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2010 Human Rights Reports: Fiji

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

2010 Country Reports on Human Rights Practices

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Fiji, with a population of approximately 837,000, is a republic under a 1997 constitution that provided for a ceremonial president selected by the Great Council of Chiefs and an elected prime minister and Parliament. However, in April 2009 the interim government headed by armed forces commander Commodore Josaia Voreqe (Frank) Bainimarama abrogated the constitution, imposed a state of emergency, and continued its rule by decree, a situation that remained at year's end. The abrogation followed a bloodless coup d'etat in late 2006 in which Bainamarama overthrew the elected government and dissolved Parliament. In 2007 the interim military government was replaced by a nominally civilian interim government headed by Bainimarama as prime minister. Public Emergency Regulations (PER) promulgated in April 2009 remained in effect at year's end. Security forces did not report to civilian authorities.

The government denied citizens the right to change their government peacefully. The government dismissed the entire judiciary in 2009 and replaced it with its own appointees. In July the government implemented a media decree that continued censorship and intimidation of the media. Other continuing human rights problems included police and military impunity, poor prison conditions, restrictions on freedom of speech and peaceful assembly, prosecution and deportation of regime critics and human rights activists, attacks against religious facilities, the dismissal of constitutionally appointed government officials, government corruption, deep ethnic division, 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

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

By year's end there had been no investigation of the 2008 death in custody of Josefa Baleiloa.

In February the Court of Appeal upheld a previous High Court decision that ordered the military to pay F\$45,000 (approximately \$22,500) in general damages for pain and suffering and F\$18,000 (approximately \$9,000) in "exemplary damages" to the family of convicted criminal Taito Navualaba, who died from a beating by security forces in 2000. The court held that since Navualaba had voluntarily surrendered to police and soldiers, their assault on him could not be justified under emergency powers then in effect, as the government had asserted. However, the military did not pay the damages because in April the government issued a decree extending immunity to the military and the national police against criminal charges or civil liability suits relating to their role in the 2000 and 2006 coups and the 2009 abrogation of the constitution (see section 1.d.). The effect of the decree was to nullify the legal basis for the lawsuit.

b. Disappearance

There were no reports of politically motivated disappearances.

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

While the abrogated constitution prohibits such practices, the security forces did not always respect this prohibition in practice. The PER authorize the government to use whatever force is deemed necessary to enforce PER provisions.

Throughout the year various persons detained by police accused police of beating them to obtain confessions. Lawyers reported to the courts cases in which their accused clients allegedly had been beaten by police during questioning. For example, in January defense counsel for five persons arrested on murder charges earlier that month told the High Court that two of their clients were assaulted by police officers while in custody.

By year's end there had been no investigation into allegations that security forces beat politician Iliesa Duvuloco and several other men detained in April 2009 for distributing political pamphlets critical of the government.

Prison and Detention Center Conditions

Prison conditions did not meet international standards. The national prison system was seriously underfunded and overcrowded, with deteriorating infrastructure and complaints about delivery of essential services. The system had insufficient beds, inadequate sanitation, and a shortage of basic necessities. The pretrial detention facility at Suva's prison remained closed due to its substandard condition.

There were approximately 1,100 inmates in the country's 14 prisons. The number of pretrial detainees continued to rise, in part because, unlike in previous years, during the year the courts generally refused to grant bail. Numbers of pretrial detainees held at various prison facilities exceeded capacity. A June 14 report in the *Fiji Sun* newspaper stated that there were 273 pretrial detainees in custody around the country, while there was capacity for only 73 in the system. According to the report, 83 of the detainees were held in Lautoka Prison, which had capacity for only 18; seven in Ba Prison, which had capacity for eight; 17 in Labasa Prison, which had capacity for 12; 159 in Suva's Korovou Prison, which had capacity for 30; and seven in the women's prison in Suva, which had capacity for five. During the year authorities began to hold pretrial detainees in Naboro Prison as well due to the lack of adequate capacity at Korovou Prison.

In some cases pretrial detainees and convicted prisoners were held together.

Prisoners and detainees were permitted reasonable access to visitors, including family members, and religious observance. The Prisons Act allows prisoners to submit complaints to judicial authorities, but the government reviews all prisoner letters and has the authority to seize them. Authorities did not investigate or document in a publicly accessible manner credible allegations of inhumane conditions.

The government permitted prison monitoring visits by independent human rights observers. During the year the International Committee of the Red Cross (ICRC) visited official detention facilities and interviewed inmates; such visits were permitted without third parties present.

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Although the Ombudsman Act authorizes the ombudsman to investigate maladministration in government departments, decreases in the staffing and budget levels for the Ombudsman's Office since the 2009 coup greatly reduced its capacity to carry out its statutory duties, which in previous years included investigating allegations of prisoner abuse or neglect, overcrowding, and recordkeeping problems.

Some prison improvements were made during the year. The Prison Service began installing new cameras in prisons to improve security. In July the prisons commissioner, Brigadier General Iowane Naivalurua, carried out an audit of the standard operating procedures of the Prison Service to align them with the provisions of the 2006 Prisons and Corrections Act, which incorporates international minimum standards for prison conditions as the minimum standards for the country's prisons.

Programs to build skills and generate income for prison inmates were augmented during the year. The commissioner established a commercial arm of the Prison Service, which ran various farms that sold at commercial prices to the public and paid inmates for their labor. Male prisoners participated in farming and bakery operations, while the one women's prison in Suva had a program for producing handicrafts and clothing. As part of rehabilitation efforts, the commissioner established a trial creative arts program, including an exhibition of prisoners' artwork in November. The commissioner also reached an agreement with the Fire Authority for the training of prisoners as firefighters as they prepared for release back into society, and introduced a so-called "yellow ribbon" program, which encouraged the public to ease the return of convicted prisoners back into the community after their release.

