

# FIJI 2018 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

Fiji is a constitutional republic. The country held general elections on November 14, which international observers deemed credible. Josaia Voreqe (Frank) Bainimarama's Fiji First party won 27 of 51 seats in parliament, and he was sworn in as prime minister for a second four-year term.

Civilian authorities maintained effective control over the security forces.

Human rights issues included censorship, trafficking in persons, and forced labor (including of children).

The government investigated some security forces officials who committed abuses, and prosecuted or punished officials who committed abuses elsewhere in the government; however, impunity was a problem in cases with political implications.

### **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

#### **a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

There were no reports the government or its agents committed arbitrary or unlawful killings.

In November, two police officers appeared in court on charges related to the death of 26-year-old Josua Lalauvaki. The officers allegedly assaulted Lalauvaki during an altercation outside a Suva nightclub in September. After police released him, Lalauvaki died in the hospital from injuries sustained from the beating.

Eight police officers and a soldier remained in prison for the 2016 rape, sexual assault, and death of robbery suspect Vilikesa Soko. The appellate court has not set a date for their appeal.

#### **b. Disappearance**

There were no reports of disappearances by or on behalf of government authorities.

### **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

The constitution and law prohibit torture, forced medical treatment, and degrading treatment or punishment. The Public Order Act (POA), however, authorizes the government to use whatever force it deems necessary to enforce public order. There were reports security forces abused persons during the year.

The investigation into the death of Vikram Nand, found dead in a cell at a local police station in Valelevu in 2017, remained pending, as did an investigation initiated in 2017 into reports two police officers beat and threw two persons from a moving bus (which was captured on video).

Investigations into several other past allegations of police abuse also remained pending, including a 2016 complaint by farmer Alipate Sadranu that security forces beat him and 10 other men whom they apprehended for unlawful cultivation of illicit drugs and the 2015 alleged abuse of Sakiusa Niulala by police.

In 2017 the United Nations received one allegation of sexual exploitation and abuse committed by a Fijian peacekeeper in Beirut, Lebanon. The accusation of transactional sex in September 2017 was made against a member of the military contingent serving with the UN Disengagement Observer Force. The Fiji government concluded its investigation and found the allegation was substantiated. The United Nations repatriated the peacekeeper to Fiji where authorities took disciplinary action and dismissed him from the Fiji military.

### **Prison and Detention Center Conditions**

The national prison system remained overcrowded, with deteriorating infrastructure and complaints about inadequate essential services.

Physical Conditions: Prisons were somewhat overcrowded, holding more than 1,400 inmates in facilities designed for 1,000. There were insufficient beds, inadequate sanitation, and a shortage of other necessities. Authorities generally separated pretrial detainees and convicted prisoners at shared facilities, although in some cases authorities held them together. Prison facilities reportedly were unsuitable for inmates with physical and mental disabilities.

In October authorities fired a corrections officer and suspended five others after they assaulted a prisoner and then denied him medical treatment at a Suva remand center.

A police investigation into a 2016 case involving the alleged rape of a female inmate by a corrections officer was completed, and the case was pending trial at Suva's high court. Government officials reported one inmate death, reportedly from natural causes, during the year.

Administration: Prisoners may submit complaints to the Fiji Human Rights and Anti-Discrimination Commission (FHRADC), which investigated several complaints during the year.

The law allows prisoners to submit complaints to judicial authorities. Although the law prohibits authorities from reviewing, censoring, or seizing prisoner letters to the judiciary and the FHRADC, authorities routinely reviewed such letters and, in most cases, seized them. Authorities did not investigate or document credible allegations of inhuman conditions in a publicly accessible manner.

Independent Monitoring: The International Committee of the Red Cross, the Office of the United Nations High Commissioner for Human Rights, and the FHRADC visited official detention facilities and interviewed inmates; prison authorities permitted such visits without third parties present.

Improvements: During the year the government completed construction on a new 200-inmate remand center to alleviate overcrowding at the corrections facility in Lautoka. The government also completed construction of a facility for inmates requiring psychiatric care.

#### **d. Arbitrary Arrest or Detention**

The constitution prohibits arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his or her arrest or detention in court, and the government generally observed these requirements. The law details procedures for lawful arrest. The POA authorizes security forces to detain a person for a maximum 16 days before bringing charges; the minister of defense and national security must authorize detention without charge exceeding 48 hours. There were no reports of unlawful detention during the year.

#### **Role of the Police and Security Apparatus**

The Ministry of Defense and National Security oversees both the Fiji Police Force and the Republic of Fiji Military Force (RFMF). Police are responsible for law enforcement and the maintenance of internal security. The RFMF is responsible for external security. The POA authorizes soldiers to perform the duties and functions of police and prison officers in specific circumstances.

