

MADAGASCAR 2013 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

On October 25 and December 20, presidential and legislative elections were held for the first time since an unelected and illegal civilian regime headed by *de facto* president Andry Rajoelina assumed power in a 2009 coup with military support. By year's end, official election results had not yet been certified by the Special Electoral Court (CES) due to numerous legal challenges. The election was the culmination of a transitional process brokered by mediators acting on behalf of the Southern African Development Community (SADC), which led to the 2011 signing by political leaders of a "Roadmap for Ending the Crisis in Madagascar." *De facto* regime authorities did not maintain effective control over the security forces. Security forces committed human rights abuses.

The most important human rights abuses included the inability of the transitional government to provide rule of law, which resulted in security force abuses, including unlawful killings, and mob violence.

Other human rights problems included harsh and life-threatening prison conditions; lengthy pretrial detention; an inefficient judiciary that lacked independence; intimidation of journalists; restrictions on freedoms of speech, press, and assembly; official corruption and impunity; societal discrimination and violence against women, persons with disabilities, and the lesbian, gay, bisexual, and transgender (LGBT) community; trafficking of women and children; and child labor, including forced child labor.

The *de facto* regime did not take steps to prosecute or punish officials who committed abuses and impunity remained a problem.

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

a. Arbitrary or Unlawful Deprivation of Life

There were numerous reports that security forces continued to commit arbitrary or unlawful killings, both while in pursuit and during arrest. Government institutions lacked any effective means to monitor, inspect, or investigate security forces.

Although no official statistics were available, media reported that during the year security forces shot and killed at least 260 criminal suspects, compared with an estimated 100 in 2012.

On March 4, prison guards in Mandritsara shot and killed two members of a mob seeking to lynch three detainees; eight other persons were injured. Authorities took no action against the prison guards and attempted to appease the families of the victims by offering them cattle.

On May 4, police in North Mananara shot and killed a 13-year-old boy after he allegedly joined local residents in looting the office of the local electricity company to protest power outages. According to press reports, the Ministry of Interior claimed the boy was shot accidentally and declined to press charges against police.

In the May 2012 case involving the killing of a man from Tsaratanana, five members of the Rapid Intervention Group were detained and remained awaiting trial at year's end.

Despite calls by Amnesty International, the international community, and *de facto* prime minister of consensus Omer Beriziky for an independent investigation into allegations from 2012 of human rights abuses during military interventions against cattle rustlers in the south, no such investigation was conducted. Similarly, authorities did not release results from a 2012 internal investigation into abuses committed by the Special Intervention Force (FIS) during the military's Operation Tandroka, launched in response to a surge in cattle thefts in the south. While the FIS conducted no further official military operations in the south, reports continued throughout the year of both killings by presumed thieves and large-scale extrajudicial killings perpetrated by law enforcement officers against alleged cattle rustlers.

b. Disappearance

There were no reports of politically motivated disappearances and abductions or kidnappings.

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

The constitution and law provide for the inviolability of the person and prohibit such practices, but security forces subjected prisoners to physical and mental abuse, including torture, according to nongovernmental organizations (NGOs) and press reports.

Security personnel used beatings and destruction of property as punishment for alleged crimes or simply as tools of coercion. Off-duty and intoxicated members of the armed forces assaulted civilians.

On June 5, eight armed men – reportedly hired by a local mayor seeking vengeance for the theft of his cattle – attacked a village in the southwestern district of Maintirano. The raid reportedly resulted in four deaths, three rapes, and the kidnapping of seven other persons. Authorities took no known action against the mayor or the assailants.

No action was taken against Jao Jean, a member of the *de facto* parliament arrested in 2011 on charges of kidnapping and raping a 16-year-old girl. In 2012 the appeals court of Mahajanga ordered his release on bail. Jao Jean was permitted to run as a candidate in the December 20 legislative elections and had not been tried by year's end.

No updates were available on reports from 2012 that FIS members used torture, rape, and other cruel and inhuman treatment against suspected cattle thieves during Operation Tandroka (see section 1.a.).

Prison and Detention Center Conditions

Prison conditions were harsh and life threatening.

Physical Conditions: Severe overcrowding, due to weaknesses in the judicial system and inadequate prison infrastructure, was a problem. Antanimora Penitentiary, for example, was designed for 481 inmates but held nearly 3,000. Some prison populations were at 1,000 percent of capacity. Lengthy pretrial detention was pervasive.

The country's 82 prisons and detention centers had a capacity for 10,319 inmates but held 18,719, including 805 women, 465 boys, and 29 girls. Juveniles were not always held separately from the adult prison population, and some preschool-age children shared cells with their incarcerated mothers.

According to a 2012 study by Handicap International, harsh prison conditions were a source of psychological distress for 70 percent of detainees at three of the country's largest detention facilities –Vatomandry, Toamasina, and Toliary. In a number of documented cases, disease was the direct result of overcrowding, lack of hygiene and medical care, and poor nutrition. According to the study, 64 percent of detainees reported they “often felt hungry.”

The total number of deaths in prisons and jails during the year was unavailable. NGOs and media sources indicated substantial underreporting of prison and jail deaths. Guards reportedly shot and killed prisoners trying to escape. On May 30, for example, prison guards at the Nosy Be detention facility reportedly killed one detainee attempting to escape and injured another.

Chronic malnutrition, which affected up to two-thirds of detainees in some prisons, was the most common cause of death. Minimum daily food rations (typically dry manioc or rice) were not always provided, partly due to extensive cuts to penitentiary budgets. In many cases, families and NGOs supplemented the daily rations of prisoners.

A deteriorating prison infrastructure that often lacked sanitation facilities and potable water resulted in disease and infestations of insects and rodents. Access to medical care was limited, particularly for detainees held at Tsiafahy, the country's high security detention center. Ventilation, lighting, and temperature control in facilities were either inadequate or nonexistent.

Administration: Prison recordkeeping was inadequate and poorly coordinated with police and judicial authorities. Information was not available on whether authorities used alternatives to sentencing for nonviolent offenders. There was no provision for ombudsmen to advocate on behalf of prisoners or detainees. There were also no reports that the *de facto* regime permitted prisoners or detainees to submit complaints of inhumane conditions to judicial authorities. Ministry of Justice officials conducted *ad hoc* inspections of facilities and, in at least one case, sanctioned the head of a detention center. Authorities authorized prisoners and detainees to receive weekly visits from relatives and permitted religious observance. Visits outside the scheduled days were reportedly possible if guards and penitentiary agents received bribes of approximately 20,000 ariary (\$9). NGOs reported that bribes could purchase small privileges, such as allowing family members to bring food for prisoners.

Independent Monitoring: Authorities generally permitted independent monitoring of prison conditions by the International Committee of the Red Cross (ICRC), several local NGOs, and some diplomatic missions. The ICRC was permitted to conduct visits to all main penitentiary facilities and to hold private consultations in accordance with its standard modalities. ICRC representatives also were permitted to visit detainees in pretrial or temporary detention for monitoring purposes.

