



POLICY BRIEF

Fiji's election and Australia: the
terms of re-engagement

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WHAT IS THE PROBLEM?

The Australian Government has drawn a line under its previous efforts to isolate Fiji after the 2006 coup. That approach lost Australia influence in Fiji and the wider region and did little to restore Fiji's democracy. Australia will point to Fiji's much-anticipated election on 17 September as a sign that the country is back on the road to democracy. The problem is that this election will not be enough to restore democracy to Fiji.

WHAT SHOULD BE DONE?

Australia should continue to back Fiji's transition to democracy beyond the elections, even as it seeks to regain its lost influence. Australia should use what leverage it has to help to assist Fiji's Parliament, develop better communications between civil society, the media and the government, and support the development of an independent judiciary. Persuading a newly elected Fiji Government of the merits of revitalising these essential elements of democracy will be a challenge. Australia should offer an enhanced military relationship as well as new partnerships with the Fiji Parliament and the knowledge sector and support for the rule of law as a means of encouraging the Fiji Government's commitment to democracy.

Eight years after a military coup removed an elected government, Fiji will hold its first general election on 17 September 2014. The election will see a number of old parties and a prominent new one – FijiFirst, led by the Prime Minister and leader of the 2006 coup, Rear-Admiral (ret) Voreqe Bainimarama – contest 50 seats in a single chamber parliament. Almost 600,000 registered voters will vote for a single candidate in a single national constituency, for the first time, under a new open-list proportional representation electoral system.

The election is a watershed moment for Fiji's transition to democracy after eight years of authoritarian rule. Australia has lobbied long and hard for elections in Fiji. But what comes after the elections will be a greater test for Australia's influence in the Pacific Islands region.

Since the December 2006 coup that brought then-commodore Bainimarama to power, successive Australian governments have sought to isolate and pressure Fiji. Australia cut off defence ties, redirected its aid program and imposed travel sanctions on the perpetrators of the coup and on those who took positions in the new government. In January 2009, Australia and New Zealand were at the forefront of efforts in the Pacific Islands Forum to compel Bainimarama to announce elections by 1 May or face suspension from the Forum. Fiji was duly suspended from the Pacific Islands Forum on 2 May 2009.

These efforts were unsuccessful. The sanctions caused significant inconvenience to members of the Fiji Government and military, but the impact was not sufficiently damaging to induce any change in their thinking. The Fiji Government also used the sanctions to spin a narrative of a big power unfairly punishing a small country and harming the Fiji economy.

Despite the importance of Australia to the Fiji economy, the Fiji Government realigned its foreign policy outlook to ensure it was less dependent on Australia and New Zealand. Fiji built new diplomatic relations with approximately 70 countries and enhanced its ties with first China, and later Russia. It stepped up its leadership efforts within the Melanesian Spearhead Group and established the Pacific Islands Development Forum to exert regional influence at the expense of Australia, which was excluded from both organisations.

In February 2014, Australian Foreign Minister Julie Bishop, who had signalled concern about Australia's waning influence, met Prime Minister Bainimarama during a visit to Fiji.¹ Bishop announced the normalisation of Australian relations with Fiji and effectively drew a line under the tough approach taken by the Howard, Rudd and Gillard governments. A new package of support included more assistance for election preparations, the introduction of a public service 'twinning' arrangement, and the proposed inclusion of Fijians in any expansion of Australia's seasonal workers' program. Bishop also announced a review of the travel sanctions, which were then removed in March 2014 by an Australian

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cabinet decision. Bishop indicated that key aspects of the suspended defence cooperation program would be restored after the elections.

Bishop's policy helped restore a measure of Australian influence in Fiji. Canberra subtly leveraged the sweeteners in its assistance package to secure Fiji's agreement for enhanced Australian assistance for the elections (valued at \$2.65 million) and a role in the Multinational Observer Group monitoring the election.² Australia needs to build on this change in approach to both re-establish its influence in Fiji and to help the country to gradually restore democracy.

WHY IS FIJI IMPORTANT?

Australia's interests in Fiji are linked to Australia's regional strategic interests. After its own defence, Australia's most important strategic interest, as identified by the 2013 Defence White Paper, is "the security, stability and cohesion of our immediate neighbourhood, which we share with Papua New Guinea, Timor-Leste and South Pacific states."³ In June 2014 Bishop described the Pacific as "central to Australia's foreign policy."⁴

Fiji has the second largest population and second largest economy among the independent Pacific Island states. It has traditionally been very active in regional forums and sees itself as a regional leader and a voice for island states on the international stage. Without Fiji's cooperation it is difficult for Australia to implement regional initiatives on issues ranging from security to trade and development. In this regard, the recent improvement in Australia's relationship with Fiji since Bishop's change in approach is a boost to Australia's influence in the region.

