



DIPLOMACY IN ACTION

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**Bureau of Democracy, Human Rights and Labor****Country Reports on Human Rights Practices for 2013****Indonesia****Indonesia**

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Permalink: <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dliid=220196>**EXECUTIVE SUMMARY**

Indonesia is a multi-party democracy. In 2009 voters re-elected Susilo Bambang Yudhoyono as president. Domestic and international observers judged the 2009 legislative and presidential elections free and fair. Authorities generally maintained effective control over security forces; however, there were instances in which elements of the security forces committed human rights abuses.

The government failed to conduct transparent and credible investigations into some allegations of extrajudicial killings by security forces. The government did not always protect the rights of religious and social minorities and economically marginalized citizens. The government applied treason and blasphemy laws to limit freedom of expression by peaceful independence advocates in the provinces of Papua and West Papua and by religious minority groups.

Corruption, abuse of prisoners and detainees, harsh prison conditions, trafficking in persons, child labor, and failure to enforce labor standards and worker rights continued as problems.

On some occasions the government punished officials who committed abuses, but judicial sentencing often was not commensurate with the severity of offenses, as was true in other types of crimes.

Separatist guerrillas in Papua killed members of the security forces and injured others in several attacks.

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

There were several reports that the government or its agents committed arbitrary or unlawful killings during the year. Teams of investigators appointed by the Indonesian military (TNI) are responsible for investigating and evaluating whether killings by military personnel were justified. The Ethics Division of the Indonesian National Police (INP) is responsible for investigating and evaluating whether killings by police personnel were justified. The generally well-regarded National Human Rights Commission (Komnas HAM) also investigates cases of suspected abuse; however, security forces often do not fully cooperate with it. During the year human rights groups and the media reported that both military and police personnel committed unjustified killings, some of which were not investigated transparently.

On March 23, between 12 and 14 members of Army Special Forces (Kopassus) Group 2 forcibly entered Cebongan Prison in Yogyakarta, Central Java, and executed four prisoners whom police had arrested for their suspected roles in the murder of a Kopassus member. Komnas HAM conducted an independent inquiry into the event and determined that it constituted a human rights violation, a conclusion publicly contradicted by the defense minister and the commanding general of Kopassus. Further, Komnas HAM found that both police and the military bore responsibility for the incident. The military tribunal prosecuted only 12 enlisted soldiers, including several senior noncommissioned officers, for their roles in the killings; human rights groups, however, alleged that senior Kopassus Group 2 commissioned officers encouraged police to transfer the prisoners to a less secure facility and then either directed the actions of their subordinates who carried out the raid or were willfully ignorant of the preparations for the attack. The military tribunal convicted the 12 enlisted soldiers of offenses ranging from dereliction of duty to premeditated murder and handed down sentences ranging from approximately four months to 11 years.

Human rights groups and Komnas HAM criticized police, including the country's counterterror unit Detachment 88, for using excessive force in several cases in which security forces shot and killed suspected terrorists. The lack of transparent investigations into the allegations of excessive force made it difficult to confirm the facts, and police statements regarding the incidents frequently contradicted witness accounts. For example, on July 22, personnel from Detachment 88 shot and killed two suspected terrorists and arrested two others in Tulungagung, East Java. According to police, one of the suspects fired on police. Witnesses at the scene, however, reported that the suspects offered no resistance and were shot without warning.

Violence continued to affect the provinces of Papua and West Papua during the year, and much of it linked to the Papuan separatist movement. For example, on February 21 and 22 in Papua's restive highlands region, separatist Free Papua Movement guerrillas under the command of Goliath Tabuni attacked and killed eight soldiers and several civilians in two separate attacks. In the first attack, approximately 20 guerrillas attacked a military outpost near

Puncak Jaya, killing one soldier and burning his corpse. The following day, the group ambushed a group of off-duty soldiers in the area, killing seven soldiers and two to four civilians.

In a separate incident, security forces shot and killed two and injured three alleged members of a pro-independence group in Sorong, West Papua, April 30. The group reportedly had gathered to plan a prayer service that was to include raising the outlawed Morning Star Flag to mark the May 1 anniversary of Papua's integration as part of Indonesia. When unmarked police vehicles arrived, some members of the group allegedly confronted the officers and damaged one of the cars. The ensuing violence left two dead and three injured. Authorities charged seven people with "rebellion" for their roles in planning the demonstration.

The lack of transparent investigations continued to hamper accountability in a number of cases, including the 2012 killings by members of the security forces of Mako Tabuni and Tejoli Weya, and the 2011 killing of three individuals during the forced dissolution of the Third Papuan People's Congress.

On October 7, the Supreme Court reduced Polycarpus Budihari Priyanto's sentence for his role in the murder of human rights activist Munir Said Thalib from 20 to 14 years. The sentence reduction was the latest in a series of convictions, acquittals, and changes in sentence length for Priyanto dating back to his initial conviction in 2004. Although human rights groups continued to allege that members of the intelligence services were involved in Munir's murder, the investigation appeared inactive.

## **b. Disappearance**

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There were no reports of politically motivated disappearances during the year. The government and civil society organizations reported little progress in accounting for persons who disappeared in previous years or in prosecuting those responsible for such disappearances.

In 2009 the House of Representatives (DPR) approved the formation of an ad hoc court to pursue investigations of and possible prosecutions for the 1998 abductions of prodemocracy activists. At year's end the government had not established this ad hoc court.

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

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The constitution states that every person shall have the right to be free from torture and other cruel, inhuman, and degrading treatment. The law criminalizes the use of violence or force by officials to elicit a confession, punishable by up to four years in prison, but the criminal code does not specifically criminalize torture. In previous years law enforcement officials widely ignored allegations of torture and rarely were tried under this statute. More recently the government made some efforts to hold members of the security forces accused of acts of torture accountable, but these efforts did not constitute full accountability. There were reports that members of security forces blindfolded detainees for more than 48 consecutive hours and beat detainees with fists, sticks, cables, iron bars, and hammers. Some detainees reported that police personnel subjected them to electric shock, burned them, or placed heavy implements on their feet.

Local nongovernmental organizations (NGOs) reported that torture continued to be commonplace in police detention facilities. The NGO Commission on the Disappeared and Victims of Violence (KontraS) reported that between July 2012 and June 2013, it received 100 reports of torture with a total of 219 victims. A disproportionate number of these incidents occurred in economically marginalized regions.

On December 20, 2012, unknown assailants shot and killed four members of the INP Mobile Brigade (Brimob) assigned to Poso, Central Sulawesi, a historical hot-bed for Islamist insurgents. In the hours after the killings, Brimob personnel arrested 14 residents of Kalora village in Poso. After seven days, authorities released all of the suspects due to lack of evidence. Upon their release, five of the suspects alleged that Brimob personnel had blindfolded them for periods in excess of 48 hours, beaten them with fists and blunt objects, and threatened to kill them while inserting pistol barrels into the suspects' mouths. Personnel from the INP Ethics Division investigated the allegations, and authorities charged five Brimob personnel with maltreatment. On July 29, a Central Sulawesi court convicted the five and sentenced them to 18 weeks in prison, slightly less than the 20 weeks prosecutors sought and significantly less than the five-year sentence the law allows.

Between January and August, authorities in Aceh publicly caned three people for violations of sharia (Islamic law), down sharply from 2012 when they publicly caned 49 individuals.

## **Prison and Detention Center Conditions**

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Conditions at the country's 428 prisons and detention centers were sometimes harsh and life threatening. During the year prison conditions came under increased scrutiny due to the extrajudicial killings at Cebongan Prison (see section 1.a.) and riots caused by rampant overcrowding.

Physical Conditions: In August data from the Ministry of Law and Human Rights indicated that there were 156,958 prisoners and detainees in the system, compared with the 108,311 the prison and detention centers properly should hold. Prisons and detention centers in the Jakarta region were operating at 145 percent of capacity. For example, according to the government, the Cipanang Prison in Jakarta, designed for 880 prisoners, held 2,826.

Government data indicated that approximately 5.1 percent of inmates were women and 3.3 percent were juveniles. According to the Directorate General for Corrections, in August there were 3,198 juvenile convicted prisoners and 1,909 juvenile pretrial detainees.

By law children convicted of serious crimes should serve their sentences in juvenile prisons. By law prisons held those convicted by courts, while detention centers held those awaiting trial, but officials at times held pretrial detainees with convicted prisoners.

Authorities generally held female prisoners in separate facilities. In prisons that housed both male and female prisoners, female prisoners were held in separate cell blocks from male prisoners. According to NGO observers, the conditions in female prisons tended to be significantly better than those in male prisons, with less violence and a more hygienic environment, but female cell blocks within prisons that held prisoners of both genders did not always have access to the same amenities as their male counterparts, such as exercise and library facilities.

