

FIJI 2015 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Following eight years of military rule, Fiji held general elections in September 2014. In a contest deemed credible and “broadly reflecting the will of the Fijian people” by the Australian-led Multinational Observer Group, citizens elected 50 new parliamentarians. Josaia Voreqe (Frank) Bainimarama’s Fiji First party won 32 of the seats, and he was sworn in as prime minister. Civilian authorities regained effective control over the security forces after the general elections.

The leading human rights problems included police and military abuse of persons in custody; restrictions on freedoms of speech, assembly, and movement; and restrictions on trade union and collective bargaining rights as well as strict limitations on the ability of workers in certain sectors to strike.

Other human rights problems included prison conditions, government corruption, violence and discrimination against women, sexual exploitation of children, and deep ethnic divisions.

The government failed to prosecute or punish some security forces officials who committed abuses, but it prosecuted or punished most officials who committed abuses elsewhere in the government. Impunity was a problem.

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.

Police reportedly killed one person in custody in 2014. Police officers detained robbery suspect Vilikesa Soko on August 17, 2014, and he died in the hospital on August 19 as the result of an alleged assault while in custody. The media reported the autopsy showed evidence of multiple organ failure, rectal and penile injuries, blood clots in the lung, extensive internal injuries, and bacterial blood infection. Authorities charged eight police officers and one military officer on February 11. The case remained pending at year’s end.

b. Disappearance

There were no reports of politically motivated disappearances.

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

The constitution and the crimes decree prohibit torture, forced medical treatment, and degrading treatment or punishment. The Public Order Act Amendment Decree (POAD), however, authorizes the government to use whatever force it deems necessary to enforce public order. There were reports of security force members abusing individuals during the year.

On March 20, a 20-person police team reportedly took Sakiusa Niulala from his home and beat him on the village lawn in front of his neighbors and children until he was unconscious. Then Fiji commissioner of police Ben Groenwald initiated an official internal investigation into the alleged beating, but there have been no reports of disciplinary action as of year's end.

Prison and Detention Center Conditions

Prison conditions were harsh and did not meet international standards. The national prison system was underfunded and overcrowded, with deteriorating infrastructure and complaints about delivery of essential services.

Physical Conditions: As in previous years, prisons were somewhat overcrowded, holding 1,555 inmates in facilities intended for 1,500. Authorities held men and women separately, as were juveniles and adults. Authorities generally separated pretrial detainees and convicted prisoners at shared facilities, although in some cases authorities held them together.

The system had insufficient beds, inadequate sanitation, and a shortage of other basic necessities. There were no reports of inmate deaths during the year attributable to poor prison conditions.

Administration: There were no alternatives to prison sentences for nonviolent offenders, but the Corrections Service arranged outside job placements for inmates with less than one year of their sentence remaining to ease their return to society. The department also used compulsory supervision orders, under which authorities could release inmates with less than a year to serve into the community to serve at a local church or other community center.

The constitution authorizes an Office of Accountability and Transparency (formerly known as the Ombudsman's Office) to investigate maladministration in government departments; however, authorities had not legally established the office by year's end.

Prisoners may submit complaints to the Fiji Human Rights and Anti-Discrimination Commission (FHRADC), which investigated a few such complaints during the year. In contrast to previous years, the Constitutional Offices Commission, which commenced functioning in May, appointed members of the FHRADC. The positions had been vacant since the 2009 abrogation of the previous constitution, inhibiting the commission's independence and effectiveness. Prisoners may also lodge complaints with the corrections service and with visiting judges and magistrates when they inspect prisons.

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 FHRADC, but the authorities routinely reviewed such letters. Authorities did not investigate or document credible allegations of inhuman conditions in a publicly accessible manner.

Independent Monitoring: During the year the International Committee of the Red Cross visited official detention facilities and interviewed inmates; prison authorities permitted such visits without third parties present.

d. Arbitrary Arrest or Detention

The constitution provides for protection against arbitrary arrest or detention. The Criminal Procedure Decree details procedures for lawful arrest. The POAD authorizes security forces to detain a person for up to 16 days before bringing charges; the minister of defense must authorize detention without charge exceeding 48 hours. The government did not conduct any credible investigations of unlawful detentions by the security forces during the years of military rule, but activists reported a reduction of such incidents after the government lifted Public Emergency Regulations (PER) in 2012.

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). Police are responsible for law enforcement and the maintenance of internal security. The RFMF is responsible for external security. The POAD also authorizes soldiers 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. As of April the media reported more than 200 complaints against officers. According to police most complaints related to the criminal investigation process. Authorities suspended or removed from the force several officers for misconduct during the year. The Fiji Independent Commission against Corruption (FICAC) investigated public agencies and officials, including some members of the police and military forces. Impunity and corruption remained problems, however.

