



## Fiji

### Country Reports on Human Rights Practices - [2006](#)

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Fiji is a constitutional republic with a population of approximately 850,000. The constitution provides for an elected president, prime minister, and parliament, but on December 5, armed forces commander Commodore Voreque Bainimarama overthrew the government of Prime Minister Laisenia Qarase of the Soqosoqo Duavata ni Lewenivanua (SDL) party in a bloodless coup d'etat and announced the establishment of an interim military government. Bainimarama declared himself acting president and on December 6 dissolved the Parliament. Bainimarama asserted that the Qarase government was corrupt, that it had manipulated the May election that returned it to power, and that it unfairly favored indigenous Fijian interests. Qarase was elected prime minister in 2001, and Parliament reelected him following multiparty parliamentary elections in May deemed generally free and fair. Prior to the coup the civilian authorities generally maintained effective control of the police but were unable to maintain effective control of the military forces. In the months before the coup the military had publicly threatened to force the government to resign if it did not comply with certain military demands.

Prior to the December coup the government generally respected the human rights of its citizens, although there were serious problems in some areas. The human rights situation deteriorated greatly following the coup. The takeover denied citizens the right to change their government peacefully. On December 5, Bainimarama proclaimed a state of emergency, significantly restricting constitutional provisions for freedom of expression and assembly, and the right to privacy, subject to the military's interpretation and without recourse to the courts. The military government arbitrarily detained, and sometimes abused, coup opponents; conducted searches without warrants; engaged in intimidation of the media; and restricted the right to assemble peacefully. Other problems during the year included poor prison conditions; attacks against religious facilities, particularly Hindu temples; government corruption; continuing deep divisions between indigenous Fijians (55 percent of the population) and Indo-Fijians (37 percent); violence and discrimination against women; and child prostitution.

#### RESPECT FOR HUMAN RIGHTS

##### Section 1 Respect for the Integrity of the Person, Including Freedom From:

###### a. Arbitrary or Unlawful Deprivation of Life

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

###### b. Disappearance

There were no reports of politically motivated disappearances.

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

The constitution prohibits such practices; however, there were some reports of abuses by police during the year. The military committed numerous abuses after the December 5 coup.

Reported incidents of police beatings and other abuse of apprehended persons and prisoners prior to the coup were investigated and, when appropriate, offending officers were prosecuted and punished. All such cases appeared to be isolated incidents, not condoned by supervisory officers. At year's end the investigation into a 2005 case in which the police allegedly failed to obtain prompt medical treatment for a suspect injured during apprehension was still ongoing.

Following the coup there were numerous incidents of the Republic of Fiji Military Forces (RFMF) detaining without a warrant and abusing persons who had voiced opposition to the coup or who supported a return to democratic government. In the late hours of December 24 and early hours of December 25, soldiers took six prodemocracy supporters from their homes, including young persons who had erected a "prodemocracy shrine" outside a house in Lami (see section 2.a.), and brought them to the RFMF's Queen Elizabeth barracks, where they reportedly were beaten, stepped on, and threatened with weapons. They were then forced to run several miles through Suva followed by soldiers in vehicles. Also on December 25, the military seized five young men in a Suva suburb and made them strip to their underwear and crawl through drain pipes before being dropped at a remote jungle location to find their way home. In another incident soldiers seized a former government minister overheard in a bar criticizing Bainimarama, roughed him up, and made him run around a track at gunpoint. Some women detained by the military for speaking out against the coup were sexually molested.

The number of complaints to the Fiji Human Rights Commission (FHRC), a constitutionally mandated statutory body, for violation of the right

to freedom from cruel and degrading treatment and torture declined over the previous four years. Formal complaints to the FHRC following the coup did not increase significantly by year's end despite alleged military abuses; according to human rights observers this reflected a climate of intimidation and fears of reprisal after the coup.

Following allegations by human rights nongovernmental organizations (NGOs) of FHRC inaction over rights abuses, the FHRC director stated she would investigate such cases if formal complaints were made. However, on December 27, she also warned members of the public that not all their rights, including that to free speech, could still be exercised freely and lawfully under the state of emergency (see section 4). Although the state of emergency was initially declared on December 5, the details on how constitutional rights had been affected were not made publicly known until December 29.

The law permits corporal punishment as a penalty for criminal acts; however, in 2002 the Court of Appeal ruled that corporal punishment in the penal system was unconstitutional. The FHRC conducted periodic training courses for police, prison officers, and military personnel, using a human rights manual based on international standards.