According to government figures, 279 prisoners died in custody between January 1 and June 30. Of those, 220 died as a result of pre-existing medical conditions, 10 committed suicide, five died from wounds sustained during incidents of inmate-on-inmate violence, and 44 died from "other causes."

NGOs noted authorities sometimes did not provide prisoners adequate medical care. Human rights activists observed that authorities did not deny medical care to prisoners based on their crimes, but rather due to a lack of available resources. International and local NGOs reported that in some cases prisoners did not have ready access to clean drinking water.

Guards regularly extorted money from inmates for basic amenities such as mattresses and allowed wealthy prisoners to pay for special privileges. The use and manufacture of illicit drugs in prisons was a serious problem. There were widespread reports the government did not supply sufficient food to prisoners, and family members often brought food to supplement their relatives' diets. Family members reported prison officials often sought bribes to allow relatives to visit inmates.

**Administration:** Recordkeeping was considered adequate. The criminal procedure code does not incorporate alternatives to imprisonment for nonviolent offenders. Authorities permitted prisoners and detainees religious observance and reasonable access to visitors, although this access reportedly was limited in some cases. The government actively monitored prison and detention center conditions.

Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions.

The national ombudsman can advocate on behalf of prisoners and detainees on a variety of issues, including monitoring conditions and treatment of prisoners; addressing the status and circumstances of confinement of juvenile offenders; and improving pretrial detention, bail, and recordkeeping procedures to ensure that prisoners do not serve beyond the maximum sentence for the charged offense. In the past the ombudsman has investigated prison issues and communicated his findings to the minister of law and human rights and the Supreme Court. The Ombudsman's Office and the Directorate General for Correctional Facilities signed a Memorandum of Understanding on Supervision of Public Service for detainees and prisoners.

**Independent Monitoring:** Since 2009 the government has denied the International Committee of the Red Cross (ICRC) access to monitor prison conditions and treatment of prisoners nationwide, including the ability to meet and speak privately with prisoners.

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

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The law prohibits arbitrary arrest and detention but lacks adequate enforcement mechanisms. Some authorities violated these provisions.

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

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The president appoints the national police chief, subject to confirmation by the DPR. The police chief reports to the president but is not a full member of the cabinet. The INP has approximately 420,000 personnel deployed in 31 regional commands in 33 provinces. The police maintain a centralized hierarchy; local police units formally report to the national headquarters. The military is responsible for external defense; however, territorial forces within the military are individually charged with deterring and overcoming domestic threats within their respective commands. These domestic functions may include supporting police in performing domestic security operations and resolving intermittent communal conflicts. A presidential instruction issued in January and a subsequent memorandum of understanding between the INP and the TNI further elaborated on the military's role in resolving communal conflicts.

In Aceh the Sharia Police, a provincial body, is responsible for enforcing sharia.

The Internal Affairs Division and the National Police Commission within the INP investigated complaints against individual police officers. Additionally, Komnas HAM and NGOs conducted external investigations with the knowledge and cooperation of the police. During 2012, 4,154 officers received disciplinary infractions.

On September 11, a longtime rivalry between two Islamic schools led to the mob killing of Eko Mardi Santoso, who was suspected of involvement in the vandalism of one of the schools in Puger, East Java (see section 6, Other Societal Violence). Police officials reportedly were present during the vandalism but arrested no one at that time. In the days following the violence, police arrested 10 individuals in relation to the attack on the school and seven others for their roles in Santoso's murder.

Impunity and corruption remained problems.

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

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The law provides prisoners with the right to notify their families promptly and specifies that warrants must be produced during an arrest. Exceptions are allowed if, for example, a suspect is caught in the act of committing a crime. The law allows investigators to issue warrants; however, at times authorities made arrests without warrants. A defendant may challenge the legality of his arrest and detention in a pretrial hearing and may sue for compensation if wrongfully detained; however, defendants rarely won pretrial hearings and almost never received compensation after being released without charge.

Military and civilian courts rarely accepted appeals based on claims of improper arrest and detention. Suspects have the right to bail and to be notified of the charges against them. By law suspects or defendants have the right to legal counsel of their choice at every stage of an investigation. Court officials will provide free legal counsel to persons charged with offenses that carry a death penalty or imprisonment of 15 years or more, or to destitute defendants facing charges that carry a penalty of five years or more.

**Arbitrary Arrest:** There were reports of arbitrary arrest by police and security forces. On December 20, 2012, in response to the murder of four INP Brimob personnel, police arrested 14 residents of Kalora village, Poso, Central Sulawesi. Authorities held the 14 suspects for seven days, during which Brimob personnel physically abused some of them (see section 1.c.) before releasing them due to lack of evidence.

**Pretrial Detention:** The law limits periods of pretrial detention. Police are permitted an initial 20-day detention, which can be extended to 60 days by the prosecutors while the investigation is being completed; prosecutors may detain a suspect for a further 30 days during the prosecution phase and may seek a 20-day extension from the courts. The district and high courts may detain a defendant up to 90 days during trial or appeal, while the Supreme Court may detain a defendant 110 days while considering an appeal. Additionally, the court may extend detention periods up to another 60 days at each level if a defendant faces a possible prison sentence of nine years or longer or if the individual is certified to be mentally disturbed. During the year authorities generally respected these limits. The antiterrorism law allows investigators to detain for up to four months any person who, based on

adequate preliminary evidence, is strongly suspected of committing or planning to commit any act of terrorism; thereafter charges must be filed.

Amnesty: As in previous years, the government offered remissions ranging from a few days to six months as a reward for good behavior while incarcerated to most prisoners. During the year the government issued implementing regulations for a 2012 revision to the law that governs remissions. The new regulations place stricter conditions on the offer of remission to those convicted of crimes related to graft, terrorism, and illicit drugs after November 2012.

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

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The law provides for an independent judiciary; however, the judiciary remained susceptible to influence from outside parties, including business interests, politicians, and the security forces. In the past low salaries and poor oversight encouraged acceptance of bribes, and pressure from government authorities and other groups appeared to influence judges and the outcome of cases. A November 2012 regulation, however, authorized a 300 percent increase in judges' salaries. The increases took effect in January.

During the year Komnas HAM found that employees of the Attorney General's Office (AGO) had failed to obtain legal certainty, prevent arbitrary arrests and detentions, deliver justice through a fair and honest legal process, and secure the rights of four employees of Chevron Indonesia who were involved in a civil case. The AGO prosecuted the employees on corruption charges for their roles in a bioremediation project in Sumatra, with two receiving five-year sentences.

At times authorities did not respect court orders, and decentralization created additional difficulties for the enforcement of these orders. For example, local authorities in the city of Bogor continued to disregard a 2010 Supreme Court decision related to a construction permit for GKI Yasmin Church. In September 2012 local authorities again denied the congregation's request to begin construction.

During the year military courts tried a number of low-level and sometimes mid-level soldiers for offenses that, among others, involved civilians or occurred when the soldiers were not on duty. If a soldier was suspected of committing a crime, military police investigated and then passed their findings to military prosecutors, who decided whether to prepare a case. Under the law military prosecutors are accountable to the Supreme Court; however, military prosecutors were responsible to the TNI for the application of laws.

A three-person panel of military judges heard trials, while the High Military Court, the Primary Military Court, and the Supreme Court heard appeals. Civil society organizations and other observers criticized the short length of prison sentences imposed by military courts.

Four district courts located in Surabaya, Makassar, Jakarta, and Medan are authorized to adjudicate cases of systematic gross human rights violations with the recommendation of Komnas HAM. The law provides for each court to have five members, including three non-career human rights judges, who are appointed to five-year terms. Verdicts can be appealed to the standing appellate court and the Supreme Court. The law provides for internationally recognized definitions of genocide, crimes against humanity, and command responsibility, but it does not include war crimes as a gross violation of human rights, nor does it require the prosecution of commanders in crimes perpetrated by subordinates. As in previous years, none of the four district courts heard or ruled on any cases during the year.

Under the sharia court system in Aceh, 19 district religious courts and one court of appeals heard cases. The courts heard only cases involving Muslims and used decrees formulated by the local government rather than the penal code. Critics argued that regulations for the implementation of sharia were procedurally ambiguous, leading to inconsistencies in its application. For example, defendants had a right to legal aid, but this right was inconsistently implemented. Although sharia cases were supposed to be tried in closed hearings, during the year there were numerous problems with trial proceedings going forward in open court.

