



## Fiji

### Country Reports on Human Rights Practices - [2003](#)

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Fiji is a constitutional republic with an elected President, Prime Minister, and Parliament. Ethnicity remained a dominant factor in the country's politics, economy, and society. Following free and fair elections in 2001, the political situation improved; however, concerns remained about the composition of the Cabinet. The 1997 Constitution requires that any party receiving more than 10 percent of the seats in Parliament be given cabinet positions. However, when Prime Minister Laisenia Qarase of the Duavata ni Lewenivanua (SDL) party formed a government in late 2001, it excluded the Fiji Labor Party (FLP) led by deposed Prime Minister Mahendra Chaudhry, although the FLP had won substantially more than 10 percent of the parliamentary seats in the 2001 elections. The FLP took legal action against the Government, and in July the Supreme Court ruled in favor of the FLP. Subsequent negotiations between Qarase and Chaudhry broke down over the exact numbers of FLP M.P.s to be admitted into Qarase's Cabinet. The Supreme Court is expected to hear the resulting case in early 2004. The final two co-conspirators of May 2000 coup leader George Speight, Timoci Silatolu and Josefa Nata, were convicted of treason in March and sentenced in June. The Vice President, a government minister, and the Deputy Speaker of Parliament were all awaiting trial at year's end for their participation in Speight's takeover of Parliament in May 2000. The Constitution provides for an independent judiciary; however, the judiciary at times was subject to political influence.

During the year, civilian authorities generally exercised effective control of an unarmed civilian police force and the small Republic of Fiji Military Forces (RFMF). There were no instances where security forces acted independently of government authority. There were no reports of human rights abuses by the RFMF. However, there were occasional complaints of human rights abuses by the police.

The population of approximately 845,000 is multiracial and multicultural, with indigenous Fijians making up 51 percent, Indo-Fijians (descendants of immigrants from the Indian subcontinent) 42 percent, and Asians, Caucasians, and other Pacific Islanders making up the rest. Indo-Fijian families dominated the business sector and enjoyed higher average incomes; however, indigenous Fijians were the majority in government ministries and comprised the vast majority of members of the armed forces. One of the Government's primary goals was an affirmative action program, or "Blueprint," designed to aid indigenous Fijians in education and business. Sugar and tourism accounted for more than half of foreign exchange earnings. The inefficient sugar industry was hampered severely by industrial disputes and an outmoded infrastructure; however, tourism recovered during the year to just over the level it occupied before the 2000 coup. Foreign investment was depressed due to continuing concerns about the resolution of land lease issues and the pending Cabinet composition court case. The country's major trading partners, Australia and New Zealand, lifted sanctions imposed after the 2000 coup. Skilled workers and professionals continued to emigrate in large numbers.

The Government generally respected the human rights of its citizens; however, there were serious problems in some areas. Constitutional provisions maintain an ethnically based electoral system, and a number of government policies on hiring, education, and land tenure preferences provided protection for indigenous Fijian interests in accordance with those provisions. The ethnic divide between the governing SDL (mainly composed of indigenous Fijians) and the FLP (mainly composed of Indo-Fijians) remained a recognized obstacle to long-term political stability. The Prime Minister increasingly identified himself as the leader of all Fijians rather than of a single ethnic group. Nonetheless, ethnic discrimination remained a serious problem. On several occasions, Members of Parliament (M.P.s) made racist remarks against Indo-Fijians. A few evictions of Indo-Fijian tenant farmers by indigenous Fijian landowners continued to occur, although at a much lower rate than in previous years. Occasional police abuse of detainees and suspects occurred. Other human rights problems included restrictions on freedom of assembly, violence and discrimination against women, and some instances of abuse of children. Concerns were also raised about a proposal to replace Fiji's industry-constituted Media Council with a government-controlled one.

#### 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 of the arbitrary or unlawful deprivation of life committed by the Government or its agents during the year.

b. Disappearance

There were no reports of politically motivated disappearances.

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

The Constitution provides for freedom from torture and cruel, inhumane, degrading, or disproportionately severe treatment or punishment; however, there were some reports of abuses by police.

