

# **FIJI 2020 HUMAN RIGHTS REPORT**

## **EXECUTIVE SUMMARY**

Fiji is a constitutional republic. In 2018 the country held general elections, which international observers deemed free, transparent, and credible. Josaia Voreqe (Frank) Bainimarama's Fiji First party won 27 of 51 seats in parliament, and he began a second four-year term as prime minister.

The Fiji Police Force maintains internal security. The Republic of Fiji Military Force is responsible for external security but may also have some domestic security responsibilities in specific circumstances. Both report to the Ministry of Defense, National Security, and Policing. Civilian authorities maintained effective control over the security forces. Members of the security forces committed numerous abuses.

Significant human rights issues included: cases of cruel, inhuman, or degrading treatment, in some cases leading to death; restrictions on free expression, such as substantial interference with the right of peaceful assembly; and trafficking in persons.

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

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

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

In April, four corrections officers at the Lautoka Corrections Center allegedly murdered one remand prisoner and assaulted two others. The officers were arrested and charged; on September 15, a court granted the officers bail. As of year's end, the trial had not yet opened.

#### **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 (POA, see section 1.d.), however, authorizes the government to use whatever force it deems necessary to enforce public order. There were reports security forces abused persons.

The police Ethical Standards Unit is responsible for investigating complaints of police misconduct. As of July, the Office of the Director of Public Prosecutions charged 38 officers for police misconduct.

On March 26, eight police officers allegedly assaulted two suspects in Tavua. The officers were arrested and charged; their first court appearance was September 3.

In April, four police officers allegedly assaulted a 32-year-old man and threw him off a bridge in Naqia village on Tailevu. The man allegedly broke COVID-19 curfew rules. The four were suspended from work, arrested, charged, and granted bail at a June court hearing. In August, the four, together with a fifth officer charged with obstruction of justice, appeared in court for plea hearings.

In September authorities investigated assault allegations by two inmates who claimed corrections officers assaulted them during a strip search and took pictures of them while the inmates were naked. The investigation continued as of November.

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

A 2016 Amnesty International report concluded that there is no independent oversight mechanism for the security forces. In brief, the legal framework means that no investigation can be initiated or disciplinary action taken against a police officer without the consent or approval of the police commissioner. Authorized investigations were usually conducted by the Internal Affairs Unit, which reports to the police commissioner, who decides the outcome of the complaint.

Information about the number of complaints, investigatory findings, and disciplinary action taken is not publicly available.

Slow judicial processes contribute to an impression of impunity, especially in police abuse cases. For example, trials have yet to begin for the alleged July 2019 police beating of Pelasio Tamanikoula or for the alleged November 2019 police beating of prisoner Manasa Rayasidamu. The three officers accused in the Manasa Rayasidamu case were suspended and brought to court on November 22 and charged with causing grievous harm. Other unresolved cases date back as far as 2017.

To increase respect for human rights by security forces, the Fiji Human Rights and Anti-Discrimination Commission (FHRADC), international organizations, and local nongovernmental organizations (NGOs) conducted a number of human rights training courses with law enforcers.

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

The national prison system remained overcrowded, with deteriorating infrastructure and complaints about inadequate essential services.

Physical Conditions: Prisons were overcrowded. In September 2018, according to an Asian and Pacific Conference of Correctional Administrators report, prisons in the country had a capacity of 1,916 and a population of 2,643. There were insufficient beds, inadequate sanitation, and a shortage of other necessities. Some prison facilities reportedly were unsuitable for aged inmates or those with physical and mental disabilities (see Improvements below).

Authorities generally separated pretrial detainees and convicted prisoners at shared facilities, although in some cases authorities held them together.

Administration: Prisoners may submit complaints to the FHRADC or judicial authorities, which investigated several complaints during the year. Although the law prohibits authorities from reviewing, censoring, or seizing prisoner letters to the judiciary and the commission, authorities routinely reviewed such letters and, in most cases, seized them. Authorities did not investigate or document credible allegations of inhumane conditions in a publicly accessible manner.