The constitution and POAD provide immunity from prosecution for members of the security forces for any deaths or injuries arising from the use of force deemed necessary to enforce public order. In October the Department of Public Prosecution charged five members of the security forces for alleged unlawful and sexual assault on an escaped prisoner that occurred in 2012. The assault garnered widespread public attention when a video of the incident went viral on social media. In November, Fiji Police Commissioner Ben Groenwald resigned, citing military interference in this case. Following Groenwald's resignation, Fiji Prime Minister Voreqe Bainimarama appointed RFMF Officer Brigadier General Sitiveni Qiliho as acting police commissioner for a three-month term. His appointment continued at year's end. The five officers accused in the assault case were on bail pending trial.

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

Arrest Procedures and Treatment of Detainees

The constitution provides that detained persons be charged and produced in court within 48 hours of arrest or as soon as practicable thereafter. 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 which point

authorities must charge or release persons in custody. There is no legal requirement to produce persons detained under provisions of the POAD in court for judicial review of the grounds for their detention, unless authorities charged them 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” to grant bail. Under the act both police and the courts can grant bail. There is a presumption in favor of granting bail, although the prosecution may object, as often happened in cases where the accused was appealing a conviction or had previously breached bail conditions. An individual must apply for bail by a motion and affidavit that required the services of a lawyer.

Authorities generally allowed detainees prompt access to counsel and family members. The Legal Aid Commission provided counsel to some indigent defendants in criminal cases, a service supplemented by voluntary services from private attorneys. 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 remained high because of a continuing pattern of refusal of bail by the courts. In 2014 pretrial detainees made up approximately 24 per cent of the prison population. A shortage of prosecutors and judges contributed to slow processing of cases. Consequently, some defendants faced lengthy pretrial detention.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary subject only to the constitution and law, but gives the president, prime minister, and attorney general control over the appointment and removal of the chief justice and other members of the judiciary. The president appoints or removes from office the judges of the Supreme Court, justices of appeal, and judges of the High Court on the recommendation of the Judicial Service Commission in consultation with the attorney general. The commission, following consultations with the attorney general, may appoint magistrates, masters of the High Court, the chief registrar, and other judicial officers. There was a pattern of nonrenewal of contracts for judges and magistrates, many of whom were foreigners limited to three-year contracts. Political parties and NGOs complained this constituted interference with judicial independence. Additionally, the constitution and various decrees provide for a variety of restrictions on the jurisdiction of the courts.

The constitution prohibits all tiers of the judiciary 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 previous constitution in 2009; and all government decrees since December 2006. This immunity protects indefinitely all actions by the government prior to the first sitting of parliament after the 2014 elections, as decreed by the constitution. 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 cabinet, ministers, or government departments.

In 2013 a court convicted the NGO Citizens Constitutional Forum (CCF) and its director, Akuila Yabaki, of contempt of court for publishing an excerpt of the report "Fiji: the Rule of Law Lost," by the UK Law Society--freely available on the internet--in the CCF's newsletter. The court sentenced Yabaki to pay a fine of F\$2,000 (\$1,050) or serve three months in jail; however, the court suspended the jail term for 12 months. The court also ordered the CCF to pay a fine of F\$20,000 (\$10,500), F\$6,000 (\$3,150) in costs to the government, and publish an apology to the judiciary in the next CCF newsletter. After consultations with CCF legal counsel, Yabaki and the CCF discontinued their appeal of the convictions in April.

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 crimes decree defines which offenses may be tried in the magistrates' courts and which must be tried in the High Court. The magistrates' courts heard most cases. Only the High Court can hear serious offenses, including murder, rape, trafficking in persons, bribery, treason, sedition, and mutiny. 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; they 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 have 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 were unaware of their rights when detained or interviewed and, therefore, often did not ask for legal counsel. The Legal Aid Commission, supplemented by voluntary services of private attorneys, provided free counsel to some indigent defendants in criminal cases. The right of appeal exists but delays in the process often hampered this right. All citizens receive these rights without discrimination.

Political Prisoners and Detainees

In contrast with previous years, there were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

Although the constitution provides for an independent and impartial judiciary in civil matters, it prohibits the judiciary from considering lawsuits relating to the 2006 coup, subsequent actions by the interim government, the 2009 abrogation of the 1997 constitution, and subsequent military decrees. In the event of a human rights violation, an individual may complain to the FHRADC, but the constitution prohibits FHRADC from investigating cases filed by individuals and organizations relating to the 2006 coup and the 2009 abrogation of the previous constitution.

