Fiji’s military-backed government dug in its heels during 2008, defying pressure to hold elections. At home, interim Prime Minister Frank Bainimarama courted popular backing for a “People’s Charter” and sought to restructure the Great Council of Chiefs (GCC). Externally, relations soured further with Australia and New Zealand over the breach of the commitment to hold elections by March 2009, several death threats directed at Australian High Commissioner James Batley, and the expulsion of additional journalists and diplomats. The economy fared poorly, despite the recommencement of gold mining at Vatukoula and some recovery in tourist arrivals. The inner circle around Bainimarama tightened after the Fiji Labour Party (FLP) ministers—including party leader Mahendra Chaudhry—left the cabinet. In October, a panel of three judges sitting on the high court in the Qarase v Bainimarama case ruled that post-2006 coup presidential decrees were lawful, thus legitimizing the actions of the interim government.

In January 2008, the National Council for Building a Better Fiji (NCBBF) held its first meeting. Opening the proceedings, Catholic Archbishop Petero Mataca echoed the position of his co-chair Frank Bainimarama by rejecting calls for a speedy return to the polls on the grounds that “elections alone will not bring about democracy nor guarantee stability or end all coups” (Fiji Times, 18 Jan 2008). His statement set the tone for what became the core NCBBF message—an insistence on far-reaching electoral reforms to eliminate racism recycled as justification for the regime’s resisting pressure to hold fresh elections by March 2009. Invitations to join the council were refused by deposed Prime Minister Qarase’s Soqosoqo Duavata ni Lewenivanua (SDL) party and the Methodist Church, indicating that the majority of indigenous Fijians remained deeply opposed to the interim government’s initiatives. Both of the major North Indian organizations, the Arya Samaj and the Shree Sanatan Dharm Pratinidhi Sabha, took up seats on the national council. So too did Mahendra Chaudhry’s Fiji Labour Party, which had been backed by the vast majority of Fiji Indians at the elections two years previously. A small but vocal minority of Fiji Indians remained aloof; the National Federation Party refused to participate, as did the main South Indian organization, the Then India Sanmarga Ikya Sangam, and the Fiji Muslim League. In response, the regime cultivated rival South Indian and Muslim groups (for details, see Prasad 2009).

The draft People’s Charter, released in August, proposed a set of core shared values including sustainable democracy, a common national identity, enlightened leadership, poverty
reduction, and economic development (NCBBF 2008a). Most were grand statements of principle that could have been embraced, at least rhetorically, by all of Fiji’s post-independence governments, and the document was largely silent on concrete steps to be taken. A few proposals stood out. “Mainstreaming of indigenous Fijians in a modern, progressive Fiji” was to be promoted by adoption of a common name—“Fijian”—for all citizens (in contrast to the more usual everyday usage of “Fijian” to refer to the indigenous community and “Indian” to refer to those descended from migrants from the Subcontinent). Indigenous Fijians would henceforth be referred to as “i-Taukei” rather than “Fijian.” That sparked a familiar debate and was predictably condemned by Qarase and the Methodist Church. In the mid-1990s reformists had encouraged usage of “Indo-Fijian” for those of Indian descent and “Fiji Islander” for all Fiji citizens. But those terms never caught on in everyday speech within Fiji, instead becoming confined largely to polite liberal and scholarly discourse. The new terminology is unlikely to acquire any greater currency.

The People’s Charter included proposals for a radical overhaul of the electoral system. The complex preferential system used at the elections of 1999, 2001, and 2006 was to be dropped and replaced by an open-list, proportional-representation system, as used in Finland and Sri Lanka. Communal constituen-
cies, in which citizens vote separately according to ethnic origins, were to be replaced by a fully common roll system, and the voting age was to be reduced from 21 to 18. These were sensible proposals, which had been backed by many in pre-coup Fiji. The trouble was that they were now to be introduced under the barrel of a gun, with the regime backed by the Republic of Fiji Military Forces (RFMF) urged to do so by Father David Arms (a Catholic priest) and others associated with the Citizens’ Constitutional Forum (Arms 2008). “As the military regime [is] more or less acting outside the Constitution,” Father Arms proposed, “the NCBBF should take the opportunity to push through the electoral reforms and amend the Constitution, by taking advantage of the military authority and ignoring the legal constitutional requirements for making such changes.” The suggestion was condemned as “treasonous” by former Leader of the Opposition Mick Beddoes, who lamented that “men of God” were in cahoots with “a military Junta, whose actions to date have been against the will of the people” (FijiLive, 6 June 2008).

