Between Indigenous Paramountcy and Democracy: How Differentiated Citizenship and the UN Declaration on the Rights of Indigenous Peoples Could Help Fijian Self-determination

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Contemporary Fijian politics is shaped by a colonial legacy of extraordinary complexity and political tension. Since gaining independence from Great Britain in 1970, Fiji’s history has been distinguished by incoherent and inconsistent accounts of political power. These concern the political rights belonging to indigenous peoples as first occupants vis-à-vis the claims to political recognition by the descendants of Indian indentured labourers. The relative power between the indigenous aristocracy and commoners is a further complicating variable. Following three coups (1987 and 2006) and a putsch (2000), indigenous paramount authority has been positioned against various forms of democracy and military oversight of the political process. However, none of these political arrangements has enhanced indigenous self-determination. This article argues that indigenous self-determination is more likely to be realised through a form of differentiated liberal citizenship consistent with the United Nations’ Declaration on the Rights of Indigenous Peoples. This reasonably requires the extension of the Declaration’s provisions to indigenous Fijians, who, as a recent majority indigenous population, are constrained by colonial legacy in a similar manner to the minority indigenous populations for whose benefit the Declaration was primarily adopted.

Introduction

Sitiveni Rabuka’s insistence (quoted in Brij Lal’s study) that democracy is a “foreign flower unsuited to Fijian soil” arises from the argument that indigenous paramountcy is a fair expression of the political rights owed to indigenous peoples by virtue of first occupancy. Fiji’s unstable democratic history contextualises Rabuka’s claim. However, democracy is not unique among the political arrangements to have failed indigenous Fijians’ pursuit of genuine self-determination. The supposed conflict between democracy and paramountcy precipitated two coups in 1987 and a putsch in 2000. Paramountcy allegedly contributed to entrenched racism and corruption in public administration, which the Royal Fijian Military Force’s commander Frank Bainimarama used to justify his coup “to end all coups” in 2006. Bainimarama’s election as Prime Minister in 2014 occurred under a Constitution promulgated after his

2 Bainimarama became Prime Minister after leading a coup in 2006. In 2014, he retained office after a general election held under the Constitution promulgated in 2012.

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veto of an earlier draft, while he was self-appointed Prime Minister in 2006. Bainimarama’s political philosophy is one of non-racial, yet heavily constrained democracy, where public deliberation is accepted, but only to the extent that it provides the “right” outcomes.

Neither Bainimarama’s conditional democracy nor paramountcy’s isolationist approach to self-determination are compatible with the genuine and substantive political authority pursued by indigenous peoples in other jurisdictions with increasing international legitimacy under the United Nations’ Declaration on the Rights of Indigenous Peoples. The Declaration is the most recent and comprehensive codification of the particular rights that indigenous peoples enjoy at international law.

Contemporary Fijian politics is ill-equipped to consider alternatives to the extremes of paramount aristocratic indigenous sovereignty and military sovereignty, which was constitutionally entrenched in 2012 and supported by Bainimarama’s remark before the 2014 election that “the Army would not tolerate an elected government revising the new Constitution”. However, there are instructive lessons that Fiji might draw from jurisdictions such as Australia and New Zealand to suggest the merits of engagement with liberal theories of power, especially as they are embodied in the Declaration. This creates an important political argument for extending the Declaration’s provisions to Fiji, where — although the indigenous majority population status has been restored in a now self-governing jurisdiction — colonial legacy explains the ongoing national political instability that prevents the indigenous population from establishing meaningful post-colonial self-determination.

This article begins by explaining the historical and political context of Fiji’s contemporary divisions, contradictions and uncertainties. It then presents an argument for differentiated liberal citizenship, with reference to the Declaration, as providing ways of managing these tensions. The article also argues for the Declaration as a way of establishing the self-determination that indigenous peoples have sought since independence from Britain, but have been unable to secure.

