

MADAGASCAR

EXECUTIVE SUMMARY

Madagascar is ruled by an unelected and illegal civilian regime that assumed power in a March 2009 coup with military support. Andry Nirina Rajoelina adopted the title of president of the High Transition Authority (HAT), at the head of a loose coalition of former opposition politicians, intending to remain in this position until elections are held. Former president Marc Ravalomanana, democratically elected in 2006, is in exile. On September 17, local political leaders signed a “Roadmap For Ending the Crisis in Madagascar,” brokered by mediators acting on behalf of the Southern African Development Community (SADC), which established a transitional process intended to culminate in free and open elections for the restoration of a legal government. In accordance with the letter, if not the spirit, of this roadmap, Rajoelina appointed a “Prime Minister of Consensus” on October 28, a 35-member “Government of National Unity” cabinet on November 21, and a “Transition Congress” with more than 160 members, and a “High Transitional Council” with more than 360 members on December 1. Military leaders continued to assert their autonomy from the current political leadership, despite their tacit support of Rajoelina and the SADC-endorsed roadmap. There were instances in which elements of the security forces acted independently of civilian control.

The three most important human rights abuses included unlawful killings and other security force abuses, arbitrary arrest and detention, and the inability of citizens to choose their government.

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

The government did not take steps to prosecute or punish officials who committed abuses, and impunity remained a problem.

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

a. Arbitrary or Unlawful Deprivation of Life

There were several reports that the de facto regime or its agents committed arbitrary or unlawful killings. Police and gendarmes continued to use unwarranted lethal force during pursuit and arrest.

For example, during the year law enforcement officers shot and killed at least 51 criminal suspects. Off-duty and intoxicated elements of the armed forces also killed civilians with their firearms. Witnesses reported seeing elements of the Rapid Intervention Group shoot and kill three criminal suspects on September 8 in Ankondrano, after they had already surrendered and raised their hands in the air. No action was taken against any of the security force members for excessive use of force or unwarranted use of lethal weapons.

On December 9, a police mob beat to death Michel Rehavana, a judge in Tulear. Another judge's conviction of a police officer for renting out his weapons to bandits triggered the event, creating significant tension between police and judges across the country. At year's end, central authorities brought some of those responsible for the killing to the capital for questioning, while the Magistrate's Union went on strike to protest the killing, virtually shutting down the entire judicial system. The magistrates demanded the punishment of those responsible and the resignation of the de facto minister of internal security Arsene Rakotondrazaka, who was present in Tulear the day of the event.

On July 18, elements of the Police Intervention Force interrogated and beat taxi driver Hajamananirainy Clermont for allegedly using a slingshot to propel rocks at the presidential convoy. The next morning, Clermont was left at a hospital, where he died of his wounds. Authorities denied that the convoy passed at the reported location and time, and no action was taken against the security force members.

There were no further developments in any of the deaths resulting from actions by security forces in 2010.

In August 2010 former president Ravalomanana was tried in absentia, convicted, and sentenced to forced labor for life, for the 2009 killings by presidential guards of at least 30 protesters outside Ambohitsorohitra Palace in Antananarivo. Ravalomanana continued to claim his innocence while exiled in South Africa.

b. Disappearance

There were no reports of politically motivated abductions or kidnappings during the year.

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

The constitution and law provide for the inviolability of the person and prohibit such practices; however, security forces subjected prisoners to physical and mental abuse, including torture.

On March 18, Alphonse Rafaralahitsimba and Misa Arifetra Rakotoarivelo were sent to Ambatololma Prison after they testified that Mamy Rakotoarivelo, a leader of former president Ravalomanana's political faction, was the mastermind behind an alleged assassination attempt on regime leader Rajoelina on March 3. Family members of the two men publicly claimed their confessions had been coerced under threats and torture by electrical shock and physical violence. While the Directorate of Territorial Security rejected these claims, journalists were not permitted access to the detention center to view the physical condition of the two men.

There were no further developments in the following 2010 cases: the November arrest and reported physical abuse by proregime forces of a group of military officers who had led an attempted coup and the April injuries to six persons when Antsiranana police opened fire on a funeral procession that passed in front of the central police station.

Prison and Detention Center Conditions

Prison conditions were harsh and life threatening. Severe overcrowding--due to weaknesses in the judicial system and inadequate prison infrastructure--remained a serious problem. Lengthy pretrial detention was pervasive.

As of November the country's 83 prisons and detention centers held approximately 19,870 prisoners; although they only had capacity for 13,000. These prisoners included 785 women, 444 juvenile males, and 17 juvenile females under age 18. A total of 47 percent (9,353) had been convicted.

Chronic malnutrition, which affected up to two-thirds of detainees in some prisons, was the most common cause of death. The Ministry of Justice's 2008 goal to raise prisoners' daily food ration (typically dry manioc, rice, or cassava) had not been implemented, and the situation worsened due to budget shortfalls as a result of the ongoing political crisis and the suspension of some foreign assistance. Families and nongovernmental organizations (NGOs) supplemented the daily rations of some prisoners.

In June and July 2010, there were four reported deaths in Taolagnaro Prison due primarily to malnutrition. However, NGO and media sources indicated substantial underreporting of prison deaths, and the total number of deaths in all prisons during the year was unavailable.

Malnutrition and a lack of hygiene made detainees vulnerable to disease, including epidemics. Deteriorating prison infrastructure--including a lack of sanitary facilities and potable water--resulted in skin disease, insect infestation, and other health risks. Access to medical care was limited, although NGOs reported improvement in targeted sanitation activities at several facilities in the north. Ventilation, lighting, and temperature control in facilities were inadequate or hardly existed.

Church leaders and some NGOs reported that rape was commonplace in prisons and often used by prison guards and other inmates to humiliate prisoners. Other organizations stated that while rape cases were the exception, prisoners often prostituted themselves for food.

Juveniles were not always held separately from the adult prison population, and some preschool-age children shared cells with their incarcerated mothers. There were at least two political detainees held under house arrest, instead of being imprisoned with the general prison population, but other political prisoners generally were held in the same facilities. Pretrial detainees seldom were held separately from the general prison population.

