

PRESIDENTIAL PROCLAMATION
(PROCLAMATION NO. 2 OF 2001)

IMMUNITY OF DISCIPLINED FORCES

WHEREAS pursuant to section 85 of the Constitution, the executive authority of the State vests in me;

AND WHEREAS pursuant to section 96 of the Constitution, the executive authority may be exercised by me only on the advice of the Cabinet or a Minister or other body or authority authorised under the Constitution;

AND WHEREAS I am satisfied that given the state of affairs in the Fiji Islands it is necessary in the public interest to continue to engage the members of the Disciplined Forces for the purpose of maintenance of law and order and security of the nation;

AND WHEREAS I am satisfied that it is necessary to provide immunity to the members of the Disciplined Forces from criminal or civil responsibility or liability for any act done in good faith as result of maintaining law and order and security of the nation;

NOW THEREFORE, acting on the advice of the Cabinet, I make this Proclamation by virtue of the powers vested in me by section 85 of the Constitution—

Citation, etc.

1. This Proclamation may be cited as the Immunity of Disciplined Forces Proclamation 2001.

Grant of immunity

2. Notwithstanding any other written law, a member of the Disciplined Forces—

- (a) is immune from criminal prosecution or from any civil suit; and
- (b) shall not be responsible or liable in criminal or civil law or for breach of any other laws of Fiji,

in respect of any act or conduct done in good faith as a result of the exercise of his or her lawful powers, duties or functions in maintaining law and order or security of the nation.

State's liability

3. No action for damages or any other claim or relief shall lie against or compensation payable by the Interim Civilian Government, the Caretaker Government or any other government agency or entity in respect of any injury to a person or damage to the property of such person caused by or consequent upon any act or conduct upon which immunity has been granted under this Proclamation.

Interpretation

4. In this Proclamation, unless the context otherwise requires—

“act or conduct done in good faith” means—

- (a) any act or conduct done honestly and without ulterior motive; or
- (b) any act or conduct done honestly, whether it is done negligently or not; or
- (c) any act or conduct done as a result of following or obeying any lawful order or directions given by any other member or officer of the Disciplined Forces;

“Caretaker Government” means the Government appointed by the President on 16th March 2001 by virtue of sections 109(2) and 99(1) of the Constitution;

"Disciplined Forces" means the Republic of Fiji Military Forces, the Fiji Police Force and the Fiji Prisons Service

"Interim Civilian Government" means the Government appointed under the interim Civilian Government (Transfer of Executive Authority) Decree No. 19 of 2000.

Application

5.—(1) This Proclamation applies only to any act or conduct done between 13th July 2000 and the date of the swearing in of a new Prime Minister after the general election scheduled for August 2001.

(2) This Proclamation applies to:

- (a) any act or conduct done in good faith relating to the suppression of mutiny on 2nd November 2000 at the Queen Elizabeth Barracks, Nabua;
- (b) any act or conduct done in good faith relating to the handling of the members of the Republic of Fiji Military Force who were directly or indirectly involved in the mutiny immediately before the mutiny on 2nd November 2000; or
- (c) any act or conduct done in good faith resulting in the subsequent arrest or handling of the members of the Republic of Fiji Military Forces directly or indirectly involved in the mutiny.

(3) This Proclamation applies to any act or conduct done in good faith by any other person not being a member of the Disciplined Forces who follows or obeys any lawful order or directions given by any member or officer of the Disciplined Forces.

(4) This Proclamation shall not apply to any unlawful act or conduct that does not arise out of any act or conduct done in good faith as a result of the lawful exercise of the powers, duties or functions by a member of the Disciplined Forces.

Dated at Suva this 2nd day of August 2001.

J. I. ULUWALU
President
of the Republic of the Fiji Islands