#### **Trial Procedures**

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The constitution provides for the right to a fair trial, and the judiciary generally enforced this right. The law presumes defendants are innocent until proven guilty. Defendants are informed promptly and in detail of the charges and they have the right to confront witnesses and call witnesses in their defense. An exception is allowed in cases in which distance or expense is deemed excessive for transporting witnesses to court; in such cases sworn affidavits may be introduced. In some cases courts allowed forced confessions and limited the presentation of defense evidence. Defendants have the right to avoid self-incrimination. In each of the country's 804 courts, a panel of judges conducts trials by posing questions, hearing evidence, deciding on guilt or innocence, and imposing punishment. Both the defense and prosecution can appeal. Defendants may access the prosecution's evidence through application to the hearing panel's presiding judge.

The law gives defendants the right to an attorney from the time of arrest and at every stage of examination and requires that defendants in cases involving capital punishment or a prison sentence of 15 years or more be represented by counsel. In cases involving potential sentences of five years or more, the law requires an attorney be appointed if the defendant is indigent and requests counsel. In theory indigent defendants may obtain private legal assistance, and NGO lawyer associations provided free legal representation to indigent defendants. For example, Jakarta Legal Aid handled 917 cases during 2012. The law extends these rights to all citizens. In some cases procedural protections, including those against forced confessions, were inadequate to ensure a fair trial. There were reports from Papua that defendants did not have access to attorneys of their choosing and that authorities denied them adequate time and facilities to prepare a defense. Also, there were reports that suspects in terrorism related cases did not have access to attorneys of their choosing. With the notable exceptions of sharia court proceedings in Aceh and some military trials, trials are public.

#### **Political Prisoners and Detainees**

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In June international NGOs estimated that there were more than 70 political prisoners. Most were prosecuted under treason and conspiracy statutes for actions related to the display of banned separatist symbols, and many were serving lengthy sentences (see section 2.a.). Government officials affirmed publicly that they would not tolerate the display of separatist symbols and denied that they held any political prisoners, observing that those held for crimes related to calls for independence in Papua and Maluku were criminals.

A number of independence activists from the Papua and Maluku regions, including Johan Teterissa, were in detention or prison for peacefully expressing their political views. As in years past, the government arrested and prosecuted citizens in Papua and West Papua provinces for raising a banned

separatist flag.

On May 13, police in Papua arrested independence activist Victor Yeimo for organizing an unauthorized demonstration. Yeimo had reportedly organized the unauthorized demonstration to call for an investigation into the April 30 killing of three would-be demonstrators by police in Sorong, West Papua (see section 1.a.). At year's end Yeimo was serving the remainder of a three-year sentence for a previous conviction related to treason and incitement charges.

On July 24, a court on Serui Island in Yapen Islands Regency, Papua Province, sentenced Edison Kendi and Yan Piet Maniamboi to two years and 18 months in prison, respectively, for their roles in the Yapen Indigenous People's Day observances. Lawyers for both men alleged significant flaws in the judicial process, including witness intimidation, manufacturing of evidence, and prejudicial trial procedures. The court released both Kendi and Maniamboi while their convictions were appealed.

Local human rights activists reported that local activists and family members generally were able to visit political prisoners, although authorities held some prisoners on other islands far from their families.

### Civil Judicial Procedures and Remedies

The civil court system can be used to seek damages for victims of human rights violations; however, widespread corruption and political influence limited victims' access to this remedy.

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

The law requires judicial warrants for searches except for cases involving subversion, economic crimes, and corruption. Security forces generally respected these requirements. The law also provides for searches without warrants when circumstances are "urgent and compelling" and for the execution of warrantless wiretaps by the Anticorruption Commission (KPK).

Security officials occasionally broke into homes and offices. Authorities occasionally conducted warrantless surveillance on individuals and their residences and monitored telephone calls. Some international and domestic NGOs warned that a 2011 law authorizing the State Intelligence Agency to conduct surveillance and intercept communications could empower the government to stifle journalists, political opponents, and human rights activists.

The government used its authority to expropriate or facilitate private acquisition of land for development projects, often without fair compensation. In other cases state-owned companies were accused of endangering resources upon which citizens' livelihood depended. An eminent domain law allows the government to appropriate land for the public good against the owner's wishes provided that the government gives compensation.

Land access and ownership remained major sources of conflict during the year. Numerous competing laws and regulations allowed for multiple parties with equally legitimate claims to the same piece of land. During the year security forces sometimes evicted those involved in land disputes without due process, often siding with business claimants over poorer residents. The Agrarian Reform Consortium (KPA) recorded 198 agrarian conflicts during 2012. According to KPA, these conflicts involved 141,915 families and 963,411 acres of land.

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

### a. Freedom of Speech and Press

The constitution and the law provide for freedom of speech and press. The government used laws against advocacy of separatism to restrict the ability of individuals in Papua and West Papua provinces to criticize the government publicly and peacefully advocate for independence. While there was a vigorous free press, the government and private actors at times restricted the exercise of these rights.

**Freedom of Speech:** Individuals and organizations have the right to criticize the government publicly and privately and could discuss almost all matters of public interest without reprisal. The law criminalizes content that advocates separatism. Some NGOs and other organizations alleged government monitoring of their organizations, and government application of treason laws in cases of peaceful calls for separatism in Papua limited the rights of individuals to engage in speech deemed to be pro-separatist. On May 1, police in Sorong and Timika reportedly arrested 21 Papuans for raising banned separatist flags and calling for Papuan independence.

**Press Freedoms:** The independent media were active and expressed a wide variety of views; however, regional- and national-level regulations were at times used to restrict the media. The government continued to restrict foreign media from traveling to the provinces of Papua and West Papua by requiring them to request permission to travel through the Foreign Ministry or an Indonesian embassy. The government approved some requests and denied others ostensibly for reasons regarding the safety of foreign visitors. Advocates for press freedom alleged that an interministerial group reviewed requests by foreign journalists and that the TNI and intelligence services prevented international journalists' visits to the region.

**Violence and Harassment:** The Alliance of Independent Journalists (AJI) reported that there were 100 cases of violence directed at journalists in 2012, up slightly from 96 in the previous year. The AJI reported that authorities sometimes were slow to investigate crimes of violence against journalists and cited the unsolved 1996 killing of journalist Fuad Muhammad Syafruddin as an example. Unknown assailants killed Syafruddin in 1996 after he wrote several stories about official corruption in Yogyakarta. The statute of limitations in the case expires in August 2014.

On March 26, thousands of supporters of the candidacy of Gorontalo's incumbent mayor attacked and occupied the state television station, TVRI Gorontalo, after the station broadcast a report on a corruption ruling against the mayor. The supporters physically struck and intimidated several journalists for refusing to erase the recordings of the violence. Following demands from the mob, TVRI apologized for the report. Police arrested several individuals, and the mayor was barred from the election.

**Censorship or Content Restrictions:** The AGO has the authority to monitor written material and request a court order to ban written material.

Under the Blasphemy Law, "spreading religious hatred, heresy, and blasphemy" is punishable by up to five years in prison. Protests by hard-line groups or conservative clerical councils typically prompted local authorities to take action under the law. On July 24, prosecutors charged two men in Sukabumi with

blasphemy after a hard-line group protested and demanded a punishment because the two had “insulted religion.” Prior to their arrest, hard-line groups had complained to police that the two men had provided deviant Islamic teachings to young people and had encouraged the youths to convert in exchange for material rewards.

Although the Papua Special Autonomy Law permits flying a flag symbolizing Papua’s cultural identity, a government regulation prohibits the display of the Morning Star flag in Papua, the Republic of South Moluccas (RMS) flag in Maluku, and the Free Aceh Movement (GAM) Crescent Moon flag in Aceh. There were no reported new arrests related to the display of the RMS flag, but police continued to imprison individuals for raising the Morning Star flag in Papua. According to NGOs, between June and September, authorities arrested more than 40 people in Papua for flag-related offenses. Police held most of them for one to three days before releasing them. The GAM flag became a source of controversy again in March, when Aceh’s legislature passed a regulation making it the province’s official flag. At year’s end the provincial government had yet to implement the regulation due to complaints from the central government.

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### Internet Freedom

The government attempted to restrict access to the internet via the 2008 Information and Electronic Transaction Law. The law, meant to combat online crime, pornography, gambling, blackmail, lies, threats, and racism, prohibits citizens from distributing in electronic format any information that is defamatory and punishes transgressors with a maximum of six years in prison or a fine of rupiah (IDR) 1 billion (\$87,500) or both. According to a November 2012 industry survey, there were 61 million internet users (an estimated 25 percent of the population), an increase of 10 percent over 2011. Of these, 58 million typically accessed the internet using a mobile device such as a smart phone or tablet.

Alexander Aan continued to serve a 30-month prison sentence for posting statements and material that a local council of Muslim clerics deemed atheistic and blasphemous. Aan was convicted in 2012 for violating an article of the law that forbids “knowingly and without authority” disseminating information designed to inflict “hatred or dissension on individuals and/or certain groups of community based on ethnic groups, religions, races, and intergroups.”

