



## Fiji

### Country Reports on Human Rights Practices - [2001](#)

Released by the Bureau of Democracy, Human Rights, and Labor

March 4, 2002

Following the armed takeover of Parliament and subsequent coup in May 2000, the country's political situation has remained unsettled. Ten days after the takeover of Parliament by armed ethnic Fijian supremacists, the country's security forces illegally seized power and claimed to have abrogated the Constitution. This action led to the issuance of an Emergency Decree by the President (as opposed to imposition of martial law) and the appointment of a military-backed, civilian interim administration by the military in July 2000. Although originally set to expire in September, the Emergency Decree expired on October 5. The Court of Appeal held on March 1 that the Constitution remained in force. After the decision, the military-backed civilian interim administration gave way to a military-backed caretaker administration with the same Prime Minister and many of the same ministers in the Cabinet. Parliamentary elections were held between August 25 and September 1, per the Constitution, and were observed by teams from the U.N., the Commonwealth, and the European Union; they generally were regarded as free and fair. Interim and caretaker Prime Minister Laisenia Qarase's Soqosoqo Duavata Ni Lewenivanua (SDL) party received the largest number of seats in Parliament, and Qarase was asked to form a government by President Iloilo. However, despite a constitutional provision requiring that any party receiving more than 10 percent of the seats in Parliament be offered inclusion in Cabinet, Qarase formed a Government which excluded the Fiji Labor Party (FLP), led by deposed Prime Minister Mahendra Chaudhry. Chaudhry subsequently took legal action against Qarase; the case was scheduled to be heard in February 2002. The judiciary continued to function, and court decisions during the year helped to affirm the independence of the judiciary. The leaders of the May 2000 armed takeover of Parliament have been charged with treason, but their case was postponed several times and, at year's end, was scheduled for January 2002.

The Republic of Fiji Military Forces (RFMF), a small professional force, come under the authority of the Ministry for Home Affairs, as do the police. The Fiji Intelligence Service was dissolved by the Cabinet in 1999, but its functions were absorbed by the Police Special Branch and by an analytical unit that was established in the Ministry of Home Affairs. The police are an unarmed civilian force. Police and military forces committed human rights abuses.

Ethnicity remains a dominant factor in the country and affects the country's politics, economy, and society. The population of approximately 845,000 is a multiracial, multicultural mix, with indigenous Fijians comprising 51 percent, Indo-Fijians (descendants of immigrants from the Indian subcontinent) approximately 44 percent, and Asians, Caucasians, and other Pacific Islanders making up the rest. The ethnic division is illustrated by the contrast between the private and public sectors; Indo-Fijian families largely control most private businesses, while indigenous Fijians largely head the government ministries and the armed forces. One of the primary goals of the newly elected government is an affirmative action program, or "Blueprint," designed to aid indigenous Fijians in education and business. Sugar and tourism account for more than half of foreign exchange earnings. Investment is depressed due to continuing concerns over the resolution of land lease issues and political upheaval. While the country's major trading partner, Australia, lifted sanctions following the August elections, growth in key sectors such as sugar, tourism, and garments remains slow. Concerns over political stability continue to affect tourism negatively, although this industry is improving slowly. The gross domestic product has declined by an estimated 10 percent since 1999. Skilled workers and professionals have departed the country in large numbers. Health and education services in particular were affected.

The Government's human rights record remained poor, although it improved somewhat after the elections in August and September, and some serious problems remain. The Constitution contains provisions that reduce previous factors that abridged the right of citizens to change their government; however, it also maintains a partially ethnically based electoral system. The ethnic divide between the SDL (mainly composed of indigenous Fijians) and the FLP (mainly composed of Indo-Fijians) remains an obstacle to long term political stability. Ethnically based discrimination remains a serious problem. A number of government policies,

including hiring practices, education policies, and land tenure preferences continue to provide protection for indigenous Fijian interests in accordance with the Constitution. Other human rights problems include several political and arbitrary or unlawful deprivations of life; occasional police and military abuse of detainees and suspects; informal and formal constraints on the freedom of speech and the press and self-censorship; restrictions on freedom of assembly and movement; violence and discrimination against women; instances of abuse of children; and racial discrimination and violence.

## RESPECT FOR HUMAN RIGHTS

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

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

There was one report of the arbitrary or unlawful deprivation of life committed by the Government or its agents during the year.

During military involvement in a police drug operation in July, a soldier in civilian clothes shot and killed a farmer who was cultivating marijuana. The police reported that the soldier acted in self-defense. However, eyewitness reports from villagers claimed that the soldier shot the farmer without cause. At year's end, no action had been taken against the soldier.

The November 2000 mutiny at Suva's Queen Elizabeth Barracks caused 8 deaths, 3 of which were loyalist soldiers, and approximately 24 other military casualties. Five mutineers were killed after being taken into custody by loyalist troops. Many of the mutineers were members of a special forces unit involved with the May 2000 takeover of Parliament.

