

# **TANZANIA 2013 HUMAN RIGHTS REPORT**

## **EXECUTIVE SUMMARY**

The United Republic of Tanzania is a multi-party republic consisting of the mainland region and the semiautonomous Zanzibar archipelago, whose main islands are Unguja and Pemba. The union is headed by a president, who is also the head of government. Its unicameral legislative body is the National Assembly (parliament). Zanzibar, although part of the union, has its own government with a president, court system, and legislature, and exercises considerable autonomy. Tanzania held its fourth multi-party general elections in 2010 in which voters on mainland Tanzania and Zanzibar elected a union president (Jakaya Kikwete) and their respective representatives in the union legislature. The Zanzibari electorate chose Ali Mohamed Shein as president of Zanzibar. The union and Zanzibari elections were judged to be largely free and fair. Union security forces reported to civilian authorities, but there were instances in which elements of the security forces acted independently of civilian control. Security forces at times committed human rights abuses.

The three most widespread and systemic human rights problems in the country were excessive use of force by security forces resulting in deaths and injuries, gender-based violence including female genital mutilation/cutting (FGM/C), and lack of access to justice as well as a related continuation of mob violence.

Other human rights problems included harsh and life-threatening prison conditions, lengthy pretrial detention, some restrictions on religious freedom, restrictions on the movement of refugees, official corruption, restrictions on political expression, child abuse, and discrimination based on sexual orientation, and societal violence against persons with albinism. Trafficking in persons, both internal and international, as well as child labor were also problems.

In some cases the government took steps to prosecute those who committed abuses, but instances of impunity also occurred.

### **Section 1. Respect for the Integrity of the Person, Including Freedom from: a. Arbitrary or Unlawful Deprivation of Life**

During the year there were several reports that agents of the government (specifically police and other security units) committed unlawful killings. Nongovernmental organizations (NGOs) and local news agencies documented

several cases of police officers mistreating, beating, and causing the deaths of civilians. Several commissions were established to investigate these allegations.

The Legal and Human Rights Center (LHRC) announced that police brutality, domestic violence, and extrajudicial killings rose during the year. According to the LHRC, by July police and other security personnel killed 22 persons (compared with 31 in all of 2012). The LHRC also reported that civilians killed eight police officers during the same period.

The case of police officer Pasifious Simon, charged with killing journalist Daudi Mwangosi in September 2012, remained pending at year's end.

On January 27, there were reports that police used excessive force in responding to rioting motorcycle drivers in Mtwara. According to the reports, a dispute broke out between one of the motorcycle drivers and police over unspecified harassment. The driver was seriously injured, sparking rioting by other motorcycle drivers in the area. During the riot several buildings were set on fire and significant private property was destroyed. There were reports that six police officers and three civilians were killed during the unrest.

In October several members of parliament (MPs) and local NGOs raised concerns about alleged human rights abuses related to a controversial anti-poaching campaign initiated by the government. Some MPs alleged that government officials used excessive force in questioning individuals about poaching activities, seized and killed cattle grazing on protected land, and burned houses of pastoralists allegedly involved in illegal grazing. On November 7, President Kikwete confirmed the controversial campaign had been suspended and was under review. The president pledged that the government would investigate all allegations of abuse and would hold any wrongdoers accountable for their actions. On December 20, President Kikwete dismissed four cabinet ministers: Home Affairs Minister Emmanuel Nchimbi, Minister of Natural Resources and Tourism Khamis Kagasheki, Defense Minister Shamsi Nahodha, and Minister of Livestock and Fisheries Mathayo David, in response to continued parliamentary concern about allegations human rights abuses committed by security forces during the anti-poaching campaign.

On May 27, Deputy Minister of Home Affairs Pereira Silima reported to Parliament that between 2010 and 2012, by law enforcement officers killed 68 civilians and that 15 police officers faced murder charges in connection with the

killings. As of September two cases were in court, four were under consideration by the attorney general, and 11 cases were under investigation.

### **b. Disappearance**

Unlike in the previous year, there were no reports of politically motivated disappearances.

The case of Joshua Mulundi, charged with the June 2012 kidnapping of Stephen Ulimboka based on his statement that he had been hired to commit the crime, was dropped for lack of evidence by the prosecutor. In October, Mulundi pled guilty to a charge of providing false information to police, paid a nominal fine, and was released.

At year's end nine members of the Association for Islamic Mobilization and Propagation arrested in late 2012 remained in prison, and their case remained pending in court. Bail was denied for all but one, who was allowed to travel to India for urgent medical care.

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

The constitution and law prohibit such practices, but there were reports that police officers, prison guards, and soldiers who abused, threatened, and otherwise mistreated civilians, suspected criminals, and prisoners faced limited accountability. The abuse most commonly involved beatings.

In June army officers reportedly arrested and took into custody six senior party members of Civic United Front in Mtwara on allegations of inciting civic unrest in the region. The six men were reportedly stopped by Tanzanian People's Defense Force members and beaten before they were taken to Naliendero military camp where they were held for several days. The victims reported being tortured and beaten while in captivity, and graphic photographs of their wounds were widely circulated in the press.

On June 19, Human Rights Watch and the Wake Up and Step Forward Coalition released a report including several detailed allegations of torture and abuse of lesbian, gay, bisexual, and transgender (LGBT) individuals while in police custody. For example, the report included a statement from a 19-year-old gay man who was arrested after departing a nightclub in Mbeya. The individual reported

police raped and beat him on the soles of his feet with canes, electric wires, and water pipes.

The law allows caning. Local government officials and courts occasionally used caning as a punishment for both juvenile and adult offenders. For example, in October the Sumbawanga District Magistrate's Court sentenced Emmanuel Usambo and David Emmanuel (alias Mwaipopo) to 15 years in prison each for stealing property from the Tanzania Telecommunications Company Limited. The court also ordered giving each convict 12 strokes with a cane, six at the start of their jail term and six once their jail term is complete.

Caning and other corporal punishment were also used routinely in schools. In April during the launch of an education website for secondary school students in Dar es Salaam, Deputy Minister for Educational and Vocational Training Philipo Mulugo announced a government decision to reintroduce corporal punishment in schools.

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

Despite some improvements, prison conditions remained harsh and life threatening. Inadequate food, overcrowding, poor sanitation, and inadequate medical care were pervasive. There were allegations that authorities meted out inhumane treatment. Serious threats to life continued in detention centers.

Physical Conditions: As of October 17, the prisons held 34,404 inmates--16 percent above the total capacity of 29,552. Among the prisoners, 17,180 were convicts and 17,224 were pretrial detainees. Pretrial detainees and convicted prisoners were held together. In 2011 an estimated 1,206 inmates were women. The Commission for Human Rights and Good Governance (CHRAGG) visited a sampling of prisons and detention facilities in 2011 and found 441 minors detained in the adult prisons visited. Among these, 64 were convicted, and the remaining 377 were pretrial detainees.

In July 2012 the minister of state in the Zanzibari President's Office, Mwinyihaji Makame Mwadini, reported that jails on Zanzibar held 2,260 pretrial detainees, of whom 110 were women.

Authorities held minors together with adults in several prisons due to a lack of detention facilities.

There was one prison for minors in the Mbeya Region and five remand homes across the country. Officials attributed the shortage of appropriate detention facilities to a lack of coordination between the judiciary, police, and prison department.

According to government officials, there were deaths in prison due to HIV/AIDS.

The most common health complaints by prisoners were malaria, tuberculosis, HIV/AIDS, and other diseases related to poor sanitation. Prison dispensaries offered only limited treatment, and friends and family members of prisoners generally had to provide medications or the funds to purchase them. Limited transportation also affected the ability of prison staff to take prisoners to health clinics and hospitals.

Prison staff complained of water shortages and a lack of electricity as well as inadequate medical supplies. According to prison system officials, however, all prisoners had access to water, including potable water. Most cells had large, grated windows that allowed light and ventilation. Some prisons had electricity, while others used gas lamps for lighting. Prisons were unheated, but prisoners in cold regions of the country reportedly received blankets and sweaters.

Administration: Recordkeeping in prisons was inadequate and resulted in discrepancies in reporting. On the mainland the law allows judges and magistrates to grant parole or impose alternative sentences such as community service as a means of reducing overcrowding, but these options were rarely used. The law authorizes early release for good behavior but has burdensome evidentiary requirements.

On the mainland authorities often moved prisoners to different prisons without notifying their families.

Approximately 700 prisoners were on probation, and 1,080 sentenced to community service. The number of probation officers remained inadequate. From July 2011 to June 2012, a total of 112 probation officers were available to serve 692 courts across the country. According to court officials, this represented a deficit of 1,281 probation officers.

On the mainland prisoners were permitted to submit complaints to judicial authorities, but it was alleged that the letters were censored. Prisoners were also

able to submit complaints to the CHRAGG during its prison visits. The CHRAGG also served as the official ombudsman.

The union Ministry of Home Affairs' Public Complaints Department and a Prison Services Public Relations Unit responded to public complaints and inquiries sent to them directly or through the media about prison conditions.