The police Ethical Standards Unit is responsible for investigating complaints of police misconduct. In May, three police officers were charged for the 2014 indecent assault of a female police officer, including a charge of conspiring to obstruct justice for attempting to influence the female officer to withdraw the allegation.

Four military officers were charged and court martialed for the sexual assault and rape of a female military officer in March; the outcome remained pending.

The Fiji Independent Commission against Corruption (FICAC) reports directly to the president and investigates public agencies and officials, including police. Following investigations by FICAC, a senior police officer in the Border Police Unit appeared in court in June for refusing to provide information in a bribery-related case; the court convicted him and suspended his sentence.

To increase respect for human rights by security forces, the FHRADC, international organizations, and local nongovernmental organizations (NGOs) conducted a number of human rights training courses with law enforcers.

Impunity remained a problem in some politically connected cases. The constitution and POA provide immunity from prosecution for members of the security forces for any deaths or injuries arising from the use of force deemed necessary to enforce public order. The constitution provides immunity for the president, prime minister, members of the cabinet, and security forces for actions taken relating to the 2006 coup, the 2009 abrogation of the 1997 constitution, and the 2000 suppression of a mutiny at military headquarters.

### **Arrest Procedures and Treatment of Detainees**

The constitution provides that detained persons be charged and brought to court within 48 hours of arrest or as soon as practicable thereafter, and that right was generally respected. Police officers may arrest persons without a warrant.

Police also conduct arrests in response to warrants issued by magistrates and judges. Police may detain persons under the POA for a maximum of 16 days, after which authorities must charge or release persons in custody. There is no legal requirement to bring to court persons detained under provisions of the POA for judicial review of the grounds for their detention, unless authorities charge them with an offense. The POA prohibits any court, tribunal, or other body from reviewing a detention under POA provisions.

The law provides accused persons the right to bail, unless it is “not in the interests of justice” to grant bail. Under the law both police and the courts may grant bail. Although there is a legal presumption in favor of granting bail, the prosecution may object, and often did so in cases where the accused was appealing a conviction or had previously breached bail conditions. An individual must apply for bail by a motion and affidavit that require the services of a lawyer.

Authorities generally allowed detainees prompt access to counsel and family members. The Legal Aid Commission provided counsel to indigent defendants in criminal cases, a service supplemented by voluntary services from private attorneys. The “First Hour Procedure,” began in 2016, requires police to provide every suspect with legal aid assistance within the first hour of arrest. In addition, police are required to record the “caution interview” with each suspect before questioning, to confirm police informed all suspects of their constitutional rights, and to confirm whether suspects suffered any abuse by police prior to questioning.

Pretrial Detention: The number of pretrial detainees was 21 percent of the total prison population, attributed to a continuing pattern of bail refusal by the courts. A shortage of prosecutors and judges contributed to slow processing of cases. Consequently, some defendants faced lengthy pretrial detention.

#### **e. Denial of Fair Public Trial**

The constitution provides for an independent judiciary, but its independence continued to be compromised. The president appoints or removes from office the judges of the Supreme Court, justices of appeal, and judges of the high court on the recommendation of the Judicial Service Commission in consultation with the attorney general. The commission, following consultations with the attorney general, may appoint magistrates, masters of the high court, the chief registrar, and other judicial officers. The constitution and law provide for a variety of restrictions on the jurisdiction of the courts. A 2012 amendment removed the courts’ jurisdiction to hear challenges to government decisions on judicial

restructuring, terms and conditions of remuneration for the judiciary, and terminated court cases. Various other decrees contained similar clauses limiting the jurisdiction of the courts on decisions made by the cabinet, ministers, or government departments.

### **Trial Procedures**

In most cases defendants have the right to a fair public trial, and the court system generally enforced this right.

Defendants generally have a presumption of innocence; they may not be compelled to testify or confess guilt. They may present witnesses and evidence on their own behalf and confront witnesses against them. Defendants have the right to be informed promptly and in detail of the charges against them, with free interpretation if necessary through all appeals. Authorities also must accord them adequate time and facilities to prepare a defense and be present at trial. In most cases defendants have the right to counsel, but many reportedly were unaware of their rights when detained or interviewed and, therefore, often did not ask for legal counsel. The Legal Aid Commission, supplemented by voluntary services of private attorneys, provided free counsel to some indigent defendants in criminal cases. The right of appeal exists, but procedural delays often hampered this right. The constitution allows for limitations on the right to public trial and provides for trials to “begin and conclude without unreasonable delay.”

### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

### **Civil Judicial Procedures and Remedies**

Individuals and organizations may seek civil remedies for human rights violations through domestic courts. In the event of a human rights violation, an individual may submit a complaint to the FHRADC, but the constitution prohibits the FHRADC from investigating cases filed by individuals and organizations relating to the 2006 coup and the 2009 abrogation of the 1997 constitution.