Colonialism, Paramountcy, Citizenship and Self-determination

The importation of indentured Indian labour from 1879 to 1916 has left contemporary Fiji’s multi-ethnic polity with extraordinary political complexities and tensions to manage. These have contributed to two coups in 1987, the putsch in 2000 and a further coup in 2006. They also explain the contemporary constitutional authority vested in the Royal Fijian Military Forces to defend the national interest, with “the overall responsibility […] to ensure at all times the security, defence and well-being of Fiji and all Fijians”. It is a Constitution that leaves indigenous Fijians with an homogenous and constrained citizenship that denies colonialism’s ongoing legacy and the cultural and collective rights that are affirmed at international law and routinely claimed by indigenous populations in other jurisdictions.

Bainimarama imposed the Constitution to set aside claims to the absolute and isolable ethnic paramountcy that the perpetrators had used to justify the coups in 1987

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and the putsch thirteen years later. However, the coups were, in fact, motivated by
class politics and the wish to entrench traditional chiefly privilege at the expense of
non-aristocratic indigenous political influence. Ethnic nationalism was co-opted into
their rationale as a later appeal to popular legitimacy.8

Indigenous Fijian ethnic paramountcy presumed that severe restrictions on Indo-
Fijian political participation and privileging traditional aristocracy were a just means of
protecting inherent rights of first occupancy. At independence, the British Cabinet
accepted that there was a just argument for Fijian political dominance as long as
adequate safeguards for all other communities remained.9 However, in practice, the
conditions for self-determination are not met by an isolationist and exclusive account
of political power. Nor is it logical to base an ethnic claim to political rights on the
denial of those rights to a group whose own political vulnerability is as much the
outcome of colonial exploitation.

Fijian politics is distinguished by the complex ways by which ethnicity is produced
and reproduced, contributing to both “real and imagined” points of political
instability.10 The British Native Policy initiated in 1876 affirmed expectations of
exclusive indigenous paramountcy by vesting authority and patronage in chiefs and
colonial state officials.11 The Native Policy “helped to reproduce ethnicity as the
dominant political ideology”.12 Protectionism restricted economic activity principally
to subsistence farming and fishing to undermine economic security as the first and
most important determinant of self-determination. Land lease policies have protected
indigenous land ownership, yet transferred opportunities for economic development to
Indo-Fijian leaseholders. This inhibited self-determination as:

The social Darwinian policy of the colonial state suggested that, to be ‘protected’ from the evil
vagaries of foreign cultures, the indigenous population had to be cocooned into traditional cultural
institutions and subsistence communal life separate from other ethnic groups.13

There was differentiated citizenship, but of a profoundly illiberal and unequal
character. Citizenship was an “ethno-political practice […] not just […] a legal or
administrative status”.14 Illiberal differentiation retained its privileged position well
into the post-independence era. In 1986, the Fijian Labour Party proposed that chiefly
authority might be retained in ritual spheres, but that individual equality should prevail
in political practice.15 The proposed separation of cultural context from national
politics compounded the systemic indigenous exclusion from the national economy,
which contributed to an indigenous consciousness that their culture was not compatible

8 J. Fraenkel and S. Firth, “The Enigmas of Fiji’s Good Governance Coup”, in Jon Fraenkel, Stewart
Firth, and Brij Lal, eds., The 2006 Military Takeover in Fiji: A Coup to end all Coups? (Canberra,
2006), pp.3-17.
9 R. Norton, “Seldom a Transition with Such Aplo-
mb: From Confrontation to Conciliation on Fiji’s
Path to Independence”, Journal of Pacific History,
10 J. Dakuvula, Citizenship Education Case Study: Politics of Ethnicity, Citizenship, and the Rule
of Law in Fiji (Sydney, 2004).
11 S. Ratuva, “The Paradox of Multi-culturality: Managing Differences in Fiji’s Syncretic State”, in
International Conference on Pluricultural States and Rights to Differences (New Caledonia, 2002).
12 Ibid., p.8.
14 G. Stokes, “Global Citizenship”, in W. Hudson and J. Kane, eds, Rethinking Australian Citizenship
with economic success.\textsuperscript{16} The notion of cultural impediments to material wellbeing further explains indigenous perceptions of exclusion, and the argument for affirmative action. Yet it was allegations of corruption during the implementation of affirmative action policies that Bainimarama used to justify the coup in 2006.

