



## 2008 Human Rights Reports: Fiji

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

[2008 Country Reports on Human Rights Practices](#)

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Fiji is a constitutional republic with a population of approximately 828,000. The constitution provides for a ceremonial president selected by the Great Council of Chiefs and an elected prime minister and parliament. However, in 2006 the armed forces commander, Commodore Voreqe Bainimarama, overthrew the elected government in a bloodless coup d'etat. In January 2007 the interim military government was replaced by a nominally civilian interim government ("the interim government") headed by Bainimarama as prime minister. Bainimarama and his Military Council controlled the security forces.

The interim government denied citizens the right to change their government peacefully. The judiciary was subject to political interference. The interim government 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, government corruption, deep ethnic divisions, violence and discrimination against women, and sexual exploitation of children.

### RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

The government or its agents did not commit any politically motivated killings; however, security forces were implicated in one unlawful killing. On July 28, police and prison officers beat Josefa Baleiloa, an escaped prisoner, while they were recapturing him. He fell into a coma as a result and died on September 16. The police commissioner announced that an investigation would be undertaken, but there were no results by year's end.

On April 23, the High Court convicted three police officers of the murder of Tevita Malasebe, who died in police custody in June 2007, and sentenced them to life imprisonment. Five additional defendants were acquitted. Trials for military and police officers charged in the deaths of Nimilote Verebasaga in January 2007 and Sakiusa Rabaka in February 2007 remained pending.

b. Disappearance

There were no reports of politically motivated disappearances.

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

While the constitution prohibits such practices, the security forces did not always respect this prohibition in practice.

The military in some cases assisted the Fiji Independent Commission against Corruption (FICAC) to investigate

allegations of corruption, and there were reports that members of the military detained and assaulted civilians to obtain evidence in corruption cases. In December one FICAC case from Labasa was dismissed after witnesses told the magistrate that their statements were obtained after they were assaulted by military personnel.

By year's end there had not been any government investigation into the injuries, including skull fractures, sustained by businessman Ballu Khan during his November 2007 arrest for allegedly planning to assassinate interim Prime Minister Bainimarama (see section 1.d).

#### 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. The pretrial detention facility at Suva's prison remained closed due to its substandard condition.

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.

Family members were routinely permitted to visit prisoners.

The interim government permitted prison visits by independent human rights observers. During the year the International Committee for the Red Cross (ICRC) visited official detention facilities and interviewed detainees.

#### d. Arbitrary Arrest or Detention

The constitution prohibits arbitrary arrest and detention, but the government did not always respect this prohibition in practice.

#### Role of the Police and Security Apparatus

The Ministry of Home Affairs, headed by the interim minister for defense, oversees the Fiji Police Force, which is responsible for law enforcement and the maintenance of internal security. Historically responsible for external security, the Republic of Fiji Military Force (RFMF) maintained that it has a broad constitutional responsibility for national security that also extends to domestic affairs. Many constitutional scholars in the country rejected that assertion.

Police maintained a network of stations and posts throughout the country. Policing of more remote and smaller islands was done through regularly scheduled visits. In 2006 the RFMF established a joint military and police command center based at the Suva Central Police Station, blurring the lines of authority between the two forces. Military personnel were assigned to accompany police patrols and jointly man police checkpoints.

The police internal affairs unit is statutorily responsible for investigating complaints of police misconduct. FICAC continued investigating public agencies and officials, including some members of the police and military forces. However, impunity and corruption remained problems.

#### Arrest and Detention

By law 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.

Detainees generally were allowed prompt access to counsel and family members. However, some journalists and others detained for short periods after criticizing the interim government were denied prompt access to a lawyer. For example, a journalist detained in August in Labasa after writing an article deemed by the government to be a threat to national security was denied access to a lawyer or family members and told she would be allowed such access only after answering police questions.

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

On November 12, a High Court judge ruled that the police and RFMF had violated businessman Ballu Khan's rights, including his right to counsel, during his arrest in November 2007 and subsequent detention on charges of attempting to assassinate Bainimarama. The judge also found that the authorities used excessive force during Khan's arrest. He ordered a permanent stay on all proceedings against Khan in the case.

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, but during the year the interim government interfered with judicial independence in practice.

The country's judicial structure is patterned on the British system. The principal courts are the magistrates' 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.