### **f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence**

The constitution prohibits such actions, but the POA permits military personnel to search persons and premises without a warrant from a court and to take photographs, fingerprints, and measurements of any person. Police and military officers also may enter private premises to break up any meeting considered unlawful. There were no credible reports police did so during the year.

## **Section 2. Respect for Civil Liberties, Including:**

### **a. Freedom of Expression, Including for the Press**

The constitution provides for freedom of expression, including for the press, but it grants the government authority to restrict these rights for a broad array of reasons. These include preventing hate speech and insurrection; maintaining national security, public order, public safety, public morality, public health, and the orderly conduct of elections; protecting the reputation, privacy, dignity, and rights of other persons; enforcing media standards; and regulating the conduct of media organizations. The POA also gives the government power to detain persons on suspicion of “endangering public safety” and to “preserve the peace.” The law on media prohibits “irresponsible reporting” and provides for government censorship of media.

Freedom of Expression: The law includes criticism of the government in its definition of the crime of sedition. This includes statements made in other countries by any person whom authorities may prosecute on their return to the country.

The POA defines as terrorism any act designed to advance a political, religious, or ideological cause that could “reasonably be regarded” as intended to compel a government to do or refrain from doing any act or to intimidate the public or a section thereof. It also makes acts of religious vilification and attempts to sabotage or undermine the country’s economy offenses punishable by a maximum fine of 10,000 Fijian dollars (F\$) (\$4,720) or five years in prison.

The law on flag protection deems any use of the country’s flag to “demean, disrespect, or insult the state, the government or any member of government, or the general public” an offense punishable by a maximum 10 years’ imprisonment and a fine of F\$20,000 (\$9,450). By law, “the onus of proof shall be on the defendant to prove his or her innocence.”

Press and Media Freedom: Independent media were somewhat active; however, journalists practiced self-censorship on sensitive political or communal topics because of restrictions in the media law and monitoring by the Media Industry Development Authority (MIDA).

In May the Suva high court acquitted three staff of the *Fiji Times*: Editor in Chief Fred Wesley, General Manager Hank Arts, and indigenous-language editor Anare Ravula, as well as Josaia Waqabaca, of sedition for the 2016 publication of Waqabaca's letter to the editor in the *Fiji Times*' indigenous-language newspaper *Nai Lalakai*. The public prosecutor announced he would appeal the decision; however, the appellate court did not set a date for the appeal. Although the court exonerated the defendants, media observers and human rights activists expressed concern the long investigation and trial stifled free speech.

Violence and Harassment: In February police questioned three journalists from *Island Business* magazine after it published details of an employment contract of a magistrate presiding over a labor dispute. Authorities claimed the publication breached the POA.

Censorship or Content Restrictions: The media law contains a provision authorizing the government to censor all news stories before broadcast or publication. Although the government ceased formal media censorship in 2012, journalists and media organizations continued to practice varying degrees of self-censorship due to the threat of prosecution for contempt of court or under provisions of the media law. Despite this, media published several paid opinion articles by academics and commentators perceived as antigovernment, although the publishers took care to include disclaimers.

By law directors and 90 percent of local media shareholders must be citizens and permanently reside in the country. MIDA is responsible for enforcing these provisions and has power to investigate journalists and media outlets for alleged violations, including powers of search and seizure of equipment. The law requires the government to establish a media tribunal to hear complaints referred by MIDA, with power to impose maximum fines of F\$25,000 (\$11,810) for publishers and editors, and F\$100,000 (\$47,200) for media organizations. Despite this, media contacts reported the government had not yet established a media tribunal. If established the tribunal would consist of a single judge and would not be bound by formal rules of evidence. The law strips the judiciary of power to review decisions or findings of MIDA, the tribunal, or the information minister.

The code of ethics in the law requires that media publish balanced material. It obligates media to give any individual or organization an opportunity to reply to comments or provide materials for publication. Journalists reported this requirement did not restrict reporting as much as in past years but said they continued to practice self-censorship.

The law on television requires television station operators to conform to the media law's code of ethics.

Libel/Slander Laws: The constitution includes the need to protect the reputation of persons as a permissible limitation to freedom of expression, including of the press. The threat of prosecution for contempt of court or under provisions of the media law and the POA was sufficient incentive for media to continue to practice self-censorship.

### **Internet Freedom**

The government did not restrict or disrupt access to the internet or censor online content; however, there were some reports the government monitored private online communications without legal authority.