Affirmative action made indigenous “belonging” conditional on Indian marginalisation, and reinforced the rhetorical logic of the “backward Fijian and the advanced Fijian Indians”.\textsuperscript{17} Yet, Indigenous Fijian owners own 84 per cent of the country’s land; its underutilisation and the fact that leasehold arrangements have largely directed economic returns to Indo-Fijian farmers help explain why economic growth in the thirty years to 2011 averaged just 2.1 per cent of the gross domestic product (GDP). This also demonstrates one of the ways in which the present is “explained by the past […] particularly the distribution of political power”.\textsuperscript{18}

Paramountcy’s preoccupation with the distribution of political authority, as an end in itself, helps explain relative indigenous poverty, and leaves paramountcy deficient as a theory of power. Its concern for aristocratic authority, with no clearly developed account of power being used to craft an inclusive indigenous self-determination means that “[t]he central question of Fijian politics since independence remains unresolved: who should rule and for whom?”.\textsuperscript{19} This is because the issue “is not really about having a Fijian head of government, but rather which Fijian leader would be acceptable to a particular group of Fijians at any given time”.\textsuperscript{20}

There was just one non-indigenous Prime Minister in the thirty years preceding the first coup. This coup itself removed a government led by an indigenous Fijian, while the post-coup indigenous-led governments of Sitiveni Rabuka (1992-1999) and Laisenia Qarase (2000-2001 and 2001-2006) secured few policy achievements for indigenous peoples. Thus, Fiji’s recent political history shows no causal connection between prime ministerial ethnicity and indigenous self-determination. Further, as S. Firth and J. Fraenkel argue, order, cohesion and stability require relationally just political dialogue.\textsuperscript{21} However, the “Fundamental rules and institutions in Fiji are accepted up to a point, but not if they threaten vested interests too directly or they deliver the wrong outcome”.\textsuperscript{22} Political instability means that the Fijian economy, which is heavily dependent on foreign investment, does not ordinarily meet the government targets of 25 per cent of GDP, with an annual average of just 8.7 per cent from 2006 to 2013.\textsuperscript{23}

\begin{thebibliography}{99}
\bibitem{19} Fraenkel and Firth, “The Enigmas of Fiji’s Good Governance Coup”, p.6.
\bibitem{22} \textit{Ibid.}, p.21.
\end{thebibliography}
Fijian politics operates in contrast to the liberal ideal that:

The responsible citizen is concerned not merely with interests but with justice, with acknowledging that each other person’s interest and point of view is as good as his or her own, and that the needs and interests of everyone must be voiced and be heard by others, who must acknowledge, respect, and address those needs and interests.24

Thus, the considerable political advantages that population status and land ownership could have given indigenous Fijians — in contrast to indigenous populations in other jurisdictions — are compromised because Fiji lacks a consistent and coherent account of the ways in which indigenous opportunities might be used most advantageously.

**Beyond the “Coup to End All Coups” and the Suppression of Self-determination**

Military sovereignty is a response to the corruption and institutional racism that Bainimarama associates with paramountcy. Military allegations of corruption and objections to two government Bills were important catalysts for the 2006 coup. Firstly, *The Promotion of Reconciliation, Tolerance and Unity Bill 2005* was especially sensitive for Bainimarama because one of its provisions was to release putsch leaders from imprisonment — some of whom had been soldiers involved in an unsuccessful mutiny against Bainimarama’s leadership of the military forces. Bainimarama urged military resistance to the Bill and insisted that he would simply “get rid of the Government if it is passed. We can recover without this Government, we cannot recover from this Bill.”25

