

MADAGASCAR 2021 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. A presidential election was held in November 2018, with a two-candidate run-off in December 2018. The winner, Andry Rajoelina, took office in January 2019. Independent observers judged the election to be generally free and fair, despite several candidates' allegations of irregularities in the electoral process, including voter suppression. Legislative elections took place in 2019. Observers judged these elections to be generally free and fair, with some irregularities. In December 2020 Senate elections, the ruling party and those closely aligned with it won all seats since opposition parties boycotted. Observers judged the Senate elections to be generally free and fair.

National police, under the authority of the Ministry of Public Security, are responsible for maintaining law and order in urban areas. The gendarmerie and military report to the Ministry of National Defense. The gendarmerie is responsible for maintaining law and order in rural areas at the village level, protecting government facilities, and operating a maritime police contingent. The military is also active in rural areas, particularly in maintaining order in areas affected by cattle rustling and banditry. Civilian authorities at times did not maintain effective control over the security forces. There were credible reports that members of the security forces committed numerous abuses.

Significant human rights issues included credible reports of: unlawful or arbitrary killings, including extrajudicial killings by government agents; torture or cases of cruel, inhuman, or degrading treatment or punishment by government agents; harsh and life-threatening prison conditions; arbitrary arrest or detention; political prisoners or detainees; serious problems with the independence of the judiciary; arbitrary or unlawful interference with privacy; punishment of family members for offenses allegedly committed by an individual; serious restrictions on free expression and media, including unjustified arrests or prosecutions of journalists, censorship, and the existence of criminal libel laws; substantial interference with

the freedom of peaceful assembly; refoulement of refugees to a country where they would face a threat to their life or freedom; serious government corruption; and lack of investigation of and accountability for gender-based violence.

The government prosecuted and punished some officials who committed abuses, whether in the security forces or elsewhere in the government; however, impunity remained a problem. The situation was the same regarding corruption – officials were sometimes investigated or prosecuted but impunity remained a problem.

Section 1. Respect for the Integrity of the Person

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.

The gendarmerie and police inspection offices investigated abuses perpetrated by their officers. The office of army command conducted investigations of military personnel. These offices investigated formal complaints and, more often, incidents that were widely covered in traditional and social media and triggered a backlash from the public. There were more investigations related to such incidents than in previous years. In isolated cases these investigations led to arrest, conviction, and jailing of accused security force members.

Between January and September, press reported at least 131 deaths during security force operations, including members of the security forces and ordinary civilians, as well as those suspected of crimes. The security forces involved were usually composed of police and gendarmes, but occasionally they included military personnel. There were reports of security forces executing suspected cattle thieves or bandits after capture; in most cases security forces claimed those killed attempted to escape and refused to respond to warning shots. These statements by security forces often could not be substantiated. In isolated cases the government

launched investigations, arrested, and jailed the accused security force members.

According to media reports, on June 6, military unit members from the BANI, an Air and Navy base on the outskirts of Antananarivo, beat to death Nasandratra Valimbavaka, age 15. Witnesses reported that the military units arrested Nasandratra for his alleged involvement in a bicycle theft. Nasandratra's family found his dead body several days later in the mortuary of a public hospital. The mortuary staff told the family that the dead body was brought to them via a car belonging to the BANI. A source from the army told the press that the military units had rescued Nasandratra from a mob after a group of angry villagers accused him of theft and assaulted him. In late June a witness told media that he had been held in the BANI camp with Nasandratra on June 6, and that the military units had beaten them, killed them by electric shocks, then tied them together and threw them into a pond. When Nasandratra stopped moving, the military units called a nurse who certified that he was dead. The military units allegedly then abandoned the witness in a rice field.

As of mid-July, the gendarmerie criminal research unit in charge of the investigation had heard from several witnesses. On July 16, media reported that the BANI camp had filed a defamation complaint against the witness, accusing him of spreading fake news. In November the minister of defense authorized the prosecution and the arrest of 13 members of the military suspected to be involved in the crime after Nasandratra's family protested in front of the Court of Antananarivo. According to a local newspaper, in late December the court ordered the suspected military officials released. There was no further legal action related to the defamation case.

Local social media platform Mada 100.8 FM on Facebook reported that on August 9, gendarmes of Ambararatabe in the Bongolava region shot and killed three persons who were in police custody and police alleged were thieves. Relatives of the victims claimed their innocence and said they were detained by police for three days without charge or an investigation. The relatives also denounced public accusations made by the mayor of the town against the victims, accusing him of discriminatory bias against the Antandroy ethnic group from which the victims originated (see section 6, Other Societal Abuses).

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 during coerced confessions, according to the National Independent Human Rights Commission (CNIDH) in 2019 (see section 1.a., case of Nasandratra).

Security personnel reportedly used beatings as punishment for alleged crimes or as a means of coercion. There were reports that off-duty and sometimes intoxicated members of the armed forces assaulted civilians. Investigations into these incidents announced by security officials rarely resulted in prosecutions.

The press reported during the year several cases of suspects who died under unclear circumstances while being held in custody at police or gendarmerie stations. The security forces alleged that the deceased suspects committed suicide while the families of some of the deceased suspects claimed they found evidence of physical violence on the dead bodies of the suspects and alleged it was perpetrated by the guards. Impunity was a significant problem in the security forces. Factors contributing to impunity included corruption and a lack of reporting of abuses. Offices that investigated abuses included inspection bodies within the gendarmerie, police, and army command. In April the gendarmerie provided a training session on democratic crowd management to more than 160 gendarmes in the region of Boeny; media stated that similar training sessions took place in Antananarivo, Toliara, Toamasina, and Fianarantsoa. The government also collaborated with international organizations to build security forces' capacity on specific law enforcement problems such as trafficking in persons and child protection.

Prison and Detention Center Conditions

Prison conditions were harsh and life threatening due to inadequate food,

overcrowding, poor sanitation, and insufficient medical care.

Physical Conditions: Lengthy pretrial detentions, inefficiencies in the judicial system, and inadequate prison infrastructure created a serious overcrowding problem. As of the end of July the Ministry of Justice recorded 27,611 detainees in the 93 prisons and detention centers nationwide that had a total capacity to hold 11,000 detainees. The newspaper *Les Nouvelles* wrote that as of July 9, the total number of detainees nationwide had reached 28,600, which constituted a sharp increase of the prison population. During the September inauguration of a prison, the president stated that the prisons of Antanimora and Tsiafahy had reached 300 percent of their official capacities. Lengthy pretrial detention was pervasive, contributing significantly to overcrowding. Authorities sometimes held pretrial detainees with convicted prisoners.

In August the newspaper *L'Express* reported complaints by female detainees in the prison of Antsiranana in the northern part of the country concerning the lack of medical care and food. One of them said she was in pretrial detention for 18 months on the charge of having entered a protected area.

Authorities did not always hold juveniles separately from adults, and some children younger than school age shared cells with their incarcerated mothers. According to the Ministry of Justice, 15.9 percent of the 93 prisons and detention centers did not have separate area for juvenile detainees. Nongovernmental organizations (NGOs) assisting detainees noted a worsening of detention conditions including regarding sleeping conditions, access to hygiene, and infrastructure.

The Ministry of Justice recorded 177 deaths between January and September compiled from all the detention and prison facilities of the country. The most frequent causes of death from physical conditions were linked to malnutrition, respiratory infection, and kidney failure due to water shortages, especially in regions like Ampanihy in the south. Prison authorities took few remedial actions concerning these deaths.

Administration: While a formal process exists to submit complaints to judicial authorities, few detainees used it due to fear of reprisal and lack of knowledge of

the law. Authorities rarely investigated the complaints they received. Officials authorized weekly visits from relatives and permitted religious observance.

Independent Monitoring: Authorities generally permitted independent monitoring of prison conditions by local NGOs and some diplomatic missions.

Improvements: During the year the NGO Grandir Dignement (Grow with Dignity) carried out several programs targeting juvenile detainees in Antananarivo and Antsiranana. These programs included supplementing the diets of juvenile detainees to provide more nutritious meals; facilitating medical care and assistance; and delivering literacy courses, vocational training, and other cultural activities. The NGO also coordinated with judges to identify alternative options to detention. This program was carried out in the Boeny and Diana regions and resulted in the probation of 80 juvenile detainees in 2020.