In January the government closed Lakeba Prison in Lau Province, citing successful efforts to reduce recidivism in Lau as eliminating the continued need for that particular facility.

d. Arbitrary Arrest or Detention

The abrogated constitution prohibits arbitrary arrest and detention, but the government did not always respect this prohibition in practice. The PER authorize security forces to detain a person for up to seven days before bringing charges and producing the accused in court. Various persons accused of breaching the PER and the Public Order Act during the year were held up to six days without charge and in some cases were not charged at all.

Role of the Police and Security Apparatus

The Ministry of Home Affairs, headed by the 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) has maintained since 2005 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. Under the PER soldiers are authorized to perform the duties and functions of police and prison officers.

In September Brigadier General Iowane Naivalurua was appointed police commissioner, while also remaining prisons commissioner. Police maintained a network of stations and posts throughout the country. Policing of more remote and smaller islands was done through regularly scheduled visits. However, during the year 10 police posts were closed due to budget constraints. There was a joint military and police command center based at the Suva Central Police Station. Military personnel were assigned to accompany police patrols and jointly staff police checkpoints.

The police Professional Standards Unit is responsible for investigating complaints of police misconduct. The Fiji Independent Commission against Corruption (FICAC) also continued to investigate public agencies and officials, including some members of the police and military forces. However, impunity and corruption remained problems. The PER provide immunity from prosecution for members of the security forces for any deaths or injuries arising from the use of force deemed necessary to enforce PER provisions.

On April 1, the government promulgated the Limitation of Legal Liability Decree for prescribed political events--the third immunity decree issued since the 2006 coup. The decree extends immunity to the military and the national police against criminal charges or civil liability lawsuits relating to their roles in the 2000 and 2006 seizures of power and the 2009 abrogation of the constitution. The decree grants absolute, unconditional, and irrevocable immunity to Bainimarama, former president Ratu Josefa Iloilo, former caretaker prime minister Jona Senilagakali, and members of the military and police forces (excluding, however, the anti-Bainimarama armed forces mutineers who supported the 2000 storming of Parliament). The decree nullifies the grounds for lawsuits against the regime by victims of security force violence and by the families of persons allegedly beaten--in some cases to death--while in military custody.

Arrest Procedures and Treatment While in Detention

By law police officers may arrest persons without a warrant for violations of the 2010 Crimes Decree, promulgated in February, which replaced the preexisting Penal Code. Police also arrest persons in response to warrants issued by magistrates and judges. Under the constitution 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. However, these rights were not always observed by the police and military after the constitution was abrogated. The PER permit the government to detain for up to seven days without charge persons suspected of violating PER provisions.

The Bail Act gives accused persons the right to bail, unless it is not in the interests of justice that bail be granted. There is a presumption in favor of granting bail; however, this may be rebutted by the prosecution if it objects to bail, and in cases where the accused has been convicted and is appealing or has previously breached bail conditions. Both police and the courts can grant bail; however, during the year police refused to grant bail to persons charged with drunk driving. During the year the courts made it more difficult for accused persons to apply for bail, requiring this to be by motion and affidavit that required the services of a lawyer. During the year the number of prisoners remanded approximately doubled compared with 2009 because of a pattern of refusal of bail by the courts. Detainees generally were allowed prompt access to counsel and family members, but some journalists and others detained for short periods after criticizing the government were denied prompt access to a lawyer.

On March 8, High Court Judge Priyantha Fernando issued a second court order to police to allow Saimoni Rokotunidau access to his lawyer. Rokotunidau was recruited into the police force in 2008; at the time he was a pastor of the New Methodist Church who preached to police and their families during the former police commissioner's "Jesus Crusade." However, he subsequently used a police vehicle to carry out a bank robbery and was dismissed from the police in March when he was arrested for the offense. In April he was convicted of robbery with violence and sentenced to 12 years' imprisonment. Police had ignored an earlier court order for Rokotunidau to access his lawyer in private. Justice Fernando also ordered the prosecution to ascertain why Rokotunidau's family was not allowed to visit him in detention.

The Legal Aid Commission provided counsel to some indigent defendants in criminal cases, a service supplemented by voluntary services from private attorneys. However, there were delays in the provision of legal aid to some accused persons who requested assistance, due to lack of adequate legal aid staff and resources.

On June 22, businessman Viliame Gavoka and Pastor Laione Lutunacevamaca were charged with one count each of malicious acts allegedly causing public alarm by spreading rumors of a tsunami prophecy. It was alleged that between March 8 and June 16 in Nadi, Lutunacevamaca sent out an e-mail stating that the country would be struck by a disaster on June 23. Gavoka was charged for circulating the e-mail. On December 13, defense lawyers applied for the charges to be reconsidered, and the court adjourned the case for a further hearing in February 2011.

The courts had a significant backlog of cases, worsened by the government's April 2009 dismissal of the existing judiciary. 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 government interfered with judicial independence in practice.

The Administration of Justice Decree of April 2009, which reestablished the courts, prohibits all tiers of the judiciary from considering cases relating to the 2006 coup; all acts of the interim government between December 4, 2006 and April 9, 2009; the abrogation of the constitution on April 10, 2009; and all government decrees since December 2006. The military-appointed chief registrar issued termination certificates for all such pending cases. Women's nongovernmental organizations (NGOs) asserted that some new magistrates made inappropriate comments and exercised poor judgment in domestic violence and sexual assault cases and that, because of media censorship under the PER, the public was not informed about this conduct.

