

FIJI 2022 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Fiji is a constitutional republic. On December 14, the country held a general election in which a coalition of the People's Alliance Party, the National Federation Party, and the Social Democratic Liberal Party won control of parliament and Sitiveni Ligamamada Rabuka became prime minister. International observers assessed the election process as free, transparent, and credible.

The Fiji Police Force maintains internal security. The Republic of Fiji Military Force may be assigned some domestic security responsibilities in specific circumstances. The police force reports to the Ministry of Defence, National Security, and Policing; the military reports to the president as commander in chief. Within the limits of the law, civilian authorities maintained effective control over the security forces. There were reports 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 freedom of expression and media, including censorship; substantial interference with the freedom of peaceful assembly; serious and unreasonable restrictions on political participation; lack of investigation of and accountability for gender-based violence including but not limited to domestic and intimate partner violence; significant barriers to accessing sexual and reproductive health services, including coerced abortion or forced sterilization of persons with disabilities; 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 July the High Court extended bail for four corrections officers allegedly involved in the death of one prisoner and the assault on two others at the Lautoka Corrections Center in 2020.

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, and Other Related Abuses

The constitution and law prohibit torture, forced medical treatment, and degrading treatment or punishment. The Public Order Act, however, authorizes the government to use whatever force it deems necessary to enforce public order (see section 1.d.). There were reports security forces abused persons.

The police Internal Affairs Unit is responsible for investigating complaints of police misconduct. As of September, the Office of the Director of Public Prosecutions charged 59 officers with various forms of misconduct, including assault, causing grievous harm, abuse of office, use of illegal drugs, unlawful wounding, and wrongful confinement. Investigations into police abuse often took years to complete; judicial proceedings were equally prolonged and seldom resulted in convictions.

On May 16, a policeman was filmed in Labasa, on Vanua Levu Island, assaulting a bus driver who had allegedly resisted arrest for unknown causes. On May 17, the *Guardian* newspaper reported the incident was seen and recorded by Lenora Qereqeretabua, a member of parliament. The officer involved was suspended from duty.

On September 14, the High Court began trial proceedings for four police officers charged for assaulting a man, age 32, and throwing him off a bridge in Naqia

Tailevu in 2020. The man allegedly broke COVID-19 curfew rules.

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 that 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 was not publicly available.

Slow judicial processes contributed to an impression of impunity, especially in police abuse cases. For example, trials had yet to conclude for the alleged 2019 police beatings of Pelasio Tamanikoula and 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 concerning inadequate essential services.

Abusive 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 1,920. There were insufficient beds, inadequate sanitation and medical care, and a shortage of other necessities. Some prison facilities reportedly were unsuitable for older inmates or those with physical and mental disabilities.

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 inhuman conditions in a publicly accessible manner.

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

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

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 defence and national security may 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.

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. By 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. 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. 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 comprised 24 percent of the prison population, resulting from a continuing pattern of courts refusing bail and resource shortages, including of prosecutors and judges. Consequently, some defendants faced lengthy pretrial detention.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary. Nonetheless, 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 regarding decisions made by the cabinet, ministers, or government departments.

In February 2021, 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 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 January 6, the High Court began hearings in a case filed by former Solicitor General Sharvada Sharma against then President Jioji Konrote, the Judicial Services Commission, and the attorney general over Sharma’s November 2021 dismissal for “misbehavior.” Sharma claimed his dismissal did not follow due process provisions established in the constitution. On May 13, after three deferrals, the High Court announced it would deliver a judgement in Sharma’s case, but as of October it had not done so.

Trial Procedures

In most cases defendants have the right to a fair trial, and the court system generally enforced this right. The constitution, however, allows for limitations on the right to a public trial and although it stipulates trials should “begin and conclude without unreasonable delay,” they were not always timely.

Defendants have the right to counsel, but some reportedly were unaware of their rights when detained or interviewed and, therefore, did not request legal counsel. The right of appeal exists, but procedural delays often hampered it.

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 of law 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 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.

On May 12, then Prime Minister Voreqe Bainimarama criticized two prominent human rights activists, Shamima Ali, coordinator of the Fiji Women’s Crisis

Center, and Sashi Kiran, founder of the Foundation for Rural Integrated Enterprises & Development Fiji, for calling for a caretaker government ahead of the December elections.

Censorship or Content Restrictions 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.

In an assessment on May 9, global watchdog Reporters Without Borders stated Fiji press freedom was very low. The report stated journalists faced intimidation or imprisonment when overly critical of the government. In local media, then Attorney General and Minister for Communication Aiyaz Sayed-Khaiyum expressed shock at the report, noting no journalists were arrested in the previous 10 years. He acknowledged, however, “instances where journalists were questioned over their reports and cases of media organizations and editors being taken to court.”

