pending investigations” (*Fiji Times* February 23, 2007).
- The NLTB sent its general manager and strategic change managers on leave while it conducted an audit of the board’s new information technology system, installed by a company called Pacific Connex. The investigations were then widened to include breaches of the Native Land Trust Act (*Fiji Times* February 24, 2007).

Not all those accused of “discrepancies,” “irregularities,” and so on went quietly. Two placed advertisements in the newspaper to put their case before the court of public opinion. Among the first group of CEOs dismissed, Ratu Sakiusa Tuisolia set out his record of achievement at Airports Fiji Limited (AFL), and argued that the audit cited against him “was instigated via anonymous letters from various disgruntled people who suffered as a result of our efforts to build and progress AFL...the AUDIT WAS CLEARLY A WITCH HUNT...and DID NOT FIND OR REPORT ANY FRAUD OR IMPROPRIETY” (*Fiji Times* December 16, 2007, capitals in the original).

The CEO of the Fijian Affairs Board, Adi Litia Qionibaravi, defended herself (in English and Fijian) against allegations that she had used Fijian Affairs

Board funds to buy vehicles and repair her house (*Fiji Times* December 27, 2007). She was later taken in for questioning by the military.

Among the second group investigated, the CEO of the Sugar Cane Growers Council provided a reporter with details of expenditure by the council's board of directors on a trip to India (FJD9,346.25) (*Fiji Times* December 29, 2007). He was one of the names among the military's travel blacklist (*Fiji Times* February 20, 2007).

In early January 2007, several former civil servants and deposed members of Parliament defended themselves against charges of breaking rules about official travel contained in a draft auditor general's report. They argued the offenses were minor and a consequence of the absence of clear guidelines (*Fiji Times* January 15, 2007).

Around the same time the sacked CEO of the Public Works Department claimed that interim Finance Minister Chaudhry's allegations of corruption in the Department of Water and Sewerage were "wild." Contracts had been made with the private sector because the ministry did not have the machinery to perform the necessary work. Chaudhry countered that the money was there, but the "government machines had been deliberately not repaired" to provide opportunities for the private sector—pointing to a close link between mismanagement and corruption (*Fiji Times* January 25, 2007).

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The third form of investigation responded to popular complaints, but these were not necessarily about corruption. Assistant Superintendent of Police Nasir Ali's unit in the police—the precursor to the ICAC—launched investigations into a wide range of organizations, mostly in response to complaints. The following list of entities that were investigated shows the variety of complaints, straddling public and private sectors, and the difficulty of knowing in advance whether or not they might involve corruption:

- A travel agency, following complaints of fraud from customers (*Fiji Times* February 14, 2007; February 25, 2007).
- Fijian Holdings Limited (if the files they had collected warranted it) (*Fiji Times* February 20, 2007).
- A tertiary institution (possibly the University of the South Pacific) involved in setting up, then winding up an offshore company. "Prominent people" at the institution were alleged by "internal sources" to have benefited personally (*Fiji Times* March 11, 2007).
- A local Suva retailer alleged to have transferred FJD14 million offshore (*Fiji Times* March 11, 2007).

- Angco's Medical Clinic, over complaints about a "foundation scheme" wherein people paid in advance for medical services (*Fiji Times* March 15, 2007).
- Communications Fiji Limited, over some postings on its Fiji live website. (*Fiji Times* March 15, 2007).
- Police force, regarding purchases of uniforms (*Fiji Times* March 13, 2007).
- Nadi Town Council (*Fiji Times* March 27, 2007).
- Fiji Sports Council (*Fiji Times* March 27, 2007).
- Rental charges to duty free traders at Nadi airport, following a complaint by Tappoos Limited that it had to unfairly pay more than its competitors (*Fiji Times* March 28, 2007).

People other than the military or police were called in to carry out investigations. In the sugar industry, for example, the Sugar Cane Growers Council set up a three-person team of council staff to investigate "all the affairs of [its CEO] Mr. Jagannath Sami since taking up office in 2000," including the allegation that he had used council funds to pay for legal proceedings (*Fiji Times* February 22, 2007). A private accounting firm was contracted to review the NLTB Connex deal. Pacific Connex, a joint venture owned by the business arm of the NLTB and Fiji-born computer entrepreneur Ballu Khan's Tui Consulting Limited, bid for a license to operate mobile phone services in Fiji and take on Vodafone's monopoly on the market. The military raided the office of Pacific Connex as well as the home of its chief executive in December 2006.

In comparison with the foregoing investigations, a much wider and more representative group was proposed for the review of institutions viewed to be exclusively Fijian. It was proposed that the independent investigating team would

It is hard to tell what these cascading and open-ended investigations will uncover.

include a former CEO of the Fijian Affairs Board, a former senator, and an auditor with "wide ranging" terms of reference to "highlight any corrupt acts in the Fijian institutions." The team's man-

date was: "To investigate and report on any breaches of the respective act governing the operation of the respective institution and/or abuse of office by board members, management and officers in the execution of their official duties" (*Fiji Times* February 2, 2007).