In May parliament enacted the Online Safety Act in what it described as an effort to protect minors from offensive online behavior, cybercrime, and cyber bullying. The law penalizes offenders with a maximum fine of F\$20,000 (\$9,450) and/or a maximum five years' imprisonment for posting an electronic communication that causes harm to a person. Since enacting the law, the government filed two defamation lawsuits against political opponents for posting comments critical of the government on social media. In September Supervisor of Elections Mohammed Saneem filed a lawsuit against Fiji citizen Shailendra Raju, a vocal government critic residing in New Zealand, for allegedly posting defamatory remarks against Saneem's family on social media. The F\$1 million (\$473,000) civil suit was the first of its kind against a person not resident in the country. In May the prime minister and attorney general filed a defamation suit against two members of opposition political parties for social media posts alleging the two orchestrated several Hindu temple break-ins around the country to plant fear in the Indo-Fijian community and thereby gain their political support.

All telephone and internet users must register their personal details with telephone and internet providers, including name, birth date, home address, left thumbprint, and photographic identification. The law imposes a maximum fine of F\$100,000

(\$47,200) on providers who continued to provide services to unregistered users and a maximum fine of F\$10,000 (\$4,720) on users who did not update their registration information as required.

The internet was widely available and used in and around urban centers, but its availability and use were minimal or nonexistent in rural areas. The International Telecommunication Commission estimated more than 46 percent of the population had access to the internet in 2016.

### **Academic Freedom and Cultural Events**

The constitution provides for academic freedom, although contract regulations of the University of the South Pacific effectively restricted most university employees from running for or holding public office or holding an official position with any political party. Persons who enter the country on tourist visas to conduct research must notify and seek permission from the government.

### **b. Freedoms of Peaceful Assembly and Association**

The constitution provides for the freedoms of peaceful assembly and association; however, the government may restrict these freedoms in some cases.

### **Freedom of Peaceful Assembly**

The constitution provides for freedom of peaceful assembly but allows the government to limit this right in the interests of national security, public safety, public order, public morality, public health, and the orderly conduct of elections. The constitution also allows the government to limit freedom of assembly to protect the rights of others and imposes restrictions on a public official's right to freedom of assembly.

The POA allows the government to refuse permit applications for any meeting or demonstration deemed to prejudice peace, public safety, and good order or to sabotage or attempt to undermine the economy. It also allows authorities to use whatever force necessary to prohibit or disperse public and private meetings after "due warning" to preserve public order.

Although event organizers said authorities were sometimes very slow to issue permits, they granted permits for public rallies in support of UN Human Rights

Day and the 16 Days of Activism against Domestic Violence Campaign but denied a permit for a public service union to protest.

### **Freedom of Association**

The constitution provides for freedom of association but limits this right in the interests of national security, public order, and morality and also for the orderly conduct of elections. It allows the government to regulate trade unions and collective bargaining processes, strikes and lockouts, and essential industries in the interests of the economy and population (see section 7.a.). The government generally did not restrict membership in NGOs, professional associations, and other private organizations.

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/religiousfreedomreport/](http://www.state.gov/religiousfreedomreport/).

### **d. Freedom of Movement**

Under the POA, the government may restrict freedom of internal movement, foreign travel, emigration, and repatriation.

The government cooperated with the Office of the United Nations High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

In-country Movement: The POA authorizes the government to prohibit, restrict, or regulate the movement of persons, but there were no reports the government restricted any person's in-country movement during the year.

Exile: In 2017 opposition parties called on the government to lift travel bans on all existing and former citizens, including former citizen and academic Brij Lal. The Immigration Department has stated Lal could reapply for re-entry into the country; however, the ban reportedly remained in place at the end of the year.

### **Protection of Refugees**

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees.

### **Section 3. Freedom to Participate in the Political Process**

The constitution and electoral law provide citizens the ability to choose their government in free and fair periodic elections generally held by secret ballot and based on universal and equal suffrage. In the 2014 election, voters with disabilities and in need of assistance were required to rely on the assistance of an electoral official in order to vote; however, in the November election, the Fiji Elections Office implemented new procedures, which observers noted provided greater flexibility to voters with disabilities.

#### **Elections and Political Participation**

Recent Elections: On November 14, voters elected 51 members of parliament. The Fiji First party won 27 seats, and Josaia Voreqe (Frank) Bainimarama was sworn in as prime minister for a second four-year term. Observers, including the Australian-led Multinational Observer Group, deemed the elections generally credible and noted the “outcomes are on track to reflect the will of Fijian voters.”

Political Parties and Political Participation: The constitution provides for the right to form and join political parties, to campaign for political parties or a cause, to register as a voter, to vote by secret ballot in elections or referendums, to run for public office, and to hold that office. Nevertheless, the government may prescribe eligibility requirements for voters, candidates, political party officials, and holders of public office.

The POA requires permits for political meetings in both public and private venues.