The multiparty cabinet provision in Fiji’s 1997 constitution, entitling all parties with over 10 percent of seats to participate in the cabinet, was also to be dropped. These arrangements had not worked well during the 1999–2000 Chaudhry or 2001–2006 Qarase governments. However, after the May 2006 polls, Qarase had brought nine FLP members into the cabinet. For the first time since independence, both of Fiji’s major parties—one representing the ethnic Fijians and the other the Fiji Indians—were cooperating together in government. In the RFMF newsletter, Bainimarama had applauded “the evolution of this great and new concept of power sharing at the executive level.
of government” and demanded “total support to the multi-party cabinet from each and every member of the Republic of Fiji Military Forces” (Mataivalu News, July/August 2006, 3). In practice, the arrangement turned out to be fraught with difficulty. Labour leader Mahendra Chaudhry had stayed out, seeking at first to retain the opposition leader’s office, then later protesting about the absence of clear “ground rules” for cabinet deliberations, and eventually publicly denouncing his colleagues for collaborating with Qarase. On the eve of the 2006 coup, Chaudhry insisted that FLP ministers follow the party whip and vote against the government’s budget, while Qarase demanded collective responsibility on the part of the cabinet. Had that experience shown that power sharing was unworkable, as many in Fiji and Australia argued? Was the weak design of the power-sharing laws—which had been belatedly inserted into the otherwise Westminster-based 1997 constitution—responsible? Most in Fiji blamed the politicians and the soldiers, not the design of the institutions.

From the coup-makers’ standpoint, the National Council for Building a Better Fiji was a legitimizing device, and a convenient means for separating collaborators from critics. It also provided a sense of purpose and direction that was otherwise lacking. For some civil society groups, the national council offered a platform for the advancement of laudable objectives—such as electoral reform, or just treatment for the poor and disadvantaged. Director of the NCBBF Technical Secretariat, John Samy, told viewers of Fiji TV’s Close Up in January that he did not support the coup but wanted to provide an ”exit strategy” for the commander and his Fiji military forces. Yet Samy, like the Catholic archbishop, accepted that the military had every right to reshape Fiji’s future, and that the country’s elected leaders and political parties could reasonably be blackmailed—under the threat of continued military control—into signing the charter.

NCBBF moderates urged that if the People’s Charter was to halt the “coup culture” some discussion of the RMF role was necessary. To this, the commander happily acquiesced: the terms of reference for the working group on this matter urged extensive RMF involvement in government deliberations on matters “related to national security” (NCBBF 2008b). The final document notably dropped that suggestion, proposing instead that the Fiji military be “answerable to the government and parliament in accordance with our Constitution” (NCBBF 2008a, 7). This was an achievement heralded by some as a major triumph (see, eg, FijiLive, 8 Aug 2008). In other respects, the charter embraced fashionable military phraseology; it urged that a “holistic approach to human security be adopted by our security forces” (NCBBF 2008a, 8), and that this approach figure centrally in a “changing role for the RMF that brings it closer to the people” (NCBBF 2008a, 37). It aimed to “enhance the RMF-community development partnership by strengthening its developmental role to ensure that its professional, technical and social potential is fully realised”—a role that was to be achieved through an “expanded engineering corps,” provision of “security
services,” biodiversity conservation, infrastructure rehabilitation, and engagement in youth training programs (NCBBF 2008a, 16).

Public outreach consultations to ascertain support for the charter were launched in August, with plans to cover two-thirds of the adult Fiji population. Bainimarama said that he intended to change Fiji’s constitution, but both he and John Samy flatly rejected recalling Fiji’s Parliament, despite this being the only constitutional route for enactment of their reforms. Instead, a President’s Forum convened with Commonwealth and United Nations assistance would, the commander hoped, encourage stakeholders to agree to the charter. To demonstrate a commitment to dialogue, Bainimarama held talks with Qarase over draunimoli (lemon leaf tea), brokered by the Catholic and Methodist churches. In October, he arranged a preliminary dialogue for registered political parties intended to set the agenda for the President’s Forum, which was opened with the bald threat that, unless consensus emerged around the commander’s favored reform program, there would be a protracted delay before the next election (Fiji Times, 28 Oct 2008).

Initial reports indicated negligible turnout around the country at the meetings that were being organized to solicit support for the charter, a verdict confirmed by the extension of the deadline for completion of consultations from October to December. Belatedly alerted to the popularity battle being lost, the NCBBF Secretariat countered that a strongly favorable response was being conveyed through the divisional commissioners. The organs of state were now extensively mobilized in a nationwide propaganda campaign. Stories emerged of undue pressure on civil servants, including police and schoolteachers (see, eg, Fiji Sun, 3 Sept 2008). Fiji TV showed interviews with youths in Suva who had been cajoled into signing forms they found out only later to be endorsements of the charter (Fiji TV, 16 Nov 2008). Conversely, i-Taukei NCBBF members condemned the Methodist Church for soliciting signatures against the charter (Vesikula and Tabakacororo 2008).

While the Methodist Church general secretary, the Reverend Tuikilakila Waqairatu, insisted that 80 percent of his fellow Methodists opposed the charter, Bainimarama countered that 92.5 percent of the wider population backed it. When Bainimarama’s figures were ridiculed, the interim government issued a clarification that 80 percent (424,660) of the Fiji population ages eighteen and older (533,782) had been consulted. Of these, 372,311 had completed response forms. Of these, 92 percent had affirmed support for the charter, 3 percent had requested changes, and 4.4 percent had rejected it. The government press release concluded that 64.2 percent supported the charter (Fiji Government 2008). Even the adjusted figures were not credible.

