

ASIA PACIFIC CENTRE - RESPONSIBILITY TO PROTECT

# ATROCITY CRIMES RISK ASSESSMENT SERIES

NEW CALEDONIA

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# INTRODUCTION

The Framework of Analysis for Atrocity Crimes (2014) was developed by the United Nations Special Advisors on the Prevention of Genocide and the Responsibility to Protect, to support the assessment of atrocity crime risk.

In 2005, United Nations member states unanimously made a commitment to protect populations from the most serious crimes, namely genocide, war crimes, ethnic cleansing, and crimes against humanity. These four atrocity crimes pose a threat not only to human life but also to national, regional, and international peace and stability. In 2014 the United Nations Special Advisors on the prevention of Genocide and the Responsibility to Protect presented an updated Framework of Analysis (henceforth referred to as the Framework) to assist with assessing the risks of genocide, war crimes, ethnic cleansing, and crimes against humanity.<sup>1</sup> The framework serves as a working tool to identify and thus support the prevention of atrocity crimes around the world.

New Caledonia is a French territory that sits around 1,500 km from the east coast of Australia and comprises the main island of Grande Terre (where the capital, Nouméa, is situated) the four loyalty islands (Ouvea, Lifou, Tiga and Mare), the Belep archipelago, the Isle of Pines and some remote islands<sup>2</sup> such as Mathew and Hunter Islands to the south-east. Close to 300,000 people live in New Caledonia.<sup>3</sup> Approximately 39% of the population is indigenous ('Kanak') with the remaining Caledonians comprising of European, Polynesian, Vietnamese, Indonesian and Algerian origins, amongst others.<sup>4</sup>

New Caledonia was annexed by France in 1853.<sup>5</sup> Soon after, France began an active process of settlement, first as a penal colony for prisoners who upon completion of their sentences were gifted land, followed by waves of French-European settlers and labourers from Asia.<sup>6</sup> The indigenous Kanak peoples, one of the ethnic Melanesian groups that inhabit archipelagos across the Pacific, were subsequently dispossessed of their ancestral lands and forced onto reserves.<sup>7</sup> Although they resisted colonisation, their population was decimated by the French military and disease.<sup>8</sup> Kanaks were only granted rights as citizens after World War II.<sup>9</sup>

The struggle for independence eventually came to a head in the 1980s in a violent and unsuccessful struggle for independence. The Matignon-Oudinot Accords (1988), followed by the Nouméa Accord (1998), and Organic Law of 1999 sought to maintain peace and 'rebalance' social and economic life over a period of 30 years in favour of the Kanak population and less developed regions of the country.<sup>10</sup> The 1998 Nouméa Accord between the French Government and opposing political leaders was an effort towards constitutional reform that would create a multi-party government, and lead to the gradual transfer of power from Paris to Nouméa.<sup>11</sup> For all parties to the Nouméa Accord, the decision to hold a lengthy transition was based on the belief that time would contribute to reconciliation between competing cultural and political forces.<sup>12</sup>

The constitutional and electoral reforms changed the political landscape, with the independence movement the Kanak and Socialist National Libération Front (Front de Libération Nationale Kanak et Socialiste, FLNKS) entering the institutions of government, and Kanak leaders serving in a multi-party executive alongside their conservative opponents.<sup>13</sup> The current President, Louis Mapou, is the first pro-independence Kanak politician to head the Government of New Caledonia in 40 years.<sup>14</sup> The reforms were also in response to pressure from the UN to decolonise New Caledonia, and to support a move to self-determination and independence from France. In 1986, the General Assembly had re-inscribed New Caledonia as a Non-Self-Governing Territory<sup>15</sup> with the UN Committee on Decolonization (see UNGA Res 1514 (xv)).<sup>16</sup>

The Nouméa Accord also set out a constitutional process of up to three referenda to decide full sovereign autonomy. These took place in 2018, 2020 and 2021 respectively. The 2021 referendum resulted in a majority vote to remain a part of France.<sup>17</sup> The result of the referendum, however, remains deeply contested and is not considered a legitimate outcome of the decolonisation process by pro-independence leaders. These leaders had called for Kanak non-participation in light of France's refusal to postpone and reschedule the referendum for two reasons. Firstly, to accommodate the disproportionate number of Kanak and islanders from the Wallisian community affected by Covid-19. And secondly, in respect of the customary 12 month mourning rituals resulting from Covid-related deaths.<sup>18</sup>



# INTRODUCTION

The indigenous population – who make up almost 40% of the total and who are more likely to vote for independence – were disproportionately affected by Covid-19. More than 60% of the territory's 276 Covid deaths were among Kanak and other Pasifika communities.<sup>19</sup> The disproportionate death toll of indigenous Kanak further reflected the ongoing disparities in housing, income and access to information and health services in rural areas and squatter settlements.<sup>20</sup>

In light of the call for non-participation by pro-independence parties, there was a significant shift in referendum results between 2018 and 2021; turn out was estimated at only 43.87% of the electorate in 2021, compared to 85.69% in the 2020 referendum.<sup>21</sup> Furthermore, in a report to the Pacific Island Forum (PIF) in 2018, the Pacific Islands Association of Non-Governmental Organisations (PIANGO) reported that a significant number of Kanak individuals were missing from the electoral roll – with some estimates around 25,000, and that this was in direct breach of human rights and international norms governing decolonisation and self-determination.<sup>22</sup>

By keeping the 12 December date, French president Emmanuel Macron, who faced an election in 2022, ensured that the vote would be in favour of the status quo, taking place within his 2017-2022 election term.<sup>23</sup> Macron has since been denied absolute majority in the National Assembly and successive motions for no-confidence votes against his liberal Renaissance party indicate a shaky political ground under the French leader.<sup>24</sup> Macron is in a precarious position: the center right and right will unanimously take a stand against independence, as it is also of strategic importance for France's national security to keep its Exclusive Economic Zone in the Pacific, as defined by Article 76 of the UN Convention on the Law of the Sea (UNCLOS).<sup>25</sup> At present Macron's controversial pension reform bill has infuriated the political opposition and could hamper his government's ability to pass legislation for the remaining four years of his term.<sup>26</sup> These political circumstances will likely impact directly on the aspirations of the pro-independence movement in New Caledonia.

Members of the Melanesian Spearhead Group (comprising Papua New Guinea, Fiji, Solomon Islands, Vanuatu and the FLNKS, which is a full member) also echo concerns about the credibility of the 2021 referendum and continue to support the FLNKS as it prepares to re-negotiate with Paris.<sup>27</sup> The MSG has warned the UN that "...the integrity and credibility of the referendum process and its outcome are seriously at stake."<sup>28</sup> This comes at a time when France and Australia – indeed the entire region – are looking to consolidate their alliances as an economic and security buffer vis-à-vis China's 'omnipresence' in the Pacific. A prominent view shared by pro-independence parties is that "...if France wants to have an economic and political stake in the Pacific... it needs to grant New Caledonia a fourth referendum on independence and treat the Pacific as a partner, rather than a colony".<sup>29</sup>

# SUMMARY OVERVIEW OF ASSESSMENT

This report uses 'the Framework' to create a detailed analysis of the potential risks of atrocity crimes as they exist in New Caledonia. At the time of writing, the risk in New Caledonia is low, however, triggering factors for conflict exist. The most critical areas of conflict can be found around Risk Factors 1, 4 and 8. These relate to:

- The institutional and political issues that have emerged in the wake of the outcome of the December 2021 referendum;
- The geo-strategic repositioning of power alliances in the Pacific; and
- Triggering factors that exacerbate pre-existing risks.

