

# MADAGASCAR 2017 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

Madagascar is a semipresidential democratic republic with a popularly elected president, a bicameral legislature (Senate and National Assembly), prime minister, and cabinet. The current president and National Assembly were elected in 2013, the first national elections after the 2009 coup against former president Ravalomanana. Nationwide municipal elections in July 2015 allowed for the indirect election of the Senate in December 2015. All elections were peaceful and deemed generally free and fair by international observers, despite low turnout and the denial of 31 of 31 opposition appeals by the High Constitutional Court.

Civilian authorities at times did not maintain effective control over the security forces.

The most significant human rights issues included arbitrary or unlawful killings and other security force abuses; life-threatening prison and detention conditions; lack of judicial independence; restrictions on freedom of speech and press; pervasive corruption that led to impunity; lack of accountability in cases involving violence against women and children, including rape; and early and forced child marriage.

The government rarely prosecuted or punished officials who committed abuses, whether in the security forces or elsewhere in the government, and impunity remained a problem.

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

#### **a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

There were numerous reports that the government or its agents committed arbitrary or unlawful killings of criminal suspects. Most killings occurred during security force operations to stem cattle rustling by armed criminal groups in the central, west, and southwest areas as well as during police raids to combat insecurity in urban areas. Villagers sometimes supported government efforts to stem cattle rustling and were responsible for killing cattle rustlers; sometimes they opposed security forces or one another.

In January the National Gendarmerie told the press that in their efforts to combat insecurity, gendarmes had killed 220 presumed thieves in 2016, up from 36 the year before.

Killings of presumed cattle rustlers and bandits continued throughout the year. Between January and September, the media reported at least 127 deaths from security force actions to combat insecurity. According to media reports, nearly all the alleged cattle thieves were killed in armed confrontations with security forces that occurred at least monthly; the security forces were often supported by villagers. Usually the security forces were made up of police and gendarmes, but occasionally they included military elements. There were isolated reports of security forces executing cattle thieves or bandits after capture. These could not be substantiated and were rarely, if ever, investigated.

In May in Ikalamavony, several eyewitnesses reported that a detachment of 13 police from the Police Intervention Force of Fianarantsoa shot and killed, then subsequently burned the body of a man suspected of having been involved in a shooting incident with police in March. The commander of the unit, Denis Rolland Rafanantenantsoa, stated that the victim had an automatic rifle, and villagers burned the body when police pursued three other suspects. During an earlier incident in March, police attempted to arrest nine cattle thieves but were forced to withdraw when armed villagers prevented the arrest. Villagers alleged police returned and burned a dozen homes; the commander insisted that other villagers had burned the houses.

Military frequently acted as back-up to police and gendarme forces when the latter were outmatched by cattle thieves or bandits. The press reported that on September 8, after a daylong standoff with a dozen outnumbered gendarmes, an Alouette II helicopter belonging to the First Regiment of the intervention forces was used to shoot and kill up to 20 cattle thieves who had stolen more than 70 zebus (a species of cattle).

## **b. Disappearance**

There were no reports of disappearances by or on behalf of government authorities.

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

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

Security personnel used beatings as punishment for alleged crimes or as a means of coercion. Off-duty and sometimes intoxicated members of the armed forces assaulted civilians. In most cases, investigations announced by security officials did not result in prosecutions.

On May 31, the court of Manakara convicted three prison guards to three years' imprisonment each for having beaten a prisoner in January. Upon hearing the announcement, 15 other prison guards present during the hearing contested the judgment by forcing all detainees awaiting hearings out of the courtroom, locking themselves inside the prison compound, and announcing a strike. Two guards returned to physically and verbally threaten the prosecutor. The following day, the prison remained closed, detainees were not sent to court, and court officials required security protection. The director general of the Prison Administration, Desire Randrianandrasana, stated to the media that the agents' behavior was the result of frustration caused by job challenges, a lack of equipment, and the conviction of their colleagues.

### **Prison and Detention Center Conditions**

Prison conditions were harsh and life threatening due to inadequate food, overcrowding, poor sanitary conditions, and lack of medical care.

Physical Conditions: As of July, the country's 82 prisons and detention centers held an estimated 20,954 inmates, including 903 women, 634 boys, and 47 girls; this figure represented nearly twice the official capacity of 10,360 inmates. Authorities did not always hold juveniles separately from adults, and some children under school age shared cells with their incarcerated mothers.

During the second quarter of the year, Grandir Dignement (Grow Up with Dignity), an NGO dedicated to the rights of imprisoned youth, identified 828 minor detainees held in the country's 41 prisons, 39 jails, and two juvenile detention centers. The NGO estimated that 20 percent of the minor prisoners were colocated with adult prisoners during the day, and 5 percent shared dormitories with adults. Girls were always held together with adult female prisoners.

Authorities held pretrial detainees with convicted prisoners.

Severe overcrowding due to weaknesses in the judicial system and inadequate prison infrastructure was a serious problem. One penitentiary surpassed its official capacity by nearly eightfold. Lengthy pretrial detention was pervasive.

According to the International Committee of the Red Cross (ICRC), almost one in two prisoners nationwide suffered from moderate or severe malnutrition. The ICRC, in collaboration with the Catholic Chaplaincy for Prisons (ACP), treated almost 10,000 prisoners for malnutrition, including 850 for severe malnutrition, during 2016. Each inmate received approximately 10.5 ounces of cassava per day, compared with the recommended 26 ounces. The ICRC reported that, in the first half of 2015, approximately 50 persons died in prison and 27 of these deaths could be linked to malnutrition.

According to a study conducted in 2016 by Handicap International, harsh prison conditions were a source of psychological distress for 70 percent of detainees at four of the largest detention facilities covered by the study: Vatomandry, Toamasina, Mahajanga, and Toliary. According to the study, 81 percent of detainees perceived the general conditions of their detention as “bad” and 95 percent reported they “often felt hungry.” 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.

The Ministry of Justice recorded 90 deaths in prisons in 2015, none of which were attributed to actions by guards or other staff.