On August 3, 2000, President Ratu Josefa Iloilo published an immunity decree stating that members of the Disciplined Forces (persons in active or discharged military positions who participated in events while the Emergency Decree was in effect) are "immune from criminal prosecution or from any civil suit; and shall not be responsible or liable in criminal or civil law or for breach of any other laws." This announcement, issued under the Emergency Decree, would free a law enforcement officer or soldier of any civilian charges brought against him in connection with acts relating to the May 2000 takeover of Parliament or the November 2000 mutiny. By year's end, no legal or disciplinary action had been taken against soldiers involved in the deaths of the five mutineers.

At year's end, the Government had not taken action against the security officers who killed a prisoner during the prison disorder at Naboro prison in July 2000.

#### b. Disappearance

There were no reports of politically motivated disappearances.

Following the November 2000 mutiny, a soldier was taken from his home by security forces. His body was discovered a few days later (see Section 1.a.). At year's end, no action had been taken against those responsible for his death.

#### 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. Police and military personnel have abused detainees and defendants on bail. No offenders were punished for past abuses; however, there were no reports of abuse during the year.

In August a soldier shot a disorderly, speargun-wielding man in the knee; the man was deaf and did not respond to an order to halt.

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 invoke this provision. In response to public concern regarding police brutality, the Human Rights Coalition conducted training courses for police field investigators, sergeants, and prison officers in May.

There were many arrests, beatings, and abuses of persons by civil and military security forces during the

responses by loyal forces in July 2000 to the May 2000 takeover of Parliament by rebels and to the November 2000 mutiny. Several persons were beaten while in the custody of the police or security forces in 2000, and some died as a result. There also were reports in 2000 of the arbitrary arrest of persons by civil and military authorities followed by beatings and release in remote places.

After the May 19, 2000, takeover of Parliament and subsequent military coup, there was unrest in many parts of the country; considerable violence was directed against Indo-Fijian settlements, and police sometimes participated in the violence. By year's end, no action had been taken against police and armed forces personnel involved in such incidents.

Corruption in the police force is a problem. Undertrained police officers receive only on-the-job instruction, which (according to some) contributes to the problem of corruption. In two incidents, police officers were charged with stealing from the scene of a crime. During the investigation of the killing of Red Cross director John Scott on July 1, police officers were accused of theft; the officers were punished administratively. In an incident in October, two police officers were accused of attempting to steal a goat; they were not punished. Authorities hoped that with a new Government, increased funding, and the formation of a police union, corruption among the police will abate.

Prison conditions do not meet international standards, and prison conditions, particularly at Suva and Naboro Prisons, are extremely harsh. Food and sanitation in prisons are limited. There were 1,100 prisoners in 18 prisons countrywide; however, the combined capacity for all of the prisons is 800 inmates. Men and women are housed separately; juveniles are held separately from adults. The Government lacks adequate resources to improve prison conditions.

The Government maintained a separate detention center on Nukulau Island outside of Suva to hold alleged coup leader George Speight and a number of his supporters, who are charged with treason. Family members are permitted to visit. Lawyers are permitted extremely limited access. The police continued to investigate Speight, his supporters, and those who financed the attempted takeover of Parliament in May 2000. During the year, 42 individuals were incarcerated in connection with this action, 27 had charges dropped or reduced; and at year's end, 15 were still in protective custody awaiting trial.

By year's end, no action had been taken against prison officials involved in the death of an inmate and injuries to 15 others at the Naboro prison in July 2000.

The Government permits visits to prisons, other than restricted Nukulau Island, by church groups, family members, and the Fiji Red Cross; however, the military-backed civilian interim administration has been less willing to allow the Fiji Red Cross access to prisoners since the November 2000 mutiny (see Section 1.a.). The International Committee of the Red Cross (ICRC), which established a permanent office in the country during the year, has been denied access to prisoners on Nukulau.

#### 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. Under the Emergency Powers Decree, in force throughout much of the year, the police and military forces could detain individuals for up to 7 days before charges were brought.

Rules governing detention are designed to ensure that suspects are questioned fairly. Detainees have the right to a judicial review of the grounds of their arrest. Incommunicado and arbitrary detention, both illegal, occasionally occur.

There were no reports of arbitrary arrests and beatings during the year. Persons were not released and then quickly rearrested by security forces to comply technically with the Emergency Powers Decree, as happened in 2000.

Family members and international nongovernmental organizations (NGO's) questioned the lengthy detention without charge of persons allegedly involved in the November 2000 mutiny. At year's end, more than 30 soldiers of the First Meridian Squadron remained in military detention while investigations continued. Access to these detainees by the ICRC was prohibited (see Section 1.c.). Family access is restricted severely, and the detainees have been moved repeatedly for security reasons.

The Government does not use forced exile.

#### e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary. The takeover of Parliament in May 2000 and subsequent events, including the putative abrogation of the Constitution and effort to abolish the Supreme Court, placed the status of the judiciary in question. However, subsequent decisions by the Court of Appeal during the year and their acceptance by the Government and opposition have solidified the independence of the judiciary and the primacy of the Constitution.

