

ASIA PACIFIC CENTRE - RESPONSIBILITY TO PROTECT

ATROCITY CRIMES RISK ASSESSMENT SERIES

FIJI

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LIST OF ABBREVIATIONS

EU - European Union

FHRADC - Fiji Human Rights and Anti-Discrimination Commission

FWRM - Fiji Women's Rights Movement

RRRT - Human Rights Resource Team

POAD - Public Order Act Amendment Decree

SPC - Pacific Community

RFMF - Republic of Fiji Military Forces

TACKLE - Tackling Child Labour through Education

USD – United States Dollar

UN – United Nations

UNCAT - United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

WHO – World Health Organization

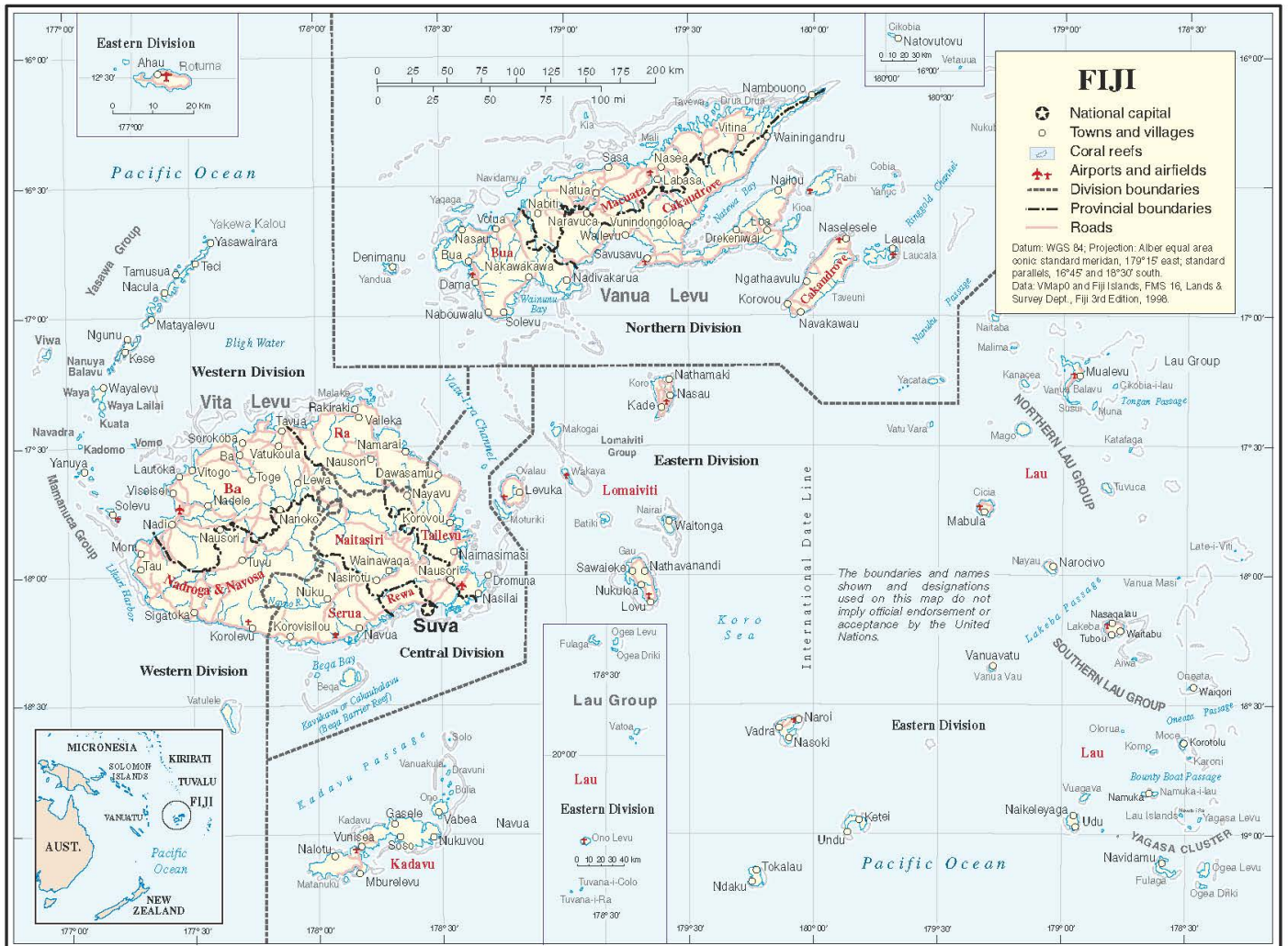
INTRODUCTION

The Framework of Analysis for Mass Atrocity Crimes (2014) was developed by the United Nations Special Advisors on the Prevention of Genocide, and the Responsibility to Protect.¹ It was developed to support the assessment of the risk of atrocity crimes present in the selected area. This Framework will guide the research and structure of this report to assess the risk of atrocity crimes occurring in Fiji. This report highlights the risk factors and indicators that are most applicable to the current situation in Fiji. Within this report there have been overlaps where the information is applicable to more than one risk factor and/or indicator. It should be noted that the presence or absence of risk factors does not guarantee that an atrocity crime will or will not occur.