Some inmates were reportedly forced to worship in denominations chosen for them by prison wardens. Seventh-day Adventists complained they had to work on Saturday. On the other hand, Muslim prisoners asked for, and were granted, prayer mats by visiting Muslim clerics. Generally, prisoners and detainees had reasonable access to visitors and could worship freely.

During the year the Probation and Community Service Division of the Ministry of Home Affairs, officials from the Ministries of Constitutional Affairs and Justice, and the Office of the Director of Public Prosecution visited local prisons.

Independent Monitoring: Asylum Access Tanzania conducted prison visits in the regions of Arusha, Tanga, Morogoro, Pwani, Lindi, Dar es Salaam, Mbeya, Ruvuma, and Mtwara to identify potential refugees and asylum seekers being erroneously detained.

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

The constitution prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

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

Under the union's Ministry of Home Affairs, the Tanzanian Police Force (TPF) has primary responsibility for maintaining law and order both on the mainland and on Zanzibar. The Field Force Unit is a special division in the national police force and has primary responsibility for controlling unlawful demonstrations and riots. The TPF staff numbered more than 43,000 in multiple divisions and specialties throughout the country. During the year there were reports of excessive force, police corruption, and impunity. Low pay contributed to perceived corruption in certain units, as reported widely by citizens and the press. Newspaper articles, civil complaints, and reports of police corruption from the Prevention and Combating of Corruption Bureau (PCCB), an independent agency established

under the Prevention and Combating Corruption Act of 2007, as well as the Ministry of Home Affairs, also continued.

Police reported to civilian authorities (regional commissioners, district commissioners, and police leadership) appointed by the president. The ruling party, therefore, maintained de facto control of police forces, which contributed to problems, particularly in opposition party strongholds.

Sungusungu, or citizens' patrols, are traditional neighborhood anticrime groups that exist throughout the mainland. The People's Militia Act of 1973 grants them the power to make arrests. In general these groups provided neighborhood security at night. Sungusungu members are not permitted to carry firearms or machetes, but they did carry sticks or clubs. They worked with municipal governing authorities as well as police but operated independently from police. They formed or disbanded based on the perceived local need. In areas surrounding refugee camps, Sungusungu members have authority to arrest refugees who travel outside the camps without permission. Within the camp, groups composed of refugees acted as security forces, supplementing the police. In June, LHRC reported that Sungusungu militias were responsible for the death of four people during the year in Shinyanga, Mbeya, and Iringa regions.

The Jeshi la Kujenga Taifa is a branch of military service similar to a national guard; its service is primarily domestic.

Mainland police sometimes acted as prosecutors in lower courts. Although this practice was being phased out, a TPF spokesperson reported that police officers continued to act as prosecutors in nine of the country's 30 regions.

The TPF leadership was committed to training and improvement, but ground-level officers often failed to meet these commitments. Police continued to hold educational seminars for officers to combat corruption and took disciplinary action against police officers implicated in wrongdoing. From January to May, authorities suspended five police officers for unethical behavior and prosecuted an additional 12 in court.

The mainland community policing initiative to mediate local disputes and reduce police corruption continued. The community police received standardized training, and police conducted awareness campaigns for citizens on how to assist community-policing units. On Zanzibar the government continued with similar

training and awareness campaigns, which were introduced in 2012, in 10 primary schools.

On Zanzibar “special units” were deployed at the district level for activities that would fall under police jurisdiction on the mainland. Recruitment, training, and command and control of the “special units” are opaque and influenced by the ruling party on Zanzibar. These units, including the fire brigade and prison guards, were often activated during political activities, such as voter registration or voting itself (see section 3).

The Ministry of Defense is responsible for external security on the mainland and Zanzibar; it also has some limited domestic security responsibilities.

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

On the mainland the law requires that persons be apprehended openly with warrants based on sufficient evidence, and authorities generally complied with the law. The law also requires that a person arrested for a crime, other than a national security detainee, be charged before a magistrate within 24 hours of arrest, excluding weekends and holidays, but police failed to comply consistently with this requirement. There were reports of police using a rolling process of releasing and immediately re-arresting individuals so that they would remain in custody while police completed their investigation and developed the required information for the accused to be charged. The law gives accused persons the right to contact a lawyer or talk with family members, but at times they were denied this right. Prompt access to counsel was often limited by the lack of lawyers in rural areas, lack of communication systems and infrastructure, and illiteracy and poverty of the accused. Generally authorities promptly informed detainees of the charges against them. The government provided legal representation for some indigent defendants and for all suspects charged with murder or treason. The law does not allow bail for suspects in cases involving charges of murder, treason, drugs, armed robbery, human trafficking, or other violent offenses where the accused might pose a public safety risk. In some cases courts imposed strict conditions on freedom of movement and association when they granted bail. In the primary and district courts, bribes sometimes determined whether bail was granted.

By law the president may order the arrest and indefinite detention without bail of any person considered dangerous to the public order or national security. The government must release such detainees within 15 days or inform them of the reason for their continued detention. The law also allows a detainee to challenge

the grounds for detention at 90-day intervals. The mainland government has additional broad detention powers under the law, allowing regional and district commissioners to arrest and detain for 24 hours anyone who “disturb[s] public tranquility.” This act was not invoked during the year.

Pretrial Detention: According to the Ministry of Home Affairs, approximately 50 percent of the prison population consisted of pretrial detainees. Detainees charged with criminal matters generally waited three to four years for trial due to a lack of judges to hear cases, an inadequate judicial budget, and the lengthy time required to complete police investigations.

Amnesty: During the December Independence Day celebrations, the president pardoned 1,475 prisoners to honor mainland Tanzania’s 52 years of independence, after earlier pardoning 2,973 to celebrate 48 years of the union with Zanzibar on April 26. During the year an additional 142 prisoners were released on parole.

Those who benefited from the pardon included those with HIV status and cancer. The pardon also covered elderly persons above 75 years, women jailed while pregnant, and young children. The extension, however, did not include prisoners jailed for corruption, abuse of power, and individuals who were in prison for impregnating female students.

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

The constitution provides for an independent judiciary, but the judiciary remained underfunded, corrupt, inefficient (especially in the lower courts), and subject to executive influence. Court clerks reportedly continued to take bribes to decide whether to open cases and to hide or misdirect the files of those accused of crimes. According to news reports, magistrates of lower courts occasionally accepted bribes to determine the outcome of cases.

#### **Trial Procedures**

With some exceptions, criminal trials were open to the public and the press. Courts that hold closed proceedings (for example, in drug trafficking cases and sexual offenses involving juveniles) generally are required to provide reasons for closing the proceedings. In cases involving terrorism, the law provides that everyone, except the interested parties, may be excluded from court proceedings and witnesses may be heard under special arrangements for their protection. The

law prohibits lawyers from appearing or defending clients in primary-level courts whose presiding officers are not degree-holding magistrates.

Juries are not used. The law provides for the presumption of innocence, and defendants are not compelled to testify or confess guilt. Defendants or their lawyers have access to evidence held by the government, the right to confront adverse witnesses, and the right to present evidence and witnesses on the defendant's behalf. Generally authorities promptly and in detail informed detainees of the charges against them. Charges are generally presented in Kiswahili or English with interpretation provided when possible. Authorities generally allowed detainees sufficient time to prepare their defense but access to adequate facilities was limited. All defendants charged with civil or criminal matters, except parties appearing before Zanzibari kadhi courts (traditional Muslim courts that settle issues of divorce and inheritance), could appeal decisions to the respective mainland and Zanzibari high courts. Defendants on Zanzibar can appeal decisions to the union Court of Appeal.

On the mainland the law provides a right to free counsel for defendants accused of murder and treason as well as for indigent defendants in other serious cases. Most indigent defendants charged with lesser crimes, however, did not have legal counsel. In both Zanzibar and on the mainland, most defendants could not afford legal representation. On Zanzibar there were no public defenders.

On the mainland and on Zanzibar, police acted in some cases as prosecutors in lower courts, but this practice was being phased out. The mainland Ministry of Justice continued hiring and training state prosecutors to handle the entire mainland caseload. Judicial experts criticized the practice of police acting as prosecutors because of the risk that police might manipulate evidence in criminal cases. During the year 22 regions installed state prosecutor's offices—in Morogoro, Manyara, Kigoma, and Njombe regions; Monduri District in Arusha; and Temeke District in Dar es Salaam. Plans were under way to install offices in Geita, Simiyu, and Katavi regions.

The Zanzibari Office of the Director of Public Prosecution (DPP) used civilian prosecutors in four of the 10 districts of the islands. In the six remaining districts, police served as prosecutors or referred the cases to districts with civilian prosecutors. The DPP worked to expand use of civilian prosecutors to all districts. This initiative, together with efforts to increase the use of mediation and ensure thorough investigations before suspects were placed in detention, further reduced the case backlog.

Most defendants in urban areas who could not afford professional representation represented themselves in court, but the government and some NGOs, such as the Tanzania Women Lawyers Association and the National Organization for Legal Assistance, provided women and the economically needy with free legal assistance.

### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

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

There is an independent and impartial judiciary in civil matters. Civil proceedings are administered in the high court or at the magistrate or district level. Persons may bring lawsuits seeking damages or the cessation of human rights violations, and can appeal those rulings to the Court of Appeal on the mainland and other regional courts. Civil judicial procedures, however, were often slow, inefficient, and corrupt.

### **Regional Human Rights Court Decisions**

The country is subject to the African Court of Human and People's Rights, based in Arusha. On June 14, in the case against the government by the Tanganyika Law Society, the LHRC, and Christopher Mtikila over Mtikila's right to run in general elections as an independent candidate, the court ruled in favor of Mtikila. The court ruled that the Tanzanian requirement of political party membership to run for presidential, parliamentary, or local government elections violated the right to participate freely in government. The government had not acted on the verdict by year's end.

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

The law generally prohibits such actions without a search warrant, but the government did not consistently respect these prohibitions.

While only courts can issue search warrants, the law also authorizes searches of persons and premises without a warrant if necessary to prevent the loss or destruction of evidence, or if circumstances are serious and urgent.

While the law relating to terrorism permits police officers at or above the rank of assistant superintendent or in charge of a police station to conduct searches without a warrant in certain urgent cases, there were no reports that this provision of the act was ever invoked.

It was widely believed that state actors monitored telephones and correspondence of some citizens and foreign residents. The actual nature and extent of this practice were unknown.

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

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

The constitution provides for freedom of speech but does not explicitly provide for freedom of the press. The independent media on the mainland were active and generally expressed a wide variety of views. On Zanzibar the government maintained control of most of the media outlets, but independent mainland newspapers were available.

Freedom of Speech: Individuals could criticize the government both publicly and privately, but some persons expressed concern about doing so in public.

Press Freedoms: There were an estimated 38 radio stations, eight television stations, 13 cable television providers, and 18 daily newspapers. Among mainland newspapers, two were owned by the government, one by the ruling Chama cha Mapinduzi (CCM) party, and another by the chairman of the Chadema opposition party. The remaining newspapers were independent, although close associates of ruling party members owned some of them. Registering or licensing new media outlets both print and broadcast continued to be difficult and remained at the discretion of some government officials. Newspaper registration remained at the discretion of the registrar of newspapers at the Ministry of Information on both the mainland and Zanzibar. The process of acquiring a broadcasting license from the Tanzania Communication Regulatory Authority (TCRA) took an estimated six months to one year, and the area of coverage was restricted.

There were government restrictions on broadcasting in tribal languages. The government operated newspaper, radio, and television outlets, as did private corporations.

The Zanzibari government owned Zanzibar's only daily newspaper; however, three of the four periodic newspapers were privately owned.

National newspapers were sold on Zanzibar without restriction. The Zanzibari government controlled all content of radio and television broadcasts, whether privately or publicly owned. Even in the case of state television broadcast from the mainland, there was a delay in the feed, allowing Zanzibari censors to intervene. The Zanzibari radio stations operated relatively independently, often reading the content of national dailies, including articles critical of the Zanzibari government.

Although the media were officially government-controlled on Zanzibar, the political opposition continued to enjoy increased access after the reconciliation process between the two political parties in 2009. Observers noted that, in spite of improved coverage of opposition rallies, the CCM continued to get more coverage than other parties.

The mainland government allowed political opponents unrestricted access to the media; however, the ruling party had far more funding to purchase broadcast time.

Violence and Harassment: Journalists were subject to physical attack, harassment, and intimidation at the hands of law enforcement authorities and crowds during the year. In January Issa Ngumba, a journalist working for a community radio station, Radio Kwizera, in the western part of the country, was missing for three days and subsequently found dead in Kajuhuleta Forest, killed by unknown assailants. Ngumba was allegedly killed over a November 2012 story of a shepherd murdered by a local cattle owner. The NGO Tanzania Editors' Forum conducted an investigation into his death but was unable to determine whether the killing was due to his reporting or a local farming dispute.

On March 5, an unknown assailant ambushed, attacked, and tortured Absalom Kibanda, chairman of the Tanzania Editors' Forum and managing editor of the media company New Habari Corporation. The group attacked Kibanda with a gun and sharp metal objects. The incident remained under investigation at year's end.

The 2011 sedition case against *Tanzania Daima* editor Absalom Kibanda and *Mwananchi* executive director Theophil Makunga reached the defense-hearing stage at year's end.

Censorship or Content Restrictions: A permit was required for reporting on police or prison activities, and journalists needed special permission to attend meetings in the Zanzibar House of Representatives. Anyone publishing information accusing a Zanzibari representative of involvement in illegal activities was liable for a fine of

not less than 250,000 Tanzanian shillings (TZS) (\$156), three years' imprisonment, or both. Nothing in the law specifies whether this penalty stands if the allegation is proven true. The law also empowers the government to fine and suspend newspapers without warning.

Media outlets often practiced self-censorship to avoid conflict with the government. The Legal and Human Rights Centre reported that journalists from both private and public media were concerned over the censorship of stories by editors fearful of criticizing government leaders or policies.

Libel Laws/National Security: The law provides for arrest, prosecution, and punishment for the use of seditious, abusive, or derogatory language to describe the country's leadership. The law authorizes police to raid and seize materials from newspaper offices without a warrant and authorizes the minister of information to close media outlets for undefined reasons of "public interest" or "the interest of peace and good order."

On February 26, the TCRA suspended operations of two religious radio stations, Imani FM and Kwa Neema FM, for six months for broadcasting programs that the agency stated might incite unrest. The TCRA also banned a segment of Clouds FM's radio program named "Jicho la Ng'ombe," a segment featured in the *Power Breakfast* program, because it allegedly supported homosexual marriages. The agency fined each of the three radio stations TZS five million (\$3,125) on the grounds that their programs constituted a breach of the peace.

On September 27, the government imposed 14-day and 90-day publication bans on *Mwananchi* and *Mtanzania* newspapers, respectively. *Mwananchi* was banned for publishing a July 17 article releasing government salaries and an August 17 article, on increased security in mosques, which included a picture of a dog inside a mosque. *Mtanzania* was banned for publishing a March 20 article, "Presidency through Bloodshed," and a June 12 article, "Revolution is Inevitable." The bans evoked renewed calls by local and international media stakeholders for the abolition of laws that violate the freedoms of media, expression, and information.

The July 2012 government ban on the weekly *MwanaHalisi* newspaper for alleged sedition remained in place at year's end.

## **Internet Freedom**

There were no government restrictions on access to the internet; however, the government monitored websites that criticized the government. Police also monitored the internet to combat illegal activities. According to the International Telecommunication Union, approximately 13 percent of persons in the country used the internet and 6 percent of households had access to the internet in 2012.

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

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

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

### **Freedom of Assembly**

The constitution provides for freedom of assembly; however, the government did not always respect this right. The government requires organizers of rallies to obtain police permission. Police may deny permission on public safety or security grounds or if the permit seeker belongs to an unregistered organization or political party (see section 3).

The government and police continued to limit the issuance of permits for public demonstration and assembly. Police denied demonstration permits to political parties, NGOs, and religious organizations. Reportedly, police often denied these permits at the behest of CCM officials at various levels of government.

On March 18, police denied a permit to opposition party Chadema for a demonstration to protest long-standing problems with the water supply in Dar es Salaam.

### **Freedom of Association**

The constitution provides for freedom of association, and the government generally respected this right.

Political parties were required to register, and there were some requirements regarding distribution and composition of their membership (see section 3).

Although the process of registering NGOs was slow, there were thousands on the mainland. The approval process was more difficult on Zanzibar. It took an average of four years to register a religious organization.

**c. Freedom of Religion**

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

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

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

The government generally cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees and asylum seekers.

In-country Movement: Pursuant to an encampment policy, refugees were not allowed to travel more than two and a half miles outside of the boundaries of Nyarugusu Refugee Camp--the only such camp in the country--without permission of the Ministry of Home Affairs. The ministry generally granted this permission for official purposes such as medical referrals and court appearances.

**Protection of Refugees**

Access to Asylum: Laws provide for asylum or refugee status, and the government has established a system for providing protection to refugees. The National Eligibility Committee (NEC) is mandated to meet regularly and make determinations on such applications and, after a hiatus from 2009 to 2012, began meeting again during the year to review a backlog of several hundred asylum claims.

Authorities continued to arrest irregular migrants from Ethiopia and Somalia who were en route to South Africa and other southern countries. The UNHCR processed these individuals for possible asylum, but police continued to hold them in prisons, as there were no separate holding facilities for asylum seekers.

On July 25, President Kikwete ordered all undocumented immigrants to leave the country voluntarily or face forced expulsion. Following that order, undocumented immigrants from Rwanda, Burundi, and Uganda voluntarily left the country. In September the Tanzanian People's Defense Force and other law enforcement

agents began deporting irregular immigrants. In some cases these deportations may have affected individuals who had a claim to a legal status in Tanzania, whether on the basis of residency, marriage, or even citizenship.