Improvements: In collaboration with the ICRC, the Ministry of Justice instituted a nutrition watch program requiring detention centers to provide a monthly body mass index report for every detainee. NGOs also reported improved sanitation activities at several facilities in the north.

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention, but authorities did not always respect these provisions. Authorities arrested persons on vague charges and detained suspects for long periods without trial.

Role of the Police and Security Apparatus

The national police, under the authority of the Ministry of Interior, are responsible for maintaining law and order in urban areas. The gendarmerie, under the Ministry of Defense, is responsible for maintaining law and order in rural areas. The creation in 2009 of the Joint National Investigation Committee, later renamed the FIS, added an additional security force answerable directly to the *de facto* president and outside the authority of the *de facto* minister for internal security.

Security forces were ineffective and corrupt. There was no systematic mechanism for investigating security force abuses, and impunity was a problem. Victims may lodge complaints in the court of jurisdiction, although this rarely occurred.

On December 2, media reported that a lieutenant from the FIS had been arrested, allegedly in connection with the kidnapping of an Indo-Pakistani national two weeks earlier in Toamasina; the kidnapping was criminally motivated.

No information was available on the exceptional 2012 case in which a lieutenant colonel was arrested and imprisoned for alleged extortion and violence during Operation Tandroka. He reportedly remained in prison, awaiting his next trial date.

The *de facto* regime did not have direct control over matters relating to rule of law outside the capital, and what control it did have through the security forces became less effective during the year. Nevertheless, the Ministry of Justice, in collaboration with the UN Development Program, provided training sessions on human rights to the gendarmerie, police, and military.

Security forces failed to prevent or respond to societal violence and in some cases participated in and encouraged such violence. For example, between July 31 and August 7, gendarmes and local villagers in the areas of Amboasary South and Ranomafana Tolagnaro allegedly killed five civilians and more than 100 presumed cattle thieves, four of whom were women. At a press conference following these events, *de facto* minister of interior Florent Rakotoarisoa encouraged gendarmes and villagers to “pursue such efforts in combating criminals.”

In late August, in the town of Ambilobe, a gang of criminals allegedly raped women and underage girls while committing a series of home invasions and robberies. When police arrested and detained four suspects on September 3 and 4, approximately 1,000 local residents demanded that police deliver the suspects to be judged. The mob stoned police officers, who fired into the crowd, injuring six civilians, four of whom were later hospitalized. Local media reported that police eventually released one of the suspects to the crowd, which proceeded to burn him alive. The mob then ransacked and burned the residences of local police officers. Nearby municipalities sent in reinforcements, and the mayor of Ambilobe declared publicly that punitive actions would be taken against police officers who fired on civilians.

The law provides traditional village institutions the right to protect property and public order. Some rural areas used an informal, community-organized judicial system, or “dina,” to resolve civil disputes between villagers over such issues as alleged cattle rustling. Although the dina system provided the only rule of law in some villages and isolated regions of the country, it imposed harsh sentences without due process. In the past these sentences included beheadings, although a more common practice was to exile the convicted individual from the district where the crime occurred.

In some cases citizens felt empowered by the dina to commit lynchings or participate in other mob violence against perceived criminals, particularly in the increasing absence of rule of law under the *de facto* regime (see section 6). For example, between October 25 and 27, in the southwestern region of Maintirano, residents shot and killed three persons while executing a dina against individuals

accused of rape, cattle robbery, and racketeering. Security forces did not investigate the incident or criticize such practices.

During a December 10 ceremony marking International Human Rights Day, *de facto* prime minister of consensus Omer Beriziky argued that summary killings and other cruel punishment must be condemned and that traditional justice practices such as *dinas* should be “harmonized” with the legal justice system.

Arrest Procedures and Treatment of Detainees

Although the law requires that authorities obtain arrest warrants in all cases except those involving hot pursuit, authorities often detained and jailed persons based on accusations or political affiliation. The law mandates that authorities charge or release criminal suspects within 48 hours of arrest, although authorities often detained individuals for significantly longer periods before charging or releasing them. Defendants have a general right to counsel, and those who could not afford a lawyer were entitled to one provided by the state. Many citizens were unaware of this right or were too afraid to request an attorney. Defendants have the right to be informed of charges against them, but this right was not always respected. A bail system exists, but authorities frequently denied bail for more severe or high-profile crimes. Magistrates often resorted to a “*mandat de depot*” (retaining writ) under which defendants were held in detention for the entire pretrial period. The law limits the duration of pretrial detention and regulates the use of the writ. Regulations limit the duration of detention based on the type of crime, with a theoretical maximum of eight months for criminal cases. Family members generally had access to prisoners, although access was more limited to certain prisoners, such as those in solitary confinement or those arrested for political reasons.

Arbitrary Arrest: Arbitrary arrest occurred. Members of political parties opposed to the *de facto* presidency were subject to arbitrary arrest.

Authorities arrested and detained a number of politicians for allegedly planning violence during public demonstrations and strikes. Dissidents on trial were often denied due process, as the *de facto* regime prolonged incarceration of suspects for weeks without pressing charges and continually postponed hearings while denying bail. For example, on July 23, security forces arrested Laza Razafiarison, presidential candidate and secretary general of an opposition party, for his role in leading political protests in Antananarivo calling for elections and the resignation of *de facto* President Andry Rajoelina. Razafiarison and seven of his supporters

were charged with organizing unauthorized public meetings, disturbing public order, and insulting security forces. On July 29, the accused were sentenced to two months in jail, which was then suspended.

Pretrial Detention: The Ministry of Justice reported that approximately 53 percent of the prison population was in pretrial detention and that 66 percent of female prisoners and 80 percent of juvenile prisoners were pretrial detainees. Poor recordkeeping, an outdated judicial system that favored keeping the accused in detention until trial, an insufficient number of magistrates, lack of resources, and difficult access in remote areas contributed to lengthy pretrial detention, ranging from several days to several years. Many detainees spent longer in investigative detention than they would have spent incarcerated following a maximum sentence for the charges faced.

Amnesty: In January the *de facto* president announced a two- to six-month sentence reduction for prisoners sentenced to five years of prison or less and not convicted of serious crimes. He also granted amnesty to prisoners age 70 and older who had not been convicted of a serious crime.

In accordance with the SADC Roadmap, in 2012 the Malagasy Reconciliation Committee was established to recommend amnesty for specific individuals involved in political events between 2002 and 2009, excluding those involving crimes against humanity, war crimes, crimes of genocide, and other serious violations of human rights and fundamental freedoms. The *de facto* regime subsequently appointed a temporary special commission within the Supreme Court to rule on political amnesty. The commission granted amnesty to an estimated 90 individuals, including to presidential candidate and former *de facto* foreign minister Jocelyn Rajaonarivelo Pierrot. According to press reports, four members of the military were granted amnesty but reportedly remained in prison at year's end due to administrative interference by the *de facto* minister of justice.

e. Denial of Fair Public Trial

Although the constitution and law provide for an independent judiciary, the judiciary was susceptible to executive influence at all levels, and corruption remained a serious problem. The problem worsened under *de facto* authorities, and intimidation surrounded several major judicial decisions since 2009. The absence of any legitimate legislative body permitted the *de facto* regime effectively to rule by decree, with no check on executive power. *De facto* minister of justice Razanamahasoa reportedly interfered in high-profile judicial decisions throughout

the year, and there were instances where the outcome of trials appeared predetermined. Court orders were not always respected or enforced.