Risk factors are cross cutting and will overlap and collect around certain themes emerging as a result of this analysis, including:

- Indigeneity and independence;
- Renegotiation of the electoral roll;
- The rise of oceanic diplomacy and colonial views of strategic alliance-building;
- Inequitable access to social services;
- Gender-based violence;
- The vilification of Indigenous (Kanak) youth in the mainstream press;
- Climate and the economy, mining and social unrest.

There have been challenges in the research for this risk assessment:

- Working across a platform of languages (French/English);
- Some of the most critical aspects to governance remain in the purview of France;
- An analysis of New Caledonia cannot exist without making direct reference to the legacy of colonialism.

It should be noted that the presence or absence of risk factors does not guarantee that an atrocity crime will or will not occur.

## MAP NEW CALEDONIA



Map Source: [geology.com](http://geology.com)

# TERMINOLOGY

UKUS	Trilateral security pact between Australia, the UK, and the USA
CNCDH	Commision Nationale Consultative de Droits de l'Homme (France)
C-24	Special Committee on Decolonization (UN)
EEZ	Exclusive Economic Zone
ETR	Ecological Threat Report
FLNKS	Front de Liberation National Kanak et Socialist
GANHRI	Global Alliance of National Human Rights Institutions
HRC	Human Rights Council (OHCHR)
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IEP	Institute of Economics and Peace
INSERM	National Institute for Health and Medical Research (France)
ISEE	Institute des Statistiques Et Etudes Economiques (France)
IWGIA	International Work Group for Indigenous Affairs
LDC-NH	Ligue des droits de l'Homme et du citoyen de Nouvelle-Calédonie
MSG	Melanesian Spearhead Group
NCA	New Caledonia Act
OHCHR	Office of the High Commissioner on Human Rights
PIANGO	Pacific Islands Association of Non-Governmental Organisations
PIF	Pacific Islands Forum
RS	Risk Factor
SDG	Sustainable Development Goal
SIDS	Small Island Developing States
SLN	Societe Le Nickel (France)
SLR	Sea-level Rise
UNC	University of New Caledonia
UNCLOS	United Nations Convention on the Law of the Sea
UNCT	United Nations Country Team
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UNGA	United Nations General Assembly
UPR	Universal Periodic Review (OHCHR)

# FRAMEWORK OF ANALYSIS

The Framework consists of fourteen risk factors that may lead to atrocity crimes occurring. Each risk factor is accompanied by a suite of specific indicators that are used to determine the degree of risk present. Combined, these risk factors and associated indicators guide the collection and subsequent analysis of data to establish the level and types of atrocity crime risk in a given country and can act as an early warning system in the prevention of such crimes. The higher the number of indicators present in a single risk factor, the more important that particular risk factor is in the overall assessment. However, it must be noted that the risk factors and indicators are not ranked by order of importance. Some may have greater weight than others and some will overlap. Furthermore, all indicators must be situated within the context of the country under analysis to properly understand the risk they illustrate.

The risk factors are demarcated into two different groups: Common Risk Factors, which are the conditions that increase the probability of all atrocity crimes occurring; and Specific Risk Factors, which are divided into the risks associated with genocide, crimes against humanity, and war crimes. Ethnic cleansing is incorporated into each of the three Specific Risk Factors. The eight common risk factors constitute conditions that exacerbate the risk of any of the four atrocity crimes: they identify the probability but not necessarily the type of crime. Events or conditions that occurred decades ago can affect choices and trends in the present, which may contribute to crimes in the future. This is especially pertinent in New Caledonia, where the territory's contemporary struggles are defined by its colonial legacy and the struggle for self-determination of the indigenous Kanak people. The principle of R2P requires constant monitoring, legislative change and the commitment to enforce human rights.

COMMON RISK FACTORS		
Risk Factor	1	Situations of armed conflict or other forms of instability
Risk Factor	2	Record of serious violations of international human rights and humanitarian
Risk Factor	3	Weakness of State structures
Risk Factor	4	Motives or incentives
Risk Factor	5	Capacity to commit atrocity crimes
Risk Factor	6	Absence of mitigating factors
Risk Factor	7	Enabling circumstances or preparatory action
Risk Factor	8	Triggering factors
SPECIFIC RISK FACTORS		
<b>Genocide</b>		
Risk Factor	9	Inter group tensions or patterns of discrimination against protected groups
Risk Factor	10	Signs of an intent to destroy in whole or in part a protected group
<b>Crimes Against Humanity</b>		
Risk Factor	11	Signs of a widespread or systematic attack against any civilian population
Risk Factor	12	Signs of a plan or policy to attack any civilian population
<b>War Crimes</b>		
Risk Factor	13	Serious threats to those protected under international humanitarian law
Risk Factor	14	Serious threats to humanitarian or peacekeeping operations

Each of these Risk Factors are accompanied by 6-18 more specific Indicators, which can be used to more precisely identify and analyse the risks of atrocity crimes. These Indicators and further information on the full UN Framework of Analysis for Atrocity Crimes can be found by visiting the UN website at [www.un.org](http://www.un.org).

# COMMON RISK FACTORS

## RISK FACTOR 1: SITUATIONS OF ARMED CONFLICT OR OTHER FORMS OF INSTABILITY

**Indicator 1.4 – Political instability caused by abrupt or irregular regime change or transfer of power:** *[refers directly to the contested results of the 2021 referendum on independence]*

**Indicator 1.5 – Political instability caused by disputes over power or growing nationalist, armed or radical opposition movements:** *[Political vacuum as loyalists and pro-independence parties re-negotiate with France over New Caledonia's legislative status]*

### *Independence*

In January 2023, a high-level delegation from New Caledonia consulted with the leader of the Solomon Islands as an MSG member on an option of pursuing the results of the December 2021 UN self-determination referendum at the International Court of Justice (ICJ).<sup>30</sup> Despite promises by France of a new statute in June 2023, no document has been produced and Paris no longer plans to hold any referendum in New Caledonia during the term of President Emmanuel Macron.<sup>31</sup> New Caledonia's pro-independence Caledonian Union has proposed 24 September as the date by which an accord be reached with France to end the colonial period.<sup>32</sup> In March 2023, the French Interior Minister visited New Caledonia and stipulated that both parties must compromise in an official setting to avoid a return to violence.<sup>33</sup>

New Caledonia has a proportional representation (PR) electoral system. The issue of the electoral roll vis-à-vis a referendum for independence remains problematic. At present, "more than 40,000 French nationals, mostly living in the Southern Province, are ineligible to vote" despite some having been in the country for over 15 years.<sup>34</sup> The Nouméa Accord of 1998 placed a number of restrictions on citizenship and voting rights, with legislation implementing the Accord spelling out residency requirements. This effectively means that 10 years' residency is required for French nationals to be able to vote as New Caledonian citizens for elections to the provincial assemblies and Congress, and in referenda.<sup>35</sup>

Kanak leaders had initially believed that the 'freezing' of the electoral roll would apply from 1998, effectively requiring future voters to be descendants of those present in the territory at the end of the conflict in 1998. Others have argued that the 10-year residency requirement applies from the date of the relevant election.<sup>36</sup> After the nickel boom of the 1960s, the indigenous Kanak community became a minority and a crucial element of the Nouméa Accord negotiations included the restriction of immigration from France, with vital implications for political rights, cultural values and local employment.<sup>37</sup> Under the Nouméa Accord, only indigenous Kanaks and those resident for 10 years by 1998 are allowed to vote.<sup>38</sup>