The Ministry of Communications and Information Technology continued to request internet service providers (ISPs) to block access to pornographic websites and other offensive content. The ministry did not have any internal mechanisms to block the websites in question. Enforcement of these restrictions depended upon individual ISPs, and a failure to enforce these restrictions could result in the revocation of an ISP’s license.

In July the Ministry of Information and Telecommunications reportedly directed ISPs to block access to [www.ourvoice.or.id](http://www.ourvoice.or.id), a website maintained by a lesbian, gay, bisexual, and transgender (LGBT) advocacy group in Jakarta. Some ISPs complied with the guidance.

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### Academic Freedom and Cultural Events

The government continued restrictions on cultural events. Generally it did not restrict academic freedom; however, in December 2012 Malikusalleh University in Lhokseumawe, Aceh, dismissed law lecturer Mirza Alfath for writing a Facebook post that was critical of sharia.

Critics feared that the definition of pornography in the antipornography law could be used to justify attacks on artistic, religious, and cultural freedom. The law includes provisions allowing citizens to “supervise” adherence to the law. In 2010 the Constitutional Court ruled the law constitutional and not in violation of the freedom of religion and expression provisions of the constitution.

During the year the government-supervised Film Censorship Institute continued to censor domestic and imported movies for content deemed pornographic and religiously or otherwise offensive. As recently as 2011, the Film Censorship Institute censored politically sensitive films. Societal pressure led to self-censorship by some media outlets.

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## b. Freedom of Peaceful Assembly and Association

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### Freedom of Assembly

The law provides for freedom of assembly, and the government generally respected this right. The law requires demonstrators to provide police with a written notification three days before any planned demonstration and for police to issue a receipt for the written notification. This receipt acts as a de facto license for the demonstration. Police in Papua routinely refused to issue receipts of notification to would-be demonstrators on the grounds that the demonstrations would likely involve calls for independence, an act that is prohibited under the same law.

Some LGBT advocacy groups reported encountering similar difficulties, as police refused to issue receipts when demonstrators notified them of a planned demonstration.

During the year police arrested participants in peaceful demonstrations that included the display of illegal separatist symbols (see section 2.a.).

During the year there were a number of large demonstrations throughout Papua; most were conducted in accordance with the law and remained peaceful. On May 1, however, during protests commemorating the transfer of Papua and West Papua from the Netherlands to Indonesia, police arrested 21 demonstrators who attempted to raise a banned separatist flag in Sorong and Timika.

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### Freedom of Association

The constitution and laws provide for freedom of association, which the government generally respected. In July the DPR passed the Law on Societal Organizations, which replaced a 1985 law. The law provides a two-tiered registration requirement for all nonprofit organizations and provides that organizations uphold religious values and the national ideology of Pancasila. It also requires central and regional government permits for international/foreign organizations and prohibits them from disrupting the unity of the country. As of August the government had not issued implementing regulations for the law. Critics of the law feared that it would be used to harass or disband NGOs that are critical of the government or well-connected individuals or institutions. The critics noted the law imposes a variety of vague obligations and prohibitions on NGO activities and severe limitations on the creation of foreign-funded organizations.

Members of the Ahmadiyya religious group have not held any national conferences since 2008, when the Bali police refused to issue them a permit. In

addition, some local governments continued to restrict their right of assembly.

Some LGBT advocacy groups reported encountering difficulties when attempting to register their organizations.

### c. Freedom of Religion

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

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

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The law provides for freedom of internal movement and generally allows for travel outside of the country, but the constitution allows the government to prevent persons from entering or leaving the country. The law gives military forces broad powers in a declared state of emergency, including the power to limit land, air, and sea traffic; however, the government did not use these powers.

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

**In-country Movement:** The government continued to restrict freedom of movement for foreigners to Papua and West Papua provinces through a system of "travel letters," but enforcement was inconsistent.

**Foreign Travel:** The government prevented arrivals and departures at the request of police, the AGO, the KPK, and the Ministry of Finance. Some of those barred from entering and leaving were delinquent taxpayers, convicted or indicted persons, individuals implicated in corruption cases, and persons otherwise involved in legal disputes.

**Exile:** A number of Papuan independence activists lived in self-imposed exile.

#### Internally Displaced Persons (IDPs)

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The international NGO Internal Displacement Monitoring Center in a December 2012 report estimated that the combined number of those still displaced and those who have returned or resettled but who continued to face barriers that prevented them from enjoying the full range of their rights may reach as high as 170,000. A lack of systematic monitoring of return and resettlement conditions as well as difficulties in defining who is still an IDP made it difficult to reliably estimate the number of IDPs. The government forcibly resettled approximately 200 Shia residents of Madura from the makeshift camp they had occupied since communal violence forced them from their homes in August 2012. In July the government initiated a reconciliation process to address the underlying causes of the violence. In August the group continued to express their desire to return to their homes.

The law stipulates that the government ensure "the fulfillment of the rights of the people and displaced persons affected by disaster in a manner that is fair and in line with the minimum service standards."

#### Protection of Refugees

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**Access to Asylum:** The law does not provide for the granting of asylum or refugee status, and the government has not established a system for providing protection to refugees. Estimates of the number of refugees and asylum seekers in the country varied. In July there were 8,623 asylum seekers and 2,072 refugees registered with the UNHCR. Some were applicants and others were dependents. Most refugees or asylum seekers were from Afghanistan, Burma, and Iran. Approximately 1,410 of those were held in 12 immigration detention centers throughout the country, while the majority of the remainder lived in boarding houses through the assistance of the International Organization for Migration. Conditions in the immigration detention centers were often overcrowded, and there were occasional incidents of violence. On April 8, police arrested 17 refugees from Burma for their role in the killing of eight fishermen also from Burma whom authorities were holding for immigration violations.

**Access to Basic Services:** The government prohibited refugees from working and accessing public elementary education.

**Durable Solutions:** According to the Ministry of Housing, approximately 100,000 former Timor Leste (formerly East Timor) refugees resided in West Timor. The government provided 10,400 houses for former refugees in Kupang, Timor Tengah Selatan, Timor Tengah Utara, and Belu districts. Approximately 25,000 individuals continued to live in refugee camps. Conflicts, mostly involving land disputes, between local people and former refugees, sometimes occurred. A 2011 International Crisis Group paper stated that many refugees were not well integrated into host communities and that former refugees continued to return to Timor Leste in small but increasing numbers.

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

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The law provides citizens with the right to change their government peacefully, and citizens exercised this right through periodic, free, and fair elections based on universal suffrage.

### Elections and Political Participation

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The constitution provides for national elections every five years. DPR members automatically are members of the People's Consultative Assembly, a fully elected body consisting of the 550 DPR members and 128 members of the House of Regional Representatives (DPD).

**Recent Elections:** In 2009 voters re-elected President Yudhoyono. Also in 2009 the country conducted its third democratic legislative elections. In general, domestic and foreign observers found the elections free and fair. The elections were a complex affair with voters receiving ballots for the DPR, the DPD, provincial parliaments, and regency and city councils. Thirty-eight national parties competed in the elections, with an additional six parties in Aceh Province only. Irregularities occurred, requiring 245 reruns in 10 provinces out of a total of 550 elections in 33 provinces. Violence occurred in the period preceding and during Aceh's provincial elections in April.

In 2009 political parties were required to win a minimum of 2.5 percent of the national vote to qualify for a seat in the DPR. Nine parties met this threshold and won seats in parliament. The top three vote getters were secular, nationalist parties, followed by the four largest Islamic-oriented parties. President

Yudhoyono's Democrat Party won a plurality of seats, while the Golkar Party finished in second place. The Indonesia Democratic Party of Struggle, led by Megawati Soekarnoputri, finished in third place. In April 2012 the DPR increased the vote threshold for parties to qualify for a seat to 3.5 percent.

All adult citizens, age 17 or older, are eligible to vote except police and active members of the military, convicts serving a sentence of five years or more, persons suffering from mental disorders, and persons deprived of voting rights by an irrevocable verdict of a court of justice. Married juveniles (i.e., those under age 17) are legally adults and allowed to vote.

According to the General Elections Commission (KPU), 13 provinces/special areas held gubernatorial elections, 23 cities held mayoral elections, and 49 districts held regent elections between January and August. In January, after 18 months of bureaucratic delays, Papua held a successful election for governor and vice governor.

Participation of Women and Minorities: There are no legal restrictions on the role of women in politics. A law on political parties mandates that women make up at least 30 percent of the founding members of a new political party.

The election law passed prior to the 2009 national elections included a nonbinding clause for parties to select women for at least 30 percent of the candidate slots on their party lists. During the year the KPU made this rule binding, and all major parties abided by it. The number of women in parliament increased significantly, from 11 percent to 18 percent of the DPR seats and from 19 percent to 27 percent of the DPD seats in the 2009 elections. Women held four of 38 cabinet-level positions.