Military courts are reserved for the trials of military personnel and generally follow the procedures of the civil judicial system, except that military officers make up the juries. Defendants in military cases have access to an appeals process and generally benefit from the same rights available to civilians, although their trials are not public. A civilian magistrate, usually joined by a panel of military officers, presides over military trials.

Trial Procedures

The law provides for a presumption of innocence, but this was often ignored. The constitution and law provide defendants with the right to a full defense at every stage of the proceedings, and trials are public. While the law provides that juries can be used in all cases, they were used only in labor disputes. Defendants have the right to be present at their trials, to be informed of the charges against them, to call and confront witnesses, and to present evidence. Nevertheless, in a number of high-profile cases, defendants were denied the right to confront witnesses, and the court failed to inform the accused of trial and judgment dates. The government is required to provide counsel for all detainees held on criminal charges who cannot afford their own attorney. Nevertheless, many citizens were unaware of this right, and authorities did not inform defendants of it. Defendants who do not request or cannot afford counsel generally were given very little time to prepare their case. Attorneys have access to government-held evidence, but this right does not extend to defendants without attorneys. Legislation outlining defendants' rights does not specifically refer to the right not to be compelled to testify or not to confess guilt, but it does include the right to be assisted by another person during the investigation and trial. Defendants have the right to appeal convictions.

Although the law extends them to all citizens without exception, these rights were routinely denied as the *de facto* regime prolonged incarceration of suspects for weeks without charge and postponed hearings while denying bail.

Political Prisoners and Detainees

In 2012 local human rights activists identified 35 individuals who remained in detention as “political prisoners” for alleged participation in plots against the *de facto* regime, some dating back to 2009. Since then some detainees were reportedly released, acquitted, or granted amnesty, and it was unclear how many remained in prison. The majority of the remaining prisoners were military officers, some of whom remained in prison even after being granted amnesty due to administrative interference by the *de facto* minister of justice.

One military prisoner, Colonel Charles Andrinasoavina, remained in La Reunion for medical reasons while awaiting a response to his request for amnesty. Andrinasoavina supported Rajoelina during the 2009 coup but was arrested in 2011 after he joined opposition military elements calling for regime change.

Political prisoners generally received treatment equal to that of other prisoners, and international humanitarian organizations received access to them.

Civil Judicial Procedures and Remedies

The judiciary deals with all civil matters, including human rights cases, and individuals or organizations may seek civil remedies for human rights violations. Courts lacked independence, were corrupt, and often encountered difficulty enforcing judgments in civil cases.

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

The law prohibits such actions, but homes and workplaces of opposition groups were subjected to arbitrary searches without warrants. Regime security personnel also punished family members for alleged offenses committed by their relatives.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution and law provide for freedom of speech and press, but the *de facto* regime and military actors actively and systematically impeded the exercise of these rights.

Freedom of Speech: Although the law provides for freedom of speech, individuals were restricted in their ability to criticize the regime publicly or privately. Authorities and their supporters severely restricted freedom of speech by

intimidating opponents and resorting to imprisonment and legal action when threats failed to dissuade critics.

For example, on July 16, the Court of Antananarivo convicted traditional leader and environmentalist Patrick Zakariasy on charges of possessing false documents and defamation after he held a press conference accusing well known regime financier Mamy Ravatomanga of involvement in illicit rosewood trafficking. The court sentenced Zakariasy to two years in prison and ordered him to pay one million ariary (\$450) in damages. As of year's end, his appeal had not been heard.

Press Freedoms: While the constitution provides for freedom of the press, the ability of the press to criticize the regime was severely limited. In particular the absence of a communications code protecting press freedom allowed authorities to prosecute journalists under the libel law and the criminal code whenever the content of their reporting offended the *de facto* regime.

More than 300 radio and television stations operated in the country and many shifted to live call-in shows to distance themselves from editorial responsibility for content. Observers estimated that since 2010 *de facto* minister of communications Harry Laurent Rahajason had withdrawn the broadcast licenses of 80 radio and television stations and ordered them to suspend broadcasting immediately. The Ministry of Communications disputed these figures publicly. As of year's end, none of the suspended opposition radio stations had its license reinstated. New regime-friendly media outlets, however, were permitted to start broadcasting.

Violence and Harassment: Both the *de facto* regime and its supporters actively impeded political criticism with threats against individuals and opposition groups.

Journalists received threatening telephone calls from the Special Commission for Audiovisual Communication (CSCA), headed by *de facto* minister of communications Rahajason, ordering them to stop broadcasting programs or printing articles perceived to be antiregime. In 2012 the CSCA issued such threats by letter. Journalists also were suspended, transferred, or otherwise sanctioned for editorial comments that displeased the regime.

In the months leading up to presidential and legislative elections, *de facto* regime officials and their supporters closed opposition radio stations and filed court actions against "problematic" journalists. On June 7, for example, the CSCA cited "licensing irregularities" to suspend the licenses of Kolo Radio and Television, owned by presidential candidate and former *de facto* vice prime minister Hajo

Andrianainarivelo. Although the use of Kolo's frequencies had been previously authorized by the *de facto* minister of communications, on August 14, the court ordered Kolo's closure and the seizure of its equipment. The stations continued to operate at year's end, pending appeal.

On July 16, three editors from opposition newspapers *Midi*, *La Nation*, and *Gazetiko* were acquitted of defamation charges. In 2012 the newspapers reported statements by Patrick Zakariasy during a press conference in which he accused Mamy Ravatomanga of rosewood trafficking. During the trial defense lawyers noted that, while there had been widespread coverage of the press conference, only opposition newspapers faced charges.

Private radio station Free FM, which authorities shut down in 2012, remained closed most of the year. The station had organized public rallies calling for greater press freedom, and two of its journalists – Lalatiana Rakotondrazafy and Fidel Razara Pierre – were convicted in 2012 for provoking outrage against the regime. The two journalists appealed their three-year sentences and were awaiting a court ruling at year's end. In May, following an appeal in a separate defamation lawsuit launched by Mamy Ravatomanga, the court increased its original three-month conditional sentence against Rakotondrazafy and Pierre to six months' imprisonment. Following a court order, *de facto* authorities returned radio equipment seized from Free FM in 2012, and the station resumed broadcasting, at least temporarily, in December.