International aid organizations, including the UNHCR and the International Organization for Migration, raised concerns about the treatment of irregular migrants and others who might have been affected by the forced expulsion campaign. After significant pressure from these groups and from the diplomatic community, the government suspended the expulsion campaign in late September.

Asylum Access, an international NGO with an office in Dar es Salaam, reported that a large number of refugees were living in Dar es Salaam and outside the country's single refugee camp. The government often treated these individuals as undocumented immigrants, deporting or imprisoning them if they faced criminal charges. Arrest was often the only situation in which the government came into contact with urban refugees. If given the opportunity, observers expected that many urban refugees would be able to demonstrate a need for international protection that would qualify them for refugee status. Since they were not formally registered with the UNHCR and the government, however, urban refugees had limited access to employment, health care, and education.

There was no policy or infrastructure to serve this group, but the Ministry of Home Affairs reported that it was consulting with the UNHCR to develop a draft urban refugee policy for review in early 2014. Although the size of the urban refugee population was difficult to determine, the ministry estimated that as many as 10,000 urban refugees were living in Dar es Salaam alone, while Asylum Access reported that this number may be as high as 20,000.

Safe Country of Origin/Transit: During the year the NEC met twice to review and make formal determinations for pending asylum cases. In May the NEC met in Kigoma to review pending asylum cases for individuals mainly from the Democratic Republic of the Congo (DRC). A total of 596 of 600 asylum cases assessed were found to be eligible for refugee protection, and the individuals were moved to Nyarugusu Camp.

Refoulement: The government generally provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

Following the closure of Mtabila Camp, a residual population of approximately 1,600 former refugees was still protected in Nyarugusu Camp. This group consisted mostly of mixed marriages/nationality cases pending regularization of their immigration status, as well as exemption cases. According to the UNHCR, there were 264,000 refugees in the country, including 64,172 refugees from the DRC sheltered at Nyarugusu Camp and 190,000 refugees from Burundi at different settlements in Katavi and Tabora regions. The Burundian refugees still in Tanzania are part of the 1972-era caseload that has been in the country for more than four decades, and the government initiated a plan to offer Tanzanian citizenship to the group (see Durable Solutions below).

On July 23, the land previously designated for Mtabila Camp (which was officially closed in December 2012) was handed over to the government.

Refugee Abuse: Unlike in 2012 there were no reported cases of refugee abuse by the government.

It remained illegal for refugees to live outside their camps or settlements or to travel more than 2.5 miles outside the camps without permits. The Ministry of Home Affairs office within the camps issued exit permits to refugees as long as they were able to provide a credible reason for exiting (e.g., attending legal procedures or obtaining wire money transfers). Refugees apprehended outside the camps without permits often were sentenced to community service rather than imprisonment and deportation, as was the case previously. By law, however, the infraction carries a fine and a three-year prison sentence. The UNHCR reported that when police apprehended refugees the camps without permits, they usually placed them in a prison facility within the camps. Unless the infraction connected the detainee with another criminal issue, police generally released these individuals back into the camps within a short time.

Local government authorities policed the camps with support from refugee volunteers. The UNHCR reported that the most frequent crimes were domestic violence and abuse, physical aggression, sexual abuse, and intimidation within both family units and the broader refugee community.

The UNHCR worked with local authorities as well as individuals in the camps to strengthen coordination and their ability to address problems of violence – including sexual violence--against minorities. During the year the government investigated, prosecuted, and punished perpetrators of abuses in the camp; local authorities handled most cases of refugees involved in crime and abuse outside the

camp. Residents of Nyarugusu Camp suffered delays and limited access to courts, common problems faced by citizens as well.

Employment: The government confined refugees to the country's one refugee camp and generally did not permit them to pursue employment on the local economy. It also restricted refugees' attempts to farm the land within the camps.

Durable Solutions: In 2010 the Ministry of Home Affairs announced it was conferring citizenship upon 162,000 of the more than 200,000 refugees who had arrived from Burundi in 1972. The plan, however, remained effectively stalled as the government sought to address concerns raised by parliamentarians and some local community leaders about the proposed relocation of the former refugees and whether they will have voting rights. The status of another 22,000 Burundian refugees from the 1972-era who settled in the Kigoma Region remained in question. Since January, 181 Burundian refugees were assisted to return to Burundi.

On March 1, 300 Somali Bantu refugees previously naturalized were screened for verification and granted Tanzanian citizenship.

The UNHCR reported that as of July, 68, 000 refugees and persons of concern, mainly from the DRC, were living in Nyarugusu Camp, including 4,125 Burundians, 63,859 Congolese, and 213 persons of other nationalities.

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

The constitution provides citizens with the right to change their government peacefully, and citizens exercised this right through periodic elections that were largely free and fair.

#### **Elections and Political Participation**

Recent Elections: In 2010 Tanzania held its fourth multi-party general elections in which voters in both the union and Zanzibar elected new presidents and legislative representatives. The union and Zanzibari elections were judged to be largely free and fair. The CCM, however, benefited from vastly superior financial and institutional resources.

In the 2010 elections, the CCM retained its absolute majority in parliament with nearly 80 percent of the seats. Chadema replaced the Civic United Front as the leading opposition party and selected its chairman, Freeman Mbowe, as the parliamentary opposition leader.

Separate elections are held for the union and for Zanzibar, ordinarily on the same day, in which citizens of the two parts of the union elect local officials, members of the national parliament, and a union (national) president. In addition, Zanzibar separately elects a president of Zanzibar and members of the Zanzibar House of Representatives. District and regional leaders on Zanzibar and on the mainland are appointed by their respective presidents.

Opposition party leaders complained that voter registration had not taken place since 2010. Individuals who have reached the age of 18 since that time were therefore unable to vote in by-elections. Election officials stated that the government did not have sufficient funding to conduct more regular registration. Some opposition leaders alleged that the government sought to prevent young voters from registering, since they often voted for opposition parties.

Political Parties: The law requires that persons running for office must represent a registered political party. The law prohibits unregistered parties and independent candidates. There were 18 registered parties in the country.

The registrar of political parties has sole authority to approve registration of any political party and is responsible for enforcing regulations on registered parties. Parties granted provisional registration might hold public meetings and recruit members. To secure full registration and be eligible to field candidates for election, parties must submit lists of at least 200 members in 10 of the country's 30 regions, including two of the five regions of Zanzibar, within six months.

The law requires political parties to support the union between Tanganyika and Zanzibar; parties based on ethnic, regional, or religious affiliation are prohibited.

During the year there were occasional restrictions on the parties' right to call for demonstrations.

The election law provides a "gratuity" payment of TZS 40 million (\$25, 000) to MPs completing a five-year term. Incumbents can use these funds in reelection campaigns. Several NGOs and opposition parties criticized this provision for

impeding aspiring parliamentary candidates from opposition parties from mounting an effective challenge.

Participation of Women and Minorities: The unicameral union parliament has up to 357 members. There were 101 special women's seats apportioned among the political parties based on their election results, 239 constituent seats (including 50 from Zanzibar), and up to 10 members nominated by the president.

Although 21 women held elected seats in parliament, most female MPs were appointed by their political parties to serve in seats set aside for them according to the percentage of votes their parties as a whole received. There were 127 women in parliament. There were nine female ministers (of 30 total) and four female deputy ministers.

There were three MPs of South Asian origin.

Following the 2010 elections, parliament selected Anne Makinda as the country's first female speaker.

Twenty-five of the 62 high court judges were women, as were four of the 15 Court of Appeal judges.

The Zanzibar House of Representatives has 50 elected seats, 20 women's special seats, and eight appointed at-large seats. Women held two of the eight appointed seats. There were three female ministers (out of 19 ministers) and four deputy ministers. Women won three elected seats on Zanzibar.

There were five MPs with disabilities and three representatives with disabilities in the Zanzibar House of Representatives.

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

The law provides criminal penalties for corruption by officials; however, the government did not implement the law effectively, and officials often engaged in corrupt practices with impunity. The World Bank's Governance Indicators reflected that corruption was a serious problem.

Corruption: On April 11, the Office of the Controller and Auditor General reported to parliament that corruption and theft of public funds remained widespread across most public institutions and district councils, despite a range of government initiatives put in place to fight corruption.

On August 20, the chairman of the parliamentary Local Authority Accounts Committee, Mohamed Mbarouk, reported that approximately 70 district executive directors were implicated in theft of public funds. These individuals were transferred from their positions instead of facing prosecution. According to Mbarouk, nearly 33 percent of annual budget allocations to local councils were embezzled. Chief Secretary Ombeni Sefue reported in August that an investigation into the allegation of Permanent Secretary David Jairo's involvement in the attempted bribing of MPs was still underway.

The PCCB is responsible for investigating suspected corruption cases, prosecuting offenders in coordination with the DPP, and educating the public about corruption. The PCCB had 24 regional offices and an office in every district on the mainland. As of October 31, the PCCB had received 5,340 allegations of corruption. During the year there were cases 2,618 pending in court and 661 prosecuted cases from which there were 76 convictions. The PCCB's number of convictions has been approximately 1 percent of allegations through the last seven years. The PCCB received a significant budget for staff and office resources, but the public and the media often complained that it failed to address major corruption cases adequately. The head of the PCCB also raised concerns about anticorruption efforts and suggested that the government introduce special courts to hear corruption cases.

