

# **FIJI 2012 HUMAN RIGHTS REPORT**

## **EXECUTIVE SUMMARY**

Fiji is a republic which has been under a military-led government since armed forces commander Commodore Josaia Voreqe (Frank) Bainimarama overthrew the elected government in a bloodless coup in 2006. In 2009 the interim government headed by Prime Minister Bainimarama abrogated the constitution, imposed a state of emergency, and continued its rule by decree, a situation that continued at year's end. During the year the country had no constitution or parliament. Security forces did not report to civilian authorities.

The leading human rights problems during the year included the government's continued denial of citizens' right to change their government peacefully; government harassment and intimidation of the media, resulting in self-censorship; and government targeting of political opponents and human rights and labor activists for harassment and, in some cases, for prosecution on charges of sedition or public order violations.

There were a number of additional human rights problems. On January 7, the government lifted the 2009 Public Emergency Regulations (PER), but on January 5, prior to lifting the PER, the government imposed the Public Order Amendment Decree (POAD). The POAD maintains some provisions contained in the PER, including restrictions on freedoms of speech, assembly, and movement, although in July the government eased restrictions on meetings other than those in large public venues. Freedom of the press remained restricted by a 2010 media decree, although some criticisms of the government were allowed in the printed media. Other human rights problems included cases of police and military abuse of persons in custody; poor prison conditions; interference with judicial independence; government corruption; violence and discrimination against women; sexual exploitation of children; deep ethnic divisions; and restrictions on trade union and collective bargaining rights.

Unlike in previous years, the military largely ceased its practice, begun after the 2006 coup, of detaining, and in many cases abusing, persons deemed critics of the government. However, the government took no steps to prosecute and punish police and military officials accused of assaulting persons in custody in previous years, and criminal charges for breach of the PER brought in previous years against government opponents remained pending at year's end. The charges acted

as a deterrent to and control over critics, who often were often awaiting trial and subject to strict bail conditions.

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

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

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

### **b. Disappearance**

There were no reports of politically motivated disappearances.

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

The Crimes Decree declares torture, “persecution,” and other “inhumane” acts to be prosecutable “crimes against humanity.” However, although the PER were lifted January 7, the POAD, like the PER, authorizes the government to use whatever force is deemed necessary to enforce public order. In contrast with previous years, there were no reports of the military detaining and abusing government critics, but there were some reports of military and police abuse of persons in custody. For example, during the year the government began an investigation into alleged mistreatment by military personnel of convicts recaptured after their escape from prison in September; the investigation was continuing at year’s end.

The government continued to take no action to investigate or punish instances of abuse by the military of a number of politicians and trade unionists at the Queen Elizabeth Barracks outside Suva in 2011. In July and again in August, union leader Felix Anthony claimed he lodged a complaint with police against Prime Minister Bainimarama alleging that in 2011 Bainimarama ordered and was present at Anthony’s unlawful detention and assault by Bainimarama’s personal security officer, Major Aseri Rokoura, and other military personnel. In November, in response to a journalist’s question on the status of Anthony’s complaint, the assistant police commissioner declined to confirm or deny receipt of the complaint, stating that police investigated all complaints received alleging government abuse of trade unionists but could not comment on individual cases.

## **Prison and Detention Center Conditions**

Prison conditions were harsh and did not meet international standards. The national prison system was seriously underfunded and overcrowded, with deteriorating infrastructure and complaints about delivery of essential services. The government permitted prison monitoring visits by independent human rights observers.

Physical Conditions: As in previous years, the number of inmates in the country's prisons continued to exceed capacity. At year's end the total prison population, including pretrial detainees, was approximately 1,480, including 40 women and 123 "young offenders." The system was intended to hold up to 95 pretrial detainees, but the actual number was approximately 400, including eight women. The government constructed a new pretrial detention center at Suva's Korovou Prison, but it was not operational by year's end. In general pretrial detainees and convicted prisoners were separated at shared facilities, although in some cases they were held together.

Prisoners had access to potable water, but the system had insufficient beds, inadequate sanitation, and a shortage of basic necessities. However, there were no reports of inmate deaths during the year due to poor prison conditions. Former prime minister Laisenia Qarase, convicted in August for corruption, was held with the general population at Korovou Prison despite a recommendation by the Prison Medical Board that he be placed in the infirmary. (The 71-year-old Qarase has a heart condition, hypertension, and diabetes.)

Administration: Recordkeeping on prisoners was adequate. There were no alternatives to prison sentences for nonviolent offenders, but the Corrections Department arranged outside job placements for inmates with less than a year to serve to ease their return to society. The department also used compulsory supervision orders, under which inmates with less than a year to serve can be released into the community for the remainder of their sentence to perform service at a local church or other community center.

Although the law authorizes the ombudsman to investigate maladministration in government departments, decreases in staffing and budget levels for the Ombudsman's Office since the 2009 abrogation of the constitution greatly reduced its capacity to carry out its statutory duties, which in previous years included investigating allegations of prisoner abuse or neglect, overcrowding, and recordkeeping problems.

Prisoners may submit complaints to the Fiji Human Rights Commission (FHRC), and during the year the FHRC investigated a few such complaints. The FHRC also reviewed the conditions of holding cells at various police stations. However, the commission has operated with neither a chairperson nor commissioners since the constitution was abrogated, inhibiting its independence and effectiveness.

Prisoners and detainees had access to visitors, including family members; telephone calls; and religious observance. The law allows prisoners to submit complaints to judicial authorities, but the government reviews all prisoner letters and, in most cases, has the authority to seize them. The law prohibits the authorities from reviewing, censoring, or seizing prisoner letters to the FHRC, but in practice the authorities routinely reviewed such letters. Authorities did not investigate or document in a publicly accessible manner credible allegations of inhumane conditions.

Monitoring: During the year the International Committee of the Red Cross (ICRC) visited official detention facilities and interviewed inmates; such visits were permitted without third parties present.

Improvements: Various programs initiated in 2010 to build skills and generate income for prison inmates were augmented or continued during the year. The Corrections Department accorded a high priority to prisoner rehabilitation and community reintegration, requiring considerable prison staff retraining to advance these goals.

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

In the absence of the constitution, there is no specific legal protection against arbitrary arrest or detention. However, there are procedures for lawful arrest under the Criminal Procedure Decree. The POAD authorizes security forces to detain a person for up to 16 days before bringing charges, in comparison to the PER, which allowed detention for up to 10 days without charge. The minister of defense must authorize detention without charge exceeding 48 hours. There have not been any credible investigations of unlawful detentions by the security forces since the 2006 coup, but there was a reduction in reports of such incidents after the PER were lifted on January 7.

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

The Ministry of Defense oversees both the Fiji Police Force and the Republic of Fiji Military Force (RFMF). The police force is responsible for law enforcement and the maintenance of internal security. The RFMF is responsible for external security, and under the PER and subsequently the POAD, soldiers also are authorized to perform the duties and functions of police and prison officers in specific circumstances.