The Police Department's Internal Affairs Unit is required to investigate complaints of police brutality. The law permits corporal punishment as a penalty for criminal acts, but the courts seldom invoked this provision. In response to public concern regarding police brutality, the Human Rights Commission conducted training courses for police field investigators, sergeants, and prison officers during the year.

In 2002, the son of deposed Prime Minister Mahendra Chaudhry filed suit against the 2000 coup leaders and several government institutions, including the army, seeking damages for abuses allegedly suffered while he was held hostage during the May 2000 armed invasion of Parliament. He indicated that he had been assaulted on several occasions and subjected to severe physical and mental cruelty. This case was still pending at year's end.

Prison conditions did not meet international standards, and prison conditions, particularly at Suva and Naboro Prisons, remained poor. The prison system was seriously underfunded, with deteriorating infrastructure and poor delivery of essential services, including food and sanitation. There were 991 prisoners in 18 prisons countrywide; the combined capacity for all prisons was 987 persons. Men and women were held separately; juveniles were held separately from adults; and pretrial detainees were separated from convicted prisoners.

The Government maintained a separate detention center on Nukulau Island near Suva for May 2000 coup leader George Speight and two of his supporters who were also convicted of treason. Detainees were granted some freedom of movement, including recreation, but facility access remained tightly controlled. Family members and a few other visitors were permitted to visit; however, the International Committee for the Red Cross (ICRC) was denied access. The police continued to investigate a number of Speight's supporters and those who financed the attempted takeover of Parliament in May 2000. At year's end, all of the others arrested in connection with the events of May 2000 had been convicted of lesser charges or released.

Aside from the special regime for prisoners on Nukulau Island, the Government permitted visits to prisons by church groups, family members, and the Fiji Red Cross.

d. Arbitrary Arrest, Detention, or Exile

The law provides that a person may be arrested only if police believe that a criminal law has been broken or is about to be broken. Arrested persons must be brought before a court without "undue delay." This requirement normally is taken to mean within 24 hours, with 48 hours as the exception. Detainees have the right to a judicial review of the grounds of their arrest; however, incommunicado and arbitrary detention continued to occur on occasion.

Corruption in the police force was a problem. Undertrained police officers received only on-the-job instruction, which may have contributed to the problem. In 2002, the police hired a large number of decommissioned military personnel as special constables, many of whom had criminal records. Police and immigration officials faced serious corruption charges relating to the entry of illegal Chinese immigrants into the country. Newspaper articles linked prominent police officials to an organized crime figure from the People's Republic of China (PRC), and police were accused of providing protection, forging documents, and destroying key files relating to criminal activity. At year's end, the criminal figure had eluded deportation, and no investigations had been initiated against the officials in question.

During the year, the Government hired an experienced Australian Commissioner of Police, who initiated programs to improve low police morale, addressing issues such as inadequate resources, long hours, and low pay.

The Constitution prohibits forced exile, and the Government did not practice it.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however, the judiciary at times has been subject to political influence.

The judicial structure is patterned on the British system. The principal courts are the magistrate courts, the High Court, the Court of Appeal, and the Supreme Court. Eight of nine Supreme Court justices are expatriate judges, who are often used in key cases at lower levels. There are no special courts; military courts try members of the armed forces. Magistrate courts continued to try the large majority of cases. In addition to its jurisdiction in serious civil and criminal cases, the High Court is granted special interest jurisdiction on behalf of the public and is empowered to review alleged violations of individual rights.

Defendants have the right to a public trial and to counsel. Trials in the High Court provide for the presence of assessors (citizens randomly selected to represent the community); cases in magistrate courts do not. Many rape and sexual assault cases were heard in the magistrate courts; since magistrates are not authorized to impose sentences longer than 5 years in prison, this resulted in light sentences in most domestic or family law cases. The Legal Aid Commission provided counsel to some indigent defendants, a service supplemented by pro bono services from private attorneys. The right of appeal existed but was hampered by delays in the judicial appeals process. Bail was granted freely. The courts had a significant backlog of cases, with processing slowed further by a shortage of prosecutors. Some defendants faced lengthy pretrial detention.