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

A code of ethics established in law requires media publish and television stations 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.

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 conviction of posting an electronic communication that causes harm to a person. Four days after the December 14 general election, two candidates for the We Unite Fiji Party, Jone Hawea and Abel Camillo, were arrested, charged with one count each of malicious actions, and arraigned. The two allegedly conducted separate live Facebook videos calling on viewers to gather at the Suva Vodafone Arena to protest the election counting process. Before releasing the men on bail, the court ordered them not to reoffend, interfere with witnesses, or post information on the internet likely to cause fear.

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 continue to provide services to unregistered users and a substantial maximum fine on users who fail to update their registration information as required.

Restrictions on Academic Freedom and Cultural Events

The constitution provides for academic freedom, although government control over funding was used to exert influence over tertiary institutions. 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.

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 provide for 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.

Exile: The government used reentry bans as a de facto means of exiling critics. Opposition parties called on the government to lift reentry bans on all present and former citizens.

e. 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: On December 14, voters went to the polls in a general election to select 55 members of parliament. None of the nine parties that contested the election secured an outright majority; only four parties passed the 5 percent minimum threshold required to enter parliament. The Fiji First Party won 42.5 percent of the vote securing 26 seats and the newly formed People's Alliance Party garnered 36 percent with 21 seats, while its coalition partner, the National Federation Party, won 9 percent of the votes to secure five seats.

Following two days of negotiations with the Fiji First Party and with the People's Alliance/National Federation coalition, on December 20, the Social Democratic Liberal Party (SODELPA), which won three seats in parliament, reached a deal to form a government with the coalition. On December 24, People's Alliance Party leader Sitiveni Rabuka was sworn in as prime minister after parliament gave him 28 votes to 27 for his opponent, former Prime Minister Bainimarama.

International observers assessed the electoral process as free and fair overall, despite some initial concerns with the pace of rolling results announcements and a glitch in the official reporting app that took it offline early in the count. The Australian- and Indonesian-led Multinational Observer Group agreed the outcome broadly represented the will of 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 referenda, to run for public office, and to hold 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 international organizations such as the World Bank from involvement in any campaign, including meetings, debates, panel discussions, interviews, publication of materials, or any public forum discussing the elections. Maximum penalties for conviction of violations of the law are 10 years' imprisonment, a substantial fine, or both. The law allows universities to hold panel discussions and organize inclusive public forums.

In 2021 parliament approved three amendments to reform electoral laws. The amendments grant wider discretionary powers over the electoral process to the supervisor of elections (SOE) to monitor and order the removal of campaign content published by political parties 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 SOE) are routed to the Electoral Commission instead of the high court. Critics maintained the High Court should remain the only judicial mechanism for redress, as is the case for every other constitutionally independent institution in the country. Public officials previously prohibited from participating in political campaigns (such as permanent secretaries or senior military officers) may make political statements and, according to the amended law, may "conduct campaign activities" by providing information or security services. Critics alleged the change was designed to permit use of state apparatus and resources to campaign on behalf of the then ruling Fiji First Party, while other public officers, including trade unionists, remained barred from

membership in a political party.

As the election season opened in April, the political opposition was subjected to a stream of complaints filed by Fiji First party General Secretary and Minister for Elections Aiyaz Sayed-Khaiyum for alleged breaches of the electoral law, ranging from false statements by candidates at rallies and illegal political donations to election bribery. The SOE acted immediately to investigate the complaints.

On June 24, the SOE referred Ratu Jope Naucabalavu, a representative of the Unity Fiji Party (UFP), to the Independent Commission Against Corruption (hereafter “corruption commission”) for investigation of allegations that during a June 22 campaign rally he promised several young members of a rugby club in the capital, Suva, that he would “sponsor a set of rugby uniforms in exchange for a pledge of support to the UFP.” On June 24, the SOE also directed the corruption commission to investigate SODELPA for violating an electoral law requirement that political parties “immediately” present written explanations of how their election manifesto policies and promises would be funded. Opposition parties were not the only object of government attack; NGOs and others working on election matters also came under scrutiny. On September 22, the SOE referred Rock the Vote Fiji, a voter awareness platform operated by Peoples Alliance Party deputy leader Lynda Tabuya, to the corruption commission for investigation. According to the SOE, the platform existed purely to “promote the election of Lynda Tabuya and other representatives of the People’s Alliance,” using numerous sporting activities and the sale of merchandise organized via the platform to amass illegal political donations.

