



## Fiji

### Country Reports on Human Rights Practices - [2002](#)

Released by the Bureau of Democracy, Human Rights, and Labor  
March 31, 2003

Fiji is a constitutional republic with an elected President, Prime Minister and Parliament. Ethnicity remained a dominant factor in the country's politics, economy, and society. Following free and fair elections in 2001, its political situation improved; however, concerns remained about the composition of the Cabinet. The 1997 Constitution requires that any party receiving more than 10 percent of the seats in Parliament be given cabinet positions. However, when Prime Minister Laisenia Qarase of the Duavata ni Lewenivanua (SDL) party formed a government in late 2001, it excluded the Fiji Labor Party (FLP) led by deposed Prime Minister Mahendra Chaudhry, although the FLP had won substantially more than 10 percent of the parliamentary seats in the 2001 elections. The FLP took legal action against the Government, and in March the Court of Appeal ruled in favor of the FLP; the Government appealed the decision to the Supreme Court. The case was pending at year's end. In February coup leader George Speight was sentenced to death for his role in the armed takeover of Parliament in May 2000; however, the sentence was commuted to life imprisonment. Two other prominent members of the rebel group were still awaiting trial at year's end. The military completed two of four courts martial and convicted over 80 mutineers involved with the coup, including a number of officers. The Constitution provides for an independent judiciary; however, the judiciary at times was subject to political influence.

During the year, civilian authorities generally exercised effective control of an unarmed civilian police force and the small Republic of Fiji Military Forces (RFMF). There were no instances where security forces acted independently of government authority. There were no reports of human rights abuses by the RFMF. However, there were occasional complaints of human rights abuses by the police.

The population of approximately 845,000 is multiracial and multicultural, with indigenous Fijians making up 51 percent, Indo-Fijians (descendents of immigrants from the Indian subcontinent) 42 percent, and Asians, Caucasians, and other Pacific Islanders making up the rest. Indo-Fijian families dominated the business sector and enjoyed higher average incomes; however, indigenous Fijians were the majority in government ministries and the armed forces. One of the Government's primary goals was an affirmative action program, or "Blueprint," designed to aid indigenous Fijians in education and business. Sugar and tourism accounted for more than half of foreign exchange earnings. The inefficient sugar industry was hampered severely by industrial disputes and an outmoded infrastructure; however, tourism recovered during the year to approximately the levels it occupied before the 2000 coup. Investment was depressed due to continuing concerns over the resolution of land lease issues and the pending Cabinet composition court case. The country's major trading partners, Australia and New Zealand, lifted sanctions imposed after the 2000 coup. Skilled workers and professionals continued to emigrate in large numbers, reflecting a shortage of economic opportunities.

The Government generally respected the human rights of its citizens; however, its record remained poor in some areas. Constitutional provisions maintain an ethnically based electoral system, and a number of government policies on hiring, education, and land tenure preferences provided protection for indigenous Fijian interests in accordance with that Constitution. The ethnic divide between the governing SDL (mainly composed of indigenous Fijians) and the FLP (mainly composed of

Indo-Fijians) remained a recognized obstacle to long-term political stability. The Prime Minister increasingly identified himself as the leader of all Fijians rather than of a single ethnic group. Nonetheless, ethnic discrimination remained a serious problem. On several occasions Members of Parliament (M.P.s) made racist remarks against Indo-Fijians. Evictions of Indo-Fijian tenant farmers by indigenous Fijian landowners occurred, often with no government response. Occasional police abuse of detainees and suspects occurred. Other human rights problems included restrictions on freedom of assembly, violence and discrimination against women, and some instances of abuse of children. Human rights advocates and others asserted that the July appointment of Daniel Fatiaki as Chief Justice of the Supreme Court was motivated by the Government's desire to delay the Court's consideration of the case involving the composition of the Cabinet. Fiji was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as an observer.

## RESPECT FOR HUMAN RIGHTS

### Section 1 Respect for the Integrity of the Person, Including Freedom From:

#### a. Arbitrary or Unlawful Deprivation of Life

There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents during the year.

At year's end, the Government had not taken action in the 2001 case of a soldier who fatally shot a farmer cultivating marijuana in the course of a joint military-police drug operation, and no action appeared likely.

The November 2000 mutiny at the Queen Elizabeth Barracks in Suva caused 8 deaths, 3 of them loyalist soldiers, and approximately 24 other military casualties. Five mutineers were killed in the custody of loyalist troops. Many of the mutineers were members of a special forces unit involved with the May 2000 takeover of Parliament. On November 6, 15 members of this unit were convicted of mutiny, and several were also convicted on lesser charges. The mutiny's leader was sentenced to life imprisonment plus 15 years; other defendants received sentences ranging from 18 months to 8 years in prison. Two defendants were still awaiting trial at year's end. In January Amnesty International (AI) expressed concern regarding the deaths in custody of the five mutineers, and alleged efforts by the military to prevent police from interviewing and prosecuting suspects in those deaths. By year's end, no legal or disciplinary action had been taken against soldiers involved in the deaths of the five mutineers.