On July 8, in the prison of Ambalabe Antsohihy, a wall separating the men’s area from the women’s collapsed due to a strong wind, killing four detainees on the spot and four others who died later in the hospital. Media reported that the prison facilities of Antsohihy had been built more than 60 years earlier with no rehabilitation ever performed.

Administration: Ministry of Justice officials conducted intermittent inspections of facilities. While a formal process exists to submit complaints of inhuman

conditions to judicial authorities, few detainees used it due to fear of reprisal. Officials authorized prisoners and detainees to receive weekly visits from relatives and permitted religious observance. Visits outside the scheduled days were reportedly possible by bribing guards and penitentiary agents. NGOs reported 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 ICRC, several local NGOs, and some diplomatic missions. Authorities permitted the ICRC to conduct visits to all main penitentiary facilities and to hold private consultations in accordance with its standard modalities. Authorities also permitted ICRC representatives to visit detainees in pretrial or temporary detention.

Improvements: According to Grandir Dignement, 20 of the country's 41 prisons had established separate areas for boys and men as of June, an increase from 2014 when only 17 prisons had such infrastructure.

In August 2016 the government passed a law that reduced the maximum duration of pretrial detention for minor detainees to three months for correctional matters and six months for criminal matters. Under the new law, 46 minors were released between March and May.

In January the Ministry of Justice established a central pharmacy in its headquarters to supply prisons' health units. At the same event, the ICRC announced a donation of 50 million ariary (\$15,500) worth of essential medications to improve detainees' medical care.

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

The constitution and law prohibit arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his or her arrest or detention in court, but authorities did not always respect these provisions. Authorities arrested persons on vague charges and detained many suspects for long periods without trial.

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

The national police, under the authority of the Ministry of Public Security, is responsible for maintaining law and order in urban areas. The gendarmerie, under

the Ministry of National Defense, is responsible for maintaining law and order in rural areas. Since 2015 the military was active in rural areas, particularly to maintain order in areas affected by cattle rustling and banditry.

The government did not have effective control over matters relating to rule of law outside the capital. Security forces at times failed to prevent or respond to societal violence, particularly in rural areas.

Government institutions lacked any effective means to monitor, inspect, or investigate alleged abuse by security forces, and impunity was a problem. Victims may lodge complaints in the local court of jurisdiction, although this rarely occurred.

The law gives traditional village institutions authority to protect property and public order. In some rural areas, a community-organized judicial system known as “dina” resolved civil disputes between villagers over such issues as alleged cattle rustling. The “dina” system sometimes conflicted with national laws by imposing harsh sentences without due process or by failing to protect the rights of victims. For example, the “dina” of the Toliara region, adopted in 2016, states that prosecution for wrongful death is unnecessary in cases where a presumed criminal is killed during a robbery. Other “dina” prescribe capital punishment, although it has been abolished at the national level.

### **Arrest Procedures and Treatment of Detainees**

The law requires arrest warrants in all cases except those involving ‘hot pursuit’ (the apprehension of a suspect during or immediately after a crime is committed), but authorities often detained persons based on accusations only and without judicial authorization. The law requires authorities to charge or release criminal suspects within 48 hours of arrest, but they often held individuals for significantly longer periods before charging or releasing them. Defendants have a right to counsel, and the law entitled those who could not afford a lawyer to one provided by the state. Many citizens were unaware of this right, and few requested attorneys. Defendants have the right to know the charges against them, but authorities did not always respect this right. Authorities frequently denied bail without justification. 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 pretrial detention, with a theoretical maximum of eight months for criminal cases. Family members generally had access to

prisoners, although authorities limited access for prisoners in solitary confinement or those arrested for political reasons.

Arbitrary Arrest: Security forces arbitrarily arrested journalists, political opponents, demonstrators, and other civilians.

On February 28, approximately 40 police from the FIP (Police Intervention Force) units of Mahajanga and Antsohihy reportedly burnt more than 400 houses in six villages in Antsakabary to avenge the deaths of two of their colleagues killed a few days earlier by angry villagers who had accused them of racketeering. One woman died in the fire. Police arrested a dozen persons, including the local mayor, whom they accused of killing their colleagues. The national police subsequently denied involvement in the burning of the villages despite several media reports and a report by the National Independent Human Rights Commission, which conducted an onsite investigation after the incidents. Five persons were in detention for their alleged roles in the deaths of the two police officers. The investigation into the burning of the villages was ongoing, with no arrests. The minister of population announced the completion of the investigation in late August, and that the case had been referred to the Court of Antananarivo. As of mid-September, no further progress had been reported.

Pretrial Detention: According to the Ministry of Justice, as of July, 50.8 percent of the prison population was in pretrial detention. A total of 62 percent of female prisoners and 79 percent of juvenile prisoners were pretrial detainees. Pretrial detention ranged from several days to several years. Poor recordkeeping, an outdated judicial system, insufficient magistrates, and lack of resources contributed to the problem. The length of pretrial detention often exceeded the maximum sentence for the alleged crime.

Detainee's Ability to Challenge Lawfulness of Detention before a Court: The law provides for the defendant's right to file an appeal concerning his or her pretrial detention with no specific provision concerning his or her right to prompt release and compensation. The law states that a defendant must be released immediately if a prosecutor approves a temporary release requested by the defendant.

#### **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. There were instances in which the outcome of trials

appeared predetermined, and authorities did not always enforce court orders. Lack of training, resources, and personnel hampered judicial effectiveness, and case backlogs were “prodigious,” according to Freedom House. Judges reported instructions from the executive to release accused sex offenders who were often, but not always, foreign citizens from donor countries.

The law reserves military courts for trials of military personnel, and they generally follow the procedures of the civil judicial system, except that military jury members must be military officers. 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 the right to a fair and public trial, but the courts have the authority to direct that a trial be nonpublic in order to protect the victim or to maintain public order. An independent judiciary generally enforced this right, but there were often delays. Prolonged incarceration without charge, denial of bail, and postponed hearings were common. The law provides for a presumption of innocence, but authorities often ignored this right. Defendants have the right to be informed promptly and in detail of the charges against them, and the law provides free interpretation as necessary, from the moment charged through all appeals. Defendants have the right to a fair trial without undue delay.