The law sometimes treated women differently from men. In some instances, there was a presumption of reduced competence and thus reduced responsibility for women. For example, only women could be charged with infanticide; if a man kills an infant, the act is treated as murder, a more serious charge. A female defendant in an infanticide case was presumed to have diminished mental capacity, and sentences were reduced or suspended accordingly. The controversial draft Family Law Bill introduced in 2002 was finally voted into law in November. Its provisions include giving illegitimate children the same rights as legitimate children, the establishment of "no fault" divorce, and the establishment of a family court.

There were no reports of political prisoners.

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

The Government generally respected the privacy of the home. However, the Home Affairs Ministry, as well as the police and the armed forces, have the power and capability to search persons and property, access private financial records, and monitor mail and telephones when a warrant is issued by the National Security Council. Police checkpoints were seen much less often than in the previous year; military checkpoints were not used during the year. The Home Affairs Ministry conducted surveillance of persons whom it believed represented a security threat.

### 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. Controls instituted in July 2000 restricting the right to meet and speak out on human rights and democracy were eliminated in 2001.

The Media Council's Complaints Committee, a private watchdog group of media and academic figures, accepted complaints related to the media and published its findings during the year. Most of the complaints cited inappropriate media coverage, including invasions of privacy, and there were no complaints regarding government pressure on or interference with the media.

The Government proposed changes to the Media Council that would replace the current body with a government-constituted Council. Public reaction was strong and almost universally negative. By the end of the year, the Government's plans remained on hold, but had not been withdrawn.

A variety of opinions, including criticism of the Government, were heard in all major media outlets. Political figures and private citizens could and did speak out regarding the country's political situation and against the Government. Letters on editorial pages and editorials that ran in the three English-language dailies frequently contained political statements from a wide cross section of society critical of the Government. However, the Public Order Act and other laws prohibited actions that were likely to incite racial antagonisms. The Government generally did not interfere in the daily operations of the media.

Legislation pertaining to the press is contained in the Newspaper Registration Act and Press Correction Act. Under these acts, all newspapers must be registered 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. Should a newspaper refuse to publish the Minister's correction, it can be sued in court and, if found guilty, fined approximately \$500 (FJ\$925). Individuals in such cases can be fined, imprisoned for 6 months, or both. These acts authorize the Government to arrest any person who publishes "malicious" material. This would include anything the Government considered false information that could create or foster public alarm or result in "detriment" to the public. However, this authority has never been used.

The country's television news production was owned and operated by Fiji One, one of only two national non-cable television stations. A trust operating on behalf of the provincial governments owned 51 percent of Fiji One; the other 49 percent was owned by private individuals and interests. The Government removed Fiji One's monopoly status, but by year's end, no other commercial broadcast television stations were in operation. The Government owned the Fiji Broadcasting Corporation, which

operated four radio stations. There were several thriving independent radio stations broadcasting in English, Fijian, and Hindi.

Under the Television Act, the Government is allowed to influence programming content. The Government considered legislation requiring Fijian-culture content programming; however, there was no attempt to use the programming authority during the year.

In the past, government holdings in Fiji TV One and the Fiji Post and Fiji Sun newspapers raised questions as to the complete independence of the press. However, these and other media outlets frequently criticized the Government during the year regarding implementation of its affirmative action policies, ministerial competence, alleged scandals, and racist remarks by M.P.s. Muted criticism of the traditional chiefly system has also appeared.

The Fiji News Council worked to improve journalistic standards, safeguard media independence, and resolve complaints from the public. The Fiji Islands Media Association, an affiliate of the Pacific Islands News Association, also provided training opportunities for journalists and established a media code of ethics.

The Government did not restrict Internet access.

Academic freedom was generally respected; however, government work-permit stipulations and University of the South Pacific contract regulations effectively deterred most university employees from participating in domestic politics. Many academics wrote for the media and included disclaimers in their work to preclude contract or work permit problems.