According to the PCCB, most corruption investigations concerned government involvement in mining, land matters, energy, and investments. NGOs reported that allegations of corruption involved the Tanzania Revenue Authority, local government officials, police, licensing authorities, hospital workers, and the media.

The PCCB's mandate does not extend to Zanzibar. During the year Zanzibar launched its own Anti-Corruption and Economic Crimes Authority after passing a law in late 2012 to create an independent, anticorruption agency. There were no investigations, since the authority received no complaints during the year.

Whistleblower Protection: The constitution provides for the freedom of opinion and expression of ideas. Individuals have the right to seek, receive, or disseminate information regardless of national boundaries. Additionally, the constitution provides for the freedom to communicate with protection from interference. The National Security Act of 1970 prohibits the disclosure of classified information, and any person who communicates any classified matter or causes the leakage of such classified information to any unauthorized person is liable on conviction to imprisonment for a term not exceeding 20 years.

Financial Disclosure: Government ministers and MPs, as well as other public servants, are required to disclose their assets upon assuming office, annually at year's end, and upon leaving office; however, there was no enforcement mechanism or means to determine the accuracy of such disclosures. The Ethics Secretariat distributes forms each October for collection in December. In January Judge Salome Kaganda, commissioner general of the secretariat, reported that more than 2,197 public leaders did not submit their wealth declaration forms by December 31, 2012, as required by the law. In 2012 the secretariat distributed 9,194 forms to politicians and civil servants, and by January, 3,738 politicians and 3,259 civil servants met the deadline for disclosure. Secretariat officials stated the 2,197 individuals who failed to meet the deadline were asked to show cause for the delay. Any declaration forms submitted or filed after the deadline must explain the failure to observe the law. Failure to do so is a violation of the law.

Asset disclosures are not public. Although penalties exist for noncompliance, there is no enforcement mechanism, and the disclosure requirements do not cover spouses or children. Periodic reporting is not required as assets change.

The government continued to use specialized agencies to fight corruption, but their effectiveness was limited. A three-person unit within the president's office, headed by the minister of state for good governance, was charged with coordinating anticorruption efforts and collecting information from all the ministries for publication in quarterly reports.

Public Access to Information: There is no law providing for public access to government information, and such access remained limited. Government officials routinely refused to make information available. Civil service regulations effectively allow only a handful of high-level government representatives to communicate information to the media. Media groups continued to press the government and parliament to adopt a freedom of information act and revise the bill governing the media industry.

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

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views. Some human rights NGOs complained that at times

government reaction against them was negative when they challenged government practice or policy.

In the past more than 5,000 NGOs were registered on the mainland and entered into a database maintained by a government-appointed NGO coordination unit in the Office of the Vice President. During the year the Ministry of Home Affairs began registering community and religious organizations under the Societies Act. The Ministry of Community Development, Gender, and Children register other NGOs under the NGO Act. The registration process took two to five years. International NGOs operated on both the mainland and Zanzibar. NGOs on Zanzibar must apply through the local government for approval, and all religious organizations must seek approval from the Office of the Mufti, the Muslim religious authority. The Zanzibar Legal Services Center was one of the few active human rights organizations on Zanzibar.

UN and Other International Bodies: The government continued to host the International Criminal Tribunal for Rwanda in Arusha and was supportive of, and cooperated with, the international court.

Government Human Rights Bodies: The union parliamentary committee for constitutional, legal, and public administration is responsible for reporting and making recommendations regarding human rights. Although the majority of committee members were from the ruling CCM party, the committee nevertheless acted independently of government and political party influence, and most observers viewed it as an unbiased institution. The committee worked closely with the CHRAGG.

The CHRAGG, the government's lead office for human rights problems, may make recommendations to the government concerning remedies for human rights abuses, but it has no mechanism for enforcement. The CHRAGG has no legal authority to prosecute cases; it can only make recommendations to other government offices or call media attention to human rights violations. During the year the CHRAGG received 1,784 complaints, of which 1,030 were investigated and concluded. A total of 430 complaints were considered to be out of the commission's jurisdiction and the commission was working on 324 complaints at end of the year. The CHRAGG was financed by the government and operated on the mainland and on Zanzibar.

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

The constitution prohibits discrimination based on nationality, tribal identity, political ideology, race, gender, or social status. No provisions prohibit discrimination based on sexual orientation or language. Discrimination based on age or disability is not explicitly prohibited by law but was discouraged publicly in official statements and by government policies. Discrimination against women, refugees, minorities, and persons with HIV/AIDS or disabilities persisted, and ethnic tensions continued in some parts of the country.

## **Women**

**Rape and Domestic Violence:** The law provides for life imprisonment for persons convicted of rape, including spousal rape during periods of legal separation, but rape continued to be a serious problem. The law stipulates that a woman wishing to report a rape must do so at a police station before seeking medical help. Only after obtaining a release form from police may a woman be admitted to a hospital. This process contributed to medical complications, incomplete forensic evidence, and failure to report rapes. Victims often feared that cases reported to police would be made public.

According to a biannual report issued by the LHRC, incidents of rape were more prevalent in urban centers than in rural areas. From January through June, the LHRC stated that of 3,664 reported abuse cases concerning women and children, 2,965 were allegations of rape. Persons close to the victims, such as relatives and friends, were most likely to be the perpetrators. Despite increased reporting of rape, many offenders were not brought before a court. Many who appeared in court were set free because of corruption in the judicial system, a lack of evidence, poor investigations, and poor evidentiary preservation.

According to the 2010 Demographic and Health Survey and the 2009 Tanzania Violence Against Children Survey, 45 percent of women had experienced physical or sexual violence.

There were some government efforts to combat sexual abuse. Police maintained a gender and children desk in every region to support victims and address relevant crimes. On Zanzibar at One Stop Centers in both Unguja and Pemba, victims could receive health services, counseling, legal assistance, and a referral to police.

Domestic violence against women remained widespread, and police were often reluctant to pursue such cases. The law prohibits assault but does not specifically prohibit spousal battery or protect women from gender-based violence. No unified

legal code protects women. Disparate provisions of various statutes offer ineffective safeguards against gender-based violence. Cultural, family, and social pressures often prevented women from reporting abuses, and authorities rarely took action against persons who abused women.

For example, on January 1, the husband of Shooni Kariakoo Maingwa, a resident of Kiteto Manyara, burned her genitalia with a red-hot iron rod. This incident was reported to police but no action has been taken against her husband by year's end.

According to a 2002-10 survey by the UN Children's Fund (UNICEF), 38 percent of males and 54 percent of women considered a husband to be justified in hitting or beating his wife for burning food, arguing, neglecting children, or refusing sexual relations.

The courts recognized domestic violence as grounds for divorce. Women, however, often tolerated prolonged domestic abuse before seeking a divorce. The Tanzania Media Women's Association (TAMWA) stated that the number of cases reported to police was low. Women testified to being bullied and beaten by men, but they were sometimes ashamed to report such cases to authorities. Women in urban areas who sought advice from legal aid clinics most commonly cited domestic abuse as the reason for seeking a divorce.

Women in Law and Development in Africa (WiLDAF) noted that cases of gender-based violence reported in the media doubled between 2011 and 2012. A total of 6,001 cases were reported in 2012, compared with 3,542 in 2011. According to Judith Odunga, the national coordinator of WiLDAF, more cases were unreported due to women's fear of victimization.

Sexual Harassment: The law prohibits sexual harassment of women in the workplace, but no statistics existed on the extent of its occurrence or the effectiveness of enforcement. There were reports that women were asked for sexual favors in return for promotions. According to the Women's Legal Aid Centre, many women did not report sexual harassment cases because police were rarely helpful and because of cultural norms that placed blame on the victims and contributed to a culture of silence.

Reproductive Rights: The government generally recognized the right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children. There were no restrictions on the right to access contraceptives. Only 26 percent of women ages 15-49 used a modern form of contraception, in

part due to cultural factors, lack of transportation to health clinics, and shortages of contraceptives. The government provided free prenatal, childbirth, and postpartum services but lacked sufficient qualified health care professionals as well as medical supplies. Due to budgetary restrictions and a shortage of skilled personnel, an estimated 60 percent of positions within the Ministry of Health and Social Welfare remained unfilled. This impeded the work of small, rural clinics. Pregnant women giving birth at government health-care facilities throughout the country often had to purchase their own medical supplies. Few women took advantage of postpartum care. According to the latest UN Population Fund reporting, the maternal mortality ratio was 460 deaths per 100,000 live births, and a woman's lifetime risk of maternal death was one in 38. Skilled health personnel attended approximately 49 percent of births. Major factors influencing high maternal mortality included the low rate of attendance by skilled personnel, high fertility rate, and poor quality of many medical facilities.