The police Ethical Standards Unit is responsible for investigating complaints of police misconduct. In September seven senior officers were suspended and investigated for corruption; their cases remained pending at year's end. Several other officers were either suspended or removed from the force for misconduct during the year. The Fiji Independent Commission against Corruption (FICAC) also continued to investigate public agencies and officials, including some members of the police and military forces. Impunity and corruption remained problems, however. The POAD provides 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 government did not investigate credible charges of security force abuse of government opponents or punish the alleged perpetrators (see section 1.c.).

Additionally, since the 2006 coup the government has issued three decrees granting immunity to the military and police in certain circumstances, including immunity from criminal charges or civil liability suits relating to their roles in the 2000 and 2006 coups and the 2009 abrogation of the constitution. In July the government published the Constitution Commission Decree, which requires that a new constitution include immunity for the president, members of the cabinet, and security forces for actions taken relating to the 2006 coup, the 2009 abrogation of the 1997 constitution, and suppression of a mutiny at military headquarters in 2000. The decree states that the new constitution will not be adopted unless these provisions are included.

### **Arrest Procedures and Treatment While in Detention**

Police officers may arrest persons without a warrant for violations of the Crimes Decree. Police also arrest persons in response to warrants issued by magistrates and judges. Police may detain persons under the POAD for a maximum of 16 days; at that point persons must be charged or released. There is no legal requirement that persons detained under provisions of the POAD be produced in court for judicial review of the grounds for their detention, unless they are charged

with an offense. The POAD prohibits any court, tribunal, or other body from reviewing a detention under POAD provisions.

The Bail Act gives accused persons the right to bail, unless it is not in the interests of justice that bail be granted. Under the act both police and the courts can grant bail. There is a presumption in favor of granting bail, although this may be rebutted by the prosecution if it objects to bail and in cases where the accused is appealing a conviction or has previously breached bail conditions. Despite these provisions a 2011 government directive to the magistrates' courts advised against granting bail for indictable offenses and stated that bail applications for such offenses would be handled only by the High Court. The directive requires accused persons to demonstrate why they should be granted bail, in effect negating the Bail Act's presumption in favor of granting bail. Police retained authority to grant bail for nonindictable offenses but during the year refused to grant it to persons charged with drunk driving. Beginning in 2010 the courts made it more difficult for accused persons to apply for bail, requiring this to be by motion and affidavit that required the services of a lawyer.

Detainees generally were allowed prompt access to counsel and family members. The Legal Aid Commission provided counsel to some indigent defendants in criminal cases, a service supplemented by voluntary services from private attorneys. There were delays in the provision of legal aid to some accused persons due to lack of adequate legal aid staff and resources.

Pretrial Detention: During the year the number of pretrial detainees continued to increase because of a pattern of refusal of bail by the courts. Pretrial detainees constituted approximately 27 percent of the prison population. Additionally, the courts had a significant backlog of cases, worsened by the government's 2009 dismissal of the existing judiciary. Processing was slowed by, among other circumstances, a shortage of prosecutors and judges. As a result some defendants faced lengthy pretrial detention.

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

The abrogated constitution provided for an independent judiciary, but the courts were dissolved in 2009 and reconstituted by the Administration of Justice Decree, which does not explicitly provide for judicial independence. Various decrees provide for numerous restrictions on the jurisdiction of the courts. During the year the government interfered with judicial independence in practice.

By decree all tiers of the judiciary are prohibited from considering cases relating to: the 2006 coup; all acts of the interim government between December 4, 2006, and April 9, 2009; the abrogation of the constitution in 2009; and all government decrees since December 2006. An amended decree also removed the courts' jurisdiction to hear challenges to government decisions on judicial restructuring, terms and conditions of remuneration for the judiciary, and terminated court cases. Various other decrees contained similar clauses limiting the jurisdiction of the courts on decisions made by the cabinet, ministers, or government departments.

There were allegations of politically motivated prosecutions of government critics, including opposition politicians and labor leaders. In 2011 a woman charged with drug offenses accused the attorney general of encouraging her to make rape allegations against her lawyer, the son of former prime minister Mahendra Chaudhry. In March she was convicted of giving false information to a public officer (for making the rape complaint to police and then recanting) and sentenced to two years' imprisonment.

The chief registrar continued to prosecute lawyers for disciplinary breaches. Civil society organizations criticized these additional duties as infringing on the independence of the judiciary. In September the chief registrar, who was appointed in May on a three-year contract, was dismissed summarily with no reason announced. This followed a pattern of nonrenewal of contracts for judges and magistrates, including the previous chief registrar. The contract of President of the Court of Appeal William Marshall was not renewed upon its expiration in June. Before he left the country, Marshall filed a lawsuit against the attorney general alleging interference with the judiciary. Contrary to normal court procedure, the case was not listed before a judge, although Marshall's affidavit was filed in court by the nongovernmental organization (NGO) Citizens Constitutional Forum (CCF) in connection with a separate case (the prosecution of the CCF for contempt of court). The matter remained pending at year's end.

The government continued to prohibit an International Bar Association delegation from visiting the country to evaluate judicial independence and reiterated its refusal to allow a visit by the UN special rapporteur on the independence of judges and lawyers. The government rejected a report by the United Kingdom Law Society alleging government interference with the judiciary. The government invited one researcher from the society to return to Fiji but refused to allow a full team from the society into the country. The government also prosecuted the CCF and its director, Akuila Yabaki, for contempt of court for publishing an excerpt of

the society's report--freely available on the Internet--in the CCF's newsletter. That case was pending at year's end.

### **Trial Procedures**

In most cases defendants have the right to a public trial, and the court system generally enforced this right during the year. The chief magistrate's 2011 ruling that the trial of five men charged with sedition for an antigovernment graffiti campaign would be held in closed court on grounds of national security remained in force, however. The five were granted bail, and the case remained pending at year's end.

The Crimes Decree defines which offenses may be tried in the magistrates' courts and which must be tried in the High Court. Most cases were heard in the magistrates' courts. Serious offenses, including murder, rape, trafficking in persons, bribery, treason, sedition, and mutiny, can be heard only in the High Court. Trials in the High Court provide for the presence of assessors, typically three, who are similar to jurors but only advise the presiding judge, who may overrule their findings at the end of the trial. Defendants enjoy a presumption of innocence and may not be compelled to testify or confess guilt. They may present witnesses and evidence on their own behalf, confront witnesses against them, and access government-held evidence relevant to their cases. Defendants enjoy the right to be informed promptly and in detail of the charges against them, with free interpretation if necessary. They are also accorded adequate time and facilities to prepare a defense. In most cases defendants have the right to counsel, but many are unaware of their rights when detained or interviewed and therefore often do not ask for legal counsel. The Legal Aid Commission, supplemented by voluntary services of private attorneys, provided free counsel to some indigent defendants in criminal cases. The right of appeal exists but often was hampered by delays in the process.