For several months in early 2007 the interim government was unable to find people ready to investigate Chief Justice Fatiake's "questionable" role in the 2000 coup (*Fiji Times* April 1 2007; LAWASIA 2007, 8–14).

In the nature of things it is hard to tell what these cascading and open-ended investigations would uncover. On April 21 the *Fiji Times* reported that the

Fiji National Provident Fund had sacked its two senior executives. Then, on May 4, the minister for public service and public enterprises, Poseci Bune, fired several board members of Unit Trust of Fiji who had been appointed by the sacked CEO of the Provident Fund. There have been concerns expressed about due process so that, for example, the fund's board was at pains to say it was "reasonably satisfied that it had observed all procedures and avenues available including abiding by principles of natural justice" in dismissing its executives.

Formation of an Independent Commission Against Corruption

The Law Reform Commission, a body established by Parliament in 1979 to simplify, improve, and modernize the law had recommended the formation of an Independent Commission Against Corruption (ICAC) in 2003. In October 2004 the SDL cabinet agreed to establish such a group, but nothing much had happened since. During Prime Minister Qarase's last cabinet meeting before the coup in early December 2006 he had promised Bainimarama that the "government will bring forward and hasten its finalization and tabling of draft legislation dealing with leadership conduct, with freedom of information, and with the establishment of an Anti-Corruption agency" (*Fiji Times* December 3, 2006).

By early January 2007 Bainimarama as head of the new military government appealed for international assistance to help the military sift through "dozens of files" relating to alleged corruption in the Qarase government. A task force was going to be housed in the offices of the former Ministry of Information in the government offices in Suva.

The files people were bringing in were tangible evidence, and Bainimarama's aim was to set up a "tribunal" to investigate each allegation and begin the process of reform. "If we'd left it to the last government to fix they wouldn't have done it," said Bainimarama (*Fiji Times* January 9, 2007). At the end of January Fiji Police Assistant Super-

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intendent Nasir Ali was nominated to head a new anti-corruption unit (*Fiji Times* January 30, 2007). He would help the military, which was combining its own anti-corruption unit with the "centre for hearing public complaints" in the Suva government buildings.

The interim Attorney General Aiyaz Sayed-Khaiyum promised a new "powerful, fully resourced independent investigative body, having new and significantly enhanced legal powers of surveillance in order to be able to successfully investigate, arrest, detain and prosecute offenders of corruption" (*Fiji Times* February 1, 2007). The promised commission would report directly to the president, Ratu Josefa Iloilo, who had been restored to office by

Bainimarama a month before. Commander Teleni would “help” and “monitor” the commission (*Fiji Times* February 1, 2007).

The interim cabinet agreed to the establishment of an FICAC, and funding of FJD1.5 million on March 29. The legislation was promulgated on April 4 without—in the absence of Parliament—the possibility of a parliamentary debate. A parallel Prevention of Bribery promulgation provided that a public officer who could not explain income or property disproportionate to his or her earnings would be guilty of an offense. Informers (or whistleblowers) would also get protection. The FICAC was looking for 22 additional staff members, and advertised the positions in the *Fiji Times*.

Teleni was made acting deputy commissioner of the ICAC and was responsible for its operations until a commissioner was appointed. He later moved on to become the new police commissioner. Mah Weng Kwai, a distinguished Malaysian lawyer, was appointed ICAC commissioner, but then withdrew after criticism from his Commonwealth legal colleagues. As president of LAWASIA, Kwai had recently led that NGO’s review of the judiciary situation in Fiji (LAWASIA 2007).

Who Guards the Guardians?

Traditional answers to the question of “who guards the guardians” invoke chiefs or priests to exercise restraint on leaders. Foreign intervention offers another answer. The problem with these answers is infinite regress: Who guards the chiefs or priests or the foreign intervention? Add another layer of supervision

The military took on the role of guardian, entitled to step in and root out corruption. But what was stopping it from becoming corrupt?

and it may become corrupt too—there is “no final guardian who does not need guarding” (Mulgan 2003, 232). The liberal constitutional answer is the separation of powers, in which different parts of government are supposed to check and

balance each other. This liberal answer is expressed, for example, in the idea of a “national integrity system” proposed by Transparency International (2007). TI includes NGOs such as itself in this process of mutual supervision and accountability. If the government cannot guard itself, then civil society must try to do it instead.

The question is easily asked of anti-corruption campaigners. In this case, the RFMF took on the role of guardian, entitled to step in and root out corruption. But what was stopping it from becoming corrupt? For example, a military spokesperson had to reassure newspaper readers that “no favouritism” was

involved in the appointment of Bainimarama's relatives serving in the RFMF, and to the Fijian Affairs Board (*Fiji Times* January 22, 2007). Their need to respond to allegations points to the circular, tit-for-tat character of anti-corruption campaigns.