However, Geralt Darmanin recently announced that New Caledonia's provincial election cannot go ahead with the existing, frozen electoral rolls of 1998. Work is being undertaken towards a institutional project for subsequent modification of the French constitution by 2024.<sup>39</sup> He said, "There is the frozen electoral process, that we can not continue with as the Nouméa accord is over. I have mentioned to both pro-independence and anti-independence parties that we will hold the elections in time in May 2024 with an electoral body that will be modified."<sup>40</sup>

**Indicator 1.9 – Economic instability caused by acute poverty, mass unemployment or deep horizontal inequalities:** *[disproportionate infections and death from Covid amongst Kanak populations, disproportionate access to education, employment and basic services, especially among Kanak youth]*

The Covid-19 death toll disproportionately affected indigenous Kanak and islanders from the Wallisian community, reflecting disparities in housing, income, and access to information and health services in rural areas and squatter settlements.<sup>41</sup>

The Institut des Statistiques et Etudes Économiques (ISEE) has confirmed the impact of the pandemic, reporting that "...the number of deaths recorded in September 2021, 1.8 times higher than the 2015–2019 average, appears to be quite exceptional."<sup>42</sup> A recent ISEE bulletin reported, "All causes combined, the municipalities of New Caledonia recorded a total of 310 deaths in September 2021 and 250 deaths the following month." This is "...a 144 per cent increase for September over previous years" and "...for October, double the average usually observed".<sup>43</sup>

France would not consider a postponement of the 2021 referendum, despite the number of Covid-19 infections amongst the indigenous population.



## RISK FACTOR 1: SITUATIONS OF ARMED CONFLICT OR OTHER FORMS OF INSTABILITY

Limited access to services and opportunities in New Caledonia is an unfortunate hallmark of those in the Kanak, Wallisian and Futunan communities. This circumstance is further exacerbated as people migrate from regional islands to the South Province, specifically the capital Nouméa, in search of greater economic and educational opportunities. See Risk Factors 7 and 8 for further information.

## RISK FACTOR 3: WEAKNESS OF STATE STRUCTURES

### ***Indicator 3.1 – National legal framework that does not offer ample and effective protection, including through ratification and domestication of relevant international human rights and humanitarian treaties***

#### *Indivisibility vs autochnone*

New Caledonia's government institutions are relatively young. There has been a slow transfer of power from the French mainland to Nouméa since 1998. New Caledonia remains under French administration and France controls 'sovereign powers' (*competances regaliennes*) such as the justice system and the courts, public order and policing, finance and currency, defence and most aspects of foreign relations.<sup>44</sup> Thus New Caledonia cannot ratify and 'domesticate' international human rights and humanitarian law autonomously, although it is a full member of regional organisations such as the Pacific Community (SPC), the Pacific Islands Forum (PIF),<sup>45</sup> the MSG, the Regional Programme for the Environment (SPREP), and an associate member of UN ESCAP (Economic and Social Commission for the Asia-Pacific), as well as a non-voting member of WHO Western Pacific Region. New Caledonia is a Participating Territory of the Western and Central Pacific Fisheries Commission, France being a Party to the Convention.<sup>46</sup> It can ask to be left out of a treaty (as allowed by international law) or ask expressly to be part of it, as was the case with the 2015 Paris Agreement.<sup>47</sup>

Section 28 of the 1999 New Caledonia Act says that the national government "...may entrust to the President of the Government [of New Caledonia] the powers allowing him to negotiate and sign agreements with one or more States, territories or regional organizations of the Pacific and with regional organizations depending on the specialized agencies of the United Nations."<sup>48</sup>

The official reporting of human rights to the UPR is done through the French CNCDH which is a recognised member of the Global Alliance of National Human Rights Institutions (GANHRI).

The CNCDH is critical of France's decolonisation process for New Caledonia. The right to self-determination is contained in Article 1 of the ICCPR, ICESCR and Article 3 of the UNDRIP. The CNCDH has been calling specifically for the French to make a specific semantic distinction between the term 'indigenous peoples' (*autochnone*) and *Kanak* and *Amerindien*. The CNCDH recommends that France – in light of having ratified the UNDRIP in 2007 – must view indigeneity as defined by belonging to a cultural group, as referring to a relationship of time and space with country, and that such communities have the right to choose how to refer to themselves. Therefore, Kanak identity is recognised in law as it based on very precise cultural specificity.<sup>49</sup> French political and legal institutions have been urged to take this into account and recognise the Kanaks as the rightful first nations people of New Caledonia, who are thus entitled to preferential and positive discrimination in practical ways (such as for electoral rolls and election processes) that will assist the decolonisation project.<sup>50</sup>

However, issues of ethnicity as a social differentiation are highly complex in French culture. Article 1 of the 1958 French Constitution states that France is an 'indivisible republic' and ensures "...the equality of all citizens before the law, without distinction of origin, race or religion".<sup>51</sup> France views the "...bracketing off of cultural difference in the public sphere as fundamental because it guarantees that individuals will be treated equally".<sup>52</sup> Indigenous and other minority peoples' demands for recognition and the right to difference can be seen as "...eroding the bonds of citizenship", since they do not serve the 'general interest'.<sup>53</sup>

France has now initiated an 'audit of decolonization', to analyse the success and challenges of the Nouméa Accord process since 1998. There is concern among independence leaders that Macron's government will prepare new constitutional revisions that might address all French dependencies in the Pacific<sup>54</sup>, Caribbean and Indian Ocean, and that such revisions would remove elements that are unique to the Nouméa Accord (i.e. recognise the cultural identity of the 'Kanak people', the creation of citizenship and residency requirements that protect local employment; specific voting restrictions and the pathway to self-determination and decolonisation).

## RISK FACTOR 3: WEAKNESS OF STATE STRUCTURES

France reported its progress to the Human Rights Council in May 2023 during its fourth cycle of the UPR.<sup>55</sup> In preparation for the review, committees of the treaties ratified by France provided information on the country's progress.<sup>56</sup> The Committee on the Elimination of Racial Discrimination made reference to France's efforts to ensure equal treatment of indigenous people, particularly their rights to their native lands. At the time of writing, an outcome of the review is still pending.

In reference to Kanak customary law, the domestic legal system is nevertheless organised in order to take into account local specificities, for instance, in the creation of customary assessors (a voice) before the civil courts. Indwhen a dispute involves matters relating to persons and property as well as customary land law, the role of the assessor is to inform the judge about the customary rules and practices in order to allow the magistrate to apply the traditional rules.<sup>57</sup>

In addition, a Customary Senate (Voice to Parliament), either a consultative authority or co-legislator (in the fields related to custom and Kanak identity), intervenes in decision-making processes to innervate Caledonian law of Melanesian customary values. This hybridisation of the regulations enacted in New Caledonia remains however extremely limited, with the exception of the regulations in the province of the Loyalty Islands (whose population is 97% Kanak), in particular in its Environmental Code.

## RISK FACTOR 4: MOTIVES OR INCENTIVES

***Indicator 4.1 Political motives, particularly those aimed at the attainment or consolidation of power***

***Indicator 4.3 Strategic or military interests, including those based on the protection or seizure of territory or resources***

There are three thematic issues regarding France's increased reluctance to grant New Caledonia total autonomy. These are tied to New Caledonia's importance in the Pacific in building political, economic and military buffers against China.