Claims of overwhelming support for the charter sat oddly alongside the interim government’s reluctance to hold elections, which notably sharpened over the course of the year. In October 2007, Bainimarama had committed himself to elections by March 2009 before a Pacific Islands Forum summit in Tonga. A joint Forum–Fiji Government working group had been
entrusted with plotting further steps along the agreed roadmap toward the scheduled polls, and working through the various technical obstacles that both sides agreed stood in the way of fresh elections (for a critique of this view, see Fraenkel 2009). A population census was allegedly needed, and constituency boundaries had to be redrawn, although the interim government showed few signs of haste in accomplishing these tasks, despite pressure exerted by Pacific Islands Forum Ministerial Contact Group visits in July and December. Similarly, there was little urgency in arranging talks with political parties or in preparing for the promised President’s Forum. Criticism of the electoral deadline became a popular mantra among the regime’s supporters, who urged that elections could not be held until the end of the hurricane season or the school holidays. That the real reasons were political, not technical, Bainimarama himself made clear: “we want to have an election,” he said in one of his unscripted remarks, “but we want to have an election on my terms so that we can cut out the coup mentality” (Fiji Times, 31 May 2008).

An explicit public repudiation of the electoral commitment to the Pacific Islands Forum came in July and was transparently linked to an effort to play the European Union (EU) and the Commonwealth against the allegedly Australia/New Zealand–dominated Pacific Islands Forum. Aware that a European Troika mission was due to visit, the commander publicly broke off linkages with the Forum working group. Attorney General Aiyaz Sayed-Khaiyum extolled the virtues of the EU mission as “more flexible,” “more facilitative,” and “more engaging partners” (Fiji Times, 20 June 2008). But the new enthusiasm for Euro-Pacific diplomacy proved short-lived. In July, Sayed-Khaiyum condemned the EU mission for inappropriately focusing on the election timetable (Fiji TV News, 14 July 2008). Commonwealth envoy Sir Paul Reeves arrived in Fiji and came close to successfully brokering negotiations, but his efforts were also eventually rejected, and other, more sympathetic interlocutors sought. In August, Bainimarama boycotted the Pacific Islands Forum meeting in Niue, where leaders threatened to suspend Fiji unless the agreed election timetable was met. The interim prime minister now insisted that there would be no elections until a new constitution, incorporating the People’s Charter, was in place (FijiLive, 25 Aug 2008).

Fiji’s post-coup political landscape was transformed in 2008 by the departure of Mahendra Chaudhry and his Fiji Labour Party from the cabinet. In January, Chaudhry’s position had appeared to be consolidated, when a reshuffle saw the sacking, among several others, of Poseci Bune, who was known to have fought with the FLP leader. Tom Ricketts entered the cabinet, bringing the number of FLP ministers to three. Chaudhry now held an impressive array of portfolios—finance, national planning, the sugar industry, and public utilities—and was seen by many as the de facto prime minister. But the triumph was to prove short-lived. In February, a report commissioned by Chaudhry, which recommended the de-reservation of indigenous-owned lands (Krishnamurthi 2008), generated an outcry,
echoing the land controversies during the 1999–2000 government. Although Chaudhry distanced himself from the report, by midyear he was confidently assuring members of his National Farmers’ Union in Labasa that the government intended to provide them with fifty-year leases on native-owned lands (Fiji TV, 1 June 2008).

Other controversies threatened to be more damaging. Since mid-2007, Fiji’s newspapers had been reporting allegations of tax evasion by an undisclosed minister. In February, the Fiji Times named that minister as Chaudhry, sparking a F$1 billion (US$650 million) lawsuit in which the FLFP leader’s lawyers listed Fiji Times owner Rupert Murdoch’s News International among the respondents. The claims stemmed from United Kingdom–based journalist, Victor Lal. As correspondent for the Fiji Sun, Lal alleged that A$1.6 million (US$1 million) had been deposited in bank accounts in Chaudhry’s name during 2000–2002 (some by the Indian consul general in Sydney), and that interest on those earnings had not been declared to the Fiji Islands Customs and Revenue Authority (FIRCA) (Lal 2008b). The money, it turned out, had come from India, and comprised donations made in the wake of the deposed 1999–2000 prime minister’s world tour after the coup of May 2000.

A scandal was inevitable. Before Parliament in 2005, Chaudhry had been grilled about the whereabouts of money collected on his 2000 voyages and had denied knowledge of any such payments (Chaudhry 2005). The bank records obtained by the Fiji newspapers, however, suggested substantial withdrawals from 2001 onward. Under investigation, Chaudhry had supplied FIRCA with a letter written in September 2004 by one Harbhajan Lal, which purported to be a response to a query by the FLFP leader as to the whereabouts of the money: “Respected Chaudhry Saheb, Nameste. We are hale and hearty here and please accept our good wishes. I received your letter. You have asked for details of the funds. You may recall that when you were here in the year 2000, we had formed a committee, which requested you to leave Fiji and stay in Australia since the situation in Fiji was not safe and you were not secure there. The committee also assured you that it would collect funds for your settlement in Australia” (quoted in Lal 2008a).

