



## 2008 Human Rights Report: Madagascar

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

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Madagascar is a multiparty democracy with a population of approximately 18 million. President Marc Ravalomanana, who was elected to a second term in 2006, and his party, Tiako-I-Madagasikara (TIM), dominated political life. The legislative elections in September 2007 and April were generally free and fair, although international and domestic observers noted the continued unanswered need for electoral reforms. The civilian authorities generally maintained effective control of the security forces.

The following serious human rights problems were reported: unlawful killings; security force abuse; harsh prison conditions that resulted in deaths; arbitrary arrest; lengthy pretrial detention; censorship; official corruption and impunity; societal discrimination and violence against women and children; trafficking of women and children; and child labor, including forced child labor.

### **RESPECT FOR HUMAN RIGHTS**

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

a. Arbitrary or Unlawful Deprivation of Life

The government or its agents did not commit any politically motivated killings. However, police and gendarmes throughout the country used unwarranted lethal force during pursuit and arrest.

In September a suspected criminal was killed during pursuit and a bystander injured by police gunfire in an Antananarivo market. In a similar incident in October in Ankasina, a suspected thief was injured by gunfire after fleeing from the police. In June 2007 gendarmes in Bekoby, near the northwestern town of Majunga, shot and killed two brothers for stealing a neighbor's cow; that same month a gendarme slashed another suspect's leg with a machete during pursuit and arrest, and the man bled to death after a day of questioning and beating. No action was taken against security forces responsible for such killings.

There were no reports that demonstrators died as a result of police use of excessive force.

b. Disappearance

There were no reports of politically motivated disappearances.

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

The constitution and law provide for the inviolability of the person; however, security forces subjected prisoners to physical abuse, including rape. In September 2007 a 17-year-old boy in Ilemby accused of stealing cattle had his head submerged in a river by a gendarme according to the local nongovernmental organization (NGO) S.O.S.

Victims. The boy spent three days in prison and was released after his family agreed to pay 800,000 ariary (approximately \$400) to the gendarme. At year's end the family was still completing its payment. There were no other developments in the case.

In October 2007 a 15-year-old in Ambohimangakely, near the capital, Antananarivo, was arrested after being accused of stealing a cellular telephone. In prison he was undressed, physically abused, and not given anything to eat for 48 hours. After he fainted, the police sent him to a local hospital. In November 2007 the boy was acquitted for lack of evidence. There was no further action on the case.

#### 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; pervasive pretrial detention continued, although Ministry of Justice (MOJ) efforts reduced the number of such detainees during the year. As of December the country's 82 facilities held approximately 16,555 prisoners, according to the Ministry of Justice, exceeding intended capacity by up to one-third.

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 efforts in 2007 to raise prisoners' daily food ration to 750 grams (typically dry manioc, rice, or cassava) had not been fully implemented by year's end; families and NGOs supplemented the daily rations of some prisoners.

The MOJ reported 48 prison deaths during the year, a slight reduction over the same period in 2007, although NGOs and media sources indicated that there was substantial underreporting of this figure.

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 limited success in targeted sanitation activities at several facilities in the north of the country.

The government's 2007 national action plan to rehabilitate and improve prison conditions had some success in reducing the number of pretrial detainees, but there was little change in other target areas.

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 in jail for food. Prisoners could be used as forced labor.

Juveniles were not always held separately from the adult prison population, and some preschool age children shared cells with their incarcerated mothers. Pretrial detainees were seldom kept separate from the general prison population.

The government generally permitted independent monitoring of prison conditions by the International Committee of the Red Cross and several local NGOs, and such visits occurred during the year. ICRC visits were conducted two to three times during the year to each facility, with private consultations in accordance with ICRC standard modalities.

#### d. Arbitrary Arrest or Detention

The constitution and law provide for due process for persons accused of crimes and prohibit arbitrary arrest and detention. However, the government did not always respect these provisions in practice, permitting arrest on vague

charges and detaining suspects for long periods without trial.

#### Role of the Police and Security Apparatus

Following reforms in October, the minister for internal security heads the National Police, the Gendarmerie, and a planned Coast Guard, with authority for law and order in both urban and rural areas. The Gendarmerie had previously been under the authority of the Ministry of Defense.

Lack of training and equipment, low salaries, and rampant corruption were problems in the National Police and Gendarmerie. The MOJ established four legal clinics in 2007 to assist victims of human rights violations; however, no report on their activities was made available by year's end.