Trials are public, and defendants have the right to legal counsel at every stage of proceedings. Many citizens were unaware of their right to counsel, however, and authorities did not systematically inform them of it. Defendants who did not request or could not afford counsel generally received very limited time to prepare their cases. Defendants have the right to be present at their trials, to receive information regarding the charges against them, to present and confront witnesses, and to present evidence. Authorities generally respected such rights if defendants had legal representation. The law provides the right to an interpreter to the judiciary police, the examining magistrate, and the defendant’s legal advisor but does not mention any such right for the defendant, nor whether it is a free service. The law stipulates that the defendant has the right to refuse an interpreter. In practice, if an external interpreter must be hired, it is at the defendant’s expense. Legislation outlining defendants’ rights does not specifically refer to the right not to be compelled to testify or not to confess guilt. It does include the right to

assistance by another person during the investigation and trial. Defendants have the right to appeal convictions.

According to law, the above rights apply to all defendants, and there were no reports of any groups being denied any of these rights.

### **Political Prisoners and Detainees**

Alain Ramaroson, leader of an opposition party, who was arrested in August 2016 and accused of forgery in a land dispute with one of his family members, remained in prison. According to media, the trial and hope for temporary release were delayed by the Ministry of Justice's retention of his file for examination. The media also reported that persons seeking to visit him were required to obtain prior approval from the ministry. After several refusals of his attorneys' requests for temporary release and after several postponements, a first trial was held in July, and he was sentenced to one year in prison and a 900 million ariary (\$278,000) fine. On August 8, the court rendered a judgement related to another charge and sentenced him to 30 months in prison and a 200 million ariary fine (\$61,800).

### **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 through domestic courts. Courts lacked independence, were subject to influence, and often encountered difficulty in enforcing civil judgments. There is no prohibition against appealing to regional human rights bodies, but there was no known case of an appeal. The legal system does not recognize the jurisdiction of the African Court on Human and Peoples' Rights.

### **Property Restitution**

An estimated 700 families had their houses destroyed for the construction of a new road for the summit of the International Organization of the Francophonie that took place in Antananarivo in November 2016. The minister in charge of presidential projects, territorial planning, and equipment announced in October 2016 that approximately 13 billion ariary (four million dollars) would be allocated to compensate the expropriated families and promised the payment would be finalized by mid-November the same year. In early January the media reported that, of the 339 families identified as eligible for compensation, only 165 had

received payment. According to the report, 161 others would be compensated in a second tranche and 13 cases were still under consideration.

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

The law prohibits such actions, and there were few reports the government failed to respect these provisions.

In April the media reported that the mayor of Andriampotsy used his status as mayor and member of the ruling party to harass a family for refusing to give him a portion of its inheritance. He accused one member of the family of having set fires near his rice fields and had him summoned daily to the office of the regional director of environment, who refused to see him. The parents of the victim had also been sued by the same mayor for witchcraft and served time in prison before being acquitted in 2016 by the court of Tsiroanomandidy.

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

#### **a. Freedom of Expression, Including for the Press**

The constitution provides for freedom of expression, including for the press, but these “may be limited by the respect for the freedoms and rights of others, and by the imperative of safeguarding public order, national dignity, and state security.” The government sometimes restricted these rights. The communication code includes a number of provisions limiting freedom of speech and expression. The code also grants broad powers to the government to deny media licenses to political opponents, seize equipment, and impose fines.

The government arrested journalists and activists who had publicly denounced misbehaviors of public authorities. The government often used unrelated charges to prosecute them.

Freedom of Expression: Although the constitution provides for freedom of speech, the communication code restricts such speech when it infringes on the freedoms or rights of others, endangers public order, or is believed to undermine national dignity or the security of the state. The law restricts individuals’ ability to criticize the government publicly.

On June 24, the Court of Toamasina sentenced environmental activist Clovis Razafimalala to five years' imprisonment (suspended) and fined him and three persons accused with him 50 million ariary (\$15,500). He was held in pretrial detention since September 2016 for incitement to rebellion and looting, accused of having called for a riot against suspected rosewood trafficker Eric Besoa, a local power broker. Razafimalala announced during a press conference in Antananarivo on August 11 that he planned to submit an appeal to the Court of Cassation. He reiterated to press the absence of any evidence of his alleged participation in destruction of public files and property. Fellow activists and Amnesty International called the judgement intimidation meant to silence Razafimalala.

Press and Media Freedom: The communications code contains several articles limiting press and media freedoms. For example, Article 85 requires the owner of a media company to be the chief publisher. This article may permit the harassment of potential opposition presidential candidates, many of whom were also media owners.

Although defamation is not a criminal offense in the communications code, a separate cyber criminality law allows for the charge of criminal defamation for anything published online. It is unclear whether the cyber criminality law, which includes prison sentences for online defamation, has precedence over the 2015 communications code, as all newspapers are also published online. The fines allowed for offenses under the new communications code are many times higher than the average journalist's annual salary.

The new code gives the communications ministry far-reaching powers to suspend media licenses and seize property of media outlets if one of their journalists commits two infractions of the code. Finally, the new code allows only state-owned radio and television stations the right to broadcast nationally, although this limitation was not always enforced.

The country had numerous independent newspapers. More than 300 radio and television stations operated in the country, although many shifted to live call-in shows in recent years to distance themselves from editorial responsibility for content. Many of them continued to have a national audience, in spite of the legal limitations set by the new code. Nevertheless, limitations on private media existed. In May 2016 Joel Ralaivaohita, vice president of the Association for Cyber Journalists, stated that reporters were expected to reflect the views of media owners. He also stated that new television or radio channels could open only if they expressed political views supporting the government.