On February 26, the UN Development Program (UNDP) donated \$200,000 worth of equipment to the Ministry of Justice to help the department shorten the time lag between arrests and trials, and to combat COVID-19 in prisons. The donation included computer equipment to digitize court records, office furniture, disinfecting products, and mattresses for distribution across various courts and prisons. The digitization of some court records enabled more efficient case processing.

In June President Rajoelina announced sentence reductions for almost 10,000 detainees to address overcrowding problems. Prison authorities subsequently released 2,233 detainees of the 8,996 detainees affected by the decision while the rest remained in prison continuing to serve their reduced sentences.

On September 17, the president inaugurated a high security prison in Imerintsiatosika, a suburb of Antananarivo.

The prison administration continued to set up designated areas to isolate arriving inmates and as it sought to avoid a massive outbreak of COVID-19 in the prisoner communities.

An NGO engaged in fighting against abusive pretrial detention reported that thanks to continuous sensitization and regular working sessions between penitentiary,

administration, and judiciary officials, the release of detainees after the expiration of their legal detention order had become more systematic.

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention and provide 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.

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 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 entitles those who cannot 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, and some suspects were held incommunicado. 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 to eight months and regulates the use of the writ, although authorities often exceeded this limit.

Arbitrary Arrest: Security forces arbitrarily arrested political opponents of the government, demonstrators, human rights activists, and other civilians.

On February 20, gendarmes arrested lawyer Francesca Razafimahefa in Imerintsiatosika, a suburb of Antananarivo. Razafimahefa is the daughter of member of parliament (MP) Hanitra Razafimanantsoa who is associated with the opposition party, and the arrest took place on the same day the opposition was planning a demonstration, suggesting a political motive. MP Razafimanantsoa

stated gendarmes took her daughter to their station because she refused a body search by male agents. The gendarmes decided to hold her in custody after one of the gendarmes accused her of having thrown a pack of drugs in the restroom garbage, an accusation that she denied. The Court of Antananarivo sentenced her to a suspended three-month prison sentence and fined her 50,000 ariary (\$13) for insulting the security forces and for the drug charges. Her lawyer claimed she was framed and her mother, MP Razafimanantsoa, believed the entire incident was politically motivated and intended to keep her silent.

Pretrial Detention: As of July approximately 46 percent of inmates nationwide were in pretrial detention. Pretrial detention ranged from several days to several years. Poor recordkeeping, an outdated judicial system, insufficient numbers of magistrates, and too few courts of first instance contributed to the problem. In February the head of the Madagascar Bar Association stated during a debate on the public television channel that although the law permits pretrial detention with legal justification from a judge, 90 percent of pretrial detention placement orders were issued without such justification. The length of pretrial detention often exceeded the maximum sentence for the alleged crime.

e. Denial of Fair Public Trial

Although the constitution and law provide for an independent judiciary, the judiciary was susceptible to outside 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. 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 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.

On July 2, during a disagreement between the National Assembly and the government, the minister of justice rebuked parliamentarians for repeatedly trying to influence court judgments.

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 closed to protect the victim or to maintain public order. Trials were often delayed. Prolonged incarceration without charges, denial of bail, and postponed hearings were common. The law provides for the 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.

Defendants have the right to legal counsel at every stage of the 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 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 for the judicial police, examining magistrate, and the defendant's legal advisor but does not mention any such right for the defendant. The law stipulates, however, that the defendant has the right to refuse an interpreter. If an 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 confess guilt. Defendants have the right to appeal convictions.

The law gives traditional village institutions authority to protect property and public order. In some rural areas, a community-organized traditional judicial system known as *dina* resolved civil disputes among villagers concerning such problems as alleged cattle rustling. Dina procedures sometimes conflicted with national laws by imposing harsh sentences without due process or by failing to protect the rights of victims.

Political Prisoners and Detainees

There were reports of political prisoners and detainees. Authorities arrested and imprisoned political leaders and activists, ostensibly on charges unrelated to their political positions or for offenses against the public order. Estimates of their number ranged in the single digits. They generally received the same protections

as other prisoners and detainees. The government permitted access to them by humanitarian and human rights organizations.

Former minister of communication Harry Laurent Rahajason, who served under a former president, remained in prison. The Court of Antananarivo sentenced him in 2020 to a 44-month prison sentence for organizing an unauthorized rally and attempted offenses against public security. On May 7, the Court of Appeal upheld his sentence even though in February the key witness retracted testimony during the appeals trial. In addition the Court of Antananarivo placed Rahajason in pretrial detention for a separate legal action after a close advisor of the president sued him for false testimony related to a trial in a financial court in Paris in 2015. Rahajason's lawyers and family denounced the charges as politically motivated. In March the court rejected his request for temporary release for health reasons for the sixth time since his arrest.

On July 6, the National Gendarmerie announced the arrest of six individuals allegedly involved in a June 23 attempt to kill the state secretary in charge of the gendarmerie. The arrested persons included former security agents in charge of protecting former president Hery Rajaonarimampianina and the gendarmerie stated that four other ministers were also under risk of being killed. The defense attorney questioned the veracity of the accusation as no evidence was provided, and he denounced the public accusations as a violation of the presumption of innocence and of confidentiality of the suspects since that the gendarmerie publicly revealed their identities during the investigation.

Politically Motivated Reprisal against Individuals Located Outside the Country

There were credible reports that the country attempted to misuse international law enforcement tools for politically motivated purposes as a reprisal against specific individuals located outside the country.

Misuse of International Law Enforcement Tools: There were credible reports that the country attempted to misuse international law enforcement tools for politically motivated purposes as a reprisal against specific individuals located outside the country. On March 2, media reported that the country's embassy in

Paris issued a “Wanted” notice on its Facebook page for Marco Randrianisa, a member of the opposition platform RMDM (Federation of the opposition to promote democracy in Madagascar) living in France, after the Malagasy government accused him of threatening to lynch President Rajoelina and his family. In a video, reportedly recorded in front of the president’s house in France, Randrianisa had called for a “general strike or isolated act to end the dictatorship in the country.” The government did not take any known follow-up action on the embassy’s Facebook post.

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 abuses through domestic courts. 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 Seizure and Restitution

On August 4, representatives of the Ministry of Territory, Planning, and Public Works announced that the ministry provided compensation to the owners of only 250 land plots after the construction of the bypass road linking different parts of Antananarivo. Approximately 500 other landowners had not received any compensation as the ministry stated they did not have legally acceptable documents at the time of their claims.

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

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

The newspaper *L’Express* reported that on July 4, police raided the home of a village chief in the southeast village of Ampanihy without authorization after a plantation owner alleged that the chief’s son was involved in a theft from his property. The raid left the son dead and two others injured. The village chief

alleged police killed his son in the raid. Police officers denied the charges and claimed they were attacked by an angry mob. There were reports authorities targeted family members (see section 1.d., Arbitrary Arrest, case of Razafimahefa).

Section 2. Respect for Civil Liberties

a. Freedom of Expression, Including for Members of the Press and Other Media

The constitution provides for freedom of expression, including for members of the press and other media, but these “may be limited by 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 law includes several provisions limiting freedom of speech and expression, including broad powers of the government to deny media licenses to political opponents, seize equipment, and impose fines. There were cases of government intimidation and harassment of individuals for their online activities criticizing the government.

Freedom of Expression: In accordance with the constitution, the law restricts individuals’ ability to criticize the government in public.

The government arrested journalists and activists who denounced the misbehavior of public figures.

In a February 1 communique, the National Assembly president indirectly warned the opposition members of parliament against expressing their opinions in public. She stated that it was “her duty” to remind parliamentarians that parliamentary immunity did not apply to speeches made by members of parliament in a public place or in media, and that they could be sued. She added that her message was in response to the complaints of the administration, the ministries, the politicians, and ordinary citizens regarding the actions of some members of parliament.

On June 15, the cybercriminality division of the gendarmerie summoned Ravo Nambinina Rasoamanana, a former agent of the Ministry of Public Health, for a hearing on charges of spreading false news and defamation. The previous month, the defendant had published on his Facebook page anomalies in the management

of public funds within the Ministry of Public Health. A court notice published in September indicated that he was accused of acts that may compromise public security, lead to serious political trouble, or incite hatred of the government or infringement of the laws.