### **Political Prisoners and Detainees**

In August Amnesty International stated its concern that the August conviction of former prime minister and government critic Laisenia Qarase for alleged corruption in 1991 and his one-year prison sentence were politically motivated, and that he may have been imprisoned solely for his political beliefs. There were no other allegations or reports of political prisoners.

There were no reports of long-term political detainees. Police detained for short periods and questioned a number of persons critical of the government. On August 3, the day that Qarase was sentenced for corruption, police detained Mere Samisoni, a businesswoman and Soqosoqo Duavata ni Lewenivanua (SDL) party politician, after they saw her driving in front of a FICAC vehicle that was transporting FICAC officials to court for the sentencing. Police questioned her for allegedly threatening the FICAC officials. After eight hours of questioning, she was charged with dangerous driving and released on bail. The case was pending at year's end.

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

Although the law provides for an independent and impartial judiciary in civil matters, the judiciary is prohibited by decree from considering lawsuits relating to the 2006 coup, subsequent actions by the interim government, the 2009 abrogation of the constitution, and subsequent military decrees. In the event of a human rights violation, under the abrogated constitution, an individual could complain to the FHRC, but under a 2009 decree, the FHRC is prohibited from investigating cases filed by individuals and organizations relating to the 2006 coup and the constitution's abrogation.

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

The POAD permits military personnel to search persons and premises without a warrant from a court and to take photographs, fingerprints, and measurements of any person. Police and military officers also may enter private premises to break up any meeting considered unlawful, and police did so during the year (see section 3).

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

#### **a. Freedom of Speech and Press**

The POAD gives the government the power to detain persons on suspicion of "endangering public safety or the preservation of the peace." Additionally, the Media Decree prohibits "irresponsible reporting" and provides for government censorship of the media. In practice the government used the threat of prosecution under these provisions to intimidate government critics and impede public criticism of the government.

Freedom of Speech: The Crimes Decree includes criticism of the government in its definition of the crime of sedition. This includes statements made in other countries by any person, who can be prosecuted on return to Fiji. At year's end the cases of two former military officers, SDL workers, a labor leader, and participants in an antigovernment graffiti campaign charged with sedition in 2011 remained pending in the courts. An SDL politician also was charged but died in October. The POAD extends the jurisdiction of the Public Order Act outside the country and defines as terrorism any act designed to advance a political, religious, or ideological cause that could "reasonably be regarded" as intended to compel a government to do or refrain from doing any act or to intimidate the public or a section thereof. It also makes religious vilification and attempts to sabotage or undermine the economy offenses punishable by a maximum F\$10,000 (\$5,672) fine or five years' imprisonment. During the year police monitored constitutional consultation meetings of NGO, labor, and political groups and also monitored the public hearings of the Constitution Commission, with police officers taking names of those who made oral submissions to the commissioners (see section 2.b.).

Freedom of Press: Independent media could not operate freely under the Media Decree. The attorney general continued to prosecute media organizations for contempt of court if they reported any discussion questioning judicial independence. During the year the attorney general charged the *Fiji Times* newspaper and international soccer official Tai Nicholas with contempt after the *Times* republished an article, originally published in New Zealand, in which Nicholas ostensibly questioned the independence of the Fiji courts. Both the newspaper and Nicholas pled guilty; sentencing initially was scheduled for October but remained pending at year's end.

The government published fortnightly supplements and all its advertisements in the *Fiji Sun* newspaper, which was generally progovernment. Fiji TV, whose station Fiji One broadcasts the most-watched television news program, is 51 percent owned by a company whose board is appointed by the minister for indigenous affairs (a position held by Prime Minister Bainimarama during the year) on behalf of the provincial councils; the remainder is privately held. The government wholly owns the Fiji Broadcasting Corporation (FBC), which operates six radio stations and a television station. The Ministry of Information news bulletin was broadcast daily on both the FBC TV station and the third station, privately owned Mai TV.

Violence and Harassment: During the year some journalists reported they were given verbal warnings by authorities not to publish articles critical of the government.

Censorship or Content Restrictions: With the lifting of the PER on January 7, the government ceased official censorship of the media. The Media Decree contains a provision authorizing the Ministry of Information to censor all news stories before broadcast or publication, but the government did not seek to revive formal censorship under the decree. Journalists and media organizations continued to practice varying degrees of self-censorship, however, with many reportedly fearing retribution if they criticized the government. Media continued to refuse to publish opinion articles by antigovernment academics and commentators.

Under the Media Decree, the directors and 90 percent of the shareholders of locally based media must be citizens of, and permanently resident in, the country. The Fiji Media Industry Development Authority is responsible for enforcing these provisions. The authority has the power to investigate journalists and media outlets for alleged violations of the decree, including powers of search and seizure of equipment. The decree established a media tribunal to decide complaints referred by the authority, with the power to impose jail terms of up to two years and fines of up to F\$1,000 (\$567) for journalists, F\$25,000 (\$14,180) for publishers and editors, and F\$100,000 (\$56,721) for media organizations. The tribunal, which consists of a single judge, is not bound by formal rules of evidence. The decree strips the judiciary of power to challenge the decree itself or any proceedings or findings of the Media Authority, the tribunal, or the information minister. As of year's end, no cases had been brought before the tribunal.

The code of ethics contained in the Media Decree requires that all stories run by the media be balanced, with comment obtained from both sides where there is any disagreement on the facts. This requirement enabled government departments and private businesses to prevent stories from being published by not responding to media questions, thus making it impossible for the media to fulfill the decree's requirement for comment from both sides. However, media sources reported that if the story was positive toward the government, the balance requirement could be ignored without consequence.

In June the government issued the Television Amendment Decree, which requires television licensees to operate in conformance with the Media Decree's code of ethics.

Fiji TV's 12-year broadcasting license expired on May 30 and was renewed only for six months after reports of a rift with the government regarding Fiji TV's news content. The attorney general allegedly threatened to revoke Fiji TV's license in

March after it ran interviews with former prime ministers Chaudhry and Qarase. The government allegedly also instructed Fiji TV to deny any government threats, and the company made two statements that same week that it would abide by the Media Decree. The International Federation of Journalists condemned the government's alleged threats and called for broadcasting license renewals to be made free from political considerations. On December 18, the government renewed Fiji TV's license for an additional six months.

### **Internet Freedom**

There were no government restrictions on general public access to the Internet, but evidence suggested that the government monitored private e-mails of citizens. The government monitored Internet traffic in an attempt to control antigovernment reports by anonymous bloggers. During the year police investigated former University of the South Pacific (USP) professor Wadan Narsey, a prominent Fijian economist and long-time critic of the military government, for alleged sedition in writings published on his personal blog. The case remained pending at year's end.

