Do Transitional Justice Strategies address Small Island Developing States niche conflicts?

Preventing the recurrence of Coups d'état: Study of Fiji

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April 2015

ABSTRACT

This research, affirms that some mechanisms of the transitional justice approaches can be applicable to SIDS conflict; particularly structural conflicts. The fourth principle of the Joinet/Orentlicher Principles *of 'Dealing with the Past'*; the *right to non-occurrence of conflict*, was utilised as a conceptual framework to research the case of Fiji, as it addresses military and institution reforms; both of which are problematic area in Fiji.

Focus groups interviews, semi-structured questionnaires and key informant interviews were used to collect data.

The overall research question was: 'How can transitional justice strategies address conflicts that are distinctive to Small Island developing states?', and the more specific questions related to amnesty, military reform and prevention of coup d'états in the future.

The thesis confirms that many respondents and key informants regard amnesty for coups d'état negatively and unjust. A number of key informants also think that amnesty is bad as it sends the wrong signals to the coup perpetrators and to future generations. Respondents felt strongly (78%) that the coup perpetrators should be held accountable as coups are illegal, but they also acknowledged that the military is too strong and praetorian at this stage in Fiji to be held accountable.

Findings also indicate that there were mixed views on military reform. A number of other important reforms were also suggested by the respondents to prevent the reoccurrence of coups in Fiji. These include; education to foster a national identity, and reforms to the rule of law as well as to the judiciary.

This thesis concludes that transitional justice mechanisms would be applicable to small island developing states but it would need to be tailored to the country's specific needs. Additionally, if we are to ensure that another coup does not occur in the future, Fiji has to carry out military reform and revive discussions on amnesty, or such discussions will be driven underground and may fester into future conflicts.

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AUTHOR'S DECLARATION

This work has not previously been presented for an award at this, or any other, university. All sources are acknowledged as References. I hereby declare that this thesis is my original work.

INTRODUCTION

Since the era of decolonization that swept the world from the 1950s to 2016, a total of 209 successful and 104 attempted coups d'état have occurred in 96 different countries (see Annex 1). Libya was under military rule for 42 years; from 1969 to 2011, similarly Myanmar was under direct or indirect military control for 49 years; from 1962 to 2011. The majority of these coups were carried out by the state military or dissatisfied sections of the military. While the accomplishment of successful coups peaked in the 1960s and 1970s (54 and 53 coups occurred respectively during these periods) and is currently in a decline, it is still a worrisome trend as 17 coups occurred in 15 different countries between the years 2000 and 2010 and 7 coups took place between 2010 and 2016 (seen Annex 1 and 2). When data for attempted coups are taken into account, it becomes even more of a concern, as there were 20 attempted coups within this decade; twice in Congo, Ecuador and three times each in Madagascar and the Philippines. This figure increased slightly as 21 attempted coups have occurred since 2010. Attempted coups occurred in countries like Papua New Guinea and Malawi, which never had any history of coups. See Annexes 1 and 2 for more details. While countries like Bangladesh, Ghana, Nigeria, Pakistan, and Thailand are some of the countries renowned for coups d'état, others increasingly associated with coups in recent decades include Comoros, Fiji, Mauritania, and Ecuador.

Atrocities that usually arise from coups tend to have a negative effect on the population and various institutions that govern a country, and unless the political, social, military and other institutions that are involved in the execution of the coups are reformed, conflict may reoccur. Conflict analysts state that in smaller nations, the occurrence of one successful coup increases the risk of further coups (Collier

& Hoeffler, 2007). Transitional justice strategies have been developed to address past atrocities; however, most approaches focus on justice and victims but neglect to focus on structural changes to achieve sustainable peace. This neglect is understandable: structural reform, particularly of the state military, is probably one of the most difficult strategies to undertake as military personnel may still wield considerable power in post-conflict situations. The central focus of this thesis is prevention, with the emphasis on preventing structural conflicts in small island developing states from turning into potentially violent conflicts.

In many countries that have experienced coups d'état, the coup executors, particularly senior ranking personnel of the state military, granted themselves some form of amnesty and/or impunity from prosecution. While this is effective in achieving short-term peace, sustainable peace remains elusive. Research shows that in many cases, impunity creates an illusion of peace and could be detrimental for reconciliation (Cook, 1997; Mendez, 1997; Kritz, 2002; Commission on Human Rights, 2004; Human Rights Watch, 2009).[1] International standards are clear on what constitutes gross violation of human rights and how such violations should be sanctioned in cases where amnesty is being considered. However, these amnesty standards have neglected to address the question of how to reprimand violations that do not reach the benchmark of gross violations, but nonetheless are damaging, particularly in the context of small island developing states. This research 'challenges the issues surrounding the question of amnesty within such settings, and considers the significance of this neglect by the international standards. It argues further that international standards should be more inclusive

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[1] Please refer to chapter four on Amnesty for discussion on this.

and responsive to the distinctiveness – the kind of 'special case' quality – of small Island developing state conflicts.

In conjunction with overcoming the impunity, post-conflict countries need to minimise t the influence of perpetrators who could subvert long-term sustainable peace. For instance, in Fiji, coup perpetrators are glorified and continue to benefit politically, socially and financially years after relinquishing power. This sets a dangerous precedent for the future as it undermines the rule of law and may encourage more coups. Prosecution of such perpetrators is usually difficult as there is limited evidence and the judicial system is weak, while military influence or fear of it may still be strong. In such scenarios, vetting has been utilised effectively in some post-conflict situations; therefore, this research will explore the possibilities of vetting as a measure to remove past and present coup perpetrators from holding public and official positions. But it must be acknowledged that the situation on some post-conflict countries may not be conducive for vetting, particularly in countries where the perpetrators are still in power and may continue to do so in the future.

To reinforce these measures requires the adoption of strategies to ensure effective control of the military. Increasingly the use of demilitarization, demobilization and reintegration (DDR) of armed personnel has been shown to be an essential path for countries transiting from conflict to peace. However, most studies focus on the disarmament of rebels, which is not relevant for countries like Fiji, where the state military holds power but the use of weapons or armed opposition is almost negligible. DDR has been designed specifically for intra-state conflicts that aims to disarm groups that have taken up arms during the conflict,

such groups would include not only 'statutory forces, militias and irregular armed groups; they must also include civilians who are not members of an armed group' (Douglas, et. al., 2004: 29). This research will explore the possibilities of military reform through mechanisms such as restricting amnesty for political crimes, accountability, and vetting. It will also explore the concept of perceptions, how it is utilised by the military and community in perceiving the military and its implications. Lastly, it will consider the possibilities of the reform of military structure and its cultural and social significance and the need for military to induce trust within the society.

Fiji has been identified for this research in consideration of the current situation and its history of coups. Since 1987, four coups d'état have been executed in Fiji, the most recent one in 2006, and the country was under military rule until September 2014. After each coup, almost all the perpetrators have been able to walk away with amnesty and are subsequently glorified by coup supporters; the most recent amnesty was granted to the 2006 coup executors on 9 October 2006 by the Fiji High Court (see Annex 3, which also shows the chronology of conflict in Fiji and selected key events). This glorification of the military has also emboldened the military to assume an oversight role over the civilian government instead of being subservient to the government. Since three of the four coups were overtly executed by the state military, the military has become synonymous with coups in Fiji. Compared to violence in other parts of the world, tensions in Fiji are considered mild. While gross human violations in terms of widespread killings, rape and torture are almost unheard of in Fiji, human rights violations do occur; the rule of law is not strictly adhered to, the judiciary has been known to be compromised and democracy is periodically threatened. If Fiji is to break the cycle

of coups, it needs to address the issues of amnesty and impunity and reform its military.

There are 10 chapters in this thesis. Chapter 1 will focus on a number of different factors that has contributed to conflict in Fiji such as the political history of governance; the colonial legacy, the background of the RFMF and the four coups d'etat. Chapter 2 focuses on the methodologies used in this research, the challenges faced in the process and how these challenges were addressed. Chapter 3 outlines the theoretical framework of three main issues in relevance to this research; the coups d'état, the concept of structural conflict and the issue of conflicts in Small Island Developing States (SIDS). Chapter 4 focuses on the amnesty discourse, how it is viewed within international law and its link with coups d'état. Chapter 5 presents an overview of issues surrounding security sector reform (SSR) and its convergence with transitional justice approaches (TJ) in post conflict situations. Chapter 6 discusses the findings of the research, focusing on the shifting perceptions of coups in Fiji. Chapter 7 discusses the findings on two main issues, which were identified as proximate causes of conflict in Fiji: the practice of democracy and the role of military. Chapter 8 discusses the findings on tensions arising out of the policies and structures such as the colonial legacy, land security, citizenship, politicised traditional and religious organisations and partisan voting in Fiji. Chapter 9 presents and discusses the findings on how to prevent the recurrence of coups in Fiji. These issues include education, accountability, addressing of the issue of amnesty, military reforms and reforms to the rule of law, as well as to the judiciary. Chapter 10 concludes the discussions and findings of the whole research.

ARGUMENT

Transitional justice mechanisms have been used effectively in numerous countries in post-conflict situations to address past human rights abuses. Taking a minimalist approach and maintaining a façade of peace could be detrimental for the future. For instance, in the post–World War II era in former Yugoslavia, Prime Minister Tito encouraged the concept of brotherhood among Serbs, Croats and Bosnians but suppressed any discussions on the atrocities committed by these groups against each other and this eventually led to ethnic cleansing in the 1990s (Kritz, 2002, p. 21). Lederach (2006) argues that past atrocities should be acknowledged and dealt with to minimize 'negative' peace, as latent conflict could still be present and may lead to conflicts in future.[2] The momentum behind the proliferation of transitional justice strategies is attributed to acknowledging and learning from the past to prevent future conflicts.

> Without a proper engagement with the past and the institutionalization of remembrance, societies are condemned to repeat, re-enact, and relive the horror. (Bhargava, 2000, p. 54)

Historically, perpetrators of gross human rights violations within one's own country and during times of conflict were usually exempt from punishment. But since the 1980s, transitional justice mechanisms are being used to address past human rights violations in intra-state conflicts (Sikkink & Walling, 2007: 1). The lack of accountability and punishment of the perpetrators in the earlier periods is attributed to the absence of mature human rights movements, the lack of commitment to democracy in the new democracies, the lack of pressure from the international community, and weak local civil society organizations (CSOs), among other factors (ibid.). The increased use of transitional justice mechanisms

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[2] Galtung defines negative peace as absence of direct and personal violence (1996).

is corroborated by recent empirical research. Sikkink & Walling (2007: 9) surveyed 192 transitional countries between 1979 and 2004 and discovered that 50 countries used trials and 34 of these countries used truth commissions to address past violations. It was found that increased use of transitional justice mechanisms to address past violations can deter future leaders from committing gross violations as leaders are increasingly being held accountable (Sikkink & Walling, 2009: 9, 43). The downfall of authoritarian regimes, the increased numbers of countries becoming democratic, the strengthening of CSOs, and support from foreign donors for such programs have all been identified as catalysts for increased accountability for human rights abuses (Kritz, 2002: 21-26).[3]

Prosecutions, truth-seeking, promoting reconciliation, reparations, institutional reforms, vetting, memorials, official apologies (Sisson, 2007) and recognizing gendered patterns of abuse are widely used transitional justice approaches (ICTJ, 2005: 17). Amnesty is also a transitional justice mechanism utilised by post-conflict countries; however, this is widely criticized for its implications of impunity and lack of justice for the victims (Mendez, 1997; Tutu, 1999; Human Rights Watch, 2009). Impunity is commonly defined as the exemption of perpetrators from criminal, civil, administrative or disciplinary punishment (Commission on Human Rights, 1997) and amnesty is likened to impunity as amnesty or pardons give perpetrators freedom from accountability for their actions.[4]

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[3] As reflected in the peace accords such as in El Salvador, Guatemala, Bosnia and Sierra Leone.

[4] This thesis will focus on amnesty for perpetrators and will not address amnesty for human rights defenders who are persecuted for their efforts in exposing violations and campaigning for redress for victims of violations.

Before deciding on which transitional justice mechanisms to implement, countries coming out of conflict would to take into account a myriad of factors. Méndez (1997: 273) emphasizes prosecution of past perpetrators but recognizes that the influence of old regimes versus the strength of local peoples' demands for justice should be taken into consideration. Evidence from a study of 30 Latin American and African countries shows that countries may use criminal trials if the strength of public demand for justice is strong and the strength of the outgoing regimes' demands for amnesty and impunity is weak (Skaar, 1999: 1109). Skaar argues that consolidating the interests of various parties is a daunting task: members of the outgoing regimes will prioritize amnesty and impunity, and the victims may demand justice, while the incoming government could prioritize political stability, strengthened democracy and the respect for rule of law (ibid.: 1111). Zalaquett (1992: 1428) argues that justice should be demanded but only after an assessment of when it can be done and after taking into consideration everyone's views. Malamud-Goti (1990), Neier (1990) and Nino (1996) all support the morality of prosecutions but stress that in doing so, it must be ensured that reprisals by perpetrators do not occur. For a new democracy, the balancing act between all these various demands is usually an overwhelming task but the continued use of amnesty and reoccurrence of conflicts in many countries indicates that there is a need for further investigation of this phenomenon.

Louis Joinet's UN study on impunity acknowledged that countries use mechanisms such as statute of limitations, measures of pardon and amnesty to grant impunity to perpetrators (Commission on Human Rights, 1997). To combat impunity Joinet proposed a set of principles encompassing four fundamental rights (see Figure 1): right to know, right to reparations, right to justice, and right to non-

renewal of conflict (ibid.). Recent literature indicates a shift in transitional justice mechanisms, from the use of judicial mechanisms to a more holistic notion of dealing with the past. Sisson (2007: 2) states that the term 'dealing with the past' is becoming more in vogue as it is an encompassing concept that signifies activities that address the root causes of conflict and serious human rights abuse. While there is no standard model for dealing with the past, in recent years the Joinet Principles are acknowledged as a useful theoretical model. This conceptual theme has been acknowledged by some transitional justice experts to have great potential in turning the focus from judicial approaches into more practical means to combat impunity (Commission on Human Rights, 2004, 2005; Bleeker et al., 2004; and Sisson, 2007). The set of principles on 'guarantee of non-renewal' of conflict was initially developed by Joinet under the overall fundamental principle of right to reparations and was refined by Diane Orentlicher in her 2004 UN report. This aspect of the conceptual framework for dealing with the past seems be to the most neglected in the academic field as few studies have been conducted on this issue. Additionally, most studies do not address the issue of amnesty and impunity for political crimes as the international focus tends to be mostly on gross violation of human rights. However, conflicts in most small island developing states (SIDS) do not reach the intensity to produce such gross violations of human rights though evidence shows that these conflicts can be equally costly to the country (Chauvet, Collier & Hoeffler, 2010: 976).

Figure 1: Conceptual Framework for Dealing with the Past

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The Joinet principles also identify various strategies to ensure effective civilian control of military forces (Commission on Human Rights, 1997, 2004). The last twenty years have seen a dramatic increase in utilizing disarmament, demobilization and reintegration (DDR) of ex-combatants in post-conflict countries and DDR is recognized as an effective strategy for peace-building (Klem, et al., 2008: 5). Similarly, since the 1990s, security sector reform (SSR) has also gained momentum but it focuses on strengthening the capacities of the state police, and state and non-state armed forces, in addition to DDR of former combatants of war (Mobekk, 2006: 1). The concept of reforming the security sector to make it accountable to democratic processes came to the fore in the 1990s as an explicit development concept (Mayer-Rieckh & Duthie, 2009: 217). SSR differs from prior military reform in that it goes beyond enhancing efficacy of the armed forces,

attempting: to ensure the military conforms to standards of legality, transparency and accountability; as a holistic approach, to link with other security and oversight bodies within the country; and to link the military with not only state but also human security for the country (ibid.).

The Joinet principles also highlight that institutional reform such as vetting is an essential part of transitional justice strategies to prevent the reoccurrence of conflicts (Commission on Human Rights, 1997)   While some form of vetting has been utilised as a form of transitional justice measure in many post-conflict countries, it has been far less studied than prosecutions, truth commissions, reparations (Duthie, 2007: 17) and even amnesty, memorials and SSR.[5] The literature highlights that terms such as 'vetting', 'lustration', 'screening', 'administrative justice' and 'purging' are often used interchangeably although each of these terms has a slightly different meaning (Duthie, 2007: 17-18). There is some consensus that vetting is defined as a 'formal process for the identification and removal of individuals responsible for abuses, especially from police, prison services, the army and the judiciary' (Mayer-Rieckh & Greiff, 2007). In recent years, vetting has been used against perpetrators of non-violent acts, such as violations of public trust (Duthie, 2007). The purpose of this research is to explore how vetting may affect the interests, incentives and capabilities of public institutions, particularly in Fiji, and whether vetting could assist to regain the public trust in their institutions.

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[5] According to Moira Lynch (2008) 31 countries from South America, Africa, and Eastern Europe have used vetting in various forms since World War II.

Literature on vetting indicates that even in similar post-conflict country scenarios the way vetting is utilised can differ remarkably; in some countries international actors play an essential role in pushing the vetting agenda, while in countries such as South Africa and Argentina, transitional politics limit its implementation (Duthie, 2007: 19). Lynch (2008) argues that recently UN agencies and international NGOs such as the International Center for Transitional Justice (ICTJ) are increasingly playing a role in influencing post-conflict countries in their implementation of transitional justice mechanisms and their interest in vetting may lead to more countries adopting this strategy in the future. Lynch (2008) and Horne (2008) also highlight that vetting conducted in earlier periods in countries such as Germany and Czechoslovakia would be questionable today for its absence of due process and countries implementing vetting in recent years are more considerate of perpetrators' human rights. Horne (2008) raises the issue that vetting is implemented to build trustworthy public institutions, while Brahm (2004) argues that it provides a psychological break from the past and marks a new chapter in the nation's history but at the risk of losing important human resources when the country needs them most.

Another related aspect is the concept of mind-set, that is, the significance of how the military and the communities perceive the army and whether this sustains conflict (Willett, 1998). The notion of deconstructing such perceptions within the SSR framework is less highlighted than other aspects of its strategies. The dearth of literature on the issue is understandable as the deconstruction process could be more aligned to psychology. However, Lamb (2000: 12) argues that it should be understood as a psychological as well as a practical process because military

reform can only be truly successful if the military and the wider community, including the media, are committed to de-glorifying the armed forces.

RESEARCH QUESTIONS AND HYPOTHESIS

This thesis will focus on three specific transitional justice strategies that are part of a comprehensive set of principles developed by Professor Joinet in 1997 in relation to impunity. In relevance to the topic, this thesis will focus largely on principles 37 – 42, which fall under the heading of *'Guarantees of non-occurrence of violence'* (Commission on Human Rights, 1997)*.* These principles could be distinctively applied to focus on structural conflict in small island developing states, where conflict is of lower intensity and does not create situations where many other components of transitional justice would be applicable. Transitional justice experts have acknowledged that the Joinet Principles have a profound impact on efforts to combat impunity (Bleeker, et al., 2004; Sisson, 2007). For instance, 'they have become a key reference in decisions by the supervisory bodies for the American Convention on Human Rights', was cited by Argentina to support measure to combat impunity (Orentlicher, 2004: para 8) and regarded as 'a valuable academic reference on the question of amnesty' (Freeman, 2009: 1-2). Therefore, these principles will be utilised to explore the possibility of their implementation in countries with a strong military influence in the political arena, particularly in Fiji. The thesis will also raise questions on the need to expand the boundaries of international law to address sanctions for political crimes and reconsider military reform strategies in situations where the use of weapons and overt violence is not a major concern.

The overall research question is:

How can transitional justice strategies address conflicts that are distinctive to small island developing states?

More specific questions relating to amnesty, military reform and vetting are:

a. Should amnesty be granted for political crimes such as the overthrow of democratic governments?

b. Does the international focus on amnesty for gross violations indicate international sanction for political crimes such as coups d'état?

c. How can a praetorian military be reformed?

d. How could coups be prevented in small island developing states?

The research hypothesis is:

If a small island developing country with a history of coups d'état and a praetorian military utilises selected transitional justice strategies to overcome entrenched impunity, address structural conflicts and reform the state military, then it is most likely to prevent reoccurrence of coups in the future.

CONCLUSION

This chapter discussed the coup d'etat trends from 950s onwards, affirming that, a total of 209 successful and 104 attempted coups d'état have occurred in 96 different countries from 1950s to 2016. The majority of these coups were carried out by the state military or dissatisfied sections of the military. While the accomplishment of successful coups is currently in a decline, attempted coups are a concern, as there were 21 attempted coups from 2010 to 2016. Attempted coups have also started to occur in countries like Papua New Guinea and Malawi, which never had any history of coups. Additionally non-traditional 'coup' associated countries such as, Comoros, Fiji, Mauritania, and Ecuador are increasingly vulnerable to successful coups as well.

Conflict analysts state that in smaller nations, the occurrence of one successful coup increases the risk of further coups (Collier & Hoeffler, 2007) and unless the political, social, military and other institutions that are involved in the execution of the coups are reformed, conflict may reoccur. Transitional justice strategies have been developed to address past atrocities; but these approaches have neglected to focus on structural changes to achieve sustainable peace. The central focus of this thesis is prevention, with the emphasis on preventing structural conflicts in small island developing states from turning into potentially violent conflicts.

In many countries that have experienced coups d'état, the coup executors, particularly senior ranking personnel of the state military, granted themselves some form of amnesty and/or impunity from prosecution. While this is effective in achieving short-term peace, sustainable peace remains elusive. This research 'challenges the issues surrounding the question of amnesty within such settings,

and considers the significance of this neglect by the international standards. It argues further that international standards should be more inclusive and responsive to the distinctiveness – the kind of 'special case' quality – of small Island developing state conflicts.

To investigate the issue of preventing a reoccurrence of conflict in Fiji, this research will utilise the conceptual framework of *dealing with the past*, developed by Joinet and refined by Diane Orentlicher in her 2004 UN report. This conceptual framework identifies four areas of concern: the right to know; right to reparation; right to justice and the guarantee of non-occurrence. The last aspect; the guarantee of non-occurrence is the most neglected in the academic field as few studies have been conducted on this issue and is also the most applicable for small island developing states (SIDS) conflicts. Additionally, most studies do not address the issue of amnesty and impunity for political crimes as the international focus tends to be mostly on gross violation of human rights. However, conflicts in most small island developing states (SIDS) do not reach the intensity to produce such gross violations of human rights though evidence shows that these conflicts can be equally costly to the country (Chauvet, Collier & Hoeffler, 2010: 976). The research hypothesis for this research is: *'If a small island developing country with a history of coups d'état and a praetorian military utilises selected transitional justice strategies to overcome entrenched impunity, address structural conflicts and reform the state military, then it is most likely to prevent reoccurrence of coups in the future.'*

CHAPTER ONE: FIJI'S POLITICAL HISTORY

The islands of Fiji are spread over 1.3 million square km of the South Pacific Ocean and comprise more than 333 islands, of which 110 are permanently inhabited (with a total land area of 18,300 square km) (see Figure 2). The two major islands, Viti Levu and Vanua Levu, account for 87% of the total population of about 850,000. Land is largely owned by the indigenous inhabitants (87.9%), a further 3.9% is State land, 7.9%, freehold land and 0.3%, Rotuman owned (Government of the Republic of the Fiji Islands, 2009).[6] Suva is the capital city, with almost a quarter of the country's population residing in Suva and environs. Administratively, Fiji is divided into four divisions and subdivided into 14 provinces: Central (Naitasiri, Namosi, Serua, Rewa, Tailevu), Northern (Bua, Cakaudrove, Macuata), Eastern (Kadavu, Lau, Lomaiviti) and Western (Ba, Nadroga–Navosa, Ra). Each province is made up of several *tikina* (districts), and each tikina is composed of several *koro* (villages). The village is headed by a *turaga-ni-koro*, who is either elected or appointed by the villagers. The provinces are governed by a council and headed by a Roko Tui, who is appointed by the Fijian (iTaukei)[7] Affairs Board and is usually of chiefly standing. Each division is headed by a Commissioner, who is appointed by the government. From provincial level downwards, this administrative system solely targets the indigenous Fijians. Prior to the disbanding of the Great Council of Chiefs (GCC) and the removal of the

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[6] Rotumans are a distinct indigenous group who originate from the island of Rotuma, which lies approximately 465 kilometres north of Fiji and is usually included in the Fiji maps as an insert. Rotuma has been part of Fiji politically since 1881, but their culture closely resembles those of Eastern Polynesia, such as Tongan, Samoan and Tuvaluan. Rotumans are treated legally on par with the indigenous Fijians.

[7] The term Fijian has been changed to iTaukei to represent Fijians of indigenous descent and the term Indo-Fijian has been replaced with the term Fijian under the new reforms. However, for the purposes of this thesis and also because generally most of the population still use the 'older' terms, we will retain the term Fijian for indigenous Fijians and Indo-Fijian for the citizens of ethnic Indian descent.

Senate system, Fijians could directly input into national affairs the GCC and the Senate. Town and city councils cater for all urban residents, irrespective of ethnicity. The rural population of all non-indigenous ethnic groups are catered for through local authorities; however, this is more effective in the unionized sugar cane farming areas only.

Figure 2: Map of Fiji Islands

Source: Department of Field Support Cartographic Section (2009). **Fiji Map, No. 4371**.

THE COLONIAL LEGACY

Britain colonized Fiji on 10 October 1874 under a Deed of Cession that bound it to preserve the Fijian way of life. This was implemented in three specific ways: land had to remain under Fijian ownership, a Native Fijian Administration was set up to govern indigenous Fijians separately, and migrant workers were imported to allow Fijians to remain in their villages as their chief's desired (Premdas, 1993: 10). All three of these issues have been linked with conflict in Fiji.

The restriction of lands largely to Fijian communal ownership has led to less than optimal use of land and tension between the two ethnic groups and is linked to the entrenchment of the Great Council of Chiefs (this institutionalising of a previously fluid structure had created a new oligarchy within the Fijian community) and the racial tensions attendant upon the introduction of the Indian population (Premdas, 1993). The first governor, Arthur Charles Hamilton-Gordon, implemented this policy by bringing Indian indentured labourers to work in the sugar plantations. On 14 May 1879, the first group of indentured labourers arrived from India.[8] By 1916, they totalled approximately 60,553 (Fiji Girmit Committee, 2008) and by 1987, their descendants were almost 50% of the population. However, since the 1987 coup, the Indo-Fijian population has rapidly declined due to accelerated out-migration and currently stands at 38% of the total population, while the ethnic Fijian population is 58% of the total population (Government of the Republic of the Fiji Islands, 2009).

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[8] Note that the first coup in 1987 was executed on 14 May to express and symbolise resentment towards the Indo-Fijians.

The colonial policy segregated the two communities, Indo-Fijians were allocated areas to create settlements and the indigenous Fijians were encouraged to remain within their villages. Similarly, segregation along ethnic lines was perpetuated in the economic, social and political spheres of the two communities. For instance, during colonial times, indigenous Fijians had to pay head tax if they wanted move out of their village to reside or work in towns. The Fijians' limited success in the financial sector has been attributed to this policy, as it did not allow them same opportunities to establish businesses during the early periods. Hence even in current times the service and retail sectors of the economy are dominated by the Indo-Fijian and the 'old' Chinese (i.e. descended from nineteenth and early twentieth century migrants) communities.

Colonial policy makers also created the land use policies that led to the constitution of 87.9% of all land as Native Land, which can only be leased by other ethnic groups but never purchased outright (Government of the Republic of the Fiji Islands, 2009). In the late 1990s, numerous expired 99-year land leases were not renewed by the ethnic Fijian communities, leading to increasing urban and out-migration of rural Indo-Fijian farmers and a near collapse of the sugarcane industry. Until the 1990s, sugar was the main agricultural export and the backbone of the economy: the sector employed almost a quarter of Fiji's labour force. The industry was dominated by Indo-Fijians as they comprised 75% of the 20,000 small landholder farmers, leasing native lands (Premdas, 1993). Land is the most contentious issue in Fiji, particularly as it means different things to different ethnic groups with strong emotional attachment. Fijians view land as the bedrock of their *vanua,* that is, their identity and spiritual attachment to land, which makes them Fijian (*iTaukei*) but Indo-Fijians, particularly the farmers, perceive land as a means

of income and employment. Issues related to land were closely bound to the factors underlying upheaval sparked in 1987, as well as the 2000 coup.

In the political arena, the colonial and early Independence Legislatures were segregated disproportionately along communal lines; and the 1987 coup d'état served to aggravate and ingrain that.[9] Subsequent to independence in 1970, all Senate members are nominated through four ways; by the GCC, which nominates only Fijian chiefs, by the Prime Minister (if the PM is Fijian, then the nominations are largely Fijians with one of two from other ethnic groups), by the Leader of Opposition (largely Indo-Fijians when the Opposition was Fiji Labour Party or the National Federation Party), and the Council of Rotuma, which nominates a Rotuman. From 1972 to 2006, the ethnic disparity of Senate composition is starkly obvious as seen from Table 1 as it allowed ethnic Fijians effective control of the Senate. The nomination quota was outlined in the 1990 and 1997 Constitutions. The GCC nominees represented the fourteen provinces of Fiji and were usually chiefs from their respective areas and are appointed to protect and safeguard the interests of indigenous Fijians (Parliament of Fiji Islands, 2003).

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[9] Although the European population is far smaller than Fijian or Indo-Fijian population, they were always allocated seats in the Legislative Council during Colonial times. In the early years, Europeans were the only members but this declined over the years and they are now accommodated in 'General' seats, which include representatives from European descendants, Rotuman, Chinese and other minority populations.

Table 1: Changing Composition of Fiji's Legislature to Senate, 1875–2006

Years	Fijian		Indo-Fijian		European			Rotuman	Other	TOTAL
	N	E	N	E	O	N	E	N	N	
1875					6	4				10
1904	2				11		6			19
1916	2		1		11		7			21
1929	3			3	13		6			25
1937	0	5	2	3	17	2	3			32
1963	2	4	2	4	19	2	4			37
1966	2	12		12			10			36
1972	15		6					1		22
1987	24		7					1	2	34
1997	22		6					1	3	32
2006	22		6					1	3	32

Note: In 1972, the Legislature was divided into House of Representatives and Fijian Senate, Senate members were nominated by Great Council of Chiefs, Prime Minister, Leader of Opposition and Council of Rotuma.
N – Nominated. E – Elected.   O – Official.

The electoral system is also an inheritance of the colonial legislative structure and has been revised since 1970 to accommodate competing demands of the ethnic Fijian and Indo-Fijian communities. From 1972 to 1987, the election system was divided into *communal* and *national* constituencies. Under the communal constituencies, voting was along ethnic lines, with an allocation of 27 seats for the House of Representatives; 12 ethnic Fijians, 12 Indo-Fijians and 3 General Electors (Europeans, Chinese, and other minorities) (Robertson, 2006: 250-253). Under the national constituencies 25 seats were allocated for the House of Representatives with a breakdown of 10 ethnic Fijians, 10 Indo-Fijians, and 5 General Electors, but members were elected by universal suffrage (ibid.). So

effectively each voter had two votes. The system was a compromise between ethnic Fijian calls for communal franchise (based on fears of being swamped by an Indo-Fijian block-vote) and Indo-Fijian demands for universal suffrage (ibid.). After the 1987 coup, the nationalist Fijians demanded political hegemony, which resulted in the revised 1990 constitution allocating all 70 House of Representative seats through the communal constituencies, with 37 seats for ethnic Fijians, 27 for Indo-Fijians and 5 for minority groups.

Due to increasing demands from the international community, regional governments, international, regional and local NGOs, academics and Indo-Fijians, the racially biased 1990 constitution was revised in 1997, which introduced another system for elections. It allocated 71 members for House of Representatives (25 seats for *Open* constituencies and 46 for *communal)*. While the Open constituency was similar to the previous national constituencies, as it allowed universal suffrage, it also differed as Open constituency seats could be contested by members of any ethnic group, in contrast to ethnic allocation in the previous national constituency. The communal constituency divided along ethnic lines but this was abolished in 2013, after the electoral reforms. In his 2009 New Year's message, the military government Prime Minister, Commodore Bainimarama, stated,

> Fellow citizens, we will have elections. However, elections must be held under an electoral system that is truly democratic. This means, the value of your individual votes must be the same; you must have the right to choose whoever you want and not be bound by ethnic categorization. (Fiji Government website, 2009)

The timeline of events as shown in Annex 3 indicates the various issues and events that have led to institutions being entrenched by systemic conflicts in Fiji. It

also shows the sporadic events of violence such as the four coups and demonstrates the shifting allegiance of various political parties, chiefly elites, the military and some other institutions within Fiji. Further, it demonstrates how latent structural tensions can lead to sporadic overt violence and the triggers that have led to the manifestations of coups d'état.

BACKGROUND ON FIJI MILITARY FORCES

The Royal Fiji Military Forces (RFMF) originated as the Armed Native Constabulary (ANC) established in 1871 by Ratu Cakobau, the highest chief at that time, but commanded by British Officers. It was tasked to suppress any resistance from the local tribes that were not aligned to Ratu Cakobau and his alliance with the British settlers (RFMF, 2010). ANC continued these activities when the country was ceded to Britain, but after the First World War, ANC started to participate in battles beyond Fiji boundaries. By the Second World War (WWII), New Zealand was tasked to exercise control over Fiji's military responsibilities; hence it was renamed it RFMF[10], and its military capacities were increased, leading to deployment to Solomon Islands during WWII (ibid.). In post-WWII years, Fiji soldiers were deployed to Malaysia to quell tensions in the 1950s struggle against communism and in 1958, to Christmas Island as part of the Nuclear Testing Programme (ibid.). But from 1978, RFMF entered into another phase, which is still relevant today, their participation in many UN peacekeeping operations. From 1978 to 2008, around 25,000 RFMF soldiers have served in peacekeeping missions, bringing an income of about US$300 million to Fiji; and in recent years, participation in the Iraq war increased that income as approximately

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[10] The R of the RFMF was later changed from Royal to Republic of Fiji Military Forces.

1,000 Fijians have worked as escorts, guards and drivers for private companies in Iraq, remitting money back to Fiji (Firth & Fraenkel, 2009: 119).

RFMF personnel are held in high regard in peacekeeping operations for their professionalism and have high prestige within the ethnic Fijian community. British and Americans lavishly praised the performance of Fijians during WWI and WWII, as aptly expressed by R. A. Howlett in 1948:

> The flower of the country's manhood was assembled and trained and then sent into conflict against a cunning and vigorous foe. They took their place and were not found wanting. They fought valiantly and met success with equanimity, adversity with fortitude, and death with honour. They lived up to the proud traditions of a warrior race and by their deeds left a heritage for the generations yet to come. (Howlett, cited in Firth & Fraenkel, 2009: 117).

The contemporary RFMF has a relatively small manpower of approximately 4,000 active soldiers and 6,000 reservists; however, most Pacific Island countries do not have any military capacity at all (see Annex 4). But RFMF is a highly structured and professional military (see Annex 5). However, RFMF is composed almost entirely of ethnic Fijians and the military structure also superimposes the Fijian traditional chiefly system, as many high ranking officers are from chiefly Fijian families. For instance, both Epeli Nailatikau and Epeli Ganilau, Commanders of the Fiji Military Forces in the 1980s and 1990s respectively, are high chiefs in their own right. Additionally, they are both sons-in-law of the late Ratu Sir Kamisese Mara, who was the Commander in Chief of the military in Fiji in his role as the former President of Fiji, as well as being the highest-ranking chief prior to his death. As the military structure is intertwined with traditional Fijian society, military personnel are accorded respect similar to that is bestowed on the warrior class in

the pre-modern era. The military is generally viewed as an ethnic Fijian institution both physically and symbolically and largely viewed by ethnic Fijians as the ultimate guarantor of Fijian power (Lal, et al., 2008: 6).

The following sections will link military with conflict in Fiji, and the Security Sector Reform chapter will address the praetorian character of Fiji's military, which began when it played a leading role in strengthening the indigenous political bloc from the 1987 coup, but has reinvented itself to promote inter-ethnic conciliation after the 2006 takeover. In connection with this, after the 1987 and 2000 coups the military was glorified by most ethnic Fijians for its role in the overthrow of democratic governments to retain Fijian hegemony in politics. However, when the military overthrew the government in 2006 on the basis of bad governance, the military was glorified by many of the Indo-Fijian community but was held in lesser regard by significant numbers of the ethnic Fijians as they saw the military going against 'their own'. The issue of glorification of the military personnel could strengthen any security reform programs and will be explored in the SSR chapter.

The next subsection will focus on the four coups d'état between May 1987 and December 2006, all of them overt demonstrations of tensions of various kinds. Various reasons are postulated for the different coups and each has been linked with others, particularly through key players. The first coup was largely carried out to reclaim the indigenous Fijian hegemony in the political arena and stifle non-racial discourse as this was the first (and last) time a government in Fiji had come into power on the basis of addressing policies rather than focusing on ethnic issues (this will be discussed further later). The second coup in the same year ended Fiji's ties with the Commonwealth by declaring itself a republic and the

theme of hegemony was reiterated. This also was the first explicit challenge by a Fijian commoner (then Military Commander, Sitiveni Rabuka) to the Fijian chiefly system. The third was a civilian coup in 2000 but accomplished with the assistance of an elite military faction and was the bloodiest in Fiji's documented history. While it was initiated to give political power back to the indigenous Fijian, this coup brought to the forefront previously hidden divisions among the ethnic Fijians. It also exacerbated factions within the Fiji military. The roots of the 2006 coup can be traced to the 2000 coup; the former was an overt manifestation of a praetorian military against a weak government unable to exercise civilian control over its military.[11]

FIRST COUP

In April 1987, Fiji had its fifth general election since independence. The election process had many elements of the latent racial tensions and the post-election ethos was marred by social and political unrest, which escalated into a coup d'état. The Alliance Party, headed by Ratu Sir Kamisese Mara, was defeated by a multiracial Coalition government. The Coalition was a negotiated result between the Fiji Labour Party (FLP), the Indo-Fijian dominated National Federation Party (NFP), and a smaller ethnic Fijian aligned group, the Western United Front party. This was the first time the Fiji Labour Party had contested general elections and at this stage, FLP was perceived as a multi-ethnic party and had the backing of only a small group of ethnic Fijians. In contrast to other parties, Labour's 1987 election campaign was based on policies rather than race; however, this changed after the mid-1990s as it started campaigning on race issues during the elections and

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[11] For more information on this topic, read Stewart Firth, Jon Fraenkel, Brij V. Lal.(eds.), *The 2006 Military Takeover in Fiji: a Coup to end all Coups?.* Canberra: ANU E Press.

became synonymous with 'Indo-Fijian' (the Indian party) (Robertson, 2006). Dr Timoci Bavadra, (an indigenous Fijian) the leader of the Coalition, became the Prime Minister in 1987. The Coalition cabinet included six ethnic Fijians, seven Indo-Fijians and minority ethnic group representatives. But the cabinet was perceived as an Indo-Fijian domination of the government and caused resentment among the ethnic Fijian population, leading to sporadic social and political unrest. The defeated Alliance Party members encouraged such sentiments (ibid.).

On 14 May 1987, one month after the Coalition came to power, Dr Bavandra's government was forcibly removed by Lieutenant Colonel Sitiveni Rabuka and 10 military soldiers and the leader subsequently abrogated the 1970 constitution. This was Fiji's first coup d'état, accomplished without a shot being fired; prior to this, most people in Fiji were scarcely aware what a coup was.[12] The coup was promoted as protecting the government and nation against the wrath of nationalist movements and protecting the rights of indigenous Fijians, but overt support by Alliance Party members who had been defeated in the elections suggests that the main grievance was refusal to accept electoral defeat (Lal, 2008). Key players in this coup were the Royal Fiji Military Forces, indigenous activists of the Taukei Movement, and many known Alliance Party members (Sharpham, 2000). The acquiescence to the coup was also obvious by the actions of powerful chiefs such as the ex-Prime Minister, Ratu Sir Kamisese Mara and the first indigenous Fijian Governor General, Ratu Sir Penaia Ganilau. This had great symbolic importance

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[12] An indication of a lack of panic is reported on reflection by Sam Thompson, the first reporter who broke the news of the first coup (Thompson (2010).

as for the first time many Indo-Fijians were targeted by ethnic Fijians in a hateful manner.[13]

SECOND COUP

The second coup was carried out on 25 September 1987 by the recently promoted and amnestied military Commander, Sitiveni Rabuka. Following the May coup, Rabuka had established a military council and worked with the Governor General to commission a review of the constitution to entrench indigenous Fijian dominance in the political arena (Martin, 1988). However, Dr Bavadra, the deposed Prime Minister, brought legal proceedings against the actions of the Governor General[14] and eventually the Supreme Court ruled that the coup was unconstitutional (*Bavadra v Attorney-General,* 1987) . This ruling led to the start of negotiations between deposed government members and other political parties, and culminated in the Deuba Accord, which outlined a basis of a government of national unity (Martin, 1988). Rabuka was concerned that this was against the objective of the May coup; he therefore, deposed the Governor General in the second coup and imposed martial law (ibid.). The complicity of powerful chiefs was noticed again as Rabuka established an interim government with Ratu Mara as the Prime Minister, Ratu Penaia as the President and re-established the constitutional review process with the involvement of many chiefs and military personnel.

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[13] Many anecdotal reports circulated of Indo-Fijians harassed by ethnic Fijians, who were known to them. It is not uncommon to hear ethnic Fijians tell Indo-Fijians, 'What happened to Indians in Uganda will also happen to you people'.

[14] The Governor General is the representative of the Queen of Britain, who was the official Head of State until Fiji became a republic in 1987. Post-independence, the Governor General was nominated by Fiji's Great Council of Chiefs rather than the monarch. After the second coup in 1987, this position was renamed the President of Fiji.

In 1990, a new constitution was promulgated, ensuring that only an indigenous Fijian could become prime minister and entrenching the military's involvement in the political arena. For instance, a 1989 submission by RFMF officers to the Constitution Review Committee indicates a shift in the military towards praetorianism:

> The officers talked of Fiji needing a 'very strong and firm government even if we have to temporarily sacrifice Constitutional Government until all remedial, corrective and upgrading actions are finalized in favour of the indigenous people of this country'. (Firth & Fraenkel, 2009: 121)

Section 94 of the 1990 Constitution, gave the RFMF overall responsibility for ensuring the security, defence and well-being of Fiji and its people at all times and the military has more than once utilised this clause to justify their intervention in politics on the basis of maintaining security.

The 1990 Constitution was very unpopular with the Indo-Fijian community as it was considered discriminatory and relegated them to the status of second-class citizens in their country of birth by not giving them the same political rights as indigenous Fijians. Subsequent to the passing of this constitution, Rabuka resigned from the military and reinvented himself as a politician, with the backing of the chiefs. He was elected as the leader of the chief-sponsored party, Soqosoqo ni Vakevulewa ni Taukei (SVT), which won the 1992 general election (Premdas, 1993; Lal, 2008). However, internal divisions within the SVT led to the defeat of the 1994 budget, which led to a call for fresh elections and the formation of a new indigenous Fijian political party, the Fijian Association Party (FAP) (The

Review, 1994; The Fiji Times, 1994). SVT and Rabuka were returned to office in 1994, initiated a review of the constitution in response to increasing opposition criticisms, and developed a good relationship with the National Federation Party (NFP) to acquire Indo-Fijian votes (Lal, 2008). By 27 July 1997, a new constitution was promulgated.[15] The 1997 constitution review commissioners, selected on the basis of impartiality, were representative of different ethnic groups: Tomasi Vakatora, an ethnic Fijian, Brij Lal, an Indo-Fijian, and Sir Paul Reeves, a Māori and former Governor General of New Zealand, were appointed for this task. The constitution institutionalized the Great Council of Chiefs, guaranteed their power to elect the President and 14 of the 32 Senators, thereby accommodating the indigenous Fijian demands. But the demands of the Indo-Fijian community were acceded to by the indigenous Fijian through the relinquishment of the former constitutional guarantee of the majority in the House of Representatives and monopoly on the Prime Ministership. Thus the 1997 Constitution allowed for the successful consolidation of political parties beyond race elements and aided the subsequent victory of the Fiji Labour Party (FLP) in the 1999 elections.

THIRD COUP

The FLP triumph in the 1999 elections gave Fiji its first Indo-Fijian Prime Minister, Mahendra Chaudhry, but this angered hardline Fijian nationalists. Tension was particularly tangible when the Chaudhry government started discussions on land use policies, sale of mahogany and the constitution. Although the constitution guaranteed indigenous supremacy in land ownership, there were widespread fears among indigenous communities that the land reform policy proposed by the

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[15] *Fiji's Constitution (Amendment) Act 1997*, accessed on 29/6/10 from http://www.paclii.org/fj/legis/num_act/ca1997268.

Chaudhry Government would impinge on their right to land (Chang, 2008: 4).[16] Chaudhry's insensitive handling of these highly emotive issues, his deteriorating relationship with the media and in-fighting for leadership within the Fiji Labour Party (FLP) and coalition partners further strengthened the nationalist stance (ibid.; Field, 2010). Chaudhry's mishandling of the mahogany issue (see next paragraph) also fanned tensions and can be linked directly to George Speight's role in this coup.

During the 1950s and 1960s, the British colonial administration in Fiji had initiated pine and mahogany plantation projects. The land was leased from indigenous Fijian landowners for a nominal price of 10 cents per hectare, and allowed landowners a share of profits upon harvest (World Rainforest Movement, 2000). In 1996 George Speight was appointed the Chairman of Fiji Pine, Fiji Hardwood Cooperation and Health Insurance Fiji, but during the late 1990s he was removed from the last two organisations due to his alleged dubious business dealings linked to pyramid schemes in Australia (Dobell, 2008: 125). However, Speight was the key negotiator of the mahogany harvest with the US-based Timber Resource Management TRM for US$210 million (World Rainforest Movement, 2000). This deal needed the consent of government but the Chaudhry government awarded the mahogany harvest contract to the British-based Commonwealth Development Corporation (CDC) for US$65 million. This angered Speight and many Fijians (ibid.). The contract was awarded to CDC with the understanding

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[16] The term *supremacy* is often used in the context of ethnicity based conflicts to indicate one ethnic group's claim of superiority over another. The claim of supremacy is sometimes entrenched by law, as in the case of Fiji where some social, political and economic rights of Indo-Fijians are lower compared to the indigenous Fijians, because of their ethnicity. For more information about this concept especially in relation to Fiji, see R. Vries, (2002), 'Ethnic tension in paradise: explaining ethnic supremacy aspirations in Fiji', *International Journal of Intercultural Relations.* Vol. 26, pp. 311-327.

that Britain would back Fiji for sugar export support in the European Union (ibid.). The ethnic Fijians perceived this as the government's favouring Indo-Fijian sugar farmers over indigenous Fijians' economic benefit from mahogany. Although Speight had no notable history of championing indigenous Fijian rights, he started a campaign of demagoguery and lobbied against the government within the indigenous Fijian community (Dobell, 2008: 125; Fraenkel, 2000). On 19 May, this escalated into 20,000 people marching across Suva to The Parliament House (ibid.). Part of the demonstration group, particularly young Fijian men, started to riot, burning, looting and destroying much of the businesses and properties owned by Indo-Fijians along their way.

The demonstration coincided with the first civilian coup in Fiji when a group led by George Speight, entered Parliament and held Prime Minister Chaudhry and most of his cabinet and other staff hostage for 56 days. During this time he negotiated with the President, Ratu Mara, to dissolve the parliament and grant him authority to form government. The President eventually dissolved parliament but refused to accept Speight's authority and denounced this coup (Fraenkel, 2000). However, 'Fiji's political establishment showed little sign of political will to confront this kind of populist ethnic nationalist movement' (ibid.). Speight's assault was backed by seven renegade members of the military's Counter Revolutionary Warfare Unit (CRW).[17] But Speight's populist strategy to engage with the rural villagers, particularly from marginalised provinces, proved to be effective as the political elites, the GCC, military and police wanted to avoid indigenous Fijians taking up

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[17] The 1987 coup executor Rabuka had initiated the CRW unit but Major Ilisoni Ligairi was charged with forming and running this elite unit. Ligairi was a retired British Special Air Service (SAS) officer. After 12 years of nurturing the unit and introducing the concept of Special Warfare, Ligairi retired from the Fiji Military Forces in February 1999 and was the lead member with arms in the April 2000 coup.

arms against each other.[18] Speight's interaction and accommodation of rural villagers at the Parliament house increased his populist support.

> ... supporters from the provinces of Tailevu and Naitasiri flocked into the Veiuto complex [Parliament House] in support. In festive spirit, they brought chickens, root crops, bundles of *yaqona* [mild narcotic drink made of ground roots of kava (*Piper methyisticum*)] and live pigs lashed to staves. Lovo [earth ovens] were dug around the parliament grounds and tents set up for people from different villages. Minor chiefs and populist orators, including a number of evangelist preachers, addressed the assembled onlookers in the Fijian language, while, garbed in pocket *sulu* [skirt worn by Fijian men, similar to Scottish kilt], shirt and tie, Speight commenced a daily routine of press conferences, conducted in the English language, for the international media'. Speight successfully turned himself into a modern Fijian folk hero, dancing the slow *taralala* [dance] with middle-aged Fijian women and articulating the rebels' call for indigenous Fijian political paramountcy. (Fraenkel, 2000)

Unlike the 1987 coups, Speight did not secure the support of prominent chiefs and the Commander of the Military, but as other chiefs clambered for power in Speight's self-proclaimed government, this coup ended up intensifying divisions among the chiefs of Fiji (Head, 2000). The 30 members of Parliament, who had been held hostage within the Parliament complex since 19 May, were eventually released on 13 July after Speight had negotiated with the military for amnesty, the abandonment of the 1997 constitution and a new Fijian-only government. On 27

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[18] During these 56 days, 'Speight incited pillaging, house-torching and other violence against ethnic Indian shopkeepers, small business operators and villagers. After an initial orgy of looting and burning in the capital Suva, the attacks spread to rural areas. Balaclava-hooded youth armed with sticks, stones, knives and axes robbed and terrorised villages. Soldiers and police officers have largely turned a blind eye to the violence, but there were reports of ordinary Fijian people protecting their neighbours and friends' (Head, 2000).

July, Speight was arrested and charged with treason in relation to retaining military arms and threats to Fiji's newly installed President, Ratu Josefa Iloilo. With military backing, Laisenia Qarase, a former banker, was installed as the head of the interim government in July 2000. Speight was tried for treason and is currently serving life sentence, which was commuted from a death sentence. Tensions were still high after the interim government was set up, as during November 2000 Bainimarama nearly lost his life during a failed military mutiny carried out by rebel soldiers who supported Speight's coup; eight soldiers were killed and 28 were wounded in the course of the melee.

With the backing of the Great Council of Chiefs and the military, Qarase formed a new party, the Soqosoqo Duavata ni Lewenivanua (SDL) and went on to win the 2001 elections under that banner (Chang, 2008). This led to a resurgence of ethno-nationalism within the country because to secure a legislative majority, the SDL partnered with the hard-line nationalist Conservative Alliance (Matanitu Vanua) (CAMV) who had fielded Speight and other coup plotters as candidates (Chang: 2008: 7).[19] The Qarase government intervened to release the convicted CAMV members from prison through a pardon. The military was strongly against this move as Bainimarama had vowed to bring the perpetrators of the 2000 coup to justice, particularly after the threat to his life in the mutiny earlier (Firth & Fraenkel, 2009: 124). The opposing stances of Qarase and Bainimarama were the prelude to constant public airing of differences between the two from 2003 until the 2006 coup.

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[19] Speight won his seat in the 2001 election despite being in prison and awaiting trial, but was not expelled from parliament for non-attendance.

FOURTH COUP

The coup of 5 December 2006 was the removal of Qarase's government by the military. It had materialised after three years of escalating tension between the government and military. The catalysts for this tension were the government's protection of the 2000 coup perpetrators and the three proposed bills: Reconciliation, Tolerance and Unity Bill, the Qoliqoli Bill and the Land Tribunal Bill. Of the three Bills, the RTU was the most contentious as it would grant amnesty for some of the persons involved in the 2000 coup. The military and many NGOs viewed this as patronage politics by the Qarase government to the nationalist CAMV, for their support as a coalition partner. The military was also strongly against the RTU Bill because it wanted to have all military personnel implicated in the mutiny against the military brought to trial.

The latent tension escalated into a real possibility of coup in late October 2006, when Bainimarama gave Qarase an ultimate to meet their nine demands (formally articulated on 27 November 2006) or resign.[20] In summary, the demands were: to bring the perpetrators of the 2000 coup to justice, withdrawal of the three controversial Bills, termination of the contract of the Commissioner of Police (who was an Australian), ensuring that there was no foreign military or police interference, and dropping any investigations against the military and commander for mutiny related deaths. By early December, Qarase conceded to some of the demands but was unable or unwilling to placate the military, making a coup inevitable.

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[20] On 27 Nov. 2006, to defuse tensions, New Zealand's Prime Minister, Helen Clark organised a meeting between Qarase and Bainimarama. An agreement was reached and documented can be accessed from http://www.fijilive.com/archive/showpdf.php?pdf=2006/12/govt/points_agreement.pdf. (Accessed 20/6/10)

The public display of friction between the military and the Qarase government through the media intensified the tendency of the population to take sides; generally speaking, indigenous Fijians sided with Qarase and the Indo-Fijians sided with the military commander. Interestingly, this started a shift of allegiance towards the military among both ethnic groups. Contrary to prior coups, this coup did not have overtly racial elements but still polarised the two communities in their views on the coup. Many Indo-Fijians initially enthusiastically embraced it, largely born out of their dislike of the ethnically exclusive policies of the SDL but indigenous Fijians were against the coup as it went against the traditional institutions of the Great Council of Chiefs and the churches (Chang, 2008). The coup also divided the pro-democracy advocates and organizations in the country; the very groups that had been steadfastly united in their opposition to the 1987 and 2000 coups (ibid.). For instance, the Director of the Fiji Human Rights Commission vehemently defended the 2006 military coup (FHRC, 2007a), and was heavily criticised by many of Fiji's constitutional and human rights lawyers (FHRC, 2007b).

Bainimarama justified his coup as a 'Clean-up Campaign' to rid the country of corrupt, racist practices and enhance good governance (*The Fiji Times*, 2006). But his request to lift sedition charges against the military and himself are seen as contradictory to the ethos he champions of opposing corruption and supporting good governance. The praetorian aspect of the military is demonstrated by a comment of a senior military officer in post-2006 coup:

Military officers should be accommodated into nation building. I feel the military has been used too much like a tied watchdog with a tag return to barracks after the job and 2000 was an example … That is what the Constitution says and [it] was a bad use of military officers … If you keep using the military as a watchdog the chain might break and bite people.[21]

To legitimise the coup, Bainimarama 'returned' executive authority to President Iloilo on 4 January 2007 and was duly appointed the Interim Prime Minister (Chang, 2008: 21). On 9 April, the Supreme Court ruled in favour of the Qarase government and required the President to appoint a caretaker Prime Minister (*The Fiji Times*, 2009b). However, President Iloilo abrogated the 1997 Constitution and reappointed Bainimarama as the caretaker Prime Minister on 10 April (*The Fiji Times*, 2009b).

During the *Qarase v Bainimarama* (2009) case many people in Fiji had hoped that courts could restore democracy as it did in the Chandrika Prasad case (*Prasad v Republic of Fiji*, 2000). Chanrika Prasad case was an important landmark case and has become a case law as it was the "first time that the leaders of a coup d'etat had voluntarily submitted to the jurisdiction of a court, only months after a takeover" (Williams, 2003: 2).

Bainimarama ... tightened his grip on power by dismissing top level civil servants and government-appointed statutory board members, suspending the Chief Justice of the High Court and the Great Council of Chiefs, placing the country under a state of emergency and limiting freedom of expression by rounding up civil society activists who publicly voice their opposition to the coup. (ibid.)

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[21] The Fiji Times (2007). Naupoto backs military postings**,** 23 July 2007.

As with all other coups, Bainimarama was granted full impunity, despite his adamant rhetoric that 2000 coup perpetrators should not be pardoned (Chang, 2008: 21). 'The seeking and granting of amnesty has become a customary feature in the planning, execution, resolution and legitimation of coups, a strategy Bainimarama has gleefully adopted from Rabuka and Speight' (ibid.). However, Speight is the only coup leader who has been held accountable for his actions and is currently serving a prison sentence.

While Bainimarama had pursued a hard line against patronage politics, military patronage has militarized the administration to an extent never experienced before in Fiji. Military personnel now head several government departments and statutory bodies such as; the police, prisons, immigration, justice, the postal service, fisheries, and works and transport, as well as being in charge of the airport and holding several diplomatic positions. In comparison with previous coups, repression by the government is more overt, particularly since the enforcement of the Public Emergency Regulation (PER) (which lasted for 3 years; from 2009 to January 2012) under which the freedom of information and movement is largely within the military control. PER censors all media outlets, political activists, journalists, lawyers, clergy and government critics. Human rights are routinely harassed and members of their families intimidated. Amnesty International (2009) reported that 'some such persons have been arbitrarily arrested, detained, beaten and treated inhumanely'.

> Since the coup, four people have died in military or police custody and dozens have been intimidated, beaten, sexually assaulted, or subjected to cruel and degrading treatment. Security personnel implicated in three of the custodial deaths remain free. (Human Rights Watch, 2010)

CONCLUSION

This chapter focused on a number of different factors that has contributed to conflict in Fiji; the political history of governance; the colonial legacy, the background of the RFMF and the four coups d'etat. To conclude, there have been varied reasons for coups d'état in Fiji, but the military is strongly implicated in each of the coups. The military has embedded itself in the political arena in a range of alliances with different political parties over the last quarter of a century or so. In doing so it gained political prominence by promoting Fijian nationalism in the 1987 and 2000 coups (Norton, 2008: 128). Fragility of democracy is also demonstrated as the 1987 coup was executed exactly a month after the Alliance Party lost in elections after being in power for 17 years. Similarly, the Soqosoqo Vakamarama ni Taukei (SVT) lost in the 1999 election to the Labour Coalition, which was then removed one year later through a civilian coup.

The 2000 coup was a populist coup (this was indicated by the show of support by the indigenous Fijians during Speights 56 days hold at the Parliament building) by a charismatic civilian; Speight. Fraenkel (2009: 55) states that one of the factors which led to popular support for Speight and his coup among the indigenous Fijians was the reversal of Crown land to Native land. While Speight was the front man of this coup, he would not have done this without backing of military elite. The 2000 coup was more violent than other coups in the past and present due to the populist and demagogic approach utilised by Speight, which appealed to the common ethnic Fijian masses, particularly the rural poor. This was as much a rebellion against chiefly Fijians as it was against the Indo-Fijians. The 2006 coup has demonstrated that while the Fiji military largely exists to partake in external defence and as United Nations peacekeepers, it is increasingly adopting a strong

praetorian attitude, by meddling in politics and considering itself as part of the governance activities of the country. It has also thrown the spotlight on the fact that despite its good governance rhetoric, the military, in reality, is as corrupt as the government it has replaced. According to an analysis carried out by the Fiji Independent Commission against Corruption (FICAC) between 2007 and 2014, 'corruption and abuse of office continues to be widespread across all public sectors' (The Fiji Times, 2015), and the analysis showed that 'abuse of office tops the offence listing with forgery second on the list followed by embezzlement' (ibid.). Radio New Zealand International (2010) also reported that Fiji has been excluded from the Transparency International's *Corruption Perceptions Index* since 2007 and in the 2010 international survey about budget transparency, Fiji scored zero out of a 100 possible points, stating that 'it is virtually impossible for Fiji citizens to hold the government accountable for its management of the public's money'. Fiji had a democratic election in 2014, yet even after that it continues to be excluded out of the internationally recognised *Corruption Perceptions Index*.

Some common elements of good governance are accountability, participation, transparency, respecting the rule of the law, among other elements. The interim military government did not abide by many of these elements of good governance as instead of encouraging transparency, it has continued censorship of media and civil society organisations. The interim government also promulgated many decrees without any consultation and input from the community or stakeholders.

CHAPTER TWO: METHODOLOGY

The research for this thesis was conducted on the basis of applied research, with the understanding that it would produce knowledge that could be applied to initiate change, particularly in the arena of security sector reform in countries with histories of structural violence.[22] However, it is acknowledged that policy decisions generally emerge from broader political interests and the findings of this thesis may not be utilised by stakeholders. Additionally as this is an academic exercise, basic research will be integrated with the applied research elements. Basic research is defined as a systematic and rigorous inquiry to understand a phenomenon and to expand the knowledge base of a particular issue, while applied research extends this concept to understand how to solve problems and seeks to generate practical solutions where possible (Hermann, 2001: 88-111).

Researchers working in the field of human rights and transitional justice are often faced with the dilemma of which approach to take for their empirical data collection, quantitative or qualitative. Quantitative approaches are more hypothesis driven, focusing on measurements and are useful tools for obtaining statistics. By contrast 'qualitative research offers a depth and richness of response that illuminates the dynamics of the process under study' and assists in identifying complexities that are not apparent when using structured questionnaires (Pham & Vinck, 2007: 234).

Qualitative research findings are often criticised for being non-representative of the wider population as data are generally obtained from non-randomized samples and of much lower numbers of respondents in comparison with

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[22] This concept is discussed in chapter 3, Theoretical Framework.

quantitative methods (ibid.). However, such findings can be extended to the population similar to the respondent group but the essence of qualitative research goes beyond eliciting generalized findings (Mack et. al, 2005: 1).

> The strength of qualitative research is its ability to provide complex textual descriptions of how people experience a given research issue. It provides information about the "human" side of an issue – that is, the often contradictory behaviours, beliefs, opinions, emotions, and relationships of individuals. Qualitative methods are also effective in identifying intangible factors, such as social norms, socioeconomic status, gender roles, ethnicity, and religion, whose role in the research issue may not be readily apparent (Mack et. al, 2005: 2).

Proponents and opponents of both approaches highlight their strength and weaknesses but also accept that they can serve different purposes and can be complementary to each other (Pham & Vinck, 2007: 234). Using complementary methods allows researchers to 'consolidate strengths, and cross-check and triangulate' information obtained (Mayoux, 2006: 123). Triangulation is important as it gives credibility to data obtained from different methods which may show similar or contradictory patterns. 'In recent years, the use of qualitative and quantitative methods in studying the same phenomenon has received significant attention among the scholars and researchers, as a result, it has become an accepted practice to use some form of "triangulation" in social research' (Yeasmin & Rahman, 2012: 154). Quantitative and qualitative methods of research can be combined to arrive at a better understanding of the issue being investigated (Mertens & Hesse-Biber, 2012).

By combining multiple observers, theories, methods, and empirical materials, researchers can hope to overcome the weakness or intrinsic biases and the problems that come from single-method, single-observer, single-theory studies. Often the purpose of triangulation in specific contexts is to obtain confirmation of findings through convergence of different perspectives. The point at which the perspectives converge is seen to represent reality. Jakob, (2001)

Although triangulation has been criticised for assuming a single fixed reality (Seale, 1999: 53-61) is still a useful tool in qualitative research, as it allows the researcher to reflect on reasons for the differences in data obtained from different methods used and document them as part of the research process. Hence, in consideration of the various strengths and weaknesses of both quantitative and qualitative methods, a combination of methods was utilised. In total, three specific methods were utilised to obtain data for this research: focus groups, semi-structured questionnaires and key informants. However, as discussed below, the focus group interviews were discarded due to lack of trustworthiness of data obtained in the focus group sessions. For the rest of this paper the term 'respondents' will mean the respondents of the semi-structured interviews and the term 'informants' will mean key informants.