Freedom of Expression for Members of the Press and Other Media, Including Online Media: Private media were active and expressed a wide variety of views but not without restriction. The law contains several articles limiting press and media freedoms. For example, the law requires the owner of a media company to be the chief publisher. The law also may permit candidates for political office, who are also media owners, to use their outlets to advocate against opponents.

The law 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 law. The law allows only state-owned radio and television stations the right to broadcast nationally, although this limitation was not always enforced.

The country had numerous private 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. Media owners in the country were generally politicians or wealthy individuals. The business and political interests of the owner shaped the editorial perspectives of these outlets thereby limiting the independence of journalists. Organizers of official events often invited only state-owned or ostensibly progovernment media outlets, and state-owned radio and television channels allegedly received unwritten orders from the minister of communication as to whom and what may appear on air.

On May 3, during the celebration of the World Press Freedom Day, the president of the national journalist association OJM, which provides accreditation to journalists, stated there was not yet a free press in the country. The minister of communication and culture responded free expression and free press still existed in the country and that only programs that undermined public order and national unity had been suspended during the declared national health emergency.

On October 3, several journalists opposing the election for the president of the journalist association OJM made a joint statement criticizing the Ministry of Communication and Culture's meddling in the management of the association. At the end of the year, OJM was organizing elections for its leadership and the only candidate approved by the Ministry of Communication and Culture to run for president was the chief editor of the national radio channel. Media watchdog Ilontsera and the nonprofit organization CRAAD-OI (Research and Center for Development Alternatives in the Indian Ocean) criticized the OJM election as a sham and criticized the ministry for preventing equal access for candidates wishing to run in the election. For its part the ministry alleged some opposition members of parliament included controversial text in the Communication Code preventing equal access for candidates.

Violence and Harassment: There were multiple reports of journalists being harassed for criticizing the government and public services.

In February in the southeastern town of Ankilimanilike, community leaders, with the support of the local authorities, ordered the arrest and detention of two journalists from a local private radio station. The community falsely accused the journalists of spreading false news reports concerning the disappearance of children in the locality and forced the journalists to pay 275,000 ariary (\$72) and eight zebus each. After three days of detention the journalists were released because of the advocacy of members of the regional journalists' association (see section 1.d.).

On May 31, the union of journalists issued a communique denouncing an increase in threats against journalists. The communique stated: the communication director of the presidency made verbal threats to a journalist from the *Basy Vava* newspaper who wrote an article on public fund embezzlement; that security forces forced journalists from the *Tia Tanindrazana* newspaper and the MBS TV channel to delete images on their cameras that could discredit the government; a parliamentarian attempted to punch a journalist in Antsohihy; and a gendarme physically assaulted a journalist from Viva TV channel in Ampasika Antananarivo.

In June, France 24 correspondent and Pulitzer Prize-winning Malagasy journalist Gaelle Borgia was the target of a smear campaign by high-ranking politicians and

government officials on social media after she filmed and published a documentary showing persons in the southern region of the country cooking and eating cowhides from scraps of shoes due to local famine conditions. The governor of Androy region issued a statement accusing the journalist of spreading false news. The state-owned television channel TVM later published interviews with persons testifying that the journalist bribed them into being filmed eating shoes. Several days later Borgia published another video featuring the same individuals acknowledging that they had been coerced under the threat of violence to speak out against Borgia's reporting. Reporters Without Borders condemned the attempts to discredit Borgia and correspondents from international media outlets issued a joint statement calling for the end of cyberharassment against journalists. On June 29, the acting director of TVM reacted to the international press statement and said he was dismayed by the allegations against TVM journalists working in the southern part of the country. He also stressed that Gaelle Borgia or any correspondents from other media outlets had never been prevented from carrying out a field visit in the southern region or accessing information sources.

Censorship or Content Restrictions: Journalists practiced self-censorship due to retaliation from those targeted by their publications. Authors generally published books of a political nature abroad.

On February 5, satellite television companies stopped broadcasting programs on MBS, a private television channel belonging to former president Marc Ravalomanana who was also a leading opposition figure. This measure prevented the television channel from broadcasting nationally. The minister of justice told the press that the government ordered the satellite television companies to suspend their contracts with MBS because the channel was accused by the government of inciting hate and spreading fake news and defamatory speeches. The minister stressed MBS had the right to oppose the suspension. MBS took the case to litigation at year's end, MBS remained unavailable on satellite television channels.

On April 22, the government issued a decision ordering the suspension of all audiovisual programs that may hamper the public order and security, citing a COVID-19 pandemic state of emergency for five regions. The decision listed 10 live call-in shows and television debates broadcasted by private stations. The decision triggered strong reactions from the union of journalists and other civil

society organizations who condemned the measures as a restriction on freedom of expression. On April 26, the government issued a decision reversing the suspension and allowing the listed programs to resume. The decision followed a meeting among several media managers with the minister of communication during which media managers signed a letter promising to avoid speeches that may disrupt public order. A few radio and television stations close to the opposition did not take part in the meeting and did not sign the engagement letter but were allowed to resume broadcasting their programs. On April 26, the journalist association OJM and media outlets contesting the April 22 decision submitted requests to the State Council to suspend and cancel this decision. In its May 4 hearing, the State Council decided there was no need to rule on these requests because the government already repealed the suspension decision. Reporters Without Borders reacted to the case and called on authorities to let journalists perform their work freely, stating the cancellation of the April 22 suspension was only a first step.

According to the head of OJM, the government used a state of health emergency to restrict access to information, especially concerning COVID-19.

Libel/Slander Laws: Although defamation is not a criminal offense in the communications code, a separate cybercrime law allows for the charge of criminal defamation for anything published online. It is unclear whether the cybercrime law, which provides for prison sentences for online defamation, has precedence over the communications code, since all newspapers are also published online. Fines allowed for offenses under the communications code are many times higher than the average journalist's annual salary (see also subsection on Internet Freedom).

There were several reports of government authorities using libel, slander, or defamation laws to restrict public discussion. Journalists and citizens faced police investigation and legal prosecution for defamation and infringement of public order for posting criticism of government performance and public services on social media.

In September a story emerged on social media alleging the minister of communication and culture was having an extramarital affair and her husband

attempted to shoot her lover. The story was widely reported across social media and in the traditional press, but it then went almost completely silent after the minister alleged defamation. Although one tabloid continued to publish stories attacking the minister, the responsiveness of most media outlets to her claim of defamation indicated the minister's influence over and censorship impact on most media.

National Security: Authorities cited the need to protect national security when engaging in legal actions against journalists and political opponents.

On February 9, *L'Express* reported that the gendarmerie summoned Vonison Andrainjato, a journalist and host of *Miaramanonja* on charges of defamation and spreading of false news intended to harm the public order. On February 10, the outlet reported that Andrainjato did not show up at the gendarmerie station because he did not receive a convening notice.

The gendarmerie criminal research section of Fiadanana Antananarivo summoned former mayor Guy Maxime Ralaiseheno for a hearing on February 15. Ralaiseheno was one of the regular speakers on the opposition joint radio program *Miaramanonja* and was charged with spreading news that harmed the public order and that may incite hatred against the government. On February 17, *L'Express* reported that the defendant did not show up at this hearing.

On February 16, two journalists from the audiovisual company VIVA, which is owned by the president, were summoned at the gendarmerie criminal research section of Fiadanana Antananarivo where they too were accused of spreading news harmful to public order.

There were no known updates on these cases at the end of the year.

Actions to Expand Freedom of Expression, Including for Members of the Media: On August 24, UNESCO donated video conference equipment for five communication and cultural centers that the Ministry of Communication and Culture established in Antsiranana, Toamasina, Mahajanga, Toliara, and Fianarantsoa. With the goal of establishing a press room in each center, the equipment is made available to journalists working in those localities to improve their access to information, promote fair access to information for all journalists,

and contribute to the improvement of their working conditions. Every center includes a conference room and an office where journalists may attend training sessions and online conferences. With the support of various donors, the Ministry of Communication and Culture organized six monthly capacity building sessions for journalists ending in August. The first cohort was composed of 40 journalists, but 90 percent of them worked for state-run media.