Violence and Harassment: On May 5, under the order of the Court of Ihosy, gendarmes from Fianarantsoa arrested journalist Fernand Cello in Antananarivo. Cello was sued for check theft, forgery, and falsification of documents by the electricity company in Ilakaka, whose owner was reputed to be close to local authorities. A few days earlier, Cello had taken part in a press conference in Antananarivo denouncing illicit sapphire mining in Ilakaka and alleged the involvement of local authorities. On May 8, the Court of Ihosy placed Cello under committal order and refused a request for temporary release submitted by his lawyers for poor health. On September 27, he was sentenced to two years' imprisonment, suspended, and fined 720,000 ariary (\$220). His trial on the defamation charge was pending.

Censorship or Content Restrictions: Journalists practiced self-censorship, and authors generally published books of a political nature abroad.

An online media outlet reported that, on February 27, on the way back from the airport in Mahajanga, a vehicle used by the security detail of President Rajaonarimampianina collided with a bus, causing five injuries. Other elements of the security detail reportedly forced local journalists to erase all of their photos and footage, but journalists still decided to cover the stories. A private television used third party footage to illustrate its account.

Libel/Slander Laws: There were several reports of government authorities using libel, slander, or defamation laws to restrict public discussion.

On June 22, Antananarivo police questioned the publication manager and chief editor of the private newspaper *Freenews* after Senate President Honore Rakotomanana accused him of defamation. A few days before the police hearing, the newspaper issued an article accusing the president of the Senate of building a very expensive villa in a suburb of the capital city. Lalatiana Rakotondrazafy, owner of the newspaper and losing mayoral candidate in Antananarivo, claimed procedural irregularities in the investigation, asserting that a press offense, not qualified as a crime in the communications code, could not be handled by the criminal police. Rakotondrazafy was well known for her criticism of the ruling party.

## **Internet Freedom**

The government did not restrict or disrupt access to the internet, and there were no credible reports the government monitored private online communications without appropriate legal authority.

A 2014 cybercrime law prohibits insulting or defaming a government official online. According to Reporters without Borders, “the law’s failure to define what is meant by ‘insult’ or ‘defamation’ leaves room for very broad interpretation and major abuses.” The law provides for punishment of two to five years’ imprisonment and a fine of two million to 100 million ariary (\$618 to \$30,900) for defamation. Following criticism from the media and international community, the government promised to revise the law, but kept it unchanged in the new communications code.

Public access to the internet was limited mainly to urban areas. According to the International Telecommunication Union, 4.7 percent of the population used the internet in 2015.

Political groups, parties, and activists used the internet extensively to advance their agendas, share news, and criticize other parties. Observers generally considered the internet among the more reliable sources of information.

On March 7, the Court of Antananarivo sentenced Hiary Rapanoelina, an artist and administrator of a Facebook “gossip” page, to one year in prison. Based on an anonymous threat posted on the page, a parliamentarian and several artists sued Rapanoelina for defamation and for threatening to kidnap the child of the parliamentarian. The case was prosecuted under the cybercrime law, and Rapanoelina served six months in prison despite the complainants’ having withdrawn charges. On September 8, the court of appeal suspended the remainder of his one-year sentence and Rapanoelina was released.

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

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

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

#### **Freedom of Peaceful Assembly**

The constitution and law provide for freedom of peaceful assembly, but authorities often restricted this right. The government required all public demonstrations to

have official authorization from the municipalities and police prefectures, but rarely gave authorization to opposition parties. Security forces regularly impeded opposition gatherings throughout the country and used excessive force to disperse demonstrators.

Several times during the year, security forces used tear gas to disperse demonstrations by university students, supporters of political opponents, and other groups. Students generally retaliated by throwing stones at security forces, which often resulted in injuries and arrests.

The national government refused requests by the *Tiako i Madagasikara* (I Love Madagascar, or TIM) party, founded and chaired by former president and future candidate Marc Ravalomanana, to celebrate its 15th anniversary in Antananarivo in July and in Toamasina in August. On July 3, the prefect of Antananarivo announced the cancellation of a previously granted authorization for the party to celebrate its anniversary just four days before the event's planned date. Despite the Administrative Court of Antananarivo's decision to overturn the denial, party leaders and supporters instead headed to Antananarivo's Independence Avenue, where police deployed tear gas to scatter the crowd. No injuries or arrests were reported. On July 28, the prefect of Antananarivo refused the request for another celebration on the next day, and leaders of the party abided by the decision. On August 9, the prefect of Toamasina refused a request by the party to celebrate its 15th anniversary on August 12 in his city. The prefect further declared that political meetings, rallies, and demonstrations were forbidden in the city until further notice to preserve the public security. One day prior to the planned event in Toamasina, security force elements surrounded the planned venue for the event.

### **Freedom of Association**

The constitution and law provide for the right of association, but the government did not always respect this right. Opposition parties were regularly restricted from conducting public demonstrations.

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

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

#### **d. Freedom of Movement**

The constitution and law provide for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights. 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.

### **Internally Displaced Persons (IDPs)**

More than 70,000 persons were displaced in March by Tropical Cyclone Enawo and were temporarily housed in common shelters in several regions of the country. The government, through the National Office in Charge of Risk and Disaster Management or BNGRC, coordinated with private and international donors to provide humanitarian assistance and to assist the majority of them to return home.

More than 18,000 persons had migrated from the deep south of the country between 2009 and July, according to a survey conducted by the International Organization for Migration in 10 communes. To escape the drought, 51 percent of them left their homes. A portion of these IDPs had returned to their homes when climate conditions improved; others decided to resettle elsewhere. The BNGRC also coordinated with private partners and international donors to assist those displaced persons.

### **Protection of Refugees**

Refoulement: On March 1, 13 Turkish nationals who were teachers in a Turkish-founded school were charged by the Court of Antananarivo for having committed fraud to obtain their visas and for working illegally. They appealed to UNHCR and several embassies for assistance, claiming they were being targeted under false charges due to their school's alleged ties to Fethullah Gulen and in the wake of Turkish President Erdogan's January visit to the country. Several days later they were given 48 hours to leave the country. While in custody, they reportedly requested political asylum to stay in the country. A newspaper reported they finally went back to Turkey under the protection of the UN High Commission for Human Rights, without mention of whether Madagascar had granted asylum.