The independence of the High Court, in particular that of the Chief Justice, was questioned following the participation of the Chief Justice in drafting a number of the decrees issued by the military-backed civilian interim administration in 2000. One of the decrees extended the time in office of the Chief Justice. The Chief Justice also was criticized for his role in "interfering" in a case brought in 2000 by the deposed Chaudhry Government in Lautoka and for deciding to exclude the public and media from hearings regarding the conduct of the Police Commissioner. In October 2000, the Lautoka court rebuked the Chief Justice for attempting to move a case in which he was one of the accused to Suva and for attempting to select a judge to hear the case. A number of judges resigned. In July 2000, the Chief Justice also used the Emergency Decree to extend the mandatory retirement age for his position. Fiji's Law Society met in 2000 and periodically during the year; it issued a number of critical statements regarding the status of the judiciary.

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. However, in late May 2000, the Supreme Court was abolished by decree; the Court of Appeal, the High Court, and the magistrate courts continued to function. There are no special courts; military courts try members of the armed forces. Magistrate courts continue 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 in addition to its jurisdiction in serious civil and criminal cases.

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. In litigation involving lesser complaints, a public legal advisor assists indigent persons in domestic or family law cases. The right of appeal exists but continued to be hampered by delays in the appeals process. Bail is granted freely, but there is no provision for bail in cases of treason. During the year, the courts ruled that murder suspects are eligible for bail; however, many defendants experienced pretrial detention, and the delay in bringing cases to trial was becoming a problem.

The courts have a serious backlog of cases, and there are too few prosecutors. The Human Rights Commission (HRC) was able to secure bail and then release for six murder suspects in two separate cases, based on the denial of a fair and speedy trial. Each suspect had been in custody for over 18 months, and the HRC argued that the rights of the suspects had been denied; they were released in July. The Muanikau Accord between the rebels and the military regime, which led to the release of the hostages taken at Parliament in May 2000, included an immunity decree for the rebels covering unspecified "political crimes." However, in July 2000, the military-backed civilian interim administration arrested the rebel leadership, including George Speight, and charged them with treason. During 2000 the High Court ruled that the immunity decree did not apply to one rebel leader, and treason charges against several other leaders were dropped. Soldiers arrested in connection with the November 2000 mutiny, who were not released, were subject to trial under military law; proceedings began in November and were continuing at year's end.

The law sometimes treats women differently from men. In some instances, there is a presumption of reduced competence and thus reduced responsibility for women. For example, only women can 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 is presumed to have diminished mental capacity, and sentences are reduced or suspended accordingly.

There were no reports of political prisoners.

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

The Government generally respects 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. The Home Affairs Ministry conducts surveillance of persons whom it believes represent a security threat.

During the year, military and police checkpoints sporadically were set up around the country.

## Section 2 Respect for Civil Liberties, Including

### a. Freedom of Speech and Press

Freedom of speech generally is respected; however, there were both formal and informal governmental constraints on freedom of speech and the press. The Government attempted to pressure editors and otherwise interfere with the press; it retained controls instituted in July 2000 limiting citizens' rights to meet and speak out on human rights and democracy. Such groups must file for a petition to meet; petitions were treated on a case-by-case basis, and several prominent events were denied permits. The controls are reviewed every 21 days.

The press has access to prominent figures in the country, but in a newspaper article in the Fiji Sun during the week of September 10, the newly appointed Minister for National Reconciliation, Information, and Media Relations stated that, "The Government of the day must have control of the media in the country." He continued to say that while the Government respects freedom of information by the media, "They should somehow have respect ... [and] in many occasions media reports had been slanted and biased ... the least reporters could do was just have comments from Government."

There is a Complaints Committee within the Fiji Media Council; however, no complaints were filed during the year.

Political figures and private citizens can and do speak out regarding the country's political situation and against the Government. Letters on editorial pages and editorials that run in the three English-language dailies frequently contain political statements from a wide cross section of society critical of the Government. However, the Public Order Act and other laws prohibit actions that are likely to incite racial antagonisms.

Legislation pertaining to the press is contained in the Newspaper Registration Act and the 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 is published; however, this provision never has been used. Should the newspaper refuse to publish the Minister's correction, it may be sued in court and, if found guilty, fined approximately \$500 (FJ\$1,125), and individuals may be fined, imprisoned for 6 months, or both. These acts allow the Government to arrest anyone who publishes "malicious" material. This description includes anything the Government considers false news that could create or foster public alarm or result in "detriment" to the public. During the year, the Minister of Information did not exercise the power to compel a paper to issue a "correcting statement;" the power has not been used in recent years.

The country's television news production is owned and operated by Fiji One, the only national noncable television station. A trust operating on behalf of the provincial governments owns 51 percent of Fiji One; the other 49 percent is owned by private individuals and interests. There was no action during the year concerning the Chaudhry Government's agreement to terminate its exclusive license. There are two new television companies seeking registration rights. Under the Television Act, the Government is allowed to influence programming content. For example, on February 22, police surrounded a conference center in Suva and prevented taping a "Leaders Forum" public affairs program on Fiji TV. Police claimed that a permit was necessary for the program and that if the program proceeded, participants would be arrested.