Fiji is a Pacific archipelago made up of 333 tropical islands, 110 of which are inhabited.² The first peoples to inhabit Fiji arrived more than 3,500 years ago from Southeast Asia via the Malay Peninsula.³ Today, these people are known as Indigenous Fijians. Between 1879-1916 over 60,000 Indians were brought to Fiji, by the British, for cheap labour on sugar plantations.⁴ Today, these people are distinguished from the rest of the Fijian population as Indo-Fijians. Since the immigration of the Indo-Fijians there has been a constant struggle for power between these two ethnic groups, fighting for ultimate supremacy and political control. This struggle for power has resulted in four coups since 1987, and persistent underlying tension among the peoples of Fiji.

This report's findings indicate that the current risk of atrocity crimes occurring in Fiji is low. Only five of the eight Common Risk Factors were of significance namely: Risk Factors 1 (armed conflict and instability), 2 (violations of human rights), 3 (weakness of state structures), 7 (enabling circumstances), and 8 (triggering factors). Of the Specific Risk Factors, only two risk factors were sufficiently notable to include in this report; 9 (intergroup tensions or patterns), and 11 (signs of widespread attack against any civilian population). Particular issues in Fiji that contribute to the risk of atrocity crime include: a widespread ethnic divide, abuse of women and children, natural disasters, and unstable political structures. Based on these findings, recommendations can be made to address the causes of political, economic, and social instability and inequality. These include, among others; the continuation of modifications to legislation that might be used to limit broader police powers, the assurance that national and local regulations support the principle of non-discrimination, and the continued advocacy for legal accountability in relation to domestic violence and issues disproportionately affecting women and children.

MAP FIJI



FRAMEWORK OF ANALYSIS

The Framework of Analysis consists of fourteen risk factors designed to address precursors to atrocity crimes. Each of the fourteen risk factors is accompanied by six to eighteen specific indicators which help to determine the severity of risk. The structure of the Framework will “guide the collection and assessment of information” to create a risk assessment for Fiji. This report will deal only with information relevant to Fiji, and as such does not include the risk factors that are not applicable to the situation in Fiji.

The risk factors are separated into two groups: Common Risk Factors, factors which increase the probability of atrocity crimes occurring; and Specific Risk Factors, which are divided into the risks associated with genocide, crimes against humanity, and war crimes. The more risk factors and indicators that are present, the more likely the occurrence of an atrocity crime. Not all indicators or risk factors need to be present in order to demonstrate a significant risk. The Risk Factors and Indicators are not ranked by importance and should be considered in a broader context, taking into account a society's politics, history, and culture.

Table 1. Framework of Analysis for Atrocity Crimes, Risk Factors ⁵		
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		
Genocide		
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
Crimes Against Humanity		
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
War Crimes		
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 accessed at the UN website at www.un.org .		

COMMON RISK FACTORS

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

“Situations that place a State under stress and generate an environment conducive to atrocity crimes”. These situations are commonly associated with armed conflicts, however other forms of volatility such as a humanitarian, political, economic or social crisis and/or instability can influence the likelihood of the State engaging in atrocity crimes. Since 1987, Fiji has experienced four military led coups. Despite this, it is not considered to be in a state of armed conflict (Indicator 1.1). Nor is Fiji at risk of a security crisis as a result of armed conflict in its neighbouring countries of Vanuatu, New Caledonia, and the Solomon Islands, as there is no armed conflict present (Indicator 1.2). Fiji does experience humanitarian crises’ such as natural disasters, climate change, and epidemics which increase stress on the State.

