

IN THE HIGH COURT OF FIJI

AT LAUTOKA

CRIMINAL JURISDICTION

CRIMINAL CASE NO. HAC 129 OF 2015

STATE

v

1. RATU EPELI NIUDAMU
2. SEREIMA ADIDAVE ROKODI
3. SAILASA WAIROAROA MALANI
4. NANISE KASAMI NAGUSUCA
5. WAISEA DUAILIMA
6. SAMUELA LIGABALAVU
7. MIKAELE GONERARA
8. EMOSI TOGA
9. WAISAKE RALACA
10. JOSEFA NATAU
11. ISIKELI WAISEGA KABAKORO
12. SULUWETI LOTU WAQALALA
13. LAISIASA MOCEVAKACA
14. ULAIASI RABUA TUIVOMO
15. APOLOSI QALILAWA

**Counsel:** Mr. Lee Burney and Mr S. Babitu for State  
Mr. K. Tunidau for 1st Accused  
Mr. A. Ravindra Singh for 2nd to 15th Accused

**Date of Judgment:** 22<sup>nd</sup> September, 2017

**Date of Sentencing Hearing** 28<sup>th</sup> September, 2017

**Date of Sentence** 29<sup>th</sup> September, 2017

### SENTENCE

1. The Accused were charged on the following Information

#### **FIRST COUNT**

##### *Statement of Offence*

**SEDITION**: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

##### *Particulars of Offence*

RATU EPELI NIUDAMU, on the 28th day of October 2014 at Rakiraki, in the Western Division, did an act with a seditious intention, namely signed a document headed "Uluda Declaration" purporting to be a unilateral declaration of independence by the entity "Ra Sovereign Christian State" with the seditious intention of bringing into hatred or contempt or to excite disaffection against the Government of Fiji as by law established.

#### **SECOND COUNT**

##### *Statement of Offence*

**SEDITION**: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

*Particulars of Offence*

**RATU EPELI NIUDAMU**, on the 28th day of October 2014 at Rakiraki, in the Western Division, did an act with a seditious intention by signing a document purporting to be a Petition to the ICJ with an intention to raise discontent or disaffection amongst the inhabitants of Fiji.

**THIRD COUNT**

*Statement of Offence*

**SEDITION**: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

*Particulars of Offence*

**SEREIMA ADIDAVE ROKODI**, on the 28th day of October 2014 at Rakiraki, in the Western Division, did an act with a seditious intention, namely signed a document headed "Uluda Declaration" purporting to be a unilateral declaration of independence by the entity "Ra Sovereign Christian State" with the seditious intention of bringing into hatred or contempt or to excite disaffection against the Government of Fiji as by law established.

**FOURTH COUNT**

*Statement of Offence*

**SEDITION**: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

*Particulars of Offence*

**SEREIMA ADIDAVE ROKODI**, on the 28th day of October 2014 at Rakiraki, in the Western Division, did an act with a seditious intention by signing a document purporting to be a Petition to the ICJ with an intention to raise discontent or disaffection amongst the inhabitants of Fiji.

**FIFTH COUNT**

*Statement of Offence*

**SEDITION**: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

*Particulars of Offence*

**SAILASA WAIROAROA MALANI**, on the 28th day of October 2014 at Rakiraki, in the Western Division, did an act with a seditious intention, namely signed a document headed "Uluda Declaration" purporting to be a unilateral declaration of independence by the entity "Ra Sovereign Christian State" with the seditious intention of bringing into hatred or contempt or to excite disaffection against the Government of Fiji as by law established.

**SIXTH COUNT**

*Statement of Offence*

**SEDITION**: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

*Particulars of Offence*

**SAILASA WAIROAROA MALANI**, on the 28th day of October 2014 at Rakiraki, in the Western Division, did an act with a seditious intention by signing a document purporting to be a Petition to the ICJ with an intention to raise discontent or disaffection amongst the inhabitants of Fiji.

**SEVENTH COUNT**

*Statement of Offence*

**SEDITION**: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

*Particulars of Offence*

**NANISE KASAMI NAGUSUCA**, on the 28th day of October 2014 at Rakiraki, in the Western Division, did an act with a seditious intention, namely signed a document headed "Uluda Declaration" purporting to be a unilateral declaration of independence by the entity "Ra Sovereign Christian State" with the seditious intention of bringing into hatred or contempt or to excite disaffection against the Government of Fiji as by law established.

## EIGHTH COUNT

### *Statement of Offence*

**SEDITION**: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

### *Particulars of Offence*

**NANISE KASAMI NAGUSUCA**, on the 28th day of October 2014 at Rakiraki, in the Western Division, did an act with a seditious intention by signing a document purporting to be a Petition to the ICJ with an intention to raise discontent or disaffection amongst the inhabitants of Fiji.

## NINETH COUNT

### *Statement of Offence*

**SEDITION**: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

### *Particulars of Offence*

**NANISE KASAMI NAGUSUCA**, on the 03rd day of November 2014 at Rakiraki, in the Western Division, did an act with a seditious intention, namely took an oath to serve as a Cabinet Minister for the entity "Ra Sovereign Christian State" with the seditious intention of bringing into hatred or contempt or to excite disaffection against the Government of Fiji as by law established.