The media operates without prior censorship, but with considerable self-censorship. Government ownership of shares in the Fiji Post newspaper and its links to the Fiji Sun newspaper through Fijian Holdings, an investment company on whose board a number of ministers have served, call into question the complete independence of the press. Newspapers occasionally print editorials critical of the Government and occasionally conduct investigative reporting. Criticism, albeit muted, of the once-sacrosanct traditional chiefly system is appearing more frequently. However, the Government still views negative comments about individual chiefs with disfavor. The Government also owns the Fiji Broadcasting Corporation with four radio stations.

During the week of vote counting following the August elections, election officials warned some members of the foreign press and the local private media against reporting unofficial polling results. After several warnings, the journalists were ordered to leave a counting station.

The Fiji News Council strives to improve journalistic standards, safeguard media independence, and resolve complaints from the public. The Fiji Islands Media Association is an affiliate of the Pacific Islands News Association. These associations provide training opportunities for journalists and have established a media code of ethics.

The Government does not control or limit Internet access.

Academic freedom generally is respected; however, government work permit stipulations and University of the South Pacific contract regulations effectively deter university employees from participating in domestic politics. Many academics write articles for the media and include disclaimers in their work to preclude contract or work permit problems.

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

The 1997 Constitution provided for the right to assemble for political purposes, subject to restrictions in the interest of public order; however, under the Emergency Powers Decree and for reasons of national security, during the year, all requests for political rallies or marches were denied. Despite such denials, in preparation for the election, parties were allowed to assemble freely if they obtained permits from the Ministry for Home Affairs.

In 2000 the military-backed, civilian interim administration requested agendas for all meetings for which a required special permit was sought; this requirement continued during the year. A proposed march by the Fiji Anti-War Movement (a coalition of NGO's) was denied a permit in November; the Government claimed the political situation was still volatile.

The 1997 Constitution provides for freedom of association, and the Government generally respected this provision in practice. Opposition parties operated largely without government interference. Political organizations operated and issued public statements. However, the deposed Prime Minister was accused of treason in 2000 by political leaders associated with the military-backed, civilian interim administration for his activities to try to restore constitutional democracy.

#### c. Freedom of Religion

The 1997 Constitution provides for freedom of religion, and this provision generally was respected in practice. The Government does not restrict foreign clergy and missionary activity or other typical activities of religious organizations. Religious groups are not required to register.

Religion runs largely along ethnic lines; most ethnic Fijians are Christians, and most Indo-Fijians are Hindu. The military-backed, civilian interim administration protected the rights of all religious groups. The major holidays of Christianity, Hinduism, and Islam are celebrated nationally.

The role of religion continues to be a political issue. Methodist Church authorities and allied political parties continue to work for the establishment of a Christian state. The Church has displayed strong nationalist sympathies, and a letter of support from the head of the Methodist Church, Reverend Tomasi Kanilagi, to George Speight, the leader of the May 2000 armed takeover of Parliament, was made public in the press in June. In the letter, Reverend Kanilagi publicly expressed his intention to use the Methodist Church as a forum under which to unite all ethnic Fijian political parties. The meetings held for this purpose have not been subjected to the same stringent permit restrictions as other political gatherings. Those parties dominated by Indo-Fijians do not support the establishment of a Christian state and insist that church and state should remain separate.

The annual general meeting of the Methodist Church in Suva in August coincided with the national elections; some 25,000 Methodists cast absentee ballots.

There were two incidents of vandalism, one in May and one in August, directed at Hindu temples. Also in August a Catholic church was desecrated. The perpetrators of these acts of vandalism were never identified. The police treated them as isolated incidents; and, by year's end, no arrests had been made.

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

The Government generally does not restrict freedom of movement within the country or abroad; however, checkpoints are located outside of several police posts around the country, and access to Nukulau Island, located near Suva, has been curtailed since the island is a detention center for persons charged with treason. The curfew imposed after the events of May 2000 was cancelled in October 2000.

Citizens are free to emigrate. More than 55,000 have done so since the 1987 coups and, according to immigration statistics, between January 2000 and June, 8,427 persons left the country, primarily Indo-Fijians. The Government does not restrict the return of citizens if they choose to do so and previously has encouraged those who left after the 1987 coups to return; however, it did not do so during the year. Occasional detentions

at the airport occur, but the courts have ordered redress where warranted.

An internally displaced persons (IDP) camp near Lautoka houses approximately 200 Indo-Fijians who were threatened by serious violence in the Muaniveni and Baulevu areas (near Nausori) following the May 2000 incidents. Approximately 100 persons formerly housed at the IDP camp returned to their homes during the year. President Ratu Josefa Iloilo apologized publicly to those living in the camp in late July. He expressed his regret at their situation, and the residents accepted his apology as a step towards reconciliation. The ICRC and the Fiji Red Cross visit the camp periodically.

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 cooperates 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 first asylum 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.

Every citizen has the right to enter and remain in the country.