Prisoners and detainees were authorized to receive weekly visits from relatives and permitted religious observance.

There was no provision for ombudsmen to serve on behalf of prisoners and detainees.

There were no reports that the de facto regime permitted prisoners and detainees to submit complaints on inhumane conditions to judicial authorities, or that it investigated or monitored prison and detention center conditions or acted to improve them.

Prison conditions for male and female prisoners were essentially the same. Prison recordkeeping was inadequate and poorly coordinated with police and judicial authorities.

Authorities generally permitted independent monitoring of prison conditions by the International Committee of the Red Cross (ICRC), several local NGOs, and some diplomatic missions, and such visits occurred during the year. The ICRC conducted visits several times during the year to each of 30 main penitentiary facilities; the ICRC was able to hold private consultations in accordance with its standard modalities. ICRC representatives also were permitted to visit detainees in pretrial or temporary detention for monitoring purposes.

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention; however, authorities did not always respect these provisions in practice. Persons were arrested on vague charges, and suspects were detained for long periods without trial.

Role of the Police and Security Apparatus

The de facto minister for internal security oversees the national police, the gendarmerie, and the coast guard, with authority to preserve law and order in both urban and rural areas. The gendarmerie had previously been under the authority of the Ministry of Defense. Decree 2011-687, issued on November 21 by the de facto regime president Andry Rajoelina and “prime minister of consensus” Jean Omer Beriziky, elevates the de facto state secretary for the gendarmerie, Brigadier General Randrianazary, to one of 35 cabinet-level positions.

Lack of training and equipment, low salaries, unclear command structures, and rampant corruption severely diminished the security forces’ ability to respond effectively to the civil unrest that began in January 2009. By April 2009, however, security forces under the control of the de facto regime began to assert control over demonstrations in the capital, with an accompanying reduction in violence. The

creation in March 2009 of the Joint National Investigation Committee, later renamed the Special Investigation Force (FIS), added an additional security force answerable directly to the regime leader and outside the authority of the de facto minister for internal security. The FIS began to pursue high-profile targets without resorting to regular judicial processes. Security forces routinely used excessive force during arrests and while dispersing demonstrations, employing tear gas, flash grenades, and live ammunition.

There was no systematic mechanism available for investigating security force abuses. However, victims may lodge complaints in the court of jurisdiction. This rarely, if ever, occurred. According to police authorities, 125 police agents were tried between March and September, primarily for abandonment of duty, corruption, and extortion. There were no reported trials for excessive or arbitrary use of force.

Arrest Procedures and Treatment While in Detention

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

Arbitrary Arrest: Arbitrary arrest occurred. For example, on March 15, Mamy Rakotoarivelo, a leader of former president Ravalomanana’s political faction, was arrested and held in police custody for 15 days. Security forces stated that he was suspected of being the mastermind of a March 3 “assassination attempt” on regime leader Rajoelina. He was released on March 29, but three other persons arrested on the same charges remained detained at year’s end (see section 1.c.). Andry

Rajoelina subsequently appointed Rakotoarivelo as a member of the Transitional Congress on December 1. On December 7, Rakotoarivelo was elected president of the Transitional Congress.

Journalists were arrested during the year (see section 2.a.).

In November 2010 Fetison Rakoto Adrianairina and Zafilahy Stanislas (leaders of the opposition group supported by former president Ravalomanana) and Pastor Edouard Tsarahame (a leader of the opposition group supported by former president Albert Zafy) were arrested for holding an unauthorized demonstration. They were subsequently moved to different prisons and to an undisclosed location for five days without the knowledge of their lawyers or family. On February 9, Adrianairina received a suspended prison sentence of 13 months. Pastor Tsarahame and Stanislas each received suspended prison sentences of 10 months for holding an unauthorized demonstration and an additional suspended sentence of six months for inciting a rebellion causing looting. The other 16 suspects each received suspended sentences of between six and 12 months.

In November 2010 regime forces arrested Raymond Ranjeva's pregnant daughter and searched his house, accusing him of being involved in a coup attempt. Ranjeva allegedly was told to turn himself in if he wanted his daughter to be released. Ranjeva obliged and was released a few hours later, but his daughter remained in custody for insulting regime forces and was sentenced to one month's probation (see section 1.d.).

There was a sharp increase in politically motivated detentions immediately before and after the 2009 coup. The number of arrestees remained disputed, but several remained imprisoned (see sections 1.e. and 2.a.).

Pretrial Detention: The Ministry of Justice reported that approximately 53 percent of the prison population was in pretrial detention.

The law mandates that a criminal suspect be charged or released within 48 hours of arrest; however, authorities often detained individuals for significantly longer periods before charging or releasing them. Poor recordkeeping, an outdated judicial system that favored keeping the accused in detention until their trial, an insufficient number of magistrates, lack of resources, and difficult access in remote areas contributed to lengthy pretrial detention, ranging from several days to several

years. Many detainees spent longer in investigative detention than they would have spent incarcerated following a maximum sentence for the charges faced.

Amnesty: A June 26 presidential pardon led to the July 8 release of 3,500 detainees, including 430 from Antanimora Prison. Most released prisoners were over the age of 65.

The SADC-endorsed roadmap calls for the creation of a Transitional Parliament (inaugurated on December 2), which would draft and ratify an amnesty law as a prerequisite for national elections. To promote national reconciliation, the law would grant a blanket amnesty for all political events occurring between 2002 and 2009, except for crimes against humanity, war crimes, crimes of genocide, and other serious violations of human rights and fundamental freedoms. By year's end no action had been taken to draft amnesty legislation.

e. Denial of Fair Public Trial

Although the constitution and law provide for an independent judiciary, the judiciary was susceptible to executive influence at all levels, and corruption remained a serious problem. This worsened under the de facto authorities, and intimidation surrounded every major judicial decision since 2009. The absence of any legitimate legislative body permitted the de facto government effectively to rule by decree, with no check on executive power. The de facto minister of justice, Christine Razanamahasoa, routinely expressed opinions on high-profile judicial decisions to the media before the court announced them.