In August 2000, President Ratu Josefa Iloilo granted immunity from criminal prosecution or civil suits for members of the Disciplined Forces (persons in active or discharged military positions who participated in events while the Emergency Decree was in effect). This announcement, issued under the Emergency Decree, would dismiss any civil or criminal charges brought against a law enforcement officer or soldier in connection with acts related to the May 2000 takeover of Parliament or the November 2000 mutiny.

At year's end, the Government had not taken action against the security officers who killed a prisoner during the prison disorder at Naboro prison in July 2000, and none appeared likely.

#### b. Disappearance

There were no reports of politically motivated disappearances.

Following the November 2000 mutiny, a soldier was taken from his home by security forces. His body was discovered a few days later (see Section 1.a.). At year's end, no action had been taken in this case, and none was considered likely.

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

The Constitution provides for freedom from torture and cruel, inhumane, degrading, or

disproportionately severe treatment or punishment; however, there were some reports of abuses by police. In November three Indo-Fijians complained that they were beaten and subjected to racial slurs and extortion by police officers in civilian clothes.

The Police Department's Internal Affairs Unit is required to investigate complaints of police brutality. The law permits corporal punishment as a penalty for criminal acts, but the courts seldom invoked this provision. In response to public concern regarding police brutality, the Human Rights Commission conducted training courses for police field investigators, sergeants, and prison officers in 2001.

Corruption in the police force was a problem. Undertrained police officers received only on-the-job instruction, which may have contributed to the problem of corruption. During the year, the police hired a large number of decommissioned military personnel as special constables. Many had criminal records and had allegedly been involved in robberies and other illegal activities. Police and immigration officials faced serious corruption charges relating to the entry of illegal Chinese immigrants into the country. Newspaper articles linked prominent police figures to an organized crime figure from the People's Republic of China (PRC); police were accused of providing protection, forging documents, and destroying key files relating to criminal activity.

During the year, the son of deposed Prime Minister Mahendra Chaudhry filed suit against the 2000 coup leaders and several government institutions, including the army, seeking damages for abuses allegedly suffered while he was held hostage during the May 2000 armed invasion of Parliament. He indicated that he had been assaulted on several occasions and subjected to severe physical and mental cruelty.

Prison conditions did not meet international standards, and prison conditions, particularly at Suva and Naboro Prisons, remained poor. The prison system was seriously underfunded, with deteriorating infrastructure and poor delivery of essential services including food and sanitation. There were 883 prisoners in 18 prisons countrywide; the combined capacity for all prisons was 1,002 persons. Men and women were held separately; juveniles were held separately from adults; and pretrial detainees were separated from convicted prisoners. The Fiji Human Rights Commission delivered a report to the Government regarding their concerns on conditions for inmates in solitary confinement.

The Government maintained a separate detention center on Nukulau Island outside of Suva for convicted May 2000 coup leader George Speight, and for two of his supporters who at year's end were still awaiting trial for treason. Detainees were granted some freedom of movement, including recreation, but facility access remained tightly controlled. Family members and a few other visitors were permitted to visit; however, the International Committee for the Red Cross (ICRC) was denied access. The police continued to investigate Speight, his supporters, and those who financed the attempted takeover of Parliament in May 2000. At year's end, all but two of the others arrested in connection with the events of May 2000 had been convicted of lesser charges or released.

By year's end, no action had been taken against prison officials involved in the death of 1 inmate and injuries to 15 others at the Naboro prison in 2000 (see Section 1.a.).

Aside from the special regime for prisoners on Nukulau Island, the Government permitted visits to prisons by church groups, family members, and the Fiji Red Cross.

#### d. Arbitrary Arrest, Detention, or Exile

The law provides that a person may be arrested only if police believe that a criminal law has been broken or is about to be broken. Arrested persons must be brought before a court without "undue delay." This requirement normally is taken to mean within 24 hours, with 48 hours as the exception. Detainees have the right to a judicial review of the grounds of their arrest; nonetheless, incommunicado and arbitrary detention continued to occur on occasion. In November three Indo-Fijians alleged that they were beaten by police while attempting to report a theft (see Section 1.c.).

Family members and international nongovernmental organizations (NGOs) questioned the lengthy

detentions without charge of persons allegedly involved in the November 2000 mutiny (see Section 1.a.).

The Constitution prohibits forced exile, and the Government did not practice it.

#### e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however, the judiciary at times has been subject to political influence.