Fiji is, however, also important in the context of Australia's support for democratic values in the Pacific Islands. In a speech in November 2013, Bishop said: "Support for democracy is, and will continue to be, a key thread in the overall fabric of Australia's engagement with the region, reflecting our desire to make a contribution as a good global citizen." She added that Australia is working with partner governments to "promote good governance and effective institutions as the essential building blocks of free societies."⁵

If, as seems likely, the elections produce a Bainimarama-led government, his authoritarian approach to government makes a full transition to democracy improbable. Bainimarama and Attorney-General Aiyaz Sayed Khaiyum currently share 20 portfolios and are accustomed to making decisions without reference to a cabinet or a parliament. The 2013 Constitution will enable Bainimarama to continue to centralise many powers in his own office and that of the Attorney-General. ANU historian Brij Lal argues that the new Fiji constitution "contains provisions that make a mockery of the Westminster system of government" and

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reduces the Parliament to playing a “pliant role in the governance of the country.”⁶

It may be tempting for Fiji's partners, including Australia, to recognise the elections as the restoration of democracy in order to quickly return relations with Fiji to a more positive footing. But if Australia were to signal its willingness to accept such a low bar for the restoration of democracy, it would set a dangerous precedent for the maintenance of democratic norms in the region. Australia will need to find a way to do both: to rebuild its relations with Fiji in the interests of its regional influence while also pushing Fiji towards a full restoration of democracy.

MORE THAN JUST ELECTIONS

There is a widespread expectation that the 17 September poll will be judged free on the day.⁷ Both the Australian and New Zealand foreign ministers have made comments to the media indicating their confidence in the success of the elections.⁸ The rigour that the Fiji Elections Office has established for both the voting process and vote count suggest that it will be difficult for any party to rig the results. If the Elections Office does its job to the letter, every registered voter should be able to exercise a secret ballot.⁹

Other elements of the election process have been far from fair. Section 23 of the Electoral Decree on the eligibility of candidates requires candidates to have lived in Fiji for at least 18 months out of the two years prior to being nominated.¹⁰ This disadvantages people who were engaged in politics in Fiji before the 2006 coup and have since left Fiji and professionals who work outside Fiji. Section 115 of the Electoral Decree prohibits individuals and organisations which receive funding assistance from outside Fiji from conducting public debate or publishing material related to election issues, thus restricting freedom of speech and assembly that should be an integral feature of a democratic election campaign.¹¹

While serving governments in many countries enjoy an electoral advantage from incumbency, Bainimarama's dominance of the Fiji polity gives him an edge. The lack of any formal opposition in Fiji for eight years means that Bainimarama is the most recognised candidate in the country. His image is everywhere, from road safety billboards to stickers plastered across the rear windows of taxis. The voting system devised by his government requires voters to pick only one candidate from among hundreds so Bainimarama's unparalleled prominence works in FijiFirst's favour.

FijiFirst is likely to win a majority or win the highest number of votes but fail to see them converted into the 26 seats required to govern in its own right. Bainimarama has stated that he is not interested in governing in a coalition. But he may well revise this view if negotiations for a coalition

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with a smaller party enable him to assume the prime ministership instead of returning to the polls. The Constitution requires the dissolution of Parliament and the issuing of writs for a new election where no party has won 50 per cent of the vote and no prime ministerial candidate wins the support of more than 50 per cent of members of parliament.

Even if the election is relatively free and fair, it will not put Fiji back on a solid path to democracy. The 2006 coup has had a deep impact on Fiji governance and society.¹² Since the coup, and even more since the abrogation of the constitution in 2009, the fundamentals and the institutions of democracy have suffered in Fiji.

A once-free media in Fiji is no longer so. Official censorship of the media lifted in 2012. But even without official censorship, the 2010 Media Industry Development Decree imposes tough penalties on journalists for criticising the government, leading editors to practise various forms of self-censorship.¹³ Some journalists have alleged government intimidation.¹⁴

Fiji's once-capable and independent judiciary has been plagued by internal divisions since the George Speight coup in 2000. It was further compromised in 2009, when President Iloilo abrogated the constitution and revoked all judicial appointments.¹⁵ Legal officials considered friendly to Bainimarama's regime were reappointed and the large gap in judicial capacity was filled with new recruits from Sri Lanka on short-term contracts and thus beholden to the Fiji Government.

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The intimidation of civil society has also served to diminish the capacity of non-government organisations to play their proper accountability role in Fiji. The Citizens Constitutional Forum (CCF), an NGO that engages in community education on constitutional matters, democracy, human rights and multiculturalism, is an example. The CCF was accused in early August of breaching Section 115 of the Electoral Decree 2014 with the publication of a research paper on international benchmarks for free and fair elections and for holding a public conversation on this issue.¹⁶ Other prominent members of civil society organisations have reported being detained and abused.¹⁷ The ability of NGOs to convene meetings is constrained by government decree.