After the constitution was abrogated, the chief registrar also assumed responsibility for prosecuting lawyers for disciplinary breaches before a government-appointed judge. Civil-society organizations criticized these additional duties as infringing on the independence of the judiciary.

A February amendment to the Administration of Justice Decree removed the courts' jurisdiction to hear challenges to decisions by the government on judicial restructuring, terms and conditions of remuneration for the judiciary, and terminated court cases. Similar clauses limiting the jurisdiction of the courts on decisions made by the cabinet, ministers, or government departments were included in various decrees issued throughout the year.

The government continued to prohibit an International Bar Association delegation from visiting the country to evaluate the independence of the judiciary. The government also reiterated its refusal to allow the UN special rapporteur on the independence of judges to visit the country for the same purpose.

Trial Procedures

Procedures enabling a fair trial are enumerated in the Criminal Procedure Decree, the prosecuting manual of the Prosecutor's Office, the High Court Act, and the Magistrates' Court Act, and were implemented by the courts in accordance with legal precedent. The government's judicial appointments included judges from other British Commonwealth countries familiar with Commonwealth legal traditions. In most cases defendants have the right to a public trial, and the court system generally enforced this right in practice during the year; however, the PER permit trials for violations of PER provisions to be held in camera.

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. The Crimes Decree defines which offenses may be tried in the magistrate' courts and which must be tried in the High Court. Serious offenses, including murder, rape, trafficking in persons, bribery, treason, sedition, and mutiny, can only be heard 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 cases. 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 and courts martial are seldom public.

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 and others critical of the government.

Civil Judicial Procedures and Remedies

Although the law provides for an independent and impartial judiciary in civil matters, the judiciary is prohibited by decree from considering lawsuits relating to the 2006 coup, subsequent actions by the interim government, the abrogation of the constitution, and subsequent military decrees. In the event of a human rights violation, under the constitution an individual also could complain to the Fiji Human Rights Commission (FHRC). Although the government decreed that the FHRC could continue to exist following the constitution's abrogation, under a May 2009 decree it is prohibited from investigating cases filed by individuals and organizations relating to the 2006 coup and the 2009 abrogation of the constitution.

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

The abrogated constitution prohibits such actions, but the government frequently ignored these prohibitions in practice. The PER permit military personnel to search persons and premises without a warrant from a court, and to take photographs, fingerprints, and measurements of any person. Police and military officers also may enter private premises to break up any meeting considered unlawful.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The abrogated constitution provides for freedom of speech and of the press, but the government generally did not respect these rights in practice. The PER give the government the power to detain persons on suspicion of "endangering public safety or the preservation of the peace"; the government has used this provision to intimidate and in some cases detain persons who criticized the government. In addition, the PER and a media decree issued in June provide for government censorship of the media.

In January the government issued a decree stopping government pension payments to persons who criticized the 2006 coup and the government. Among those whose pensions were cancelled were former cabinet members in the government of former prime minister Laisenia Qarase, former prime minister and former coup leader Sitiveni Rabuka, and senior civil servants. (Qarase's pension has been withheld since December 2006.) In May the government reversed itself and announced it was repealing the decree. It resumed pension payments to all those affected except Qarase, but it did not provide retroactive payments for the January-May period.

The new Crimes Decree promulgated in February includes criticism of the government in its definition of the crime of sedition. This includes statements made in other countries by any person, who can be prosecuted on return to Fiji.

Using the PER, police detained and arrested individuals during the year for comments deemed a threat to national security. On March 5, security forces detained former politician Peceli Rinakama for comments he reportedly made to a passing bystander relating to the conviction of eight persons charged with conspiring to assassinate Bainimarama. Rinakama was released on March 11. He was charged under the Public Order Act with uttering words calculated to bring death or physical injury to a person or injury to the lawful authority of the government. At year's end the case had not yet come to trial.

The government published fortnightly supplements called *New Dawn* and *Fiji in Focus* in the *Fiji Sun* newspaper, and all its advertising was printed exclusively in the *Fiji Sun* until October, when the *Fiji Times* newspaper--disfavored by the government--was sold and purchased by a local company that changed its editorial policy. The government retained a shareholding of less than 20 percent in the *Daily Post* newspaper until the paper ceased to publish in 2009 due to poor sales. The country's television news program production was owned and operated by Fiji One, one of two national noncable television stations. A company whose board is appointed by the Ministry of Indigenous Affairs on behalf of the provincial councils owned 51 percent of Fiji One; the remainder was privately held. The government owned the Fiji Broadcasting Corporation, which operated six radio stations. The government guaranteed a loan for the Fiji Broadcasting Corporation to set up a television station. The Ministry of Information's *Fiji Today* program was broadcast twice daily on the private television station MaiTV.

During the year the government harassed, intimidated, and in some cases detained for questioning a number of journalists in response to reporting critical of the government. Television journalist Rachna Nath, who reported the October arrest of former prime minister Mahendra Chaudhry (see section 2.b.), was questioned by police for allegedly inciting public anger in violation of the PER.

The PER authorize the Ministry of Information, military media cell officers, and police to vet all news stories before publication, resulting in the removal of all stories the government deemed "negative" and "inciteful," and therefore, according to the government, a threat to national security. All radio stations were required to submit their news scripts to the permanent secretary for information, a military appointee, before each news bulletin was broadcast, and the print and television media were censored on a daily basis by Ministry of Information and military media cell officers, accompanied by police officers, who were placed in media newsrooms.