In total 50 persons were interviewed using semi-structured questionnaires and 16 key informants were interviewed using the in-depth approach. While the number of respondents may seem low, the rationale for this research is not to have generalised findings but rather to get rich data with many issues identified and discussed in depth. Pham & Vinck (2007: 235) cite the cases of University of California, Berkeley and the International Center for Transitional Justice research, which only interviewed a total of 38 key informants and 49 focus group interviews

in Iraq in 2003. Iraq has a much larger population than Fiji. In a 2010 Mark Mason undertook a study of PhD students in UK to analyse the common sample sizes (Mason, 2010). 'The smallest sample used was a single participant used in a life history study,… while the largest sample used was 95…'. 'The most common sample sizes were 20 and 30 (followed by 40, 10 and 25)' (ibid.: paras 3-4). This research sample sizes falls comfortably within the generally accepted ranges. Additionally, the essence of my data collection was to achieve a saturation point; that is 'when the collection of new data does not shed any further light on the issue under investigation' (Glaser & Strauss 1967, cited in Mason, 2010: para 6).

FOCUS GROUP

The focus group method was identified as it is generally effective for learning about social norms and the range of views on a particular issue within the population. The richness of focus group data emerges due to group dynamics and diversity, as people influence and are influenced by others to take and justify a certain perspective (Mack, 2005: 52). Fiji citizens are known for their openness in discussing issues, whether political, social, economic, cultural or religious. However, in times of conflict this openness is suppressed. Albert (2001: 122) states that employing focus group sessions in societies experiencing conflict is difficult as it is almost impossible to bring conflicting sides together for such discussion. While similar parties could be interviewed separately, it would be self-defeating as different views are unlikely to be aired during the discussions.

In my attempts to organise focus group sessions in Fiji, the most difficult process was to get people to come together as a group. The strongest deterrent was the Public Emergency Regulations (PERs) in Fiji which was in place at the time of

data collection. While the PERs were in place since April 2009, it was hoped that they would be lifted before March 2010, when data collection started. However, this did not happen. The PERs clauses on 'prohibition and dispersal of assemblies' under that law states that anyone can be arrested for being part of a gathering if any police of military officer deemed it to be inappropriate or threatening public safety (Government of Fiji , 2009: 12). And as Fiji is a small country, and almost everyone knows at least one military or police personnel or are connected with a family or relative who have military or police personnel amongst them;, the focus group participants were apprehensive of being reported for discussing issues pertaining to military or sensitive issues relating to the military. In times of tension, it is argued that 'fear is not always experienced in proportion to the actual amount of risk' (Smyth, 2001: 9). This was experienced first-hand; personally I was never harassed either by the police or the military, both of whom were aware of my presence in the country and reasons for my research. However, after realising the pervasiveness of this fear within different groups and the lack of trust of each other within the community, I had to respect the fears of the individuals within the community and therefore stopped trying to organise focus group sessions after four weeks.

During the four weeks of data collection, I managed to get a focus group organised within the Qauia Settlement, in anticipation that the richness of data from the focus groups sessions would have given important insights on the topics discussed. Focus groups could have also validated data acquired through other methods as well. However, it became clear that focus group data could not be utilised in this research as it was found that the focus group participants were not being honest due to the trust issues mentioned above. This was established after

the end of the Qauia Settlement focus group session. I approached an individual for an in-depth interview, to authenticate her responses and to probe for further information. During this process it was found that many of the responses given by this individual was contradictory to what she had said during the focus group session. On probing, it was found that she did not trust her neighbours completely as some of them have immediate family members in the military and the police force. Other similar discussions in an informal setting with groups of people I knew well, also confirmed this as a trend. People would say positive things about the interim government and the RFMF when in group settings but contradict themselves when having individual discussions. This confirmed my decision to discontinue the focus group approach.

SEMI-STRUCTURED QUESTIONNAIRES

In line with concerns that any group activity may endanger participants, it was decided to select an approach that gave individuals space and anonymity. In-depth interviews had been utilised for key informants but I wanted to triangulate that with questionnaires to allow a larger number of individuals from different sections of the community to participate in the study. However, as the aim was still to acquire qualitative data, a semi-structured questionnaire was designed. This had a total of forty-four questions (see Annex 6) and was piloted within a small group. The response was overwhelmingly positive from the pilot session as some people said:

- 'filling that questionnaire was almost empowering as I felt I could finally give voice to my frustrations about the current situation',
- 'it made me REALLY think about our situations',
- 'it made me think that we should be asking these questions to the government, but maybe not so explicitly'.

The questionnaire was slightly revised and circulated among the target population. Purposive and snowball sampling were utilised to identify respondents. Purposive sampling was utilised while I was in Fiji and identified persons who had some understanding of these issues, such as Youth Peace Builders, Development Studies students at the university, and so on. Snowball sampling was utilised for email distribution with the questionnaire slightly revised to ensure anonymity and a specified time given for its return. Some filled emailed questionnaires were received from Fiji diaspora who are recent emigrants and/or students and therefore still Fiji citizens.

Table 2 shows that the demographics of the semi-structured questionnaire respondents. A total of 65 filled questionnaires was returned of the 80 circulated, but 6 questionnaires were discarded as the respondents were living overseas for a considerable period of time, therefore the total number of respondents was only 59. This resulted in a 74% response rate. The largest group of respondents were aged between 20 and 29 years, with a slight skew towards Fijians. In the overall population, Fijians make up 58% of the population, Indo-Fijians 38% and Other ethnic groups 4%. The Indo-Fijian demographic of the data collected is less by 13% of the national percentage, while the Fijians comprised 13% more than the national population.

Table 2: Demographics of Questionnaire Respondents

Gender			Ethnicity					
			Fijian	Indo-Fijian	Other Ethnicity	NR	Total	Percentage
Female	Age	20s	19	8			27	46%
		30s	4	0			4	7%
		40s	1	2			3	5%
		50s	1	0			1	2%
	Total		25	10			35	59%
Male	Age	20s	12	5	0		17	29%
		30s	1	0	1		2	3%
		40s	3	0	0		3	5%
		50s	1	0	0		1	2%
	Total		17	5	1		23	39%
NR	Age	20s				1	1	2%
	Total					1	1	2%
GRAND TOTAL			42	15	1	1	59	100%

KEY INFORMANTS

The use of key informants is an ethnographic research approach that has branched out to other social sciences. Generally used to obtain data about a pressing and/or sensitive issue from a limited number of experts in the area of interest or those who have insider knowledge, it usually entails in-depth interviews with each informant (Marshall, 1996: 92-93). Individuals usually have different perspectives on the same event and are most likely to distance themselves from disastrous decisions that were made by them in the past and because they may not accurately recollect significant facts or details, accuracy could be doubtful (Lilleker, 2003: 211). To minimize this, any unusual and/or incorrect data will be verified against other sources for same or similar information.

While key informants are advantageous for the insider and in-depth knowledge of a particular issue, their perspective can be elitist. To minimize the issue of elitism, some interviews were conducted with individuals who have insider information but are not high ranking public figures, such as an administrative officer and two

university students. The administrative officer works in the judicial office and interacts daily with many key political and legal officers. This informant was particularly useful in substantiating information relating to abuses of office, weak rule of law, corruption, and so on. The student informants were both from prominent ethnic Fijian political and military families but had distanced themselves from their kinship links in coup related events and were able to provide an informative insider perspective on kinship ties, chiefly and military patronage politics and many related issues.

In researching issues such as amnesty, security sector reform, and prevention of coups, I found that conducting key informant interviews was the most accessible and informative strategy as it provided useful insights into these sensitive issues. For my study purposes I had identified 21 potential key informants representing past and present coup perpetrators, members of past and present governments who were removed from office by a coup, human rights activists, the legal fraternity, academics, and chief officers of NGOs and other agencies. In total 16 key informants were interviewed, yielding a76% response rate. The interview time ranged from an hour to a maximum of two and half hours. Interviewing members of the political elite can be fraught with problems if not planned and managed well and most problems occur in seeking, locating and contacting the elites individuals, particularly those who have retired (Lilleker, 2003). However, Fiji has a small overall population of approximately 800,000 and most elite persons can easily be traced, especially as most key players of even the 1987 coups are still active in the national political scene. Additionally, networking to access contacts in Fiji is very much embedded in the culture and I was able to utilise my connection with the academic, NGO and military communities to my advantage.

One of my first points of contact was the University of the South Pacific, as I had worked there personally for many years and people there trusted me. This proved to be very advantageous as I gained access to personal contacts of two ex-Prime Ministers, a former Secretary to the President, a former high ranking military officer and two graduate students, and was able to interview all of them. Another crucial point of contact was a friend in the Director of Public Prosecution's Office (DPP) who gave me direct access to the Deputy DPP at the time of the interview (David Tonganivalu), a former DDP (John Rabuku) and an individual within the administration section. Due to my personal contact within the community, I was able to secure access to three NGO directors, a human rights group, a former senator who has been part of almost all past governments in various forms, a former member of parliament, a former military legal officer and current human rights activist, a journalist, and the Chief of Staff of the Fiji Military Forces.

Despite many attempts in different ways, I was unable to secure interviews with some potential informants. A deposed Prime Minister (Mahendra Chaudhry), who had initially agreed to an in-depth interview, only responded to emailed questions. This did not give me an opportunity to probe for more information, but the data are still useful and have been used in analysis. After many attempts and emails, a senior staff from UNDP's Crisis Prevention and Recovery Unit in Suva agreed to an interview, but continually stalled for an actual date of the interview, and a day before I left Fiji, he emailed to agree for an interview a week later. Therefore, I was not able to get his perspective. Attempts were also made to interview key informants from the Political Governance and Security Programme of the Pacific Islands Forum Secretariat, Transparency International, Fiji Women's Rights Movement and Fiji Women's Crisis Centre, but all were unsuccessful. Many did

not reply to emails and messages left with their assistants. I had also visited these offices in an attempt to meet them but was unsuccessful. Mr Nimmo, the person in charge of the Political Governance and Security Programme of the Pacific Islands Forum Secretariat informed me via his Administrative Officer, Angela Thomson, on 18 March, 2010 that, 'as an international civil servant he (Mr Nimmo) cannot provide personal perspectives on the issues you have raised' (Thomson, 2010), although I had reiterated that I was interested in his professional perspective rather than his personal views. Therefore, I was unable to analyse the if international focus on amnesty for gross violations indicated international sanction for political crimes such as coups d'état. This was a limitation for this research.

Numerous attempts were also made in 2010 and again in 2015 to interview sitting and/or retired judges who had or continue to work with the Fiji judiciary. However, all these attempts were unsuccessful as except for one, all these judges did not even respond to my request for an interview. One judge responded in 2015 to say that the issue would be too sensitive in light of the current situation in Fiji and therefore he would like to refrain from giving an interview. The situation which has led to such apprehension to discussion any aspect of judiciary and its work had intensified, as authorities prosecuted discussions on the issue of judicial independence. For instance, in October 2012, the Fiji Times editor and publisher were fined for F$300,000 and F$100,000 respectively for reprinting and an article published by New Zealand's *Sunday Star* which briefly referred to the independence of the Fiji courts, and in February 2013, the editor and the publisher were also given suspended jail sentences (Pacific Freedom Forum, 2013). In May 2013, the Chief Executive Officer of the Citizen's Constitutional Forum (CCF), Reverend Akuila Yabaki was fined for contempt of court for publishing a summary

of The Law Society Charity report which stated, that "there is no rule of law" in Fiji and that "the independence of the judiciary cannot be relied upon" (Amnesty International, 2013). 'That the competence and independence of the prosecution service has been reduced to an unacceptable level' (The Law Society Charity, 2012: 15.3).

ETHICS

Issues of consent were approached differently for various methods. In the focus group interview, the consent was obtained verbally. Similarly for the semi-structured questionnaires, respondents gave consent verbally after they had been informed about the research, their voluntary participation and confidentiality. No pictures and videos were taken of the respondents in consideration of their wishes and to exclude any possibility of harm to them. For the key informants, I had requested them to select to use either their true names or select a pseudonym for my reporting of their interviews. Apart from five key informant respondents, all had agreed to use their true names. One respondent stated that 'at least in this way I am rebelling against the suppression of the freedom of speech'.

I made strategies to minimize harm to any of my respondents as much as possible. This was done in awareness of the prevalent fear against the authorities at the time and an understanding that my residence and belongings in Fiji could be searched at any time while I was in the country for data collection. Hence, from the beginning I deleted any identifiers to potential respondents even prior to data collection. For instance, I removed the names of all potential key informants from all documents stored in my laptop and USB, from my mobile phones contact list, and all print documents that I had with me in Fiji. After each interview, I would

store the data on CDs and email a digital copy to myself. The original on the digital recorder was deleted and the CDs were stored at a relative's place. He was unaware of the contents of the CDs, which I believe would minimise any harm to him in the unlikely event of a raid of his house. I had selected this uncle for this purpose being mindful that if the military and police did try to harass my relatives for any information, he was the most unlikely choice as he was little known within the family, had almost no history of human rights activism, lived in a squatter settlement and I had links with him through my community work within that area. Therefore, my contact with him was not perceived as out of the ordinary.

CONCLUSION

This chapter focused on the methodologies used in this research, the challenges faced in the process and how these challenges were addressed. This research integrated the applied research elements into basic research. A combination of both quantitative and qualitative methods was utilised to collect data, after taking into account the various strengths and weaknesses of both methods. Three specific data collection methods were utilised: focus groups interviews, semi-structured questionnaires and key informants. However, the focus group interviews were discarded after realising the pervasiveness of fear within different groups and the lack of trust of each other within the community, particularly when discussions on the coups and the military was attempted.

In total 50 persons were interviewed using semi-structured questionnaires and 16 key informants were interviewed using the key informant interviews using the in-depth approach. While the number of respondents may seem low, the rationale for

this research is not to have generalised findings but rather to get rich data with many issues identified and discussed in depth.

Apart from the focus group interviews, there were also some challenges in interviewing key informants. An informant agreed for a face to face interview but only sent an email response to the questions, which did not allow me to probe for further information. Another respondent stalled for the interview date and another did not agree to the interview with a perception that he did not prefer to share his personal opinions on the issue, despite an assurance from me that the interview would be based on his professional capacity.

I had strategies to minimize harm to any of my respondents and informants as much as possible as some of the topics investigated in this research were sensitive, such as coups and the military reform, particularly as Fiji was under military rule. I also had to consider the prevalent fear of many people against the authorities at the time. Hence, I had to ensure that in the event of any raid by the authorities, the respondents and informants' data and details was not compromised. All the respondents and informants gave their consent for data collection and majority of the informants also gave permission to use their real name in the process.

CHAPTER THREE: THEORETICAL FRAMEWORK

This section will establish the theoretical framework for three main issues; the coups d'état, the concept of structural conflict and the issue of Small Island Developing States (SIDS).

The section on coups d'état will analyse various coup theories and their application to Fiji. Political and social theorists have identified a range of theories for military coups such as: the political development theory; the military centrality theory; the ethnic antagonisms theories which comprises of the modernization theory, the ethnic competition and ethnic dominance theories (Jenkins & Kposowa, 1990); as well as the economic dependency theory (ibid.); the agency theory (Galetovic & Sanhueza, 1997), and the centralization/decentralization theory (Jia & Liang, 2010).

This chapter also analyses the application of the structural approach to conflict to the Fiji situation. This approach focuses on the macro level and considers the role of attitudes, behaviour, policies and institutions in aiding and abetting conflict and the theory was developed John Galtung (1996). He categorized the causes of violence as; direct violence, cultural violence, and structural violence; separating them into visible and invisible elements. It also analyses the different institutions in Fiji and how they are ethnically divided and their link to conflict.

THEORIES OF COUPS D'ÉTAT

Coup d'état is a French word, which literally means, 'a sudden blow to the state' (Oxford Online Dictionary, 2017). This involves the displacement of political leadership either by military or other means and can be violent and brutal or

bloodless (Ratuva, 2007). A coup d'état differs from a revolution in that coups are executed by a small group whereas a revolution is achieved by a larger population (McGowan, 2003: 342).[23] A coup is defined as successful when the perpetrators are able to seize and hold power for at least a week (Thyne & Powell, 2009: 6).

Generally, coups are executed by the military and may involve five stages: the mobilization of human, logistical and ideological resources; displacement of existing government; legitimization of the new authority; placing the coup agenda within the political systems and lastly the return to democracy (Ratuva, 2007; Connor & Hebditch, 2008).

Coups are largely categorized as soldiers' revolts, personal aspirations, conservative attempts, reform coups and those linked to external forces (Acemoglu, Ticchi, Vindigni, 2008). Political and social theorists have identified a range of theories for military coups. Some of the most common ones are the political development theory, the military centrality theory, ethnic antagonisms theories such as the modernization theory, the ethnic competition and ethnic dominance theories (Jenkins & Kposowa, 1990). Other coup d'état theories are the economic dependency theory (ibid.), the agency theory (Galetovic & Sanhueza, 1997), and the centralization/decentralization theory (Jia & Liang, 2010). Most coup theories were initially developed in the 1960s and 1970s, as the phenomenon of coups was most prominent in this period (see Figure 3).

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[23] For more detailed discussion on definition of coup, read Thyne, C. & Powell, J. M. (2009).

Figure 3: Number of Successful and Attempted Coups D'état, 1950-2010
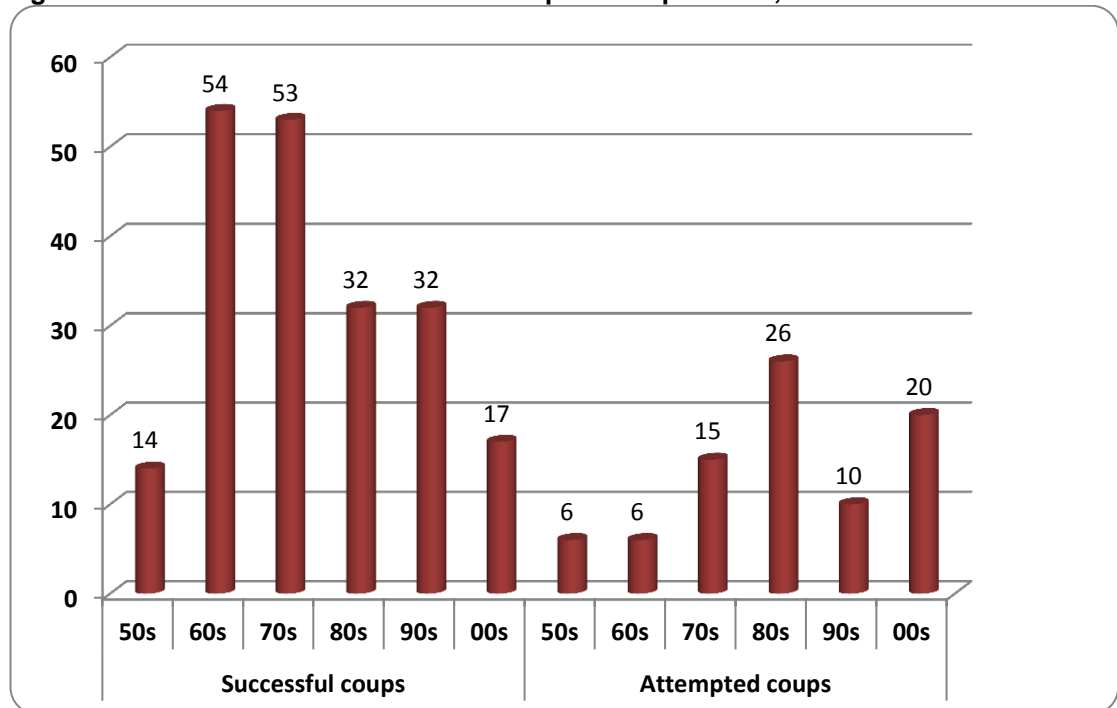
Sources: Human Security Brief, 2007; McGowan, 2003; BBC Country Profiles; Information Please Database; University of Heidelberg's Institute for International Conflict Research; Queen's University, Belfast Amnesty Database and country website where available.

The most commonly identified coup d'état theory is the political development theory which links with the works of Huntington (1968) and Finer (1998). It argues that in many developing countries, political institution-building failed to develop in parallel with economic development (Huntington, 1968: 190-194). Economic development had led to increased social mobilization and political participation but postcolonial states were saddled with administrations that were patrimonial and clientelistic, lacking the ability to effectively demarcate between state institutions and traditional kinship ties (ibid.: 194). Traditional authorities were unable to use their powers to link with the masses as their traditional powers were weakened by colonial rule and the new leaders still worked on the basis of division rather than through designing stable and inclusive institutions (Jenkins & Kposowa, 1990: 862). Additionally, the constitutions adopted by the newly independent states created factions within political systems and unresponsive regimes, resulting in

the military ostensibly acting on behalf of the masses to overthrow the government (ibid.). Hence, the political development theory proposes that coups are more prone to happen when political institutions are weak and have failed to effectively regulate political competition, political demands and political participation. Some of these elements can be used to explain the occurrence of coups in Fiji. However, the concept within this approach that traditional authorities were weakened during colonial period is not applicable to Fiji as the traditional ethnic Fijian structures were strengthened rather than weakened during the colonial era and it has been argued that some of these institutions have links to the coup occurrence in Fiji, see Chapters 1 and 8 for detailed information.

The military centrality theory argues that in many developing countries, post-independence the military are most professionalized in comparison with other state institutions and thereby are more powerful with a strong corporate identity. In addition, they may harbour political aspirations, thus increasing their likelihood to intervene in politics through coups d'état (Nordlinger, 1977; Finer, 1988; Jenkins & Kposowa, 1990: 862). In most countries, colonial military institutions were largely formed to suppress internal uprising, therefore the military had been accustomed to political interference (Jenkins & Kposowa, 1990: 862). But, as the military powers increased in some post-colonial countries, and the newly democratising countries lacked strong political institutions to maintain civilian control over the military, military intervention increased (ibid.). According to Collier & Hoeffler, military intervention can be minimised by increasing military spending, hence placating army grievances. However, this can lead to rebellion from other sectors of society, because government can be deemed as repressive in potentially using the military against them (ibid.). Some elements of this theory are applicable for

coups in Fiji as the military is more organized and professional in comparison with other state bodies, and RFMF was created to suppress internal disturbances during the colonial period. However, RFMF has never had much economic power or attempted coups in order to maintain its corporate interest. However, a few years before the 2006 coup, the Qarase government was attempting to downsize the military. Data collected for this research indicates that the military was receptive to some elements of downsizing but resented the patronage politics of the Qarase government, particularly as the military considered that its losses would be greater than its benefits under that approach.

Ethnic antagonistic theory, as indicated by the name, focuses on how ethnic tensions can be politicized by the military, the broader political institutions and its link with coups d'état (Jenkins & Kposowa, 1990: 863). Three subsets of the ethnicity approach are the modernization theory, the ethnic competition theory and the ethnic dominance theory. The modernization theory takes the stance that rapid economic development creates ethnic political rivals due to social dislocations and leads to social alienation and search for a stable identity (Jenkins & Kposowa, 1990: 863). If assimilation of the different ethnic groups is not encouraged along the lines of a national identity, then people may mobilize exclusively along cultural groups and demand political power through ethnic lines, thus provoking a military coup (ibid.). This theory takes the approach that the military will carry out a coup to suppress such ethnic groups demanding power but does not take into account the fact that the military may collaborate with such ethnic groups to carry out a coup on their behalf. This is more likely to occur when the military is also structured along ethnic groups with a strong allegiance towards one particular group. The 1987 coup in Fiji had many elements of this approach,

as the Rabuka group that came to power wanted an exclusive ethnic Fijian government. It carried out a second coup in September 1987, to maintain this position when negotiations were taking place to form a government of national unity with the Labour Coalition (which was perceived by many ethnic Fijian nationalists as an indicator of the dominance of Indo-Fijians in the political sphere) (Alley, 2001).

The ethnic competition theory has elements of the modernization approach as it argues that ethnic mobilization arises out of development, but it considers economic as well as political and social resources (Horowitz, 1985). It considers the colonial influence of creating ethnic division as the diverse groups compete for the various services and resources along ethnic lines (ibid.). It argues that competition intensifies into conflict when no single group is able to dominate the political centre, thereby increasing the likelihood of the military being utilised to maintain a group in power (Horowitz, 1985: 37). Many elements of this theory can be linked to the 1987 and 2000 coups, as the tensions escalated in Fiji when the Indo-Fijians increased their demands for equal political power which they achieved through elections. Prior to this, Fijians dominated the political arena for 17 years. Additionally, ethnic divisions from the colonial period have been entrenched in many aspects of the social, political and economic fields as discussed above.

In contrast, the ethnic dominance theory claims that instability occurs when a single group dominates the political and economic fields, and uses power to control others. Conflict arises when subordinate groups eventually mobilize to challenge the monopolising group (Jenkins & Kposowa, 1990: 863). This

approach has limited applicability to Fiji as no one particular group has dominated both the political and economic fields as Fijians had dominated the political arena while Indo-Fijians dominated the economic space. However, conflict started when Indo-Fijians started demanding equality in the political sphere (Ramesh, 2007).

The economic dependency theory focuses on uneven development as the main cause of military coups. It argues that countries that are dependent on a limited number of export commodities and are unable to distribute the benefits of development equally are more likely to have a stronger military, which can be manipulated by the political elites to carry out coups (Jenkins & Kposiwa, 1990: 864). To some extent this can be applied to all four coups d'état occurrences in Fiji, as the Fiji Labour Party was formed in 1986 due to a wage freeze by the government (Ratuva, 2002); the supporters of the 2000 coups were largely rural villagers and village landowners who were frustrated by the mahogany harvest scheme (Pirie, 2010); and some causes of the military 2006 coup can be linked to the various Bills tabled by the Qarase government; one of which was to restrict access to sea and coastal area resources solely to Fijians, and thereby barring Indo-Fijian and other ethnic groups from the fruits of economic industries such as tourism, fisheries, and so on (Khan, 2007).

The agency theory states that there is an agency relation between the rulers and citizens, and a coup is more likely to occur when this relationship is manipulated by autocrats and/or military, particularly when there is low economic performance and widespread discontent with the incumbent (Galetovic & Sanhueza, 1997: 18). This theory also takes some elements of the political development and economic dependency theories to argue that countries that are prone to coups have weak

political institutions: they have failed to effectively regulate political competition, political demands and participation meaning that coups are more likely in tough economic times (ibid.: 1-15). Elements of this theory can be applied to various coups in Fiji as the members of the losing political parties, the high profile chiefs and the military have all manipulated the circumstances to create distrust towards sitting government for their own benefit. For instance, many of the losing Alliance Party members supported the military in the 1987 coup and were openly against the Bavadra government. Similarly, after the loss of SVT in the 1999 elections, a number of political and chiefly persons began agitating against the Chaudhry government using demagogic propaganda. Prior to 2006, the military also utilised the media to fragment the nation for and against the Qarase government (Firth, Fraenkel, & Lal, 2009).

A relatively new approach to explaining military coups is the centralization/decentralization theory, which argues that centralized governments are more susceptible to coups particularly when economic downturn is strong and government institutions are weak (Jia & Liang, 2010). Additionally, it argues that military is more likely to intervene if the country is rich in natural resources but with weak and centralized state institutions (ibid.). It assumes that decentralized governments are stronger rather than explicitly demonstrating this. However, aspects of this theory can be related to the greed and grievance approach by Collier & Hoeffler (2005), which states that in countries with rent-seeking culture and weak institutions, the military may overthrow the government to access resource rent.

Despite all the above theories, no single explanation is widely accepted as coups d'état occur in a wide variety of countries and are caused by complex and varied events. More likely, a synthesis of various factors such as lack of political development and participation, colonial legacy, ethnic competition, economic dependency, economic decline, weak state institutions, military grievances, and regime vulnerability can all be utilised to explain why military coups occur. Conflict analysts state that a coup occurrence increases the risk of further coups (Collier & Hoeffler, (2007). Statistics on coups are useful to understand this complex phenomenon.

As discussed above, coups generally occur in five stages. In countries such as Brazil, Panama, Togo, Chile, and Niger among others, it took almost two decades to complete the five stages of the coup, while in the majority of countries it took less than 10 years for the same process. At the extreme end, Myanmar (Burma) and Libya have been under military rule for 49 and 42 years respectively (see Annex 2). Data substantiates that a total of 209 successfully and 104 attempted coups d'état were carried out in 94 countries from 1950 to 2015 (see Annex 1 and Figure 3). The decline of the actual number of coups in recent decades can be attributed to greater willingness of the international community to sanction coup leaders and the request of accountability even within the framework of amnesty. This thesis notes that developmental factors such as an improved economy, social services and political systems may also be contributing factors in reducing internal coups. These issues, also known as structural issues are very pertinent to this thesis.

The number of attempted coups in this decade has increased in proportion to successful coups. This should be of concern as, despite efforts to entrench democratic systems of government, in some countries coups d'état continue to be a means of governmental change, particularly in some developing countries. Since the 1960s there has been a wave of democratization, but this path has been littered with conflicts especially in developing countries, many of which had been under colonial rule prior to being independent. After the initial euphoria of achieving independence and introducing more representative processes, the majority of African countries experienced coups d'état (Hough & Esterhuysen, 1999: 2). This pattern was also noted for countries such as Pakistan, Bangladesh, Fiji, (and Bolivia) among others. This thesis will focus on coups d'état and how they can be shaped by amnesty.

Of course in a number of former colonial countries, coup has never taken place and this could be attributed to a number of factors such as small homogenous population, no military or armed police force and relatively equal access to services for the population as well a strong concept of national identity. Annex 4 shows that a number of the Small Island Developing States (SIDS) such as countries like Cape Verde, Mauritius and most of the countries in the Pacific never had a coup. Many of the Pacific Island countries have very small populations, are homogenous in culture, linguistically and in their faith and therefore may have little tension politically and most of these countries also do not have any functioning military or armed police force. Others such as Nauru has a turbulent political history as they have had numerous changes of government in the last 10 years but as mentioned above, they do not have any military and revolution through peoples' movement is unheard off, hence all governments have either been

removed through the usual elections or through the vote of no confidence in their Parliament. Other countries such as Cape Verde and Samoa among others do not have tension politically as the population has a relatively equal access to services and standard of living. Most of these countries also tend to have a strong sense of national identity.

It has been argued that to maintain democracy, it is crucial that the military should be politically neutral and controlled by civilian authorities (Joinet, 1997; Orentlicher, 2005), while allowing them some level of professional autonomy (Finer, 1988; Huntington, 1968; Janowitz, 1981). Lack of civilian control of the military would indicate failure of political institutions, creating space for the military elite to entrench themselves within the political system, which could lead to military coercion in domestic security (Luckham, 1971). The military should be apolitical, and allied to the democratic government and not to ruling parties or politicians within preferred parties (Ashkenazi, 1994: 5; Kemp & Hudlin, 1992). Alliances between political parties and the military could be used to allow the preferred political party to lead unfair electoral processes, suppress opposition and commit human rights abuses while providing leverage to the military. Conflict analysts have stated that military's disengagement from politics is linked to strengthened democracy and lowered threats of coups d'état (Welch, 1975).

In countries like Israel, the lack of separation between military and politics is perceived as a positive aspect. It is argued that this close civil and military relationship has not threatened the character of multiparty democracy (Lissak, 1983). Such closeness ensures harmony between the government and military and thereby eliminates possible coups, which could destroy democracy altogether

(Peri, 1985; Horowitz & Lissak, 1989). But an in-depth study on Israel reveals that it does not have the same quality of democracy as in mature Western countries such as the United States or United Kingdom (Etzioni-Halevy, 1996: 415). Additionally, Israel contravenes the spirit of democratic principles as the military does implicitly interfere in the electoral process by "augmenting the power and electoral chances of the government over the opposition"; it has also been linked to human rights abuses carried out to retain the military's influence within politics (ibid.). Contrary to many developing country trends and despite the strength of the military and inadequate civilian control, Israel has not experienced any coup d'état. This can be attributed to Collier & Hoeffler's (2005) concept of government addressing military grievances effectively. Additionally, Israel has a developed political system and the government has been able to achieve a balance of civil and military relations. Achieving the equilibrium between the civil and military relations and retaining the military's loyalty is a crucial but complex issue which will be addressed in more detail in Chapter Five.

Annex 2 shows that almost all the coups were accomplished or backed by the military. Sixty eight or 81% of all the countries that experienced successful coups were under military rule, ranging from a few months to decades. In recent years, coup executors have touted bad governance and corruption as their rationale for carrying out coups. While reasons for coups vary from country to country — and within the same country for different coups — military rule is, by definition, authoritarian and often corrupt. History shows that military dictators such as Ibrahim Babangida and Sani Abachar in Nigeria, Idi Amin in Uganda, Augusto Pinochet in Chile, Ne Win in Burma, and Muammar al Gaddafi in Libya for example ruled their people with 'iron fists' and suppressed any show of opposition

against their regime, often violently. Human rights abuse is a common occurrence under many military regimes (McGowan, 2003). When a country is under a military regime, the leaders tend to assume almost absolute and unquestionable power. For instance, after the 2006 coup in Fiji, Commodore Bainimarama stated his transitional regime could rule for 50 years if the Great Council of Chiefs did not comply with his demands (Radio New Zealand International, 2006b).

The majority of the countries experienced coup only once (see Annex 1), but this does not mean that the effects of those coups were negligible. For instance, Burma and Libya have had two and one coups respectively, but have been under military regime for more than 40 years as a result. It is argued that "once a successful coup has occurred, military factionalism often leads to more coup behaviour" (McGowan, 2003: 339). This trend is observed in the dataset as 67 of the 94 countries shown in Annex 1, experienced a coup more than once, while 30 countries experienced coups more than four times since 1950. While the literature on coups has focused on the reasons for their occurrence, scholars writing on Africa and Asia do not focus on the link and dynamics between coups and amnesty. Chapter Four will explore this connection.

A number of different theories on why coups occur has been explored in this section and while no single theory is relevant to the four coups in Fiji, it is noted that some aspects of these theories, such as the concept of structural weaknesses such as political, social and economic has a significant role in explaining coups. Therefore, the next section will focus on structural violence.

STRUCTURAL VIOLENCE

The structural approach to conflict focuses on the macro level and considers the role of attitudes, behaviour, policies and institutions in aiding and abetting conflict. Structural violence occurs when a group within the population is systematically denied rights that are available to the rest of the population (Galtung, 1996). In such societies, structural violence tends to be pervasive, widely accepted within the community and challenging to address, as it is sometimes difficult to identify the perpetrator (ibid.). Galtung developed a theoretical model of structural violence, categorizing the causes of violence as direct violence, cultural violence, and structural violence, separating them into visible and invisible. This was dubbed as 'Galtung conflict triangle' as seen in Figure 4. According to Galtung,

The visible effects of direct violence are known: the killed, the wounded, the displaced, the material damage, all increasingly hitting the civilians. But the invisible effects may be even more vicious: direct violence reinforces structural and cultural violence and vice versa. (Galtung, 2004)

Figure 4: Galtung's Conflict Triangle
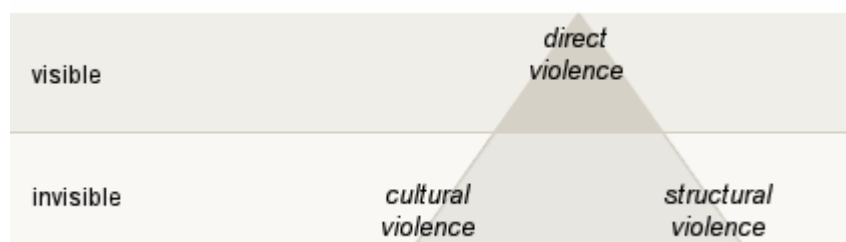
Source: Galtung, 2004

Structural violence is linked to Galtung's work on negative peace and is defined as the implicit form of violence that is embodied by the social, political and economic structures of the society (Galtung, 1969: 167–191). Galtung focussed on

structures that allowed violence to occur vertically — that is top down — and categorised it politically as repression and economically as exploitation (Galtung, 1996: 93). 'The violence is built into the structure and shows up as unequal power and consequently as unequal life chances' (Galtung, 1969: 171).

Azar (1990) further refines the structural violence concept to include identity related conflicts since the Second World War: he considers colonial legacy and historical discord as the two main factors leading to inter-communal conflict. Azar's colonial legacy theory resonates with the situation in Fiji as many of the disparities within the social, political and economic structures in Fiji were created during the British colonial era. However, Fiji is somewhat unique as the structures were created to maintain Fijian supremacy during the colonial era rather than break down the traditional authorities, as in the case of Australian Aborigines and New Zealand Maoris among other colonised countries. These structures were not reformed at the time of independence in 1970 despite the fact that the Indo-Fijian population were already second or third generation by this time (Ramesh, 2007).

Political, social and economic institutions are, most prominently, the institutions that shape the behaviour of people in which they live (Dukes, 1999: 159). These institutions are created to cater to the needs of the people, providing services, resources and security. In just societies, they are accountable to the people (ibid.). Justice ensures a 'fair share' of the available goods, 'fair treatment' from society's institutions, that everyone conforms to the rules of 'fair play'; and that any injustices are adequately addressed (ibid.). However, in many developing countries, institutions are corrupt, exploitative and are characterised by political exclusion and abuse of human rights (Ardon, 1999: 9). Unjust structural divisions

subsequently lead to an inability to provide basic human needs, inadequate access to resources for excluded groups, and discrimination in opportunities for education, employment and the decision making process (Dukes, 1999; Lederach, 1997: 83). Eventually, this may lead to structural violence and in some cases to overt violence as the oppressed groups rebel against prolonged suppression and inequalities. Uvin (1999) analyses the impact of structural violence which was pervasive in Rwandan society and argues that the attitudes and behaviour of the Hutus and Tutis towards each other were compounded by the various institutions over the years, ultimately leading to overt violence and genocide. Unless institutional changes are made, tensions can lead to episodes of direct conflict as has been observed in Fiji following independence in 1970. The next section will analyse the different institutions in Fiji and the divisive character of all of them and how it links to conflict. Institutional differences based on ethnicity in Fiji.

This section will analyse some of the formal institutions in Fiji and their divisive character, to link with the concept of structural violence. For instance, the segmentation of population by ethnicity is entrenched in the Fijian constitution, electoral system and politics, as discussed above. Similarly, the economic, educational and housing sectors, among others, are all divided along ethnic fault lines and have been sustained by policies, the constitution, colonial legacy as well as socio-cultural acceptance. Galtung identifies formal and informal institutions as a core component of structural violence. He defines institutions as structures designed by people to set boundaries on human interactions. He maintains that they are regulated by formal and informal means, through rules, laws, constitutions, code of conduct, conventions and norms of behaviour (Galtung, 1996).

The flow chart in Figure 5 indicates a clear ethnic division along the economic institutions in Fiji. It shows that ethnic Fijian groups are supported by the Great Council of Chiefs, the Native Land Trust Board, Fijian Affairs Board, Fiji Development Fund, Native Land and Fisheries Commission and Agriculture Landlord and Tenant Act. By contrast, the Indo-Fijian population can only access commercial bank loans for business ventures. It also shows that policies implemented since the colonial era favoured the Fijian group over the Indo-Fijian group as the first three Fijian institutions, on the right (the Great Council of Chiefs, the Native Land Trust Board and the Fijian Affairs Board) were established during the colonial era.

These discriminatory policies have continued rather than reformed. Touted as affirmative action policies to assist Fijians, by 1992, the annual number of government subsidized loans for Fijian owned firms, offered by the Fiji Development Bank tripled compared to 1988 (Ratuva, 2002). In 1990, the Fiji National Provident Fund's (FNFP) Small Business Equity Scheme, paid out F$17 million over a period of ten years; and 90% of its recipient were Fijians (ibid.), even though the Fund has a higher percentage of Indo-Fijian customers. This discrimination is based on common perception that Indo-Fijians are economically better off than Fijians, due to the small group of high earning Indo-Fijians in the business sector. However, recent studies have established that both groups experience poverty almost equally, with Indo-Fijians having a slightly higher level of poverty, in both rural and urban areas (Naidu, 2009: 16).[24]

'Race-based affirmative action measures appear to have served the urban-based indigenous Fijian elite, but not the rural majority that is used as the pretext for such policies' (Naidu, 2009: 12).

Figure 5: Economic Institutions of Fiji; Divided along Ethnicity
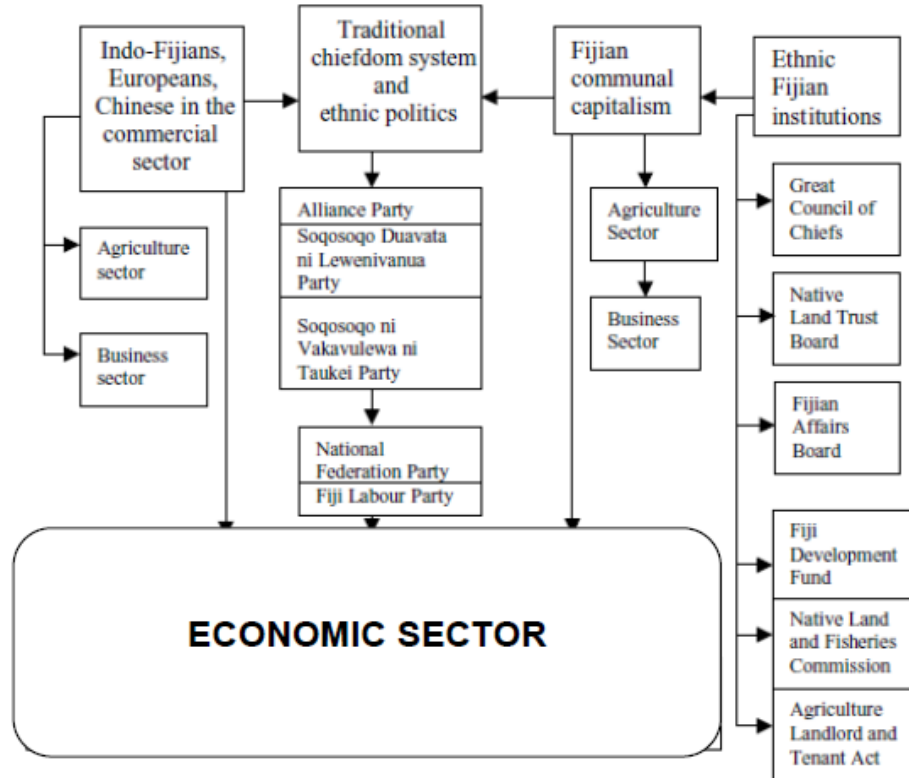
Source: Gounder, 2001: 311

Racially divisive policies are also noted in the housing, labour and education sectors and are, at times, continued by informal groups. For instance, the majority of the schools in Fiji are owned and managed by the three main faith groups; Christian, Hindu and Muslim, with the state providing some funding to all schools and retaining the right to set the national curriculum. However, most schools have

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[24] As with many small island states, Fiji does not have absolute poverty but relative poverty. 'The poor in Fiji defined as those households of 5 persons living below the poverty line of $164 a week (US$70)' Naidu, 2009: 15).

strong associations with the faith group that established them. For instance, school names include *Assemblies of God Primary School*, *Arya Samaj Primary School* and *Suva Muslim Primary School*, although in recent years, due to the decline in the Indo-Fijian population, pupil rolls include both ethnic groups. The interim military government promulgated a decree in late 2009 to remove all names from school that denote religion or ethnic affiliation to promote a national identity and cohesion. In the higher education sector, until 2014, scholarships were heavily weighted towards Fijians and Indo-Fijians were means-tested for scholarships while Fijians were not. Additionally, until 2014, the Fijian Affairs Board (FAB) had a separate allocation of scholarships only for Fijians; Indo-Fijians had recourse to funding only if their parents' income did not exceed F$10,000, whereas no such limitations applied for Fijians (Fiji Human Rights Commission, 2006: 88-89). The scholarship policy was abolished in 2014 and replaced by the *National Toppers Scheme*, where anyone gaining 300 plus marks out of a total 400 marks in the National Year 13 exams was eligible for a scholarship in the government identified fields of study. However, this has disgruntled some Fijians as the majority of the scholarships were awarded to Indo-Fijian students due to their marks.

Furthermore, in the housing sector, Fijians also have an advantage over Indo-Fijians. For instance, in post-coup 1987, FNPF established a Village Housing Scheme to assist in rural housing. By 2005, F$100 million was disbursed through this, mostly to Fijians (Chand & Clemens, 2009: 13). Analysis of the state labour sector also shows that, since 1987, "the state has been ethnicised", with 70% of all civil servants identified as Fijian and 90% of the most senior civil service

positions held by Fijians (Naidu, 2009: 10). Added to this, the military is almost entirely Fijian, but this will be discussed in Chapter Five. .

Fiji's political and administrative structures are also racially discriminatory and exclusive. In countries with a history of conflicts, for transition to long term peace to occur, it is crucial to address the injustices that fuel the conflicts and to bring about structural changes. John Burton's term 'provention' is apt in this context as it means to remove the underlying causes that lead to structural violence and create conditions that would prevent such reoccurrence (Burton, 1990: 233).

> ...an ounce of prevention is worth significantly more than a pound of cure. While United Nations efforts have been tailored so that they are palpable to the population to meet the immediacy of their security needs and to address the grave injustices of war, the root causes of conflict have often been left unaddressed. (UN Security Council, 2004: 3)

In many countries experiencing structural violence, widespread atrocities are committed by security sector personnel, especially the police and armed forces. This undermines the public's trust that these institutions will provide them with the required security and protection. Chapter Five will discuss this issue further. Additionally, many small island developing countries are more prone to structural violence than overt violence. The next section will focus on conflict in these smaller nations.

SMALL ISLAND DEVELOPING STATES (SIDS)

In recent years, OECD (Organisation for Economic Co-operation and Development), WB (World Bank), IMF (International Monetary Fund), EU (European Union) and other international and regional organizations have come to

recognise Small island development states (SIDS); however, there are slight differences in definition. UN defines SIDS as low-lying coastal countries which share similar sustainable development challenges such as: small but growing populations, limited resources, remoteness from main trade routes, susceptibility to natural disasters, disproportionately expensive public administration and infrastructure due to little to no opportunity to create economies of scale and dependent on high communication, energy and transportation costs (UN, 2004). Additionally, SIDS are vulnerable to external shocks such as: excessive dependence on international trade, fragile environments, and irregular international transport volumes (ibid.). It is increasingly being recognised that SIDS go beyond the common perception of 'heavenly tropical paradise'.[25]

Currently 51 countries are classified by the UN as SIDS. Annex 4 also includes data on their population size, active number of military personnel and military expenditure where applicable and if they have experienced coups. It highlights the varied nature of countries that make up SIDS, ranging from some of the smallest states in the world, such as Niue, to larger countries such as Cuba, Haiti, PNG (Papua New Guinea), etc. It is difficult to arrive at a general pattern of conflict in all SIDS. However, if some of the larger states are not taken into account, and Timor-Leste is excluded, it can be argued that many of the SIDS are prone to structural and ethnic conflicts. For instance, countries like Guyana, Surinam, Mauritius, and Fiji all have a history of ethnic conflict, which is linked to tension between the local indigenous population and the 'immigrant' population introduced during the

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[25] In 1960s and 1970s, UN had passed resolutions on small developing countries, but it was during the 1992 United Nations Conference on Environment and Development (UNCED), SIDS was finally recognised as a distinctive group of countries, This led to the UN sponsored conference titled 'Global Conference on the Sustainable Development of Small Island Developing States (SIDS) in 1994, which cemented this concept.

colonial era. PNG and Solomon Islands have also experienced ethnic conflicts, relating to tribal factions. Some of the states are susceptible to money laundering and drug trade, such as Saint Kitts and Nevis and Jamaica. In many of these SIDS, there is no need for a military as there is rarely any external threat, and even if a perceived threat did occur, the military is too small to be effective for external defence. However, the military continue to wield considerable influence as it is the only armed force within the country.

SIDS are largely neglected in most mainstream development and political discourse, including conflict. However, to address conflicts in SIDS, it is important to understand their unique challenges as their conflicts do not usually reach the same level and intensity as in many countries with larger populations. Apart from a few countries such as East Timor, Haiti, PNG, etc "small societies seldom generate the scale of violence that exceeds the threshold definition of civil war as they suffer from more modest levels of violence" (Chauvet, Collier & Hoeffler, 2010: 975). However, in SIDS, even the lower intensity of conflict is damaging as the population is small and the negative impacts are felt more tangibly by the population. Seminal research by Chauvet, Collier & Hoeffler (2010) highlights this concern, but the study is limited to Pacific island countries. In the absence of similar work for all SIDS, we will discuss the issues raised by this study.

'Globally, state failure inflicts very large costs on their neighbours and this justifies and requires regional intervention in decision processes that would normally be the sovereign domain of nation states' (Chauvet, Collier & Hoeffler, 2010: 976). However, because small island countries are not landlocked, the 'neighbourhood spillovers that normally generate these costs do not apply' to SIDS (ibid.).

Additionally, SIDS conflict is generally neither prolonged nor violent, and concern for populations affected by violent and prolonged conflicts in other parts of the world takes precedence in the conflict discourse. However, "although neighbours are not affected by state failure, the failing states themselves suffer considerably in terms of income losses if they are islands, due to flight of capital and skilled labour (Chauvet, Collier & Hoeffler, 2010: 977). Finally, we have attempted to put a cost on state failure in the Pacific,...our estimate of a present value of around $36bn is so large that the implication is clear: state failure in the Pacific should be a major policy concern" (ibid.).

CONCLUSION

This section will establish the theoretical framework for three main issues; the coups d'état, the concept of structural conflict and the issue of Small Island Developing States (SIDS). The section on coups d'état analysed the various coup theories and their application to Fiji. Six different theories for military coups were analysed, which were: the political development theory; the military centrality theory; the ethnic antagonisms theories which comprises of the modernization theory, the ethnic competition and ethnic dominance theories (Jenkins & Kposowa, 1990); as well as the economic dependency theory (ibid.); the agency theory (Galetovic & Sanhueza, 1997), and the centralization/decentralization theory (Jia & Liang, 2010).

The political development theory is based on the concept that coups are more prone to happen when political institutions are weak and have failed to effectively regulate political competition, political demands and political participation. Some of these elements are applicable to explain the occurrence of coups in Fiji. However, the concept within this approach that traditional authorities were weakened during

colonial period is not applicable to Fiji as the traditional ethnic Fijian structures were actually strengthened during the colonial era and due to that process, some of these institutions have links to the coup occurrence in Fiji; chapters 1 and 8 will discuss this in more detail.

The military centrality theory argues that in many developing countries, post-independence the military are most professionalized in comparison with other state institutions and may harbour political aspirations, thus increasing their likelihood to intervene in politics through coups d'état (Nordlinger, 1977; Finer, 1988; Jenkins & Kposowa, 1990: 862). Some elements of this theory are applicable for coups in Fiji as the military is more organized and professional in comparison with other state bodies, and RFMF was created to suppress internal disturbances during the colonial period. However, RFMF has never had much economic power or attempted coups in order to maintain its corporate interest. However, a few years before the 2006 coup, the Qarase government was attempting to downsize the military.

Ethnic antagonistic theories focuses on how ethnic tensions can be politicized by the military, the broader political institutions and its link with coups d'état (Jenkins & Kposowa, 1990: 863). Three subsets of the ethnicity approach are the modernization theory, the ethnic competition theory and the ethnic dominance theory. The 1987 coup in Fiji had many elements of the ethnic antagonistic theories as the Rabuka group that came to power wanted an exclusive ethnic Fijian government and it carried out a second coup in September 1987, to maintain their position when negotiations were taking place to form a government of national unity with the Labour Coalition (Alley, 2001).

The economic dependency theory focuses on uneven development as the main cause of military coups. It argues that countries that are dependent on a limited number of export commodities and are unable to distribute the benefits of development equally are more likely to have a stronger military, which can be manipulated by the political elites to carry out coups (Jenkins & Kposiwa, 1990: 864). To some extent this can be applied to all four coups d'état occurrences in Fiji, as the Fiji Labour Party was formed in 1986 due to a wage freeze by the government (Ratuva, 2002); the supporters of the 2000 coups were largely rural villagers and village landowners who were frustrated by the mahogany harvest scheme (Pirie, 2010); and some causes of the military 2006 coup can be linked to the various Bills tabled by the Qarase government; one of which was to restrict access to sea and coastal area resources solely to Fijians, and thereby barring Indo-Fijian and other ethnic groups from the fruits of economic industries such as tourism, fisheries, and so on (Khan, 2007).

Proponents of the agency theory argue that there is an agency relation between the rulers and citizens, and a coup is more likely to occur when this relationship is manipulated by autocrats and/or military, particularly when there is low economic performance and widespread discontent with the incumbent (Galetovic & Sanhueza, 1997: 18). Elements of this theory can be applied to various coups in Fiji as the members of the losing political parties, the high profile chiefs and the military have all manipulated the circumstances to create distrust towards sitting government for their own benefit. For instance, many of the losing Alliance Party members supported the military in the 1987 coup and were openly against the Bavadra government. Similarly, after the loss of SVT in the 1999 elections, a

number of political and chiefly persons began agitating against the Chaudhry government using demagogic propaganda. Prior to 2006, the military also utilised the media to fragment the nation for and against the Qarase government (Firth, Fraenkel, & Lal, 2009).

Lastly, the centralization/decentralization theorists argue that centralized governments are more susceptible to coups particularly when economic downturn is strong and government institutions are weak (Jia & Liang, 2010). It assumes that decentralized governments are stronger. Some aspects of this theory can be related to the greed and grievance approach by Collier & Hoeffler (2005), which states that in countries with rent-seeking culture and weak institutions, the military, may overthrow the government to access resource rent.

However, no single explanation is widely accepted as coups d'état occur in a wide variety of countries and are caused by complex and varied events. More likely, a synthesis of various factors such as lack of political development and participation, colonial legacy, ethnic competition, economic dependency, economic decline, weak state institutions, military grievances, and regime vulnerability can all be utilised to explain why military coups occur. All the above coup theories had some relevance to the Fiji situation. Conflict analysts also state that a coup occurrence increases the risk of further coups (Collier & Hoeffler, (2007). Statistics on coups are useful to understand this complex phenomenon.

CHAPTER FOUR: AMNESTY AND ITS LINKAGE WITH COUPS D'ÉTAT

This section will focus on the amnesty discourse, how it is viewed within international law and its link with coups d'état. Literature on amnesty is extensive and covers many issues spanning the position of opponents, proponents and those in the middle. However, few scholars have written on amnesty for political crimes and its link with coups d'état. It is hoped that this section will, in some way, fill that gap in the literature.

Amnesty has evolved gradually from the stately pardon for any crime to maintaining political peace after international wars to a modern response to internal conflicts (Joinet, 1985). In recent decades, amnesty provisions have entered the transitional justice discourse and provoked strong debates for and against. In the 1970s, organizations and persons rallied for amnesties for political prisoners in different parts of the world but in the 1980s, the focus shifted from amnesty to protest against impunity when a number of Latin American dictators granted themselves 'self-amnesty' while they were still in power (Joinet, 1997: 3-4). While the condemnation for impunity was strong at this stage, it had not yet gained international momentum.[26] The third shift was noted in the early 1990s when amnesties were increasingly negotiated as part of the peace agreements in countries moving towards democratization (ibid.). Since the South African Truth and Reconciliation Commission, the focus has shifted from blanket and unquestionable amnesties to 'conditional-amnesty' and is increasingly used with other transitional justice mechanisms (Sarkin, 2004; Mallinder 2007a). The ascendancy of human rights as a fundamental principle directing state conduct

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[26] Victim groups such as Mothers of the Plaza de Mayo and the Latin American Federation of Associations of Relatives of Disappeared Detainees (FEDEFAM) were founded in response to victims' quest for justice.

increased international and national debates on amnesty and linked it to impunity during the 1990s (Human Rights Watch, 2005: 13; Orentlicher, 2004; Kritz, 2002: 33). Additionally, increasing use of information and communication technologies, has allowed people from all walks of life and different countries to participate in amnesty debates (Freeman, 2009: 1). Amnesty is a contentious issue and there is no single cohesive view on amnesty as maximalists, minimalists and moderates within the transitional justice field justify their perspectives on amnesty.[27]

Snyder and Vinjamuri (2003/04: 39-40) argue for amnesty on the basis that in countries coming out of conflict, former regime members who retain strong influence, could derail the peace process, if they feel threatened by possible legal action. Similarly, Randelzhofer & Tomuschat, (1999) advocate amnesty negotiated in peace agreements, to accommodate members of outgoing regimes, as they are unlikely to give up their potential to destabilize the peace process unless the threat towards them is lessened. Amnesty is granted to maintain national unity (Rigby, 2001); to acquiesce to the demands of members of a former regime who could otherwise destabilize the peace process (Snyder & Vinjamuri, 2003); as an incentive to acquire information about committed atrocities (Tutu, 1999: 25) and to negotiate ceasefire, disarmament, etc. (Mallinder, 2007a).

While Cook (1997) argues against amnesty by emphasizing that it needs to take into account the demands of people in their country as well as adhere to international and national human rights standards, Mendez (1997: 7) states that blanket amnesties even if conducted after democratic debate are still an abuse of

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[27] For more detail on maximalist, minimalist and moderate approaches to transitional justice and the issue of amnesty, read Khan, N (2007).

'majoritarianism' as they ignore the rights of the minority who are usually the victims in such scenarios. Orentlicher argues that impunity is most common in states that have a weak judiciary, prevalent corruption and an entrenched patronage system (Commission on Human Rights, 2004). Opponents focusing on blanket amnesty argue that it shows little compassion for victims (Tutu, 1999: 30-32); would portray a culture of impunity (Kritz, 2002: 33); would embolden perpetrators to commit further atrocities (Human Rights Watch, 2009), and may undermine the rule of law (Cook, 1997). International conventions such as the Geneva Conventions and others oppose amnesties for gross violations.[28] Amnesty proponents argue that it maintains political stability, but opponents cite many examples where amnesty has not led to lasting peace, and they claim that it may instead embolden perpetrators, while ignoring victims' calls for justice (Human Rights Watch, 2009). This is demonstrated in the case of Fiji, as after each coup by the military, the perpetrators and their supporters were granted sweeping amnesty.

But in recent years, Mallinder (2007a) and Freeman (2009) have questioned the two divergent perspectives and reignited amnesty debates. Amnesty discourse needs to go beyond impunity versus justice or peace versus justice, to consider justice *and* human dignity, which accounts for both "pro-prosecutions and pro-amnesties" (Freeman, 2009: 109). Rather than discarding amnesty altogether, conditional amnesty could be utilised to encourage offender engagement in national reconciliation and reconstruction (Mallinder, 2007a: 39).

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[28] For instance, the 1949 Geneva Conventions, the Genocide Convention, and the Torture Convention. These will be discussed in more detail later in this chapter.

Amnesties for perpetrators of gross violations of human rights were acceptable prior to the rise of human rights standards but would be unacceptable today. The evolving debate on amnesty is indicative of dynamic changes in the field of transitional justice; the strong stance of the human rights agenda; the push for greater accountability for gross human rights violations; and the acknowledgement of various strengths and weakness of using amnesty and how it could be fine-tuned. Discussions and debates on amnesty for political crimes that do not reach the benchmark of gross violations is negligible, although amnesty and impunity for these crimes had, in many situations, led to increased repression, and renewed and escalated violence. For instance, Iliff (2009: 162) states that in Zimbabwe there were no prosecutions of ZANU (PF)-affiliated perpetrators of political crimes and there was concern that these powerful perpetrators would remain in power and may "instigate further violence in an effort to retain the protections and privileges of power".

Gross violations of human rights is common is many larger countries that have a history of coups, such as Thailand, Pakistan and many others. However, the focus of this thesis is the reoccurrence of coups in SIDS, where the level of violence does not commonly reach to the levels of gross violations. This chapter argues that the international disapproval of amnesty for gross violations only may indicate international sanction for political crimes that are lower than gross violations, such as coups d'état. It is also apparent that the international community is still not giving much focus to the types and levels of conflicts that occur in SIDS, as the conflicts in these countries cannot be realistically comparable to conflicts in larger States. It also argues that many more gross violations could be curtailed if more international attention is given to political crimes that are lower than gross

violations as they could be a precursor for more violent crimes later. The parameters of political crimes, among other terminologies and related concepts are discussed in the next section.

TERMINOLOGIES DEFINED

Amnesty

The definition of amnesty differs substantially between jurisdictions due to various catalysts to its introduction which ultimately shapes the character it takes (Mallinder, 2007a: 5). However, it is broadly defined as an act of forgiveness by the state to perpetrators. Amnesty comes from the Greek word '*amnestia*', meaning oblivion (Chigara, 2002: 8). It goes beyond pardon as it is a legislative and/or executive act by which a state obliterates all legal remembrance of the offence or entails a complete forgetting of the past (Bull, 2001; Valls, 2007: 167). The amnesty concept assumes that a crime has been committed (O'Shea, 2002: 20) and is retroactive as it is applied within a certain time and may exclude certain crimes and/or individuals (Mallinder, 2007a: 5). Amnesty is jurisdiction- and situation-specific, as it varies by country and conflict and therefore it is difficult to have a definition that captures the different contexts, structures and functions (Freeman, 2009: 12-13). For the purpose of this thesis, we will use Freeman's definition:

> Amnesty is an extraordinary legal measure whose primary function is to remove the prospect and consequences of criminal liability for designated individuals or classes of persons in respect of designated offenses irrespective of whether the person concerned have been tried for such offenses in a court of law. (Freeman, 2009: 13)

Amnesties can be perceived as blankets to cover crimes across the board as granted to Sitiveni Rabuka and the corroborators of the 1987 coups in Fiji. It can be limited to certain crimes and/or individuals: for instance, the amnesty and pardon given to Ieng Sary, the former Deputy Prime Minister and Minister of Foreign Affairs of Cambodia and a senior member of Khmer Rouge (The Amnesty Law Database, 2015). Amnesties can also take the form of 'self-amnesties' which are granted by the outgoing government to its members as in the Uruguay coup during the 1980s. 'Conditioned amnesties' are commonly negotiated in peace accords. 'Applied and individual amnesties', requiring disclosure of criminal activities of individuals, may be granted after consideration, as in the case of South African Truth and Reconciliation Commission. Amnesty is associated with both victims of oppression, such as imprisonment of political dissidents and perpetrators of crimes during conflict situations. This thesis will limit itself to amnesties relating to perpetrators, particularly amnesty for political crimes such as coups d'état. The reason that amnesty for human rights defenders will not be considered is because the focus of this thesis is on the perpetrators of violations and not victims. Human rights defenders tend to be victimized in many parts of the world when they monitor and challenge abuses; therefore an amnesty given for their 'supposed' crimes is considered as corrective rather than a privilege.

