

# **FIJI 2017 HUMAN RIGHTS REPORT**

## **EXECUTIVE SUMMARY**

Fiji is a constitutional republic. The country held general elections in 2014, which international observers deemed credible and “broadly reflected the will of the Fijian people.” Josaia Voreqe (Frank) Bainimarama’s Fiji First party won 32 of the 50 seats, and he was sworn in as prime minister.

Civilian authorities maintained effective control over the security forces.

The most significant human rights issues included: abuse of persons in custody; government restrictions on freedoms of expression and on the press and media; forced exile of government opponents; restrictions on the formation and operation of political parties; government corruption; and forced labor (including of children).

The government investigated some security forces officials who committed abuses, and prosecuted or punished officials who committed abuses elsewhere in the government; however, impunity was a problem.

### **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

#### **a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

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

On July 7, an appellate court granted permission to appeal the sentences of eight police officers and a soldier imprisoned in 2016 for the rape, sexual assault, and death of robbery suspect Vilikesa Soko. The appellate court, however, denied the officers’ application for bail while the appellate court’s decision was pending.

#### **b. Disappearance**

There were no reports of disappearances by or on behalf of government authorities.

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

The constitution and law prohibit torture, forced medical treatment, and degrading treatment or punishment. The Public Order Act Amendment Decree (POAD), however, authorizes the government to use whatever force it deems necessary to enforce public order. There were reports security forces abused persons during the year.

On February 16, Vikram Nand, arrested for violating a domestic violence restraining order, was found dead in a cell at a local Valelevu police station. A police investigation into the case continued.

Commissioner of Police Sitiveni Qiliho ordered an official investigation of two police officers who beat and threw two persons from a moving bus after a video recording went viral on social media. There were no reports the officers received disciplinary action by year's end.

Investigation into several other past allegations of police abuse remained pending, including a 2016 complaint by farmer Alipate Sadranu that security forces beat him and 10 other men whom they apprehended for unlawful cultivation of illicit drugs, and the alleged abuse of Sakiusa Niulala by police in 2015.

The United Nations received one allegation of sexual exploitation and abuse committed by Fijian peacekeepers in Beirut, Lebanon, during the year. The accusation of transactional sex was made against a member of the military contingent serving with the UN Disengagement Observer Force, and allegedly occurred in September. At year's end the investigation was pending, and the United Nations took the interim step of suspending peacekeeping payments to the government.

### **Prison and Detention Center Conditions**

Prison conditions did not meet international standards. The national prison system remains overcrowded, with deteriorating infrastructure and complaints about inadequate essential services.

Physical Conditions: Prisons were somewhat overcrowded, holding more than 1,400 inmates in facilities intended for 1,000. There were insufficient beds, inadequate sanitation, and a shortage of other necessities. Authorities generally separated pretrial detainees and convicted prisoners at shared facilities, although in

some cases authorities held them together. Prison facilities reportedly were unsuitable for inmates with physical and mental disabilities.

On January 9, a decision by authorities to ban inmates from using prison kitchen facilities prompted 30 inmates at the Lautoka corrections facility to conduct a three-day hunger strike in protest. Several inmates who participated in the protest alleged that corrections officers beat them.

A police investigation into a 2016 case involving the alleged rape of a female inmate by a corrections officer was completed, and the case was pending trial at Suva's High Court. Government officials reported one inmate death during the year; Rudra Maharaj died while doing farm work at a prerelease center.

Administration: Prisoners may submit complaints to the Fiji Human Rights and Anti-Discrimination Commission (FHRADC), which investigated several complaints during the year, including a complaint by inmates alleging corrections officers abused them for their hunger strike in January.

The law allows prisoners to submit complaints to judicial authorities. Although the law prohibits authorities from reviewing, censoring, or seizing prisoner letters to the judiciary and the FHRADC, authorities have routinely reviewed such letters and, in most cases, had authority to seize them. Authorities did not investigate or document credible allegations of inhuman conditions in a publicly accessible manner.

Independent Monitoring: During the year the International Committee of the Red Cross, the Office of the UN High Commissioner for Human Rights, and the FHRADC visited official detention facilities and interviewed inmates; prison authorities permitted such visits without third parties present.

Improvements: Construction continued on a new 200-inmate capacity remand center to alleviate overcrowding at the corrections facility in Lautoka.

#### **d. Arbitrary Arrest or Detention**

The constitution prohibits arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his/her arrest or detention in court, and the government generally observed these requirements. The law details procedures for lawful arrest. The POAD authorizes security forces to detain a person for a maximum of 16 days before bringing charges; the minister of defense must

authorize detention without charge exceeding 48 hours. There were no reports of unlawful detentions during the year.