Censorship or Content Restrictions: There were reports of individuals, some with ties to media outlets, who were threatened or arrested for distributing publications that the regime claimed could incite political instability. All journalists released on bail remained subject to re-arrest at any time.

Journalists practiced self-censorship, and books of a political nature were generally published abroad.

Libel Laws/National Security: The *de facto* regime often cited national security as a justification for suspending licenses and arresting journalists.

Internet Freedom

There were generally no restrictions on access to the internet or reports that the *de facto* regime monitored e-mail or internet chat rooms without appropriate legal authority. The *de facto* minister of communication made no statements about restricting the internet. Public access to the internet was limited mainly to urban areas. According to the International Telecommunication Union, less than 2 percent of individuals in the country used the internet in 2012.

Political groups, parties, and activists used the internet extensively to advance their agendas, share news, and criticize other parties. Although there were allegations of technical sabotage of some websites during the year – including the website of the National Independent Electoral Commission of the Transition after the first round of presidential elections on October 20 – the internet was considered among the more reliable sources of information, as many internet servers were outside the country and could not be regulated by the regime.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The constitution and law provide for freedom of assembly, but this right was restricted extensively. *De facto* regime officials and security forces regularly impeded opposition gatherings throughout the country.

NGOs reported an unofficial standing order from authorities to continue denying the authorization of any political demonstrations or strikes and to intimidate any group that attempted to apply for such authorization.

Security forces repressed demonstrations by opposition leaders and students through use of tear gas, firearms, and other violence. *De facto* authorities caused injuries to protesters and arrested their leaders, although no action was taken against progovernment protestors. On July 23, for example, security forces in Antananarivo used tear gas to disperse demonstrators calling for elections and Rajoelina's resignation. One person was injured and eight others arrested, including the leader of the demonstration. By contrast, security forces did not interfere with a May 22 demonstration against UN and EU officials, which

followed commercials on state-owned television calling for demonstrators to protest the “international community’s interference in Malagasy internal affairs.”

Freedom of Association

The constitution and law provide for the right of association and permit citizens to organize political parties and associations. Nevertheless, authorization was required to hold large public gatherings, and authorities rarely granted such authorization to opposition groups.

c. Freedom of Religion

See the Department of State’s *International Religious Freedom Report* at www.state.gov/j/drl/irf/rpt/.

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

The constitution and law provide for freedom of internal movement, foreign travel, emigration, and repatriation, and the *de facto* regime generally respected these rights. Nevertheless, in high-profile cases related to former president Marc Ravalomanana, *de facto* authorities prevented repatriation. *De facto* authorities also prevented the foreign travel and return to the country of political opponents.

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

Exile: The constitution does not explicitly prohibit forced exile, and the *de facto* regime utilized it selectively. Although the 2011 SADC Roadmap calls for the unconditional return of political exiles –including ousted president Ravalomanana – he remained in South Africa and was barred from the country. On July 3, for example, Ravalomanana was prevented from returning to the country to attend a reconciliation summit.

On April 18, former president Didier Ratsiraka, who was in exile abroad, returned to the country (see section 3). The regime maintained separate notices forbidding commercial airlines from allowing Ratsiraka or Ravalomanana to board flights bound for the country.

Exiled former first lady Lalao Ravalomanana, who was denied entry in February 2012 and arrested when attempting to return to the country in July 2012, was allowed to return from exile in South Africa to tend to her ailing mother during the year (see section 3).

Protection of Refugees

Access to Asylum: The law does not include provisions for the granting of asylum or refugee status, but the government provides protection to refugees. *De facto* authorities cooperated with the UNHCR and other humanitarian organizations in assisting the small number of refugees in the country.

Stateless Persons

An outmoded system of citizenship laws and procedures resulted in a large number of stateless persons in the minority Muslim community, many belonging to families that have lived in the country for generations. Reliable figures remained unavailable, but Muslim leaders estimated that the laws affected as many as 5 percent of the approximately two million Muslims in the country.

Citizenship is transmitted by birth to a citizen parent. Birth in the country does not automatically result in citizenship. Children born to a citizen mother and noncitizen father must declare their desire for citizenship by age 18 or risk losing eligibility for citizenship. Some members of the Karana community of Indo-Pakistani origin – who failed to register for Indian, Malagasy, or French citizenship following India's independence in 1947 and Madagascar's independence in 1960 – were no longer eligible for any of the three citizenships; this circumstance applied to their descendants as well. Members of the wider Muslim community suggested that a Muslim-sounding name alone could delay one's citizenship application indefinitely. All stateless persons can apply for a foreign resident card, which precludes the right to vote, own property, or apply for a passport, thus limiting international travel. Stateless women can obtain nationality if they marry a Malagasy citizen and request citizenship before the wedding date.

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

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right during the year, when presidential and legislative elections were held. These were the first elections since an unelected civilian regime led by *de facto* president Rajoelina took control following a military-backed coup in 2009. The election was the culmination of a transitional process brokered by mediators acting on behalf of the SADC that resulted in the 2011 signing by political leaders of a “Roadmap for Ending the Crisis in Madagascar.” The SADC Roadmap called for transitional authorities and institutions to adopt security and confidence-building measures, adhere to the rule of law and the principle of equal treatment, and ensure an inclusive transition towards free, fair, and credible elections.

Elections and Political Participation

Recent Elections: On October 25 and December 20, presidential and legislative elections were held for the first time since 2006 and 2007, respectively. The CES had not certified official election results by year’s end due to numerous legal challenges.

Political Parties: Opposition parties could not operate without restriction or outside interference. The regime often denied opposition parties the right to organize and publicize their opinions. For example, on June 12, the *de facto* president unilaterally replaced 23 Transitional Senate members. On August 9, *de facto* president Rajoelina dismissed seven of 22 chiefs of regions; the seven reportedly supported rival presidential candidates. On November 20, he dismissed an additional 10 chiefs of regions, replacing them with military officers.

On August 6, the *de facto* regime adopted a decree authorizing heads of public institutions to attend the campaign events of their preferred presidential and legislative candidates.

The *de facto* regime passed legislation to implement article 12 of the SADC Roadmap relating to political parties and the status of the opposition; article 12 outlines the administrative process required to register political parties with the Ministry of Interior and specifies that two or more parties legally can constitute a temporary coalition during elections. On November 27, however, the Council of Ministers adopted a decree that diminished the influence of opposition parties by allowing only the majority party or its coalition in the National Assembly to name the next prime minister, rather than submitting the matter to a vote.

In July AU commissioner for peace and security Ramtane Lamamra called for *de facto* president Rajoelina to issue an executive order restructuring the CES to replace members who had previously declared 41 presidential candidates – including Rajoelina, former first lady Lalao Ravalomanana, and former president Didier Ratsiraka – eligible to run for office. Under threat of sanctions by France and other countries that viewed these three candidates as illegal, Rajoelina issued the executive order. In August the new CES declared eight of the 41 presidential candidates ineligible, including Rajoelina, Ravalomanana, and Ratsiraka. Opposition leaders, notably supporters of Ravalomanana and Ratsiraka, questioned the independence and neutrality of the new CES.