Indicator 1.3 Humanitarian Crisis

Due to Fiji’s geographic location, it is often victim to various natural disasters such as cyclones, tsunamis, floods, and droughts. Annually, Fiji endures the destruction of homes and vital infrastructure such as hospitals, farms, electricity systems and sewage systems as a result of these natural disasters.⁵ In times of crisis, Fiji experiences an increase in maternal and infant mortality rates due to the lack of access to, or quality of, health care.⁶

Climate change is perhaps the largest risk facing Fiji today. The increase in tropical storms and natural disasters, as a result of climate change, has put Fiji’s 300 low-lying islands in a constant state of fear for survival.⁷ Vunidogoloa was the first Fijian village that was forced to relocate to higher ground due to rising sea levels.⁸ The World Bank reports that the societal and economic effects of climate change will include: higher rates of diseases, increasingly destructive storms, disruptions to agriculture due to seawater damage, and “on Fiji’s main island of Viti Levu, these factors are expected to contribute to economic damages of up to \$52 million per year, or roughly 4% of Fiji’s gross domestic product”.⁹

Fiji is experiencing an epidemic of non-communicable diseases, specifically diabetes and cardiovascular disease. The epidemic of non-communicable diseases can be partially attributed to a large-scale change in diet and lifestyle.¹⁰ . Fijians have moved away from a traditional diet of fresh fruits, vegetables, and fish, to one high in processed foods paired with a sedentary lifestyle.¹¹ In 2017, the World Health Organization’s (WHO) Country Cooperation Strategy 2018-2022 report noted that the prevalence of obesity was now 42%.¹²

Indicator 1.4 Political Instability Caused by Abrupt or Irregular Regime Change or Transfer of Power, Indicator 1.5 Political Instability Caused by Disputes Over Power or Growing Nationalist, Armed or Radical Opposition Movements

Currently, Fiji is considered to be politically stable. It has a somewhat weak democratic system but remains a strong functioning state.¹³ Under the 2013 constitution, Fiji is considered a democracy by military permission, military forces are tasked to intervene with the government if necessary, to protect the security and well-being of Fijians.¹⁴ The current state of political stability is disproportionately dependent on the current Prime Minister, Frank Bainimarama, the former military leader who staged the 2006 coup.¹⁵ Since gaining independence from Britain in 1970, there have been periods of significant political instability coinciding with the four coups that have taken place.¹⁶ The goal of each of the coups was to restore power to either the indigenous Fijians or the Indo-Fijians.¹⁷ The 2006 coup was different from the previous coups as it proclaimed that the Fijian nationalist government was founded on racist principles that disproportionately harmed the Indigenous Fijian people.¹⁸ Creating a new government, under the leadership of Frank Bainimarama, they promised equal rights and peace.¹⁹

Indicator 1.9 Economic Instability Caused by Acute Poverty, Mass Unemployment or Deep Horizontal Inequalities

The Fijian economy is stable. In 2018, the unemployment rate was 4.5%, the lowest it has been in 20 years²⁰ and according to the World Bank, poverty in Fiji has also been declining. Less than two percent of the population lives in extreme poverty of \$1.90 USD per day per person.²¹ This is a good indicator of Fiji’s recovery from the emigration of more than 100,000 Fijians, 89% of which were Indo-Fijians between 1987 and 2000.²² This migration resulted in a loss of human capital of skilled professionals such as healthcare professionals, engineers, accountants, and teachers.²³ This brain drain from Fiji was detrimental with the full effects still unclear. Fiji continues to experience migration, but not at the same drastic rate.

RISK FACTOR 2: RECORD OF SERIOUS VIOLATIONS OF INTERNATIONAL HUMAN RIGHTS AND HUMANITARIAN LAW

Risk Factor 2: Record of Serious Violations of International Human Rights and Humanitarian Law “Past or current serious violations of international human rights and humanitarian law, particularly if assuming an early pattern of conduct, and including those amounting to atrocity crimes, that have not been prevented, punished or adequately addressed and, as a result, create a risk of further violations.”

Indicator 2.1 Past or Present Serious Restrictions to or Violations of International Human Rights and Humanitarian Law, particularly if Assuming an Early Pattern of Conduct and if Targeting Protected Groups, Populations or Individuals.