Controversial Chief Justice Timoci Tuivaga retired in July and the Government appointed Daniel Fatiaki, a High Court judge, to replace him. Fatiaki was reportedly one of the judges who advised the President to abolish the 1997 Constitution and issue emergency decrees, and the media questioned the suitability of this appointment. A domestic human rights group contended that the Government's motivation in appointing Fatiaki was to delay a hearing on the Supreme Court case on the composition of the Cabinet (see Section 3). The judicial structure is patterned on the British system. The principal courts are the magistrate courts, the High Court, the Court of Appeal, and the Supreme Court. Expatriate judges are used in key cases. There are no special courts; military courts try members of the armed forces. Magistrate courts continued to try the large majority of cases. In addition to its jurisdiction in serious civil and criminal cases, the High Court is granted special interest jurisdiction on behalf of the public and is empowered to review alleged violations of individual rights.

Defendants have the right to a public trial and to counsel. Trials in the High Court provide for the presence of assessors (citizens randomly selected to represent the community); cases in magistrate courts do not. Many rape and sexual assault cases were heard in the magistrate courts; since magistrates are not authorized to impose sentences longer than 5 years in prison, this resulted in light sentences in most domestic or family law cases. The Legal Aid Commission provided counsel to some indigent defendants, a service supplemented by pro bono services from private attorneys. The right of appeal existed but was hampered by delays in the judicial appeals process. Bail was granted freely. The courts had a significant backlog of cases, with processing slowed further by a shortage of prosecutors. Some defendants faced lengthy pretrial detention. In October the Parliament passed a new bail law, which allows persons in pretrial detention for longer than 2 years to await their trials at home under conditions set by the court.

The law sometimes treated women differently from men. In some instances, there was a presumption of reduced competence and thus reduced responsibility for women. For example, only women could be charged with infanticide; if a man kills an infant, the act is treated as murder, a more serious charge. A female defendant in an infanticide case was presumed to have diminished mental capacity, and sentences were reduced or suspended accordingly. A new Family Law Bill provoked widespread debate during the year. Its provisions included giving illegitimate children the same rights as legitimate children, establishment of "no fault" divorce, and the establishment of a family court. At year's end, the bill was undergoing public hearings.

There were no reports of political prisoners.

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

The Government generally respected the privacy of the home. However, the Home Affairs Ministry, as well as the police and the armed forces, have the power and capability to search persons and property, access private financial records, and monitor mail and telephones when a warrant is issued by the National Security Council. Police checkpoints remained common; military checkpoints were not used during the year. The Home Affairs Ministry conducted surveillance of persons whom it believed represented a security threat.

### Section 2 Respect for Civil Liberties, Including

#### a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government generally

respected these rights in practice. However, the Government retained controls instituted in July 2000 restricting the right to meet and speak out on human rights and democracy. Civil society groups were required to file a petition regarding proposed meetings: petitions were treated on a case-by-case basis, and several prominent events have been denied permits. These controls are reviewed every 21 days.

The Media Council's Complaints Committee, a private watchdog group of media and academic figures, accepted complaints related to the media and published its findings during the year. Most of the complaints cited inappropriate media coverage, including invasions of privacy, and there were no complaints regarding government pressure on or interference with the media.

A variety of opinions, including criticism of the Government, were heard in all major media outlets. Political figures and private citizens could and did speak out regarding the country's political situation and against the Government. Letters on editorial pages and editorials that ran in the three English-language dailies frequently contained political statements from a wide cross section of society critical of the Government. However, the Public Order Act and other laws prohibited actions that were likely to incite racial antagonisms.

Legislation pertaining to the press is contained in the Newspaper Registration Act and the Press Correction Act. Under these acts, all newspapers had to be registered with the Government before they could publish. The acts gave the Minister of Information sole discretionary power to order a newspaper to publish a "correcting statement" if, in the Minister's view, a false or distorted article was published. Should a newspaper refuse to publish the Minister's correction, it could be sued in court and, if found guilty, fined approximately \$500 (FJ\$1,125). Individuals in such cases could be fined, imprisoned for 6 months, or both. These acts would authorize the Government to arrest any person who published "malicious" material. This would include anything the Government considered false information that could create or foster public alarm or result in "detriment" to the public. However, this authority has never been used.

The country's television news production was owned and operated by Fiji One, one of only two national noncable television stations. A trust operating on behalf of the provincial governments owned 51 percent of Fiji One; the other 49 percent was owned by private individuals and interests. In October the Prime Minister stated publicly that the market was too small for more than one television station; however, a privately owned Christian station opened early in the year. The Government owned the Fiji Broadcasting Corporation, which operated four radio stations. There were several thriving independent radio stations broadcasting in English, Fijian, and Hindi.

Under the Television Act, the Government is allowed to influence programming content. The Government considered legislation requiring Fijian-culture content programming; however, there was no attempt to use the programming authority during the year.