> Too often, authorities seek to silence defenders' voices, penalize their activities, and intimidate them into passivity. Rather than herald the crucial role defenders play in promoting and protecting human rights, officials may label these brave individuals as "subversives" or "traitors." This attitude can have dire consequences for the human rights defenders and for the work they do. (Amnesty International USA, 2017)

In post conflict countries, "amnesties are sometimes introduced to repair the harm inflicted upon those who are deemed opponents of the state" due to their opposition of the state (Mallinder, 2007b: 8). This thesis makes the distinction between political dissidents associated with non-violent opposition such as human rights defenders and will not focus on amnesty for this category of political crimes. Amnesty for human rights defenders is considered "a reparative instrument that can contribute positively to national reconciliation, whilst restoring the dignity and status of those who have been oppressed" (ibid.: 7).

Pardon

Pardon is often referred to as executive clemency for an offence which is recognised but the punishment is either eliminated or forgiven by the head of the state (Valls, 2007: 167). This is commonly granted to individuals and for a range of crimes. In many countries it is granted ceremoniously at a national day or similar state occasions. Pardon differs from amnesty in that persons awarded pardons are usually prosecuted and imprisoned at the time of pardon. Furthermore, it does not involve expunging the pardoned persons' criminal past from the records.

Impunity

Impunity is often used interchangeably with amnesty, but there is a slight distinction between the two terms. Impunity literally means 'without punishment' and Joinet defines it as the

> impossibility, de jure or de facto, of bringing the perpetrators of violations to account – whether in criminal, civil, administrative or disciplinary proceedings – since they are not subject to any inquiry that might lead to their being accused, arrested, tried and, if found guilty, sentenced to appropriate penalties, and to making reparations to their victims. (Joinet, 1997: 17)

While amnesty acknowledges an offence and attempts to obliterate it from the records, impunity does not acknowledge, forgive or forget the offence (Young, 2003: 211). Impunity as known in the traditional sense is being challenged in human rights discourse. For instance, Charles Taylor of Liberia was indicted in 2003 while still in power. Meanwhile, President Omar Al-Bashir of Sudan was the subject of an arrest warrant issued in March 2009.[29] While it is acknowledged that national legislation, judicial systems and sovereignty are important, impunity for gross violations for human rights in any country is considered distasteful. Impunity not only suppresses the victims but also allows the perpetrators to walk away from their criminal actions without any accountability. Impunity also does not provide any form of justice for the victim. Additionally, continued use of impunity entrenches the culture of impunity and allows perpetrators to carry out attacks on persons at individual level, at societal level, regional and even at international levels, without any concern for justice and accountability (See Annex 13).

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[29] Traditionally political leaders have impunity from prosecutions while in power, but the Rome Statute of the International Criminal Court, Article 27: 1-2 on **Irrelevance of official capacity** has been utilized to indict certain leaders for gross violations of human rights and has set a precedent that may change how impunity is viewed in future.

Gross violations/ International crimes

The term 'gross violations of human rights' is used frequently in many human rights resolutions, declarations and treaties, but it is difficult to arrive at a single precise definition. Generally, it means systematic and very serious violations of human rights, which occur on a massive scale and are committed as official practice (Condé, 2004: 103). It includes "apartheid, racial discrimination, slavery, genocide, and religious persecution" (ibid.), as well as "widespread torture, enforced disappearances, extrajudicial executions, arbitrary imprisonment and denial of the right to leave a country" (Families Link International, 2006-2010). It covers grave breaches of the 1949 Geneva Conventions, the Additional Protocol I of the Geneva Conventions and other violations of international humanitarian law including the crimes mentioned above as well as war crimes and crimes against humanity such as extermination and rape (Orentlicher, 2005: 6).[30] Gross violations of human rights fall within two separate bodies of international laws, which generally do not overlap much.

The core crimes under international law are defined as crimes against humanity, genocide, war crimes and crime of aggression (ICC, 2002: Articles 5-9). They are compartmentalized into two main areas: international criminal law and international humanitarian law. Early international criminal law was a product of the Nuremberg and Tokyo Charters and modern international criminal law developed largely due to the establishment of the International Criminal Court (ICC), the International Criminal Tribunal of former Yugoslavia (ICTY) and the

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[30] See 1949 Geneva Conventions (GC)1, Article 50; GC 2, Article 51; GC 3, Article 130; GC 4, Article 147; Additional Protocol (AP) 1, Article 11; AP 1, Article 85. For full details please read **'How "grave breaches" are defined in the Geneva Conventions and Additional Protocols'.** Accessed on 1/7/10 from
http://www.icrc.org/Web/Eng/siteeng0.nsf/html/5ZMGF9

International Criminal Tribunal for Rwanda (ICTR). International criminal law focuses exclusively on genocide, crimes against humanity, war crimes and crimes of aggression. It goes beyond state accountability to individual accountability (Boas, Bischoff, & Reid, 2009: 1-10). Articles 5 - 9 of the Rome Statute of the International Criminal Court (ICC) highlight the legal basis for trying individuals, including leaders, organizers, instigators and accomplices accused only of the most serious crimes.[31]

International humanitarian law is generally associated with two main treaties: Geneva Law and Hague Law. Geneva Law derives from a range of Geneva Conventions dating back to 1894 and, in particular, the 1949 Geneva Conventions and their Additional Protocols of 1977. Geneva Law largely focuses on ameliorating the suffering of those not directly involved in combat (Boas, Bischoff, & Reid, 2009: 1-10). Hague Law comes from the two Hague Conventions: 1899 and 1907 and the 1977 Additional Protocol I. It seeks to regulate the means and methods by which war is conducted (ibid.). International humanitarian law differs from international criminal law in that it is largely concerned with holding states and armed rebel groups responsible for gross violations (ibid.).

Gross violations that occur within these two bodies of international law get the most attention from policy makers, human rights activists and scholars in relation to amnesty. While this is understandable due to the nature of these crimes, a majority of amnesties are awarded for political crimes and, to a lesser extent, for economic crimes and crimes against individuals (Mallinder, 2007b: 25-27). For the

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[31] For more details, please see the full document of the Rome Statute of the International Criminal Court. Accessed on 7/12/08 from http://www.icc-cpi.int/NR/rdonlyres/EA9AEFF7-5752-4F84-BE94-0A655EB30E16/0/Rome_Statute_English.pdf

purpose of this thesis, we will focus on political crimes which fall below the benchmark of gross violations.

Political crimes

There is no commonly accepted definition of political crimes as they are often deemed to be context specific. However, they are broadly understood to be crimes against the established political order. The term is wide ranging: from purely passive offences such as political dissidence to more violent actions against the prevailing social order that does not affect private rights (Van de Wyngaert, 1980: 106). Political crimes generally include acts such as "treason, sedition, rebellion, using false documents, anti-government propaganda, possessing illegal weapons, espionage, membership of banned political or religious organizations, desertion, and defamation" (Mallinder, 2007b: 22; Van de Wyngaert, 1980: 107) Political crimes include activities such as attempted coups d'état as this is deemed anti-government.

Common crimes can sometimes be regarded as political crimes as "under certain circumstances, namely when they are committed with a political purpose or when they have political consequences" (Van de Wyngaert, 1980: 95). Extradition law has been utilised to differentiate between common and political crimes by using three categories of tests: the political incidence test, the predominant motive test, and the political objective test (Van de Wyngaert, 1980: 108-111). The political incidence test attempts to establish if there was political disturbance and that the act was part of a continued political struggle (ibid.: 111). The predominant motive test occurs if the act is associated with a political objective, that the political character of the act is greater in proportion than the common crime element, and

finally, "… that the means used must be either the only recourse available or proportionate to the desired political outcome" (ibid.; Yakoob, 2000: 545). The political objective test "examines the specific nature of the act, without regard to the subjective motivation of the individual or whether the desired ends were political" (ibid.: 542).

In conflict and amnesty discourse, to date, political crimes were most clearly defined by South Africa prior to the establishment of its Truth and Commission and that definition will be used by this thesis as the standard. Accordingly, political crime was defined within South Africa context as follows:

> Certain offences are recognized as "purely" political, eg. treason directed solely against the State and not involving a common or "ordinary" crime such as murder or assault or the dissemination of subversive literature.
>
> In certain circumstances, a "common" crime, even a serious one such as murder, may be regarded as a political offence. Here the following are the principal factors which are commonly taken into account by national courts:
>
> i) The motive of the offender - i.e. was it a political motive (eg. to change the established order) or a personal motive (eg. to settle a private grudge).
>
> ii) The context in which the offence was committed, especially whether the offence was committed in the course of or as part of a political uprising or disturbance.
>
> iii) The nature of the political objective (eg. whether to force a change in policy or to overthrow the Government).
>
> iv) The legal and factual nature of the offence, including its gravity (eg. rape could never be regarded as a political offence).
>
> v) The object of the offence (eg. Whether it was committed against Government property or personnel or directed primarily against private property or individuals).

vi)   The relationship between the offence and the political objective being pursued, (eg. The directness or proximity of the relationship, or the proportionality between the offence and the objective pursued).

vii)   The question whether the act was committed in the execution of an order or with the approval of the organisation, institution or body concerned.

(The Groote Schuur Minute, 1991)

For the purpose of this thesis, the focus will be on all political crimes but more specifically on the overthrow of democratically elected government, the abrogation of the constitution, interference in elections, the undermining of the independence of the judiciary, restriction of personal liberty, and arbitrary detention of human rights defenders.

INTERNATIONAL LAW'S STANCE ON AMNESTY

Human rights activists generally condemn the use of amnesty for gross violations of human rights on the basis that it is prohibited by international law. However, amnesty provisions or prohibitions are ambiguous in various international legal instruments. Human rights conventions such as the International Covenant on Civil and Political Rights, the European Convention for the Protection of Human Rights and Fundamental Freedoms, and the American Convention on Human Rights have no specific mention of amnesty among their provisions.[32] The 1949

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[32] OHCHR (1976), **International Covenant on Civil and Political Rights.** Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI)
of 16 December 1966, entry into force 23 March 1976, in accordance with Article 49. Accessed on 24/5/09 from http://www2.ohchr.org/English/law/ccpr.htm

Council of Europe (1953). **Convention for the Protection of Human Rights and Fundamental Freedoms**. CETS No.: 005, entry into force 03 August 1953. Accessed on 24/5/09 from
http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=005&CL=ENG

Geneva Conventions, the Genocide Convention, the Torture Convention and Rome Statute of the International Criminal Court all have specific clauses on prosecution of gross violations of human rights. However, these have been interpreted differently and are therefore open to possibilities of amnesty even for international crimes.

Protocol II of the 1949 Geneva Conventions has been contentious due to its provisions, which state as follows:

> Article1(2)- This Protocol *shall not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence* and other acts of a similar nature, as not being armed conflicts.
>
> Article 6(5)- At the end of hostilities, the authorities in power shall endeavour *to grant the broadest possible amnesty* to persons who have participated in the armed conflict, or those deprived of their liberty for reasons related to the armed conflict, whether they are interned or detained. (*Emphasis added*).[33]

Protocol II has not been ratified by many states and Article 6(5) is viewed as a 'best endeavours provision', to allow amnesties for rank and file combatants to restore tranquillity to the state at the end of conflict (Freeman, 2009: 207-208). The rationale for this Protocol's amnesty provision, even though it was adopted in 1977, is that many articles in the original treaty would otherwise conflict with the

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Human and Constitutional Rights (1969), **American Convention on Human Rights.** Signed at the Inter-American Specialized Conference on Human Rights, San Josi, Costa Rica, 22 November 1969. Accessed on 24/5/09 from http://www.hrcr.org/docs/American_Convention/oashr.html

[33] OHCHR (1978), **Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II).** Adopted on 8 June 1977 by the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law applicable in Armed Conflicts. Entry into force: 7 December 1978, in accordance with Article 23. Accessed on 24/5/09 from http://www2.ohchr.org/english/law/protocol2.htm

rights of a sovereign state since the Geneva Conventions were drawn up after the Second World War and tailored for international wars, not internal wars. They are therefore vague on the concept of combatants in internal conflicts (Scharf, 1997: 44; Daniel, 2001:17). It is argued that international treaties were never designed to have jurisdiction over internal conflicts where violence is not substantial and/or prolonged (Schraf, 1997; Roht-Arriaza, 1995). Similarly, taking into consideration the perspective of the International Committee of the Red Cross, the Inter-American Commission confirmed that Article 6(5) was not meant to cover international crimes in internal conflicts (Orentlicher, 2004: 5). In the 1990s, this clause was contested by some national courts to challenge amnesty for international crimes in the context of internal conflicts (Ratner & Abrams, 2003). Yet, it is argued that the amnesty clause was never meant for perpetrators of international crimes in whatever type of conflict (Naqvi, 2003: 605) and the drafting history of Section 6 in the Protocol II of the Geneva Conventions indicates that 'Lincoln-style amnesty' was contemplated (Freeman, 2009: 207).[34]

In response to this, the International Criminal Tribunal for the former Yugoslavia (ICTY) affirmed that irrespective of international or internal wars, perpetrators of gross violations of human rights should not be granted amnesty and it clarified that Article 6(5) implies granting amnesty only to those who were detained or punished merely for having participated in the conflict (OHCHR, 2009: 16). Opponents of amnesty argue that gross violations of human rights should not be amnestied as it would contravene international laws (Joyer (ed.) 1998; Bassiouni & Morris (eds.) 1996; Roht-Arriaza (ed.) 1995; Kritz (ed.) 1995). Nevertheless, it is

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[34] 'Lincoln-style amnesty' refers to granting of amnesty to rank and file officers from both sides of conflict in the US civil war.

also acknowledged that amnesty for crimes within internal conflicts is a domestic issue subject to governments' discretion and difficult to regulate by international bodies.

This ambiguity on amnesty for international crimes is, at times, reinforced by the actions of the UN and its member states. The UN, particularly, has indicated a strong stance against amnesty but has contradicted this by being part of the negotiating team in some peace agreements which have included amnesty for international crimes and it has been reluctant to condemn these amnesties.[35] In recent years, the UN has indicated another shift against amnesty. In May 2010, after pressure from many human rights organizations, the UN agreed to an investigation on war crimes in Sri Lanka and the related amnesty. Again, in recent months, the UN has condemned Brazil's decision to uphold its amnesty law (BBC News, 2010; Radio Netherlands Worldwide, 2010). The United States has also sent mixed messages regarding amnesty. In 1994, the US actively supported the Haiti government for its amnesty provisions but criticized the Peru government in 1997 for the same. Recently, the US also indicated a shift against amnesty when,

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[35] UN commissioned reports on Impunity by Louis Joinet, Diane Orentlicher and the international conferences, which had strong focus on amnesty. But the UN was a party to some of the following agreements which also had amnesty clauses for instance;
- the UN was a negotiating partner in the Simla Agreement in 1972, which allowed amnesty for 195 Pakistani military personnel accused of genocide,
- in the 1999 Lome Peace Accord for Sierra Leone, which granted amnesty to Sankoh and all rebel combatants, while the UN secretary-general's special representative attending the talks did add a last minute caveat that according to UN the amnesty and pardon provision did not apply to international crimes. However, it is argued that the belated mention of justice questions UNs commitment to accountability and justice (Human Rights Watch, 2009: 60),
- in 2001 the UNTEAT involvement in establishing a Commission for Reception, truth and reconciliation in East Timor which also had elements of amnesty, although not for serious offences,
- and recently the issue of amnesty by the Ugandan president to Joseph Kony and his top commanders and how ICC could assert its jurisdiction.

for instance, in 2009 US Secretary of State Hillary Clinton strongly condemned amnesty for sexual violence against women in the DRC (UNHCR, 2009).

International laws such as the ICC cited above, explicitly limit universal jurisdiction only to gross violations as, in reality, they are only able to prosecute a handful of these cases. However, the prosecution of these cases is considered symbolic and as a possible model to encourage the prosecution of similar cases in national tribunals. But the ICC's neglect of political crimes can be considered as symbolic: these crimes are not deemed worthy of much attention by the international community.

One of the hypotheses of this thesis is that perpetrators of political crimes could exploit this lack of clarity on political crimes in international law. Such perpetrators may commit crimes that fall just below the accepted international benchmarks and hence escape international scrutiny, condemnation, and possible sanctions. For instance, in Fiji, since 1987, military personnel have always been granted amnesty for all coup related crimes, with very little condemnation or pressure from the international community. In some instances, Australia, New Zealand and the Pacific Islands Forum Secretariat have raised their concerns against the various violations of political and social rights, but have not taken any action for noncompliance.[36] It is argued that the repression by the 2006 military led

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[36] Australia and New Zealand had imposed smart sanctions since 2007 such as defence and travel bans for all Fiji military personnel and their families but in recent months rapprochement has occurred in part due to economic reasons as it was quoted in an Australia report published in January 2010, *'Australian businesses want a speedy resolution to the current political impasse' (p. 6).* Australia has more than $2 billion in investments in Fiji and current bilateral trade is worth $1.6 billion annually. Hurr, Richard (2010), '**Time for a fresh approach: Australia and Fiji relations post-abrogation'.** Special Report: Issue 27. Canberra: Australian Strategic Policy Institute.

government was far more widespread than during the 1987 coups, in part due to the military being emboldened by past amnesties. Unlike repression in the past in Fiji, post 2006 coup, critics of the government were arbitrarily arrested and subjected to torture, intimidation and harassment; the powers of arrest and immunity to arresting officers of public emergency regulation was used to retain control over dissents; the heavy media censorship and the arbitrary dismissal of dissenting civil servants and their families continued eight years after coup until 2014. In a similar vein, to maintain control over human rights defenders, the government announced that any retired people who criticised the government would have their pensions cancelled *(*Government of Fiji, 2009: Decree 56). This was rescinded on 24 May 2010 but people remain intimidated by such actions.

> Security forces in Fiji have become increasingly menacing towards people who oppose the regime, including journalists and human rights defenders, said Apolosi Bose, Amnesty International's Pacific Researcher. Fiji is now caught in a downward spiral of human rights violations and repression. Only concerted international pressure can break this cycle. (Amnesty International, 2009: 7 September)

The majority of these would not be considered as gross violations of human rights and therefore would escape the attention of many international lawyers. International law seems to be sending conflicting signals to perpetrators in internal conflicts. While overall it takes a clear stance on impunity, it does not extend the state's obligations to combat amnesty and impunity, particularly for political

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The Forum Secretariats Eminent Persons Group review report in 2007 had recommended to the Fiji government to cease human rights violations among other things and stated that *'If the interim government chooses not to commit to a roadmap along these lines, and take the suggested steps, the Forum should consider further options', (p. 20),* however, in reality nothing has been done for non-compliance. **Forum Eminent Persons' Group Report (**27 Jan – 1 Feb. 2009). Accessed on 25/7/10 from http://archives.pireport.org/archive/2007/February/EPG_Report_2007.pdf

crimes. Research shows that amnesty for political crimes is awarded almost three times more than amnesties for international crimes (see Figure 6). International bodies like the ICC do not prosecute many individuals compared to national courts (for example, in Rwanda), but they send a symbolic message that perpetrators of gross violations will be held accountable, even within their national jurisdiction. Acknowledging impunity for certain political crimes may indicate a similar symbolism. However, the issue of state sovereignty is often touted by international bodies and the home nations of perpetrators to evade the issue of holding such perpetrators accountable.

Figure 6: Amnesty by Categories of Crimes
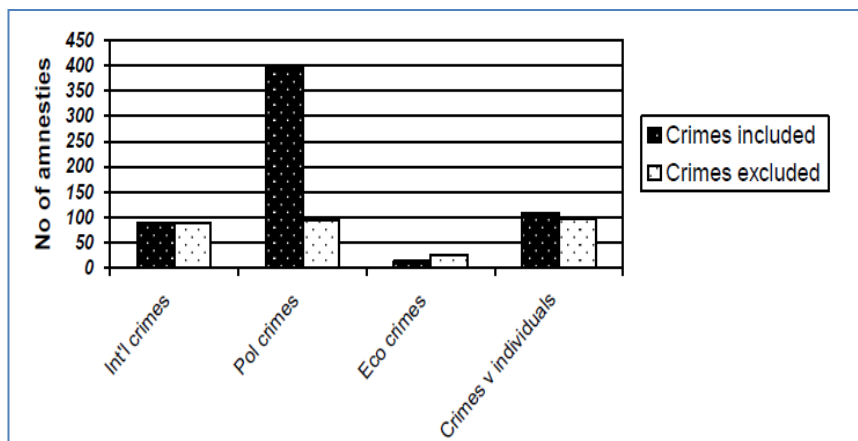
Source:

Mallinder, 2007b: 27

The issue of state sovereignty has been addressed in the Responsibility to Protect (R2P) principles, which were developed after international community's inaction in conflicts, particularly in Rwanda. R2P clearly outlines that sovereignty is not a privilege but a responsibility and if a state is unable to protect its citizens from gross violations of human rights, the international community should use various tools to prevent these violations (International Commission on Intervention and

State Sovereignty, 2001). However, many developing and conflict-prone countries are hesitant to endorse R2P as they feel that it conflicts with state sovereignty. It would seem that their fears were justified when the UK and the US used R2P to invade Iraq (Evans, 2008). Much concern about the use of R2P is linked narrowly to the use of military force, but R2P principles hold that the use of military force is a last resort and emphasize the use of preventive, persuasive and diplomatic mediation strategies (ibid.). This thesis does not endorse the use of external military force to address political crimes, which are common in conflicts in SIDS but emphasizes the need for more preventive strategies to be utilised by the international community to hold perpetrators accountable. Additionally, R2P may not be relevant to the types of conflict in SIDS, as R2P also focuses narrowly on the gross violations of human rights, similar to many other international principles on conflict.

POLITICAL CRIMES: A PRECURSOR TO GROSS VIOLATIONS?

While there is a higher occurrence of political crimes which are subsequently amnestied, international stakeholders continue to overlook this fact as the majority of international laws, peace building activities and projects are focused on international crimes. The issue of sovereignty is raised, particularly for political crimes, as it is argued that these should be addressed by the nation rather than international law. However, the neglect of political crimes within international law could be detrimental as political crimes, which have a higher occurrence in many internal conflicts, are considered a precursor to international crimes (Mallinder, 2007b). International law's and international community address of the issue of political crimes early in countries experiencing conflict may lead to less violent conflict and subsequently minimise incidences of gross violations of human rights.

One of the hypotheses of this thesis is that, the international community and international law would be more effective in preventing conflicts from escalating by encouraging and/or pressuring for accountability, even for political crimes in countries where conflict is more structural than violent. As explained in Chapter three, structural is invisible and implicit forms of violence that is manifested the inequalities in the social, political and economic structures of the society (Galtung, 1969: 167–191). Most civil wars do not erupt suddenly out of isolated incidents: there is usually a build-up of tension and sporadic and low level of violence over a period of time.

> State repression is a major risk factor because it can transform latent grievances into active antagonisms, especially when repression is indiscriminate, since quiescence offers little protection. Importantly, there is strong evidence that government repression is habit-forming and that past levels of repression have a powerful effect on current behaviour. (Thoms & Ron, 2007: 695)

This has been noted in Fiji, as after the 1987 success in repressing the community through intimidation and terror, the military again used similar forms of repression but more intensively in the latter coups. During this period, a series of control mechanisms has contributed to increased militarisation in Fiji during coups and a lack of cohesive protest by the population as the military presence is increased. Since 2007, increasing numbers of decrees have limited the right to assembly and protest; instigated the arbitrary arrest of dissents and impunity for arresting officers; prevented blacklisted individuals from leaving the country; increased surveillance on human rights defenders and expulsion of expatriates who speak

against the coup.[37] Reports submitted to Fiji's Universal Periodic Reviews 2010 and 2014 document numerous cases of abuse by the interim government (OHCHR, 2009, 2014). For instance,

> According to CCF (Citizen's Constitutional Forum) since 10 April 2009, at least 23 journalists, lawyers, human rights activists and religious leaders have been subject to arbitrary detention under the PER 2009, for up to 72 hours, for exercising their right to peaceful assembly and freedom of expression. CCF indicated that it has been informed of other cases of arbitrary detention and police brutality from people who wish to remain anonymous, and fears that there may be many more such cases. Several people were also detained and subjected to cruel and degrading treatment in the months following the coup. Four people have died in custody from the brutal treatment of military, police or prison officers since December 2006. (OHCHR, 2009: 5)

Figure 7 demonstrates that repression in Fiji peaked during coups d'état year of 1987, 2000 and 2007 (as the last coup occurred in late 2006). While it does not identify the intensity and pervasiveness of repressions, (this will be analyzed later in this thesis) evidence from Fiji suggests that such controls are more widespread after the recent coup when compared to earlier ones.

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[37] Since 2007, numerous Decrees were promulgated. For details on all these decrees, access the USP (2013). Fiji Unbound Acts and Decrees 2005 - 2013. Accessed on 14/11/15 from https://www.usp.ac.fj/index.php?id=12292

Figure 7: Political Terror Scale for Fiji, 1986 – 2008
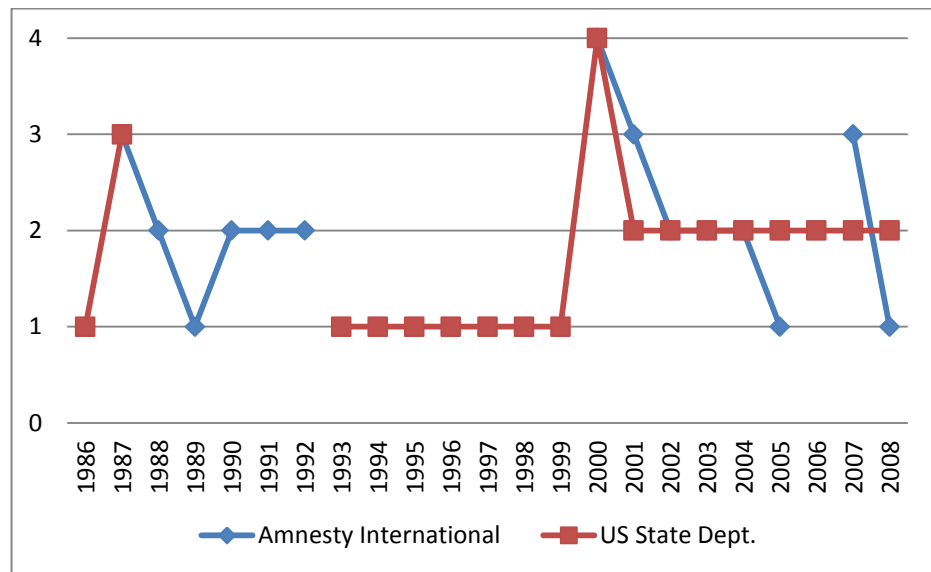
Source: Data downloaded from **Political Terror Scale.** [Online]. Accessed on 30/7/10 from http://www.politicalterrorscale.org/download.php. The levels of the scale of terror are explained in the footnote.[38]

It is argued that addressing the root causes of conflict at the initial stages, combined with accountability, establishing the rule of law and development, among other factors, could minimize tensions flaring up into protracted conflicts (Lederach, 2006; Collier, et al, 2003). While is it recognized that the "internal conflicts and their consequences fall within the domestic jurisdiction and therefore

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[38] **Level 4:** Civil and political rights violations have expanded to large numbers of the population. Murders, disappearances, and torture are a common part of life. In spite of its generality, on this level terror affects those who interest themselves in politics or ideas.

Level 3: There is extensive political imprisonment, or a recent history of such imprisonment. Execution or other political murders and brutality may be common. Unlimited detention, with or without a trial, for political views is accepted.

Level 2: There is a limited amount of imprisonment for nonviolent political activity. However, few persons are affected, torture and beatings are exceptional. Political murder is rare.

Level 1: Countries under a secure rule of law, people are not imprisoned for their views, and torture is rare or exceptional. Political murders are extremely rare.' (Political Terror Scale, 2010)

national sovereignty" (Deng, et. al., 1996: 1), however "sovereignty can no longer be seen as a protection against interference, but as a charge of responsibility where the state is accountable to both domestic and external constituencies" (ibid.: 3). Human rights based approaches also assert that the state; which is the duty bearer of rights and is supposed to promote, protect and fulfill the rights of its citizens, starts to oppress its citizens, it losses the legitimacy to argue for state sovereignty.

In Sierra Leone, after independence in 1961, it took almost 30 years for the conflict to escalate from tensions to violent conflict (Collier, et al 2003: 127). In South Africa, the latent restrictions on Africans were turned into explicit apartheid legislation systematically over a period of 57 years and it is argued that earlier pressure from the international community could have been effective in ending this conflict much earlier (Kelly, 2002: 42). Since the 1960s, UN worked consistently to dismantle apartheid in South Africa through its many resolutions and later with sanctions. It was collaborative actions of the international community through the UN and African states within the Organisation of African Unity (OAU)[39] that eventually led to the termination of its apartheid policy (Mangu, 2011). Pressure from the international community pushed the South African leadership during the apartheid era to dismantle and reform their policies and practices.

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[39] Organisation of African Unity (OAU) was formed in 1963 and disbanded in 2002 and replaced by African Union (AU).

The repeated failure to stem the ethnically-based political violence and hold perpetrators of human rights abuses to account created a climate of impunity in Kenya that led to cycles of violence. The atmosphere of distrust and division created by the longstanding lack of justice has been repeatedly manipulated by leaders in support of their own political agendas. While in Kenya the pressure stopped the violence, *failure to sustain that pressure* and to actually end impunity is *likely to result in more violence sometime in the future.* (Human Rights Watch, 2009: 81) [Emphasis added]

Similar scenarios are noted in almost all states experiencing civil wars: political crimes that do not fall within the category of international crimes are perpetrated by conflicting parties without accountability as the rule of law is weakened over a period of time. International community's pressure on SIDS who are infringing on human rights abuses and committing political crimes, could encourage these countries to reform their approaches during times of tension. For instance, as stated in Chapter One, after the 2000 coup, the Qarase government acknowledged that citizens of the country did not have much trust in the Fiji Police Force and agreed to collaborate with Australian government to have an Australian citizen head the Fiji Police Force and to open investigations on the death of numerous soldiers and rebels.

Another key argument of this thesis is that implementation of the international law is more reactive than preventive. The international community takes a reactive stance and adopts policies to address issues of accountability and justice when conflict becomes violent and prolonged. It is argued that, by this time, structures of conflict are entrenched, thereby increasing the chances of more serious violations occurring in future. By this stage, the perpetrators have become powerful and use

the systems and institutions to maintain their power. In some places, perpetrators have formed their own rebel groups resulting in protracted conflicts that are difficult to rein in as observed in Sierra Leone, Liberia, Angola, and other countries (Darehshori, 2009).

Amnesty for gross violations such as genocide creates strong opponents, both nationally and internationally, and rightly so. However, as argued earlier, there should also be increased debates on amnesty for political crimes that do not reach the level of gross violations. Additionally, evidence from some countries indicates that amnesties for such crimes have emboldened perpetrators to commit even worse crimes than before. For instance, in Angola, from 1990 onwards Jonas Savimbi and his UNITA group were granted at least six successive amnesties but crimes continued and even worsened every time the conflict resumed (Human Rights Watch, 2009: 61-68). After three amnesties in Sierra Leone, serious abuse of civilians by both rebels and government forces continued (ibid.: 57-66). Amnesty for perpetrators in conflicts in Burundi has been documented at least six times between 1967 and 2006 (The Amnesty Law Database, 2015). During the Conflict Prevention and Resolution Forum, the Special Envoy to the Angolan peace process stated that UNITA should not have been granted further amnesties after the collapse of the Bicesse Accords.[40] While some of the above amnesties were for international crimes, the majority of amnesties were for lesser political crimes, but little attention was given to this by human right activists, policy makers and the international community, including international organizations such as Human Rights Watch and Amnesty International. The heightened attention on

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[40] Paul J. Hare & William A. Stuebner, Notes from comments at the Conflict Prevention and Resolution Forum: 8 June, 2008. Accessed on 12/01/09 from http://www.sfcg.org/documents/cprf/cprfjune2004.pdf

amnesty for international crimes is understandable and, while causation is difficult to prove, the continued overlooking of amnesty for political crimes sets a dangerous precedent for countries with histories of structural conflicts.

Countries like Fiji are already showing signs of escalating tensions and violence. Fiji has had four coups; two in 1987, in 2000 and recently in 2006 and after each coup, military personnel have been granted amnesty. The 1987 coups were bloodless and apart from the release of a large number of prisoners to terrorize the coup protesters, there were few incidents of overt violence. This changed in the 2000 coup, which brought untold suffering to the country as widespread violence was committed against the Indo-Fijian community. The criminality arising out of this is seen as the legacy of impunity given to the 1987 coup makers. "The conferment of immunity from prosecution to Rabuka and his accomplices gave the 1987 coups its ultimate legitimacy", as it served not as a deterrent, but an inspiration, for the would-be perpetrators of 2000 coup (Chang, 2008: 11). While some consider this argument not convincing as the 2000 coup was a civilian coup, it is evident that it was planned and carried out with the help of a rebel unit within the military. While the 2006 coup was not violent, it is more oppressive as the country has been under curfew for many months and there was increasing censorship and torture of media personnel, human rights activists and anyone who spoke against the regime. To date, four civilians have died of those undergoing interrogation in police/military custody (OHCHR, 2009: 5). This pattern of escalating violence in Fiji indicates that after each coup, more violence is evident in comparison to previous coups. This pushes back the boundaries of tolerance.

AMNESTY AND ITS RELATIONSHIP WITH COUPS D'ÉTAT

Figure 8 demonstrates the link between coups and amnesty. While it is generally assumed that amnesties were more readily granted in the 1960s, due to the lack of human rights awareness, data indicates the opposite, as only 15% of amnesties were granted for all violations related to coups in that era. This could be due to various factors: lack of information from those years; supremacy of the military within the countries concerned; with negligible threat of prosecution, perpetrators did not seek amnesty; lack of NGOs at national and international level to push for accountability; and lack of awareness among local populations to demand justice. This data suggests that the granting of amnesty has gained prominence alongside human rights advocacy. Figure 8 also demonstrates this, as between 1990s and 2000s, the majority of coup makers were granted amnesty.[41] However, amnesty may have been more conditional, and may have required some form of disclosure, truth telling, ceasefire, disarmament, or vetting rather than the grant for a blanket amnesty which is more indicative of impunity. However, in some countries, blanket amnesty is still awarded. For instance, in Fiji, the amnesty for the 2000 coup was conditional but for the 2006 coup unconditional amnesty was awarded.

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[41] Coup 'makers' is used to move focus away from only a few individuals who actually carried out the coups to an all encompassing group of persons who planned, executed and maintained the coup situation.

Figure 8: Grant of Amnesty for Coup related offences, by Decade
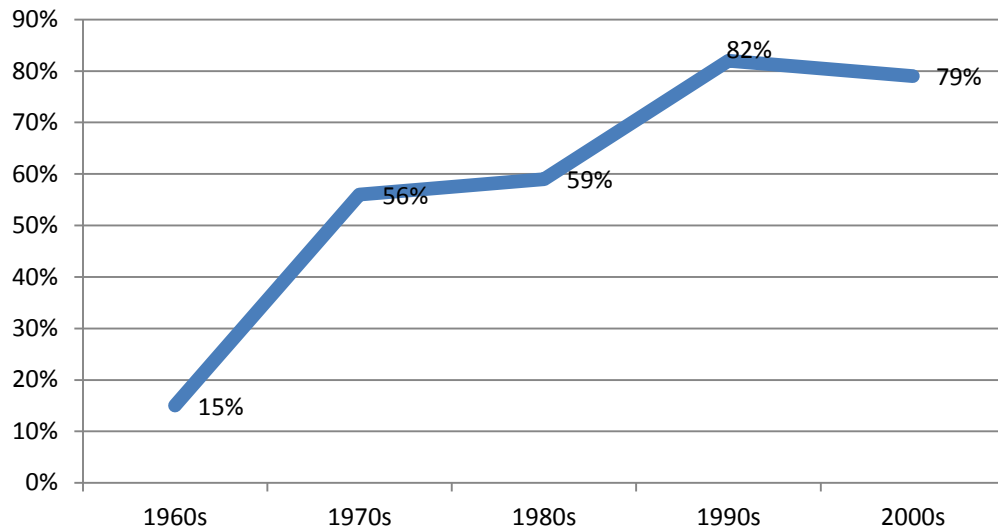
Amnesty is only one factor that leads to or deters coups. As stated above, socio-economic and developmental factors such as enhanced livelihoods, access to services, improved infrastructure, improved literacy rates, strengthened NGOs, and so on could also lower tension within a country and hence avoid the risk of coups. This is observed in Ghana, Nigeria, South Korea, and Brazil and elsewhere. On the other hand, in Sierra Leone, Liberia and many other African countries, the amnestied coup makers of the past have formed their own rebel groups when dissatisfied with the peace process, their diminishing role in the new government or for other reasons. Conflicts in many such countries that had initially started with tension, coups and counter coups have now become entrenched and distracted. It could be assumed, from Figure 8, that increasing amnesties in recent years have led to a decline in coups d'état, but a realistic analysis of the different countries presents a different picture. Table 1 shows that attempted coups remain a continued threat in a number of countries, such as the Philippines. It is argued that international and national push to denounce amnesty for removal of

democratic governments has the potential of deterring potential future coup perpetrators.

Country studies show that Fiji, Thailand, Pakistan, and Mauritania have implemented a 'rolling' amnesty meaning that after the execution of a coup, the coup makers are granted widespread amnesties. While the notion is to maintain the fragile peace and appease the military regime in power, it has been proved ineffective as a way of minimizing future coups as all these countries have recurring coups, nearly always led by the military. History indicates that appeasement of military regimes leads to more violations later as it indicates government weakness to the military (Citizens' Constitutional Forum, 2005: 2). In Fiji, the precedent for impunity was set in 1987 when Rabuka was awarded a blanket amnesty for staging the first coup, as this presumably emboldened others to execute coups and legitimize granting of amnesties (Lal, 2002).

CONCLUSION

International law needs to be reformed to take into account the dynamic field of conflicts and be more inclusive of issues prevalent to SIDS as well. If it is to continue to be held in high regard, international law should not be static and should dispense with any loopholes. While the approaches to amnesty have rapidly changed since the 1960s, international law has not kept abreast of these changes. One of the key arguments of this thesis is that international law's fixation with gross violations gives little space for focus on political crimes in SIDS. In reality, in most internal conflicts, political crimes occur much more frequently and may be viewed as a precursor to gross violations in future conflicts.

While in most other areas of life, it is sensible to be proactive rather than reactive, on the issue of conflict, most international, national and local organizations are still grappling with the adverse consequences of conflict after the fact. History shows that political crimes are a precursor to greater violence in future if such crimes continue to be amnestied. Attention should be paid to political crimes during early tensions and even first coups d'état, to avoid gross violations of human rights at a later stage.

The majority of the coups d'état executed within the studied timeframe were executed by the military, most of which stayed in power for lengths of time varying from a few months to 49 years. For democracy to strengthen, there should be a separation of the civil and the military roles, and history shows that appeasement of military regimes leads to more violations later as it reveals the inability of the government to control the military. Continued amnesty for such regimes sets a bad precedent as it legitimizes the notion of effecting political and constitutional change through violence and overthrowing democratic governments. In recognition of the major role of military in conflicts and coups, the next chapter will focus on security sector reform.

CHAPTER FIVE: SECURITY SECTOR REFORM

This chapter will present an overview of issues surrounding security sector reform (SSR) in post conflict situations. It embeds security sector reform within the transitional justice framework to consider the commonalities of aim, target and outcomes within these two approaches. The thesis discusses the use of vetting[42] as an enabler in SSR programmes and how these reforms could be utilised to build trust within a post-conflict society. It also suggests that any SSR design and implementation would need to consider factors such as the nature and type of democracy within a given country; the role of the military in the political arena and level of praetorianism[43]; the ethnic composition of the reformed military; and sustainable attitudinal change amongst relevant stakeholders and the wider community towards the military. It argues that SSR programmes should align technical and social reforms to deconstruct ideologies to change attitudes on issues of security, safety, justice and human rights. It also argues that SSR programmes would be more effective in countries with structural conflicts than in countries coming out of violent conflicts. SSR reforms are fraught with challenges such as impunity, fragmentation within the security sector, donor driven programmes and lack of local ownership, capacity problems and contextual and structural barriers. This chapter attempts to identify possible means of minimising these risks.

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[42] Vetting is generally defined as a process of screening individuals' suitability for employment (DCAF, 2006b: 1). But the focus of this thesis is vetting in post conflict scenarios, which is defined as a process to gauge a person's integrity (Mayer-Rieckh & de Greiff, 2007: 548). The definition of vetting will be discussed in more detail later in this chapter.

[43] The military is considered praetorian when it uses explicit or implicit force to control governance of the country. For more detailed definition please refer to section titled *'Survival of democracy versus Praetorian Military'* in this chapter.

The military has strong links with violent conflicts in three ways: through structural causes of conflict; as a trigger factor, and by perpetuating societal cleavages (Clingendael, International Alert & Saferworld, 2002: 2-3). Structural causes refer to systemic cleavages and disparities that are pervasive and generally accepted as 'normal' within a country. For instance, the issue of ethnic Fijian hegemony in the military is widely accepted but the dominance of Fijians in the military is perceived as a threat by Indo-Fijians during times of tension. In 1987, this was overtly demonstrated when the military singled out Indo-Fijians for harassment and threats. However, in 2006, the military commander singled out Methodist Christians and the traditional chiefs for harassment through various restrictions.

Secondly, the military has triggered conflicts in Fiji in the most overt form by threats of executing coups d'état and use of harassment to suppress any resistance to its position. In the past, the alignment of some, if not most, of the military personnel with the nationalist factions triggered the underlying disparities and in 2000 this led to street riots against Indo-Fijians. Additionally, the two coups in 1987 and the 2006 coup were carried out by the military. The 2000 coup was undertaken with the assistance of 30 Counter Revolutionary Warfare Unit (CRWU) members, an elite unit within the military. This unit was formed after the 1987 coup d'état as an intelligence arm of the military, but was disbanded after a mutiny by some members against other sections of the military in late 2000 (Trnka, 2008: 145).

Third, the military can also perpetuate social cleavages by being part of factors that prolong conflicts. For instance, since the 2006 coup, a number of statutory bodies, state enterprises and public service departments such as the police force,

immigration, justice, prison, airport authority and the Commission against Corruption have been militarized by appointment of at least 20 military personnel to senior positions across all these bodies. As discussed in Chapter One, the military has explicitly stated that it has plans to be part of politics and to monitor government activities in future. While this does not link to overt long term violence, it has and may continue to perpetuate further conflicts unless the military is brought under civil control.

The chapter argues that while most security sector reforms are taking place in countries with a history of overt violence such as Afghanistan, Iraq, the Democratic Republic of Congo (DRC), East Timor, etc. SSR would be more effective in countries experiencing structural conflict without widespread violence, as is the case in Fiji. It links to the earlier theme that advocates of transitional justice need to reconceptualise their various mechanisms to target countries such as Fiji to prevent structural conflicts escalating into protracted conflicts in the future.

Defining Security Sector Reform

The development of transitional justice approaches since the 1990s has expanded to include a number of mechanisms which are utilised to address past human rights violations in an attempt to reduce reoccurrences of conflict in the future. SSR also gained momentum during this era but it focused on strengthening the capacities of the state police, state and non-state armed forces, and the disarmament, demobilization and reintegration (DDR) of former combatants of war (Mobekk, 2006: 1). The concept of reforming the security sector to make it accountable to democratic processes originated in the 1990s as an explicit

development concept (Mayer-Rieckh & Duthie, 2009: 217) and it was only later that SSR was embedded within the wider transitional justice approach. In recent years, a number of international organizations and academics have recognised the need to embed SSR within transitional justice.[44] Subsequently, SSR has emerged as a more holistic concept encompassing diverse disciplines and sectors and increasingly adopted by major international bodies.

As SSR has become all encompassing, two commonly used definitions have been developed by the UN and the Organisation for Economic Cooperation and Development's Development Assistance Committee (OECD DAC) (Mayer-Rieckh & Duthie, 2009: 216). The United Nations Security Council defines the security sector as "both State and non-State actors that have a stake in security and justice provisions" (UN Security Council, 9 February 2007) but it limits the definition only to 'traditional' security institutions (UN, 2008: §§ 14, 17).[45] The OECD DAC, the European Commission (EC) and the Democratic Control of Armed Forces (DCAF) expand the definition of SSR to include the media, civil society organizations (CSOs), the judiciary, the executive and the legislature (OECD, 2007: 21; EC, 2006; DCAF, 2008: 4). See Annex 7 for the role and functions of key actors and institutions involved in SSR. While some of these organizations acknowledge the inter-linkages between SSR and transitional justice, the UN and OECD have strengthened this link further by emphasizing that

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[44] See McCartney, Fischer & Wils (eds.) 2004; Heiner & Bryden (eds.), 2005; Mobekk, 2006; Nathan, 2007; de Grieff & Duthie (eds.) 2007; de Grieff, 2009; Davis, 2009b; Ball, Brzozka, Kingma & Wulf (2002); OECD DAC Handbook; various UN and DCAF reports.

[45] Traditional security actors are commonly identified as defence forces, police, border guards, and intelligence services. However, some international agencies also include the oversight bodies such as the executive and legislature; civil society organisations; justice and law enforcement institutions such as the judiciary and prisons; as well as non-state security providers as security sector actors (GFN.SSR, 2007: 5)

as well as effectively providing security, security sector institutions should be accountable to the population and adhere to rules of governance, democracy and the rule of law (UN, 2008: para 17 & OECD, 2007: 21).

While the holistic involvement of actors outside the traditional security sector is important, in some circumstances it may not be feasible. It is doubtful if broad-based long term approaches covering all the relevant political, economic, social and institutional dimensions could be successfully implemented as there would be a lack of clarity on the core reforms (Wulf, 2004: 10). Funding and human resource constraints and the absence of political will are additional challenges and will be covered later in this section. Wide ranging benchmarks for SSR would be too ambitious in post conflict countries (Mayer-Rieckh & Duthie, 2009: 221 and Hutchful & Fayemi, 2005: 87). Most countries coming out of conflict do not have the required financial and human resources and many of their institutions are so fragmented that to properly rebuild any one would take years. In such scenarios, reforming all security-associated institutions would resemble 'bandage treatment' and does not hold out much possibility of preventing the reoccurrence of conflict as no one institution would be fully strengthened.[46] In consideration of these factors, this research will be limited only to military reform, particularly in the case of Fiji, to get a nuanced understanding of possibilities of state military reform in countries with a praetorian military and a history of structural conflict.

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[46] Bandage treatment in this context denotes that reforms are done as a stop gap measure and spread across many institutions rather than trying to eradicate the root and underlying causes that led to the conflict itself.

CONVERGENCE OF SECURITY SECTOR REFORM & TRANSITIONAL JUSTICE

From a development perspective, it has been argued that "an ineffective, inefficient and poorly governed security sector represents a decisive obstacle to sustainable development, democratisation, conflict prevention and post conflict peacebuilding" (Hänggi, 2009: 344). Successful SSR may lead to poverty reduction due to decreased spending on the security forces, accountability, and improved security for individuals and property, which would provide an impetus for greater investment and development (Brzoska, 2003: 16). However, only recently have the links between SSR and transitional justice been acknowledged. This has been driven by the fact that both these approaches focus on accountability, the rule of law, and the prevention of future conflicts and tend to target similar institutions.

Until recently, transitional justice and SSR were treated as separate entities and some agencies continue to perceive the relationship in this way. SSR literature generally associates transitional justice with judicial reform (Brzoska, 2003: 7; OECD DAC Handbook, 2005: 194 & 107), while others make no reference to transitional justice at all (DFID, 2005). For instance, the UN recognises that there is an overlap between transitional justice and SSR, but it mentions transitional justice only once in its SSR report (UN, 2008: para 12) and makes only a fleeting reference to SSR in its report on the rule of law and transitional justice (UN, 2004: para 5). The 2004 UN report fails to anchor vetting in SSR despite allocating a section to vetting in the report. This lack of acknowledgement of the overlap between SSR and transitional justice implies tension between experts and practitioners in the two areas.

Transitional justice actors are perceived as idealistic by SSR specialists due to their focus on human rights and accountability (Duff, 2007), while SSR actors are seen as military hardliners wholly concerned with military operations by the transitional justice community (Mayer-Rieckh & Duthie, 2009: 223). This separation also resonates with the practical implementation of SSR and transitional justice approaches in places like East Timor, Afghanistan and the DRC. For instance, in Afghanistan, SSR programmes were largely implemented by foreign staff with a security background without considering the needs of victims, while local justice systems were encouraged by transitional justice programmes without much assistance from the security sector or thought about the security needs of the local populations.

In post conflict settings, transitional justice and SSR actors tend to target similar institutions such as the police, military, judiciary, media, CSOs, the executive and the legislature, and face many similar challenges to their efforts. These include internal and external political obstacles, problems of capacity, and contextual and structural problems (see Annex 8). But instead of harnessing these commonalities, both the SSR and the transitional justice approaches perceive the other as a competitor, particularly for donor funding (Mayer-Rieckh & Duthie, 2009: 223). The relationship between transitional justice and SSR continues to be understudied, despite rehabilitation projects focussing on state-building, democratisation and peace-building in post conflict situations (Davis, 2009b: 7). In recent years, transitional justice literature (see footnote n.44 & 45) is starting to highlight the importance of relocating SSR from the fringses of transitional justice to the mainstream.

While SSR could occur in almost any setting and in countries without any link to internal conflicts, the concept of SSR in post conflict settings with the added emphasis on addressing past crimes and overcoming the legacies of the past, aligns it with transitional justice and has been renamed 'justice sensitive' SSR (Hänggi, 2009). The concept of justice sensitive SSR is under-explored even though it can help to prevent the reoccurrence of violence and conflict in the future, which is one of the core objectives of transitional justice. "A justice-sensitive approach to institutional reform recognises that institutions (as well as individuals) provide an enabling environment and bear significant responsibility for massive violations of human rights" (Davis, 2009: 7). It is increasingly recognized that accountability and justice merged with SSR could be more effective if utilised in alignment (de Grieff, 2002). SSR and transitional justice converge in four distinct areas: strengthening the rule of law; accountability; preventing the recurrence of conflict and building trust towards the new government (Mayer-Rieckh & Duthie, 2009: 226; Mobekk, 2006: 6).

Strengthening rule of law is an intrinsic part of SSR and increasingly transitional justice activities target judicial reforms and capacity building to have a fair judicial system that is impartial in criminal proceedings and promotes oversight. Transitional justice also aims for accountability for past atrocities while SSR promotes accountability for present and future actions. They can complement each other by addressing past acts of violations through domestic prosecutions, truth commissions, minimising impunity and/or vetting of perpetrators. Such processes could start a shift towards transparency and set precedents for the future. Thirdly, the strongest link between SSR and transitional justice is at the

juncture of deterring reoccurrence of conflicts, as without reforming the very institutions responsible for the violations, conflict is likely to reoccur (Mobekk, 2006: 2-3). In transitional settings, the inability of democratic and accountable government to take root combined with an unreformed and praetorian military is most likely to lead to coups d'état and the recurrence of human rights abuse (DFID, 2005: 8). A central concern of transitional justice is to reform abusive institutions to allow them to regain the population's trust (Cousen, 2001: 12). Lastly, all these strategies would build confidence amongst citizens that the new government is steering the country away from a corrupt, abusive and unaccountable past.

Instead of viewing SSR as a competitor, it should be acknowledged as a core component of transitional justice (Mayer-Rieckh & Duthie, 2009: 224). For instance, SSR's role in enabling vetting of security sector 'spoilers' could benefit other transitional justice measures such as institutional reform, truth seeking and dealing with impunity (de Greiff, 2007: 528-529) while transitional justice accountability mechanisms and empowerment of victims could allow security sector actors to regain public trust. Critics of the convergence of transitional justice and SSR may argue that it may lead to a lack of clarity as boundaries are expanded to include different fields within the conflict discourse. But from a developmental perspective, transitional justice and SSR programmes cannot continue as parallel individual projects: they need to complement each other to build their overall capacities (UNDP, 2003: 10). For instance, lessons learnt in post-conflict Bosnia, Kosovo and southern Serbia show that transitional justice and SSR programmes had to complement each other to assure the safe return of internally displaced persons, particularly minorities (ibid.).

South Africa's experience demonstrates that transitional justice approaches can provide leverage for SSR. In post-apartheid South Africa, a number of institutions such as the South African Human Rights Commission, the Commission for Gender Equality, the Truth and Reconciliation Commission, the Commission on the Restitution of Land Rights, and the Constitutional Court were established to promote democracy and reconciliation. In parallel and with similar rationale, the Defence Ministry started the process of drafting a White Paper for security reform, with the final document submitted in May 1996 after extensive consultation from all sectors of society (Nathan, 2007: 94-97). While the process was "complicated and frequently adversarial because of the number of actors involved in the consultation and decision-making processes and because the interests and values of these actors were often diametrically opposed", it was very effective as it gave the South African National Defence Force (SANDF) the required legitimacy to start the reform process (ibid.: 98). The transitional justice processes influenced the SSR process to include victims and civil society organizations for the first time in their security sector decisions, thus empowering them in the process. In conclusion, transitional justice and SSR have four common objectives: strengthening the rule of law; accountability; preventing the recurrence of conflict, and inducing trust towards the new government, each of which will now be examined.

STRENGTHENING THE RULE OF LAW

Justice and security in any country is underpinned by the rule of law, and a breakdown in the rule of law is the most significant factor in any escalating conflict (UNDP, 2008-2010: 5). The Rule of law is a governance concept defined as

…a principle in which all persons, institutions and entities, public and private, including the state itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It encompasses a wide spectrum of interdependent institutions, competencies and actors who operate within the inter-dependent sub-sectors of justice and security and converge under the broader scope of the rule of law and governance. (UNDP, 2008-2010: 30)

For the purposes of this thesis, we will limit rule of law applicability only to the security sector. The security sectors are the providers of security in states, however, in places of conflict, instead of providing security for the citizens, they are found to be protecting the private interests of elite groups by using torture, intimidation and harassment (UNDP, 2003: 5). This situation is exacerbated when a weak rule of law is coupled with inequitable due process, resulting in citizens' inability to seek justice (ibid.). If rule of law is not strengthened, the security sector may often cause conflict to worsen (Mayer-Rieckh & Duthie, 2009).

Mani (2003) identifies various typologies of rule of law in relation to police reform, which can also be applicable to military reform. Her work showed that in many security sector reform programmes, the strengthening of the rule of law is largely focused on functional 'form' rather than an added value of 'substance' of these institutions and system (Mani, 2003: 4-5). 'Form' in this context means that all the rule of law institutions, such as the judiciary, police, prisons, military and the entire justice system are functional, and 'substance' means that all the related institutions are substantially just (ibid.). It is argued that in many SIDS, the rule of law institutions are functional but politically manipulated and corrupt, particularly where the military is praetorian. Therefore, it is crucial to strengthen the rule of law

in relation to the security sector, so that stability is established and these institutions are trusted by the citizens of the country. The rule of law could be strengthened through the constitution and the training of personnel to ensure that security sector officials adhere to due process even within times of conflict and are not able to manipulate and corrupt the rule of law institutions. For instance, discussions in Chapters 1 and 3 demonstrate that rule of law institutions were manipulated by both Rabuka and Bainimarama when they came into power; both of whom were Fiji Military Forces Commander's during that time. Accountability can also strengthen the rule of law, which leads to prevention of conflict. The next section will discuss vetting in relation to accountability.

VETTING – FOR ACCOUNTABILITY, PREVENTION AND INDUCING CIVIC TRUST

This section differentiates between lustration and vetting. It will also anchor the concept of vetting within the SSR and transitional justice processes. It argues that vetting could strengthen the transitional justice and SSR element of democratization by promoting accountability, strengthening the rule of law, preventing similar conflicts in the future, and enabling civic trust.

DISTINCTION BETWEEN LUSTRATION AND VETTING

Vetting is generally defined as a process of screening individuals' suitability for employment (DCAF, 2006b: 1). The employment form of vetting is commonly conducted by many businesses and civil sector agencies and may comprise criminal background checks, disclosure forms, health checks and increasingly, social media activity prior to employment is also being checked. Vetting in post conflict scenarios generally goes beyond these measures and is commonly

conducted on persons who are already in employment, as well as new employees. Vetting in this sense is defined as a process to gauge a person's integrity; that is to find out by different means whether the individual has adhered to human rights standards, how they conducted themselves professionally during periods of conflict, and/or whether they have been involved in corruption (Mayer-Rieckh & de Greiff, 2007: 548). It may include financial checks on them and their immediate family members (ibid.). This approach is relevant in countries like Fiji where coups d'état, widespread corruption and suppression of the media, CSOs and human rights activists occur but are never categorised as gross violations of human rights. As a result, not much is done to hold the perpetrators of such political crimes accountable as they fall beneath the radar of international monitoring systems.[47] Lustration, which is generally considered to be the same as vetting, has been utilised in a number of post conflict countries, and is particularly associated with Eastern Europe, but both lustration and vetting, remained understudied until recently. In the 1990s, some scholars did focus on lustration but with reference to literature on criminal prosecution and truth commissions. Despite this, the discourse on vetting and lustration remains negligible (de Grieff, 2007: 523).[48]

In the post-communist era, lustration was utilised in the Czech Republic, Slovakia, Hungary, Albania, Bulgaria, Estonia, Germany, Lithuania, Latvia, Poland,

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[47] Please refer to the Impunity chapter for more discussion on this issue and the Terminologies Section for the definition of political crimes.

[48] This lack of literature on lustration could be attributed to the lack of success of these measures and international condemnation of the lack of due process (this is explained in more detailed in the following paragraph). Whatever literature does exist has identified the potential benefits of lustration if the various shortcomings are 'tweaked', and the field has been renamed as vetting.

Romania, Kazakhstan, Kyrgyzstan, Tajikistan, and Uzbekistan (Ellis, 1996; Lynch, 2008). Lustration is characterized as the 'purification' from a legacy of human rights abuse, a 'purging' and de-communization campaign (Brahm, 2004). In the Czech Republic, lustration laws were sweeping and punitive in nature and included purging people based on their affiliation with the former Communist Party or secret police force (Ellis, 1996: 181). In many of these countries, the initial lustration laws had to be revised as they were controversial, violated the human rights of the accused and were perceived as revenge against those aligned with the communist or socialist government. In the Czech Republic, they were also deemed to be creating fear rather than hope for the new democracy. Priban (2007: 328) states: "Democracy cannot be founded on discrimination".

The international community criticized this approach as a violation of human rights standards as "it assigns collective guilt by prosecuting individuals solely on the basis of membership or affiliation" (Ellis, 1997: 182). Individuals may be wrongly accused without sufficient evidence or investigation, and records were often tampered with by members of the current government (ibid.). In recent decades, there has been a shift from lustration to vetting as the notion of due process and focus on individual responsibility for human right violations are increasingly embedded within the vetting framework. This has been demonstrated in vetting programmes implemented in Argentina, El Salvador, Haiti, Bosnia-Herzegovina, Liberia, Burundi and the Democratic Republic of Congo (Lynch, 2008: 3). In contrast to lustration, vetting focuses beyond affiliations and larger groups to identify *individual* conduct during times of conflict and is grounded in human rights standards. While lustration is usually identified with post World War II and post-communism purges, Brahm (2004) argues that the American-led 'de-

Baathification' in Iraq after country's invasion in 2003 has parallels with lustration rather than vetting as the purge of people linked to the Baath Party and Sadaam Hussein had many similarities with the post-communist era.

Vetting is generally undertaken to reform institutions with the intention of preventing human rights violations in future and is largely aimed at security sector actors such as the police and military (Mayer-Rieckh, 2007: 485). Vetting processes largely fall within two main categories: review and re-appointment (ibid.). The majority of the vetting carried out in recent decades falls within the review category. This comprises assessing and removing individuals who had participated in various violations during conflicts to allow a gradual restructuring of the institution (Mayer-Rieckh, 2007: 487). Vetting is usually conducted by appointed committees, which assess individuals from pre-identified sectors, typically for their past involvement in human rights abuse, corruption and associated activities (Duthie, 2007: 25). For individuals found guilty by the vetting commission, the outcomes vary from country to country and may include being barred from working in the public sector or running for election; being forced into early retirement; transferred or banned from promotion; as well as minimalist approaches which do not have any explicit sanctions in exchange for voluntary retirement (ibid.).

By contrast, the re-appointment process takes a maximalist approach to disband the entire organisation to screen all persons for future appointments (Mayer-Rieckh, 2007: 487). However, re-appointment is not feasible in smaller nations with limited resources or in post conflict scenarios where perpetrators are known to be from all sides of the conflict or in countries with a praetorian military. While it

is crucial to dismantle the established and entrenched practices that led to conflict, total removal of all corrupt elements could lead to a governance vacuum and a danger that already weak institutions may collapse. While it has been argued that a governance vacuum is overstated (Priban, 2007), it can be underestimated for smaller nations. For instance, vetting in this manner in Fiji may remove large numbers of people from the political, civil and private sector from future state building and with limited fresh capacity within the local population to fill the vacuum. Additionally, re-appointment processes could also be perceived as similar to lustration, as the innocent within the disbanded organisation are also penalized, at the very least by an initial loss of employment.

Thus, to conclude, vetting differs from lustration as it focuses beyond affiliations and larger groups to identify individual conduct during times of conflict and is grounded in human rights standards. Additionally, the review process of vetting is most applicable in countries like Fiji where distrust for the security sector in coup-related activities is high but the military institution overall is not pervasively corrupt and has not participated in genocide or sustained gross violations of human rights. This process of vetting will also allow a gradual rebuilding of the military institution while it still holds strong influence in the political arena.

The following section will focus on how vetting could be an instrument for accountability, preventing the reoccurrence of conflicts and enabling trust, which ultimately ties with transitional justice and SSR.

VETTING FOR ACCOUNTABILITY

The issue of accountability has been raised in the previous chapter in relation to impunity and here it will be addressed briefly so as to link it to vetting. Traditional SSR proponents considered addressing past abuses as an obstacle to reforms and a waste of resources, unless it manifests as a performance deficit in the present (Mayer-Rieckh & Duthie, 2009: 228). On the contrary, transitional justice emphasizes the significance of confronting past abuses and links it to reconciliation (Greiff, 2009). Stand-alone SSRs tend to focus on accountability to the rule and laws of the government and the establishment of structures to ensure democratic control of the armed forces. When embedded within the transitional justice context, SSR can utilise vetting and truth commission concepts to reinvent itself to be accountable to the people, to the victims, and the specific atrocities that were perpetrated against them. This move towards accountability for past atrocities by the security sector has the potential to enhance its legitimacy and gain public confidence by demonstrating a shift from being abusive, corrupt and politicized to being transparent and committed to overcoming the legacy of abuse (Mobekk, 2006: 6). For instance, in Fiji, the police and military personnel have a relatively good management structure for a developing country, and are highly skilled, but are not trusted by the general public due to their past involvement in human rights abuse and the overthrow of four legitimate governments since 1987.

VETTING TO PREVENT RECURRENCE OF CONFLICT

In post conflict scenarios, vetting is widely acknowledged as a means to prevent the recurrence of conflict, and it resonates in §43 of the UN report by Louis Joinet (1997)

> Vetting…is defended on the grounds that it may prevent the reoccurrence of violations...because it dismantles networks of criminal activity, even if it does not reach each and every participant in activities that violate the rights of others.