It can also be asked of other actors, such as opposition parties, and the chiefs who have often played a role at crucial points in Fiji politics. For example, a former president of the National Federation Party criticized the Fiji Labour Party for failing to act as an effective opposition before the coup (*Fiji Times* January 3, 2007). The Great Council of Chiefs was acquiescent toward the coup until it rejected the military's nominee for deputy president; after that, the Council was duly suspended. NGOs critical of corruption need to be sure their own processes will survive scrutiny. So do journalists and academics.

Who Guards the Police?

The development of anti-corruption agencies has been related to problems with corruption in the police force. The "Independent" in the ICAC model originally meant independent of the police who, in Hong Kong, could not be relied on to guard themselves. Police corruption was a driver for the creation of the New South Wales ICAC, but a separate more specialized Police Integrity Commission was later created and corruption is still a problem for the New South Wales police.

Table 1 shows police as the most bribed sector worldwide. Police are vulnerable to corruption because of their regular dealings with criminals, the discretionary way they implement the law, their long-established procedures, and a closed, sometimes defensive culture that resists external scrutiny and accountability. The Fiji Police Ethical Standards Unit reported that 38 police had been suspended since 2003, some on charges of demanding money, and other "criminal and corrupt" practices (*Fiji Times* February 9, 2007). It turned out that Nasir Ali himself had been suspended from the police credit union, over allegations about breaching financial regulations. He defended himself, blaming corrupt cops for the false accusations, and was backed up by the interim attorney general (*Fiji Times* February 16, 18, and 19, 2007). Nasir Ali had also been disciplined but reinstated over his role in the investigation into the Ministry of Agriculture scam involving accusations of the theft of FJD3,877,105 in public funds from the state between September 2000 and August 2001.

Police are vulnerable to corruption because of their regular dealings with criminals.

During this same period it is alleged that the SDL party spent heavily in rural areas to win its first parliamentary election in 2001 (*Fiji Times* January 30,

2007). To be sure, police powers and skills are essential to the investigatory side of anti-corruption work. Yet experience suggests that the relationship between police and anti-corruption agencies is bound to be uneasy.

In the period leading up to the December coup one of Bainimarama's final demands of Prime Minister Qarase included removal of Andrew Hughes. Hughes, an Australian, was the reformist police commissioner who had openly challenged some of the military's activities and found it necessary to leave Fiji shortly before the military takeover. Within weeks of the coup, the military disarmed the police, and in early February several police officers were brought in for questioning (*Fiji Times* February 3, 2007). Police and Nasir Ali's unit clashed over the investigation of corruption in Public Works. In late March 2007 Finance Minister Mahendra Chaudhry sent anti-corruption unit officers under Ali into the Public Works Department, but the police, who had started an investigation some time before, had already gone in previously to take some of the files Ali wanted. There were also conflicts over resources. Just after the ICAC was established (and funded) the police complained that their economic crime directorate lacked the staff to deal with a backlog of 138 complicated cases of fraud (*Fiji Times* April 2, 2007). A senior policeman was one of the first to be prosecuted (over bribery allegations) once the ICAC was created.

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Who Guards the FICAC?

In a letter to the *Fiji Times*, the Reverend Akuila Yakabi of the Citizens Constitutional Forum, a Suva-based NGO, criticized the government's proposals to set up an ICAC, while bills for freedom of information and a code of conduct were still not enacted. He warned about its independence and impartiality.

"Independence," Yakabi said, referred to selection processes, and "impartiality" implies that appointees should come without preconceived agendas. "The problem of personal grudges looms large in a small country such as ours. Anti-corruption officials overseas are frequently accused of bias in the conduct of their investigations, and how such accusations are dealt with can determine whether the agency gains or loses public credibility" (*Fiji Times* February 7, 2007).

Yakabi argued that an anti-corruption agency needed oversight and that it should report to a broadly representative body. This of course was difficult in Fiji without a parliament.

Who Guards the President?

The Hong Kong ICAC was set up under colonial rather than democratic rule and was made responsible to the colonial governor—a role now taken over by the chief executive effectively chosen by China. New South Wales's ICAC is responsible to a bipartisan committee of Parliament rather than to the premier or the state governor. Fiji's legislation makes its FICAC commissioner subject only to the orders and control of the president. Accounts audit and annual report go to the president (who must table the report in Parliament). Under the 1997 constitution, the president is an appointee of the Great Council of Chiefs, the indigenous body suspended by the interim government. In practice, the presidency has been a weak reed in Fiji, lacking capacity for oversight, and was easily pushed aside by the military during December 2006.

Who Guards the Military?