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

The trial of 13 military officers allegedly involved in the November 2010 attempted coup was scheduled for October 10 in Fianarantsoa. However, the defendants' families claimed that a fair trial could only occur in the capital, Antananarivo. The trial was postponed, and no new date announced.

The law provides traditional village institutions the right to protect property and public order. Some rural areas used an informal, community-organized judicial system, or “dina,” to resolve civil disputes between villagers over such issues as alleged cattle rustling. This system garnered criticism for human rights abuses, particularly for imposing harsh sentences well outside the scope of formal law without due process. In the past, these sentences included beheadings, but recently focused more on exiling the convicted individual from the district where the crime occurred.

Trial Procedures

The law provides for a presumption of innocence; however, this was often overlooked. The constitution and law provide defendants with the right to a full defense at every stage of the proceedings, and trials are public. While the law provides that juries can be used in all cases, in practice they were used only in labor disputes. Defendants have the right to be present at their trials, to be informed of the charges against them, to call and confront witnesses, and to present evidence. The government is required to provide counsel for all detainees held on criminal charges who cannot afford their own attorney; however, in practice, many citizens were not aware of this right, nor made aware of it by authorities. Attorneys have access to government-held evidence, but this right does not extend to defendants without attorneys. Defendants have the right to appeal convictions.

The law extends these rights to all citizens without exception; however, in practice these rights were routinely denied, as the de facto government prolonged incarceration of suspects for weeks without charge and continually postponed hearings while denying bail.

Political Prisoners and Detainees

No definitive numbers were available, but in July 2010 a Ministry of Justice source stated that the de facto regime had placed 102 “political prisoners” in “preventive detention” since 2009, many with little or no evidence of having committed criminal or civil offenses. Subsequently, some were released conditionally or without being charged. Opposition leaders alleged that dozens of additional persons were detained without due process for their role in political protests, although the facts of their individual cases were unavailable.

The SADC-endorsed roadmap calls for transitional authorities and institutions to adopt security and confidence-building measures, to adhere to the rule of law and the principle of equal treatment, and to terminate ongoing legal proceedings against members of the opposition that appear to be politically motivated. It also calls on transitional authorities to allow all Malagasy citizens in exile for political reasons to return to the country unconditionally, ensure the political freedom of all citizens, and ensure an inclusive transition towards free, fair, and credible elections.

In November Tojo Ravalomanana, the son of ousted president Marc Ravalomanana, returned to Antananarivo from South Africa. Within days, senior HAT officials stated that he would be subject to detention and interrogation by the national gendarmerie or other security services, despite the absence of any criminal charges against him. Following protests by SADC officials, HAT authorities later declared that Tojo Ravalomanana was not being sought by security services, and allowed him to return to his private residence.

In August Ralitera Andrianandraina, former head of security for the courts, who was arrested for owning a hunting rifle, was released after 27 months in prison. Andrianandraina originally was arrested in 2009, charged with alleged murder after protesters were killed when storming the presidential palace, and sentenced to a year's imprisonment for illegal possession of weapons.

Some prisoners remained difficult to classify due to the effects of corruption and intimidation in the judicial process. These prisoners generally received treatment equal to that of other prisoners, and international humanitarian organizations were permitted access to them.

Civil Judicial Procedures and Remedies

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

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

The law prohibits such actions, but homes and workplaces of opposition groups were subjected to arbitrary searches without warrants. Regime forces also

punished family members for alleged offenses committed by individuals (see section 1.d.).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

Status of Freedom of Speech and Press

The constitution and law provide for freedom of speech and press, but both the de facto regime and nongovernment groups actively impeded political criticism with threats and violence against individuals, reporters, media owners, and media outlets. A September 2010 report by international NGO Freedom House on the status of press freedom categorized the country as “not free,” downgraded from the previous year’s rating of “partially free.” The report noted that “both main parties routinely ignored constitutional protections for media freedom while in power, using harassment, intimidation, and censorship to restrict media operations. As a result, news coverage became extremely partisan and polarized, while diversity of views receded.”

Freedom of Speech: There were no official restrictions on the ability of individuals to criticize the regime publicly or privately; however, several individuals reported that both the de facto regime and nongovernment groups actively impeded political criticism with threats and violence against individuals and opposition groups.

Freedom of Press: There were 13 privately owned major daily newspapers and many other privately owned national and local news publications that were published less frequently.

More than 300 radio and television stations operated in the country, and many shifted to live call-in shows to distance themselves from editorial responsibility for content. During the year de facto minister of communication Harry Laurent Rahajason withdrew the broadcast licenses of an estimated 50 radio and television stations that had received licenses previously and ordered them to suspend broadcasting immediately. Meanwhile, de facto leader Andry Rajoelina’s media group, officially registered in his father’s name, was given the option to extend services in the provinces and the right to continue to broadcast freely. After the November 2010 coup attempt, the regime sent warning letters to four television

stations implying that airing anything seen as opposing the regime would be considered a threat to public order and security and could lead to suspension and even withdrawal of operating permits. Regime authorities repeatedly postponed trials for journalists arrested in 2010 and earlier.

Books published locally concentrated on culture and education, while self-censorship led to books of a political nature being published abroad.

Violence and Harassment: During the year there were reports of individuals, some with ties to media outlets, who were threatened or arrested for distributing publications that the regime claimed could incite political instability. In November, James Ramarosaona, a journalist for a major daily, was threatened on his way home and told to “shut up” or his and his family’s security would be in danger. He had published articles on the importance of respecting national sovereignty and the SADC-endorsed roadmap.

On October 25, a judge postponed the trial of the 11-member staff of Radio Fahazavana, awaiting trial on bail since their 2010 arrest. The defendants did not appear for their trial on that day and, according to their lawyer, had not been notified of their trial date. The trial date was rescheduled for January 24, 2012.

All journalists released on bail remained subject to arrest again at any time.

In 2010 several journalists were jailed, and regime security forces attacked residences of editors or media owners. There were at least five incidents of authorities arresting radio journalists and/or suspending or closing radio stations. The two journalists from the FJKM Church arrested in 2010 had not been brought to trial by year’s end. The trial was scheduled for January 22, 2012.