The Fijian police and military forces have occasionally used various forms of torture and abuse against persons accused of crimes or who are being held in custody.²⁴ These forms of abuse include, but are not limited to: rape, other forms of sexual violence, attack by police dogs, and murder.²⁵ The Constitution prohibits the use of torture, forced medical procedures, and degrading treatment or punishment.²⁶ However, the Public Order Act Amendment Decree (POAD) provides members of these security forces with immunity from prosecution for any deaths or injuries resulting from the use of force that is deemed necessary to enforce public order.²⁷ On March 14, 2016, Fiji ratified the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT).²⁸ In 2017 there were multiple cases of officers abusing Fijians that resulted in no disciplinary action.²⁹ Some of the cases that were officially investigated with no resulting punishment include: the case of Vikram Nand who was found dead in a cell of a local police station; two officers who were recorded beating and throwing two person from a moving bus; and a 2016 case that security forces beat 11 men whom they had apprehended.³⁰ In response to the allegations of abuse and torture from police and military forces, Prime Minister Frank Bainimarama stated that “What we have had are occasional problems with individuals or groups of people taking the law into their own hands and violating the human rights of others. But I repeat: no act of torture or cruel, inhuman or degrading treatment has been sanctioned by the state.”³¹ In 2017, the United Nations brought forth allegations of sexual exploitation and abuse committed by a Fijian Peacekeeper in Beirut, Lebanon.³² After a year-long investigation into these accusations, the accused was detained for 28 days, dismissed from duty and sent to Fiji.³³ The Republic of Fiji Military Forces (RFMF) conducted their own investigation which corroborated the findings of the UN and resulted in the dismissal of this individual from the force.³⁴ Fiji has yet to comply with the UN request to provide a legal framework in cases of misconduct for its personnel while deployed on UN Peacekeeping Missions.³⁵

Indicator 2.3 Policy or Practice of Impunity for or Tolerance of Serious Violations of International Human Rights and Humanitarian Law, of Atrocity Crimes, or of their Incitement

Since 2011, there have been 200 cases of child labour identified in Fiji.³⁶ As a response and act of recognition, the Fijian government ratified the International Labour Organization Employment Policy Convention in 2010.³⁷ This convention committed Fiji to develop a national employment policy. However, the government has not yet approved the draft National Action Plan for Child Labour nor the five year Strategic Plan for Combating Child Labour.³⁸ Additionally, the Inter-Agency Trafficking Task Force, set up to address issues relating to the exploitation of children, has not been active since 2012.³⁹ The Inter-Agency Trafficking Task Force includes the Fiji Police Force, the Department of Social Welfare, the Ministry of Local Government, the Suva City Council, the Fiji National Council for Disabled Persons, the Ministry of Health, the Ministry of I’Taukei Affairs, and local NGOs.⁴⁰ Fiji worked as part of the Tackling Child Labour through Education (TACKLE) project to create, implement and enforce policies and programs to fight child labour.⁴¹ TACKLE had two phases, Phase I (2008-2013) and Phase II (2015-2017), both funded by the European Union (EU).⁴² Fiji has laws in place which makes attending school compulsory for children until the age of 15, and allows children aged of 13-15 years the opportunity to work on a daily wage basis in non-industrial ‘light’ work conditions while returning to guardians at night.⁴³ However, many children are victim to domestic servitude and/or forced sexual activities by relatives in exchange for basic needs such as food, clothing, shelter, and school fees.⁴⁴

Indicator 2.6 Justification, Biased Accounts or Denial of Serious Violations or International Human Rights and Humanitarian Law or Atrocity Crimes

In the 2017/2018 year, there were two incidents in which Fiji forcibly returned individuals to their home country where they may be subject to human rights violations without due process.⁴⁵ In January 2018, Loghman Sawari,

RISK FACTOR 2: RECORD OF SERIOUS VIOLATIONS OF INTERNATIONAL HUMAN RIGHTS AND HUMANITARIAN LAW

an Iranian refugee, sought asylum in Fiji where, on his way to meet the Fijian Director of Immigration, police intercepted his vehicle.⁴⁶ Upon interception he was separated from his lawyer, arrested, punched and pepper sprayed and sent back to Papua New Guinea (from where he had fled).⁴⁷ In a much larger instance, in August 77 Chinese citizens were returned to China for computer crimes which breached the terms of their visas.⁴⁸ They were not given a chance to contest these charges, nor were they permitted to seek legal advice.⁴⁹

Fijian media outlets continue to battle with authorities who have used restrictive legislation to control and censor media outlets in the past. In 2016, four men and the Fiji Times newspaper were charged with inciting communal hatred over a letter published in the paper.⁵⁰ The government felt that the letter could incite hostility towards the Muslim population.⁵¹ In 2017 these charges were changed to sedition, and in 2018 the High Court in Fiji ruled not guilty.⁵² This is considered a victory for freedom of speech in Fiji where the legacy of censorship from military rule has media outlets practicing self-censoring.⁵³

In 2017, the prison and detention centres in Fiji did not meet international standards, suffering from overcrowding, deteriorating infrastructure, and complaints about essential services.⁵⁴ There have been multiple cases of mistreatment from corrections officers including inmates being beaten during a peaceful hunger protest, and female inmates subject to rape at the hands of corrections officers.⁵⁵ The law prohibits authorities from reviewing, censoring, or seizing prisoner letters addressed to the judiciary and the Fiji Human Rights and Anti-Discrimination Commission (FHRADC). However, authorities constantly and continuously review and seize such letters.⁵⁶