At the provincial level, there was one female governor and one vice governor. Additionally, there were three women elected as mayors, three as vice mayors, 13 as regents, and 19 as vice regents. Women held disproportionately few leadership positions in local government in some provinces; for example, in Aceh the highest position held by a woman was that of deputy mayor, in the city of Banda Aceh.

A requirement that all candidates must demonstrate their ability to read the Koran in Arabic effectively blocked non-Muslims from political office in some parts of the country.

There were no official statistics on the ethnic backgrounds of legislators in the DPR. President Yudhoyono's cabinet reflected the ethnic and religious diversity of the country.

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

The law provides criminal penalties for official corruption, and the government generally tried to implement the law. Despite the arrest and conviction of many high-profile and high-powered officials, there was a widespread domestic and international perception that corruption remained a part of daily life. The KPK and the AGO under the deputy attorney general for special crimes have jurisdiction over investigation and prosecution of corruption cases.

Corruption: The government had anticorruption courts in all 34 provinces. From January to July, the KPK conducted 44 inquiries, 37 investigations, and 12 prosecutions. As a result of investigations and prosecutions in 2012, it recovered approximately IDR 1.3 trillion (\$113 million) in state assets. In addition, according to the KPK's annual report, it recovered and prevented the loss of more than IDR 152 trillion (\$13.3 billion) in state assets.

The KPK continued to investigate and prosecute officials suspected of corruption at all levels of the government. Several high-profile corruption cases involved large-scale government procurement or construction programs. During the year KPK officials arrested two national party chiefs, a governor, several judges, and numerous civil servants. Since the government established the KPK in 2003, the commission boasts a 100 percent conviction rate.

In January KPK investigators arrested the head of a political party on charges stemming from accusations that the party, which controlled the Ministry of Agriculture, accepted bribes in return for allocations of quotas for beef imports. Anticorruption advocates observed that this and similar cases stem, in part, from the enormous cost that political parties face when campaigning and the responsibility of senior party operatives to raise money.

On October 3, the KPK charged Constitutional Court Chief Justice Akil Mochtar with having accepted IDR 3 billion (\$262,500) in bribes to fix the court's ruling in a contested election case.

Widespread corruption throughout the legal system continued. In 2012 independent corruption watchdog groups implicated 84 anticorruption-court judges in corruption cases. Bribes and extortion influenced prosecution, conviction, and sentencing in civil and criminal cases. Key individuals in the justice system were accused of accepting bribes and of turning a blind eye to other government offices suspected of corruption. Legal aid organizations reported cases often moved very slowly unless a bribe was paid.

Between January and June, the National Ombudsman Commission received 3,023 general complaints against government officials. Citizens lodged the majority of their complaints against regional governments and police.

Police commonly extracted bribes ranging from minor payoffs in traffic cases to large bribes in criminal investigations. Corrupt officials sometimes subjected migrants returning from abroad, who were primarily women, to arbitrary strip searches, theft, and extortion.

Whistleblower Protection: The law and government regulations provide protection to public and private employees for reporting on crimes including corruption, terrorism, illegal narcotics, theft, and human trafficking. The law was unevenly applied, and whistleblowers were sometimes subject to retaliation and intimidation.

Financial Disclosure: By law senior government officials, as well as other officials working in certain agencies, are required to file financial disclosure reports. The law requires that the reports include all assets held by the officials, their spouses, and their dependent children. The report must be filed upon taking office, every two years thereafter, within two months of leaving office, and immediately upon request by the KPK. The KPK is responsible for verifying disclosures and publicizing them in the State Gazette and on the internet. There are criminal sanctions for noncompliance in cases involving corruption. Not all assets were verified due to human resource limitations within the KPK.

Public Access to Information: The Freedom of Information Act grants citizens access to governmental information and provides mechanisms through which citizens can obtain such information. The law allows for a protected class of "secret" information, including information on state defense and security, law enforcement investigation and activities, public officials, and business interests of state-owned enterprises. At year's end many government entities remained unwilling or unprepared to implement the law. According to an April 2012 study by the AJI, authorities granted 46 percent of requests for information. According

to the study, many officials either ignored or lost requests.

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

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A number of domestic human rights organizations generally operated without government restriction throughout the country, investigating and publishing their findings on human rights cases as well as advocating for improvements to the government's human rights performance. The government met with local NGOs, responded to their inquiries, and took some actions in response to NGO concerns. Some government officials, however, particularly in Papua and Aceh, subjected the organizations to monitoring, harassment, and interference as well as threats and intimidation. Activists said intelligence officers followed them, took their pictures surreptitiously, and sometimes questioned their friends and family members regarding their whereabouts and activities.

Human rights and anticorruption activists reported receiving threatening messages and other intimidation from unknown sources.

UN and Other International Bodies: The government permitted visits by some UN officials in connection with monitoring the human rights situation but delayed the visits of others through bureaucratic maneuvering. In those cases when the government permitted visits, UN officials were not able to travel to Papua and West Papua. The security forces and intelligence agencies tended to regard with suspicion foreign human rights organizations, particularly those operating in Papua and West Papua, and restricted their movement in these areas.

In 2009 the government cancelled the ICRC presence agreement and suspended ICRC prison visits including confidential meetings with prisoners throughout the country. It allowed the ICRC to make visits to Papua and conduct a limited range of activities (such as providing training to military and police, school curriculum development, and sanitation/technical assistance to prisons).

Government Human Rights Bodies: A number of independent government-affiliated bodies addressed human rights problems, including the National Ombudsman, the National Commission on Violence against Women (Komnas Perempuan), and the National Commission on Human Rights (Komnas HAM). The public generally trusted Komnas HAM, Komnas Perempuan, and the ombudsman, but government cooperation with their recommendations was not mandatory and not usual.

In 2012 Komnas HAM released its findings regarding the anti-Communist purges of 1965 and 1966. Based on a four-year investigation, the commission concluded that government actions, which included killing, extermination, enslavement, eviction or forced removal of the population, the deprivation of personal freedom, torture, rape, and enforced disappearance, constituted a crime against humanity. At year's end the government had not filed any charges in cases related to those events.

In 2009 the DPR approved the formation of an ad hoc tribunal to investigate and prosecute the disappearance of human rights activists. Twenty-four human rights activists and students disappeared between 1997 and 1998; 10 later reappeared, accusing the military of kidnapping and torture. One body was found, and 13 activists remained missing. Despite this authorization, by year's end the government had not established this tribunal.

Although the 2006 Law on the Government of Aceh states a human rights court would be established in Aceh, such a court has not been established, ostensibly due to complications stemming from other national-level legislation.

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

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The constitution does not explicitly prohibit discrimination based on gender, race, disability, language, or social status. It provides for equal rights for all citizens, both native and naturalized. The government sometimes failed to defend these rights, particularly for minority communities.

### Women

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Rape and Domestic Violence: The law criminalizes rape, although the legal definition of rape covers only forced penetration of sexual organs, and filing a case requires corroboration and a witness. The law criminalizes marital rape. Reliable nationwide statistics on the incidence of rape continued to be unavailable. Rape is punishable by four to 14 years in prison, and the government imprisoned perpetrators for rape and attempted rape; however, light sentences continued to be a problem, and many convicted rapists received the minimum sentence.

The law prohibits domestic abuse and other forms of violence against women; nevertheless, domestic violence was a problem. Violence against women remained poorly documented and significantly underreported by the government. Nationwide figures were unavailable. Most NGOs working on women's issues believed the real figure was far higher than the available government statistics, noting the tendency of many victims to keep silent. The government's National Commission on Violence against Women, Komnas Perempuan, reported domestic violence was the most common form of violence against women.

Social pressure deterred many women from reporting domestic violence. In 2012 the Women's Legal Aid Foundation in Jakarta received 654 complaints of domestic violence, including physical and sexual harassment.

Two types of crisis centers were available for abused women: government-run centers in hospitals and NGO centers in the community. Nationwide police operated "special crisis rooms" or "women's desks" where female officers received criminal reports from female and child victims of sexual assault and trafficking and where victims found temporary shelter.

Female Genital Mutilation/Cutting (FGM/C): According to NGOs some FGM/C of women over the age of 18 occurred. A 2010 Ministry of Health decree provides specific instructions prohibiting certain more drastic types of FGM but explicitly permitting others. The decree states that doctors, midwives, and licensed nurses may perform type IV FGM (a symbolic pricking or piercing of the clitoris or labia) with the request and consent of the woman on whom it is performed (see section 6, Children).