Detainees have the right to observe their religion but may not change religions or belief without consultation with prison staff.

Independent Monitoring: The Fiji Red Cross and other NGOs visited official detention facilities and interviewed inmates; prison authorities permitted such visits (with restrictions aligned to COVID-19 guidelines) without third parties present.

Improvements: In October the Corrections Services completed the new Lautoka Corrections Center, which contained facilities designed to cater to and house “elderly, disabled, and bedridden prisoners.”

#### **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 or her arrest or detention in court, unless the person is detained under the POA. The government generally observed these requirements. The law details procedures for lawful arrest. The minister of defense and national security must authorize detention without charge exceeding 48 hours.

The POA allows authorities to suspend normal due process protections where “necessary to enforce public order.” Persons detained under the provisions of the POA can be held for up to 16 days without being charged, and the POA explicitly disallows any judicial recourse (including habeas corpus) for harms suffered when the government is acting under its provisions. There are also provisions that allow for warrantless searches, restriction of movement (specifically international travel, immigration, or emigration), and permit requirements for political meetings. Authorities have used the POA’s wide provisions to restrict freedom of expression and of association.

#### **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.

Police also conduct arrests in response to warrants issued by magistrates and judges. Persons held under the POA must be charged or released after 16 days. There is no legal requirement to bring to court persons detained under provisions of the POA for judicial review of the grounds for their detention, unless authorities charge them with an offense.

The law provides for 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 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 some indigent defendants in criminal cases, a service supplemented by voluntary services from private attorneys. The “First Hour Procedure” 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 police informed all suspects of their constitutional rights, and to confirm whether suspects suffered any abuse by police prior to questioning.

Pretrial Detention: Pretrial detainees made up 24 percent of the prison population, which resulted from a continuing pattern of courts refusing bail and resource shortages. A shortage of prosecutors and judges contributed to slow processing of cases. Consequently, some defendants faced lengthy pretrial detention.

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

The constitution provides for an independent judiciary, but the judiciary was subject to intimidation.

On April 16, Acting Chief Justice Kamal Kumar set aside a decision by Nadi magistrate Siromi Turaga, who acquitted two men charged under the public health law for breaking curfew hours set by a directive from the prime minister to protect the public from COVID-19. Magistrate Turaga stated the charges were unlawful because the prime minister lacked the power to impose movement restrictions under the public health law. There were credible claims that Acting Chief Justice Kumar acted in response to statements from the attorney general criticizing Turaga’s ruling.

On May 19, Acting Chief Justice Kumar overturned a high court ruling by Justice Salesi Temo that dismissed convictions of civilians caught violating the national curfew, and directed magistrates not to follow Temo’s ruling.

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 law provide for a variety of restrictions on the jurisdiction of the courts. For example, the courts may not hear challenges to government decisions on judicial restructuring, terms and conditions of remuneration for the judiciary, and terminated court cases. Various other decrees contain 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 are generally presumed innocent; 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 and be present at their trial, with free interpretation if necessary, through all appeals. Authorities also must accord them adequate time and facilities to prepare a defense. Defendants have the right to counsel, but some reportedly were unaware of their rights when detained or interviewed and, therefore, 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, although it also stipulates that trials should “begin and conclude without unreasonable delay.” They were not always timely.

### **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.

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

The constitution prohibits such actions, but the POA 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. In September, for example, police broke up a meeting held by the then opposition leader Sitiveni Rabuka in a private residence in Rakiraki.

## **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; enforcing media standards; and regulating the conduct of media organizations. The POA also gives the government power to detain persons on suspicion of “endangering public safety” and to “preserve the peace.” The authorities continued to use broad provisions in this law to restrict freedom of expression.

Freedom of Speech: The law includes criticism of the government in its definition of the crime of sedition. This includes statements made in other countries by any person.