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

In May 2000, Parliament was seized by ethnic Fijian supremacist rebels. The country's first Indo-Fijian Prime Minister, Mahendra Chaudhry, was taken hostage, along with other members of Parliament. In late May 2000, the President Ratu Sir Kamisese Mara was deposed in a nonviolent military coup. Commander Frank Bainimarama abrogated the Constitution, implemented emergency powers, and began to rule by decree. In July 2000, a military-backed, civilian interim administration was installed. With these events, citizens lost the right to change their government peacefully. Later that month, the last hostages in Parliament were released, and the rebel leaders were arrested, despite an immunity decree. Seventeen persons were charged with treason or other crimes, but such charges later were dropped against 8 soldiers and 4 other persons. The soldiers are to be tried under military laws.

In November 2000, the High Court ruled that the Constitution remained in force and that the military-backed, civilian interim administration had no legal basis. President Ratu Josefa Iloilo, appointed by the Great Council of Chiefs on March 13, dismissed the elected Prime Minister Mahendra Chaudhry and Parliament and selected Laisenia Qarase as Prime Minister, who served only long enough to reappoint the leadership of the military-backed, civilian interim administration. The High Court subsequently dismissed legal challenges to the President's action. On March 1, the Court of Appeal affirmed the validity of the Constitution. The decision of the Court of Appeal to uphold the Constitution was welcomed by local and international human rights groups; however, the interim civilian authorities, backed by the military, became the caretaker administration and remained in power, arguing this was necessary in the interest of national security and under the doctrine of necessity. On March 15, the caretaker administration headed by Interim Prime Minister Laisenia Qarase, which had minimal representation from the Indo-Fijian minority, called for parliamentary elections in early August. The elections were held between August 25 and September 1. The parliamentary elections were held with, for the first time, international observer teams provided by the U.N., the European Union, and the Commonwealth of Nations. Observers noted that, while there were technical problems with polling and ballot counting (notably absentee ballots), the election process was largely free and fair and reflected the will of the voters. Court challenges based on these irregularities were scheduled to be heard in early 2002.

Interim and caretaker Prime Minister Laisenia Qarase's SDL party received the largest number of seats in Parliament, and 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 Cabinet, Qarase formed a Government that excluded Mahendra Chaudhry's Fiji Labor Party (FLP). Chaudhry subsequently took legal action against Qarase; the case was scheduled to be heard in February 2002.

Concerns still exist regarding the police investigation regarding the takeover of Parliament in May 2000. The Public Service Commission conducted a confidential investigation of the Police Commissioner's possible involvement in the takeover of Parliament that was completed in September 2000 and cleared him of involvement. The Police Commissioner returned from leave in October 2000, after a disciplinary hearing before the Chief Justice was completed concerning his alleged negligence, alleged involvement in planning the coup, and other misdeeds in connection with the coup attempt. The inquiry did not relate to the November 2000 mutiny. The Public Service Commission brought up the investigation, and the Chief Justice finally cleared the Commissioner of all wrongdoing. Several NGO's expressed concerns about his behavior during the attempted coup and subsequent events, and the manner in which he was "cleared." At year's end, details of the investigation had not been released.

The treason trial for George Speight was scheduled for February 2002. Since the coup, treason charges have been dismissed against 12 persons; 8 enlisted men were deemed by the court martial to have been following orders. Four other persons were tried individually and found not guilty of treason for lack of evidence, despite video footage and numerous accounts by eyewitnesses concerning their involvement. One of the four persons found not guilty, Metuisela Mua, ran for office in the August elections and represented Speight's Conservative Alliance party in a televised debate.

In addition to individuals charged with treason, the police have investigated prominent citizens who allegedly were involved in the takeover of Parliament. The police are responsible for the investigation but state that witnesses are not comfortable providing statements as evidence, which has hampered their investigation.

The Constitution, as amended in 1997, reduced the ethnically based factors that previously abridged the right of citizens to change their government. Under its provisions, the Prime Minister and the President can be of any race. It established a 71-member lower house with 25 open seats and 46 seats allocated to different ethnic communities. The open seats, which were unprecedented, 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 Caucasians and East Asians), and 1 was allotted to the Rotumans (an ethnically distinct Polynesian group), roughly proportional to the different communities' representation in the population. The amended Constitution also contained an alternate vote system for elections to the lower house to replace the winner takes all system of the previous constitution. The Senate remained an appointed body--the President appoints 32 members, of which the Great Council of Chiefs nominates 14 members, the Prime Minister nominates 9, the opposition leader nominates 8, and the Council of Rotuma nominates 1 member.

Included in the 1997 Constitution was a strengthened bill of rights and a compact among the country's citizens to protect their respective rights and interests; however, the Constitution acknowledged that the interests of indigenous Fijians remained paramount and could not be subordinated to the interests of other communities. In July 1998, Parliament passed an Emergency Powers Act that could be invoked if Parliament determined that there was a threat to the life of the nation. International media organizations criticized the law due to concerns that the Government could close or censor publications during times of crisis. The Emergency Powers Act was amended by decree by the military-backed, civilian interim administration, which also invoked the amended act. The amended Emergency Powers Decree expired on October 5.