The Independent Anticorruption Bureau (BIANCO) is a nominally independent government agency, with a presidentially appointed director and oversight from the Committee for the Safeguard of Integrity within the presidency. BIANCO opened investigations into allegations of security force abuses including corruption and blackmail, and provided training in judicial reforms to the security forces.

#### Arrest and Detention

Although the law requires that arrest warrants be obtained in all cases except those involving hot pursuit, often persons were detained and jailed based on accusations. Defendants have a general right to counsel and the right to be informed of charges against them, but this was not always respected. A system of bail exists depending on the crime, with bail frequently denied for more severe or high profile crimes. Magistrates often resorted to a "mandat de depot" (retaining writ) by which defendants were held in detention for the entire pretrial period. In May 2007 the government adopted a new law that limits the duration of pretrial detention and regulates the use of the mandat de depot, including new regulations that limit the duration of detention based on the type of crime, with a new maximum of eight months for criminal cases. Family members of prisoners generally were allowed prompt access to prisoners; however, access to certain prisoners, such as those in solitary confinement, was more limited.

The MOJ reported that approximately 50 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, the government often detained individuals for significantly longer before charging or releasing them. Poor record keeping, an outdated judicial system that favors 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 multiple years. Many detainees spent a longer period in investigative detention than they would have spent incarcerated following a maximum sentence on the charges faced.

The government's recent steps to address some of these issues have started to reduce the number of pretrial detainees and increase the number of prisoners released on "conditional liberty." Human rights training by UNDP and the National School for Magistrates was ongoing for magistrates, NGOs, journalists, and investigative police.

#### 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.

The judiciary is under the MOJ and has four levels. Courts of first instance hear civil cases and criminal cases carrying lesser fines and sentences. The Court of Appeals includes a criminal court of first instance for cases carrying sentences greater than five years. The Supreme Court of Appeals hears appeals of cases from the Court of

Appeals. The High Constitutional Court reviews the constitutionality of laws, decrees, ordinances, and electoral disputes. The judiciary also includes specialized courts designed to handle matters such as cattle theft.

Military courts are reserved for the trial of military personnel and generally follow the procedures of the civil judicial system, except that military officers are included on jury panels. Defendants in military cases have access to an appeals process. A civilian magistrate, usually joined by a panel of military officers, presides over military trials.

The law provides traditional village institutions the right to protect property and public order. An informal, community-organized judicial system called "dina" was used in some rural areas to resolve civil disputes between villagers over such issues as cattle rustling.

#### Trial Procedures

The constitution and law provide defendants with the right to a full defense at every stage of the proceedings, and trials are public. Defendants have the right to be present at their trials, to be informed of the charges against them, to call and confront witnesses, to present evidence, and to appeal convictions. The law extends these rights to all citizens without exception.

The government is required to provide counsel for all detainees who cannot afford their own attorney; however, many citizens were not aware of this right in practice. Attorneys have access to government-held evidence but this right does not extend to defendants without attorneys. The law provides for a presumption of innocence; however, the presumption of innocence was often overlooked. While the law provides that juries can be used in all cases, in practice, juries were used only in labor disputes.

#### Political Prisoners and Detainees

Government, opposition, and civil society organizations disagree on the existence of political prisoners in Madagascar. Although no numbers are currently available, several well-known politicians are imprisoned, serving what are seen as excessive sentences for crimes of reportedly questionable legitimacy. Pety Rakotoniaina, a former Mayor of Fianarantsoa and contender in the 2006 presidential election, is currently serving a 14-year sentence for the theft of an official vehicle. His lengthy sentence is seen by the opposition and media as the result of his vocal support for General Fidy Andrianafidisoa, currently imprisoned for a 2006 coup attempt against the president.

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

#### Civil Judicial Procedures and Remedies

The judiciary's independence and impartiality was compromised by corruption, as indicated by BIANCO investigations and public perception. The judiciary deals with all civil matters, including human rights cases. However, the courts often encountered difficulty in enforcing judgments in civil cases.

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

The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2 Respect for Civil Liberties, Including:

#### a. Freedom of Speech and Press

The constitution and law provide for freedom of speech and of the press. Citizens could criticize the government on many subjects without fear of reprisal, but the government attempted to impede political criticism. There were no reports of government officials arresting journalists during the year; however, one television station was closed, several radio stations were temporarily suspended and programs cancelled for alleged criticism of the government. To maintain access to sources, journalists practiced extensive self-censorship.

