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**Prime Minister and Minister for Finance, Strategic Planning, National Development and Statistics, Public Service, Peoples Charter for Change and Progress, Information, iTaukei Affairs, Sugar Industry and Lands and Mineral Resources**

**ADDRESS AT THE OPENING OF THE 2013 ATTORNEY-GENERAL’S CONFERENCE**

**InterContinental Resort & Spa Fri. 6th Dec. 2013**

**NATADOLA 0900 Hours**

**Members of the Judiciary;**

**Your Excellencies, Members of the Diplomatic Corps;**

**The Solicitor General;**

**Distinguished Guests and Panelists;**

**Members of the Legal Profession;**

**Ladies and Gentlemen.**

It’s a great pleasure to be here once again in Natadola to open the 2013 Attorney General’s Conference –the first to be held under our new Constitution – the supreme law of Fiji – and the last before we all go to the polls in 2014.

We are less than ten months away from that election, which will introduce the first genuine democracy in Fiji’s history and determine the future direction of our Nation. So it is only appropriate that sessions at this Conference have a very strong focus on the Constitution and the election process itself.

As part of the overall theme – *“Raising the Bar: Law and Practice Under the Constitution”*, distinguished panels of speakers will speak across six key areas of particular interest not only to the legal profession but to the wider community:

* The implementation of civil and political rights;
* Holding public officers accountable;
* Religion in a secular state;
* The role of the media in a constitutional democracy;
* The implementation of socio-economic rights;
* And finally, Parliament, the elections and proportional representation.

The list of speakers is very impressive for their individual achievements and the insights they will bring to these discussions. They come from different walks of life, represent a broad range of opinions and send a clear signal to everyone about the quality of the national debate that we envisage in the new Fiji. As Prime Minister, I thank all our panelists for their willingness to contribute to making us all better informed.

You will note that the Attorney-General himself isn't here for the opening of the AG’s Conference. As Environment Minister, he is representing Fiji as chair of the 9th Pacific Islands Conference on Nature Conservation and Protected Areas – which is critical to the preservation of our environment.

The Constitution has specific provisions for the protection of the environment. Section 40 says that every person has the right to a clean and healthy environment, which includes the right to have the natural world protected for the benefit of present and future generations through legislative and other measures.

Above all, of course, the Constitution lays the foundation for our new democracy based on the most fundamental democratic principle of all – that all men and women are created equal and have the same rights and obligations.

I’ve said it before and I’ll say it again. I am very proud of this document, which is the cornerstone of our vision to join the ranks of the world’s great democracies. Unlike previous Constitutions in Fiji, no-one’s vote has more status than anyone else’s, we are all Fijian and, for the first time, we are all also entitled to basic political, social and economic rights.

These are by now well known to the people in this room but include the right to freedom of speech, expression and association, the right to adequate food and water, the right to health and education and the right to economic participation.

As the Supreme Law of Fiji, all other laws in Fiji flow from or must adhere to this Constitution. It governs everything. And you as judges and lawyers will be at the forefront of its interpretation, implementation and enforcement.

We have done almost everything possible to publicise the provisions of this Constitution, to take it to the people, certainly more than was ever done with the previous post- Independence constitutions of 1970, 1990 and 1997.

No other constitution was widely translated into the two main venaculars, i’Taukei and Hindi. No other constitution was distributed, free of charge, to the far ends of the nation in pocket size form. Never before has every Fijian had the same opportunity to examine the supreme law of our country, discuss its contents and keep it for future reference. We’re currently examining even more options to get this document to every Fijian.

The whole point has been to get the nation thinking and talking about the principles on which our new democracy will be based, just as I hope that your discussions here over the next couple of days will trigger a wave of understanding and enlightenment, at the Conference itself and in the community through the media and cyberspace.

Some of these topics have never been discussed in an open forum in Fiji before. We all look forward to the intellectual input of our panelists and all of you. But I’d like to kick off with a few personal observations of my own about how these topics fit into our overall vision.

I’m especially keen on socio-economic rights. In many countries, socio-economic rights have either not been recognized or have not been enforceable. The focus generally has always been on civil and political rights. In some countries – including many in Asia – governments argue that socio-economic rights need to take precedence over civil and political rights. Of course other countries do not address socio-economic rights at all.

I’m pleased to say that here in Fiji, we have included both sets of rights in the new Constitution in a very comprehensive manner. Indeed for the first time, socio- economic rights will be enforceable. So that along with such provisions as free speech and freedom of religion, we are giving Fijians rights to such things as adequate food and water, housing and access to economic opportunity.

Many people ask me why I insisted on having socio-economic rights included in the Constitution. As I’ve travelled around Fiji in the past seven years, the first and most important thing Fijians have said they want is basic socio-economic improvements in their lives. This message was again reiterated very strongly during the Constitutional consultations.