#### b. Freedom of Peaceful Assembly and Association

The 1997 Constitution provides for the right to assemble for political purposes, subject to restrictions in the interest of public order. In practice, most applications for the required meeting permits were denied.

The 1997 Constitution provides for freedom of association, and the Government generally respected this provision in practice. Other than the restrictions on public meetings, opposition parties operated without government interference. Political organizations operated and issued public statements.

#### c. Freedom of Religion

The 1997 Constitution provides for freedom of religion, and the Government generally respected this right in practice. The Government did not restrict foreign clergy and missionary activity or other typical religious activities. Religious groups were not required to register. Religious differences are largely along ethnic lines; most ethnic Fijians are Christians, and most Indo-Fijians are Hindu, with a sizable minority of Muslims. The Government protected the rights of all religious groups. However, junior Muslim civil servants in the Revenue and Customs Authority were ordered to shave off their beards, on the grounds that beards were not neat and gave an unprofessional image to the organization. Some of these employees requested a reversal of the order, but it remained in effect at year's end. The major holidays of Christianity, Hinduism, and Islam were celebrated nationally.

The role of religion was tied closely to existing racial antagonisms and continued to be a political issue. Prominent figures in the Methodist Church and allied political parties continued to advocate the establishment of a Christian state. This position received public support from several M.P.s. The Church has displayed strong nationalist sympathies; former Methodist Church General Secretary Tomasi Kanilagi was appointed a senator in 2001. During the year, a number of Fiji's Senators made remarks perceived to be racially biased. Those parties dominated by Indo-Fijians did not support the establishment of a Christian state and insisted that church and state should remain separate. The Prime Minister's SDL party remained silent on the issue.

Religious leaders in the minority Muslim population continued to request the establishment of separate Islamic courts for their community; however, the issue was not prominent during the year. In 2002, a small Hindu temple suffered minor vandalism; the Government and others condemned the act.

For a more detailed discussion, see the [2003 International Religious Freedom Report](#).

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

The Constitution provides for these rights; however, the Government has broad powers to limit freedom of movement in the interest of national security, and access to Nukulau Island, site of a maximum-security detention center for persons charged with treason, was restricted during the year.

Citizens are free to emigrate. The majority of emigrants have been Indo-Fijians, although many ethnic Fijians have left the country as well. The Government does not restrict the return of citizens. Occasional detentions at the airport occurred, but the courts have ordered redress where warranted.

The law includes provisions for providing refugee and asylum status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperated with the office of the U.N. High Commissioner for

Refugees and other humanitarian organizations in assisting refugees. In the past, the Government has been reluctant to grant temporary protection without assurances that the asylum seeker would be moved to a third country.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The 1997 Constitutional amendments reduced the ethnically based factors that previously had abridged the right of citizens to change their government. Under the provisions of the amended Constitution, the Prime Minister and the President may be of any race. The amendments established a 71-member lower house with 25 seats open to any ethnicity and 46 seats allocated to different ethnic communities. The unprecedented open seats were established by an electoral commission and apportioned into districts of approximately equal population. Of the 46 communal seats, 23 were allotted to indigenous Fijians, 19 to Indo-Fijians, 3 to "general voters" (for the most part mixed-race, Caucasian, and East Asian voters), and 1 to Rotumans (an ethnically distinct Polynesian group). These allotments are roughly proportional to the current ethnic composition of the country's population. The amended Constitution also contains an alternate voting system for elections to the lower house to replace the first-past-the-post system of the previous constitution. The Senate remained an appointed body, in which the President appoints 32 members and approves 14 members nominated by the Great Council of Chiefs, 9 nominated by the Prime Minister, 8 nominated by the opposition leader, and 1 nominated by the Council of Rotuma. Several persons prominently and publicly involved in the 2000 coup were named to the Senate by the Prime Minister.