In March police announced an investigation of the Viti FM radio station after the station broadcast a talkback show on same-sex marriages following the promulgation of the new Crimes Decree. Also in March, two senior news editors at Fiji TV were transferred to other departments after the government alleged antigovernment bias on their part.

On June 25, the government promulgated a new media decree, which penalizes the media for "irresponsible reporting." The decree, which supersedes previous laws regarding the media, defines media organizations as excluding Internet and telecommunications service providers and production houses engaged in production of advertisements or other audiovisual materials. The decree requires that the directors and 90 percent of the shareholders of locally based media be citizens of, and permanently residing in, the country and obliges foreign-owned media to sell their shares in media organizations operating in the country. Under the decree, reporting may not include information that threatens public order or the national interest, creates communal discord, or offends public decency. The decree establishes a new Fiji Media Industry Development Authority to enforce these provisions. The authority has the power to investigate journalists and media outlets for alleged violations of the decree, including powers of search and seizure of equipment.

The decree also establishes a media tribunal to decide complaints referred by the authority, with the power to impose jail terms of up to two years and fines of up to F\$ 1000 (approximately \$ 500) for journalists, F\$ 25,000 (\$12,500) for

publishers and editors, and F\$ 100,000 (\$ 50,000) for media organizations. The tribunal is not bound by formal rules of evidence.

The decree strips the judiciary of power to challenge the decree itself or any proceedings or findings of the Media Authority, the proposed tribunal, or the information minister.

Although in April the government indicated that it would continue to renew the PER only until the media decree was promulgated, at year's end the PER had not been repealed and remained in force.

In September, as a result of the local ownership requirements of the Media Decree, Australian company News Limited was forced to sell the *Fiji Times*, the country's oldest newspaper and traditionally a government critic. As a result of a change in the *Times's* editorial policy following the sale, the editor and his deputy were obliged to resign.

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. However, the continuous extension of the PER and the promulgation of the Media Decree ensured government control over media content through censors.

In November 2009 the government revoked all broadcasting licenses, ostensibly to allow a review of signal bands. Television and radio stations were issued temporary licenses pending completion of the review, which was still in progress at year's end.

Internet Freedom

There were no government restrictions on general public access to the Internet, but evidence suggested that the government monitored private e-mails of citizens.

The International Telecommunication Union reported that approximately 12 percent of the country's inhabitants used the Internet in 2009. 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.

The government monitored Internet traffic in an attempt to control antigovernment reports by anonymous bloggers. In January the Prime Minister's Office directed the Suva City Council to suspend 20 employees accused of antigovernment blogging activities. In February the council terminated the contracts of 12 of the suspended employees for alleged antigovernment activity. Although the government did not cite a specific legal authority for the directive, it has the power under the Local Government Act to give directions to municipal councils under certain circumstances.

From July 1-2, police detained and questioned Richard Naidu, news editor of the online news Web site FijiLive, after the site reported that then police commissioner Esala Teleni had been suspended from his position. The Web site also was closed down for several hours. Naidu was not charged, nor was he compensated for the detention. (Teleni resigned his position in September.)

In July the government promulgated a decree requiring all telephone users to register their personal details with telephone and Internet providers, including their name, birth date, home address, and photographic identification. The decree imposes fines of up to F\$100,000 (approximately \$50,000) on providers who continue to provide services to unregistered users and up to F\$10,000 (approximately \$5,000) on users who do not update their registration information as required under the decree. Vodafone, one of two mobile telephone providers, went beyond the decree requirements and required users to register their nationality, postal address, employment details, and both thumbprints.

Academic Freedom and Cultural Events

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

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The abrogated constitution provides for freedom of assembly, but since the 2006 coup, the government has interfered with this right in practice. The PER allow the government to refuse applications for permits for marches and meetings sought by antigovernment political parties and NGOs, and to regulate--including by use of such force as deemed necessary--the use of any public place by three or more persons. Under the PER police and military officers also may enter any public or private premises to break up any meeting or assembly deemed unlawful. Although some civic organizations were granted permits to assemble, permits for all political demonstrations and marches were denied. The government also refused a permit for the Methodist Church, which historically has been associated with ethnic Fijian nationalism, to hold its annual three-day conference during the year and for its 52 divisions to hold their quarterly meetings. In December the government notified the church that its divisions could resume holding quarterly meetings and that it would be permitted to hold an annual conference in 2011, but restricted to one day in length.

On January 17, police halted a stress management meeting of the Fiji Human Resources Institute for being held without a valid permit. On May 5, police halted the general meeting of the Van and Carrier Association on the same grounds; its executives were questioned but were released without charge.

On October 1, police detained former prime minister Mahendra Chaudhry and five associates for allegedly holding a "political meeting" without a permit in breach of the PER. On October 4, a magistrate granted them release on bail. Chaudhry applied for the recusal of the judge appointed to hear the case and for the appointment of a foreign-national judge; in November the High Court refused both requests. At year's end Chaudhry and his associates remained free on bail and their case was scheduled to be heard in 2011.

On December 9, one day before a scheduled Human Rights Day march by the Fiji NGO Coalition for Human Rights, the government canceled the march permit, citing concern that the demonstrators could become unruly.

