

IN THE COURT OF APPEAL, FIJI ISLANDS
AT SUVA

APPELLATE JURISDICTION

CIVIL APPEAL NO. ABU0077 OF 2008S

[On an Appeal from the High Court,
Suva in Civil Actions No. HBC 60 and
HBC 398 of 2007]

- BETWEEN : LAISENIA QARASE of Suva, Politician
RATU NAIQAMA LALABALAVU of Suva, Politician
RO TEIMUMU KEPA of Lomanikoro Village, Rewa, Politician
RATU SULIANO MATANITOBUA of Suva, Politician
JOSEVA VOSANIBOLA of Suva, Politician
APPELLANTS
(Original Plaintiffs)
- AND : JOSAIA VOREQE BAINIMARAMA Commander of the Republic of
Fiji Military Forces of Queen Elizabeth Barracks, Delainabua, Suva.
FIRST RESPONDENT
(Original First Defendant)
- AND : THE REPUBLIC OF FIJI MILITARY FORCES
SECOND RESPONDENT
(Original Second Defendant)
- AND : THE STATE OF THE REPUBLIC OF THE FIJI ISLANDS
THIRD RESPONDENT
(Original Third Defendant)
- AND : THE ATTORNEY - GENERAL of the Interim Regime
FOURTH RESPONDENT
(Original Fourth Respondent)
- AND : FIJI HUMAN RIGHTS COMMISSION
FIRST AMICUS CURIAE
- AND : CITIZENS' CONSTITUTIONAL FORUM LIMITED
SECOND AMICUS CURIAE

Coram: **Randall Powell, JA
Ian Lloyd, JA
Francis Douglas, JA**

Hearing: **Monday, 6th April 2009, Suva
Tuesday, 7th April 2009, Suva
Wednesday, 8th April 2009, Suva**

<u>Counsel:</u>	Tevita Fa]	for the Appellants
	Christopher Pryde, S. Sharma]]	for the Respondents
	Wilfred Golman Sonanatabua Colovanua]]	for the Human Rights Commission
	Tupou Draunidali]]	for the Citizens Constitutional Forum Limited

Date of Ruling: **Thursday, 9th April 2009, Suva**

RULING OF THE COURT IN QARASE v BAINIMARAMA

1. Counsel for the respondents made an application for a leave to appeal to the Supreme Court and a stay pending determination of that appeal.
2. Leave to appeal was granted. The case raises unarguably questions of significant public importance.
3. This is not, however, an appropriate case for the grant of a stay. The relief which has been granted is declaratory relief. There is no irremediable prejudice threatened to the subject matter of the action. The decision may cause some public disquiet because of its constitutional importance but that has no relevance to the exercise by the Court of its discretion to grant a stay.

4. In any event the President, who is not a party to these proceedings, has certain obligations under section 60 of the Constitution which are not part of the original subject matter of this suit. If the President appoints a caretaker Prime Minister as contemplated by our reasons for judgment before the Supreme Court can hear the matter, these matters can be revisited.

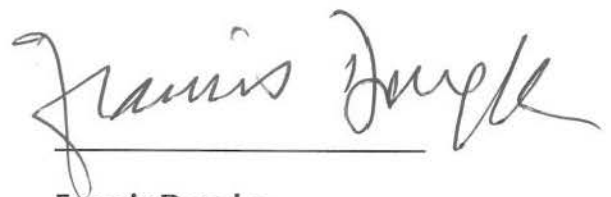
5. The application is refused.



Randall Powell
Justice of Appeal



Ian Lloyd
Justice of Appeal



Francis Douglas
Justice of Appeal