In August 2001 elections, Prime Minister Laisenia Qarase's SDL party received the largest number of seats in Parliament; Qarase was asked to form a government by President Iloilo. However, despite a constitutional provision requiring that any party which receives more than 10 percent of the seats in Parliament be offered inclusion in the Cabinet, the Qarase Government excluded Mahendra Chaudhry's Fiji Labor Party (FLP). Chaudhry subsequently took legal action against Qarase; due to the appointment of a new Chief Justice in July 2002 and to dilatory tactics by the Government, the case was not heard until June 2003, with a decision handed down in July. The Supreme Court affirmed the 2002 decision of the Court of Appeal and instructed the Prime Minister to proceed with an offer of cabinet seats for Chaudhry's party. Subsequent negotiations between Qarase and Chaudhry broke down over the exact numbers of FLP M.P.s to be admitted into Qarase's Cabinet; the Supreme Court is expected to hear the resulting case in early 2004.

Timoci Silatolu and Josefa Nata, the final two co-conspirators of May 2000 coup leader George Speight, were convicted of treason in March and sentenced in June. In May, charges also were brought against Vice President Jope Seniloli, who had served as the president of the rebel government, and against Minister for Youth and Sport Isireli Leweniqila, for their participation in Speight's takeover of Parliament in May 2000. At year's end, Vice President Seniloli and Minister Leweniqila, as well as Deputy Speaker of Parliament Ratu Rakuita Vakalalabure, were awaiting trial on coup-related charges.

The reluctance of witnesses to provide statements against prominent citizens allegedly involved in the takeover of Parliament reportedly has hampered investigations. During the year, there were continued calls for action against some persons implicated but still not charged in the May 2000 coup, the November 2000 mutiny, and a separate, abortive mutiny conspiracy in December 2000.

Fiji's 71-seat House of Representatives included 5 elected and one appointed female M.P.s, while the 32-member Senate included two women. After the 2001 election, four ethnic Fijian women were appointed to the Cabinet (two as ministers and two as assistant ministers). Women also play important roles in the chiefly system and can be chiefs in their own right. The wife of former President Ratu Mara is one of the three highest-ranking chiefs.

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

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 generally cooperative and responsive to their views.

The constitutionally mandated Human Rights Commission (HRC) appeared to be impartial and independent. The HRC has received approximately 1,000 requests for assistance since it began operation in 1999. Most involved alleged abuses by military, police, and prison officers following the 2000 coup. Although it had a backlog, the commission worked closely with the judiciary and government officials to address outstanding cases. The HRC has investigated most of the coup-related claims, as well as allegations against the military involved in the November 2000 mutiny. The HRC's work was hampered by the Constitutional Redress Rules, which stipulated that the HRC and others had to file a human rights case in the High Court within 30 days of receiving the complaint. The HRC continued to host a weekly radio program to educate citizens about their rights under the 1997 Constitution, and it conducted educational workshops and training.

There were also several small, foreign-based organizations that concentrated on local human rights causes, including the Coalition for Democracy in Fiji (with offices in New Zealand and Australia) and two United Kingdom-based groups, the International Fiji Movement and the Movement for Democracy in Fiji. There was little interaction between the Government and these groups.

The ICRC continued to operate an office in the country.

#### Section 5 Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution prohibits discrimination based on race, sex, place of origin, political opinion, color, or creed. It also provides specific affirmative action provisions for those disadvantaged as a result of such discrimination. A compact included in the Constitution specifically provides for affirmative action and "social justice" programs to secure effective equality of access to opportunities, amenities, and services for ethnic Fijians and Rotumans and for all disadvantaged citizens and groups. The Constitution cites the "paramourcy" of Fijian interests as a guiding principle for the protection of the rights of indigenous citizens.

#### Women

Domestic abuse, rape, and incest were major problems. Reliable estimates indicated that 10 percent of women had been abused in some way. An active women's rights movement addressed the problem of domestic violence. Police have adopted a "no-drop" rule, under which they prosecute cases of domestic violence even when the victim does not wish to press charges. Nonetheless, cases of domestic abuse and incest were often dismissed by courts or received minimal sentences. The traditional practice of reconciliation between the aggrieved parties was sometimes taken into account to mitigate sentences in domestic violence cases, particularly in cases of incest.