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

## **Stateless Persons**

On January 25, the president promulgated a nationality code amending the 1960 nationality ordinance, giving men and women equal rights to pass their nationality to their children and giving more protection to women and children against losing their nationality. Its main reform grants Malagasy women the right to transmit nationality to their children regardless of a woman's marital status.

The new code provides for a minor's right to obtain Malagasy citizenship if one of his or her parents, regardless of their marital status, obtains Malagasy citizenship. The old code provided this right based on the father's naturalization or the mother's if she were a widow. The loss of Malagasy citizenship for any reason mentioned in the present law does not affect the spouse and the children of the deprived person. The previous code stipulated that such loss affected the wife and the children of the deprived person if they were of foreign origin.

The provisions of the old code of nationality resulted in a large number of stateless persons in the minority Muslim community, many belonging to families living in the country for generations. Muslim leaders estimated the laws affected as much as 5 percent of the approximately two million Muslims in the country.

Birth to a citizen parent transmits citizenship. Birth in the country does not automatically result in citizenship. Some members of the 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 a Muslim-sounding name alone could delay one's citizenship application indefinitely. All stateless persons may 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 may obtain nationality by marrying a Malagasy citizen and may request citizenship before the wedding date. Stateless persons had difficulty accessing education and health care, could not get jobs or buy land, and lived in fear of arrest.

## **Section 3. Freedom to Participate in the Political Process**

The constitution and law provide citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

### **Elections and Political Participation**

Recent Elections: The country held presidential and legislative elections in 2013. Despite irregularities that led to cancellation of results by the special electoral court (CES) in four districts, international observers--including the EU, the African Union, the Carter Center, and La Francophonie--deemed the elections generally free and fair. In 2014 the CES announced the official results, confirming Hery Rajaonarimampianina's election as president with 53 percent of the vote, compared with 47 percent for rival Jean-Louis Robinson. In the weeks that followed, the president appointed a prime minister and cabinet, and an elected National Assembly began its five-year term. The first session of the National Assembly in 2013 officially ended the five-year postcoup political transition.

In 2015 the country held municipal elections that were marked by low turnout (25 percent) and irregularities, including exclusion of qualified voters from the polls, lack of independence of the independent election authority (CENI-T), cancellation of elections in 19 communes, and other problems. The 12,664 mayors and municipal counsellors who were elected subsequently elected members of the Senate. The ruling HVM party (Hery Vaovao ho an'i Madagasikara or New Forces for Madagascar) won 36 of 42 seats after the High Constitutional Court rejected 11 complaints by opposition parties. The opposition cited undue influence by authorities on electors' votes in the senatorial contest and unequal financial resources available to candidates. The president appointed the remaining 21 senators.

Political Parties and Political Participation: The government restricted opposition parties and denied them their right to demonstrate spontaneously. Official permission is required for all demonstrations, and there were reports that the government denied or delayed permission for opposition parties, especially on national holidays or other symbolic dates.

During the year several mayors belonging to opposition parties or independent groups were subjected to harassment or legal prosecutions for different reasons that media qualified as pretexts to harass elected personalities who did not support the ruling party. The mayors of Antsirabe, Mahajanga, and Port Berge were the object of suspension decisions by their respective municipal councils for suspicion of

embezzlement or budget mismanagement. They remained in their positions, however, after local administrative courts suspended the municipal councils' decisions. The mayor of Antsirabe belonged to an independent party, whereas the mayors of Mahajanga and Port Berge were both from the MAPAR party (Miaraka amini'I President Andry Rajoelina), or Together with President Andry Rajoelina, founder of the MAPAR party. The MAPAR mayor of Toamasina, Elysee Ratsiraka, was prosecuted several times for suspected embezzlement and illegal selling of public land. The mayor of Ambahoaka, a member of the TIM party, was replaced by force and for unknown reasons by the unelected candidate of the ruling HVM party.

Participation of Women and Minorities: No laws limit participation of women or members of minorities in the political process, and they did participate.

Of 209 members of parliament (both houses), 38 were women and seven of 31 members of government/cabinet were women. Some observers believed that cultural and traditional factors prevented women from participating in political life in the same way as men participate, however.

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

The law provides criminal penalties for official corruption, but the government did not implement the law effectively, and officials engaged in corrupt practices with impunity. Corruption was pervasive at all levels of government.

Corruption: Several cases resulting from corruption investigations by the Independent Anticorruption Bureau (BIANCO) went to trial and/or resulted in high-level personalities being jailed on embezzlement charges. These included the former chief of staff of the Ministry of Communication, Nivo Ratiarison, and former unofficial presidential advisor Claudine Razaimamonjy. In both cases, there appeared to be high-level efforts to permit them to evade sentencing, but there was enough pressure exerted through media and diplomatic channels that they were convicted.

On February 13, BIANCO announced a new project to eradicate corruption in several public services, including delivery of passports, issuance of biometric driving licenses and vehicle registrations, technical inspection of vehicles, taxation, and performance of customs services. A survey conducted subsequent to the announcement of the project revealed that 61 percent of customers of the driving license and car registration center (CIM) of Antananarivo declared they had paid

more than normal for the conversion of driving licenses or car registrations to biometric format. On March 23, the director of CIM announced to the media the arrest of 11 CIM “facilitators” on corruption charges.

There were no new developments in the effort to prosecute alleged rosewood kingpin Johnfrince Bekasy, launched by BIANCO in 2015. Bekasy, a candidate in the municipal elections for the president’s party, remained free, having been released without explanation in October 2015. On May 1, Bekasy was elected president of the association of natives of his home region and publicly proclaimed that he was not guilty of corruption. Both the prime minister and president of the National Assembly were present at the event.

The government was persuaded to cooperate with the Singapore Supreme Court so that the trial of a Chinese importer, implicated in the illegal shipment of 30,000 rosewood logs in 2014, was able to proceed, resulting in the importer’s conviction and sentencing to three months in prison and a 500,000-Singapore-dollar (\$370,000) fine for illicit trafficking.