RISK FACTOR 3: WEAKNESS OF STATE STRUCTURES

Risk Factor 3: Weakness of State Structures “Circumstances that negatively affect the capacity of a state to prevent or halt atrocity crimes”

Indicator 3.3 Lack of Independent and Impartial Judiciary

Officially, the Fijian judicial system is independent from the government. However, since the 2006 coup, the interim government has interfered with this independence.⁵⁷ In 2009, the existing judges were dismissed and replaced by interim government appointed officials.⁵⁸ Additionally, the Administration of Justice Decree of 2009 prohibits the courts from investigating any cases relating to the 2006 coup, acts of the interim government, the abrogation of the constitution or any other government decree after 2006.⁵⁹ In 2010, an amendment was made which further limits the jurisdiction of the courts on the decisions made by the government.⁶⁰

RISK FACTOR 7: ENABLING CIRCUMSTANCES OR PREPARATORY ACTION

Risk Factor 7: Enabling Circumstances or Preparatory Action “Events or measures, whether gradual or sudden, which provide an environment conducive to the commission of atrocity crimes, or which suggest a trajectory towards their perpetration.”

Indicator 7.9 Increased Serious Acts of Violence Against Women and Children, or Creation of Conditions that Facilitate Acts of Sexual Violence Against those Groups, Including as a Tool of Terror

Fiji presents itself as a society that values family and community, yet the rates of violence towards women and girls in Fiji are among the highest in the world.⁶¹ In 2016, it was found that 64% of Fijian women who had been in an intimate relationship sometime during their life had experienced physical and or sexual violence by an intimate partner.⁶² This is a drastic difference from the global average of 30%.⁶³ Worse still, it was found that 72% of Fijian women ever-partnered experienced physical, sexual or emotional violence, many suffering all three at once.⁶⁴ The Fiji Women's Right Movement (FWRM), a leading advocacy group in Fiji for women's rights, and Fiji's Women's Crisis Centre, the national research institute on women's health have found alarming statistics. The FWRM conducted a survey which found that 2 out of 3 women faced difficulties in reporting their abuse to the police, as they were told to resolve the issue within the family or village.⁶⁵ Only about 1 in 10 women and girls feel they can report the

RISK FACTOR 7: ENABLING CIRCUMSTANCES OR PREPARATORY ACTION

cause of their injury to a healthcare worker, many not seeking any care at all.⁶⁶

There are patterns in the prevalence of violence against women and girls between the Indigenous and Indo-Fijians. The prevalence of violence is found to be below the national average with Indo-Fijian women and girls, although still above the global average.⁶⁷ This pattern persists with violence during pregnancy, with 11% of Indo-Fijian women having been attacked compared with 18% of Indigenous Fijian women.⁶⁸ Another pattern that has been noted is age. Findings show that the younger the women involved, the more likely they are to experience intimate partner violence.⁶⁹

71% of children in Fiji have experienced physical and/or psychological violence at home.⁷⁰ In 2017, 1145 cases were reported to the Ministry for Women, of those the youngest two victims were babies around one year old.⁷¹ In 2018, more than 700 cases of child abuse were reported to authorities, mostly brought to light by inquisitive health workers in hospitals.⁷² Of those 748 cases, 226 were instances of child negligence, 149 physical abuse, and 130 sexual abuse cases.⁷³ Although it may appear that the rate of violence against children has decreased, unfortunately these numbers appear to be a result of authorities under-reporting.⁷⁴

Indicator 7.11 Destruction or Plundering of Essential Goods or Installations for Protected Groups, Populations or Individuals, or of Property Related to Cultural and Religious Identity

Fiji is officially a secular state. The dominant religion within Fiji is Christianity, although there is a presence of other religions such as Islam, Hinduism, and Sikhism.⁷⁵ In recent history, there have been a few religiously targeted attacks. In the month of December 2017, there were four attacks on Hindu temples including acts of graffiti, destruction of idols, and theft of monetary donations.⁷⁶ Statistics provided by the Fijian Police Force show that there have been 149 attacks on places of worship between 2001 and April 2005. Of those cases 100 were on Hindu temples.⁷⁷

RISK FACTOR 8: TRIGGERING FACTORS

Risk Factor 8: Triggering Factors “Events or circumstances that, even if seemingly unrelated to atrocity crimes, may seriously exacerbate existing conditions or may spark their onset.”