The women's rights movement pressed for serious punishment for rape. Sentences varied widely but were generally lenient. Women's groups continued to urge that all rape cases be heard in the High Court, where lengthier sentences were available. However, by law an accused rapist retains the right to choose between the High Court and magistrates' courts. Only one case in the last 7 years has been sent to the High Court for sentencing, after it was tried in the magistrates' courts. In December, a sentence of 11 years was issued in that case, the rape of a foreign citizen. Since there have been no effective prosecutions for marital rape, women's activists continued to press for the explicit inclusion of marital rape in a new Domestic Violence Bill, due to be debated by Parliament in 2004.

Prostitution is illegal; however, it was a growing problem, particularly in Suva. The law prohibits sex tourism as well as sexual harassment; neither was considered to be a significant problem.

Suva, Ba, Labasa, and Lautoka have women's crisis centers funded by foreign governments, which offer counseling and assistance to women in cases of domestic violence, rape, and other problems such as child support. The NGO Femlink Pacific distributed information at the grassroots level and encouraged community-based dialogue. The Ministry of Women provides a Gender Awareness Program to educate soldiers and police officers about women's issues.

Under the Constitution, male and female citizens enjoy equal rights in regard to the granting of residence for spouses, and with regard to the registration and racial designation of children for purposes of enrollment on electoral rolls and entitlement to ethnic communal property rights.

Women had full rights of property ownership and inheritance, and a number were successful entrepreneurs. Other than a prohibition on working in mines, there were no legal limitations on the employment of women. Women were generally paid less than men.

#### Children

Although hampered by resource constraints, the Government devoted 19 percent of the national budget to education and also worked to improve children's health and welfare. School is mandatory until age 15. The inability of some families to pay school fees and bus fare limited attendance for some children. During the year, in response to a case brought by the HRC, the High Court ruled that corporal punishment in schools was illegal. Before the Court's decision, there were several reports of corporal punishment in schools early in the year.

Societal changes have undermined traditional village and extended family-based structures. Outgrowths of these changes have included increased child abuse and a number of homeless youths in urban areas. Some youths found employment in the informal sector. Children worked on the streets, in homes as domestics, and in auto repair shops. Homeless children were often seen on the street working as shoeshine boys or involved in prostitution. A 2001 police report noted increases in the number of street children engaged in prostitution. Child prostitution, along with prostitution in general, appeared to increase during the year and affected both the ethnic Fijian and Indo-Fijian communities.

The Ministry of Labor had few or no resources to investigate reports of child labor or to charge offending employers. The legal system was inadequate to protect the rights of children, since children's testimony was largely inadmissible unless corroborated by an adult.

The Government provided free medical care for children at public health centers and hospitals. Government nurses provided free immunizations for children in primary schools.

## Persons with Disabilities

The Constitution provides for equality before the law of all persons, including persons with disabilities, and discrimination against the physically disabled in employment, education, and the provision of state services is illegal. However, there was no legislation or mandated provision for accessibility for persons with disabilities, and there was little or no enforcement of laws protecting persons with disabilities.

The Fiji National Council for Disabled Persons worked to protect the rights of persons with disabilities. Several voluntary organizations also promoted greater attention to the needs of persons with disabilities.

Persons with mental disabilities were largely separated from society and were normally supported at home by their families. There were a few special schools for persons with mental disabilities; however, their costs limited access.

## National/Racial/Ethnic Minorities

Tension between ethnic Fijians and Indo-Fijians has been a longstanding problem. While 1997 amendments to the Constitution noted 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," it also specified the "paramountcy of Fijian interests" as a protective principle (see Section 5). George Speight, leader of the Parliament takeover in May 2000, professed to be acting on behalf of ethnic Fijians in his attempt to overthrow a government led by the country's first Indo-Fijian Prime Minister (see Section 3).

Senators appointed by the Prime Minister have made numerous racial slurs directed against Indo-Fijians.

During the year, the SDL Government worked to ensure the political supremacy of ethnic Fijians. During the year, approximately one-fourth of valid complaints to the HRC dealt with racial and ethnic equality issues.