#### Prison and Detention Center Conditions

Prison conditions did not meet international standards. The national prison system was seriously underfunded, with deteriorating infrastructure and poor delivery of essential services. The system had insufficient beds, inadequate sanitation, and a shortage of basic necessities. There were a large number of prison escapes during the year.

In some cases pretrial detainees and convicted prisoners were held together. Courts released pretrial detainees, including some facing serious charges, on bail to minimize their exposure to an unhealthy and overcrowded prison environment. Upon instructions from the High Court, the FHRC compiled reports for the court of inhumane conditions within the Suva prison's facility for those awaiting trial. Based on the reports the High Court declared conditions in the Suva prison to be in breach of the constitution and granted bail on these grounds for several pretrial detainees. Prison authorities subsequently closed the main cell block of the Suva prison.

Family members were routinely permitted to visit prisoners.

The Qarase government permitted visits by independent human rights observers. During the year the International Committee for the Red Cross (ICRC) visited detention facilities and interviewed detainees. Persons detained by the military following the coup were typically held in cells at the main military barracks in Suva for very brief periods, generally overnight. No independent human rights observers were permitted to visit the military detention cells.

#### d. Arbitrary Arrest or Detention

The constitution prohibits arbitrary arrest and detention, and the civilian government generally observed these prohibitions. However, from the December 5 coup through the end of the year, military personnel detained numerous persons without warrants for interrogation and intimidation and, in some cases, brief incarceration. None of those detained appeared before any court. The military and the director of the FHRC cited the military's state of emergency proclamation as the basis for the detentions.

#### Role of the Police and Security Apparatus

The Ministry of Home Affairs oversees the Fiji Police Force, which is responsible for law enforcement and the maintenance of internal security. The RFMF is responsible for external security. The RFMF maintained that it has a broad constitutional responsibility for national security that also extends to domestic affairs; many constitutional scholars in the country disagreed with that assertion.

The police maintained a network of 31 stations and 54 police posts throughout the country. Policing of more remote and smaller islands was done through regularly scheduled visits. The government continued a program initiated in 2003 to improve policing standards and combat corruption. The police internal affairs unit is required to investigate complaints of police brutality. Allegations of corruption were investigated, and disciplinary and criminal cases initiated. Some officers were removed from the force. Although there were improvements in discipline and accountability, corruption remained a problem.

Following the December coup the interim military government dismissed the police commissioner, his deputy, and the assistant commissioner for crime; named a military officer as interim commissioner; and instituted joint military and police operations to maintain public order.

The interim military government took no action against military personnel alleged to have committed abuses against coup opponents and prodemocracy activists.

#### Arrest and Detention

Police officers may arrest persons without a warrant for violations of the penal code. Police also arrest persons in response to warrants issued by magistrates and judges. Arrested persons must be brought before a court without "undue delay," normally interpreted to mean within 24 hours, with 48 hours as the exception. Detainees have the right to a judicial review of the grounds for their arrest. There was a well-functioning bail system.

Prior to the coup there were no claims of incommunicado or arbitrary detention. After the coup the military detained, and in most cases briefly held incommunicado, a number of persons who publicly opposed its takeover. Reports indicated that the detentions were usually for several hours, typically overnight, and included threats and abuse (see sections 1.c. and 2.a.).

The Legal Aid Commission provided counsel to some indigent defendants in criminal cases, a service supplemented by voluntary services from private attorneys.

The courts had a significant backlog of cases, and processing was slowed by, among other things, a shortage of prosecutors and judges. As a result some defendants faced lengthy pretrial detention.

#### e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected judicial independence in practice. However, there were allegations that some judges held biases stemming from events surrounding the 2000 coup. Perceived bias led one High Court justice to request a ruling from the Supreme Court in late 2005 to bar another High Court justice from hearing the appeal of a verdict in a coup-related trial. In April the Supreme Court denied the request.

The country's judicial structure is patterned on the British system. The principal courts are the magistrate's courts, the High Court, the Court of Appeal, and the Supreme Court. In addition to its jurisdiction in civil and criminal cases, the High Court has special-interest jurisdiction on behalf of the public and is empowered to review alleged violations of individual rights.

Except for the family court, there are no special civilian courts. Military courts try members of the armed forces, and there is an internal police tribunal mechanism.

#### Trial Procedures

The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right.

Defendants have the right to a public trial and to counsel. The Legal Aid Commission, supplemented by voluntary services of private attorneys, provided free counsel to some indigent defendants in criminal cases. Most cases were heard in the magistrate's courts, but a case cannot be tried in a magistrate's court without the defendant's consent. Absent such consent, cases are tried in the High Court. Trials in the High Court provide for the presence of assessors, typically three, who are similar to jurors but only advise the presiding judge. Magistrates are not authorized to impose prison sentences longer than 10 years. Sentences in the magistrate's courts in most domestic and family law cases were relatively light. Defendants enjoy a presumption of innocence and can question witnesses, present evidence on their own behalf, and access government-held evidence relevant to their case. The right of appeal exists but often was hampered by delays in the process.