Women in both the indigenous Fijian and Indo-Fijian communities have functioned primarily in traditional roles; the percentage of women and minorities in government and politics does not correspond to their percentages of the population. However, until the takeover of Parliament in May 2000, an increasing number of women were rising to prominent positions in politics and public service. In the August elections, 30 Fijian women and 1 Indo-Fijian woman ran for election; 5 women were elected to the House of Representatives. Two women were appointed to the Senate. After the election, four ethnic Fijian women were appointed to the Cabinet (two as ministers and two as assistant ministers), and another was appointed to fill a vacancy in Parliament. 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 operate without government restriction, investigating and publishing their findings on human rights cases. Government officials are somewhat cooperative and responsive to their views. The labor movement, women's rights organizations, religious groups, political parties, and a significant number of NGO's encouraged a return to democracy through free and fair elections and encouraged civil society to endorse good governance. The human rights campaigns begun after the coup continued to work under a banner organization called the "Blue Ribbon Campaign." The group continues to plan peace vigils and other similar events, but the Qarase Government pays the Blue Ribbon Campaign little attention. Families and religious workers have access to the prisoners being held for mutiny; however, the military-backed civilian interim administration and the Qarase Government have been less willing to allow the Fiji Red Cross access to prisoners since the November 2000 mutiny (see Sections 1.a.).

Following the May 29, 2000, coup, the Citizens' Constitutional Forum (CCF) challenged the validity of the Interim Administration in court in March. The CCF was deregistered as a nonprofit organization in early February when the Government claimed that it had violated the Charitable Trust Act, which sets the standards for nonprofit organizations. Once deregistered, the CCF was unable to continue its legal case against the Interim Administration. The CCF then reorganized as a nonprofit, and refiled its case on February 19. The case was successful, with a March 1 judgment in favor of the CCF. However, the military-backed, civilian interim

administration, supposedly in the interest of national security and under the doctrine of necessity, transformed itself into a caretaker, military-backed civilian administration.

The Human Rights Commission (HRC) was operational with a skeleton staff of a director and an executive officer between May and September 2000. However, during 2000 the HRC essentially ceased functioning from mid-May to mid-September 2000; one commissioner resigned, and the chair was accused of conflict of interest due to marriage to a government minister. Consequently, the CCF assumed a higher profile in human rights issues during that period. The HRC resumed operations in mid-September 2000 with a school-based human rights poster contest and resumed distributing publications. It conducted interviews in the Muaniveni area and collected personal interviews from Indo-Fijians in the area. Copies were sent to the police, who investigated the events. During the year, it appeared to be impartial and independent.

The HRC has received 290 requests for assistance since its opening. The commission is investigating most of the claims, as well as allegations against the military involved in the November 2000 mutiny. The Commission has a backlog of work due to poor funding and lack of staff. Following a human rights conference in early August organized by the HRC, the Commission has become more prominent and better known. The Commission also hosts a weekly radio program to educate citizens about their rights under the 1997 Constitution that has continued throughout the year.

There are also several small, foreign-based organizations that concentrate 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 is little interaction between the Government and these groups.

The ICRC continued to operate a permanent office in the country.

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

The Constitution prohibits discrimination based on race, sex, place of origin, religion, political opinion, color, or creed. It also provides for 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.

#### Women

Reliable estimates indicate that 10 percent of women have been abused in some way. However, following the attempted coup in 2000 and the resulting general sense of lawlessness and downturn in the economy, reports of domestic violence and police brutality against women increased. An active women's rights movement is addressing 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. The traditional practice of "reconciliation" between the aggrieved parties sometimes is taken into account in mitigation of sentences in domestic violence cases. During the year, the police began a program to find unaccompanied women and drive them to their neighborhood police station to be picked up by a family member. This plan was intended to protect women; however, it was ended after a brief experimental period, following protests from two women's rights groups.

The women's rights movement also pressed for serious punishment for rape. Courts have imposed sentences that vary widely but generally were lenient. For example, a grandfather charged with raping a 10-year old girl was given a suspended sentence in January, but in another case in February, the guilty party was given a 3-month jail term. Women's groups continued to push to have all rape cases heard in the High Court, where sentencing limits are higher; however, the accused decides where the case will be heard. Only one case in the last 5 years has been sent to the High Court.

In addition to the rise in domestic violence, there have been approximately 30 "suicides" by Indo-Fijian women that appeared to have been bride burning. Police investigations report that the women burned themselves so severely as to cause death, but the women's rights community believes that the deaths are the result of bride burning.

Prostitution is illegal; however, it is a growing problem, especially in Suva. The law prohibits sex tourism as well as sexual harassment, which are not considered to be significant problems.

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. A newly organized NGO, Fem'link Pacific, spreads information at the grassroots level and encourages community-based dialog. Also, in January the Ministry of Women began 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 registering and racially designating children in regard to electoral rolls and ethnic communal property.