The law requires that parties submit applications, which must include 5,000 members’ signatures, for registration. The law allows deregistration of political parties for any election offense and mandates trade union leaders must resign their positions before running as candidates.

The electoral law restricts any person, entity, or organization from receiving funding from foreign governments, intergovernmental organizations, or NGOs, and forbids multilateral agencies from conducting or participating in any campaign, including meetings, debates, panel discussions, interviews, publication of materials, or any public forum discussing the elections. Maximum penalties for

violations of the law include 10 years' imprisonment, a fine of F\$50,000 (\$23,600), or both. The law allows universities to hold panel discussions and organize inclusive public forums.

The law also reduces the opposition's power and ability to introduce petitions in parliament. Any petition tabled in parliament requires the support of a minimum of 20 parliamentarians (40 percent) before members may present it for debate.

Participation of Women and Minorities: No law limits participation of women or members of minorities in the political process, and they did participate. Cultural attitudes about gender roles restricted political participation by most indigenous women. Indo-Fijians, who accounted for 36 percent of the population, continued to be underrepresented in government and the military, although they held six of the 13 cabinet minister positions and six of eight assistant minister positions.

#### **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for corruption by officials, but the government did not implement the law effectively, and officials sometimes engaged in corrupt practices with impunity. There were numerous reports of government corruption during the year.

Corruption: Government measures to combat corruption within the bureaucracy, including FICAC public-service announcements encouraging citizens to report corrupt government activities, had some effect on systemic corruption. Media published articles on FICAC investigations of abuse of office, and anonymous blogs reported on some government corruption. FICAC also received more than 100 corruption-related complaints and 30 cases of fraud involving a government educational grant.

In May the Ministry of Foreign Affairs terminated the employment of two protocol officers and suspended a senior officer for alleged visa fraud.

Corruption cases from past years continued. In June 2017 the RFMF began investigating 12 military personnel for alleged fraud related to the military's salary payment system. At year's end the case continued against former corrections chief Lieutenant Colonel Ifereimi Vasu, who authorities dismissed in 2015 for abuse of office related to his alleged misuse of a prison minimart.

Financial Disclosure: No law requires income and asset disclosure by appointed or elected officials. FICAC reports directly to the attorney general and is the primary body responsible for combating and prosecuting government corruption. The government adequately funded FICAC, but some observers questioned its independence and viewed some of its high-profile prosecutions as politically motivated, such as a 2015 case against opposition parliamentarian Ratu Isoa Tikoca for failure to declare liabilities under the Political Parties Act, which requires disclosures by candidates running for election and party officials. A court acquitted the defendant in June 2017.

In May FICAC brought similar charges against Sitiveni Rabuka, leader of the opposition Social Democratic Party, for allegedly making a false declaration of his assets, income, and liabilities to the elections supervisor. The court acquitted Rabuka of all charges on October 26. FICAC appealed the ruling a week later, which the appellate court also dismissed.

### **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights**

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views.

The law constrained NGO operations in several ways. For example, the law includes criticism of the government in its definition of sedition; the POA contains a broad prohibition of any speech that could damage the economy; and media law authorizes the government to regulate media content.

Government Human Rights Bodies: The constitution establishes the FHRADC, and it continued to receive reports of human rights violations lodged by citizens. While the FHRADC routinely worked with the government to improve certain human rights matters (such as prisoner treatment), observers reported the FHRADC failed to address adequately some key human rights matters, such as the spate of sedition trials, leading those observers to assess the FHRADC as progovernment. In 2016 the FHRADC confirmed it received 703 complaints of human rights violations since 2013.

### **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

## Women

Rape and Domestic Violence: The law recognizes rape, including spousal rape, as a crime and provides for a maximum punishment of life imprisonment for rape. The law recognizes spousal rape as a specific offense. Rape (including spousal rape), domestic abuse, incest, and sexual harassment were significant problems. There was a large increase in reports of rape during the year, due in part to greater awareness that spousal rape is a crime.

The law defines domestic violence as a specific offense. Police practice a “no-drop” policy, whereby they are required to pursue investigations of domestic violence cases even if a victim later withdraws the accusation. Nonetheless, women’s organizations reported police did not consistently follow this policy. Courts dismissed some cases of domestic abuse and incest or gave perpetrators light sentences. In May police completed an investigation into a case of incest and rape of a 12-year-old girl but had not filed charges by year’s end. Traditional and religious practices of reconciliation between aggrieved parties in both indigenous and Indo-Fijian communities were sometimes utilized to mitigate sentences for domestic violence. In some cases authorities released offenders without a conviction on condition they maintained good behavior.

Sexual Harassment: The law prohibits sexual harassment, and the government used criminal law against “indecent assaults on females,” which prohibits offending the modesty of women, to prosecute sexual harassment cases.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization.