### **Role of the Police and Security Apparatus**

The Ministry of Defense oversees both the Fiji Police Force and the Republic of Fiji Military Force (RFMF). Police are responsible for law enforcement and the maintenance of internal security. The RFMF is responsible for external security. The POAD authorizes soldiers to perform the duties and functions of police and prison officers in specific circumstances. RFMF Commander Viliame Naupoto announced the military would assume policing functions to assist police combat crime in the country. Police Commissioner Sitiveni Qiliho supported Naupoto's announcement adding that the joint military-police effort would assist in curbing burglaries and robberies. Opposition critics expressed concern the move could weaken the local police force, which has primary responsibility for domestic law enforcement.

The police Ethical Standards Unit is responsible for investigating complaints of police misconduct. On October 13, police reported the dismissal of 30 police officers for a range of disciplinary offenses that occurred over a two-year period from November 2015. The Fiji Independent Commission against Corruption (FICAC), established by parliament and reporting directly to the president, investigates public agencies and officials, including police. Following investigations by FICAC, six police officers appeared in court on September 2 on bribery-related charges, although the court later dismissed charges against one of the officers. A former head of the police criminal investigations department also appeared in court on bribery related charges.

Impunity and corruption remained problems.

In an attempt to increase respect for human rights by security forces, the FHRADC, international organizations, and local nongovernmental organizations (NGOs) conducted a number of human rights training courses with law enforcers. For example authorities conducted human rights and gender training for 28 military officers on May 9.

The constitution and POAD 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 public order. Legal proceedings against five security force

officers charged in 2015 for the alleged 2012 sexual assault on an escaped prisoner, Ioane Benedito, remained pending.

The constitution provides immunity for the president, prime minister, members of the cabinet, and security forces for actions taken relating to the 2006 coup, the 2009 abrogation of the 1997 constitution, and the suppression of a mutiny at military headquarters in 2000.

### **Arrest Procedures and Treatment of Detainees**

The constitution provides that detained persons be charged and brought to court within 48 hours of arrest or as soon as practicable thereafter, and that right was generally respected. Police officers may arrest persons without a warrant for violations of the crimes decree.

Police also conduct arrests in response to warrants issued by magistrates and judges. Police may detain persons under the POAD for a maximum of 16 days, after which authorities must charge or release persons in custody. There is no legal requirement to bring to court persons detained under provisions of the POAD for judicial review of the grounds for their detention, unless authorities charge them with an offense. The POAD prohibits any court, tribunal, or other body from reviewing a detention under POAD provisions.

The law provides accused persons the right to bail, unless it is “not in the interests of justice” to grant bail. Under the law both police and the courts may grant bail. Although there is a legal presumption in favor of granting bail, the prosecution may object, and in practice often did so in cases where the accused was appealing a conviction or had previously breached bail conditions. An individual must apply for bail by a motion and affidavit that require the services of a lawyer.

Authorities generally allowed detainees prompt access to counsel and family members. The Legal Aid Commission provided counsel to indigent defendants in criminal cases, a service supplemented by voluntary services from private attorneys. The “First Hour Procedure,” which began in 2016 requires police to provide every suspect with legal aid assistance within the first hour of arrest. In addition, police are required to record the “caution interview” with each suspect before questioning, to confirm that police inform all suspects of their constitutional rights and to confirm whether suspects suffered any abuse by police prior to questioning.

Pretrial Detention: The number of pretrial detainees remained high at 21 percent of the total prison population, attributed to a continuing pattern of refusal of bail by the courts. A shortage of prosecutors and judges contributed to slow processing of cases. Consequently, some defendants faced lengthy pretrial detention.

Detainee's Ability to Challenge Lawfulness of Detention before a Court: The bill of rights grants detained persons the right to "challenge the lawfulness of the detention in person before a court and, if the detention is unlawful, to be released." Persons found to have been detained unlawfully may seek compensation through domestic courts.

### **e. Denial of Fair Public Trial**

The constitution provides for an independent judiciary, but in practice its independence is compromised. The president appoints or removes from office the judges of the Supreme Court, justices of appeal, and judges of the High Court on the recommendation of the Judicial Service Commission in consultation with the attorney general. The commission, following consultations with the attorney general, may appoint magistrates, masters of the High Court, the chief registrar, and other judicial officers. The constitution and various decrees provide for a variety of restrictions on the jurisdiction of the courts. An amended decree removed the courts' jurisdiction to hear challenges to government decisions on judicial restructuring, terms and conditions of remuneration for the judiciary, and terminated court cases. Various other decrees contained similar clauses limiting the jurisdiction of the courts on decisions made by the cabinet, ministers, or government departments.

### **Trial Procedures**

In most cases defendants have the right to a fair public trial, and the court system generally enforced this right.