On December 5, suspended Chief Justice Daniel Fatiaki, whom the government had accused of misconduct, resigned. The interim government reached an agreement with Fatiaki whereby he agreed to resign and withdraw legal proceedings he had initiated against the government, and the government in turn agreed to terminate its misconduct proceedings against him. President Ratu Josefa Iloilo appointed Acting Chief Justice Anthony Gates as chief justice to replace Fatiaki.

In February the Judicial Services Commission, upon which then acting chief justice Gates sat, appointed five judges from the High Court to sit also on the Court of Appeal. Prior to these appointments, judges on the Court of Appeal (primarily foreign nationals) did not concurrently sit on the High Court.

In February and November the interim government prohibited an International Bar Association delegation from visiting the country to evaluate the independence of the judiciary. The interim government also reiterated its refusal to allow the UN Special Rapporteur on the Independence of Judges to visit the country for the same purpose.

Except for the Family Court, Employment Court, and various administrative tribunals, 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. Defendants have the right to a public trial and to counsel, and the court system generally enforced these rights in practice. 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 magistrates' 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. Defendants enjoy a presumption of innocence and may 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.

The law extends these rights to all citizens.

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.

### Political Prisoners and Detainees

There were no reports of political prisoners or long-term political detainees. Police detained for short periods and questioned a number of journalists for reporting critical of the interim government.

### Civil Judicial Procedures and Remedies

The law provides for 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 may make a complaint to the Fiji Human Rights Commission (FHRC), which could resolve complaints through conciliation without referring them to the courts. A number of court cases filed by individuals and organizations negatively affected by the 2006 coup and interim government policies, alleging violations of the constitution and of human rights, remained pending at year's end.

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

The constitution prohibits such actions, but the interim government frequently ignored these prohibitions in practice. The government obtained private e-mail correspondence of anti-coup activists, lawyers, and journalists without their consent and circulated it publicly. The government-appointed ombudsman and chair of the FHRC used the e-mails in a report to criticize the e-mails' authors.

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

#### a. Freedom of Speech and Press

The constitution provides for freedom of speech and of the press, but the government did not fully respect these rights in practice.

The independent media were active and expressed a wide variety of views; however, the government warned media outlets against making "inciting comments," and most practiced some degree of self-censorship. The country's television news program production was owned and operated by Fiji One, one of two national noncable television stations. A trust operated by the Ministry of Fijian Affairs, on behalf of Fiji's provincial councils, owned 51 percent of Fiji One; the remainder was privately held. The government owned the Fiji Broadcasting Corporation,

which operated six radio stations, and also retained a shareholding of less than 20 percent in the Daily Post newspaper.

During the year the government harassed, intimidated, and in some cases detained for questioning a number of journalists in response to reporting which was critical of the government. On February 12, three newly appointed Court of Appeal judges summoned Leone Cabenatabua, editor of the Fiji Sun newspaper, as well as Virisila Buadromo, head of the Fiji Women's Rights Movement, before the court in response to an article the Sun published in which Buadromo called the judges' appointments illegal. Cabenatabua and Buadromo were given verbal warnings, but no charges were brought against them. On August 2, police arrested and interrogated Isaac Lal of the Daily Post about an article linking a recaptured escapee, Josefa Baleiloa, to an alleged plot to assassinate national leaders. Lal was picked up after the police spokeswoman complained about being misquoted in the article; he was released later that evening. Also in August, police in Labasa detained for questioning and threatened Fiji Times reporter Serafina Silaitoga, who was five months pregnant at the time, after she reported on critical comments made by businessman and former member of Parliament Charan Singh regarding then finance minister Mahendra Chaudhry. She was held overnight and released without charge. Police also arrested Singh for allegedly making seditious comments against Chaudhry; he later was also released without charge.

There were instances in which the government attempted to impede or censor journalists' news coverage. On January 25, police detained a television news crew for five hours for "disturbing police activity" while filming a news segment on a public sidewalk. In June police prohibited a television station from broadcasting an interview with the son of a prominent politician on the grounds that the interview contained "inciteful comments." Police obtained warrants and seized the original recording of the interview. On December 15, immigration authorities prohibited a foreign journalist from entering the country, based on a secret military "watch list." The journalist had been placed on the list in July after filing a story that the military characterized as "negative." The journalist was detained overnight in an immigration holding center, prevented from seeing consular staff that came to offer assistance, and placed on a flight to her home country. The Department of Immigration subsequently announced that foreign journalists would require clearance from the Department of Information before making arrangements to come to the country.