The RFMF faces a different set of corruption risks compared to other state agencies. Its centralized top-down system and esprit de corps can enforce high standards of personal behavior on members. Yet it also makes criticism of senior officers difficult. Claims about “national security” allow the military to be secretive, and cover up unethical behavior or simple incompetence. Personal and regional loyalties tie units together in combat, but can also make them favor their own and resist oversight. The military also has complicated dealings with a few suppliers of weapons, uniforms, and vehicles, which make it highly vulnerable to procurement scandals. These risks were aggravated and new risks were introduced by the expanded role the military took against crime.

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The TI survey, taken prior to the coup, found that the Fiji military came out somewhere in the middle in terms of perceptions of corruption. Twenty-three percent of those surveyed found it “not at all corrupt,” whereas 19 percent found it “extremely corrupt.” It was generally seen as less corrupt than the media but more corrupt than NGOs (Tebbutt Research 2006).

In its pure form a military coup displaces civilians with soldiers in top positions, but the government otherwise continues as before. In Fiji, the RFMF got more deeply involved in sensitive agencies and police work. Commander Teleni, for example, was made deputy commissioner to the FICAC before moving on to become police commissioner. And Major Neumi Leweni was assigned to the Ministry of Agriculture, Fisheries and Forestry “to ensure its smooth running” as “some workers there were not cooperating with Interim Minister Jainendra Kumar.” Leweni reassured the *Fiji Times* that “sending people home”

was not done randomly, but through the Public Service Commission. The ministry had already been under investigation during the Qarase government for its role in the previously described Ministry of Agriculture scam (*Fiji Times* February 23, 2007).

In the first weeks of 2007 the military, accompanied by police, carried out raids against illegal sellers of alcohol and suspected drug dealers (*Fiji Times* January 16, 2007). By February 1, 193 people had been questioned over offenses including drug peddling, robbery, refusing to pay taxi drivers, smoking drugs, and “swearing at the military” (*Fiji Times* February 25, 2007). By early March,

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the RFMF was turning its attention to drug dealers rather than users. It maintained that the crime rate was down, with fewer people moving around at night, and claimed to have dealt with 200 cases of drug peddling and drunk and disorderly conduct, 90 cases of smoking

drugs, 81 cases of people swearing at the military, and 60 cases of assault (*Fiji Times* March 5, 2007). In one particularly banal case, the military found itself providing security for the Public Works Department as it was taking down a fence in a road-widening project. The fence belonged to Nivis Motors, whose lawyers had applied for a stay order from the court (*Fiji Times* March 12, 2007).

The RFMF also had a unit looking at ports, where there had been “an apparent interest in corrupt activities,” and its role there was formalized by the interim government in early March (*Fiji Times* March 3, 2006).

In early March Bainimarama announced that the RFMF would be pulling back from involvement in civil cases, and that its job was to back up the police if they needed assistance. The military’s role was now to “man checkpoints around the country, engage in community work and public relations.” Even the necessity for checkpoints would be reviewed later in the month. Claims of human rights abuse would be dealt with by the police and the Fiji Human Rights Commission—which had shown considerable sympathy for the coup, to the discomfort of many of its supporters.

Who Guards the NGOs?

If governments cannot guard themselves, then NGOs may try to do that job for them. For example, a Fiji NGO, rather than the government’s Human Rights Commission, was the first to document human rights abuses by the military government. NGO groups, including churches, were generally against the coup and made public statements against it (though Catholic promoters of social justice were skeptical of the motives of proponents of democracy). NGO

officials were called into the military barracks for questioning, and several were beaten up. As part of an “apology” to people affected by the coup, Bainimarama explained that “the military keeps an eye on non-government organisations” as these were “the only group still going against the military” (*Fiji Times* January 29, 2007).

The Fiji chapter of TI found itself in a quandary. It had followed the general approach of its international patron, Transparency International: lobbying among the elite, commissioning surveys, and drawing the private sector into anti-corruption coalitions. It had joined with other NGOs in writing an open letter urging Bainimarama not to proceed with his coup. TI faced difficult choices about whether or not to engage with a new regime, ostensibly committed to some of the policies it had been promoting for years.

In December 2006, TI Fiji’s chair, Hari Singh, announced that TI had been telling the Qarase government about increasing levels of corruption and said, “If the military is cleaning up corruption, then we are more or less with them on that” (*Fiji Times* December 29, 2006).

If governments cannot guard themselves, then NGOs may try to do that job for them.

Aiyaz Sayed-Khaiyum had been on the board of TI and resigned when he became interim attorney general in January. Richard Naidu, another influential Suva lawyer who had been brought in for questioning by the military, resigned in February over what he described as “differing views on the terms on which TI has chosen to engage the Interim Government on corruption issues” (*Fiji Times* February 19, 2007).

Hari Singh then granted a long interview to the *Fiji Times* setting out TI’s views on the consequences of corruption, and its prevalence in Fiji. “Reports and surveys carried out indicate that there is some level of corruption in Fiji,” he said. “Auditor Generals’ reports have been highlighting some corrupt practices that have been ignored in the past...whether corruption was so serious to warrant an overthrow of an elected government is judgemental and TI Fiji would not like to make that judgement” (*Fiji Times* March 21, 2007).

