NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RAKESH KUMAR; RANJILA DEVI,	No. 07-72716
Petitioners,	Agency Nos. A078-659-732
	A078-659-733
v.	
ERIC H. HOLDER, Jr., Attorney General,	MEMORANDUM[*]
Respondent.	

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted June 29, 2010[**]

Before: ALARCÓN, LEAVY, and GRABER, Circuit Judges.

Rakesh Kumar and his wife, natives and citizens of Fiji, petition for review

of the Board of Immigration Appeals' ("BIA") order denying their motion to

reopen. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of

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[*]   This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

[**]   The panel unanimously concludes this case is suitable for decision
without oral argument. See Fed. R. App. P. 34(a)(2).

discretion, *Najmabadi v. Holder*, 597 F.3d 983, 986 (9th Cir. 2010), and we deny the petition for review.

The BIA did not abuse its discretion by denying petitioners' motion to reopen as untimely where the motion was filed more than 90 days after the BIA's final order, *see* 8 C.F.R. § 1003.2(c)(2), and petitioners failed to establish changed country conditions in Fiji to qualify for the regulatory exception to the time limitation, *see* 8 C.F.R. § 1003.2(c)(3)(ii); *see also Malty v. Ashcroft*, 381 F.3d 942, 945 (9th Cir. 2004) ("The critical question is . . . whether circumstances have changed sufficiently that a petitioner who previously did not have a legitimate claim for asylum now has a well-founded fear of future persecution.").

We reject petitioners' contention that the BIA failed to consider all relevant evidence in deciding their motion to reopen. *See Larita-Martinez v. INS*, 220 F.3d 1092, 1095-96 (9th Cir. 2000) (absent evidence to the contrary, the BIA is presumed to have considered all the evidence).

PETITION FOR REVIEW DENIED.

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