Participation of Women and Minorities: In the lower chamber (Transitional Congress), 32 of the 256 members were women, while in the upper chamber (High Transitional Council), 20 of 189 members were women.

Although there were no official statistics on minorities, some parliamentarians were Muslim and of various ethnic backgrounds, including Indo-Pakistani and Chinese.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for official corruption, but the *de facto* regime did not implement the law effectively, and officials engaged in corrupt practices with impunity. Corruption was pervasive at all levels of government, and the World Bank's most recent Worldwide Governance Indicators reflected that corruption was a serious problem.

Corruption: Local economists estimated that 40 percent of the country's gross domestic product stemmed from illicit activities and corruption, compared to 20 percent during the 1990s. NGOs and the media reported that anticorruption efforts in recent years were more effective in pursuing low-level violators than in attacking corruption at the national level.

High-ranking members of the *de facto* regime made several efforts to extort international and domestic industries for personal profit by threatening to withhold operating permits and harassing management. At year's end the country remained suspended from the Extractive Industries Transparency Initiative. Corruption in the police and gendarmerie was a problem. On August 28, the office of the commander of the gendarmerie issued a communique noting that a number of gendarmes had been sanctioned for corruption.

Corruption also occurred in the judiciary and prosecutors demanded bribes to release defendants. For example, on May 6, security forces in Mananara arrested members of a mob that raided the offices of the state-run electricity provider to protest frequent power outages. One outage reportedly caused the death of a female patient undergoing surgery at the local hospital. Local authorities charged the individuals with disrupting public order and destruction of property. The local prosecutor allegedly demanded bribes to release the detainees, and those who could not pay remained in prison for several weeks before being freed on bail.

The Independent Anticorruption Bureau (BIANCO) is a nominally independent government agency with a presidentially appointed director and oversight from the Committee for the Safeguard of Integrity within the presidency. BIANCO is responsible for preventing, combating, and investigating corruption. A special anticorruption court prosecutes corruption cases referred by BIANCO. In 2012 BIANCO received 1,064 complaints involving corruption, of which 82 percent were deemed eligible for investigation. Of these, only 55 percent were investigated by BIANCO's investigative branch, in part due to resource constraints.

The general absence of rule of law created a permissive environment for illegal logging and the export of rare hardwoods, primarily from the northern forests. International and domestic NGOs alleged that high-level corruption – with involvement ranging from local security forces to the *de facto* national government – permitted the illegal cutting and export of rosewood and ebony trees, along with rare wildlife protected under the Convention on International Trade in Endangered Species (CITES). In October *de facto* president Rajoelina sought to sell rosewood in contravention of CITES restrictions for the stated purpose of generating revenue to support the security services during national elections.

Whistleblower Protection: While there is no specific whistleblower legislation, the 2004 anticorruption law provides that the identities of both whistleblowers and individuals accused of corruption be protected during an investigation. Courts may not compel witnesses to reveal information that may identify whistleblowers, and it is illegal to reprimand individuals who report corruption. Whistleblowers complicit in corruption are exempted from punishment if they report infractions prior to prosecution. If complicit individuals are prosecuted and later facilitate the arrest of other suspects, their sentences are halved. The extent to which these provisions were implemented was unclear.

Financial Disclosure: Regular income and asset declaration is required by decree for individuals in the following positions: the prime minister and other government ministers, senators and elected representatives; members of the High Constitutional Court; provincial governors, chiefs of regions, and mayors; magistrates; civil servants holding official positions of or equivalent to ministry director and above; inspectors of land titling, treasury, tax, and finances; military officers at the company level and above; inspectors from the State General Inspection, from the Army's General Inspection, and from the National Gendarmerie's General Inspection; and anyone serving as a judicial police officer.

These financial declarations are required no later than three months after the nomination or election and must be renewed annually. The requirement also applies to spouses and children. Nevertheless, some members of the transitional legislature, who were appointed and not elected, claimed exemption from these requirements. Financial declarations were confidential, and BIANCO does not publish the names of persons who failed to make a declaration. BIANCO occasionally published an approximate percentage of the officials who provided declarations. Statements may be published only upon request of the declaring officer or of judicial and parliamentary authorities and may be used in the context of investigations. BIANCO may inform the Prosecutor's Office in cases of noncompliance with the obligation. Despite these legal requirements, the number of officials who reported their income in 2012 fell by nearly 45 percent compared with the previous year. There was no indication that authorities applied sanctions for noncompliance.

Public Access to Information: There are no laws providing for public access to government information. Educational material on corruption, including statistics, was available to citizens and noncitizens, including foreign media. Nevertheless, the information was limited, not regularly updated, and not thoroughly verified.

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

Numerous domestic and international human rights groups generally operated without restriction, investigating and publishing their findings on human rights cases. *De facto* regime officials generally were unresponsive to their views, but international human rights groups were allowed to enter the country, conduct their work, and consult freely with other groups.

There were several domestic NGOs in the country that worked on human rights, but very few had the capacity to work effectively and independently. The National Council for Election Observation continued to be a leader in the field of civic education and provided technical support and training in several past elections. Several other NGOs worked to monitor human rights problems and actively participated in public and private forums on the subject. Political movements occasionally attempted to co-opt these organizations, leading to accusations of their increasing politicization, but they were not routinely suppressed or subjected to harassment.

Government Human Rights Bodies: An ombudsman office conducted minimal activities.

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

The constitution and law prohibit all forms of discrimination, including that based on race, gender, disability, language, and social status; the law does not specifically address discrimination based on sexual orientation or gender identity. No specific governmental institutions were designated to enforce these provisions, and the laws were not effectively enforced.

Women

Rape and Domestic Violence: The law prohibits rape in general but does not specifically refer to spousal rape. Penalties range from five years to life in prison, depending on factors such as the victim's age, the rapist's relationship to the victim, and whether the offender's occupation involved contact with children. Rape of a child or a pregnant woman is punishable by hard labor. An additional two to five years' imprisonment might be added in the case of rape with assault and battery. *De facto* authorities rarely enforced these penalties.

The Public Hospital of Befelatanana in Antananarivo received more than 500 cases of rape and sexual abuse between January and June. The majority of the victims were minors. Observers believed the figures greatly underestimated the extent of sexual violence against women nationwide, but no reliable national data were available.

The law prohibits domestic violence, but it remained a widespread problem. Domestic violence is punishable by two to five years in prison and a fine of four million ariary (\$1,790), depending on the severity of injuries and whether the

victim was pregnant. Statistics on the number of domestic abusers prosecuted, convicted, or punished were unavailable. Observers noted an increase in violence against women recorded since the beginning of the political crisis in 2009.