Media reported in May that the government had lodged a complaint with the Court of Antananarivo against local accomplices of the importer, arguing that a letter from the Ministry of the Environment had been diverted from its initial purpose and had been part of the documents wrongfully used to authorize export of the rosewood to Singapore.

Financial Disclosure: The law requires regular income and asset declaration for individuals in the following positions: prime minister and other government ministers; members of the National Assembly and Senate; members of the High Constitutional Court; chiefs of regions and mayors; magistrates; civil servants holding 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, the army’s general inspection, and the national gendarmerie’s general inspection; and judicial police officers. Although BIANCO may inform the Prosecutor’s Office in cases of noncompliance and announced publicly in May its intention to apply sanctions to authorities who failed to declare their assets, there was no indication any actions were taken.

As of November, according to the website of the High Constitutional Court, 199 of the 209 members of both houses of parliament had declared their assets as required by law, as had all but three members of the government. As of December, 13 of the country’s 22 heads of region had not declared their assets.

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

Numerous domestic and international human rights groups generally operated without restriction, investigating and publishing their findings on human rights cases. Government officials were not always responsive to their views, but authorities allowed international human rights groups 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 few had the capacity to work effectively and independently.

Government Human Rights Bodies: In 2014 the government established the legal framework for a national independent human rights commission (CNIDH) composed of 11 commissioners, each elected by members of a different human rights organization and with a mandate to investigate cases and publish reports on human rights violations. In 2016 all 11 members of the commission were sworn in, and the commission became publicly active. Although the 2017 budget law provided two billion ariary (\$618,000) for the CNIDH, as of October it had received no funding. The government allowed the CNIDH to use a room in a public building as its headquarters, and international organizations and diplomatic missions provided some equipment, but members of the commission paid out-of-pocket for travel to investigate allegations of human rights abuses.

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

### **Women**

Rape and Domestic Violence: The law prohibits rape but does not address spousal rape. Penalties range from five years to life in prison. Rape of a child or a pregnant woman is punishable by hard labor. Authorities may add an additional two to five years' imprisonment if the rape involves assault and battery. Authorities rarely enforced the law.

On September 14, the national gendarmerie officially launched its new morals and minors protection unit with responsibility for protecting children, including rape victims, in rural areas, which are not covered by the national police's morals and minors brigade. The Ministry of Justice, collaborating with UNICEF and telecommunications companies, implemented a website called "Arozaza" (protect

the child) that is intended to combat online sexual exploitation of minors and warn potential abusers. The website includes a form to report child endangerment or online pornography.

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 (\$1,240), depending on the severity of injuries and whether the victim was pregnant. There were few shelters for battered women in the country, and many returned to the home of their parents, where parents often pressured them to return to their abusers.

Victims of domestic violence from vulnerable populations could receive assistance from advisory centers, called Centers for Listening and Legal Advice (CECJ), set up in several regions by the Ministry of Population, Social Protection, and Promotion of Women with the support of the UN Population Fund (UNFPA). These centers counseled survivors on where to go for medical care, provided psychological assistance, and helped them start legal procedures to receive alimony from their abusers.

Sexual Harassment: Sexual harassment is against the law, and penalties range from one to three years' imprisonment and a fine of one to four million ariary (\$310 to \$1,240). The penalty increases to two to five years' imprisonment plus a fine of two to 10 million ariary (\$620 to \$3,100) if criminals forced or pressured the victim into sexual acts or punished the victim for refusing such advances. Authorities did not enforce the law, and sexual harassment was widespread.

Coercion in Population Control: There were no reports of coerced abortion, involuntary sterilization, or other coercive population control methods. Estimates on maternal mortality and contraceptive prevalence are available at: [www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/](http://www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/).

Discrimination: While women enjoyed the same legal status and rights as men in some areas, there were significant differences. Women experienced discrimination in employment and transfer of inheritance. While widows with children inherit half of joint marital property, a husband's surviving kin have priority over widows without children, leaving the widow eighth in line for inheritance if there is no prior agreement. Families did not always observe these provisions.

## **Children**

Birth Registration: Under the new nationality code, citizenship derives from one's parents. The new law, however, does not confer Malagasy nationality on children born in Madagascar if both parents are noncitizens. Mothers may confer nationality on children born in wedlock only if the father is stateless or of unknown nationality.

The country had no uniformly enforced birth registration system, and unregistered children typically were not eligible to attend school or obtain health-care services. For additional information, see Appendix C.

Education: The constitution provides for tuition-free public education for all citizen children and makes primary education until the age of 16 compulsory. Nevertheless, parents were increasingly required to pay registration and various fees to subsidize teacher salaries and other costs. As a result, education became inaccessible for many children. According to UNICEF, boys and girls generally had equal access to education, although girls were more likely to drop out during adolescence. A World Bank-supported project, strengthened by additional funding from UNICEF, continued to be implemented by the Ministry of Population. The program was intended to target several regions and provide money to vulnerable families in exchange for a commitment to send their children to school.

Child Abuse: Child abuse, including rape, was a problem. The press reported more than 20 cases of child rape, with most victims under the age of 12; the youngest was three years old. Government efforts to combat child rape were limited, focusing primarily on child protection networks, which addressed the needs of victims and helped raise public awareness.

In Nosy Be, the local office of the Ministry of Population put in place, in collaboration with UNICEF, a foster family system for child victims who needed placement. Some officials reported that victims of child abuse were returned to the home where the abuse occurred due to the lack of other options.

Early and Forced Marriage: The legal age for marriage without parental consent is 18 for both boys and girls. Nevertheless, child marriage remained very common, particularly in rural areas and in the south.

According to a 2013 report by the UN special rapporteur, the practice of "moletry," in which girls are married off at a younger age in exchange for oxen received as a dowry, continued. The parents of a boy (usually around age 15) look for a spouse

for their son (girls may be as young as 12), after which the parents of both children organize the wedding. For additional information, see Appendix C.