In late April police arrested opposition Member of Parliament and National Federation Party leader Pio Tikoduadua after he posted allegations that police had thrown a man off a bridge in Naqia village (see section 1.c.). He was quickly released, and the public prosecutions office announced there was insufficient evidence to charge Tikoduadua.

Freedom of Press and Media, Including Online Media: Independent media were somewhat active; however, journalists practiced self-censorship on sensitive political or communal topics because of restrictions in the law and monitoring by the Media Industry Development Authority. The law on media prohibits “irresponsible reporting” and provides for government censorship of media. The

opposition and other critics of the government accused the government of using state power to silence critics.

Unlike in previous years, there were no known cases of legal action directed at media.

Violence and Harassment: Unlike in previous years, there were no known cases of harassment directed at media.

Censorship or Content Restrictions: The media law authorizes the government to censor all news stories before broadcast or publication. Although the government ceased prior censorship in 2012, the law remains on the books, and journalists and media organizations continued to practice varying degrees of self-censorship citing a fear of prosecution. Despite this, media published opinion articles by academics and commentators critical of the government.

By law directors and 90 percent of shareholders in local publicly held media firms must be citizens and permanently reside in the country. The Media Industry Development Authority is responsible for enforcing these provisions and has the power to investigate media outlets for alleged violations and to search facilities and seize equipment.

A media code of ethics established in law requires that media publish and television broadcast balanced material. It obligates media to give any individual or organization an opportunity to reply to comments or provide materials for publication. Journalists reported this requirement did not restrict reporting as much as in past years.

Libel/Slander Laws: Libel, slander, and defamation are treated as civil matters under the law. The constitution, however, includes protecting the reputation of persons as a permissible limitation to freedom of expression, including by media. By law some of these conditions also apply to the internet.

In July lawyer Aman Ravindra Singh, sued for defamation by the prime minister and attorney general in 2018, was ordered to pay damages of almost Fiji \$150,000 (\$74,000) plus court costs. The court found Singh made unsubstantiated online allegations about the prime minister's and attorney general's involvement in the 2000 coup.



A second lawsuit by the supervisor of elections, also dating to 2018, charging opposition critics with posting defamatory remarks on social media, remained pending at year's end.

On October 13, a court rejected a defamation case brought by state broadcaster, Fiji Broadcasting Corporation Limited, against opposition member of parliament Niko Nawaikula for defamatory comments against it on social media. The court also denied the broadcaster's request for a permanent injunction restricting Nawaikula from further posting, circulating, or distributing statements about it or its chief executive officer.

### **Internet Freedom**

The government did not restrict or disrupt access to the internet or censor online content; unlike in previous years, there were no reports the government monitored private online communications without legal authority.

The law on online safety penalizes offenders with a substantial maximum fine and a maximum five years' imprisonment for posting an electronic communication that causes harm to a person. Critics, including rights groups and youth and women's organizations, maintain the law is a potential Trojan horse for internet censorship and punishment of online dissent.

After enacting the law in 2018, the government filed several defamation lawsuits (although none during the year) against political opponents for posting comments critical of the government on social media.

In many cases, authorities used the POA to charge critics and "rumormongers" in the days before the government released the COVID-19 budget on March 27. Eight persons, including opposition member of parliament Lynda Tabuya, were arrested for "spreading fake news or reports to create public anxiety" about COVID-19. Tabuya was arrested on March 26 for Facebook posts about COVID-19 that allegedly breached the POA, as "malicious writings of false news or reports tending to create or foster public alarm and anxiety." Tabuya was detained for four days and appeared in court on March 30 charged with one count of a malicious act contrary to the POA. The court ordered that she surrender travel documents, report weekly to a local police station, and deactivate her Facebook account for the duration of her court case. The case ended on August 17 when the prosecution withdrew the charges against her.