In the past, government holdings in Fiji TV One and the Fiji Post and Fiji Sun newspapers raised questions as to the complete independence of the press. However, these and other media outlets frequently criticized the Government during the year regarding implementation of its affirmative action policies, ministerial competence, alleged scandals, and racist remarks by M.P.s. Muted criticism of the traditional chiefly system has also appeared, with wide coverage of a PriceWaterhouse report on the system.

The Fiji News Council worked to improve journalistic standards, safeguard media independence, and resolve complaints from the public. The Fiji Islands Media Association, an affiliate of the Pacific Islands News Association, also provided training opportunities for journalists and established a media code of ethics.

The Government did not control or limit Internet access.

Academic freedom was generally respected; however, government work-permit stipulations and University of the South Pacific contract regulations effectively deterred most university employees from participating in domestic politics. Many academics wrote for the media and included disclaimers

in their work to preclude contract or work permit problems.

#### b. Freedom of Peaceful Assembly and Association

The 1997 Constitution provides for the right to assemble for political purposes, subject to restrictions in the interest of public order. In practice, most applications for the required meeting permits were denied.

During the Asia Caribbean Pacific (ACP) meeting held in the country in July, the Government refused permits to nongovernmental organizations (NGOs), including the prodemocracy and human rights group Citizens Constitutional Forum (CCF), for the purpose of staging peaceful protests regarding unsettled political issues in the country. The Prime Minister indicated that such protests were foreign to the country and that they would undermine the success of the ACP meeting. Only two permits for protest demonstrations have been granted since the events of May 2000. The first was authorized in November, to a government-supported group contesting the election of a Labor Party candidate as mayor of Lautoka. The second authorized permit was granted to the CCF for a demonstration in December.

The 1997 Constitution provides for freedom of association, and the Government generally respected this provision in practice. Opposition parties operated without government interference. Political organizations operated and issued public statements.

#### c. Freedom of Religion

The 1997 Constitution provides for freedom of religion, and the Government generally respected this right in practice. The Government did not restrict foreign clergy and missionary activity or other typical religious activities. Religious groups were not required to register. Religious differences are largely along ethnic lines; most ethnic Fijians are Christians, and most Indo-Fijians are Hindu, with a sizable minority of Muslims. The Government protected the rights of all religious groups. However, junior Muslim civil servants in the Revenue and Customs Authority were ordered to shave off their beards, on the grounds that beards were not neat and gave an unprofessional image to the organization. Some of these employees requested a reversal of the order, but it remained in effect at year's end. The major holidays of Christianity, Hinduism, and Islam were celebrated nationally.

The role of religion was tied closely to existing racial antagonisms and continued to be a political issue. Prominent figures in the Methodist Church and allied political parties continued to advocate the establishment of a Christian state. This statement received public support from several M.P.s. The Church has displayed strong nationalist sympathies; former Methodist Church General Secretary Tomasi Kanilagi was appointed a senator in 2001. During the year, Senator Kanilagi made several remarks perceived to be racially biased. Those parties dominated by Indo-Fijians did not support the establishment of a Christian state and insisted that church and state should remain separate.

Religious leaders in the minority Muslim population continued to request the establishment of separate Islamic courts for their community; however, the issue was not prominent during the year. A small Hindu temple suffered minor vandalism during the year; the Government and others condemned the act.

For a more detailed discussion see the 2002 International Religious Freedom Report.

#### d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights; however, the Government has broad powers to limit freedom of movement in the interest of national security, and access to Nukulau Island, site of a maximum-security detention center for persons charged with treason, was restricted during the year.

Citizens are free to emigrate. The majority of emigrants have been Indo-Fijians, although many ethnic Fijians have left the country as well. The Government does not restrict the return of citizens. Occasional detentions at the airport occurred, but the courts have ordered redress where warranted.

An internally displaced persons camp near Lautoka was closed; it had housed approximately 200 Indo-Fijians threatened by serious violence after the May 2000 coup. Residents returned home or resettled in Lautoka proper.

The law includes provisions for providing refugee and asylum status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. In the past, the Government has been reluctant to grant first asylum without assurances that the asylum seeker would be moved to a third country.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The 1997 Constitutional amendments reduced the ethnically based factors that previously had abridged the right of citizens to change their government. Under its provisions, the Prime Minister and the President can be of any race. It established a 71-member lower house with 25 seats open to any ethnicity and 46 seats allocated to different ethnic communities. The unprecedented open seats were established by an electoral commission and apportioned into districts of approximately equal population. Of the 46 communal seats, 23 were allotted to indigenous Fijians, 19 to Indo-Fijians, 3 to "general voters" (for the most part Caucasians and East Asians), and 1 to the Rotumans (an ethnically distinct Polynesian group). These allotments were roughly proportional to the current ethnic composition of the country's population. The amended Constitution also contained an alternate voting system for elections to the lower house to replace the first-past-the-post system of the previous constitution. The Senate remained an appointed body, in which the President appoints 32 members, the Great Council of Chiefs nominates 14 members, the Prime Minister nominates 9, the opposition leader nominates 8, and the Council of Rotuma nominates 1 member. Several persons prominently and publicly involved in the 2000 coup were among the Prime Minister's Senate nominees.