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. In contrast with previous years, there were no credible reports police did so during the year.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution provides for freedom of expression, speech, thought, opinion, and publication, but it grants the government authority to restrict these rights for a broad array of reasons. These include preventing hate speech and insurrection; maintaining national security, public order, public safety, public morality, public health, and the orderly conduct of elections; protecting the reputation, privacy, dignity, and rights of other persons; and enforcing media standards and regulating

the conduct of media organizations. Additionally, the POAD gives the government power to detain persons on suspicion of “endangering public safety” and to “preserve the peace,” and the media decree prohibits “irresponsible reporting” and provides for government censorship of the media. The government used the threat of prosecution under these provisions to intimidate its critics and impede public criticism.

Freedom of Speech and Expression: 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 authorities can prosecute on their return to Fiji. In August authorities arrested and charged for seditious acts more than 60 persons from the provinces of Nadroga, Navosa, and Ra following claims of military-style training and attempts to establish a breakaway state on the main island of Viti Levu. Those charged awaited trial at year’s end. The POAD 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 acts of religious vilification and attempts to sabotage or undermine the country’s economy offenses punishable by a maximum F\$10,000 (\$5,250) fine or five years in prison. During the year police monitored public and private meetings of NGOs and labor and political groups. There were no arrests or convictions for violations concerning hate speech against a particular community or against government authority.

In August parliament passed the Flag Protection Act. This new law makes it an offense punishable by up to 10 years imprisonment and \$9,380 (F\$ 20,000) any use of Fiji’s flag to “demean, disrespect, or insult the State, the Government or any member of Government, or the general public.” According to the new law, “the onus of proof shall be on the Defendant to prove his or her innocence.”

Press and Media Freedoms: In contrast to previous years, independent media operated relatively freely, despite the media decree and monitoring by the Media Industry Development Authority (MIDA).

In contrast with previous years, the government ran some paid advertisements in the *Fiji Times* but published fortnightly supplements and most of its advertisements in the *Fiji Sun* newspaper, which was generally progovernment. In December 2014 Fijian Holdings Limited, the parent company for Fiji TV, terminated two Fiji TV senior executives’ contracts after reports of a broadcasting rights dispute with

the government. The government wholly owns the Fiji Broadcasting Corporation, which operates six radio stations and a television station.

Violence and Harassment: Unlike in previous years, journalists did not report any incidents of violence or harassment.

Censorship or Content Restrictions: The media decree contains a provision authorizing the Ministry of Information to censor all news stories before broadcast or publication. Although the government ceased formal media censorship under the decree in 2012, journalists and media organizations continued to practice varying degrees of self-censorship. In contrast with previous years, the media published opinion articles by academics and commentators perceived as antigovernment.

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. MIDA is responsible for enforcing these provisions and 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 fines of up to F\$25,000 (\$11,720) for publishers and editor, and F\$100,000 (\$49,600) for media organizations. In contrast to previous years, amendments to the media decree removed jail terms of up to two years and fines of up to F\$1,000 (\$470) for journalists. The tribunal, which consists of a single judge, is not bound by formal rules of evidence. The decree strips the judiciary of power to review the decree or any proceedings or findings of MIDA, the tribunal, or the information minister.

The code of ethics in the media decree requires that material published by the media be balanced. It obligates the media to give any individual or organization an opportunity to reply to comments or materials for publication. This requirement enabled government departments to delay and or prevent publication of stories by not responding in a timely manner to media questions when presented an opportunity to reply, making it impossible for the media to fulfill the decree's requirement for balanced reporting. Media sources reported that if a story was positive toward the government, they could ignore the balance requirement without consequence.

The television amendment decree requires television license holders to operate in conformance with the media decree's code of ethics. In contrast to previous years, authorities extended Fiji TV's 12-year broadcasting license during the year. Since

2012 Fiji TV's license had been renewed five times for six months on each renewal after reports of a rift with the government regarding Fiji TV's news content.

Libel/Slander Laws: The constitution includes the need to protect the reputation of persons as allowable limitations to freedom of expression. The threat of prosecution for contempt of court or under provisions of the media decree and the POAD was sufficient incentive to the media to practice self-censorship.

National Security: The constitution includes national security as an allowable limitation to freedom of expression. While the threat of prosecution for contempt of court or under provisions of the media decree and the POAD was sufficient incentive to the media to practice self-censorship, some media outlets have begun to report on issues previously considered too sensitive for publication.

Actions to Expand Press Freedom: During the year the government amended the media decree, removing jail sentences of up to two years and fines of up to F\$1,000 (\$470) for individual journalists. The amendment also allows foreign companies to own companies offering paid television subscriptions in the country. The government also extended Fiji TV's broadcasting license from six months validity to 12 years.