The Media Council, a voluntary private watchdog group of media and academic figures, receives and seeks to resolve complaints of bias and malfeasance within the media.

Legislation pertaining to the press is contained in the Newspaper Registration Act and the 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 may be sued in court and, if found guilty, fined. Individuals in such cases may be fined, imprisoned for six months, or both. These laws authorize the government to arrest any person who publishes "malicious" material. This would include anything the government considers false, likely to create or foster public alarm, or result in "detriment" to the public. However, this authority has never been used.

In March then finance minister Mahendra Chaudhry filed a libel suit against the Fiji Times newspaper for allegedly defaming him by identifying him as the target of a tax evasion investigation; the case was pending at year's end.

In November the interim government pursued contempt of court proceedings against the Fiji Times and the Daily Post newspapers after they published a letter to the editor criticizing a High Court decision upholding the interim government's legitimacy. Although both newspapers subsequently published an admission they were in contempt, the government asked the court to impose fines and jail terms on the newspapers' publishers and editors. The cases were pending at year's end.

The 1992 Television Decree permits the government to influence programming content. The government did not attempt to use this programming authority during the year.

The interim government forcibly deported the publishers of the country's two largest circulation daily newspapers during the year, ostensibly on national security grounds. On February 28, the government deported foreign citizen Russell Hunter, publisher of the Fiji Sun, stating that he had conducted himself in a manner prejudicial to national security. On May 2, the government deported Fiji Times publisher Evan Hannah, also a foreign citizen, on the same grounds. Both men were taken from their homes by police and immigration officials. The Fiji Times obtained a timely court order prohibiting Hannah's deportation, but the interim government continued with the deportation; the authorities were served with copies of the court order, but claimed the officers carrying out the deportation did not receive a copy prior to placing Hannah on a flight out of the country. Both newspapers filed legal challenges to the deportations, which were scheduled to be heard in 2009. At a meeting with editors and news managers following Hannah's deportation, Bainimarama threatened to close down the two newspapers if they continued their trend of "negative reporting."

#### Internet Freedom

There were no government restrictions on general public access to the Internet, but evidence suggested that the interim government monitored the private e-mail of its citizens (see section 1.f).

The Internet was widely available and used in and around urban centers, and the majority of the population lived in areas with Internet coverage. However, low-income persons generally could not afford individual service, and other public access was very limited. Access outside urban areas was minimal or nonexistent.

#### 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.

A national youth meeting planned by the Young People's Concerned Network, whose executive body included students at the university, was cancelled after the organization received threatening calls from police.

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

##### Freedom of Assembly

The constitution provides for freedom of assembly, but the interim government interfered with this right in practice. Although some civic organizations were granted permits to assemble, permits for all political demonstrations and marches were denied. The police commissioner and the ombudsman discouraged public dissent and politically oriented public gatherings by warning that security forces would actively enforce the public order laws.

In April police detained and questioned 17 activists who were holding a vigil outside the Chinese embassy in support of Tibet; police stated that the participants did not have a permit for the protest. The activists were released after approximately seven hours.

##### Freedom of Association

The constitution provides for freedom of association. During the year the interim government did not restrict

persons from joining nongovernmental organizations (NGOs), professional associations, or other private organizations.

#### c. Freedom of Religion

The constitution provides for freedom of religion, and the government generally respected this right in practice. Some municipal restrictions on opening hours for businesses during Christmas and Easter were imposed on all communities, not just those that were predominantly Christian.

#### 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 tensions, although there was often evidence that theft 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 2008 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

#### d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, but the interim government frequently restricted or denied these rights in practice.

The interim government maintained a list of persons banned from leaving the country, including the suspended chief justice prior to his resignation, human rights activists, and lawyers. Names on the list were not made public; travelers discovered their inclusion when they were turned back by airport immigration authorities. Some persons prohibited from leaving the country challenged the ban in court in 2007, and these cases remained pending at year's end.

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

The law prohibits forced exile, and the interim government did not use it during the year.

#### Protection of Refugees

The country is a party to the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, but until 2008 the country's laws did not specifically provide for the granting of refugee status or asylum. In February the government published a notice authorizing the entry into force of refugee-related provisions of the 2003 Immigration Act. However, by year's end the government had not established a system for providing protection to refugees. The government does not have an established procedure for providing protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened.

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

Although the constitution provides citizens the right to change their government peacefully, the country was ruled by a military-backed interim government following the military overthrow of the popularly elected government in December 2006.

