

**Address by the Chief Justice Mr Justice Anthony Gates  
to the Fiji Police Human Trafficking Action Plan  
Consultative Forum to close the Forum Session  
14<sup>th</sup> May 2010 at JJ's on the Park, Suva**

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Commissioner of Police, Commodore Teleni  
Senior Officers of the Police Force  
Representatives of the Diplomatic Corps  
Permanent Secretaries and their representatives  
Representatives from the NGOs and Religious Bodies  
Participants and observers

I see that I was down on the programme to speak from 3.30 to 4 AM. For those of you who were already trapped inside this room and thus were unable to make an escape before I reached the podium, I can provide some reassurance by saying that my closing address will continue for marginally less than the estimate.

Some of you may value, indeed study, auspicious dates. Today as you know is Friday 14<sup>th</sup> May. Whilst it may be said to be safe on such a day to slip out of the office to fetch a sandwich or to post a letter, the same could not be said for being on your feet addressing “Mr Speaker”. But then again, since it is already late in the afternoon, and there is a significant rugby match starting at 4.30 pm, the risk can be assessed to have greatly lessened and to have shifted now to Monday morning. Nevertheless I proceed on with my task.

The community in Fiji, even if ignorant of the areas of concern with children and trafficking and the existence of such illegal activity in its midst, will be thankful that this consultative forum has taken place. The community will be relieved to know that these matters are being considered and an action plan

devised. It is gratifying to know of the wide participation, and that that input has come from the Embassies, Government Departments, NGOs, Religious Bodies, the private sector, and the police. When resources and expertise are limited it is particularly important to have the widest support for a new initiative. I believe Commissioner Teleni has already made this point in opening. The wider the area the better. For in a sense we are all bound up and entangled with this area, if not presently, or always, at least, historically.

I was born in wartime Liverpool in England. My father was involved in oil and shipping. The ships plied the West African coast. They took the same route that the ships of the 18<sup>th</sup> century took. But in my father's day the trade was no longer the triangular trade. The earlier trade had brought cheap tin trays, nicknacks, umbrellas and cloth to the West African ports. Then slaves were embarked for the plantations, to work sugar in the West Indies and cotton in the Southern States. Eventually the ships sailed back to Liverpool laden with raw cotton for the mills of Manchester and Lancashire.

Respectable ship owners, manufacturers, traders, and investors, good Christians and Quakers, were involved with this trade. That renowned constitutional lawyer and chief draftsman of the Declaration of Independence Thomas Jefferson, was the contented recipient of slaves to work his idyllic estates and to build the classical mansion he called Monticello. When a ship owner could not meet his mortgage payments the bankers foreclosed and the ship and its cargo of slaves became the property of the bankers who without reflection continued to ply the trade. Such a banker built the elegant Harewood House in Yorkshire and his descendant married into the royal family. So many persons were in some way involved in the trade, including the ship's cargo insurers, the mighty Insurance Companies, the Government ports and customs officials, the ships chandlers and the victuallers. Once slavery was abolished they said that sugar was no longer

profitable in the West Indies. Could this be at the root of Fiji's sugar industry problems?

Later when I looked at the grand civic buildings in Liverpool I reflected on their having been financed by the commercial activities of the slave trade. Indeed it was the triangular trade that had converted Liverpool by the middle of the 19<sup>th</sup> century from a village fishing port into a thriving and wealthy city.

After school and before going up to university I served as a cadet volunteer, a VSO, teaching in Sierra Leone. It was as they say far away and a very long time ago. The school where I taught along with four Peace Corps volunteers was 2 miles out of Port Loko an old slaving port upriver. In the Paramount Chief's ancient compound could still be seen some of the shackles and chains by which the unfortunate captives from other tribes were to be held pending their examination, purchase and embarkation. The chains had been for men, women and children. This part of man's inhumanity to man was stark, cruel, and evident. But one could see how many had benefitted from assisting in the trade. Guilt was everywhere.

In my time in Sierra Leone I had travelled to the North Eastern railhead of Kailahun, close to the Liberian border. Children were used in the diamond mining there. During the civil wars of Sierra Leone and Liberia it was said the diamonds had financed the rebels. They became known as "blood diamonds". Children were seized and pressed into military service by rebel bands in both countries. Towards the end of the wars dreadful atrocities were committed, particularly by the retreating rebels in Sierra Leone. At least one school in Freetown specializes in the education of those former infants who had had either one or both arms or legs hacked off as the rebels retreated from the Freetown peninsula. The history of cruelty and exploitation of those in thrall to the more powerful has been ongoing.