Land tenure remained a highly sensitive issue. Ethnic Fijians communally held over 80 percent of land, the Government held another 8 percent, and the remaining land was freehold. Ethnic Fijians' traditional beliefs, cultural values, and self-identity are tied to the land. Most cash crop farmers were Indo-Fijians, who leased land from the ethnic Fijian landowners through the Native Land Trust Board. Many Indo-Fijians, particularly farmers, believed that the absence of secure land tenure discriminated against them. Many traditional, communal indigenous Fijian landowners, in turn, felt that the rental formulas included in the Agricultural Land Tenure Agreement (ALTA) discriminated against them. A number of agricultural landlord and tenant agreement leases have expired, and many more will expire in the next few years. Racial tensions and grievances over low rents for agricultural lands resulted in several highly publicized illegal evictions of Indo-Fijians and reoccupations of land by native Fijian landowners. There were also several cases of Fijian landowners extorting so-called goodwill payments from their Indo-Fijian tenants. Almost none of these violations were prosecuted. The appointment of a respected moderate as head of the Native Land Trust Board in 2002 assuaged ethnic tension over land issues somewhat.

The Government pressed strongly for changes in the existing ALTA to accommodate landowner concerns; however, lacking sufficient support to amend the ALTA, Parliament took no action on the matter during the year.

In 2002, the Government implemented a new Rural Housing Assistance Scheme that, unlike the previous housing assistance plan, limited benefits to indigenous communities.

The minority Chinese community continued to grow dramatically, primarily through illegal immigration. There was a steep rise in illegal activities, including murder, that allegedly were connected to Chinese organized crime. A special police unit, the Asian Crime Unit, investigated criminal activity within the ethnic Chinese community.

## Section 6 Worker Rights

### a. The Right of Association

The law protects 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. However, the law permitted restrictions to these rights in the interests of defense, public safety, public order, public morality, or public health, or to protect the rights and freedoms of other persons. In 2002, these restrictions were used by the Government to cut short strike actions. An estimated 55 percent of the wage-earning workforce was unionized.

All unions must register with, but are not controlled by, the Government. The major central labor body is the Fiji Trades Union Congress (FTUC), which in the past was associated closely with the opposition Fiji Labor Party; unions operated under its auspices. In recent years, the FTUC has adopted a more independent political stance. In August 2002, some unions broke away from the FTUC and formed a new labor group, the Fiji Island Council of Trade Unions. While certain unions remained ethnically based, both Indo-Fijians and ethnic Fijians held leadership roles in the trade union movement.

Unions can affiliate internationally; the FTUC is affiliated with the International Confederation of Free Trade Unions and the International Labor Organization (ILO).

In December, the Government, the FTUC, and the Fiji Employers' Federation signed a letter of intent reaffirming their commitment to respect the fundamental principles and rights contained in eight core ILO conventions.

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

Workers have the right to organize and bargain collectively. Employers are required to recognize a union if more than half of the employees in a workplace have joined it. The Government has the power to order recalcitrant employers to recognize unions, and has done so. Union recognition occurs when a fixed percentage of workers sign membership cards; no ballots are held to determine representation. Traditional key sectors of the economy, including sugar and tourism, were heavily unionized. However, there were no laws to protect workers who organized unions in a factory, resulting in low unionization in the country's garment factories. While the law encouraged unionization, union organizers' jobs were not protected. Since employers reserved the right to fire union organizers, some workers were afraid to unionize. Thus, unions were effective bargaining tools for older, more established industries, such as sugar and mining, but less effective for newer industries, such as the garment industry. Wage negotiations were generally conducted at individual companies rather than on an industry-wide basis.