Defendants generally enjoy a presumption of innocence; they may not be compelled to testify or confess guilt. They may present witnesses and evidence on their own behalf and confront witnesses against them. Defendants have the right to be informed promptly and in detail of the charges against them, with free interpretation if necessary through all appeals. Authorities also must accord them adequate time and facilities to prepare a defense and be present at trial. In most cases defendants have the right to counsel, but many reportedly were unaware of their rights when detained or interviewed and, therefore, often did not ask for legal

counsel. The Legal Aid Commission, supplemented by voluntary services of private attorneys, provided free counsel to some indigent defendants in criminal cases. The right of appeal exists, but procedural delays often hampered this right. The constitution allows for limitations on the right to public trial and provides for trials to “begin and conclude without unreasonable delay.”

### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

### **Civil Judicial Procedures and Remedies**

Individuals and organizations may seek civil remedies for human rights violations through domestic courts. In the event of a human rights violation, an individual may complain to the FHRADC, but the constitution prohibits the FHRADC from investigating cases filed by individuals and organizations relating to the 2006 coup and the 2009 abrogation of the 1997 constitution.

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

The constitution prohibits such actions, but the POAD permits 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. There were no credible reports police did so during the year.

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

#### **a. Freedom of Expression, Including for the Press**

The constitution provides for freedom of expression, including for the press, but it grants the government authority to restrict these rights for a broad array of reasons. These include preventing hate speech and insurrection; maintaining national security, public order, public safety, public morality, public health, and the orderly conduct of elections; protecting the reputation, privacy, dignity, and rights of other persons; and enforcing media standards and regulating the conduct of media organizations. Additionally the POAD gives the government power to detain persons on suspicion of “endangering public safety” and to “preserve the peace.”

The Media Industry Development Decree prohibits “irresponsible reporting” and provides for government censorship of media.

Freedom of Expression: The crimes decree includes criticism of the government in its definition of the crime of sedition. This includes statements made in other countries by any person, who authorities may prosecute on their return to the country.

The POAD defines as terrorism any act designed to advance a political, religious, or ideological cause that could “reasonably be regarded” as intended to compel a government to do or refrain from doing any act or to intimidate the public or a section thereof. It also makes acts of religious vilification and attempts to sabotage or undermine the country’s economy offenses punishable by a maximum fine of 10,000 Fijian dollars (F\$) (\$4,870) or five years in prison.

The 2015 Flag Protection Act makes any use of the country’s flag to “demean, disrespect, or insult the State, the Government or any member of Government, or the general public” an offense punishable by a maximum of 10 years’ imprisonment and a fine of F\$20,000 (\$9,750). According to this law, “the onus of proof shall be on the Defendant to prove his or her innocence.”

Press and Media Freedom: Independent media were somewhat active. Nonetheless, journalists practiced self-censorship on sensitive political or communal issues because of continued enforcement of a restrictive media decree and monitoring by the Media Industry Development Authority (MIDA). Media observers and human rights activists expressed particular concern that the *Fiji Times* prosecution (see below) stifled free speech.

On December 11, the trial commenced (and was immediately delayed into 2018) for *Fiji Times*’ Editor-in-Chief Fred Wesley, General Manager Hank Arts, journalist Anare Ravula, and Josaia Waqabaca, author of a letter to the editor, on charges of sedition related to the April 2016 publication of Waqabaca’s letter in the *Fiji Times*’ indigenous-language newspaper, *Nai Lalakai*. In bringing the charges, the Office of the Director of Public Prosecutions (ODPP) initially alleged that by publishing the letter, the defendants incited communal antagonism against the country’s Muslim community; communal antagonism carries a potential penalty of 10 years in prison. On March 24, the ODPP changed the charge to sedition, with a maximum prison term of seven years. On March 30, police officers acting under instructions of the ODPP searched the *Fiji Times* office and removed employment contracts belonging to defendants Arts, Ravula, and Wesley.



Before the trial, the courts denied three applications for variation of bail conditions to allow Arts to travel out of the country on separate occasions in January, February, and October. The courts assessed that Arts, a dual Fiji and New Zealand citizen, was a flight risk. Nonetheless, the court granted a travel permit to Wesley to travel to Australia, with some restrictions, to attend a media workshop.

Censorship or Content Restrictions: The media decree contains a provision authorizing the government to censor all news stories before broadcast or publication. Although the government ceased formal media censorship under the decree in 2012, journalists and media organizations continued to practice varying degrees of self-censorship due to the threat of prosecution for contempt of court or under provisions of the media decree and the POAD. Media published paid opinion articles by academics and commentators perceived as antigovernment.