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.

The 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 fines upon conviction of defamation.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events, although in one case authorities forced the cancellation of a lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI+) cultural event (see section 6, Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation and Gender Identity).

b. Freedoms of Peaceful Assembly and Association

The constitution and law provide for peaceful assembly and association, but the government restricted peaceful assembly.

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 municipalities and police prefectures, but these authorities rarely gave authorization to requests by political opposition parties.

Security forces regularly impeded opposition gatherings throughout the country and used excessive force to disperse demonstrators.

During the year security forces several times used tear gas and discharged their weapons into the air to disperse demonstrations by university students, supporters of political opponents, street vendors, and other groups.

On February 20, security forces blocked access to the Analakely area of Antananarivo to prevent a political rally organized by the opposition. Persons wearing red, the color of the opposition, were stopped and questioned by security forces. The security forces arrested 11 persons during the confrontation (see section 1.e., Political Prisoners and Detainees).

c. Freedom of Religion

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

d. Freedom of Movement and the Right to Leave the Country

The constitution and law provide for freedom of internal movement, foreign travel, emigration, and repatriation, but the government did not always respect these rights.

In-country Movement: There were numerous incidents of security forces setting up roadblocks and preventing private and public transportation to locations where the political opposition organized rallies and other events for their supporters. The government sometimes used COVID-19 pandemic related movement restrictions to justify denying opposition groups permission to assemble. In early April the government suspended internal flights and ground transportation to and from several regions identified as most affected by COVID-19 proliferation. By the beginning of June, the government relaxed these measures and allowed interregional travel.

In June the gendarmes stopped the motorcade of former president Marc Ravalomanana apparently without cause on three successive days while he was visiting public places on the outskirts of Antananarivo. Ravalomanana denounced

the deliberate targeting of him and his vehicle, but the head of the gendarmerie stated the former president was not exempt from sanctions for violating traffic regulations.

Foreign Travel: The law prohibits citizens from leaving the country to work abroad in countries deemed “risky,” as a measure to reduce trafficking in persons. Because destination countries are not specifically identified in the decree, citizens may be prevented from leaving the country to work abroad at the discretion of border agents.

The government health emergency measures to prevent the proliferation of COVID-19 included travel restrictions within, to, and from the country. In April the government announced the suspension of international flights departing from Nosy Be, the only airport that remained open to tourists during COVID-19 pandemic restrictions, thus totally closing the country’s borders to air travel. In May the government announced a partial reopening of borders by allowing travel into and out of the country by diplomats, participants in international sport competitions, civil servants with official orders, and persons travelling for family emergency reasons. By the end of the year, the borders reopened for other travel purposes but with limited flight availability.

e. Status and Treatment of Internally Displaced Persons

The International Organization for Migration (IOM) reported several hundred internally displaced persons at the beginning of the year due to cyclones, but they were able to return to their homes relatively quickly. International organizations recorded a high number of internally displaced persons fleeing drought and famine in the southern region of the country, with estimates close to 2,000 individuals as of March, although the actual number was reportedly significantly higher.

The office of the governor of the Androy region assisted in setting up a site for displaced persons in Fort Dauphin. In January the Ministry of Population provided a temporary shelter in Fianarantsoa for inhabitants from the southern region who were forced to relocate to other regions.

There was no known further assistance provided by the government and the country did not have any policy or mechanism in place to assist internally

displaced persons.

The UN Population Fund assisted survivors in isolated cases of gender-based violence identified in the displacement site of Fort Dauphin.

f. Protection of Refugees

The government generally did not interfere with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations assisting the small number of refugees in the country. The government, however, did not cooperate with a UNHCR request to not refoal a Comorian person with UNHCR-granted refugee status.

Access to Asylum: The law does not include provisions for granting asylum or refugee status, and the government has not established a system for providing protection to refugees.

Refoulement: Inssa Mohamed is a Comorian national who was a businessman and opposition politician. Following his arrest and the alleged harassment of his family by authorities, Mohamed escaped from detention and fled Comoros to the country in 2019 where he sought refugee status from UNHCR. While he was in the country in April 2020, the Comorian Government charged Mohamed with conspiracy to assassinate the Comorian president. UNHCR was unable to complete an assessment of his case prior to the government returning him to Comoros in July 2020 to face incarceration and criminal charges. Mohamed was imprisoned in the Moroni central prison, from which he escaped in December 2020 and returned to Madagascar. Once back in the country, he revived his request for international protection and the UNHCR granted him refugee status. In January authorities arrested Mohamed and placed him in detention pending deportation to Comoros. UNHCR and the UN Office of the High Commissioner for Human Rights requested Mohamed not be returned to Comoros; however, on January 28, authorities deported him to Comoros, where Comorian authorities imprisoned him.

Freedom of Movement: Refugees and asylum seekers reported that UNHCR-issued asylum seeker certificates were not recognized by government officials, especially security forces. Police frequently detained some asylum seekers and tore up their documents, rendering them more vulnerable to arrest or expulsion.

Employment: Refugees and asylum seekers did not have access to employment, because without a resident visa they were unable to get a work permit. A refugee reported that an online training platform refused to deliver a certificate after a training session he attended because it did not recognize a UNHCR certificate as a valid ID.

Access to Basic Services: Refugees and asylum seekers received no support from the government, but the government did not interfere with support provided by UNHCR via a local NGO. Refugees and asylum seekers complained that the amount of support they received was insufficient because they could not work and received no government support. Health care and education was generally unaffordable for refugees. Hospitals and service providers charged refugees higher rates as foreigners. Refugees and asylum seekers sometimes had trouble withdrawing funds sent from overseas because the banks refused to recognize their asylum seeker certificate as a valid form of ID.

g. Stateless Persons

The law gives men and women equal rights to pass their nationality to their children and more protection to women and children against the loss of their nationality. The law grants women the right to transmit nationality to their children regardless of a woman's marital status. The loss of citizenship for any reason mentioned in the law does not affect the spouse and the children of the deprived person.

The provisions of the previous nationality code resulted in as many as 15,000 stateless persons from the minority Muslim community, many belonging to families that had lived in the country for generations. Muslim leaders estimated the previous law affected as much as 5 percent of the approximately two million Muslims in the country. Members of the wider Muslim community suggested a Muslim-sounding name alone could delay one's citizenship application indefinitely.

Requests for nationality certificates continued. Statelessness remained a problem for those who remained ineligible for nationality.

Some members of the South Asian community, who failed to register for Indian,

Malagasy, or French citizenship following India's independence in 1947 and the country's independence in 1960, were no longer eligible for any of the three citizenships; this circumstance applied to their descendants as well.

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 citizen and may request citizenship before the wedding date, but women may not confer citizenship on a stateless husband. Stateless persons continued to have difficulty accessing education, health care, employment, and buying 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 a presidential election in 2018, followed by a run-off a month later. In 2019 the High Constitutional Court validated Andry Rajoelina as the winner with 55 percent of the vote. International and local observers judged the elections peaceful and transparent. Several candidates alleged voter suppression through the selective absence of voter registration materials, vote buying, and other irregularities.

Legislative elections took place in 2019. Local election observers noted some irregularities such as failure of government officials to remain neutral during the campaign and on election day. A number of candidates and their supporters claimed fraud. International observers generally found the elections free and fair but noted gaps in laws to encourage effective neutrality of administrative officials during elections.

In December 2020 the government conducted indirect elections for a Senate reduced from 63 to 18 members (12 elected, six appointed by the president, with the voters consisting of mayors and municipal counselors). The ruling party and those closely aligned with it won all seats since the opposition boycotted the

elections due to objections concerning the reduction of members, which the High Constitutional Court endorsed the reductions in the fall of 2020. Even though an election observation platform denounced the distribution of money and other items to voters, observers judged the elections to be generally free and fair.