By remaining Commander of the Republic of Fiji Military Forces (RFMF) until March 2014, Bainimarama has strengthened the influence of the military on Fiji's government and society. By appointing military officers as the heads of government agencies and by improving their benefits and status, including as protectors of the constitution and the Fiji people, he has made it difficult for Fiji's military to return to a role that is appropriate for militaries in a democracy.

WHAT SHOULD AUSTRALIA DO?

If the results of the 17 September poll and the subsequent allocation of seats in parliament are judged credible by the Multinational Observer Group, Australia should welcome the election outcome. An early visit to Fiji by Julie Bishop after the formation of a new government will be a critical step in rebuilding the relationship. But given Bainimarama's authoritarian proclivities, Australia needs to be cautious about signalling too quickly its acceptance of his democratic legitimacy, if indeed he is elected prime minister. Elections should be seen as the start of a process of restoring Fiji's democracy, not the end.

In a speech to the Australia-Fiji Business Council in June 2013, Bishop listed some elements of the Australian democratic experience that she regarded as vital. She said: "It is essential that oppositions and politicians have the freedom to hold the government to account. It is essential that an independent judiciary exists to adjudicate disputes and to interpret the law. A free and unfettered media might be a complete pain in the neck for politicians but it is essential to hold all the sides of politics to account on behalf of the people."¹⁸

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Working from this basis, Australia should pursue three key additional initiatives in its effort to re-establish democracy in Fiji:¹⁹

First, establish a program of parliament-to-parliament assistance: the vital Fiji parliamentary offices of the Secretary-General (Clerk) and Speaker as well as newly elected parliamentarians will need training and development opportunities and expert support to enable them to perform their new roles. Fiji should be invited as soon as possible to join the Pacific Parliamentary Partnerships program, an initiative of Australia's federal, state and territory parliaments in partnership with the United Nations Development Program. While funded principally by the Australian aid program, the program is linked to twinning arrangements between the parliaments of Australia and Pacific members of the Commonwealth Parliamentary Association. Its focus is on the professional development of parliamentarians, capacity building of parliamentary secretariats and community outreach for parliamentarians.²⁰ The advantage of this program is that it is managed by parliaments, not governments, and is therefore more likely to be considered apolitical.

Second, develop a 'knowledge sector initiative' to support the strengthening of civil society and media: NGOs, other civil society leaders and the media in Fiji need support to play a constructive role in rebuilding democracy and holding the government to account. The Fiji Government has been suspicious of NGOs that receive international support and an elected government may well harbour similar doubts about international players being involved in this sector. However, Australia and Indonesia's Knowledge Sector Initiative provides a model that might also work for Fiji.²¹

The Australian-Indonesian Partnership for Pro-Poor Policy: Knowledge Sector Initiative was created to help civil society and research institutions develop innovative approaches to development in Indonesia. The 15-year program is designed to strengthen Indonesia's public policies through better use of local knowledge. It is based on the notion that "arming citizens with evidence and information is the best way to develop legitimacy" and so "supports a broad range of actors from within Indonesian civil society to increase the contestability of public policy."²²

A similar model in Fiji could bring together government policymakers, civil society, including NGOs and universities, and media to share information on national development and economic issues. Such an initiative could help the Fiji Government make better use of the civil sector's knowledge and research. It would also better equip NGOs and the media to analyse and report on government policies.

Third, support the recruitment of reputable judges from Commonwealth jurisdictions, including in Africa and the Caribbean, to help restore the independence and the capacity of the Fiji judiciary: Fiji's judiciary needs to be competent and independent for the sake of the country's return to democracy. But this is also important in terms of promoting economic development and attracting foreign investment. Foreign investors need to have confidence that disputes will be adjudicated in a manner consistent with the rule of law and that contracts will be upheld. Indeed, this economic dimension to judicial reform would be a powerful incentive for the government.

Although the capacity and independence of the judiciary had already been damaged by successive coups, the 2009 sacking of judges delivered it a near-fatal blow. The 2013 Constitution gives the government significant control over the judiciary, which will continue to constrain its independence after the elections. Australia can assist in rebuilding the judiciary by supporting, partly via the Commonwealth Secretariat, the recruitment of judges from other Commonwealth jurisdictions which share broadly similar legal systems with Fiji.

LEVERAGE THE MILITARY RELATIONSHIP

All of these initiatives will require skilled Australian diplomacy and patience. But they also require real leverage if Bainimarama is elected prime minister. Australia certainly has that in its defence relationship with Fiji. Of all the measures Canberra adopted to signal its displeasure at Bainimarama's 2006 coup, the termination of defence ties cut the deepest.²³ The loss of long-established training and support relationships with Australia had a negative impact on the capability of the RFMF, which has been problematic for its international peacekeeping role.