Internet Freedom

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports that the government monitored private online communications without legal authority. 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 (\$46,870) on providers who continued to provide services to unregistered users and up to F\$10,000 (\$4,690) on users who did not update their registration information as required.

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 World Bank, approximately 42 percent of the population used the internet in 2014.

Academic Freedom and Cultural Events

The constitution provides for academic freedom, although contract regulations of the University of the South Pacific (USP) effectively restricted 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.

b. Freedom of Peaceful Assembly and Association

The constitution provides for the freedoms of assembly and association, but with restrictions.

Freedom of Assembly

The constitution provides for freedom of assembly but allows the government to limit this right in the interests of national security, public safety, public order, public morality, public health, and the orderly conduct of elections. The constitution also allows the government to limit freedom of assembly to protect the rights of others and imposes restrictions on public official's rights to freedom of assembly.

The POAD allows 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 public and private meetings after "due warning" to preserve public order.

After two years of limiting the Methodist Church's annual conference to 40 hours, and after a total ban on the conference from 2009 to 2011, the government allowed the church to hold its conference in September 2014 and during the year without any limitations. Event organizers said the permitting process was sometimes very slow, but the authorities granted permits for public rallies in support of West Papuan independence, UN Human Rights Day, and the 16 Days of Activism Against Domestic Violence Campaign.

Freedom of Association

The constitution provides for freedom of association but limits this right in the interests of national security, public order, and morality and also for the orderly conduct of elections. It allows the government to regulate trade unions and

collective bargaining processes, strikes and lockouts, and essential industries in the interests of the economy and the people. In September the government's new Employments Relations (ER) law amended the Employment Relations Promulgation and repealed the Essential National Industries Decree, in doing so providing for the right of workers to join trade unions. The government generally did not restrict membership in other NGOs, professional associations, and other private organizations.

c. Freedom of Religion

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

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

Under the POAD the government may restrict freedom of internal movement, foreign travel, emigration, and repatriation, and the government sometimes 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. The government did not make public names on the list; would-be travelers discovered their inclusion when airport immigration authorities turned them back.

Exile: The law does not provide for forced exile, and the government did not practice it. There have been several cases of self-imposed exile, however, 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 several requests for asylum and refugee status during the year, and the government worked with UNHCR to resettle some refugees to other countries. Refugee and asylum seekers had access to assistance from the Social Welfare Department, Ministry of Health, and other relevant ministries. Some had friends or family connections, however, and were able to find work and establish themselves in the country.

Section 3. Freedom to Participate in the Political Process

The constitution and electoral decree provide citizens the ability to change their government peacefully. In contrast with the previous eight years, citizens exercised this right through free and fair elections based on universal suffrage.

Elections and Political Participation

Recent Elections: In September 2014 voters elected 50 members of parliament. With the Fiji First party winning 32 seats and an outright majority, Bainimarama was sworn in as prime minister. Parliament's first sitting since 2006 took place in October 2014. Observers deemed the elections generally credible and "broadly reflected the will of the Fijian people."

Political Parties and Political Participation: The constitution provides for the right to form and join political parties, to campaign for political parties or a cause, to register as a voter, to vote by secret ballot in elections or referendums, to run for public office, and to hold that office. These rights are limited, however, to allow the government to prescribe eligibility requirements for voters, candidates, political party officials, and holders of public office.

Under the POAD permits are required for political meetings in both public and private venues.

In 2013 the government published the Political Parties Registration Decree. The decree canceled the registration of all 20 registered political parties and required that parties submit applications, which must include 5,000 member signatures, for registration. Only three of the 20 existing parties, two independent candidates, and four newly formed parties complied with these requirements and registered successfully. The law allows deregistration of political parties for any election

offense and mandates trade union leaders must quit their positions before running as candidates, a provision that applied to several opposition party leaders contesting the 2014 elections.

The 2014 electoral decree restricts any person, entity, or organization receiving funding from foreign governments, intergovernmental or nongovernmental organizations, or multilateral agencies from conducting or participating in any campaigns, including meetings, debates, panel discussions, interviews, publishing materials, or any public forum discussing the elections. Penalties for convictions of violations of the decree incur up to 10 years in prison, a F\$50,000 (\$26,250) fine, or both. The decree allows universities to hold panel discussions and organize inclusive public forums. The Electoral Commission vetted all civic education materials produced by NGOs and sometimes refused to grant publication. The supervisor of elections accused the Citizens Constitutional Forum (CCF) of breaching the decree after the NGO held a public forum in partnership with the USP in July 2014 and referred the matter to FICAC for investigation. In August 2014 FICAC raided CCF and USP offices. FICAC completed its investigation and provided a report on the incident to the Fiji Elections Office. As of October the results of the investigation had not been provided to CCF.