In May 2000 the country's first Indo-Fijian Prime Minister, Mahendra Chaudhry, was taken hostage, along with other members of Parliament. Interim civilian authorities, backed by the military, became a caretaker administration pending elections held between August 25 and September 1, 2001. Observers noted that the election process was largely free and fair and reflected the will of the voters, despite some technical problems with polling and ballot counting. Several court challenges based on these irregularities were heard during the year, resulting in the FPL gaining two seats in Parliament. Other challenges were pending at year's end.

Prime Minister Laisenia Qarase's SDL party received the largest number of seats in Parliament; Qarase was asked to form a government by President Iloilo. However, despite a constitutional provision requiring that any party which receives more than 10 percent of the seats in Parliament be offered inclusion in the Cabinet, the Qarase Government excluded Mahendra Chaudhry's Fiji Labor Party (FLP). Chaudhry subsequently took legal action against Qarase; due to the appointment of a new Chief Justice in July and to dilatory tactics by the Government, the case was not expected to be heard before mid-2003.

In February George Speight, leader of the May 2000 coup, was found guilty of treason and sentenced to death; however, the sentence was commuted to life imprisonment. Two other prominent members of the rebel group pled not guilty to treason and still were awaiting trial at year's end. The remaining persons charged in the case were found guilty on lesser charges or were released. The police continued to investigate Speight, his supporters, and those who financed the takeover of Parliament in May 2000.

In addition to individuals charged with treason, the police have investigated prominent citizens who allegedly were involved in the takeover of Parliament. The reluctance of witnesses to provide statements reportedly has hampered investigations. During the year, there were renewed calls for action against persons implicated but not charged in the May 2000 coup. The Fiji Law Society called for the arraignment of the current Deputy Speaker of Parliament and former rebel attorney general,

Ratu Rakuita Vakalalabure, on treason charges. On December 16, the FLP called for an indictment on treason charges of Vice President Jope Seniloli, who had served as the president of the rebel government. Encouraged by the successful prosecution of some of the military members responsible for the November 2000 mutiny, the public called for additional trials for those implicated in a separate, abortive mutiny conspiracy in December.

In the 2001 elections, 30 ethnic Fijian women and 1 Indo-Fijian woman ran for election to Parliament; 5 women were elected to the 71-seat House of Representatives. Two women were appointed to the 32-member Senate. After the election, four ethnic Fijian women were appointed to the Cabinet (two as ministers and two as assistant ministers) and another was appointed to fill a vacancy in Parliament. Women also played important roles in the chiefly system and could be chiefs in their own right. The wife of former President Ratu Mara is one of the three highest-ranking chiefs.

#### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

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

The CCF challenged the validity of the interim administration in court in 2001 but was deregistered as a nonprofit organization in early February 2001. The interim administration asserted that the CCF had not complied with the standards for nonprofit organizations set in the Charitable Trust Act. The CCF then reorganized as a nonprofit and refiled its case, with a March 2001 judgment rendered in favor of the CCF.

The constitutionally mandated Human Rights Commission (HRC) was operational, with its normal staffing pattern in place. (It essentially had ceased operating from mid-May to mid-September 2000.) During the year, it appeared to be impartial and independent.

The HRC has received approximately 700 requests for assistance since it began operation in 1999. Most involved alleged abuse by police and prison officers. Although it had a backlog, the commission investigated most of the claims, as well as allegations against the military involved in the November 2000 mutiny. The HRC's work was hampered by the Constitutional Redress Rules, which stipulated that the HRC and others had to file human rights cases in the High Court within 30 days of receiving the complaint. The HRC continued to host a weekly radio program to educate citizens about their rights under the 1997 Constitution.

There were also several small, foreign-based organizations that concentrated on local human rights causes, including the Coalition for Democracy in Fiji (with offices in New Zealand and Australia) and two United Kingdom-based groups, the International Fiji Movement and the Movement for Democracy in Fiji. There was little interaction between the Government and these groups.

The ICRC continued to operate an office in the country.

#### Section 5 Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution prohibits discrimination based on race, sex, place of origin, political opinion, color, or creed. It also provides specific affirmative action provisions for those disadvantaged as a result of such discrimination. A compact included in the Constitution specifically provides for affirmative action and "social justice" programs to secure effective equality of access to opportunities, amenities, and services for ethnic Fijians and Rotumans and for all disadvantaged citizens and groups. The Constitution cites the "paramouncy" of Fijian interests as a guiding principle for the protection of the rights of indigenous citizens.