Indicator 8.4 Abrupt or Irregular Regime Changes, Transfers of Power, or Changes in Political Power of Groups

In the past 32 years, Fiji has endured four non-violent military coups. The unpredictability of Fiji’s government stems from ethnic tensions between the Indigenous and the Indo-Fijians. The coups represented the battle for power over Fiji between these two groups. The history of Fiji’s four coups remains fresh in the minds of many Fijians, who witnessed all four coups. Today this divide is being managed through cooperation and collaboration of government structures, services, and polices. However, this divide still remains.

The first coup commenced in the contemporary period in May 1987 by a senior army officer, Sitiveni Rabuka.⁷⁸ This was in response to a general election in which a coalition of the Fiji Labour Party and the National Federal Party came to power with the hope of creating a power-sharing dynamic between the two main ethnic groups (Indigenous Fijians and Indo-Fijians).⁷⁹ This new coalition was led by Timoci Bavadra and marked the end of a 17-year rule by the Alliance Party.⁸⁰ Rabuka seized power in May 1987 with the goal of restoring an indigenous Fijian government and maintaining the indigenous Fijians as the politically dominant group.⁸¹ Rabuka surrendered power a week later to the Governor General to form an interim government.⁸²

The second coup in September 1987 was also led by Sitiveni Rabuka, who was the military leader at the time. The coup was against the interim government which he believed was not doing an adequate job.⁸³ Rabuka proclaimed Fiji as a Republic, and cut all ties with the British Queen, who was the ceremonial head of state.⁸⁴ In 1993 Rabuka called a general election, in which he ran as the leader of the Fijian Political Party and became Prime Minister.⁸⁵

The third coup took place in 2000, after the general election in 1999 resulted in Fiji’s first Indo-Fijian Prime Minister, Mahendra Chaudhry.⁸⁶ It was led by George Speight, in April, storming parliament and holding Prime Minister Chaudhry and the cabinet hostage for fifty-six days.⁸⁷ It was eventually ended by military intervention led by military leader Frank Bainimarama who, as a result, set up an interim government with Ratu Josefa Iloilo as president,

RISK FACTOR 8: TRIGGERING FACTORS

and suspended the constitution.⁸⁸

The fourth, and most recent, coup was again led by military chief Frank Bainimarama on December 5, 2006.⁸⁹ Bainimarama took control and dismissed Prime Minister Qarase, reinstating Ratu Josefa Iloilo as President and appointing himself as Prime Minister.⁹⁰ Bainimarama said this coup would be the coup to end all coups.⁹¹

Indicator 8.6 Religious Events or Real or Perceived Acts of Religious Intolerance or Disrespect, Including Outside National Borders

There have been numerous attacks on Hindu temples since 2001. Before the arrival of the British in Fiji, witchcraft was an accepted practice.⁹² Today the idea of witchcraft makes many people uncomfortable. In fact, there have been multiple attacks and police raids on those suspected of practicing witchcraft. Among these cases was a police raid in 2009 in which police detained 14 men suspected of practicing witchcraft, the police arrested them because they had been tipped off from concerned community members.⁹³ In 2015, a Namosi villager was beaten to death by fellow villagers over suspected practice of witchcraft.⁹⁴

Indicator 8.9 Sudden Changes that Affect the Economy or the Workforce, Including a Financial Crisis, Natural Disaster, or Epidemic

Fiji has a substantial history of natural disasters. However, in the past few years Fiji has been victim to an increasing number of natural disasters of increasing severity. In particular, Fiji is most vulnerable to droughts, flooding, and cyclones. Repercussions include: loss of workers (dead, injured, or occupied with reconstruction), destruction of assets (buildings, equipment, infrastructure), forced business closures when costs are too great to recover, disruption to utilities (clean water, electricity), food scarcity, diseases, and higher prices due to low output/production.⁹⁵

These disasters can be detrimental to the economy and repercussions can last years. In 2016, Cyclone Winston hit leaving 44 dead and more than \$2.5 billion in damages.⁹⁶ A year after, several thousand people were still living in tents due to the destruction and cost of repairs.⁹⁷ Winston also left lingering damage to the coastal fisheries that many communities depended on for work and food.⁹⁸ This damage was not just to infrastructure but also loss of output caused by the workers who stopped working to focus on repairing and rebuilding their homes.⁹⁹ When natural disasters strike, peoples' focus shifts from work to survival, and as a result the economy takes the greatest impact.