Others arrested on similar charges included: three women arrested on March 26 for their Facebook posts about the virus; Nemani Bainivalu, a former Fiji First Party candidate, arrested on March 27 and released on bail two days later; and a 24-year-old female radio announcer from Fiji Broadcasting charged on April 11 with one count of a malicious act for social media posts that called on individuals to stone vehicles during curfew hours.

All telephone and internet users must register their personal details with telephone and internet providers, including name, birth date, home address, left thumbprint, and photographic identification. The law imposes a moderate maximum fine on providers who continued to provide services to unregistered users and a substantial maximum fine on users who did not update their registration information as required.

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

The constitution provides for academic freedom. 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 who enter the country on tourist visas to conduct research must notify and seek permission from the government.

On June 8, police entered a University of the South Pacific campus and dismissed students who had staged a protest march in support of Vice Chancellor Pal Ahluwalia, suspended for his alleged role in exposing mismanagement of funds and cronyism at the university. On June 12, police searched and confiscated photos of the protesters from the *Fiji Times* newspaper office and questioned university staff, focusing on possible breaches of COVID-19 rules by participating in a peaceful protest.

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

The constitution provides for the freedoms of peaceful assembly and association; however, the government restricted these freedoms in some cases.

#### **Freedom of Peaceful Assembly**

The constitution 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 public officials' rights to freedom of assembly.

The POA allows authorities to use whatever force necessary to prohibit or disperse public and private meetings after “due warning,” in order to preserve public order.

### **Freedom of Association**

The constitution limits this right in the interests of national security, public order, and morality and also for the orderly conduct of elections. The government generally did not restrict membership in NGOs, professional associations, and other private organizations, but in September it did stop a meeting by then opposition leader Sitiveni Rabuka.

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

See the Department of State's *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

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

Under the POA, to enforce public order, the government may restrict freedom of internal movement, foreign travel, emigration, and repatriation.

In-country Movement: The government restricted in-country movement in certain locations and implemented a nationwide curfew as part of preventative measures against COVID-19.

Exile: The government used re-entry bans as a de facto means of exiling critics. As in past years, opposition parties called on the government to lift re-entry bans on all present and former citizens, including notably historian and former citizen Brij Lal, a critic of the government living in Australia. The Immigration Department stated Lal could reapply for re-entry into the country; however, the ban reportedly remained in place as of November. Lal was deported in 2009 for activities “prejudicial to the peace, defense, and public security of the Government of Fiji.” Lal's wife, Padma, also an academic, was stopped from re-entering the country in 2010.

### **e. Status and Treatment of Internally Displaced Persons**

Not applicable.

## **f. Protection of Refugees**

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) in providing protection and assistance to refugees and asylum seekers.

Access to Asylum: The law provides for granting asylum or refugee status, and the government has established a system for providing protection to refugees. UNHCR assisted officials in refugee status determination procedures.

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

The constitution and electoral law 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.

### **Elections and Political Participation**

Recent Elections: In 2018 voters elected 51 members of parliament. The governing Fiji First party won 27 seats, and Josaia Voreqe (Frank) Bainimarama was sworn in as prime minister for a second four-year term. In presenting its conclusions, the Australian- and Indonesian-led Multinational Observer Group stated: “Conditions supported Fijians exercising their right to vote freely. The 2018 process was transparent and credible overall, and the outcome broadly represented the will of Fijian voters.”

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. The government may prescribe eligibility requirements for voters, candidates, political party officials, and holders of public office. A requirement that new political parties present signatures from 5,000 paid-up members across the country’s four divisions was a potentially burdensome hurdle. Civil service members and trade union officials are required to resign their offices if they seek to run for political office. The law allows deregistration of political parties for any election offense.

The POA requires permits for political meetings in both public and private venues, and these were granted in an open, nonpartisan, fair way.

The electoral law restricts any person, entity, or organization from receiving funding from foreign governments, government-recognized intergovernmental organizations, or NGOs, and forbids multilateral agencies such as the World Bank from conducting or participating in any campaign, including meetings, debates, panel discussions, interviews, publication of materials, or any public forum discussing the elections. Maximum penalties for violations of the law include 10 years' imprisonment, a substantial fine, or both. The law allows universities to hold panel discussions and organize inclusive public forums.