Although the majority of the key participants in the 2000 coup have been charged and tried, several investigations continued during the year. At year's end approximately 50 defendants were still awaiting trial on charges related to that coup.

On December 11, the High Court acquitted former Prime Minister Sitiveni Rabuka of two charges relating to a November 2000 mutiny linked to the 2000 coup. The trial assessors were split on whether Rabuka was guilty of the charges, and the judge ruled that Rabuka's guilt had not been proven beyond a reasonable doubt.

The military court system provides for the same basic rights as the civilian court system, although bail is granted less frequently in the military system. During the year 20 former soldiers serving sentences for their roles in the November 2000 mutiny were retried by court martial; the civilian Court of Appeal had ordered the retrial in November 2005 on technical grounds. In separate decisions in February and August, all 20 were again found guilty. The retrial appeared to have been conducted fairly.

#### Political Prisoners and Detainees

There were no reports of political prisoners or long-term political detainees. Following the coup several human rights activists and others were detained briefly for making statements against the coup or the interim military government, or in support of a return to democracy.

#### Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary in civil matters. There is access to a court to bring lawsuits seeking damages for, or cessation of, human rights violations. In the event of a human rights violation, an individual also can make a complaint to the FHRC, which, prior to the coup, frequently resolved complaints through conciliation without referring them to the courts.

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

The constitution prohibits such actions, and the government generally respected these prohibitions in practice prior to the December coup. Following the December coup RFMF forces searched without warrants the homes and offices of a number of persons the military accused of corruption. Soldiers also repeatedly entered private property without warrants to warn and threaten persons who spoke publicly against the takeover.

## Section 2 Respect for Civil Liberties, Including:

### a. Freedom of Speech and Press

The constitution provides for freedom of speech and of the press, and the government generally respected these rights in practice prior to the December coup.

In December the interim military government repeatedly attempted to impede criticism of its takeover. On December 6, RFMF troops told prodemocracy activists to remove a "shrine to democracy" they had erected outside a house in the Suva suburb of Lami. On December 9, individuals in civilian clothes and carrying a firearm vandalized the display. On the night of December 24, the house where the democracy shrine had been established was broken into and ransacked, and the shrine vandalized again. The RFMF briefly detained and physically abused a number of prodemocracy advocates and others who criticized the military government, including those who had set up the democracy shrine (see section 1.c.). The RFMF issued warnings to a number of persons who wrote letters to the media critical of the coup; some were detained, interrogated, and abused in barrack cells by the military. Two prominent women's and human rights advocates who criticized the takeover reported receiving rape threats by telephone that were believed to have come from members of the RFMF.

Prior to the coup the independent media were active and expressed a wide variety of views without restriction in English, Fijian, and Hindi. The country's television news production was owned and operated by Fiji One, one of two national noncable television stations. A trust operating on behalf of the provincial councils owned 51 percent of Fiji One; the remainder was privately held. The government owned the Fiji Broadcasting Corporation, which operated four radio stations. The Qarase government also had shares in two daily newspapers, the Daily Post and the Fiji Sun; however, there were no reports that the government attempted to censor their content. There were several thriving independent radio stations broadcasting in English, Fijian, and Hindi.

Following the announcement of the military takeover, the RFMF sent soldiers to various media outlets in an attempt to censor reporting of the event. A major daily newspaper temporarily suspended publication in protest. The military censors were withdrawn the next day, and the RFMF commander stated that the media would be free to publish without restriction but also stated that "inciting comments" would not be tolerated. On December 13, the editor of the Daily Post newspaper, a foreign national, reported that an army officer visited his office and told the paper to tone down its reporting on the coup. The RFMF briefly took the editor into custody and threatened to deport him but by year's end had not done so. On a radio talk show on December 22, Bainimarama stated that if prodemocracy activists did not "shut their mouth," the military would "shut it for them." On December 24, an office belonging to the co-owner of a monthly magazine, who had written an article criticizing the military takeover, was gutted by a fire of unexplained origin. Media self-censorship increased after the coup.

The Media Council, a private watchdog group of media and academic figures, receives and seeks to resolve complaints of bias and malfeasance within the media. Following the December coup the council publicly denounced military efforts to censor free speech and press. During the year media and civil liberties advocates widely criticized a Qarase government bill to establish a government-appointed broadcast licensing authority, stating it would likely infringe on freedom of the press. The bill was undergoing revision by the cabinet when the coup occurred.