Freedom of Association

The abrogated constitution provided for freedom of association. Since the constitution's abrogation, no decree provides for this right. During the year the government did not restrict persons from joining NGOs, professional associations, or other private organizations, but some were not permitted to hold meetings with their members. In July members of the civil service were prohibited from joining a training program run by Leadership Fiji, a prominent NGO, and from giving a talk to any training program run by Leadership Fiji, ostensibly because a former judge whose appointment was terminated by the government following the abrogation of the constitution was invited by the NGO to speak at the training program.

c. Freedom of Religion

For a complete description of religious freedom, please see the *2010 International Religious Freedom Report* at www.state.gov/g/drl/irf/rpt.

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

The abrogated constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, but the government frequently restricted or denied these rights in practice. The PER authorize the government to prohibit, restrict, or regulate movement of persons.

The government maintained a list of persons banned from leaving the country, including human rights activists and lawyers. Names on the list were not made public; would-be travelers discovered their inclusion when they were turned back by airport immigration authorities.

The government continued to limit the travel of government critics and deport noncitizen critics. Former prime minister Laisenia Qarase, who was charged in 2008 with abuse of office, continued to be subject to strict bail conditions prohibiting him from traveling out of the country, on the grounds that such travel would pose a "threat to national security." At year's end the case remained pending.

Until September the ability of lawyer and regime critic Imrana Jalal to travel out of the country was limited after she was charged on January 1 with offenses relating to a business operated by her husband. In September the travel restrictions were lifted after a High Court judge stayed all charges against her (see section 4). Jalal subsequently left the country.

In January Fijian-born foreign citizen Padma Lal, wife of Fijian-born foreign citizen and regime critic Brij Lal, who was deported in November 2009, was refused entry into Fiji and deported.

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 government did not use it during the year.

Protection of Refugees

In 2008 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 on account of their race, religion, nationality, membership in a particular social group, or political opinion, but no such cases were known to have arisen during the year.

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

Although the abrogated constitution provides citizens the right to change their government peacefully, citizens did not have this right in practice. The country continued to be ruled by a military-dominated government following the 2006 military overthrow of the popularly elected government, and at year's end Parliament, the 12 elected municipal councils, and the Great Council of Chiefs remained suspended. The office of the vice president, vacant since August 2009, remained unfilled.

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 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 Bainimarama's leadership during the 2006 coup.

In April 2009, when the Court of Appeal ruled that the coup and the appointment of Bainimarama's government were unlawful, Bainimarama resigned the position of prime minister; the president reappointed him the next day after abrogating the constitution. At year's end the PER continued in force, and the government continued to rule by decree. Bainimarama has declared that political reforms are necessary before elections can resume and repeatedly postponed national elections. The government had stated that elections (previously promised for 2009) would be held in 2014. In July, however, Bainimarama announced that elections could be delayed beyond 2014 because of continued opposition to his government's reform program. He stated that persons around the country had implored him to cancel the elections.

There was one woman in the 11-member cabinet. Women played important roles in the traditional system of chiefs and some were chiefs in their own right. The government's suspension of the Great Council of Chiefs removed one forum where women exercised political influence.

At year's end there were two Indo-Fijian ministers in the cabinet and no other minority ministers. Indo-Fijians, who accounted for 37 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 "disciplined services"--the military, police, and prison services--were predominantly ethnic Fijian.

Section 4 Official Corruption and Government 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 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 published articles on the reports and conclusions of the government-appointed Public Accounts Committee and reports of FICAC investigations on abuse of office, but the government censored independent media reporting on some government corruption. In 2008 the auditor general announced that in the absence of a sitting Parliament, audit reports would be submitted to the cabinet and would not be made public. This practice continued during the year. The cabinet referred such reports to the Public Accounts Committee for review.

Public officials are not subject to financial disclosure laws. FICAC is the primary body responsible for combating government corruption.

In December 2009 FICAC charged Ratu Sakiusa Tuisolia, a critic of the government and the husband of human rights lawyer Imrana Jalal, with offenses related to operation of a restaurant without a business license, normally a misdemeanor adjudicated by municipal authorities with a F\$20 (approximately (\$10) fine. Jalal was charged with the same offenses on January 1. Tuisolia and Jalal maintained that businesses in Suva typically operated while waiting for license issuance, and that the FICAC charges were politically motivated. In July the High Court issued a stay order on all seven charges against Jalal; a prosecution appeal of the order was pending at year's end. On October 6, Tuisolia was tried on charges relating to alleged abuse of the company credit card of Airports Fiji, of which he was chief executive officer from 2003-06. He was acquitted on those charges. The charges relating to his business license were still pending at year's end.

The corruption case of former prime minister Qarase remained pending at year's end, and Qarase remained free under strict bail conditions.

Although the abrogated constitution instructed Parliament to enact a freedom of information law as soon as practicable, no such law has been enacted. The government was frequently unresponsive to public requests for government information. A 2008 amendment to the FICAC decree allows 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 others without authorization.

Section 5 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The 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 2006 coup and the government.

There were several NGOs that concentrated on a variety of local human rights causes, such as the Citizens' Constitutional Forum, the Fiji Women's Rights Movement, and the Fiji Women's Crisis Center.

On January 4, the military's land force commander issued a warning to NGOs and critics to cooperate with the government. In February the military commander and prime minister warned two prominent NGO activists, Virisila Buadromo of the Fiji Women's Rights Movement and Reverend Akuila Yabaki of the Citizens Constitutional Forum, against making statements on the independence of the judiciary. The two had reported on the subject to the UN universal periodic review of the country's human rights situation.