The burden of an abusive past prolongs among other things, the presence of abusive security sector actors within the political or public arena who undermine the legitimacy of the security sector or the government and may block reform efforts (Greiff, 2007: 535-536). As well as the persistence of structures within which individual security agents carried out and continue to carry out abuses, the ongoing victimization of specific population groups and individuals, and their exclusion from the security sector continues to undermine the legitimacy of the new government (ibid.). As a result of these different factors, there is deep distrust towards the security sector agents that were involved in serious abuses but who have not been held accountable (ibid.). As armed forces are the common perpetrators, vetting such individuals will not only hold them accountable but will remove 'spoilers' from the peace building process. This ultimately would help prevent the recurrence of violence and conflict, as it ensures they would not engage in misconduct again through state institutions. It would also signal that impunity for past abuses would not be tolerated. Critics argue this could also create spoilers; but if the review process of vetting is utilised effectively, and potential spoilers are identified and engaged otherwise, and public support for such spoilers is managed effectively, it is possible to contain them from aggravating tensions (Jennings, 2003).

Vetting could be utilised in scenarios like Afghanistan and DRC where the judicial systems are weak and perpetrators are unlikely to be held accountable through prosecutions. To some extent, the resurgence of violence in Afghanistan in recent

years has been attributed to the lack of proper vetting in conjunction with SSR and aligned programmes. Here, known past human rights abusers were given positions of power in post conflict rebuilding without any screening of their past records or any reprimands (Davis, 2009b: 10). Apart from technical SSR reforms, vetting could have removed known perpetrators from access to power and future abuse. Instead, their continued presence in such positions has allowed regional powerbrokers and warlords to continue to hold influence within their areas similar to the power they enjoyed during the Taliban era, by taking advantage of the culture of impunity (Sedra, 2006: 102-103). Instead of holding them accountable, it has emboldened the perpetrators while creating distrust for the government among the victims. Critics would argue that without the support of the warlords, President Karzai would not have held on to power. However, in retrospect the new government may have worked without the support of the warlords' as the *loya jirga* (grand council) selection process has 'explicitly called for the exclusion of delegates who had engaged in human rights abuses, war crimes, looting of public property, or the drug trade' (UNAMA, 2002: Article 14), but the warlords were invited to the process as US wanted to utilise them to fight the war against the Taliban.[49]

Similarly, past institutional reform programmes in Fiji that did not incorporate vetting have proven to be unsustainable in the long term and have been blamed for triggering the 2006 coup d'état. For instance, in the aftermath of Fiji's 2000 coup, people lost trust in the Fiji Police Force as it was widely believed that the Commissioner of Police at that time, Colonel Isikia Savua, was involved either

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[49] This indicates that locals didn't want the criminals included in their new government and public support could have mitigated their ability to spoil the process.

explicitly or implicitly in the coup. The allegation was reiterated by the President of that period, Ratu Sir Kamisese Mara, in 2001.[50] A group of senior Fiji police officers filed a writ against Commissioner Savua in 2002 on the same basis.[51] Senator Adi Koila Nailatikau voiced her concerns during a Parliament session in 2004[52] and lately, Peter Foster has detailed former Commissioner Savua's involvement in his 2009 report.[53] In 2003, police reforms started with the Commissioner of Police position being granted to an Australian citizen to give an air of fairness and impartiality and induce trust towards the Fiji Police Force. However, despite Commissioner Hughes' efforts to hold Colonel Savua accountable, it proved to be futile as instead of prosecuting or vetting Colonel Savua, the government of Prime Minister Qarase rewarded him by appointing him as Fiji's Permanent Representative to the UN from 2003 to 2006.[54] He was cleared of any involvement in the 2000 coup by a closed tribunal (Lal, 2002: 88).[55]

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[50] Fiji TV (2001), **Closeup Program,** 'Unofficial Transcript: Closeup Interview with Ratu Sir Kamisese Mara' 29 April. Accessed on 20/11/2009 from http://www.fijihosting.com/pcgov/docs_o/mara_interview_29april.htm

[51] Radio New Zealand International (2002), **Senior Fiji Support Legal Action against Former Commissioner Isikia Savua**, 19 December. Accessed on 20/11/2009 from http://www.rnzi.com/pages/news.php?op=read&id=3280

[52] Parliament of Fiji (2004), **The 9th Parliament - Meeting of the Senate, Full Text of the Hansard for Friday, 22 October 2004**. Access on 20/11/2009 from http://www.parliament.gov.fj/hansard/viewhansard.aspx?hansardID=266&viewtype=full

[53] Foster, Peter (2009), **Fiji Truth: Fostering Understanding of Fiji.** www.fijitruth.org. Accessed on 20/11/2009, from http://www.fijitruth.org/Fiji_Truth_August_2009.pdf. Peter Foster's report is not given much credibility due to his criminal history; however this report is worth mentioning as despite lack of evidence for his various allegations, this is probably the only source of such in-depth information on Fiji's various coups by an individual who was close to many coup plotters. Among other things, Foster claimed that Colonel Savua knew of the 2000 prior to it happening.

[54] In some ways, this could be considered as an approach to contain a potentially powerful spoiler.

[55] This tribunal was headed by former Chief Justice Timoci Tuivaga who had supported the military's proposal to abrogate the 1997 constitution on 19 May 2000. This stance led to a division within the judicial ranks and wider population as people began to question his impartiality.

This and similar acquittals and pardons of certain individuals involved in the 2000 coups by the Qarase government are some of the factors that triggered the 2006 coup as the military became increasingly confrontational towards the government. This underlines the need for reforms to be holistic and to hold perpetrators accountable if future conflicts are to be prevented. Reform processes should also be led by persons of integrity to demonstrate impartiality and transparency.

Vetting could enhance the credibility of other transitional justice mechanisms as it indicates that the incoming government is willing to hold perpetrators accountable (UN, 2006b: 3). Vetting armed forces could also indicate that the government is able to impose civilian control over the military and thereby reaffirm faith in the government.

To conclude, where vetting is deemed essential, it should be carried out gradually. It should begin at an early stage of the transitional process to eliminate spoilers and thereby ensure they do not utilise violence to derail the peace building process. Vetting armed forces could also legitimise control over the military by government and civil society and minimize interference by nationalist or ethnic groupings to enable wider SSR and transitional justice reforms to occur.

VETTING TO INDUCE TRUST

During conflicts, widespread atrocities are generally committed by individuals working for the security sector (Mayer-Rieckh & Duthie, 2009: 229), which usually undermines the trust in the institutions of this sector. Acknowledging the involvement of security sector actors in past abuses and disclosing how, where, when and what type of atrocities were committed may allow for systemic

transformation of a society as well as minimise the weaknesses in these institutions (Cobian & Reategui, 2009). SSR needs to incorporate other transitional justice mechanisms and emphasize that "security delivery is provided by someone for someone" (Mayer-Rieckh & Duthie, 2009: 229). Therefore, the customers of these services have a right to know and the providers are accountable to these customers, which would allow for victims to be empowered.

In transitional justice, civic trust for institutions is defined as social capital that could aid a country's development (Duthie, 2009: 18) and is differentiated from the horizontal trust that people have for each other. Instead, civic trust is associated with vertical trust for higher authorities to provide certain requirements of society (de Grieff, 2007: 535). It links to Rawls' concept of "rule of law's ability to generate social trust" among the wider community by providing a platform of reliability for institutions (Rawls, 1972: 235). If institutions are considered to be just through their actions, it enables trust among citizens to rely on them for their services. Conversely, distrust for institutions will continue in post conflict situations if explicit activities do not eradicate the mistrust acquired during conflict periods. Amnesties may lead to peace accords and space for spoilers, but they may also trigger anger among citizens, particularly the victims. For instance, the earlier example of former Commissioner Savua's acquittal in a closed tribunal indicates that the investigation was not undertaken to induce trust in Fiji but to placate a potential spoiler. And if the citizens do not trust the Police Force, they are unlikely to report crimes or seek assistance for their protection. The acquittal and subsequent promotion of former Commissioner Savua undermined the integrity of the police force despite the new leadership. Ethical and effective vetting of

perpetrators would inspire trust towards the institutions as people realise that perpetrators do not have access to military power and legitimacy to harm them.

MULTIETHNIC MILITARY

Institution reform is a common concept in both transitional justice and SSR and this section will link the concept of military reform with the issue of inducing civic trust, but through an alternative route: pluralism in the military. Armed forces which do not reflect the social composition of broader society tend to be distrusted by the minority within the society in times of conflicts (Adekanye, 1996). This is particularly problematic in multi-ethnic states and could lead to diminishing trust towards the military by minority groups (DCAF, 2006a: 1-4) as it would be perceived as representing the interests of a single ethnic group (Mason, 2007: 11). To minimize this, the military should have a common unifying "vision that transcends the different identities of its members in order for them to perform cohesively and effectively in the field" (DCAF, 2006: 2). A military which is more representative of the population "will also better understand the concerns of all population groups because its representatives will speak their languages, comprehend their cultures, appreciate their traditions" (Mayer-Rieckh & Duthie, 2009: 232) and could help to foster interethnic tolerance. This was observed in post-apartheid South Africa, where power sharing arrangements at the political level were also reflected in the military hierarchy leading to a more stable situation during that period (Nathan, 1996: 4). By contrast, in Fiji, the military personnel and politicians have manipulated each other by citing traditional Fijian and chiefly allegiance.

During times of peace, the ethnic composition of the military might not be an issue. However, during and after conflict, the military's composition can lead to certain groups aligning with or against government, particularly if the military were involved in the conflict, as they may perceive this as 'them' against 'us'. For instance, prior to the 1999 elections in Fiji, it was not uncommon to hear nationalist groups utilise the fear of another coup to deter people from voting for the Labour Party, which had a larger number of Indo-Fijian supporters. Indo-Fijians considered this a real possibility as of the approximate 4000 military personnel in Fiji, only 15 are Indo-Fijians. As a result, it was perceived that Fijians had inside information regarding a coup.[56] In 2005, the Opposition Leader, Mahendra Chaudhry, raised the issue of hiring more Indo-Fijians in the military to guarantee future political stability. The military responded by denying that it was an ethnic body and that there were barriers in its recruitment or promotion policies.[57]

Annex 9 shows that in countries with large minority populations that are prone to conflict, minorities were actively recruited to have an integrated and multi-ethnic military as it can enable sustainable peace. For instance, as part of SSR in Northern Ireland, since 2001 the renamed Police Service of Northern Ireland (PSNI) started an active process to recruit 50% of Catholics and 50% of Protestants in their Police Force (Archick, 2015). Prior to this, The Royal Ulster Constabulary (RUC) had 92% Protestants in their police force (ibid.). Such reforms include mixed units, management diversity, integration based on merit,

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[56] Data obtained from a Fiji Military Forces presentation which was accessed on 26/12/09 from http://www.forumsec.org.fj/_resources/article/files/Etueni%20Caucau-Military%20Presentation-RFMF.pdf

[57] The Fiji Times, various articles on 4 and 5, August 2005

and active actions to ensure balanced representations of minority groups. While the Fiji Military Forces does not explicitly exclude Indo-Fijians from in its recruitment, its portrayal as an overtly Christian organization may have deterred Hindus and Muslims. SSR programmes would need to emphasize active recruitment of different ethnic groups for the military to placate the trepidation that minority populations have towards the military in post conflict situations.

Having different ethnic groups within the military may also lead to the military being less intrusive in the political arena. For instance, in Fiji, the Fijians have a strong allegiance to the traditional chiefly system and the military is seen as an extension of this system. Therefore, the military commanders have an almost unquestioned authority over junior officers. In such a scenario, having significant Indo-Fijian military personnel may lead to this sub-group questioning the commander or senior military personnel actions, particularly with regard to interference in politics.

To conclude, SSR should go beyond technical aspects, to be complemented by structural reforms to eradicate distrust of and establish integrity within the security sector, particularly the military. Victim-sensitive activities would eradicate the view that SSR programmes give preferential treatment to the security service actors without addressing the concerns of the marginalized (Mayer-Rieckh & Duthie, 2009: 236). Vetting of military personnel who committed gross violations of human rights, who were corrupt or overthrew democratic governments could enhance the public's trust in the military as it indicates a distancing of itself from the abusive past. In multi ethnic societies, SSR should encourage a more plural military to allow a social representativeness, reduce distrust from certain sections of the

community and have different voices within the military structure that may deter the military's political interference. Additionally, to be more holistic, SSR programmes should be planned taking into account the history of conflict, the significance of key stakeholders and institutions and various interlinked social, political and economic structures. For instance, any SSR for Fiji's military would need to address the core issues of the nature of democracy, the praetorian military, military ideologies and the community's perception of the military.

RETHINKING SECURITY SECTOR REFORM & TRANSITIONAL JUSTICE

SSR is profoundly political as it challenges power relations, vested interests and dominant paradigms and is largely based on democratic governance. However, it needs to be contextualized, taking into account many of the factors identified below (Nathan, 2007: 8). This section argues that SSR and transitional justice are mature enough to expand and design programmes for countries with ongoing structural conflicts. It argues that transitional justice needs to rethink its mechanisms to address structural tensions so that conflicts in countries such as Fiji do not become more violent in the future. It also argues that SSR programmes would be more effective in countries with structural conflicts rather than in countries coming out of violent conflicts. It stresses that transitional justice and SSR programmes should align technical reforms with social components so as to deconstruct attitudes on issues of security, safety, justice and human rights. The section will focus on contextual factors such as the nature and type of democracy within the country; the role of the military in the political arena and level of praetorianism; the military's ideology of their role in the country; and the need for durable changes in attitude of the wider community towards the military.

Survival of democracy versus praetorian military

In many post-colonial countries, the survival of democracy after independence has been precarious. This has been observed in many post-independence African countries as well as in Pakistan, Bangladesh, Fiji and others as highlighted in the previous chapter. In many of these countries, democracy is pursued as an agenda of the modern state but the true essence of democracy is not valued nor is its significance embraced. While there are many contested meanings of democracy, generally it includes some or all of the following: fundamental freedoms and rights, elections, rule of law, separation of powers, democratic pluralism, political opposition to the government and freedom of the media. Democratic rules require that political parties accept defeat at the polls or through legislative process, and until a country's political system matures to that level, a new democracy is always at risk (Mason, 2007: 65). While democracy is under threat in many parts of the world, is more under threat in ethnically divided societies as political parties are often formed along ethnic lines (Horowitz, 1985: 295). Attempts to form multi-ethnic parties are challenged by nationalist groups (Mason, 2007: 66) and when population groups are increasingly dissatisfied with the government in power, either the state uses its military to suppress potential uprisings (Mason, 2007: 15-16) or the military becomes praetorian: that is, it assumes control of civilian authority forcefully (Uzgel, 2003: 180).

The military becomes praetorian when it threatens or uses force to dominate the political arena (Nordlinger, 1977: 3). It is argued that the following conditions allow praetorianism to develop: ineffective civilian government; lack of legitimacy of the civilian regime; failure of political and social institutions to provide legitimate space for channelling political participation and mediating social conflicts; polarization of

social groups; the military gaining high levels of popular support at least in the initial stages (Perlmutter, 1981: 13-19). Coups d'état by the military are the most overt form of praetorianism. For instance, in Fiji since the 1987 coup, the military has retained a strong link with the political process and minimizing its role abruptly may lead to an escalation of the conflict. SSR programmes need to take into account the strength of the military and their role in the political sphere (Malan & Weir, 2007: 2). Interventions need to engage with the military to rebuild a stable civil-military relationship but gradual changes would be more effective. A praetorian military could derail the whole reform process unless it is deliberately courted. Lessons learnt from DDR (demobilization, demilitarization and reintegration) programmes show that when the military is engaged and given incentives, it is willing to embrace that reform. Similar approaches could be used in SSR reform, particularly if the military is to be downsized, as not involving them could be perceived as threatening their existence. For instance, when Andrew Hughes was appointed by the Qarase government in 2003 to reform and strengthen the Fiji Police Force, which involved setting up an armed police unit, the military became convinced that this unit would be used against them. As a result, the unit was summarily disbanded on the day of 2006 coup. Additionally, the military ensured that Hughes would not return to Fiji and appointed a senior military person in his place.[58] The Qarase government and Hughes could have justified to the military why the armed police unit had been established in order to placate their fears rather than side-lining them on the basis that the military had no place in political decision making.[59]

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[58] Fiji Military Forces (2008), **RFMF Command Intent,** 2008, para. 7, accessed on 26/12/09 from http://www.rfmf.mil.fj/html/commander_intent_2008.html

[59] Particularly as at that time, the military and the Qarase government were on confrontational terms, the armed Police Unit setup was viewed suspiciously by the military.

In designing SSR some issues to consider are: the role of the military; appropriate civilian control and professionalising security personnel; oversight bodies; allocation of resources; institutional separation of duties as well as supporting reformers and minimizing the impact of spoilers (Wulf, 2004: 13-22; Ball, 2004: 48). While theoretically these approaches are important, SSR and transitional justice need to acknowledge that democracy has different meanings in different countries. Many of these factors are designed in alignment with liberal democratic principles, with the understanding that the military needs to be under civilian control. "Paradoxically, as well as being the major factor in the overthrow of democracy, the military has also played a pivotal role in the establishment and maintenance of democratic rule" (Preece, 2000: 10).[60] For instance, in Ghana under Rawlings and Turkey during the 1960s, the military intervened due to the incompetence, nepotism and corruption of the political elite and actually promoted democracy.

SSR proponents argue that professionalizing the military would deter them from overthrowing governments (Ball, 2004: 46). Professionalizing the military would entail removing them from the political arena, being committed to ethics and constitutionally assigned roles, having an effective understanding of human rights, loyalty to any government, and acceptance of democratic civilian control, etc. (ibid.). Where civilian control of the military is promoted in SSR and transitional justice programme, it also needs to be emphasized that the democratic government should follow democratic principles and good governance. But many

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[60] Please refer to the chapter three for discussion on coup theories.

newly democratic governments, including some elected governments in Fiji, have come to power through corruption, repression, nationalist tendencies[61], which do not give them much legitimacy among the professional military. Reiterating the above notion, oversight bodies also need to promote good governance principles, rather than assuming a dogmatic approach. For instance, in Fiji the National Security Council (NSC) exists as an oversight body for the security sector but it consists only of the members of the government and its working is shrouded in secrecy. The NSC should be expanded to include the police, military, and civilian experts on national security as well as representatives of relevant CSOs to allow inclusion of different viewpoints (Ratuva, 2006a). This would also establish a transparent and democratic process within the security governance framework and ultimately regain trust for different agencies (ibid.).

To conclude, in post conflict countries, particularly with a strong military, the survival of democracy may need to be negotiated with the military, with plans to collaborate on a gradual embracing of civilian control of the military over time. The military's role in the political arena may need rethinking as it does not fit within the usual SSR and transitional justice approaches. SSR and transitional justice programmes need to go beyond addressing technical and tangible issues and consider the significance of ideology in conflict and how it could be reformed for positive change.

Paradigm shift on how military is perceived in the society

This section will highlight the significance of the perception of military by the community and how this links with conflict. It argues that SSR and transitional

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[61] Please refer to chapter one for discussion on these issues.

justice approaches should go beyond the technical aspects to attempt attitudinal changes for long-term effectiveness. Military reforms should also prepare programmes to address how the military apparatus perceives itself and how it is viewed by the broader community (Farr, 2002: 7). It should also involve the deconstruction of ideologies of the military organization (Willett, 1998). In countries coming out of conflict and where the society was militarized, military reforms would need to address the issue of discouraging the emulation of military approaches and perception of military heroism and patriotism (Smyth, 2004: 548). In developing countries, military jobs are considered prestigious. This not only elevates military personnel within the community but gives the military community an inflated sense of importance. For instance, since 1978, approximately 25,000 Fiji soldiers have served on peacekeeping missions overseas and brought home US$300million in revenue (Firth & Fraenkel, 2009: 118). This has heightened their prestige due to bravery during peacekeeping and increased wealth. In some villages, the military families' income is higher than that of the traditional chiefs.

Fiji's military was formed in 1870s largely for internal security to pacify and coerce rebellious Fijian tribes to agree to British rule. In recent years, during the various coups, it has continued to play a central role in shaping the culture, configuration and dynamics of Fiji's politics (Ratuva, 2006b: 27).

> Theoretically, at the professional level, the military was an institution representing civic and national spirit – but at the ideological and political levels, it was a guardian of indigenous communal interests. The institutional and ideological shift from the former to the latter became the basis for transformation from the 1990s to the post-2000 coup period. (Ratuva, 2006b: 27)

This perception of the military contrasts with its role as identified in the 1997 constitution of Fiji. Recent press statements indicate that increasingly the military is viewing itself as the 'saviour' of the country, not only for indigenous communal interest but in recent years, against a corrupt government as well. For instance, in 1987, the military justified the coup on the basis of protecting the Fijian community from Indo-Fijians taking over their country. Similar sentiments were expressed in 2000. The 2006 coup was justified on the basis of tackling corruption, racism and bad governance and — ironically — to end the coup culture in Fiji. Hence, the military in Fiji has firmly established itself as the guardian of 'national interests' with or without the government's cooperation. SSR and transitional justice would need to integrate this issue in their programmes because, until the military starts to move away from this perception of themselves as the 'saviour' to a more impartial view of its role in the nation, it will continue to interfere in politics.

It is equally important to target the less discussed notion of how the community perceives the military. The dearth of literature on this issue is understandable as such studies are more aligned to psychology than military or conflict studies. However, it needs to be integrated into SSR and transitional justice as psychological as well as practical reforms are needed if the wider community is to learn to 'de-glorify' the armed forces (Lamb, 2000: 12). It would be useful in Fiji for SSR and transitional justice strategies to explore how to address the perception of military, of itself and by the society, as the military is generally viewed as an ethnic Fijian institution both physically and symbolically and as the ultimate guarantor of Fijian power (Lal, et. al. 2008: 6).

This glorification of the military by the different communities also gives the military added legitimacy for their actions. SSR and transitional justice would need to understand how to address such an abstract issue, if civilian oversight of the military is to develop. For instance, the 1987 coup undermined the military's international image and was vilified by the Indo-Fijians but the indigenous nationalists hero-worshipped the new leaders (Ratuva, 2006b: 31). This view became so pervasive amongst the Fijians that anyone voicing their concerns against the military was taunted for siding with the *vulagi* (migrant) Indians. However, when the military overthrew the government in 2006 on the basis of bad governance, the military was glorified by many Indo-Fijians for removing Qarase, who was increasingly perceived by them as racist. At the same time, the military was vilified and demonized by the Fijians as they saw the military 'going against their own'. SSR and transitional justice need to work with the wider community to identify how glorification of the military after upheavals can encourage the military to be praetorian. Community's perception of the military also needs to undergo a paradigm shift through education and awareness of democratic principles. Such programmes should emphasize a demarcation between the government and military's role in state building. Apart from the factors addressed above, SSR also needs to acknowledge that as a political process it has many challenges.

CHALLENGES IN SSR PROGRAMMES

This section will be divided into two; challenges in SSR programmes for countries coming out of violent conflict and difficulties in SSR programmes for countries with a history of structural conflict. The separation is to emphasize that SSR programmes may have greater effectiveness in the latter case.

SSR Challenges for countries coming out of violent conflict

In recent years an increasing number of countries coming out of prolonged and violent conflicts are utilising security sector reforms. Experiences from these countries indicate that SSR effectiveness will be undermined by factors such as the prevalent culture of impunity for gross violations of human rights; a fragmented security sector; insufficient police criminal investigation skills and resources; weak civil society organizations and media; lack of local ownership; continued dominance of one's group within the military; lack of aligned change such as election and constitutional reforms; and lack of sustainable donor funding, etc. (Davis, 2009b: 14-15). These factors are most prevalent in countries that have experienced violent conflicts with loss of life, destruction of property, infrastructure, mass migration of population directly influenced by conflicts and weak or no central government. Challenges highlighted below are, culture of impunity for gross violations, weak security institutions, external obstacles such as donor activities that are counterproductive and a lack of local ownership. For a more comprehensive list of limitations see Annex 5.

Lessons learnt from recent SSR programmes in the Democratic Republic of Congo (DRC), Afghanistan and Timor-Leste indicate that the prevalent culture of impunity for gross human rights violations can hinder SSR outcomes. In the DRC, the lack of accountability for past serious violators of human rights is viewed as a missed opportunity to prevent current and future conflicts (Davis, 2009: 19). Although on paper and in rhetoric at times, the DRC aligned with international standards on amnesty, there were few sanctions for the most senior violators (Davis, 2009: 16). Even soldiers asserted that continued impunity of the leadership normalises gross violations within the military culture (Baaz & Stern,

2008). This is counterproductive to the SSR ethos of rebuilding public trust for the security sector as behavioural change is not encouraged within the military culture.

SSR in countries with weak security sector institutions is a further challenge. Lessons learnt from Timor-Leste support the argument that, in countries with a fragmented security sector, approaches should be sequenced after the capacity of the police, the military and related institutions' is enhanced and there is some coordination between agencies. For instance, despite six years of multilateral and bilateral police building, the Policia Nacional Timor-Leste (PNTL) collapsed when a week of violent protest took place in May 2006, as both PNTL and the Timor-Leste Defence Force (F-FDTL) faced internal disputes as well as grudges against each other, leading to an exchange of fire and skirmishes (UN, 2006: 60). While the Fiji military is one of the smallest in the world with approximately 4000 active personnel and 6000 reserves, it is highly structured, cohesive, with strong allegiance to the military command and has highly skilled personnel in combat techniques (see Annex 5). One of its battalions is professional enough to serve in United Nations peacekeeping missions in various countries.

The DRC case demonstrates that implementing SSR programmes in situations of fragmentation, compounded by weak central government, can be disastrous. In the DRC, the donors worked on different institutions to strengthen them while also supporting the 'brassage' process, a practice of integrating disparate armed forces together to form one national army. "The resultant national army is out of control – at least, by democratic and professional military standards. Command and control are weak and unstructured [and] the army lacks cohesion and basic operational

capability" (Malan & Weir, 2007: 1). Both the police and defence sectors were fragmented as they were politicized and central government was too weak to control them. While Western approaches to SSR with their focus on technical reforms were identified amongst the causes of failure, it is also argued that donors had very little to work with as the central institutions were so fragmented that reforming them to any semblance of international standards would take a long time. Successful SSR programmes in Sierra Leone and Ethiopia indicate that donors would need to demonstrate long term commitment and flexibility in their approaches (Nathan, 2007: 8-20). Personnel also need to be rehabilitated to acquire allegiance to the command structure and leadership (ibid.).

The Afghanistan case demonstrates that donor-driven SSR programmes are questionable particularly where local capacity, resources and infrastructure are severely limited and there is no sense of local ownership. In such circumstances, different donors often implement parallel programmes in isolation from one another. The USA was in charge of the military, while Japan worked on DDR programmes and Germany on the police sector (ibid.). Arising from the Bonn Process in 2001 and with little local consultation or input, different ethnic groups were integrated to form the Afghan National Army (ANA) and Afghan National Police (ANP) (Sky, 2007: 55). The military reforms included creating a multi-ethnic and non-factional army but desertion levels were high due to social, economic and factional reasons (ibid.). At the popular level, Afghans viewed security differently from the international community and sections of government: fighting and the carrying of arms are an integral part of their life and a required measure against high levels of insecurity (Sky, 2007: 56). In highly factionalized Afghanistan, despite the existence of SSR programmes, local military and police personnel

continued to be exploited by factional groups as state loyalty was undermined by ethnic allegiances (Sedra, 2006: 56). SSR plans to integrate people from different loyalties and backgrounds should understand the local and cultural factors and promote attitudinal change to minimize tension and maximise acceptance for the activities.

SSR has proved to be successful in South Africa but the process highlights that it is not a quick fix solution. Unlike many post-war countries with weak states and civil societies, post-apartheid South Africa had a legitimate government in place and strong civil society as well as local experts in various sectors (Nathan, 2007: 2). In the mid-1990s, the South African National Defence Force (SANDF) was formed by integrating seven different armed forces composed of soldiers from different racial and ethnic backgrounds (DCAF, 2006: 3). This was followed by much training to nurture greater tolerance and respect for diversity. Although the process was not trouble-free, it managed to motivate personnel to transcend their perceived differences by building discipline and loyalty to a common cause (Nathan, 1996). Despite South Africa being a much more favourable environment than Afghanistan, DRC and Timor-Leste, the whole process took more than eight years (Nathan, 2007: 15). The South African case highlights that SSR can be effective if given time and complemented by a variety of reform measures (DCAF, 2009: 4), but equally important, it demonstrates that SSR is most effective in countries that have some semblance of legitimate central government, an established security sector and a discernible culture of accountability.

All the above examples underline the importance of local ownership of reform activities. The common misconception is that if local participation in donor or

foreign driven activities is acquired, it equates to local ownership. In its true form, local ownership should be local initiatives shaped by local actors that may or may not be supported by external donors. For SSR, this means that reforms must be "designed, managed and implemented by local actors" (Nathan, 2007: 4). Many donor driven SSR projects merely use local ownership as a rhetorical device rather than making efforts to engage with the wider public for their participation (Scheye & Peake, 2005; Schärf, 2004; Nathan, 2007). However, the concept of public participation should not be romanticized as it is fraught with difficulties. In most post conflict situations, power still resides with a small minority who do not allow wider public engagement. Added to this, local participation is constrained by a lack of capacity, resources and political will for change, and by the possibilities of certain groups pushing their own agenda rather than focussing on overall reform.

Local ownership is also said to be vague and ambiguous as there are many local owners and it is difficult to design a consensual approach (Scheye & Peake, 2005: 235-6). However, different local actors and groups could have different functions within the SSR programmes (Nathan, 2007: 5). While there are difficulties in local ownership for SSR, case studies from other countries such as Bosnia and Herzegovina, Guatemala, East Timor, Kosovo, Bougainville in PNG, Sierra Leone, Liberia, and Afghanistan have demonstrated that without local ownership these projects are unsustainable and doomed to failure (Nathan, 2007: 39). Similarly in Liberia, the external funding and the hiring of private security companies to implement SSR programmes, with little input from the local community in the decision making process, polarised civil society (Ebo, 2007: 82). On the other hand, the Ethiopian DDR programme succeeded despite the lack of support from

the donor community (except the German Development Agency) as the local actors responded to a challenging situation by adopting new strategies and creative use of domestic resources (Berhe, 2007: 62-67). Local ownership and the need for flexibility seems incompatible with the donors' need to adhere to planned programmes. Increasingly though, donors are recognising the need to be adaptable in SSR programmes, as demonstrated by the German Development Agency in Ethiopia.

The next section will focus on political obstacles to SSR, which are more relevant to countries with the history of structural conflict such as Fiji.

SSR Challenges in places of structural conflict.

Countries which have experienced structural conflict without extreme and large scale direct violence, such as Fiji, are likely to have less adverse conditions as they may have a functioning central government and judiciary, relatively good infrastructure, professional police and military personnel and even an active media and CSOs. However, they may also be marked by an entrenched culture of impunity for political crimes such as overthrow of democratic governments; abrogation of the constitution; and human rights violations such as violating rights to freedom of expression, association, assembly; torture and harassment of human rights defenders; arbitrary arrests, etc. SSR, if implemented well, could hinder further entrenchment of such a culture in Fiji, reclaim the strength of the rule of law, reform institutions to prevent future coups and induce trust. For instance, the Public Emergency Regulation (PER) stated that police or military officers shall not be liable for "the use of such force which causes harm or death to any person" (Republic of Fiji islands Government Gazette, 2009: section 21.c) when arresting, questioning or detaining any persons under this Act. Under SSR,

such policies should be removed as they give the military *carte blanche* power with the potential for abuse.

Studies of various countries have also shown that SSR has more success when linked with other transitional justice programmes within the country.[62] SSR needs to be sequenced correctly with other transitional justice mechanisms relevant to the particular situation. The concept of sequencing is borrowed from the field of democratization which argues that "...pursuing a sequential approach promises to rationalize and defang democratic change by putting volatile and unpredictable actions of newly empowered masses and emergent leaders into a sturdy cage built of laws and institutions" (Carothers, 2007: 13). In the transitional justice field, the notion is that justice, peace and democratic activities should be advanced sequentially to achieve sustainable peace. For instance, the sequencing concept is based on the premise that rule of law should be strengthened first before democratization occurs (ibid.: 14-15). In addition, hostilities should cease before any transitional justice activities can be implemented (Quinn, 2007: 3). However, sequencing can be problematic as, in reality, most authoritarian regimes are not inclined to strengthen the rule of law or improve the welfare of their citizens (Carothers, 2007: 15). Neither should it be forgotten that transition from conflict towards stability is not a linear process (Quinn, 2007: 4). In situations of structural conflict, sequencing may prove to be effective as institutions are not in total disarray. For instance, vetting could enable more effective and sustainable SSR as it provides accountability to the victims, has potential to prevent recurrence of

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[62] For more details on this strand of argument, please see Davis (2009), Duthie (2009), Chetail (2009) and Nathan (2007).

conflict by removing the abusers, and could indicate that impunity would not be entrenched.

Sequencing would also need to take into account the political obstacles and stage the activities in association with the change of mood within society. The challenges are commonly in the form of resistance for such reform from different sections and groups of people such as the political leaders, the security sectors, senior officials, traditional chiefs, nationalist groups, etc. Reforms may be opposed for ideological, political or personal reasons. In new democracies with a praetorian military, the weak political sector may not push for reforms out of fear of aggravating the military (Nathan, 2004: 5). For instance, in 2003, the Qarase government, funded by Australian bilateral aid, initiated police reforms, with plans to subsequently reform the military as well. However, there was a lack of political will to push for these reforms as the military was not informed of the process and consequently derailed it with the rhetoric that the police were being armed against it. However, since the 2006 coup, the military has opposed the church and the chiefs, two of the most revered institutions for the indigenous community in Fiji. In response, Fijians are now coming together to call for military reform. The interim military government held an election in 2014 but has made no mention of military reforms during the election campaign. Past experience shows that the military leaders tend to transform themselves into politicians prior to elections in order to contest them with talk of reforms'. Yet in 2014, reforms have been carried out in the education sector, police force, civil service and other institutions with no sign of military reform. While this could have been the best time to negotiate with the interim government for SSR reforms, the widespread underlying fear among people of another coup muted such discussions.

CONCLUSION

SSR and transitional justice approaches have a greater potential of success in post conflict countries if the reforms and programmes targeted by these approaches within a country are carried out together, so that the human, financial, and physical resources would be optimized rather than dispersed. Most traditional SSR programmes focus on the technical aspects of the security institutions but when aligned with the transitional justice activities, the programmes shift focus to address victims' concerns and induce trust among the wider community. Vetting past perpetrators, if effectively carried out, has the potential to be an enabler for SSR. Vetting perpetrators signals to the community and victims that there is accountability for crimes and diminishes their distrust towards the military as an institution. The review form of vetting could also remove spoilers from positions of power and subsequently enable other SSR activities to occur with lower risks. Victim sensitive SSR programmes would encourage the participation of marginalized communities. SSR promotion of a more plural military in multi ethnic communities may lead to less of a monopoly of power within the military structures and higher trust for the military from different sections of the community.

SSR and transitional justice may need to be adjusted to allow greater involvement of the military not only in the security sector arena but in the more controversial political arena. This would be most relevant in countries with a praetorian military which has the potential of supporting long term political and governance reforms. However, this approach should only be undertaken with an understanding from all sides that the military would need to be reformed within a set period of time so as to bring it under civilian control. Most SSR programmes give little consideration to social and cultural factors. However, the military perceives itself as the saviour of

the nation and encourages this perception among the society. Changes in attitude are required for both the military personnel and the wider community to dismantle such perceptions and embrace the constitutionally defined role of the military.

SSR is a political process with its inherent challenges. Common challenges include impunity, a fragmented security sector, political obstacles, and a lack of authentic local ownership for the programmes designed. However, lessons learnt from past SSR programmes allow us to minimize the risks. Many SSR programmes are designed for countries coming out of violent conflicts. While this is understandable, both SSR and transitional justice communities need to acknowledge that rather than a reactive approach to its programmes, a preventative approach would be more beneficial to avoid structural conflicts escalating into protracted conflicts. This approach would be most feasible in countries with structural conflicts, especially those with a relatively good central government, infrastructure and civic capacity, as is the case with Fiji.

CHAPTER 6: SHIFTING PERCEPTIONS OF COUPS

Identifying the causes of conflict in any country is crucial, as this may lead to understanding of the underlying reasons which can assist in developing peace building and/or preventive mechanisms. In Chapter 3, the concept of structural violence was introduced: this chapter and the following two chapters will analyse the concept further. These chapters will focus on the causes of conflict: triggers, and proximate and structural causes of conflict. Tanner (2000) argues, from a practitioner's perspective that for conflict prevention to be successful, one needs to go beyond the proximate causes of conflict. The literature classifies causes of conflict into different categories. For instance, Saferworld (2004: 23) distinguishes structural causes, proximate and triggers, which maps closely with Johan Galtung's theories (Joinet, 1997), considered in Chapter 3.

This chapter will focus on the triggers of conflict. To reiterate, triggers are factors that activate latent tensions into outright conflicts; they may include military coups, disasters, elections and arrest/assassination of key leaders or political figures (INEE, 2013: 3). Since 1987, it has been established that coups have triggered conflicts in Fiji as the latent tensions surfaced after the coups took place. For instance Nanda (1992: 565) stated that Fiji's reputation as a peaceful nation has been tarnished since 1987 due to coups, which had triggered tension and instability in the country. In similar vein, Tarte (2010: 74) noted the coups have triggered internal conflict and instability in Fiji. As coups have been the most obvious manifestation of conflict in Fiji, people are generally able to see coups as triggers in conflict. Therefore, instead of gathering respondents' views on what triggers conflicts in Fiji, this chapter will focus on their perception on coups. It will focus on why people categorise coups as good, bad or both. Some of the reasons

postulated for coups being bad are human rights violations and the security dilemma, while the reasons for coups being viewed as good include removal of a corrupt government, halting economic development and hence minimizing the loss of culture. The reasons are also intertwined as some respondents suggested that coups are good as well as bad. Some reasons for respondents viewing the coups as both good and bad was the 'payback' mentality of victims of previous coups and a combination of factors stated above.

PERCEPTION OF COUPS: THE TRIGGERS IN FIJI'S CONFLICT

Triggers are known as immediate event(s) which lead to violence. Coups are identified as trigger events in Fiji's conflict history as it is the most overt expression of escalating tensions. For instance, the lack of willingness to accept the 1987 election results by certain sections of the community and their alliance with the military led to the first coup. This changed the dynamics of underlying tension into outright conflict in 1987. This was the first realisation among people that the military could wield power in this manner. Indo-Fijians and Fijians became wary of each other and racial tensions surfaced. Similarly, the 2000 coup was also linked to the rejection of the 1999 democratic election results (Chang, 2008). But unlike the previous coup which occurred within weeks of the poll, the 2000 coup occurred a year after the establishment of the new Chaudhry government. Increasing dissatisfaction with the Chaudhry government triggered a major upheaval in the country, leading to the internal displacement of citizens, parliamentarians being held hostage for 56 days and riots. The fourth coup occurred in December 2006 and was different from the two previous coups inasmuch the element of racial tension was minimal and the dissent was not related to any elections results.

Since 2004, there were increasing tensions between Prime Minister Qarase and the military commander at the time, Commodore Frank Bainimarama; both Fijians. There were two reasons for the rising tension: first was the military's dissatisfaction with the government's alignment with the 2000 coup perpetrators and the second reason was the parliamentary Bills, particularly the Reconciliation, Tolerance and Unity Bill, the Qoliqoli Bill and the Land Tribunal Bill, all of which would have given more power to the Fijians. The Bills and their links with the tension in Fiji during most of 2006 were discussed in Chapters 1 and 3. The 2006 coup led Fiji onto a different path, with an increasing involvement of the military in the political arena, a longer period of the military in power and continued media censorship over a period of 8 years. There was a level of mistrust between the different ethnic groups and even amongst family and friends within an ethnic group. This was a major shift in outcome compared to previous coups when people aligned strongly with their ethnic groups and Fijians were largely viewed as aligning with coup makers and Indo-Fijians as victims. Unlike the previous coups, the 2006 coup did not indicate any clear patterns of victims by ethnic groups, as both victims and perpetrators came from both Fijian and Indo-Fijian groups.

In light of the significance of coups in Fiji's conflict, it is essential to understand how people perceive coups. Perception is particularly important in deep-rooted conflicts as such perceptions can inform possible solutions. Human beings process their perceptions of situations based on their experiences rather than on objective views (Byrne, 2003). Since 1987, Fiji has experienced four coups d'état and during this period, the perception of coups has changed among both the indigenous Fijian and the Indo-Fijian communities. This changing perception on

coups was observed by scholars, human rights defenders, religious and traditional institutions, coup perpetrators as well as past and present victims of coups. The shifting view on coups led me to re-evaluate my opinion on coups. As a human rights advocate, I have always regarded coups as 'bad' as they forcefully remove democratically elected governments from power. But the respondents' views made me question whether removing a government that was legitimate but used their democratic legitimacy to incite racism and segregate communities through policies could make a coup legitimate. These are troubling questions of which there are no clear answers.

Prior to and during my research data collection periods, whenever I talked to people informally about the coup, most people indicated that Indo-Fijians were supportive of the 2006 coup and the Fijians were against it. I was keen to explore this perception to understand whether this was true in reality and the reasons for such a stance. I was also interested to know if this categorising of different ethnic groups and their perceptions matched reality. Anecdotally, it is assumed that the racially polarised perceptions of coups in Fiji were overturned after the 2006 coup. The victims and opponents of the 1987 and 2000 coups, who are largely viewed as Indo-Fijians and various left-leaning NGOs, came to be viewed as supporters of the 2006 coup and the supporters of previous coups such as the Great Council of Chiefs, the Methodist Church and Fijians have become the new opponents of coups (Fraenkel, 2009a: 45).

However, there are no recorded statistics of the prevalence of these perceptions and commonly these perceptions are based on the actions of a few prominent individuals from the two ethnic communities, and these individuals' views were

generalised to convey that their ethnic community's views were the similar to theirs.[63] For instance, it was widely assumed that many Fijians supported the 2000 coup as many thousands of Fijians participated in the festive atmosphere created by the coup perpetrators at the Parliament Complex in their 56 days in power. Similarly, Indo-Fijians who have been part of the current interim regime such as Brigadier Aziz, Aiyaz Sayed-Khaiyum and former Prime Minister Mahendra Chaudhry and other overt Indo-Fijian supporters of the regime such as former Human Rights Director, Dr. Shaista Shameem, have led people to generalise that Indo-Fijians defended the 2006 coup. Among certain Internet blogs such as Fiji Leaks, Coup Four And A Half and Raw Fiji News, the 2006 coup is also touted as a Muslim coup as a number of prominent Muslims are overt supporters of the Bainimarama regime. These include Brigadier Mohammed Aziz who is the second in charge in the military, the Attorney General Aiyaz Sayed-Khaiyum, the former Human Rights Commissioner Dr. Shaista Shameem (who overtly supported the coup, [see Shameem, 2007]) and the former Director of Public Prosecutions Ms. Nazhat Shameem. This has also led to some resentment towards the small Muslim community by some Fijians and some Hindu Indo-Fijians. While comments have been made in numerous blogs and on social media about Muslims' involvement, with Sitiveni Rabuka himself making a statement about it (Fiji Leaks, 2013), matters came to a head in July 2016, when the Opposition Whip accused Aiyaz Sayed-Khaiyum of appointing Muslims to top positions (Radio New Zealand International, 2016).

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[63] A number of books have been published in relation to coups d'état in Fiji, with the most comprehensive book by Firth & Lal (eds.) (2009). While the articles in this book discuss perceptions, it does not contain any statistics. Hayward-Jones (2011) reports with statistics on a number of key issues surrounding coups in Fiji, but does not contain any information on whether coup is perceived as good or bad.

During my interviews in Fiji, some respondents asked me for my opinion on the coup. When questioned why, they stated they wanted to know my view before giving their perspective. They perceived that I would be pro-coup because I was a Muslim and an Indo-Fijian. The assumption that people of similar backgrounds have similar views due to association either through ethnicity, religion or nationality is common but research has shown that this does not mean that all members of each group think alike (Bobo, 2001). But as the most vocal and visible members of that community tends to indicate their position overtly, the assumption is made that most people of that group have similar views. Some Muslims, Hindus and Christians in Fiji have been supportive of the Bainimarama government but this does not mean that members of the same community speak with one voice. In multiracial societies like Fiji, such assumptions can be damaging as each community would assume that the 'other' community's view is similar to that of the individual members with whom they come into contact, particularly the vocal and visible members of other groups.

GOOD, BAD AND 'GREY AREA' COUPS

Data from the semi-structured questionnaires indicate that the widespread assumption in Fiji that Indo-Fijians support the 2006 coup or the perception that Fijians are against the coup is not true as there were little ethnic differentials.[64] On average, 88% of all the respondents considered coups to be bad while 34%

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[64] The questions relating to coups in both the semi-structured questionnaire and to the key informants were put forward to obtain their perception of all coups in Fiji since 1987, but majority of the respondents and key informants based their views on the 2006 coup, as their responses mentioned Qarase, Bainimarama and other key actors of the 2006 coup. A few, who did differentiate between the various coups, specified so explicitly.

regarded coups as good.[65] Figure 9 shows that 88% of Fijians and 88% of Indo-Fijians perceived coups to be bad, of which 26% of Fijians and 13% of Indo-Fijians viewed coups as bad as well as good. On the other hand, 38% of the Fijians and 26% of the Indo-Fijians considered coups to be good (this also includes the percentage of respondents from both ethnic groups who viewed coups as bad as well as good).

Figure 9: Perceptions of coups by Ethnicity
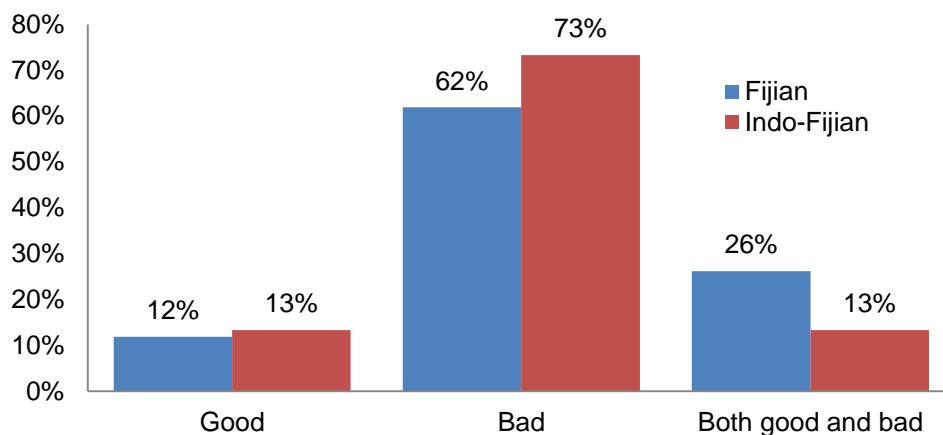
This was a learning process for me, as my assumption that people would place coups firmly into good and bad categories was proven to be incorrect. My questionnaire attached as Annex 6 shows that the questions asked in relation to this stated *'Do you think coups are 'good' or 'bad'?* This was followed by an 'open-ended' question asking respondents to explain why they thought it was 'good' or 'bad', allowed respondents to go beyond the rigid categorization of the previous question and give their multifaceted reasons for their perception on coups.

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[65] Please note that the total adds up to 122% instead of 100% as 22% of the respondents stated that coups were both good and bad, hence this figure is added to the overall total (66%) of those who state coups were bad only and overall total of those who said that coups were good only (12%).

REASONS WHY COUPS ARE GOOD, BAD OR IN BETWEEN

The respondents' reasons for supporting the coup are shown in Table 3. It indicates that the interim government's propaganda of 'a clean-up campaign' is effective as 28% of the all the respondents stated coups to be good and good as well as bad, echoing what the interim government has been saying: that is, tackling corruption and bringing about positive changes. Some respondents consider coups as a legitimate means to remove a corrupt regime. This indicates a lack of trust in the democratically elected government and/or lack of faith in the rule of law and democracy among the people. Some respondents justified their acceptance of the coup as *"what the people wanted when they were not happy with the previous government's leadership"* and "…*to get the message across to the leaders of the country, this coup was needed"'*. Data from the key informants explored these contentious issues to gain a better understanding of why some people justified coups as good. Issues of corruption, lack of transparency and the topic of trust will be addressed in Chapters 8 and 9 which discusses how coups might be prevented.

Table 3: Reasons Coups are perceived as Good by Ethnicity

	Ethnicity		
	Fijian	Indo-Fijian	Total
Total respondents stating coups are good	**16**	**4**	**20**
Percentage of total respondents within ethnic group	**36%**	**27%**	**34%**
Removed corrupt government	**17%**	**7%**	**14%**
Because this coup has led to removal of corrupt government and start of good governance.	1	-	1
It stopped the previous government from implementing the Qoliqoli Bill which would have greatly affected the Indo-Fijians; sometimes you need authority to start change.	1	-	1
The recent coup was against the government which was doing wrong and not listening to the people.	1	-	1
If it removes a corrupt government.	1	-	1
I believe that to get the message across to the leaders of the country, this coup was needed. This might bring changes and benefits.	1	--	1
It is what the people wanted when they were not happy with the previous government's leadership.	1		1
It has bought many of the hidden things such as corruption by officials to the forefront.		1	1
It shows the truth of the type of government leadership we have had.	1		1
Brought about good change in the country	**14%**	**13%**	**14%**
Can change our country for the good and bring about some new laws that are more equal.	1	-	1
If people think that they are oppressed than coups can produce change.	1		1
Only the 2006 coup, because there has been many good changes in the country that has benefited the citizens.	-	1	1
The 2006 coup is good but not the previous coups. 2006 coup has taught us some lessons.	1	-	1
Some bad and unwanted trends are demolished.	1	-	1
Some of the effects are good as it brings good change.	1	-	1
It's given them chance to better the situation.	1	-	1
If it is done for the betterment of the country.	-	1	1
Other responses	**7%**	**7%**	**7%**
Keeping law and order in the country is most important.	1	-	1
If done as a necessity.	1	-	1
NR	1	1	2
All respondents	**42**	**15**	**59**

While the respondents justified their support for the coup as removal of corrupt government and bringing about positive change, the key informants had a different view and clarified why a considerable number of respondents saw coups both as good and bad. Three of the four Indo-Fijian key informants stated they were aware that during the early periods of the 2006 coup, there was a strong mentality of 'payback time' among the Indo-Fijians as in the previous coups the

Indo-Fijian dominated government was removed and they were targeted. The 2006 coup involved the removal of a nationalist indigenous government by the military, which was comprised largely of Fijians. Additionally, in the past, the military had always supported previous coups based on nationalist propaganda and had encouraged ethnic polarization.

> *…they* [Indo-Fijians] *feel it's payback time!...They* [Fijians] *think the Indians are behind this coup. I know because I live in both communities I am lucky I have access to both so I can see it as it's visible to me.[66]* (Imrana Jalal – Human Rights Activist)

> *Lot of people say this coup is for the Indians[67] or that Indians are benefiting. I see no benefit to the Indian community as such, what I do see is that there is some semblance of just and fair play. In the first two coups, we were made the scapegoats. They* [Indo-Fijians] *feel it's payback time; we had gone through this before now let them* [Indigenous Fijians] *have a taste of it. It's not a feeling of good that it has happened, but it's just that this time the Indo-Fijians were spared, didn't get their house looted and other things that happened to them before.* (Hassan Khan – Executive Director of Fiji Council of Social Services)

Some people stated that the reasons behind the 2006 coup were good as it promised to remove corruption, to dismantle racially divisive politics and to develop the country equally for all citizens but they found the execution of coup to be problematic as it removed a democratic government. Joseph Camillo's stance portrays views of people who have not firmly made up their mind on whether they

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[66] Imrana Jalal is an Indo-Fijian and married to an indigenous Fijian.

[67] Indo-Fijians are commonly called Indians in everyday language in Fiji.

are in the 'for' or 'against' camp when it comes to coups and who are waiting for the promised results of the current interim government.

> *…in my personal opinion, a coup is a coup and any removal of a government in that manner is still illegal. The reasons behind it are good but the method it was done and the direction taken is not transparent I am waiting to see the good* [impact] *of it down the road. Those who are pro-interim government say that there is no proper democracy until you remove certain traditional structures. But how do you justify human rights violations, if the constitution is removed, parliament is being removed, any chance of opposition is being removed and you are ruled by decrees? Though you achieve what you set out to do but at the cost of the victims. The downside of all coups is that you don't have any opposition to question them. Of course with other governments we also experienced patronage politics but the opposition were there to keep them in check but during the coup periods there is a marked vacuum. So yes, I do agree that a coup is bad, even though the motives might be portrayed as genuine.* (Joseph Camillo, Director of ECREA at the time of interview)

Some respondents have justified their support for the coup due to the nationalist approach of the Qarase government which aligns with the military's explanation of the 2006 coup. This was reiterated by a former member of parliament who was also part of the interim government for almost a year in 2007.

> *I was very disappointed with the Qarase government's legislative programme and had he been allowed to continue for a 5 year term, we may have seen the demise of natural justice in this country, particularly for the Indo-Fijian community who had become victim left right and center on not only one issue but almost any issue you could pick up. It affected their livelihood and their* [Qarase govt.] *approach was very insensitive towards their* [Indo-Fijians] *plight. Secondly, military had also*

made its views known as to why it did and I believe it's quite justified. (Lekh Ram

Vayeshnoi – Fiji Labour Party official and former member of parliament)

Similarly, some people were concerned that although the interim government has done some good work, their approach is not participatory and is too forceful to be effective in the long term.

> *The current government has done quite a lot of things which is good but I still feel that they ought to hand over to a civilian democratic government and let them run it in the way that people want. We can't keep on telling people what to do because there are lot of differences. Reforms will happen but the way Frank* [Prime Minister Voreqe Bainimarama] *is trying to force it now is not the way to go, it's a sure way for another coup, particularly the way Frank is trying to discount the chiefs and religious leaders.[68]* (Paula Sotutu – Former diplomat and senator)

The most unexpected justification of coups being good was touted in terms of development. This was startling as it was from Hassan Khan who has been part of one of the largest NGOs in Fiji since 1987. But his rationalization substantiates that NGOs in Fiji have differing agendas and funding may supersede concerns of human rights. It also reiterates the perception that development is sometimes viewed as a threat to the Pacific way of life, particularly among small island developing countries.

> *To some extent whenever coups happen, it's a boon for NGOs, we get more grants to do our work so in that respect it's good. Sometimes political instability is good for social development. I think in Fiji coup has been a blessing in disguise. I say this because, in the first one in 1987, Fiji was taking off at such a pace but the coup in '87 checked Fiji's progress. At the rate Fiji was developing we could have*

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[68] Prime Minister Voreqe Bainimarama is commonly called Frank or Bainimarama.

ended up like Hawaii; we would have lost our culture and everything. At least this way our culture and religion are still maintained. (Hassan Khan – Executive Director of Fiji Council of Social Services)

Prior to the interviews, I had spoken to a number of friends from both ethnic groups on their views on coups to gauge their reaction and realised that when I raised this question in the presence of other people, almost everyone said that coups are good. But when I asked the same question when I was alone with individuals, a majority of the people said that coups were bad. As stated in the methodology section, this was the reason that I did not conduct focus group interviews as I realised people were afraid to speak their mind when in groups. Atalia encapsulates why people responded in this manner.

> *Some people say that coups are good out of fear, I understand as many of us do the same because we are afraid to speak our minds. Afraid due to fear of retaliation, fear that it not only comes back on you but also could cost your family member a job. Or someone could report to others and you being outspoken could lead to the downfall of yourself or someone close to you.* (Atalia - pseudonym for a University scholar)

A former senior civil servant gave his view on why people are considering coups in terms of good and bad:

> *Well, what is a coup? What is a revolution? A coup can be bad and it can be good. It depends on the people and if people decide that at the end of the day that a coup was good for them and they vote for it, then it becomes legal. It becomes a revolution, liberation.* (Joseph Brown - Secretary to the late Ratu Sir Kamisese Mara during tenure as Prime Minister, Vice President and later President)

Figure 10 shows reasons why people view coups either as outright bad or both good and bad. The principal concern of the respondents was the adverse effect of coups on the economy, which subsequently affected people through loss of jobs, lower earnings, inflation and increasing poverty. Security was also a major concern among both ethnic groups, but more so among the Indo-Fijians as 21% of Fijians compared to 33% of Indo-Fijians indicated this.

Figure 10: Reasons coups are bad by Ethnicity
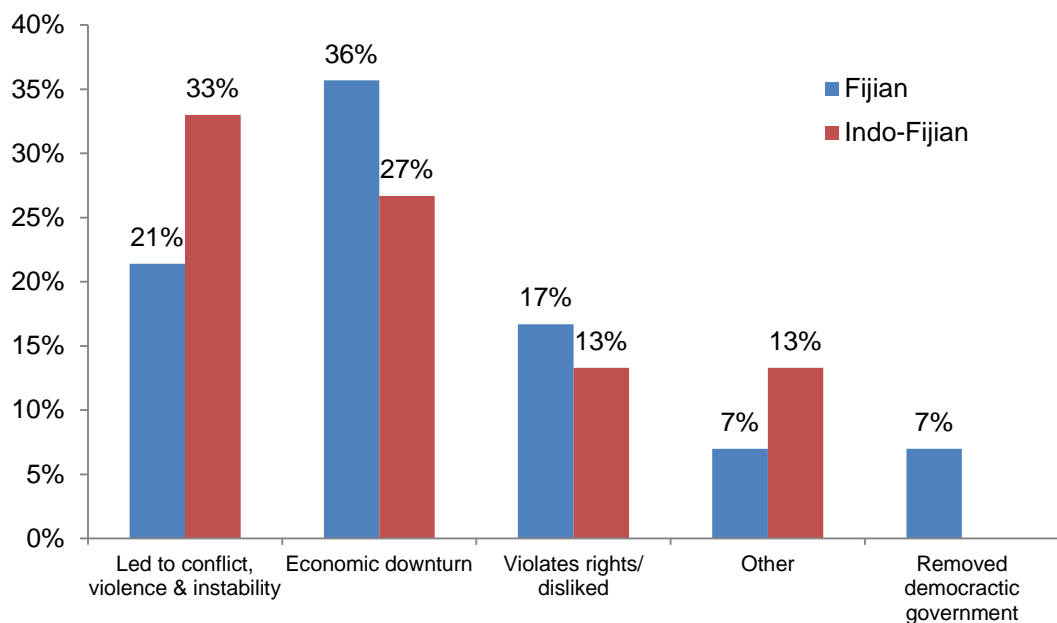
Providing security and jobs, together with strengthening legitimate institutions has recently been acknowledged by the World Bank as the central means to overcoming deep-rooted conflicts (World Bank, 2011) as people's livelihoods and security are the overriding concerns in times of instability. Fiji's Millennium Development Goals Report states that Fiji is unlikely to achieve its goal to eradicate poverty by 2015 due to "intermittent periods of political instability" such as coups d'état (Ministry of National Planning, 2010: 69). Fiji has been unable to acquire sustained levels of private investments to boost its economy, and "drained

human capital through emigration has not stimulated export growth, and as a result the state's ability to create employment has been constrained" (ibid). Subsequently, this has led to an increase in poverty from 25% in 1990 to 40% in 2008 (ibid.).

Economic instability was also cited as one of detrimental effects of the coup by the ousted Prime Minister:

> *Economically we are really in a mess. Just last weekend, the RBF* [Reserve Bank of Fiji] *paid dividend to government, the entire profits for 2009, F$16 million; they re-valued the assets and distributed a portion of the revaluation reserve to the government. We all know that this is never done in business. Your revaluation reserve is to reflect a true picture of your balance sheet and your current financial position, it's not for distribution. That to me is a desperate act and that's the biggest and the most important institution in the country* [financially] *and they have been milking cash from the Fiji Electricity Authority, the Land Transport Authority, all the money earners, they have been milked dry. And I think they have finished the whole lot of them that's why they have gone to RBF; I mean that's the very last resort. They are doing the same thing to Provident Fund, so we are in a real mess.*
> (Laisenia Qarase - Ousted Prime Minister)

While most people identified security being adversely affected by coups, a key informant claimed that security was much better after the 2006 coup:

> *…in times of democracy there is so much burglary, once my house got broken three times in 2 weeks; this office was broken 15 times in 2 years. Now it's all free, we don't have to live with constant fear of break-ins. I say this is* [2006] *a good coup because crime has almost gone, of course there are still some happening but way less than in other times. They have done a good job.* (Hassan Khan – Executive Director of Fiji Council of Social Services)

However, contrary to this perception, Annex 10 shows few changes in crime statistics between 2001 and 2008.

Interestingly, loss of democracy is not identified as a significant concern. Only 7% of Fijians and none of the Indo-Fijian respondents regarded coups as bad due to loss of democracy. This is understandable as Fiji has not developed long-standing democratic traditions. Democracy was introduced only in 1970 and politicians and the community still perceive democracy largely as the election process alone, which is ethnically polarised. This will be discussed in greater detail later in this chapter.

A considerable number of respondents from both ethnic groups identified coups as bad due to violation of human rights. This indicates that there is some level of awareness of human rights issues within the community.

The analysis by occupation shows that all respondents employed in the civil service and a large percentage of the unemployed respondents regarded coups as bad. This dissatisfaction could be explained as many people lost their jobs or had to work reduced hours after the 2006 coup. In addition, all persons in the civil service — except for the military — had their salary reduced by 5% and have received yearly cost of living adjustments since 2006.

Table 4: Level of education by Perception of coups

| Level of Education - Occupation | Coups good or bad | | | Total |
	Good	Bad	Both good and bad	
Tertiary educated				**56%**
Tertiary student	5%	24%	7%	36%
Civil service	-	8%	-	8%
Teacher/ Lecturer	-	5%	3%	8%
Professional (Other)	-	2%	-	2%
Intern	-	2%	-	2%
Secondary/ Primary school educated				**44%**
Self-employed	3%	7%	2%	12%
Administrative officer	2%	3%	2%	7%
Customer service	-	2%	2%	3%
Volunteer	-	5%	3%	8%
Unemployed	2%	8%	3%	14%
Total	12%	66%	22%	100%

Table 4 shows that 56% of the respondents were educated to tertiary level and 44% of the respondents were educated only up to primary and/or secondary school level. The most varied responses on the perception of coups were among tertiary educated respondents. The reasons will be discussed below. A number of NGOs in Fiji carry out awareness activities on human rights, targeting different groups, including people with low levels of literacy. In my research process, one respondent stated that the influence of NGOs was the main reason why he identified human rights abuses as a concern and his perception of the coups has changed from attending the awareness activities organised by NGOs:

> *At first I thought it* [coup] *was good, but after attending some workshops by NGOs on issue of conflicts, I realised it is bad as* [it] *violates our rights.* (Semi-structured questionnaire respondent)

Joseph Camillo identifies brutality, insecure labour rights, media censorship and the lack of opportunity to criticise the government as some of the reasons why coups are considered bad:

As the former Manager for Investigations & Resolutions the Commission [Human Rights Commission] *in 2003 my job was to investigate all the human rights abuse that was reported to us. The core human rights complaints were on Section 25; brutality. That category had the highest number of cases from 2000 to 2004 because of the 2000 coup. The figures dropped after 2004. So I would say the two main violations around '87 and 2000 were largely police and military brutality and labour issues. Employers would terminate staff without pay and due process. Fear is also more prominent now because unlike in past coups, the emergency decree since 2006 has been longer than ever before, which has restricted media and the ability to assembly. It has also created a real taboo in criticising any policy or government's work.* (Joseph Camillo, Director of ECREA at the time of interview)

Rabuka, who carried out the first coup in Fiji, shares his view on coups and why the mind-set of the military needs to change:

The military in 1987 was purely used by the defeated politicians of that time. The military sometimes steps in between political opponents who are just doing their political one-upmanship. Until somebody gets up to admit that their initial actions were wrong, the mind-set won't change. So I am on this journey now, to admit that what I did was wrong. I would probably continue to justify the political situation at that time, the deteriorating street scenes in those days which could have led to more violence. But we have the institutions in place to stop the deteriorations and not the military stepping in. Police, judiciary and the government can legislate against the people, who were rioting, bring in public emergency regulations and all those things. So the only way to stop the cycle [of coups] *is for people to accept that this is wrong.*

Discussion

Overall data indicates that there is strong opposition to the 2006 coup from both the indigenous Fijian and Indo-Fijian communities. The data also shatters the

myth that Indo-Fijians support the 2006 coup and the Fijians are against it. Figure 9 indicates that only 12% Fijians and 13% Indo-Fijians supported the 2006 coup outright. When combined with the responses of people who indicated that the coup was good together with those who indicated coups as both good and bad, the data demonstrates that 38% Fijians and 26% Indo-Fijians supported the coup. The difference is not significant between the two communities. This also indicates that contrary to previous coups, the 2006 coup was able to shift the focus from polarised ethnic relations to other issues that cut across all ethnic groups in Fiji.