## TENTH COUNT

### *Statement of Offence*

**SEDITION**: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

### *Particulars of Offence*

**NANISE KASAMI NAGUSUCA**, on the 03rd day of November 2014 at Rakiraki, in the Western Division, did sign a document headed "Ra Sovereign Christian State" with a seditious intention to raise discontent or disaffection amongst the inhabitants of Fiji.

## ELEVENTH COUNT

### *Statement of Offence*

**SEDITION**: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

### *Particulars of Offence*

WAISEA DUAILIMA, on the 28th day of October 2014 at Rakiraki, in the Western Division, did an act with a seditious intention, namely signed a document headed "Uluda Declaration" purporting to be a unilateral declaration of independence by the entity "Ra Sovereign Christian State" with the seditious intention of bringing into hatred or contempt or to excite disaffection against the Government of Fiji as by law established.

## TWELFTH COUNT

### *Statement of Offence*

**SEDITION**: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

### *Particulars of Offence*

WAISEA DUAILIMA, on the 28th day of October 2014 at Rakiraki, in the Western Division, did an act with a seditious intention by signing a document purporting to be a Petition to the ICJ with an intention to raise discontent or disaffection amongst the inhabitants of Fiji.

## THIRTEENTH COUNT

### *Statement of Offence*

**SEDITION**: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

### *Particulars of Offence*

WAISEA DUAILIMA, on the 03rd day of November 2014 at Rakiraki, in the Western Division, did an act with a seditious intention, namely took an oath to serve as a Cabinet Minister for the entity "Ra Sovereign Christian State" with the seditious intention of bringing into hatred or contempt or to excite disaffection against the Government of Fiji as by law established.

## FOURTEENTH COUNT

### *Statement of Offence*

**SEDITION**: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

### *Particulars of Offence*

**WASEA DUAILIMA**, on the 03rd day of November 2014 at Rakiraki, in the Western Division, did sign a document headed "Ra Sovereign Christian State" with a seditious intention to raise discontent or disaffection amongst the inhabitants of Fiji.

## FIFTEENTH COUNT

### *Statement of Offence*

**SEDITION**: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

### *Particulars of Offence*

**SAMUELA LIGABALAVU**, on the 03rd day of November 2014 at Rakiraki, in the Western Division, did an act with a seditious intention, namely took an oath to serve as a Cabinet Minister for the entity "Ra Sovereign Christian State" with the seditious intention of bringing into hatred or contempt or to excite disaffection against the Government of Fiji as by law established.

## SIXTEENTH COUNT

### *Statement of Offence*

**SEDITION**: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

### *Particulars of Offence*

**SAMUELA LIGABALAVU**, on the 03rd day of November 2014 at Rakiraki, in the Western Division, did sign a document headed "Ra Sovereign Christian State" with a seditious intention to raise discontent or disaffection amongst the inhabitants of Fiji.

## SEVENTEENTH COUNT

### *Statement of Offence*

**SEDITION**: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

### *Particulars of Offence*

**MIKAELE GONERARA**, on the 03rd day of November 2014 at Rakiraki, in the Western Division, did an act with a seditious intention, namely took an oath to serve as a Cabinet Minister for the entity “Ra Sovereign Christian State” with the seditious intention of bringing into hatred or contempt or to excite disaffection against the Government of Fiji as by law established.

## EIGHTEENTH COUNT

### *Statement of Offence*

**SEDITION**: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

### *Particulars of Offence*

**MIKAELE GONERARA** on the 03rd day of November 2014 at Rakiraki, in the Western Division, did sign a document headed “Ra Sovereign Christian State” with a seditious intention to raise discontent or disaffection amongst the inhabitants of Fiji.

## NINETEENTH COUNT

### *Statement of Offence*

**SEDITION**: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

### *Particulars of Offence*

**EMOSI TOGA**, on the 03rd day of November 2014 at Rakiraki, in the Western Division, did an act with a seditious intention, namely took an oath to serve as a Cabinet Minister for the entity “Ra Sovereign Christian State” with the seditious intention of bringing into hatred or contempt or to excite disaffection against the Government of Fiji as by law established.



**TWENTIETH COUNT**

*Statement of Offence*

**SEDITION**: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

*Particulars of Offence*

**EMOSI TOGA** on the 03rd day of November 2014 at Rakiraki, in the Western Division, did sign a document headed "Ra Sovereign Christian State" with a seditious intention to raise discontent or disaffection amongst the inhabitants of Fiji.

**TWENTY FIRST COUNT**

*Statement of Offence*

**SEDITION**: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

*Particulars of Offence*

**WAISAKE RALACA**, on the 03rd day of November 2014 at Rakiraki, in the Western Division, did an act with a seditious intention, namely took an oath to serve as a Cabinet Minister for the entity "Ra Sovereign Christian State" with the seditious intention of bringing into hatred or contempt or to excite disaffection against the Government of Fiji as by law established.