*The geo-strategic value of New Caledonia*

New Caledonia is home to 25% of the earth's nickel reserves and is the world's fourth largest extractor of the metal, which is primarily used in batteries for mobile phones and electric cars. If the territory gains independence, France will lose its influence on a strategically valuable commodity which will become increasingly scarce in the future and is of growing interest for China.<sup>58</sup> New Caledonia is also looking to attract an increasing Chinese tourist market.<sup>59</sup>

Additionally, from a geo-strategic perspective, New Caledonia and French Polynesia are the last remaining locations in the Pacific where France can maintain its military and political influence. France is a long-standing ally of the US,<sup>60</sup> however, alongside the recent collapse of a major deal on the sale of French submarines to Australia, New Caledonia's independence would signify a further setback to France's interests in this region.<sup>61</sup>

France's Indo-Pacific Strategy (2022) stresses the importance of the maritime dimension of the region. Maritime transit represents 90% of global trade flows and the oceans are crucial strategic spaces for guaranteeing supplies of goods and energy, therefore access to deep-water shipping lanes is seen as a priority.<sup>62</sup>

The incumbent President of New Caledonia, Louis Mapou, the first pro-independence politician to lead the country in 40 year, is acutely aware that his country's dependence on France is raising further issues within the region.<sup>63</sup> Mapou belongs to the FLNKS which is strongly affiliated with the MSG.<sup>64</sup> New Caledonia, through neighbourly diplomacy and forums like the PIF and MSG, wants to increase its engagement in the region but independently of France's sovereign strategic 'Pacific' interests.<sup>65</sup> For example, Mapou's government would like to remain part of regional debates around the demilitarisation of the Pacific.<sup>66</sup>

Australia's Minister for Foreign Affairs and Trade, Penny Wong, visited New Caledonia in April 2023 in response to concerns raised about Australia's AUKUS nuclear submarine programme.<sup>67</sup> Wong's visit to New Caledonia coincided with a push by a China-backed group of several Pacific Island nations, to sign a splinter security pact.<sup>68</sup>

The region's main diplomatic bloc, the 18-member PIF, which includes Australia, last year rejected a push by China for 10 nations to sign a security and trade deal amid concerns by the United States and its allies over Beijing's military ambitions.<sup>69</sup> The Solomon Islands, the only Pacific island country with a security pact with China, is reportedly pushing for the MSG to create a sub-regional security framework which would also involve Beijing.<sup>70</sup>

## RISK FACTOR 4: MOTIVES OR INCENTIVES

Australia assures New Caledonia that irrespective of the AUKUS alliance, its submarines will only carry conventional weapons, and that it will continue to respect and uphold the Treaty of Rarotonga, as well as maintaining compliance with the Non-Proliferation Treaty.<sup>71</sup> New Caledonia and its neighbours want the South Pacific's nuclear free zone to be respected.<sup>72</sup>

### *The EEZ, Disputed territories and Oceanic Diplomacy*

France's overseas collectives and dependencies add another 11 million square kilometres worldwide to its EEZ. Without territories in the Pacific, Caribbean, Indian and Atlantic Oceans France's EEZ would rank at 45th in the world rather than 2nd.<sup>73</sup> In July 2009, delegations from Vanuatu and New Caledonia's independence movement (FLNKS and other customary leaders) signed the Kéamu Accord, which recognises that the uninhabited and disputed territories of the outlying Hunter and Mathew Islands are the property of the people of Vanuatu.<sup>74</sup> The Kéamu Accord further highlights the multilayered diplomatic processes that are actioned by regional and subregional organisations such as the MSG. The FLNKS and the Vanuatu government sought to codify oral history – oceanic diplomacy – through the Kéamu Accord<sup>75</sup> despite protest from loyalist factions and the French government, which argue against the legal standing of the accord and customary diplomacy. The contestation over matters of oceanic diplomacy reflect at the level of international law the greater difficulties of coloniser nations to accommodate the rights of indigenous peoples, and thus the recognition of indigenous cultural processes.

The notion of customary land and traditional forms of oceanic diplomacy remain contested despite the formal legal recognition of customary law as found in Section 18 of the 1999 New Caledonia Act (NCA). The NCA states that customary lands and all goods situated on them and belonging to persons of customary civil status in New Caledonia are regulated by customary law and that customary lands are inalienable, non-transferable, non-exchangeable and unseizable.<sup>76</sup>

In response to the French opposition to the Kéamu Accord, then Vanuatu prime minister, Sato Kilman addressed the UNGA in 2011:

“Denying the right for a country to exercise its political freedom over its maritime territorial boundaries, preventing the indigenous people of a country to exercise their culture and traditional linkages with integral part of its lands, sovereign since time immemorial, remains one of the biggest crimes of our times. We are therefore calling on the United Nations to ensure our fundamental rights can be exercised in all parts of our territory.”<sup>77</sup>

### *The EEZ, climate change and Blue Pacific 2050*

The '2050 Strategy for the Blue Pacific Continent' (Blue Pacific 2050), was endorsed by Pacific Islands Forum leaders at the 51st PIF Leaders' Meeting in July 2022. Its preamble declares, “As Pacific Leaders, we are strongly committed to ensuring the health and wellbeing of our people, and to human rights and equity for all. We place great value on our ocean and land, and celebrate a deep connection to our community, natural environment, resources, livelihoods, faiths, cultural values and traditional knowledge.” The Blue Pacific 2050 aims to finalise ownership of ocean resources, biodiversity, ecosystems and data belonging to Pacific People,<sup>78</sup> as well as mend fractured networks in the region. There is an increased urgency for the region to act collectively to progress issues of significance, including health epidemics, climate change and disaster risk, gender equality, regional security, ocean governance, and economic and trade development.<sup>79</sup>

Pacific states are presently seeking to finalise the 45 interstate maritime boundaries that exist within the region in line with the provision on the 1982 UNCLOS. An EEZ according to Article 76 of the UNCLOS extends rights over the continental shelf. Beyond the international fishing industry, transnational corporations are looking increasingly to explore the deep sea for oil and gas, seabed minerals and marine biodiversity<sup>80</sup> as they look for new revenue streams. Over the last two decades, France and Australia have cooperated on exploration for deep sea hydrocarbon resources in the waters between New Caledonia and Queensland.<sup>81</sup>

The finalisation of these maritime zones is especially important to Large Ocean States with their neighbours, given the effects of global warming and sea-level rise (SLR) which is predicted to lead to significant loss of territory in low-lying atoll nations.<sup>82</sup> The rise is projected to be around one metre by 2100<sup>83</sup> and will pose the most immediate threat to Small Island Developing Nations (SIDS). Most at risk are those living under five metres above sea level. Tuvalu and Kiribati are at 100% and 95% risk respectively, with Vanuatu at 20%.<sup>84</sup> In New Caledonia, recent studies have highlighted a possible SLR of one to two metres by 2100 with current emission patterns. A single metre means the

## RISK FACTOR 4: MOTIVES OR INCENTIVES

loss of 1.7% to 2% of the island's land surface (out of a total of 54% that is not mountains or forests).<sup>85</sup> Climate change acts as a threat multiplier, and it has been recognised that there is a correlation between a vulnerability to conflict, and ecological threat.<sup>86</sup> Climate change further exacerbates pre-existing structural inequalities in communities.

As outlined in the IEPs 2022 ETR, "...the cyclic relationship between ecological degradation, societal resilience and conflict cannot be overemphasised. It is a vicious cycle whereby degradation of resources leads to conflict, which further degrades resources".<sup>87</sup>

## RISK FACTOR 7: ENABLING CIRCUMSTANCES OR PREPARATORY ACTION

**Indicator 7.9 – Increased serious acts of violence against women or children, or creations of conditions that facilitate acts of sexual violence against those groups, including as a tool for terror**

*Violence and a lack of gendered data*

Crime figures released for New Caledonia by the French High Commission show that the incidence of domestic violence was seven times higher than in mainland France and had risen by 13% in 2020.<sup>88</sup>

According to l'INSERM:<sup>89</sup>

- One in four women suffers from an act of physical or sexual violence;
- 22% of women have suffered from physical violence;
- 9% of women have experienced rape or attempted rape;
- One in eight women experience sexual harassment, rape or attempted rape before the age of fifteen.