Censorship or Content Restrictions: Broadcasting licenses for radio and television were suspended arbitrarily(see above). To maintain access to sources and remain safe, all journalists practiced self-censorship.

Libel Laws/National Security: National security often was cited as a justification for suspending licenses and arresting journalists (see above).

Internet Freedom

There were generally no restrictions on access to the Internet or reports that the de facto government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Public access to the Internet was limited mainly to urban areas.

Political groups, parties, and activists used the Internet extensively to advance their agendas, share news, and criticize other parties. Although there were allegations of technical sabotage of some Web sites during the year, the Internet was considered among the more reliable sources of information, as many Internet servers were outside the country and could not be regulated by the regime.

Academic Freedom and Cultural Events

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

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The constitution and law provide for freedom of assembly, but this right was restricted extensively during the year. De facto government officials and security forces regularly impeded opposition gatherings around the country. Five days after the nomination of the “prime minister of consensus” Jean Omer Beriziky on October 28, the outgoing minister of interior’s chief of staff issued a note forbidding any political demonstration until the “Transition Government of National Unity” was set up “in order to ensure political appeasement.”

Opposition groups repeatedly were denied the right to hold political rallies in various public venues in Antananarivo, despite verifying the availability of the venues and applying for the proper permits.

On May 19, opposition protesters held an unauthorized protest near the Anosy Court and the National Radio. Former president Albert Zafy requested airtime on national radio, and in response, elements of the gendarmerie scattered protesters with tear gas.

On September 10, the “Rodoben’ny Gasy” (the new name for the “Trois Mouvances” representing the political factions of the three former presidents) was denied authorization to hold a rally at Democracy Square in celebration of

Democracy Week. The regime then changed Democracy Square, the principal location where Rajoelina led demonstrations before the 2009 coup, into a children's park to prevent future demonstrations there.

Guy Maxime Ralaiseheno, leader of the Association of Mayors of Madagascar, who was arrested in November 2010 for leading a protest, was released from prison on January 25 but suspended from his mayoral duties. His suspension was renewed six times, most recently on September 26, and remained in effect at year's end.

In 2010 the de facto regime forbade protests during the November referendum period and continued the ban through the holiday season (Christmas to New Year's Day).

Freedom of Association

The constitution and law provide for the right of association and permit citizens to organize political parties and associations. The government generally respected this right in practice, and the SADC-endorsed roadmap includes a requirement that the Transitional Parliament adopt new laws on political parties and the status of the opposition. However, by year's end no such laws had been drafted or ratified.

c. Freedom of Religion

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

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

The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. However, in high profile cases related to former presidents Ravalomanana and Ratsiraka, the de facto authorities prevented foreign travel and repatriation.

The de facto authorities cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian agencies in providing protection

and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Foreign Travel: On June 21, former minister of finance under the Ravalomanana government, Haja Nirina Razafinjato, was prevented from embarking at the Nosy Be Airport on a flight to South Africa. Authorities cited an exit ban imposed on him for alleged embezzlement of public funds.

Exile: The constitution does not explicitly prohibit forced exile, and the coup regime utilized it selectively. Former president Ratsiraka was exiled in France until November, and former president Ravalomanana remained in exile in South Africa at year's end. Both had a Notice to Airmen (NOTAM) issued against them that forbid commercial airlines to allow them to board a plane bound for Madagascar. Ratsiraka's exile allegedly expired in November. An additional NOTAM against Ravalomanana was issued in September; it reportedly was lifted after the signing of the SADC-endorsed roadmap. On December 16, another NOTAM was placed against Ravalomanana but was lifted on December 20 after protests from the SADC and opposition groups.

While the SADC-endorsed roadmap calls for the unconditional return of political exiles, former president Ravalomanana had not attempted to return, subsequent to the signing of the roadmap, at year's end. In August 2010 the Antananarivo Criminal Court convicted Ravalomanana in absentia for his presumed involvement in the February 2009 presidential palace shootings and sentenced him to a life sentence of hard labor. On September 17, regime security forces issued an arrest warrant for Ravalomanana and publicly announced that he would be immediately arrested should he attempt to return to Madagascar.

Protection of Refugees

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

Stateless Persons

An arcane system of citizenship laws and procedures resulted in a large number of stateless persons in the minority Muslim community, many belonging to families

that have lived in the country for generations. Reliable figures remained unavailable, but Muslim leaders estimated as many as 5 percent of the approximately two million Muslims were affected. Citizenship is transmitted through “blood,” and birth in the country does not automatically transmit citizenship. Children born to a citizen mother and noncitizen father must declare their desire for citizenship by age 18 or risk losing eligibility for citizenship. Some members of the Karana community of Indo-Pakistani origin--who failed to register for Indian, Malagasy, or French citizenship following India’s independence in 1947 and Madagascar’s independence in 1960--were no longer eligible for any of the three; this applied to their descendants as well. Members of the wider Muslim community suggested that a Muslim-sounding name alone could delay one’s citizenship application indefinitely. All stateless persons can apply for a foreign resident card which precludes voting rights, right to own property, and eligibility for a passport, thus limiting international travel. Stateless women can get Malagasy nationality if they marry a Malagasy citizen and request citizenship before the wedding date.

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

The constitution and law provide citizens the right to change their government peacefully, and citizens previously exercised this right in practice by voting in presidential, legislative, and municipal elections between 2006 and 2008. However, this right effectively was curtailed following a coup d’etat and the overthrow of the elected government in 2009. Following the 2008 closure of his television station, VIVA TV, Andry Rajoelina, the former mayor of Antananarivo, led a March 2009 coup in opposition to then president Ravalomanana. Unable to consolidate his rule in the face of domestic and international condemnation, Rajoelina began negotiating with the opposition in August 2009. Unhappy with the results of those negotiations, Rajoelina unilaterally declared his intention to organize elections for as early as March 2010. The opposition rejected this plan, pushing for a return to dialogue and an inclusive transition government. Throughout 2010 Rajoelina unilaterally announced roadmaps to elections that were postponed multiple times. In November 2010 a constitutional referendum to adopt a new constitution was held, but neither the opposition nor most of the international community recognized it, due to considerable irregularities both in the drafting of the document and in the conduct of the referendum. Countrywide mayoral elections scheduled for December 20 were postponed indefinitely.