This correspondence was, at the very least, peculiar: Why was Chaudhry inquiring about funds in 2004 that he had been withdrawing since 2001? And was it, as the letter alleged, accurate that popular fundraising in India had been intended to assist the Labour leader to relocate to Australia in the wake of the 2000 coup, rather than—as most in Fiji believed—to assist displaced Indian farmers evicted during the turmoil after George Speight’s coup?

The plot thickened further when it was revealed that two FIRCA officials tasked with investigating Chaudhry’s tax files had been dismissed in June 2007 (Fiji Times, 23 Feb 2008). One of the sacked officials, Lepani Rabo, told the media that military officers were now encouraging him to speak out (FijiLive, 23 Feb 2008). With the controversy at last public, Fiji’s shadowy Military Council urged that
Chaudhry step aside, until proven innocent. The interim government belatedly agreed to a FIRCA investigation. But the terms of reference were so narrowly constructed—focused on whether FIRCA had conducted its inquiries on the matter properly, not whether Chaudhry had lied to Parliament in 2005 or misappropriated funds donated to Fiji's Indian community—that the outcome was predictably a whitewash. The inquiry team even accepted that the three-time finance minister was unaware of FIRCA procedures for handling interest payments on overseas deposits. Through all of this, Chaudhry issued no media statement attempting to reconcile his tax records with his statement to Parliament or explaining to his FLP supporters the reason for his personal acquisition of donations collected in India after the 2000 coup. In the short run, the FLP faithful rallied around their embattled leader. In the longer run, his image was inevitably tarnished. A Times-Tebbutt opinion poll in early 2009 suggested that many Fiji Indians had transferred allegiances to the RFMF commander, while most ethnic Fijians remained loyal to Qarase (Fiji Times, 21 Feb 2009).

Chaudhry's position was made more precarious by the fact that, as finance minister, he was presiding over a severe austerity package, rendered necessary by the post-coup slowdown. Fiji's gross domestic product contracted sharply in 2007, largely due to falling tourist earnings, weak performance in the sugar industry, and the closure of the country's gold mine at Vatukoula on Viti Levu. Reserve Bank estimates of the depth of the 2007 contraction grew steadily worse: first -2.5 percent (RBF, March 2007); then -3.1 percent (RBF, June 2007); -3.9 percent (RBF, Dec 2007); -4.4 percent (RBF, March 2008); and finally -6.6 percent (RBF, July 2008). Growth in the gross domestic product for 2008, initially anticipated at 2.2 percent (RBF, Dec 2007), was downgraded to around 1 percent by the end of the 2008, after the ANZ Bank suggested that the Fiji's Reserve Bank predictions were too optimistic (ANZ Bank 2008). Severe declines were evident in most sectors, but construction was particularly badly hit. Fiji Islands Bureau of Statistics data covering building permits issued, and completion certificates, suggested that the post-crisis rebound in capital investment—which was expected, following the pattern after the 2000 coup—had not materialized by the end of 2008 (FIBS 2008b).

Where there were signs of recovery, they were weak. Gold mining recommenced in 2008 after the re-opening of the Vatukoula mine, but with a workforce around a third the size of that employed by Emperor Gold Mines before its closure in 2006. The number of tourists visiting Fiji's shores grew strongly in the second half of 2008, encouraged by new flights from Australia by Virgin Blue Airlines. However, heavy post-coup discounting of package deals ensured that earnings remained subdued. Major investments initiated prior to the coup had resulted in a 16 percent increase in hotel-bed capacity, rendering the discount deals all the more necessary. On the other hand, there were major tourism infrastructure casualties. At the large Momi Bay resort development in southwestern Viti Levu, partially
completed bures (Fijian-style thatched villas) lay exposed to the elements and water had seeped back into the drained lagoon. A post-coup shift in the interpretation of FIRCA taxation rules helped to ruin Bridgecorp, the New Zealand company that financed the project. The neighboring Natadola Beach resort development, which had been taken over by new FLP-associated interim government appointees on the board of the Fiji National Provident Fund, also suffered setbacks, including abandonment of the multimillion-dollar golf course designed by renowned Fiji-born golfer Vijay Singh.