Legislation pertaining to the press is contained in the Newspaper Registration Act and Press Correction Act. Under these acts all newspapers must register with the government before they can publish. The acts give the minister of information sole discretionary power to order a newspaper to publish a "correcting statement" if, in the minister's view, a false or distorted article was published. A newspaper refusing to publish the minister's correction can be sued in court and, if found guilty, fined. Individuals in such cases can be fined, imprisoned for six months, or both. These acts authorize the government to arrest any person who publishes "malicious" material. This would include anything the government considered false, likely to create or foster public alarm, or result in "detriment" to the public. However, this authority has never been used.

The 1992 Television Decree permits the government to influence programming content. The civilian government did not attempt to use the programming authority during the year. However, the interim military government attempted to censor television news broadcasts that featured deposed Prime Minister Qarase.

### Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail.

### Academic Freedom and Cultural Events

Academic freedom was generally respected; however, government work permit stipulations prohibit foreigners from participating in domestic politics. University of the South Pacific contract regulations effectively restrict most university employees from running for or holding public office or holding an official position with any political party.

### b. Freedom of Peaceful Assembly and Association

#### Freedom of Assembly

The constitution provides for freedom of assembly, and the government generally respected this right in practice prior to the December coup, with some limitations. Although civic organizations were regularly granted permits to assemble, permits for most political demonstrations and

marches were denied.

After the coup the government effectively suspended the constitutional right of freedom of assembly. No permits to march or demonstrate were issued. On December 14, a group of human rights activists staged a small, unannounced march through downtown Suva and were subsequently warned by the military against further such actions. Police broke up a very small demonstration by a group of activists, held during a meeting of the Great Council of Chiefs concerning the coup, and briefly held the demonstrators for questioning. The military authorities tolerated a small weekly prayer vigil organized by human rights groups at a Suva city church.

#### Freedom of Association

The constitution provides for freedom of association, and the government generally respected this right in practice prior to the coup. Following the coup the interim military government did not restrict persons from joining NGOs, professional associations, or other private organizations, but it targeted for threats and harassment members of NGOs who criticized the coup (see sections 2.a. and 4).

#### c. Freedom of Religion

The constitution provides for freedom of religion, and the government generally respected this right in practice. The majority of citizens (52 percent) are Christian, and government-sponsored meetings and events often begin with a Christian prayer.

#### Societal Abuses and Discrimination

Racial polarization was reflected in religious differences, which were largely along ethnic lines; this contributed to political problems. Most ethnic Fijians were Christians, and most Indo Fijians were Hindu, with a sizable minority of Muslims. The dominant Methodist Church has closely allied itself with the interests of the pro-indigenous Fijian movement.

Break-ins, vandalism, and arson directed at houses of worship, predominantly Hindu temples, were common. The attacks were broadly viewed as reflections of intercommunal strife, although there was often evidence that theft also was a contributing factor. There was no known Jewish community, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the [2006 International Religious Freedom Report](#).

#### d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The constitution provides for these rights, and the government generally respected them in practice prior to the December coup. In December the RFMF established armed military checkpoints in the Suva, Nadi, and Lautoka areas.

A prominent group of six democracy activists who repeatedly defied the military's demands that they cease their activities were banned from leaving the country following their interrogation and abuse on December 25 (see section 1.c.).

The law prohibits forced exile, and prior to December the government did not practice it. However, in December the military government prohibited ousted Prime Minister Qarase from leaving his home island of Lau, where he fled after the coup.

#### Protection of Refugees

The law includes provisions for providing refugee and asylum status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol. During the year the government was in the process of establishing a system for providing protection for refugees, but implementing regulations endorsed by the Qarase cabinet in August had not come into effect by year's end. In practice the government provided protection against refoulement, the forced return of persons to a country where they feared persecution. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The government received no applications for refugee status or asylum during the year.

#### Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution provides citizens the right to change their government peacefully, but on December 5, RFMF commander

Bainimarama overthrew the lawfully elected government of Prime Minister Qarase, declared himself acting president, and on December 6 dissolved Parliament.

#### Elections and Political Participation

The most recent elections, held in May, were judged generally free and fair. Party politics was largely race based, although this did not limit participation in the political process. The governing SDL party was primarily ethnic Fijian, and the Fiji Labor Party (FLP), the second largest party, was primarily Indo-Fijian, although both parties had membership across racial lines. After the elections, compelled by constitutional provisions, the two parties formed a multiparty cabinet consisting of 14 members from the SDL, nine members from the FLP, and one independent.