In general women in the ethnic Fijian community are more likely to rise to prominence in their own right than are women in the Indo-Fijian community. Women have full rights of property ownership and inheritance, and a number are successful entrepreneurs. Women generally are paid less than men, a discrepancy that is especially notable in the garment industry. Garment workers, most of whom are Indo-Fijian, ethnic Fijian, and Chinese females, receive wages that are considerably lower than in other sectors. During the year, the garment industry saw the closing of several factories and the layoff of hundreds of seamstresses. A significant number of garment workers reside at their places of work. According to press reports, some garment workers supplement their low income through prostitution.

#### Children

Limited financial resources hamper the Government's commitment to children's rights and welfare. School is mandatory until age 15. Families' inability to pay school fees and bus fare following the downturn in the economy has resulted in a decrease in attendance. Corporal punishment is administered in some schools. The Ministry of Education has guidelines for the administration of such punishment. In contrast to previous years, there were no reports of beatings of students by teachers during the year; however, such incidents generally are not reported or punished.

Societal changes have undermined the traditional village and extended family-based structures. Outgrowths of these changes include increased child abuse and a growing number of homeless youths in urban areas. Homeless children often are seen on the street working as shoeshine boys or involved in prostitution. Children mostly work on the streets, in homes as domestics, and in auto repair shops. During the year, there also was a rise in youth employment in the informal sector. The Ministry of Labor has few or no resources to investigate reports of child labor or to charge offending employers. The legal system is inadequate to protect the rights of children, since children's testimony is largely inadmissible unless corroborated by an adult.

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

#### Persons with Disabilities

The Constitution provides for the 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 is no legislation or mandated provision for accessibility for the disabled. There is little or no enforcement of laws protecting persons with disabilities.

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

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

#### Religious Minorities

The Constitution provides for freedom of conscience, religion, and belief. Citizens also have the right, either individually or in community with others, both in public and private, to manifest their religion or belief in worship, observance, practice, or teaching.

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.

#### National/Racial/Ethnic Minorities

Tension between ethnic Fijians and Indo-Fijians has been a longstanding problem. The stated purpose of two military coups in 1987 was to ensure the political supremacy of indigenous Fijians and to protect their traditional way of life and communal control of land. The post-1987 coup Government initiated a number of constitutional and other measures to ensure ethnic Fijian control of the executive and legislative branches. The Government also successfully raised the proportion of ethnic Fijians and Rotumans in the public service to 50 percent or higher at all levels, but most significantly at the senior level. The Constitution as amended in 1997 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." George Speight, the leader of the takeover of Parliament in May 2000, professed to have taken action on behalf of ethnic Fijians in attempting to overthrow a government led by the country's first Indo-Fijian Prime Minister (see Section 3). Following the elections in August, some observers noted that there is a potential for the institutionalization of unequal political rights based on ethnicity.

During the year, the Interim Administration and then the military-backed, civilian interim administration assured the political supremacy of the ethnic Fijians. Since its inception in 1999, 26 percent of the Human Rights Commission's 117 valid complaints (those in which an internationally recognized human right was verified to have been violated) were for racial and ethnic equality issues.

Control of the land remains a highly sensitive issue. Ethnic Fijians communally hold over 80 percent of land, the government holds another 8 percent, and the remaining land is freehold. Ethnic Fijians' traditional beliefs, cultural values, and self-identity are tied to the land. Most cash crop farmers are Indo-Fijians, who lease land from the ethnic Fijian landowners through the Native Land Trust Board. Many Indo-Fijians, particularly farmers, believe that the absence of secure land tenure discriminates against them. A number of agricultural landlord and tenant agreement leases have expired, and many more will expire in the next few years. The uncertainty over future land tenure arrangements is a significant cause of tension between the ethnic Fijian and Indo-Fijian communities.

Parliament did not address the agricultural land tenure agreement issue during the year; however, the Qarase Government has pledged to do so. The harassment of Indo-Fijians and the destruction of their property during 2000 did not continue during the year; however, no action was taken against those who looted and vandalized Indo-Fijian stores.

The minority Chinese community continued to grow, primarily through illegal immigration. The special police unit (the Asian Crime Unit) formed to investigate allegations of criminal activity within the Chinese community was not operational during the year; its officers were investigating the armed takeover of Parliament in May 2000.

## 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 respect these rights in practice. However, the law permits restrictions to be applied in government employment and in the interests of defense, public safety, public order, public morality, or public health, or to protect the rights and freedoms of other persons. An estimated 55 percent of the workforce is unionized.

All unions must register with, but are not controlled by, the Government. The only central labor body is the Fiji Trades Union Congress (FTUC), which in the past was associated closely with the opposition Fiji Labor Party; unions operate under its auspices. The FTUC has in recent years adopted a more independent political stance. While certain unions remain ethnically based, both Indo-Fijians and ethnic Fijians hold leadership roles in the trade union movement. In the past, the FTUC participated, along with the employer's federation, in the Government's Tripartite Economic Strategies Committee; however, it has not been active since the seizure of Parliament in May 2000.