After a September 2010 National Conference that was seen as unilateral as the opposition either boycotted or was not allowed to participate, Rajoelina appointed a “transition” parliament, but it was not recognized by the international community.

On September 17, several political parties--including two of the three political factions associated with former presidents Ravalomanana, Ratsiraka, and Zafy--signed the “Roadmap for Ending the Crisis in Madagascar,” endorsed by the SADC. The Roadmap outlines a plan for setting up neutral institutions, with the aim of holding free and fair elections. Basing his actions on the requirements laid out in the SADC-endorsed roadmap, Rajoelina nominated a “Prime Minister of Consensus” on October 28, a “Government of National Unity” on November 21, and members of a “High Transitional Council” (CST) and “Transitional Congress” (CS) on December 1. Members of the CST and CS were inaugurated on December 2.

Elections and Political Participation

Recent Elections: Indirect elections to the 33-member senate took place in 2008. The “I Love Madagascar” Party of then president Ravalomanana won all 22 elected seats, and the president appointed the remaining 11 members. Allegations of campaign and voting irregularities surfaced during and after the election, but no conclusive legal action was taken.

Political Parties: Political parties could not operate without restriction or outside interference. Members of parties opposing the party or policies of the regime leader often had their individual rights, such as freedom of expression, violated. The regime often denied opposition parties the right to organize and publicize their opinions. Political parties also were dominated heavily by the urban elites from the more influential Malagasy tribes.

Participation of Women and Minorities: The first de facto Rajoelina government had five women in the 31-member cabinet. When reshuffled on March 26, six women were nominated to cabinet-level positions out of 31; when reshuffled again on November 21, eight women were nominated out of 35 cabinet members. At year’s end 77 of the 579 members were women. Before the March 2009 coup d’etat, there were four women in the 21-member cabinet, 10 women in the 127-member national assembly, and five women in the 33-member senate. Three of the 22 appointed regional administrators were women.

Until March 2009, there were 11 Muslims and seven Chinese-Malagasy members in the national assembly and eight Muslims in the senate. Chinese-Malagasy and Muslims also held civil service positions. Residents of Indo-Pakistani origin were not well represented in regime institutions.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the de facto government did not implement the law effectively, and corruption reportedly increased after the March 2009 coup. Corruption was rampant in the national police and gendarmerie. The World Bank's most recent Worldwide Governance Indicators reflected that corruption was a serious problem, as was impunity. NGOs and the media reported that anticorruption efforts in recent years were more effective in pursuing low-level violators than in attacking corruption at the national government level.

The general lack of rule of law created a permissive environment for illegal logging and the export of rare hardwoods, primarily from the northern forests, which was thought to have been facilitated by bribery and profiteering at several levels of government. Foreign NGOs and media reports alleged that high-level corruption, ranging from local security forces to the national government, permitted the illegal cutting and export of rosewood and ebony trees, despite laws to protect them. Chinese businessmen were caught on tape asserting that they paid de facto leader Rajoelina directly for illegal logging rights.

The Independent Anticorruption Bureau (BIANCO), a nominally independent government agency with a presidentially appointed director and oversight from the Committee for the Safeguard of Integrity within the presidency, did not address corruption and abuses of power perpetrated by security forces and civilian officials, nor did it play a visible role in addressing corruption problems associated with the ongoing political crisis.

In 2008 the government created an agency to combat money laundering (SAMIFIN) and an ethics unit within each ministry. BIANCO and the Ministry of Justice signed an agreement in 2008 to increase cooperation on data collection and case referrals. However, implementation was weak, due to lack of financing and political will, especially since the March 2009 coup.

Public officials at the director-general level and above, excluding the president, were subject to financial disclosure laws. In practice, in 2008 only one-third of those required to disclose assets or income did so. Enforcement of disclosure laws remained ineffective.

There are no laws providing for public access to government information. Educational material on corruption, including statistics, was available to citizens and noncitizens, including foreign media. However, the information was limited, neither regularly updated nor thoroughly verified.

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

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

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

UN and Other International Bodies: Following the 2009 coup, the UN and other international bodies widely criticized the Ravalomanana government and Rajoelina's de facto regime for human rights abuses and for their continued failure to resolve the ongoing crisis through dialogue and new elections. The UN played an active role as part of the international mediation team, as did the International Contact Group on Madagascar, the African Union, the International Organization of the Francophonie, and the SADC, which took the lead role in mediation efforts from the middle of 2010.

Government Human Rights Bodies: There is an Office of the Ombudsman that conducts minimal activities. There is normally a National Human Rights

Commission led by the Ministry of Justice or Ministry of Foreign Affairs, but it was not functioning at year's end.

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

The constitution and law prohibit all forms of discrimination, including on the basis of race, gender, disability, language, and social status; however, no specific governmental institutions were designated to enforce these provisions.

Women

Rape and Domestic Violence: The law prohibits rape in general but does not specifically refer to spousal rape. Penalties range from five years to life in prison, depending on factors such as the victim's age, the rapist's relationship to the victim, and whether the rapist's occupation put the individual in contact with children. Rape of a child or a pregnant woman was punishable by hard labor. An additional two to five years' imprisonment could be added in the case of rape with assault and battery, although the authorities did not always enforce these penalties. In 2008 the Morals and Minors Brigade, a department in the Ministry of Interior, reported receiving 10 to 12 rape-related complaints a day countrywide. There were 217 cases of rape reported in 2008 in Antananarivo; 130 were investigated. The Union of Social Workers recorded cases at the Public Hospital of Befelatanana in Antananarivo from January to July and found 91 cases of rape out of 353 cases of sexual abuse. The majority of the victims were between the ages of 10 and 18. These figures greatly underestimated the extent of rape nationwide, but no reliable figures were available.