Secondly, the Fiji Law Society objected to the *Qoliqoli Bill 2006* on the grounds that vesting ownership of the foreshore and seabed in traditional owners meant that “the state is in fact transferring […] [its] right of sovereignty within these qoliqoli areas”.26 While the Bill might instead have been understood as being concerned with sharing public sovereignty, the political context lacked settled notions of public authority *per se*, as well as certain accounts of what should constitute relationships among the state, citizenship and indigenous land rights. The political context, as it remains in 2017, makes it impossible to undertake purposeful public discussion about where power should lie and how it should be shared. Creating the political conditions for such free discussion is preliminary to both indigenous self-determination and national political cohesion. Indigenous politics must, both morally and pragmatically, consider political power’s character — that it cannot be claimed as an absolute unconstrained body of rights neatly and distinctly separable from whatever authority others might reasonably claim.

Although the 2014 election was contested by parties of opposing political philosophies, the contestation of ideas occurred under military oversight and with the knowledge that Bainimarama’s capacity to achieve his objectives through military force brought conditional democracy to the election campaign. Like Indo-Fijians, indigenous peoples did not have the capacity to challenge military sovereignty in a context where there is neither a normative cross-cultural conception of justice, nor a functioning and accepted means of mediating difference. This is a deep failure of politics, which needs to be addressed because, as Tim Rowse proposes in the

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Australasian context, one needs to understand “citizenship as capacity rather than citizenship as rights” if indigenous peoples are to be present and influential in the public sphere.27

Bainimarama’s electoral success in 2014 was democratically legitimate, yet was due to his targeted public expenditure, rather than indigenous endorsement of non-racial democracy.28 His democracy is selective and does not admit the limits that the concept would ordinarily impose on prime ministerial power. Essential liberal institutions are simply unavailable in Fiji, such as a free and independent press, an independent judiciary and human rights protections which indigenous peoples assert in other jurisdictions to defend the right to self-determination. The absence of these institutions ensures that there is no extra-parliamentary check on political power.

The 2014 Constitution entrenches fragile government because:

The army now conceives itself to be the most important part of the state, as much in the protection of domestic order and governance as in matters of external defence. In this, it rejected paramountcy as the central argument in the Fijian politics of indigeneity.29

However, what Fijian political stability requires more than any other variable, is resolution of the tension between isolable and exclusive paramountcy and no particular indigenous recognition. Bainimarama has successfully exploited indigenous discontent with the traditional chiefly order,30 but does not accept that there might be a case for alternative protections of indigenous rights. He argues that indigenous well-being is protected without the institutional markers of difference that the 2013 Constitution removed — such as the communal seats in Parliament, the Great Council of Chiefs and later a government decree preventing the use of native languages in Parliament.

J. Carens argues that the Great Council of Chiefs’ institutionalised position should be protected as part of a systemic effort to protect a traditional way of life and enable it to evolve over time.31 Lawson instead proposes that the Council simply institutionalised a class-based deference to a feudal structure incompatible with the self-determination of all indigenous peoples.32 Lawson and Hagan-Lawson argued that the Council’s diminished position is an example of the “ebbing of a long-standing ideology of traditionalism”.33 Embracing the Declaration would, instead, challenge the class politics that have traditionally distinguished Fijian indigeneity.

The Great Council was undermined to “realise the army commander’s view that [it] should primarily be an instrument of government, insulated from electoral and parliamentary politics, especially the influence of Fijian nationalist groups”.34 The only

27 T. Rowse, Indigenous Futures: Choice and Development for Aboriginal and Islander Australia (Sydney, 2002), p.86.
29 R. Norton, “Understanding Fiji’s Political Paradox”, in Fraenkel and Firth, eds., From Election to Coup in Fiji, pp.413-419, see p.417.
check on parliamentary authority was to be the military, which Bainimarama controlled. Thus, as the Fiji Daily Post proposed after the coup in 2006:

Democracy remains an article of faith — always. That is, it stands by the faith citizens have in themselves to arrive at proper decisions affecting their common future, and the faith they have in each other respecting that faith and its processes and outcomes. This renders democracy precarious because anyone at any time with sufficient resources can knock it over and down. All it takes is ‘bad faith’. That is, anyone can destroy democracy by simply losing faith in what it is by its very nature.35