After the December 5 coup, Bainimarama appointed Jone Baravilala Senilagakali, a military physician, as interim prime minister to replace Qarase. Bainimarama also declared that he had assumed presidential powers, replacing President Ratu Josefa Iloilo.

Prior to Parliament's dissolution by the RFMF, there were eight women in the 71 seat House of Representatives and five women in the 32 member Senate. There were three women in the Qarase cabinet and two female assistant ministers. According to the Asian Development Bank, women held only about 16 percent of senior government executive positions. Women played important roles in the traditional chiefly system and could be chiefs in their own right.

Prior to the coup there were 29 Indo-Fijians in the House of Representatives and six in the Senate. There were eight Indo-Fijian cabinet ministers and one Indo-Fijian assistant minister in the Qarase government. Indo-Fijians, who accounted for 37 percent of the population, continued to be underrepresented at senior levels of the civil service and in the military. Indo-Fijians comprised approximately 35 percent of the civil service overall.

The political primacy of indigenous Fijians is to some extent enshrined in the constitution, which mandates that 14 of Parliament's 32 senators be appointed by the indigenous Fijian Great Council of Chiefs, a hereditary body, and one by the Rotuma Island Council. The remainder are appointed by the government and opposition. This arrangement essentially ensured indigenous Fijians effective control in the Senate. Under the 1997 constitution, the prime minister and the president may be of any race. The constitution established a 71 member lower house with 25 seats open to any ethnicity and 46 seats allocated to different ethnic communities. The open seats are apportioned into districts of approximately equal population. Of the 46 communal seats, 23 are allotted to indigenous Fijians, 19 to Indo Fijians, three to "general voters" (for the most part mixed race, Caucasian, and East Asian voters), and one to Rotumans (an ethnically distinct Polynesian group). These allotments were generally proportional to the ethnic composition of the country's population in 1996.

#### Government Corruption and Transparency

Corruption within government, including the civil service, was a significant problem. The media continued to raise numerous allegations of nonaccountability, bribery, abuse of office, fraud, misuse of public property, financial mismanagement, failure to complete statutory audits, and conflicts of interest regarding officials and ministries. In November a Suva court sentenced former Agriculture Ministry chief executive officer Peniasi Kunatuba to four years in prison on corruption charges. The charges involved a large-scale scam and misuse of public monies by the Ministry of Agriculture during 2000 and 2001. In some ministries transparency was virtually nonexistent. The constitution gives the auditor general the right to audit all national and local government bodies. In its annual report to Parliament, the auditor general's office highlighted numerous instances of corrupt practices in government offices and ministries.

In May an individual imprisoned for his participation in the 2000 coup was released from prison to serve his sentence extramurally. This release and numerous similar releases in 2005 were widely seen as politically motivated.

The interim military government, citing general corruption, summarily dismissed from office a large number of senior career bureaucrats and office holders under the government of ousted Prime Minister Qarase, but by year's end did not produce specific evidence of corruption in their cases or other specific cause for dismissal beyond their association with that government.

Although the 1997 constitution instructs Parliament to enact a freedom of information law as soon as practicable, no such law has been enacted. In practice the government was sometimes responsive to requests for government information.

#### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Prior to the coup a number 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.

There were several nongovernmental organizations that concentrated on a variety of local human rights causes, such as the Regional Rights Resource Team, the Pacific Center for Public Integrity, the Citizens' Constitutional Forum, the Fiji Women's Rights Movement and the Fiji Women's Crisis Center. A number of UN organizations concerned with human rights, including the Office of the UN High Commissioner for Human Rights, the International Labor Organization, the UN Children's Fund (UNICEF), and the UN Development Fund, had regional offices in the country and worked actively with the government on various human rights issues. The ICRC continued to operate in the country.

The interim military government stated that it was committed to respecting human rights, but the RFMF harassed, threatened, and abused members of local human rights NGOs who criticized the coup and the military (see sections 1.c. and 2.a.).

Prior to the coup the FHRC appeared to be impartial and independent and generally operated without government interference. The FHRC received and investigated reports of human rights violations and requests for assistance, some involving alleged abuses by the military, police, and prison officials. The FHRC issued widely distributed quarterly and annual reports on its work. In June the FHRC published a lengthy report on the government's affirmative action programs. The FHRC criticized the programs, which primarily benefited indigenous Fijians, as discriminatory and unconstitutional (see section 5). Prime Minister Qarase dismissed the report as politicized, and the government announced it would undertake its own review of the programs.