Discrimination: Women have full rights of inheritance and property ownership by law, but local authorities often excluded them from the decision-making process on disposition of indigenous communal land, which constituted more than 80 percent of all land. Women have the right to a share in the distribution of indigenous land lease proceeds, but authorities seldom recognized this right. Women have the same rights and status as men under family law and in the judicial system. Nonetheless, women and children had difficulty receiving protection orders enforced by police in domestic violence cases.

Although the law prohibits gender-based discrimination and requires equal pay for equal work, employers generally paid women less than men for similar work (see section 7.d.).

## Children

Birth Registration: Citizenship is derived both from birth within the country and through one's parents. Parents generally registered births promptly.

Child Abuse: Corporal punishment was common in schools, despite a Ministry of Education policy forbidding it in the classroom. Increasing urbanization, overcrowding, and the breakdown of traditional community and extended family structures put children at risk for abuse and appeared to be contributing factors to a child's chance of exploitation for commercial sex. The government continued its public awareness campaign against child abuse.

Early and Forced Marriage: The legal minimum age for marriage is 18 years. Some NGOs reported that, especially in rural areas, girls often married at age 18, preventing them from completing their secondary school education. In indigenous villages, girls younger than age 18 who became pregnant could live as common-law wives with their child's father after the man presented a traditional apology to the girl's family, thereby avoiding the filing of a complaint to police by the family. The girls frequently married the fathers as soon as legally permissible.

Sexual Exploitation of Children: Commercial sexual exploitation of children continued. It is an offense for any person to buy or hire a child younger than age 18 years for sex, exploitation in prostitution, or other unlawful purpose; the offense is punishable by a maximum 12 years' imprisonment. No prosecutions or convictions for trafficking of children occurred during the year.

It is an offense for a householder or innkeeper to allow commercial sexual exploitation of children in his or her premises. There were no known prosecutions or convictions for such offenses during the year.

Some high-school-age children and homeless and jobless youth were trafficked for commercial sex during the year, and there were reports of child sex tourism in tourist centers, such as Nadi and Savusavu.

The minimum age for consensual sex is 16 years. The court of appeals has ruled that 10 years is the minimum appropriate sentence for child rape, but police often charged defendants with "defilement" rather than rape because defilement was easier to prove in court. Defilement or unlawful carnal knowledge of a child younger than age 13 has a maximum penalty of life imprisonment, while the

maximum penalty for defilement of a child age 13 to 15, or of a person with intellectual disabilities, is 10 years' imprisonment.

Child pornography is illegal. The maximum penalty is 14 years in prison, a fine of F\$25,000 (\$11,800), or both for a first offense; and life imprisonment, a maximum fine of F\$50,000 (\$23,600); or both for a repeat offense, and the confiscation of any equipment used in the commission of the crime.

The law requires mandatory reporting to police by teachers and health and social welfare workers of any incident of child abuse.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data.html>.

### **Anti-Semitism**

There was a small Jewish community composed primarily of foreign residents. There were no reports of anti-Semitic acts.

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

### **Persons with Disabilities**

Discrimination against persons with disabilities is illegal. The constitution addresses specifically the right of persons with disabilities to reasonable access to all places, public transport, and information, as well as the rights to use braille or sign language and to reasonable access to materials and devices related to the disability; the law, however, does not further define "reasonable." Moreover, the constitution provides that the law may limit these rights "as necessary." Statutes provide for the right of access to places and all modes of transport generally open to the public. Public health regulations provide penalties for noncompliance, but there was minimal enabling legislation on accessibility for persons with disabilities, and there was little or no enforcement of laws protecting them.

Building regulations require new public buildings to be accessible to persons with disabilities, but only a few buildings met this requirement. By law all new office spaces must be accessible to persons with disabilities. Persons with disabilities continued to face employment discrimination (see section 7.d.). There were no government programs to improve access to information and communications for persons with disabilities, and persons with disabilities, in particular those with hearing or vision disabilities, had difficulty accessing public information. Parliament continued to televise its sessions in sign language to improve access for persons with hearing disabilities.

There were a number of separate schools offering primary education for persons with physical, intellectual, and sensory disabilities; however, cost and location limited access. Some students attended mainstream primary schools, and the nongovernmental Early Intervention Center monitored them. Opportunities were very limited for secondary school or higher education for persons with disabilities.

The law stipulates that the community, public health, and general health systems provide treatment for persons with mental and intellectual disabilities, although families generally supported persons with such disabilities at home. Institutionalization of persons with more significant mental disabilities was in a single, underfunded public facility in Suva.