NGOs were constrained in their operations by the February Crimes Decree, which includes in the definition of sedition criticism of the government, and the June Media Decree, which requires all publications to be vetted by the Ministry of Information (see section 2.a.). NGOs may apply to the attorney general for exemptions to this requirement, but prominent NGOs confirmed that processing of their applications for such exemptions remained pending at year's end. Although the FHRC was reestablished by decree after the abrogation of the constitution, it was not authorized to investigate complaints against the abrogation, other actions of the government, or the 2006 coup.

The ICRC continued to operate in the country. 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 country remained suspended from the Commonwealth of Nations and the major regional organization Pacific Islands Forum (PIF), in response to Bainimarama's failure to address expectations "to return Fiji to democratic governance in an acceptable time-frame," in addition to other concerns, including human rights violations, expressed in statements by the PIF and the Commonwealth.

Section 6 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. After the constitution's abrogation, only the 2007 Employment Relations Promulgation (ERP), which came into force in 2008, had similar provisions, but these are limited to workers and industrial relations matters.

Women

Rape, domestic abuse, incest, and indecent assault were significant problems. The Crimes Decree provides for a maximum punishment of life imprisonment for rape; however, prior to the promulgation of the Crimes Decree in February,

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 Domestic Violence Decree, which also came into force in February, recognizes spousal rape as a specific offense. The NGOs Fiji Women's Rights Movement and Fiji Women's Crisis Center pressed for more consistent and severe punishments for rape.

The Domestic Violence Decree created a specific domestic violence offense. 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 police were not always consistent in their observance of this policy. Courts dismissed some cases of domestic abuse and incest or gave the perpetrators light sentences. Incest was widely believed to be underreported. Traditional and religious practices of reconciliation between aggrieved parties in both ethnic Fijian and Indo-Fijian communities were sometimes taken into account to mitigate sentences in domestic violence cases, and in many cases offenders were released without a conviction on the condition they maintain good behavior, rather than jailed. An active women's rights movement sought to raise public awareness of 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 lack of child support.

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 the ERP sexual harassment in the workplace is a specific ground of complaint that can be filed by workers. The Ministry of Labor reported that one sexual harassment complaint filed with the Employment Relations Tribunal (ERT) under the ERP in a prior year was withdrawn during the year. Two other sexual harassment complaints were filed during the year and were pending before the ERT at year's end.

In response to various complaints in 2009 from some indigenous village provincial councils about a purported breakdown of order in villages, during the year the Ministry of Indigenous Affairs drafted a model village by-law addressing issues raised by the councils, including women's dress. The draft model by-law included a prohibition on wearing of shorts, T-shirts, and long hair by women. The ministry distributed the draft to villages around the country for further discussion. However, some of the 1,170 registered indigenous village communities used the draft as an ostensibly legal basis for enforcing a customary dress code on women, including in some villages a requirement that women and girls wear ankle-length skirts. In some villages this resulted in cases of assaults by village headmen of young girls found wearing shorts.

Couples and individuals generally have the right to decide freely the number, spacing, and timing of their children. The government provided family planning services, and women had access to contraceptives free of charge at public hospitals and clinics, and for a nominal charge if prescribed by a private physician. According to indicators published by the Population Research Bureau (PRB), an estimated 40 percent of married women ages 15-49 used modern contraceptive methods. Unmarried and young women generally were discouraged from undergoing tubal ligation for birth control, and public hospitals, especially in rural areas, often refused to perform the operation on unmarried women who requested it. Nurses and doctors often required the husband's consent before carrying out the operation on a married woman, although there is no legal requirement for such consent. Most women gave birth in hospitals, where skilled attendance at birth and essential prenatal, obstetric, and postpartum care were available. According to PRB indicators, skilled health personnel attended an estimated 99 percent of births. According to a UN report entitled *Trends in Maternal Mortality: 1990 to 2008*,

the estimated maternal mortality ratio was 26 deaths per 100,000 live births. Women had equal access to diagnosis and treatment for sexually transmitted infections, including HIV.

Women have full rights of property ownership and inheritance rights, but in practice 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. The ERP prohibits discrimination on the basis of sex. In practice, however, 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 were self-employed.

The Ministry for Women worked to promote women's legal rights.

Children

Citizenship is derived both by birth within the country and through one's parents.

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.

The Court of Appeal has ruled that 10 years is the minimum appropriate sentence in child rape cases; however, in such cases police often charged defendants with "defilement" rather than rape, because defilement is easier to prove in court. Defilement or unlawful carnal knowledge of a child under 13 years of age has a maximum penalty of life imprisonment, while the maximum penalty for defilement of a child between 13 and 15 years or of an intellectually impaired person is 10 years' imprisonment. Women's NGOs have complained that magistrates imposed shorter sentences, from two to eight years, in child defilement cases.

The legal age for marriage is 18, although children between 16 and 18 years of age can marry with parental consent. Some NGOs reported that child marriage was a problem, especially in rural areas, where girls often married at age 16, preventing them from completing their secondary school education. In indigenous villages girls under age 16 who became pregnant could begin to live as common-law wives with their child's father after the men presented traditional apologies to the girls' families, thereby avoiding the filing of a complaint to police by the families. The girls frequently married the fathers as soon as legally permissible, at age 16.

Child prostitution was reported among high school students and homeless and jobless youth. Commercial sexual exploitation of children continued to occur during the year. Under the Crimes Decree, commercial sexual exploitation of children is an indictable offense that must be tried in the High Court. The decree makes it an offense for any person to buy or hire a child under 18 years of age for sex, prostitution, or other unlawful purpose, punishable by imprisonment for up to 12 years. It is also an offense for a householder or innkeeper to allow commercial sexual exploitation of children in his or her premises, but there were no prosecutions or convictions for these offenses during the year.