There were 13 privately owned major daily newspapers and many other privately owned national and local news publications that were published less frequently. *Le Quotidien*, which is owned by the president, was the newspaper most heavily influenced by the state. The government owned nationwide television and radio networks. The president's privately owned television and radio station, MBS, was permitted to broadcast nationally, a right denied to all other private stations. There were approximately 256 other radio stations and 39 other television stations.

In May the foreign editor of *L'Express*, a major Antananarivo newspaper, was allegedly expelled from the country. In October the prime minister implied in a statement to the press that the activities of critical media could be construed as criminal. While a wide variety of views can be found in print media, electronic media generally refrain from criticizing the government, and those working for private media were expected to follow the political line of the station owner. Government agencies, private companies, and political parties sometimes bribed journalists, who generally received minimum or below minimum wages, to ensure positive coverage of certain events.

In December Antananarivo television station "VIVA" was closed after airing a speech by former president Didier Ratsiraka, with the government citing concerns that it could "disturb order and public security". Andry Rajoelina, owner of VIVA and Mayor of Antananarivo, has used the closure to garner support among opposition figures, and he has publicly challenged the government over what he considers to be a politically-motivated campaign against him. This dispute worsened by the end of the year.

#### Internet Freedom

There were no government restrictions on access to the Internet or reports that the 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; modern technology and the necessary infrastructure were generally absent in rural areas.

#### 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 and the government generally respected this right in practice. Unlike in the previous year, however, there were reports that government officials impeded opposition meetings in several locations around the country.

From August through October, several opposition groups were denied permission to hold meetings in several cities, including Antananarivo, Fianarantsoa, and Tamatave. In several cases, authorization was withheld by the police, citing public safety, security concerns, or lack of justification for the event. Several groups held their events

regardless, and opposition leaders were arrested or detained for these activities. Opposition leader Henri Lecacheur was given a three-month suspended sentence in September for allegedly holding an unauthorized rally in Antananarivo in August.

For several weeks starting in late April, public demonstrations in Tulear, Diego Suarez, and Tamatave, originating with students' grievances against blackouts and study conditions, led to clashes between security forces and demonstrators. Protestors threw rocks at police, set fire to a public building in Tulear, took the regional director of Tulear's penitentiary administration hostage, and looted shops. Police responded by releasing tear gas and firing shots to disperse the crowd; one person was shot in the leg. All arrested protestors were released; some received suspended prison sentences for inciting violence and disturbing public order. There is no record available of any further actions in this case.

#### 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.

#### c. Freedom of Religion

The constitution and law provide for freedom of religion, and the government generally respected this right in practice. However, some Muslims felt marginalized by the government and expressed concern about their legal status. They expressed reluctance to openly advertise some of their activities as "Islamic" for fear of discrimination, although there were no reliable reports of explicit discrimination by the government except regarding pending citizenship applications (see section 2.d.).

An April 2007 constitutional referendum eliminated the explicit separation of church and state but did not diminish legal protection for freedom of religion. However, secular NGOs and other churches reported favoritism for the Protestant FJKM, with which President Ravalomanana is affiliated, and assert that the constitutional changes have legitimized a certain amount of interference

In August 2007, following a two-year ban, the government reopened the New Protestant Church in Madagascar, now renamed. The Universal Church of the Kingdom of God remained banned during the year.

In May 2007 Jesuit missionary Father Sylvain Urfer was deported to France on grounds that his entry visa had expired, although he had lived in Madagascar since 1974 and held a permanent visa since 1992. Some human rights activists claimed Urfer's expulsion was connected to his religious activities, while others cited his open criticism of the government as the reason. As of October the Supreme Court had not yet ruled on the case, and Urfer remained abroad.

#### Societal Abuses and Discrimination

There were no reports during the year of societal abuses or discrimination based on religious belief or practice.

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

For a more detailed discussion, see the 2008 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/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, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The constitution does not explicitly prohibit forced exile; however, the government did not use it in practice. Former president Ratsiraka and some members of his administration remained in self-imposed exile.

#### Protection of Refugees

The law does not include provisions for the granting of asylum or refugee status, but the government has established a system for providing protection to refugees. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened. The government granted refugee status or asylum and cooperated with the UN High Commissioner for Refugees and other humanitarian organizations in assisting the small number of refugees in the country.