Discrimination: The law addresses inheritance and marriage, but customary laws that call for inequitable land rights and inheritance through the male line are usually determining due to national legislation that give them precedence. The mainland Ministry of Community Development, Gender, and Children and the mainland Ministry of Justice and Constitutional Affairs, as well as their counterpart ministries on Zanzibar, are responsible for protecting the legal rights of women. Discrimination against women was most acute in rural areas. Rural women had little opportunity to attend school or obtain wage employment.

Women in the private sector sometimes faced discrimination from employers who believed that household obligations were a professional liability.

The law gives individuals the right to use, transfer, and occupy land without distinction of gender and recognizes women's occupancy rights (all land in the country legally belongs to the government), but implementation was difficult because most women were unaware of the law. Historically, rural women have not acted as primary land occupants or managed businesses because of cultural constraints and lack of education. Civil society activists reported widespread discrimination against women in property matters related to inheritance and divorce. This was particularly the case on Zanzibar but also in some parts of the mainland, where activists maintained that judges relied on customary and Islamic law in a discriminatory fashion. Women were especially vulnerable if they initiated the separation from their partners or if their partners died.

The Zanzibari DPP could sentence women between the ages of 18 and 21 who became pregnant out of wedlock to perform community service; however, this provision was not applied during the year.

## **Children**

Birth Registration: Citizenship is derived by birth within the country's territory, or if abroad, from one's parents. The Registration, Insolvency, and Trusteeship Agency estimated that 20 percent of the population had birth certificates.

Registration of births within three months is free; however, parents who register their babies after three months must pay a fee. To encourage registration, children enrolling in preschool must present a registration certificate, but this stipulation was not strictly enforced, and public services were not withheld if a child was not registered.

On July 23, the government launched a new national birth registration system for under-five children to accelerate birth registration after years of stagnation. The new system was scheduled for implementation in phases with Mbeya in the first phase, followed by Mwanza, Geita, Shinyanga, and Simiyu regions.

Education: Primary education is compulsory and universal on both the mainland and Zanzibar until the age of 15. Tuition is free, but parents are required to pay for books, uniforms, and school lunches. Beginning in Form 1, the equivalent of the first year of high school, parents are required to pay fees for enrollment. As a result, many children did not attend secondary school.

Girls represented approximately half of all those enrolled in primary school but were absent more often than boys due to household duties. At the secondary level, boys represented a disproportionately high percentage of enrolled students and child marriage and pregnancy often prevented girls from finishing school.

In September the Center for Reproductive Rights reported that more than 55,000 Tanzanian girls over the last decade had been expelled from school for being pregnant. Reportedly, as early as age 11, many schoolgirls were forced to undergo a pregnancy test in order to attend school.

Child Abuse: Violence and abuse against children was a major problem. The law allows head teachers to cane students, and corporal punishment in schools remained a problem, although less so than in previous years. In April the

government launched a three-year national plan to prevent and respond to violence against children to address the findings of UNICEF's National Violence Against Children Survey, released in 2011. The plan was to be integrated into programs across all key ministries, especially at community level through the support of the local government authority. According to Deputy Minister for Health Sefu Rashid, the program includes a health sector component responding to gender-based violence and violence against children.

Forced and Early Marriage: The law provides that girls as young as 15 can marry with the consent of parents or guardians, although no consent is required for orphaned girls without guardians. The courts also have discretion to allow the marriages of 14-year-old girls in the case of pregnancy. Additionally, the law allows Muslim and Hindu girls to marry as young as 12 as long as the marriage is not consummated until the girl reaches age 15. To circumvent these laws, offenders bribed police or paid a bride price to the family of the girl to avoid prosecution. An estimated 37 percent of women between the ages of 20 and 24 were married before the age of 18, and 7 percent were married before the age of 15, according to UNICEF data collected between 2000 and 2010.

The government is part of a network consisting of NGOs and other partners who collaborate in the development and implementation of a national advocacy strategy for child rights in Tanzania. Working with the government, UNICEF has been involved in developing state action plans and has supported the establishment of girls clubs and collectives trained on child rights and how to work with the community to stimulate a dialogue about ending child marriage.

On Zanzibar multiple laws define the legal age of a child, including the penal code, which defines a child as an individual under the age of 18 who is not married or has not given birth. The Child Act of 2011 defines a child as any person under the age of 18. Under Islamic law, however, the age at which a child reaches puberty determines whether he or she is still a child.

Harmful Traditional Practices: The law prohibits female genital mutilation/cutting (FGM/C); however, some tribes and families continued to practice it as part of their tradition. According to a UNICEF survey, between 1997 and 2011, approximately 15 percent of women ages 15-49 were mutilated, and 3 percent of women had at least one daughter who was similarly mutilated. According to the survey, the average age of FGM/C victims was less than 10 years. Approximately 20 of the country's 130 tribes practiced FGM/C, which was most prevalent in the

mainland regions of Mara, Kilimanjaro, Dodoma, Manyara, Mbeya, Morogoro, Dar es Salaam, Arusha, and Singida.

Statutory penalties for performing FGM/C on girls under 18 range from five to 15 years' imprisonment, a fine of TZS 300,000 (\$187), or both. Prosecutions were rare. Many police officers and communities were unaware of the law, victims were often reluctant to testify, and some witnesses feared reprisals from FGM/C supporters. Some villagers reportedly bribed local leaders not to enforce the law in order to carry out FGM/C on their daughters. The media reported that others conducted the procedure in hiding, even on babies, to avoid detection by the law.

During the year police raided a FGM/C ceremony in Same District and arrested 12 women who were accused of participating in the FGM/C ceremony involving 21 girls and their parents. The investigation was ongoing at year's end.

The government continued to implement the 2001-15 National Plan of Action for the Prevention and Eradication of Violence Against Women and Children, which enlisted the support of practitioners and community leaders in eradicating FGM/C. For instance, it initiated a three-year program to eradicate FGM/C by 2016 in the Mara Region, one of the most affected areas.

According to Deputy Minister for Community Development, Gender, and Children Ummu Mwalimu, the government put in place an effective strategy to end FGM/C in Tarime through education on the harmful effects of the practice, targeting young girls, traditional elders, parents, and FGM/C practitioners.

Sexual Exploitation of Children: The law provides that sexual intercourse with a child under 18 years is rape regardless of consent, unless within a legal marriage. The law was not always enforced. Human rights activists and NGOs complained that the Law of Marriage Act, which provides for marriages of 14-year-old girls, needed amendment to reflect the criminality of sexual intercourse with a child.

According to the TAMWA, the incidence of child rape was rising, and the major causes included alcoholism, poor education, poverty, and superstition. According to the National Survey on Violence against Children, almost one-third of females ages 13 to 24 experienced at least one incident of sexual violence before the age of 18.

The most common form of sexual violence was unwanted sexual touching followed by attempted rape. Among males in the same age group, more than 13

percent stated that they had experienced at least one incident of sexual abuse prior to the age of 18. Few of those who experienced sexual violence received any assistance.

According to TAMWA executive director Valerie Msoka, 341 cases of sexual assault were reported on Zanzibar alone between 2011 and 2013, of which 104 occurred in the archipelago's southern districts.

On February 11, local media reported that Emannuel Halala, an Adventist pastor in Mwanza, raped an eight-year-old girl twice after luring her with food and clothing. This case was undergoing prosecution at year's end.

The law criminalizes child pornography and child prostitution. Nevertheless, sexual exploitation and trafficking of children for the purposes of commercial sexual exploitation were problems. Persons found guilty of such offenses were subject to a fine ranging from TZS one million (\$625) to TZS 500 million (\$312,000), a prison term of one to 20 years, or both. There were no prosecutions based on this law.

Infanticide or Infanticide of Children with Disabilities: Infanticide continued to be a problem, especially among poor rural mothers who believed themselves unable to afford to raise a child.

Displaced Children: A survey conducted in 2009 in 95 districts found that 849,054 children were living in "vulnerable conditions." In April, Minister for Health and Social Welfare Hadji Mponda told parliament that 33,952 of the children lived on the streets.

Street children had limited access to health and education services because they lacked a fixed address or money to purchase medicines, school uniforms, and books. The government identified centers where orphans and street children could have access to these services in 89 out of 133 municipalities. These children were also vulnerable to sexual abuse.

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

## **Anti-Semitism**

The Jewish population is very small, and there were no reports of anti-Semitic acts.

## Trafficking in Persons

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

## Persons with Disabilities

The constitution prohibits discrimination against persons with disabilities. The law addresses the overall protection of persons with disabilities. It defines a person with disability to include persons with physical, intellectual, sensory, or mental disabilities and whose functional capacity is limited due to attitude or environmental and institutional barriers. Previous implementing legislation focused on specific, disjointed areas such as employment and access to healthcare. Most employers believed that individuals with disabilities were incapable of working, and most persons with disabilities remained unemployed. Persons with physical disabilities, who constituted approximately 9 percent of the population, were effectively restricted in employment, education, access to health care, and other state services by physical barriers and inadequate financial resources. Although the government mandates access to public buildings, transportation (including air travel), and government services for persons with disabilities, few buildings were accessible. New public buildings were being built in compliance with the law, but funds to retrofit existing structures were unavailable.