Sexual Harassment: Although not explicitly mentioned in the penal code, article 281 of the code, which prohibits indecent public acts, serves as the basis for criminal complaints stemming from workplace sexual harassment. Violations of this article are punishable by imprisonment of up to two years and eight months and a small fine.

Reproductive Rights: The government recognized the right of individuals and couples to choose the number, spacing, and timing of children and encouraged

family planning. According to a study published by an international NGO in 2012, on average, 30 percent of women surveyed over a four-year period who wanted no more children subsequently gave birth. The study found that a number of factors influenced this statistic, including the use of short-term rather than long-term contraceptive methods. Although the government subsidized and provided access to contraception throughout the country, the cost of contraception and poor medical infrastructure often limited availability. An international NGO's 2010 report indicated that unmarried women in particular were not provided adequate access to contraceptives, and this continued to be a problem. According to the 2012 Demographic and Health Survey (DHS), 62 percent of married women used contraception. The study also found that 96 percent of women received medical prenatal care. The official maternal mortality ratio per the 2007 DHS was 228 per 100,000 live births, and a 2010 World Health Organization report on maternal mortality estimated the ratio at 220 per 100,000 live births.

The primary causes of maternal mortality were postpartum hemorrhage, pre-eclampsia, and sepsis. According to a 2010 World Bank review, there were several key factors in the high rates of maternal mortality. While 79 percent of women had skilled birth attendants at delivery, the uneven deployment of midwives at the community level, the substandard training for many midwives, and high use of traditional birth attendants were contributing factors. Hospitals and health centers did not perform at optimal levels in management of complications, and there were problems with referrals for complications, including financial barriers or limited availability of qualified health personnel. Close to 50 percent of births occurred at home. A woman's economic status, level of education, and age at first marriage also affected maternal mortality.

**Discrimination:** The law states that women have the same rights, obligations, and opportunities as men; however, it also states that women's participation in the development process must not conflict with their role in improving family welfare and educating the younger generation. The marriage law designates the man as the head of the family. Women in many regions of the country, particularly in Papua, complained about differential treatment based on gender.

Divorce is available to both men and women. Many divorcees received no alimony, since there was no system to enforce such payments. If there is no prenuptial agreement, joint property is divided equally. The law requires a divorced woman to wait 40 days before remarrying; a man can remarry immediately. The government continued to implement sharia in Aceh. The impact of this implementation varied across the province but, continuing the pattern of the last few years, in general appeared to be less intrusive due to improved government oversight of the Sharia Police. In January officials in Lhokseumawe, Aceh's second largest city, promulgated a mayoral decree prohibiting female passengers from straddling motorbikes. There were no reports of arrest due to violations of the decree, but police occasionally set up check points to enforce the regulation. Sharia varies somewhat across the province; for example, in West Aceh District women are required to wear skirts, a restriction not explicitly stated elsewhere. It was not uncommon for Sharia Police to briefly stop and lecture Muslim women whose dress did not conform to local sharia requirements on appropriate attire.

Local governments and groups in areas outside Aceh also undertook campaigns to promote conformity by women with the precepts of sharia. Local regulations in some areas mandated the wearing of Islamic dress by government employees. Vigilance in enforcing separation of sexes, fasting, and dress codes increased during Ramadan. The Ministry of Home Affairs is responsible for "harmonizing" local regulations that are not in line with national legislation. Between January and June, the ministry evaluated 1,320 local regulations throughout the country and requested clarification from local governments for 142 deemed in conflict with national law.

Women faced discrimination in the workplace, both in hiring and in gaining fair compensation; however, there continued to be progress in that area, especially in public sector jobs. According to a 2012 report on gender equality, women's hourly wages as a percentage of men's wages remained relatively unchanged between 2011 and 2012. A 2011 International Labor Organization report showed significant progress toward gender equality in labor market participation, employment, and wages. Gender wage gaps narrowed between 2004 and 2008 in most sectors but widened in others (professional, technical, and related workers). While women in administrative and managerial jobs earned more than their male counterparts, they were underrepresented at the managerial level. According to the government, women constituted 47 percent of all civil servants as of October 2011 and more than 24 percent of senior civil servants, up from only 9 percent in 2009. In July the governor of Gorontalo Province called on male agency heads at the provincial administration to replace their female secretaries with men. The new policy followed reports of affairs the officials had allegedly had with their secretaries. The governor instructed provincial officials to make a list of all female secretaries, and he decreed that only female agency heads would be able to hire female secretaries.

Some activists said that in manufacturing, employers relegated women to lower-paying, lower-level jobs. Like their male counterparts, many female factory workers were hired as temporary workers instead of as full-time permanent employees, and companies were not required to provide benefits, such as maternity leave, to temporary workers. By law, if both members of a couple worked for a government agency, the husband received the couple's head-of-household allowance.

Jobs traditionally associated with women continued to be significantly undervalued and unregulated. For example, domestic workers received little legal protection. Under the labor law, domestic workers are not provided with a minimum wage, health insurance, freedom of association, an eight-hour workday, a weekly day of rest, vacation time, or safe work conditions. Consequently, as reported by NGOs, abusive treatment and discriminatory behavior continued to be rampant.

## Children

**Birth Registration:** Citizenship is acquired primarily through one's parents; however, it can be acquired through birth in national territory. Although the law provides for free birth registration, this registration requirement was not enforced, and approximately 30 percent of citizen births were not registered. Without birth registration, families may face difficulties in accessing government-sponsored insurance benefits and enrolling children in schools. It was often impossible to be certain of a child's age, and ages were falsified on identity cards, sometimes with the cooperation of government officials.

A 2012 ruling by the Constitutional Court overturned a 1974 law that stipulated children born outside of registered marriages shared civil ties only with their mother. The ruling provided for the inclusion of DNA evidence in determining paternity and conferred inheritance rights to the father's property for children born outside of registered marriages.

**Education:** Although the law provides for free education, most schools were not free, and poverty put education out of the reach of many children. By law children are required to attend six years of elementary school and three years of junior high school; however, the government did not universally enforce these requirements. Although girls and boys received equal educational opportunities, boys continued to be more likely to finish school, particularly in rural areas.

Some provinces and districts, such as South Sumatra Province and Serdang Bedagai District in North Sumatra Province, have local policies for compulsory education for 12 years or up to senior secondary.

**Child Abuse:** Child labor and sexual abuse were serious problems. Child abuse is prohibited by law, but government efforts to combat it generally continued to be slow and ineffective. The Child Protection Act addresses economic and sexual exploitation of children as well as adoption, guardianship, and other issues; however, some provincial governments did not enforce its provisions. Between January and July, the National Commission for Child Protection received 1,032 reports of cases of violence against children; of these 535 related to sexual abuse.

According to a 2012 report by the Ministry of Women's Empowerment, approximately 3.4 million children ages 10-17 were working because of poverty.

**Forced and Early Marriage:** The legal distinction between a woman and a girl was not clear. The law sets the minimum marriageable age at 16 for a woman (19 for a man), but the Child Protection Law states persons under age 18 are children. A girl who marries has adult legal status. Girls frequently married before reaching the age of 16, particularly in rural and impoverished areas. A 2012 UN Population Fund report cited an overall decline in the rate of child marriage but noted that 22 percent of women were married before they were 18.

**Harmful Traditional Practices:** FGM/C on children was practiced in some parts of the country. Some NGO activists dismissed any claims of mutilation, saying the ritual as practiced in the country was largely symbolic. A 2010 Ministry of Health decree prohibits more drastic types of FGM but explicitly permits doctors, midwives, and licensed nurses to conduct type IV FGM (a symbolic pricking or piercing of the clitoris or labia). The decree requires the prior consent of the subject, a parent, or guardian.

**Sexual Exploitation of Children:** While there is no offense by the name of statutory rape under the law, the penal code forbids consensual sex outside of marriage with girls under the age of 15. The law does not address heterosexual acts between women and boys, but it prohibits same-sex acts between adults and minors. The 2008 Pornography Law prohibits child pornography and establishes a maximum sentence of 12 years and fine of IDR 6 billion (\$525,000) for producing or trading in child pornography. Nationally, the UN Children's Fund estimated that 40,000 to 70,000 children were victims of sexual exploitation and that 30 percent of all female commercial sex workers were underage.

**Displaced Children:** According to government reports, as of March there were at least 7,300 street children in Jakarta, of whom 6,848 participated in a social welfare program run by the Ministry of Social Affairs. The government continued to fund shelters administered by local NGOs and paid for the education of some street children.

**International Child Abductions:** The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For country-specific information see the Department of State's report at [http://travel.state.gov/abduction/country/country\\_497.html](http://travel.state.gov/abduction/country/country_497.html).