Under the media decree, the directors and 90 percent of the shareholders of local media must be citizens of, and permanently resident in, the country. MIDA is responsible for enforcing these provisions and 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 established a media tribunal to decide complaints referred by the authority, with the power to impose maximum fines of F\$25,000 (\$12,200) for publishers and editors, and F\$100,000 (\$48,700) for media organizations. The tribunal, which consists of a single judge, is not bound by formal rules of evidence. The decree strips the judiciary of power to review the decree or any proceedings or findings of MIDA, the tribunal, or the information minister.

The code of ethics in the media decree requires that media publish balanced material. It obligates media to give any individual or organization an opportunity to reply to comments or materials for publication. Journalists reported that this requirement did not restrict reporting as much as in past years but said self-censorship continued to be a problem.

The television amendment decree requires television license holders to operate in conformance with the media decree's code of ethics.

Libel/Slander Laws: The constitution includes the need to protect the reputation of persons as allowable limitations to freedom of expression including the press. The threat of prosecution for contempt of court or under provisions of the media decree

and the POAD was sufficient incentive for media to continue to practice self-censorship.

National Security: The constitution includes national security as an allowable limitation to freedom of expression.

### **Internet Freedom**

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports that the government monitored private online communications without legal authority. By decree all telephone and internet service users must register their personal details with telephone and internet providers, including name, birth date, home address, left thumbprint, and photographic identification. The decree imposes maximum fines of F\$100,000 (\$48,700) on providers who continued to provide services to unregistered users and a maximum of F\$10,000 (\$4,870) on users who did not update their registration information as required.

The internet was widely available and used in and around urban centers, but its availability and use were minimal or nonexistent outside urban areas. The International Telecommunication Commission estimated that more than 46 percent of the population accessed the internet in 2016.

### **Academic Freedom and Cultural Events**

The constitution provides for academic freedom, although contract regulations of the University of the South Pacific effectively restricted most university employees from running for or holding public office or holding an official position with any political party. Persons entering the country on tourist visas wishing to conduct research must notify and seek permission of the government.

### **b. Freedoms of Peaceful Assembly and Association**

The constitution provides for the freedoms of peaceful assembly and association. The government is permitted to restrict freedoms of peaceful assembly and association.

### **Freedom of Peaceful Assembly**

The constitution provides for freedom of peaceful assembly but allows the government to limit this right in the interests of national security, public safety, public order, public morality, public health, and the orderly conduct of elections. The constitution also allows the government to limit freedom of assembly to protect the rights of others and imposes restrictions on a public official's right to freedom of assembly.

The POAD allows the government to refuse permit applications for any meeting or march deemed to prejudice peace, public safety, and good order or to sabotage or attempt to undermine the economy. It also allows authorities to use whatever force is deemed necessary to prohibit or disperse public and private meetings after "due warning" to preserve public order.

Although event organizers said the permitting process was sometimes very slow, authorities granted permits for public rallies in support of UN Human Rights Day, the 16 Days of Activism against Domestic Violence Campaign, and a public service union protest.

### **Freedom of Association**

The constitution provides for freedom of association but limits this right in the interests of national security, public order, and morality and also for the orderly conduct of elections. It allows the government to regulate trade unions and collective bargaining processes, strikes and lockouts, and essential industries in the interests of the economy and the population (see section 7.a.). The government generally did not restrict membership in other NGOs, professional associations, and other private organizations.

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/religiousfreedomreport/](http://www.state.gov/religiousfreedomreport/).

### **d. Freedom of Movement**

Under the POAD, the government may restrict freedom of internal movement, foreign travel, emigration, and repatriation.

The government cooperated 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.

In-country Movement: The POAD authorizes the government to prohibit, restrict, or regulate movement of persons, but there were no reports the government restricted any person's in-country movement during the year.

Exile: Opposition parties called on the government to lift travel bans on all existing and former citizens, including former citizen and academic Brij Lal. The Immigration Department has stated that Lal may reapply for re-entry into the country.

### **Protection of Refugees**

Refoulement: On February 3, immigration officers apprehended and deported Iranian refugee Loghman Sawari to Papua New Guinea (PNG). Sawari had fled the PNG Manus Island refugee center in January and sought asylum. Sawari was on his way to Suva with his lawyer when police and immigration officers detained and deported him. Attorney General Aiyaz Sayed-Khaiyum stated that Sawari was deported because he had breached immigration law by using a fraudulent passport, and that Sawari had not immediately sought asylum upon arrival in country as required by international law.

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees.

### **Section 3. Freedom to Participate in the Political Process**

The constitution and electoral decree provide citizens the ability to choose their government in free and fair periodic elections generally held by secret ballot and based on universal and equal suffrage. In the 2014 election, voters with disabilities and in need of assistance were required to rely on the assistance of an electoral official in order to vote.