Indicator 8.10 Discovery of Natural Resources or Launching of Exploitation Projects that have Serious Impact on the Livelihoods and Sustainability of Groups of Civilian Populations

Fiji Water, a brand of artisan bottled water, has been a point of controversy in recent history. Fiji Water began extracting and bottling water in Fiji in 1996, after negotiating a 99-year lease on the land above the aquifer.¹⁰⁰ Up until 2010, Fiji Water was paying Fiji 1/3 of a Fijian cent for every liter of water.¹⁰¹ During this time, the Fijian government did not have the funds to build and maintain the infrastructure required to deliver clean drinking water to many parts of Fiji.¹⁰² In 2010, Fiji Water agreed to the increased cost for water extraction set by the Fijian Government of \$0.15 (8.5 USD cents) per litre.¹⁰³

SPECIFIC RISK FACTORS

RISK FACTOR 9: INTERGROUP TENSIONS OR PATTERNS OF DISCRIMINATION AGAINST PROTECTED GROUPS

Specific Risk Factors are six risks that indicate the likelihood of the occurrence of genocide, crimes against humanity and war crimes.

Risk Factor 9: Intergroup Tensions or Patterns or Discrimination Against Protected Groups “Past or present conduct that reveals serious prejudice against protected groups that creates stress on the relationship among groups or with the State, generating an environment conducive to atrocity crimes”

Indicator 9.1 Past or Present Serious Discriminatory, Segregational, Restrictive or Exclusionary Practices, Policies or Legislation Against Protected Groups

The 1990 Constitution created political exclusion of the Indo-Fijians and guaranteed the Indigenous peoples’ political dominance.¹⁰⁴ Restrictions included no cross-ethnic voting, and key government positions that were reserved only for Indigenous Fijians.¹⁰⁵ This was then corrected in the Constitution of 2013.

The LGBTQ+ community in Fiji is subject to discrimination in the Constitution of 2013. The constitution prohibits discrimination on the grounds of sexual orientation, gender expression and identity. However, this is restricted as the constitution prevents this non-discrimination from being applied in cases of marriage, adoption, and inheritance.¹⁰⁶ In 2012, the Fiji Constitutional Commission submitted a draft constitution under which the LGBTQ+ community were in accord with International Human Rights and legal protection, it was rejected.¹⁰⁷

Under section 30 of the 2013 Constitution, the right of freedom of expression is limited to protect “the reputation, privacy, dignity, rights or freedoms of other persons and “to prevent attacks on the dignity of individuals, groups or communities or respected offices or institutions in a manner likely to promote ill will between races or communities or the oppression of, or discrimination against any person or persons.”¹⁰⁸ Section 35, Right to Freedom of Conscience, Religion and Belief, allows citizens to hold any religious beliefs free from discrimination.¹⁰⁹ However, the Fijian government has not upheld either of these sections. Christian groups frequently condemn Hinduism and promote anti-Hindu sentiment as well as destruction of Hindu material.¹¹⁰

Indicator 9.2 Denial of the Existence of Protected Groups or of Recognition of Elements of their Identity

Although the Constitution of 2013, prohibits discrimination on the grounds of gender expression and identity, it is often overlooked. In 2018, Ms. Salavuki, a transgender woman, was murdered.¹¹¹ The local media refused to acknowledge her gender identity and neglected to include that it was suspected to be a hate crime.¹¹²

Indicator 9.5 Past or Present Serious Tensions or Conflicts Involving Other Types of Groups (Political, Cultural, Geographical, etc.) that Could Develop Along National, Ethnical, Racial or Religious Lines

There has always been a clear divide among the Indigenous Fijians and Indo-Fijians. The four coups can be attributed to this ethnic conflict and their battle for supremacy within Fiji. The Constitutions of 1970 and 1990 reinforced segregation of races and the political inferiority of Indo-Fijians; both have since been overturned.¹¹³ In 2006, opposition leader Mick Beddoes said that the continued racial segregation can be attributed to a lack of education.¹¹⁴ Further identifying that parents spend money on customary and religious obligations ahead of children’s education, around 17,000 students drop out of school every year.¹¹⁵ The majority of these students being Indigenous Fijians.¹¹⁶

RISK FACTOR 11: CRIMES AGAINST HUMANITY

SIGNS OF A WIDESPREAD OR SYSTEMATIC ATTACK AGAINST ANY CIVILIAN POPULATION

Risk Factor 11: Signs of Widespread or Systematic Attack Against any Civilian Population Signs of violent conduct including, but not limited to, attacks involving the use of force, against any civilian population and that suggest massive, large-scale and frequent violence (widespread), or violence with patterns of periodicity, similitude and organization (systematic)