**TWENTY SECOND COUNT**

*Statement of Offence*

**SEDITION**: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

*Particulars of Offence*

**WAISAKE RALACA** on the 03rd day of November 2014 at Rakiraki, in the Western Division, did sign a document headed "Ra Sovereign Christian State" with a seditious intention to raise discontent or disaffection amongst the inhabitants of Fiji.

## TWENTY THIRD COUNT

### *Statement of Offence*

**SEDITION**: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

### *Particulars of Offence*

JOSEFA NATAU, on the 03rd day of November 2014 at Rakiraki, in the Western Division, did an act with a seditious intention, namely took an oath to serve as a Cabinet Minister for the entity "Ra Sovereign Christian State" with the seditious intention of bringing into hatred or contempt or to excite disaffection against the Government of Fiji as by law established.

## TWENTY FOURTH COUNT

### *Statement of Offence*

**SEDITION**: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

### *Particulars of Offence*

JOSEFA NATAU on the 03rd day of November 2014 at Rakiraki, in the Western Division, did sign a document headed "Ra Sovereign Christian State" with a seditious intention to raise discontent or disaffection amongst the inhabitants of Fiji.

## TWENTY FIFTH COUNT

### *Statement of Offence*

**SEDITION**: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

### *Particulars of Offence*

ISIKELI WAISEGA KABAKORO, on the 03rd day of November 2014 at Rakiraki, in the Western Division, did an act with a seditious intention, namely took an oath to serve as a Cabinet Minister for the entity "Ra Sovereign Christian State" with the seditious intention of bringing into hatred or contempt or to excite disaffection against the Government of Fiji as by law established.

## TWENTY SIXTH COUNT

### *Statement of Offence*

**SEDITION**: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

### *Particulars of Offence*

ISIKELI WAISEGA KABAKORO on the 03rd day of November 2014 at Rakiraki, in the Western Division, did sign a document headed "Ra Sovereign Christian State" with a seditious intention to raise discontent or disaffection amongst the inhabitants of Fiji.

## TWENTY SEVENTH COUNT

### *Statement of Offence*

**SEDITION**: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

### *Particulars of Offence*

SULUWETI LOTU WAQALALA, on the 03rd day of November 2014 at Rakiraki, in the Western Division, did an act with a seditious intention, namely took an oath to serve as a Cabinet Minister for the entity "Ra Sovereign Christian State" with the seditious intention of bringing into hatred or contempt or to excite disaffection against the Government of Fiji as by law established.

## TWENTY EIGHTH COUNT

### *Statement of Offence*

**SEDITION**: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

### *Particulars of Offence*

SULUWETI LOTU WAQALALA on the 03rd day of November 2014 at Rakiraki, in the Western Division, did sign a document headed "Ra Sovereign Christian State" with a seditious intention to raise discontent or disaffection amongst the inhabitants of Fiji.

## TWENTY NINETH COUNT

### *Statement of Offence*

**SEDITION**: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

### *Particulars of Offence*

**LAIASIA MOCEVAKACA**, on the 03rd day of November 2014 at Rakiraki, in the Western Division, did an act with a seditious intention, namely took an oath to serve as a Cabinet Minister for the entity “Ra Sovereign Christian State” with the seditious intention of bringing into hatred or contempt or to excite disaffection against the Government of Fiji as by law established.

## THIRTIETH COUNT

### *Statement of Offence*

**SEDITION**: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

### *Particulars of Offence*

**LAIASIA MOCEVAKACA** on the 03rd day of November 2014 at Rakiraki, in the Western Division, did sign a document headed “Ra Sovereign Christian State” with a seditious intention to raise discontent or disaffection amongst the inhabitants of Fiji.

## THIRTY FIRST COUNT

### *Statement of Offence*

**SEDITION**: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

### *Particulars of Offence*

**ULAIASI RABUA TUIVOMO**, on the 03rd day of November 2014 at Rakiraki, in the Western Division, did an act with a seditious intention, namely took an oath to serve as a Cabinet Minister for the entity “Ra Sovereign Christian State” with the seditious intention of bringing into hatred or contempt or to excite disaffection against the Government of Fiji as by law established.

### THIRTY SECOND COUNT

#### *Statement of Offence*

**SEDITION**: Contrary to Section 65 (2) (a) of the Crimes Act 2009.

#### *Particulars of Offence*

**ULAIASI RABUA TUIVOMO**, on the 03rd day of November 2014 at Rakiraki, in the Western Division, did sign a document headed "Ra Sovereign Christian State" with a seditious intention to raise discontent or disaffection amongst the inhabitants of Fiji.

### THIRTY THIRD COUNT

#### *Statement of Offence*

**SEDITION**: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

#### *Particulars of Offence*

**APOLOSI QALILAWA**, on the 03rd day of November 2014 at Rakiraki, in the Western Division, did an act with a seditious intention, namely took an oath to serve as a Cabinet Minister for the entity "Ra Sovereign Christian State" with the seditious intention of bringing into hatred or contempt or to excite disaffection against the Government of Fiji as by law established.