Sexual Harassment: Sexual harassment is against the law. Penalties range from one to three years' imprisonment and a fine of one to four million ariary (\$450 to \$1,790). The penalty increases to two to five years' imprisonment, plus a fine of two to 10 million ariary (\$890 to \$4,500) if the victim was forced or pressured into sexual acts or punished for refusing such advances. Despite the law sexual harassment was widespread. There were no reported court cases during the year.

Reproductive Rights: Couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of their children and to have the information and means to do so free of discrimination or coercion. Adult citizens had free access to contraceptives and family planning information at public clinics, and services were also available from religious organizations, NGO clinics, and from the private sector. Minor citizens had difficulty accessing family planning information and services. According to the *2008-09 Demographic Health Survey*, the modern contraceptive usage rate was 29.2 percent. Skilled attendance during childbirth was estimated at 44 percent but was lower in rural areas, where there were few trained health workers, and persons were unable to access reproductive health and maternity services. Delivery services, including caesarean sections, were not free in most government health facilities. A variety of programs were instituted to expand the availability of quality care, but these were limited due to the constraint on resources.

According to the World Health Organization, in 2010 the maternal mortality ratio (the ratio of maternal deaths per 100,000 live births) was estimated at 24. Major factors that contributed to a high maternal mortality ratio were the distance from and high cost of health centers, the low quality of hospital services, chronic maternal malnutrition (including anemia), high rates of adolescent pregnancy, and the lack of adequate spacing between pregnancies.

While there were no legal barriers to accessing services for sexually transmitted diseases, there were enormous infrastructure inconsistencies throughout the country. Some social and cultural barriers also limited access.

Discrimination: Women generally enjoyed the same legal status as men in many areas, but there were significant differences. By law wives have an equal voice in selecting the location of the couple's residence and generally receive half the

couple's assets if the marriage ends. While widows with children inherit half of joint marital property, a husband's surviving kin have priority over widows without children, leaving them eighth in line for inheritance if there is no prior agreement and potentially leaving them with none of the estate or a very small portion of it. These provisions were not always observed.

A tradition known as "the customary third," which provides the wife with the right to only one-third of a couple's joint holdings upon dissolution of the marriage, was occasionally observed. There was no special government office to ensure the legal rights of women.

There was relatively little societal discrimination against women in urban areas, where many women owned or managed businesses and held management positions in private businesses or state-owned companies. In rural areas, where most of the population was engaged in subsistence farming, traditional social structures tended to favor entrenched gender roles. While there was little discrimination in access to employment and credit, women often did not receive equal pay for substantially similar work. Women were not permitted to work in positions that might endanger their health, safety, or morals. According to the labor and social protection codes, such positions included night shifts in the manufacturing sector and certain positions in the mining, metallurgy, and chemical industries.

A number of NGOs focused on the civic education of women and girls, and they publicized and explained their specific legal protections. Nevertheless, few women lodged official complaints or sought redress when their legal rights were violated due to illiteracy, cultural traditions, societal intimidation, or lack of knowledge.

Children

Birth Registration: Citizenship is derived from one's parents, although children born to a citizen mother and a foreign father must declare their desire for citizenship by age 18. The country has no uniformly enforced birth registration system, and unregistered children have historically not been eligible to attend school or obtain health care services. The United Nations Children's Fund (UNICEF) worked with the government to provide birth certificates for both newborn children and those who did not receive a certificate at birth. According to a 2010 UNICEF study, 80 percent of children under age five had their births registered. The Ministries of Interior, Health, and Justice collaborated with

UNICEF during the year to reduce the number of unregistered children in targeted regions, but no formal audit had been concluded to determine results.

Education: The constitution provides for tuition-free public education for all citizen children and makes primary education until age 14 compulsory. Nevertheless, parents were increasingly required to pay various registration and other fees to subsidize teacher salaries and to cover the cost of basic supplies and furnishings. As a result education was inaccessible for many children.

Child Abuse: Child abuse was a problem. Observers claimed that cases of child abuse, including the rape of babies and toddlers, increased. The press reported 30 cases of child rape, with most victims under age 10. From September 2011 to August 2012, the Union of Social Workers reported 763 cases of child abuse in Antananarivo. The victims were between the ages of three months and 18 years. The *de facto* regime made few efforts to combat child rape outside the scope of child protection networks, which addressed the needs of child rape victims and, in some cases, helped raise public awareness.

Forced and Early Marriage: The legal age for marriage without parental consent was 18 for both boys and girls. As confirmed by the UN special rapporteur on modern forms of slavery during her mission to the country in 2012, early forced marriage remained a concern in many communities where girls as young as 10 were forced to marry. She noted that “victims of such arrangements are likely to be also victims of domestic servitude and sexual slavery.” An estimated 48 percent of women between the ages of 20 and 24 were married before age 18, and 14 percent were married before age 15, according to UNICEF data collected in 2000-09. There were no government efforts to end forced and early marriage.

Sexual Exploitation of Children: In general recruitment and incitement to prostitution carry a penalty of two to five years’ imprisonment and a fine of up to 10 million ariary (\$4,500). Recruitment and incitement to prostitution involving a child under the age of 15, as well as sexual exploitation, sex tourism, incest involving a child under the age of 15 and commercial exploitation of a child under the age of 18, carry a penalty of forced labor. Both the penal code and antitrafficking laws address pornography, specifying penalties of two to five years’ imprisonment and fines up to 10 million ariary (\$4,500). Authorities rarely enforced the provisions. There is no minimum legal age for consensual sex.

The sexual exploitation of children reportedly increased, including, at times, with the involvement of their parents. The problem was particularly acute in coastal

cities, including Antananarivo, Toamasina, Nosy Be, Diego Suarez, and Mahajunga. During her August mission to Madagascar, the UN special rapporteur referred to the “exponential growth” of child prostitution and sex tourism in the country as “alarming.”

The NGO Ending Child Prostitution and Trafficking in Madagascar documented 1,132 children in prostitution in Antananarivo; more than one third claimed to have been initiated into prostitution during the previous year. The NGO also reported that most children in prostitution in the coastal cities of Mahajanga and Nosy Be were initiated into sexual activity between the ages of 13 and 15. In 40 percent of the cases, the children had their first sexual encounter as sex workers and, in many cases, their parents were aware of their activities.

Young rural girls working as housekeepers in the capital often suffered from abuse and rape at the hands of their employers. If they left their employers, they typically were not paid. Rather than return empty-handed to their families and villages, they often remained in the cities in prostitution. The phenomenon was also widespread in the capital, Antananarivo.

The Ministry of Population and Social Affairs operated more than 700 multi-sector networks throughout the country to protect children from abuse and exploitation. The ministry partnered with UNICEF to identify child victims and ensure their access to adequate medical and psychosocial services. In collaboration with the ministries of justice and population and the gendarmerie, UNICEF trained local law enforcement officials and other stakeholders in targeted regions on the rights of children.

In October international media reported that foreign nationals Sebastian Judalet and Roberto Gianfala were burned to death by a mob at Nosy Be for alleged pedophilia or organ trafficking following the discovery of the disfigured corpse of a nine-year-old boy. An investigation by *de facto* authorities continued at year’s end.