Yet, Bainimarama’s 2014 election campaign showed the influence of both class and chiefly tradition. Bainimarama strongly emphasised the point that:

Our ownership of 91 per cent of the country’s land is guaranteed in our Constitution; our freedom to be Christians and follow Jesus Christ is also guaranteed; there are many more of us than any other race and our birth rate is higher; our children have never lived longer because of better health services; my Government’s free primary and secondary schooling means that, for the first time, every i’Taukei child can get an education; those young people have never had a better chance to go to university or a technical college because of our scholarships and tertiary loans; the i’Taukei language is now a compulsory subject in our primary schools so it is also secure; our culture and traditions are thriving. So I ask you: How are we threatened? The answer is that WE ARE NOT. It is a big lie to try to spread fear when there is no reason for the i’Taukei to fear anything. We are strong. We are proud. And to say that we need protection is an insult. It demeans us as a people. My Government gave you the money you receive from the land you lease to decide for yourselves how it is spent. We empowered you, the ordinary people, by giving you the power to decide. That is democracy. But these people want to take that money back from you and give it to the chiefs to decide for you. They don’t want you to have your say. They think they know better. Well, that is not democracy. That is a hereditary elite telling you what is best for you.

Don’t turn the clock back. Insist on keeping what is yours. The chiefs have their place and we all respect the chiefly system. But we want them to lead by example in their public and personal lives. And we want them to serve us, as well as lead us, not take our money and tell us what to do. Or try to manipulate us with false warnings about threats to our way of life when none exist.36

Indigenous material prosperity was a further point on which Bainimarama campaigned:

We will set aside $10-million to help the i’Taukei use their land for subdivision and development. For too long, landowners have leased out land for others to develop and make huge profits. We will encourage landowners to become landlords while reaping direct commercial benefits from their land. The funding will be made available as a grant to assist landowners to meet development costs, such as the provision of electricity water and roads. This will not only empower the i’Taukei but also contribute to national economic development.37

The material opportunities that the Bainimarama government has provided for indigenous peoples are important and help explain the Prime Minister’s personal support at the 2014 election. However, there is also a denial that any particular rights belong to indigenous peoples by virtue of first occupancy, or that contemporary political rights can be contextualised by Fiji’s unique colonial legacy. Homogenous and equal citizenship should alone remove the possibility of cultural or economic deprivation. The alternative position, that colonialism directs its exploitative rationale to people by virtue of group membership, is diminished.

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37 Ibid.
Even though the colonial power withdrew from Fiji more than forty years ago, indigenous histories and experiences remain relevant to the contemporary state’s moral legitimacy, which means that Bainimarama’s explicitly non-racial citizenship cannot adequately assure all peoples’ political freedoms and deliberative opportunities. Citizenship’s transformational capacity is tempered by its construction as an instrument of coercion. Thus, Bainimarama’s position is inadequate and akin to Waldron’s proposition for jurisdictions such as New Zealand — that common undifferentiated citizenship necessarily guarantees all peoples the same substantive opportunities for political influence. This is argued on the grounds that common citizenship requires all people to engage justly with one another and thus set aside the consequences of historic transgressions of justice. However, justice is better understood as the product of subjective human values and political competition for ascendant influence — it is not the product of the universal truths that objectivity might presume. The complexities of contemporary Fijian politics mean that a single public space cannot meet either indigenous or Indo-Fijian claims of citizenship — both of which are, in different ways, contextualised by colonial transgressions of justice.

Differentiated Citizenship as “Belonging Together Differently” and the Declaration on the Rights of Indigenous Peoples

Disrupting the chiefly order in favour of a political system that discounts indigeneity sets aside a comprehensive body of rights available to minority indigenous peoples in other jurisdictions — rights that are relevant to Fiji given its colonial legacy, even though its indigenous majority population status has been restored. Colonisation itself makes ethnicity matter and makes culture central to liberty.