Participation of Women and Minorities: Cultural beliefs restricted participation of most indigenous women in political life. The 14-member cabinet included two female ministers, and two women were assistant ministers. Jiko Luveni was elected the first female speaker of parliament, and Ro Teimumu Kepa was elected the first female leader of the opposition. Two contenders in the October selection of Fiji's President (by parliament) were women; however, parliament ultimately selected Minister of Employment Jioji Konrote, an ethnic Rotuman, as president. Indigenous women played important roles in the traditional system of chiefs, and some became chiefs in their own right.

There were five Indo-Fijian ministers in the 14-member cabinet and one Rotuman minister. Two of the five assistant ministers were Indo-Fijian. Of the 50 members of parliament, 15 were Indo-Fijian, three were from minority ethnic groups (one Rotuman and two partly European), and 32 were indigenous Fijian. Indo-Fijians, who accounted for 36 percent of the population, continued to be under-represented 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 observers estimated the military and prison services to be more than 95 percent indigenous Fijian.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials, but the government did not implement the law effectively, and officials sometimes engaged in corrupt practices with impunity. There were numerous reports of government corruption during the year.

Corruption: 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. On December 10, Prime Minister Voreqe Bainimarama dismissed Corrections Chief Lieutenant-Colonel Ifereimi Vasu after FICAC charged Vasu for abuse of office. Authorities charged Vasu and acting deputy prisons commissioner Peniasi Kunatuba with violating procurement regulations when they approved more than F\$131,060 (\$60,000) of purchases for Dhansuklal Bhika (a former Suva mayor and current prison inmate) at a prison mini-mart. Authorities released Vasu on bail, and he will reappear in court in February 2016.

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 had submitted audit reports to the cabinet. The cabinet referred such reports to the Public Accounts Committee for review, but did not make them public. In October the finance minister reviewed the auditor general's reports from 2007 to 2013 and tabled them in parliament; they are now publicly available.

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

Public Access to Information: The constitution provides for public access to government information and for the correction or deletion of false or misleading information that affects any person. The constitution requires that a freedom of information law be enacted but does not specify a deadline for parliament to pass such a law. The government sometimes 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. In contrast to previous years, the government engaged with a number of NGOs, including NGOs that were critical of the government.

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

NGO operations were constrained 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.

Government Human Rights Bodies: The constitution establishes the FHRADC as the successor to the Fiji Human Rights Commission, but, like its predecessor, the law prohibits FHRADC from investigating cases filed by individuals and organizations relating to the 2006 coup and the 2009 abrogation of the previous constitution. The government appointed four commissioners and a chairperson for the FHRADC in May.

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

The constitution prohibits discrimination based on race, culture, ethnic or social origin, color, place of origin, gender, sexual orientation, gender identity and expression, birth, primary language, economic or social or health status, disability, age, religion, conscience, marital status, or pregnancy. The government generally enforced these provisions effectively, although there were problems in some areas.

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 that only the High Court can try. 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, whereby they pursued investigations of domestic violence cases even if a victim later withdrew the accusation. Women’s organizations reported 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 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. 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 some cases offenders were released without a conviction rather than jailed, on the condition they maintain good behavior. Several locally 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 a lack of child support.

Sexual Harassment: A decree prohibits sexual harassment, and the government used criminal laws against “indecent assaults on females,” which prohibit offending the modesty of women, to prosecute sexual harassment cases. Under the Employment Relations law, workers can file complaints on the ground of sexual harassment in the workplace.

Reproductive Rights: Couples and individuals generally have the right to decide freely the number, spacing, and timing of their children; to have the information and means to do so; and to manage their reproductive health, free from discrimination, coercion, and violence. The government provided family planning services, and women had access to contraceptives free of charge at public hospitals and clinics, and for a nominal fee if prescribed by a private physician. Nevertheless, NGOs reported some women faced societal and family pressure against obtaining contraceptives. 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 local authorities often excluded them from the decision-making process on disposition of indigenous communal land, which constituted more than 80 percent of all land. Women have the right to a share in the distribution of indigenous land lease proceeds, but authorities seldom recognized this right. Women have the same rights and status as men under family law and in the judicial system. Nonetheless, women and children had difficulties having protection orders enforced by police in domestic violence cases.

Although the law prohibits discrimination based on gender and requires equal pay for equal work, employers generally paid women less than men for similar work (see section 7.d.). Several prominent women led civil society, NGO, and advocacy groups.