Political Parties and Political Participation: The government restricted opposition parties and denied them the right to demonstrate spontaneously. On February 19, the *prefet* (chief administrative officer) of Antananarivo announced that an opposition movement would be banned for administrative irregularities and for threatening the public order. There were additional restrictions on gatherings in place because of the COVID-19 pandemic health emergency. Official permission was required for all demonstrations, and there were reports the government denied or delayed permission for demonstrations by opposition parties. After an aborted opposition rally in Antananarivo on February 20 (see section 2.b., Freedom of Peaceful Assembly), authorities repeatedly denied the opposition authorization to gather under the pretext that there were no suitable venues available. On September 11, security forces blocked the entry to the compound of Tiko Antsirabe, which belonged to former president Marc Ravalomanana and where the opposition was holding a rally, thereby limiting the number of attendees.

Authorities initiated legal actions against politicians who did not align their views with those of the sitting government. For example, municipal council member Clemence Raharinirina, who was a frequent critic of the mayor of Antananarivo, was fined multiple times by local courts and sued by the mayor on charges of disrupting the public order, fraud, forgery, and other questionable charges.

Participation of Women and Members of Minority Groups: No laws limit participation of women or members of historically marginalized groups, including persons with disabilities (see section 6, Persons with Disabilities) and LGBTQI+ persons, in the political process, and they did participate.

Women accounted for 44 of the 169 members of both houses of parliament. Of 32 members of the cabinet, 11 were women. Some observers stated cultural and traditional factors, such as the traditional concept of men as “heads of household” and of women occupying roles subservient to men, prevented women from participating in political life to the same extent as men.

Section 4. Corruption and Lack of Transparency in Government

The law provides for criminal penalties for official corruption, but the government did not implement the law effectively. There were numerous reports of government corruption during the year.

Corruption: Corruption investigations by the Independent Anti-Corruption Bureau led to several cases going to trial at the Anti-Corruption Court and convictions and imprisonments of former and sitting government officials for embezzlement and bribery.

The government took legal and disciplinary measures against working-level civil servants in the gendarmerie, police, and judiciary for bribery and for their involvement in natural resource smuggling. In August media reported that authorities arrested several members of the military and employees of an international organization for the embezzlement of food supplies intended for famine victims in the country's southern region. Many acts of corruption involving government officials, however, went unpunished.

In July a local NGO that carried out a project to monitor the transparency and the effectiveness of funding allocated in response to the COVID-19 pandemic identified in a July newsletter a gap of 637 billion ariary (\$167 million) between the funding received from donors announced by the government and the expenses listed on the Ministry of Finance website for 2020. The newsletter highlighted the failure of the ministry's website to mention the amount of money dedicated to the production of locally manufactured anti-COVID medication promoted by the president.

In December 2020 South African authorities seized 162 pounds of gold on board a private plane coming from the country and arrested three Malagasy nationals on board, including the pilots and one passenger. They were accused of illegally transporting precious metals and violating South African customs regulations. The Malagasy authorities subsequently launched an investigation into other individuals suspected of being involved in the smuggling. As of late May, the court had placed in pretrial detention 15 of 24 suspects investigated, including officials from

the Malagasy Civil Aviation authority, customs agents, and gendarmes who were on duty at the airport of Toliara where the aircraft refueled before heading to South Africa. The government unsuccessfully sought the repatriation of the smuggled gold and the extradition of the suspects arrested in South Africa, but as of September the three arrested nationals remained in detention in South Africa and the identity of the owners of the gold remained unknown.

In July a documentary produced by a network of investigative journalists reported on a case of suspected nepotism and corruption associated with the construction of a public primary school in Toamasina in 2020 and a second school that was still under construction in Fianarantsoa. The report revealed that individuals known to be close to high-ranking officials were the owners of the construction companies that had obtained the contracts and had also won dozens of other public tenders since 2018.

Section 5. Governmental Posture Towards 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, work, and consult freely with other groups. Authorities reacted to accusations of human rights abuses more frequently but more negatively than during previous years.

Several domestic NGOs worked on human rights, but few had the capacity to work effectively and independently.

Government Human Rights Bodies: The National Independent Human Rights Commission (CNIDH) is composed of 11 commissioners, each elected by members of a different human rights organization, have a mandate to investigate cases of, and publish reports on, human rights abuses. The government dedicated a budget for the commission to operate. In addition some international organizations and diplomatic missions provided some equipment. Some civil society organizations contested the way in which the existing board of the CNIDH was

chosen. The CNIDH issued several communiqués highlighting human rights abuses perpetrated by government officials and launched investigations on outstanding incidents. Nevertheless, its actions were limited; investigations did not lead to concrete sanctions or convictions.

Section 6. Discrimination and Societal Abuses

Women

Rape and Domestic Violence: The law prohibits rape and spousal rape but does not address the gender of rape survivors. Penalties upon conviction range from five years to life in prison. Rape of 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. The law prohibits violence perpetrated within the family and society, as well as violence perpetrated or tolerated by the state, including sexual harassment. Penalties range from six months to five years of imprisonment with fines.

The law prohibits domestic violence, which remained a widespread problem. Domestic violence is punishable upon conviction by two to five years in prison and substantial fines, depending on the severity of injuries and whether the survivor was pregnant. There were few shelters for battered women in the country, and many returned to the home of their parents, who often pressured survivors to return to their abusers. Various media reported a general reluctance of survivors to report domestic violence. Women filing legal actions against their husbands faced criticism from their families and communities.

Multiple sources reported a sharp increase of cases of domestic violence during the COVID-19 pandemic crisis.

To respond to those findings, in August the Ministry of Population with the support of donors launched a one-year project to raise awareness on gender-based violence and to assist gender-based violence survivors in Antananarivo, Toamasina, and Mahajanga. The program aimed to sensitize 20,000 women and girls to the threat of gender-based violence, to assist 4,000 survivors (including persons with disabilities), and to rehabilitate five advisory centers that counseled

survivors on where to go for medical care, provided psychological assistance, and when appropriate helped them start legal procedures to receive alimony from their abusers. The Proximity Female Brigade within the national police conducted investigations of gender-based violence and raised public awareness of the problem.

The newspaper *Les Nouvelles* reported that on March 23, a man living in Antohomadinika Antananarivo beat and seriously injured his, then took her to a public hospital and disappeared. The survivor died later that day and medical staff informed her family. During the investigation members of the neighborhood testified that the man was an alcoholic and often quarreled with his wife, but nobody stepped in. Authorities took no known action in the case.

Sexual Harassment: Sexual harassment is against the law, and penalties upon conviction range from one to three years of imprisonment and include fines. The penalty increases to two to five years' imprisonment plus larger fines if criminals forced or pressured the survivor into sexual acts or punished the survivor for refusing such advances. Authorities enforced the law, but sexual harassment was widespread.

Labor union members reported sexual harassment prevailed in many sectors. There were reports that some supervisors in manufacturing companies compelled some of their female employees to have sexual relations to renew their contracts or secure promotions. Female teachers reportedly faced similar pressures when trying to negotiate permanent contracts in the public education system. Court rulings generally did not favor survivors when they filed complaints.

NGOs engaged in the fight against gender-based violence reported that sexual harassment was prevalent in public universities. Some professors compelled their female students to have sexual relations with them by threatening not to validate their exams. Survivors were generally reluctant to report and file legal actions due to reprisals and to avoid the social stigma that would come from being involved in such an incident.

Reproductive Rights: There were no reports of coerced abortion or involuntary sterilization on the part of government authorities. Some members of disability

rights NGOs, however, reported that some families discouraged girls with disabilities from having children and may have compelled them to have a sterilization procedure to prevent them from getting pregnant.

The law allows universal access to family planning and reproductive health services and products, including for minors. The law states that every individual has the right to start a family; to determine freely the number, spacing, and timing of their children; and to have the means and access to information to exercise these rights free of discrimination or coercion. The law provides penalties related to abortion. Social and cultural barriers, resource problems, and access to youth-friendly services impeded the use of contraceptives. Obstacles included fear of side effects, lack of support from family members, and fear of family and community judgment. According to the *2018 Multiple Indicator Cluster Survey* carried out by the National Statistics Institute with support from UNICEF, the modern contraceptive prevalence rate among women who were married or in union was approximately 41 percent. The proportion of deliveries in health facilities was 39 percent (58 percent in urban areas and 34 percent in rural areas) and the rate of births attended by skilled personnel was 46 percent (72 percent in urban areas and 40 percent in rural areas).

A formal procedure for post-abortion care was in use at all public and private health centers covering maternal health and there was no report of denied access to such care.