The minimum age for consensual sex is 16. The maximum penalty is life imprisonment in the case of a person who has sexual relations with a child under age 13, and 10 years' imprisonment in the case of a person who has sexual relations with a child between age 13 and age 15. In the latter case it is considered a sufficient defense to establish that the

perpetrator had "reasonable cause" to believe the child was age 16 or older. Despite the maximum penalties provided for, magistrates have sometimes imposed sentences as low as two years' imprisonment in such cases.

Child pornography is illegal under the Juveniles Act. The maximum penalty for violators is 14 years' imprisonment and/or a maximum fine of F\$25,000 (approximately \$12,500) for a first offense and life imprisonment and/or a fine of up to F\$50,000 (approximately \$25,000) for a repeat offense, and the confiscation of any equipment used in the commission of the offense. A child welfare decree promulgated in August requires mandatory reporting to police by teachers and health and social welfare workers of any incident of child abuse.

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

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport-4308.html>.

Anti-Semitism

There was no known Jewish community, and there were no reports of anti-Semitic acts.

Trafficking in Persons

For information on trafficking in persons, please see the Department of State's annual *Trafficking in Persons Report* at www.state.gov/g/tip/.

Persons with Disabilities

Under the constitution abrogated in 2009, all persons are considered equal under the law, and discrimination against persons with disabilities in employment, education, provision of housing and land, or provision of other state services is illegal. Since the constitution's abrogation, no new decree has addressed specifically the rights of persons with disabilities; however, existing statutes provide for the right of access to places and all modes of transport generally open to the public. Public health regulations provide penalties for noncompliance; 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. Under the Health and Safety at Work Act, all new office spaces must be accessible to persons with disabilities. There were only a small number of disabled-accessible vehicles in the country. The Fiji Disabled People's Association, an NGO, reported that most persons with disabilities were unemployed due to lack of sufficient education and training and negative attitudes of employers. There were no programs to improve access to information and communications for persons with disabilities, and persons with disabilities, in particular persons with hearing or vision impairments, had difficulty accessing public information. There were a number of community organizations to assist those with disabilities, particularly children.

Most persons with mental and intellectual disabilities were separated from society and typically were supported at home by their families. The September Mental Health Decree stipulates that treatment should be provided for persons with mental and intellectual disabilities in the community, public health, and general health systems. Institutionalization of persons with severe mental disabilities was in a single underfunded public facility in Suva. There were a number of special schools offering primary education for persons with physical, intellectual, and sensory disabilities; however, cost and location limited access. Opportunities for a secondary school education for those with disabilities were very limited.

The Fiji National Council for Disabled Persons, a government-funded statutory body, 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. Indigenous Fijians make up 57 percent of the population, Indo-Fijians comprise 37 percent, and the remaining 6 percent is composed of Europeans, Chinese, and Rotuman and other Pacific Islander communities. The abrogated 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. Indigenous Fijians dominated the civil service, including senior positions.

The 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, most remained in place. The government's reform priorities, including reform of discriminatory laws and practices, were part of a political dialogue process with political parties that stalled and was not reconvened after the abrogation of the constitution.

In an effort to address the sensitive question of ethnic and national identity, in April the government decreed that the country's citizens would henceforth be known as "Fijians," a term that previously was understood to refer only to the ethnic indigenous population. Ethnic Fiji Islanders would become known as "I Taukei" (literally, "owners" in the Fijian language). The decree requires that anywhere the word "indigenous" appears in the law and in government publications and communications, it is to be replaced by the term "I Taukei." Some commentators, writing in blogs or overseas publications, observed that the lack of prior consultations with the indigenous community about the change and its promulgation by decree could complicate its implementation, given the historical opposition by indigenous Fijians to making "Fijian" the common name for all citizens. (The 1997 constitution used the term "Fiji Islander" to refer to all citizens.)

Prior to the 2006 coup, most postindependence 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. 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. This situation contributed significantly to communal tensions.

On June 30, the government promulgated the Land Use Decree to improve access to land. The decree establishes a "land bank" in the Ministry of Lands for the purpose of leasing land from indigenous landowning units through the Native Land Trust Board, which has the legal ownership of indigenous lands, and subleasing the land to individual tenants for lease periods of up to 99 years. The stated aim of the decree was to provide both equitable returns to landowners and greater security of land tenure for tenants compared to the previous legal framework contained in the Agricultural Landlord and

Tenant Act (ALTA), under which leases could only run for 30 years. ALTA leases began expiring in 1997, leading to the eviction of many Indo-Fijian sugar cane farmers.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

The abrogated constitution prohibits discrimination on the basis of sexual orientation. The preexisting Penal Code criminalized homosexual acts between males, but the judiciary held these provisions to be unconstitutional. The new Crimes Decree that came into force in February does not criminalize homosexual acts between consenting adults, and for the first time recognizes male-on-male rape as a crime. The ERP prohibits discrimination in employment based on sexual orientation.

There was some societal discrimination against persons based on sexual orientation, although there was no systemic discrimination. There were no known cases of violence based on sexual orientation or gender identity.

Other Societal Violence or Discrimination

There was some societal discrimination against persons with HIV/AIDS, although it was not systemic. There were no known cases of violence targeting persons with HIV/AIDS.