The Government of New Caledonia has reported that between 2019 and 2020 an average of 14,500 people were victims of physical and sexual violence.<sup>90</sup> Violence particularly affects youth (19-29 years), the Kanak community, and those living in rural areas. These statistics were collected between 15 February and 30 September 2021, as part of a government initiative to create yearly data updates<sup>91</sup> in response to the heightened number of cases reported in New Caledonia.<sup>92</sup>

On 23 November 2019, thirteen government institutions in New Caledonia signed a charter aimed at better cooperation to promote gender equality and to fight violence against women.<sup>93</sup> Much of the focus is on streamlining gender and gender violence education throughout the community. Despite attempts by the New Caledonian government to promote and make accessible 24-hour services and reporting mechanisms, three women who died of femicide in New Caledonia were killed by their own partners.<sup>94</sup>

The South Province, North Province and Loyalty Islands province each have a commission on the status of women, composed of elected officials entrusted with formulating policies on the situation of women, and agencies implementing those policies in the field, in cooperation with women's associations and development partners.<sup>95</sup> In the federal government, the Sector of Women's Affairs, created in 2004, is responsible for developing policy with a view to eliminating any form of discrimination against women, boosting safeguards of equality between men and women in economic, political, professional, educational, social, medical and cultural spheres and ensuring women's rights are respected.<sup>96</sup> The Directorate of Women's Affairs, created by the Government in 2010, implements that policy.<sup>97</sup> UN Women reported that as of December 2020, only 1.7% of indicators needed to monitor the SDGs from a gender perspective were available with data missing from the following areas: violence against women, unpaid care and domestic work and key labour market indicators, such as unemployment rate and gender pay gaps.<sup>98</sup>

The 1999 amendment of the French Constitution, which focused on gender parity and political participation of women, saw an increase in representation of women in provincial government in New Caledonia from 16.7% to 46.3% in 2004.<sup>99</sup>

**Indicator 7.13 – Increased politicization of identity, past events or motives to engage in violence:**

**Indicator 7.14 – Increased inflammatory rhetoric, propaganda campaigns or hate speech targeting protected groups, populations or individuals**

*Human rights defenders*

The CNCDH has recommended that individuals, groups or associations that identify themselves as protecting the rights of indigenous Kanak should benefit from protection as per the Declaration of Human Rights Defenders (A/RES/53/144).<sup>100</sup>



## RISK FACTOR 7: ENABLING CIRCUMSTANCES OR PREPARATORY ACTION

### *Indigenous youth and hate speech*

The relationship between the police and Kanak youth is strained. Young Kanak people sometimes face harassment and racism from French officers. Many New Caledonians are fearful and angry about vandalism, stone throwing and theft by unemployed, disenchanted youth, and urge stronger 'law and order' campaigns by the police. In 2018, right-wing parties like *Les Républicains Calédoniens* used the referendum campaign to promote a law and order agenda, chastising 'Kanak delinquency' and calling on the French High Commission to launch a police crackdown.<sup>101</sup> Mainstream and state-centric press continuously call for an end to 'Kanak delinquency'.

There has been a rural exodus of Kanak from *tribus* (tribal villages) to Nouméa<sup>102</sup> to find work and to continue their education. There are few secondary schools, scarce vocational training opportunities and no universities outside the capital.<sup>103</sup> Kanak youth who find work end up living in 'squats' without running water or electricity.<sup>104</sup> Moral panic surrounding the supposedly lawless squalor of Nouméa's squats (as promulgated by media and government discourse) fits into a larger narrative of Kanak, particularly Kanak youth, as a delinquent and dysfunctional population.<sup>105</sup> The discourse of a *crise de la jeunesse* (youth crisis) has worked to disqualify Kanak youth as citizens by depicting them as 'lost', 'schizophrenic' and 'unable to negotiate between the traditional and modern worlds'.<sup>106</sup> The political ramifications of such discourse is that it frequently identifies the problems of Kanak youth as a sign, and reinforcement of the belief, that the decolonisation of New Caledonia is a failed project, and that Kanak are unready to be citizens of an independent nation-State.<sup>107</sup> It is important to note that young Kanak are also criticized within their own communities who associate them with cultural loss and social disintegration.<sup>108</sup>

### *Media freedom*

Freedom of expression (FoE) and association are fundamental protections of civil society. FoE is protected under Article 19 of the UDHR, as it is in the ICCPR. The right to freedom of assembly and association is contained in Articles 21 and 22 of the ICCPR and in Article 8(1)(a). These have all been acceded to by France.

Historically there have been three kinds of media in the Pacific: mission or church-owned or directed, government-owned or directed, and commercial, however the media scene in the Pacific is diverse.<sup>109</sup> There has, however been criticism of a lack of media independence in New Caledonia.<sup>110</sup> This is due to the fact that board members of the State media regulator, the *Conseil supérieur de l'audiovisuel* (CSA) are chosen by political appointment.<sup>111</sup> The view taken by local media is that the sector remains largely partisan and has for several decades reflected more an undertaking of propaganda journalism than the fulfillment of the role of 'building democracy'.<sup>112</sup>

The media at present reflects the political, cultural, historical and economic situation of New Caledonia. The media landscape has not evolved to satisfy the information needs of the growing and diverse population because it is controlled politically and financially by a select few interests.<sup>113</sup>

## RISK FACTOR 8: TRIGGERING FACTORS

### ***Indicator 8.1 – Sudden deployment of security forces or commencement of armed hostilities***

Prior to the December 2021 referendum and the request by pro-independence voters for a protest no-show, France sent nearly 2,500 extra security personnel, backed by armoured cars, helicopters and other equipment, to ensure security. This has been perceived as 'akin to a declaration of war'.<sup>114</sup> At a press conference on 22 October 2021, Colonel Spinetti of the French Armed Forces said the objective of this build-up was "...to maintain a reinforced security deployment around the polling booths, in order to ensure the smooth running of the voting operations and to limit as much as possible breaches of public order before, during and after the vote."<sup>115</sup> For FLNKS spokesperson, Victor Tutugoro, president of the independence party Union Progressiste Mélanésienne (UPM), the police deployments of 2021 had echoes of New Caledonia's tragic past: "This is what we went through in 1986 and 1987, the period known as *nomadisation* where the military and gendarmes mobile were deployed with numbers never seen before. It seems we're about to live through a similar period."<sup>116</sup>

### ***Indicator 8.3 – Measures taken by the international community perceived as threatening to a States' sovereignty***

New Caledonia's strategic position in the Pacific at a time of increasing global tensions and great-power politics has seen a rise in attention from other countries in the region, including France, China, Australia and the U.S, as well as other Pacific island nations. Consideration of these strategic aspects can be found in Indicator 4.3.

## RISK FACTOR 8: TRIGGERING FACTORS

### ***Indicator 8.7 – Acts of incitement or hatred propaganda targeting particular groups or individuals***

New Caledonia continues to see the politicisation of identity following the third and last independence referendum afforded to it through the Nouméa Accord. High concentration of media ownership and entrenched adverse perceptions of ‘Kanak delinquency’, particularly towards Kanak youth, ensure societal inequality between Kanaks and other inhabitants of New Caledonia. See Indicator 7.13 and 7.14 for further information.