### THIRTY FOURTH COUNT

#### *Statement of Offence*

**SEDITION**: Contrary to Section 67 (1) (a) of the Crimes Act 2009.

#### *Particulars of Offence*

**APOLOSI QALILAWA**, on the 03rd day of November 2014 at Rakiraki, in the Western Division, did sign a document headed "Ra Sovereign Christian State" with a seditious intention to raise discontent or disaffection amongst the inhabitants of Fiji.

2. After a full hearing, I convicted each of 1<sup>st</sup> to 14<sup>th</sup> Accused on each count he or she was charged with. 15<sup>th</sup> Accused was convicted only on 34<sup>th</sup> count.
3. Having considered submissions filed by State and Counsel for Defence, I now proceed to sentence the Accused.
4. In arriving at the final sentence, this Court, having had regard to particular circumstances of the offending and of each individual, considered the overarching principle of proportionality set out in Article 11 (1) of the Constitution of the Republic of Fiji, sentencing policy and guidelines set out in Sections 4 (1) and 4(2) of the Sentencing and Penalties Act, and relevant guideline judgments.

### **Nature and Gravity of the Particular Offence**

5. To select the starting point, I first look at the gravity of the offence. 1<sup>st</sup> to 5<sup>th</sup> Accused were convicted for having done acts namely signing a document headed "Uluda Declaration" purporting to be a unilateral declaration of independence by the entity "Ra Sovereign Christian State" and signing a document purporting to be a petition to the ICJ with seditious intentions. 1<sup>st</sup> 5<sup>th</sup> Accused admitted signing those documents.
6. The Uluda Declaration is a Unilateral Declaration of Independence (UDI) by the entity "Ra Sovereign Christian State" within the territorial boundaries of the Republic of Fiji. The purported effect of this document is to undermine the authority of the legally established government of Fiji in the Province of Ra. The act of signing this document had a tendency to bring into hatred or contempt or to excite disaffection against the Government of Fiji as by law established.
7. The Ra Petition to the ICJ is a document intended to be sent to the International Court of Justice, the Queen of England and the Secretary General of the United Nations. It contains statements which had the tendency to promote discontent and disaffection amongst the inhabitants of Fiji.
8. Each of 4<sup>th</sup> to 15<sup>th</sup> Accused was convicted for having signed the document titled Ra Christian State. 4<sup>th</sup> to 15<sup>th</sup> Accused admitted voluntarily signing this document. Act of signing this document had a tendency to raise discontent or disaffection amongst the inhabitants of Fiji.

9. Each of 4<sup>th</sup> to 14<sup>th</sup> Accused was convicted for having taken an oath to serve as a Cabinet Minister in the entity called Ra Christian State Government. This act had an effect of undermining the authority of the legally elected Government of Fiji and its Ministers with a tendency to bring into hatred or contempt or to excite disaffection against the Government of Fiji as by law established.
10. There was no evidence that these acts of the Accused had actually incited violence or any sort of actual disturbance, discontent or disaffection. However, such tendencies should be firmly brought under control and nipped in the bud to ensure peace and tranquility of the State.
11. The Counsel for 1<sup>st</sup> Accused with reference to Section 4(2) of the Sentencing and Penalties Act submits that there is no victim in this case so as to assess the victim impact. It is true that there is no identifiable individual victim as a result of Accused's acts. However, offence of Sedition is a crime against society and has been crafted to prevent subversion of the Government of the day which symbolizes people's mandate entrusted in it to keep peace and tranquility for everybody. Therefore, if seditious tendencies are allowed to be developed, every law abiding citizen of the country will be victimized.
12. Therefore, sentencing of Sedition should reflect the principles of personal and general deterrence, retribution as well as denunciation to send a clear message to the society.

Madigan J in State v Raicebe [2011] FJHC 729; HAC208.2011 (17 November 2011) said:

*".. regard must be had to the sentencing principles of deterrence and retribution, as well as probably more importantly denunciation. That is to say that the sentence must make a statement that the offence in question is not to be tolerated by a mainly obedient, complaisant population"*

13. Evidence produced in the trial indicates that, if not for timely intervention of Fiji Police Force, the tranquility of the State would have been in risk of being undermined. Self-proclaimed lawyer cum fighter for indigenous rights from Australia, Mereoni Kirwin had a well-orchestrated sinister plan to which all the Accused succumbed to. She conducted a series of presentations going around the

Province of Ra to win support for her plan. She managed to get the approval of paramount Chiefs and most influential leaders of our society. Her presentation was video recorded ostensibly to be used in future activities.

