

FIJI 2021 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 can be assigned some domestic security responsibilities in specific circumstances. Although the police report to the Ministry of Defense, National Security, and Policing, the military does not. It is subordinate only to the president as commander in chief. Within the limits of the law, civilian authorities maintained effective control over the security forces. There were credible reports that members of the security forces committed numerous abuses.

Significant human rights issues included credible reports of: cruel, inhuman, or degrading treatment by government agents; serious restrictions on free expression and media, including censorship; substantial interference with the freedom 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

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

There were no reports of such killings by or on behalf of the government during the year.

In April 2020, four corrections officers at the Lautoka Corrections Center allegedly

murdered one prisoner and assaulted two others. The officers were arrested and charged; in September 2020 a court granted the officers bail. As of December 2021, 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 Internal Affairs Unit is responsible for investigating complaints of police misconduct. As of December, the Office of the Director of Public Prosecutions charged 56 officers with police misconduct.

Court proceedings into an alleged assault on two suspects by eight police officers in Tavua in March 2020 continued as of December.

On October 8, the high court extended bail for four police officers charged for assaulting a 32-year-old man and throwing him off a bridge in Naqia Tailevu in April 2020. The man allegedly broke COVID-19 curfew rules.

Two inmates alleged corrections officers assaulted and took nude photographs of them during a strip search in 2019. Investigations were ongoing as of December.

On March 3, the Office of the Director of Public Prosecutions charged 10 corrections officers for an alleged 2019 assault against a serving prisoner who later committed suicide.

Impunity remained a problem in the security forces in some politically connected cases. The constitution and POA explicitly 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 also provides

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

There is no independent oversight mechanism for the security forces. The law requires the consent or approval of the police commissioner to begin any investigation into or take any disciplinary action against a police officer. Authorized investigations were usually conducted by the Internal Affairs Unit, which reports to the police commissioner, who decides the outcome of the complaint. If the commissioner decides there is a criminal case, it is referred to the public prosecutor for further action. Information regarding 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 had yet to conclude for the alleged 2019 police beating of Pelasio Tamanikoula or the alleged 2019 police beating of prisoner Manasa Rayasidamu. The three officers accused in the Rayasidamu case were suspended from duty and charged with causing grievous harm. Other unresolved cases dated back as far as 2017.

Prison and Detention Center Conditions

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

Physical Conditions: Prisons were overcrowded. As of February 2020, the prison system held approximately 2,550 persons in a system with an estimated capacity of approximately 1,920. There were insufficient beds, inadequate sanitation and medical care, 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 human rights

commission or judicial authorities. 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 nongovernmental organizations (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 March, 17 prison service staff members completed online studies on health care in detention, part of the service's efforts to improve medical care.

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. Except for arrests under the POA, prisoners must be charged within 24 hours of arrest or released. Under the POA, the minister of defense and national security must authorize detention without charge for a period exceeding 48 hours and may approve extending detention for up to 14 days.

The POA allows authorities to suspend normal due process protections where "necessary to enforce public order." 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 also used the POA's wide provisions to restrict freedom of expression and of association.

For example, in July authorities arrested nine persons, including opposition members of parliament and other prominent political figures, under the POA for social media criticisms of a land law amendment. (See also section 2.a., Freedom of Expression.)

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 or in response to warrants issued by magistrates and judges.

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, until and 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, including of prosecutors and judges. COVID-19 lockdown restrictions in place from April to September also slowed processing of cases. Consequently, some defendants faced lengthy pretrial detention.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary. On February 11, Parliament enacted two laws to reform the judicial system. The “criminal procedure” law abolished the lay assessor system during trials and placed decision-making authority solely with judges. The “high court amendment” law created a specialized court to enable specific judges and magistrates to preside over and speedily resolve anticorruption cases.

The president appoints or removes from office the Supreme Court, appellate, and high court judges on the recommendation of the Judicial Service Commission in consultation with the attorney general. The commission, following consultations with the attorney general, may appoint other judicial officers.