The law prohibits domestic violence, and it is punishable with two to five years in prison and a fine of four million ariary (\$1,800), depending on the severity of injuries and whether the victim was pregnant, but it remained a widespread problem. In 2007 the government's National Institute for Public Health estimated that 55 percent of women were victims of domestic violence. The UN Population Fund (UNFPA) estimated in 2006 that one-third of women in the southern and southeastern region would suffer from violence at some point. A 2007 Ministry of Health survey on conjugal violence, conducted in collaboration with two NGOs, found that of 400 women surveyed in Antananarivo, 45 percent were subjected to psychological violence and 35 percent to physical violence. Police and legal authorities generally intervened when physical abuse was reported. The Ministry of Health continued working with NGOs in Antananarivo and Fianarantsoa to

provide victims with legal advice. Statistics on the number of domestic abusers prosecuted, convicted, or punished were unavailable. Anecdotal evidence from NGO-run welcome centers indicated that the political crisis and its related social and economic impact correlated with a rise in the incidence of domestic violence, with two- or three-fold increases in cases reported.

Sexual Harassment: Sexual harassment is against the law. Penalties ranged from one to three years imprisonment, plus a fine of one to four million ariary (\$450 to \$1,800). This penalty increases to two to five years' imprisonment plus a fine of two to 10 million ariary (\$900 to \$4,500), if the victim was forced or pressured into sexual acts, or punished for refusing such advances. However, the practice was widespread, particularly in export processing zone (EPZ) factories. The UNFPA estimated that 50 percent of women working in EPZs were victims of sexual harassment. In past years the authorities enforced sexual harassment laws when cases were brought to court; however, there were no reported court cases during the year.

Sex Tourism: Sex tourism was an increasing problem with the growth of the tourism industry before the 2009 coup, and the economic crisis and lack of legitimate employment opportunities since the coup. The de facto authorities continued their national awareness campaign (begun by the Ravalomanana government before the coup) by posting signs throughout airports and hotels, including a full-page in the customs booklet given to arriving international passengers that warns against engaging in sex tourism.

Reproductive Rights: Couples and individuals freely exercised their reproductive rights with no legal or policy discrimination or coercion. Citizens had free access to contraceptives and family planning information at public clinics, and services were also available in the private sector. According to the UNFPA, the modern contraceptive use rate was 28 percent. Skilled attendance during childbirth was estimated at 51 percent but was lower in rural areas where there were few trained health workers and people were unable to access reproductive health and maternity services. All delivery services, including caesarean sections, were free in government health facilities. A variety of programs were instituted to expand the availability of quality care, but these were limited given the constraint on resources. A National Statistics Institute survey issued in June 2010 concluded that the maternal mortality ratio (the ratio of the number of maternal deaths per 100,000 live births) was 498, compared with 269 deaths in the 2004 report. The major factors that contributed to a high maternal mortality ratio were the distance

from and high cost of health centers, the low quality of hospital services, maternal chronic malnutrition including anemia, high rates of adolescent pregnancy, and the lack of adequate spacing between pregnancies. Men and women had equal access to diagnosis and treatment of sexually transmitted infections. While there were no legal barriers to accessing these services, there were enormous infrastructure inconsistencies. Some social and cultural barriers also limited access.

Discrimination: Women generally enjoyed the same legal status as men. Under the law, wives have an equal voice in selecting the location of the couple's residence and generally received half the couple's assets if the marriage ended. While widows with children inherit half of joint marital property, a husband's surviving kin have priority over widows without children, leaving them eighth in line for inheritance if there is no prior agreement, and potentially leaving them with none of the estate or a very small portion of it. In practice these provisions were not always observed.

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

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

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

Children

Birth Registration: Citizenship is derived from one's parents, although children born to a citizen mother and a foreign father must declare their desire for citizenship by age 18. The country has no uniformly enforced birth registration system, and unregistered children have historically not been eligible to attend school or obtain health care services. UNICEF worked with the government to provide birth certificates for both newborn children and those who did not receive a certificate at birth. According to a 2010 UNICEF study, 25 percent of children in the country under the age of five were not registered.

Education: The constitution provides for tuition-free public education for all citizen children and makes primary education until age 14 compulsory. At the beginning of the school year, some schools asked parents to advance registration fees with the intent that government subsidies would reimburse these. At year's end only some parents were reimbursed. Registration fees were 18,000 ariary (\$8) for primary school, 20,000 ariary (\$9) for middle school, and 25,000 ariary (\$11) for high school. Furthermore, a lack of public school teachers encouraged some schools to rely on their Parents' Association to pay all or a portion of teachers' salaries in an effort to attract/retain teachers.

Child Abuse: Child abuse was a problem. Since the beginning of the political crisis, cases of child rape increasingly appeared in the media, including two high-profile cases. Authorities rarely intervened in cases of child abuse.

On April 24, Jao Jean, a member of the de facto parliament, was accused of kidnapping and raping a 16-year-old girl in Antsohihy. The Ministry of Justice issued an arrest warrant, but Jean remained free until arrested November 30. Police officials commented that "scrupulous application of democracy and tact" was required for the arrest.

In May, Patrick Nicaud, reportedly a French citizen, was accused of allegedly raping underage girls in the port city of Toamasina. The case was highly publicized, with pictures of the alleged acts appearing in local media. The de facto minister of justice reportedly met with Nicaud but took no action to investigate the claim.

Child Marriage: Government statistics in 2008 indicated that one-third of girls and young women between the ages of 15 and 19 were married. Child marriage was especially prevalent in rural areas, where most couples were united in traditional local ceremonies outside the legal system. The legal age for marriage without

parental consent was 18 for both boys and girls. An estimated 39 percent of women between the ages of 20 and 24 were married before age 18, according to UNICEF data collected between 2000 and 2009.

Sexual Exploitation of Children: In 2007 the government adopted a law modifying the criminal code to define child sexual exploitation, child sex tourism, child pornography, and trafficking in persons, and stipulating penalties for violations. NGOs reported that the law was used in court on several occasions but had not resulted in a conviction. Law enforcement officials noted that the law was often not uniformly interpreted or applied.