#### Elections and Political Participation

The most recent elections, held in 2006, were judged generally free and fair. Party politics was largely race based, although this did not limit participation in the political process. The governing Soqosoqo Duavata ni Lewenivanua (SDL) party was primarily ethnic Fijian, and the Fiji Labour Party (FLP), the second-largest party, was primarily Indo-Fijian, although both parties had membership across racial lines. After the elections the SDL established a multiparty cabinet with the FLP as required by the constitution. This government was removed by the RFMF under the leadership of Commodore Bainimarama during the 2006 coup.

At year's end the country continued to be governed by the military-led, nominally civilian government established in January 2007 by Bainimarama. Parliament remained suspended, and the Great Council of Chiefs (suspended in April 2007 by Bainimarama) had not been reconvened. There was little progress toward scheduling elections and returning to a democratically elected government.

On September 5, former prime minister Laisenia Qarase and five fellow SDL parliamentarians lodged with the police allegations of treason against Bainimarama, his cabinet, 14 senior military officers, the police commissioner, and the head of the country's Catholic Church. The police commissioner stated that the police would not investigate the allegations, and by year's end no investigation had been undertaken.

On October 9, the High Court dismissed a case brought by Qarase challenging the legality of the 2006 coup and of the interim government. The court held that the president's appointment of an interim government following the military coup was legally valid. On October 31, Qarase's SDL party filed an appeal of the High Court decision, which was pending at year's end.

There was one woman in the nine-member interim government cabinet. Women played important roles in the traditional system of chiefs and could be chiefs in their own right.

At year's end there was one Indo-Fijian minister in the interim cabinet and no other minority ministers. Indo-Fijians, who accounted for 38 percent of the population, continued to be underrepresented at senior levels of the civil service and greatly so 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 is appointed by the government and opposition. This arrangement essentially ensured indigenous Fijians effective control in the Senate. The constitution establishes a 71-member lower house with 25 seats open to any ethnicity and 46 seats allocated to the different ethnic communities. 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, but the constitution does not provide for future changes in the allotments to reflect changes in the composition of the population.

#### Government Corruption and Transparency

The law provides criminal penalties for official corruption; however, corruption, including within the civil service, has been a significant problem for post-independence governments, and officials frequently engaged in corrupt practices with impunity.

Despite measures by the interim government during the year to combat corruption within the bureaucracy, systemic corruption continued. In the absence of parliamentary oversight and other checks and balances, much government decision making was not transparent. The media raised numerous allegations of nonaccountability, abuse of office, fraud, nepotism, misuse of public property, financial mismanagement, failure to complete statutory audits, and conflicts of interest regarding officials and ministries during the year. The auditor general announced that in the absence of a sitting Parliament, audit reports would be compiled but would not be made public.

Under the interim government, many military personnel were appointed to positions within government ministries, the diplomatic corps, the police, and other agencies, ostensibly to improve the inefficient bureaucracy.

Public officials are not subject to financial disclosure laws. FICAC, created by the interim government in 2007, is the primary body responsible for combating government corruption.

In February then finance minister Mahendra Chaudhry was named in press reports as having been investigated for tax evasion by the Fiji Islands Revenue and Customs Authority (FIRCA) in 2007. Several FIRCA employees involved in the investigation who were fired in 2007 alleged that they were fired to protect Chaudhry; the government denied their allegations. On February 25, the prime minister stated that an independent inquiry into the matter had concluded that Chaudhry did not violate the tax laws. In August Chaudhry resigned from the cabinet for unrelated reasons.

In March former prime minister Qarase was charged with abuse of office related to business transactions prior to becoming prime minister. In May FICAC charged Qarase with further abuse of office during his tenure as prime minister; he was released on bail, and the case was pending at year's end.

Although the 1997 constitution instructs Parliament to enact a freedom of information law as soon as practicable, no such law has been enacted. The interim government was frequently unresponsive to public requests for government information. On December 31, the interim cabinet approved an amendment to a government decree allowing FICAC to prosecute the offense of "misconduct in public office." The amendment gives FICAC authority to prosecute civil servants who divulge confidential government information to non-civil servants.

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

The interim government continued to scrutinize the operations of local and international NGOs, engendering a climate of uncertainty within the NGO community. Most NGOs practiced varying degrees of self-censorship. Government officials were only cooperative and responsive to the views of NGOs that avoided criticizing the coup and the interim government.