### **Elections and Political Participation**

Recent Elections: In 2014 voters elected 50 members of parliament. The Fiji First party won 32 seats and an outright majority, and Josaia Voreqe (Frank) Bainimarama was sworn in as prime minister. Observers, including the Australian-

led Multinational Observer Group, deemed the elections generally credible and “broadly reflected the will of the Fijian people.”

Political Parties and Political Participation: The constitution provides for the right to form and join political parties, to campaign for political parties or a cause, to register as a voter, to vote by secret ballot in elections or referendums, to run for public office, and to hold that office. Nevertheless, the government may prescribe eligibility requirements for voters, candidates, political party officials, and holders of public office.

Under the POAD, permits are required for political meetings in both public and private venues.

The law requires that parties submit applications, which must include 5,000 member signatures, for registration. The law allows deregistration of political parties for any election offense and mandates trade union leaders must quit their positions before running as candidates. On April 19, the elections supervisor deregistered the One Fiji Party. The party, which held no seats in parliament, was suspended on February 16 for failing to submit audited financial statements. According to the supervisor of elections, the party had 60 days to comply but was deregistered after failing to submit the required documents.

The Electoral Decree restricts any person, entity, or organization receiving funding from foreign governments, intergovernmental or NGOs, or multilateral agencies from conducting or participating in any campaign, including meetings, debates, panel discussions, interviews, publication of materials, or any public forum discussing the elections. Punishment for convictions for violations of the decree includes a maximum of 10 years’ imprisonment, a fine of F\$50,000 (\$24,400), or both. The decree allows universities to hold panel discussions and organize inclusive public forums.

Other amendments to the standing orders also reduced the opposition’s power and ability to introduce petitions in parliament. Any petition tabled in parliament requires the support of a minimum of 20 parliamentarians (40 percent) before members may present it for debate.

In May, Social Democratic Liberal Party member Ratu Naiqama Lalabalavu returned to parliament after he was suspended in 2015 for uttering a slur against the parliament speaker at a public meeting.

Participation of Women and Minorities: No laws limit participation of women and/or members of minorities in the political process, and they did participate. Cultural beliefs restricted participation of most indigenous women in political life. Indo-Fijians, who accounted for 36 percent of the population, continued to be underrepresented at senior levels of the military. Indo-Fijians comprised approximately 35 percent of civil service employees and approximately one-third of the police force; observers estimated indigenous Fijians comprised more than 95 percent of military and prison service employees.

#### **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for corruption by officials, but the government did not implement the law effectively, and officials sometimes engaged in corrupt practices with impunity. There were numerous reports of government corruption during the year.

Corruption: Measures by the government during the year to combat corruption within the bureaucracy, including FICAC public service announcements encouraging citizens to report corrupt government activities, had some effect on systemic corruption. In June the RFMF began investigating 12 military personnel for alleged fraud related to the military's salary payment system.

At year's end the case continued against former corrections chief Lieutenant Colonel Ifereimi Vasu, dismissed in 2015 for abuse of office relating to his alleged misuse of a prison minimart.

On July 4, FICAC charged education minister Mahendra Reddy with breaching electoral laws governing the exchange of benefits for votes. Reddy allegedly offered to provide a water system for a school in the Western Division in exchange for school manager Waisea Lelobo's support.

Media published articles on FICAC investigations on abuse of office, and anonymous blogs reported on some government corruption.

Financial Disclosure: No laws require income and asset disclosure by appointed or elected officials. FICAC reports directly to the attorney general and is the primary body responsible for combating and prosecuting government corruption. The government adequately funded FICAC, but some observers questioned its independence and viewed some of its high-profile prosecutions as politically motivated, such as a 2015 case against opposition parliamentarian Ratu Isoa

Tikoca for failure to declare liabilities under the political parties' decree, which requires disclosures by candidates standing for election and party officials. The case remained pending in court at year's end.

## **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights**

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views.

NGO operations were constrained by the crimes decree, which includes criticism of the government in its definition of sedition; the POAD, which contains a broad prohibition on speech that could damage the economy; and the media decree, which authorizes the government to regulate media content.

Government Human Rights Bodies: The constitution establishes the FHRADC, but the law prohibits the FHRADC from investigating cases filed by individuals and organizations relating to the 2006 coup and the 2009 abrogation of the 1997 constitution. The FHRADC continued to receive reports of human rights violations lodged by citizens. While the FHRADC routinely worked with the government to improve certain human rights issues (such as prisoner treatment), observers report that the FHRADC failed to address adequately some key human rights issues, such as the recent spate of sedition trials, leading those observers to assess the FHRADC as progovernment. In August 2016 the FHRADC confirmed that since 2013, the commission had received 703 complaints of human rights violations.

## **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

### **Women**

Rape and Domestic Violence: Rape (including spousal rape), domestic abuse, incest, and indecent assault were significant problems; there was a large increase in the reported number of rape cases this year, due at least in part to greater awareness that a spouse can be charged with rape of his/her partner. The law provides for a maximum punishment of life imprisonment for rape. The law recognizes spousal rape as a specific offense.