Sexual Exploitation of Children: The recruitment and incitement to prostitution generally carries a penalty of two to five years' imprisonment and a fine of up to 10 million ariary (\$3,100). Antitrafficking legislation, however, provides a penalty of forced labor for the recruitment and incitement to prostitution involving a child under the age of 18, the sexual exploitation of a child under 15, and the commercial exploitation of a child under 18. Both the penal code and antitrafficking laws address pornography, specifying penalties of two to five years' imprisonment and fines up to 10 million ariary (\$3,100). Authorities rarely enforced the provisions. There is no minimum legal age for consensual sex.

The sexual exploitation of children, sometimes with the involvement of parents, remained a significant problem.

Employers often abused and raped young rural girls working as housekeepers in the capital. If they left their work, employers typically did not pay them, so many remained rather than return empty-handed to their families and villages.

The Ministry of Population operated approximately 750 multisector networks covering 22 regions throughout the country to protect children from abuse and exploitation. The ministry collaborated with UNICEF to identify child victims and provide for their access to adequate medical and psychosocial services. In collaboration with the gendarmerie, the Ministry of Justice, the Ministry of Population, and UNICEF trained local law enforcement officials and other stakeholders in targeted regions on the rights of children.

Infanticide or Infanticide of Children with Disabilities: Media reports documented several deaths of newborns abandoned in gutters and dumpsters. 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 first to place abandoned children with parents or other relatives. Authorities placed many children in private and church-affiliated orphanages outside the regulated system.

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

Department of State's *Annual Report on International Parental Child Abduction* at [travel.state.gov/content/childabduction/en/legal/compliance.html](http://travel.state.gov/content/childabduction/en/legal/compliance.html).

### **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/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

### **Persons with Disabilities**

The law prohibits discrimination against persons with disabilities and 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; the law does not address air travel or access to the judicial system. Educational institutions are “encouraged” to make necessary infrastructure adjustments to accommodate students with disabilities. The law also specifies the state “must facilitate, to the extent possible, access to its facilities, public spaces, and public transportation to accommodate persons with disabilities.”

Authorities rarely enforced the rights of persons with disabilities, and the legal framework for promoting accessibility remained perfunctory.

Access to education and health care for persons with disabilities also was limited due to lack of adequate infrastructure, specialized institutions, and personnel. With the financial support of a French organization, the minister of education signed an agreement with Handicap International in February for the inclusion of 2,173 vulnerable children, including 503 children with disabilities, into the public schools in the regions of Diana and Analanjirofo.

Persons with disabilities encountered discrimination in employment. They were also more likely to become victims of various types of abuse, sometimes perpetrated by their own relatives.

The electoral code provides that individuals with disabilities be assisted in casting their ballots, but it contains no other provisions to accommodate voters with disabilities.

The Italian NGO Reggio Terzo Mondo, with funding from the Italian government, collaborated with the Ministry of Public Health and the Ministry of Education in a three-year project that ended in May to promote mental health in the regions of Amoron'I Mania and Vatovavy Fitovinany. At the end of the project, 13 public primary schools in the two regions had been equipped with specialized teaching materials and trained teachers able to accommodate 113 children with mental and intellectual disabilities. In addition, a mental health support and diagnosis center was established in each of the two regions.

An interministerial committee led by the Ministry of Population completed a document establishing the national committee for persons with disabilities as required by a 2015 five-year plan. As of August, however, the establishment of the national committee was still pending a decree by the government.

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

None of the 18 tribes in the country constituted a majority. There were also minorities of Indo-Pakistani, Comorian, and Chinese heritage. Ethnicity, caste, and regional solidarity often were considered in hiring and 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 politics.

### **Acts of Violence, Discrimination, and Other Abuses 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 (\$620 to \$3,100) for acts that are “indecent or against nature with an individual of the same sex under the age of 21,” which is understood to include all sexual relations. There is no law prohibiting same-sex sexual conduct for those over age 21. Members of the lesbian, gay, bisexual, transgender, and intersex (LGBTI) community reportedly were unaware of the risk of arrest for “corruption of a minor,” and arrests occurred, although there were no official statistics. There are no specific antidiscrimination provisions that apply to LGBTI persons. No laws prevent transgender persons from identifying with their chosen gender.

There were reports of official discrimination and that local officials, particularly law enforcement personnel, either abused LGBTI persons or failed to protect them from societal violence. Health officials also reportedly denied services to LGBTI persons or failed to respect confidentiality agreements.

Members of this community faced considerable social stigma and discrimination, often within their own families and particularly in rural areas.

### **HIV and AIDS Social Stigma**

Providers in the health care sector subjected persons with HIV/AIDS to stigma and discrimination. 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, national institutions--including the Ministries of Health and Justice--did not effectively enforce the law.

### **Other Societal Violence or Discrimination**

Mob violence occurred in both urban and rural areas, in large part due to crime and lack of public confidence in police and the judiciary. Crowds killed, beat, burned, or otherwise injured suspected criminals or accomplices, and the media reported 74 deaths resulting from mob violence between January and August. Authorities sometimes arrested the perpetrators, but fear of creating renewed anger hindered prosecution. Media and observers believed that the law was more likely to be enforced against perpetrators when it was in the interests of authorities or security forces.

A government delegation led by the prime minister, minister of justice, minister of public security, and secretary of state in charge of the gendarmerie visited the southeast region in March to raise awareness concerning mob violence. In Farafangana, where villagers attempted to lynch the alleged murderer of a young woman earlier in the year, the prime minister underscored mutual respect for the law.

Persons with albinism suffered witchcraft-related attacks. For example, in November 2016 a priest with albinism who escaped kidnappers reported that they had intended to sell him for 60 million ariary (\$18,500), presumably so his body parts could be used in witchcraft.

## **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 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 the right to strike, including workers in export processing zones (EPZs). Authorities prohibit strikes, 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. The law does not accord civil servants and public sector employees legal protection against antiunion discrimination and interference.

The law provides workers in the private sector, except seafarers, the right to bargain collectively. Public sector employees not engaged in the administration of the state, such as teachers hired under the auspices of donor organizations or parent associations in public schools, do not have the right to bargain collectively. According to union representatives, authorities did not always enforce applicable laws, including by providing effective remedies and penalties, and procedures were subject to lengthy delays and appeals. Larger international firms, such as in the telecommunications and banking sectors, more readily exercised and respected collective bargaining rights. These rights, however, were reportedly more difficult to exercise in EPZs and smaller local companies. Union representatives reported

workers in such companies often were reluctant to make demands due to fear of reprisal.