Sugar exports, long purchased by the European Union at prices two to three times higher than those on the open world market, also weakened over 2007–2008. In May 2008, British company Tate & Lyle announced a contractual commitment to purchase 250,000–300,000 metric tonnes of sugar per annum from Fiji during 2009–2015. The deal was under the terms of the new Economic Partnership Agreement with the European Union, signed in December 2007. The price paid per metric tonne, initially €335.2, is nearly a third lower than the 2007 price of €496.8 and is to decline toward world market levels by 2015 (around €250 at present). (In mid-2008, one euro was equivalent to approximately US$1.56.) A major difficulty is that the Fiji Sugar Corporation (FSC) has not been reaching the output level of 250,000 metric tonnes, and for two years has had to import sugar from India to meet domestic and Pacific Islands demand. The company vehemently denies illegal re-exports of Indian sugar. FSC Chief Executive Deo Saran insists that with import costs at F$770 per tonne, and European prices around F$950 per tonne, the country still earns a sizeable surplus by importing Indian sugar (FijiLive, 10 Oct 2008). The dilemma is that as prices decline, growers will logically exit the industry, so that reaching the 250,000-tonne target will become increasingly unlikely. Regular breakdowns at the four sugarcane mills, and deterioration of cane access roads and rail infrastructure, are likely to compound those difficulties. EU aid money aimed at assisting rehabilitation of, and diversification away from, the sugar industry was cancelled for 2007 and 2008 as a result of the coup, with larger allocations in 2009 and 2010 conditional on the holding of elections. The Fiji Sugar Corporation announced a loss of F$19.3 million over the financial year ending May 2008 (FijiLive, 31 Aug 2008).

Even before the coup, the national debt had been running at over 50 percent of the gross domestic product. The post-coup slowdown and the rescinding of the deposed government’s intended increase in the value-added tax further damaged government finances, putting pressure on the finance minister to rein in the state’s annual deficit, or to urgently seek new sources of financial support—such as the F$230 million loan Ambassador to China Jim Ah Koy was busily negotiating in Beijing. Judged by the 2008 budget figures, Chaudhry presided over substantial falls in state spending during 2007: the public sector wage bill fell by 9.7 percent, transfer payments by 15.9 percent, spending on goods and services by 28.2 percent, and capital expenditures by 44.8 percent (see ADB 2008, 235).
Nevertheless, interest payments rose by 23 percent, and in fact the reported 9.7 percent wage bill fall stemmed largely from the halting of the previous accounting practice of showing value-added tax on wages and salaries (see Narsey 2008; Chaudhry 2008). Pressure to make savings or to boost Firca collection of revenues was mounting, not least to fund a massive coup-related blowout of budgeted expenditure on the Fiji military forces (see Firth and Fraenkel 2009). It was this fiscal dilemma that ultimately led to Mahendra Chaudhry’s fall from military grace.

In July, Chaudhry imposed export duties at twenty cents per liter on exports of bottled water, leading the ten mineral water export companies operating in Fiji to temporarily cease production in protest. The largest, Natural Waters of Fiji Ltd, had over the preceding five years skillfully transformed its bottled artesian water from Yaqara in northern Viti Levu into a global branding triumph (known as Fiji Water), getting its distinctive colorful square bottles pictured on hit television shows like Ally McBeal, The Sopranos, and The West Wing. By 2008, the company had three hundred employees at its Yaqara plant and was extracting around 240 million liters per annum. Fearful of the risks of damaging one of Fiji’s few export success stories, the cabinet rescinded the measure, severely weakening Chaudhry’s position. Fiji’s Military Council issued an ultimatum demanding Chaudhry’s resignation, echoing its previous response at the time of the controversy over the tax evasion allegations. Bainimarama departed overseas, and rumors spread that Chaudhry had been told to clear his desk before the commander’s return. Seeking to avoid a public sacking, Chaudhry sought the support of senior FLP executives for a resignation of all three FLP ministers, which—despite some reluctance among those who had acquired lucrative and powerful positions in the new order—he eventually secured.

Now outside the cabinet, Chaudhry carefully distanced the Fiji Labour Party from the 2006 coup, arguing that he had joined the interim cabinet only because—based on the experience of previous coups—a speedy reversion to constitutional democracy was unlikely. Until this point, it had been the Labour leader’s son, Rajendra Chaudhry, who had articulated FLP disenchantment with the regime, condemning as “incompetent” the Fiji Independent Commission Against Corruption’s investigations into the Fiji Sports Council (on which he had sat as a board member) and the Labour-led Nasinu Municipal Council. A public spat with the RFMF media spokesman, Major Neumi Leweni, culminated in an interview with the younger Chaudhry on Fiji TV’s Close Up talk show being pulled off the air by the police in June. In October, Rajendra Chaudhry attacked Bainimarama’s decisions over the previous months as “flawed,” saying that a tightening circle of “political misfits” including Aiyaz Sayed-Khaiyum, John Samy, and Parmesh Chand was exerting too great an influence (FijiLive, 7 Oct 2008). That insight presumably came from his father. The elder Chaudhry’s criticisms were more muffled; the rupture was not yet complete. Nevertheless, out
of the cabinet, the Fiji Labour Party criticized the “complicated” electoral proposals in the People’s Charter and rejected the NCBBF objective of abolishing the nineteen Indian communal seats (FijiLive, 22 Sept, 19 Sept 2008). At times the party even clamored for speedy elections, reversing its earlier blunt rejections of the allegedly foreign-imposed electoral road map.