By decree all telephone and Internet service users must register their personal details with telephone and Internet providers, including their name, birth date, home address, left thumbprint, and photographic identification. The decree imposes fines of up to F\$100,000 (\$56,721) on providers who continue to provide services to unregistered users and up to F\$10,000 (\$5,672) on users who do not update their registration information as required. Vodafone, one of two mobile telephone providers, also required users to register their nationality, postal address, employment details, and both thumbprints.

The Internet was widely available and used in and around urban centers, but its availability and use were minimal or nonexistent outside urban areas. According to the International Telecommunication Union, 28 percent of the population used the Internet in 2011.

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

Academic freedom was generally respected, but government work-permit stipulations prohibit foreigners from participating in domestic politics. Contract regulations of the USP effectively restrict most university employees from running for or holding public office or holding an official position with any political party. Persons entering the country on tourist visas wishing to conduct research must notify and seek permission of the government. On November 12, USP School of

Journalism acting head Marc Edge, who maintained a personal blog often critical of the government and progovernment commentators and blogs, was removed from his position by the university. In December the university terminated his contract, reportedly after pressure from the government.

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

### **Freedom of Assembly**

Since the 2006 coup, the government has interfered with this right in practice. The PER contained broad restrictions on freedom of assembly. The POAD contains similar provisions, allowing the government to refuse permit applications for any meeting or march deemed to prejudice peace, public safety, and good order or to sabotage or attempt to undermine the economy. It also allows authorities to use whatever force is deemed necessary to prohibit or disperse both public and private meetings after “due warning” in order to preserve public order. On July 11, police broke up a meeting of Fiji Labour Party (FLP) members for allegedly lacking a required permit (see section 3).

After refusing to do so since 2009, the government granted a permit to the Methodist Church, which historically has been associated with indigenous Fijian nationalism, to hold its annual conference and for its 52 divisions to hold their quarterly meetings. The annual conference took place in August. However, the government refused to allow the meeting to continue beyond one day and did not grant an extension requested by the church. In September police lifted the requirement for permits under the POAD for meetings of the church’s executive standing committee.

On July 18, the government suspended POAD provisions restricting freedom of assembly, except for meetings in large public venues, for the stated purpose of allowing citizens to meet freely to formulate and express their views regarding a new constitution. In September, however, the coordinator of the NGO Fiji Women’s Crisis Center stated that many persons feared to offer their opinions because police officers were sitting in on the constitutional consultation meetings and noting names and the content of submissions. Some other consultation meeting participants expressed similar concerns.

### **Freedom of Association**

No law or decree provides for this right in general. The Employment Relations Promulgation (ERP) provides for the right of workers to join trade unions, but during the year the government restricted some individuals from joining unions under the Essential National Industries Decree (ENID) (see section 7). Membership in other NGOs, professional associations, and other private organizations generally was not restricted.

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

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

### **d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons**

Under the POAD the government may restrict freedom of in-country movement, foreign travel, emigration, and repatriation, and the government frequently restricted or denied the right to foreign travel.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

In-country Movement: The POAD authorizes the government to prohibit, restrict, or regulate movement of persons, but the government did not restrict any person's in-country movement during the year.

Foreign Travel: The government maintained a list of persons banned from leaving the country, including human rights activists and lawyers or their families. Names on the list were not made public; would-be travelers discovered their inclusion when they were turned back by airport immigration authorities.

Exile: The law does not provide for forced exile, and the government did not practice it. However, there have been several cases of self-imposed exile, in which government critics left the country because of government harassment or intimidation.

### **Protection of Refugees**

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. There were seven requests for asylum and refugee status during the year, and the government worked with the UNHCR to resettle several refugees to third countries.

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

The country continued to be ruled by a military-dominated government following the 2006 military overthrow of the popularly elected government, and at year's end Parliament remained suspended and the government continued to rule by decree. In March the government abolished the Great Council of Chiefs, which had been suspended in 2007. Josaia Voreqe Bainimarama, the RFMF commander and leader of the coup, remained prime minister.

In July the government authorized creation of a constitutional commission to develop a new constitution. From July through October 15, the commission held public consultations seeking broad input for the new constitution. In December the commission presented a draft constitution to the president. The following day there was disagreement between the government and the commission regarding public dissemination of the draft, and 599 unauthorized copies were seized by police. At year's end the government was reviewing the draft.

During the consultation process, the government continued to criticize persons who called for restoration of the 1997 constitution and who opposed the immunity provisions for the government and security forces imposed on the new constitution by the Constitution Commission Decree (see section 1.d.). Critics of the process alleged that government and security forces "stacked the deck by decree" for the new constitution and for promised 2014 elections by virtue of the imposed immunity provisions; certain other nonnegotiable principles contained in the government's 2008 Peoples' Charter for Peace, Change, and Progress; and designation of the prime minister as sole authority to appoint a constituent assembly to approve the new constitution.

### **Elections and Political Participation**

Recent Elections: The most recent elections, held in 2006, were judged generally free and fair. After the elections the governing SDL party established a multiparty cabinet together with the FLP, the second-largest party in Parliament, as required

by the 1997 constitution. This government was removed by the RFMF under Bainimarama's leadership during the 2006 coup.

In July, following its declared intention to hold elections by September 2014 after approval of a new constitution, the government undertook an eight-week electronic voter registration process. Approximately 500,000 of an estimated 600,000 eligible voters were registered and issued voter identification cards as of September. The government has stated that political party "manifestos" or published platforms would not be allowed in future elections and that all competing parties would have to uphold the government's Charter for Peace, Change, and Progress.

Political Parties: Under the POAD permits are required for political meetings in both public and private venues. On July 11, police broke up a meeting of 15 members of the FLP at a private residence in Lautoka and arrested the participants on suspicion of holding a political meeting without a permit. They were questioned and detained for approximately 19 hours and released without charge.

Participation of Women and Minorities: There was one woman in the 12-member cabinet. Indigenous women played important roles in the traditional system of chiefs, and some became chiefs in their own right. However, traditional beliefs concerning women's place in society restricted participation of indigenous women in political life.

There were two Indo-Fijian ministers in the cabinet and no other minority ministers. Indo-Fijians, who accounted for 36 percent of the population, continued to be underrepresented at senior levels of the civil service and greatly so in the military. Indo-Fijians comprised approximately 35 percent of the civil service overall and approximately one-third of the police force, but the military and prison services were estimated to be more than 95 percent ethnic Fijian.

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

The law provides criminal penalties for official corruption, but officials sometimes engaged in corrupt practices with impunity.