Participation of Women and Members of Minority Groups: No law limits participation of women or members of minority groups in the political process, and they did participate. Cultural attitudes about gender roles restricted political participation by most indigenous women. Despite holding six of 13 cabinet minister positions and six of 10 assistant minister positions, Indo-Fijians, who accounted for 36 percent of the population, were generally underrepresented in government and the military.

#### **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.

Corruption: The Fiji Independent Commission against Corruption (hereafter “corruption commission”) reports directly to the president and investigates public agencies and officials, including police. Government measures to combat corruption within the bureaucracy, including corruption commission public service announcements encouraging citizens to report corrupt government activities, had some effect on systemic corruption. Media published articles on corruption commission investigations of abuse of office, and anonymous blogs reported on some government corruption.

The government adequately funded the corruption commission, but some observers questioned its independence and viewed some of its high-profile prosecutions as politically motivated.

In August the Office of the Director of Public Prosecutions charged Talib Khan, director of the police internal affairs division, with abuse of office. Khan allegedly directed the unlawful arrest of an unnamed person in 2017. In June a policewoman was charged with witness tampering in the case of the four officers suspected of throwing a curfew violator from a bridge (see section 1.c.).

Corruption cases often proceeded slowly. In June the appeals trial of former corrections chief Lieutenant Colonel Ifereimi Vasu began. Authorities dismissed him in 2015 for abuse of office related to his alleged misuse of a prison minimart. The prosecution appealed his 2019 acquittal.

Financial Disclosure: No law requires income and asset disclosure by appointed or elected officials. The law, however, requires financial disclosure by party officials and candidates running for office.

## **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.

The law constrained NGO operations in several ways. For example, the law includes criticism of the government in its definition of sedition.

Government Human Rights Bodies: The constitution establishes the FHRADC, and it continued to receive reports of human rights violations lodged by citizens. The constitution prohibits the commission from investigating cases filed by individuals and organizations relating to the 2006 coup and the 2009 abrogation of the 1997 constitution. While the commission routinely worked with the government to improve certain human rights matters (such as prisoner treatment), observers reported it generally declined to address politically sensitive human rights matters and typically took the government's side in public statements, leading observers to assess the FHRADC as progovernment.

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

### **Women**

Rape and Domestic Violence: The law recognizes rape, including spousal rape, as a crime and provides for a maximum punishment of life imprisonment for rape. The law recognizes spousal rape as a specific offense. Rape (including spousal rape), domestic abuse, incest, and sexual harassment were significant problems. As of June the Fiji Women's Crisis Center recorded 299 domestic violence cases. This was an increase over previous years, attributed to a new national toll-free help line via which victims found it easier to report abuse and to COVID-19 movement restrictions that confined victims with their abusers. The center reported that eight women died in domestic violence incidents as of September.

The law defines domestic violence as a specific offense. Police practice 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 did not consistently follow 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 utilized to mitigate sentences for domestic violence. In some cases, authorities released offenders without a conviction on condition they maintained good behavior.

In May the Fiji Women's Crisis Centre warned of a spike in domestic violence during the enforced COVID-19 lockdown and curfew, and Minister for Women, Children, and Poverty Alleviation Mereseini Vuniwaqa stated calls to the government helpline had risen from 87 in February to 187 in March and more than 500 in April. At a five-day police training program on gender-based violence training in November, Vuniwaqa lamented that when victims went to police to lodge a complaint, they were treated like suspects. Women's Crisis Centre Coordinator Shamima Ali reported that almost two in three women in an intimate relationship had experienced physical or sexual violence in their lifetime.

Sexual Harassment: The law prohibits sexual harassment, and the government used criminal law against "indecent assaults on females," which prohibits offending the modesty of women, to prosecute sexual harassment cases. Sexual harassment was a significant problem.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

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 obtaining protection orders, and police enforcement of them, in domestic violence cases.