The government provided access to sexual and reproductive health services to survivors of sexual violence. Specialized centers collaborated with private pharmacies to provide free contraceptives to the sexual violence survivors they assisted.

According to data collected in 2018 and released in 2020 by the National Statistics Institute, the estimated maternal mortality rate was 408 maternal deaths per 100,000 live births (308 in urban and 425 in rural areas). The country's adolescent fertility rate was 151 births per 1,000 women between the ages of 15 and 19. Major factors that contributed to high maternal mortality included: lack of autonomy to seek care, geographical and financial barriers to access health centers, the low quality of hospital services, chronic maternal malnutrition (including

anemia), lack of adequate spacing between pregnancies, and a high rate of unsafe abortions. The high adolescent pregnancy rate also contributed to elevated rates of maternal deaths.

As discussions between parents and children regarding menstruation remained taboo in many communities, a lack of knowledge prevented many girls from having adequate hygiene. The lack of appropriate hygiene facilities in schools combined with many families' inability to afford necessary menstruation-related materials impeded the ability of many girls to attend school during their periods and negatively affected their performance.

Many public and private schools banned pregnant girls and adolescent mothers from attending school because they considered them a bad example for other students. In addition the adolescent mothers themselves were often reluctant to continue going to school during their pregnancy and after childbirth because of social stigma and due to being teased.

Discrimination: While women enjoyed the same legal status and rights as men in some areas, there were significant differences in others, and authorities did not enforce the law effectively. Women experienced discrimination in employment and inheritance. There were legal restrictions on women's employment in occupations or tasks deemed dangerous and in industries such as construction, agriculture, and transportation. While widows with children inherit half of joint marital property, a husband's surviving kin have priority over widows without children, leaving the widow further down in line for inheritance absent any written agreement to the contrary. Families at times gave women a more favored position in the areas of employment and inheritance, but there were no reports of women taking legal action in cases of alleged discrimination.

Systemic Racial or Ethnic Violence and Discrimination

The Constitution states in its foreword the necessity of living together in an environment with no discrimination, including discrimination based on ethnic origins. The Constitution prohibits the establishment of associations or political parties promoting totalitarianism or segregation based on ethnic origins.

None of the 18 tribes in the country had a membership that constituted most of the

population. There were also minorities of Indian, Pakistani, Comorian, and Chinese heritage. Ethnicity, caste, and regional solidarity often were considered in hiring decisions 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 tensions among citizens of highland and coastal descent, especially in politics. The government made efforts to address these problems by appointing diverse candidates from different regions as members of government and to other public institutions.

In June the president announced the adoption of the *Development Plan for the Deep South*, a region deeply affected by drought and the resulting famine and home to specific tribes like the *Antandroy* and the *Antanosy*. The migration of members of those groups to other regions, fleeing starvation, resulted in social tensions with inhabitants of their destination localities related to resources for survival. Such tensions sometimes resulted in ethnic hostilities. The emergence plan seeks to address problems affecting the region like food insecurity, unemployment, community resilience, infrastructure, and social well-being. By the end of the year, the government did not reveal the detailed contents of the plan and there were no known concrete steps towards its implementation apart from the president's call for donors' contributions.

Children

Birth Registration: By law citizenship derives from one's parents. The law does not confer nationality on children born in the country if both parents are noncitizens. It does provide for a minor's right to obtain citizenship if one of the parents, regardless of their marital status, obtains citizenship.

The country has no uniformly enforced birth registration system, and unregistered children typically were not eligible to attend school or obtain health-care services. Authorities generally adjudicated birth registration on a nondiscriminatory basis.

Education: The constitution provides for tuition-free public education for all citizen children and makes primary education until the age 16 compulsory. Despite multiple statements by officials asserting that public education is free, some public-school principals continued to require parents to pay registration and

various fees to subsidize teacher salaries and other costs. As a result, education remained 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. Girls faced difficulties remaining in schools during their periods, when pregnant, and after childbirth (see the subsection Women - Reproductive Rights).

Child Abuse: Child abuse, including rape, was a problem. The press reported most child survivors of rape were younger than 12; the youngest was age three. A 2018 study on violence against children produced by the Ministry of Population in partnership with UNICEF revealed violence against children, including physical violence, sexual abuse, and rape, occurred in all environments: family, school, social circles, and workplaces. The study found abuse was rarely reported due to lack of confidence in the justice system, precarious economic conditions, a desire to avoid social discord in the community, and intimidation. Only 4 percent of respondents to the survey stated they had reported cases of child abuse to police, while 19 percent had reported sexual abuse to police or gendarmerie. Survivors' families often agreed to mediated arrangements involving financial compensation by the wrongdoers and occasionally forced marriage of the survivor with the rapist.

Media articles reported during the year a continued increase of child abuse and child rape in several regions. Most of the survivors were girls, and in most cases the offenders were male family members. In some towns and cities, particularly in Antananarivo, homeless women raised small children in dangerous conditions and environments and forced children as young as age three to beg on the streets. Sometimes babies were “rented” to beggars to try to increase sympathy from passersby. Government authorities rarely intervened in these cases of child endangerment.

Media continued to report government efforts to raise public awareness of child rape and efforts to combat it led to an increase in the number of prosecutions of child rape cases.

Government efforts to combat other forms of child abuse were limited and focused primarily on child protection networks, which addressed the needs of survivors and helped raise public awareness. With the support of UNICEF, the cities of

Antananarivo, Toamasina, Mahajanga, Nosy Be, Toliara, and Tolagnaro hosted one-stop survivor support centers, called Vonjy Centers, in public hospitals. These centers received child survivors of sexual abuse, including rape and sexual exploitation. In addition to medical care, these centers provided psychological support through social workers assigned by NGOs. Police from the minors and child protection brigade recorded survivors' complaints, and volunteer lawyers provided free legal assistance.

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

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

The practice of *moletry*, in which girls are married at a young age in exchange for oxen received as a dowry, reportedly continued. Affected girls were as young as 12.

According to the results of the *2018 Multiple Indicator Cluster Survey*, 37 percent of women between ages 20 and 49 married before the age 18 and 13 percent before age 15. The rate for men was 12 percent. Rural areas were more affected, with 44 percent married before age 18, and 15 percent before age 15. In urban areas 29 percent of women married before age 18 and 7 percent married before age 15.

The Ministry of Population with the support of donors continued to implement the national strategy against child marriage that was adopted in 2018. To achieve some of its main goals, the ministry facilitated the activities of NGOs including community dialogues, dissemination of the legislation related to child marriage, and public awareness campaigns on the harmful effects of early marriage and early pregnancy in the regions of Menabe, Sofia, and Diana.

Sexual Exploitation of Children: The law prohibits recruitment and incitement to commercial sexual exploitation involving a child younger than 18, the sexual

exploitation of a child younger than 15, and the commercial sexual exploitation of a child younger than 18. There is no specific mention of the sale or offering of children for commercial sexual exploitation. The law specifies penalties for perpetrators of child pornography. Authorities rarely enforced the provisions. Traffickers continue to exploit girls as young as age 13 in child sex tourism in coastal areas.

Child sex trafficking and child sexual abuse, 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 the girls left their work, employers typically did not pay them, so many remained rather than return empty-handed to their families and villages. UNICEF's 2018 study on violence against children indicated all reported cases of sexual violence in the workplace took place in the domestic-labor sector.

The national gendarmerie operated a morals and minors protection unit with responsibility for protecting children, including rape survivors, in rural areas not covered by the national police's morals and minors brigade. The Ministry of Justice, collaborating with UNICEF and telecommunications companies, operated the *Arozaza* (protect the child) website to combat online sexual exploitation of minors and deter potential abusers. The website included a form to report child endangerment or online pornography. Since 2020 the website allowed police or other governmental entities to intervene immediately once a report was filed on the platform.

An online portal allowing individuals worldwide to anonymously and safely report images and videos of sexual abuse of Malagasy children found on the internet (launched by the Internet Watch Foundation in collaboration with the Ministry of Population and UNICEF) was operational since 2020. The reported contents were to be analyzed and removed by the Internet Watch Foundation, not precluding prosecution, because the data would be shared with authorities.