Measures by the government during the year to combat corruption within the bureaucracy, including FICAC public service announcements encouraging citizens to report corrupt government activities, had some effect on systemic corruption. Nonetheless, much government decision making was not transparent due to a self-

censoring media, the absence of parliamentary oversight and other checks and balances, and civil servants under threat of criminal prosecution for disclosing government information without permission. The media published articles on FICAC investigations on abuse of office, and anonymous blogs reported on some government corruption. Since 2008, in the absence of a sitting parliament, the auditor general has submitted audit reports to the cabinet. The cabinet referred such reports to the Public Accounts Committee for review, but they were not made public.

There are no laws requiring income and asset disclosure by appointed or elected officials. FICAC, which is headed by a military officer who reports directly to the attorney general, is the primary body responsible for combating and prosecuting government corruption. FICAC was adequately resourced, but some observers questioned its independence and viewed some of its high-profile prosecutions as politically motivated.

Former prime minister Qarase, charged by FICAC in 2008 with abuse of office for alleged offenses that took place in 1991, was convicted in August and sentenced to 12 months' imprisonment. Further corruption charges against Qarase relating to the iTaukei (indigenous) Land Trust Board, which he chaired as prime minister and minister for iTaukei affairs during 2001-06, remained pending at year's end.

There is no law providing for public access to government information, and the government frequently was unresponsive to public requests for information.

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

The government continued to scrutinize the operations of local and international NGOs, engendering a climate of uncertainty within the NGO community. Some NGOs practiced varying degrees of self-censorship. Government officials were only cooperative with and responsive to the views of NGOs that avoided criticizing the 2006 coup and the government.

There were several NGOs that concentrated on a variety of local human rights causes, such as the CCF, Fiji Women's Rights Movement, and Fiji Women's Crisis Center.

NGOs were constrained in their operations by the Crimes Decree, which includes criticism of the government in its definition of sedition; the POAD, which contains

a broad prohibition on speech that could damage the economy; and the Media Decree, which authorizes the government to vet all publications (see section 2.a.).

Prime Minister Bainimarama and senior military officers criticized NGOs in national media for reports commenting on human rights abuses, media freedom, immunity for government officials, and other nonnegotiable principles contained in the July Constitution Commission Decree as well as for expressing concerns about the constitutional reform process. Bainimarama called NGOs irrelevant, and the government was not responsive to its less-favored organizations.

UN and Other International Bodies: The ICRC continued to operate in the country. A number of UN organizations concerned with human rights had regional offices in the country and sought to address reports of human rights abuses. The country remained suspended from the Commonwealth of Nations and the major regional organization Pacific Islands Forum (PIF), in response to Bainimarama's failure to address expectations "to return Fiji to democratic governance in an acceptable time frame," in addition to other concerns, including human rights violations, expressed in statements by the PIF and the Commonwealth. The government refused to invite the UN rapporteur on the independence of judges and lawyers to the country despite requests from that official.

Government Human Rights Bodies: Although the FHRC was reestablished by decree after the abrogation of the constitution, it was not authorized to investigate complaints against the abrogation, other actions of the government, or the 2006 coup. It did not enjoy a high level of independence, effectiveness, or resources.

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

The abrogated constitution prohibited discrimination based on race, sex, place of origin, ethnicity, sexual orientation, color, primary language, economic status, age, or disability. The government generally enforced these provisions effectively, although there were problems in some areas. After the constitution's abrogation, the ERP had similar provisions, but these are limited to workers and industrial relations matters.

### **Women**

Rape and Domestic Violence: Rape, domestic abuse, incest, and indecent assault were significant problems. The law provides for a maximum punishment of life imprisonment for rape, an indictable offense which can be tried only in the High

Court. The law recognizes spousal rape as a specific offense. The NGOs Fiji Women's Rights Movement and Fiji Women's Crisis Center pressed for more consistent and severe punishment for rape.

The Domestic Violence Decree identifies domestic violence as a specific offense. Police claimed to practice a "no-drop" policy, under which they pursued investigations of domestic violence cases even if a victim later withdrew her accusation. Women's organizations reported that police were not always consistent in their observance of this policy. The decree gives police authority to apply to a magistrate for restraining orders in domestic violence cases, but police often told the victims to apply for such orders themselves. Police officers were not always aware they had the power to apply on the victim's behalf. As a result complainants sometimes were obliged to seek legal assistance from a lawyer or NGO. Courts dismissed some cases of domestic abuse and incest or gave perpetrators light sentences. Incest was widely believed to be underreported. Traditional and religious practices of reconciliation between aggrieved parties in both indigenous and Indo-Fijian communities were sometimes taken into account to mitigate sentences in domestic violence cases. In many cases offenders were released without a conviction rather than jailed, on the condition they maintain good behavior. Several Fiji-based NGOs sought to raise public awareness of domestic violence.

Four women's crisis centers funded by foreign governments operated in the country. The centers offered counseling and assistance to women in cases of domestic violence, rape, and other problems, such as lack of child support.

Sexual Harassment: The Human Rights Commission Decree prohibits sexual harassment, and criminal laws against "indecent assaults on females" prohibit offending the modesty of women and have been used to prosecute sexual harassment cases. Under the ERP workers can file complaints on the ground of sexual harassment in the workplace. There appeared to be judicial reluctance to act in sexual harassment cases. The Ministry of Labor reported that one sexual harassment complaint filed with the Employment Relations Tribunal (ERT) under the ERP in a prior year was withdrawn during the year. Two other sexual harassment complaints were filed with the ERT during the year; both remained pending at year's end.

In response to various complaints in 2009 from some indigenous village and provincial councils about a purported breakdown of order in villages, in 2010 the Ministry of Indigenous Affairs drafted a model village bylaw addressing issues

raised by the councils, including women's dress. The draft model bylaw included a prohibition on wearing of shorts, t-shirts, and long hair by women. During the year the government announced that the bylaw was only a draft that the councils should not yet enforce. Despite the announcement councils continued to enforce their own versions of the bylaw, and some village chiefs were charged with assaults on persons judged to be in breach of it.

Reproductive Rights: Couples and individuals generally have the right to decide freely the number, spacing, and timing of their children. The government provided family planning services, and women had access to contraceptives free of charge at public hospitals and clinics, and for a nominal charge if prescribed by a private physician. Unmarried and young women generally were discouraged from undergoing tubal ligation for birth control, and public hospitals, especially in rural areas, often refused to perform the operation on unmarried women who requested it. Nurses and doctors often required the husband's consent before operating on a married woman, although there is no legal requirement for such consent. Most women gave birth in hospitals, where skilled attendance at birth and essential prenatal, obstetric, and postpartum care were available.

Discrimination: Women have full rights of inheritance and property ownership by law but in practice often were excluded from the decision-making process on disposition of iTaukei communal land, which constituted more than 80 percent of all land. Women have the right to a share in the distribution of iTaukei land lease proceeds, but this right was seldom recognized. Women have the same rights and status as men under family law and in the judicial system. In practice, however, women and children had difficulties getting protection orders enforced in domestic violence cases. Other than a prohibition on working underground in mines, there were no legal limitations on the employment of women, and many women were successful entrepreneurs. Several prominent women led civil society, NGO, and advocacy groups.