#### Women

Domestic abuse, rape, and incest were major problems. Reliable estimates indicated that 10 percent

of women had been abused in some way. An active women's rights movement addressed the problem of domestic violence. Police have adopted a "no-drop" rule, under which they prosecute cases of domestic violence even when the victim does not wish to press charges. Nonetheless, cases of domestic abuse and incest were often dismissed by courts or received minimal sentences. The traditional practice of reconciliation between the aggrieved parties was sometimes taken into account to mitigate sentences in domestic violence cases, particularly in cases of incest.

The women's rights movement pressed for serious punishment for rape. Sentences varied widely but were generally lenient. In April a 28-year-old man convicted of raping his 15-year-old sister was sentenced to 5 years in prison, the maximum penalty a magistrate was permitted to impose. Later the same month, a magistrate told a farmer charged with three counts of rape that women should not be raped even if they were "mentally unstable." The defendant in this case claimed full rehabilitation after undergoing a so-called religious deliverance session of counseling and prayer; the judge found him guilty but suspended the sentence. Women's groups continued to urge that all rape cases be heard in the High Court, where heavier sentences were available. However, by law an accused rapist retains the right to choose between the High Court and magistrates' courts. Only one case in the last 6 years has been sent to the High Court. Marital rape is not a crime, but is included in pending legislation on sexual offenses.

In addition to the rise in domestic violence, in previous years there have been a number of deaths of Indo-Fijian women that appeared to be bride burnings. (Bride burning is an attack on a wife by members of the groom's family dissatisfied with dowry payments. These attacks are often staged as kitchen accidents or suicides and result in the fatal burning of a victim.) Police investigations concluded that the victims had committed suicide, burning themselves so severely as to cause death. However, the women's rights community asserted that these deaths were bride burnings. There were no confirmed reports of such deaths during the year.

Prostitution is illegal; however, it was a growing problem, particularly in Suva. The law prohibits sex tourism as well as sexual harassment; neither was considered to be a significant problem.

Suva, Ba, Labasa, and Lautoka have women's crisis centers funded by foreign governments, which offer counseling and assistance to women in cases of domestic violence, rape, and other problems such as child support. The NGO Fem'link Pacific distributed information at the grassroots level and encouraged community-based dialog. In 2001 the Ministry of Women began a Gender Awareness Program to educate soldiers and police officers about women's issues.

Under the Constitution, male and female citizens enjoy equal rights in regard to the granting of residence for spouses, and with regard to the registration and racial designation of children for purposes of enrollment on electoral rolls and entitlement to ethnic communal property rights.

Women had full rights of property ownership and inheritance, and a number were successful entrepreneurs. Other than a prohibition on working in mines, there were no legal limitations on the employment of women. Women were generally paid less than men.

#### Children

Although hampered by resource constraints, the Government devoted 19 percent of the national budget to education and also worked to improve children's health and welfare. School is mandatory until age 15. The inability of some families to pay school fees and bus fare limited attendance for some children. During the year, in response to a case brought by the Human Rights Commission, the High Court ruled that corporal punishment in schools was illegal. Before the Court's decision, there were several reports of corporal punishment in schools early in the year. In October human rights groups criticized Minister of Education Ro Teimuna Kepa for her public endorsement of corporal punishment as an effective means of discipline in schools.

In 2001 the Government launched an education policy designed to narrow the gap in academic achievement between indigenous and Indo-Fijian students. As part of this policy, the Government allocated more resources for schools run by indigenous citizens and for improved training of

indigenous Fijian teachers. During the year, a former Indo-Fijian education minister characterized the policy as discriminatory, alleging that the Government was holding back funds for Indo-Fijian-run schools while allocating special funds to indigenous schools for textbooks and other resources.

Societal changes have undermined traditional village and extended family-based structures. Outgrowths of these changes have included increased child abuse and a number of homeless youths in urban areas. Some youths found employment in the informal sector. Homeless children were often seen on the street working as shoeshine boys or involved in prostitution. Children worked on the streets, in homes as domestics, and in auto repair shops. The Ministry of Labor had few or no resources to investigate reports of child labor or to charge offending employers. The legal system was inadequate to protect the rights of children, since children's testimony was largely inadmissible unless corroborated by an adult.

The Government provided free medical care for children at public health centers and hospitals. Government nurses provided free immunizations for children in primary schools.

#### Persons with Disabilities

The Constitution provides for equality before the law of all persons, including persons with disabilities, and discrimination against the physically disabled in employment, education, and the provision of state services is illegal. However, there was no legislation or mandated provision for accessibility for persons with disabilities, and there was little or no enforcement of laws protecting persons with disabilities.

The Fiji National Council for Disabled Persons worked to protect the rights of persons with disabilities. Several voluntary organizations also promoted greater attention to the needs of persons with disabilities.