The Ministry for Women, Social Welfare, and Poverty Alleviation worked to promote women's legal rights.

Children

Birth Registration: Citizenship is derived both from birth within the country and through one's parents. Parents were generally able to register births promptly.

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 put children at risk for abuse and appeared to be factors that contributed to a child's chance of exploitation for commercial sex.

Early and Forced Marriage: The legal minimum 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, exploitation in prostitution, or other unlawful purpose; the offense is punishable by imprisonment for up to 12 years. Commercial sexual exploitation of children is an indictable offense that the High Court must try. The government prosecuted two adults in 2012 for domestic trafficking of a 15-year-old girl and her 17-year-old sister on two occasions. In June 2014 a court convicted both men of domestic trafficking in children and slavery and sentenced them to 16 and 12 years in prison. The conviction was the first of its kind in the country.

It is 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.

Some high school age children and homeless and jobless youth engaged in prostitution during the year, and there were reported cases of child sex tourism in tourist centers, such as Nadi and Savusavu. In some cases taxi drivers, hoteliers, bar workers, and others reportedly acted as intermediaries facilitating the commercial sexual exploitation of children. Family members, other Fijian citizens, foreign tourists, and crewmembers on foreign fishing vessels also reportedly participated in the prostitution of Fijian children.

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, but, 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 a person with intellectual disabilities, is 10 years in prison. 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 in prison, a maximum fine of F\$25,000 (\$11,720), or both for a first offense and life imprisonment, a fine of up to F\$50,000 (\$23,440), or both for a repeat offense, and the confiscation of any equipment used in the commission of the offense.

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

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For country-specific information, see the Department of State's report at travel.state.gov/content/childabduction/en/country/Fiji.html.

Anti-Semitism

There was a small Jewish community comprised mainly of resident expatriates. 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/tip/rls/tiprpt/.

Persons with Disabilities

The constitution considers all persons equal, and discrimination against persons with disabilities in employment, education, provision of housing and land, or provision of other state services is illegal. Statutes provide for the right of access to places and all modes of transport generally open to the public. The constitution addresses specifically the right of persons with disabilities to reasonable access to all places, public transport, and information, as well as the right to use Braille or sign language and to reasonable access to materials and devices relating to the disability; the law, however, does not further define "reasonable." Additionally, the constitution provides that the law may limit these rights "as necessary." Public health regulations provide penalties for noncompliance, but 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 vehicles in the country accessible to persons with disabilities. Persons with disabilities continued to face employment discrimination (see section 7.d.). There were no government programs to improve access to information and communications for persons with disabilities, and persons with disabilities, in particular those with hearing or vision disabilities, had difficulty accessing public information. A number of community organizations assisted persons with disabilities, particularly children.

There were a number of separate schools offering primary education for persons with physical, intellectual, and sensory disabilities; however, cost and location limited access. Some students attended mainstream primary schools, and the Early Intervention Center monitored them. Opportunities for a secondary school or higher education for persons with disabilities was 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. Society, however, separated most persons with such disabilities, and their families supported them at home. Institutionalization of persons with more significant 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 was 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, 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. 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.

Land tenure remained a highly sensitive and politicized issue. Ethnic Fijians communally held approximately 87 percent of all land, the government held 4 percent, and the remainder was freehold land, which private individuals or companies held. The iTaukei Land Trust Board (TLTB) holds all indigenous land in a statutory trust 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 must 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.

To improve access to land, the government established a “land bank” under the land use decree, administered by 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. The Land Bank, however, began leasing land directly to tenants, without TLTB involvement and sometimes with significant pressure on landowners to “deposit” their land in the land bank. 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 lease allocation system. The constitution includes other new provisions protecting land leases and land tenancies, but observers noted that the provisions seemed to have unintended consequences, including weakening the overall legal structure governing leases and other such contracts.

Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity

The constitution prohibits discrimination on the grounds of sexual orientation, gender, and gender identity and expression; however, the right to equality and nondiscrimination may be limited for the purposes of adoption, marriage, devolution of property on death and for pension decisions by the Fiji National Provident Fund, and excluding individuals from holding public office. The crimes

decree does not criminalize consensual same-sex sexual conduct and recognizes male-on-male rape as a crime. The Employment Relations law prohibits discrimination in employment based on sexual orientation. There were no laws specifically prohibiting discrimination against lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons in other areas, nor were there criminal justice mechanisms to aid in the prosecution of bias-motivated crimes against members of the LGBTI community. In November a Fiji High Court rejected a transgender woman's request to change her birth certificate after gender reassignment surgery.