Although the ERP prohibits discrimination on the basis of sex, women generally were paid less than men for similar work. According to the Asian Development Bank, approximately 30 percent of the economically active female population was engaged in the formal economy, and a large number of these women worked in semisubsistence employment or were self-employed.

The Ministry for Women worked to promote women's legal rights.

## **Children**

Birth Registration: Citizenship is derived both by birth within the country and through one's parents. Births generally were registered promptly.

Education: School is mandatory until age 15, but the inability of some families to pay for uniforms and school fees limited attendance for some children.

Child Abuse: Corporal punishment was common in both homes and schools, despite a Ministry of Education policy forbidding it in the classroom. Increasing urbanization, overcrowding, and the breakdown of traditional community and extended-family-based structures led to an increased incidence of child abuse and appeared to be factors that increased a child's chance of being exploited for commercial sex.

Child Marriage: The legal age for marriage is 18. Some NGOs reported that, especially in rural areas, girls often married at age 18, preventing them from completing their secondary school education. In indigenous villages girls under age 18 who became pregnant could live as common-law wives with their child's father after the men presented traditional apologies to the girls' families, thereby avoiding the filing of a complaint to police by the families. The girls frequently married the fathers as soon as legally permissible.

Sexual Exploitation of Children: Commercial sexual exploitation of children continued to occur. It is an offense for any person to buy or hire a child under age 18 for sex, prostitution, or other unlawful purpose, punishable by imprisonment for up to 12 years. Commercial sexual exploitation of children is an indictable offense that must be tried in the High Court. A prosecution for this offense was initiated in January; the case was pending at year's end. It is also an offense for a householder or innkeeper to allow commercial sexual exploitation of children in his or her premises, but there were no known prosecutions or convictions for such offenses during the year.

The minimum age for consensual sex is 16. The Court of Appeal has ruled that 10 years is the minimum appropriate sentence in child rape cases; however, in such cases police often charged defendants with "defilement" rather than rape because defilement is easier to prove in court. Defilement or unlawful carnal knowledge of a child under age 13 has a maximum penalty of life imprisonment, while the maximum penalty for defilement of a child between ages 13 and 15, or of an intellectually impaired person, is 10 years' imprisonment. Women's NGOs

complained that magistrates imposed shorter sentences, from two to eight years, in child defilement cases.

Child pornography is illegal. The maximum penalty for violators is 14 years' imprisonment and/or a maximum fine of F\$25,000 (\$14,180) for a first offense and life imprisonment and/or a fine of up to F\$50,000 (\$28,361) for a repeat offense, and the confiscation of any equipment used in the commission of the offense.

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

There were reports of child prostitution among high school students and homeless and jobless youth. There reportedly were cases of child sex tourism, particularly in tourist centers such as Nadi and Savusavu. Taxi drivers, hoteliers, bar workers, and others reportedly acted as middlemen, facilitating the commercial sexual exploitation of children. Although police personnel were sometimes aware of allegations of child prostitution, they were sometimes either unable or unwilling to investigate further.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

### **Anti-Semitism**

There was no known Jewish community, and there were no reports of anti-Semitic acts.

### **Trafficking in Persons**

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

### **Persons with Disabilities**

Under the abrogated constitution, all persons were considered equal under the law, and discrimination against persons with disabilities in employment, education, provision of housing and land, or provision of other state services was illegal. Since the constitution's abrogation, no new decree has addressed specifically the rights of persons with physical, sensory, intellectual, and mental disabilities; however, existing statutes provide for the right of access to places and all modes of

transport generally open to the public. Public health regulations provide penalties for noncompliance; however, there was very little enabling legislation on accessibility for persons with disabilities, and there was little or no enforcement of laws protecting them.

Building regulations require new public buildings to be accessible to persons with disabilities, but only a few existing buildings met this requirement. By law all new office spaces must be accessible to persons with disabilities. There were only a small number of disabled-accessible vehicles in the country. The Fiji Disabled People's Association, an NGO, reported that most persons with disabilities were unemployed due to lack of sufficient education and training and negative attitudes of employers. There were no government programs to improve access to information and communications for persons with disabilities, and persons with disabilities, in particular those with hearing or vision impairments, had difficulty accessing public information. There were a number of community organizations that assisted those with disabilities, particularly children.

There were a number of special schools offering primary education for persons with physical, intellectual, and sensory disabilities; however, cost and location limited access. Opportunities for a secondary school or higher education for those with disabilities were very limited.

A decree stipulates that treatment should be provided for persons with mental and intellectual disabilities in the community, public health, and general health systems. In practice, however, most persons with such disabilities were separated from society and typically were supported at home by their families. Institutionalization of persons with severe mental disabilities was in a single underfunded public facility in Suva.

The Fiji National Council for Disabled Persons, a government-funded statutory body, worked to protect the rights of persons with disabilities. Several NGOs also promoted attention to the needs of persons with various disabilities.

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

Tension between ethnic Fijians and the Indo-Fijian minority has been a longstanding problem. Indigenous Fijians, or iTaukei, make up an estimated 58 percent of the population, Indo-Fijians comprise 36 percent, and the remaining 6 percent is composed of Europeans, Chinese, and Rotuman and other Pacific Islander communities. The abrogated constitution contained a nonjusticiable

compact that cited the “paramountcy” of Fijian interests as a guiding principle and provided for affirmative action and “social justice” programs to “secure effective equality” for ethnic Fijians and Rotumans, “as well as for other communities.” The compact chiefly benefited the indigenous Fijian majority, although Indo-Fijians dominated the commercial sector. The government publicly stated its opposition to such policies, which it characterized as racist, and called for the elimination of discriminatory laws and practices that favor one race over another; however, as of year’s end, some programs with affirmative action components favoring indigenous Fijians remained in place. Indigenous Fijians continued to dominate the civil service and security forces.

In an effort to address the sensitive question of ethnic and national identity, in 2010 the government decreed that the country’s citizens would henceforth be known as “Fijians,” a term that previously was understood to refer only to the indigenous population. Indigenous Fiji Islanders would become known as “iTaukei,”-- literally, “owners” in the Fijian language. (The 1997 constitution used the term “Fiji Islander” to refer to all citizens.) Some submissions from indigenous citizens to the Constitution Commission, however, called for the term “Fijian” to be reserved for indigenous citizens only.