The Ministry of Population operated approximately 750 programs covering 22 regions throughout the country to protect children from abuse and exploitation. The ministry collaborated with UNICEF to identify child survivors and provide

access to adequate medical and psychosocial services. The gendarmerie, Ministry of Justice, Ministry of Population, and UNICEF trained local authorities 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 of the country against giving birth to twins also contributed to the problem. A provision in the law prohibits traditional practices which harm human rights including infanticide.

Displaced Children: Although child abandonment is against the law, it remained a 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 government 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 <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.html>.

Anti-Semitism

The Jewish community consisted of approximately 360 members; there were no reports of anti-Semitic acts.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

Persons with Disabilities

Persons with disabilities could access education, health services, public buildings, and transportation on an equal basis with others. By law persons with disabilities are entitled to receive health care, education, facilitated access to public

transportation, and have the right to training and employment. The law does not address access to the judicial system, information, and communications. Educational institutions were 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.” The government did not always provide government information and communication in accessible formats.

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.

Very few schools had the skills and training to accommodate learners with disabilities, a matter that was raised in May during a workshop organized by a disability rights NGO. Parents of children with disabilities complained that the cost of attending specialized schools and centers was prohibitively high, limiting the access to education for children with disabilities. While no official statistics were available, the number of children with disabilities who participated in the official end of primary education exam (73 of 546,365 candidates nationwide) was noticeably higher than those who sat for the end of official secondary education exam (28 of 325,253 candidates nationwide).

An online local press outlet reported in a documentary that during the official exams the Ministry of Education made available special equipment to accommodate candidates with disabilities. Those measures included offering special typewriters and examination papers for blind candidates, assigning sign language translators for the deaf candidates, dedicating separate rooms as needed, allocating additional time to complete the exams, and specific instructions to the graders. Persons with disabilities encountered discrimination in employment. They were also more likely to become survivors of various types of abuse, sometimes perpetrated by their own relatives.

Members of disability organizations reported that families compelled some of them to undergo sterilization procedures to prevent them from getting pregnant.

In February the newspaper *Les Nouvelles* reported that a traditional healer sexually abused a girl age 17 with a mental disability in Sambava. Seeking to heal her daughter, the mother contacted a local healer who proposed taking the girl for a bath in a sacred lake. He reportedly then took her there and raped her. There was no known legal action taken against the offender.

The law prohibits discrimination against persons with disabilities and defines persons with disabilities as those presenting a congenital or acquired deficiency in their physical, mental, or sensory capacities. The law also provides for a national commission and regional subcommissions to promote their rights, but none had been set up.

During the year disability rights activists continued to comment that government measures adopted to respond to the COVID-19 pandemic crisis did not consider the diversity and vulnerability of the population, thus depriving persons with disabilities of many of their fundamental rights.

The law provides that individuals with disabilities should be assisted in casting their ballots, but it contains no other provisions to accommodate such voters. In 2019 the head of a disability rights federation told media that persons with disabilities believed they were excluded from the electoral process since many of the voting materials were not customized for them.

HIV and AIDS Social Stigma

Healthcare providers subjected persons with HIV and AIDS to stigma and discrimination. HIV and AIDS patients have the right to free health care, and the law specifies sanctions against persons who discriminate against or marginalize persons with HIV and 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.

In 2020 the newspaper *Les Nouvelles* reported that HIV-positive persons continued to be stigmatized.

Acts of Violence, Criminalization, and Other Abuses Based on

Sexual Orientation and Gender Identity

A known transgender person published on her Facebook page a video message reporting that on the night of August 4, she was victim of a robbery as she left a drugstore in Analakely, Antananarivo. When she went to the nearest police station to report the crime, the police officers on duty refused to assist her and mocked her. Authorities took no known actions against the officers.

The law provides for a prison sentence of two to five years and fines upon conviction of committing “indecent or against nature with an individual of the same sex younger than 21” acts, which are understood to include sexual relations. Authorities enforced this law. No law prohibits same-sex sexual conduct for those older than 21. Members of the LGBTQI+ community reportedly were unaware of the risk of arrest for “corruption of a minor,” and arrests occurred for such acts, although there were no official statistics.

No specific antidiscrimination provisions apply to LGBTQI+ persons. There were no reports of discrimination in housing, employment, nationality laws, or access to government services. No laws prevent transgender persons from identifying as their chosen gender.

As evidenced by comments in occasional news items involving well known LGBTQI+ personalities, members of the community often continued to face considerable social stigma and discrimination within their own families, particularly in rural areas.

The Ministry of Interior ordered the cancellation of an evening event that members of the LGBTQI+ community organized in an Antananarivo bar for July 3 to celebrate Pride Month. The event had taken place in the same location during previous years. Authorities cancelled the event because they claimed it was an incitement to debauchery and offense to morals. The owner of the pub where the event was to be held stated that authorities threatened to close the establishment if the event was held. A group of civil society organizations and LGBTQI+ organizations issued a communique denouncing the persistent stigma affecting the LGBTQI+ community. It denounced what it called uneven enforcement of relevant laws which it claimed failed to crack down on hate speech targeting the

LGBTQI+ persons on the social media. In a televised interview, the director of culture at the Ministry of Communication defended the government's position on cancellation of the event, stating that the law does not recognize LGBTQI+ rights.

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 if security forces did not arrive in time to halt the violence. Authorities sometimes arrested the perpetrators, but fear of creating renewed anger hindered prosecution. Some media and other observers believed the law was more likely to be enforced against perpetrators when it was in the interests of authorities or security forces. Groups of villagers in several localities assaulted police or gendarmerie stations.

Early on September 17 in Befotaka, in the southeast region, 41 presumed bandits and four villagers died during an armed confrontation between villagers and a group of approximately 120 armed bandits who attacked two villages in the area. After the attacks the villagers pursued the perpetrators, leading to a lengthy armed confrontation that ended only after the arrival of four gendarmes. The minister of defense denounced the confrontation and condemned the intervention of vigilantes in affairs that the minister claimed should be handled by authorities. The CNIDH announced it had launched an independent investigation to establish the facts and issue recommendations to ensure human rights were better protected in such incidents.

Persons with albinism in the southern region of the country were increasingly the object of killings and kidnappings. Media reported several cases of abduction of children with albinism during the year and in December the beheading of an age 72 man with albinism in Ambohimahaso. In October the Court of Toliara placed in pretrial detention six suspects including the mayor of Bezaha for the kidnapping and attempted trafficking of a 12-year-old child with albinism they attempted to sell for 500 million ariary (\$131,000).

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. Seafarers are covered by the maritime code, which 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 one-half years. Magistrates and workers in “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 law also provides for a fine, imprisonment, or both for the “instigators and leaders of illegal strikes.”

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 other public-sector employees legal protection against antiunion discrimination and interference. Penalties for violations were not commensurate with other laws involving denials of civil rights such as discrimination.

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. Authorities did not always enforce applicable laws, and penalties were not sufficient to deter violations. 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 in smaller local companies. Union representatives reported workers in such companies often were reluctant to make demands due to fear of reprisal.

The government did not effectively enforce the law. The law requires that unions operate independently of the government and political parties. Union representatives indicated employers attempted to dissuade, influence, or otherwise interfere with unions, which often prevented workers from organizing or advocating for better working conditions. Unions reported that many employers hindered their employees' ability to form or join labor unions through intimidation and threats of dismissal for professional misconduct. Due to pervasive corruption, labor inspectors, bribed by some employers, usually approved dismissal of union leaders. As a result, workers were reluctant to join or lead unions.

Strikes occurred throughout the year, including by public school and university teachers, national company employees, and public-health workers. During a May Labor Day television debate union leaders complained they continued to be victims of discrimination, harassment, and intimidation within the public and private sectors. They accused government officials of threatening union leaders or claiming union leaders' statements regarding labor topics were politically motivated. Some union leaders admitted that some of them were indeed politically engaged and used their positions as political springboards.

b. Prohibition of Forced or Compulsory Labor

The law prohibits and criminalizes all forms of forced labor, but penalties were not commensurate with other serious crimes such as kidnapping. Forced child labor was a significant problem in the informal sector (see section 7.c.). Forced labor also persisted in dina judgments (see section 1.e.). In some communities local dinas imposed forced labor to resolve conflicts or pay debt. The government did not effectively enforce the law.