Persons with mental disabilities were largely separated from society and were normally supported at home by their families. There were a few special schools for persons with mental disabilities; however, their costs limited access.

#### National/Racial/Ethnic Minorities

Tension between ethnic Fijians and Indo-Fijians has been a longstanding problem. While 1997 amendments to the Constitution noted that "the composition of state services at all levels must be based on the principle of reflecting as closely as possible the ethnic composition of the population," it also specified the "paramouncy of Fijian interests" as a protective principle (see Section 5). George Speight, leader of the Parliament takeover in May 2000, professed to be acting on behalf of ethnic Fijians in his attempt to overthrow a government led by the country's first Indo-Fijian Prime Minister (see Section 3).

In July human rights groups strongly criticized Minister of Women, Culture and Social Welfare Asenaca Caucau for comparing Indo-Fijians to "wild grass taking up space" in the country. Despite pressure, Caucau refused to apologize, and the Prime Minister failed to discipline Caucau for the remark. Senators appointed by the Prime Minister have made numerous racial slurs directed against Indo-Fijians.

During the year, the SDL Government worked to ensure the political supremacy of ethnic Fijians. During the year, approximately one-fourth of valid complaints to the HRC dealt with racial and ethnic equality issues.

Land tenure remained a highly sensitive issue. Ethnic Fijians communally held over 80 percent of land, the Government held another 8 percent, and the remaining land was freehold. Ethnic Fijians' traditional beliefs, cultural values, and self-identity are tied to the land. Most cash crop farmers were Indo-Fijians, who leased land from the ethnic Fijian landowners through the Native Land Trust Board. Many Indo-Fijians, particularly farmers, believed that the absence of secure land tenure discriminated against them. A number of agricultural landlord and tenant agreement leases have expired, and

many more will expire in the next few years. Racial tensions and grievances over low rents for agricultural lands resulted in several highly publicized illegal evictions of Indo-Fijians and reoccupations of land by native Fijian landowners. There were also several cases of Fijian landowners extorting so-called goodwill payments from their Indo-Fijian tenants. Almost none of these violations were prosecuted. The appointment of a respected moderate as head of the Native Land Trust Board during the year assuaged ethnic tension over land issues somewhat.

The Government pressed strongly for changes in the existing Agricultural Land Tenure Agreement (ALTA) to accommodate landowner concerns; however, lacking sufficient support to amend the ALTA, Parliament took no action on the matter during the year.

During the year, the Government implemented a new Rural Housing Assistance Scheme that, unlike the previous housing assistance plan, limited benefits to indigenous communities.

The minority Chinese community continued to grow dramatically, primarily through illegal immigration. There was a steep rise in illegal activities, including murder, that allegedly were connected to Chinese organized crime. A special police unit, the Asian Crime Unit, investigated criminal activity within the ethnic Chinese community.

## Section 6 Worker Rights

### a. The Right of Association

The law protects the right of workers to form and join unions, elect their own representatives, publicize their views on labor matters, and determine their own policies, and the authorities respected these rights in practice. However, the law permitted restrictions to these rights in the interests of defense, public safety, public order, public morality, or public health, or to protect the rights and freedoms of other persons. An estimated 55 percent of the wage-earning workforce was unionized.

All unions must register with, but are not controlled by, the Government. The only central labor body is the Fiji Trades Union Congress (FTUC), which in the past was associated closely with the opposition Fiji Labor Party; unions operated under its auspices. In recent years, the FTUC has adopted a more independent political stance. In August some unions broke away from the FTUC and formed a new labor group, the Fiji Island Council of Trade Unions. While certain unions remained ethnically based, both Indo-Fijians and ethnic Fijians held leadership roles in the trade union movement.

Unions can affiliate internationally; the FTUC is affiliated with the International Confederation of Free Trade Unions and the International Labor Organization (ILO).

In December the Government, the FTUC, and the Fiji Employers' Federation signed a letter of intent reaffirming their commitment to respect the fundamental principles and rights contained in eight core ILO conventions.

### b. The Right to Organize and Bargain Collectively

Workers have the right to organize and bargain collectively. Employers are required to recognize a union if more than half of the employees in a workplace have joined it. The Government has the power to order recalcitrant employers to recognize unions, and has done so. Union recognition occurs when a fixed percentage of workers sign membership cards; no ballots are held to determine representation. Key sectors of the economy, including sugar and tourism, were heavily unionized. However, there were no laws to protect workers who organized unions in a factory. While the law encouraged unionization, union organizers' jobs were not protected. Since employers reserved the right to fire union organizers, some workers were afraid to unionize. Thus unions were effective bargaining tools for older, more established industries, such as sugar and mining, but less effective for newer industries, such as the garment industry. Wage negotiations were generally conducted at individual companies rather than on an industry-wide basis.