Land tenure remained a highly sensitive and politicized issue. Ethnic Fijians communally held approximately 87 percent of all land, the government held approximately 4 percent, and the remainder was freehold land, which private individuals or companies held. All indigenous land is held in a statutory trust by the iTaukei Land Trust Board (TLTB) for the benefit of indigenous landholding units. Most cash-crop farmers were Indo-Fijians, the majority of whom are descendants of indentured laborers who came to the country during the British colonial era. Virtually all Indo-Fijian farmers were obliged to lease land from ethnic Fijian landowners. Many Indo-Fijians believed that limits on their ability to own land and their consequent dependency on leased land from indigenous Fijians constituted de facto discrimination against them. Many indigenous Fijian landowners believed that the rental formulas prescribed in the national land tenure legislation discriminated against them as the resource owners. This situation contributed significantly to communal tensions. A pattern of refusals by ethnic Fijian landowners to renew expiring leases between 1997 and 2008, resulting in evictions of Indo-Fijians from their farms and their displacement to squatter settlements, seemed to ease with a concerted government effort to encourage landowners to renew leases. The number of lease renewals increased in 2011 and again in 2012.

To improve access to land, the government maintained a “land bank” in the Ministry of Lands for the purpose of leasing land from indigenous landowning units through the TLTB and subleasing the land to individual tenants for lease periods of up to 99 years. In practice, however, the Land Bank began leasing land directly to tenants, without TLTB involvement. In 2011 revisions to the formula for distributing lease proceeds to indigenous landowners abolished the system of chiefly privilege in land lease income distribution and provided for a “one person, one share” system. This change contributed to an increase in lease renewals, as individual members of landowning units received a greater share of lease monies than under the previous system.

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

The Crimes Decree does not criminalize consensual same-sex sexual activity and recognizes male-on-male rape as a crime. The ERP prohibits discrimination in employment based on sexual orientation; there were no laws specifically prohibiting discrimination against lesbian, gay, bisexual, and transgender (LGBT) persons in other areas. While same-sex sexual conduct was abhorrent to some with deeply held religious beliefs, in general attitudes toward LGBT individuals have become more accepting, especially among the young, and articles promoting tolerance were regularly found in the media.

On May 17, police cancelled a permit previously issued to the LGBT NGO Oceania Pride for a march commemorating International Day against Homophobia and Transphobia. The commissioner stated that the permit was cancelled because of concern for the marchers’ safety. Oceania Pride and others criticized the cancellation as a violation of freedom of expression for LGBT individuals and their supporters.

There was some societal discrimination against persons based on sexual orientation and gender identity, although there was no systemic discrimination. Shortly before the date of the planned Oceania Pride march, the Methodist Church--the country’s largest religious denomination--stated its opposition to “special rights” for LGBT persons and “promotion of gays in the society.” There were reports of bullying of LGBT students in schools. There were no official reports of discrimination against LGBT persons in such areas as employment, housing, or access to health care; however, intimidation or social stigma possibly prevented incidents of discrimination or abuse from being reported.

## **Other Societal Violence or Discrimination**

There was some societal discrimination against persons with HIV/AIDS, although it was not systemic. There were no known cases of violence targeting persons with HIV/AIDS, but intimidation or social stigma possibly prevented reporting of cases involving abuse or discrimination.

## **Section 7. Worker Rights**

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

The law, including related regulations and statutory instruments, gives many workers in the private sector the right to form and join independent unions, elect their own representatives with some restrictions, publicize their views on labor matters, and determine their own policies. The law also gives most workers the right to strike and bargain collectively. However, strict legal controls on right of assembly and inconsistent enforcement of the law by officials during the year at times rendered those rights difficult to exercise in practice.

Civil servants are excluded from the ERP and its tribunals, courts, and mediation services and instead are covered by parallel mechanisms in the State Services Decree, which provides civil servants the same rights to equality and nondiscrimination as workers covered by the ERP. Unlike workers covered by the ERP, however, civil servants do not have the right to bargain collectively. A 2011 decree reclassified 15,000 public-sector workers as civil servants, terminating judicial protections and substituting the right of appeal to the Public Service Commission (PSC).

All unions must register with the government, which has discretionary power to refuse to register any union with an “undesirable” name, as well as to cancel registration of existing unions in cases provided for by law. The ERP allows restrictions on the right of association if necessary in the public interest or to protect national security. Police, military, and prison personnel are prohibited from forming or joining a union.

Although the POAD liberalized some restrictions imposed under the PER, many limitations on freedom of association and assembly were continued under the new decree, such as the government’s broad discretionary authority over meeting permits. The POAD’s restrictions on meetings, except at large public venues, were lifted on July 18 for the duration of the constitutional reform process.

The law provides for the limited right to strike, except for police, military, and prison personnel. Unions can conduct secret strike ballots but must give the registrar 21 days' notice. More than 50 percent of all paid-up union members--not only paid-up members who actually cast ballots in the election--must vote in favor of a strike for the strike to be legal. The Ministry of Labor also must be notified and receive a list of all striking employees and the starting date and location of the strike. This requirement is intended to give organizers, unions, employers, and the ministry time to resolve the dispute prior to a strike. To carry out a legal strike, organizers of strikes in certain "essential services"--including emergency, health, fire, sanitary, electrical, water, and meteorological services; telecommunications; air traffic control; and fuel supply and distribution--are required to give an employer 49 days' notice. The law also permits the minister of labor to declare a strike unlawful and refer the dispute to the ERT. If the issue is referred to the ERT, workers and strike leaders can face criminal charges if they persist in strike action. There were no reported strikes during the year.

Under the law any trade union with six or more members may enter into collective bargaining with an employer. Individual employees, including nonunionized workers, as well as unions, can bring a dispute with employers before the permanent secretary for labor for mediation. If mediation fails the authorities may refer the dispute to the ERT. The ERT's decision can be appealed to the Employment Court (a division of the High Court) and from there to the Court of Appeal and then the Supreme Court. Unions also have the right to appeal to the ERT against an adverse decision by the trade union registrar. 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 Labor.

The authorities did not always respect fundamental labor rights in practice. The 2011 ENID restricts trade union and collective bargaining rights for workers in designated industries and corporations deemed essential to the national economy. In 2011 the government officially designated 11 corporations in four sectors--finance, telecommunications, the public sector, and the airline industry--as "essential" under the decree. Once the corporations were designated, existing collective agreements and unions were nullified within 60 days. Only negotiating units of at least 75 members were permitted to reorganize and negotiate with employers. Under the new decree, the prime minister is provided final, unreviewable authority to approve the size and composition of the units. Such units were not registered as trade unions under the ERP and did not enjoy the same

rights and protections accorded trade unions under the ERP. The ENID also prohibits any individual not directly employed by an employer from undertaking negotiations on the employees' behalf. While all existing collective agreements were annulled, parties were given 60 days to negotiate a new contract before employers gained the right to unilaterally impose a new collective or individual contract. In most industries in which the ENID applies, however, employers appeared to have preserved the majority of benefits provided under previous collective bargaining agreements.