There was some societal discrimination against persons based on sexual orientation and gender identity, although there was no systemic discrimination. There were reports of bullying of LGBTI students in schools. There were no official reports of discrimination against LGBTI persons in such areas as employment, housing, or access to health care.

While same-sex sexual conduct was objectionable to some with deeply held religious beliefs, in general attitudes toward LGBTI individuals continued to become more accepting, especially among the young, and articles promoting tolerance appeared regularly in the media. President Ratu Epeli Nailatikau, acting Prime Minister Aiyaz Sayed-Khaiyum, and member of the Methodist Church of Fiji all made strong statements promoting the equal rights of LGBTI persons at the Pacific launch of the United Nations Free and Equal campaign for LGBTI equality in Suva in August.

HIV and AIDS Social Stigma

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.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

On September 11, the Employment Relations (Amendment) Act entered into force. The law repealed the 2011 Employment Relations (Amendment) Decree, the 2011 Essential Industries Decree, and the 2011 Public Service Amendment Decree, bringing all workers under the 2007 Employment Relations Promulgation. The law provides for workers in the private sector the right to form and join independent unions, bargain collectively, and strike, but does have a number of

restrictions. The law prohibits police, military, and prison personnel from forming or joining a union.

The law prohibits some forms of antiunion discrimination, including victimizing workers or firing a worker for belonging to a union. The constitution prohibits union officers from becoming members of parliament. The Political Parties Decree also limits the ability of union officers to form or join political parties and exercise other political rights.

The law designates “essential service and industries” to include the 11 corporations in eight sectors specified in the 2011 Essential Industries Decree: finance, telecommunications, public sector employees, and the airline industry. The new Employment Relations Amendment Act extends the definition of essential services and industries to include also all state-owned enterprises, statutory authorities, and local government authorities. Although the new law provides for the right of workers in essential services and industries, including the public sector, to bargain collectively, collective labor action--including the right to strike--is still limited.

The law continues to provide for the existence of separate, nonunion “bargaining units.” Workers may belong either to a trade union or to a nonunion bargaining unit. Workers in existing nonunion bargaining units may join unions only if the majority of workers in the unit vote in favor of joining the trade union. The law also limits who is able to be an officer of a trade union, including prohibiting noncitizens from being trade union officers.

All unions must register with the government, which has discretionary power to refuse to register any union with an “undesirable” name, although the new Employment Relations (Amendment) Act limits the government’s discretion to refuse to register trade union names to those cases where the name is “offensive, or racially or ethnically discriminatory.” The government may cancel registration of existing unions in cases provided for by law.

By law any trade union with seven or more members that is not in an industry designated as essential may enter into collective bargaining with an employer.

Unions can conduct secret strike ballots upon 21 days’ notice to the registrar if 50 percent of all members that are entitled to vote approve the strike. Workers in essential services may strike, but must give 28 days’ notice. Workers in essential services must also notify the Arbitration Court and provide the category of workers that propose to strike and the starting date and location of the strike. The law

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

Authorities did not always respect fundamental labor rights. Limited data were available on the government's enforcement of new legal provisions on freedom of association and collective bargaining. Penalties under law for violations of freedom of association and collective bargaining included fines and imprisonment; observers considered them sufficient. Individuals, employers, and unions (on behalf of their members) may submit employment disputes and grievances alleging discrimination, unfair dismissal, sexual harassment, or certain other unfair labor practices to the Ministry of Employment, Productivity and Industrial Relations. Civil servants are excluded from the tribunals, courts, and mediation services provided for under the new Employment Relations (Amendment) Act, but they are covered by parallel mechanisms in the State Services Decree, which provides civil servants the same rights to equality and nondiscrimination as other workers.

The two trade union umbrella bodies, the Fiji Trades Union Congress (FTUC) and the Fiji Islands Council of Trade Unions, were able to hold meetings during the year.

In October the Office of the Director of Public Prosecutions withdrew sedition charges against Daniel Urai, president of the FTUC and general secretary of the hotel workers' union. The Suva Magistrates Court discharged his case, returned his passport, and ordered the Department of Immigration to lift the stop-departure order against him.

In March the government, worker representatives, and employer representatives agreed to review recommendations for labor law reform through the Employment Relations Advisory Board (ERAB) mechanism and to submit a joint tripartite progress report to the International Labor Organization. Although the ERAB met several times throughout the year, as of November, it was unable to achieve tripartite consensus on an implementation report. The FTUC raised several concerns with the review process and the revised Employment Relations (Amendment) Act, including: an ongoing lack of remedy for unions that had been deregistered under the previous Essential National Industries Decree, the continuation of nonunion bargaining units, the expansion of the list of industries deemed to be essential, and continued limitations on the right to strike.