### ***Indicator 8.8 – Census, elections, pivotal activities related to those processes or measures to destabilize them***

The independence movement is still strong in New Caledonia, despite the results of the independence referenda calling for continued political attachment to France. The contestation over the electoral roll and Kanak registration remains a sticking point between New Caledonia’s government and French authorities.<sup>117</sup> For details on the continued political instability, see Indicators 1.4 and 1.5.

### ***Indicator 8.10 – Discovery of natural resources or launching exploitation projects that have a serious impact on the livelihoods and sustainability of groups or civilian populations***

In November 2022, political leaders agreed to new terms for the sale of the Goro nickel mine, owned by Brazilian mining company Vale.<sup>118</sup> The deal gives a majority stake to state entities based on the island following protests over the sale.<sup>119</sup> The deal, signed by both pro-independence and loyalist leaders, also cited a technical and industrial partnership with electric car maker Tesla, which needs to secure supplies of nickel for its batteries, and New Caledonia remains one of the largest nickel producers in the world.<sup>120</sup>

In 2021 Vale decided to sell the loss-making plant to a consortium including Swiss commodity trader Trafigura. The decision sparked fierce opposition from pro-independence groups and Vale shut down the plant in response.<sup>121</sup> The sale will give a 51 percent stake to New Caledonia’s provincial authorities and other local interests, while Trafigura would have a 19 percent stake, less than the 25 percent planned in the initial sale deal with Vale.<sup>122</sup> The New Caledonian government has also called for reinforced environmental standards and set a target for the mining complex to be carbon neutral by 2040.<sup>123</sup>

The issue of mining rights will be important as part of the decolonisation project, particularly what revenue should remain in New Caledonia for the benefit of the local population, environmental impacts, and the land rights of indigenous Kanaks. See also Indicator 4.3 for more information on the strategic implications regarding New Caledonia’s nickel deposits.

#### ***Mining and social unrest***

Nickel has been at the heart of independence demands, with pro-independence movements wanting to invite foreign investment to compete with the colonial French mining company Societe Le Nickel (SLN).<sup>124</sup> Underpinning the Nouméa Accord and referenda project were understandings referred to as ‘mining prerequisites’, which were to redistribute the benefits from nickel to New Caledonia rather than to France alone.<sup>125</sup>

When Vale proposed that it would sell its Goro mine in 2019, Australia’s Century Resources indicated an interest, but pulled out in September, a month before the second independence referendum, after Kanak leaders expressed dissatisfaction with foreign ownership, advocating for a ‘Southern plant = country plant’ solution, under which New Caledonia would hold the largest share.<sup>126</sup>

Kanak leaders proposed instead that a Northern Province statutory body, Sofinor, share majority ownership with Korea Zinc rather than a sale to Swiss investor Trafigura.<sup>127</sup> Loyalist parties based in the south vehemently opposed the Sofinor proposal.<sup>128</sup> By early December, regular protests and demonstrations led by independence parties had turned into road blockages, and stoning of police. Police officers were hurt in confrontations on 7 December, and on 11 December protestors tried to ram through the police protection at Goro.<sup>129</sup> Police fired shots in response.

Pro-independence leaders protest what is perceived as the sale of nickel mining rights tipped in favour of multi-national interests over those of locals, and have continued to protest and advocate to keep the majority ownership under control of the island territory.<sup>130</sup>

In terms of environmental law, the progressive decolonisation process has led to a devolution of powers on a subject-matter basis among the four different levels of jurisdiction: French State, New Caledonia, Provinces (Loyalty Islands, North and South) and municipalities.<sup>131</sup> All four levels of jurisdiction are entitled to produce legal

## RISK FACTOR 8: TRIGGERING FACTORS

rules regarding the environment.<sup>132</sup>

### **Indicator 8.12 – Acts related to accountability processes, particularly when perceived as unfair**

The Kanak population in New Caledonia remains disproportionately disadvantaged in various social and economic spheres, a legacy of its colonial past with France. The high rates of infections and deaths from Covid-19 in the Kanak population in comparison to other New Caledonians has highlighted this discrepancy, and affected the results of the most recent independence referendum. As such, the unfair treatment of Kanaks by French authorities and other sections of New Caledonian society has continued to further the cause of independence. See Indicator 1.9 for further details.

## CONCLUSION

New Caledonian society is riven with fault lines as it continues to undergo the decolonisation process following the last of three independence referendums in 2021 first proposed under the Nouméa Accord. While the results of all three referendums were in favour of remaining part of France, nearly 25,000 indigenous Kanaks were not on the electoral roll in the lead up to the referendum.<sup>133</sup>

Kanaks have overwhelmingly voted for full independence in previous referendums.<sup>134</sup> The last referendum result only had a turnout of 44%, which resulted in pro-independence parties calling the result null and void.<sup>135</sup> At the time of writing, the French government and New Caledonian authorities are in an 18-month transition period in which new governance institutions are being developed for the benefit of both pro-independence and loyalist citizens.

As well as political tensions, economic inequality remains an issue. New Caledonia enjoys a high standard of living relative to other Pacific Island nations, due mostly to its tourism industry and expansive nickel mining industry. Yet indigenous Kanaks have been largely excluded from these benefits. A significant portion live below the poverty line or have lower educational and employment prospects.<sup>136</sup> Despite these inequalities and chronic political tensions, the chances of atrocity crimes arising from such issues currently remains very **low**.

## RECOMMENDATIONS

RECOMMENDATIONS FOR FRANCE	
1	Support New Caledonia in holding a new census prior to a fourth referendum, if the question of Kanak representation in electoral rolls remains an element of contention (2023-2025).
2	Continue dialogue with New Caledonia on the process of decolonisation and take into account the views of all sections of the community.
RECOMMENDATIONS FOR THE GOVERNMENT OF NEW CALEDONIA	
1	Develop policies and practices within government to support the collection of data including on socio-economic factors and health care, as well as on gender-based violence and other indicators of gender equality.
2	Develop institutional infrastructure for the effective monitoring and reporting of human rights, and for early warning monitoring of community unrest or violence.
3	Consider the environmental, economic and cultural impact of future mining and related industries, with a view to ensuring equitable distribution of profits to the local communities, protection and sustainability of the land and environment, and mitigating any adverse effects on local cultures.
4	Continue to develop policies on gender equality within regional frameworks and declarations, including the potential development of a National Action Plan (NAP) for Gender Equality and the Empowerment of Women
5	Support the provision of capacity building for the security sector, especially the police force, on human rights, rights to association and protest, cross-cultural sensitivity and gender responsiveness.
6	Develop youth programs specifically for Kanak youth to address education and employment outcomes, crime and justice, and community harmony.
RECOMMENDATIONS FOR INTERNATIONAL COMMUNITY	
1	Support the promotion of human rights and gender equality in New Caledonia, as well as climate justice, and humanitarian assistance when required
2	Support the collection of data across social and economic spheres, and support the strengthening of the electoral system in New Caledonia especially surrounding the accuracy of the electoral roll
3	Support dialogue between France and New Caledonia around decolonisation and independence.