14. According to overarching principles of sentencing, this Court is required to pass a sentence that is commensurate with seriousness of the offence, the seriousness of the offence being determined by culpability of the offender and the harm caused by the offence.
15. There can be no doubt, Sedition is a serious offence and, under Section 67 of the Crimes Act, attracts a maximum sentence of 7 years' imprisonment.
16. There is no set tariff and no comparable cases decided in Fiji under the Crimes Act which might give me assistance in arriving at an appropriate sentence. The Counsel for Prosecution and Defence have drawn my attention to *The State V Gagaj Rafeok Riogi* Criminal Appeal No. HAA 060 of 2001S, *Lesuma Raicebe* and others Criminal Case No. HAC 208 of 2011 and *State V Mua* (Magistrates Court unreported), cases decide in Fiji.
17. In *Riogi*, Shameem J, having overturned the acquittal at the Magistrates Court, imposed a one-year sentence suspended for a period of two years. However, as to the question of suspension of the sentence, Her Ladyship emphasized that '*the facts of the case would ordinarily call for an immediate custodial sentence*'. Reasons such as considerable delay in sentencing, nil previous convictions and no adverse report of respondent's character weighed heavily in respondent's favour.
18. It is important to appreciate that *Riogi* (supra) was decided under the old Penal Code where the prescribed maximum sentence for Sedition was 2 years' imprisonment whereas under the Crimes Act, the maximum sentence was increased significantly from 2 to 7 years. Furthermore, there is no considerable delay in sentencing in the present case. It should also be appreciated that the facts of the present case indicate a more serious case of Sedition than was the case in *Riogi* although the current political atmosphere may not have been so turbulent compared to 2001.



19. More recently, in *Lesuma Raicebe* (supra), Madigan J was called upon to sentence three accused convicted of Sedition along with Arson charges where accused had tendered pleas of guilty. This is the only reported Sedition case that I have come across where the sentence has been decided by a High Court under the Crimes Act. In that case Madigan J took a starting point of 4 years and 6 months for Sedition offences. The factual scenario of that case is significantly different from the present case. The comparatively high starting point would have been resulted from facts of that case which involved violence and arson damaging private and public property including community bures. Therefore, that case is of little help to me.
20. Having considered the gravity of the offences and decided cases, I select a starting point of 3 years for each count of Sedition in this case.
21. I now deal with each accused's case separately.

1<sup>st</sup> Accused was convicted on 1<sup>st</sup> and 2<sup>nd</sup> counts. He is a former Senator and the Chief of Nalawa. He occupies a high position and commands a great respect in the community. Character references tendered on his behalf show that he has maintained an unblemished character over the past 58 years of his life. He had rendered a yeoman service to the community and development work in the Province of Ra. According to the Deputy Chairman of the Ra Provincial Council and Church Minister, his advice and opinion had often been sought by the Church and the Provincial Council to resolve disputes in the community and issues regarding Vanua. He has not been convicted of any offence thus far. There are no aggravating factors for him.

22. I deduct one year from the starting point to give credit to his good character and service to the community. In the result, 1<sup>st</sup> Accused is sentenced to 2 years' imprisonment on each count.

#### **Suspension of sentence**

23. Since the sentence is less than 3 years, the Court is empowered under Section 26 of the Sentencing and Penalties Act to suspend the sentence.
24. I find that his culpability is comparatively less compared to that of other offenders. 1<sup>st</sup> Accused said in his evidence that he was misled as to the

documents he signed. His evidence was not believed by this Court. However, having realized the gravity of his act, 1<sup>st</sup> Accused regretted what he did and took all possible steps at his disposal to mitigate the damage done by his own act. Upon his return from Germany, he called a meeting and publically stood against the Ra Sovereign Christian State project and maintained this position in his caution statement and evidence.

25. Although the primary purpose of sentencing in this case is deterrence and denunciation, 1<sup>st</sup> Accused, by his conduct, has demonstrated that a suspended sentence would not be detrimental to the primary purpose to be achieved by the sentencing process in this case. In the circumstances, when regard is had to 1<sup>st</sup> Accused's good character and his desire for rehabilitation evidenced by his conduct, suspended sentence is not obnoxious to sentencing principles. Therefore, I suspend his sentence for a period of two years.

26. **2<sup>nd</sup> to 15<sup>th</sup> Accused**

2<sup>nd</sup> to 15<sup>th</sup> Accused, each bear an equal degree of responsibility as far as their culpability is concerned. They whole heartedly supported the Ra Christian State project. They do not regret what they had done. Except for 15<sup>th</sup> Accused, all others took an oath to serve as Cabinet Ministers in the rival Government. None of them adduced evidence in Court to explain as to why they had done those acts.

27. However, I have considered the explanations given by each accused in their respective caution interviews and all that has been said by their Counsel. In particular, I take into account the fact that accused have been acting under the guidance and advice by self-proclaimed lawyer Mereoni who had come from Australia. Some of them had acted under a strong belief in God, the Bible and Ten Commandments. Some of them have acted in the belief that they were acting legally, and everything they expected could be achieved lawfully.

28. However, the Accused are all experienced and educated people amongst them are ex-parliamentarians, lecturers, retired teachers, graduates, engineers etc. In the past, some of them had even stood for elections in the mainstream of politics to pursue their cause by lawful means. Therefore, they are well-informed people and must take full responsibility for their own actions.

29. Most of them are respectable senior citizens in their twilight ages having numerous medical conditions. It is unfortunate that they have succumbed to these unlawful acts. I have taken into account all these factors in arriving at my final sentence for each offender.