The domestic violence decree defines domestic violence as a specific offense. Police enforced the practice of a “no-drop” policy, whereby they are required to pursue investigations of domestic violence cases even if a victim later withdraws the accusation. Nonetheless, women’s organizations reported police were not always consistent in their observance of this policy. Courts dismissed some cases of domestic abuse and incest or gave perpetrators light sentences. Traditional and religious practices of reconciliation between aggrieved parties in both indigenous and Indo-Fijian communities were sometimes considered to mitigate sentences in domestic violence cases. In some cases authorities released offenders without a conviction, on condition they maintained good behavior.

Sexual Harassment: A decree prohibits sexual harassment, and the government used criminal law against “indecent assaults on females,” which prohibit offending the modesty of women, to prosecute sexual harassment cases.

Coercion in Population Control: There were no reports of coerced abortion, involuntary sterilization, or other coercive population control methods. Estimates on maternal mortality and contraceptive prevalence are available at: [www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/](http://www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/).

Discrimination: Women have full rights of inheritance and property ownership by law, but local authorities often excluded them from the decision-making process on disposition of indigenous communal land, which constituted more than 80 percent of all land. Women have the right to a share in the distribution of indigenous land lease proceeds, but authorities seldom recognized this right. Women have the same rights and status as men under family law and in the judicial system. Nonetheless, women and children had difficulty having protection orders enforced by police in domestic violence cases.

Although the law prohibits discrimination based on gender and requires equal pay for equal work, employers generally paid women less than men for similar work (see section 7.d.).

## **Children**

Birth Registration: Citizenship is derived both from birth within the country and through one’s parents. Parents were generally able to register births promptly.



Child Abuse: Corporal punishment was common in both homes and schools, despite a Ministry of Education policy forbidding it in the classroom. Increasing urbanization, overcrowding, and the breakdown of traditional community and extended family structures put children at risk for abuse and appeared to be factors that contributed to a child's chance of exploitation for commercial sex. The government embarked on a major anti-child-abuse public awareness campaign, urging adults not to mistreat children.

Early and Forced Marriage: The legal minimum age for marriage is 18 years. Some NGOs reported that, especially in rural areas, girls often married at 18 years, preventing them from completing their secondary school education. In indigenous villages, girls younger than 18 years who became pregnant could 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.

Sexual Exploitation of Children: Commercial sexual exploitation of children continued to occur. It is an offense for any person to buy or hire a child younger than 18 years for sex, exploitation in prostitution, or other unlawful purpose; the offense is punishable by a maximum imprisonment of 12 years. No prosecutions or convictions for trafficking of children occurred during the year.

It is an offense for a householder or innkeeper to allow commercial sexual exploitation of children in his or her premises, but there were no known prosecutions or convictions for such offenses during the year.

Some high-school age children and homeless and jobless youth were exploited for commercial sex trafficking during the year, and there were reported cases of child sex tourism in tourist centers such as Nadi and Savusavu.

The minimum age for consensual sex is 16 years. The Court of Appeal has ruled that 10 years is the minimum appropriate sentence for child rape, but 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 younger than 13 years has a maximum penalty of life imprisonment, while the maximum penalty for defilement of a child between 13 and 15 years, or of a person with intellectual disabilities, is 10 years' imprisonment.

Child pornography is illegal. The maximum penalty for violators is 14 years in prison, a maximum fine of F\$25,000 (\$12,200), or both for a first offense and life

imprisonment, a maximum fine of F\$50,000 (\$24,400), or both for a repeat offense, and the confiscation of any equipment used in the commission of the offense.

The child welfare decree requires mandatory reporting to police by teachers and health and social welfare workers of any incident of child abuse.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at [travel.state.gov/content/childabduction/en/legal/compliance.html](http://travel.state.gov/content/childabduction/en/legal/compliance.html).

### **Anti-Semitism**

There was a small Jewish community composed primarily of foreign residents. There were no reports of anti-Semitic acts.

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

### **Persons with Disabilities**

Discrimination against persons with disabilities is illegal. The constitution addresses specifically the right of persons with disabilities to reasonable access to all places, public transport, and information, as well as the right to use braille or sign language and to reasonable access to materials and devices relating to the disability; the law, however, does not further define "reasonable." Moreover, the constitution provides that the law may limit these rights "as necessary." 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, but 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 buildings met this requirement. By law all new office spaces must be accessible to persons with disabilities. Persons with disabilities continued to face employment discrimination (see section 7.d.). There were no government programs to improve access to information and communications for

persons with disabilities, and persons with disabilities, in particular those with hearing or vision disabilities, had difficulty accessing public information. In February parliament began televising its sessions in sign language to improve access for the hearing impaired.