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## Anti-Semitism

The Jewish population was extremely small. There were no reports of anti-Semitic acts. In May owners demolished one of the country's few remaining synagogues. Some members of the Jewish community criticized the demolition, but citing a continuing land dispute, said that it was not related to anti-Semitism.

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## 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/).

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## Persons with Disabilities

The law prohibits discrimination against persons with physical and mental disabilities in employment, education, access to health care, or provision of other state services. The law does not contain specific requirements regarding access to air travel and other transportation, but it mandates accessibility to public facilities for persons with disabilities; however, the government did not enforce this provision (the Surabaya International Airport, for example, is not accessible to persons with disabilities). The government classifies persons with disabilities into three categories: physically disabled, intellectually disabled, and physically and intellectually disabled. These categories are further divided for schooling. The government restricts the rights of persons to vote or participate in civil affairs by not enforcing accessibility laws. The KPU estimated that only 50 percent of eligible voters with disabilities cast ballots in the 2009 election. In March the KPU signed a memorandum of agreement with several NGOs to cooperate to increase the participation of persons with disabilities in the 2014 national elections.

The law provides children with disabilities with the right to an education and rehabilitative treatment. According to one NGO, there were 1.4 million children with disabilities in the country, and fewer than 4 percent had access to education. According to 2008-09 government statistics, there were 1,686 schools dedicated to educating children with disabilities, 1,274 of them run privately. According to NGOs more than 90 percent of blind children were illiterate. Some young persons with disabilities resorted to begging for a living. Children with disabilities were sent to separate schools, and mainstream education for them was extremely rare. The country's universities did not offer a degree in special education.

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## National/Racial/Ethnic Minorities

The government officially promotes racial and ethnic tolerance.

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## Indigenous People

The government viewed all citizens as "indigenous;" however, it recognized the existence of several "isolated communities" and their right to participate fully in political and social life. These communities include the myriad Dayak tribes of Kalimantan, families living as sea nomads, and the 312 officially recognized indigenous groups in Papua. Indigenous persons, most notably in Papua, remained subject to widespread discrimination, and there was little improvement in respect for their traditional land rights. Mining and logging activities, many of them illegal, posed significant social, economic, and logistical problems to indigenous communities. The government failed to prevent companies, often in collusion with the local military and police, from encroaching on indigenous peoples' land. In Papua and West Papua, tensions continued between indigenous Papuans and migrants from other provinces. Melanesians in Papua cited

endemic racism and discrimination as drivers of violence and economic inequality in the region.

In May the Constitutional Court ruled in favor of an alliance of indigenous peoples that filed a suit challenging parts of a 1999 law on forestry. The ruling negated default state ownership of forests that fall within areas of custom-based or indigenous communities. Nevertheless, access to ancestral lands continued to be a major source of conflict throughout the country. Large corporations and government regulations displaced people from their ancestral lands. Some land-rights NGOs asserted that ineffective demarcation of land led to denying individuals access to their own land. Central and local government officials reportedly extracted kickbacks from mining and palm oil companies in exchange for land access at the expense of the local populace. Land-rights advocates reported receiving threats from government and private parties after publicizing these issues. The government program of transferring migrants from the crowded islands of Java and Madura diminished greatly in recent years. Communal conflicts often occurred along ethnic lines in areas with sizeable transmigrant populations.

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

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The 2008 Pornography Law criminalizes the production of media depicting consensual same-sex sexual activity and classifies such activity as deviant; fines range from IDR 250 million to 7 billion (\$21,800-610,000) and sentences from six months to 15 years with increased penalties of one-third for crimes involving minors. In addition local regulations across the country criminalize same-sex sexual activity. For example, the province of South Sumatra and the municipality of Palembang have local ordinances criminalizing same-sex sexual activity together with prostitution. Aceh Province's legislature passed an ordinance regulating "immoral behavior," including consensual same-sex acts between adults, but at year's end the governor had not signed it into law. Additionally, under a local ordinance in Jakarta, security officers regard any transgender person found in the streets at night as a sex worker. According to media and NGO reports, a number of transgender individuals were abused and forced to pay bribes following detention by local authorities. According to NGOs many persons considered LGBT issues as socially taboo. The government took almost no action to prevent discrimination against LGBT persons, and in some cases it failed to protect LGBT individuals from societal abuse. Police corruption, bias, and violence caused LGBT individuals to avoid interaction with police. Sharia Police in Aceh reportedly harassed transgender individuals. NGOs reported religious groups, family members, and the general public sometimes ostracized LGBT individuals.

The antidiscrimination law does not apply to LGBT individuals.

LGBT organizations and NGOs operated openly and frequently held low-key events in public places, although often without proper licenses (see section 2.b.).

In September and October 2012, the Q! Film Festival, subject of protests in 2010, took place in Jakarta. Festival organizers informed police of their plans to hold the festival, but police declined to provide protection. Police officials stated that the organizers would have to obtain a letter of support from the local Islamic Clerics Council (MUI) if they wanted police support. Organizers chose not to engage with the MUI. As a result of the police decision, three of eight venues originally scheduled to take part in the festival backed out.

Police generally did not investigate cases that involved police intervention during assaults by hard-line groups against LGBT gatherings. Formal complaints by victims and affected persons were usually ignored.

In criminal cases with LGBT victims, police investigated the cases reasonably well, as long as the suspect was not affiliated with the police. When investigating allegations of abuse by police, however, investigators were unresponsive – even in the face of pressure from Komnas HAM.

In cases of domestic violence affecting LGBT people, especially young lesbians with disapproving parents, advocates reported that police usually sided with the parents in blaming the minor for deviant behavior or blaming her girlfriend for "corrupting" her. LGBT minors were often put into therapy, confined to their homes by family members, or pressured to marry. At schools, bullying of children perceived to be LGBT was common.

NGOs documented instances of government officials not issuing identity cards to transgender individuals. Transgender individuals faced discrimination in obtaining services, including health and other public services.

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

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Stigma and discrimination against persons with HIV/AIDS were pervasive. The government, however, encouraged tolerance, took steps to prevent new infections, and provided free antiretroviral drugs, although with numerous administrative barriers. The government position of tolerance was adhered to unevenly at all levels of society; for example, prevention efforts often were not aggressive for fear of antagonizing religious conservatives, and in addition to barriers to access to free antiretroviral drugs, potential recipients had to pay diagnostic, medical, or other fees and expenses that put the cost beyond the reach of many.

Minority religious groups were occasionally victims of societal discrimination sometimes including violence. This included Ahmadis, Shiites, and other non-Sunni Muslims; in areas where they constituted a minority, Sunni Muslims and Christians also were victims of societal discrimination.

Ethnic and religious tensions sometimes contributed to localized violence. On September 11, a longtime rivalry between two Islamic schools led to the mob killing of Eko Mardi Santoso, who was suspected of involvement in the vandalism of one of the schools in Puger, East Java. The vandalism and subsequent murder followed the issuance of a fatwa by the local clerical council stating that one of the two schools was propagating Shia beliefs while claiming to be a Sunni school.

## **Section 7. Worker Rights**

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

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The law, including related regulations and statutory instruments, in general protects the rights of workers to join independent unions, conduct legal strikes, and bargain collectively. Workers in the private sector have broad rights of association, but the law places restrictions on organizing among public sector workers. Workers in the private sector formed and joined unions of their choice without previous authorization or excessive requirements. The law stipulates that 10 or more workers have the right to form a union, with membership open to all workers, regardless of political affiliation, religion, ethnicity, or gender.

The Ministry of Manpower and Transmigration records, rather than approves, the formation of a union, federation, or confederation and provides it with a registration number.

To remain registered, unions must keep the government informed about changes in their governing bodies. The law allows the government to petition the courts to dissolve a union if it conflicts with the state ideology (Pancasila) or the constitution. A union also may be dissolved if its leaders or members, in the name of the union, commit crimes against the security of the state and are sentenced to at least five years in prison. Once a union is dissolved, its leaders and members may not form another union for at least three years. There were no reports that the government dissolved any unions during the year. There was, however, a report of the government suspending the registration of a union without explanation.

Although the law recognizes civil servants' freedom of association and right to organize, employees may only form employee associations with more limited rights. Employees of state-owned enterprises (SOEs) are permitted to form unions. There were no cases during the year of employees of SOEs attempting to form a new union.

The right to strike is recognized but substantially restricted under the law. Under the Manpower Development and Protection Act (the Manpower Act), workers must give written notification to the authorities and to the employer seven days in advance for a strike to be legal. The notification must specify the starting and ending time of the strike, venue for the action, and reasons for the strike and include signatures of the chairperson and secretary of the striking union. The law does not extend the right to strike to most civil servants or to workers in SOEs.