**2<sup>nd</sup> Accused**

30. 2<sup>nd</sup> Accused was convicted on 3<sup>rd</sup> and 4<sup>th</sup> counts. She is a 69 year old retired nurse. She wholeheartedly supported Ra Christian State Project. It appears from her caution statement that she has rendered a commendable service to her community as Rau Ni Natuya and as a nurse not only in Fiji but also in Sri Lanka. She is a diabetic with one leg amputated and needs assistance to walk. She has just been discharged from hospital after a surgery and not present in court today. She has never been convicted for an offence and has maintained a good character.
31. To reflect all these mitigating circumstances, I deduct 12 months for each count and arrive at an aggregate sentence of 2 years' imprisonment. Having considered her health condition, good character and possibility of rehabilitation, I order a part suspension of her sentence in order to balance deterrence with rehabilitation. Accordingly, she has to serve only 18 months in prison and rest of the sentence (6 months) is suspended for a period of 2 years.
32. In sending her to prison, I do not underestimate the ability of the Commissioner General of Corrections and his subordinates to provide necessary medical care and attention and to ensure her presence at the Lautoka Hospital for follow up medical treatments.

**3<sup>rd</sup> Accused**

33. 3<sup>rd</sup> Accused was convicted on 5<sup>th</sup> and 6<sup>th</sup> counts. He, video recorded Mereoni's presentation and believed everything in regards to setting up of the Ra Christian State can be done legally. He has not shown any regret for his acts. He is a 64-year-old retired Aircraft Engineer and a public servant. He is under medical attention for various medical complications.
34. To reflect mitigating circumstances, I deduct 6 months for each count to arrive at an aggregate sentence of 2 years' imprisonment. Having considered his health

condition, good character and possibility of rehabilitation, I order a part suspension of his sentence in order to balance deterrence with rehabilitation. Accordingly, he has to serve only 18 months in prison and rest of the sentence (6 months) is suspended for a period of 2 years.

#### **4<sup>th</sup> Accused**

35. 4<sup>th</sup> Accused was convicted on 7<sup>th</sup>, 8<sup>th</sup> 9<sup>th</sup> and 10<sup>th</sup> counts. She says 'nothing against the current government' in her caution interview. However she voluntarily signed the documents and took an oath as a Minister believing Mereoni's explanations. She was actively involved in Mereoni's Ra Christian State project. She has not shown any regret for her wrongdoing.
36. She is 64 year old community worker and ex-assistant Minister. She is under medication for numerous medical conditions. She is a first offender and has maintained a clear record.
37. Having considered all mitigating circumstances, I deduct 6 months for each count to arrive at an aggregate sentence of 3 years' imprisonment. Having considered her health condition, good character and possibility of rehabilitation, I order a part suspension of her sentence in order to balance deterrence with rehabilitation. Accordingly, 4<sup>th</sup> Accused has to serve only 24 months in prison and rest of the sentence (12 months) is suspended for a period of 2 years. I do not fix a non-parole period.

#### **5<sup>th</sup> Accused**

38. 5<sup>th</sup> Accused was convicted on 11<sup>th</sup>, 12<sup>th</sup>, 13<sup>th</sup> and 14<sup>th</sup> counts. He acted as a driver for Mereoni. He knowingly signed the documents and took an oath as a Minister.
39. 5<sup>th</sup> Accused is married and a father of 4 children. He is a first offender. I deduct 6 months for each count to arrive at an aggregate sentence of 3 years' imprisonment. Having considered his good character and possibility of rehabilitation, I order a part suspension of his sentence in order to balance deterrence with rehabilitation. Accordingly, 5<sup>th</sup> Accused has to serve only 24 months in prison and rest of the sentence (12 months) is suspended for a period of 2 years. I do not fix a non-parole period.

### **6<sup>th</sup> Accused**

40. 6<sup>th</sup> Accused was convicted on 15<sup>th</sup> and 16<sup>th</sup> counts. He claimed that he didn't think he was committing an offence. He admitted in his interview that he was sworn in as the Minister for Education. He signed the Ra Sovereign Christian State document having understood the idea to form an indigenous Government.
41. He is a 59 year old retired teacher. He has no previous convictions. Having considered all mitigating circumstances, I deduct 6 months for each count to arrive at an aggregate sentence of 2 years' imprisonment. Having considered his good character and possibility of rehabilitation, I order a part suspension of his sentence in order to balance deterrence with rehabilitation. Accordingly, 6<sup>th</sup> Accused has to serve only 18 months in prison and rest of the sentence (6 months) is suspended for a period of 2 years.

### **7<sup>th</sup> Accused**

42. 7<sup>th</sup> Accused was convicted on 17<sup>th</sup> and 18<sup>th</sup> counts. He claims that he had a right to act under the UN Declaration on Indigenous Rights and said that his lawyer Mereoni would explain everything. He told the Police that he was the president of the Activists Peoples Party and that the Ra Sovereign Christian State was already in his plan and that Mereoni had come in to support him. He admits he had sworn in as the Minister for Agriculture, Fisheries, Forests & Environment. He admits signing the document.
43. He is a 64 year old retired teacher. He is a first offender. He is suffering from numerous medical conditions. Having considered all mitigating circumstances, I deduct 6 months for each count to arrive at an aggregate sentence of 2 years' imprisonment. Having considered his poor medical condition, good character and possibility of rehabilitation, I order a part suspension of his sentence in order to balance deterrence with rehabilitation. Accordingly, 7<sup>th</sup> Accused has to serve only 18 months in prison and rest of the sentence (6 months) is suspended for a period of 2 years.