Participation of Women and Members of Minority Groups: No law limits participation of women specifically or of members of historically marginalized groups in the political process, and they did participate. Legislation passed in September 2021, however, may affect the voter registration status of thousands of married women and some other persons. The legislation, designed to address an anomaly in the previous law, requires all persons registering to vote (or seeking other official identification documents) to use the name on their birth certificate. While some political leaders claimed the law applies only to new registrants, others argued it would require married women to reregister and the process could prevent them from voting in the next elections. There were no reports of voters being

denied poll access on these grounds in the December elections.

Cultural attitudes regarding gender roles restricted political participation of 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 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.

Prior to the election, the high court's Anti-Corruption Division found three members of parliament from the then largest opposition party, SODELPA, guilty of corruption charges brought against them in 2020. Each was sentenced each to prison terms of more than 24 months and substantial fines. Niko Nawaikula (convicted in May), Ratu Suliano Matanitobua (convicted in July), and Salote Radrodoro (convicted in September) were all leading SODELPA candidates. They were charged with fraud and submitting false information to a public servant for the purposes of claiming parliamentary allowances. The trials of two other SODELPA members and one Fiji First parliamentarian facing similar charges were underway as of December.

In August, the High Court began legal proceedings against a former senior officer of the *iTaukei* (Indigenous) Land Trust Board and a private citizen charged for the fraudulent sale of vacant land lots and for deceptively obtaining 115,100 Fiji dollars (\$50,060) from private citizens.

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 Fiji Human Rights and Anti-Discrimination Commission, at which citizens may file reports of human rights abuses. 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 practices (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 commission as progovernment.

Section 6. Discrimination and Societal Abuses

Women

Rape and Domestic Violence: The law recognizes rape of any person, including spousal rape, as a crime and conviction 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 July, the Fiji Women's Crisis Center

recorded 791 domestic violence cases. This was an increase over previous years, attributed to a national toll-free help line that provided for victims to more easily report abuses and COVID-19 movement restrictions that confined victims with their abusers.

Media reported the case of a woman who on January 25 was assaulted by her partner in the town of Cunningham, admitted to the hospital the following day, and died of her injuries on February 8. As of February 13, no arrest was made in the case. An investigation into the assault reportedly continued at year's end.

The law defines domestic violence as a specific offense. Police practice a “no-drop” policy, whereby they are required to continue 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. Other reports indicated lax police enforcement of domestic violence laws. Courts also dismissed some cases of domestic abuse and incest or gave perpetrators light sentences. Traditional and religious practices of reconciliation among aggrieved parties in both the Indigenous and Indo-Fijian communities were sometimes utilized to mitigate sentences for domestic violence. In past years, 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.

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

In June, Dr. Joji Vakadiwaiwai, former senior medical officer of Suva's Colonial War Memorial Hospital, appeared in court for a bail hearing. Vakadiwaiwai was charged with sexual assault against a medical intern in the hospital in 2020. Although he was charged and suspended from duty, his trial had not begun at

year's end.

Reproductive Rights: There were no reports of coerced abortion or involuntary sterilization on the part of government authorities. There were reports individuals with disabilities were not given the opportunity to provide informed consent to medical treatment affecting reproductive health, including sterilization.

The government provided family planning services. 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 using contraceptives. The government provided sexual and reproductive health services, including emergency contraception, for sexual violence survivors.

Discrimination: By law women have full rights of inheritance and property ownership, but local authorities often excluded them from decision-making on the disposition of Indigenous communal land, which constituted more than 80 percent of all land. Women have the right to a share of the proceeds from the lease of Indigenous land, 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.).

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 that 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 colonial-era indentured laborers. 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 verifies access for those in it to communally owned Indigenous lands.

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

Child Abuse: There are laws against 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. Through July, 21 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. In March, Minister of Education Premila Kumar reported four teachers were dismissed from service in 2021 for the corporal punishment of students.

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. Girls frequently married the fathers as soon as legally permissible.

Sexual Exploitation of Children: Child sex trafficking continued, and increased urbanization and the breakdown of traditional community and extended family structures appeared to increase children's vulnerability to commercial sexual exploitation. It is a criminal offense for any person to buy or hire a child younger than age 18 for sex, commercial sex, or other unlawful purposes; conviction of these offenses is punishable by a maximum 12 years' imprisonment. While there were reports of child trafficking for commercial sexual exploitation, no prosecutions or convictions took place during the year.

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. Conviction of defilement or unlawful carnal knowledge of a child younger than age 13 has a maximum penalty of life imprisonment; the maximum penalty for conviction of the defilement of a child age 13 to 15, or of a person with intellectual disabilities, is 10 years' imprisonment.

Production but not possession or consumption of child pornography is illegal. The maximum penalty for conviction 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. Authorities generally enforced the law against production of child pornography.

The law requires mandatory reporting to police by teachers, health-care workers, and social workers of any suspected violation of the law.