Following the coup the director of the FHRC repeatedly failed to publicly object to some significant human rights abuses by the military. After the December 25 incident in which prodemocracy activists were detained and abused by RFMF members (see section 1.c.), the director stated she would investigate the incident but also advised persons speaking out against the military takeover to bear in mind that they did so at their own risk, since their rights were curtailed under the state of emergency. An FHRC commissioner strongly criticized the director's

statements and her failure to take action in support of persons abused by the RFMF. The interim military government called on persons claiming human rights violations to report them to the military authorities.

The Qarase government's controversial 2005 Reconciliation, Tolerance, and Unity Bill, which provided for the possibility of amnesty for certain participants in the 2000 coup, was not enacted prior to the May elections. In late 2005, following widespread criticism of the bill, a parliamentary committee recommended substantial changes to the legislation, including changes to its amnesty provisions. In November, under continuing military pressure, the government announced that the bill's controversial amnesty provisions had been removed, but a revised bill had not yet been introduced into Parliament when the December coup occurred. There also was extensive criticism by human rights groups of two other controversial pieces of legislation announced by government following the May elections. The bills, on indigenous Fijian foreshore fishing rights and an indigenous land rights tribunal, were undergoing a parliamentary hearing when the coup took place.

## Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The constitution prohibits discrimination based on race, sex, place of origin, ethnicity, sexual orientation, color, primary language, economic status, age, or disability. The government generally enforced these provisions effectively, although there were problems in some areas.

The constitution also cites the "paramountcy" of Fijian interests as a guiding principle for the protection of the rights of indigenous citizens. A compact included in the constitution specifically provides for affirmative action and "social justice" programs to "secure effective equality" for ethnic Fijians and Rotumans, "as well as for other communities." The compact chiefly benefited the indigenous Fijian majority.

## Women

Domestic abuse, rape, incest, and indecent assault were significant problems. Police practiced a "no drop" policy, under which they pursued investigations of domestic violence cases even if a victim later withdrew her accusation. The police generally were more responsive to domestic violence cases than in the past. Nonetheless, courts often dismissed cases of domestic abuse and incest or gave the perpetrators minimal sentences. The head of the Fiji Women's Rights Movement reported that following the coup soldiers forcibly took a battered wife who had fled to her parents' home back to her husband. Incest was widely believed to be underreported. Traditional practices of reconciliation between aggrieved parties were sometimes taken into account to mitigate sentences in domestic violence cases, particularly in cases of incest. An active women's rights movement sought to raise public awareness about domestic violence.

Four women's crisis centers funded by foreign governments operated in the country. The centers offered counseling and assistance to women in cases of domestic violence, rape, and other problems, such as child support.

The women's rights movement pressed for more severe punishments for rape. Sentences varied considerably. Rape cases heard in the lower magistrate's courts typically resulted in shorter sentences. Women's groups continued to urge that all rape cases be heard in the High Court, where lengthier sentences are available. The Court of Appeal has ruled that 10 years is the minimum appropriate sentence in child rape cases. Women's activists continued to press for criminalization of spousal rape.

Prostitution is illegal, but it occurred, particularly in cities. Sex tourism is prohibited by law but reportedly occurred, particularly in tourist centers such as Nadi and Savusavu, including cases involving children. Reportedly taxi drivers acted as middlemen, facilitating the commercial sexual exploitation of children.

The law does not specifically prohibit sexual harassment, but laws against "indecent assaults on females" prohibit offending the modesty of women and could be used to prosecute sexual harassment cases. According to a recent survey, one in three women has been sexually harassed in the workplace.

The Women's Crisis Center provided a gender awareness program to educate soldiers and police officers about women's concerns.

Women have full rights of property ownership and inheritance but often were excluded from the decision-making process on disposition of communal land. Many women were successful entrepreneurs. Other than a prohibition on working in mines, there were no legal limitations on the employment of women. Women generally were paid less than men for similar work. According to the Asian Development Bank, only about 30 percent of the economically active female population was engaged in the formal economy, and of these a large proportion worked in semi-subsistence employment or self-employment.

## Children

The government devoted 18 percent of the national budget to education and also worked to improve children's health and welfare. School is mandatory until age 15, but the inability of some families to pay school fees and bus fares limited attendance for some children. There was no significant difference between the school enrollment rates for boys and girls.

The government provided free medical care for children at public health centers and hospitals, including immunizations in primary schools.