In mid-2008, the first results of the 2007 census of population were published by the Fiji Islands Bureau of Statistics. These indicated a substantial demographic shift; whereas in the previous census (1996), indigenous Fijians had comprised 50.8 percent of the population and Fiji Indians 43.7 percent, the balance was now 57.3 percent to 37.6 percent in favor of ethnic Fijians. High levels of out-migration of Fiji Indians since the mid-1980s were responsible. Departures had peaked in the wake of the 1987 coup. By the mid-1990s, continued high Indian emigration was mainly responsive to higher standards of living available overseas and the new possibilities generated by the establishment of significant Fiji Indian communities in New Zealand, North America, and Australia. Indian net emigration fluctuated around 4,500 per annum during the 1990s, even rising slightly during Chaudhry’s year in office, suggesting that pull factors had become more significant than push factors in determining the level of annual departures. The 2006 coup generated a new spike in Fiji Indian out-migration: 8,500 departed during 2007, compared to just under 1,000 ethnic Fijians (FIBS 2008a). Altogether, the Fiji Indian population was 42 percent lower by 2008 than it would have been without the exodus overseas (as estimated by extrapolating forward the 1.9 percent growth rate witnessed during 1976–1986).

In tandem with the People’s Charter, the interim government also pursued consultation exercises aimed at reforming indigenous Fijian customs and hierarchical structures. A three-member review team headed by the Tailevu chief, Ratu Tu'ukitau Cakanauto, found its core proposal of an “apolitical” role for the Great Council of Chiefs ignored. Instead, the new fifty-two-member council was to comprise only “traditionally installed” chiefs; chiefs who had served as members of Parliament or the Senate were to be disbarred. The chairman was to be the minister of indigenous affairs—a position held at the time by Commodore Bainimarama—who would also control GCC appointments. Cakanauto resigned rather than head the scheduled follow-up consultation, intended to solicit support for the new regulations, saying “it’s not ‘vakaturaga’ (chiefly) to go back to them and present something contrary to the discussions we had” (FijiLive, 19 Feb 2008; Fiji Times, 20 Feb 2008). “This coup is all about dismantling the Fijian chiefly system, customs, traditions and their institutions,” concluded Tui Namosi and former SDL cabinet minister Ratu Suliano Matanitobua. “Who is the leader of the army to dictate the direction and the decisions of the GCC?” (Fiji Times, 22 Feb 2008). At the annual Methodist conference in August, paramount chiefs of the three confederacies handed a tabua (whale’s tooth) to church leaders applauding their leadership in the struggle against the People’s Charter.

Some provincial chiefs indicated sympathies for the new order. Ratu
Tevita Uluilakeba Mara, commander of the Third Battalion Fiji Infantry Regiment, seized control of the Lau Provincial Council in June, after ensuring prominent SDL-associated rivals were locked out of a meeting on the Suva seafront. Ratu Tevita’s father, Ratu Sir Kamisese Mara, Fiji’s former prime minister (1970–1987 and 1987–1992) and president (1993–2000), had died in 2004, an event viewed by many from those eastern and Tongan-influenced islands as symptomatic of the end of the Lauan ascendency. Now Mara’s dynasty was back, and his sons-in-law, Ratu Epeli Nailatikau and Ratu Epeli Ganilau, were in the interim cabinet. Bainimarama, himself a “Mara man,” was echoing the elitist but moderately multiracialist themes of his mentor’s Alliance Party. Traditional leaders from other provinces (in particular Rotuma, Serua, Bua, and Macuata) also sought to accommodate the regime. Some provinces, like Cakaudrove—where bitter opponent of Bainimarama and ex-SDL minister Ratu Naiqama Lalabalavu reigned as Tui Cakau—were deeply split. In Ba, in the western part of Viti Levu, loyalty to President Tui Vuda Ratu Josefa Iloilo encouraged some support from the Vuda area, but several other prominent western chiefs were firmly opposed. A regular fixture on Fiji TV’s nightly news shows was Ratu Josefa Nawalowalo, who joined both the National Council for Building a Better Fiji and the GCC Review team and enthusiastically backed the reform program. As a result, he lost his chairmanship of the Kadavu Provincial Council.