Strikes are legal, except in connection with union recognition disputes, and trade unions can conduct

secret strike ballots without government supervision. In order to carry out a legal strike, organizers must give the employer 28 days' notification. The Ministry of Labor also must be notified of the dispute and receive a list of all striking employees, the starting date of the strike, and location of the strike. This information gives the organizers, unions, employers, and Ministry of Labor time to resolve the dispute prior to a strike. There were 10 industrial disputes during the year, including a strike by Air Pacific workers in July following a refusal by Airports Fiji Limited to recognize the Fiji Public Service Association despite a High Court decision. Most disputes were settled by referral to a Permanent Arbitrator. Both employers and unions made unreasonable requests that prolonged labor disputes. During a September "Summit on Quality" by the Fiji National Training Council, Labor Minister Kenneth Zinck stated that militant unions made it difficult to improve the country's productivity. Union officials operated without interference during the year.

Export processing zones (EPZs) are subject to the same laws as the rest of the country. However, the FTUC has been unsuccessful in obtaining collective bargaining agreements in EPZs and claimed that intimidation of workers by employers was widespread. The FTUC argued that because of illegal and intimidating practices, including threats of loss of work for those active in organizing workers, unions were effectively prevented from representing workers in the EPZs.

#### c. Prohibition of Forced or Bonded Labor

The Constitution specifically prohibits forced or bonded labor, including by children, and there were no confirmed reports that such practices occurred. However, media reports and NGOs have alleged that work conditions in some garment factories might include forced or bonded labor and excessive work hours. In November there were media reports of PRC women subjected to bonded labor at a garment factory.

#### d. Status of Child Labor Practices and Minimum Age of Employment

The Government has adopted some laws to protect children from exploitation in the workplace, but enforcement of these laws was lax. Children under the age of 12 could not be employed in any capacity. Children under age 15 could be employed only outside of school hours in family enterprises, and not in the industrial sector. Young persons between the ages of 15 and 17 could be employed in certain occupations not involving heavy machinery, with specified hours and rest breaks. In practice enforcement of these regulations by the Ministry of Labor was generally ineffective. There were only two inspectors at the Ministry of Labor, who conducted regular annual workplace inspections, and no investigators to follow up claims or reports of violations. During the year, migration of rural youth to urban areas continued, and youths continued to find employment in the informal sector, including work as shoeshine boys, casual laborers, and in prostitution.

The Government has not ratified ILO Convention 182 on the worst forms of child labor. The law does not define the worst forms of child labor. The laws implementing and enforcing child labor regulations were insufficient; there were no adequate enforcement remedies and no comprehensive policy to eliminate the worst forms of child labor.

#### e. Acceptable Work Conditions

There was neither a national minimum wage nor a limit on maximum hours for working. Certain sectors had minimum wages set by the Ministry for Labor. Minimum wage levels provided a sparse but adequate standard of living for a worker and family in all sectors other than the garment industry. There were no regulations on maximum hours of work for adult males. Other than a prohibition from working in mines, there were no limitations on female employment. Workers in some industries, notably transportation and shipping, worked excessive hours. Factory housing for garment workers was overcrowded.

There are workplace safety regulations, a Worker's Compensation Act, and an accident compensation plan. However, government enforcement of safety standards suffered from a lack of trained personnel and lags in compensation hearings and rulings. Unions generally monitored safety standards in organized workplaces, yet many work areas did not meet standards and were not monitored by the

Ministry of Labor for compliance. By law employees have the right to remove themselves from a hazardous work site without jeopardizing their employment, but most feared the loss of their jobs if they did so. The ILO maintained an office in Suva.

There were a growing number of nonunionized and sometimes illegal immigrant workers (predominantly ethnic Chinese), particularly in the garment sector.

#### f. Trafficking in Persons

There are no laws that specifically address trafficking in persons, although laws against procuring a woman to become a prostitute, kidnaping, and bonded and forced labor could be used to prosecute traffickers. There were no substantiated reports of trafficking in persons to, from, or within the country during the year.

There was an increase during the year in persons arriving in or transiting the country with altered or falsified travel documents; the police believed that an organized Asian criminal network in the country coordinated these and other illegal movements of persons. However, most appeared to be economic migrants rather than victims of trafficking. Police have received unsubstantiated reports of the use of forced labor from the PRC in the garment factories in Western Viti Levu, the country's largest island. However, law enforcement has made no arrests and has not investigated the reports. There were media reports during the year of PRC women forced to work as bonded laborers in a garment factory.

A 2001 police report reported increases in the number of street children engaged in prostitution; child prostitution, along with prostitution in general, appeared to increase during the year and affected both the ethnic Fijian and Indo-Fijian communities. There were no confirmed reports that children were trafficked to or from the country for this or any other purpose.

The Government did not sponsor or provide assistance to any programs to combat or prevent trafficking in persons.