Although liberty is limited it is, for indigenous peoples, contextualised in ways that make culture a necessary constituent of a normative theory of democratic inclusion. Indeed, Benhabib argues that democracy’s inclusive potential is realised when “the institutions and culture of liberal democracies are sufficiently supple, and decentred so as to allow the expression of difference without fracturing the identity of the body politic or subverting existing forms of political sovereignty”; however, this is limited by the presumption that the claims of culture are consistent with the rights of others. Under these terms, the Constitution dismisses the Declaration’s presumption that “the recognition of the rights of indigenous peoples […] will enhance harmonious and cooperative relations between the State and indigenous peoples, based on principles of justice, democracy, respect for human rights, non-discrimination and good faith”.

The Constitution also contrasts with alternative accounts of indigeneity as a politics of “belonging together differently” with a more expansive view of citizenship than military sovereignty allows. “Belonging together differently” challenges Marshall’s account of citizenship as a body of passive entitlements to presume an obligation to

41 Ibid., p.5.
42 United Nations, Universal Declaration on the Rights of Indigenous Peoples, Article 46(3).
deliberate for the common good which allows differentiated citizenship to develop as a social construction that is concerned with the terms of political participation, rather than with the rights and responsibilities of the individual alone. Appeals to justice are reasonably differentiated because all citizens require parity of esteem to protect the essential characteristic of the citizen as one who deliberates. This is important to the formation of values and priorities and, in turn, gives substantive meaning to the notion of political community. As Young put it:

In the absence of a Philosopher King who reads transcendent normative verities, the only ground for a claim that a policy or decision is just is that it has been arrived at by a public which has truly promoted the free expression of all.

Thus, an adequate understanding of justice requires political recognition. Distribution alone cannot admit the significance of culture, first occupancy or colonial legacy. In this manner, accommodation balances the political contradictions of race, class and conditional democracy. The dual recognition of “communal identity and individual democratic rights” is important because “the state becomes the site for both contradiction and accommodation as different communal identities, compete, negotiate, compromise, or sometimes converge”. A “framework for belonging together differently” cannot develop, which leads to “needless conformity in an age of diversity”.

Coherent and principled ideas about the just distribution of power presuppose that indigenous peoples themselves will work out relationships between chiefly authority and collective self-determination. There is recourse in liberal political theory to admit the extant rights of indigeneity through particular, though not absolute, shares in the sovereign authority of the state, complemented by distinct indigenous peoples’ authority over their own affairs. Stability requires the settlement of indigenous peoples’ particular political status. Yet, in Fiji there must first emerge scope for a politically safe contest of ideas about the claims that first occupancy might make on the distribution of political power.

Differentiated citizenship is politically valuable to indigenous self-determination because it admits the expression of political rights in language that is amenable to international sympathy and the liberal insistence that “individuals or groups cannot simply assert that they want something; they must say that justice requires or allows that they have it”. State sovereignty “depends on conditions that operate above the level of the individual states themselves”. Also, ethnic difference per se is not the cause of political conflict, but rather the cause is systemic incapacity to support the

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51 Maaka and Fleras, *The Politics of Indigeneity*, p.43.
conditions for living together differently by mediating the relations of domination and oppression between groups.\textsuperscript{54}

The Declaration proceeds from a model of sovereignty that is inclusive, but neither absolute nor incontestable. There must be political engagement with others and intellectual engagement with theories of power and authority equipped to support cohesion and stability. Extant rights preclude the state alone from defining political agendas and entitlements. This means that there must be meaningful public sovereignty that is inclusive, contestable and responsive to the geo-politically contextualised experiences of people who did not freely agree to British colonialism or to the importation of Indian indentured labour. The legacies of these conditions remain in the political structures and contemporary demography of the Fijian state.