On September 21, President Jioji Konrote suspended Solicitor-General Sharvada Sharma for alleged “misbehavior” without due process provisions established in the constitution. Chief Justice Kamal Kumar told media that the president would appoint a tribunal to investigate the complaint against the solicitor-general, but on November 12, President Konrote dismissed Sharma.

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 in 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. It also stipulates that trials should “begin and conclude without unreasonable delay,” but 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.

Section 2. Respect for Civil Liberties

a. Freedom of Expression, Including for Members of the Press and Other Media

The constitution provides for freedom of expression, including for members of the press and other media, 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. Using POA powers to detain persons on suspicion of “endangering public safety” and to “preserve the peace,” authorities continued to restrict freedom of expression.

Freedom of Expression: 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.

Public opposition to government policy or proposals could provoke a sharp response. In July, for example, much of the political opposition united in condemning what media described as “hugely unpopular” government proposals to amend the law governing the trusts that manage lands held in common by most ethnic Fijian landowners in a way that many feared would remove the landowners’ authority over the use of their land by lessees. On July 25, authorities arrested nine persons, including opposition members of parliament from the Social Democratic Liberal Party and the National Federation Party and three other prominent political figures under the POA for social media criticisms of the amendment. The government alleged the critiques were a breach of the POA, because they were “malicious writings of false news or reports tending to create or foster public alarm and anxiety.” The nine were released the same day without charge, then resummoned several times later for questioning. Two former prime ministers, Sitiveni Rabuka and Mahendra Chaudhary, and Unity Fiji Party leader Savenace Narube were detained, questioned, and released without charge on July 26 over the same issue. Others questioned by police included several youth workers from various parties and indigenous rights advocates. On the evening of July 29, police raided the National Federation Party’s office and arrested a staff member, Ranjit Raju. He was held at a Suva police station for 48 hours before his release without charge.

Freedom of Expression for Members of the Press and Other 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.

Censorship or Content Restrictions: The media law authorizes the government to censor all news stories before broadcast or publication but was unused since 2012. Journalists and media nonetheless continued to practice varying degrees of self-censorship, citing a fear of prosecution. Nonetheless, media published opinion articles by academics and commentators critical of the government.

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.

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. In many cases, authorities used the POA to arrest online critics of government measures to address the COVID-19 pandemic. On July 8, Tuiloma Tawaivuna, a 48-year-old church minister, appeared in court charged with six counts of malicious acts contrary to the POA; Tawaivuna had posted social media live videos between February 10 and June 18 calling on individuals not to get vaccinated against COVID-19. The court ordered that he deactivate his Facebook account before extending him bail. On July 14, Nanise Vucago, a former university lecturer, appeared in court charged with five counts of malicious acts contrary to the POA when she posted social media comments and live videos condemning the COVID-19 vaccine. The court ordered her to surrender travel

documents and deactivate her Facebook account before releasing her on bail.

On August 24, police arrested former surgeon Jone Hawea for allegedly spreading misinformation about COVID-19 on social media. Hawea was arrested at his Lautoka home, transferred overnight to the capital Suva for police questioning, and released approximately 48 hours later without charge.

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 February 4, authorities detained University of the South Pacific Vice Chancellor Pal Ahluwalia and his wife, Sandra Price, declared them “prohibited immigrants,” and deported them for “repeated breaches” of immigration laws and their visa conditions. Ahluwalia had been spearheading efforts to investigate and address governance issues at the university.

b. Freedoms of Peaceful Assembly and Association

The constitution provides for the freedoms of peaceful assembly and association. In previous years 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” to preserve public order.

Freedom of Association

The constitution limits this right in the interests of national security, public order, and morality, and to ensure the orderly conduct of elections. The government generally did not restrict membership in NGOs, professional associations, and other private organizations.

c. Freedom of Religion

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

d. Freedom of Movement and the Right to Leave the Country

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 as part of preventive measures against COVID-19. Abuses were reported in connection with enforcement of these regulations.