Although the law prohibits gender-based discrimination 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 generally registered births promptly.

Education: Education is compulsory until age 15, but the law does not provide for free education. The government nonetheless as a matter of policy provides for free education, although students must pay nontuition costs, such as for uniforms.

Child Abuse: Corporal punishment was common 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 structures put children at risk of abuse and appeared to contribute to a child's chance of exploitation for commercial sex. Reports indicated the number of child abuse cases in the country increased (there were 309 reported cases from February to April) and that more children sought shelter at state-funded homes. In most cases, however, these facilities were overburdened and unable to assist all victims. The government continued its public-awareness campaign against child abuse.

Child, Early, and Forced Marriage: The legal minimum age for marriage is 18. Some NGOs reported that, especially in rural areas, girls often married before 18, preventing them from completing their secondary school education. In ethnic Fijian villages, pregnant girls younger than 18 could live as common-law wives with the child's father after the man presented a traditional apology to the girl's family, thereby avoiding the filing of a complaint with police by the girl's family. The girls frequently married the fathers as soon as legally permissible.



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

It is an offense for a householder or innkeeper to allow commercial sexual exploitation of children on his or her premises. There were no known prosecutions or convictions for such offenses.

Some high school-age children and homeless and jobless youth were subjected to sex trafficking, and there were reports of child sex tourism in tourist centers, such as Nadi and Savusavu. Child sex trafficking was perpetrated by family members, taxi drivers, foreign tourists, businessmen, and crew members on foreign fishing vessels. The NGO Pacific Dialogue and the International Labor Organization claimed to have received reports of children exploited in organized prostitution, including being advertised online.

The minimum age for consensual sex is 16. The court of appeals 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 was easier to prove in court. Defilement or unlawful carnal knowledge of a child younger than age 13 has a maximum penalty of life imprisonment; the maximum penalty for defilement of a child ages 13 to 15, or of a person with intellectual disabilities, is 10 years' imprisonment.

Child pornography is illegal. The maximum penalty is 14 years in prison, a substantial fine, or both for a first offense; and life imprisonment, a larger fine, or both for a repeat offense, plus the confiscation of any equipment used in the commission of the crime.

The law requires mandatory reporting to police by teachers, health-care, 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 <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.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 <https://www.state.gov/trafficking-in-persons-report/>.

## **Persons with Disabilities**

Discrimination against persons with disabilities is illegal. The Fiji National Council for Disabled Persons, a government-funded statutory body, worked to protect the rights of persons with disabilities. The constitution or laws address the right of persons with disabilities to reasonable access to all places, public transport, and information, as well as the rights to use braille or sign language and to reasonable access to accommodations, including materials and devices related to the disability. The constitution, however, provides that the law may limit these rights "as necessary," and the law does not define "reasonable." Public health regulations provide penalties for noncompliance, but there was minimal enabling legislation on accessibility, and there was little or no enforcement of laws protecting persons with disabilities.

Building regulations require new public buildings to be accessible to all, but only a few met this requirement.

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, in particular the deaf and blind. Parliament televised its sessions in sign language to improve access for the deaf.

There were a number of separate public 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 nongovernmental Early Intervention Center monitored them. Opportunities were very limited for secondary school or higher education for persons with disabilities.

The law stipulates that the community, public health, and general health systems treat persons with mental and intellectual disabilities, although families generally supported such persons at home. Institutionalization of persons with more significant mental disabilities was in a single, underfunded public facility in Suva.

The Fijian Elections Office continued to maintain a website accessible to the disability community, including text-to-speech capability, large type, and an inverted color scheme. The office implemented new procedures to facilitate the voting process for the November 2018 election for voters with disabilities.