TI had told the interim government it did not condone the takeover, but would help with the establishment of an ICAC, including using its networks to identify expertise. TI Fiji had consulted its international stakeholders and decided to engage with the government (as TI was doing with other post-coup and undemocratic governments elsewhere in the world, including China) (*Fiji Times* March 21, 2007).

TI then released the results of the August 2006 public survey commissioned from a market research company, and described above. Qarase was

reported as describing Singh's statement as unfair and the survey "unreliable." The National Federation Party secretary also criticized the survey, saying the party was unaware it was being carried out and that the result "was not in any way the true reflection of the political parties" (*Fiji Times* March 27, 2007).

Who Guards the Media?

Newspapers have a professional and commercial interest in corruption. They are not simply spectators but active players in their reporting of corruption allegations. At the same time, editors and journalists are trained to be suspicious of government power. Interestingly, in the post-coup environment of 2007 the interests of Fiji's coup leaders, journalists, and readers ran together, most breathlessly in reports of the activities of Inspector Nasir Ali's anti-corruption unit. The

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downside in Fiji, as during most coups, was "trial by media," where newspapers gleefully reported allegations and investigations into enemies of the coup, and reinforced the perceptions of corruption

that legitimized the military takeover. However, in two cases previously discussed, the *Fiji Times* printed advertisements in which accused officials rebutted military claims against them. In another the CEO of the Sugar Cane Growers Council told a reporter his side of the story. Newspaper editorials also repeatedly called for the RFMF to produce evidence for its allegations.

Prevention Rather than Investigation

A distinctive feature of the Hong Kong ICAC model, apart from its independence from the police, is its tripartite structure, dealing with investigations, prevention, and public education. International agencies dealing with corruption tend to argue for prevention, typically through public sector reform that reduces opportunities for corruption to take place. Economist Daniel Kaufmann, whose statistical work for the World Bank has demonstrated the links between corruption and development, argues that it is a "fallacy" to think that corruption can be reduced by "yet another anti-corruption campaign, the creation of more 'commissions' and ethics agencies, and the incessant drafting of new laws, decrees and codes of conduct." He writes: "Overall such initiatives appear to have little impact, and are often politically expedient ways of reacting to pressures to do something about corruption, substituting for the need for fundamental and systematic governance reforms" (Kaufmann 2005).

Fiji's new legislation is overwhelmingly concerned with investigation and prosecution. The FICAC promulgation gives the officers of the commission powers of arrest and detention, without warrant, and the power to prosecute on

its own behalf, without getting the agreement of the Director of Public Prosecutions. The Prevention of Bribery promulgation provides for special powers to investigate bank accounts and other documents (under the supervision of the High Court). Among the duties of the commissioner are the examination of the practices of government departments “which may be conducive to corrupt practices,” giving advice on how to reduce corruption, and educating the public “against the evils of corruption.” However none of the positions in the FICAC advertised in the *Fiji Times* on April 28, 2007, address prevention.

There are other players in the Fiji anti-corruption landscape playing preventive roles. The traditional role of a Public Service Commission centralizing and imposing standards of hiring, firing, and promotion, and enforcing a code of ethics on officials—can play an anti-corruption role. It may also, in the nature of things, become corrupt itself. Devolution and delegation of hiring and firing powers—as happened in the 1990s—may increase flexibility and efficiency, but at the risk of patronage and nepotism (and suspicion by those disappointed they did not get jobs themselves).

Interim Public Service Minister Poseci Bune announced in January that the Public Service Commission would be taking back some of its devolved powers. Lower-level officials who used to be appointed by CEOs would now be appointed by the commission. He said that “there had been reports of nepotism by the chief executives and senior officers recruiting their own relatives in various departments” (*Fiji Times* January 22, 2007). As an anti-corruption measure, civil servants would also be rotated after more than three years in any particular job (*Fiji Times* January 22, 2007). The sacked chief executives of government departments would be replaced by 16 new “permanent secretaries” (an older term marking the winding back of new public management rhetoric that had been in place prior to the coup).

Finance Minister Chaudhry’s March 2, 2007, budget speech announced the creation of a special audit unit in the Ministry of Finance that would carry out investigations on all allegations of abuse of public funds identified by the FICAC. It would also identify preemptive measures to prevent abuse occurring (*Fiji Government Online*, March 2, 2007).

Within Westminster systems of government, like that of Fiji, parliaments are supposed to act as guardians of the executive by reading and acting on audit reports. Fiji’s interim government also talked about creating an interim public accounts committee to consider 48 outstanding audit reports and provide “an

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independent assessment of government finances”—a difficult task in the absence of a parliament (*Fiji Times* March 15, 2007).