## Endnotes

- 1 <https://www.un.org/en/genocideprevention/>: 6 March 2023
- 2 <https://www.dfat.gov.au/geo/new-caledonia/new-caledonia-country-brief> 10 February 2023
- 3 <https://www.griffith.edu.au/asia-institute/pacific-hub/new-caledonia> 7 March 2023
- 4 <https://www.dfat.gov.au/geo/new-caledonia/new-caledonia-country-brief> 10 February 2023
- 5 MacLellan, N (2010) Under a New Flag? Defining Citizenship in New Caledonia: Discussion paper 2010/2, School of International, Political and Strategic Studies, ANU
- 6 <https://www.ohchr.org/sites/default/files/Documents/Issues/IPeoples/SR/A-HRC-18-35-Add6.pdf> 2 March 2023
- 7 Ibid
- 8 Ibid
- 9 Ibid
- 10 <https://www.tandfonline.com/doi/abs/10.1080/00358533.2019.1618608?journalCode=ctrt20> 1 March 2023
- 11 McLellan, N (2005) From Eloi to Europe: Interactions with the Ballot Box in New Caledonia, Commonwealth & Comparative Politics, Vol 43, pp 394-418 DOI: 10.1080/14662040500304890 2 March 2023
- 12 MacLellan, N (2019) We Lost on the Numbers, But for Us It's a Victory: New Caledonia's 2018 Referendum on Self-Determination, The Journal of Pacific History
- 13 McLellan, N (2005) From Eloi to Europe: Interactions with the Ballot Box in New Caledonia, Commonwealth & Comparative Politics, Vol 43, pp 394-418 DOI: 10.1080/14662040500304890 2 March 2023
- 14 <https://islandsbusiness.com/latest-magazine-articles/new-caledonia-3/> 6 March 2023
- 15 <https://www.un.org/dppa/decolonization/en/nsqt/new-caledonia> 2 March 2023
- 16 <https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-granting-independence-colonial-countries-and-peoples> 2 March 2023
- 17 <https://www.dfat.gov.au/geo/new-caledonia/new-caledonia-country-brief> 2 March 2023
- 18 <https://insidestory.org.au/crash-through-or-crash/> 2 March 2023
- 19 <https://www.theguardian.com/world/2021/dec/08/covid-mourning-and-the-fear-of-violence-new-caledonia-prepares-for-blighted-independence-vote> 16 February 2023
- 20 Ibid
- 21 <https://www.griffith.edu.au/asia-institute/pacific-hub/new-caledonia> 5 March 2023
- 22 <https://www.forumsec.org/wp-content/uploads/2018/04/The-longstanding-struggle-for-self-determination-in-New-Caledonia.pdf> Accessed 10 February 2023
- 23 <https://www.theguardian.com/world/2021/dec/08/covid-mourning-and-the-fear-of-violence-new-caledonia-prepares-for-blighted-independence-vote> 16 February 2023
- 24 <https://www.euractiv.com/section/politics/news/france-heading-to-the-polls-in-2023/> 7 March 2023
- 25 [https://www.un.org/depts/los/convention\\_agreements/texts/unclos/part6.htm](https://www.un.org/depts/los/convention_agreements/texts/unclos/part6.htm) 6 March 2023
- 26 <https://abcnews.go.com/International/wireStory/macrons-leadership-risk-amid-tensions-pension-plan-97968307> 20 March 2023
- 27 <https://www.theguardian.com/world/2021/dec/08/covid-mourning-and-the-fear-of-violence-new-caledonia-prepares-for-blighted-independence-vote> 16 February 2023
- 28 <https://insidestory.org.au/crash-through-or-crash/> 16 February, 2023
- 29 McLellan, N. (2019) We Lost on the Numbers, But for Us It's a Victory: New Caledonia's 2018 Referendum on Self-Determination, The Journal of Pacific History: <https://doi.org/10.1080/00223344.2019.1600641> 20 February 2023
- 30 <https://www.solomontimes.com/news/new-caledonia-delegation-in-solomon-islands-to-shore-up-support-for-selfdetermination/12341> 8 March 2023
- 31 <https://islandsbusiness.com/news-break/darmanin-back-in-new-caledonia-in-march-to-work-on-a-new-statute/> 8 March 2023
- 32 Ibid 8 March 2023
- 33 <https://www.rfi.fr/en/france/20230306-paris-talks-on-new-caledonia-s-future-will-avoid-return-to-violence> 7 March 2023
- 34 <https://islandsbusiness.com/2022/deadline-abandoned-to-re-start-new-caledonia-dialogue/> 10 March 2023
- 35 Ibid
- 36 Ibid
- 37 Ibid
- 38 <https://www.rnz.co.nz/international/pacific-news/485522/minister-invites-parties-for-talks-on-new-caledonia-s-status8> 8 March 2023
- 39 Ibid
- 40 Ibid
- 41 <https://insidestory.org.au/crash-through-or-crash/> 21 February 2023
- 42 Ibid
- 43 Ibid
- 44 McLellan, N. (2019) We Lost on the Numbers, But for Us It's a Victory: New Caledonia's 2018 Referendum on Self-Determination, The Journal of Pacific History: <https://doi.org/10.1080/00223344.2019.1600641> 20 February 2023
- 45 <https://hal.science/hal-02540818/document> 10 April 2023
- 46 Ibid
- 47 <https://hal.science/hal-02540818/document> 10 April 2023
- 48 Ibid
- 49 <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000034167173> 5 march 2023
- 50 Ibid
- 51 KM
- 52 Tate A LeFevre (2013) Turning niches into handles: Kanak youth, associations and the construction of an indigenous counter-public sphere, Settler Colonial Studies, 3:2 214-229, <https://doi.org/10.1080/2201473X.2013.781933> 8 March 2023
- 53 Ibid
- 54 <https://www.lowyinstitute.org/the-interpreter/france-tightens-screws-new-caledonia> 23 May, 2023
- 55 <https://www.cncdh.fr/actualite/publication-de-la-5e-edition-du-rapport-les-droits-de-lhomme-en-france> 15 March 2023; <https://www.ohchr.org/en/hr-bodies/upr/fr-index> 23 May 2023
- 56 International Human Rights Treaties ratified by France:
  - Convention on the Prevention and Punishment of the Crime of Genocide (1950)
  - Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment [CAT] (1986)



- **Optional Protocol CAT** (2008)
- **International Covenant on Civil and Political Rights [ICCPR]** (1980)
- **Optional Protocol ICCPR** (1984)
- **Second Optional Protocol ICCPR** (2007)
- **International Covenant on Economic, Social and Cultural Rights [ICESCR]** (1980)
- **Optional Protocol ICESCR** (2015)
- **Convention on the Elimination of All Forms of Discrimination against Women [CEDAW]** (1983)
- **Optional Protocol CEDAW** (2000)
- **Convention on the Rights of the Child [CRC]** (1990)
- **Optional Protocol CRC on the involvement of children in armed conflict** (2003)
- **Optional Protocol CRC on the sale of children, child prostitution and child pornography** (2003)
- **Optional Protocol CRC on a communications procedure** (2016)
- **Convention on the Elimination of All Forms of Racial Discrimination [CERD]** (1971)
- **International Convention for the Protection of Persons from Enforced Disappearance** (2008)
- **Convention on the Rights of Persons with Disabilities** (2010)
- **Optional Protocol on the Rights of Persons with Disabilities** (2010)
- **1951 Refugee Convention and its 1967 Protocol** (1954 and 1971 respectively)
- **Geneva Conventions I-IV** (1951)
- **Geneva Conventions AP I,II,III** (2001,1984, 2009 respectively)
- **Declaration on the Rights of Indigenous Peoples [UNDRIP]** non-binding legal resolution approved by France 2007
- **Declaration on the Granting of Independence to Colonial Countries and Peoples GA/Res 1514 (XV)** (1960)
- **Rome Statute of the International Criminal Court** (Ratification/Accession: 2000).
- France has ratified the **Arms Trade Treaty [ATT]**.