### **Members of National/Racial/Ethnic Minority Groups**

Tension between ethnic Fijians and the Indo-Fijian minority was a longstanding problem. Ethnic Fijians comprised approximately 58 percent of the population, Indo-Fijians 36 percent, and the remaining 6 percent was composed of Europeans, Chinese, Rotumans, and other Pacific Islander communities. The government publicly stated its opposition to policies that provide “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. Indo-Fijians dominated the commercial sector, ethnic Fijians the security forces.

Land tenure remained highly sensitive and politicized. Ethnic 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 were descendants of indentured laborers who came to the country during the British colonial era. Almost all Indo-Fijian farmers must lease land from ethnic Fijian landowners. Many Indo-Fijians believed that their dependence on leased land constituted de facto discrimination against them. Many ethnic Fijians believed the rental formulas prescribed in national land tenure legislation discriminated against them as the resource owners.

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

### **Acts of Violence, Criminalization, 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 law prohibits discrimination in employment based on sexual orientation. Nevertheless, the FHRADC reported complaints of discrimination against lesbian, gay, bisexual, transgender, or intersex persons in employment, housing, access to health care, and other fields.

## **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 union membership. The law prohibits employers from using violence, intimidation, or stalking or hindering the work of an employee who has exercised any legal right under the labor code.

The law limits who may be an officer of a trade union, prohibiting noncitizens, for example, from serving as officers. 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.

All unions must register with the government, which has discretionary power to refuse to register any union with a name that is “offensive or racially or ethnically discriminatory.” By law the government may cancel registration of existing unions in exceptional cases.

By law any trade union with seven or more members in an industry not designated as essential may enter into collective bargaining with an employer. The law requires that parties negotiate in good faith and outlines the basic requirements of collective bargaining.

Unions may conduct secret strike ballots after giving 21 days’ notice to the Registrar of Trade Unions, and the strike may begin after the registrar supervises a secret ballot in which 50 percent of all members entitled to vote approve the strike. Workers in essential services may strike but must also notify the Arbitration Court and provide the category of workers who propose to strike, the starting date, and location of the strike. The law designates “essential service and industries” to

include corporations engaged in finance, telecommunications, public sector employees, mining, transport, and the airline industry. The definition of essential services and industries also includes all state-owned enterprises, statutory authorities, and local government authorities.

The law permits the minister of employment to declare a strike unlawful and refer the dispute to the Arbitration Court. If authorities refer the matter to the court, workers and strike leaders could face criminal charges if they persist in strike action.

The government did not enforce these rights. Penalties under law for violations of freedom of association and of collective bargaining agreements include fines and imprisonment. Penalties were not commensurate with those for other laws involving denial of civil rights. 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 (hereafter the employment ministry).

Relations between the government and the two trade union umbrella bodies, the Fiji Trades Union Congress and the Fiji Islands Council of Trade Unions, remained strained. In May 2019, police arrested several workers of the Water Authority of Fiji for breaching the POA when they protested the firing of many employees. Trades Union Congress general secretary Felix Anthony, the secretaries of the Fijian Teachers Association and the nurses' union, and an officer of the National Union of Workers were also arrested. Anthony was held for 48 hours under the POA for organizing "unlawful gatherings"; in June 2019, police again arrested Anthony, charging him with breach of the POA for false statements about the expiration of water authority employment contracts and other infractions. Anthony was later released on bail, but charges remained pending, and his case has not yet been heard by the courts.

In previous years trade unions reported additional antiunion action, including unilateral voiding of collective bargaining agreements with civil servants, lockouts and threats of retaliation to prevent unions from voting on industrial action, dismissal of union members, and a pattern of systematic harassment and intimidation. There were no reports of such problems during the year, due in part to COVID-19 restrictions.

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

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

The Office of Labor Inspectorate, police, and Department of Immigration are responsible for enforcing the law, depending on the circumstances of the case. The government did not effectively enforce the law. The law prescribes penalties that were commensurate with those for analogous serious crimes such as kidnapping.

There were reports forced labor occurred, including by children (see section 7.c.). Forced labor of adults and children occurred in the field of domestic work. Southeast Asians were subject to forced labor in manufacturing, agriculture, and fishing.