Comparisons with Other Countries

There are contemporary parallels between Fiji’s cleanup campaign and the military coup in Thailand against former Prime Minister Shinawatra Thaksin’s government in 2006 and the military support for Bangladesh’s caretaker government in early 2007. In each, the new government launched an anti-corruption campaign against its democratic predecessors. In Thailand a constitutional tribunal set up by the military disbanded Thaksin’s party, while clearing its main opponent, the Democrat party, of charges of electoral fraud. Yet a new party of Thaksin supporters won the election when democracy was restored, though Thaksin eventually fled to avoid corruption charges. In Bangladesh, the caretaker government backed off from its attempts to exile leading politicians. In both countries the politicians that the military opposed seem to be retaining their popularity.

The closest parallels within the Pacific Islands region are with the Sandline Affair in Papua New Guinea (PNG) in 1997, and the Regional Assistance Mission in Solomon Islands since 2003. Each linked military interventions to allegations of corruption in a different way.

Sandline International is a British firm of military mercenaries that was secretly contracted by the PNG government to end a long-running rebellion in PNG’s Bougainville province. PNG’s military commander, Jerry Singirok, was offended that the military had been sidelined. He denounced the government

There are contemporary parallels between Fiji’s cleanup campaign and the 2006 military coup in Thailand.

and arrested the Sandline contingent. Singirok was then sacked by the government, but the military continued to put pressure on the prime minister and defense minister to resign (Ivarature 1998). They had strong popular support

in demonstrations outside Parliament that eventually forced the prime minister, Julius Chan, to step down. Allegations of corruption played an important, if ambivalent, role in the crisis. Singirok suggested there had been corruption in the deal with Sandline, and he and his supporters—including those in the NGO community—saw the case as symptomatic of wider corruption in the government. The local chapter of TI was created soon afterward, institutionalizing this popular concern. In an example of the compromat style of politics that attempts to undermine an official’s reputation or authority, Singirok himself was later found to be receiving money improperly from a different firm of military suppliers.

Solomon Islands does not have an army but members of its police force seized weapons from the armory and forced Prime Minister Bartholomew Ulufa'alu to resign. Military intervention eventually came, at Solomon Islands' request, in the form of a Regional Assistance Mission (RAMSI) led and mainly staffed by Australia but sanctioned by the Pacific Islands Forum, a regional intergovernmental organization. In an international example of "guarding the guardians," foreign soldiers and police helped restore law and order, while public servants helped restore public finances and the justice system. Allegations of corruption were formalized in charges laid against policemen and several former ministers, few of whom have yet come to trial. More allegations of corruption—and a riot—also followed the election of a new Solomon Islands prime minister, Manasseh Sogavare, in 2006. A RAMSI survey in the same year found that 62 percent of the rural population and 45 percent of the urban population believed that the government was corrupt. Focus groups, however, found "no universal agreement on what constituted corruption (and some tendency to challenge the conventional Western view of it)" (Larmour 2007, 13).

Earlier discussion in this paper focused on TI's study of Fiji's National Integrity system, and TI's identification of different types of corruption prevalent in the country. Similar studies have since been carried out in PNG and in another 12 countries in the region (Larmour and Barcham 2006). They find widespread popular perceptions of corruption among government ministers and in the delivery of public services. Any leader—civilian or military—who alleges corruption among his or her colleagues can attract widespread popular sympathy and willingness to protest. Allegations of corruption are also a handy weapon for members of the elite to use among their peers. Accusations immobilize enemies. "Anomalies," "discrepancies," and "irregularities" take time to investigate. Meanwhile those accused are tarnished and can be sidelined and preoccupied with defending their reputations. But "corruption" is often widely and variously defined, while specific allegations are hard to prove. Allegations are also easily turned against those who make them, contributing to the tendency of anti-corruption campaigns to "eat their tails." Meanwhile popular opinion is often ambiguous—against corruption in general, but supportive of particular politicians and uneasy about Western definitions of what counts as corruption.

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Toward Greater Honesty in Government

The early days of the coup offered a blank slate onto which everyone could project their hopes and fears. At the end of December 2006, for example, the head of Fiji's Chamber of Commerce was enthusing that the cleanup campaign provided a "common vision for the future" (*Fiji Times* December 29, 2006). Bainimarama's intervention offered a kind of magical "time-out" in which things might be set right before normal life—and normal politics, bickering, and crime—resumed. As many people have pointed out, this latest coup is not a single event, but another stage in working through the coup of 2000. So what, in the meantime, can we conclude about the cleanup campaign from an anti-corruption perspective?

The interim government gave itself strong credit for its campaign. In a four-page advertisement in the *Fiji Times*, Bainimarama listed the "major achievements" of his first 100 days as interim prime minister. At the top of the

Much depends on what was meant by 'corruption' and whether allegations stand up in court.

list were bread-and-butter issues: the budget, removal of a 2.5 percent increase in the value-added tax planned by the Qarase government, and "safeguarding the National Provident Fund." Then

came his anti-corruption feats: establishment of the anti-corruption unit, giving the unit teeth and funding, and anti-bribery legislation. There had also been "audits of national institutions" and the presumably preventive "reduction in number of boards." Bainimarama also promised "new standards of transparency" as work on a Code of Conduct and Freedom of Information was being hastened (*Fiji Times* April 14, 2007).