Strikes are legal, except in connection with union recognition disputes, and trade unions can conduct secret strike ballots without government supervision. In order to carry out a legal strike, organizers must give the employer 28 days' notification. The Ministry of Labor also must be notified of the dispute and receive a list of all striking employees, the starting date of the strike, and location of the strike. This requirement is intended to allow the organizers, unions, employers, and Ministry of Labor time to resolve the dispute prior to a strike. There were 25 strikes in 2002, of which 20 were declared illegal by the Minister of Labour and Industrial Relations. During the year, there were 15 strikes, all of which were declared illegal. When a strike is declared illegal, the dispute is referred to a Permanent Arbitrator, but the strikers are ordered back to work. Most disputes, including those in which strike action was deemed illegal, were settled by referral to a Permanent Arbitrator.

Union officials operated without interference during the year.

Export processing zones (EPZs) are subject to the same laws as the rest of the country. However, the FTUC has been unsuccessful in obtaining collective bargaining agreements in EPZs and claimed that intimidation of workers by employers was widespread. The FTUC argued that because of illegal and intimidating practices, including threats of loss of work for those active in organizing workers, unions were effectively prevented from representing workers in the EPZs.

#### c. Prohibition of Forced or Bonded Labor

The Constitution specifically prohibits forced or bonded labor, including by children, and there were no confirmed reports that such practices occurred. However, media reports and NGOs have alleged that work conditions in some garment factories might include forced or bonded labor and excessive work hours. In 2002, there were media reports of PRC women subjected to bonded labor at a garment factory.

#### d. Status of Child Labor Practices and Minimum Age of Employment

The Government has adopted some laws to protect children from exploitation in the workplace, but enforcement of these laws was lax. Children under the age of 12 may not be employed in any capacity. Children under age 15 may be employed only outside of school hours in family enterprises, and not in the industrial sector. Young persons between the ages of 15 and 17 may be employed in certain occupations not involving heavy machinery, with specified hours and rest breaks. In practice, enforcement of these regulations by the Ministry of Labor was generally ineffective. There were only two inspectors at the Ministry of Labor, who conducted regular annual workplace inspections, and no investigators to follow up claims or reports of violations. 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 in prostitution.

The Government has not ratified ILO Convention 182 on the worst forms of child labor. The law does not define the worst forms of child labor. The laws implementing and enforcing child labor regulations were insufficient; there were no adequate enforcement remedies and no comprehensive policy to eliminate the worst forms of child labor.

#### e. Acceptable Work Conditions

There was neither a national minimum wage nor a limit on maximum hours for working. Certain sectors had minimum wages set by the Ministry for Labor. Minimum wage levels provided a sparse but adequate standard of living for a worker and family in all sectors other than the garment industry, where no minimum wage applied. There were no regulations on maximum hours of work for adult males. Other than a prohibition from working in mines, there were no limitations on female employment. Workers in some industries, notably transportation and shipping, worked excessive hours. Factory housing for garment workers was overcrowded.

There are workplace safety regulations, a Worker's Compensation Act, and an accident compensation plan. However, government enforcement of safety standards suffered from a lack of trained personnel and lags in compensation hearings and rulings. Unions generally monitored safety standards in organized workplaces, yet many work areas did not meet standards and were not monitored by the Ministry of Labor for compliance. By law, employees have 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. The ILO maintained an office in Suva.

There were a growing number of nonunionized and sometimes illegal immigrant workers (predominantly ethnic Chinese), particularly in the garment sector.

#### f. Trafficking in Persons

There are no laws that specifically address trafficking in persons, although laws against procuring a woman to become a prostitute, kidnapping, and bonded and forced labor could be used to prosecute traffickers. There were no substantiated reports of trafficking in persons to, from, or within the country during the year.

There was an increase during the year in persons arriving in or transiting the country with altered or falsified travel documents; the police believed that an organized Asian criminal network in the country coordinated these and other illegal movements of persons. However, most appeared to be economic migrants rather than victims of trafficking. Police have received unsubstantiated reports of the use of forced labor from the PRC in the garment factories in Western Viti Levu, the country's largest island. However, law enforcement has made no arrests and has not investigated the reports. In 2002, there were media reports of PRC women forced to work as bonded laborers in a garment factory.

Child prostitution was also a problem, affecting both the ethnic Fijian and Indo-Fijian communities (see Section 5). There were no confirmed reports that children were trafficked to or from the country for this or any other purpose.

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