Differentiated citizenship with reference to the Declaration provides a likely path to self-determination. The Declaration “sets out the individual and collective rights of the world’s 370 million native peoples, calls for the maintenance and strengthening of their cultural identities, and emphasises their right to pursue development in keeping with their own needs and aspirations”.\textsuperscript{55}

The Declaration follows earlier less comprehensive attempts to codify indigenous rights in international law and imagines shared political authority.\textsuperscript{56} It provides an alternative political framework for thinking about the distinct claims that indigenous peoples make in common with the broader political freedoms and opportunities that liberal citizenship affords all citizens. The essential tenets of differentiated liberal citizenship include protecting language and culture in traditional spheres and public institutions. Differentiated citizenship allows the expression of civic rights and responsibilities in a culturally preferred manner. Its point of distinction is that it can admit extant rights, but in ways that are not dependent on restricting the liberal rights of others.

Land reform to create a relationship between land ownership and indigenous material well-being has long been a contested point in Fijian politics, and Bainimarama’s policy responses attracted indigenous support at the 2014 election. However, as with any public policy measure in modern Fiji, land policies are subject to constitutionally guaranteed military oversight. Positioning the military as the new site of “chieftainship” changes the location of political power, while also cementing political volatility. This ensures that there can be no certain relationship between indigenous public policy and the will of the Fijian people. This condition is incompatible with the Declaration, which privileges indigenous people with the right “to maintain and strengthen […] distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State”.\textsuperscript{57}

The Declaration understands the notion of political power as much broader than the ethnicity of the person who holds the office of Prime Minister or President. Instead, shared intra-state political authority is preliminary to the recognition of ongoing relationships between colonialism and contemporary political claims. Colonialism brings a distinctive element to deliberation which, in turn, requires distinct processes


\textsuperscript{55} United Nations, *Universal Declaration on the Rights of Indigenous Peoples*.


for agreeing on public values able to provide people with meaningful political voice and recognise that politics is not concerned only with who holds which public office, but with the exercise of political authority for the common good. The politics of indigeneity that the Declaration imagines are not concerned with superior rights, but with giving expression to liberal rights in a meaningful context; a Fijian context where the nature of just political relationships is still to be worked out.

Differentiated citizenship can be structured to promote democratic participation and the particular recognition of indigenous rights and interests in ways that are consistent with Horscroft’s minimalist paramountcy, where all people should enjoy the full rights of liberal democratic citizenship, while guaranteeing indigenous peoples’ authority over their own affairs, cultural protection and participation in public decision making.\(^{58}\) From this perspective, an inclusive liberal polity can be structured in congruence with self-determination and in association with the Declaration. The indigenous Chief Executive of the National Citizens’ Constitutional Forum, Akuila Yabaki, appealed for the extension of the Declaration’s provisions to Fiji on the grounds that they would recognise our right to be different, and to act as an individual or as part of a community as we choose. It encourages participation in matters which affect us all such as education, social welfare, health, environment and governance without discrimination. From it we should learn that multiculturalism is what makes us all part of the common heritage of mankind. We are all entitled to exercise and practice our beliefs, cultures and religions, and should not interfere in the rights of other people to do the same.\(^{59}\)

The Declaration confirms that “the right to lands, territories and natural resources is the basis for [indigenous peoples’] collective survival and thus inextricably linked to their right to self-determination”.\(^{60}\) It insists that:

1. Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security.

2. States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions. Particular attention shall be paid to the rights and special needs of indigenous peoples.\(^{61}\)

Significant to Fiji, the Declaration also maintains that:

In the exercise of the rights enunciated in the present Declaration, human rights and fundamental freedoms of all shall be respected. The exercise of the rights set forth in this Declaration shall be subject only to such limitations as are determined by law, and in accordance with international human rights obligations. Any such limitations shall be non-discriminatory and strictly necessary solely for the purpose of securing recognition and respect for the rights and freedoms of others and for meeting the just and most compelling requirements of a democratic society.\(^{62}\)

In particular, inclusive sovereignty is necessarily “grounded in the rights of all citizens to shape the society in which they live”\(^{63}\) — a position that is gaining normative

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\(^{58}\) Horscroft, *The Politics of Ethnicity in the Fiji Islands*.