The ENID allows "essential" industries considered to be in financial distress to renegotiate collective agreements. If the parties fail to reach a new collective agreement, these employers may unilaterally submit a new or amended agreement to the prime minister for approval. The ENID severely restricts the rights of workers in designated industries to strike, requiring more than three years of unsuccessful negotiations, excluding most common causes for disputes, and requiring prior strike approval from the government. The ENID gives the prime minister broad authority to declare any strike unlawful, and violators are subject to severe penal sanctions. The government has wide discretionary authority to determine that additional industries are "essential." Decisions made under the ENID's auspices are not contestable in court.

After the ENID was issued in 2011, the government denied permits to the two trade union umbrella bodies, the Fiji Trades Union Congress (FTUC) and the Fiji Islands Council of Trade Unions (FICTU), to hold their council meetings. However, with the lifting of the PER, the FTUC and FICTU were able to hold meetings in 2012. Unions, however, alleged that POAD restrictions on meetings, arbitrary permit decisions by authorities, and monitoring by authorities severely limited their ability to conduct union business. On October 19, police interrupted a meeting between employee and employer representatives of the Pacific Fishing Company. They later apologized and claimed that the police presence was due to confusion relating to a separate case.

While not promoted by the ERP, individual contracts were common. Employers tended to offer advantageous packages to new employees, particularly skilled labor, to promote individual contracts, which according to labor groups reduced the possibilities for collective bargaining and weakened unions.

At year's end Daniel Urai, president of the FTUC and general secretary of the hotel workers union, and union organizer Nitin Goundar continued to await trial on 2011 charges of breach of the PER for holding a meeting without a permit. The two

unionists had met with two workers fired from an island resort. Urai was also awaiting trial on a separate 2011 charge of sedition; the government alleged he urged certain persons to overthrow the government. Both men remained free on bail pending trial. Under his bail conditions, Urai required court permission to travel abroad. Although during the year a court granted permission for him to attend a meeting abroad, airport immigration officers stopped him from leaving the country pending receipt of clarification from the court regarding the travel approval; this caused him to miss the meeting.

Labor leaders and civil society groups also criticized the POAD's broad definition of "terrorism" and government officials' broad discretion under the law to detain individuals or prohibit meetings on poorly defined grounds, such as intent to "undermine" the economy.

The law prohibits an employer from victimizing workers or firing a worker for belonging to a union, but union organizers were occasionally vulnerable to dismissal or other interference by employers.

Major trade unions reported instances of the government using the ERP in a biased fashion to shut down negotiations and appeals.

In 2010 the Fiji Sugar Corporation ceased direct deduction of union dues for two registered farmers' unions. These unions reported difficulties collecting dues from members and providing services to members because of this measure. The government did not directly deduct union dues for civil service unions. The law makes automatic deductions a service rather than a right, so the government can choose not to provide this service. These unions claimed that this greatly hampered their ability to represent their members. At mid-year the PSC stated there were no plans to restore dues deductions.

After seemingly securing the government's agreement to terms of reference (TOR) for an International Labor Organization (ILO) mission to investigate allegations that the government was limiting freedom of association, an ILO team arrived in the country on September 17. The team was asked to leave the country during its initial meeting with the Ministry of Labor. The government claimed the TOR had not been approved government wide and offered the ILO a different TOR that was unacceptable to the ILO. At year's end the government and the ILO were engaged in efforts to secure a new mission under mutually agreed TOR, and in December the government invited the ILO to return for a mission in 2013.

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

The ERP prohibits forced or compulsory labor, but there were reports that some such practices occurred. The Labor Inspectorate, police, and Department of Immigration are responsible for enforcing the law, depending on the circumstances of the particular case.

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

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

Under the law children under age 12 may not be employed except in a family-owned business or agricultural enterprise. Any such employment must not interfere with school attendance and is to be of limited duration. Although the law provides that education is compulsory until age 15, children between ages 12 and 15 may be employed on a daily wage basis in nonindustrial "light" work not involving machinery, provided they return to their parents or guardian every night. Children between ages 15 and 17 may be employed in certain occupations not involving heavy machinery, hazardous materials, mines, or heavy physical labor; however, they must be given specified hours and rest breaks. The ERP provides for imprisonment of up to two years, fines of up to F\$50,000 (\$28,361), or both for employers who violate these provisions.

The Ministry of Labor deployed inspectors nationwide to enforce compliance with labor laws, including those covering child labor. In 2010 the government established a multiagency task force led by the Ministry of Labor to work toward the elimination of the worst forms of child labor.

Poverty continued to lead children to work as casual laborers, often with no safeguards against abuse or injury. During the year migration of rural youth to urban areas continued, and youth continued to find employment in the informal sector, including work as wheelbarrow boys; casual laborers, including in cane farming and other agriculture; and prostitutes.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/programs/ocft/tda.htm](http://www.dol.gov/ilab/programs/ocft/tda.htm).

## **d. Acceptable Conditions of Work**

There was no single, national minimum wage, although the Wages Councils, comprising representatives of both workers and employers, set minimum wages for certain sectors. The 11 corporations designated by the ENID are excluded from the ambit of the Wages Councils. There was no current official poverty-level income figure, but minimum wage levels in regulated industries and entry-level wages in unregulated and informal sectors did not typically provide a decent standard of living for a worker and family.

The law stipulates that every employer shall pay male and female workers equal remuneration for work of equal value. There is no single national limitation on maximum working hours for adults, but there are restrictions and overtime provisions in certain sectors. The ENID bans overtime payments for work in the 11 designated corporations unless agreed upon by the employer.

There are workplace safety laws and regulations, and safety standards apply equally to both citizens and foreign workers.

The Labor Ministry uses its Labor Inspectorate to enforce minimum wages, but the inspectorate did not have sufficient capacity to enforce the law fully. The ERT and the Employment Court adjudicate cases of employers charged by the Labor Inspectorate with violating minimum wage orders and decide on workmen's compensation claims filed by the inspectorate on behalf of workers.

The Occupational Health and Safety Inspectorate in the Ministry of Labor monitors workplaces and equipment and investigates complaints from workers. Although mines are excluded from the general workplace health and safety laws, the Mining Act empowers the director of mines and his inspectors to enter and inspect all mines with a view to the health, safety, and welfare of employees.

Unions generally monitored safety standards in organized workplaces, but many work areas did not meet standards, and not all were monitored by the Ministry of Labor for compliance. Workers in some industries, notably transportation and shipping, worked excessive hours. Government enforcement of safety standards suffered from a lack of trained personnel and delays in compensation hearings and rulings. During the year 206 cases of workplace injuries or deaths (148 injuries and 58 deaths) in the public sector and 778 cases (700 injuries and 78 deaths) in the private sector were reported to the Department of Labor. Workmen's compensation paid during the year totaled approximately F\$ one million (\$567,215) in 107 public-sector cases and F\$494, 583 (\$280,535) paid by employers in 161 private-sector cases.