I personally feel very strongly about this issue and, in fact, it underpins my entire approach to Government. When I talk repeatedly about our underlying mission being to serve the Fijian people, I am thinking of those who’ve been deprived of those rights over the years by successive governments. Indeed, you could argue that many of the political upheavals that we’ve had in Fiji over the years have been a direct result of the lack of focus on the economic and social empowerment of ordinary Fijians.

One of the great things about having these socio-economic rights included in the Bill of Rights is that it compels not just my Government but any subsequent government to provide and protect them. We have already started this in a major way by making education free in our primary and secondary schools and by way of a tertiary soft loan scheme.

For those of you here who are lawyers, you need to familiarize yourselves not just with these provisions but with the associated jurisprudence. Fiji doesn’t have a wealth of jurisprudence on socio-economic rights – no case law - and, in fact, we have a lot to learn from other jurisdictions. It’s clearly a totally new area of rights that are enforceable.

It has been brought to my attention, however, that the first case concerning a socio-economic right under the Constitution – in this case the right to housing – was filed in the Suva High Court only a few days ago. This is very encouraging and my Government looks forward to more Fijians seeking to enforce their socio-economic rights which of course will assist in the development of jurisprudence in this area.

On the other hand, the Bill of Rights also focuses on civil and political rights. There’s no doubt that civil-political rights are essential to ensuring the fundamental rights of every individual, including access to substantive justice.

While we had civil-political rights under the 1990 and 1997 Constitutions, in practice many people were denied justice because they weren’t able to afford lawyers, or they didn’t have access to lawyers.

For the first time under this Constitution, it is mandatory that the Legal Aid Commission provide access to justice to all Fijians. This is why in the 2014 Budget, we have provided an unprecedented allocation of more than $4 million to the Legal Aid Commission, allowing amongst other things, new Legal Aid offices to be opened in Sigatoka, Navua, Savusavu and Taveuni by the end of the first quarter of next year.

My Government’s view has always been that there is no point in simply window-dressing a Constitution with fancy language about people’s rights, tarting it up to make it look good. You need to ensure that these rights can be enforced in a practical manner and that they improve the day-to-day lives of ordinary Fijians. That is how to build lasting confidence in our institutions, governance structures and the notion of genuine justice for all. That is how to build a lasting democracy and ensure stability.

Linked, of course, to civil and political rights is the right for people under the Constitution to be able to express their opinions freely, freedom of speech and expression, and a free media. We have an entire session on the role of media in a constitutional democracy and while I won’t be able to be present, I’ll be very interested to hear the outcome.

The media plays a critical role in a constitutional democracy but more so in a developing country like Fiji and in particular, given our political history, both before and after Independence. I fundamentally believe that the media should be free to report on all matters in a balanced and professional manner.

The Media Industry Development Decree actually provides for that. When this Decree was implemented, the critics said that it would muzzle the media. But I’m glad to note that no media outlet has been charged with any breach of editorial misconduct under the Decree. Some people saw the contempt proceedings against the Fiji Times as a means to muzzle the media. But, of course, that is not the case. Because contempt cases have been brought against the media in other so-called liberal democracies. The rules governing contempt are based on British common law, which is precisely the law under which media outlets like the Fiji Times had judicial decisions made against them.

As in the case of our lawyers, we look to our journalists to assist in the process of introducing a genuine democracy. The Media Authority doesn’t exist to wield a big stick and inhibit public discourse. It exists to remind the media of its ultimate obligation to report with scrupulous fairness and balance in the interests of every Fijian. Unfortunately, there are still instances of overt bias and some journalists and media outlets still see themselves as partisan political players. Unfortunately they use the principle of a free media to hide behind their partisanship and bias.

There is still too much racism, too much ethnic, class and gender stereotyping. But that is now for the Media Authority to deal with and I am glad the Chair of the Authority is here.

In developing countries, the media needs to be a partner in national development and we expect the Fijian media to be that partner, no matter who is in Government. We need more stories about Fijians on the fringes of our society, with a view to bringing them into the mainstream. Democracy means inclusiveness at all levels – it is not only restricted to the electoral process for national elections.

The need for fairness and balance doesn’t preclude investigative reporting and especially journalists holding public office holders more accountable. There are, in fact, unprecedented accountability provisions for public office holders in the new Constitution. These include the Accountability and Transparency Commission that will hold the President, all Ministers and senior civil servants accountable. The Constitution will extend the existing powers available to hold individuals to account through FICAC, the Fiji Independent Commission Against Corruption.