Corporal punishment was common both in homes and 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-based structures led to an increasing incidence of child abuse. Multiple reports suggested that child prostitution increased during the year. Child prostitution was evident in poverty-stricken urban areas and among homeless urban youth (see section 5, Trafficking). Urban migration and the subsequent breakdown of community structures, children from outer islands living with relatives while attending high school, and homelessness all

appeared to be factors that increased a child's chance of being exploited for commercial sex.

Increasing urbanization led to more children working as casual laborers, often with no safeguards against abuse or injury.

#### Trafficking in Persons

A November 2005 law prohibits trafficking in persons, and there were no substantiated reports of trafficking to or from the country during the year. There were some reports of children trafficked within the country during the year. Many observers cited poverty as the primary underlying reason for sexual exploitation of children.

The antitrafficking law provides for penalties of up to 20 years' imprisonment and fines up to \$442,000 (F\$750,000) for convicted traffickers.

The government did not sponsor or provide assistance to any programs specifically to combat or prevent trafficking in persons.

#### Persons with Disabilities

All persons are considered equal under the law, including persons with disabilities, and discrimination against persons with physical disabilities in employment, education, provision of housing and land, or provision of other state services is illegal. In addition the law provides for the right of access to places and modes of transport generally open to the public and obliges proprietors of such places and services to "facilitate reasonable access for disabled persons to the extent provided by law." The 2004 public health regulations provide penalties for noncompliance; however, there was very little enabling legislation on accessibility for persons with disabilities, and there was little or no enforcement of laws protecting persons with disabilities. Although building regulations issued in 2004 require new public buildings to be accessible to persons with disabilities, according to an FHRC survey of 70 percent of public facilities in the capital, only a single fast food restaurant was fully accessible. There were only a handful of disabled-accessible vehicles in the country. There were a number of community organizations to assist those with disabilities, particularly children.

Persons with mental disabilities largely were separated from society and typically were supported at home by their families. Institutionalization of persons with severe mental disabilities was in a single overcrowded, underfunded public facility in the capital. There were a few special schools for persons with physical, cognitive, and sensory disabilities; however, costs and location limited access. Opportunities for a secondary school education for those with disabilities were very limited. Persons with disabilities in rural settings found it difficult to access special services.

The government-funded Fiji National Council for Disabled Persons worked to protect the rights of persons with disabilities. Several NGOs also promoted attention to the needs of persons with various disabilities.

#### National/Racial/Ethnic Minorities

Tension between ethnic Fijians and Indo Fijians has been a longstanding problem. The constitution notes that "the composition of state services at all levels must be based on the principle of reflecting as closely as possible the ethnic composition of the population," but it also specifies the "paramountcy of Fijian interests" as a protective principle (see section 3).

Prior to the coup the Qarase government pursued a policy of political predominance for ethnic Fijians. Land tenure remained a highly sensitive and politicized issue. Ethnic Fijians communally held approximately 85 percent of all land, the government held another 3.6 percent, and the remainder was freehold land, which private individuals or companies may hold.

Ethnic Fijians' traditional beliefs, cultural values, and self identity are intimately linked to the land. Most cash-crop farmers were Indo Fijians, the majority of whom were descendants of indentured laborers who came to the country during the British colonial era. Virtually all Indo-Fijian farmers were obliged to lease land from ethnic Fijian landowners. Many Indo Fijians believed that their very limited ability to own land and their subsequent dependency on leased land from indigenous Fijians constituted de facto discrimination against them. A pattern of refusals by ethnic Fijian landowners to renew expiring leases resulted in evictions of Indo-Fijians from their farms and their displacement to squatter settlements. This situation contributed significantly to communal tensions. Many indigenous Fijian landowners in turn believed that the rental formulas included in the national land tenure legislation discriminated against them.

In June the FHRC reported the results of its investigation into complaints by the FLP, the Citizens Constitutional Forum, and the Fiji Teachers Union that the government's affirmative action programs unconstitutionally favored indigenous Fijians over ethnic minorities. The FHRC found the complaints to be valid and stated that the government's programs did not meet the legal standards of the constitution and law. In response the government indicated it would conduct its own internal review. A cabinet subcommittee on equal opportunity and human rights was reviewing the programs when the coup occurred. The programs were still in place at year's end.

Unlike in the previous year, the ethnic Chinese community appeared to be less of a target for violent attacks. Police worked with the Chinese Association of Fiji to address the issues raised by a number of such attacks in 2005.

#### Other Societal Abuses and Discrimination

The constitution prohibits discrimination on the basis of sexual orientation, but preexisting statutes criminalize homosexual acts. At year's end the director of public prosecutions was awaiting a hearing on his appeal of the August 2005 court decision that overturned a magistrate's

court's April 2005 conviction of a local citizen and an Australian tourist for engaging in consensual homosexual acts. The magistrate's court had sentenced the men to two years in prison. Homosexuality continued to be a hotly debated issue, and during the year church groups again urged the government to amend the constitution to eliminate its provision prohibiting discrimination based on sexual orientation.