The FTUC also raised concerns that collective bargaining did not occur in practice and that there were cases during the year of workers being subject to harassment and intimidation. In one case the FTUC reported that a company threatened workers with nonpayment of annual bonuses and other benefits if the workers did not resign from their union and join a company-controlled union.

b. Prohibition of Forced or Compulsory Labor

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

The Labor Inspectorate, police, and Department of Immigration are responsible for enforcing the law, depending on the circumstances of the particular case. The law prescribes penalties of up to 25 years in prison, which observers generally considered sufficient to deter violations.

There were reports that forced labor occurred, including forced labor of children (see section 7.c.).

Also see the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip/rls/tiprpt/.

c. Prohibition of Child Labor and Minimum Age for Employment

Legally children under age 12 may not work 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 the ages 15 and 17 may be employed, but they must be given specified hours and rest breaks. They may not be employed in hazardous occupations and activities, including those involving heavy machinery, hazardous materials, mining, or heavy physical labor.

The Ministry of Employment deployed inspectors nationwide to enforce compliance with labor laws, including those covering child labor. The law provides for imprisonment of up to two years, fines of up to F\$50,000 (\$23,450), or both, for employers who violate these provisions. During the year the Interagency Committee on Child Labor, a multiagency task force led by the Ministry of Employment, continued to work with NGOs and labor organizations to

implement programs through the ILO's Tackling Child Labor Through Education (TACKLE) program.

Poverty continued to lead children to migrate to urban areas for work, increasing their vulnerability to exploitation, and to work as casual laborers, often with no safeguards against abuse or injury. Child labor continued in the informal sector and in hazardous work, including work as wheelbarrow boys; casual laborers, including in cane farming and other agriculture. Commercial sexual exploitation of children occurred (see section 6). Some children working in the homes of relatives were vulnerable to involuntary domestic servitude or forced to engage in sexual activity in exchange for food, clothing, shelter, or school fees.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at www.dol.gov/ilab/reports/child-labor/findings.

d. Discrimination with Respect for Employment and Occupation

The 2007 Employment Promulgation prohibits employment discrimination based on ethnic origin, color, place of origin, gender, sexual orientation, birth, primary language, economic status, age, disability, HIV/AIDS status, social class, marital status, employment status, family status, opinion, religion, or belief. The Employment Relations (Amendment) Act expanded the scope of legal prohibitions against employment discrimination to prohibit as well such discrimination on the basis of race, social origin, gender identity or expression, health status, conscience, or pregnancy. The law stipulates that every employer shall pay male and female workers equal remuneration for work of equal value. The law prohibits women working underground in mines, but places no other legal limitations on the employment of women.

Limited data were available on the government's antidiscrimination provisions. Penalties for employment discrimination included fines and imprisonment and were sufficient to deter violations.

Discrimination in employment and wages occurred with respect to women and persons with disabilities. 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 engaged in the formal economy, and a large number of these women worked in semi-subsistence farming or were self-employed. The NGO Fiji Disabled People's Association reported that most

persons with disabilities were unemployed due to lack of sufficient education and training and discrimination by and negative attitudes of employers.

e. Acceptable Conditions of Work

In July under the Employment Relations (National Minimum Wage) Regulations, the government raised the national minimum wage of F\$2 (\$.94) per hour to F\$2.32 (\$1.10) per hour. The regulations stipulate that all employers must display a written national minimum wage notice in their workplace to inform employees of their rights. There was no current official poverty-level income figure, but the minimum wage did not typically provide a decent standard of living for a worker and family.

There is no single national limitation on maximum working hours for adults, but there are restrictions and overtime provisions in certain sectors. There are workplace safety laws and regulations.

The Employment Ministry's Office of Labor Inspectorate is responsible for enforcing the minimum wage, but the inspectorate did not have sufficient capacity to enforce the law fully. Convictions of a breach of the minimum wage result in a fine of F\$20,000 (\$9,380), two years in prison, or both. The Occupational Health and Safety Inspectorate in the Ministry of Employment monitored workplaces and equipment and investigated complaints from workers. Government enforcement of safety standards suffered from a lack of trained personnel and delays in compensation hearings and rulings. 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. The ERT and the Employment Court adjudicate cases of employers charged by the inspectorate with violating minimum wage orders and decide on workmen's compensation claims filed by the inspectorate on behalf of workers.

Unions generally monitored safety standards in organized workplaces, but many work areas did not meet standards, and the Ministry of Employment did not monitor all for compliance. Workers in some industries, notably transportation and shipping, worked excessive hours. In July a sugar mill worker died in a conveyor belt accident. During the same month, another sugar mill worker received severe burns after falling into a vat of hot liquid.