I’m delighted that a former member of the Victorian Parliament, Professor Peter Loney, is part of the panel that will address this issue. Because I know from my conversations with many ordinary Fijians that there is a deep cynicism generally about MPs. They feel that once MPs are elected, they not only disappear until the next election, they see that office as a means to enrich themselves and those around them but to do so with impunity because they have been elected. What your average Aussie might call having their noses in the trough.

Being elected to Parliament does not give one the licence to no longer be accountable. On the contrary, we must demand even higher standards of our MPs to set the tone for the rest of the nation.

We will also soon have a Freedom of Information law, which the Solicitor General’s team is just about to complete. It will set new standards in requiring a Minister’s assets and liabilities to be declared and stipulate that this be updated on a yearly basis. As lawyers you will also be able to access this information.

Parliament, of course, needs to get elected and, as we’ve said all along and as stipulated in the Constitution, we will have that election no later than September 30th, 2014. The Constitution provides for a single national constituency and a single chamber parliament as in Israel and the Netherlands.

This is in response to our history of ethnic electorates and the common complaint that members of previous parliaments were more concerned with parochial issues than with the wider good. A single constituency forces all members of Parliament, in a small country like ours, to be concerned not just with the needs of their particular constituencies or regions but with the development of Fiji as a whole.

Our open list system of proportional representation is similar to that of Israel, Brazil, Finland, Indonesia, Moldova and, in fact, the Australian Senate, the country’s upper house.

We have settled on a 50 member chamber on the basis that a lean parliament is an effective parliament in a country the size of Fiji. We want to attract high quality candidates to political office and pay them well, a practice that has had a hugely beneficial impact on good governance in a country like Singapore. We certainly can’t have people joining Parliament because they can’t get a job elsewhere, which has been the case in Fiji in the past.

Some have said that ordinary Fijians won’t understand the new system because it is such a radical departure from the past. To these people, I say that you are selling the Fijian people short. History shows that we have always been able to adapt to new circumstances very quickly and with relative ease.

At the moment, we have a number of international experts working with the Elections Office to help us avoid some of the deficiencies of the last election in terms of logistics and other discrepancies.

Which brings me to the final panel discussion later today on religion in a secular state. The new Constitution stipulates that when it comes to religious belief, the State needs to be completely neutral. Every Fijian is free to pursue whatever faith they adhere to or, in fact, none at all if that is their choice.

I know there has been quite a lot of debate in Fiji about this and I’m glad to see that we have representatives from a cross section of different religious organisations to continue that debate in this forum. It’s a wonderful opportunity to have a discussion freely and openly to clear up all of the misconceptions that exist once and for all.

From my perspective, our Constitution is no different to other countries like Australia and the United States on this issue so allow me to read out the relevant sections in the Constitution.

Section 4 says: “*Religious liberty, as recognized in the Bill of Rights, is a founding principle of the State. Religious belief is personal. Religion and the State are separate, which means – the State and all persons holding public office must treat all religions equally.*

*The State and all persons holding public office must not dictate any religious belief. The State and all persons holding public office must not prefer or advance, by any means, any particular religion, religious denomination, religious belief or religious practice over another, or over any non-religious belief. And no person shall assert any religious belief as a legal reason to disregard this Constitution or any other law”.*

In the Bill of Rights, this is what it says: *Every person has the right to freedom of religion, conscience and belief. Every person has the right, either individually or in community with others, in private or in public, to manifest and practise their religion or belief in worship, observance, practice or teaching.*

The Bill of Rights goes on to protect people from being forced to behave in a manner that is against their belief, take an oath against their belief, establish the right to operate religious schools and so on.

Indeed the last Pope Benedict the 16th had said, and I quote:

*"The just ordering of society and the State is a central responsibility of politics. . . . The State may not impose religion, yet it must guarantee religious freedom and harmony between the followers of different religions. For her part, the Church, as the social expression of Christian faith, has a proper independence and is structured on the basis of her faith as a community which the State must recognize. The two spheres are distinct, yet always inter-related.*

Nowhere does the Constitution say religion cannot be practised publicly, as has been suggested in some quarters. It can be practised in public and in private. The Constitution is absolutely explicit about this.

Ladies and Gentlemen, I want to close by urging all of you at this legal conference to hold your discussions over the next two days within a legal context, not a political context. As has been seen recently when personality and political point scoring is brought to the fore, it obscures one’s ability to honestly, logically and in a constructive manner to analyze the law, facts and the ground realities.

The 15th Attorney General’s Conference provides you a unique opportunity and forum to stimulate intelligent and constructive discussions without any inhibitions for your personal benefit and for the benefit of our country.

Ladies and Gentlemen, I now have great pleasure in declaring the 15th Attorney General’s Conference open.

Vinaka vakalevu. Thank you.