The new-look Great Council of Chiefs held no meetings in 2008, but toward the end of the year, new Interim Indigenous Affairs Minister Ratu Epeli Nailatikau convened a Bose ni Turaga (Council of Chiefs, as distinct from the Great Council of Chiefs). This was a gathering for the lower-rung chiefs, intended to undermine the authority of the paramount chiefs—such as Ro Teimumu Kepa (Rewa), Ratu Inoke Takiveikata (Naitasiri), and Ratu Naiqama Lalabalavu (Cakaudrove)—who were closely associated with the deposed SDL government and vigorously opposed Bainimarama and his interim government. Held at the army’s Queen Elizabeth Barracks in Suva, the gathering brought together one hundred twenty-five lower-level chiefs (see Fiji Times, 18 Dec 2008) to hear—among other things—a presentation from the Institute of Fijian Language and Culture about lack of “common courtesy” and “respect” among younger Fijians, as well as presentations about HIV, appropriate technologies, and fisheries; they also witnessed RFMF demonstrations of weaponry. While some ridiculed the event as an occasion for Christmas shopping by village elders (FijiLive, 20 Dec 2008), SDL Director Peceli Kinivuwai acknowledged that “the meeting has effectively driven a wedge between our paramount chiefs, Turaga I Taukei, and some Turaga ni Yavusa” (FijiLive, 19 Dec 2008). That Rewa’s recently installed Vunivalu, Ro Epeli Mataitini, was present at the barracks revealed a schism with the Roko Tui Dreketi, Ro Teimumu Kepa, who had refused to attend Ro Epeli’s installation several months earlier. Presence at the Bose ni Turaga, however, did not necessarily entail support, and several of the chiefs at the event urged the commander to go back to the polls, or beseeched their fellow vil-
lage elders to preserve Fijian identity in the face of the perceived challenge from the People’s Charter.

On 9 October, a year after the commencement of deliberations, the High Court of Fiji issued a judgment in the Qarase v Bainimarama case (High Court of Fiji 2008). This was the case brought by the deposed prime minister against Bainimarama and the president, contesting the constitutionality of the post-coup interim administration. The panel of three presiding judges included acting Chief Justice Anthony Gates, Justice John Byrne, and Justice Davendra Pathik. At the March hearings, the state’s lawyers had abandoned the usual international arguments intended to legitimize coups, for example, in Pakistan or Nigeria. Precedents set by the 2000 and 2001 Chandrika Prasad cases in Fiji (Lautoka High Court 2000; Court of Appeal 2001)—the first of which had been heard by Justice Gates—rendered such arguments impossible. Fiji’s president could hardly have been claimed to be acting under the “doctrine of necessity” on 5 December 2006, since he was on that day jettisoned from office, and when restored in January 2007 he had made no attempt to bring back the elected government. The other alternative, an appeal to Kelsen’s theory of revolutionary legality (the so-called “doctrine of effectiveness”), was also an unworkable line of defense—not least because the interim government claimed that the 1997 constitution was still intact. Had the 1997 constitution instead been abrogated, it would nevertheless have proved impossible for defense lawyers to put up a convincing case—following the requirements listed in the Chandrika Prasad cases—that no alternative government existed or that there existed general popular “acquiescence” in the post-coup arrangements.

Instead, state lawyers successfully pressed for the bench to ignore any question about the legality or otherwise of the 5 December coup. The focus was rather to be on the validity of rule by presidential decree after Ratu Josefa Iloilo was reappointed on 4 January 2007. The high court found that the president had used extraordinary “prerogative powers,” which—although not explicitly set out in the 1997 constitution—exist in all Commonwealth countries and are available for use in exceptional circumstances. “We find that exceptional circumstances existed, not provided for by the Constitution, and that the stability of the State was endangered. We also find that no other course of action was reasonably available, and that such action as taken by the President was reasonably necessary in the interests of peace, order and good government” (High Court 2008).

The decision was widely condemned by legal scholars and political commentators (see Williams and others 2008). The 1997 constitution closely specifies and restricts the powers of the president, rendering obsolete the sorts of “reserve powers” occasionally found by judges in other jurisdictions. “Exceptional circumstances” clearly existed, but these had arisen due to the military coup and could not be reasonably used to justify the appointment, as prime minister, of the military commander who had carried out that coup.

While an appeal was set for April
2009, few predicted that it would succeed. Fiji’s judiciary had been extensively reshaped in the wake of the 2006 coup. All six expatriate judges on the panel of the Court of Appeal resigned in 2007, and others followed suit in 2008. In his farewell address in January, Justice Roger Coventry warned that the judiciary had “hemorrhaged,” and urged Fiji lawyers to remember that “acquiescence is the friend of illegality.” Chief Justice of Australia Robert French explained that he could not renew his appointment to the Fiji Supreme Court because to do so would entail an “implicit bargain” with the interim government, and that “when faced with a challenge to the lawfulness of the government itself, such a judge could be seen to have a conflict of interest” (The Australian, 2 May 2008). High Court Justice Gerard Winter similarly concluded, “I could not renew my warrant in 2008 if the military regime was still in power as to do so would run contrary to my original oath of office” (The Australian, 15 Aug 2008). Those judges who took up appointments were often quite explicit about their support for the military-transfigured judicial order. Victorian barrister Jocelynne Scutt, the former Tasmanian antidiscrimination commissioner, was widely criticized in Australia after accepting a position on Fiji’s High Court (The Australian, 14 March, 22 Aug 2008). Thomas Hickie took an appointment in March, and thereafter regularly lambasted the media for refusing to acknowledge the independence of the judiciary.