\(^{62}\) Ibid., Article 46[1].

acceptance at international law as the “traditional idea of sovereignty as the unconditional prerogative of the state” is weakened.\textsuperscript{64} Self-determination means that public decisions are made with all citizens believing that they have received fair and reasonable deliberative opportunities. Thus, self-determination is only realisable through assured and meaningful participation in public institutions, which requires sovereignty to not be the absolute and indivisible construct that Hobbes\textsuperscript{65} imagined, but one that is dispersed and constantly rebalanced by changing political values and opportunities. Yet, as Maaka and Fleras asked with respect to Canada and New Zealand, “how much difference is compatible with the ideal of the rule of law under fair and equal conditions”,\textsuperscript{66} where indigenous people are “sovereign in their own right, yet shar[e] sovereignty with society at large”\textsuperscript{67}

The contrast with paramountcy’s absolute and exclusive account of political authority is that it allows corporate indigenous membership of a single national polity, alongside the rights and responsibilities of indigenous citizenship. A further distinction with Canada and New Zealand is that the rights of citizenship are liberal political rights in those jurisdictions and, while institutional racism does impede their realisation, these are not constitutionally protected impediments — as they are in Fiji. Indeed, the Declaration indicates that the relationship between individual liberty and group rights is circuitous and interdependent, with each being equally important missing constituents of the Fijian right to self-determination.

The Declaration affirms that the right to self-determination belongs to all people. It emphasises: “the fundamental importance of the right of self-determination of all peoples, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development”. It proceeds on the assumption that “the recognition of the rights of indigenous peoples in this Declaration will enhance harmonious and cooperative relations between the State and indigenous peoples, based on principles of justice, democracy, respect for human rights, non-discrimination and good faith”.\textsuperscript{68}

The Declaration affirms indigeneity as not merely a politics of identity. It indicates that justice is limited if it is considered “irrespective of issues about whose ancestors were here first, irrespective of any history of injustice that may have attached to the process by which these people came to be side by side in that territory”.\textsuperscript{69} This is because discourses of sovereignty are “neither natural nor neutral”. They reproduce a space for politics that is enabled by and rests upon the production, naturalisation and marginalisation of certain forms of “difference”.\textsuperscript{70} People must also hold the personal capacity to exercise citizenship and to deliberate freely and with substantive equality. It is on these terms that the Declaration would assist the Fijian politics of indigeneity to develop theoretical consistency and cohesion, as well as a pragmatic account of the

\textsuperscript{66} Maaka and Fleras, The Politics of Indigeneity, p.3.
\textsuperscript{67} Ibid., p.5.
\textsuperscript{68} United Nations, Universal Declaration on the Rights of Indigenous Peoples, Preamble.
self-determination that Fijian people seek — yet that neither population status nor the ethnicity of the Prime Minister or President can achieve. The extension of the Declaration’s terms and provisions to Fiji is legitimate and efficacious because the withdrawal of colonial power has not removed the constraints placed on post-colonial indigenous self-determination.

Conclusion
Fiji’s political instability is self-inflicted — it proceeds from ill-considered and intellectually inconsistent understandings of where power lies, as well as the constraints and purposes for which power should be exercised. Philosophical incoherence has compromised indigenous peoples’ capacity to exercise political authority efficaciously, both in the state and in the structures and institutions of indigenous society. Self-determination remains elusive due to the absence of a political culture that is able to debate sovereignty’s particular location and distribution. Prevailing structures of citizenship most influence opportunities for self-determination and explain this article’s argument for extending to Fiji the provisions of the Declaration on the Rights of Indigenous Peoples. Through the Declaration, differentiated citizenship provides an intellectually and legally robust framework, from which indigenous peoples might assert the right to deliberate, the right to work out just terms of association within the state and with other citizens, and to set and pursue their own political priorities. These political claims are reasonably expressed as rights of indigeneity even as the indigenous majority population status has been restored through Indo-Fijian emigration since the first coup in 1987, and even as the indigenous proportion of the total population is projected to increase to two-thirds of the total over the next ten years.  