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 notify the employer 28 days prior to the start of the strike. 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 strike. This information gives the organizers, unions, employers, and Ministry of Labor time to resolve the dispute prior to a strike. During the year, at different times, workers at a prominent resort, airport firefighters, and customs workers went on strike. However, because they did not

follow the provisions of the law, the Ministry of Labor declared these strikes illegal and ordered the strikers back to work within

24 hours of the strike; the workers complied, and none of the strikes was violent. The striking hotel workers were given a pay raise, but this raise was regarded as a gesture by the management. The only legal strike during the year was carried out in February by sugar workers, who fall under different employment legislation. The workers received a nominal pay increase; however, the strike attracted media attention. Workers in the mining industry also are regulated by different legislation. FTUC officials operated without interference during the year.

Unions can affiliate internationally, and the FTUC does so.

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

Unions 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. Recognition is governed by membership rather than election. Key sectors of the economy, including sugar and tourism, are heavily unionized. However, there are no laws to protect workers who organize unions in a factory. While the law encourages unionization, union organizers' jobs are not protected. Since employers reserve the right to fire union organizers, some workers are afraid to unionize. Thus unions are effective bargaining tools for older, more established industries, such as sugar and mining; however, for newer industries, such as the garment industry, unions are not as effective. Wage negotiations generally are conducted at individual companies rather than on an industry-wide basis; industry wide bargaining no longer is increasing.

Export processing zones (EPZ's) are subject to the same laws as the rest of the country. However, the FTUC has been unsuccessful in obtaining collective bargaining agreements in EPZ's and claims that intimidation of workers by employers is widespread. The FTUC sees union recognition as the single issue that does not have effective legal recourse. The FTUC argues that because of alleged illegal and intimidating practices in EPZ's, including threats of loss of work for those active in organizing workers, unions are unfairly prevented from representing workers in the EPZ's.

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

The Constitution specifically prohibits forced labor, including forced and bonded labor by children; trafficking in persons is not a significant problem. There were no further reports that a form of bonded labor may be practiced on a copra plantation on an outer island. There were no confirmed reports of forced or compulsory labor. Media reports and NGO's allege that work conditions in some garment factories may include bonded or forced labor and excessive work hours. The Fiji Sun reported in August that garment workers intended to unionize in order to improve working conditions and end forced labor; they reportedly suffered from harsh work discipline and inadequate sanitary facilities. Factory housing for garment workers is overcrowded.

#### 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 is lax. Children under the age of 12 may not be employed in any capacity. "Children" (under age 15) may only be employed outside of school hours in family enterprises and not in the industrial sector. "Young persons" (ages 15 to 17) may be employed in certain occupations not involving heavy machinery and with specified hours and rest breaks. Enforcement by the Ministry of Labor generally is ineffective for child labor. There are only two inspectors at the Ministry of Labor, and there are no investigators to follow up on claims or reports. The inspectors are mandated to conduct regular annual inspections. During the year, there also was a rise in youth employment in the informal sector. There has been an increase in "self-employed" school-age youths in urban areas, particularly as shoeshine boys, in auto repair shops, 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 for implementing and enforcing child labor regulations are insufficient; there are no adequate enforcement remedies and no comprehensive policy for eliminating the worst forms of child labor.

The Government prohibits forced and bonded child labor; however, informal child labor does occur.

#### e. Acceptable Work Conditions

There is neither a national minimum wage nor a limit on maximum hours for working. Certain sectors have minimum wages set by the Ministry for Labor. Minimum wage levels provide a sparse but adequate standard of living for a worker and family in all sectors except the garment sector. There are no regulations specifying maximum hours of work for adult males. Other than a prohibition from working in mines, there are no limitations on female employment. Workers in some industries, notably transportation and shipping, work excessive hours.

There are workplace safety regulations, a Worker's Compensation Act, and an accident compensation plan. Government enforcement of safety standards suffers from a lack of trained personnel and lags in compensation hearings and rulings. Unions generally monitor safety standards in organized workplaces, yet many work areas do not meet standards and are not monitored by the Ministry of Labor for compliance. The ILO maintains an office in Suva. By law an employee has the right to remove himself from a hazardous work site without jeopardizing his employment, but most fear the loss of their jobs if they do so.

Particularly in the garment sector, migrant workers (predominantly Chinese) are increasing in number and are a largely nonunionized and sometimes illegal work force.

#### f. Trafficking in Persons

There are no laws that specifically address trafficking in persons, although laws against procuring a woman to become a prostitute, kidnaping, and bonded and forced labor could be used to prosecute traffickers; however, trafficking in persons was not a significant problem. There were no reports of trafficking in persons to, from, or within the country during the year. There was an increase during the year in persons arriving or transiting the country with altered or falsified travel documents; however, it is not clear whether these persons were smuggled or trafficked. Nadi International Airport is a hub of travel in the Pacific, and an increasing number of Asian nationals without appropriate travel papers have been apprehended and deported. Police have received periodic, unsubstantiated reports of forced labor from China working in the garment factories in Western Viti Levu, the country's largest island, but law enforcement has made no arrests and has not investigated the reports. The police believe that an organized Asian criminal network exists in the country that coordinates illegal trafficking in persons. There were no reports during the year that Chinese women working in the garment industry were involved in prostitution, or that some laborers recruited from Asian countries, particularly in the garment sector, were held in conditions of forced labor.