There were five members of the mainland parliament with disabilities. One MP elected in 2010, Salum Bar'wan, was the first with albinism. During the election campaign, his opponents repeatedly claimed that persons with albinism did not have the ability to think clearly.

The government reportedly took steps to improve election participation by persons with disabilities. These improvements included preparation of a guidebook on election procedures, shorter waiting times for persons with disabilities at polling stations, and preparation of tactile ballots for persons with vision disabilities; however, a number of shortcomings continued to limit the full participation of persons with disabilities in the election process. These included inaccessible polling stations, lack of available information, limited involvement of persons with disabilities in political parties, failure of the National Electoral Commission to implement its directives, and stigma towards persons with disabilities.

The Ministries of Education, Justice, and Labor are responsible for enforcing the rights of persons with disabilities to education, legal claims, and labor rights, respectively. The Department of Social Welfare within the Ministry of Health and Social Welfare has responsibility for coordinating matters related to persons with disabilities.

### **Indigenous People**

Indigenous pastoralists found it increasingly difficult to maintain their way of life on the land, since competing interests and population pressures squeezed their traditional animal grazing areas.

On January 26, a land dispute between farmers and pastoralists in Dumila reportedly resulted in the death of one person and injuries to several others.

On October 1, a group of 50 farmers armed with bush knives and axes took six pastoralists hostage for several hours in Ruande Forest Reserve in Geita Region. This situation began over a land dispute between the farmers and the pastoralist community.

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

Consensual same-sex sexual conduct is illegal on the mainland and on Zanzibar. On the mainland, acts of “gross indecency” between persons of the same sex are punishable by up to five years in prison. The law refers to same-sex sexual conduct as an “unnatural offense” and carries a prison sentence of 30 years to life. The law on Zanzibar establishes a penalty of up to 14 years in prison for men who engage in same-sex sexual conduct and five years for women. The burden of proof in such cases is significant. According to a recent Human Rights Watch report, arrests of LGBT persons rarely led to prosecutions; usually they were a pretext for police to collect bribes or coerce sex from vulnerable people. Nonetheless, the CHRAGG’s 2011 prison visits revealed that “unnatural offenses” were among the most common reasons for pretrial detention of minors. In the past courts have charged individuals suspected of same-sex sexual conduct with loitering or prostitution. LGBT persons faced societal discrimination that restricted their access to health care, housing, and employment. This group was also denied health care such as access to information about HIV. There were no known government efforts to combat such discrimination.

## **Other Societal Violence or Discrimination**

Despite efforts by the government and NGOs to reduce mob violence through educational outreach and community policing, mobs stoned, beat, immolated, and hacked to death a number of suspected criminals. LHRC's biannual report stated there were 597 incidents of killing by mob violence between January and July, compared with 563 deaths during the same period in 2012.

For example, in January a man suspected of being a bandit was hacked to death and set on fire by an angry mob in Northern Tarime District in Mara Region. A police investigation continued at year's end.

Politically related mob violence resulted in deaths and injuries (see section 3).

According to the LHRC biannual report, there were 303 witchcraft-related killings between January and July. Many of these killings were instances of mob violence.

For example, on March 22, angry villagers in Matenga-Makete burned to death Daniel Mbwilo following allegations that he was involved in witchcraft-related acts against fellow villagers. The victim's wife was also badly beaten for hiding him, and the victim's child was beaten when he tried to rescue his father and died later in hospital as a result of his injuries.

There were reports of killings and incidents of violence against persons with albinism. Primarily in the Lake Zone, practitioners of witchcraft sought albino body parts in the belief that they could be used to create power and wealth. Under the Same Sun, an international NGO working with persons with albinism, reported that the increasing number of attacks on albinos was fuelled by poor handling of cases involving such killings.

For example, on February 13, Maria Chambanega, a woman with albinism living in Kivifuti Sumbawanga, had her hand chopped off by her husband in an incident apparently related to witchcraft. Her child was also injured during the incident. Police apprehended a traditional witch doctor who was in possession of a hand believed to be the victim's. Authorities arrested five suspects in the case, and a police investigation continued at year's end.

The law prohibits discrimination against any person "known or perceived" to be HIV positive and establishes medical standards for confidentiality to protect

persons living with HIV/AIDS. The law also criminalizes the deliberate transmission of HIV, but there were no prosecutions based on this law.

The government, working with NGOs, continued to educate the public about HIV/AIDS-related discrimination and create safeguards for HIV/AIDS patients' human rights. A network of lawyers, policymakers, and doctors continued lobbying efforts and other activities to deal with legal, ethical, and human rights problems associated with HIV/AIDS.

## **Section 7. Worker Rights**

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

The mainland and Zanzibari governments have separate labor laws. Workers on the mainland, except for workers in the category of the “national service” and prison guards have the right to form and join independent trade unions, conduct legal strikes, and bargain collectively. The government, however, has significant de jure and de facto control over the freedoms of association and collective bargaining, thus limiting these rights in practice. Trade unions in the private sector must consist of more than 20 members and register with the government while public sector unions need 30 members. A trade union or employers association must register with the Registrar of Trade Unions in the Ministry of Labor within six months of establishment. The law, however, does not provide for specific time limits within which an organization may be registered. The government prescribes the terms of office of trade unionists. Failure to comply with government requirements is subject to fines and/or imprisonment. Depending on the size of each trade union, a certain number of union leaders may be employed full time to carry out trade union functions. For example, in a small trade union, only one union leader may serve as a full-time trade union official while other nine members must work full-time in the enterprise or industrial sector in which they have been elected. In a union consisting of more than 100 members, 15 union members may be hired to work full time for the union. Five organizations are required to form a federation. Trade union affiliation with other non-union organizations requires government approval. The law requires unions to submit financial records and a membership list to the registrar annually, and to obtain government approval for association with international trade unions. The registrar is empowered to make application to the Labor Court to deregister or suspend unions if there is overlap within an enterprise or if it is determined that the union violates the law or endangers public security.

Although the law prohibits antiunion discrimination, it does not provide sufficient protection against it. Disputes on the grounds of antiunion discrimination must appear before the Commission for Mediation and Arbitration, a governmental department affiliated with the Ministry of Labor. Reinstatement is not mandatory. On Zanzibar the courts are the only venue in which labor disputes can be heard.

Collective bargaining agreements must be registered with the Labor Commission. Public service employees, except for limited exceptions such as workers involved in “national service” and prison guards, may collectively bargain as well.

Mainland workers have the legal right to strike and employers have the right to a lockout provided they comply with certain legal requirements and procedures. Three separate notifications of intent, a waiting period of at least 92 days, and a union vote in the presence of a Ministry of Labor official that garners 75 percent approval of employees are required for a strike to be declared legal. All parties to a dispute may be bound by an agreement to arbitrate, and neither party may then engage in a strike or a lockout until that process has been completed. The law restricts the right to strike when to do so would endanger the life and health of the population. Restrictions on the right to strike are limited to a rights dispute. Picketing in support of a strike or in opposition to a lawful lockout is prohibited. Workers in certain “essential” sectors (water and sanitation, electricity, health services and associated laboratory services, firefighting, air traffic control, civil aviation telecommunications, and any transport services required for the provisions of these services) may not strike without a pre-existing agreement to maintain “minimum services.” Workers in other sectors may also be subject to this limitation as determined by the Essential Services Committee. This tripartite committee composed of employers, workers, and government representatives has the authority to deem periodically which services are essential.

A lawful strike or lockout is protected, i.e., an employer may not legally terminate an employee for participating in a lawful strike or terminate an employee who accedes to the demands of an employer during a lockout.

On Zanzibar labor law requires a union with 50 or more members to be registered and sets literacy standards for trade union officers. The law sets forth criteria used by the registrar for determining whether an organization’s constitution contains suitable provisions to protect its members’ interests. The labor law applies to both public- and private-sector workers and bans Zanzibari workers from joining labor unions on the mainland. The law prohibits a union’s use of its funds, directly or indirectly, to pay any fines or penalties incurred by trade union officials in the

discharge of their official duties. Zanzibari government workers have the right to strike as long as they follow procedures outlined in the labor law. For example, workers in essential sectors may not strike, and others must give the mediation authorities at least 30 days to resolve the issue, and provide a 14-day advance notice of any proposed strike action. The law provides for collective bargaining in the private sector. Public sector employees also have the right to collective bargaining through the Trade Union of Government and Health Employees. Zanzibar's Dispute Handling Unit addresses labor disputes. On Zanzibar judges and all judiciary officers, members of special departments, and employees of the House of Representatives are excluded from the labor law protection.

On the mainland the Ministry of Labor was responsible for enforcement of labor laws, together with the courts. Limited data was available about enforcement actions and enforcement appears to have been inconsistent across regions, in part due to limited government capacity.