There were several NGOs 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 had regional offices in the country and sought to work with the government on various human rights issues. The ICRC continued to operate in the country.

The interim government directed all those claiming human rights violations to report them to the FHRC. The FHRC

received and reviewed reports of human rights violations and requests for assistance. During the year, however, the FHRC did not publish the results of any investigations into post-coup human rights abuses allegedly perpetrated by the interim government.

#### 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.

#### Women

Rape, domestic abuse, incest, and indecent assault were significant problems. The penal code provides for a maximum punishment of life imprisonment for rape; however, most rapes were prosecuted in the magistrates' courts, which have a sentencing limit of 10 years. There were inconsistencies in the sentences imposed for rape by different magistrates; sentences generally ranged from one to six years' imprisonment. The Fiji Women's Rights Movement and the Fiji Women's Crisis Center pressed for more consistent and severe punishments for rape. 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 the formal criminalization of spousal rape, which is not a specific offense; however, husbands have been convicted of raping their wives.

Although there is no specific law against domestic violence, it can be prosecuted as assault. Police claimed to practice a "no-drop" policy, under which they pursued investigations of domestic violence cases even if a victim later withdrew her accusation. However, women's organizations reported that although police generally were more responsive to domestic violence cases than in the past, they were not always consistent. Courts dismissed some cases of domestic abuse and incest or gave the perpetrators light sentences. 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. 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.

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. Taxi drivers, hoteliers, bar workers, and others reportedly acted as middlemen, facilitating the commercial sexual exploitation of children.

The Human Rights Commission Act specifically prohibits sexual harassment, and criminal laws against "indecent assaults on females" prohibit offending the modesty of women and have been used to prosecute sexual harassment cases. Under a new employment relations law that came into effect in April, sexual harassment in the workplace is a specific ground of complaint that can be filed by workers.

Women have full rights of property ownership and inheritance but often were excluded from the decision-making process on disposition of communal land, which constituted more than 80 percent of all 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, approximately 30 percent of the economically active female population was engaged in the formal economy, and a large proportion of these women worked in semisubsistence employment or self-employment.

## Children

The government devoted approximately 25 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 for uniforms, school fees, and bus fares limited attendance for some children.

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 and appeared to be factors that increased a child's chance of being exploited for commercial sex. Child prostitution was reported among high school students and homeless and jobless urban youth.

Under the penal code, commercial sexual exploitation of children is a misdemeanor, punishable by sentences of up to two years' imprisonment. Children's rights advocates criticized this as inadequate and called for more severe criminal sanctions.

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

## Trafficking in Persons

The law prohibits trafficking in persons, with penalties of up to 20 years' imprisonment and fines up to F\$750,000 (approximately \$426,000) for convicted traffickers. Several citizens of China who entered Fiji on student visas and were arrested for prostitution may have been trafficked. However, no further investigations were conducted before the women were deported to their country of origin. There were some reports of commercial sexual exploitation of children within the country during the year.

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

The State Department's annual Trafficking in Persons Report can be found at [www.state.gov/g/tip](http://www.state.gov/g/tip).

## Persons with Disabilities

All persons are considered equal under the law, including persons with disabilities. Discrimination against persons with 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 all 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." 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 them. Building regulations require new public buildings to be accessible to persons with disabilities, but only a few existing buildings met this requirement. There were only a small number of disabled-accessible vehicles in the country. There were a number of community organizations to assist those with disabilities, particularly children.

Most persons with mental disabilities 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 Suva. There were a number of 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.

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 a nonjusticiable compact in the constitution also cites the "paramountcy" of Fijian interests as a guiding principle. The compact also 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. The interim government publicly stated its opposition to such policies, which it characterized as racist, and called for the elimination of discriminatory laws and practices that favor one race over another; however, as of year's end, they remained in place.

Prior to the 2006 coup, most post-independence governments pursued a policy of political predominance for ethnic Fijians. Land tenure remained a highly sensitive and politicized issue. Ethnic Fijians communally held approximately 87 percent of all land, the government held approximately 4 percent, and the remainder was freehold land, which private individuals or companies may hold.

Ethnic Fijians' traditional beliefs, cultural values, and self-identity are closely linked to the land. Most cash-crop farmers were Indo-Fijians, the majority of whom are descendants of indentured laborers who came to the country during the British colonial era. 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 consequent 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 continued to result 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 prescribed in the national land tenure legislation discriminated against them as the resource owners.