The different opinions on what constitutes good or bad coups indicate the dilemma people have regarding coups in Fiji. As in any conflict, people rationalize their reasons for supporting or opposing the perpetrators based on their own experiences and how the conflict affects them. This section shows that people justified coups as good due to the removal of a corrupt government; the 'payback' mentality among Indo-Fijians who support the 2006 coup; and the fears that rapid development could have led to loss of culture, as coups halted development and allowed Fijians to retain their culture. Those who reasoned that coups were bad identified security and economic downturn are the two most important factors which affect people in their everyday lives following coups. This is not surprising because since the 2006 coup, many people have lost their livelihoods, or have to work reduced hours. Inflation has soared, driving up the price of goods, products and services due to poor economic performance.[69]

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[69] A colleague recently told me that it now costs her F$350 for a week's grocery for three persons in the household. Prior to the 2006 coup, it used to cost $150. However, the salaries have remained the same or even reduced in many cases.

There were some differentials in perceptions of personal security by Indo-Fijians which is understandable as Indo-Fijians are apprehensive about their security as in all past coups; they have been targets for violence, theft and burglary. According to an Assistant Superintendent of Police, even in times of normalcy, Indo-Fijians continue to be the main victims of property offences "such as robbery with violence, burglary, house breaking, larceny, unlawful use of motor vehicle" with most of the perpetrators being unemployed male Fijians (Bulainacagilaba, 2004: 170). This creates an added anxiety among Indo-Fijians whenever political instability occurs in the country.

However, contrary to this view, a key Indo-Fijian informant claimed that security was much better after the 2006 coup even though this contradicts the official statistics (Fiji Bureau of Statistics, 2016). But this perception was somewhat common among the community as people could lodge complaints directly to the military and have military personnel addressing their concerns personally. In some of these incidents, heavy handed punishments were meted out by the military and some people preferred this 'quick fix' approach. For instance, in late 2009, a woman reported to the military that her husband was having an affair and not providing for her and her family. Two military personnel visited the husband at the mistress's home and beat him up and told him to return to the wife. The wife conveyed the story to me and was very happy with the results (*personal communication, 2010*). In another incident, a suspected criminal was taken up to the military barracks and made to fill a 44 gallon drum with water using a 250 ml cup. The drum was placed across a rugby field and the suspect had to walk across the field hundreds of times to fill the drum (*personal communication, 2010*). Although the quick-fix approach was working for some people, there were many

similar undocumented evidence of military cruelty towards suspected criminals and others.

While this authoritarian approach or vigilantism by the military was viewed positively by some people in the community, it could be perceived as wrong at many levels as there was no media freedom and the rule of law was weak so the most vulnerable in the society were at a higher risk of victimization by the authorities with little documentation of these events, hence the victims could not access justice, with the weakened law and order. The military became more heavily involved in internal security, and the police were side lined in the process. This also led to confusion among the community as people were starting to rely more on the military for complains that were traditionally handled by the police.

Joseph Brown's view is particularly disconcerting as it indicates that if significant numbers of people support a coup, it can be considered a revolution. In all the coups in Fiji's history, there has been no study to indicate that there was widespread support for any of the coups in Fiji from any section of the community. For instance, in the 2000 coup, significant numbers of Fijians were celebrating with George Speight at the Parliament Complex, but these were mostly landless Fijians, or the elites that had lost power to the elected government. There is no concrete evidence to indicate that all Fijians or other ethnic groups supported any particular coup. While it is a concern that large sections of the society have not condemned the coup outright, this does not imply that they support the coup. In Chapters 7 and 8, I will examine the reasons for their silence. Additionally, it is worrying to assume that if a large number of people in a society consider something to be good, it is necessarily good. Sometimes the loudest voices are

not necessarily representative of the wider community. Those who have different views from the powerful and vocal individuals in the society may not voice their concerns due to fear of reprisals, as was common in Fiji during the 8 years under the military rule. For instance, hundreds of thousands of people died in Rwanda during the genocide period and significantly, a large number of perpetrators believed what they were doing was right. However, their beliefs do not render their heinous crimes 'right'. This mind-set could be damaging as wrongdoings could be rationalized to achieve goals.

Regarding the level of education of the respondents' and perception of coups, it is argued that citizens educated to the tertiary level have a better understanding of human rights issues: they are able to recognise when these rights are neither protected nor fulfilled and are more capable and also willing to demand change (Tarrow, 1987). The last aspect does not hold true for Fiji as its citizens have shown a distinctively low level of participation in protest culture which will be discussed in Chapter 7. The awareness campaigns on human rights by national NGOs could also be a contributing factor for respondents from low levels of education understanding why coups are bad. Little research has been done to substantiate this. However, the Citizens Constitutional Forum recently carried out an impact assessment of their education programme on good governance, human rights and multiculturalism, which has been running since 1998. Their findings show that these programmes are effective as people do have some basic understanding of human rights related concepts, although much remains to be done (CCF, 2012).

CONCLUSION

The dilemma of coups being both good and bad is explained in the often repeated phrase *"the reasons behind the coup are good, but the method used is problematic"*. Some respondents reasoned that change was needed to remove corruption; to carry out electoral reforms so that partisan voting and politicking is minimised; to dismantle politicized traditional and religious structures; to be more transparent and to improve governance. However, they find it problematic that these changes have been done through force, lack of participation from the community and the media and opposing voices have been muzzled. There is concern, voiced by Joseph Camillo and Paula Sotutu, that as reforms have been forced, they may not have a lasting effect as people resent being pushed to change in this manner. Paula Sotutu states that the treatment of traditional Chiefs and religious leaders may even lead to more coups in the future. I will discuss this in greater detail in Chapter 8*.*

Overall, a number of factors were identified by the respondents for considering coups as good, bad or both. Coups were identified as good because: there is a 'payback' mentality in operation; Indo-Fijians were not victimised in the 2006 coup; an unpopular nationalist government was removed; burglary and other crimes reduced in number and; the authoritarian government could carry out major reforms, eg. to reform the electoral system, and minimising of racial politics and corruption (which may not have been possible to achieve at such a fast pace in a democratic government). Some respondents also considered coups to be good as the interim government had promised a more equal society. They also felt it was positive that coups slowed the country's rapid development, thereby minimising the threat to Fiji's culture and way of life. Others viewed coups as a form of

revolution, and, lastly some people stated that coups were good but only due to fear of reprisals.

The reasons given for coups being viewed as bad were: the illegal removal of a government; increased poverty due to loss of jobs, devaluation of the currency and economic downturn; lack of jobs and economic security; loss of democracy; stifling of opposing voices, fear of reprisals from the security sector, particularly in the absence of just law enforcement, media censorship, brutality by police and military officers, loss of labour rights, lack of transparency and participation in activities that affect the nation and concern that reforms are being pushed on the people which may not last due to the interim governments dictatorial approach. There was also concern from one individual that weakening traditional institutions like the Great Council of Chiefs and the churches may lead to more coups in future. People who stated that coups were both good and bad largely said that many of the reforms undertaken by the interim government were good but their forceful style of pushing for reforms was problematic, particularly when harassment, torture and brutality have been used to suppress any opposition to these reforms.

Sitiveni Rabuka, who carried out the first coup in Fiji, made a crucial point that people involved in carrying out the coups and their supporters need to acknowledge that coups were wrong. For reconciliation to occur, he says they need to ask for forgiveness, and, that future generations should move away from a coup mind-set (see pg. 191 for his direct quote). He also states that the military has been used by politicians to carry out coups. Both points are crucial for any prevention programme to avoid coups in future. This also demonstrates that

changes cannot occur until perpetrators understand that what they have done was wrong and stop justifying their actions. Prominent leaders, particularly those who were involved in past coups, should take a similar stance to assist in a wider understanding of the harm caused by coups and the lack of justification for them.

CHAPTER 7: WEAK DEMOCRACY AND STRONG MILITARY: A COCKTAIL FOR CONFLICT

This chapter will focus on proximate causes of conflict in Fiji as identified by respondents. In a conflict, the proximate causes are elements which usually lead to an environment which allows for conflict to escalate, such as an uncontrolled military, human rights abuses and so on (INEE, 2013: 54). Triggers of conflict, which were discussed earlier, are the obvious factors of conflict but the proximate and the structural factors are not so obvious. For conflict prevention reasons, it is equally important to understand the proximate and structural factors as they indicate deeper and systemic problems: ignoring these may result in a superficial approach to conflict prevention.

Two main issues were identified as proximate causes of conflict in Fiji: the practice of democracy and the role of military. Under the concept of democracy, a myriad of issues were identified, such as the regard for democracy as a 'foreign flower' among many politicians, the lack of mature democracy, the lack in understanding of democracy and its link to human rights not just at the grassroots level but also among politicians. Additionally, respondents also felt that when development was successfully executed by illegal governments in power, it undermined the need for democracy, particularly when democratic governments of the past were unable to deliver significant development. People seem confused regarding the role of the military and there were different perceptions among the military and key informants on the need for civilian oversight of the military.

DEMOCRACY

Is democracy really a key element in reducing conflict or is the quality of democracy more important? Proponents of the democratic peace theory take the position that democracies do not go to war with each other, implying that democracies are more peaceful in comparison with other forms of governance (Doyle, 1997; Elman, 1997; Brown, 1996). However, in recent years scholars and policy experts have cautioned against this claim. One of the arguments against democratic peace theory states that rapid democratization can lead to more conflicts and 'illiberal democracy', particularly when elected leaders restrict the rights of people, abuse power, and fail to fulfil the democratic expectations of voters (Zakaria, 1997; Mansfield & Snyder, 1995; Goldstone 2010). While it is generally agreed that democracy is positive, the context of its development differs from country to country and newly democratic countries may not have the same respect for democracy as more mature stable polities. Scholars and policy makers agree that democracy in the modern era is inextricably linked to human rights and goes beyond institutional and political democracy as characterised by elections and governmental structures (World Bank, 2011).

This section will focus on four interrelated issues of democracy: regard for democracy as a *'foreign flower'*; the lack of a mature democracy; the understanding democracy; and the undermining of democracy.

Democracy a 'foreign flower'

Similar to the views on coups, there is an assumption in Fiji that Indo-Fijians and Fijians view democracy differently, particularly as some prominent Fijians have

stated that democracy is a *'foreign flower'*. A breakdown of findings on democracy by ethnicity is relevant. Figure 11 illustrates that 93% of Indo-Fijians and 76% of Fijian respondents consider democracy important for Fiji. Of 46 indigenous Fijian respondents, only three responded that democracy is not important for Fiji, while one said it was important as well as not important and six did not choose to respond to this question. One Indo-Fijian respondent out of a total of 15 did not respond to this question and the rest responded 'yes' to the question. This data invalidates the perception that Fijians view democracy as a 'foreign flower' as 76% of the Fijians consider democracy to be important.

Figure 11: 'Is democracy important for Fiji' by Ethnicity
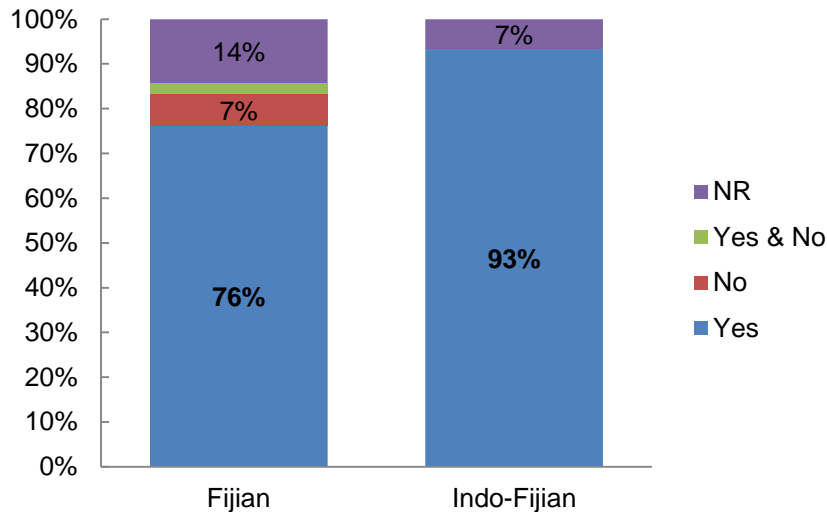
The next figure looks at why respondents consider democracy important or not important.

Figure 12: Why is democracy important for Fiji?
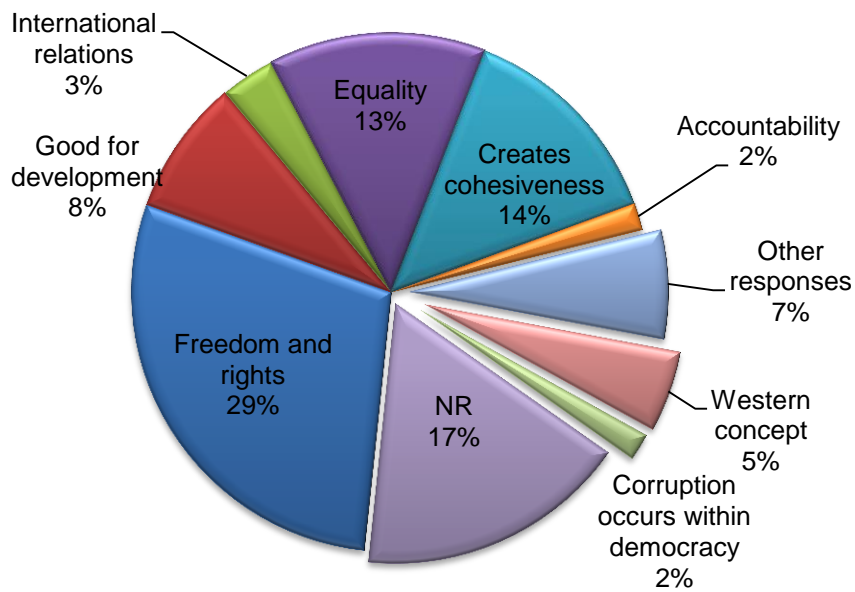
Figure 12 expands on why respondents think democracy is important for Fiji and links with Figure 14 (*what does the term democracy mean to you?*) below, as their responses correspond closely with each other. Respondents indicated that democracy was important because of freedom and rights as it allows people to voice their opinions (29%); creates cohesiveness in a multicultural society like Fiji (14%); allows equal opportunity for all citizens (14%); was good for development, particularly as it was more attractive for tourism (8%); international relations (3%); and only 2% specified accountability as an important factor. 14% of the respondents perceive democracy as a Western concept '*that has no moral foundation of truth'*, others within this response category remarked that *'conceptually democracy is good as it can be sensitive to the rights of all citizens but, in reality, corruption occurs within democracy'* and some felt that there needs to be more education on democracy for it to be effective in Fiji. 17% of the respondents did not answer this question. It was not clear whether this was due to lack of understanding of the concept, their negative attitudes towards democracy

or due to apprehension as democracy is a sensitive issue in Fiji under the interim government.

Three of the four coups in Fiji were carried out by ousting democratically elected governments; therefore it was disquieting to see that there was no acknowledgement of accepting election results as a crucial part of democracy. Semi structured respondent data on the perception of coups and the importance of democracy was cross-tabulated to examine if there was any link. While this is not directly associated with 'acceptance of election results', it could give an indication of whether those who viewed coups as bad may perceive democracy positively. Figure 13 shows that the outlook on coup and democracy correlates, as 56% of the respondents who viewed democracy to be important for Fiji considered coups as bad. However, a sizeable 19% of the respondents view democracy as important but contradict this by stating coups to be both good and bad and 7% regard the coups as good and consider democracy important as well. This trend is similar to the perception of coups in Fiji. One person justified this contradiction in their view as such; the coup is good *'because it is what the people wanted when they were not happy with the previous government's leadership'* and democracy is good because *'Fiji is a melting pot of different races, cultures and traditions and democracy can bring all together'*. This suggests that while people may understand the overarching terms of democracy, there is still a misunderstanding when it comes to the applicability of these concepts.

Figure 13: Perception of democracy by perception of coups
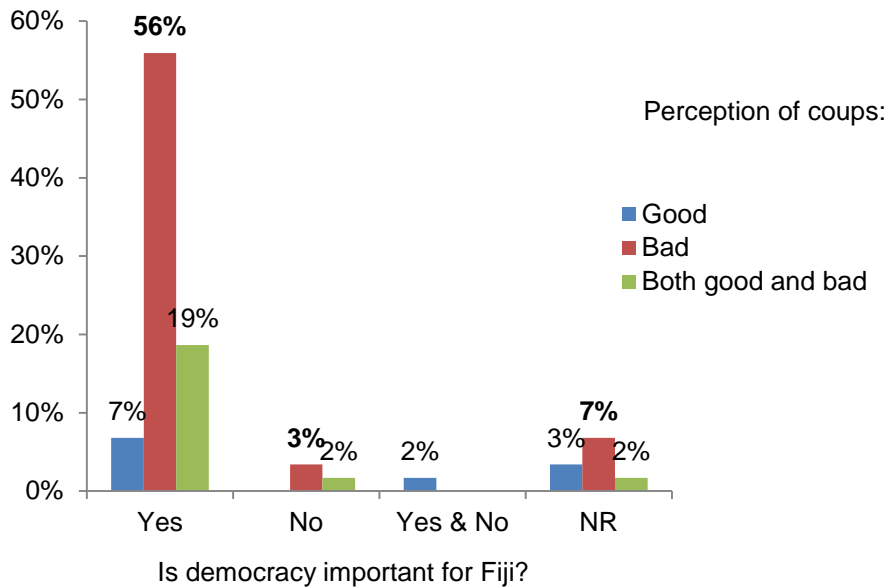
During my research, no respondent or key respondent stated that democracy is a *'foreign flower'*[70] to Fiji. This indicates that the individual view from the past has been generalized to assume that people from similar communities think alike.

Maturity of Democracy

In most developed countries, democracy has evolved over a considerable period of time to its present stage. During that process, countries experienced revolutions, coups d'état, power struggles and other forms of conflict and tensions. For instance, democratization in the United States went through weak governments, decades of slavery, civil war, labour struggles and racial violence from the time of independence until the 1960s and continues to have many problematic social issues even in the present day (Goldstone, 2010: 3). Some key informants of this research suggested that democracy would similarly evolve in developing countries after trials and tribulations, hence the cycle of

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[70] The term "Democracy is a Foreign Flower" is commonly used in the Fiji media and has been used by some prominent leaders, including former Prime Minister Laisenia Qarase and therefore this research focused on this term.

authoritarianism followed by periods of democratization should not be viewed with too much of concern, particularly in the context of non-violent situations such as Fiji.

> *I think we are just a small country and we have a few issues to deal with in a young democracy and two strong cultures...it's not an easy task but I hope that what this government has put into place, I think one day we will get to proper democracy, especially with the platforms that is laid down by the* [current] *government.* (David Tonganivalu – Former Deputy Director of Public Prosecutions)

> *Many countries that gained independence* [in the West] *had to fight for that, such as US which had the war of independence. So one of the most democratic countries in the world today went through a civil war and it wasn't too long ago. Similarly other countries went through such strife to gain independence. So it could be that Fiji will eventually grow out of this stage.* (Andrew Hughes – Former Commissioner of Fiji Police)

Understanding of Democracy

Democracy goes beyond the traditional notion of institutions and elections. Human rights based approaches have increasingly influenced democratic principles. Some of the core principles of democracy are citizen participation, equality, political tolerance, accountability, transparency, regular free and fair elections, economic freedom, restricting the abuse of power, acceptance of election results, the protection, promotion and fulfilment of human rights, multiparty systems and the rule of law (Beetham, 1999: 1-30). Some studies investigating people's understanding of democracy show that there is no consistent pattern among the democratizing developing countries (Bratton, Mattes, & Gyimah-Boadi, 2005;

Diamond & Plattner, 2008; Geer, 2004). By contrast, studies by Dalton, Sin, & Jou, (2007: 147) indicate that increasingly people were going beyond democratic institutions and procedures to broadly identify democracy in terms of freedom and civil liberties. The findings below demonstrate the respondents' understanding of democracy.

Figure 14 shows that 84% of respondents indicated that they understood some elements of democratic principles as they highlighted freedom of expression and participation (29%), elections (28%), equality for all (14%), peace and unity through tolerance (8%) and the rule of law (5%). The largest percentage of respondents identified freedom of expression and participation with democracy but as usual, elections were strongly linked with democracy. A smaller group of 3% did not clearly state their understanding of democracy and 1% identified democracy with corruption and greed while 12% of all the respondents gave no response.

This data indicates that overall the majority of respondents understand the core principles of democracy. It is a concern that 12% of the respondents gave no response.

Figure 14: What does the term democracy mean to you?
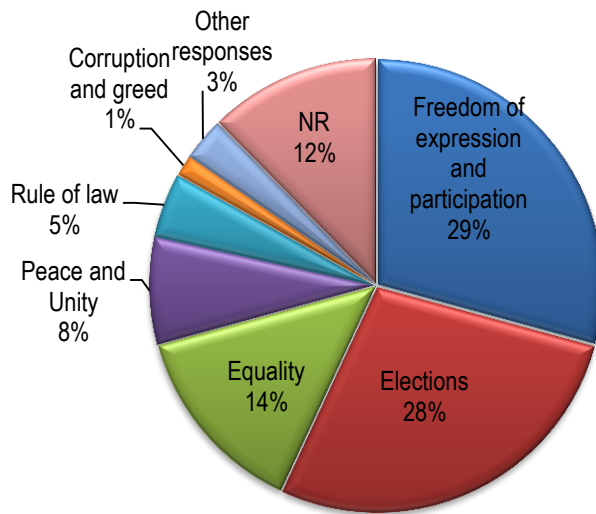
It is understandable that respondents identified freedom of expression and participation with democracy if one takes into consideration that, at the time of interview, their ability to voice any opposition to the government was curtailed. It is therefore to be expected that they are strongly aware of this lack since, under democratic governments, this freedom was widely exercised. Elections were also identified with democracy and this could be due not only to the accepted understanding of elections as an important element of democracy but also because people in Fiji had been disenfranchised since 2006 and keenly felt their lack of suffrage.

Key informants of this research stated that while people may rhetorically state some of the human rights related factors of democracy, they are unable to contextualize these factors within the governance of the country and therefore shift their allegiance for or against democracy in times of conflict. Some argued that because people do not have a good understanding of democracy, when a regime does provide infrastructure and services, people start being loyal to that

government, irrespective of whether it is legal or illegal government or democratic or non-democratic government.

I think we have to have an educated population who understand the concepts of civic consciousness; human rights awareness raising and people have to invest in the rule of law. Which means that they have to solve things amicably, not through coups, not through conflict, and that's a long term goal and it doesn't happen overnight…you know [indigenous] *Fijians never wanted to share power. This also comes out of an uneducated fear, because issues such as land are very entrenched in the constitution and no matter who comes into power, it cannot be changed by just one party. But the issue of land is 'played' on by those who should have known better.* (Imrana Jalal - Human Rights Adviser)

Most of the trainings on human rights issues are at superficial level as they are done to create awareness. Also there is the issue of loyalty within the army, where loyalty seems to be considered above the rule of law. This lack of understanding is also within the wider community. For example, last week there was a 'vanua' from somewhere in Naitasiri that came to present their 'tabua' to apologise and say that this is the best government, because it has provided them with road. People don't know that the government is not doing them a favour when they provide these infrastructures and services; it is government's duty to do so, nothing fancy. What are the implications of these communities doing a turnaround and saying I support this government?

But I think many of us educated Fijians also question the capitalist component of democracy, for instance when it promotes nationalizing land. We like the social justice aspect of democracy but not the capitalist aspect of it. I wonder if democracy in Fiji could be promoted from a socialist perspective. (Laitia Tamata - Former Fiji Military Forces Lawyer & Human Rights Advocate)

Lack of understanding of the concepts of democracy and human rights is particularly challenging when leaders are selective in their application of democracy and human rights. Laisenia Qarase's paradoxical view on democracy and human rights when he was the Prime Minister espouses this stance.[71]

Some of the respondents also argued that for democracy to be really effective in Fiji it is important to have educated leaders (both traditional and modern leaders) trained and sensitised to uphold democratic principles when in positions of power.

> *You know political governance is such an important thing yet the people who get elected are the most ill-advised lot. I believe that training of the parliamentarians should be constitutionally mandated, just like in Singapore. Also to be a parliamentarian, people should have to fulfil certain criteria and when you become a politician, you become a career politician and nothing else on the side. They should be taught governance, development, finance and the whole works. Our politicians are a joke sometimes; some of them are not even literate while running ministries. Sometimes political colleagues who have failed in elections get nominated into senate, with little calibre for it.* (Hassan Khan – Executive Director of Fiji Council of Social Services)

> *They* [the community and leaders] *have had some human rights training but it has been a challenging process. The military response to human rights issues is no different from our powerful and abusive chiefs. They* [the chiefs] *know it's* [human rights problems] *there but they continue to side-line it. And these* [the chiefs and military personnel] *are educated people but they still think that loyalty to custom is more important than human rights issues. So how can we have a strong democracy when people think loyalty to chiefs and culture is more important than*

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[71] For more details on Qarase's shifting stance on democracy and human rights, see page 207, the Discussion Section of this chapter.

accepting results of elections or are banding together with perpetrators in power?

(Laitia Tamata - Former Fiji Military Forces Lawyer & Human Rights Advocate)

Undemocratic Bainimarama Government undermines Democracy

For governments to be effective, they should be able to provide both long term and short term development. For new governments to have support from society, they need to provide some immediate benefits such as security, economic stability, reduction in corruption, and some social services (Goldstone, 2010: 10). The provision of immediate needs will build confidence towards the new order and if those needs are not met, people can turn to opposition groups (ibid.). This section discusses the argument that some people find the undemocratic Bainimarama government easier to accept due to the government's ability to fulfil the peoples' expectations, particularly their economic and social concerns. This is in stark contrast to past democratic governments who have not been able to fulfil such expectations, thereby undermining in the minds of the people the need for democracy.

Since 2009, Bainimarama's interim government has effectively provided services such as free education, free textbooks and free transportation for all primary and secondary students, reduced transportation fares for citizens over 55 years of age, pensions for all 70 year plus citizens who have no source of income, equal distribution of native land royalty to all Fijians[72], tertiary toppers scheme scholarships, tertiary loan scheme for other students, rural electrification in a number of rural villages, construction of roads in a number of rural areas, reduced

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[72] Prior to this change in policy, all native land royalties were distributed according to the traditional hierarchy, which meant that the chiefs would get the largest sums of the royalty while the commoners among the community would get the least amount.

water rates for poor families, construction of medical centres in some rural areas, opening of legal aid services in most major towns/cities, tax rebates for rural areas like the north island of Vanua Levu and Rakiraki/Tavua area, establishment of FICAC to combat corruption, and so on.

Of the 59 respondents, 27 (46%) stated they trusted the interim government and their reasons were captured in Figure 15. It demonstrates that development is persuading a substantial number of people to view the interim government in a positive way despite their abuse of human rights, although some scepticism remains. It is worth noting that 16% of the respondents felt that the interim government was inclusive and more accountable. These perceptions could be due to the influence of government's propaganda and media censorship as the media were heavily censored and some of the media continue to reflect positively on government's progress while ignoring any issues that portray government negatively. For instance, every Tuesday, the Fiji Broadcasting Corporation (FBC) TV, which is owned by the government, runs a one hour programme called *'Nations News'*. This programme documents the development and services provided by the Bainimarama government, yet it never mentions any opposing views on these developments. To authenticate this perspective, it was important to take into consideration the key informants views, which corroborated that people were influenced by the government propaganda.

Figure 15: Reasons for Trusting the Interim Government
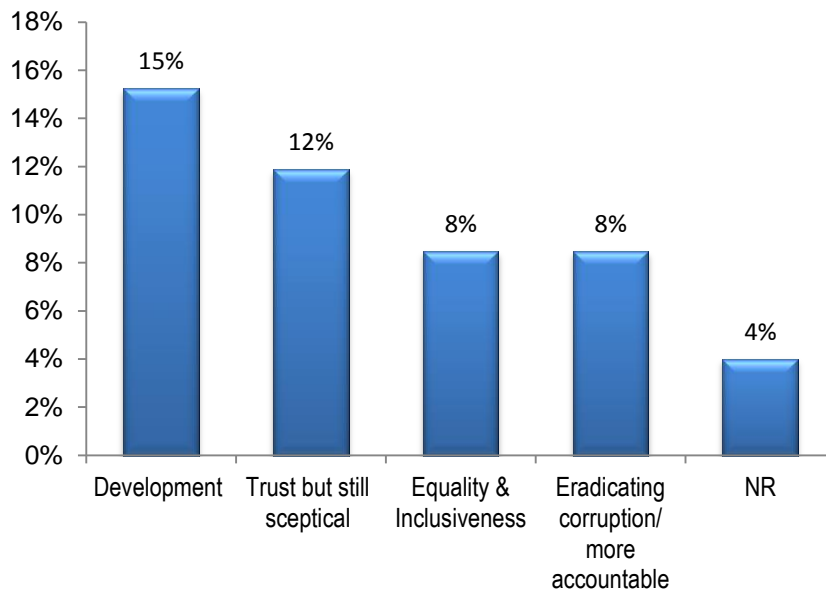
Some respondents argue that the services are provided by the Bainimarama government is being done to gain popularity among the population and this has created shifting alliances as people who previously perceived the undemocratic government negatively now consider it in positive terms.

> *It would be interesting to weigh what they* [the interim government] *are doing against populism. Because obviously we know that when they took over they were not popular but now the tide might be changing but still there are different views. I think people also assessed the coup in terms of what things have been done, how it has benefited people but it is easy to get lost in the micro level of development. You can clearly assess that some things are done to win the approval of the community rather than taking into account long term benefits and sustainability.* (Makalesi - pseudonym for a University scholar)

> *The government's development strategy seems to be working to their favour to some extent but most of these developments are happening in the rural areas, not in urban areas. On top of that the media also substantiates this because it is censored, so it reports on the development that is being done* [by the interim

government] *rather than addressing what is missing or not being done so people are starting to believe in what they hear from media.*

Also anyone who approaches Frank [Bainimarama] *with proposal for funds, he hands out the money and that's why he is loved by the people. But that's not the way you conduct a government. He provides them with funding in short periods of time but at the cost of everybody else; at the cost of long term policy and development; at the cost of well-established processes of decision making; at the cost of influencing civil servants who have to prioritise whatever order that comes from him rather than what is planned. There is no assessment of needs and consultation but this behaviour of a benevolent Prime Minister who comes across as caring for what people need. In fact people don't realise that this is a short sighted approach and is harmful.* (Laitia Tamata - Former Fiji Military Forces Lawyer & Human Rights Advocate)

Only what is good is being reported, so the public is being duped into knowing all the developments with no central information outlet for things that have gone wrong. Additionally we need to acknowledge that assessments that are done for these development projects could be at a superficial level, so the government is only addressing things that are noticeable and ignoring issues that are hidden. (Atalia - pseudonym for a University scholar)

They [the military] *seem to be doing some good work but on the other side, they have taken an upper hand in almost everything they want to control. If they* [the military] *feel that you are a threat to them, they will cut you right there and then. Also where are they getting the money to do all these developments? This remains a mystery as it is not transparent. We haven't had an audit report since 2006 so we don't know anything about government's finances.* (Tevita-pseudonym for a University scholar)

They spent lot of money to build the Naqali Bridge but obviously it was designed badly because within months it was flooded. So the people of that area reported about it to the newspapers and the journalist prepared a report on it. But the journalist was not allowed to publish it because it was censored as it would show the government in a bad light. (Lubna – pseudonym for a senior Civil Servant)

I remember one of my colleagues was doing a story on the flooding of the newly built Naqali Bridge, it was a small thing against the government but the ones who were censoring came and told her to take it out. They were very aggressive about it and the reporter even has a stern call from the Minister of Works. I am a new reporter so that was a frightening experience and I would not report on anything controversial. (Hiran – pseudonym for a Journalist)

While the media censorship does not allow for critical discussions, social media such as Twitter, Facebook and Blogs have proliferated. Some well-known blogs since the 2006 coup are Fiji Watch, Coup Four And A Half, Discombobulated Bubu, Fiji Coup 2006, Fiji Democracy Now, Fiji Today's Blog, Fijigirl's Weblog, intelligentsiya, Luvei Viti: Children of Fiji, Raw Fiji News, realfijinews, Tears For Fiji, Truth for Fiji (Roko Ului's blog) and Croz Walsh's Blog -- Fiji: The Way it Was, Is and Can Be, with a number of similar groups on Facebook. Some sites discussed the Naqali Bridge issue specifically, for instance the Soli Vakasama (2009, accessed 13 January). Unfortunately, many of these blogs do not portray balanced and impartial views and provide information which can be just as damaging as the mainstream media. However, the Naqali Bridge[73] incident was

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[73] Naqali is a low lying rural area which had an old bridge that flooded frequently during the rainy season. In 2009, the government with China AID constructed a new bridge to replace the old one. However, a few months after the opening of the new bridge it also flooded. Apart from the blogs and informal conversations, there are no media reports of the new bridge flooding.

verified by two key informants of this research, Hiran (journalist) and Lubna (a senior civil servant).

The interim government has outlined its approach towards democracy in an aptly titled document *Roadmap for Democracy and Sustainable Socio-economic Development* (Ministry of National Planning, 2009). This has compartmentalised development into two sections; infrastructural and institutional reforms from 2009 – 2012 and constitutional and electoral reforms from 2012 – 2014 (ibid.). While on paper this looks legitimate, the views of a senior military officer indicate that the development efforts are targeted to obtain popular support, particularly amongst rural communities. Taking into consideration that 49% of Fiji's total population resides in rural areas (Fiji Bureau of Statistics, 2007), this can be considered a strategic approach by the interim government to gain popular support before the 2014 elections.

> *…then it came to the issue of how we going to basically* <u>*penetrate the provinces.*</u>
> [emphasis added] *It was very easy!*
> *See,* <u>*we didn't go and dictate them; instead our approach was to do things where*</u>
> <u>*people can see benefit*</u> [emphasis added]. *So we didn't say "if we come and build this road and the benefits would be that you would be able to drive through tar-sealed roads, access to markets and other facilities, etc". Because saying these words would be meaningless, but we just go and build what is needed. I'll tell you a story about a village in Tailevu. The whole road is 11.2km, but since 1970, the government of time of each election would tar-seal a little portion of the road each time. In the last election, the leftover road was only 2km from the village and that portion was still a gravel road. These villagers said that as soon as the elections finish we don't see the politicians again. So we took our engineering personnel and we graded the remaining road and got PWD* [Public Works Department] *to tar-seal it all. The whole thing cost* [F]*$24,000. We did that and we walked away*

and the villagers are saying we didn't ask for it and why are they doing it for us and this was the village that initially objected to the Charter. We said no, this was done because there was a need. Now they are all appreciative. Now these projects don't just take care of basic needs such as water, sanitation, hygiene, etc, but basically the last standing individual is brought [emphasis added]. (Brigadier General Aziz Mohammed - Chief of Staff of the Fiji Military Forces)

Brigadier Aziz indicates how the military is strategically approaching the community so the government gains credibility through development. While they have used force and threats more overtly to suppress the media and human rights activists, particularly in urban areas, their approach is more subtle in rural areas, where people are slowly changing their stance due to developmental projects in their areas. This gives a clear indication of the military's plan to acquire popular support among the Fiji community. While it is acknowledged that development is desirable for any country, such one-sided development to appease opposing voices seems to be skewed: as Nicky Park (2010) documented, almost half of Fijians live in poverty with the Director of International Initiative for Impact Evaluation, Howard White, stating that "poverty has risen more than 10 per cent in the country since 2007" (ibid.). But Economists Wadan Narsey (2014) predicts that due to some comprehensive subsidies made by Bainimarama government since 2014 election, it is anticipated that poverty will decline in the future.

Analysing the quotation above, it can be assumed that the interim government recognised it is not a legitimate polity so it reinvented its strategies to gain populism through development. This strategy has proven to be effective to a certain extent, a poll by the Lowry Institute for International Policy showed that people believe the government is doing a good job in developmental sectors such

as education, transport and health (Hayward-Jones, 2011).[74] However, such a view is not widespread in urban areas as many residents in these areas analyse such projects more analytically. Additionally, the urban and average-income population has not seen such benefits in real terms,

> *If we focus about government going to rural and interior areas than of course development has taken place and the Prime Minister is regarded as the 'People's PM'. But it only happens in these rural areas and villages where they can 'hypnotise' the villages and buy their favours and buy their votes when they stand for elections. Remember this is similar to the Agricultural Scam that happened under Qarase government.* (Lubna pseudonym for a senior Civil Servant)

> *The leaders [of the interim government] are closer to the people as they go around villages selling their ideas and giving the impression that they are taking into account peoples voices, hence people say that military is more effective than the politicians but it's not like the government is giving back to people the decision to vote whoever they want.* (Aquila Yakabi – Director of Fiji's Citizens' Constitutional Forum)

Discussion

The first argument is consideration of democracy as a foreign concept in the Pacific Island countries. The quality of democracy is weak as some voters and some politicians switch sides from supporting to opposing democracy depending on the situation. People have generally assumed that Fijians have been against democracy and the Indo-Fijians have been pro-democracy. This research finding

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[74] It is acknowledged that his report has generated a lot of debate on the popularity of the government and the interim Prime Minister, Frank Bainimarama. Academics such as Dr. Steven Ratuva and Professor Waden Narsey have raised concerns of reliability while Professor Crozbie Walsh has supported the report (Perrottet, 2011; Narsey (b), 2011; Walsh, 2011).

indicates that there is more fluidity in accepting and rejecting democracy among both ethnic groups.

Democracy is a contested term and has been used and abused in varying situations to justify different stances. Representative democracy is almost universal in the Pacific Island countries since the end of the colonial period, except for periods of coups d'état in Fiji and the Solomon Islands. However, in traditional chiefly societies like Fiji, where community values supersede individual values, particularly among Fijians, the liberal values of democracy may not be widely accepted. This perception was epitomized in *The Fiji Times* editorial of 3 September 1992, "Democracy is a Foreign Flower" and therefore unable to take root in the Pacific Island nations. The discussion on the need and relevance of democracy is heightened after each coup in Fiji. While the debates around democracy are probably common in many countries experiencing instability, the interesting element in Fiji is that, after the 2006 coup, a role reversal has taken place. Previously known opponents of democracy have become proponents of democracy and vice versa.

The very persons who had argued that democracy is a *foreign flower* in the past, have reinvented themselves to be staunch proponents of democracy since the 2006 coup, such as the ousted Prime Minister Laisenia Qarase, the members of Great Council of Chiefs, many prominent members of the Fiji Methodist Church and nationalist Fijians. For instance, on 3 June 2005, in a parliamentary debate, Prime Minister Qarase argued that democracy was overthrown in 2000 coup as the Fijians were frustrated with the democratic system and the coup was a

reaction to '*Tagi ni Taukei*' or cry of the Fijian[75] people (Government of Fiji Online Portal, 2005). Similarly on 29 August 2005, (just over a year before he was ousted from government) during his opening speech of the Commonwealth Parliamentary Association in Fiji, Qarase stated that while democracy was accepted in Fiji, it conflicted with Fijian traditions:

> *The Universal Declaration of Human Rights, <u>vesting every individual with equal rights, was directly opposed to the hierarchical social structure of indigenous Fijian society</u>* [emphasis added]. *Chiefs are at the apex by virtue of their birth and rank.* (The Fiji Times, 30 August, 2005)

This view was strongly criticised by many people in Fiji, including a high chief, Ratu Epeli Ganilau, who argued that Fiji's political and judicial institutions were rooted in democracy. He criticised leaders like Qarase for their hypocrisy in sitting on the fence since they had been brought into power through democracy but had suggested that the chiefly system was preferable (The Fiji Times, 4 September 2005). The notion that the person with most power in a country at that time, Prime Minister Laisani Qarase, could voice his uneasiness with the values of human rights and democracy indicates a deep rooted problem. Either people do not understand the concept of democracy or they are being selective in choosing those parts of democracy which suit them and discarding those that do not fit with their agenda.

Singh (2006) argues that the shifting stance on democracy within Fiji is contextual and that people recognise the value of democracy more favourably once they

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[75] The term Fijian throughout the thesis means indigenous Fijians, while Indo-Fijians means citizens of Fiji of Indian descent.

have lost their ability to exercise the rights that go with democracy: they affiliate or disconnect with it when it becomes relevant or irrelevant to their own needs.

> *Indo-Fijians woke up to democracy when they were disenfranchised by Rabuka in 1987... In 2006, Fijians discovered that democracy was not really a foreign flower after all when they found they needed it themselves.* (Singh, 2006)

Another point of view is from a renowned Pacific academic and vocal opponent of coups, Dr. Narsey, who applied the Zimbardo analysis to understand why people had shifting stances on coups in Fiji. He claims that relatively good people in the community had supported the coup due to the 'revenge' factor, for financial self-interest and the 'doing good' factor (Narsey, 2011). The revenge factor has been discussed in an earlier chapter. The financial self-interest factor points towards the business sector, particularly the Indo-Fijian business owners who have continued to team with whichever government have come into power, irrespective of their coup affiliations and/or human rights abuses. The 'doing good' factor relates to the call by Prime Minister Bainimarama to Fijians of all ethnicities to contribute towards development by being part of his government. This led to some prominent Indo-Fijians residing overseas to return to Fiji and some from within Fiji to resign from their work and take up some significant positions, despite travel bans and other penalties by neighbouring countries. For instance, the current Attorney General, Aiyaz Saiyad Kaiyum was an established lawyer and had to forfeit his Australian permanent residency to take up his position with the Bainimarama government.

On the other hand, people who had always fought for the reinstatement of democracy after previous coups were either silent in criticising the 2006 coup, or conveyed their support for the 2006 coup, despite the loss of democracy. A few

individuals within this category questioned the relevance of democracy to Fiji. For instance, the former Prime Minister Mahendra Chaudhry, who was ousted in the 1987 and 1999 coups and was a long time vocal supporter of democracy, did not criticise the 2006 coup perpetrators. He even joined the interim government in 2007, despite the fact that the interim government had come into power because of the 2006 coup.

Fiji Human Rights Commission Director, Dr Shaista Shameem, instead of denouncing the 2006 coup, justified it on the basis that the ousted government was not really democratically elected due to election fraud and that it was marginalising certain sections of the community (Shameem, 2007). Similarly, Father Kevin Barr, a prominent social justice advocate, stated that the 2006 coup and the continued demands by the international community for a return to democracy, had led him to question democracy as it is practised in today's world. He had come to realise that his previous assumptions about democracy had been very simplistic (Barr, 2007). Academic Anirudh Singh was a prominent activist after the first coup and was tortured by elite members of the Fiji military forces for his outspoken views in 1987. But soon after the 2006 coup, he wrote an article in support of the interim government. He argued that democracy is contextual and explained that Indo-Fijians had campaigned for a return to democracy following previous coups as democracy gave them some 'degree of equality and freedom in political self-determination'. However, many Indo-Fijians did not want a return of the democratically elected Qarase government since that would mean a return to their previous relegated status and their continued suppression (Singh, 2006). A number of local NGOs and some diaspora Indo-Fijians have also indicated similar views.

There is no national data on people's understanding of democracy, but the data from this research is likely to be comparable at the national level. Only a small group of nationalists, who usually tend to be coup apologists, raise the issue of the relevance of democracy during times of coup, but this group's alternative view receives much media coverage so the issue is sensationalized and repeatedly discussed with the result that many Fijians are perceived to be questioning the relevance of democracy.

While these are valid claims, this research data indicates that other influential factors can be associated with the changing views on democracy. These factors include the lack of maturity of democracy; the lack of an understanding of the connection between democracy and human rights; criticism for democracy due to lack of development and corruption — all these have led to a lukewarm acceptance of democracy and therefore little protest on those occasions on which it is overthrown.

The second argument is that the upheavals will disappear once democracy matures in Fiji. This argument is based on the premise that, in many Western countries, democracy evolved slowly and through many struggles, implying that democracy in Fiji will develop in a similar manner. While this perception is understandable, it is a blinkered view as it does not take into consideration other factors. In most of the present day developed countries, the process of democratization started well before globalization, the rise of human rights awareness and widespread access to the media. In the current climate of increased rights awareness and widespread access to the media in various forms,

people are more aware of what is happening in other parts of the world and there is less tolerance and acceptance of abuse of power and atrocities as compared to past eras. The Arab Spring has shown that social media is increasingly used to organize social movements by protesters and activists, not only locally, but nationally, regionally and to some extent internationally. The short messaging services (SMS) and blogs were utilised not only to demand change but also to organise groups for protests, draw attention to harm and abuse of protesters and provide information to the outside world of the happenings in countries like Egypt (Eltantawy & Wiest, 2011). Similarly, Avaaz has created a platform that allows people from all parts of the world to campaign using the internet via digital petitions and has an increasing number of members worldwide (Glennie, 2011; Kavada, 2009).[76]

Due to the increasing use of media to promote change for the better, people in many developing countries are more aware of their rights and it cannot be expected that democracy will evolve slowly as it did in the present developed countries. Increasingly, government and politicians are held more accountable than ever before in history and acts of blatant suppression of human rights usually lead to an outcry at local, national, regional and international levels.[77] The present day developed countries did not evolve within similar settings, it should not be accepted that the currently developing countries will go through parallel

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[76] Avaaz is a global civic organization launched in January 2007 that promotes activism on many issues and is considered as the world's largest online activist network. Avaaz membership stood at 43,696,427 from 194 countries at 12.48pm (BST), 11 July, 2016 and is continually increasing by seconds.

[77] For instance, after the 2006 coup in Fiji and subsequent harassment and torture of human rights activists and vocal opponents of the interim government, many countries but most notably New Zealand and Australian governments, Amnesty International, FORUM Secretariat and other Pacific regional bodies and many national organizations condemned the government's action.

democratic development. Additionally, the differential patterns of democratic development in India and Pakistan indicate that there is a link between the strength of the military and a country's democratic development. This will be discussed in the next section.

The third argument is that people switch sides on accepting or rejecting democracy because they do not really understand what democracy means. This lack of understanding of democracy permeates from the community level to the parliamentarians. While this is a concern, it needs to be noted that a number of international agencies have been working to empower the parliamentarians in the Pacific and it is anticipated that future parliamentarians in the Pacific will be more knowledgeable in these areas. The UNDP Pacific Centre published a '*Directory of Organisations working with Pacific Parliaments'* in 2007 and it shows an impressive list of organisations involved in the parliamentary strengthening programmes, with a number of activities organised by the UNDP Fiji Parliament Institutional Strengthening Project (UNDP Pacific Centre, 2007: 35-37). However, this project was based at the Fiji Parliament and was inactive during the coup years and only became active again after the 2014 elections. The Ministry of Youth Employment Opportunities & Sports (2006) had also organised yearly 'Youth Parliament' programme since 2002 to empower youths on the principles of democracy and parliamentary processes. A number of youths who had participated in this process in the past are now active members of some NGOs involved in democracy and human rights movements, although many of them were unable to conduct activities openly during the years of undemocratic government. While these programmes are initiated by other bodies, individual parliamentary staff interested to up-skill themselves in this area could also enrol in

an online course, *Parliamentary Enhancement and Strengthening*, organised by the World Bank Institute in collaboration with McGill University, Commonwealth Parliamentary Association and the Parliamentary Centre, and run in conjunction with face-to-face *Parliamentary Staff Training for Commonwealth Countries* (Gomez, 2006). These activities indicate that there are a lot of opportunities for empowering the parliamentarians, particularly on aspects of democracy.

However, in practical terms, parliamentarians come with their cultural 'baggage' and none of these programmes or activities addresses such sensitive issues as clashes between respect for rule of law and loyalty to customary laws, acceptance of election results, and so on. Pacific island countries would need to think of creating a bespoke parliamentary training programme that addresses the cultural challenges of the region and the specific governance needs of small island states, with their small populations and the resulting small pool of leaders. Such training programmes should also cover the overlap between traditional who have taken on the role of modern leadership particularly in the fields of politics, religion and the military.

On the need to educate the community on democracy, the comments from respondents indicate that more in-depth education on democracy and human rights issues needs to be undertaken to make any significant impact. However, NGO activities in this area rely heavily on external funding and very few agencies fund long term and in-depth educational activities. For the first time in the Pacific, in 2013 the University of the South Pacific (USP) in conjunction with the Regional Resource Rights Team (RRRT) with funding from AUSAid developed a sustainable and certified diploma programme addressing issues of leadership,

governance and human rights. This programme is filling a much needed gap in the Pacific.

Apart from this, the cultural mind-set of people also needs to be addressed. There have been many underlying concerns that have not been addressed properly by any government since independence in 1970. These would include the notion that only a certain ethnic group could lead the country, the issues of land tenure, the role of military and the religious institutions in the area of politics. For instance, the fear of Fijians' that their land will be taken away by Indo-Fijians leaders is closely linked to long-held beliefs about which ethnic group should rule the country. Laitia Tamata highlights another concern some Fijians have with democracy, namely the controversy of nationalising native land. The next chapter will focus on structural conflicts and address this issue in detail.

The fourth argument is that democracy in Fiji is being undermined in two ways: by illiberal democracies of the past and by the current development-orientated authoritarian government. Generally speaking, people in Fiji are pro-democracy, but some sectors, such as the rural communities, have become cynical towards democracy as previous democratic governments did not provide their basic needs such as access to tap water, electricity, roads and other infrastructure. Almost all the previous democratic governments in Fiji have been unresponsive to the demands of the people, particularly in the rural areas and the poor urban dwellers. In contrast, the 2006 interim government provided these services in the rural areas and hence people tend to see little need for democracy.

Strategically, the roadmap by the interim government is promoted in terms of good governance and development for the wider community but also aligns implicitly with the proponents of the 'Asian path to growth'[78] and the concept of the developmental state as it emphasises a greater role for the military in human security and pushes for economic growth as the most important goal (Ministry of National Planning, 2009: 10). This renders factors such as social justice and human rights subordinate to economic growth, which must be obtained by any means. It assumes that authoritarian governments are considered best placed to achieve this as they could easily suppress any uprising. An indication of this in Fiji is the Essential National Industries (Employment) Decree (2011), which has "restricted collective bargaining rights, severely curtailed the right to strike, banned overtime payments and voided existing collective agreements for workers in key sectors of the economy, including the sugar industry, aviation and tourism" (Amnesty International, 2012: 148).

The interim government has utilised a 'carrot and stick' approach: pushing for the development of infrastructure like roads and access to tap water and electricity in the rural areas while suppressing dissenting voices in the urban areas. This research argues that the advantage of democracy goes beyond development to human rights. Economic and social developments are important as most people in poverty are focused on meeting their basic needs however, history demonstrates that democratic nations are more compatible with, and open to, human rights than non-democratic nations (Beetham, 1999; Bratton & Gyimah-Boadi 2005; Roderic,

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[78] Asian path to growth proponents are usually 'policy professionals, and economists who argued that a period of authoritarian rule was both desirable and necessary for poorer states in order to create state institutions capable of reshaping their economies, promoting economic efficiencies, and ensuring the sustained investments in public goods needed to put poor countries on track for rapid economic development' (Goldstone, 2010: 1).

2001). Evidently, illiberal democracies like Fiji still face many challenges, such as partisan voting and politicized traditional and religious organizations. The next chapter will focus on these issues.

In chapter 3, the thesis discussed the theory of economic dependency and how uneven development in a country could be a contributing factor for military coups. For a country to minimise the occurrence of coups, development has to be implemented evenly across the country, taking into account any rural-urban or ethnic cleavages. Key informant data in this chapter indicates that non-democratic governments can also implement social and economic development and this may negate the need for democratic governments, particularly if democratic governments had not provided similar development in the past. The next section will focus on the role of the military in Fiji's conflict.

THE ROLE OF THE MILITARY

In chapter 5 on the theme of security sector reform, the role of the military was discussed at length. An examination of the literature shows that there are various reasons for military coups d'état, some of which are relevant to Fiji, such as the government's use of the military to suppress potential uprisings (Mason, 2007: 15-16); the military becoming praetorian as it forcefully assumes control of civilian authority (Uzgel, 2003: 180); the military carrying out reforms (Preece, 2000: 10); the lack of consistent professionalism within the military (Ball, 2004: 46); and the downsizing of the military together with weak civilian oversight. A key element related to the military and its link with conflict is the ambiguous perception of the role of the military within the community. The data below indicates the different responses on these issues.

61 percent of the respondents identified security and defence of the nation as the major role of the Fiji military, with 17% stating that the military should stay out of politics. 7% indicated policing as the military's role, 2% identified international peacekeeping as the main role of Fiji military, 2% stated development as their main role, 8% did not respond and 3% were unsure. Responses citing development and policing as the main roles of the military are of concern, although they are in a minority. As usually happens elsewhere, the Fiji military does get involved in disaster relief hence the respondents' link to development could be associated with this rather than the involvement of the military in development since the 2006 coup, which is usually the jurisdiction of a government. In comparison to past coups, the military's presence in policing is more obvious since the 2006 coup.

The majority of the responses aligned with the commonly held view that the military's core function is defence; however, it was not clear whether this involved external as well as internal defence as there were elements of both in their responses but this was not explicitly stated. For instance, some responses on the role of the military indicated *external* defence: "*to protect its citizens from outside forces*", "*protect the country from unfriendly forces*". By contrast, in responding to the same question others seem to prioritise *internal* defence: "*serve the country",* "*save people from violence and make the country crime free*" and "*look after the people, country and properties*"

Figure 16: Role of Military in Fiji
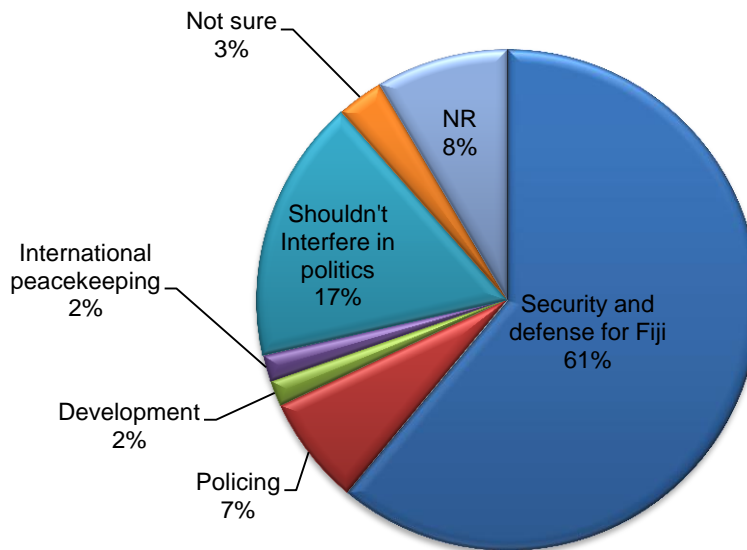
The key informants gave a more varied and in depth view on the role of the military. Mr. Hughes and Ms. Jalal reflected that the reason behind the military's initial establishment has a bearing on how it conducts its activities and its interference in the political arena. Both key informants also emphasized the problematic acceptance by society of the military's role in internal security. Another respondent suggests that the widespread acceptance of the praetorian military is linked to the acceptance of authority in indigenous Fijian culture:

> *Historically the military was formed in Fiji to address a threat but now that the threat is gone there is no mechanism to control the military. Now military has become part of the problem. One thing that really struck me when I came to Fiji was how deeply immersed the military were in the internal affairs, including gathering intelligence on the citizens. They seem to think that there was a very clear role for them in terms of internal security and that thought was echoed throughout the society, who definitely think it was legitimate for them* [the military] *to have a role in internal security. I struggled with that from day one.* (Andrew Hughes – Former Commissioner of Fiji Police)

Their role is external defence but in Fiji we have a history of the army being turned against the people. I mean, since Rabuka [1987 coup]*, army tends to think that they have a legitimate role in civic governance, and they don't. I don't think militaries anywhere are trained to create transformative social change. And at a very fundamental level, this society is also at fault because it glorifies violence and has from 1987; glorification of violence and militarization, but also the concept that brute strength rules. Being in the military also holds a very high prestige for people, it sort of elevates them within the society, and that's also true in societies like Burma, Pakistan, in countries which are heavily militarized. Being in military carries prestige for the family as well…elder son does this and the second son goes the military, hence the glorification of military.* (Imrana Jalal – Human Rights Activist)

We need to look back at our history too and acknowledge that we were a tribal warring nation so there is a latent acceptance of authoritarian rule; I am not saying that it's the same now but that it needs to be acknowledged that we are more acceptable to such authority because that's how our cultural system is… (Makalesi - pseudonym for a University scholar)

Two other respondents shared a different view on the role of the military. The response by Mr. Camillo indicates that there is some acceptance of military's continued involvement in the development of the country, even among senior NGO personnel. This is a worrying trend and will be discussed below. Brigadier Mohammed argues that the concept of military's role has changed compared to the past.

Right now the military are into peace building, involved in disaster relief, peace keeping, into border security in terms of Customs and Immigration, in the Navy and there is an increase of officers in all these areas, including the Police Force.

They are also into policing of tourism in the West (of Fiji). Although some of these are work of the Police, but right now it's them [military] *because of their numbers and the gun, because they are in control and in power.* (Joseph Camillo, Director of ECREA at the time of interview)

I think it's a misnomer saying that military is only for external defence. It was seen that military forces in Europe were more inclined before the Cold War for external defence, but security has changed, it's no longer confined to aggression from foreign forces as increasingly nations have to address aggression within their country. Such as things like terrorism, drug trafficking, etc. (Brigadier General Aziz Mohammed - Chief of Staff of the Fiji Military Forces)

While the military is usually blamed for interference in politics, Joseph Brown, a former military officer believes that the root of Fiji's military praetorianism goes back to government exploitation of the military in the past.

Governments consider military as an icing for the government and now the situation has reached that stage that military feel they are a part of government and don't need politicians anymore if these politicians don't agree with the military views. And in countries where government cannot reform military, it becomes parallel to the government. So today we are harvesting what was sown in the past. (Joseph Brown - Secretary to the late Ratu Sir Kamisese Mara during tenure as Prime Minister, Vice President and later President)

Scholars such as Ball (2004), Nathan (2007), Preece (2000) and Wulf (2004) and even DCAF (2008), argue that professionalizing the military is important to minimise the effect of spoilers within the military during times of tension. However, this is a long term issue as attitudes towards military interference in politics needs to change amongst all sectors of society to demand a clear separation of military

from the politics. The dilemma of loyalty for the rule of law versus loyalty to custom also poses a problem as the military are still not professional enough to recognise the supremacy of the rule of law at times of tension. Two respondents also focused on the impact of fast-tracked promotions. These issues will be discussed later in this section.

> *To a large extent senior military personnel also wear many different hats; of religion, culture, tribe and are not professional enough to separate them hence they end up doing whatever they want to do because the traditional and other elites didn't see the military interference as problematic. So these are some of the fundamental problems. In my view, dealing with the military is a generational issue, it can't be done in a short period of few years, and the whole mind-set needs to be changed, not only of the military but also the society needs to change in their mind-set when it comes to military.* (Andrew Hughes – Former Commissioner of Fiji Police)

> *When Fiji made the decision in 1978 to join the peacekeeping, it increased its size, from one battalion to 12 battalions. The officers were promoted above their level of competence. So we had a big army and a very shaky leadership because they were not properly trained. Even today they are promoted above their level of competence. For example the current Permanent Secretary for Information* [Major Neumi Luweni] *was a bandsman, marching in the RFMF Band and now a Permanent Secretary. How do you reconcile that? This weakens the military, because they perform at a level which is not competent with the job title they hold. Hence, it leads to RFMF becoming very very fragile and easily exploited.* (Joseph Brown - Secretary to the late Ratu Sir Kamisese Mara during tenure as Prime Minister, Vice President and later President)

> *The quick promotions that a number of military personnel have gone through is problematic, some have jumped from Colonel to Brigadier General in just a few years.* (Imrana Jalal – Human Rights Activist)

Another concern on the role of the military in Fiji is the issue of militarization of the civil services since the 2006 coup. Respondents had very different views on this issue:

> *In the past coups, the military were involved for few months and then the interim administration came into power, which brought back some sense of trust or relief in the society. But this government is still in the hands of the military and now they are in almost all state institutions and public offices. The militarization of the public office is quite prominent now.* (Joseph Camillo, Director of ECREA at the time of interview)

> *I think we are going to become a deeply militarized society. Do you know that more than 50% of the ministries in this government have three top positions taken by the military personnel? And it's not just the military, but their cronies and their relatives.* (Imrana Jalal – Human Rights Activist)

> *We carried out a research on this* [militarization] *and found that key posts within the government are being taken up by the military personnel and this practise is continuing since 2006.* (Senior NGO official)[79]

On the issue of civilian control over the military, there were different perspectives from the various respondents; with most stating that the military is far too strong at this stage for civilian oversight to be effective:

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[79] The name is withheld due to the sensitive nature of his response. Although I have cited the report, it was not released for public use.

Structurally the issue of military needs to be addressed and how to manage them as part of the nation building process, how they should be under the rule of law. I don't see any prospect of that occurring in the near future or until the current military elites go and then again it very much depends who will be in power in the military after him [Bainimarama]. *To my knowledge the colonels and people of similar rank have the same mentality as this guy so I really don't think that* [attitude] *is going to change.* (Andrew Hughes – Former Commissioner of Fiji Police)

You can't rein in the military now; you have to allow it to evolve into something else. (Joseph Brown - Secretary to the late Ratu Sir Kamisese Mara during tenure as Prime Minister, Vice President and later President)

Militaries must be kept under control and to do that you would need to have a small military, which is accountable and has educated officers who understand what the rule of law, democracy and human rights are. (Imrana Jalal – Human Rights Activist)

Yes, I think the military should be reined in so they are not involved in politics. It needs to be done more objectively than is possible at the moment because they [the military] *are in power. I think for a small country, it is questionable why we have such a large military. Additionally, our military is also racialized as almost all the personnel are of one ethnic group.* (Rev. Aquila Yakabi – Director of Fiji's Citizens' Constitutional Forum)

Brigadier Mohammed's views indicate a role reversal as the military perceives itself as the oversight body of the elected government's activities and feels that it

is within its mandate to intervene if the government does not progress in alignment with the military's vision. This is a grave concern.