It was once said that patriotism was an excuse for everything you did that was unsavoury and ignoble. Even Governments tasked with the primary duty of safeguarding its people did the opposite. It seemed to have been an accepted and patriotic practice to press-gang anyone found on the street in villages and towns for enlistment into the British Navy. We must destroy the French Fleet and prevent Napoleon from invading. We had the ships but we didn't have the men to man them. There were no misleading contracts here. Persons were simply taken by force to serve on HM ships. Many were never seen by their wives, children and families again. Here is a short extract from Elizabeth Gaskell's novel "Sylvia's Lovers" which described what it meant to be press-ganged in 1790s England:

“ The servants of the Admiralty lay in wait for all merchantmen and traders; there were many instances of vessels returning home after long absence, and laden with rich cargo, being boarded within a day's distance of land, and so many men pressed and carried off, that the ship, with her cargo, became unmanageable from the loss of her crew, drifted out again into the wild wide ocean, and was sometimes found in the helpless guidance of one or two infirm or ignorant sailors; sometimes such vessels were never heard of more. The men thus pressed were taken from the near grasp of parents or wives, and were often deprived of the hard earnings of years, which remained in the hands of the masters of the merchantman in which they had served, subject to all the chances of honesty or dishonesty, life or death. Now all this tyranny (for I can use no other word) is marvellous to us; we cannot imagine how it is that a nation submitted to it for so long, even under any warlike enthusiasm, any panic of invasion, any amount of loyal subservience to the governing powers. When we read of the military being called in to assist the civil power in backing up the press-gang, of parties of soldiers patrolling the streets, and sentries with screwed bayonets placed at every door while the press-gang entered and searched each hole and corner of the dwelling; when we hear of churches being surrounded during divine service by troops, while the press-gang stood ready at the door to seize men as they came out from attending public worship, and take these instances as merely types of what was constantly going on in different forms, we do not wonder at Lord Mayors, and other civic authorities in large towns, complaining that a stop was put to business by the danger

which the tradesmen and their servants incurred in leaving their houses and going into the streets, infested by press-gangs.”

Strange that States that said they were fighting for freedom and against oppression were yet capable of perpetrating the opposite. Jefferson was proud of his draft preamble to the Declaration of Independence. It embodied John Locke’s idea that there was a right to revolt against tyranny, surely a dangerous idea of the Enlightenment of which any administration would feel suspicious. Jefferson began the draft, you may remember, with noble epithets:

“We hold these truths to be self-evident: that all men are created equal; that they are endowed by their creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness:”

Yet it was hard to reconcile that with the continuance of slavery on Jefferson’s estates. And how could Britain fill its navy with recruits enlisted against their will, forced into a kind of slavery aboard HM ships, and yet we could sing in the rousing anthem “Rule Britannia”, “Britain never never shall be slaves”. You can see why later in the 19<sup>th</sup> century and into the 20<sup>th</sup> the authorities were not too concerned about whether the indentured labourers had been bundled onto ships bound for Fiji on unfavourable terms, and similarly in Queensland how the Government turned a blind eye to blackbirding. If the public in Europe were only prepared to pay a low price for sugar, were they not complicit in the use of slave labour or semi-slave labour in its production? Nowadays global marketing and the supply of produce for European and American supermarkets seems to continue that complicity. Only this time, the public could not so easily claim ignorance.

Today in Fiji we have immigration and employment agents promising visas and well paid jobs in Canada or the Middle East. Some agents have been known to take as much as half of the pay of the employees recruited, whilst securing in

reality few, if any, of the benefits allegedly provided for in the contracts. Certainly the agents have not looked after their clients, some of whom later became stranded overseas.

Before our batch of VSO volunteers left Britain's shores to work overseas, many of us in former British colonies, we received an orientation briefing. This was in the year 1962 and our instructors were for the most part former Colonial servants, imperialists if you like. However we were given careful and I believe wise advice on how we should go about giving assistance to the persons we sought to help in the receiving and foreign countries. We were told we were there to help and to advise in areas where we were invited to assist. We were not to thrust ourselves forward in culturally insensitive or aggressive ways. We were to listen and to seek to persuade quietly and politely. This was the advice of the former imperialists who were fashionably attacked in those Independence days for much of their former work and attitudes. Maybe the ones who advised us were untypical of that breed.

The US State Department Trafficking In Persons Report for 2009 starts well enough. "Its findings" it states "will raise global awareness and spur countries to take effective actions to counter trafficking..." The Report is to serve as a "primary diplomatic tool", and "will encourage partnership and increased determination in the fight against forced labour, sexual exploitation, and modern day slavery". So far so good. VSO, Peace Corps, and local participants all in harmony here.

However when the Report moves on to its Tier Placement, Penalties for Tier Countries, and Sanctions commentary it seems to have lost its way if it was intending to be persuasive and an influence for good. It may be that the 2009 Report is now history. For with the far reaching reforms of the new Crimes Decree

with its fulsome trafficking, people smuggling, and related offences, together with the new Police initiative as shown at this Forum, and the input from the wide field of stakeholders, the approach in Fiji will be seen to have made excellent progress. I am led to believe there needs to be more liaison and more sharing of research information with the police by NGOs and overseas bodies. The police need facts and evidence, not vague and generalized comment. What is needed is a genuine desire to lift Fiji's efforts in this field in a politics-neutral way as opposed to looking for material with which to denigrate the present administration. The issues and areas of law raised at this Forum are far too important to be trivialized by mere politics.

I thank all speakers and participants for their contributions. There is a great deal of work now to be done which I hope will proceed with much goodwill and co-operation. Though I have been unable to keep closer to my 4 am deadline, I would like to say, if you have been, thank you for listening.

14<sup>th</sup> May 2010

A.H.C.T. Gates

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