#### Other Societal Abuses and Discrimination

The constitution prohibits discrimination on the basis of sexual orientation. The preexisting penal code criminalizes homosexual acts between males, but the judiciary has held these provisions to be unconstitutional.

There was some societal discrimination against homosexuals and persons with HIV/AIDS, although there was no systemic discrimination. There were no known cases of violence directed at homosexuals or persons with HIV/AIDS.

#### Section 6 Worker Rights

##### a. The Right of Association

The constitution and law protect the rights of workers to form and join unions, elect their own representatives, publicize their views on labor matters, and determine their own policies, but the authorities did not always respect all of these rights in practice.

In December Tevita Koroi, president of the Fijian Teachers Association, was suspended from his position as principal of Nasinu Teachers College and charged with disciplinary offenses after making public statements critical of the

interim government. Viti Civil Servants Union president Taniela Tabu received threats after making similar critical statements.

An estimated 31 percent of the work force was unionized. All unions must register with, but are not controlled by, the government. A new employment law implemented in April gives unions the right to appeal to the Employment Relations Tribunal against an adverse decision by the trade union registrar. While some unions were ethnically based, most were not, and both Indo-Fijians and ethnic Fijians held leadership roles in the trade union movement.

Under the new employment law, it is 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. The law allows restrictions on the right of association if necessary in the public interest or to protect national security, and police, military, and prison personnel are prohibited from forming or joining a union.

The law provides for the right to strike, except in the case of police, military, and prison personnel; their working conditions are covered under separate laws. Unions can conduct secret strike ballots, but must give the registrar 21 days' notice. The Ministry of Labour also must be notified 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. To carry out a legal strike, organizers of strikes in certain "essential services" must give an employer an additional 28 days' notification.

The law permits the minister of labor to declare a strike unlawful and refer the dispute to a permanent arbitrator; in these circumstances workers and strike leaders can face criminal charges if they persist in strike action.

There were strikes during the year, some of which were declared unlawful by the government and at year's end were in arbitration proceedings.

#### 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 industry wide. Traditional key sectors of the economy, including sugar and tourism, were heavily unionized. Although the law allows unionization, union organizers' jobs were not protected, resulting in low unionization in some sectors.

Under the new employment law, any trade union with six or more members may enter into collective bargaining with an employer. The new law allows individual employees as well as unions to bring a dispute with employers before a permanent secretary for mediation. While previously only unions could file such cases on behalf of their members, the new law extends the same protection to nonunionized workers, who made up the majority (approximately 70 percent) of the work force. Individuals, employers, and unions on behalf of their members may submit employment disputes and grievances alleging discrimination, unfair dismissal, sexual harassment, or certain other unfair labor practices to the Ministry of Labour. If mediation fails, the authorities may refer the dispute to the Employment Relations Tribunal; the tribunal's decision can be appealed to the Employment Court (a division of the High Court) and from there to the Court of Appeal and the Supreme Court.

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. Labor groups reported continuing difficulties organizing workers in the EPZs, however, due to fear of employer reprisals. With the decline of the garment industry in the country, the number of workers employed in the EPZs also declined significantly.

c. Prohibition of Forced or Compulsory Labor

The constitution prohibits forced or compulsory labor, including by children, but there were reports of commercial sexual exploitation of children.

d. Prohibition of Child Labor and Minimum Age for Employment

Inadequate enforcement of existing child labor regulations failed to fully protect children from workplace exploitation. 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. The Ministry of Labour deployed inspectors nationwide to enforce compliance with labor laws, including those covering child labor. However, there was no comprehensive government 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 commercial sexual exploitation of children during the year.

e. Acceptable Conditions of Work

There was no single, national minimum wage, although the Wages Councils 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 is no single national limitation on maximum working hours for adults; however, there are restrictions and overtime provisions in certain sectors. Workers in some industries, notably transportation and shipping, worked excessive hours.

There are workplace safety laws and regulations, and a worker's compensation act. Safety standards apply equally to citizens and foreign workers; however, government enforcement suffered from a lack of trained personnel and delays in compensation hearings and rulings. Unions generally monitored safety standards in organized workplaces, but many work areas did not meet standards and not all were monitored by the Ministry of Labour for compliance. The law accords employees the right to remove themselves from a hazardous worksite without jeopardizing their employment, but most feared the loss of their jobs if they did so.