> *The whole* [Lowry Report] *report was engineered to suit the political regime, this was an attempt to muzzle the RFMF, because it was too vocal against the SDL government.*[80] *If we don't have a strong military, we would not have been a threat to SDL* [Qarase's party] *and they would have continued doing whatever they wanted as there are no other strong sectors that can speak against the government. What SDL failed to recognise is that after 2000, we* [the military] *had a think tank and were strategizing on what was happening. We had a list of things to do, to revert to way things were prior to the 2000 coup, <u>if things were progressing, we</u>* [military] *<u>won't be even here today</u>. We were basically treated like referees as from 2004 we* [military] *were saying* [to SDL] *not to design race polarising policies but even after the court declared the* [Qarase] *government illegal, they continued.* (Brigadier General Aziz Mohammed - Chief of Staff of the Fiji Military Forces)

The *NCBBF People's Charter*, simply known as the 'Charter' in Fiji, was largely initiated by the military government and while it has some good elements, there are also implicit indications of the military's intention to be an oversight body for future governments. I questioned Brigadier Mohammed on what happens if future governments don't implement the Charter.

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[80] Lowry Report refers to the White Paper on Fiji's National Security and Defence Review in 2003 and 2004. This was chaired by Bob Lowry.

That's why the RFMF [military] *is there!*

(Brigadier General Aziz Mohammed - Chief of Staff of the Fiji Military Forces)

So are you saying that there could be another coup? (Author)

We not saying that there would be another coup but we will devise mechanisms that ensures that the efforts of the NCBBF are maintained. It's not a threat that NCBBF has to be implemented, although it is perceived that way. (Brigadier General Aziz Mohammed - Chief of Staff of the Fiji Military Forces)

Discussion

In this section the issue of the role of the military in Fiji has been documented. As seen from the data results, the respondents to the semi-structured questionnaire and the key informants discussed a number of key roles the the Fiji military has been known for in the past and their concerns relating to these identified roles. The key roles and concerns highlighted were:

1. The Fiji military is praetorian as the military was established to suppress internal disputes during the colonial era.

2. The acceptance of the authoritative style of the praetorian military was due to the indigenous cultural acceptance of authority.

3. The prestige of having one's kin in the military, due to the veneration of the military as the protector of society and hence their enhanced status by association. Respondents stated that due to this veneration, society found it easier to accept the military's interference in politics.

4. Military personnel's view that the military role in a country is more dynamic in the new era due to new threats and therefore internal defence is within the military's jurisdiction.

5. Past abuse of military power by the politicians had made the military powerful, thereby entrenched praetorianism.

6. Dilemma for military personnel when confronted with loyalty to the rule of law against loyalty to custom.

7. Militarised civil service due to many top three positions in the civil service being held by military personnel.

8. Weak oversight of the military and the problematic oversight by the military on government.

The concept of praetorian military was discussed in chapter 3 and it indicates that Fiji's military is praetorian. The section on survival of democracy versus praetorian military (page 155) states that the development of praetorianism occurs over a period of time and some of the reasons are as follows: the civilian government is weak and lacks the authority to govern the citizens of the country; the political participation spaces are limited; schism between social groups such is prevalent and pervasive; and support for the military by society is stronger compared to support for the weaker civilian government (Perlmutter, 1981: 13-19).

Discussions with key informants also show that the development of a praetorian military could be linked to societal acceptance of dictatorial authority, glorification of violence by society's acceptance of the military authority and the prestige of associating with an authoritarian military. Additionally, the reason for the initial establishment of the military was also to create a strong military to be used against its own people. When the Fiji Military Forces was initially established by the colonial government, its mandate was not for external defence but to suppress any uprising by the local people against the colonial government. For any deep rooted reforms to occur within the Fiji military, this would need to be acknowledged. In many other places in the world, the military were also formed to

subdue local uprisings but this cannot be used to justify the actions of military in present day scenarios.

Glorification of violence in Fiji is present but in a subtle way. For instance, emulation of machismo is prevalent throughout Fijian society due to the honour and prestige given to military personnel, even if they are coup perpetrators. Bainimarama is promoted as a saviour by his supporters and his tough stance on protesters was viewed in positive terms by a number of people in the community. The prestige associated with being in the military also validates this. The majority of Fijians have at least one family member or relative in the military and thousands of young people attend the military's recruitment drives each year for selection. While the prestige associated with the military is culturally strong among the Fijians, it is also linked with the ability to earn a reasonable income serving as peacekeepers for the UN. Unfortunately, many military personnel do not view it as ironic that they serve as peacekeepers outside Fiji and yet suppress their own citizens during coups.

Societal acceptance of authority among Fijians has been well documented by researchers as the Fijian society is based on chiefly leadership and very hierarchal, with wide acceptance of culturally defined roles within that hierarchy, even among many educated Fijians today (Ravuvu, 1988; Lawson & Lawson, 2015; Thornley, 2000: 361). At the village level, this is usually beneficial as conflicts are addressed more effectively due to the acceptance of the chief's decision, even if it is authoritarian. However, it becomes harmful when a chief is in a position of power in a public institution and still uses the same authoritarian style of leadership while in office. The distinction between chiefly role and public role is

blurred many times. Traditionally, apart from the *mataganisau* (the traditional spokesman) no one else has the power to hold a chief accountable so it becomes difficult for another indigenous Fijian to hold their chief accountable in public office. Additionally, in the past, some high ranking officers in the military, who are from a non-chiefly background, struggle with the dilemma of traditional loyalty to chiefs when unethical requests were made by the chiefs and politicians while holding public office. The first coup maker, Sitiveni Rabuka highlighted this many times. In a traditional and small society like Fiji, it is difficult and disrespectful for people to disobey their chiefs, to some extent, due to the fear of *mana.*[81]

While the societal perception of the military is understandable due to the cultural and traditional acceptance of authority, the view of military personnel of their role in politics is a major concern. Their justification of their role in internal defence on the grounds of the fight against terrorism and drug trafficking is easily dismissed. Fiji is a small nation and terrorism has never been an issue and is unlikely to be an issue in the near future. Marijuana trafficking from the islands and from the rural to urban areas is of slight concern in Fiji. Infrequently, small amounts of cocaine, heroin and crystal methamphetamine have been confiscated, usually by customs officials. Neither terrorism nor drug trafficking is at such levels that it would require military support to combat it and the Fijian police have demonstrated on a number of occasions that they are able to deal appropriately with drug trafficking.

Additionally, the issue of oversight of the government by the military is undesirable and this does not fit within a democracy. As discussed in an earlier chapter five,

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[81] *Mana* is abstract spiritual authority that chiefs have due to their lineage.

oversight of the military should be done by the elected government but the indication by Brigadier General Aziz that the military in Fiji would act as an oversight body for future governments and his comments on the Qarase government not adhering to the military's views indicates a warped interpretation of oversight by the Fiji military. This also indicates that the military recognises both its strength and the weakness of democratic governments in Fiji. This 'cocktail combination' could mean that democratic governments in future would need to work closely with the military and also encourage reforms in the military that is acceptable to both the government and the military.

The last issue was the militarising of the civil service in Fiji. In the past coups, a few military personnel would head a few civil service departments and would largely be based at defence and foreign affairs ministries. However, since the 2006 coup, 57% of all the ministries in Fiji are either headed by someone from the military, former military personnel, military reservists or someone with immediate family or a relative in the military.[82] Research carried out by an NGO in 2010 showed that only 29% of the Ministries were headed by civilians (see Figure 16). This has created an environment of distrust and fear within the civil service and a lack of separation of powers between different arms of government. Annex 12 shows that 38 key government positions and public boards were headed by military personnel from 2006 to 2010. Many of these individuals have continued to be part of the government, affiliated boards and foreign missions even after the 2014 democratic elections. This shows the entrenchment of militarization in Fiji is

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[82] To assess militarization, it is common practise to scrutinize the appointment or promotion of immediate family/relatives of the military, particularly if the process of such an appointment/ promotion was not done in a transparent manner. This was the norm in Fiji during the term of the interim government.

at an unprecedented degree and the continuing lack of separation between military and civilian functions.

Figure 17: Ministries with Military Personnel in Senior Positions (31/12/2010)
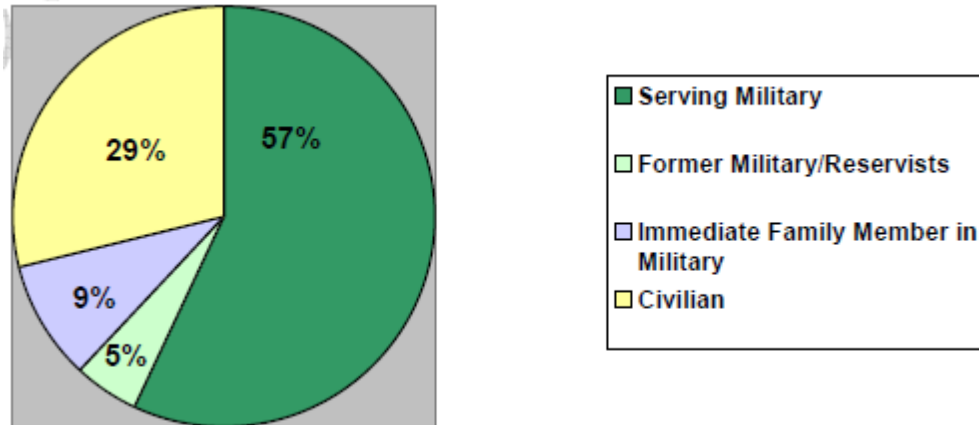
Source: Period Review, ND; 2010: 6

CONCLUSION

The understanding of democracy at a superficial level seems to be clear among the research respondents; however, further probing shows there are widely held misconceptions about democracy and its implementation. For instance, the human rights based approach, concepts of the state as a duty bearer and the citizens as a rights holder are not widely understood. People are generally interested in the short term government provision of good infrastructure and services, irrespective of whether these are provided by a legitimate or illegitimate government.

Figure 13 shows that the outlook on coup and democracy correlates, as 56% of the respondents who viewed coups as bad also considered democracy to be important for Fiji. However, a sizeable 19% think democracy is important but believe coups to be both good and bad and 7% regard coups as good but state

that democracy is also important. This shifting perception of democracy from 'important' and 'not important' for Fiji among the respondents also correlates with altering perceptions of coups among proponents and opponents of the coups such as politicians, NGOs and others in the society. Those who supported the coups tend to relegate democracy as a foreign imposition on the Fijian style of governance. Similarly, people who opposed coups argued on the basis that they are detrimental to democracy. This shifting perception of democracy leads me to argue that people generally understand the essence of democracy and become ardent proponents of democracy when they have lost access to political power and equality. Therefore, loss of democracy is implicitly regarded as collateral damage and acceptable if it serves a greater good, such as allowing Fijians more political power after previous coups and paving the way for Indo-Fijians to be recognized as equal citizens after the 2006 coup. The citizens of Fiji as well as the politicians need to acknowledge that such selective acceptance and rejection of democracy is damaging and corrodes our democracy, allowing space for the development of a praetorian military.

The perception of society and the military of the military's role in Fiji is a concern as it links with the image of a praetorian military that considers itself to be the oversight body for the government instead of being accountable to the government. This role reversal demonstrates the praetorian nature of Fiji's military. Additionally, the public's acquiescence to authoritarian rule by the military also strengthens the military's own inflated image. The prolonged militarization after the 2006 coup has entrenched the military's hold on all sectors of Fiji's society and would have long term consequences as it would be far more difficult to reform the military due to their increasing strength in Fiji's society. The military

aligned party (Fiji First) won the 2014 election by a landslide, establishing their hold on Fiji for a further 4 years in a democratic form. The 2015 Fiji Parliament consists of 32 members from Fiji First (Bainimarama's party) which make up the ruling government. The opposition has only 18 members, 15 from the Social Democratic Liberal Party (SODELPA) and 3 from National Federation Party (NFP). Therefore the current opposition is weak due to their small number in parliament and is thwarted by a strong, military aligned ruling government. The concern is whether the current ruling government would be willing to reform and move away from its former authoritarian style of leadership or continue to rule in a similar manner as before under the guise of democracy. The trend of military leaders staying in power using democracy has been seen in a number of countries, such as Sudan, Syria, and Egypt, etc. The question remains whether society's short term focus on provision of services and development and acceptance of authoritarian rule prove to be detrimental for the future.

CHAPTER 8: DISMANTLING SEGREGATED STRUCTURES AND POLICIES IN FIJI

The structural approach to conflict focuses on the macro level and considers the role of attitudes, behaviour, policies and institutions in aiding and abetting conflict (INEE, 2013: 3). Structural causes are the underlying and invisible factors that are systematic, affecting a large number of people over a substantial period of time and leading to inequalities and grievances in a society. In chapter 3, the thesis discussed the adverse consequences of structural violence. Galtung (1996) argues that structural conflict occurs when a certain group of people within a population are pervasively denied certain rights. Discriminatory practices are embedded within a country's policies and institutions and he argues that, unless such policies and structures are reformed, conflict will remain entrenched in such societies (ibid.).

This chapter will address the tensions arising out of the policies and structures of colonial legacy, land security, citizenship, politicised traditional and religious organisations and partisan voting in Fiji. It will examine these institutions and policies and consider whether they are the key sources of tension and the underlying causes of conflict in Fiji.

COLONIAL LEGACY

The previous chapter touched on the issue of colonial legacy and its links to conflict. Three main structural concerns highlighted were land ownership, the establishment of the Great Council of Chiefs and the segregation of the Fijian and Indo-Fijian communities politically, socially and economically. The first two issues will be discussed later in this chapter. Interestingly, two key informants also linked

the negative policies of the colonial era to the military. In the previous chapter, the roots of the military's authoritarian approach were traced back to its origins. In this chapter, we will focus on two further issues — the concept of 'combat immunity' and the racialized military in Fiji.

Brigadier Aziz links the issue of immunity granted to the military in Fiji to the British Army 1955 Act and the concept of 'combat immunity'. 'Combat immunity' means that when the armed forces take part in any military operations, they are not liable for action or damages (Scorer, 2015). Paphiti (2014) clarifies in his submission to the UK Parliament Committee on Defence that the principle of combat Immunity means that '…*there is no civil liability for injury caused by the negligence of persons in the course of an actual engagement with the enemy…*'. But the law is not clear on whether it covers all aspects of an officially sanctioned operation or whether it is narrowly confined to death and/or injuries sustained in during such action (ibid.).

Brigadier Aziz justifies the little understood immunity clause that the Fiji military has inherited from British law:

> *When you look at immunity for us* [military]*...people are saying to charge us, but this was a military operation, our law says that for every operation you get immunity. And this is not our law actually; we are following the British law. Look up the British Army 1955 Act as we still follow that Act. In that Act, the provision is that for every military operation you get immunity. If we don't use that Act, soldiers will not go out for operations and service in the military.* (Brigadier General Aziz Mohammed - Chief of Staff of the Fiji Military Forces)
>
> Yes, but I am sure it was not written to grant immunity for coups? (Author)

It's for <u>any</u> operation and we regard the actions we took as an operation [coup]*.*

(Brigadier General Aziz Mohammed - Chief of Staff of the Fiji Military Forces)

Although in Fiji the British Army Act 1955 has been replaced by the Armed Forces Act 2006, the issue of combat immunity is still contested. Newson (2013) argues that the concept of combat immunity cannot be used to justify unreasonable aggression. This also links with the concept of 'military necessity' which will be discussed at the end of this section. Laitia Tamata, who was previously a lawyer with the Fiji Military Forces maintains that a coup cannot be justified as 'a mission' since there was no directive from the Minister of Defence and the Cabinet to execute the coup as a usual military mission. This application of the law by the military to justify its actions is misjudged.

If it is to be regarded as a mission, the directive has to come from the government. The constitution is very clear, the RFMF Act is very clear; the Commander is under the Minister of Defence and the Minister of Defence gets its directive from the Cabinet. So a coup can't be regarded as a mission. It can only be classified as a mission if the directive came from the government or if the President is no longer in power. (Laitia Tamata - Former Fiji Military Forces Lawyer & Human Rights Advocate)

Another key informant states that the root of the racialized military in Fiji goes back to the colonial era as the colonial military structure in Fiji was selective in its recruitment of indigenous Fijians. Such practice has continued to date, with the result that the military in Fiji has always been viewed as an indigenous Fijian institution.

*Historically what happened is that when the recruitment for Malay was being done [for WWII]; Indo-Fijians were also invited for that but they wanted the same rights to pay as the whites; who were paid far more than the Fijians. Indo-Fijians advisors within the community discouraged their community from applying unless these demands are met. The colonial people in charge saw the demand for equal pay as disloyal and hence favoured Fijians in the recruitment process. Fijians performed really well in Malay and cemented their attachment and prestige with the military. While the Indo-Fijians acts were regarded as being disloyal to Fiji military. (*Atalia - pseudonym for a University scholar)

At the moment we have 4% Indo-Fijians in the military. Unfortunately for Fiji the situation would have been different if the Indo-Fijian leaders in 1944 took a different stand. Now it has become like a culture that the Force is mainly Fijians. We did try to actively recruit Indo-Fijians and other races sometime back but we had difficulty in meeting the numbers. We can't put a quota system, because we know from past experience that many Indo-Fijians will not meet the criteria. All we say is that we want officers and if we have 100 Indo-Fijians that meet the criteria, we will recruit them.

For our recruitment, the minimum is Form 6 pass, we have noted that we have graduate iTaukeis (indigenous Fijians) applying, but graduate Indo-Fijians almost never apply for the army. The Indo-Fijians that do apply, maybe 1% or 2% meet that criteria, the remainders are all dropouts, basically when they have not succeeded anywhere else, then they see RFMF as the last resort. We couldn't reduce the standards because if we do that, we jeopardise the security and safety of the others. There is a level we have to maintain, you have to remember this is not an army of the past where it was perceived as all muscles and no brains, now we need the other way around; more brains...it has become more technical.
(Brigadier General Aziz Mohammed - Chief of Staff of the Fiji Military Forces)

Discussion

The use of British law in Fiji is common as it is in many other Commonwealth countries and is known as Statue Law. The RFMF Act No.2 (1985), states that "Army Act" means the Army Act, 1955 of the United Kingdom and includes *all Acts amending, replacing or read in conjunction with the same and all rules,* regulations and Articles of War made thereunder" (emphasis added). Under this premise, when the British 1955 Army Act was updated to the 2006 Army Act, Fiji's RFMF Act should be considered as amended in alignment with the changes in British Army Act. Most of these changes to the British Army Act will not be discussed here as they are not relevant for the immunity clause. The Fiji military has taken its mandate of immunity from the 1955 Army Act for its operations from the principle of 'military necessity' which protects military personnel from action taken in fulfilling their military mission. Necessity is a separate defence from general immunity. ICRC (2002) states that if an action is necessary, it can be pursued but it has to be within the law and must abide by four core internationally accepted Law of Armed Conflict (LOAC) principles; namely distinction, proportionality, military necessity and limitation (ibid.: 15-16).[83] 'Military necessity is built into the law; it cannot be invoked to justify violations of the law' (ibid.: 16). A coup cannot be justified as a 'legal mission' because the Fiji military is bound by the RFMF Act on what constitutes a legal mission and by the need to obtain clearance from the Cabinet for all missions. The military's argument that the 2006 coup was considered as a military operation —effectively a 'legal mission — and therefore their personnel are entitled to immunity is mistaken.

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[83] Distinction means distinguishing between combatants and civilians during armed conflict, for more discussion the four principles of LOAC, please see ICRC (2002) document.

This issue also highlights the need for clarity where military law refers to 'immunity'. Countries need to define the murky area of internal intervention by the military as much of the military law addresses foreign intervention and very little is said about internal intervention. Where the issue of internal intervention by the military is addressed, it is usually considered in terms of suppressing rebel groups, combatting drug trafficking, human trafficking, terrorism and border control, and so on. Very few countries address the issue of coups d'état by their military.

The second focus in this section is the view that the Fiji military is an indigenous Fijian institution due to the small number of Indo-Fijian recruits. Indo-Fijians made up 38% of the total population in 2009 and Fijians were 58% of the population. Yet the Fiji military comprised only 4% Indo-Fijians in 2010. This huge disparity is due not only to the colonial legacy but also to differing cultural attitudes to joining the military. Indo-Fijians have never been actively encouraged to be in the military and little pride and prestige is attached to Indo-Fijian military personnel. As Brigadier Aziz states, for many Indo-Fijians, the military would be the very last option when selecting a career. In contrast, many Fijians are nurtured towards a military career from a young age. Racial stereotypes have also enforced such perception of each other. For instance, Indo-Fijians are considered unpatriotic and more interested in better paying jobs rather than a military career. By contrast, Fijians are considered as defenders of national security and bearers of national Fijian pride by being in the military and playing rugby, which is also an almost 100% Fijian institution.

However, deeper analysis indicates that structural issues could be the barrier. The Fiji military is considered as a Fijian, Christian and male-oriented organisation, despite the rhetoric of being secular. In most military functions, it is not uncommon to hear all speeches being made in vernacular Fijian. Additionally, a blog recently reported that the recent call for RMFM recruitment (21/11/13), only 7 recruits out of a total 250 were Indo-Fijians and all the recruits were men (Walsh, 2013). Additionally, these recruits were told to march into camp with their personal belongings and their "Bible Hymn book" (ibid.). To non-Fijians, such statements confirm the assumptions that the military is not a place where they can practise their religion freely.

LAND SECURITY AND LINKS WITH CITIZENSHIP

Land is a contentious issue in Fiji and most grievances relating to land security are projected during times of conflict. While the previous two chapters discussed the immediate and proximate causes of conflict, the land issue is a structural issue because of the institutional setup and policies. Land related tensions in Fiji go back to its colonial history and the establishment of land institutions (see chapter 1). All of Fiji's constitutions, past and present, have guarantees for Fijian ownership and protection of their customary land. This is also seen in Articles 28, 29 and 30 of the 2013 Fiji Constitution (Government of Fiji, 2013). Despite these secure guarantees, Fijians still fear that any Indo-Fijian dominated political party in power will expropriate their land. Demagogic nationalist Fijian leaders have used the land issues to create insecurity amongst the Fijians, particularly during the run-up to elections and during periods of rising tension. Similarly Indo-Fijian politicians have also created insecurity within their community by using heated debates on land tenure leases and its conditions

People from both communities have not addressed why Fijians and Indo-Fijians have such divergent views on land in Fiji. Indigenous Fijian connection to land is similar to many other indigenous communities' link to land and Indo-Fijian community's association to land is comparable to other non-indigenous societies around the world. An Australian aboriginal webpage, *Creative Spirits* explains that, for non-indigenous people, land is a commodity to be bought and sold; an asset to make profit from; a means to make a living off and simply a "home" whereas for indigenous people, land goes beyond their "home" to be deemed as "their mother, steeped in their culture and gives them the responsibility to care for it" (Creative Spirits, 2010). Likewise for Fijians, land is their "*vanua*", an extension of themselves and their identity as a Fijian. It represents the "life and sustenance, race and culture and Fijians cling fiercely to their ownership of it" (Ratu Mosese Volavola as cited in Crosetto, 2005: 71).

Fijians also view citizenship as an extension to traditional ownership of land. This is undoubtedly a difficult concept for many people to grasp, particularly Indo-Fijians who take affront at this conceptualization of citizenship and perceive this as discriminatory on the grounds of race. However, in-depth discussions with Fijians show that this form of exclusion is not only limited to Indo-Fijians (see quotes below from Makalesi and Atalia). In recent years, NGOs like the Citizens Constitutional Reform of Fiji (CCF) has started to address this issue by conducting training on citizenship and land association. Table 5 shows the results of such efforts and indicates that changing opinions on this issue among Fijians will take some time, as there is little difference between the past participants of CCF training and the control group. The results also show divergent views on citizenship between Fijians and Indo-Fijians: the majority of Fijians identified

citizenship with being indigenous Fijian through VKB[84] (Vola ni Kawa Bula) registration and being i-Taukei while a majority of Indo-Fijians did not agree. This research explored the related concepts of land and citizenship and how the land security issues could be minimized.

Table 5: Fiji Participants Responses to Citizenship Knowledge by Ethnicity

	i-Taukei (%)				Indo-Fijians (%)			
	Past Participants		Control Group		Past Participants		Control Group	
	Agree	Disagree	Agree	Disagree	Agree	Disagree	Agree	Disagree
Only those registered with the VKB are legal citizens of Fiji	**81**	18	**84**	16	**8**	91	**5**	95
Only i-Taukei are 'Fijians'	**74**	24	**82**	18	**14**	83	**6**	94
Anyone born in Fiji is a citizen of Fiji	**94**	6	**90**	10	**91**	9	**78**	22
People who were not born in Fiji can also become Fiji citizens	**73**	27	**43**	57	**69**	32	**63**	35

Source: Citizens' Constitutional Forum (2012: 21)

Indo-Fijians are not considered citizens of Fiji by the indigenous Fijians because the perception is that we [indigenous Fijians] *are "iTaukei" and they* [Indo-Fijians] *are "vulagi"* [migrants] *because they don't have ancestral land.* (Rev. Aquila Yakabi – Director of Fiji's Citizens' Constitutional Forum)

Pacific Islanders are quite exclusive in that [land issue] *aspect and although little is known about this by other ethnic groups, this exclusivity is not only towards other ethnic groups, it's even amongst themselves as well. So if you from another mataqali* [tribe]*, you are treated differently. Let's say a man comes into the village from another mataqali and settles into his wife's village and their family continue to*

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[84] The VKB is the official register for indigenous landowners, it is also known as Native Lands Register and all registered individuals are entitled to resources and any lease monies received by the *mataqali* (land owning unit).

i-Taukei is the term for indigenous Fijians in the Fijian language.

be there for some generations, the village will still say that he is an outsider. It's also the same for woman, when the husband dies, usually her relatives will come and take her to her village because she will no longer be counted as part of her husbands village. (Makalesi - pseudonym for a University scholar)

It's not only Indo-Fijians that have the misconception on exclusivity. I know a case where this Fijian man was married to a Tongan woman and when he died, his relatives came to make a claim on his house and land. This Tongan woman was horrified as she didn't know about this traditional aspect. But such extreme norms are eroding now, so some villagers were taken aback by this, especially in this era but they also understood that it was the deceased relatives traditional right to make such claims. (Atalia - pseudonym for a University scholar)

Talking about exclusivity, the way ethnic groups think of that and the land business. Within the Fijian setting, in the village, you do have exclusivity at different layers, eg. a man cannot follow his wife religion and other things. I believe it [the concept of excluding the other] *starts from there. So for Fijians the concept of citizenships is belonging to a specific place because of your connection and that's why many Fijians still don't consider Indo-Fijians as citizens of Fiji as they don't have the connection with land as the Fijians have.* (Makalesi - pseudonym for a University scholar)

However, there are some limitations to this view and even Fijians have questioned how landless Fijians, Rotumans and Banabans [both of these are minority Pacific Islanders living in Fiji for generations] are still regarded as citizens of Fiji while Indo-Fijians are not. Some informants also argued if the selective use of traditional views is relevant in the modern era:

The land and citizenship explanation is a little confusing because there are Fijians who don't have land but are still considered indigenous Fijians whereas Indo-Fijians who have purchased land won't be considered as citizens of Fiji by some Fijians. (Atalia - pseudonym for [indigenous Fijian] University scholar)

Some people have expressed their concerns and disappointment with the way Fijian culture preservation is being given bigger prominence than it actually is. Many Fijians seldom go back to their villages and don't even speak their own dialects but when it comes to land, they want to be identified as indigenous Fijians. I wonder if this selective use of culture is right. (Tevita- pseudonym for [indigenous Fijian] University scholar)

Indians assume that all Fijians have land but that's not correct as there are lot of Fijians who were involved in the coup who do not have land; their land was sold before Fiji became a colony. They have mataqali and yavusa but the yavusa has no land. Suvavou, Tailevu area, Naitasiri, George Speight's area etc...many of these people were involved in the 2000 coup. These landless Fijians are a minority but they are very involved and very volatile group. (Joseph Brown - Secretary to the late Ratu Sir Kamisese Mara during his tenure as Prime Minister, Vice President and later President)

Another position on this argument is that while land security is a concern, the underlying elements of the conflicts and tensions surrounding this are more a developmental issue, which has not been addressed properly.

...issues amongst Fijians are land ownership; issue amongst Indians is land tenure. It's the politicians that flagged up land as an ethnicity issue, they used it in their political campaigns and hence they made it an ethnic issue, whereas the issue is really about poverty, about getting proper rental for land for the indigenous Fijians and for the Indians the concern is land tenure, proper agreement to lease

the land in order to cultivate it. So all these were translated into, or given an ethnic

face by politicians. (Joseph Brown - Secretary to the late Ratu Sir Kamisese Mara

during his tenure as Prime Minister, Vice President and later President)

Others argue that land insecurity is a major concern, particularly among the Indo-Fijian farming community and their fear is coloured by the recent past when farming land leases were not renewed by the indigenous community.[85]

> *Definitely the feeling of land insecurity is there. The Indo-Fijian farmers are afraid*
> *the Fijians will take their land away. Some of the Fijian mataqalis who had not*
> *renewed the land leases for Indo-Fijian farmers are now trying to entice Indo-*
> *Fijians to farm on their land again because in the last 10 years these lands had*
> *not been utilised at all. However Indo-Fijian farmers are afraid to do that as they*
> *don't trust the Fijian community in regards to land. The Fijians have killed the*
> *Indo-Fijians' enthusiasm to farm. In some cases land was taken from farmers who*
> *were in their 50s and now they in their 60s and their stamina for hard work is all*
> *gone and many of these former farmers now live in squatter areas and do*
> *unskilled work and subsist on day to day earnings. For many of these older ones,*
> *the mentality is that we are just waiting to die. Their children will never go back to*
> *farming, even if you give the land to them for free now because they say there is*
> *no guarantee that the Fijians won't do the same to us as they did to our parents.*
> (Hassan Khan – Executive Director of Fiji Council of Social Services)

Most Indo-Fijian farmers whose land leases were not renewed had been on these farms for more than one generation and had permanent buildings which were worth a considerable amount of money. They were not compensated for these buildings and many ended up landless and homeless with little or no savings. This

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[85] The section on Colonial Legacy in chapter 1 briefly touches on the issue of non-renewal of land leases in Fiji.

created much anger and mistrust towards the Fijians as well as increased poverty due to urbanization. These farmers are unable to find suitable work in urban areas and their lack of property and security as well as lack of marketable skills for urban areas has made them more vulnerable to poverty. In recent years it has been suggested by some people that the issue of land insecurity could be solved through creating awareness among Fijians on land guarantees in the constitution. Another drastic opinion by some in the community is to nationalize all land in Fiji to make the economy more market oriented (see Rabuka and Tamata's quotes below). However, there are some different perspectives on this from the interview data.

> *Enlightening Fijians about the land guarantees could be one way of addressing their insecurities related to land, but in my view land should be nationalised. Jomo Kenyatta did that after independence in Kenya; he nationalised the land and the tribal chiefs lost their leverage. This would make all citizens equal and that's when you would have true democracy. This might seem far-fetched in Fiji but recent events have made people think that we can dismantle the traditional structures that benefits the commoners less and chiefs more.* (Sitiveni Rabuka – Former Military Commander and Former Prime Minister; carried out the first coup)

> *If you nationalise the land, we would have a rebellion on our hands. Who owns the land? The Fijians, so why should Fijians give up their land so that all the other members of the Fiji nationals should benefit from it?* (Joseph Brown - Secretary to the late Ratu Sir Kamisese Mara during his tenure as Prime Minister, Vice President and later President)

Some years back I heard from Manasa Lasaro that in 1987 World Council of Churches meeting, some representatives of European countries were asking the Government of Fiji to open up the land and this was also backed by non-indigenous Fijians. But in reality if land is opened up, most Fijians won't be able to buy it themselves. While from the capitalist perspective, opening up of the land makes sense, as a Fijian we find it worrying because we will lose our ownership, link and heritage. I think many of us educated Fijians question that component of democracy. When it comes to land income distribution, the land is owned by everyone in the mataqali but income distribution from the land rentals is personalised and done in a stratified manner. (Laitia Tamata - Former Fiji Military Forces Lawyer & Human Rights Advocate)

All these three respondents are Fijians but provided different opinions on the land issue, indicating that even within the indigenous community people have divergent views on how to address this contentious issue. Rabuka, who carried out the first coup in 1987 and had a very nationalist position then, sees this issue in a very different light now. His stance of nationalising land is to create greater equality among Fijians as the traditional chiefly systems apply only to the indigenous community. Some non-chiefly Fijians are unhappy with the distribution of land rental payments, which are made on a hierarchical basis, with Chiefs receiving the largest dividend.[86] However, Brown and Tamata view nationalising land as a major concern. Brown's position indicates that it would be considered as benefiting other ethnic groups over Fijians and could lead to a major rebellion

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[86] 'The NLTB (Native Land Trust Board) distributes rental income to customary owners on the basis of the traditional hierarchy of Fiji. The NLTB takes 15% to cover administrative expenses, sets aside a 5% for a collective trust fund, and distributes the remainder to customary owners. The customary owners are separated into various chiefly groups to whom 30% of the net rent is paid. This leaves ordinary villagers to share in the remaining 56% of the rent paid by tenants. The small amount of rents received by villagers has become a growing source of tension and leads some customary owners to avoid formal leases through the NLTB structure.' (Boydell, Small & Sheehan, 2007: 26-27).

within Fiji. Tamata links the issue of nationalising land to the capitalist aspect of democracy and indicates his apprehension for this as it might disadvantage the indigenous Fijian landowners.

Discussion

This section touched on a number of issues relating to land such as the issue of citizenship and its connection with ownership of land; concerns of land ownership versus concerns for land tenure; and the nationalising of land.

The association between land and citizenship is a much misunderstood issue in Fiji and has led to tensions within the country. So long as the Fijian understanding of inclusiveness and exclusiveness is not shared by Indo-Fijians, this tension will continue. My own understanding of this issue was always from a non-indigenous perspective and although I have many indigenous Fijian relatives, I did not understand the cultural meaning of land and its link with citizenship or the concept of exclusivity within the Fijian community. Any training or awareness on citizenship and land needs to make Indo-Fijians aware that the Fijian concepts of *inclusiveness* and *exclusiveness* is not limited to Indo-Fijians only but applies to other ethnic and tribal groups. The perception held by Indo-Fijians is that they are excluded from being regarded as citizens of Fiji by indigenous Fijians due to racism and the Fijian community's failure to understand the real meaning of *citizenship*. Any awareness-raising would need to create an in-depth understanding of the legal concept of citizenship in the Fijian community and convey the indigenous Fijian cultural concept of citizenship to Indo-Fijian community. This could create a better understanding between the two communities and might lead to less resentment and decreased tension. However,

the selective use of cultural concepts in the modern era can be damaging for nation building as the landless Fijians and other Pacific minorities in Fiji are not considered non-citizens of Fiji in the same way as Indo-Fijians are.

Concerns of land ownership versus concerns for land tenure have been a prolonged issue that has sparked fears and tensions amongst both Fijians and Indo-Fijians and created mistrust between each other. Many of these fears have been inflamed by politicians during electioneering to encourage partisan voting. The issue of partisan voting will be addressed later in this chapter. The Fijian customary landowners have been aggrieved by the low return of value in dollar terms for the rental of their lands. This concern has been used by politicians to flame tensions in the community and the land tenants, who are mostly Indo-Fijians, are branded as 'greedy' and accumulating wealth through these leased lands yet giving little in return to the Fijian community.

However, as Mr. Browne has stated, the root of the problem is more about the lack of development, particularly in rural areas, where farms are usually located. But this concern for low returns from land leases could also be tied to the disparate land royalty distribution that was mandated by law. This structural weakness leads to common Fijians receiving the least amount of land royalties while Fijian chiefs benefit the most. This creates a discrepancy between the rents paid by tenants and the low amount of rents received by ordinary Fijians, which has led to increased tension and an inclination to avoid formal leases through the structure of the Native Land Trust Board (NLTB) (Boydell, Small & Sheehan, 2007: 26-27). The NLTB policy distributes land royalties to customary owners by replicating the traditional Fijian hierarchy with the chiefs at the apex. Thus the

"NLTB takes 15% of rents to cover administrative expenses, sets aside a 5% for a collective trust fund, and distributes the remainder to customary owners" (ibid.). The various chiefly groups are paid 30% of the total amount and the ordinary villagers have to share the remaining 56% (ibid.). To have a more equal distribution that would benefit everyone in the landowners' community, in 2011, the Bainimarama government decreed that the land rentals would be distributed equally among all customary owners in the respective areas. This has been well received by many common people in the villages, particularly in areas where the land royalty is substantial. In areas where the land royalty is low,[87] the suggestion has been to use the royalty for collective projects such as schools, community halls, and so on, but this cannot be done under the current decree; there was little to no consultation on this issue with the land owners when designing this decree. While the initiative is positive, as with most of Bainimarama's initiatives, it was activated without consulting stakeholders and has led to resentment in some quarters.

The issue of nationalising land in Fiji has been discussed infrequently but it is unlikely to happen as Fijians have very strong ties to their land. For Fijians, the ownership of land is considered with much pride as Fiji is the only multi-ethnic country in the world where indigenous people still own the greater part of the land: 87% of land belongs by customary landowners. This is indeed positive, as indigenous ownership of land has been abused in many parts of the world. For instance, in Australia, Aboriginal and Torres Strait Islander organisations only own "14.22% of Australia's 7,692,024 square kilometres of land" (Healy, 2002: 17) and

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[87] Some areas generate higher income through land rentals such as urban areas with larger populations thus more residential land rentals; farming regions and tourism concentrated areas where hotels and resorts are built on rental land. Conversely, in interior areas, the land rental income is usually low.

Maori land has been estimated at about "5.6 per cent of New Zealand's total land area of 26.9 million hectares" (Kingi, 2008: 132). Additionally, Rabuka's suggestion that Fiji follow Kenya's example of nationalising land is weak as the nationalisation of land in Kenya has led to many Kenyans being made landless and living in poverty while the rich white settlers in their community owned much of the land and were able to benefit from it. As Tamata argues, nationalising land in Fiji would make many Fijians landless as most would not be able to afford to buy land. For example, many rural Fijians do not have any regular source of income with which to purchase land. Tamata therefore believes that nationalising the land in Fiji would inevitably lead to greater conflict.

Lastly, three major decrees were enacted by Bainimarama's interim government in 2010 regarding citizenship and land: the Fijian Affairs Decree 2010 (Decree No. 31 of 2010), the Native Land Trust Decree 2010 (No.32 of 2010) and the Land Use Decree 2010 (No 36 of July 2010). The first decree codified the concept of citizenship as all Fiji citizens irrespective of ethnicity would be called 'Fijian' and all Fijians could use the term 'iTaukei', the traditional term for Fijians. The argument was to encourage building a national identity irrespective of ethnicity. Some Fijians were unhappy with the new terms as they claimed that the term 'Fijians' should be used exclusively by the indigenous people. However, this is another colonial legacy as the term 'Fijian' was coined during the colonial period and did not exist in Fiji's history prior to this. This use of a singular term may change the way people perceive citizenship in the future.

The second and third decrees reformed the use of customary land by setting up a parallel body to the iTaukei (Native) Lands Trust Board (which was set up during

the colonial era), the Land Use Unit (LUU). The LUU's mandate is to achieve a balance between the economic use of customary land and the Fijians' inalienable right to their land. While the LUU promotes economic benefits, accountability and more equitable distribution of land royalties, it seems to 'displace' Fijians due to the greater powers given to the Prime Minister's office to make decisions regarding land use without any significant input from the community. The privative clauses in the Land Use Decree appear to be ironclad and as a consequence, neither the Land Owning Unit (LOU) nor the sub-lessees have access to the courts to enforce their legal rights in regards to the leases they have entered into under the LUU regime (Dodd, 2012: 36-40). "The State holds all the power in the lease relationships: it has a vast array of powers and can exercise these with impunity because there is no judicial oversight" (ibid: 37).

While these decrees have addressed some concerns regarding land and the concept of citizenship in Fiji, it remains to be seen if these reforms would be accepted by the wider community as many people are unhappy about the way these changes were implemented, with little to no consultation or participation from the community. Therefore, there is a sense of helplessness in accepting these decree mandated changes but the future would tell whether these reforms are internalised by the people in the long term.

POLITICIZED TRADITIONAL AND RELIGIOUS INSTITUTIONS

As discussed briefly in chapter 1, Fiji's traditional and religious institutions are highly segregated according to indigenous Fijian and Indo-Fijian identities. On the surface, people from all ethnic groups intermingle in all spheres in life and therefore Fiji's segregation is different from the extreme apartheid of South Africa.

However, subtle segregation is widespread and pervasive through identities of religion and culture. While cultural diversity can be advantageous, it becomes a risk to society when politicised. Some religious organizations and traditional bodies in Fiji tend to have an ethnocentric approach towards other ethnic groups. This attitude is largely manipulated by the elite leaders. Two of the most politicised institutions in Fiji are the Great Council of Chiefs (GCC) and the Methodist Church of Fiji (Chang, 2008; Firth & Fraenkel (2009). Since 2007, the interim government has been effective in curtailing their activities by suspending the GCC. In addition, large gatherings of Methodist Church members, such as the annual conferences, have been banned because such meetings often involved political discussions.

On 14 March, 2012 the interim Prime Minister went further by formally dismantling the GCC (Bainimarama, 2012). This was an unthinkable historic event and would never have occurred under a democratic government as the ties between the GCC and indigenous Fijian political parties were strong. Furthermore, no indigenous Fijian politician would ever have sought the demise of the GCC as this would have been considered a betrayal of one's own community. Similarly, no Indo-Fijian politician would be able to vote for disbanding the GCC for fear of retaliation from the indigenous community. In disbanding the GCC, the interim Prime Minister stated that

> …the Great Council of the Chiefs, an institution created by the British during colonialism, and one that in modern times has become politicized to the detriment of Fiji's pursuit of a common and equal citizenry.
>
> Over the last 20 years the GCC, including its secretariat, became highly politicised, with its members having political affiliations and membership in political parties. Unfortunately, this resulted in the GCC and its members unduly involving themselves in national politics and/or taking advantage of the GCC's traditional

role to assert personal or political agenda. Fiji's iTaukei heritage is a distinct and fundamental aspect of Fiji—this cannot be denied. However, as an institution the Great Council of Chiefs perpetuated elitism and fed into the divisive politics which plagued our country. We must now look to our commonalities as citizens of the same nation, not to what separates us as individuals or groups. (Bainimarama, 2012)

In April 2007, the GCC was initially suspended by the interim Prime Minister Bainimarama, eliciting a mixed response from both ethnic communities. As discussed below, some informants agreed with Bainimarama's view that religion and chiefly institutions should not be involved with politics while others did not.

> *Fiji is struggling to reconcile its chiefly system with democratic governance and that really is difficult because the chiefly system does not have much democratic value.* (Andrew Hughes – Former Commissioner of Fiji Police)
>
> *You cannot exclude the religious groups and the traditional system from politics, they are part of politics. I mean they represent a wide section of the community. Traditional* [bodies] *strength is getting weaker and weaker, as this coup has really done a lot of damage to them. I am a strong traditionalist and I still believe that there is a role for chiefs in our society and will continue to be so for some time into the future. And this finger pointing at Methodist Church has no real foundation. The allegations that they* [Methodist Church] *work with us* [SDL] *is completely untrue. It's something that is manufactured by the Commander to push his case.* (Laisana Qarase - Ousted Prime Minister)

So some Fijians disagree with Bainimarama in disbanding the GCC but there are also Fijians that agree with him as they feel that the chiefs didn't serve them properly for so long, so they are happy that finally someone had the power disempower chiefs from politics arena. (Atalia - pseudonym for a University scholar)

The Chiefs don't give Fijians anything. The Methodist Church doesn't give Fijians anything. The younger generation are starting to question why we have to pay homage to chiefs or priests who give us nothing. The concept of chiefs in Fijian society traditionally was not based on heritage and lineage like it is now, but on more fluid and based on what you did for your community. The concept of meritocracy goes against the concepts of our traditional institutions. (Sitiveni Rabuka – Former Military Commander and Former Prime Minister; carried out the first coup)

Removal of GCC could be good but my concern is that people may transfer their identity towards something different. Would that shift in identity be detrimental or beneficial? Would we lose our culture through that process? I would prefer that if anything like this is done, it has to be done in consultation with the people; they have to be part of that process whether to remove or not to remove these institutional pillars. Usually if changes are made with the people's consent and involvement it is likely to be more lasting and better accepted. The colonial influence constitutionalized the position of chiefs in our society because they found it easier to work with the chiefs and to get the chiefs to work with them, they had to reward them with higher percentage cuts in comparison with commoners so that system is still in place where the chiefs get more benefits than other villagers. (Laitia Tamata - Former Fiji Military Forces Lawyer & Human Rights Advocate)

Those who are pro-interim government say there is no proper democracy until you remove certain traditional structures. But how do you justify human rights violations, if the constitution is removed, parliament is removed, any chance of opposition is removed and you are ruled by decrees. Though you achieve what you set out to do but at the cost of the victims. (Joseph Camillo, Director of ECREA at the time of interview)

Methodist Church and GCC, which are dominant groups in Fiji and they should stay within their defined roles. Example, Methodist Church openly aligned with the certain governments and they have been part and parcel of destabilization. Example, in 1987 they were marching with the nationalist groups and in 2000 they blatantly aligned with Speight. Similarly the GCC has never been fair. If the chiefs had stood strongly against inequality they would be highly respected. But they have always chosen to do otherwise; GCC hardly addressed any core issues that affected the Indian community. (Lekh Ram Vayeshnoi – Fiji Labour Party official and former member of parliament)

Strict separation of church and State should be a fundamental principle. Until recently the Methodist Church supported the military because military was largely Christian and vice versa. If we have a more multiracial military and less numbers in military, then less chance of the churches supporting the military. (Imrana Jalal – Human Rights Activist)

I believe that secular politics is best. It's not about the development of Fijian, Hindu or Muslim, it's about everyone. That is the type of politics we should have. There are other places you can do your work in relation to religion or culture but politics is not that arena. (Hassan Khan – Executive Director of Fiji Council of Social Services)

In most of our recent history there has been a close marriage of politics and the Methodist Church, it's not true for other churches though. It's about power; about preserving their own positions and they tend to align with political parties that support them, such as SDL. But they don't do it independently and critically. They could have helped by being involved in policy formulation, concern for the poor, and good governance and it can do this outside the political realms. If you enter into politics, you need to resign if already a church leader, but this is largely an ethnic Fijian country and the trend has always been that the church leaders are deeply involved in politics. It is because the issues of land, race and ethnicity are very closely intertwined, this feeds into the drive for ethnic Fijian leaders to go into politics.

The 2006 coup was not supported by the Methodist Church but previous coups were to a certain degree supported by the Methodist Church and when you ask them why, their argument is that in recent years they have had human rights education in Churches. But during the 2010 UPR (Universal Periodic Review) there was reference that the Methodist Church opposed the 2006 coup but supported previous coups because they agreed with them. So the coups in the name of protecting Fijian interest, the Churches agreed to that! Therefore, the image people get of the [Methodist] *church is that they are anti-Indians and for discrimination. So we have a racist Church! It supports only issues that are of value to Fijians.* (Rev. Aquila Yakabi – Director of Fiji's Citizens' Constitutional Forum)

There is increasing rift between the generational Fijians. The young people are joining new churches, which teaches that there is only one chief; God Almighty. Thus these young people are not listening to their chiefs and this leads to tensions at times. For example, the young people of Ra came and joined Speight during the 2000 coup so their high chief tried to come to Suva [apparently to stop them]

but they got hold of him and locked him up in a Police cell in Korovou [Speight's territory]. *We were shocked at this.* (Paula Sotutu – Former diplomat and senator)

I think the religious organizations can be effective as an oversight body but they should have a social obligation to all sections of the community not only their own; otherwise the minority groups will be suppressed. But for that to occur, we need good leadership and at the moment our churches don't have that. (Atalia - pseudonym for a University scholar)

Discussion

Key informants made a number of important points regarding the role of the GCC and the Methodist Church in Fiji's politics. The Methodist Church has the largest following in Fiji and is the only church that is actively involved in politics. The dismantling of the GCC by Bainimarama's interim government angered many Fijians as it was seen as weakening their traditional system but there were also mixed reactions from both ethnic communities. Since colonial days, Fiji has been segregated along economic, social and political lines. In the political sphere, the nation is governed by Westminster style politics with executive, legislative and judicial branches but it also includes local government which is divided into four administrative divisions: Central, Eastern, Northern and Western (see Figure 2). The segregation in the political arena is most obvious at the local level as the administrative divisions are further divided into fourteen provinces and any matters relating to Fijians are governed by the administrative system of Great Council of Chiefs (GCC). Each of the fourteen provinces appoints three chiefs to the GCC, which also includes the President, the Vice-President, the Prime Minister and six government officials, all of whom are Fijians. The GCC was formally dismantled by the Bainimarama's interim government on 13/3/2012

through iTaukei Affairs (Amendment). Decree No. 22 of 2012 (Government of Fiji, 2012).

The GCC is considered by many Fijians as the fundamental pillar of indigenous Fijian society. They see it as embodying their cultural and traditional values and projecting a united Fijian voice. On the other hand, it is viewed with suspicion by the Indo-Fijian community, particularly since the involvement of some chiefs in the 1987 coup. Since then, other chiefs have taken an overtly ethnocentric stance. The bifurcated political system in a multiracial society such as Fiji becomes a threat when chiefs who hold traditional powers cross over to participate in the political arena and end up promoting the values of their own group. For example they put on the democratic 'hat' throughout election campaigns but end up focusing on the needs of Fijians to the exclusion of other voters. The situation is exacerbated when tensions rise and traditional or religious affiliation comes to the fore.

Some informants have argued that the disempowering of the GCC and the constraints on the Methodist Church are positive developments as these two organisations should not be involved in modern politics. Leaders from these two institutions do not serve the people well, so limiting their powers to interfere in politics benefits Fiji in a number of ways: the uncomfortable clash of meritocracy versus heredity is finally addressed; weakening these institutions only strengthens democracy; and the clear bias shown to Fijians by these institutions served only to hinder nation building and create mistrust among the different ethnic groups.

Others welcomed the removal of these organisations from the political arena but were concerned that this was done without consulting stakeholders, a move they believe was undemocratic and in violation of human rights. They also questioned whether this would lead to an erosion of Fijian cultural values and identity. One informant argued that the GCC and the Methodist Church represented a wide section of the community, so they should be involved in the political arena. However, he refused to address the question that in the political arena, these institutions only represented the concerns of Fijians', despite the fact that political representatives are elected through democratic elections and are supposed to represent all constituents equally.

While many Fijians were offended by the disbanding of the GCC and feared that such a move might weaken their culture, it needs to be acknowledged that the GCC was set up by the colonial government. The British effectively entrenched the power of the chiefs and rendered the chiefly system less meritocratic and flexible than it had traditionally been. The establishment of the GCC did benefit the country in getting the many warring tribes to work together to create stability but the parallel powers given to chiefs in a democratic system effectively weakens the democratic nature of that system. It should be noted that no democratic government prior to 2006 would have been able to dismantle the GCC as most leaders in power were closely aligned with the chiefly system: dismantling the GCC would have meant disempowering themselves by weakening their power base. Despite the many problems associated with the authoritarian Bainimarama government, one of the positive outcomes was the breaking up of the powerful GCC. While claims have been made that Bainimarama dismantled the GCC not to strengthen democratic values but to spite the chiefs who were not supportive of

his 2006 coup, the outcome has been effective as no other government was in a position to carry out this daunting task.

Some people have recently argued that Fijians in the past would have liked to get rid of the GCC but were too afraid of the cultural and spiritual ramifications of going against their chiefs. Bainimarama's fearless approach and the lack of any dire consequences have emboldened people to hold their own chiefs more accountable in recent years. It needs to be acknowledged that Fiji, like many of the Pacific Island countries, is still deeply traditional and many are reluctant, particularly in rural areas, to confront their chiefs.

PARTISAN VOTING

In many multi-ethnic societies voting tends to be polarised along the lines of ethnicity religion and tribal groups. This schism has been documented in Fiji as well as in many other countries but Fiji is unique as this disparity was enshrined in the constitution.[88] Since independence in 1970, Fiji has continued to maintain a system of communal rolls for Fijians, Indo-Fijians and general voters, until 2013. The communal system of voting has led to "preference engineering" by the dominant political parties such as SVT and FLP to deliberately form ethnic party blocs by providing a sense of security for their own ethnic groups and preferential arrangements with like-minded parties (Ramesh, 2007).[89] This has also nudged

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[88] Apart from Fiji, New Zealand is the only democratic country in the world to have the system of communal voting for its indigenous Maori voters; however, it is optional as Maori voters can opt for either the national electoral roll or specific Maori roll but not both.

[89] Ramesh defines "preference engineering" as pre-election strategy by political parties in a coalition on allocating preferences. He states that 'this is a form of "preference engineering" that can be used effectively by parties in cases where a large number of voters place a tick next to the party symbol as opposed to individually numbering preferences' (Ramesh, 2007: 10).

moderate political parties such as NFP out of the political arena or weakened them considerably. Partisan voting has been a contentious issue in Fiji and the 2006 coup leaders justified their military takeover claiming that only a comprehensive reform of the electoral system and the eradication of the communal voting system would allow Fiji to develop as a truly multicultural society (Fraenkel, 2009).

These claims heightened the scepticism towards democracy as the democratically elected governments had not been able to address this issue. It has also led to questioning whether the democracy practised in Fiji is legitimate and effective since the governments formed after elections tend to be divisive rather than truly representative of the electorate as a whole. However, this claim by the military has been critically analysed by Narsey (2010) in light of recent population trends. His research shows that the Indo-Fijian population has been decreasing dramatically since the first coup and by 2027 the indigenous Fijian population is predicted to be 70% of the total population. Consequently, conflicts over political leadership would be groundless because, with Fijians in the majority, the communal voting system would become irrelevant (Narsey, 2010).[90] Whether the partisan voting system would have evolved or not is now debatable as Bainimarama's interim government carried out electoral reforms in 2013, introducing one vote per person.

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[90] This article was supposed to be published in The Fiji Times but was censored and never published. Subsequently, Prof. Narsey mass circulated this as an email attachment. Many people I spoke to regarding this article had received this either directly from Prof. Narsey or forwarded by others. This demonstrates that in the absence of uncensored media, other means are adopted to disseminate information. Additionally, it led to the 'Streisand effect', that is; while many people may not have given much weight to this document if printed in the papers, once it was censored, people wanted to read it to know why the government had censored it and what it was trying to hide, hence creating more publicity for it.

We know that people vote along racial lines and to change that we need to educate right down to the school level, to the family, to homes; we got to learn to speak each other's language, learn to understand each other, and then I think our children's generation will move this country to better heights. (David Tonganivalu – Former Deputy Director of Public Prosecutions)

We have to evolve to that stage. You can't just do it overnight because we have been polarised by our leaders of past and ethnic groups looking after ethnic interests. (Joseph Brown - Secretary to the late Ratu Sir Kamisese Mara during his tenure as Prime Minister, Vice President and later President)

Voting is really clouded by race and needs to be addressed. (Laitia Tamata - Former Fiji Military Forces Lawyer & Human Rights Advocate)

To be honest, since the first coup, there hasn't been a single worthwhile political party because they have all gotten into power on the basis of race, even the [Fiji] *Labour Party, especially the Chaudhry government. At least under the Bavadra leadership, there was some kind of belief in multiracialism, but I don't think that any contemporary political party is based on multiracialism. They think that they can only win elections if they can appeal to people's sense of race insecurity.* (Imrana Jalal - Human Rights Adviser)

It is certainly difficult for political parties to change the electoral system because they are sort of captivated by the system that brings them into power but electoral reform was on the card, statistics commission and other studies were being done before the 2006 coup to pave the way towards electoral reform. But I think this change was overdue. I am all for elimination of race based voting. These are all welcomed changes and will get new kind of leaders who do not have their power

based on ethnicity. (Aquila Yakabi – Director of Fiji's Citizens' Constitutional Forum)

While most people agree that reform of the electoral system was needed, there were concerns regarding the removal of guaranteed seats in parliament for certain ethnic groups. This concern has shifted from Fijians to Indo-Fijians due to their dwindling numbers in the population since 1987. This topic will be discussed below.

Our constitution itself is race-based. The 1970 Constitution clearly stated Fijian, Indian and General Electors, then in 1990 [constitution] it was Fijian, Indian and Others. In the 1970 one, we had the cross-voting but even that was race based as it was cross-voting for a determined number of seats by races. For example, so many Fijians on the communal roll and so many Indians on the cross-voting, to have set number of Fijians in the Parliament and set number of Indians and Others in Parliament. In the 1997 constitution we only had a set number of communally voted in politicians, the rest was open contest. So that open portion was gradually going to grow as the other ethnic groups diminished. Hence, we would have gradually evolved into that because the population of Indo-Fijians is decreasing. In fact at the time I said that there will come a time when the Indians will fight against the removal of this guaranteed seat allocations in Parliament along race lines. (Sitiveni Rabuka – Former Military Commander and Former Prime Minister, leader of the first coup)

Mahendra Chaudhry was a big promoter of common roll but now he is promoting communal seats? He has said, and I have to agree with him to a certain extent, that in an open system, with the population of Indians reducing, how are we going to get guaranteed seats? I have personally always been against race based seats but concerned on this. (Imrana Jalal - Human Rights Adviser)

Another concern in relation to partisan voting is the influence of traditional and religious leaders in manipulating the inactive community to vote for certain groups.

> *Some say, bring true democracy in the country in the sense that the traditional structures in the country are to be reshaped. Because on one hand people say we have democracy but if you look at the traditional powers, the chiefs says something and you all got to listen, including the pastor of the church. Both the chiefs and the church leaders have considerable powers in the Fijian community. So it's a communal system. For example, if the pastor says to vote for a particular party and the Ratu or the Turanga ni Rokos favour a particular party or person, and ask the community members to vote for them, people would usually listen to them. It's the influencing that is problematic, whether they really follow it their chief of pastor or not, these leaders should not be meddling in this.* (Joseph Camillo, Director of ECREA at the time of interview)

Discussion

From the 1940s onwards, the Indo-Fijian population increased rapidly and was 50% of the population in the 1970s. This heightened concerns amongst Fijians that Indo-Fijians would dominate the political leadership, through sheer strength of numbers. While Fijians fears in this aspect have diminished because of the declining Indo-Fijian population since 1987, a role reversal has occurred. The current population trends have created uneasiness among some Indo-Fijians, that their political representation will be diminished. If this stance continues, Fiji would not be able to move towards a more multicultural system of voting. One option would be for the Indo-Fijian community to accept the situation and accept the open system and compete for power on the basis of issues. Maybe in the short run, for a few elections, Indo-Fijians may not win any seats in parliament, but

eventually electors will start voting on issues rather than by ethnic affiliation and this would lead to credible Fijians and Indo-Fijians winning seats and serving all ethnic groups. The implication of not choosing the open system would mean that racial issues would persist in elections. In the 2014 elections, out of 50 members of parliament, 14 (28%) were Indo-Fijians, with 7 of these individuals holding ministerial positions. This significant representation of Indo-Fijians in parliament through the open system should dissuade any concerns Indo-Fijians would have about competing in this electoral system.

Most people agree that the electoral system in Fiji needed to be reformed as it allowed ethnically polarised voting and weakened democracy. Respondents acknowledged that the communal voting system should have been revised by democratic governments but also acknowledge that they were unlikely to do so as most of the governments in Fiji since 1970 have been voted into power using the race card. Clearly, they would be unwilling to reform a system by which they stood to gain so much. Even proponents of democracy recognize that Bainimarama's interim authoritarian government had the best opportunity to reform the electoral system in Fiji. The problem with this reform is that because it was done in such an authoritarian manner and without consulting stakeholders, it might not be widely accepted amongst those powerful political parties who had triumphed through partisan means. The electoral reform was formalised in Fiji through two decrees, the Political Parties (Registration, Conduct, Funding and Disclosures) Decree No. 4 of 2013 and Electoral Decree No. 13 of 2014. These decrees provided the legal framework for elections and political parties. While it is acknowledged that some of these reforms did not take place under past democratically governments; it was

due to lack of political will of these democratically elected governments rather than lack of consensus and deliberation.

While the concept of one vote per person is a progressive reform, Bainimarama's interim government revised the Electoral Decree a number of times to ensure that certain persons, such as some National Federation Party (NFP) candidates could not stand for elections in 2014. This continued abuse of power through decrees has been a common strategy throughout Bainimarama's term. For instance, in early August, 2014, just a few weeks before the September elections, the electoral decree was amended to include a new Section 23(5) which stated: "For the purposes of subsection (4) (c), a person shall only qualify to be ordinarily resident in Fiji for at least two years immediately before being nominated, if that person has been present and living in Fiji for an aggregate period of not less than 18 months out of the two years immediately before being nominated" (Government of Fiji (2014b). This was viewed as a deliberate move by the Bainimarama government to limit certain people from standing for elections, such as potential NFP candidates Jone Vakalalabure, Makereta Waqavonovono and Seru Rabeni (The Fiji Times, 2014). The 2014 Election Multinational Observer Group (MOG) indicated their concerns for such quick reforms in the electoral laws and called for a review of laws that restricted public gatherings, removal of the restrictions placed on foreign-funded civil society groups, more timely changes to electoral laws and lifting of restrictions on trade union officials standing for elections unless they resign from their organization (Radio NZ International, 2015a). The MOG had 92 observers representing 15 countries and organisations and found that despite "compressed timeframes, a complex voting system and some restrictions in the electoral environment, the conditions were in place for

Fijians to exercise their right to vote freely…" (Multinational Observer Group (2014: 30).

Concerns were also raised regarding the influence of traditional and religious leaders on voting. There have been a number of initiatives aimed at educating the population on voting in a bid to counter the impact of culture and tradition and the influence of political candidates and parties as well as other leaders on partisan voting. In 2005, Waden Narsey published a training kit, *Electing your Parliamentarian* which used graphics and text to spread the message to both illiterate and literate voters. It is argued that such activities would undermine the influence of traditional and religious leaders during the voting process, as people become more aware of what qualities to look for in parliamentarians (Narsey, 2005; FHRC, 2008).

CONCLUSION

This chapter has focused on the deeply entrenched systems, policies and structures within the Fiji society that have contributed to tension and conflict. Four core systems were analysed: the influence of the colonial legacy; the concept of land and its link to citizenship; the politicised traditional and religious institutions; and partisan voting. All these institutions and related policies needed to be reformed but none of the past democratic governments in Fiji were in a position to act as they were usually the very systems that had brought them to power. Therefore, instead of reforming these structures to minimise tension and conflict, and strengthen democracy, past democratic governments had either retained the status quo or strengthened the discriminatory policies.