Antisemitism

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

Trafficking in Persons

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

Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation, Gender Identity or Expression, or Sex Characteristics

Criminalization: No laws criminalize consensual same-sex sexual conduct between adults.

Violence against LGBTQI+ Persons: NGOs reported violence against members of the lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI+) community was common, and that strong and widespread social stigma contributed to a lack of trust in police and discouraged victims from reporting crimes to authorities due to fear of further violence or harassment. Reports indicated transgender women continued to face extremely high rates of sexual and gender-based violence, including routine harassment and targeting by police.

Discrimination: 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 LGBTQI+ persons in employment, housing, access to health care, and other fields.

Research by the NGO Diverse Voices and Action for Equality (DIVA) found that a majority of lesbian and bisexual women, and of transgender persons, lived in poverty due to unemployment. According to DIVA, approximately 62 percent of this group were unemployed or involved in precarious casual work.

Availability of Legal Gender Recognition: Legal gender recognition was not available. The lack of identification that aligned with their gender expression created significant problems for some persons in employment, education, housing, and other aspects of daily life.

Involuntary or Coercive Medical or Psychological Practices Specifically Targeting LGBTQI+ Individuals: There were no known reports of involuntary or coercive medical or psychological practices on LGBTQI+ persons. Although the country does not have a law banning so-called conversion therapy, health-care professionals are prohibited from attempting to change a person's sexual orientation. There were no known cases of enforcement action.

Restrictions of Freedom of Expression, Association, or Peaceful Assembly: There were no known reports of restrictions on those speaking out concerning LGBTQI+ topics, although cyber bullying and hate speech against transgender individuals increased.

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 provide for the rights of persons with disabilities to reasonable access to all places, public transport, and information; to use of braille or sign language in official communications; and to reasonable access to accommodations, including materials and devices related to the disability. The constitution, however, provides for the

law to 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 for the deaf and blind. Parliament televised its sessions in sign language. According to the UN Population Fund, sign language interpreters were not always readily available in health care facilities. The general lack of accessible communication devices made it difficult for women with sensory disabilities to seek out gender-based violence services.

Several public schools specifically for children with disabilities offered primary education services; 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 or higher education for persons with disabilities.

The law stipulates community, public, and general health-care 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. On July 7, the office received 2,100 copies of the first-ever braille Assisted Voting Steps Easy to Read Guide to facilitate voting for blind and visually impaired voters. The office also has procedures to facilitate voting by other voters with disabilities, including provisions that allow voters with disabilities to vote from home.

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, stalking, or otherwise 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 for, 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 the 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

the 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. The penalties were sometimes applied.

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. On October 24, a trial began against Fiji Trades Union Congress General Secretary Felix Anthony, charged under the POA for false statements regarding the expiration of water authority employment contracts and other infractions in 2019. Proceedings were postponed after the prosecution informed the court several key witnesses were unavailable. The Fiji Trade Union Congress is the largest federation of trade unions in the country, representing 70 percent of the workforce.

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 the Department of Immigration are responsible for enforcing the law, depending on the circumstances of the case. The government did not effectively enforce the law. There were reports forced labor occurred, including of children (see section 7.c.). Forced labor of adults and children occurred in domestic service. 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

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 or 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 every employer pay men and women equal pay for work of equal value, although employers generally paid women less than men for similar work. 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 always effectively enforce the law, and 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. Penalties were sometimes applied against violators.

Discrimination in employment and wages occurred against women and persons with disabilities. The nongovernmental Fiji Disabled People's Association reported in 2020 most persons with disabilities were unemployed due in significant part to discrimination by employers.

e. Acceptable Conditions of Work

Wages and Hour Laws: 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.

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. Occupational safety and health (OSH) experts actively identified unsafe conditions in addition to responding to workers' complaints. The Employment Ministry recorded a total of 1,750 workplace injury and 135 death cases during 2021. Of the 135 fatalities recorded, 115 deaths were from natural causes and 20 were workplace fatalities. No death cases pended compensation adjudication as of December 2021. Reports indicated most accidents occurred in the construction, retail, restaurant, and manufacturing sectors. Media reported on workplace death cases.

Wage, Hour, and OSH Enforcement: 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 Occupational Health and Safety Inspectorate monitored workplaces and equipment, investigated complaints from workers, and effectively enforced minimum wage, overtime, and OSH laws. The number of inspectors was sufficient to enforce compliance. Inspectors have the authority to conduct unannounced visits but may not 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. Obstructing an inspection may lead to a fine. Inspectors may 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. Penalties were regularly applied against violators.

OSH in mines is the responsibility of the director of mines.

The Employment Relations Tribunal and the Employment Court adjudicate 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.

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 the 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.