Indicator 11.1 Signs of Patterns of Violence Against Civilian Populations, or Against Members of an Identifiable Group, their Property, Livelihoods, and Cultural or Religious Symbols

In 2017/2018, multiple instances of hate crimes occurred in the form of assault and murder.¹¹⁷ Ms. Saluki (transgender) was murdered in 2018, Losefo Magnus (homosexual) was murdered in 2017, and two individuals (homosexual) in Nasinu were attacked in March 2017.¹¹⁸ These attacks are consistent with Fijian's traditionally conservative, predominantly Christian social norms.¹¹⁹ Ms. Waqa (creative director of House of Khameleon) says "There is a lack of trust with the Fiji Police Force due to fear of discrimination, harassment and violence which really discourages LGBT people from working in cooperation with law enforcement, particularly with cases of hate crime."¹²⁰ Adding to this pattern, Prime Minister Frank Bainimarama has been quoted saying "There will be no same-sex marriage in Fiji in my lifetime...[same-sex couples] should go and have [marriage] done in Iceland and stay and live there."¹²¹

There is a pattern of destruction between the two largest religious groups of Hindus and Christians. In recent history, Hindu temples have been subject to break-ins, theft, destruction of property, and vandalism.¹²² In 2008 and 2009 the Police Commissioner at the time partnered with a Christian group known as Souls to Jesus, to host evangelical events at all police stations.¹²³ All officers and their families felt required to attend events, a report from the U.S. State Department found, and that Hindu and Muslim officers joined the commissioner's church for fear of losing their jobs or being denied promotions.¹²⁴

Relations between the Indigenous and Indo-Fijians have improved in recent times. However, they have a pattern of violence in the past. In 1987, riots between Indo-Fijians and Indigenous Fijians broke out in Suva, an estimated 200 were injured with no deaths reported.¹²⁵ In 2000, Indigenous Fijian gangs attacked ethnic Indian farming families, ransacking and burning homes, slaughtering livestock, threatening rape and murder.¹²⁶ There continues to be tension between these two groups.

CONCLUSION

The above risk assessment finds that the current overall risk of atrocity crimes in Fiji is **Low**.

Of the Common Risk Factors, only 5 of the 8 factors produced any subsequent information to be considered. These are: Risk Factor 1 (armed conflict and instability), 2 (violations of human rights), 3 (weakness of state structures), 7 (enabling circumstances), and 8 (triggering factors). Of the Specific Risk Factors, only two risk factors were worth noting for inclusion in this report: 9 (Intergroup tensions or patterns), and 11 (signs of widespread attack against any civilian population).

There is no indication of active plans or policies to commit atrocity crimes or violence against the population.

Of most concern, is the presence of natural disasters (Indicators 1.3 and 8.9), sexual and gender-based violence (Indicators 7.9 and 11.1), and the ethnic divide between Indo-Fijians and Indigenous Fijians (Indicators 9.5 and 11.1).

Fiji has taken important first steps in addressing the widespread crisis of sexual and gender-based violence with the creation of local organizations. These include but are not limited to the Women's Crisis Centre, Fiji's Women's Rights Movement, and House of Khameleon.

Fiji has become a world leader in the fight against climate change, acknowledging that climate change is the most pressing issue for the survival of Fiji today.¹²⁷

RECOMMENDATIONS

RECOMMENDATIONS FOR THE GOVERNMENT OF FIJI	
1	Ensure that national and local regulations support the principle of non-discrimination. Concerns about discrimination based on the grounds of religion or sexual orientation and identity persists, and regulations addressing and applying this principle ought to be made uniform.
2	Continue to demonstrate international leadership on climate change.
3	Continue to modify legislation that might be used to permit overreach of police power, particularly the Public Order Act Amendment Decree (POAD) of 1967. In this respect, the judicial system ought to ensure its independence and capacity to hold members of the police and military accountable before the law.
4	Comply with the United Nations request to create and submit a Legal Framework to handle misconduct of Fijian personnel while on UN Peacekeeping Missions.
5	Continue to provide training to military and police officers on appropriate conduct and the lawful treatment of members of minority groups.
6	Support the strengthening of regional early warning systems for atrocity prevention
7	Continue to work with and support the Pacific Community (SPC), specifically through the Human Rights Resource Team (RRRT).
FOR CIVIL SOCIETY ACTORS	
1	Contribute to the development of an early warning system for atrocity crimes.
2	Continue to advocate for legal accountability in relation to domestic violence and issues disproportionately affecting women and children.
3	Continue to support the protection of children's human rights in Fiji.

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