The government has a national service requirement law, under which all citizens are required to perform two years of military service or other work, which the International Labor Organization (ILO) criticized as a potential means of

mobilizing compulsory labor for economic development. The national service requirement, however, was not enforced, because those wishing to enlist exceeded the available spaces and funding.

Union representatives charged that working conditions in some garment factories were akin to forced labor. Setting production targets instead of paying overtime allowances became a general practice among EPZ companies. Workers were assigned higher targets each time they reached the previous goals, obliging them to work more hours to avoid sanctions like salary withholding or even dismissal for low performance. Media and union representatives reported additional abuses perpetrated in call centers run by offshore companies and reported that managers required employees to work overtime beyond legal limits.

Also see the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

c. Prohibition of Child Labor and Minimum Age for Employment

The law establishes a legal minimum working age of 16, with various restrictions. The law also regulates working conditions of children, prohibits all 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 younger than 18 from working at night or where there is an imminent danger to health, safety, or morals. The law prohibits hazardous occupations and activities for children. The law requires working children to undergo a semiannual medical checkup performed by the company's doctor or an authorized doctor at the expense of the employer.

The government did not effectively enforce the law. Penalties were not commensurate with other serious crimes such as kidnapping. The Ministry of Civil Services, Administrative Reform, Labor, and Social Laws was responsible for enforcing child labor laws.

Child labor was a widespread problem. 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 cart, petty trading, stone quarrying, artisanal

mining for gemstones such as sapphires, in bars, and as beggars. Mica mining and sorting was an industry rife with child labor abuses. Children also worked in the vanilla sector, salt production, deep-sea diving, and the shrimp industry. Some children were victims of human trafficking. Forced child labor occurred, including child sex trafficking and forced labor in mining, quarrying, begging, and domestic work. The results of the *2018 Multiple Indicator Cluster Survey* indicated 47 percent of children were involved in child labor, including 36 percent of those ages five to 11. In addition 32 percent of children between ages five and 17 worked in dangerous environments or occupations.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings> and the Department of Labor's *List of Goods Produced by Child Labor or Forced Labor* at www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods.

d. Discrimination with Respect to Employment and Occupation

Labor laws prohibit workplace discrimination based on race, gender, religion, political opinion, origin, or disability. A special decree on HIV in the workplace bans discrimination based on serology status. The law does not prohibit discrimination based on sexual orientation or gender identity, age, color, ethnicity or refugee and statelessness status. The government did not effectively enforce the law and penalties were not commensurate with those for other violations of civil rights. Discrimination remained a problem. Employers subjected persons with disabilities and LGBTQI+ individuals to hiring discrimination. Stateless persons had difficulty accessing employment, and refugees and asylum seekers were barred from employment. Members of some evangelical churches reported limited access to employment if their Sabbath was not on Sunday.

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. The law does 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.

Sexual harassment prevailed in many sectors, especially in manufacturing companies and public education (see section 6, Women - Sexual Harassment).

e. Acceptable Conditions of Work

Wage and Hour Laws: In 2019 the government raised the minimum wage to an amount slightly above the poverty level as defined by the World Bank. The standard workweek was 40 hours in nonagricultural and service industries and 42.5 hours in the agricultural sector. The government did not effectively enforce minimum wage and overtime laws, and the penalties were not commensurate with other similar crimes.

The law limits workers to 20 hours of overtime per week and requires two and one-half days of paid annual leave per month. The law requires overtime pay, generally for more than 40 hours work in one week, but the exact circumstances requiring such pay are unclear. 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.

The Ministry of Civil Service, Labor, and Social Laws was responsible for enforcing wage and hour laws. The number of labor inspectors working nationwide was insufficient, according to Ministry of Labor officials, since it could not even cover entirely the formal sector while the informal sector was much larger. All labor inspections were unannounced. The labor code provides that labor inspectors have the right to enter at any time and with no prior notice any site subject to labor inspection. Labor inspectors do not have legal law enforcement status and as a result may not issue sanctions. When they observe a labor law violation, labor inspectors only remind employers regarding the applicable legal provisions and related penalties, and they make recommendations to the court, which has the authority to assess penalties. Except in cases of serious threats to worker safety or health, the labor inspectorate submits its report to justice for action once an allotted time to correct the situation has passed. Labor inspectors started a strike in November 2020 to claim payment of unpaid allowances since

2016 and called on the government to adopt legislation amending their status. In April leaders of their union announced that their strike movement continued. As of September there was no official announcement on the end of the strike, but labor inspectors had almost fully resumed their activities.

The government did not always enforce the law. The penalties for labor violations were not commensurate with those for similar crimes. No report on government efforts to prevent violations during the year was available.

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. Workers in EPZ factories reported during the year that many employers advertised positions under the minimum wage and few applicants refused due to the high unemployment rate resulting from the COVID-19 pandemic crisis. In May labor unions stated to the press that enforcement of minimum wage laws was nonexistent since the beginning of the labor inspectors' strike.

In March the government required companies with more than 500 employees to limit on-site presence to 50 percent in response to a severe second wave of COVID-19. In May labor unions stated that because of this measure, employers paid only half salary to their employees.

Occupational Safety and Health: The government sets occupational safety and health (OSH) standards for workers and workplaces. Workers, including foreign or migrant workers, have an explicit right to remove themselves from unsafe situations without jeopardizing their employment if they inform their supervisors. Employers did not always respect this right. Labor activists noted that standards, dating to the country's independence in some cases, were severely outdated. The ILO observed gaps between labor code provisions and international OSH standards. Inspectors for OSH were conducted by the same inspectors under the same authorities as wage and hours. The Ministry of Civil Service, Labor, and Social Laws is responsible for enforcing OSH standards but did not effectively enforce the law. There were no prosecutions, and penalties were not commensurate with those for crimes like negligence. During the COVID-19 pandemic crisis that began in the spring of 2020, workers from various sectors

complained regarding a lack of protection and disrespect of sanitary rules in the workplace. Employees of private companies, such as call centers, continued to report their employers failed to provide appropriate face masks and hand sanitizer while many of them were working in crowded conditions, making social distancing impossible.

Media and labor unions repeatedly raised the problem that employers were increasingly violating labor rights during the COVID-19 pandemic health crisis. During suspension of public transportation, some employers failed to provide transportation services as instructed by the government. Employees who did not have personal means to commute to work had to walk long distances.

In early April the president required vulnerable workers to stay home and recommended employers to allow telework as part of the country's COVID-19 pandemic response. In May representatives of workers within the public administration reported to the press several deaths among their colleagues due to coronavirus as their employers failed to comply with the president's recommendation and continued to require vulnerable workers to report to work.

Statistics on work accidents were unavailable. On January 27, a building under construction in Anosizato Antananarivo collapsed killing two workers and injuring nine others. As of early February, the owner of the building had compensated the neighboring inhabitants who had moved elsewhere, but there was no report of compensation for the victims of the accident. On January 28, an employee of an EPZ factory in Anosiala Ambohidratrimo died from electrocution on the factory's roof after encountering a high voltage wire.

The ILO has supported the government since 2017 through its *Vision Zero Fund Program* designed to build the capacity of national actors on occupational safety and health. During the year labor inspectors, labor controllers, occupational health doctors, labor unions, and representatives of workers received training. Ministry of Labor officials, including the minister, used the training sessions to promote a culture of accident prevention. The program targeted the garment and construction industries in addition to the litchi production chain initially covered by the project.

Informal Sector: The informal sector made up 95.1 percent of employment in the

country, according to available data, with most persons self-employed in fishing, forestry, and agriculture at the subsistence level. Although the law is meant to cover all types of working contracts including the informal sector, labor inspection did not cover the informal sector due to insufficient staffing. In May the director general of ENAM, the professional civil service academy in the country, announced during a graduation ceremony that 50 labor inspectors would be assigned to the agricultural sector because that sector constituted the largest part of the informal economy. CNAPS, the National Social Protection Fund, has for many years provided social protection to domestic workers when their employers pay regular contributions to the fund. The benefits include retirement allowances, family allocations, maternity leave allowances, and annuities in case of a work accident. During the year the national fund started including drivers among their beneficiaries, but there were no reports on the employers' willingness to contribute.