Bishop has already announced that Australia would re-establish a defence relationship with Fiji following the elections. Australia has invited

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Fiji to send a defence representative to Canberra, and it wants to reinstate an Australian defence attaché in Suva. Fiji will be invited to participate again in Australia's Pacific Patrol Boat Program. A defence cooperation program that includes joint exercises and staff-college training will be re-established.

A reconstituted Defence Cooperation Program and some additional measures of assistance will help in reforming and forging new professional links for the RFMF while binding it closer to Australia. Inviting the RFMF to take part in training exercises in northern Australia, alongside the ADF and other defence partners, would play to Fiji's desire to see its military linked to elite counterparts. Enhanced military-to-military activities, including high-level dialogues and even Australia-Fiji military rugby matches would appeal to the Fiji military. Appointing a Fiji military fellow at the Australian Civil-Military Centre would also be a constructive gesture in strengthening the military-to-military relationship.

Immediately following the election, Bishop should outline further elements of the assistance package she introduced in February to include an enhanced military relationship as well as new partnerships with Parliament and the knowledge sector and support for the rule of law. As with Bishop's previous approach to Fiji she should indicate that there are no strings attached to the new elements. A blunt quid pro quo approach is unlikely to help build trust with a newly elected Fiji government. If it is necessary to leverage the military elements to secure progress with the civilian elements of the proposed assistance, this can be more subtly managed in the timing of implementation.

CONCLUSION

Fiji's election on 17 September will test both the Fiji Government's commitment to democracy and Australian policy in the region. Canberra must avoid compromising its efforts to promote democratic change in Fiji for the sake of increasing its regional influence. It is possible to do both at the same time even if it is likely to prove extremely challenging.

Australia's interests are more likely to be realised in Fiji if the rule of law is respected, an unfettered media and civil society flourishes and if the military stays out of politics. Fiji will only be able to consolidate the progress established by the election if other democratic institutions and building blocks are supported. If Australia does not take the lead in providing this assistance, then who will?

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NOTES

¹ Julie Bishop visited Fiji for a meeting of the Pacific Islands Forum's Ministerial Contact Group on Fiji. She had already met with Fiji Ratu Inoke Kubuabola on two occasions prior to this visit. Rowan Callick, "Julie Bishop Move to Bring Fiji in from Cold," *The Australian*, 15 February 2014, <http://www.theaustralian.com.au/national-affairs/foreign-affairs/julie-bishop-move-to-bring-fiji-in-from-cold/story-fn59nm2j-1226827773519#>

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¹¹ Fiji Government, "Electoral Decree 2014," in *Government of Fiji Gazette* (Suva, Fiji Government, 2014), <http://www.electionsfiji.gov.fj/wp-content/uploads/2014/03/Electoral-Decree-2014.pdf>, p. 264.

¹² Lal, "Strange Career."

¹³ Robert A. Hooper, "When the Barking Stopped: Censorship, Self-censorship and Spin in Fiji," *Pacific Journalism Review* 19, no. 1 (2013): 41-57

¹⁴ Vuniwaqa Bola-Beri, "Academics speak out against journalist treatment," *Fijilive*, 23 June 2014

¹⁵ Nigel Dodds, *Fiji: The Rule of Law Lost* (London: The Law Society Charity, 2014)

¹⁶ Nazeem Kasim, "Citizens' Constitutional Forum Response to the Supervisor of Elections Fiji: CCF has not Breached the Electoral Decree 2014," press release, 8 August 2014, <http://news.ccf.org.fj/citizens-constitutional-forum-response-to-the-supervisor-of-elections-fiji-ccf-has-not-breached-the-electoral-decree-2014/>

¹⁷ "Group Detained for Peaceful Protest in Fiji," Amnesty International Australia, 6 September 2013, <http://www.amnesty.org.au/news/comments/32667/>

¹⁸ Julie Bishop, "Australia Fiji Business Forum," (speech, Australia Fiji Business Forum, Brisbane, 30 July 2013).

¹⁹ Australia is already undertaking some capacity building activities for Fiji's public service and is likely to continue to enhance this following the elections.

²⁰ Parliament of Australia, Presiding Officers' Annual Statement in Pacific Parliamentary Partnership, (Canberra: Parliament of Australia, 2013).

²¹ “Australia – Indonesia for Pro-Poor Policy: Knowledge Sector Initiative,” Australian Government, Department of Foreign Affairs and Trade, 1 November 2013, <http://aid.dfat.gov.au/countries/eastasia/indonesia/Pages/initiative-knowledge-sector.aspx>

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²³ Senior Fiji Government Officials, interview with author, Suva, July-August 2014.

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