### **8<sup>th</sup> Accused**

44. 8<sup>th</sup> Accused was convicted on 19<sup>th</sup> and 20<sup>th</sup> counts. 8<sup>th</sup> Accused too asserts his rights under the UN Declaration. He took the position that the current

Government is not legally elected and he admits he was sworn in as the Minister for Infrastructure and Transport.

45. He is a 59-year-old retired valuer, having served 24 years for NLTB. He has no previous convictions. He is a father of 6 children. Having considered all mitigating circumstances, I deduct 6 months for each count to arrive at an aggregate sentence of 2 years' imprisonment. Having considered his poor medical condition, good character and possibility of rehabilitation, I order a part suspension of his sentence in order to balance deterrence with rehabilitation. Accordingly, 8<sup>th</sup> Accused has to serve only 18 months in prison and rest of the sentence (6 months) is suspended for a period of 2 years.

#### **9<sup>th</sup> Accused**

46. 9<sup>th</sup> Accused was convicted on 21<sup>st</sup> and 22<sup>nd</sup> counts. He explains that he believed Mereoni's words that everything was legal. He admits taking the oath to serve as the Minister for Youth and Sports.
47. He is a 54 year old father with 5 children. He is a first offender. He works for a private company. Having considered all mitigating circumstances, I deduct 6 months for each count to arrive at an aggregate sentence of 2 years' imprisonment. Having considered his good character and possibility of rehabilitation, I order a part suspension of his sentence in order to balance deterrence with rehabilitation. Accordingly, 9<sup>th</sup> Accused has to serve only 18 months in prison and rest of the sentence (6 months) is suspended for a period of 2 years.

#### **10<sup>th</sup> Accused**

48. 10<sup>th</sup> Accused was convicted on 23<sup>rd</sup> and 24<sup>th</sup> counts. He supported the idea in the belief that the Ra Christian Government will be of spiritual in nature. He took an oath to serve as the Foreign Minister and signed the Ra Christian State document.
49. He is a 66-year-old retired Civil Servant having worked for the Government for 35 years and held the position of Director of Technical Vocational Education Training. He is suffering from numerous medical conditions. He is a first offender. Having considered all mitigating circumstances, I deduct 6 months for

each count to arrive at an aggregate sentence of 2 years' imprisonment. Having considered his poor medical condition, good character and possibility of rehabilitation, I order a part suspension of his sentence in order to balance deterrence with rehabilitation. Accordingly, 10<sup>th</sup> Accused has to serve only 18 months in prison and rest of the sentence (6 months) is suspended for a period of 2 years.

#### **11<sup>th</sup> Accused**

50. 11<sup>th</sup> Accused was convicted on 25<sup>th</sup> and 26<sup>th</sup> counts. He acted on Mereoni's instructions and expected her to explain the reasons for his acts. He admits being sworn in as the Minister for Tourism and signing the document.

51. He is a 31-year-old former lecturer at APTC. He is a father of 2 children. He has no previous convictions. Having considered all mitigating circumstances, I deduct 6 months for each count to arrive at an aggregate sentence of 2 years' imprisonment. Having considered his good character and possibility of rehabilitation, I order a part suspension of his sentence in order to balance deterrence with rehabilitation. Accordingly, 11<sup>th</sup> Accused has to serve only 18 months in prison and rest of the sentence (6 months) is suspended for a period of 2 years.

#### **12<sup>th</sup> Accused**

52. 12<sup>th</sup> Accused was convicted on 27<sup>th</sup> and 28<sup>th</sup> counts. She had a strong belief in God's time when she supported the Ra Christian State. She admits being sworn in as the Minister for Telecommunication and signing the document.

53. She is a 67 year social worker. She adopts two children. She is suffering from arthritis and diabetes. She is a first offender. Having considered all mitigating circumstances, I deduct 6 months for each count to arrive at an aggregate sentence of 2 years' imprisonment. Having considered her poor medical condition, good character and possibility of rehabilitation, I order a part suspension of her sentence in order to balance deterrence with rehabilitation. Accordingly, 12<sup>th</sup> Accused has to serve only 18 months in prison and rest of the sentence (6 months) is suspended for a period of 2 years.

### **13<sup>th</sup> Accused**

54. 13<sup>th</sup> Accused was convicted on 29<sup>th</sup> and 30<sup>th</sup> counts. His main purpose for supporting Ra Sovereign Christian State was because the constitution was the 10 Commandments and observance of the True Sunday. He acted on Mereoni's instructions and expected her to explain the reasons for his acts. He admits being sworn in as the Minister and signing the document.
55. He is a 49-year-old former army officer. He is a father of 7 children. He has no previous convictions. Having considered all mitigating circumstances, I deduct 6 months for each count to arrive at an aggregate sentence of 2 years' imprisonment. Having considered his good character and possibility of rehabilitation, I order a part suspension of his sentence in order to balance deterrence with rehabilitation. Accordingly, 13<sup>th</sup> Accused has to serve only 18 months in prison and rest of the sentence (6 months) is suspended for a period of 2 years.