There were no major strikes on the mainland during the year. Following a shooting death in the Tanzanite mining area of Mererani in July, workers staged a three-day work stoppage to protest a perceived failure of the government to provide adequate security. In August railway workers of the Tanzanian and Zambian Railroad Authority (TAZARA) began a three-week strike in protest of nonpayment of wages for four months. TAZARA management initially responded by alleging the strike was illegal and issued letters of dismissal for 1,067 striking workers. Following a decision by the TAZARA board of directors, the dismissals were rescinded, workers were given their unpaid wages, and the strike was cancelled.

In December 2012 the management of Kampala International University at the Dar es Salaam campus dismissed 40 staff members who recently joined the Research, Academic, and Allied Workers' Union (RAAWU). Since November 2012 staff members have been on strike demanding payment of their salaries which were last paid in October 2012. After RAAWU successfully opened a branch, the university's manager provided letters of termination to 40 union members who were mostly employed as teaching staff and had joined the RAAWU one week earlier. RAAWU was pursuing legal action over the terminations.

On both the mainland and Zanzibar, many private-sector employers adopted antiunion policies or tactics, although case law discourages discriminatory activities by an employer against union members. On the mainland, the Trade Union Congress of Tanzania (TUCTA) reported that international mining interests

engaged in antiunion activities such as paying officials from the Ministry of Labor Inspectorate to ignore worker complaints, or write favorable reports on working conditions. The International Labor Organization (ILO) reported that during the year some mining interests “barred” unions from organizing, and used security staff to block labor inspectors from entering mines. TUCTA officials stated that there were many instances of discrimination against union workers. Mining companies reportedly established employer-controlled unions called “welfare committees,” and “declared workers redundant” to prevent organizers from starting a union. The Tanzanian Mining and Construction Workers Union (TAMICO) reported 120 active cases of unfair termination involving mining companies in different stages of adjudication. TUCTA also reported cases of hotels and construction firms dismissing employees for attempting to unionize.

Many workers did not have employment contracts and lacked legal protections. TUCTA officials mentioned long-haul bus drivers and seasonal agricultural workers as commonly working for “one or two years” without a contract.

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

The law prohibits most forms of forced or compulsory labor. The law allows prisoners to work without pay on construction and agriculture projects within prisons ostensibly to both develop the skills of the prisoners and reduce the costs of operating prisons. The law deems as acceptable any such work of a convicted person as long as a public authority supervises that person’s work and his work is not for the benefit of any private party. The law establishes criminal penalties for employers using forced labor. Offenders may be fined up to TZS five million (\$3,125), sentenced to one year in prison, or both. The law also allows work carried out as part of compulsory national service in certain limited circumstances.

Statistics about enforcement were not available, and the Ministry of Labor reported that the use of convict labor had essentially ended within the past five years. The ILO continued to report unspecified instances of forced labor, including those involving children from the southern highlands forced into domestic service or labor on farms, in mines, and in the informal business sector. Neither the Ministry of Labor nor ILO had a record of government enforcement actions during the year.

Prisoners were used as labor on projects outside of the prison, such as road repair and government construction projects. Prisoners previously complained of being used as “slave laborers” for the benefit of private actors and companies.

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

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

The law prohibits the exploitation of children in the workplace. By law the minimum age for contractual employment is 14. Children over 14 (but under 18) may be employed to do only light work unlikely to harm their health and development or attendance at school. Children under age 18 may not crew a ship or be employed in a mine, factory, or any other worksite where working conditions could be hazardous. The law specifically limits working hours for children and establishes fines and criminal penalties for employers of child labor as for employers of forced labor. Penalties include a fine ranging from TZS 100,000 to TZS 500 million (\$62 to \$312,000), imprisonment ranging from three months to 20 years, or a combination of a fine and imprisonment.

On the mainland the Ministry of Labor was responsible for enforcement of labor laws, together with the courts. Several government ministries, including the Ministry of Labor, had special child labor focal persons. Although the Ministry of Labor appointed five additional labor officers, ILO continued to report that the number of labor officers charged with guarding against child labor was insufficient.

The enforcement of laws against child labor was inconsistent. Although the ILO previously engaged with the government in training labor inspectors on the problem of child labor, no reported child labor cases were brought to court during the year. Likewise, Zanzibar's Ministry of Labor, Youth Development, Women, and Children did not take legal action related to child labor.

Estimates from 2011 stated that approximately 30 percent of children ages five to 14 were engaged in child labor.

Children worked as domestic workers, street vendors, and shopkeepers as well as in small-scale agriculture (e.g., coffee, sisal, tea, and tobacco), family-based businesses, fishing, construction, and artisanal mining of gold and tanzanite. On Zanzibar children worked primarily in transportation, fishing, clove picking, domestic labor, small businesses, and gravel making.

The lack of enforcement of laws left children vulnerable to exploitation and with few protections. In 2012 the government reported identifying 25, 090 cases of

child labor in the regions of Lindi, Iringa, and Tabora, and removing 17, 243 children from working in hazardous conditions on agricultural plantations. Danish development assistance provided funding to TAMICO, the Arusha Women Legal Aid, and Human Rights Center for its mining-sector project that reportedly removed 243 children from working in small-scale and artisanal tanzanite mines in Mererani. Plan International received funding from the EU for a project to reach 61,000 children engaged in gold mining in Geita Region. The International Rescue Committee is working to combat child labor in the agricultural sector in Tanga and Iringa. The government supported these projects but did not provide any additional funding.

Other measures to ameliorate the problem included ensuring that children of school age attended school, imposing penalties on parents who did not enroll their children in school, and sensitizing employers in the formal sector against employing children below the age of 18. Ministry of Labor officials reported, however, that enforcement of child labor laws was difficult due to many children's working in private homes or rural areas. A combination of factors, including distance from urban-based labor inspectors and an unwillingness of children to report the conditions of their employment, complicated inspections. Officials reported as well that the problem of child labor was particularly acute among orphans.

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

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

The Minimum Wage Board sets the industry-based minimum wage. The government established minimum wage standards in July for employees in both the public and private sectors on the mainland, and divided those standards into nine employment sectors. The lowest minimum wage was TZS 40,000 (\$25) per month for the lowest paid category of domestic workers who were not covered at all in previous legislation. The highest was TZS 400,000 (\$250) per month for workers in the telecommunications and multi-national mining, energy, and financial sectors. The law allowed employers to apply to the Ministry of Labor for an exemption from paying the minimum wage. These monthly wages were above the poverty line of TZS 13,998 (\$8.75) per month per person established by the 2006/07 Household Budget Survey. The labor laws cover all workers, including foreign and migrant workers. The minimum wage on Zanzibar was TZS 145,000 (\$90), an increase from TZS 70,000 (\$44) in 2010.

According to the 2004 Employment and Labor Relations Act, the ordinary workweek is 45 hours, with a maximum of nine hours per day or six days per week. Any work in excess of these limits should be compensated with overtime pay. Under most circumstances, it is illegal to schedule women to work between 10 p.m. and 6 a.m., although employers frequently ignored this restriction.

The law states that employees with 12 months of employment are entitled to 28 days of paid annual leave, and requires employee compensation for national holidays. The law prohibits excessive or compulsory overtime and restricts required overtime to 50 hours in a four-week period, or in accordance with previously negotiated work contracts. The law provides for overtime employment compensation at a rate of one and a half times the employee's regular wage. The law also prohibits discrimination based on tribe, place of origin, health, race, color, gender, marital status, age, or disability, and requires remuneration at equal levels for employees engaged in equal work.

Several laws regulate safety in the workplace, but TUCTA described the Occupational Safety and Health Authority as ineffective and "not responsive." The Ministry of Labor managed an inspection system; however, its effectiveness was limited due to lack of resources and the small number of labor officers available to conduct inspections. Mining companies reportedly took advantage of these limitations to avoid inspections.

Workers could sue an employer if their working conditions did not comply with the Ministry of Labor's health and environmental standards. Disputes were generally resolved through the Commission for Mediation and Arbitration. There were no exceptions for foreign or migrant workers.

Labor standards were not effectively enforced, particularly in the informal sector. TUCTA officials estimated that of an active labor force of 11 million, the vast majority worked in the informal sector. The World Bank estimated the size of the informal sector at more than 50 percent of the total workforce.

Enforcement of the law concerning the minimum wage and working hours was not reported as widely problematic, and there were few coordinated actions concerning the two problems.

The labor standards laws derive from the international convention on labor standards. The convention does not name specific penalties, and there were no

reported government actions to enforce penalties for such violations over the year. There were no reported government actions to improve working conditions over the year.

In traditionally dangerous industries such as construction, employees often worked without protective equipment such as helmets, gloves, or harnesses. According to reports, the mining sector remained dangerous for workers due to adverse working conditions. TAMICO reported that a mining company in Shinyanga Region dismissed 38 workers in August who displayed signs of lung disease allegedly caused by inadequate safety standards. Domestic workers were reportedly frequent victims of abuse.

Due to the limited capacity of the Ministry of Labor's inspection system, there were no published statistics on sectors with working condition violations for the year. In 2012 the Ministry of Labor reported issuing 147 compliance orders but did not specify the types of alleged violations of labor laws.