There were a number of separate schools offering primary education for persons with physical, intellectual, and sensory disabilities; however, cost and location limited access. Some students attended mainstream primary schools, and the Early Intervention Center monitored them. Opportunities for a secondary school or higher education for persons with disabilities was very limited.

A decree stipulates that the community, public health, and general health systems provide treatment for persons with mental and intellectual disabilities, though persons with such disabilities were generally supported at home by family. Institutionalization of persons with more significant mental disabilities was in a single, underfunded public facility in Suva. Opportunities for a secondary school or higher education for persons with disabilities was very limited.

In April the Fijian Elections Office launched a website to improve accessibility for the disability community, including text-to-speech capability, large type, and an inverted color scheme. In 2016 it signed an agreement with the Pacific Disability Forum and the Fiji National Council for Disabled Persons to create an Elections Disability Access Working Group to improve the political participation of the country's disability community. The national council, a government-funded statutory body, worked to protect the rights of persons with disabilities.

### **National/Racial/Ethnic Minorities**

Tension between indigenous Fijians and the Indo-Fijian minority is a longstanding problem. Indigenous Fijians make up an estimated 58 percent of the population, Indo-Fijians comprise 36 percent, and the remaining 6 percent is composed of Europeans, Chinese, Rotumans, and other Pacific Islander communities. The government publicly stated its opposition to policies giving "paramountcy" to the interests of ethnic Fijians and Rotumans, which it characterized as racist, and called for the elimination of discriminatory laws and practices that favor one race over another. Although Indo-Fijians dominated the commercial sector, indigenous Fijians continued to dominate the security forces.

Land tenure remained a highly sensitive and politicized issue. Indigenous Fijians communally held approximately 87 percent of all land, the government 4 percent, and the remainder was freehold land held by private individuals or companies. 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 must lease land from ethnic Fijian landowners. Many Indo-Fijians believed that limits on their ability to own land and their consequent dependency on leased land from indigenous Fijians constituted de facto discrimination against them. Many indigenous Fijian landowners believed that the rental formulas prescribed in the national land tenure legislation discriminated against them as the resource owners.

By law all indigenous Fijians are automatically registered upon birth into an official register of native landowners known as the *Vola ni Kawa Bula* (or native land register). The register also verifies access for those in it to indigenous communally owned lands and justifies titleholders within indigenous communities.

### **Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity**

The constitution prohibits discrimination on the grounds of sexual orientation, gender, and gender identity and expression. The employment relations law prohibits discrimination in employment based on sexual orientation. However, the FHRADC reported complaints of discrimination against LGBTI persons in such areas as employment, housing, or access to health care.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law provides all workers the right to form and join independent unions, bargain collectively, and strike.

The law prohibits some forms of antiunion discrimination, including victimizing workers or firing a worker for belonging to a union. The constitution prohibits union officers from becoming members of parliament. The law also limits the ability of union officers to form or join political parties and exercise other political rights.

The law designates “essential service and industries” to include 11 corporations in eight sectors: finance, telecommunications, public-sector employees, and the airline industry. In 2015 the law was amended, extending the definition of essential services and industries to include all state-owned enterprises, statutory authorities, and local government authorities.

The law also limits who is able to be an officer of a trade union, including prohibiting noncitizens from being trade union officers.

All unions must register with the government, which has discretionary power to refuse to register any union with an “undesirable” name, although the law limits the government’s discretion to refuse to register trade union names to those cases where the name is “offensive, or racially or ethnically discriminatory.” The government may cancel registration of existing unions in exceptional cases provided for by law.

By law any trade union with seven or more members that is not in an industry designated as essential may enter into collective bargaining with an employer.

Unions may conduct secret strike ballots upon 14 days’ notice to the registrar if 50 percent of all members who are entitled to vote approve the strike. Workers in essential services may strike but must also give 14 days’ notice, notify the Arbitration Court, and provide the category of workers who propose to strike and the starting date and location of the strike. The law permits the minister of employment to declare a strike unlawful and refer the dispute to the Arbitration Court. If authorities refer the issue to the court, workers and strike leaders could face criminal charges if they persist in strike action.

Limited data were available on the government’s enforcement of legal provisions on freedom of association and collective bargaining. Penalties under law for violations of freedom of association and collective bargaining included fines and imprisonment; observers considered them sufficient to deter violations. 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 Employment, Productivity, and Industrial Relations.

The two trade union umbrella bodies, the Fiji Trades Union Congress and the Fiji Islands Council of Trade Unions, held meetings during the year without government interference.

## **b. Prohibition of Forced or Compulsory Labor**

The constitution and the law prohibit all forms of forced or compulsory labor.