Interestingly, any reforms in these politically sensitive and ethically divisive structures could only be carried out by an indigenous majority government as such reforms by an Indo-Fijian majority government would have provoked fears of '*indianization*'. Bainimarama's interim government deserves credit for tackling these intractable issues, albeit in a manner that violated human rights, such as right to far public hearing, freedom of opinion and information, among other rights, and the principles of good governance so frequently promoted by the government. However, this authoritarian government was able to implement some core structural reforms that will have long lasting positive impact if they remain on the statute book. Policies such as the removal of ethnically divisive institutions like the GCC and other electoral reforms are crucial if Fiji is serious about strengthening its democracy. The limiting of the GCC's powers signifies that the rule of law will be given credibility in the political arena in future. Similarly the use of the term 'Fijian' for all citizens of Fiji also encourages patriotism from all ethnic groups in Fiji and promotes nation building. The restrictions on religious groups' in politics could be problematic as some faith groups have been good at holding government accountable in the past and should have been allowed to continue.

CHAPTER 9: PREVENTING THE RECURRENCE OF COUPS IN FIJI

Joinet has developed a set of principles for combating impunity: the right to know, right to reparations, right to justice and right to non-renewal of conflict (Commission of Human Rights, 1997: 7-10). Under the right to non-renewal of conflict, Joinet has stressed that institutional reforms should be implemented as part of transitional justice strategies (ibid.). The previous three chapters discussed issues such as the shifting perceptions of coups in Fiji: weak democracy versus strong military; the dismantling of segregated structures and policies such as colonial laws and structures; the reforms to customary land use and concerns regarding the concept of citizenship; the dismantling of the politicised GCC and curtailing the influence of the Methodist Church in politics', and electoral reforms. This chapter will focus on a number of other important issues that could prevent the recurrence of coups in Fiji. These issues include education, accountability, addressing of the issue of amnesty, military reforms and reforms to the rule of law as well as to the judiciary.

EDUCATION

The use of education to foster national identity formally through the school system and informally through workshops by NGOs is common in many ethnically diverse countries around the world. Such educational policies and curricula could serve the pressing agenda of fostering a national identity. This section will analyse the suggestions of respondents and key informants on constructing a national identity and reform of the educational structures in Fiji.

Fostering national identity through education

It is common to hear people in Fiji say that it is difficult to foster a national identity because the two cultures (Fijian and Indian) are so different from each other they hinder the attainment of the levels of cultural pluralism prevalent in countries like Barbados and Mauritius. Additionally, if one of the two cultural groups were a small minority in the population, they would have assimilated or would have been absorbed by the dominant cultural group instead of forming different national identities. Frequently Indo-Fijians have been branded as unpatriotic but they themselves complain that they are not even recognised as Fijians. Ethnic Fijians consider them as *vulagi (*migrants*)* despite their being third or more generation inhabitants of Fiji. Such hostility and prejudice is unlikely to nurture feelings of patriotism for the 'mother- country'. Interestingly, once outside Fiji, many Indo-Fijians would identify themselves as Fijians with pride. However, they would not act this way 'back home' as historically, some Fijians would have taken offence at the use of the term 'Fijian' by Indo-Fijians to describe themselves. Many young Indo-Fijians harbour dreams of migrating overseas as they are frustrated with discriminatory attitudes of some indigenous Fijians and policies of the past. It is not uncommon to hear an indigenous Fijian say 'go back to Indian' to Indo-Fijians during times of conflict in the country. Nurturing a national identity could strengthen unity among all communities.

> *I believe the two cultures in Fiji are more firm in our beliefs compared to other multi-ethnic countries, but through the understanding and education it can happen. It will be difficult to achieve this but people will understand each other's culture through education, through each other languages and understanding the different religions.* (Brigadier General Aziz Mohammed - Chief of Staff of the Fiji Military Forces)

A lot of easiness in our communities comes out of an uneducated fear of each other. Through education at the community level this can be changed, so people cannot be swayed by the political rhetoric. They can't be swayed by if they are knowledgeable about these issues and they can make their own independent decisions. (Imrana Jalal – Human Rights Activist)

See the Fijians are tribes. While we classify all indigenous as Fijians, but among Fijians we tend to look at ourselves as Naitasiri people, Tailevu people, etc. along tribal lines. We still do this. When we have the Tailevu and Nadroga playing [rugby]*, they want to murder each other. They strongly identify with their tribe and not so much with the country. This could change with civic education but I don't know if it would work for the Fijians as they might feel they are giving up their identity.* (Joseph Brown - Secretary to the late Ratu Sir Kamisese Mara)

There is a need for tremendous change, and I really don't know how, maybe through education, maybe adult education or something along those lines. Actually our government was thinking developing curriculum on unity to be implemented through schools and sports. It is very important to start from schools because it allows you to capture and encourage their thinking on issues relating to unity at a young age. (Laisana Qarase - Ousted Prime Minister)

To foster a strong national identity among Fijians and Indo-Fijians, the concept of nation-state should be developed. (Makalesi - pseudonym for a University scholar)

When I was a principal, I always spoke out about multiracialism, way back in 1960s, I wanted Hindi to be taught in all Fijian schools and Fijian to be taught in all Indian schools. Of course in teaching the language the issues of culture would also be addressed and lead to better understanding of each other and produce

deeper understanding of each other's culture. The main thing is to educate people in such a way that their mind becomes wider. (Paula Sotutu – Former diplomat and senator)

*Yes, national identify building can be done through education. Also there are symbols that need to be put in place, symbols that need to be rid of, symbols that we and the Indians have used for opportunities, it will take time but has to be policy based and create a strong and united vision for the country that Fiji is for all citizens. Penalise any crime that can be seen as racist. (*Rev. Aquila Yakabi – Director of Fiji's Citizens' Constitutional Forum)

For national identity, I was pinning a lot of hope on the new Ministry for National Reconciliation and Unity which I had created. There are so many things that they change, our national anthem, our national flag. Our flag looks terrible! I mean you never have a coat of arms in any flag in any country around the world, we should never have that. (Laisana Qarase - Ousted Prime Minister)

There is something about sports in Fiji; the whole nation gets together during rugby. But unfortunately that is the only time we come together as a nation. I think sports could be utilised better to foster national identity. (David Tonganivalu – Former Deputy Director of Public Prosecutions)

Reforms in the Educational Institutions

Chapter 3 discussed the divisive policies in the housing, labour and education sectors in Fiji. In 2009, the Bainimarama government introduced a schedule of reforms in educational institutions to convey a more secular identity. Thus, schools are not allowed to retain names that symbolise religion or ethnic affiliation in an effort to create greater cohesion in society,

Yes they will also have to open their schools to other ethnic groups. But these schools [state funded boarding schools] *are so strategically located that there are hardly any other ethnic groups in those areas. In ACS they have had some Indian students and all those girls have excelled in their fields.* (Hassan Khan – Executive Director of Fiji Council of Social Services)

In early 2014, the Ministry of Education announced that all state funded boarding schools would be encouraged to cater only for rural high achieving students. Schools like ACS (Adi Cakabau School), RKS (Ratu Sukuna School), QVS (Queen Victoria School), Labasa College, and Natabua Secondary were established to cater for the children of Fijian chiefs and still cater almost exclusively to such groups. The majority of these state funded schools are boarding schools and based in rural areas. The government's move is seen as another step towards weakening the indigenous Fijian culture and institutions, and is resented by the elites in the community. On the other hand, rural and non-chiefly Fijians have welcomed this move as it gives them an opportunity to access a better quality education. However, there was little concern or interest from the Indo-Fijian community regarding on the ACS issue as they are not affected by that decision.

Another significant reform in the educational sector is the provision of the *Tertiary Education Loan Scheme* (TELS) and the *Toppers Scheme*. The *Toppers Scheme* is based purely on merit and awards scholarships in prioritised fields to any student completing Year 13 and achieving a mark of 300 out of 400. The first batch of scholarships was awarded in 2014 and prompted a great outcry from the Fijian community as very few scholarships were awarded to Fijians. The majority of scholarships were on merit awarded to Indo-Fijians, based on the mark criteria.

The *Toppers Scheme* has dislodged previous scholarship schemes which were based on ethnicity for Fijians and financial indicators for Indo-Fijians. Not to disadvantage students, the TELS allowed students to pursue their education through student loans.

Discussion

While most of the informants' comments focussed on formal state institutionalised education, civic education can also be conducted in communities to empower people who are not in any formal education or work system. Workshops on issues such as voting, human rights, women's rights, the constitution, citizenship, traditional concepts and values and so on could inform individuals and render them less susceptible to the actions of demagogic leaders and to divisive rhetoric. For instance, although an eighth of my relatives are Fijians, I never understood the nuances of cultural inclusivity and exclusivity practised by indigenous Fijians and how it links to the concept of *vanua* and citizenship. Such understanding is crucial if we are to remove the stereotypes from both communities and foster better understanding between them.

The reforms in the educational institutions through the removal of religious or ethnically affiliated names and the dismantling of ethnically divisive scholarships schemes in favour of a more merit based approach are encouraging. The affirmative action policy in the education sector for Fijians had been in place for 42 years. It had achieved its target of creating a more professional Fijian workforce and thus there is no longer any reason to continue it.

The Bainimarama government has started the process of integrating civic

education into the curriculum but a more objective approach needs to be taken when building such sensitive content otherwise the narrative could be used to promote certain perspectives at the expense of others. For instance, the emphasis of teaching all languages at school is important as much stereotyping and fostering of prejudice is due to ignorance of each other's culture, traditions and language. The government was also planning to launch a new national flag as part of its nation-building efforts. The current flag has the Saint George's cross and the shield of Britain, a constant reminder of Fiji's colonial past and the coat of arms shows the military link. However, as with other Bainimarama government's reforms, the issue of changing the flag was carried out in a 'top down' manner, with the media informing the public of the move and requesting people to submit their flag designs. Many households are divided on this issue as many Fijians are nostalgic about the British colonial era and do not want this legacy to be removed. If the government is keen to have a deep-rooted acceptance of these reforms, it needs to engage with the citizens of Fiji. This will lead to some sense of ownership by the people of these reforms. The government had hoped to have a new flag in place by 10 October 2015 but, due to an outcry by the public, particularly through social media platforms such as Facebook and Twitter, as well the lack of acceptance of the new designs, government has abandoned the flag reform for now.

Fiji has a long history of sports, both through schools and through smaller community clubs. Yet, sports are also divided along ethnic lines, with rugby totally associated with Fijians and soccer with Indo-Fijians (Schieder, 2012). However, in recent years, soccer clubs are increasingly recruiting Fijians but this trend is not replicated in rugby (ibid.). Despite rugby being associated with Fijians, when the

Fiji national team play at the international level, they attract the zealous support of all sections of the community. Rugby has the potential to create a national identity, as seen from South Africa where Nelson Mandela hoped to unite his fractured country through its painful transition by galvanising all South Africans to support the national team during the Rugby World Cup (The Telegraph, 2013). Sadly, in Fiji, beyond sporadic sporting events, this potential for nation building has not been tapped either by NGOs or any government department.

Holding coup perpetrators accountable

In earlier sections we have looked at accountability and argued that, to reduce the likelihood of coups, in conjunction with reforming our divisive structures and policies, Fiji needs to hold coup perpetrators accountable. This is particularly relevant for the military coup leaders as, once in power, they have always awarded themselves amnesty to avoid being held accountable for their actions. George Speight, who carried out the 2000 coup, was a civilian who remains imprisoned for his actions, butSitiveni Rabuka and Voreqe Bainimarama, both of whom were military officers, led the 1987 and 2006 coups respectively and have never been brought to justice.

Table 6 indicates that respondents were divided in their opinion on whether the Bainimarama's interim government is accountable as 44% said yes but 46% said no. One of the reasons Bainimarama justified his 2006 coup was to move the country towards greater accountability, transparency and compliance with principles of good governance. Yet, the rhetoric and reality are mismatched. While Bainimarama's interim government vigorously promoted holding non-supporters of the regime accountable, the same was not practised for the regime and its

supporters. For instance, from 2006 to 2014, the government did not release any report of the country's Auditor General.

Table 6: Is the current government accountable?

Is the current government accountable?	Total
Yes	44%
No	46%
Yes & No	3%
Not sure	3%
NR	3%
Total	100%

Respondents were also asked why the coup perpetrators should or should not be held accountable for their actions. Table 7 shows that 78% of the respondents stated that coup perpetrators should be held accountable as coups are illegal. In addition, they have caused suffering in the country and holding them accountable would be a deterrent for similar perpetrators in future. Of those who stated there was no need for coup leaders to be made accountable, a considerable 14% regarded this coup as beneficial to the country. Similar views were also expressed by some respondents in chapter 6. A small minority (5%) raised the valid concern that holding coup perpetrators accountable might lead to more conflicts and therefore should be avoided. As the Fiji military is praetorian in nature and has increased its hold on many ministerial departments and statutory bodies through militarisation, holding the military coup perpetrators could be difficult. Qarase's comment below reveals how holding the military accountable in Fiji is fraught with difficulties and could actually lead to further conflicts, as Bainimarama was under investigation before he carried out the 2006 coup. Transitioning countries need to strike a balance between maximalist, minimalist and moderate approaches to holding perpetrators accountable, to avoid a recurrence of conflict (Lederach, 2006; Sisson, 2007).

Table 7: Reasons why coup perpetrators should (not) be held accountable for their actions

Reasons why the coup perpetrators should or should not be held accountable for their actions	Total
Yes, they should be held accountable because:	**46 (78% of total)**
• To be a deterrent for others	12%
• Coups are illegal	34%
• Caused suffering to others/country	14%
• Other	8%
No, they should not be held accountable because:	**22%**
• It may lead to other conflicts	5%
• This coup is beneficial for the country	14%
• Other	3%
TOTAL	**59 respondents**

Around 2005, the military commander [Bainimarama] *was under investigation and we were very close to arresting him. In fact looking back, it's a pity that the Police stepped back because they were afraid of the repercussions from the military force. He was involved in the killing of the CRW Officers during 2000, he gave orders for them to be killed; there is no confusion about that. And then he made seditious remarks quite a number of times during these investigations, well before the coup. He felt really threatened by the investigations.* (Laisana Qarase - Ousted Prime Minister)

Respondents were asked to suggest ways in which the coup perpetrators could be held accountable and Table 8 shows that 81% of all the respondents identified prosecution, imprisonment, vetting and other measures. This is interesting as 44% of the respondents had stated in Table 6 that the government was accountable, yet they were suggesting ways to hold them accountable. This suggests that people are not yet satisfied with government's actions on accountability of themselves as coup perpetrators. In response to the question 'Other ways' to hold coup perpetrators accountable, two comments stood out; "*They should be given training in rights of people*" and "*They should be publicly made to explain their*

motives for carrying out the coup". An informant also suggested some form of sanctions against coup perpetrators in future.

> *To hold coup perpetrators accountable is possible through actions such as don't let them stand for elections; confiscate their properties and sell it; they can't be allowed to run business, restrict the travel overseas and such things.* (Brigadier General Aziz Mohammed - Chief of Staff of the Fiji Military Forces)

Table 8: Some ways to hold coup perpetrators accountable

Some ways to hold coup perpetrators accountable:	Total
Prosecuted	34%
Imprisonment/ Death penalty	29%
Vetting	7%
Other ways	12%
NR	19%
Total	**59**

Respondents were also questioned on their view of establishing a truth commission in Fiji. Table 9 demonstrates that 56% of the respondents were agreeable to this, but it is a concern that 29% did not respond to this question. This could be due to lack of understanding of the role of truth commissions or their uneasiness with the concept as under the Qarase government a National Reconciliation, Truth and Unity Unit was set up in the hope that it might establish a truth commission. However, the military and many sections of society were vehemently against that as it seemed to promote amnesty for the 2000 coup perpetrators. Bainimarama had also stated that one of reasons for carrying out the 2006 coup was to ensure that the National Reconciliation, Truth and Unity Unit is dismantled.

Table 9: Do you think Fiji should establish a truth commission?

Do you think Fiji should establish a truth commission?	Total
Yes	56%
No	12%
Maybe	3%
NR	29%
Total	**100%**

Amnesty

Researchers show that in transitional countries, negotiations for or against amnesty could be a contentious issue, depending on the relative strengths of the perpetrators and society's demand for justice (Skaar, 1999; Zalaquett, 1992; Malamud-Goti, 1990). The delicate balancing act between maximalist, minimalist and moderate approaches towards amnesty indicates that amnesty should be granted for the sake of national unity if the perpetrators have the strength to destabilise the peace process (Neier, 1990; Nino, 1996). In Fiji, the minimalistic approach to amnesty has been utilised for all military coup perpetrators. Ironically, the Bainimarama led military had taken offence at a civilian coup perpetrator, George Speight, negotiating for amnesty. It seems that the military personnel consider themselves to be above the law, when it comes to being held accountable for their actions.

Figure 18 demonstrates that a resounding 78% of the respondents consider amnesty for coup perpetrators as bad. A number of key informants also think that amnesty is bad as it sends the wrong signals to the coup perpetrators and to future generations.

Figure 18: Amnesty for Coup Perpetrators
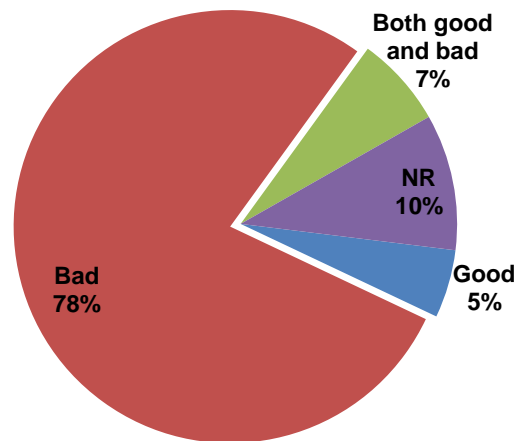
Yes, undoubtedly amnesty has encouraged the coup behaviour because it does not give space for accountability and justice to take place and if you don't deal with this, justice will never be done and there will always be resentments due to that and it also signals the message that it's ok carry out a coup. They continue to elude prosecution and I think that is a wholly unhealthy cycle that needs to be addressed. (Andrew Hughes – Former Commissioner of Fiji Police)

Some of the key informants were sceptical that the military could be held accountable as they were presently so powerful. John Rabuku also mentions a valid concern of many developing countries, the use of limited resources for thorough investigations and long prosecutions, instead of reparations which could allow some accountability of the perpetrators and provide some tangible compensation to the victims.

Chances of Bainimarama being prosecuted are very low, if they had prosecuted Rabuka and put him in jail, our history might have been different. (Imrana Jalal – Human Rights Activist)

The thing is, people who come into power like this are not stupid, so before they hand over power they make sure that they have acquired amnesty and are safe from prosecutions. I am kind of person who likes to deal with issues and have some closure to it therefore I won't like to see our Courts being inundated with all these proceedings from the past, where many of our much needed resources would be diverted. But I would like to see a compensation fund set up and that there is some compensation hearing and that military could be occasionally liable and that compensation is paid to people affected. (John Rabuku - Ex-Director of Public Prosecutions)

Joseph Brown highlights a concern discussed earlier in this thesis; if amnesty is given, what types of crimes it could cover,

Recently they have created immunity decrees and the wording says that all political decisions made will be covered under this, but shouldn't it be the courts to decide whether the decision made by police or military was a political motive or was it following directives from his superiors, when they arrest, torture or detain you? (Joseph Brown - Secretary to the late Ratu Sir Kamisese Mara during his enure as Prime Minister, Vice President and later President)

Figure 19 demonstrates that the majority of the respondents considered amnesty for military coup perpetrators to be unjust (61%), 12% were tolerant of such amnesty since the military led government had removed problematic structures in Fiji's society. Also, similar to concerns shown in Table 7, 3% of the respondents feared that such amnesty could lead to more coups and instability.

Figure 19: Opinion on Amnesty for military coup perpetrators

Would encourage more coups 3%

Other responses 3%

Peoples Charter is good but unrealistic 4%

NR 17%

Accepted if the military can dismantle past practices 12%

Unjust, military should not be given amnesty 61%
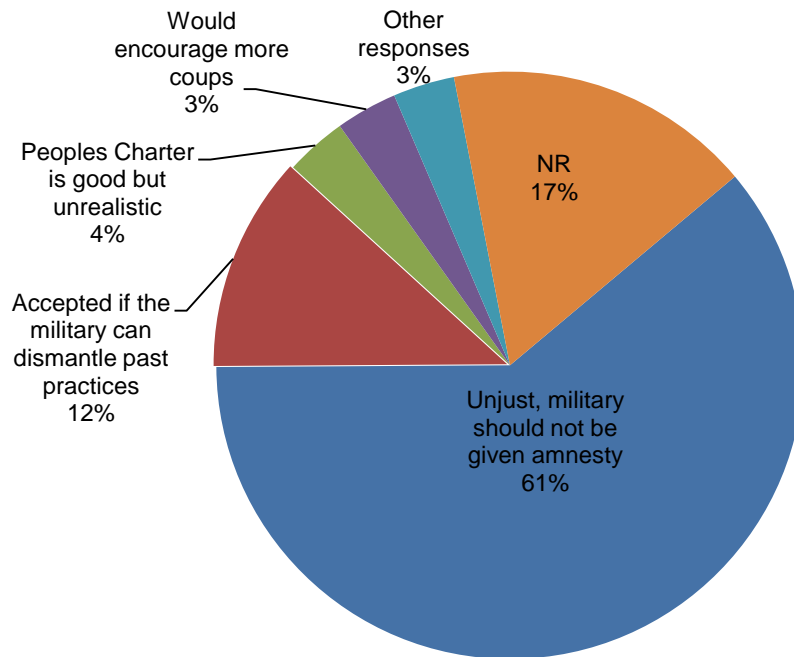
Discussion

The issue of amnesty has been much discussed in Fiji since 1987 and while data shows that many people do not regard it in a positive light and consider it unjust, respondents have also acknowledged that the military is too strong at this stage to be held accountable. In Fiji, the military is well versed in portraying itself positively to the people and they sense some acceptance amongst the public of their self-awarded amnesty because of the belief that the coup has been, in some ways, beneficial. To some extent their views are justified as Bainimarama's interim government was able to dismantle some structures and policies that were deeply divisive. However, there is also uneasiness with the growing strength of the military. This can for instance be seen from the 2013 Immunity Act, which is so tightly drafted in order to preserve the military's power. In the 2013 Constitution of Fiji, immunity has been entrenched through Acts 158 (1), (2) and (3), which states that

(1) *Notwithstanding anything contained in this Constitution, this Chapter and any immunity granted or continued in this Chapter **shall not be reviewed, amended, altered, repealed or revoke**.*

(2) *Notwithstanding anything contained in this Constitution, **no court or tribunal shall have the jurisdiction to accept, hear or make any decision or order with respect to any challenge against the provisions** of this Chapter and any immunity granted or continued in this Chapter.*

(3) ***No compensation shall be payable** by the State to any person in respect of damage, injury or loss to his or her property or person caused by or consequent upon any conduct from which immunity has been granted under this Chapter.* (Government of Fiji, 2013: 99,100). [emphasis added]

All these clauses ensure that the military cannot be held accountable in any form even in future. This law may be contested at some point but it is unlikely that this would be done in a local court as 158(2) and (3) sets limitations on this avenue of seeking justice.

As stated above, transitioning countries need to be careful in striking a balance between demanding justice and accountability and granting amnesty when the perpetrators are still in power or continue to hold significant influence. In Fiji, Bainimarama and many people associated with him continue to be in power through the 2014 democratic elections. This fact and the significant militarisation of Fiji's civil service indicate that military influence is entrenched and will continue to be part of the country's political landscape for many years to come. In such a scenario, amnesty is unlikely to be contested by the victims. However, instead of accepting the minimalist approach to seeking justice, the new democracy could be used to demand some form of justice, perhaps through a truth commission, truth

telling and/or the public process to share stories of atrocities. This is important as Fiji's history is silent about the human rights violations that have occurred during times of coups, due to stringent media censorship. There have been some reports of human rights violations from international media and international NGOs but these only cover a small number of such incidences. Bainimarama has carried out a number of significant structural and policy reforms in Fiji that were unthinkable in the past. However, he has been silent regarding military reforms. As he now holds power democratically, this would be an ideal time for him to encourage military reforms in Fiji as he has the mandate from the people and also strong support from the military; "Many senior military officers have come out openly saying they prefer Bainimarama to lead the country..." said Professor Brij Lal in an interview with ABC News (2014). However, it remains to be seen if Bainimarama is genuinely interested in developing Fiji towards stability and towards a reforming a military that is subservient to the democratic government or whether it is simply empty rhetoric.

Military Reform

In Chapter 5, the issue of security sector reform was discussed in detail. Some possible reforms are strengthening of the rule of law: vetting of leaders, military officials and senior civil service personnel by the incoming government; having a multi-ethnic military; and ideology reconstruction. Downsizing the military was another possibility. Both the 1997 Fiji Defence Review and the 2005 Fiji Defence White Paper questioned the need for a military as there was no external threat of security. In most countries, the military is usually retained for external security so it was suggested that the military in Fiji be downsized or even disbanded altogether. Unsurprisingly, these ideas were strongly resisted by the Fiji military.

Table 10 shows that only 14% of the respondents felt that the military should be disbanded, and 25% considered downsizing as a reform measure. A significant 29% wanted the military to remain the same and 14% wanted to increase it. Table 11 gives the reasons for their suggestions. Similar to the Defence Review suggestions, 20% of the respondents stated that there was no need for a military in Fiji. 15% of respondents were concerned about the military's interference in politics even though two thirds of this group of respondents wanted the military to remain as it is. 19% felt that the military was doing a great job and they considered either increasing the military's size or letting it remain the same. Aquila Yabaki believes that we may never be able to disband our military as their UN peacekeeping missions are a major source of income for many families and relatives. The respondents did not feel so strongly about this view as only 3% considered the military as a source of income, but all the respondents in this group wanted the military to retain its present size.

> *The reality is that in the last 20 years or so the peacekeepers brought in a lot of foreign exchange for their families and thereby for the country. Therefore going into the military, whatever kind, gives hope and employment and resources and disbanding it would be almost impossible. (*Rev. Aquila Yakabi – Director of Fiji's Citizens' Constitutional Forum)

Table 10: Do you think Fiji military could be:

Do you think military in Fiji should be:	Total
Disbanded	14%
Downsized	25%
Increased	14%
Remain the same	29%
Don't know	12%
NR	7%
Total	59

Table 11: Reasons for suggested military reform (or not)

Reasons why military should or should not be disbanded, downsized, increased, remain the same or increased.	Disbanded	Downsized	Increased	Remain the same	Don't know	NR	Total	Percent
No need for military in Fiji	6	5		1			12	20%
Shouldn't interfere in politics		3		6			9	15%
Invest in infrastructure		3		1			4	7%
Don't trust military anymore	2						2	3%
To hold them accountable		1			1		2	3%
Is a source of income				2			2	3%
Military is doing great			6	5			11	19%
Mixed responses		2	1	1	2	1	7	12%
NR		1	1	1	4	3	10	17%
Total	8	15	8	17	7	4		

We need to get rid of the army or at least downsize them! Military is a negative force in our society and have been since 1987. Put them down to a manageable size and make them accountable to a properly elected government. Military must be kept under control! And to do that you would need to have a small military that is accountable, with educated officers, who understand the concepts of rule of law, democracy, human rights and oversight. (Imrana Jalal – Human Rights Activist)

Downsizing the military cannot be done in the short term and I come back to generational change for that but exactly how that can happen is something that needs to be discussed within the country to come up with the solution. At the moment it would be impossible to downsize them otherwise it would lead to the military feeling threatened and Fiji could be stuck in the perpetual cycle of coups. (Andrew Hughes – Former Commissioner of Fiji Police)

I don't think 2006 coup was due to the suggested downsizing of the Defence White Paper. But there was resentment within the military on how the whole report was engineered to suit Qarase's political regime, this was an attempt to muzzle the RFMF, because it was too vocal against the SDL government and they did this

report to muzzle us so that if we don't have a strong RFMF they won't be a threat

to SDL. Hence, this report was a way out for SDL, and resented by RFMF.

(Brigadier General Aziz Mohammed - Chief of Staff of the Fiji Military Forces)

The Fiji White Paper recommended that the military should be downsized from 3,330 to 1,700 personnel, as this number was optimal for partaking in peacekeeping operations (Lowy, et. al., 2004). Despite Brigadier Aziz's comment, Radio NZ International (2006) reported that the military felt threatened by the changes suggested by the 2005 Defence White Paper and highlighted the social and security implications of such changes if they were implemented.

Respondents who had suggested disbanding or downsizing the military were asked what should be done with the military personnel who would be affected by the reform process. 35 percent of the respondents suggested that such personnel should be resettled in the villages to farm the land, 22% recommended secondment to a civil sector job, and 17% indicated seeking employment in the international security sector (Table 12).

Table 12: Suggestions on what to do about the military personnel in the reform process

If you have suggested disbanding/ downsizing, what should be done about current military personnel employment	Total
Resettled in village to farm the land	35%
Seconded to other civil service	22%
Encourage to seek international security work	17%
They need to suffer lack of work like everyone	13%
Mixed positive responses	13%

Figure 20 addresses the issue of allaying fears for any reforms relating to disbanding or downsizing the military. A considerable 50% of the respondents stated that any concerns of the military personnel could be addressed through

creating awareness of such reforms. 8% suggested work assurance and 8% considered other effective measures. But a significant 21% stated that the military is too powerful at the moment to be disbanded or downsized.

Figure 20: How to address fears of military personnel for any disband/downsize reforms?
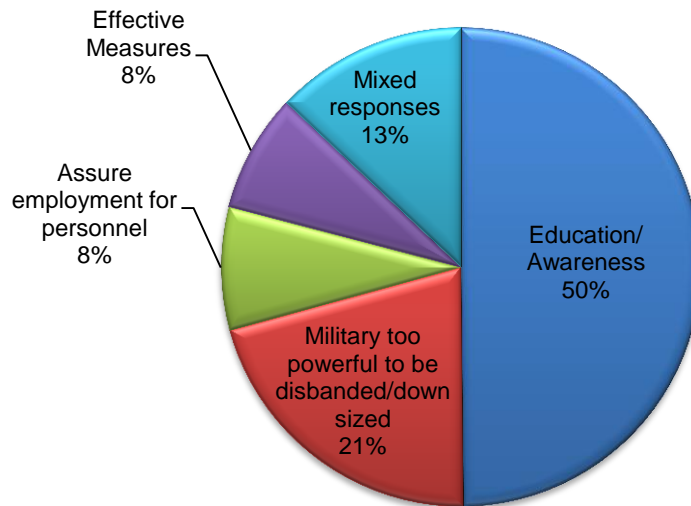
As the Fiji military is largely viewed as an indigenous body and also a source of employment for many Fijians, it was important to consider the perception of any resistance from this group. Figure 21 illustrates that 33% of Fijians and a similar proportion of Indo-Fijians believe that Fijians would resist military reform, but interestingly, 43% of the Fijians do not think that there would be resistance from their group. This sentiment would need further investigation if and when any military reform is planned to ensure wider acceptance of reforms and reduction of any potential threats of violence.

Figure 21: Would Fijians resist to Military reform by Ethnicity
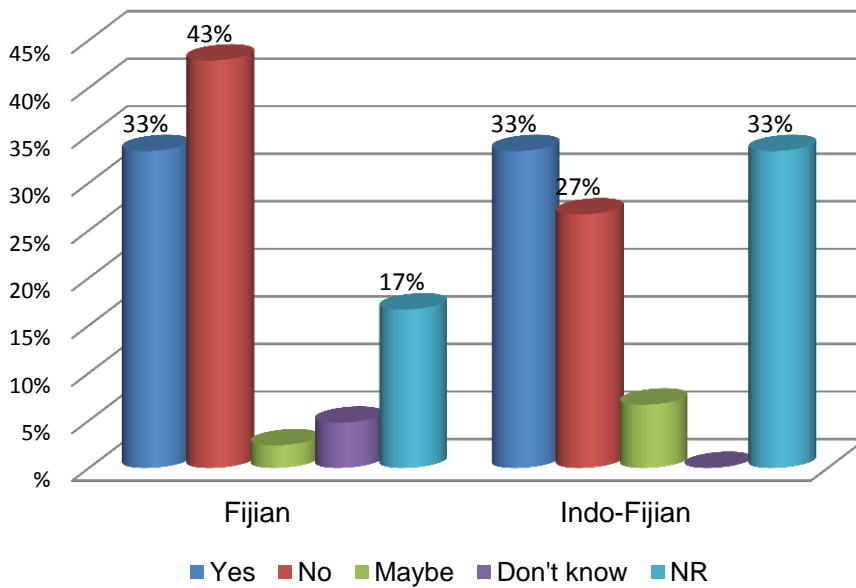
The Republic of Fiji Military Forces (RFMF) is largely seen as a Fijian organization because the majority of the personnel are Fijians with only 4% Indo-Fijians. In pluralistic/multicultural societies like Fiji, it is usually best practice for the military to be more representative of the different ethnic populations. But in Fiji, the military system seems to parallel the chiefly system for the Fijians as they are very closely aligned with most of the military elites coming from chiefly families. Non-chiefly military commanders like Rabuka and Bainimarama also command respect and loyalty similar to that accorded to the traditional chiefs, in keeping with customary respect for authority. The argument is that, if representative numbers of Indo-Fijians are recruited into the military, with their lack of chiefly allegiance, there is a possibility that it could reduce tension amongst Fijian military and may also induce trust towards the military amongst the Indo-Fijian community. Table 13 shows that the majority of the respondents, from both communities, are receptive to having more Indo-Fijians in the military with 53% agreeing to this and only a small minority (8%) stating 'no' to this question. But 34% of the respondents did not respond to this question.

Table 13: Should military actively recruit more Indo-Fijians?

Should military recruit more Indo-Fijians?	
	Total
Yes	53%
No	8%
Maybe	2%
Don't know	3%
NR	34%
Total number	**59**

Figure 22 illustrates the reasons respondents believed recruitment of Indo-Fijians in the military should or should not be carried out. A significant proportion of the respondents (25%) were agreeable to the idea and justified their preference on the basis that integration in the military might lead to peace with others', stating that all [citizens] should be given equal rights as Fijians. 22% of the respondents stated that as Fiji being a multiracial society, its military and other sections of the government should reflect this more closely.

Figure 22: Why should Indo-Fijians be recruited in the military?
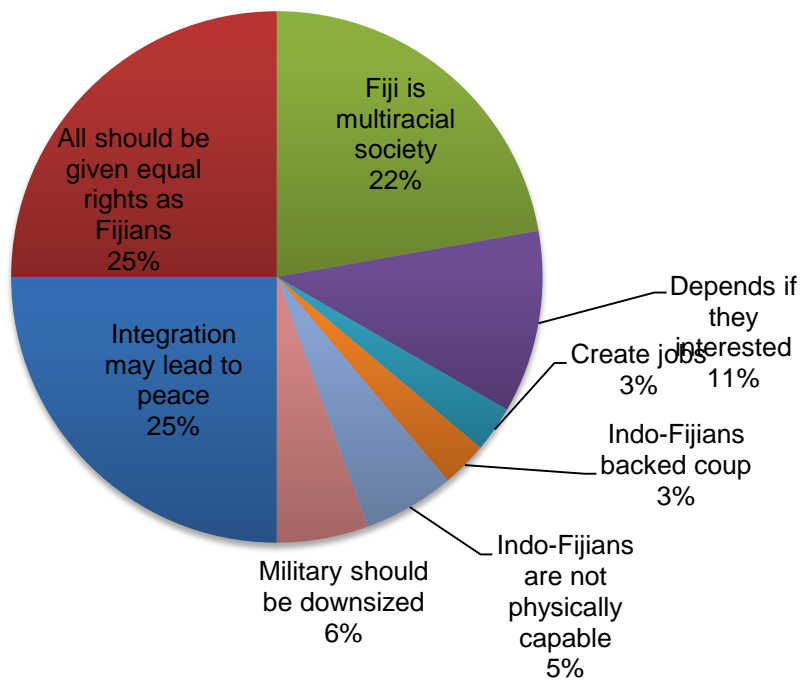
The Fijian military personnel, I believe see themselves very much on the concept of 'bati' [traditional warrior class in Fijian culture], *you have only to look at the emblem of Fiji to see the warriors on national emblem, so military and rugby both perpetuate that mentality. So military is very much an expression and extension of that culture in Fiji. Inherent in that is the protection of the chief at all costs so these are the cultural values that are perpetuated within the military as well. So if the Commander says to do something, they will do it due to their cultural thinking and their military discipline on top of that.* (Andrew Hughes – Former Commissioner of Fiji Police)

The recruitment of Indo-Fijians could be done through policies as you can use human rights law to promote affirmative action within government institutions because government institutions are funded by the tax payers' money. This way, the military could try to recruit people from different groups and gender in proportionate to the population. But they also need to make the institutions amenable to the Indians. For instance, if they bring Indians in but don't provide their food, emphasise only Christian values with military then it would be difficult to recruit even with affirmative action policies. The culture of Indians is not reflected in the way that they live in the barracks, so how will that encourage Indians to join? (Imrana Jalal – Human Rights Activist)

Discussion

Military reforms have been suggested for the Fiji military since the 1990s but no government in the past has been able achieve this. Some people are sceptical about military reform in Fiji while it remains so strong and enjoys its monopolistic position as the only armed institution in the country. The research responses also indicated that while many would like to see the military reformed, they also accept that this is unlikely to happen soon.

Despite these findings, this thesis argues that, if managed well, the present would be the best time for military reform as Bainimarama has a strong following within the military and, as the elected Prime Minister, he could legitimately start implementing reforms. Such reforms would need to be done gradually and need to be seen to be working with and not against the military. Some criticisms of reforms mooted in the past were:

1. The suggested downsizing was too much too soon; the 2005 recommendation was to downsize the military by almost 50%. This was sudden and too much. A more gradual downsizing of 5% per year for the next 10 years would be less dramatic and the redundant military personnel could be better absorbed in other employment sectors.

2. The 2005 reforms were suggested by the Qarase government, which was already on antagonistic terms with the military at the time. The military considered the suggested reforms as a reprimand and retaliated with anger and resentment. Any military reform should be implemented by a government that works closely with the military and the reforms need to take into consideration the military's concerns.

3. Suggested reforms in the past were always recommended by a civilian aligned government and as the military in Fiji is praetorian, they would take such recommendations as offensive and react in a militaristic way. Bainimarama is well placed to recommend military reforms as he is a career navy and military officer and his views are likely to have wider acceptance within the military.

Additionally, Bainimarama also has a proven track record of reforming problematic structures and policies in Fiji, the reforms of which were almost inconceivable in the past. But the window of opportunity may not be open for long. History shows that by the time Sitiveni Rabuka realised the error of his ways and wanted to de-politicise the military, he no longer had the patronage of the military. Like Rabuka, Bainimarama has reinvented himself as a politician since the 2014 elections and enjoys considerable backing from the community. And, at the moment, he still has the patronage of the military. If he were to start implementing gradual military reforms from now on, he could have a stronger mandate in the 2018 elections.

While vetting of military personnel by incoming government was considered in the questionnaire as a means of reforming the military, the research responses indicated that vetting could be difficult to implement for the military only and although the link to vetting is weak, the Fiji Independent Commission against Corruption (FICAC) has started some work to combat corruption.

Rule of law and the independence of the judiciary

In chapter 5, under the title 'Strengthening the rule of law', I have limited our discussion on the application of the rule of law to the security sector, as addressing all other related institutions would be outside the scope of this thesis. However, it is important to mention that, for any country transiting out of conflict and attempting security sector reform, it would also need to look at strengthening the judicial system (UNDP, 2003).

The issue of the lack of an independent judiciary is contentious in Fiji as the government has avoids and even suppresses discussion on this topic. This has

been reported by a number of local and international NGOs, including the Fiji Women's Rights Movement (FWRM) (2014: para 3.8) which stated in the stakeholder submission for Fiji's Universal Periodic Review (UPR) "The authorities particularly clamp down on any discussions referring to the independence of the judiciary". This was touched on briefly in the Chapter 2 and will be addressed in detail here. In 2012, the UK based NGO the Law Society Charity published research which claimed that "there is no rule of law" in Fiji and that "the independence of the judiciary cannot be relied upon" (The Law Society Charity, 2012: 11). This report is one of the few widely published documents that provide details of erosion of the rule of law, particularly in the offices of the Director of Public Prosecutions (DPP) and the judiciary, as shown by the following excerpts from that report:

PROSECUTORS

- o Josaia Naigulevu the long-standing and respected DPP of Fiji was dismissed along with the judges in April 2009. He was replaced by a young magistrate John Rabuku as Acting DPP in June of that year.

- o Rabuku was himself replaced by former military lawyer Aca Rayawa, who became Acting DPP in January 2010.

- o There followed a series of dismissals of prosecutors and by April 2010 there were only 5 in the office who had been appointed before 2006. 12.4 In October 2010 Rayawa was dismissed and he was replaced by Ayesha Jinasena a Sri Lankan who became DPP on a 2-year contract. The dismissal of 2 more senior lawyers followed in December.

- The office of the DPP and that of FICAC became populated with the newly qualified and lawyers imported from Sri Lanka.

- The overall responsibility for the dismissal of the prosecutors lay with the Attorney General. Reasons were not given.

- It is clear that some of them [sacked lawyers] are experiencing financial hardship.

- Shortly after the visit on 24 November 2011, Ayesha Jinasena was sacked and ordered to leave the Country.

- The new DPP is Christopher Pryde, a New Zealander who was previously, Solicitor General in the Government.

THE JUDICIARY

- There had been a significant erosion of the ranks of the judges, in particular at a senior level, prior to the revocation of all appointments in April 2009.

- The Head of the judiciary is Chief Justice Gates. He had been appointed Acting Chief Justice after the last coup. In October 2007 he commenced hearing Qarase v. Bainimarama, which challenged the legality of the Regime's actions following the coup, as head of a panel of 3 judges in the High Court at first instance. Judgement was not handed down until over a year later when the Court found in favour of the Regime and Acting Chief Justice Gates in effect reversed himself in Republic of Fiji v. Prasad. It was the reversal of the Qarase decision by the Court of Appeal which brought on the dismissal of the judges.

- The IBA [International Bar Association] Report of 2009 deals in detail with the finding that the then Justice Gates was found to have perjured himself by the Fiji Court of Appeal in connection with evidence given to it about a criminal trial over which he had presided in 2004.

- The judges dismissed in April 2009 were given no reasons, no notice and no compensation for loss of office. It is apparent that their sin was to comply with their oath of office and to act independently rather than any misconduct. It is difficult to conceive of a more obvious attack on judicial independence.

- Some judges suffered financially as a result whereas others have found more lucrative positions. It was clear from the interviews that the judges had a strong commitment to public service and had gained considerable job satisfaction from their work.

- The loss of so many judges presented the Regime with practical problems in relation to continuing the operation of the courts. Chief Justice Gates, as he now is, has used his personal connections with Sri Lanka to recruit judges from there in large numbers on short term but renewable contracts. The quality is held to be variable. Maintaining independence from government in their position must be difficult. (The Law Society Charity, 2012: 9-10)

The frequent dismissal of judges and public prosecutors has undermined the rule of law in Fiji and weakened the judiciary. This was neatly encapsulated by a senior civil servant:

Most of the Senior Legal Officers prior to the 2006 had been terminated and the new ones that joined in are mostly those that have family, relatives or friends of the present government. Some have been transferred to the DPPs Office from the Fiji Military Forces. So we have enough number of staff in office but they are no way near the same calibre to what we had before. I have worked in DPP's Office for the last 25 years and have never seen anything like of this before, even during past coups, we never had so many terminations. (Lubna – pseudonym for a senior Civil Servant)

However, David Tonganivalu, who was the Deputy Director of Public Prosecutions (DPP) at the time of the interview stated that terminations were not political and do not affect the functioning of the DPP Office. Mr Tonganivalu was also terminated in 2011.

No, I don't think that the [DPPs] *office is compromised because we are still doing the same work that we were doing prior to the coup. It doesn't matter if it's the same DPP as before or the one appointed by the military the work is still ongoing. I would say that maybe only 1% of the files would have some political element to it, the other 99% of the files are crimes committed by persons out there in the community against other members of the community, such as cases of robbery, murder, sexual offences, home invasions, traffic matters. Like I said, we still doing our functions like we get the files, we assess and we still prosecute matters, irrespective of who sits as the DPP.*
(David Tonganivalu – Former Deputy Director of Public Prosecutions)

But another former DPP states that it is clear that some interference is occurring in the DPP's Office, particularly in the recruitment and termination processes.

To some extend the judicial process is being interfered with. I don't know if the prosecution process is interfered with, but the <u>recruitment process is definitely interfered</u> with. You can see that from the type of people that are brought in to work in the DPPs Office now. They are saying they need qualified people but many qualified people don't want the risk of working there because of job security. Job security is the biggest factor I feel, because you don't know when you could be terminated and with little to no valid reasons for termination. We hear that outside influences are affecting decisions at the DDPs Office these days; we wonder whether due process is being followed in the recruitment and termination process. (John Rabuku - Ex-Director of Public Prosecutions) [emphasis added]

I believe our rule of law situation under this interim government is similar to what was in the Animal Farm book. It apparently started with a good intention but now it's a rule of 'convenience' so you worry especially in terms of law and so on. Because when the judicial system is subject to being compromised, than I think we really have a serious issue, because then what mechanism do you have to get fair justice, who do you appeal too? (Atalia - pseudonym for a University scholar)

In 2012 it was reported that a former judge of the Fiji Court of Appeal, Justice William Marshall, submitted a petition to the interim Prime Minister to dismiss the Attorney General for interference with the judiciary (Fiji Labour Party, 2012). Justice Marshall claimed that:

"At all levels, judges having heard the evidence, having researched and found the applicable law, and having listened to the submissions of the parties now ask themselves: <u>'Now what would the Attorney General like my decision and judgment in this case to be?'</u> and make their judgment and orders in line with their answer" (Fiji Labour Party, 2012). [emphasis added]

Discussion

There is clear evidence from this research data as well as other reports cited above that the judiciary and the prosecutor's office in Fiji have been compromised. Instead of the government adopting a defensive stance and prosecuting people who allege that the judiciary and the prosecutor's office have been weakened; it needs to address this issue urgently. During the 2014 Fiji's Universal Periodic Review (UPR) submissions, questions were again raised on the issue of judicial independence (OHCHR, 2009; 2014) but the government's UPR team claimed that all allegations of interference with the judiciary were false.

An accepted standard amongst many judiciaries around the world are the Bangalore Principles of Judicial Conduct (Judicial Group on Strengthening Judicial Integrity, 2002) whose Preamble recognises the

> *"…the importance of <u>maintaining not only actual independence and impartiality but also the appearance thereof,</u> in order to maintain 'public confidence in the judicial system and in the moral authority and integrity of the judiciary [which] is of the utmost importance in a modern democratic society" [emphasis added] (ibid.).*

These concepts of independence and impartiality and "the appearance thereof" are crucial for Fiji. Despite the claims of the Attorney General and the Director of the Public Prosecutions Office that their institutions have not been interfered with, the many reports, such as the various stakeholder reports submitted for 2014 UPR, stating otherwise do not inspire trust and public confidence. Rather than prosecuting people for criticising the judiciary as impartial, the government should

conduct a review of all legal institutions and engage with local NGOs and other stakeholders in this process.

CONCLUSION

This chapter has focused on some of the tools identified by respondents that could be utilised to prevent recurrence of coups in Fiji. Core issues included the use of education to foster national identity among the different ethnic groups; the reform of educational institutions; the accountability of coup perpetrators and the related issue of amnesty; and lastly, the concept of military reform.

The Bainimarama government has introduced a number of reforms in the educational sector to encourage integration and national identity. While these changes are welcome, human rights based approaches should be utilised to ensure that these reforms are recognised internally and therefore sustainable. Such reforms should be done in a participatory and empowering manner rather than through a 'top down' approach. The authoritarian approaches have worked while the military was running the interim government but with democracy in place since September 2014, the government needs to be more transparent and accountable for its actions, plans and reforms.

The use of sports such as rugby has not been overtly deployed to construct a national identity. Rugby, while divisive in its selection of players and management, has a huge following amongst all ethnic communities in Fiji. In recent years, the Fiji Women's Crisis Centre has explored the use of sports to address issues of domestic violence by funding local rugby teams and getting the male rugby players to raise awareness on violence against women and children (The Fiji

Times, 2016; Fiji Women's Crisis Centre, 2012). NGOs and businesses in Fiji could also explore how sponsorship of rugby teams could be used to promote national identity and unity.

The issue of an impartial and independent judiciary has been much discussed in Fiji and much evidence is cited to indicate that the judiciary and the prosecutor's office have been weakened since the interim government came to power. The government continues to deny this, both nationally and internationally, yet people no longer have faith in these institutions. The government needs to acknowledge that to inspire trust in important state institutions such as the judiciary and the DPP's Office, it needs to consult communities and initiate reforms to restore these institutions to legitimacy. A possible mechanism might be a review to ensure that the recruitment and termination processes for prosecutors and judges are transparent and follow due process.

CHAPTER 10:   OVERALL CONCLUSIONS

This research, examined how some transitional justice strategies can address conflicts that are distinctive to small island developing states (SIDS). Transitional justice approaches include a whole range of ways that society's coming out of conflict use to address past abuses, seek accountability, justice and reconciliation to re-establish peace (see pages 17-23 for discussion on this).

This research integrated the applied research elements into basic research. A combination of both quantitative and qualitative methods was utilised to collect data, after taking into account the various strengths and weaknesses of both methods. Three specific data collection methods were utilised: focus groups interviews, semi-structured questionnaires and key informants. However, the focus group interviews were discarded after realising the pervasiveness of fear within different groups and the lack of trust of each other within the community, particularly when discussions on the coups and the military was attempted. In total 50 persons were interviewed using semi-structured questionnaires and 16 key informants were interviewed using the key informant interviews using the in-depth approach.

The overall research question was: 'How can transitional justice strategies address conflicts that are distinctive to small island developing states?' and the more specific questions relating to amnesty, military reform and international law are:

a. Should amnesty be granted for political crimes such as the overthrow of democratic governments?

b. Does the international focus on amnesty for gross violations indicate international sanction for political crimes such as coups d'état?

c. How can a praetorian military be reformed?

d. How could coups be prevented in small island developing states?

Reflecting back to the research questions, this thesis affirms that some mechanisms of the transitional justice approaches can be applicable to SIDS conflict, particularly conflicts that were structural in nature. In searching for a mechanism suitable for countries like Fiji, this thesis studied the Joinet/Orentlicher Principles of 'Dealing with the Past', which was an off-shoot of the transitional justice approach and has a strong focus on impunity. The Joinet/Orentlicher Principles proposes four rights: right to know, right to reparations, right to justice and right to non-occurrence of conflict (see Figure 1: page 21). This thesis utilised the *right to non-occurrence of conflict*. The fourth principle is the most applicable aspect of the Joinet/Orentlicher Principle to Fiji as it addresses military and institution reforms; both areas that are problematic in Fiji, as it has praetorian military and entrenched structural conflicts. The aspect of the Joinet/Orentlicher Principle is also the most neglected in the academic studies. See pages 19-21 for discussion on this issue.

The thesis confirms that many respondents and key informants do not regard amnesty for coups d'état in a positive light and consider it unjust. Figure 18 (p. 286) demonstrates that a resounding 78% of the respondents consider amnesty for coup perpetrators as bad. A number of key informants also think that amnesty is bad as it sends the wrong signals to the coup perpetrators and to future generations. But they have also acknowledged that the military is too strong at this

stage in Fiji to be held accountable. In Fiji, the military is well versed in portraying itself positively to the people and they sense some acceptance amongst the public of their self-awarded amnesty because of the belief that the 2006 coup has been, in some ways, beneficial. To some extent their views are justified as Bainimarama's interim government was able to dismantle some structures and policies that were deeply divisive. However, there is also uneasiness with the growing strength of the military, particularly due to the 2013 Immunity Act. This Act ensures that the military cannot be held accountable for any of the coups d'état in any form, even in future. This law may be contested at some point but it is unlikely that this would be done in a local court as clauses 158(2) and (3) of the Immunity Act sets limitations on seeking justice.

However, instead of accepting the minimalist approach and acquiescing to amnesty for coup perpetrators, there can be other avenues of seeking justice. The new democracy could be used to demand some form of justice, perhaps through a truth commission, truth telling and/or the public process to share stories of atrocities that have occurred during periods of overt conflict. This is important as Fiji's history is silent about the human rights violations that have occurred during times of coups, due to stringent media censorship.

One of the limitations of this research was the inability to interview two important key informants, to collect data from them on the issue of international law and its limited application to the SIDS conflicts, particularly structural conflicts that are not violent. The key informants were a senior staff from UNDP's Crisis Prevention and Recovery Unit in Suva, and the head of the Political Governance and Security Programme of the Pacific Islands Forum Secretariat. Due to this limitation, I was

unable to arrive at any concrete conclusion on the question 'that international focus on amnesty for gross violations indicates international sanction for political crimes such as coups d'état'. This issue could be investigated in another research in future.

This thesis findings indicate that there were mixed views on the issue of military reform. Table 10 (page 291) shows that only 14% of the respondents felt that the military should be disbanded, and 25% considered downsizing as a reform measure and a significant 29% wanted the military to remain the same and 14% wanted to increase it. Table 11 (page 292) gives the reasons for their suggestions. Similar to the Defence Review suggestions, 20% of the respondents stated that there was no need for a military in Fiji and 15% of respondents were concerned about the military's interference in politics even though two thirds of this group of respondents wanted the military to remain as it is. 19 percent felt that the military was doing a great job and they considered either increasing the military's size or letting it remain the same.

A key informant believes that we may never be able to disband our military as their UN peacekeeping missions are a major source of income for many families and relatives. The respondents did not feel so strongly about this view as only 3% considered the military as a source of income, but all the respondents in this group wanted the military to retain its present size. Another key informant stated that military cannot be downsized in a short period of time. Fiji's military is praetorian and have too much power at the moment for this to occur without another coup.

While vetting of military personnel by incoming government was considered in the questionnaire as a means of reforming the military, the research responses indicated little interest in this aspect of reform and some key informants state that vetting could be difficult to implement for the military as they already hold powerful positions. Table 7 (page 283) also shows that 78% of the respondents stated that coup perpetrators should be held accountable as coups are illegal.

The narrative of military downsizing has been in Fiji's military discourse since 1997 and both the 1997 and the 2005 Defence White Paper made suggestions to downsize the Fiji military to almost half its current size. However, any government attempting to reform their military after conflict needs to take into consideration of military strength and be perceptive of the right time. The culpability of the military downsizing incident in 2005 lies equally with the Qarase led government and the Fiji military. Qarase should have acknowledged the strength of the RFMF military and collaborated with them to implement gradual changes, instead of pushing to downsize the military by 50% in a short period of time. The quick downsizing of the military was considered as a punitive measure by the military. Additionally, Qarase should not have endorsed such a reform, due to his strong alliances with the nationalist Fijian groups, as the military had an antagonistic relationship with them.

However, such military reforms are possible if a leader has the support of the military and the civilian government. Prime Minister Bainimarama has carried out a number of significant structural and policy reforms in Fiji that were unthinkable in the past. But, he has been silent regarding military reforms. I strongly feel that Bainimarama is in an ideal position to carry out reforms in the military and to

repeal laws that are restrictive and violate human rights such as the freedom of association, media self-censorship and harassment of human rights defenders. Bainimarama has the mandate from the people as well as the backing and respect of the Fiji Military Forces, who still regard him as one of their own. In such a scenario, Bainimarama can negotiate downsizing military in a gradual manner and allow the current military personnel to be absorbed into other sectors of work. However, it remains to be seen if Bainimarama is genuinely interested in developing Fiji towards stability or whether the rhetoric is selective and the military continues to be beyond reproach.

Apart from the issue of amnesty for political crimes such as coup d'etat and reforms of a praetorian military, findings show a number of other important reforms, presented by the respondents and key informants that could assist in preventing the reoccurrence of coups in Fiji. These include; education to foster a national identity, reforms in the education system, and reforms to the rule of law as well as to the judiciary. One key informant stated that to 'foster a strong national identity among Fijians and Indo-Fijians, the concept of nation-state should be developed'. The reforms by the Bainimarama government in the educational institutions, such as the removal of religious or ethnically affiliated names and the dismantling of ethnically divisive scholarships schemes in favour of a more merit based approach are encouraging but again these reforms need to be implemented after in a manner that is compliant to the good governance principles, to have sustainable benefits. There is clear evidence from this research data as well as other reports cited in chapter 9 (299-305), that the judiciary and the prosecutor's office in Fiji have been compromised. Instead of the government adopting a defensive stance and prosecuting people who allege that the judiciary

and the prosecutor's office have been weakened; it needs to address this issue urgently.

Transitioning countries need to be careful in striking a balance between demanding justice and accountability and granting amnesty when the perpetrators are still in power or continue to hold significant influence. In Fiji, Bainimarama and many people associated with the 2006 coup continue to be in power through the 2014 democratic elections. This and the significant militarisation of Fiji's civil service indicate that military influence is entrenched and will continue to be part of our political landscape for many years to come. In such a scenario, amnesty for coup perpetrators is unlikely to be contested. However, instead of accepting the minimalist approach to seeking justice, the new democracy could be used to demand some form of justice, maybe through the truth commission, truth telling and/or public narratives to share their stories of atrocities that occurred during eight years under the military led government after the 2006 coup. This is important as our history is silent about the human rights violations that have occurred during times of coup, due to stringent media censorship.

This research also affirms that the perception of the military as the *'bati'* (traditional warriors), is problematic as this encourages glorification of the military, even when it interferes in internal politics and internal defence, and is one of the factors that has allowed the Fiji military to be praetorian. This was seen in all four coups. This has emboldened the military to start assuming an oversight role over the civilian government. This had never occurred in Fiji before, even though the military were involved in politics since 1987.

This research finding also indicates that in order to carry out reforms, it is important to understand how the community view coups in Fiji and why they have such perceptions. The findings show that the community's perception of whether the coup is good or bad, or both good and bad, shifts based on a number of subjective issues. Some responses indicated that the 2006 coup was considered as good due to the 'payback mentality' by the Indo-Fijians. This troublesome view indicates a lack of national identity in Fiji as these communities have watched each other suffer through coups but rather than supporting those who need support when against human rights violations occurred, they took a bystander's approach; many from the Fijian community did this during 1987 and 2000 coups and the Indo-Fijians replicated that behaviour in 2006. If Fiji is to transit into a peaceful country with 'positive' peace, it is essential that all ethnic countries form a national identity. Some recent changes in policies such as electoral reform leading to one person one vote, legally recognising Fijians of all ethnic descent as 'Fijians', removing ethnic and religious names from state aligned institutions such as schools, are in the right direction. However, many of these changes were done in an authoritative 'top-down' approach and have caused resentment among different ethnic groups. More participatory approaches need to be incorporated to ensure that such reforms are owned and implemented by the people themselves. One of the most contentious issues in forming a national identity in Fiji is the concept of *'vulagi'* (foreigner) for Indo-Fijians, despite many Indo-Fijians being fourth or fifth generation Fiji born citizens. Findings from this thesis indicate that there should be more discussion and awareness on this concept and how it is perceived by the two major ethnic groups in Fiji.

While the 2006 coup was regarded as bad, it was also regarded in positive terms by some respondents as they felt that it allowed the interim government to implement major reforms such as the electoral system; the dismantling of the powerful Great Council of Chiefs; banning the Methodist Church from the political arena; some contentious structural and policy reforms such as the customary land use and distribution of royalties. These really are remarkable achievements all these reforms are very sensitive in nature as all these reforms are linked to indigenous Fijian culture and tradition.

However, it is problematic that the Bainimarama's interim and presently elected governments have chosen not to address military reforms as it is closely identified with coups in Fiji. According to Joinet, a praetorian military such as in Fiji should either be disbanded or downsized; all public emergency laws should be repealed and officials who were implicated for serious human rights violations should be removed from office. The Bainimarama led government has not carried out any such reforms, apart from repealing the public emergency laws in 2012, in preparation for the 2014 elections. In fact, many of the senior officials who were aligned with the 2006 coup and supportive of the Bainimarama led government have been 'rewarded' with ambassadorial postings or are heading government ministries and public boards and their family and relatives have been recruited in the civil service with little transparency, and so on.

The findings of this research is important as transitional justice approaches have not be been applied structural conflicts, such as Fiji as it is usually regarded as a framework that would be applicable in more violent and larger states post-conflict

scenarios. The Joinet/Orentlicher Principles of 'Dealing with the Past' can be applied constructively in small island developing states (SIDS) conflicts.

Recommendations

Based on the findings of this thesis, my policy recommendations would be to:

1. Repeal the problematic military law that justifies 'coup' as a normal military operation and hence allows coup perpetrators to be awarded amnesty.

2. Gradually implement military reforms such:

    a. Reduce the number of military personnel

    b. Retain the number of military personnel for peacekeeping missions only

    c. Ensure the ethnic and religious sections of the Fiji society are reflected in the military

    d. Ensure that military institutions create space for persons of all faith to practise their faith.

2. Create policies to ensure vetting of individuals, for their involvement in political crimes relating to coups d'état prior to hiring of any individuals, in the civil, statutory as well as private sector.

3. Ensure that all new policies implemented go through genuine participatory process for stronger ownership of the policies.

4. Create policies and institutions to allow for public discourse on atrocities that have occurred during the coup periods in Fiji, such as a truth commission.

My recommendations for practical application are:

1.   Engage NGOs/CSOs to conduct awareness and discussions on the concept of 'vulagi' and citizen, to enhance efforts in building national identity.

2.   Conduct intensive trainings for Senior Military personnel so they understand the concept of civilian oversight of the military and their own role in the security of the country.

3.   Engage with opposing sections within the community to identify ways to move the country forward, particularly in nation building.

I would also recommend the following to academia:

1.   Start discussion and debates on amnesty for coups and military reform.

2.   Carry out research on developing benchmarks for conflicts in small island developing states (SIDS).

3.   To carry out research on the application and limitation of international laws pertaining to conflict to structural conflicts and conflicts in SIDS.

4.   Create a databank (anecdotal as well as 'hard evidence') of atrocities that had occurred during the coup periods and com

This thesis concludes that transitional justice mechanisms would be applicable to small island developing states but it would need to be tailored to the country's specific needs and any government carrying out such reforms need to engage with relevant stakeholders before any reforms are implemented and not implement important structural reforms in a militaristic manner. Additionally, if we are to ensure that another coup does not occur in the future, Fiji has to ensure

that the military reform and amnesty discourses are revived and implemented in a sensitive manner that appeases people from all sides of the spectrum. Having a national amnesia on military reform and amnesty will drive such discussions underground and may fester into future conflicts.