The government generally respected freedom of association and collective bargaining. The law provides that unions operate independently from the government and political parties. Union representatives indicated there were subtle attempts by employers to dissuade or influence unions, which often prevented workers from organizing or criticizing poor working conditions.

Strikes occurred throughout the year, including by magistrates, court clerks, taxi drivers, dockworkers, and customs office employees. These strikes were not always related to labor conditions, and some officials suggested strikers intended such actions to “destabilize” the country. The government sometimes resorted to various forms of harassment to intimidate movement leaders, sometimes using unrelated charges.

The government did not reinstate 43 dockworkers who had been dismissed from the port of Toamasina in 2012 for having joined a union, led by SYGMMA (Madagascar Maritime General Union), to advocate for better wages and protection against dangerous situations. Dockworkers are not covered by the labor code but by the maritime code, which does not provide for the right to collective bargaining. A court decision recognized the right of employees of the port of Toamasina to affiliate with the SYGMMA union, however, thus revoking the dismissal of the 43 dockworkers. In June representatives of the union demonstrated in Antananarivo for the reinstatement of the dismissed employees and denounced the allegedly abusive dismissal motivated only by the workers’ affiliation to the union.

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

The law prohibits forced labor, but it was 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 (see section 1.d.). In some communities, local “dinas” were an accepted way of resolving conflicts or paying debt. These arrangements persisted because authorities did not effectively enforce the law. In 2014 the legislature adopted antitrafficking legislation with associated penalties, providing a broader definition of trafficking (to include forced labor).

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

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

The law establishes a legal minimum working age of 15, with various restrictions. The law also regulates working conditions of children, defines the worst forms of child labor, identifies penalties for employers, and establishes the institutional framework for implementation. 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 the age of 18 from working at night and at sites where there is an imminent danger to health, safety, or morals. The law prohibits hazardous occupations and activities for children but does not prohibit hazardous occupations and activities in all relevant child labor sectors, including agriculture, deep-sea diving, and fishing.

The government did not effectively enforce the law. Penalties were insufficient to deter violations. The Ministry of Civil Services, Administrative Reform, Labor, and Social Laws is responsible for enforcing child labor laws.

Child labor was a widespread problem. Centers operated by NGOs in Antananarivo, Antsirabe, and Toamasina received children, including victims of human trafficking and forced labor. Children in rural areas worked mostly in agriculture, fishing, and livestock herding, while those in urban areas worked in domestic labor, transport of goods by rickshaw, petty trading, stone quarrying, artisanal mining for gemstones such as sapphires, bars, and as beggars. Children also worked in the vanilla sector, salt production, deep-sea diving, and the shrimp industry. Some children were victims of human trafficking, which included child sex trafficking and forced labor.

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

### **d. Discrimination with Respect to Employment and Occupation**

Labor laws prohibit discrimination based on race, gender, religion, political opinion, origin, or disability in the workplace. A special decree related to HIV in the workplace addresses prohibition of discrimination based on serology status. The law does not prohibit discrimination based on sexual orientation, gender identity, age, or language. Discrimination remained a problem. Employers subjected persons with disabilities and LGBTI individuals to hiring discrimination.

In rural areas, where most of the population engaged in subsistence farming, traditional social structures tended to favor entrenched gender roles, leading to a pattern of discrimination against women. While there was little discrimination in access to employment and credit, women often did not receive equal pay for substantially similar work. Employers did not permit women 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.

### **e. Acceptable Conditions of Work**

The government raised the monthly minimum wage in February, and it is higher than the official government estimate for the poverty income level. 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 that 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 authorization from a labor inspector before imposing the 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 a worker may perform under such an authorization.

The government sets occupational safety and health standards for workers and workplaces, but the labor code does not define penalties for noncompliance, which only requires an inspection before a company may 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. Labor activists noted that standards, dating to the country's independence in some cases, were severely outdated, particularly regarding health and occupational hazards and classification of professional positions. There was no enforcement in the large informal sector.

A 2015 study of the garment and leather industry conducted by the Friedrich Ebert Stiftung, a German foundation, revealed that all 126 companies investigated in Antananarivo had set up safety systems, such as fire extinguishers and emergency

exits, but that only 11 percent of them provided individual protection equipment to workers. The same study reported that 40 percent of employees from the investigated companies, along with their families, were deprived of basic social services because a significant number of employers failed to pay contributions to the national fund for social welfare since the 2009-13 political crisis.

The Ministry of Civil Services' Department of Administrative Reform, Labor, and Social Laws is responsible for enforcing minimum wage and working conditions, but enforcement rarely occurred. The ministry had only enough labor inspectors to monitor conditions in the capital. Apart from increasing the minimum wage and conducting an insufficient number of inspections, authorities reportedly took no other action during the year to prevent violations and improve working conditions. Penalties were insufficient to deter violations.

Violations of wage, overtime, or occupational safety and health standards were common in the informal sector and in domestic work, where many worked long hours for less than minimum wage. 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 they met production targets. In some cases, this overtime was unrecorded and unpaid. Employers did not always respect the right to remove oneself from a dangerous workplace.

EPZ companies generally respected labor laws, as many foreign importers required good working conditions in compliance with local law before signing contracts with EPZ companies. Labor organizations, however, reported a shift in recent years from paying hourly wages to a piece-rate payment system that negatively affected the conditions of laborers in the textile sector, who were primarily women. The practice, designed to increase productivity, reportedly led to an increase in work-related accidents and negatively affected the health of women. Observers declared many women unsuitable to occupy these positions by age 40. In its 2015 study, the Friedrich Ebert Stiftung reported that EPZ companies prioritized setting a production target that was generally difficult to attain and penalized workers under various forms of sanctions, such as unpaid overtime, disciplinary sanctions, or even dismissal.