### **14<sup>th</sup> Accused**

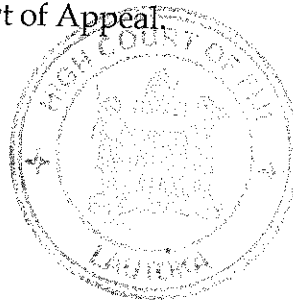
56. 14<sup>th</sup> Accused was convicted on 31<sup>st</sup> and 32<sup>nd</sup> counts. He asserts indigenous rights under the United Nations law. He was actively involved in the Ra Christian State project going around in the province with Mereoni. He didn't vote for the last election because he is against the Constitution and believes that United Nations law is paramount in Fiji, not the Constitution. He admits taking the oath to serve as the Minister for Public Relations and signing the document.
57. He is a 72-year-old pester. He is a father of 5 children. He is a first offender. He is suffering from arthritis and Gout. Having considered all mitigating circumstances, I deduct 6 months for each count to arrive at an aggregate sentence of 2 years' imprisonment. Having considered his good character and possibility of rehabilitation, I order a part suspension of his sentence in order to balance deterrence with rehabilitation. Accordingly, 14<sup>th</sup> Accused has to serve only 20 months in prison and rest of the sentence (4 months) is suspended for a period of 2 years.

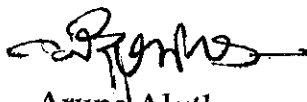


### **15<sup>th</sup> Accused**

58. 15<sup>th</sup> Accused was convicted only on 34<sup>th</sup> count. He signed the document as the minister because he needed to get into the group to reveal to the others his message not to go against the Government.
59. He is a 66-year-old pester. He is a father of 7 children. He is suffering from poor eye sight. He has maintained a clear record. Having considered all mitigating circumstances, I deduct 6 months to arrive at a sentence of 18 months' imprisonment. Having considered his good character health condition and possibility of rehabilitation, I order a part suspension of his sentence in order to balance deterrence with rehabilitation. Accordingly, 15<sup>th</sup> Accused has to serve only 12 months in prison and rest of the sentence (6 months) is suspended for a period of 2 years.
60. I summaries the sentence for each Accused as follows:
- 1<sup>st</sup> Accused - 2 years' imprisonment fully suspended for 2 years.**
  - 2<sup>nd</sup> Accused - 2 years' imprisonment, 6 months of which is suspended for two years. She has to serve only 18 months in prison**
  - 3<sup>rd</sup> Accused - 2 years' imprisonment, 6 months of which is suspended for two years. He has to serve only 18 months in prison.**
  - 4<sup>th</sup> Accused - 3 years' imprisonment, 12 months of which is suspended for two years. She has to serve only 24 months in prison. No non parole period is fixed.**
  - 5<sup>th</sup> Accused - 3 years' imprisonment, 12 months of which is suspended for two years. He has to serve only 24 months in prison. No non parole period is fixed.**
  - 6<sup>th</sup> Accused - 2 years' imprisonment, 6 months of which is suspended for two years. He has to serve only 18 months in prison.**
  - 7<sup>th</sup> Accused - 2 years' imprisonment, 6 months of which is suspended for two years. He has to serve only 18 months in prison.**

- 8<sup>th</sup> Accused - 2 years' imprisonment, 6 months of which is suspended for two years. He has to serve only 18 months in prison.
- 9<sup>th</sup> Accused - 2 years' imprisonment, 6 months of which is suspended for two years. He has to serve only 18 months in prison.
- 10<sup>th</sup> Accused - 2 years' imprisonment, 6 months of which is suspended for two years. He has to serve only 18 months in prison.
- 11<sup>th</sup> Accused - 2 years' imprisonment, 6 months of which is suspended for two years. He has to serve only 18 months in prison.
- 12<sup>th</sup> Accused - 2 years' imprisonment, 6 months of which is suspended for two years. She has to serve only 18 months in prison.
- 13<sup>th</sup> Accused - 2 years' imprisonment, 6 months of which is suspended for two years. He has to serve only 18 months in prison.
- 14<sup>th</sup> Accused - 2 years' imprisonment, 4 months of which is suspended for two years. He has to serve only 20 months in prison.
- 15<sup>th</sup> Accused - 18 months' imprisonment, 6 months of which is suspended for two years. He has to serve only 12 months in prison.
61. The purpose and effect of suspended sentence and consequences of breach are explained to the Accused.
62. That is the Sentence of this Court.
63. 30 days to appeal to the Court of Appeal.



  
Aruna Aluthge  
JUDGE

At Lautoka  
29<sup>th</sup> September, 2017

Solicitors: Office of the Director of Public Prosecution for the State  
Kevueli Tunidau Lawyers for the 1<sup>st</sup> Accused  
Aman Ravindra Singh Lawyers for 2<sup>nd</sup> – 15<sup>th</sup> Accused