Infanticide or Infanticide of Children with Disabilities: Media reports documented at least five deaths of newborns abandoned in gutters and dumpsters throughout the year. A traditional taboo in the southeast against giving birth to twins also contributed to the problem.

Displaced Children: Although child abandonment is against the law, it remained a significant problem. There were few safe shelters for street children, and

governmental agencies generally tried to place abandoned children with parents or other relatives first.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism

The Jewish community was small, 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/tip/.

Persons with Disabilities

The law prohibits discrimination against persons with physical and mental disabilities, although there is no specific mention of sensory and intellectual disabilities. Legislation broadly defines the rights of persons with disabilities and provides for a national commission and regional subcommissions to promote their rights. By law persons with disabilities are entitled to receive health care and education and have the right to training and employment. Educational institutions are “encouraged” to make necessary infrastructure adjustments to accommodate clients with disabilities. The law also specifies that the state “must facilitate, to the extent possible, access to its facilities, public spaces, and public transportation to accommodate persons with disabilities.” Persons with disabilities also have the right to employment and training opportunities, although the law does not address air travel.

Authorities rarely enforced the rights of persons with disabilities, and the legal framework for promoting accessibility remained perfunctory. According to a comprehensive study commissioned by a local NGO, key themes such as accessibility, autonomy, personal mobility, equality, access to justice, the ability to participate in public life and politics – in addition to the specific rights of women and children with disabilities – are all excluded from the current legal framework covering disability rights. In general access to education and health care for persons with disabilities also was limited, due to lack of adequate infrastructure, specialized institutions, and personnel. Nevertheless, disability advocates reported there were more than 60 integrated classrooms across the country that included

children with mental disabilities. According to press reports, local officials also accommodated students with disabilities during official high school exams.

Persons with disabilities also were more likely to become victims of crime, particularly sexual abuse.

There were reports that some persons with disabilities were deterred from voting in the presidential and legislative elections due to the perceived inaccessibility of voting stations. The presence of stairs, uneven pavements, potholes, and the fear of standing in line for long periods were significant deterrents. The electoral code provides that individuals with disabilities be assisted in casting their ballots but contains no other provisions to accommodate voters with disabilities. Despite the law's ambiguity, observers from the handicapped community reported that, during the October 25 elections, voters with disabilities of all types received accommodation at various polling stations and could be assisted by a person of their choice in casting their ballots.

National/Racial/Ethnic Minorities

None of the 18 tribes in the country constituted a majority. There were also minorities of Indo-Pakistani, Comoran, and Chinese heritage. Ethnicity, caste, and regional solidarity often were factors in hiring and were exploited in politics. A long history of military conquest and political dominance by highland ethnic groups of Asian origin, particularly the Merina, over coastal groups of African ancestry contributed to tension between citizens of highland and coastal descent, particularly in the political sphere.

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

The law provides for a prison sentence of two to five years and a fine of two to 10 million ariary (\$890 to \$4,500) for acts that are "indecent or against nature with an individual of the same sex under the age of 21." By contrast the law sets no minimum age of consent to engage in heterosexual relations. Members of the LGBT community reportedly were unaware of the risk of arrest for "corruption of a minor," and at least three LGBT persons were arrested on the charge during the year. Some LGBT persons were lured into sexual encounters by underage individuals who were aware of the law but were seeking to extort money.

Since the 2009 coup, restrictions on the LGBT community increased, according to community leaders. The *de facto* regime refused to authorize public LGBT events, such as gay pride parades. There were reports of official abuses occurring at the community level, such as administrative officials denying health services to transgender persons or breaking confidentiality agreements, although no cases were pursued in court. There are no specific laws preventing transgender persons from identifying with their chosen gender, although gender markers on official documents are derived from birth certificates.

There was general societal discrimination against LGBT persons, including incidents of violence. In May presidential guards assaulted an estimated 10 members of the LGBT community who were standing in a public space near the presidential palace. LGBT rights activists noted that, although senior law enforcement officials have been receptive to their concerns, local police generally dismissed reports of such incidents.

There are no specific legal antidiscrimination provisions that apply to LGBT persons. Sexual orientation and gender identity were not widely discussed in the country, with public attitudes ranging from tacit acceptance to violent rejection, particularly of transgender sex workers. Members of this community faced considerable social stigma and discrimination, often within their own families and particularly in rural areas. Many were ostracized by their relatives and were refused burial in the family tomb. Transgender sex workers often were the targets of verbal and physical abuse. Within the workforce, transgender individuals faced significant barriers, particularly in the textile industry.

Local NGOs reported that most organizations that worked with the LGBT community did so as health service providers, often in the context of their work to combat the spread of HIV/AIDS.

Other Societal Violence or Discrimination

Persons with HIV/AIDS were subjected to stigma and discrimination, particularly by providers in the health care sector. HIV/AIDS patients have the right to free health care, and the law specifies sanctions against persons who discriminate against or marginalize persons with HIV/AIDS. Apart from the National Committee for the Fight against AIDS in Madagascar, however, national institutions – including the Ministries of Health and Justice – did not effectively enforce the law.

Incidents of mob violence increased in number and severity during the year, in part due to increased crime and lack of public confidence in police and the judiciary. Unlike in the past, mob violence was not restricted to remote areas. Large crowds killed, beat, burned, or otherwise injured suspected criminals. During the year the media reported more than 40 lynchings. Perpetrators were seldom arrested or prosecuted.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides that public and private sector workers may establish and join labor unions of their choice without prior authorization or excessive requirements. Civil servants and maritime workers, however, have separate labor codes. Essential workers, including police, military, and firefighters, may not form unions. The maritime code, which governs workers in the maritime sector, does not specifically provide the right to form unions.

The law generally allows for union activities and provides most workers with the right to strike, including workers in export processing zones (EPZs). Strikes are prohibited, however, if there is a possibility of “disruption of public order” or if the strike would endanger the life, safety, or health of the population. Workers must first exhaust conciliation, mediation, and compulsory arbitration remedies, which may take eight months to two-and-a-half years. Magistrates and workers in other “essential services” (not defined by law) have a recognized but more restricted right to strike. The law requires them to maintain a basic level of service and to give prior notice to their employer. The labor code also provides for a fine, imprisonment, or both for the “instigators and leaders of illegal strikes,” even if the strike is peaceful.

The law prohibits antiunion discrimination by employers. In the event of antiunion activity, unions or their members may file suit against the employer in civil court. Civil servants and public sector employees are not afforded legal protection against acts of anti-union discrimination and interference. The labor code does not address the issue of reinstatement of workers fired for union activity.