## Section 6 Worker Rights

### a. The Right of Association

The constitution and law protect the right of workers to form and join unions, elect their own representatives, publicize their views on labor matters, and determine their own policies, and the authorities respected these rights in practice. An estimated 36 percent of the work force was unionized.

All unions must register with, but are not controlled by, the government. While certain unions were ethnically based, both Indo Fijians and ethnic Fijians held leadership roles in the trade union movement.

The Employment Act makes it an offense for an employer to victimize any worker or make it a condition of employment for a worker not to belong to a union. Unions reported some cases of victimization of workers who expressed a desire to join a union, but the Ministry of Labor reported that it was unable to verify these cases, and no employers were prosecuted.

### b. The Right to Organize and Bargain Collectively

Workers have the right to organize and bargain collectively. However, wage negotiations generally were conducted at the level of individual companies rather than on an industry wide basis. Employers are required to recognize a union if more than half of the employees in a workplace have signed membership cards; no ballots are held to determine representation. The government has the power to order recalcitrant employers to recognize unions, and it has done so in the past. Traditional key sectors of the economy, including sugar and tourism, were heavily unionized. Although the law allowed unionization, union organizers' jobs were not protected, resulting in low unionization in some sectors.

Strikes are legal, except in connection with union recognition disputes. Trade unions can conduct secret strike ballots without government supervision. To carry out a legal strike, organizers must give an employer 28 days' notification. The Ministry of Labor also must be notified of the dispute and receive a list of all striking employees, and the starting date and location of the strike. This requirement is intended to give organizers, unions, employers, and the ministry time to resolve the dispute prior to a strike. There were some strikes during the year. Most disputes, including those in which strike action was deemed illegal, were settled by referral to a permanent arbitrator.

Union organizers were occasionally vulnerable to dismissal or to other interference by employers, particularly when operating on company premises, although in theory they have legal protection.

Export processing zones (EPZs) are subject to the same laws as the rest of the country. With the decline of the garment industry in the country, the number of workers employed in the EPZs also declined. The Fiji Trade Union Congress reported that it was able to negotiate collective bargaining agreements with some employers in the EPZs, but that not all employers were cooperative.

### c. Prohibition of Forced or Compulsory Labor

The constitution prohibits forced or compulsory labor, including by children, and there were no confirmed reports that such practices occurred.

### d. Prohibition of Child Labor and Minimum Age for Employment

Inadequate enforcement of existing child labor regulations failed to fully protect children from exploitation in the workplace. Under the law children under age 12 may not be employed except in a family-owned business or agricultural enterprise. Children between ages 12 and 15 may be employed on a daily wage basis in nonindustrial work not involving machinery, provided they return to parents or guardian every night. Persons between the ages of 15 and 17 may be employed in certain occupations not involving heavy machinery; however, they must be given specified hours and rest breaks. In practice the Ministry of Labor had few or no resources to investigate reports of child labor. There were only two inspectors at the ministry who conducted annual workplace inspections, and there were no inspectors to investigate reports of child labor violations. There was no comprehensive policy to eliminate the worst forms of child labor. During the year migration of rural youth to urban areas continued, and youths continued to find employment in the informal sector, including work as shoeshine boys, casual laborers, and prostitutes. There were reports of trafficking in children during the year (see section 5).

### e. Acceptable Conditions of Work

There was no single, national minimum wage, although the Ministry of Labor set minimum wages for certain sectors. Entry-level wages in unregulated sectors, especially service industries, provided a sparse and often only marginally adequate standard of living for a worker and family. There was no single national limitation on maximum working hours for adults; however, there were restrictions and overtime provisions in certain sectors. Other than a prohibition on working in mines, there were no limitations on the type of work female employees could perform. Workers in some industries, notably transportation and shipping, worked excessive hours.

There are workplace safety regulations, a worker's compensation act, and an accident compensation plan. Safety standards applied equally to citizens and foreign workers; however, government enforcement of safety standards suffered from a lack of trained personnel and delays in compensation hearings and rulings. Unions generally monitored safety standards in organized workplaces; however, many work areas did not meet standards and were not monitored by the Ministry of Labor for compliance. In response to public complaints, the Ministry of Labor condemned some facilities as unfit for occupation. The law accords employees the right to remove themselves from a hazardous work site without jeopardizing their employment, but most feared the loss of their jobs if they did so.