Of the 353 victims of sexual abuse received at the Befelatanana Hospital between January and July, 339 victims were under the age of 18. No comprehensive data had been collected about the prosecution of the perpetrators, but the Social Workers' Union (SPDTS) received reports that most incidences were acquaintance rapes (carried out by boyfriends, close family members, or neighbors). Of 36 cases that SPDTS followed, 21 presumed perpetrators were released on bail, and 15 remained under retaining writ.

Children increasingly engaged in prostitution for survival with or without third-party involvement. A 2007 UNICEF study in the coastal cities of Toamasina and Nosy Be found that between 30 and 50 percent of females exploited in the commercial sex field were younger than 18.

The Ministry of Health, in collaboration with UNICEF, operated more than 14 multi-sector networks throughout the country to protect children from abuse and exploitation. Several ministries worked with UNICEF to develop training manuals on child rights and safeguards for officials working in child protection networks.

A child sex tourism problem exists in coastal cities, including Tamatave, Nosy Be, Diego Suarez, and Majunga, as well as the capital city of Antananarivo.

Displaced Children: Although child abandonment is against the law, it was a significant problem due to acute poverty and lack of family support. There were few safe shelters for street children, and governmental agencies generally tried to place abandoned children with parents or other relatives first. A traditional taboo in the southeast against giving birth to twins led some parents in the region to abandon one or both of their twin children, who sometimes were left to die.

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

Anti-Semitism

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

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

Persons with Disabilities

The law prohibits discrimination against persons with physical and mental disabilities, broadly defines their rights, and provides for a national commission and regional subcommissions to promote the rights of persons with disabilities. In practice, however, these rights rarely were enforced, and the legal framework for promoting accessibility remained perfunctory. A 2005 study conducted by the NGO Handicap International found that persons with disabilities seldom had access to health care, education, employment, or accommodation for communication or other basic services, and women and girls with disabilities were often victims of physical violence. In general, access to education for persons with disabilities was limited, due to lack of adequate infrastructure, specialized institutions, and teachers. A network of women with disabilities, "Association des Femmes Handicapees de Madagascar," advocated for their rights.

The Ministry of Health is responsible for protecting the rights of persons with disabilities. Isolated projects at the community level had some success. In 2008 a public market in the city of Majunga gained special handicapped access; a health and transportation benefits program with identity cards was developed in the city of Fianarantsoa; and persons with disabilities had been successfully integrated into public schools in some areas where they previously had no access. With international funding in 2008, the city of Antsiranana worked to make city hall, health centers, and other administrative buildings accessible. However, reports continued that schools often rejected students with disabilities, claiming their facilities were not adequate. Local NGOs also provided evidence that persons with disabilities were routinely refused access and verbally abused by teachers

throughout the education system, from primary school to university. A 2009 study found that the school attendance rate of children with disabilities was only 0.26 percent in 631 schools surveyed, due to the lack of specialized programs, poor understanding of the children's needs, and insufficient resources.

National/Racial/Ethnic Minorities

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

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

The penal code provides for a prison sentence of two to five years and a fine of two to 10 million ariary (\$900 to \$4,500) for acts that are “indecent or against nature with an individual of the same sex under the age of 21.” There were reports of official abuses occurring at the community level, such as administrative officials denying health services to transgender persons or breaking confidentiality agreements, although no cases have ever been pursued in court.

There was general societal discrimination against the LGBT community. Sexual orientation and gender identity were not widely discussed in the country, with public attitudes ranging from tacit acceptance to violent rejection, particularly of transgender sex workers. Local NGOs reported that most organizations that worked with the LGBT community did so as health service providers, often in the context of their work to combat the spread of HIV/AIDS. LGBT sex workers frequently were targets of aggression, including verbal abuse, stone throwing, and even murder. In recent years, awareness of “gay pride” increased through positive media exposure, but general attitudes have not changed.

Other Societal Violence or Discrimination

Persons with HIV/AIDS were subject to stigma and discrimination.

In 2007 the government adopted a law providing for HIV/AIDS patients' rights to free and quality health care, and specifying sanctions against persons who discriminated against or marginalized persons with the disease. This reportedly helped reduce discrimination, following public testimony and greater awareness of issues affecting those living with HIV/AIDS. The ministries of health and justice, and the National Committee for the Fight Against AIDS in Madagascar, enforced the law. Since the 2009 coup, foreign donors have largely suspended funding for HIV/AIDS programs.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides that public and private sector workers may establish and join labor unions of their choice without prior authorization or excessive requirements. Civil servants and maritime workers have their own labor codes. The maritime code governs workers in the maritime sector and does not contain sufficiently clear provisions ensuring the workers this right. In addition those classified as essential workers--including police, military, and firefighters--may not form unions.

The law allows unions to conduct their activities with a certain amount of government interference. The law provides most workers with the right to strike, including in EPZs. However, a strike is prohibited if there is a possibility of "disruption of public order," or if the strike would endanger the life, safety, or health of the population. Workers must first exhaust conciliation, mediation, and compulsory arbitration procedures, which may take eight months to two and one-half years. Workers in other essential services (the labor code does not provide a comprehensive list of "essential services"), such as magistrates, have a recognized but more restricted right to strike. They are required by law to maintain a basic level of service and to give prior notice to their employer. The labor code also provides for fine and/or imprisonment for the "instigators and leaders of illegal strikes," whether the strike is peaceful or not.

The law prohibits antiunion discrimination by employers. In the event of antiunion activity, unions or their members may file suit against the employer in civil court. However, civil servants and public sector employees are not afforded legal protection against acts of antiunion discrimination and interference.

The law also provides workers in the private sector, except for seafarers, the right to bargain collectively. Public sector employees not engaged in the administration of the state, such as teachers hired under the auspices of donor organizations or parent's associations to work in public schools, do not have the right to bargain collectively on their conditions of employment.

Workers exercised some of these rights in practice, including the right to join a union and engage in strikes during the year. However, the Ministry of Civil Services and Labor indicated that some employees did not join unions due to fear of reprisal. The authorities generally respected the right of unions, including those in the EPZs, to conduct their activities without interference.