All strikes at "enterprises that cater to the interests of the general public or at enterprises whose activities would endanger the safety of human life if discontinued" are deemed illegal. Although this wording recalls the definition of an "essential industry," the regulation does not specify the types of enterprises affected, leaving this determination to the government's discretion. The same regulation also classifies strikes as illegal if they are "not as a result of failed negotiations."

Before striking, workers must engage in lengthy mediation with the employer and then proceed to a government mediator or risk having the strike declared illegal. In the case of an illegal strike, an employer may make two written requests within a period of seven days for workers to return. Workers who do not return to work after these requests are considered to have resigned.

The law provides for collective bargaining and allows workers' organizations that register with the government to conclude legally binding collective labor agreements (CLAs) with employers and to exercise other trade union functions. The law includes some restrictions on collective bargaining, including a requirement that a union or unions represent more than 50 percent of the company workforce to negotiate a CLA.

Although most CLAs provide workers with more rights than the legal minimum provisions set by the government, there were anecdotal reports that some employers reportedly violated the terms of the CLA with impunity. Enforcement of CLAs varied based on the capacity and interest of individual regional governments.

The government did not effectively enforce laws protecting freedom of association and did not effectively prevent anti-union discrimination. Freedom of association, despite being guaranteed under the law, is undermined by several common practices including the use of contract workers and regular workers on short-term contracts to avoid labor regulations. Employers commonly reassigned labor leaders to disrupt their union building activities. Antiunion intimidation most often takes the form of termination, transfer, or trumped-up criminal charges. Companies often sued union leaders for losses suffered in strikes.

Anti-union discrimination cases moved excessively slowly through the court system. Bribery and judicial corruption in workers' disputes continued, and courts rarely decided cases in the workers' favor. While dismissed workers sometimes received severance pay or other compensation, they were rarely reinstated. During the year 61 of 65 union workers at PT Audio Sumitomo Techno Indonesia in Semarang, Central Java, and 180 workers at PT Thiess in Sangatta, East Kalimantan, agreed to a package with severance pay and wages due rather than reinstatement because after extended disputes with the company they needed the money.

Labor activists continued to claim that companies orchestrate the formation of multiple unions, including "yellow" unions, to weaken legitimate unions.

As of August the appeal of a lower court ruling to reinstate 30 unionists fired from the Surabaya Zoo in 2010 remained pending, and the union activists had not been re-employed.

The cumbersome process required for a legal strike, as well as the government regulations included in the Manpower Act, provided employers a clear means to obstruct a union's move to legally strike. Therefore, strikes tended to be unsanctioned or "wildcat" strikes that broke out after a failure to settle long-term grievances or when an employer refused to recognize a union. The primary reason for strikes during the year was the use of contract workers.

Employer retribution against union organizers, including dismissals and violence, continued. Employers commonly used intimidation tactics against strikers, including administrative dismissal of employees through use of the appeals process described above. Some employers threatened employees who made contact with union organizers. Management singled out strike leaders for layoffs when companies downsized.

Employers repeatedly filed criminal complaints against union officers following failed collective bargaining negotiations or lawful strikes. In a number of cases, union officers were prosecuted and even served prison time for destruction of property and interference with profits as a result of complaints brought by employers. Some provisions in criminal law aided these tactics, such as a crime of "unpleasant acts," which creates criminal liability for a broad range of conduct. There were credible reports of police investigating or interrogating union organizers.

The increasing trend of using contract labor directly affected unions' right to organize and bargain collectively. Under the Manpower Act, impermanent labor is to be used only for work that is "temporary in nature," while a business may "outsource" (hand over part of its work to another enterprise) only when such work is an auxiliary activity of the business. Nevertheless, many employers violated these provisions, sometimes with the assistance of local offices of the Manpower Ministry. In November 2012 the government issued a ministerial decision clarifying that articles 64-66 of the Manpower Act limit employers' ability to outsource jobs to five categories of workers (cleaning services, security, transportation, catering, and work relating to support mining). The government gave employers one year, until November 2013, to implement this new regulation. Local offices of the Manpower Ministry were to be responsible for enforcement.

Union activists expressed concern that the new Law on Societal Organizations (see section 2.b.) potentially could be used to restrict freedom of association.

In some cases companies declared bankruptcy to avoid severance payments required by law, closed the factory for several days, and then rehired workers as contract labor at a lower cost. Union leaders and activists usually were not rehired. Labor courts at times ruled in favor of workers who filed either for compensation or to be rehired. In most cases, however, the company appealed to the Supreme Court, where the labor court's decisions were overturned.

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

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The law prohibits forced or compulsory labor, prescribing penalties of three to 15 years of imprisonment and a fine of IDR 120 million to 600 million (\$10,500 to 52,500). There were credible reports, however, that such practices occurred, including forced and compulsory labor by children (see section 7.c.). Forms of forced labor included domestic servitude, commercial sexual exploitation, and forced labor in the mining, fishing, and agricultural sectors.

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**

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The law and regulations explicitly prohibit forced labor by children. The Manpower Act establishes that child labor includes (1) all working children ages five to 12, regardless of the hours worked, (2) working children ages 13-14 who worked more than 15 hours per week, and (3) working children ages 15-17 who worked more than 40 hours per week. Penalties for a violation of these provision range from one to four years of imprisonment and/or a fine of IDR 100 million to 400 million (\$8,750 to 35,000). Child labor also encompasses any person under the age of 16 engaged in any of the following 13 kinds of labor: prostitution or other commercial sexual exploitation, mining, pearl diving, construction, offshore fishing, scavenging, production of explosives, working on the street, domestic service, cottage industry, plantations, forestry, and industries that use hazardous chemicals. A violation of the prohibition against employing children in the worst forms of child labor is punishable by two to five years of imprisonment and a fine of IDR 200 million to 500 million (\$17,500 to 43,700).

Child labor was most prevalent in the agricultural and service sectors.

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**

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Labor regulations, including minimum wage regulations, only applied to the estimated 30 percent of workers in the "formal sector." Workers in the "informal sector" were not afforded the same protections or benefits. Moreover, government regulations allow employers in certain sectors, including small and medium enterprises and labor-intensive industries like textiles, an exemption from minimum wage requirements.

Minimum wages vary throughout the country as provincial governors set a minimum wage floor and district heads have the authority to set a higher rate. Localities adjust the minimum wage annually based on the recommendation of a local wage council, which comprises representatives of the government, employers' associations, and labor unions. The predominant factor in setting the minimum wage is the government's estimate of a "decent living wage," which is determined by the cost of a basket of 60 items. During the year the lowest minimum wage was in the province of Central Java at IDR 816,000 (\$71.42) per month, and the highest was in Jakarta at IDR 2.2 million (\$192.50) per month. The 2013 minimum wage constitutes a 44 percent increase over 2012 and an increase of 97 percent since 2010. Negotiations for increases in the 2014 minimum wage were underway, and new rates were expected to be announced in November. Labor unions were calling for increases of up to 50 percent, while in September the president signed an instruction calling for wage hikes to be limited to 10 percent above the rate of inflation for labor-intensive industries, and 5 percent above the rate of inflation for non-labor-intensive industries. This instruction lacked legal force to dictate the result of the minimum wage determination.

The law establishes a 40 hour workweek, with one 30 minute rest period for every four hours of work. Companies often required a five-and-a-half or six-day workweek. The law also requires at least one day of rest weekly. The daily overtime rate was 1.5 times the normal hourly rate for the first hour and twice the hourly rate for additional overtime, with a maximum of three hours of overtime per day and no more than 14 hours per week. The law also requires employers to register workers with and pay contributions to the state-owned insurance agency.

Local officials from the Manpower Ministry are responsible for enforcing regulations on minimum wage and hours of work, as well as health and safety standards. The Manpower Ministry continued to urge employers to comply with the law; however, government enforcement remained inadequate, particularly at smaller companies, and supervision of labor standards continued to be weak. There are approximately 2,400 inspectors. There is no enforcement of the minimum wage in the informal sector.

Although labor law and ministerial regulations provide workers with a variety of benefits, aside from government officials, only an estimated 10 percent of workers received social security benefits. The government, however, was implementing a 2011 law that reformed the social security system. The law created a single state entity (BPJS Kesehatan) to administer universal health coverage and another body (BPJS Ketenagakerjaan) to manage work accident insurance, life insurance, old-age benefits, and pensions. Implementation of these reforms was scheduled to commence in early 2014, but necessary regulations had not been finalized. Persons who worked at formal sector companies often received health benefits, meal privileges, and transportation, which were rarely provided for workers in the informal sector. The Manpower Act also requires employers to provide a safe and healthy workplace and to treat workers with dignity. Enforcement of health and safety standards in smaller companies and in the informal sector tended to be weak or nonexistent.

The country's worker safety record was poor. The state-owned insurance agency reported approximately 50,000 workplace accidents and a total of 1,242 workplace deaths from January to August.