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 who lived in Australia until his December 25 death. The Immigration Department stated Lal could reapply for re-entry into the country; however, the ban reportedly remained in place as of December. 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 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. The Office of the UN High Commissioner for Refugees 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. 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 way.

The electoral law restricts any person, entity, or organization involved in an election campaign from receiving funding from foreign governments, government-recognized intergovernmental organizations, or NGOs, and it 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.

On June 7, Parliament approved three amendments to reform electoral laws. The amendments grant wider discretionary powers over the electoral process to the supervisor of elections to monitor and order the removal of campaign content published by political parties that is deemed to be false, misleading, or designed to diminish public confidence in the office of the supervisor and the Electoral Commission. The office of the supervisor may direct a political party or person (including an internet service provider) to remove or correct any statement or information published during the elections, under penalty of a substantial fine, imprisonment of up to five years, or both.

Any appeals against a decision of the Registrar of Political Parties (whose role was consolidated with that of the Office of the Supervisor of Elections) are routed to the Electoral Commission instead of the high court. Critics maintained that the high court should remain the only judicial mechanism for redress, as is the case for every other constitutional independent institution in the country. Public officials previously prohibited from participating in political campaigns (such as permanent secretaries or senior military officers) can make political statements and, according to the amended law, can "conduct campaign activities" by providing information or security services. Critics alleged that the change was designed to permit use of state apparatus and resources to campaign on behalf of the ruling Fiji First Party, while other public officers, including trade unionists, remained barred from

membership in a political party.

Participation of Women and Members of Minority Groups: No law limits participation of women specifically or of members of historically marginalized or minority groups in the political process, and they did participate. Legislation passed in late September may, however, affect the voter registration status of thousands of married women and some other persons. The new legislation, designed to address an anomaly in the previous law, requires all persons registering to vote (or seeking other official identification documents) to use their birth certificate name. While some political leaders claimed the law applies only to new registrants, others argued it would require married women to reregister and that the process could prevent them from voting in the next elections.

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. 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. Corruption cases often proceeded slowly.

Section 5. Governmental Posture Towards 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 human rights commission, with which citizens may lodge reports of human rights violations. 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 human rights commission as progovernment.

Section 6. Discrimination and Societal Abuses

Women

Rape and Domestic Violence: The law recognizes rape, including spousal rape, as a crime and provides for a maximum punishment of life imprisonment. The law recognizes spousal rape as a specific offense. Rape (including spousal rape), domestic abuse, incest, and sexual harassment were significant problems. From January to March, the Fiji Women's Crisis Center recorded 486 domestic violence cases. This was an increase over previous years, attributed to a new national toll-free help line by which victims found it easier to report abuse and to COVID-19 movement restrictions that confined victims with their abusers. The center

reported one woman died in a domestic violence incident as of November.

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 also 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.

The NGOs Fiji Women’s Crisis Center and Pacific Women supported a wide range of educational, social support, and counseling measures for survivors of gender-based violence and advocated for legal reforms to strengthen protections for women and girls.

NGOs reported a “concerning increase” in gender-based violence since the pandemic began in 2020. In May alone, domestic violence cases were 60 percent higher than in May 2020. Several of the cases were classified as severe forms of domestic violence, such as the attack on a 58-year-old woman whose husband cut off her arm with a machete at the fast-food restaurant where she worked. Civil society and NGOs maintained that increased depression among women, especially those unable to access mental health-care treatment during lockdowns, combined with life in patriarchal, stressed, and locked-down households, presented a potent combination for harm for women and girls.

Sexual Harassment: The law prohibits sexual harassment, and the government also 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.