The Labor Inspectorate, police, and Department of Immigration are responsible for enforcing the law, depending on the circumstances of the particular case. The government effectively enforced the law. The law prescribes imprisonment penalties, which observers generally considered sufficient to deter violations.

There were reports that forced labor occurred, including forced labor of children (see section 7.c.).

Also see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

## **c. Prohibition of Child Labor and Minimum Age for Employment**

Although the law provides that education is compulsory until 15 years, children between 13 and 15 years 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. The law sets a limit of eight hours per day that a child can work, but does not include a list of activities that are permissible. Children between 15 and 17 years may be employed, but they must have specified hours and rest breaks. They may not be employed in hazardous occupations and activities, including those involving heavy machinery, hazardous materials, mining, or heavy physical labor, the care of children, or work within security services.

The Ministry of Employment, Productivity, and Industrial Relations deployed inspectors nationwide to enforce compliance with labor laws, including those covering child labor. The government effectively enforced applicable laws, and penalties were generally sufficient to deter violations. The law provides for imprisonment, fines, or both, for companies who violate these provisions.

Poverty continued to lead children to migrate to urban areas for work, increasing their vulnerability to exploitation, and to work as casual laborers, often with no safeguards against abuse or injury. Child labor continued in the informal sector and in hazardous work, including work as wheelbarrow boys and casual laborers, including in cane farming and other agriculture. Commercial sexual exploitation of children occurred (see section 6). Some children working in the homes of

relatives were vulnerable to involuntary domestic servitude or forced to engage in sexual activity in exchange for food, clothing, shelter, or school fees.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/reports/child-labor/findings](http://www.dol.gov/ilab/reports/child-labor/findings).

#### **d. Discrimination with Respect to Employment and Occupation**

The law prohibits employment discrimination based on ethnic origin, color, place of origin, gender, sexual orientation, birth, primary language, economic status, age, disability, HIV/AIDS status, social class, marital status, employment status, family status, opinion, religion, or belief. In 2016 the law expanded the scope of legal prohibitions against employment discrimination to bar discrimination based on race, social origin, gender identity or expression, health status, conscience, or pregnancy. The law stipulates every employer shall pay male and female workers equal remuneration for work of equal value. The law prohibits women working underground in mines but places no other legal limitations on the employment of women. Under the employment relations law, workers may file complaints on the ground of sexual harassment in the workplace.

Limited data were available on the government's antidiscrimination provisions and its enforcement. Penalties for employment discrimination included fines and imprisonment and were generally sufficient to deter violations.

Discrimination in employment and wages occurred with respect to women and persons with disabilities. Women generally received less pay than men for similar work. According to the Asian Development Bank, approximately 30 percent of the economically active female population engaged in the formal economy, and a large number of these women worked in semisubsistence farming or were self-employed. Women have full rights of inheritance and property ownership by law of indigenous communal land, which constituted more than 80 percent of all land, but authorities seldom recognized this right (see section 6). The NGO Fiji Disabled People's Association reported most persons with disabilities were unemployed due to lack of access, insufficient education and training, and discrimination by employers.

#### **e. Acceptable Conditions of Work**

On August 31 under the 2017 Employment Relations (National Minimum Wage) Regulations, the government raised the national minimum hourly wage from

F\$2.32 (\$1.13) to F\$2.68 (\$1.26). The new wage rate became effective on September 30. The regulations stipulate all employers must display a written national minimum wage notice in their workplace to inform employees of their rights. There was no official poverty-level income figure, but the minimum wage did not typically provide a decent standard of living for a worker and family.

There is no single national limitation on maximum working hours for adults, but there are restrictions and overtime provisions in certain sectors. The government establishes workplace safety laws and regulations.

The Ministry of Employment, Productivity, and Industrial Relations' Office of Labor Inspectorate is responsible for enforcing the minimum wage, but the inspectorate lacked sufficient capacity to enforce the law fully. Convictions for a breach of the minimum wage law result in a fine, imprisonment, or both. The Occupational Health and Safety Inspectorate monitored workplaces and equipment and investigated complaints from workers. Government enforcement of safety standards suffered from a lack of trained personnel and delays in compensation hearings and rulings. Although mines are excluded from general workplace health and safety laws, the law empowers the director of mines to inspect all mines to provide for the health, safety, and welfare of employees. The Employment Relations Tribunal and the Employment Court adjudicate cases of employers charged by the inspectorate with violating minimum wage orders and decide on workmen's compensation claims filed by the inspectorate on behalf of workers.

Unions generally monitored safety standards in organized workplaces, but many work areas did not meet standards, and the ministry did not monitor all workplaces for compliance. Workers in some industries, notably security, transportation, and shipping, worked excessive hours. According to a May 29 article in the *Fiji Sun*, four workers died in work-related incidents during the year.