Absent was any claim to results. Meanwhile, the newspaper reports cited above show the process of the cleanup campaign to have been arbitrary, occasionally vengeful, politically partial, inconclusive, and careless of evidence. In December 2007 Major Leweni reassured the media that the military would not sack people without evidence, and the facts would be revealed "in due time" (*Fiji Times* December 19, 2007). After all, corruption cases under the Qarase government have taken years to investigate, even with international help from New Zealand investigators that has been denied to the Bainimarama regime. No doubt more time and investigative skill are needed to go through those "dozens of files" collected by the military.

Or maybe the corruption is self-evident. Challenged to provide evidence, Bainimarama offered the purges themselves. "All you have to do is follow the events of the last six months and see who has been removed from their posts," he said. "They have been removed for corrupt practices" (*Fiji Times Online* June 17, 2007).

It is also possible that there is less corruption than the military and the populace thought. Much depends on what they meant by “corruption” and whether allegations stand up in court. The Tebbutt research for TI Fiji suggests there is a gap between perceptions of corruption (widespread) and experiences of bribery (minor but worrying). The National Integrity Systems surveys show deep suspicion throughout the region of “grand” corruption by ministers. Definitions of corruption matter in several ways. Audits, reviews, and inquiries will become arbitrary and interminable without some specification of what exactly they are looking for (and whether, exactly, it is an offense). Differences between popular and official or legal understandings also affect the legitimacy of the campaign. Popular expectations have been cranked up, queues have formed outside the government buildings. And, if nothing is found or can be done, people will get disappointed and angry—and no doubt suspect more corruption. Some of the surplus of perceptions of corruption may have to do with levels of trust within and between communities, and widening gaps between rich and poor, and so may be impervious to evidence and action against particular offenses.

Purges imply that corruption is a feature of individuals, rather than systems. Replace the CEO, or reconstitute the board, and all will be well. However, other aspects of the cleanup campaign recognize its systemic quality: the reduction in the number of boards as well as sacking particular members; the commissioner’s mandate to enquire into work practices; the Public Service Commission’s re-centralization and the Finance Department’s special audit unit.

Behind the purges and investigations of individuals are policy questions about the relationship between government and business. The coup leaders favor a clearer separation of government and business, so one does not contaminate (“corrupt”) the other. Such a political economy would require restraint from both sides. The Government sells its shares in public enterprises so it can no longer nominate its cronies onto boards. Political parties refrain from seeking, or accepting, support from business. Yet developers continue to put pressure on governments to intervene selectively on their behalf, for example in the dispute between the government’s tax office and a private company, Matapo Holdings, in which Bainimarama got involved (*Fiji Times Online* May 18, 2007).

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The FICAC promulgation does not address popular concerns with corruption, in the private sector. As we saw above, the Tebbutt survey found 40 percent of the population thought the business sector was affected by corruption “to a large extent.” Several of the 11 complaints Inspector Ali responded to dealt with the private sector, not private-public dealings. The Hong Kong

ICAC, on which Fiji ICAC is modeled, now spends most of its time on corruption within the private sector.

Tending to treat officials as “guilty until proven innocent” (as one columnist put it) places pressure on the courts to deal with cases and on the enfeebled high court to supervise the FICAC. The cleanup campaign is also likely to generate new challenges to its own legality, and claims for compensation over maltreatment. So a wall of cases is likely to be moving rapidly into the legal system. Yet the LAWASIA report shows that the high court is divided, and the TI report shows that there are concerns about corruption in the magistrates’ courts. Lack of capacity to handle cases creates queues that, in turn, provide opportunities for more corruption: cases will get quietly dropped, or files will go missing.

Early coups in Fiji were made to preserve or advance the interests of indigenous Fijians. The SDL embodied a similar program, carried out through elections and parliamentary majorities. The Qoliqoli bill, restoring indigenous fishing rights over the foreshore, was the leading edge of this indigenous program, and objections to it, particularly from the tourist industry, were an important precipitant of the long expected coup. The 2006 coup confronted indigenous institutions, both the traditional ones, and their newer entrepreneurial off-

At what point do tax concessions or affirmative action campaigns move from being justified government intervention to some kind of systematic ‘corruption’?

shoots. The chiefly head of the Fijian Affairs Board was sacked and hauled in for questioning. The NLTB was reviewed and its investment arm, Vanua Development Corporation, dissolved. Affirmative action campaigns were criticized. The Great Council of Chiefs was suspended;

custom would not be an acceptable excuse in the FICAC promulgation. Fijian Holdings Property Trust Fund lost its tax breaks in the first budget (Minister of Finance, National Planning, Public Enterprise and Sugar Industry 2007). Ironically, the only indigenous institution that escaped scrutiny was the military itself, still almost completely staffed by Fijians, in spite of the multiracial and good governance rhetoric of its commodore (though its budget allocation was cut in an odd sign of institutional self sacrifice) (*Fiji Times* March 3, 2007).