Also see the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

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

The law prohibits all the worst forms of child labor. Education is compulsory until age 15; the law specifies that children ages 13 to 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. The law sets a limit of eight hours per day on child labor but does not include a list of permissible activities. Children ages 15 to 17 may work, but 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 government effectively enforced child labor law, and penalties were commensurate with those for analogous serious crimes such as kidnapping. The employment ministry deployed inspectors countrywide to enforce compliance with child labor laws. The law provides for imprisonment, fines, or both, for companies that violate these provisions. The employment ministry maintains a database on child labor.

Poverty caused children to migrate to urban areas for work, increasing their vulnerability to exploitation in work as casual laborers, often with no safeguards against abuse or injury. Child labor continued in the informal sector and in hazardous work, for example, as wheelbarrow boys and casual laborers. Children engaged in hazardous work in agriculture and fishing. Commercial sexual

exploitation of children occurred (see section 6, Children). Some children worked in relatives' homes and 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 <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings>.

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

The law prohibits employment discrimination on the basis of ethnic origin, color, place of origin, gender, sexual orientation, birth, primary language, economic status, age, disability, HIV/AIDS status, social class, marital status (including living in a relationship in the nature of a marriage), employment status, family status, opinion, religion, or belief.

The law also stipulates that every employer pay male and female workers equal pay for work of equal value. The law prohibits women working underground but places no other legal limitations on the employment of women. Workers may file legal complaints of sexual harassment in the workplace.

The government did not provide data on the enforcement of antidiscrimination provisions. Penalties for employment discrimination include fines and imprisonment and were commensurate with those for laws related to civil rights.

Discrimination in employment and wages occurred against women and persons with disabilities. Women generally received less pay than men for similar work. The nongovernmental Fiji Disabled People's Association reported most persons with disabilities were unemployed due in significant part to discrimination by employers.

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

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. The regulations stipulate all employers must display a written national minimum wage notice in their workplace to inform employees of their rights.

The employment ministry's Office of Labor Inspectorate is responsible for enforcing the minimum wage, but the inspectorate lacked capacity to enforce the

law effectively. The Employment Relations Tribunal and the Employment Court adjudicate cases of violations of minimum wage orders. The law provides for 48 hours for a six-day workweek or 45 hours for a five-day workweek. This does not apply to managerial or executive workers. There is no legal limit for overtime hours. Convictions for a breach of the minimum wage law result in a fine, imprisonment, or both. Penalties are commensurate with those for similar crimes such as fraud.

The government establishes appropriate workplace safety laws and regulations and places responsibility for identifying unsafe situations with experts, not workers. The Occupational Health and Safety Inspectorate monitored workplaces and equipment and investigated complaints from workers. The number of inspectors was sufficient to enforce compliance. Inspectors have the authority to conduct unannounced visits but cannot enter without consent and must inform the employer of his or her presence. When inspectors believe informing the employer of their presence would prejudice the inspection, they may forgo this requirement. Obstruction of an inspection can lead to a fine. Inspectors can suspend businesses deemed to pose an immediate health or safety threat or risk. Penalties are commensurate with those for similar crimes like negligence. Government enforcement of safety standards suffered from a lack of trained personnel. Delays in compensation hearings and rulings were common.

Although the law excludes mines from general workplace health and safety laws, the director of mines is responsible for inspecting all mines to provide for the health, safety, and welfare of employees. The Employment Relations Tribunal and the Employment Court decide 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.

There were no statistics available on the frequency or type of workplace accidents. The Ministry of Employment, however, reported in mid-February that it had 1,426 workplace injury and 247 workplace death cases pending compensation adjudication. Media reported on workplace death cases. For example, in August, Rajnesh Narayn died in an accident reported at the lumber mill where he had worked for 20 years. In another case, a worker died when crushed while moving equipment in a storage yard. The employer undertook to assist local investigators.