The law provides workers in the private sector, except for seafarers, the right to bargain collectively. The law does not address whether migrant workers have the right to collective bargaining. Public sector employees not engaged in the administration of the state, such as teachers hired under the auspices of donor

organizations or parent's associations in public schools, do not have the right to bargain collectively on their conditions of employment. According to union representatives, authorities did not always enforce applicable law, including effective remedies and penalties, and procedures were subject to lengthy delays and appeals. Collective bargaining rights were more readily exercised and respected in larger international firms, such as in the telecommunications and banking sectors. These rights, however, were reportedly more difficult to exercise in EPZs and smaller local companies. Union representatives reported that workers in such companies often were reluctant to make demands due to fear of reprisal. Due to increased poverty following the 2009 coup, jobs were scarce and workers were less likely to risk losing their paychecks.

The law provides that unions operate independently from government and political parties, although employers did not always respect this right, particularly in the EPZs. In Fort Dauphin, workers were dismissed by a subcontractor, Omega, following dissolution of its contract with the QMM/Rio Tinto mining company. A new subcontractor rehired most of the workers, but those involved in union activity were not rehired, according to labor organizations. A legal dispute continued in the 2012 case involving Manpower Development, a former personnel subcontractor for the nickel mining company Ambatovy, which allegedly dismissed five or more employees because of their union activities. In several other cases, union representatives indicated there were subtle attempts on behalf of employers to dissuade or influence unions, which often prevented workers from organizing or denouncing poor working conditions.

Strikes occurred frequently throughout the year, with public servants in several sectors striking simultaneously throughout the summer and into the fall. Public servants demanded adjustment of their salary index, Ministry of Tourism employees requested payment of their allowances, and prison guards went on strike to obtain a salary increase. There were no reports of threats or reprisals by *de facto* authorities in these cases.

Labor representatives noted that several negotiations were slowed or stalled, but there were no reports that employers refused to bargain, bargained with unions not chosen by workers, or used hiring practices to avoid hiring workers with bargaining rights. Collective agreements were signed, mainly in public enterprises.

The 2008 EPZ law reduced worker rights by allowing labor laws in EPZs to vary from the country's standard labor code. EPZ labor contracts may differ in terms of

contract duration, restrictions on the employment of women during night shifts, and the amount of overtime permitted. No violations were reported.

b. Prohibition of Forced or Compulsory Labor

While the law prohibits forced labor, it remained a significant problem among children in the informal sector. Forced labor also persisted in the context of “dinas,” informal arrangements for payment or in response to wrongdoing. In some communities, dinas were common and an accepted way of resolving conflicts or paying off debt. In her 2012 visit to the country, the UN special rapporteur on modern forms of slavery noted that young women who were forced into early marriage also were subjected to domestic servitude and sexual slavery. In all the above cases, *de facto* authorities did not effectively enforce the law.

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

c. Prohibition of Child Labor and Minimum Age for Employment

The law regulates the working conditions of children, defines the worst forms of child labor, identifies penalties for employers, and establishes the institutional framework for implementation. The legal minimum age for employment is 15, consistent with educational requirements. The law allows children to work a maximum of eight hours per day and 40 hours per week with no overtime, and prohibits persons under 18 from working at night and at sites where there is an imminent danger to health, safety, or morals. Employers must observe a mandatory 12-hour rest period between shifts. Occupational health and safety regulations include requirements for parental authorization and a medical visit before hiring.

The *de facto* regime did not effectively enforce the law and did not improve its pursuit of labor law violators. The Ministry of Civil Services and Labor is responsible for enforcing child labor laws and policies in the formal sector, and it conducted general workplace inspections during the year in response to a range of complaints. The ministry had approximately 90 inspectors on the ground and another 30 in training to carry out its responsibilities, but none specialized in child labor, making it difficult to monitor and enforce child labor provisions effectively. There was no enforcement in the much larger informal sector.

Child labor was a widespread problem. Centers operated by NGOs in Antananarivo, Toamasina, and Tulear continued to receive victims of trafficking and forced labor. Children in rural areas worked mostly in agriculture, fishing, and livestock herding, while those in urban areas worked in occupations, such as domestic labor, transport of goods by rickshaw, petty trading, stone quarrying, artisanal gemstone mining, bars, and begging. Children also worked in the vanilla sector, salt production, deep sea diving, and the shrimp industry. Some children were trafficked internally for the purposes of forced labor, including child prostitution.

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

d. Acceptable Conditions of Work

As of March 1, the monthly minimum wage increased to 108,019 ariary (\$48) for nonagricultural workers and 109,520 ariary (\$49) for agricultural workers. The official estimate for the poverty income level put the threshold at 468,800 ariary (\$210) per person per year, or 39,000 ariary (\$17.40) per month.

The standard workweek was 40 hours in nonagricultural and service industries and 42.5 hours in the agricultural sector. The law limits workers to 20 hours of overtime per week and requires 2.5 days of paid annual leave per month. If the hours worked exceed the legal limits for working hours (2,200 hours per year in agriculture and 173.33 hours per month in other sectors), employers are legally required to pay overtime in accordance with a Labor Council decree, which also denotes the required amount of overtime pay. If more than five hours of overtime are required in addition to the regular 40-hour workweek, employers must request an authorization from a labor inspector before imposing additional overtime. Overtime may not exceed 20 hours per week. The law applies to all workers, although it is the responsibility of the labor inspector to define the kind of work that may be performed under such an authorization.

The government is charged with setting occupational safety and health standards for workers and workplaces, but penalties for noncompliance are not defined in the labor code, which only requires an inspection before a company can open. Workers, including foreign or migrant workers, have an explicit right to leave a dangerous workplace without jeopardizing their employment, as long as they inform their supervisors.

The Ministry of Civil Services and Labor is responsible for enforcing the minimum wage and working conditions, but this did not always occur. There were only enough labor inspectors to effectively monitor conditions in the capital, although the ministry continued efforts to train more inspectors in partnership with the International Labor Organization. The National Fund for Social Welfare, the country's social security agency, conducted inspections and published reports on workplace conditions, occupational health hazards, and workplace accident trends. Apart from increasing the minimum wage and conducting an insufficient number of inspections, *de facto* authorities took no action during the year to prevent violations and improve working conditions. The *de facto* regime raised the minimum age for full retirement benefit eligibility to 60 universally, except in very specific circumstances, making such benefits less accessible to women in the private sector, who previously were eligible at age 55.

Violations of wage, overtime, or occupational safety and health standards were common in the informal sector and in domestic work, where many were paid below minimum wage and worked extensive hours. Although most employees knew the legal minimum wage, employers did not always pay those rates. High unemployment and widespread poverty led workers to accept lower wages. Employers often required employees to work until production targets were met. In some cases this overtime was unrecorded and unpaid. The right to remove oneself from a dangerous workplace was not always respected.

EPZ companies in general respected labor laws, as many foreign importers required good working conditions in compliance with local law before signing contracts with EPZ companies. Nevertheless, in December a raid by labor inspectors on a Chinese foundry in Antananarivo revealed labor code violations, including failure to provide a safe, hygienic, and healthy work environment. Several workers bore physical evidence of workplace injuries. Factory owners temporarily closed the factory to prevent workers from organizing.