The Fijian Elections Office continued to maintain a website accessible to the disability community, including text-to-speech capability, large type, and an inverted color scheme. In 2016 the office signed an agreement with the Pacific Disability Forum and the Fiji National Council for Disabled Persons to create an Elections Disability Access Working Group to improve political participation by the country's disability community. The national council, a government-funded statutory body, worked to protect the rights of persons with disabilities. The office implemented new procedures to facilitate the voting process for the November 14 election for voters with disabilities.

### **National/Racial/Ethnic Minorities**

Tension between indigenous Fijians and the Indo-Fijian minority was a longstanding problem. As of July 2017, indigenous Fijians comprised an estimated 58 percent of the population, Indo-Fijians 36 percent, and the remaining 6 percent was composed of Europeans, Chinese, Rotumans, and other Pacific Islander communities. The government publicly stated its opposition to policies that provide “paramountcy” to the interests of indigenous Fijians and Rotumans, which

it characterized as racist, and called for the elimination of discriminatory laws and practices that favor one race over another. Although Indo-Fijians dominated the commercial sector, indigenous Fijians continued to dominate the security forces.

Land tenure remained a highly sensitive and politicized topic. Indigenous Fijians communally held approximately 87 percent of all land; the government, 4 percent; and the remainder was freehold land held by private individuals or companies. Most cash-crop farmers were Indo-Fijians, the majority of whom are descendants of indentured laborers who came to the country during the British colonial era. Almost all Indo-Fijian farmers must lease land from ethnic Fijian landowners. Many Indo-Fijians believed this limited their ability to own land and their consequent dependence on leased land from indigenous Fijians constituted de facto discrimination against them. Many indigenous Fijian landowners believed the rental formulas prescribed in national land tenure legislation discriminated against them as the resource owners.

By law all indigenous Fijians are automatically registered upon birth into an official register of native landowners known as the *Vola ni Kawa Bula* (native land register). The register also verifies access for those in it to indigenous communally owned lands and justifies titleholders within indigenous communities.

### **Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity**

The constitution prohibits discrimination on the grounds of sexual orientation, gender, and gender identity and expression. The law prohibits discrimination in employment based on sexual orientation. Nevertheless, the FHRADC reported complaints of discrimination against lesbian, gay, bisexual, transgender, and intersex persons in such areas as employment, housing, or access to health care.

In November authorities arrested Saula Temo and charged him in the May death of a transgender man in a suspected hate crime. The case was pending at year's end.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law provides all workers the right to form and join independent unions, bargain collectively, and strike.

The law prohibits some forms of antiunion discrimination, including victimizing workers or firing a worker for union membership. The constitution prohibits union officers from becoming members of parliament. The law also limits the ability of union officers to form or join political parties and exercise other political rights.

The law designates “essential service and industries” to include corporations engaged in finance, telecommunications, public-sector employees, mining, transport, and the airline industry. The definition of essential services and industries also includes all state-owned enterprises, statutory authorities, and local government authorities.

The law also limits who may be an officer of a trade union, including prohibiting noncitizens from being trade union officers.

All unions must register with the government, which has discretionary power to refuse to register any union with an “undesirable” name, although the law limits the government’s discretion to refuse to register trade union names to those cases where the name is “offensive or racially or ethnically discriminatory.” By law the government may cancel registration of existing unions in exceptional cases.

By law any trade union with seven or more members in an industry not designated as essential may enter into collective bargaining with an employer.

Unions may conduct secret strike ballots upon 14 days’ notice to the registrar if 50 percent of all members who are entitled to vote approve the strike. Workers in essential services may strike but must also give 14 days’ notice; notify the Arbitration Court; and provide the category of workers who propose to strike, the starting date, and location of the strike. The law permits the minister of employment to declare a strike unlawful and refer the dispute to the Arbitration Court. If authorities refer the matter to the court, workers and strike leaders could face criminal charges if they persist in strike action.

Limited data were available on the government’s enforcement of legal provisions on freedom of association and collective bargaining. Penalties under law for violations of freedom of association and collective bargaining included fines and imprisonment; observers considered them sufficient to deter violations. Individuals, employers, and unions (on behalf of their members) may submit employment disputes and grievances alleging discrimination, unfair dismissal, sexual harassment, or certain other unfair labor practices to the Ministry of Employment, Productivity, and Industrial Relations.

The two trade union umbrella bodies, the Fiji Trades Union Congress (FTUC) and the Fiji Islands Council of Trade Unions, held meetings during the year without government interference.

Labor relations became strained after a December 2017 impasse involving the management and approximately 200 employees of the airport and passenger ground-handling company, Airport Terminal Services. Workers claimed management locked out and suspended workers for attending a meeting to discuss their grievances. In mid-January an estimated 2,500 persons demonstrated in support of the workers, and police did not intervene to disrupt the march. A national strike proposed by the FTUC was averted after the Employment Relations Tribunal ordered management to allow the workers to return.