Words: 81,600

Annex 1: Country by Successful and Attempted Coups D'état, by Decade

Country	Successful coups								Attempted coups							
	50s	60s	70s	80s	90s	00s	2010-2016	Total	50s	60s	70s	80s	90s	00s	2010-2016	Total
Abu Dhabi		1						**1**								**0**
Afghanistan			4					**4**								**0**
Algeria		1			1			**2**					1			**1**
Argentina	1	2	1					**4**	1			3	1			**5**
Azerbaijan					1			**1**					1			**1**
Bangladesh			3	1				**4**			10	11			1	**22**
Benin		3	1					**4**							1	**1**
Bolivia		2	1	1				**4**								**0**
Brazil	1	2						**3**	1							**1**
Burkina Faso		1		4				**5**						1		**1**
Burma (Myanmar)		1		1				**2**								**0**
Burundi		1	1	1	1			**4**						1		**1**
Cambodia		1			1			**2**								**0**
Cameroon								**0**			1					**1**
Central African Republic		1	1	1		1		**4**								**0**
Chad			1					**1**						2	1	**3**
Chile			1					**1**		1						**1**
Colombia	1							**1**								**0**
Comoros			3	1	2	1		**7**						1		**1**
Cuba	2							**2**	1							**1**
Cyprus			1					**1**								**0**
DRC		2			1			**3**						2	1	**3**
Dominican Republic		1						**1**								**0**
Ecuador		1	1			1		**3**						2	1	**3**
Egypt	1						2	**3**								**0**
El Salvador		1	1					**2**								**0**
Equatorial Guinea			1					**1**						1		**1**
Ethiopia			1		1			**2**		1		1				**2**
Fiji			2			2		**4**								**0**
France								**0**	1	1						**2**
Gambia					1			**1**				1			1	**2**
Georgia					1			**1**								**0**

Ghana		1	3	1				**5**		1	1					**2**
Greece		1	1					**2**								**0**
Grenada			1	1				**2**								**0**
Guatemala	1	1		1				**3**						1		**1**
Guinea				1		1		**2**								**0**
Guinea-Bissau				1	1	1	1	**4**						1	2	**3**
Haiti				1	1	1		**3**								**0**
Honduras		1	3			1		**5**								**0**
Indonesia		1						**1**		1						**1**
Iran	1		1					**2**			1					**1**
Iraq	1	2						**3**								**0**
Italy			1					**1**								**0**
Ivory Coast					1			**1**						1	1	**2**
Japan								**0**			1					**1**
Kenya								**0**				1				**1**
Laos		1						**1**						1		**1**
Lesotho				1	1			**2**							1	**1**
Liberia				1	1			**2**								**0**
Libya		1						**1**							2	**2**
Madagascar			1					**1**						3	1	**4**
Mali		1			1		1	**3**							1	**1**
Mawali								**0**							1	**1**
Mauritania				1		2		**3**						1		**1**
Muscat & Oman			1					**1**								**0**
Nepal						1		**1**								**0**
Nicaragua		1						**1**								**0**
Niger			1		1	1	1	**4**							1	**1**
Nigeria		3	1	2	1			**7**			1			1		**2**
Oman			1					**1**								**0**
Pakistan	1	1	1		1			**4**	1							**1**
Panama		1						**1**					1	1		**2**
Paraguay	1			1				**2**								**0**
Peru		2	1		1			**4**						1		**1**
Philippines								**0**					3	3		**6**
PNG								**0**							1	**1**
Poland				1				**1**								**0**
Portugal			1					**1**								**0**
Qatar					1			**1**								**0**
Republic of the Congo		1	1		1			**3**								**0**

Country																
Romania				1				**1**								**0**
Rwanda			1					**1**								**0**
São Tomé and Príncipe					1	1		**2**								**0**
Seychelles			1					**1**				1				**1**
Sierra Leone		3			3			**6**								**0**
Solomon Islands					1			**1**								**0**
Somalia		1			1			**2**								**0**
South Korea		1	1					**2**								**0**
South Vietnam		2						**2**								**0**
Soviet Union					1			**1**					1			**1**
Spain								**0**				1				**1**
Sri Lanka								**0**		1						**1**
Sudan		1	1	2				**4**							1	**1**
Suriname				1	1			**2**				2				**2**
Syria		2	1					**3**								**0**
Thailand	2		2		1	1	1	**7**	1							**1**
Timor Leste								**0**						1		**1**
Togo		2			1			**3**								**0**
Trinidad & Tobago					1			**1**								**0**
Tunisia			1					**1**								**0**
Turkey		1	1	1	1			**4**		1				1		**2**
Uganda		1	1	1				**3**								**0**
Uruguay			1					**1**								**0**
Venezuela	1							**1**					2	1		**3**
Yemen		1	1				1	**3**								**0**
TOTAL	**14**	**54**	**53**	**32**	**32**	**17**	**7**	**209**	**6**	**6**	**15**	**26**	**10**	**20**	**21**	**104**

Sources: Human Security Brief, 2007; McGowan, 2003; BBC Country Profiles; Information Please Database; University of Heidelberg's Institute for International Conflict Research; Queen's University, Belfast Amnesty Database and country website where available.

Annex 2: Country by Coups D'état, Years under Military rule and Grant of Amnesty

Country	Year by Successful Coup	Year by Attempted Coup	No. of Years under Military Rule	Amnesty Dates
Abu Dhabi	1966		5yrs	
Afghanistan	1973, 1978, 1979, 1979		3yrs, 1yr	Amnesty Decrees in 1979, 1980, 1981
Algeria	1965, 1992		11 yrs, 2yrs	Evian Accord in 1965, Presidential Decree in 1999
Argentina	1955, 1962, 1966, 1976	1987, 1988, 1988, 1990	7yrs, 7yrs	27/5/1973, 23/9/1983
Azerbaijan	1993	1995	1yr	
Bangladesh	1975, 1975, 1975, 1982	21 attempted coups between 1977 – 1981	6yrs, 8yrs	Indemnity Ordinance - 26/09/1975, Amnesty Act 3/10/1983
Benin	1963, 1965, 1969, 1972		1yr, 3yrs, 1yr, 5yrs	Promulgation de la Presente - 26/10/1972
Bolivia	1964, 1969, 1970, 1980		2yrs, 10yrs, 2yrs	Presidential Decree on 25/10/1984
Brazil	1955, 1964, 1969		21yrs	Amnesty Act 28/08/1979 and 31/10/1979
Burkina Faso	1966, 1980, 1982, 1983, 1987		4yrs, 11yrs	Amnesty Decree in 26/07/1991
Burma (Myanmar)	1962, 1988		49yrs	Amnesty Order on 20/7/1989, General Amnesty in 1963
Burundi	1966, 1976, 1987, 1996		27yrs, 5yrs	Decrees on 27/9/1967, 30/8/1990
Cambodia	1970, 1997		1yr, 6yrs	Royal Decree - 14/9/1997
Cameroon		1984		
Colombia	1957			

Central African Republic	1965, 1979, 1981, 2003		10yrs, 4yrs, 2yrs	Amnesty Law - 15/3/1997, 23/4/2003
Chad	1975	2004, 2006	3yrs	Accord on National Reconciliation - 22/8/1979
Chile	1973	1973	17yrs	Diario Official No. 30.042 - 19/4/1978
Comoros	1975, 1976, 1978, 1989, 1995, 1999, 2001		3yrs	34976
Cuba	1952, 1959			
Cyprus	1974			Amnesty - 8/12/1974
Democratic Republic of the Congo	1960,1965, 1997	2004, 2004	2yrs	Amnesty by President - 10/7/1999
Dominican Republic	1962		3yrs	Amnesty Proclamation - 1962
Ecuador	1963, 1976, 2005	2000, 2010	3yrs, 5yrs	Decree No.52 in 1967, Amnesty on 21/1/1976
Egypt	1952, 2011, 2013			
El Salvador	1961, 1979		1 yr	Decree 5 1960, 16/8/1979
Equatorial Guinea	1979	2004	8yrs	29108
Ethiopia	1974, 1991	1960, 1989	13yrs	Amnesty on 11/9/1975
Fiji	1987, 1987, 2000, 2006		1yr, 1yr, 3yrs	Proclamation of Amnesty on 19 May 1987, 9/7/2000, 18/1/2007
France		1961		
Gambia	1994	1981	2yrs	
Georgia	1991			State Amnesty - 4/8/1992

Ghana	1966, 1972, 1978, 1979, 1981	1967, 1979	3yrs, 7yrs, 12yrs	6/5/1972, 10/7/1978, 26/9/1980, 1/1/1983
Greece	1967, 1973		7yrs	Amnesty Decrees - 20/8/1973
Grenada	1979, 1983		4yrs	
Guatemala	1954, 1963, 1983	1993	3yrs, 16yrs	Decreto Ley 33 - 82, - 24/5/1982
Guinea	1984, 2008		7yrs, 1yr	
Guinea-Bissau	1980, 1999, 2003, 2012	2010	4yrs	24/9/1999, 11/4/2004
Haiti	1988, 1991, 2004		4yrs	33596
Honduras	1963, 1972, 1975, 1978, 2009		2yrs, 10yrs	Decreto No. 71 - 1963, 555 - 5/12/1977
Indonesia	1967	1965	1yr	
Iran	1953, 1979	1979	1yr	28946
Iraq	1958, 1963, 1968			
Italy		1970		
Ivory Coast	1999	2006	1yr	36553
Japan		1970		
Kenya		1982		
Laos	1960	2007		
Lesotho	1986, 1994		7yrs	
Liberia	1980, 1990		4yrs	23/12/1981, Cotonou Accord - 25/7/1993
Libya	1969		42yrs	
Madagascar	1975	2006, 2009, 2010	26yrs	34058
Mali	1968, 1991, 2012		8yrs, 1yr	
Mauritania	1984, 2005, 2008	2003	14yrs, 2yrs,	9/3/91, 14/6/93, 2/9/05, 27/11/06

			1yr	
Muscat & Oman	1970		26yrs	
Nepal	2005			
Nicaragua	1967		12yrs	1967, 13/12/78
Niger	1974, 1996, 2010		17yrs, 1yr	Amnesty Law - 18/7/1999
Nigeria	1966, 1966,1967, 1975, 1983, 1985, 1993	1976, 1990	13yrs, 16yrs	
Oman	1970			
Pakistan	1958, 1969, 1977, 1999		11yrs, 8yrs	1/1/1977, 1/1/2004
Panama	1968	1989, 1990	22yrs	14/7/87, 5/1/88
Paraguay	1954, 1989		30yrs	
Peru	1962, 1968, 1975, 1992	1992	1yr, 5yrs,12yrs	Various decrees - 21/12/1970, 12/5/1992
Philippines		1986, 1987, 1989, 2003, 2006, 2007		
Poland	1981		2yrs	
Portugal	1974			Political amnesty 173/174 - 26/4/1974
Qatar	1995		4yrs	
Republic of the Congo	1968, 1977, 1997		9yrs, 15yrs	36510
Romania	1989			Legislative Decree No. 3 - 4/1/1990
Rwanda	1973		2yrs	27363
São Tomé and Príncipe	1995, 2003			37826

Seychelles	1977	1981		
Sierra Leone	1967, 1967, 1968, 1992, 1996, 1997		1yr, 2yrs, 1yr	35399
Solomon Islands	2000			Amnesty Act - 15/10/2000
Somalia	1969, 1991		7yrs,	27030
South Korea	1961, 1979		2yrs, 2yrs	Amnesty Decree - 19/7/1979
South Vietnam	1963, 1964		12yrs	
Soviet Union	1993	1991		
Spain		1981		
Sri Lanka		1962		
Sudan	1969, 1971, 1985, 1989		6yrs, 17yrs, 7yrs	26636
Suriname	1980, 1990	1981, 1982	8yrs	1/7/1980, Amnesty Law No. 5544 - 19/8/1992
Syria	1963, 1966, 1970		9yrs	
Thailand	1951, 1957, 1971, 1976, 1991, 2006, 2014		16yrs, 2yrs	16/9/1991, 4/4/1991, 1/10/2006
Timor Leste		2008		
Togo	1963, 1967, 2005		37yrs	33339
Trinidad & Tobago		1990		
Tunisia	1987		2yrs	
Turkey	1960, 1971, 1980, 1997	1963, 2007	1yr, 2yrs	Repentance Law - 24/3/1988
Uganda	1966, 1971, 1985		5yrs, 8yrs, 1yr	27/12/1978, Amnesty Statute No. 6 - 12/6/1987

Uruguay	1973		12yrs	22/3/1985, 22/12/1986
Venezuela	1958	1992, 1992, 2002		
Yemen	1962, 1974, 2015		16yrs	

Sources: Human Security Brief, 2007; McGowan, 2003; BBC Country Profiles; Information Please Database; University of Heidelberg's Institute for International Conflict Research; Queen's University, Belfast Amnesty Database and country website where available.

Annex 3: Timeline of tension and conflicts in Fiji; 1970 – 2010

1970		Fiji gains independence on 10th October.

1970   Fiji gains independence on 10th October.
First constitution approved. Parliament, Senate and voting system allocated along ethnic lines. Safeguards the traditional rights and land ownership of ethnic Fijians.

1972   Alliance Party wins the first general elections and Ratu Sir Kamisese Mara becomes Fiji's first Prime Minister, following two years of unelected rule since independence. Alliance Party secured 25% of Indo-Fijian votes; the last time it acquired had such a large Indo-Fijian backing.

1977   General elections held in April. The National Federation Party (NFP) (largely Indo-Fijian) won by two seats but couldn't form the government due to internal power struggle. The NFP leader, S.M.Koya (a Muslim) couldn't secure the backing of mostly Hindu NFP members to agree on him being a PM. The Governor General appointed Ratu Mara as the PM.

People had voted along ethnic lines and Sakeasi Butadroka's Fijian Nationalist Party fractured the ethnic Fijian votes as he got 25% of Fijian votes but his nationalist stance deterred Indo-Fijians voting for Fijian aligned parties.

      September   Second election NFP derailed in the midst of bitter infighting and contested elections as two factions leading to their loss and win of the Alliance Party. Ratu Mara was back in power.

1982   General election. The Alliance Party won but its popularity had declined in both ethnic communities.

1984   November   Government announced a wage freeze.

1985   March   Instead of calling for a national strike, subsequent to wage freeze, the Fiji Public Service Association (the largest trade union in Fiji) decided to associate with a larger organization to pursue workers' rights.

1987   July   The Fiji Labour Party was created with the backing for trade unions. General election.

      14 April   Fiji Labour Party (comprised of indigenous Fijian and Indo-Fijian members) sets up new government after recent wins. The Alliance Party (mainly indigenous Fijians) had been in power since independence of 1970. Lieutenant-Colonel Sitiveni Rabuka and a group of soldiers execute a coup and assume control.

      17 – 26 May   Fiji's Chief Justice, Sir Timoci Tuivaqa, declares the coup illegal and invalid. Lt. Col. Rabuka is sworn in by the Governor General as the head of the military government, who grants him amnesty for his role in executing the coup.

Indo-Fijians are attacked by Taukei activists in Albert Park while attending a political rally and on the streets of Suva. The police and fully armed military watches but does nothing. Dr. Bavadra and his cabinet members are released from captivity.
A Council of Advisors, consisting of members of the defeated Alliance Party and the military is sworn in by the Governor General. Protests, demonstrations and meetings are outlawed through the imposition of the Public Emergency Regulation by the military.

	23 Sept.	Initiative by the GG to broker an equitable power sharing deal between the Coalition and the Alliance parties leads to the *Deuba Accord*, which displeases the military.
	25 Sept.	Lt. Col. Rabuka executes second coup
	5 Dec.	Military appoints presiding Governor General as the President and defeated Alliance Party leader as interim Prime Minister.
1990	25 July	A new racially slanted constitution is promulgate by the President. Indo-Fijians criticise the constitution as discriminatory and oppressive.
	24 Oct.	Dr. Anirudh Singh is abducted and tortured by RFMF for participation in protest against the constitution.
	17 Nov.	The Fiji Intelligence Services (FIS) becomes part of Fiji's internal security, with powers to open mail, bug telephones, detain suspects and confiscate properties of 'dissidents'.
1992	30 May	General elections. The Great Council of Chiefs (GCC) sponsored new political party SVT, led by coup leader Sitiveni Rabuka wins the election and becomes Prime Minister.
1993	29 Nov.	Rabuka's SVT government falls after 7 of its members vote with the Opposition to defeat the 1994 Appropriation Bill.
1995	25 Feb.	General election, SVT wins by recapturing 31 seats.
1995	15 March	A three member Constitutional Review Commission is established.
1997	14 May	The Constitution Amendment Bill unanimously passes both Houses of Parliament. For the first time it allows persons of any ethnic group to be the Prime Minister, prior to this only indigenous Fijians were allowed for this.
1999	8 – 15 May	General election under the 1997 multiracial constitution. Fiji Labour party wins majority 37 seats.
	19 May	Mahendra Chaudhry is sworn in by the President as the first Indo-Fijian Prime Minister of Fiji.
	29 May	Some indigenous Fijians march against the newly elected government.
	23 June	The Government disbands the FIS.
2000	15 March	Former PM and coup leader Sitiveni Rabuka launches his autobiography at the National Press Gallery in Canberra. The book was written by Prof. John Sharpham of Central Queensland University, which has been given permission to teach its programmeprogrammememes through its private campus in Fiji.
	19 May	Armed gunmen led by civilian George Speight executes coup by entering Parliament and taking members of Coalition Government hostage for 56 days.
	27-30 May	Skirmish between military and Speight supporters, an overseas journalist is killed. 200 Fijian villagers ransack the Fiji TV after an interview by Fijian political analyst, who emphasizes the role of Fijian chiefs in this coup. Fiji Military Forces commander Frank Bainimarama assumes executive authority and abrogates the Constitution. The military offer amnesty to coup leaders in exchange for release of hostages but offer was rejected.

	4 -9 July	Speight supporters and the military exchange gunfire resulting in 10 injured persons. An agreement providing amnesty to the coup leaders known as the *Muanikau Accord* is signed between the military and Speight group.
	13 July	Hostages released after 56 days.
	28 July	An interim government backed by military is sworn in.
	2 Nov.	Soldiers sympathetic to the Speight group show their defiance through a mutiny at the military barracks resulting in numerous deaths. The military commander narrowly escapes death and stated all personnel involved will be prosecuted.
2001	9 May	Interim PM Laisenia Qarase launches a new Fijian political party SDL.
	15 June	Supporters of Speight coup launch a new Fijian nationalist political party Conservative Alliance Matanitu Vanua (CAMV).
	1 Sept.	General election - SDL wins 31 seats in elections and forms government with CAMV.
2002	18 Feb.	Coup leader George Speight is sentenced to death for treason but within hours, the President commutes this to life imprisonment upon the recommendation of the Prerogative of Mercy Commission that was convened immediately after the sentence was announced.
2004	6 Aug	Few major Chiefs and prominent coup supporters convicted of coup related offences. Some released within few days by the Attorney General.
	26 Nov.	More convictions but again prominent persons released within days.
2005	4 Apr	Further coup related convictions, but continues to be a farce as high chiefs continue to be released within days of imprisonment.
	5 May	Convictions continue but military conveys its dissatisfaction of continual releases.
	22 June	Coup prosecutor (Australian) Peter Ridgeway expelled from Fiji by the SDL government.
2006		General elections- SDL wins by a narrow margin.
	16 Oct.	Bainimarama issued a three week ultimatum for the government to meet nine demands, or resign
	13 Nov.	Tensions between military and government continue. Military demands that the Prime Minister withdraws controversial RTU Bill (which indicates amnesty for all 2000 coup executors and supporters), the Qoliqoli Bill and to stop all investigations on the conduct of military commander following the munity at military barracks on 2/11/00.
	27 Nov.	New Zealand's PM, Helen Clark mediates a meeting between Qarase and Bainimarama in Auckland. An agreement was reached between the two to defuse escalating tensions.
	30 Nov.	Qarase partially concedes to some demands. Bainimarama rejects this compromise and renews his threat of a coup.
	5 Dec.	Commodore Bainimarama assumes executive authority as the President and dismisses the government and puts into effect the Public Emergency Regulations. Jona Senilagakali, a 77-year-old military doctor, appointed as the caretaker Prime Minister. The GCC cancel their plan meeting for

		next week to reappoint President Ratu Josefa Iloilo who would then have the authority to appoint an interim government.
	14 Dec.	Bainimarama declares that his interim government could rule for 50 years if the GCC do not appoint a new President.
	27 Dec.	GCC is banned from convening without Military's approval, until further notice.
2007	3 Jan	Fiji Human Rights Commission releases a report arguing in favour of the 2006 coup.
	4 Jan	As the caretaker President, Bainimarama restored Ratu Josefa Iloilo to the Presidency. In his swearing in speech, Ratu Iloilo endorses the actions of the military.
	5 Jan	The President accepts the caretaker Prime Minister's resignation and formally appoints Bainimarama as the interim Prime Minister.
	18 Jan	Presiding Chief Justice removed from office on allegations of fraud.
	20 Jan	President grants full and unconditional immunity to all military personnel, all officers of police, prison officers and all who served the interim government after the coup. Immunity covers all criminal, civil, legal or military disciplinary and/or professional proceedings or consequences.
2008	9 Oct.	Judgment in favour of President for his exercise of the prerogative powers (dismissal of elected PM, dissolution of Parliament, appointment of caretaker PM and grant of immunity) as the Head of State was taken for the public good at time of crisis. This is appealed by Qarase.
2009	9 Apr.	The Court of Appeal overturned the 9 Oct. 2008 ruling and ruled the 2006 military coup illegal.
	10 Apr	Bainimarama steps down as the interim prime minister. President Ratu Josefa Iloilo abolishes the constitution, assumes all governing power and revokes all judicial appointments.
	11 Apr.	The President reappoints Commodore Frank Bainimarama as the Prime Minister.
	3 Nov.	Bainimarama orders the envoys of Australia and New Zealand to leave, giving them 24 hours to do so.
2010 at	Sept.	Decree issued, that by 15 Sept. 2010, all media ownership should have least 90% local ownership. The Fiji Times, owned by Rupert Murdoch has to sell or close. Eventually it is bought by Motibhai Company.
2011	Aug	Fiji Methodist Church Annual Conference cancelled by the government.
2012	Jan Feb July Aug	Martial laws lifted. Consultation for new constitution started Government announces that elections will be held in 2014 Ousted Prime Minister, Laisenia Qarase is jailed for a year on corruption charges for corruption during this tenure as Head of National Bank of Fiji during 1990s.
2013	Jan Sept.	Yash Ghai's widely consulted constitution is burned by the government. New government endorsed constitution introduction.
2014	Sept.	Elections held and Bainimarama wins by a landslide.

Annex 4: Small Island Developing States by Population, Number of Active Military, Military Expenditure and Number of Coups D'état

Country	Population	No. of active military personnel	Military exp. % of GDP	Successful coup	Attempted coup	Brief Comment
AIMS: Africa, Indian Ocean, Mediterranean and South China Sea						
Cape Verde	491,419 (2007)	1,200 (2005)	0.7% (2005)	0	0	Population divided linguistically, but everyone has equal access to services such as education, etc. Legislature more balanced and all elected by popular votes. Maintained positive relation with Portugal, the colonial ruler.
Comoros	575,660 (2007)	1,000 (2005)	2.8% (2006)	7	0	A history of political violence.
Guinea-Bissau	1,389,497 (2007)	9,250 (2005)	3.1% (2001)	3	1	Military unrest on 1/4/10. EU ended its mission to reform the country's security forces 4 August 2010
Maldives	304,869 (2007)	5,000 (2005)	5.5% (2005)	0	0	Attempted coup in 1988. History of repression and torture by state.
Mauritius	1,252,698 (2007)	2000 (2005)	0.2% (2005)	0	0	Ethnically plural society and relatively peaceful until civic unrest in 2002 .
Sao Tome & Principe	154,875 (2007)	1,000 (1999)	0.8% (2005)	2	0	Some foreign funding for security sector reform.
Seychelles	84,600 (2007)	450 (2005)	2% in 2006	1	1	Several attempted coups in 1980s. Political unrest due to ban on political and religious groups owning radio stations. Affected by Somali pirate activities.
Singapore	4,608,167 (2008)	167,000 (2005)	4.9% (2005)	0	0	2-year male conscription service in military.
THE CARIBBEAN						
Anguilla	13,008 (2004)	None	None	0	0	defence is the responsibility of UK
Antigua and Barbuda	81,000 (2006)	170 (2005)	0.5% (2005)	0	0	
Aruba	103,908 (2007)	None	None	0	0	defence is the responsibility of Netherlands
The Bahamas	323,000 (2006)	860 (2005)	0.65% (2005)	0	0	
Barbados	273,987 (2007)	610 (2005)	0.87% (2003)	0	0	Sea border disagreement with Trinidad and Tobago leads to sporadic flare-ups between the two nations.
Belize	311,480 (2007)	1,000 (2005)	1.43 (1997)	0	0	Ongoing border dispute with Guatemala.
British Virgin Islands	20,254 (2004)	None	None	0	0	defence is the responsibility of UK

|						
Cuba	11,237,916 (2007)	76,000 (2005)	3.8% (2006)	2	0	Highly militarized, govt. exercises control over virtually all aspects of Cuban life.
Dominica	79,000 (2005)	None	None	0	0	
Dominican Republic	9,482,060 (2007)	40,000 (2005)	0.6% (2005)	1	0	1930, coup by Trujillo, massacres 19,000-20,000 Haitians in 1937. Trujillo's dictatorship ended in 1961 after his assassination. In 1963, Bosch deposed in military coup. Returns to democracy in 1965 but sporadic periods of violence due to socio economic reasons.
Grenada	107,379 (2007)	None	None	2	0	In April 2000, a Truth and Reconciliation Commission set up to examine political upheavals of the "Revolutionary Years" between 1976 and 1983.
Guyana	751,558 (2007)	3,000 (2005)	0.79% (1996)	0	0	Ethnic tensions and sporadic violent events between people of African and Indian origins. Ongoing border dispute with Venezuela.
Haiti	8,407,000 (2002)	5,300 (2005)	0.09% (1995)	3	0	Violence and instability, particularly related to Duvalier dictatorships were common
Jamaica	2,675,831 (2007)	3000 (2005)	0.71% (2005)	0	0	At time the govt. has army units to suppress violent unrest. Has one of the world's highest murder rate, comparable to SA and Colombia, due to gang rivalry and drugs trade.
Montserrat	9,439 (2004)	None	None	0	0	defence is the responsibility of UK
Netherlands Antilles	189,500 (2007)	None	None	0	0	defence is the responsibility of Netherlands
Puerto Rico	3,944,000 (2007)	None	None	0	0	defence is the responsibility of US
Saint Kitts and Nevis	48,000 (2005)	None	None	0	0	Susceptible to money launderers and drug traffickers as in 2003, Nevis has approx. 17,000 offshore businesses operating under strict secrecy laws.
Saint Lucia	166,838 (2007)	None	None	0	0	
Saint Vincent & the Grenadines	119,000 (2005)	None	None	0	0	
Suriname	509,970 (2007)	2000 (2005)	0.6% (2006)	2	2	Ethnic tensions between African, Indian and Indonesian descent groups, little assimilation between the different groups and most political parties are ethnically based. Military had a strong hold in politics.
Trinidad & Tobago	1,300,000 (2005)	3000 (2005)	0.45%	0	0	Susceptible to drug trade.

			(1995)			
U.S. Virgin Islands	108,000 (2007)	None	None	0	0	defence is the responsibility of US
THE PACIFIC						
American Samoa	68,200 (2007)	None	None	0	0	defence is the responsibility of US
Northern Marianas	79,100 (2005)	None	None	0	0	defence is the responsibility of US
Cook Islands	21,100 (2007)	None	None	0	0	defence is the responsibility of NZ
Fiji	833,897 (2007)	4,000 (2005)	1.23% (2004)	4	0	Since 1987, ethnic tensions have magnified. Politics is largely ethnic based and military plays large role in politics.
French Polynesia	256,200 (2007)	None	None	0	0	defence is the responsibility of France
Guam	173,456 (2007)	None	None	0	0	defence is the responsibility of US
Kiribati	92,533 (2007)	None	None	0	0	no regular military forces (constitutionally prohibited) and defence assistance can be provided by Australia or NZ
Marshall Islands	52,701 (2007)	None	None	0	0	defence is the responsibility of US
Federated State of Micronesia	110,500 (2005)	None	None	0	0	defence is the responsibility of US
Nauru	13,287 (2006)	None	none	0	0	under an informal agreement, defence is the responsibility of Australia
New Caledonia	240,390 (2007)	None	None	0	0	defence is the responsibility of France. Long running divisions between its indigenous (Kanaks) and European populations, which leads to sporadic outbreaks of violence.
Niue	1,679 (2007)	None	None	0	0	defence is the responsibility of New Zealand
Palau	21,196 (2007)	None	None	0	0	defence is the responsibility of US
Papua New Guinea	5,887,000 (2007)	3,000 (2005)	0.53% (2005)	0	0	Up to 20,000 people were killed in the 9yrs conflict which ended in 1997 between govt. and separatist from Bougainville in the 1990s. Highest rate of HIV/AIDS prevalence in the Pacific (almost comparable to sub-Saharan Africa).
Samoa	179,186 (2006)	None	None	0	0	informal defence ties exist with NZ, which is required to consider any Samoan request for assistance under the 1962 Treaty of Friendship

Solomon Islands	186,649 (2007)	None	None	1	0	80% of the population are Melanesians but provincial rivalry is ingrained. Rival militias of Isatubu Freedom Movement (representing the native people of Guadalcanal) and the Malaitan Eagle Force (MEF) have clashed in late 1990s. At least 20,000 Malaitans are forced off Guadalcanal in 1998, which led to the 2000 coup.
Timor-Leste	947,000 (2005)	1,000 (2004)		0	1	Independence achieved in 2002 after some of the worse oppression and torture in the Pacific by Indonesian govt. To the Timorese since 1975. An estimated 100,000 as a result of this.
Tonga	114,689 (2006)	500 (2005)	0.9% (2006)	0	0	Monarchy rule but increasing calls for democratic constitution. In 2005, this led to a public sector strike and in 2006 it led to street riots and subsequent deaths of eight people.
Tuvalu	11,000 (2006)	None	None	0	0	informal defence agreement with Australia and NZ
Vanuatu	221,417 (2007)	None	None	0	0	In Mar. 2007 March, islanders from Ambrym and Tanna clash in the capital, reportedly over allegations of witchcraft, leading three people dead.

Note: 12 out of 53 SID countries have experienced coups

Annex 5: Fiji Military Forces Command Structure
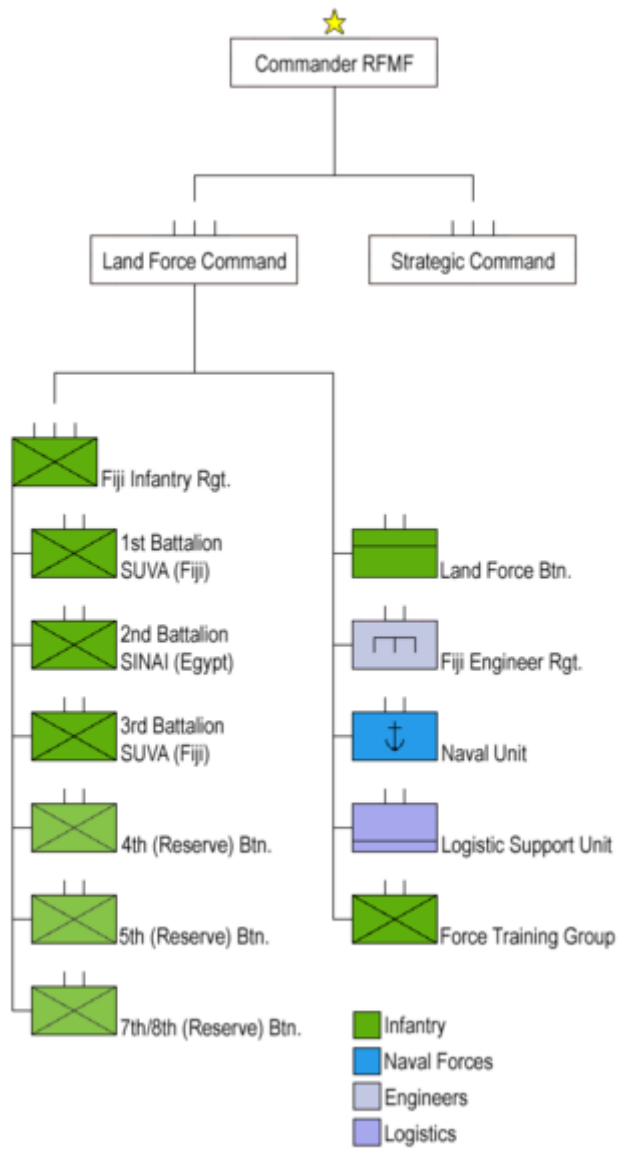
Source: Republic of Fiji Military Forces

Annex 6: Semi-structured Questionnaire

Information about this research, reasons for questionnaires and my email contacts, was given to all participants, but is excluded from here due to lack of space.

Please write your responses beside the questions.
1. Age
2. Gender
3. Ethnicity
4. Area of main residence
5. Occupation
6. Income category **[CIRCLE ONE]**   (**High**=>40,000/   **Average**=>13,000-<39,000/   **Low**=<$12,000/ **Unemployed**)

Please answer with as much details as possible.
7. Do you think coups are 'good' or 'bad'?
8. Please explain why you think it is good or bad.
9. Do you think we can move away from *'coup culture'* in Fiji?
10. If you said yes, please explain how?
11. Should those executing coups be held accountable?
12. Please explain why you have said 'yes' or 'no' to the above question.
13. What are some ways that those taking part in coups can be held accountable?
14. Under current Fiji military laws, all military personnel's are granted amnesty for being part of any coup execution. Therefore, sanctions mentioned on pg. 15 of the *Peoples Charter, titled 'Ending the Coup Culture'* will not be applicable to the military. What is your opinion on this?
15. In your opinion, do you think that amnesty for person(s) involved in coup is good or bad?
16. Please explain why you have said 'good' or 'bad' to the above question.
17. Do you think the current government is accountable for its actions?
18. Please explain why you have said 'yes' or 'no' to the above question.
19. What do you understand by *'good governance'*?
20. Do you think the current government is practicing good governance?
21. Please explain why you have said 'yes' or 'no' to the above question.
22. Do you trust the current government?
23. Please explain why you have said 'yes' or 'no' to the above question.
24. If you had responded 'no' to the prior question, what should the government do to secure your trust?
25. How has the Public Emergency Regulation (PER) affected you personally?
26. If you were happy or upset with the actions of the government, what do you do about it?
27. If you said 'nothing', please explain why?
28. What is the role of military in a society like Fiji?
29. Do you think that military in Fiji should be disbanded/ downsized/ increased/ or remain the same?
30. Please explain your answer to the above question.
31. If you had suggested disbanding or downsizing, what should be done to the military personnel to replace their current form of employment?
32. Most of the Fiji military personnel are indigenous Fijians. Do you think the Fijian community will resist to disbanding or downsizing of the military?
33. Please explain why you have said 'yes' or 'no' to the above question.
34. How can the fears of the military community of any potential disbanding or downsizing be addressed?
35. If you had suggested earlier that military should be increased or remain the same, should the military recruit more Indo-Fijians?
36. Please explain why you have said 'yes' or 'no' to the above question.
37. If you had said yes to prior question, what should the military do to encourage Indo-Fijians to apply for military employment?
38. What do you understand of the term 'democracy'?
39. Do you think democracy is important for Fiji?
40. Please explain why you have said 'yes' or 'no' to the above question.

41. Do you think Fiji should establish at truth commission to find out the reasons and people behind all the coups in our history?
42. If you said 'yes', how do you think this will assist our country and citizens?
43. To you, what is the most important thing in terms of being a citizen of Fiji? Please explain in detail.
44. Any other comment?

Vinaka vakalevu/   Thank you/   Shukriya/   Dhanya baad   for your cooperation

Annex 7: Security Sector Reform - Key Functions of Groups & Institutions

	Actor	Primary role		Functions
Legislature	parliament and relevant committees (security and defence, budget, etc.)	Legality and legitimacy	Vertical control	- definition of basic policy directions - adoption of constitution, laws and budget oversight through 'purse control', hearings, debates
Executive	government, prime minister, president, national defence/ security council, ministries of defence, finance, internal and external affairs	Effectiveness and efficiency	Vertical control	- development and implementation of security policy - force planning management and financial control
Judiciary	constitutional court, supreme court, court of appeal, lower courts and prosecution offices, ombudsmen offices, independent auditing bodies	Rule of law and respect for human rights	Vertical control	- protection of constitution and laws - administration of justice in the security sector - investigation and resolution of complaints reported by citizens
Media and Civil Society	media, non-governmental organisations, research institutes, think tanks, independent experts, political parties and security-related corporate actors	Transparency, accountability, education and capacity-building	Horizontal control	- public debate and oversight - development of security policy - training and awareness-building - financial supervision
Armed forces	military inspectorate, military courts, general staff, officers corps, enlisted personnel	Self-control, neutrality and professionalism	Vertical + horizontal control	- internal control - protection of human rights - respect for laws and professional standards

Source: DCAF (2008), **Democratic Control of Armed Forces- Backgrounder.** Geneva: Geneva Centre for the Democratic Control of Armed Forces: pp. 4

Annex 8: Obstacles to Security Sector Reform Approaches

A. Internal political obstacles
➢ Resistance to reform from different actors
- political leaders (i.e. president; ministers)
- senior officials (i.e. civil servants; security officers)
- non-official actors (e.g. retired politicians and security officers; bosses of organised crime)

➢ for different reasons
- ideological (i.e. political opposition to democracy)
- personal (i.e. maintaining positions of power, influence, prestige and patronage)
- financial (e.g. corruption; concern about job losses; opposition to budget cuts)
- patriarchal (e.g. insensitive to gender violence; discriminate against female)
- organisational (e.g. fear of change; inertia; conflict)

➢ Lack of leadership for reform at the political level
- president / prime minister
- ministers
- parliamentarians
- at the level of civil servants
    o senior civilian officials
    o senior security officers

B. External political obstacles
- Donors and other external actors competitive and working at cross purposes
- Donors and other external actors pursuing partisan political agendas
- External actors promoting counter-terror measures that prevent or weaken
- democratic reform
- Donors and other external actors imposing solutions and undermining local
- ownership
- Donors and other external actors fuelling corruption
- Neighbouring states interfering in domestic politics

C. Capacity problems
- Lack of staff (i.e. too few officials dedicated to SSR design and planning; weak or non-existent civilian departments in the security sector)
- Lack of knowledge (e.g. of comparative SSR experience; democratic security models; methods of operationalising these models)
- Lack of functional skills (e.g. planning; budgeting; financial control)
- Lack of advanced skills (e.g. threat analysis; force design; developing doctrine; drafting legislation; gender security)
- Lack of equipment and financial resources (e.g. computers; communications equipment; vehicles; low salaries)

D. Contextual and structural obstacles
- Weak institutions of democracy and absence of a democratic culture
- Weak state (i.e. lacking authority, power, capacity and resources)
- Underdevelopment (i.e. general lack of skills, funds and infrastructure)
- Weak security institutions and powerful informal security networks
- Internal security threats (e.g. violent crime; gangs; militia; warlords)
- External security threats (e.g. hostile relations with other states)
- Regional instability and insecurity

Source: Nathan, Laurie (2007), **'No Ownership, No Commitment: A Guide to Local Ownership of Security Sector Reform**. Birmingham: University of Birmingham: p.37

Annex 9: Structural Approaches to achieve a Multi-ethnic Military

Countries with special programmes for minorities in the military	Countries with parallel military structures for its two or more groups of equal status	Countries with no special programmes for minorities in the
Main Charactersitics		
This group includes countries that have attracted large numbers of immigrants, such as the USA, Australia and New Zealand, and where there are significant minorities representing a traditional underclass.	This group includes countries that have two or more founding or constituent nations such as Canada, Belgium, and the United Kingdom, or linguistic groups as in Switzerland, but significant minorities as well.	This group includes countries such as France, Germany, Romania, Bulgaria, and most other Euro-Atlantic countries, where there is a historically dominant national community and where there are significant minorities that may or may not be recognised as such.
Units are mixed, as a rule not constituted on the basis of identity.	Units tend to be constituted on the basis of identity, but this is usually restricted to communities that are considered to have played a role in founding the state or to be one of its constituent groups.	Units are constituted without any regard to minority status.
The approach of this group of countries is based on diversity management, and the use of the armed forces as a vehicle for integration based on merit.	The approach of this group is based on special representation for constituent groups combined with programmes that encourage promotion on merit for minorities.	The approach of this group emphasises the interests of the dominant national community. It may assume that all citizens are part of that community by virtue of birth on the territory of the state.
Measures are actively taken to ensure balanced representation of minorities.	Measures are actively taken to ensure representation of all constituent communities.	In this group, there are generally no official measures in the military to encourage minority representation or to safeguard minority rights. Assimilation is encouraged in varying degrees.
Most of these countries have successfully integrated minorities into the lower ranks of the military, but minorities still tend to be under-represented in the officer class.	Minorities from constituent minorities tend to be well-represented in the officer corps, but non-constituent minorities tend to be under-represented.	There may be substantial numbers of minorities in the military but the pattern in the officer corps is one of under-representation.
Main Advantages		
Effective diversity management translates into special policies to ensure the application of equal opportunity in the military.	Parallel military structures result in equal treatment being given to the constituent national groups but not necessarily to non-constituent minorities. As well, parallel military structures, in an internal crisis requiring the intervention of the military "in aid of the civil power", provide units that are identified with the local population and thus become part of the solution. Moreover, the presence of such units in operations outside the country serves to highlight the contribution of a minority to the "national" military effort.	The armed forces of countries in this group may enjoy greater cohesion if there is a strong sense of national identity shared across ethnic groups.
Main Disadvantages		
A military career may become more attractive to minorities from the lower strata of society; this may lead to minorities becoming over-represented.	Parallel military structures may require additional spending on administration and training.	Minority rights either are treated as a non-issue in the armed forces, or are violated. This can also affect the cohesion of the armed forces and may undermine the maintenance of social peace.

Annex 10: Speech by Commander Bainimarama on 4 January 2007

"Fellow citizens
Following the Republic of Fiji Military Forces intervention in our country's Government, Executive and public institutions and my stepping into the shoes of the President Tui Vuda Ratu Josefa Iloilo I now return all executive authority to His Excellency.

As I stated on 5 December 2006 the actions of the RFMF were precipitated by the impasse between the SDL Government and the RFMF. The RFMF throughout this impasse had wanted to resolve the matter constitutionally, legally and expeditiously.

The RFMF's assumption of executive authority, through its Commander was predicated and supported in law. The Akuila Yabaki case had established through Justice Scott's ruling that the President had certain reserve powers under section 109(1) of the Constitution. In addition to this ruling Justice Scott also held that in some unusual or extreme situations a departure from the normal requirements of the Constitution is permitted. This departure or extra constitutional steps are justified under the doctrine of necessity. Strictly speaking the decision of Justice Scott has not been overturned and therefore is binding and valid law.

Given the circumstances prevailing at that time I had exercised those extra constitutional steps. Notwithstanding the legal ability to carry out what I as Commander and the RFMF did, this course of action was undertaken with great reluctance but it was necessary to steer our beloved nation into peace, stability, a just solution and to above all preserve our Constitution.

It was also essential to maintain the sovereignty and territorial integrity of the nation-state of Fiji. I would like to now set out some of the key reasons and issues that created and led to the impasse:

1. The persistent and deliberate involvement of persons supporting the unlawful takeover of Government in 2000 in the Qarase led SDL Government. This includes the Governments after the 2001 and 2006 Elections;

2. The double speak of the SDL Government. On the one hand saying that they supported the law but on the other freeing or facilitating the freeing of coup convicts on extra-mural and/or compulsory supervision orders with unsubstantial reasoning. These actions made a mockery of our justice system and fundamentally undermined the integrity of our judiciary and the rule of law;

3. The continued appointment of those tainted by the events of 2000 to diplomatic and senior government positions. The failure of the Police Force to investigate all the 'shadowy figures' behind the 2000 coup including Qarase who had requested me to remove the President. Despite this request the Police Force were determined to instead investigate me, my officers and the RFMF as a whole;

4. The politicization of the Prison services;

5. The regular visits by Government officials to Korovou to Prison to meet prisoners who supported the illegal take over in 2000 and the mutiny. Some of these prisoners are accorded special treatment in prison and referred to as 'cultural advisors' to the prisoners.

6. The racist and inciteful speeches made by SDL parliamentarians which were never checked by Qarase. These speeches caused fear and tension in minority communities and our society as a whole. We also noted with concern the increased incidents of sacrilege aimed at minorities;

7. The repeated acts and incidents of Government and civil service corruption including SDL politicians. Those involved continued to be members of the cabinet, those holding senior Government positions and civil servants;

8. The growing cycle of corruption, clientalism and cronyism also involved the extremely unhealthy influence and involvement of certain businessmen and women in the governmental decision making processes;

9. The failure of the Qarase Government to pass any anticorruption legislation in the past 5 years despite the growing and repeated acts of corruption which has undermined the very foundations of our civil service and institutions and the economy;

10. The determination by the Qarase led Government to pass acts of Parliament which would have inevitably increased indigenous Fijian nationalism, led to dispute between provinces – indigenous Fijians themselves, created ethnic tension, undermined the rule of law and the independence of our constitutional offices including the Judiciary and compromised the right to fair hearing and representation. I refer in particular to the Reconciliation, Qoliqoli and Land Claims Tribunal Bills;

11. The exclusion of the RFMF from the National Security Council but repeated inclusion of the Police Force which indicated a refusal to hear the Military point of view on security and governance issues;

12. The manipulation of the criminal justice system for political reasons. The investigations against me and the RFMF arose from a National Security Council decision and not from the independent decision of the Commissioner of Police himself;

13. The threat of and references to the use of regional forces and intervention by the Qarase Government to try and influence the resolution of our own internal problems;

14. The threat of an Australian invasion as shown by the inciteful and hostile remarks made by Alexander Downer, the unexplained presence of an Australian Defence Force Helicopter within Fiji's EEZ and the frequent references to the Biketawa declaration made this threat a real one. Recent revelations confirm this position;

15. The consideration of foreign intervention was viewed to be a serious threat to Fiji's sovereignty and independence. It will always be resisted. Under section 104 of the Constitution the Prime Minister is to keep the President informed generally about issues relating to the governance of Fiji. He was never informed of this foreign presence;

16. On the Biketawa declaration itself, the declaration states that the Government:
    - Needs to be committed to good governance exercising authority in a manner that is open, transparent, accountable, participatory, consultative and decisive but fair and equitable;
    - Ensure equal rights for all citizens regardless of gender, race, colour, creed or political belief; and,
    - Must uphold the democratic processes and institutions which reflect national and local circumstances, including the rule of law and the independence of the judiciary, just and honest government.

    The Qarase Government had failed to adhere to many of these agreed principles of governance;

17. The repeated and persistent attempts to change the command structure at the RFMF since 2000 and the rewarding of those who had made those attempts;

18. Most seriously, the large Government deficit, the failure of the SDL Government to cut spending, the failure to revive the sugar industry, the failure to solve the land problem, the racist and selective education polices, the rapidly deteriorating public health services, the escalating poverty, the hike in interest rates, the lack of employment opportunities given the growing number of school leavers, the almost inevitable devaluation of the Fiji dollar, the neglect to increase our exports vis a vis our growing reliance on imports creating a critical balance of payments situation and the overall serious economic situation created by bad governance, mismanagement, corruption, disrespect for the rule of law and the undermining of democratic values since 2000;

19. The manner in which the 2006 elections were conducted was characterized with discrepancies. The fact that no census was conducted before the elections meant that serious breaches of the Constitution occurred, the fact that there were so many additional ballot papers printed for no good reason and the fact that unexplained procedures were adopted;

20. The fleeing from Suva of the Prime Minister and his Cabinet and although it was only for a couple of days instilled a lack of confidence in the Government and negated claims that the Government was in fact in charge;

21. The untimely absence of leave of the Commissioner of Police at a crucial juncture in our country and his seemingly political bias was of grave concern;

22. Qarase and certain members of his Cabinet sought to incite certain members of our community to rebel against the RFMF and thereby did not have regard for the welfare and security of all our citizens and compromised national security;

23. On the morning of 5 December the President asked Qarase to come and see him and he refused to do so simply because he was fearful that the President would have asked him to resign or dismissed him. Clearly Qarase as Prime Minister abdicated his responsibilities by refusing to listen to the President who is the Head of the State;

24. The President was prevented by some including the Vice President from exercising his constitutional powers. We were as a nation in a state of limbo.

These events and circumstances ladies and gentlemen demonstrate that the actions and inactions of the SDL Government and the circumstances that they had created undermined the core values and the very spirit of democracy, constitutionalism, the rule of law, a fair, equitable, just and non-corrupt government and society.

The RFMF as stated previously believes in the rule of law and has and shall adhere to the Constitution. Given the legal, constitutional and indeed defensible basis of our necessary actions I appeal to all our citizens including the now former Prime Minister Qarase, our neighbours and the international community, to support and work together for the betterment of our beloved nation and its people.
I now hand over executive authority to the President.

Source: cited in Qarase and Others v Bainimarama and Others, 2008: 15-19

CHAPTER 10—IMMUNITY

Immunity granted under the Constitution of 1990 continues

155. Notwithstanding the abrogation of the Constitution Amendment Act 1997 and despite the repeal of the Constitution of 1990, Chapter XIV of the Constitution of 1990 continues in force in accordance with its tenor, and the immunity granted in Chapter XIV of the Constitution of 1990 shall continue.

Immunity granted under the Limitation of Liability for Prescribed Political Events Decree 2010 continues
156.
(1) The immunities granted to prescribed persons for prescribed political events under the Limitation of Liability for Prescribed Political Events Decree 2010 shall continue in existence.
(2) Notwithstanding anything contained in this Constitution, the Limitation of Liability for Prescribed Political Events Decree 2010 shall, in its entirety, continue in existence and shall not be reviewed, amended, altered, repealed or revoked by Parliament.

Further immunity
157. Absolute and unconditional immunity is irrevocably granted to any person (whether in their official or personal or individual capacity) holding the office of, or holding the office in, as the case may be—
　　　　(a) the President;
　　　　(b) the Prime Minister and Cabinet Ministers;
　　　　(c) Republic of Fiji Military Forces;
　　　　(d) Fiji Police Force;
　　　　(e) Fiji Corrections Service;
　　　　(f) Judiciary;
　　　　(g) public service; and
　　　　(h) any public office,

from any criminal prosecution and from any civil or other liability in any court, tribunal or commission, in any proceeding including any legal, military, disciplinary or professional proceedings and from any order or judgment of any court, tribunal or commission, as a result of any direct or indirect participation, appointment or involvement in the Government from 5 December 2006 to the date of the first sitting of the first Parliament elected after the commencement of this Constitution, provided however any such immunity shall not apply to any act or omission that constitutes an offence under sections 133 to 146, 148 to 236, 288 to 351, 356 to 361, 364 to 374, and 377 to 386 of the Crimes Decree 2009 (as prescribed in the Crimes Decree 2009 at the date of the commencement of this Constitution).

Immunity entrenched [own emphasis]
158.
(1) Notwithstanding anything contained in this Constitution, this Chapter and any immunity granted or continued in this Chapter shall not be reviewed, amended, altered, repealed or revoked.
(2) Notwithstanding anything contained in this Constitution, no court or tribunal shall have the jurisdiction to accept, hear or make any decision or order with respect to any challenge against the provisions of this Chapter and any immunity granted or continued in this Chapter.
(3) No compensation shall be payable by the State to any person in respect of damage, injury or loss to his or her property or person caused by or consequent upon any conduct from which immunity has been granted under this Chapter.

Source: Government of Fiji (2013), **Constitution of the Republic of Fiji**. Suva: Government of Fiji .

Annex 12: Human Rights Watch Letter to Commodore Bainimarama

Sent: Wednesday, 5 December 2012 3:54 PM
To: Regional Rights Resource Team (RRRT)
Subject: HUMAN RIGHTS WATCH WRITES TO COMMODORE BAINIMARAMA ON THE 6TH
ANNIVERSARY (TOMORROW) OF FIJI'S COUP DECEMBER 2006

Source: Regional Rights Resource Team (RRRT) (2012). Human Rights Watch Writes to Commodore
Bainimarama on the 6th anniversary (tomorrow) of Fiji's Coup December 2006. [Email]. Message
forwarded to Khan, N. 5 December 2012.

Commodore Josaia Voreqe Bainimarama

Office of the Prime Minister

4th floor Govt. Bldgs. New Wing

Suva, Fiji

Dear Commodore Bainimarama,

We write in response to your public commitment to hold democratic elections in 2014 and to urge you to
ensure the process towards drafting a new constitution is free, fully participatory, inclusive, and
transparent.

Fiji's interim government has begun consultations about a new constitution, which all recognize as an
important step towards the 2014 elections. However, the interim government has unfortunately failed to
protect key human rights essential if this consultation process is to be free, fully participatory, inclusive,
and transparent. As outlined below, your government continues to deny Fiji's citizens their rights to
freedom of speech and expression, a free press, assembly, and association. The military and police
have arbitrarily arrested and detained human rights defenders, including trade union leaders and
journalists, and others perceived to be critical of the government. Media remains heavily censored and
rule of law is hampered by a judiciary that is highly politicized and not independent.

Human Rights Watch is also concerned by both the content and form of the government's process for
drafting a new constitution. The Constituent Assembly is tasked with reviewing and adopting the
provisions of the draft constitution as drafted by the Constitutional Commission. Yet the Assembly,
which lacks political independence because your government controls its size and composition, has the
authority to unilaterally amend or delete proposed provisions of the draft through two-thirds majority
vote.[1]

Furthermore, your government has required the inclusion of provisions that grant immunity to the
government officials and security forces involved in toppling the democratically elected Qarase
government in December 2006. Provisions are also included that reaffirm the established immunity
granted under Chapter XIV of the Constitution of the Sovereign Democratic Republic of Fiji
(Promulgation) Decree 1990, as preserved by the Constitution (Amendment) Act 1997, as well as that
provided in the Limitation of Liability for Prescribed Political Events Decree (2010). Your government
also mandated that any provision included in the draft for immunity cannot be "reviewed, amended or
revoked by the New Parliament or any subsequent Parliament;" and cannot be subjected to challenge in
court. These requirements raise particular concerns that your government is determined to evade
accountability for rights abuses committed in the course of these coups.

Restrictions on Freedom of Speech, Assembly, and Association

Under your leadership, Fiji's interim government continues to enforce strict restrictions on freedom of
expression, assembly, and association. In January, your government – just weeks after repealing the
Public Emergency Regulations (PER) – announced regressive revisions to the Public Order
(Amendment) Decree 2012 to further restrict citizens' rights to freedom of speech and assembly. The
new amendments establish broad and ambiguous definitions of 'terrorism,' expand the power of security

personnel to arbitrarily arrest those in alleged violation of these laws, and provide security force personnel immunity from civil or criminal liability for actions undertaken pursuant to the law. In short, the new provisions exaggerate and permanently codify some of the most abusive provisions of the emergency laws.Your government has used the regressive Public Order (Amendment) Decree to control those it perceives to be critical of the government, particularly representatives of civil society groups, trade unions, and political parties.

The decree stipulates that a permit is required for meeting in a public place, or in any place or building open to the public. The decree also states that a private gathering may be dispersed by the police if such action is necessary for securing the public safety or for the maintenance of public order, or for maintaining supplies and services essential to the life of the community.

This decree should be immediately rescinded and provisions made to protect the right to freedom of expression, association, and assembly in Fiji.

On July 11, police arrested Vyas Deo Sharma, a Fiji Labour Party (FLP) official and former member of Parliament, together with 14 Vuda residents and supporters of the Fiji Labour party. Police detained them at the Lautoka Police Station and questioned them overnight. They were released the next day at 5.30 p.m. No charges were filed.

In July, the interim government lifted the permit requirements for public meetings for the duration of the consultation process. While this is an important step, the Public Order (Amendment) Decree should be repealed in its entirety as part of the commitment of the government for the consultation process to aspire to meet international standards. Furthermore, as discussed below, actions by the police continue to be a serious source of concern because they have continued to monitor, disrupt, and prevent public meetings since July.

Repressive Labor Decrees and Harassment of Trade Union Movement

Your government issued several labor-related decrees in 2011 that have had a significant negative impact on trade unions in both the public and private sectors. Following the implementation of the highly criticized Essential National Industries Decree, the government deregistered unions and forced workers to form new bargaining units. Collective bargaining agreements were abrogated and the legal authority to collect dues was removed in the new law. In some cases, new bargaining units were formed but with no relationship to the pre-existing unions. Only a few new collective agreements have been negotiated under the decree, and all contain terms inferior to the prior, pre-decree agreements. The net result has been a steep drop in union membership and organized labor's financial resources in industries covered by the decree. Some employers not covered by the decree have also used it as an excuse to break existing collective agreements. This decree should be immediately repealed.

In September 2012, the government stopped the International Labour Organization (ILO) from carrying out a direct contact mission to verify workers' complaints about violations of freedom of association. The government unilaterally presented the mission with new terms of reference that differed significantly from those agreed prior to the mission. When the ILO objected, the government ordered the mission, which included a former justice of the International Court of Justice, to leave Fiji immediately. The mission was undertaken pursuant to the recommendations of the ILO Committee on Freedom of Association as well as a resolution of the 15th ILO Asia and Pacific Regional Meeting in December 2011.

In 2012, some unions have been denied permits to hold public meetings under the Public Order (Amendment) Decree, particularly when officials from the Fiji Trades Union Congress (FTUC) were invited to attend. Even when permits were granted, in numerous cases union members report that police officers either attended the meetings or listened in from outside. Such systematic and unjustified restrictions on trade union activity should cease immediately.

In October 2012, the management of a resort hotel refused to allow the union to meet with its members on the premises on the basis that the union held no permit under the decree. The most outrageous example of police interference in trade union activity occurred on October 19, 2012, when trade union leaders were in the middle of discussions with the executives of Pacific Fishing Company (PAFCO) in the company's boardroom. At 11:15 am, an hour into the meeting, police officers forcibly entered the boardroom, interrupted the meeting and explained that they were under orders to bring the meeting to a close. The police stated that the only way the meeting would be allowed to go forward was if the police were present during the negotiations between management and the union. The unions refused. The government should end such arbitrary interference in bargaining between employers and workers, and ensure that employers do not refuse to meet with unions on the basis of the government decree.

Criminal charges filed in 2011 against Daniel Urai, President of the FTUC, for purportedly "inciting political violence by urging to overthrow government,"remain pending. To date, the criminal justice authorities have been unable to produce required disclosures that would substantiate their claims against him. However, the case remains open in an apparent effort to harass Urai. Given the lack of evidence presented to Urai, we urge the charges be immediately dropped. Earlier, Daniel Urai and Nitin Goundar were arrested and charged under the now-repealed PER for meeting with trade unionists at the hotel where they worked to prepare for collective bargaining. This case also remains pending despite the lack of required disclosures.

On November 15, the ILO Governing Body took the unusual step of issuing a tripartite resolution, which "deeply regret[ted]… the actions of the Fiji Government" and called upon the government to allow the aborted direct contacts mission to return. The resolution also called on your government to ensure that its laws and practices are brought into conformity with the principles of freedom of association.[2] While we understand the government has informed the ILO that it will invite the mission back in April 2013, it appears the agreement is not on the basis of the previously agreed terms of reference – as called for in the tripartite resolution – but instead leaves those details to be resolved next February. The ILO has indicated that the mission should happen sooner so that the results can be discussed at the March 2013 Governing Body. On the same day, the ILO Committee on Freedom of Association designated Fiji as a "serious and urgent" case, one of five cases so designated this year.[3]

Eroding the Independence of the Judiciary and Rule of Law

Your government has continually failed to uphold the rule of law and support an independent judiciary. Beginning with the 2006 coup and the subsequent removal of all judicial officers from office on April 10, 2009, your government has consistently interfered in the workings of the courts, intervening in the licensing of lawyers and legislating to prohibit legal challenge of government acts.[4]

Your government should cease interfering in the judiciary, and repeal the interim governments' proclamation of various broad immunity provisions, including for the 2006 and earlier coups, which have raised increasing concerns that your administration is determined to evade legal accountability for rights abuses.[5]

Media censorship

Fiji's military government has consistently sought to limit public criticism through censorship of the press. While your government no longer employs censors, it continues to assert control over published media through intimidation and criminalization.

The Media Industry Development Decree 2010 strengthens the state's mechanism of censorship, restricting foreign media ownership and forbidding publications which are "against public interest or order, against national interest, offends good taste or decency, or creates communal discord." Repercussions for publishing such material include hefty fines and/or jail time. Additionally, the decree

requires domestic media outlets to be at least 90 percent locally owned. This provision was widely seen as targeting The Fiji Times, and its long-time editor, Netani Rika, who subsequently left the Times after the passage of the decree after a campaign of targeted pressure from the government.

In June, your government passed an amendment to the 1992 Television Decree that requires television licensees to operate in line with the restrictions outlined in the Media Code of Ethics and Practice under the Media Industry Development Decree 2010.

Your government should end these overly broad restrictions on freedom of the media.

Recommendations

Human Rights Watch and the International Trade Union Confederation believe it is critical that your government address these longstanding restrictions on rights so as to ensure that the drafting of the new constitution proceeds with the full participation of all stakeholders. Sadly, rather than embracing the important role that civil society, human rights defenders, trade unions, and a free media play in promoting good governance, your government has systematically repressed such groups. As international human rights and labor organizations, we urge you to publicly commit to meet Fiji's international human rights obligations and ensure your government takes all necessary measures to promote real democratic reform and protect human rights in Fiji.

In order to facilitate an enabling environment for democratic reforms and to uphold human rights, we urge your government to take the following steps:

· Revise *Fiji Constitutional Process (Constituent Assembly and Adoption of Constitution) Decree 2012* to ensure that the composition of the Constituent Assembly is transparent, and that appointments are open to public debate.

· Revise all government decrees to remove language that offers immunity to members of your government involved in committing rights abuses during or after the 2006 coup.

· Repeal the Public Order (Amendment) Decree 2012 and ensure government policies and actions fully comply with international human rights standards for freedom of expression, assembly, and association.

· Repeal all rights-restricting labor decrees, including the Employment Relations Amendment Decree of 2011 and the Essential Industries Decree of 2011, and, through a tri-partite process, ensure that the nation's labor laws comply with your international obligations to the ILO.

· Repeal the Media Industry Development Decree 2010, and other decrees that severely inhibit or control the media, and encourage international press organizations to work with the Fiji media to establish a sustainable mechanism for self-regulation in line with international best practices.

· Cease political interference in the judiciary, and publicly commit to respect the independence of the judiciary.

· Publicly order security personnel to respect and uphold human rights, in particular fair trial and due process rights, the prohibition on torture, and the right to free assembly and association.

· Investigate and prosecute all security force personnel who engage in arbitrary arrest and detention, attacks on journalists and human rights defenders, and physical abuse of detainees.

Sincerely,
Brad Adams
Asia Director
Human Rights Watch

Sharan Burrow

General Secretary

International Trade Union Confederation (ITUC)

_____

[1]See *Fiji Constitutional Process (Constituent Assembly and Adoption of Constitution) Decree 2012*http://www.fiji.gov.fj/index.php?option=com_docman&task=doc_details&gid=569&Itemid=158

[2]http://www.ilo.org/gb/decisions/GB316-decision/WCMS_193325/lang--en/index.htm

[3]http://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_193200/lang--en/index.htm

[4]http://www.unhcr.org/refworld/country,,,LEGISLATION,FJI,,49ec85ae2,0.html

[5]See *Fiji Constitutional Process (Constituent Assembly and Adoption of Constitution) Decree 2012* http://www.fiji.gov.fj/index.php?option=com_docman&task=doc_details&gid=569&Itemid=158*; See Limitation of Liability for Prescribed Political Events Decree 2010* http://api.ning.com/files/ZV97pClr2aUxowem-
human

Annex 13: Culture of Impunity

Source: IFEX (n.d)

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