During 2008, the International Bar Association was twice prevented from entering Fiji, first in February and then again in December. Over the course of the year, lawyers associated with critics of the regime were, at one point, called into court to be berated by an angry judge and, in another case, barred from entering Fiji. Judges indicated their preparedness to sit on appeals against their own judgments, where normal protocol would have suggested that they step aside. In the wake of the High Court decision in Qarase v Bainimarama, Fiji’s attorney general threatened those criticizing the judgment with “contempt of court” proceedings. When both the Fiji Times and the Daily Post published a letter challenging the decision of Gates, Byrne, and Pathik, the government took legal action. That both newspapers pleaded guilty was indicative of the media’s increasing submission under the new order. Fiji Sun publisher Russell Hunter had been deported in February and Fiji Times publisher Evan Hannah was deported in May, both whisked out of the country at speed to avoid enforcement of court orders. The once staunchly pro–SDL Daily Post was, by the end of the year, reduced to dutifully publishing pro–interim government propaganda. Nevertheless, some courageous local intellectuals—including lawyer Graham Leung, economics professor Wadan Narsey, and former Vice President Ratu Joni Madraiwiwi—continued to openly criticize the regime and their comments were widely reported in the press.

A critical step in the effort to consolidate a new legal order had been the forced removal of Chief Justice Daniel Fatiaki, who had been confronted by soldiers with the option of resigning or going “on leave” in January 2007.
In early 2008, charges were finally laid against Justice Fatiaki, including falsifying tax returns, “failure to uphold the dignity and high standing of the office,” and complicity in assisting the Office of the President in drafting illegal decrees in the wake of the 19 May 2000 coup. In December, however, the attorney general reported having reached a settlement with the deposed chief justice: in return for a formal resignation and the dropping of proceedings relating to his removal from office, Fatiaki was to receive F$275,000 and to be allowed to draw his pension and other benefits as a retired judge (Fiji Government 2008b). In return, the interim government agreed to drop all charges against the former head of the judiciary, suggesting that the anticorruption rhetoric of the cleanup campaign was less important than capturing the key levers of judicial power. Acting Chief Justice Anthony Gates was formally sworn in as Chief Justice of Fiji.

Fiji ended 2008 with little cause for optimism. The “interim” government had entrenched and isolated itself over the course of the year, another indication of which was the expulsion of acting New Zealand High Commissioner Caroline McDonald on Christmas Eve in retaliation for Wellington’s travel bans. It had been a year filled with propaganda emanating from the National Council for Building a Better Fiji and the GCC Review Team, but there was little sign of any groundswell of support for the interim government’s initiatives. The idealism of the cleanup campaign, which had been the original justification for the December 2006 coup, had been tarnished by serious allegations against the finance minister and, indeed, the commander himself (whose receipt of F$185,000 in back pay for leave not taken since 1978 was under investigation by the auditor general). Instead, the multiracialist objectives of the People’s Charter had acquired primary significance in the quest for popular legitimacy, but here too the emphasis on the necessity for electoral reform looked increasingly like a delaying tactic. The dissolution of Fiji’s municipal councils in December suggested that, far from heading back toward constitutional democracy, the interim government was busy dismantling yet another tier of elected government. The worsening economic situation internationally, coupled with Fiji’s homemade and coup-driven slowdown, looked set to make 2009 a difficult year.

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New Caledonia

New Caledonia is gaining more control over its own affairs, due to negotiated accords that promised it economic “rebalancing” and evolving autonomy. Paris has continued to delegate more powers of self-government to the country, and 2008 was a year to reflect on the anniversaries of the peacemaking Matignon-Oudinot Accords of 1988 and the Noumea Accord of 1998 (the latter of which has come to constitute a sort of interim constitution). Kanak cultural identity made further advances in local institutions, as did symbols associated with the agreed pursuit of a “common destiny.” But politics in this small, multiethnic society of only a quarter million people continued to be contentious and complex, as seen in the municipal elections in March, ongoing party splintering, and the approach of provincial elections in May 2009, which will elect a Congress empowered to discuss an independence referendum. Despite a sharp drop in nickel prices over the year because of the world economic slump, mining expansion continued, though the Goro metal processing plant project in the South remained controversial. Labor unions were active, but more aggressive police interventions limited their strike actions. France still provided massive financial aid to the territory—more than US$2 billion annually—and planned further France-Pacific summits, while also using New Caledonia’s new associate membership in the Pacific Islands Forum to help spread French influence in the region.

Since 2004, ad hoc cooperation has grown between the centrist loyalists of Avenir Ensemble (AE, Future Together) and the pro-independence parties. Both groups support government intervention in social and economic planning more than the conservatives, who criticized the new trend as “socialism” or “state capitalism.” But AE leader Philippe Gomès, president of the populous Southern Province, called it “economic will” to master strategic resources and labeled the conservative free trade vision “American style ultra-liberalism” (NC, 26 Sept 2008). Because of the inflated cost of living (food prices are twice as high as in France and local housing costs equal those of Paris), the AE-led Congress imposed price and rent controls.