### **b. Prohibition of Forced or Compulsory Labor**

The constitution and law prohibit all forms of forced or compulsory labor.

The Office of Labor Inspectorate, police, and Department of Immigration are responsible for enforcing the law, depending on the circumstances of the particular case. The government effectively enforced the law. The law prescribes imprisonment penalties, which observers considered sufficient to deter violations.

There were reports forced labor occurred, including forced labor of children (see section 7.c.).

Also see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

### **c. Prohibition of Child Labor and Minimum Age for Employment**

Although the law provides that education is compulsory until age 15 years, children age 13 to 15 may be employed on a daily wage basis in nonindustrial "light" work not involving machinery, provided they return to their parents or guardian every night. The law sets a limit of eight hours per day that a child can work but does not include a list of permissible activities. Children age 15 to 17 may be employed, but they must have specified hours and rest breaks. They may not be employed in hazardous occupations and activities, including those involving heavy machinery, hazardous materials, mining, or heavy physical labor, the care of children, or work within security services.

The Ministry of Employment, Productivity, and Industrial Relations deployed inspectors countrywide to enforce compliance with the law, including law covering child labor. The government effectively enforced applicable law, and penalties were generally sufficient to deter violations. The law provides for imprisonment, fines, or both, for companies that violate these provisions.

Poverty continued to influence children to migrate to urban areas for work, increasing their vulnerability to exploitation, and to work as casual laborers, often with no safeguards against abuse or injury. Child labor continued in the informal sector and in hazardous work, including work as wheelbarrow boys and casual laborers, including in agriculture. Commercial sexual exploitation of children occurred (see section 6, Children). Some children worked in relatives' homes and were vulnerable to involuntary domestic servitude or forced to engage in sexual activity in exchange for food, clothing, shelter, or school fees.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/reports/child-labor/findings](http://www.dol.gov/ilab/reports/child-labor/findings).

#### **d. Discrimination with Respect to Employment and Occupation**

The law prohibits employment discrimination. The law stipulates that every employer pay male and female workers equal remuneration for work of equal value. The law prohibits women working underground in mines but places no other legal limitations on the employment of women. Under the law workers may file complaints on the ground of sexual harassment in the workplace.

Limited data were available on the government's antidiscrimination provisions and its enforcement. Penalties for employment discrimination include fines and imprisonment and are generally sufficient to deter violations.

Discrimination in employment and wages occurred with respect to women and persons with disabilities. Women generally received less pay than men for similar work. According to the Asian Development Bank, approximately 30 percent of the economically active female population engaged in the formal economy, and a large number of these women worked in semisubsistence farming or were self-employed. By law women have full rights of inheritance and property ownership of indigenous communal land, which constituted more than 80 percent of all land, but authorities seldom recognized this right (see section 6). The nongovernmental Fiji Disabled People's Association reported most persons with disabilities were

unemployed due to lack of access, insufficient education and training, and discrimination by employers.

#### **e. Acceptable Conditions of Work**

As of September 2017, the national minimum hourly wage was F\$2.68 (\$1.27). The regulations stipulate all employers must display a written national minimum wage notice in their workplace to inform employees of their rights. There was no official poverty-level income figure, but the minimum wage did not typically provide a decent standard of living for a worker and family.

There is no single countrywide limitation on maximum working hours for adults, but there are restrictions and overtime provisions in certain sectors. The government establishes workplace safety laws and regulations.

The Ministry of Employment, Productivity, and Industrial Relations' Office of Labor Inspectorate is responsible for enforcing the minimum wage, but the inspectorate lacked capacity to enforce the law effectively. Convictions for a breach of the minimum wage law result in a fine, imprisonment, or both. The Occupational Health and Safety Inspectorate monitored workplaces and equipment and investigated complaints from workers. Government enforcement of safety standards suffered from a lack of trained personnel and delays in compensation hearings and rulings. Although the law excludes mines from general workplace health and safety laws, it empowers the director of mines to inspect all mines to provide for the health, safety, and welfare of employees. The Employment Relations Tribunal and the Employment Court adjudicate cases of employers charged by the inspectorate with violating minimum wage orders and decide on compensation claims filed by the inspectorate on behalf of workers.

Unions generally monitored safety standards in organized workplaces, but many work areas did not meet standards, and the ministry did not monitor all workplaces for compliance. Workers in some industries, notably security, transportation, and shipping, worked excessive hours. Media reported two workers died in work-related incidents during the year.

In June the FTUC lodged concerns about the country's labor relations with the International Labor Organization following a labor dispute involving workers at the Vatukoula Gold Mine. According to the FTUC, mineworkers, who labored in some of the most dangerous working environments in the country, received no

wage adjustments for more than a decade and wanted workplace safety and security concerns addressed.