57 <https://hal.science/hal-02540818/document> 21 April 2023

58 <https://www.idos-research.de/en/the-current-column/article/the-significance-of-the-independence-referendum-for-new-caledonia/>

10 March 2023

59 <https://www.lowyinstitute.org/the-interpreter/china-factor-france-s-growing-engagement-peaceful-sea> 10 February 2023

60 Ibid

61 <https://www.idos-research.de/en/the-current-column/article/the-significance-of-the-independence-referendum-for-new-caledonia/>

10 March 2023

62 [https://www.diplomatie.gouv.fr/IMG/pdf/en\\_dcp\\_a4\\_indopacifique\\_022022\\_v1-4\\_web\\_cle878143.pdf](https://www.diplomatie.gouv.fr/IMG/pdf/en_dcp_a4_indopacifique_022022_v1-4_web_cle878143.pdf) 20 February 2023

63 <https://islandsbusiness.com/latest-magazine-articles/new-caledonia-3/> 10 February 2023

64 <https://islandsbusiness.com/news-break/pacific-security-2/> 21 April, 2023

65 <https://islandsbusiness.com/latest-magazine-articles/new-caledonia-3/> 10 February 2023

66 Ibid

67 <https://islandsbusiness.com/news-break/pacific-security-2/> 21 April, 2023

68 Ibid

69 Ibid

70 Ibid

71 Ibid

72 Ibid

73 McLellan, N (2022): Oceanic Diplomacy: The Keamu Accord, Kastom and Maritime Boundaries, Department of Pacific Affairs (ANU)

2022/4

74 Ibid

75 Ibid

76 <https://hal.science/hal-02540818/document> 10 April 2023

77 Ibid

78 Ibid

79 <https://www.forumsec.org/wp-content/uploads/2022/08/PIFS-2050-Strategy-Blue-Pacific-Continent-WEB-5Aug2022.pdf> 10 March

2023

80 Ibid

81 <https://www.forumsec.org/wp-content/uploads/2022/08/PIFS-2050-Strategy-Blue-Pacific-Continent-WEB-5Aug2022.pdf> 10 March

2023

82 Ibid

83 Institute for Economics & Peace. Ecological Threat Report 2022: Analysing Ecological Threats, Resilience & Peace, Sydney, October

2022. Available from: <https://www.visionofhumanity.org/resources/> 10 February, 2023

84 Ibid

85 [https://earth.org/data\\_visualization/sea-level-rise-by-2100-noumea/](https://earth.org/data_visualization/sea-level-rise-by-2100-noumea/) (14 March 2023)

86 Institute for Economics & Peace. Ecological Threat Report 2022: Analysing Ecological Threats, Resilience & Peace, Sydney, October

2022. Available from: <https://www.visionofhumanity.org/resources/> 10 February, 2023

87 <https://www.economicsandpeace.org/wp-content/uploads/2022/10/ETR-2022-Web-1.pdf> 10 March 2023

88 <https://rnz.co.nz/international/pacific-news/463/domestic-violence-in-new-caledonia-seven-times-higher-than-france> 22 February,

2023

89 <https://gouv.nc/dossiers/le-grenelle-contre-les-violences-conjugales> 23 March, 2023

90 [https://gouv.nc/sites/default/files/atoms/files/cvs2021\\_violences\\_intrafamiliales.pdf](https://gouv.nc/sites/default/files/atoms/files/cvs2021_violences_intrafamiliales.pdf) 14 April, 2023

91 Ibid

92 <https://gouv.nc/actualites/16-05-2022/point-detape-du-grenelle-des-violences-conjugales> 14 April 2023

93 [https://gouv.nc/sites/default/files/atoms/files/charte\\_dengagement\\_signee-small\\_0.pdf](https://gouv.nc/sites/default/files/atoms/files/charte_dengagement_signee-small_0.pdf) 23 March 2023

94 <https://la1ere.francetvinfo.fr/nouvellecaledonie/la-nouvelle-caledonie-championne-des-violences-conjugales-1316872.html> 2 April

2023

95 <http://docstore.ohchr.org/SelfServices/FilesHandler>.

- 96 Ibid
- 97 Ibid
- 98 <https://data.unwomen.org/country/new-caledonia> 16 February 2023
- 99 Berman, A. (2005). The Law on Gender Parity in Politics in France and New Caledonia: A Window into the Future or More of the Same? Oxford University Comparative Law Forum, 2005(2). <https://ouclf.iuscomp.org/the-law-on-gender-parity-in-politics-in-france-and-new-caledonia-a-window-into-the-future-or-more-of-the-same/>
- 100 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N99/770/89/PDF/N9977089.pdf?OpenElement> 2 April 2023
- 101 <https://islandsbusiness.com/2021/akin-to-a-declaration-of-war/> 14 March 2023
- 101 Tate A Lefevre (2013) Turning niches into handles: Kanak youth, associations and the construction of an indigenous counter-public sphere, Settler Colonial Studies, 3: 214-229, <https://doi.org/10.1080/2201473X.2013.781933> 8 March 2023
- 102 Ibid
- 103 Ibid
- 104 Ibid
- 1054 Ibid
- 106 Ibid
- 107 Ibid
- 108 <https://search.informit.org/doi/epdf/10.3316/informit.137361671328616> 3 April 2023
- 109 <https://thejournalofregulation.com/en/article/conseil-superieur-de-laudiovisuel-csa-french-media/> 14 April, 2023
- 110 Ibid
- 111 <https://pacific.scoop.co.nz/2012/09/media-and-democracy-in-new-caledonia-elusive-dream-of-a-free-press/> 14 April, 2023
- 112 Ibid
- 113 <https://islandsbusiness.com/2021/akin-to-a-declaration-of-war/> 14 March 2021
- 114 Ibid
- 115 Ibid
- 116 <https://www.isee.nc/population/recensement/structure-de-la-population-et-evolutions> 22 March 2023
- 117 <https://insidestory.org.au/third-time-lucky-in-new-caledonia/> 22 March 2023
- 118 <https://islandsbusiness.com/news-break/new-caledonia-agrees-to-sale-of-controversial-nickel-mine/> 21 April, 2023
- 119 Ibid
- 120 Ibid
- 121 Ibid
- 122 Ibid
- 123 Ibid
- 124 <https://www.reuters.com/markets/commodities/france-grants-loan-eramets-sln-nickel-unit-avert-collapse-2023-02-13/> 13 February, 2023
- 125 Ibid
- 126 <https://www.lnc.nc/article/nouvelle-caledonie/le-collectif-usine-du-sud-usine-pays-repart-a-la-charge> 21 April, 2023
- 127 <https://www.aspistrategist.org.au/protests-over-mining-and-independence-hit-new-caledonia/> 21 April, 2023
- 128 Ibid
- 129 Ibid
- 130 <https://www.mining.com/web/new-caledonias-government-collapses-over-independence-nickel-unrest/> 20 April, 2023
- 131 <https://hal.science/hal-02540818/document> 13 April 2023
- 132 Ibid
- 133 International Work Group for Indigenous Affairs (IWGIA), 2022. Indigenous Peoples in Kanaky. <https://www.iwgia.org/en/kanaky-new-caledonia>. 21 April, 2023
- 134 Ibid
- 135 Morcos, Pierre, 2021. New Caledonia's Vote against Independence: What Next?, <https://www.csis.org/analysis/new-caledonias-vote-against-independence-what-next>. 21 April, 2023
- 136 White, Brandon J., 2017. Identity, Inequality, Colonization: Human Rights in New Caledonia, <https://www.borgenmagazine.com/shape-human-rights-in-new-caledonia/>. 21 April, 2023