A panel with the dignified title of Independent Investigating Team for Institutions Fijian is supposed to “highlight any corrupt acts in the Fijian institutions.” Here problems of definition and culture are likely to be difficult to resolve. There is also a history of concern in Fiji about the absence of indigenous entrepreneurship and indigenous educational underperformance. At what point do tax concessions or affirmative action campaigns move from being justified government intervention to some kind of systematic “corruption”? For

example, University of the South Pacific academic Anirudh Singh worried that the interim minister of education, Netani Sukanaivalu, might be “swinging from one extreme to another” in condemning affirmative action. Something still had to be done, Singh said, about “differences in the economic and academic performance of the average Fijian as compared to others” (*Fiji Times* February 2, 2007).

It is not clear whether Bainimarama and Fiji’s military are motivated by hostility to a particular political party (the SDL), to electoral politics, or to politics in some more general way (Mulgan 2006). It has traded on a worldwide tendency, identified in TI’s corruption barometer, to regard political parties as “the most corrupt institution” (TI 2006, 3). Military leaders seem to have come down harder on SDL than on other parties—excluding most of its legislators from the interim government, and calling SDL officials, but not those from other parties, in for questioning. This may simply be because the SDL has been the majority party with the most electoral success and the most access to the spoils of office. But the more the military supports one set of politicians against another, the more it is vulnerable to charges of playing politics itself.

The more the RFMF becomes involved in police work, the more it opens itself up to the types of corruption historically faced by the police.

The more the RFMF becomes involved in police work, the more it opens itself up to the types of corruption historically faced by the police. Fraenkel refers to the RFMF “busting spending limits and failing to obey repeated court judgements requiring an audit of its regimental funds”—not corruption, but resistance to anti-corruption systems (2007, 429). The RFMF doesn’t seem to be exempt from the FICAC legislation. In December, Bainimarama led the military in soul-searching and the Army’s Reverend Major Josefa Tikonatabua told some 700 soldiers: “We must clean ourselves.... Although you have been spat upon and sworn at by your own people because of the uniform you wear, you must remain strong” (Fraenkel 2007, 435).

The RFMF needs to guard its own procedures of hiring, firing, promotion, budgeting, and procurement. It would be a more convincing guardian against corruption in other sectors if it were attending to risks in its own.

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Peter Larmour is a political scientist in the Crawford School at the Australian National University. For more than a decade he has taught and written extensively about issues of corruption. In addition, he has published about the process of policy transfer, land issues, and leadership in the Pacific. He has served as a consultant on governance issues in numerous parts of Oceania and is currently completing a book on corruption in the Pacific Islands.

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ABOUT THIS ISSUE

In this paper Peter Larmour analyzes the vices and virtues of anti-corruption campaigns, and in particular how Fiji's military government under Commander Voreqe "Frank" Bainimarama approached the issue of corruption during its first year in power.

Larmour first considers how much corruption there may have been in Fiji before the December 2006 coup. Second, he analyzes the 2007 cleanup campaign: the purges, complaints, and investigations that culminated in the establishment of a Fiji Independent Commission Against Corruption (FICAC). Third, the paper explores who watches over authoritarian institutions in Fiji: the police, the FICAC, the president, and other entities. The essay concludes by offering comparisons with anti-corruption efforts in other countries, particularly in the Pacific Islands region.

Based on publicly available sources, corruption in Fiji is examined at both the conceptual and operational levels. Larmour notes a striking difference between reports of public perception of corruption and personal experience with corruption. He underscores that public perception of widespread corruption is not tantamount to legally actionable evidence of corruption, a significant challenge that confronted Fiji's military.

During 2007 the cleanup campaign instigated by the Bainimarama government adopted several methods: purges of senior officials and board members; gathering of public complaints; and investigations by police, soldiers, auditors, and ad hoc committees. While it remains to be seen what the outcomes of these cascading and open-ended investigations

will be, concerns have been raised about due process. Moreover, in the face of a compromised judiciary and the absence of a functioning parliament, there is little oversight. To the extent that Fiji's authoritarian institutions such as the military have attempted to restrain the media, Larmour suggests that this too has weakened public trust. Without a system of checks and balances, an increasingly critical question for the anti-corruption campaign becomes "Who will guard the guardians?"

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Peter Larmour is a political scientist in the Crawford School at the Australian National University. For more than a decade he has taught and written extensively about issues of corruption. In addition, he has published about the process of policy transfer, land issues, and leadership in the Pacific. He has served as a consultant on governance issues in numerous parts of Oceania and is currently completing a book on corruption in the Pacific Islands.