There were no specific reports that employers refused to bargain, or bargained with unions not chosen by workers, or used hiring practices to avoid hiring workers with bargaining rights. Collective agreements were signed, mainly in public enterprises.

Passage of an EPZ law in 2008 notably reduced worker rights, by allowing labor laws in EPZs to vary from the country's standard labor code. EPZ labor contracts may now differ in terms of contract duration, restrictions on the employment of women during night shifts, and the amount of overtime permitted. Previously, EPZ activities centered mostly on textile factories, most of which were closed, and no specific violations were reported during the year.

b. Prohibition of Forced or Compulsory Labor

The labor code prohibits forced or compulsory labor, including by children, but authorities did not routinely enforce this prohibition. Many children and women were forced into domestic servitude, and sometimes into street vending and mining. Forced child labor occurred almost exclusively in the informal sector, such as stone quarries, the mining sector, farming and fishing industries, and domestic servitude, which accounted for a large portion of the county's economy. While prisoners and pretrial detainees can no longer be forcibly hired out to public officials for private use, government offices can hire them out for public use if the prisoners agree to the terms of employment and monetary compensation stipulated in the labor code. In addition, under the "Main d'oeuvre penale" (MOP) system, prisoners could work voluntarily in prison fields or penal camps or private facilities. Except for those condemned to forced labor, they were entitled to receive a salary. There were also reports that prisoners were sent, at their own

request and under state supervision, to perform remunerated work for private individuals. The MOP system was suspended in August 2010 as part of the “Operation Coup de Poing” security measures, part of an effort to lessen increasing nationwide insecurity.

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

c. Prohibition of Child Labor and Minimum Age for Employment

There were laws to protect children from exploitation in the workplace, but they were not effectively enforced. Child labor was a widespread problem.

The minimum age for employment was 15, consistent with educational requirements. However, the de facto regime did not effectively enforce the law. The law allows children to work a maximum of eight hours per day and 40 hours per week with no overtime. The law prohibits persons under the age of 18 from working at night and at sites where there is an imminent danger to health, safety, or morals. Employers must observe a mandatory 12-hour rest period between shifts. Occupational health and safety restrictions include parental authorization and a medical visit before hiring.

The International Labor Organization’s 2007 *National Survey on Child Labor in Madagascar* indicated that approximately 28 percent of children between the ages of five and 17 (1.8 million children) were working on a full-or part-time basis, with an estimated 438,000 children involved in dangerous work. Children in rural areas worked mostly in agriculture, fishing, and livestock herding, while those in urban areas worked in occupations such as domestic labor, transport of goods by rickshaw, petty trading, stone quarrying, work in bars, and begging. Children also were engaged in salt production, deep sea diving, and the shrimp industry. The Ministry of Civil Services and Labor estimated that more than 19,000 children were working in the mining towns of Ilakaka in the south, mostly in the informal sector, helping their families mine gemstones or working as domestics. Some children were trafficked internally for the purposes of forced labor.

The Ministry of Civil Services and Labor is responsible for enforcing child labor laws and policies in the formal sector and conducted general workplace inspections during the year in response to a range of complaints. During the year the ministry had approximately 100 inspectors to carry out its responsibilities, making it

difficult to monitor and enforce child labor provisions effectively. There is no enforcement in the much larger informal sector.

A 2007 decree regulates the working conditions of children, defines the worst forms of child labor, identifies penalties for employers, and establishes the institutional framework for its implementation. NGOs reported the decree improved awareness of the issue, which was not matched with more effective pursuit of labor law violators. During 2010 the Ministry of Civil Services and Labor organized a child labor workshop for labor inspectors in Antsirabe and established an action plan for regional child labor inspectors to use mass media and private sector monitoring to combat child labor.

NGO-run welcome centers in Antananarivo, Tamatave, and Tulear continued to receive victims of trafficking and forced labor.

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

d. Acceptable Conditions of Work

The monthly minimum wage was 90,235 ariary (\$40) for nonagricultural workers and 91,520 ariary (\$41) for agricultural workers. The official estimate for the poverty income level put the threshold at 468,800 ariary (\$211) per person per year. The Ministry of Civil Services and Labor was responsible for enforcing the working conditions and minimum wages prescribed in the labor code.

The standard workweek was 40 hours in nonagricultural and service industries and 42.5 hours in the agricultural sector. Legislation limited workers to 20 hours of overtime per week and required 2.5 days of paid annual leave per month. If the hours worked exceed the legal limits for working hours (2,200 hours/year in agriculture and 173.33 hours/month in other sectors), employers are legally required to pay overtime in accordance with a Labor Council decree, which also denotes the required amount of overtime pay.

The government is charged with setting occupational safety and health (OSH) standards for workers and workplaces. However, penalties for non-compliance are not defined in the labor code, which only requires an inspection before a company can open. The National Fund for Social Welfare, the country's social security agency, conducted inspections and published reports on workplace conditions,

occupational health hazards, and workplace accident trends. Workers, including foreign or migrant workers, have an explicit right to leave a dangerous workplace without jeopardizing their employment, as long as they inform their supervisors.

Authorities often encountered trouble enforcing the minimum wage and the workweek laws, due to inadequate resources and insufficient personnel. The labor inspectors in the Ministry of Civil Services and Labor were sufficient to effectively monitor conditions for workers only in the capital. Although most employees knew what the legal minimum wages were, those rates were not always paid. High unemployment and widespread poverty led workers to accept lower wages. Employees often were required to work until production targets were met. In some cases, this overtime was unrecorded and unpaid. Workers' right to remove themselves from a dangerous workplace was not always respected in practice.

Violations of wage, overtime, or OSH standards were common in the informal sector and in domestic work, where many are paid below minimum wage and work extensive hours.

EPZ companies in general respected labor laws, as many foreign importers required good working conditions in compliance with local law before signing contracts with EPZ companies.

There was no specific action by de facto authorities during the year to prevent violations and improve wages and working conditions, other than standard inspections, which are not adequate or exhaustive.