Reproductive Rights: There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

The government provided family planning services, and women had access to

contraceptives free of charge at public hospitals and clinics, and for a nominal fee if prescribed by a private physician. Nevertheless, NGOs reported some women faced societal and family pressure against obtaining contraceptives. The government provided sexual and reproductive health services, including emergency contraception, for sexual violence survivors.

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.

Systemic Racial or Ethnic Violence and Discrimination

Tension between ethnic Fijians and the Indo-Fijian minority continued to be a problem. Ethnic Fijians comprised approximately 58 percent of the population and Indo-Fijians 36 percent; 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 and ethnic Fijians the security forces.

Land tenure remained highly sensitive and politicized. Ethnic Fijians communally held approximately 87 percent of all land, the government held 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 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.

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. The law does not provide for free education, but the government as a matter of policy provided for free education to age 15, although students must pay nontuition costs, such as for uniforms.

Child Abuse: The law requires mandatory reporting to police by teachers, health-care workers, and social welfare workers of any suspected case of child abuse.

Child abuse was, nonetheless, common. As of October, 122 child sexual abuse cases were reported to the Fiji Women's Crisis Center. Urbanization, the breakdown of extended family structures, and stresses arising from lockdowns and other COVID-19 pandemic prevention measures contributed to a reported rise in abuse cases from January to October, and 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.

Corporal punishment was common in schools, despite a Ministry of Education policy forbidding it in the classroom.

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, and increased urbanization and the breakdown of traditional community and extended family structures appeared to contribute to a child's chance of exploitation for commercial sex. 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 minimum age for consensual sex is 16. The court of appeals set 10 years as 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 age 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 and health-care and social welfare workers of any suspected violation of the law.

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.

There were some 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 several 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 maintained 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. In June Parliament passed laws to improve voter participation at elections, which included provisions that allow voters with disabilities to cast their vote from their homes.

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, NGOs reported complaints of discrimination against lesbian, gay, bisexual, transgender, queer, 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. 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).

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 engage in political activity, including expressing support or opposition to a political party.

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 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 services, mining, transport, and the airline industry. The definition of essential services and industries also covers all state-owned enterprises, including the sugar refinery, 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 effectively enforce these laws. 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.

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. Court proceedings continued against Fiji Trades Union Congress general secretary Felix Anthony, arrested under the POA for false statements regarding the expiration of water authority employment contracts and other infractions in 2019. The Fiji Trade Union Congress is the largest federation of trade unions in the country, representing 70 percent of the workforce. In April the government denied a request from the congress to hold May Day rallies.

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 minimum age for work is 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. Children ages 15 to 17 may work but must have specified hours and rest breaks and may not be employed in hazardous occupations and activities, including those involving heavy machinery, hazardous materials, mining, heavy physical labor, the care of children, or security services. The law sets a limit of eight hours per day on child labor but does not include a list of permissible activities.

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 maintained 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 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 (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 effectively enforced the law, although it 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 in 2020 that most persons with disabilities were unemployed due in significant part to discrimination by employers.

e. Acceptable Conditions of Work

Wages and Hours: 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 law provides for 48 hours for a six-day workweek or 45 hours for a five-day workweek. There is no legal limit for overtime hours.

Convictions for a breach of the wage and hour laws result in a fine, imprisonment, or both. Penalties are commensurate with those for similar crimes, such as fraud. The employment ministry's Office of Labor Inspectorate is responsible for enforcing the wage and hour laws, 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.

Occupational Safety and Health: 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 their 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, such as 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 employment 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 employment ministry, however, reported in mid-March that workplace injury and death cases were pending compensation adjudication. Reports indicate most accidents occurred in construction, retail, restaurants and manufacturing sectors. Media reported on workplace death cases.

Informal Sector: The number of workers in the informal sector increased, exacerbated by COVID-19. It was estimated to include more than 66 percent of

the workforce. This included tourism, aviation, and transport sectors. Informal employment is usually characterized by a lack of structure, including nonregular working hours and a lack of access to secure benefits, welfare protection, or representation.