Section 7 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. After the constitution was abrogated, and freedom of expression and assembly subsequently were restricted under the PER, unions reported considerable government interference with, and denial of, their right to organize.

An estimated 31 percent of the wage-earning work force was unionized. The majority of unionized workers were employed in traditional key sectors of the economy, including the sugar industry, tourism, manufacturing, and the public sector. While some unions were ethnically based, most were not, and both Indo-Fijians and ethnic Fijians held leadership roles in the trade union movement.

The ERP 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.

All unions must register with the government, which has discretionary power to refuse to register any union with an "undesirable" name, as well as to cancel registration of existing unions in cases provided for by law. The ERP gives unions the right to appeal to the ERT against an adverse decision by the trade union registrar. Major trade unions reported instances of the government using the ERT in a biased fashion to shut down negotiations and appeals.

In February the Fiji Sugar Corporation ceased the so-called check-off facility (direct deduction of union dues) for two registered unions: the national farmers' union (Kisan Sangh) and the Fiji Cane Growers' Association. As of year's end, this check-off facility had not been reinstated.

On February 17, military personnel detained Attar Singh, a prominent unionist and official of the National Federation Party (NFP). He was questioned and instructed to stop holding informal meetings at the NFP office.

In October soldiers were deployed at three sugar mills; the government cited suspected union sabotage, claimed by the government to have affected the efficiency of the mills.

The law provides for the limited right to strike, except that police, military, and prison personnel may not strike. Unions can conduct secret strike ballots, but must give the registrar 21 days' notice. More than 50 percent of all paid-up union members--not only paid-up members who actually cast ballots in the election--must vote in favor of a strike in order for the strike to be legal; the International Trade Union Confederation criticized this provision as too restrictive. The Ministry of Labor 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"--including emergency, health, fire, sanitary, electrical, water, and meteorological services; telecommunications; air traffic control; and fuel supply and distribution--must give an employer an additional 28 days' notice.

The ERP also permits the minister of labor to declare a strike unlawful and refer the dispute to the ERT; in these circumstances workers and strike leaders can face criminal charges if they persist in strike action after the referral.

In January unionist Pramod Rae was visited at home by military officers and warned against organizing a strike during negotiations with the Bank of Baroda.

There were no strikes during the year.

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.

Under the ERP any trade union with six or more members may enter into collective bargaining with an employer. The ERP allows individual employees, including nonunionized workers, as well as unions to bring a dispute with employers before the permanent secretary for labor for mediation. 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 Labor. If mediation fails, the authorities may refer the dispute to the ERT; the ERT's decision can be appealed to the Employment Court (a division of the High Court) and from there to the Court of Appeal.

Since the constitution was abrogated, unions reported that the government used the mediation process to punish unions deemed insufficiently cooperative with government policies, interrupting the collective bargaining process, interfering with mediation, and denying appeals for unrelated political reasons.

While not promoted by the ERP, individual contracts were common. Employers tended to offer advantageous packages to new employees, particularly skilled labor, to promote individual contracts, which according to labor groups reduced the possibilities for collective bargaining and weakened unions. Under the former Compulsory Recognition Act, only unions with 30 percent workforce membership could negotiate with an employer. However, the ERP allows any six individual employees to form a union and start negotiating with an employer--another provision seen by existing unions as weakening worker unity and hence bargaining power.

Under the ERP 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, but union organizers were occasionally vulnerable to dismissal or to other interference by employers, particularly when operating on company premises.

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 ERP prohibits forced or compulsory labor, but there were reports that such practices occurred. The Labor Inspectorate is responsible for enforcing the law, but did not have sufficient inspectors for full enforcement.

Also see the Department of State's annual *Trafficking in Persons Report* at www.state.gov/g/tip.

d. Prohibition of Child Labor and Minimum Age for Employment

Enforcement of existing child labor regulations was inadequate and failed to protect children fully from workplace exploitation. Under the law children under age 12 may not be employed except in a family-owned business or agricultural enterprise; any such employment must not interfere with school attendance and is to be of limited duration. Although the law provides that education is compulsory up to age 15, children between ages 12 and 15 may be employed on a daily wage basis in nonindustrial "light" work not involving machinery, provided they return to their parents or guardian every night. Persons between ages 15 and 17 may be employed in certain occupations not involving heavy machinery, hazardous materials, mines, or heavy physical labor; however, they must be given specified hours and rest breaks.

The Ministry of Labor 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. Children as young as age 11 worked as full-time laborers in the sugar cane industry. Children also worked in the production of other agricultural products, including coconuts and root vegetables.

e. Acceptable Conditions of Work

There was no single, national minimum wage, although the Wages Councils, comprising representatives of both workers and employers, set minimum wages for certain sectors. On July 1, minimum wage increases went into effect in nine industrial sectors; however, minimum wage levels did not provide a decent standard of living for a worker and family. Entry-level wages in unregulated sectors, especially service industries, provided a sparse standard of living for a worker and family. The Labor Ministry enforced minimum wages through its Labor Inspectorate; however, the inspectorate did not have sufficient inspectors to fully enforce the law. The ERT and the Employment Court adjudicate cases of employers charged by the Labor Inspectorate with violating minimum wage orders.

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. The Occupational Health and Safety Inspectorate in the Ministry of Labor monitors workplaces and equipment and investigates complaints from workers. 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 Labor 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. Although mines are excluded from the Health and Safety at Work Act, the Mining Act empowers the director of mines and his inspectors to enter and inspect all mines with a view to the health, safety and welfare of the employees.

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