#### Stateless Persons

An arcane system of citizenship laws and procedures has resulted in a large pool of stateless persons in the minority Muslim community, many of whom have lived in the country for generations. Reliable figures remain unavailable, but Muslim leaders estimated as many as 5 percent of the estimated two million Muslims were affected. Citizenship is transmitted through "blood"; birth on Malagasy soil does not transmit citizenship. Children born to a Malagasy mother and non-Malagasy father must be declared by a certain age or risk losing eligibility for citizenship. Some members of the Karana community of Indo-Pakistani origin who failed to register for Malagasy or Indian citizenship following India's independence in 1947 were no longer eligible for either. Members of the wider Muslim community suggested that a Muslim-sounding name alone could delay one's citizenship application indefinitely. Lack of citizenship precluded voting rights and limited international travel without a passport.

#### 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 exercised this right in practice by voting in presidential, legislative, and municipal elections.

#### Elections and Political Participation

Indirect elections to the 33-member senate were held in April, with the ruling TIM party winning all 22 elected seats, with the remaining 11 members appointed by the president. Allegations of campaign and voting irregularities surfaced during and after the election, but no conclusive legal action was taken.

The December 2007 municipal elections were initially declared free, fair and peaceful, but local observers noted minor irregularities in some elections advantaging ruling party candidates over others. The Council of State overturned results in several mayoral contests, citing localized miscounting and improper involvement of TIM candidates. By August TIM had lost 16 mayoral positions in court, and gained six others. TIM did not interfere when an independent won in Antananarivo, but an ongoing feud between the mayor and the government over the last year has seen national government officials interfering with the mayor's financial independence and administrative authority in the capital. This culminated in a conflict over the closure in December of the mayor's private television station, VIVA, that was ongoing at the end of the year.

In September 2007 the country held a calm and relatively orderly legislative election marked by a low 46 percent voter turnout. The result was a National Assembly in which all but 22 of 127 legislators were TIM party members. A number of domestic and international observer teams deemed the election generally free and fair, despite minor irregularities that did not affect the overall results. However, media coverage included unconfirmed reports of

government interference and pressure at the local level, namely regional chiefs either promising local leaders rewards or threatening dismissal if the ruling TIM party candidate was not elected in their areas. Election observers also noted persistent structural shortcomings, including the need for an independent electoral commission, the need to revise the electoral code to include sanctions against fraud and to regulate campaign financing, and the lack of a single ballot that could potentially disadvantage candidates who could not afford to print their own ballots or if the government failed to adequately distribute their ballots.

Former deputy prime minister Pierrot Rajaonarivelo continued from abroad to appeal his conviction; the last appeal filed in May 2007 was still pending at year's end.

There were four women in the 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.

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. However, residents of Indo-Pakistani origin were not well-represented in the government.

#### Government Corruption and Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively. The World Bank's Worldwide Governance Indicators reflected that corruption was a problem, as was impunity. NGOs and the media reported that anticorruption efforts were more effective in pursuing low-level violators, with less success in attacking corruption at the national government level.

During the year the government created an anti-money laundering agency, SAMIFIN, and a separate ethics unit within each ministry. BIANCO, the government's Independent Anti-Corruption Bureau, and the MOJ signed an agreement in June for increased cooperation concerning data collection and case referrals.

BIANCO monitored a network of drop boxes for public complaints in each of the country's 111 districts, and had received 9,690 complaints during the year; of these, 1,167 were considered worthy of pursuit, and in December the agency had 1,095 open investigations.

In October 2007 a court sentenced the former mayor of Tamatave, Roland Ratsiraka, to 18 months of "suspended" prison time for awarding a bid to his own garbage collection company. In August 2007 six persons were arrested for embezzling 10.8 billion ariary (approximately six million dollars) from the Central Bank in Manakara; the director of the Central Bank and two of his staff reportedly fled abroad to avoid arrest.

Public officials at the director-general level and above were subject to financial disclosure laws, excluding the president. In practice, only 33 percent of those required to disclose did so during the year.

There are no laws providing for public access to government information. Educational material on anticorruption, including statistics updated every quarter, was available to citizens and noncitizens, including foreign media, while cases under investigation were considered confidential.

#### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Numerous domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and

responsive to their views. The constitution and law require the government to create apolitical organizations that promote and protect human rights. While no single entity bears sole responsibility for the status of human rights in the country beyond the standard judicial system, responsibilities have been delegated to several organizations covering specific elements such as child labor and domestic violence.

#### Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The constitution and law prohibit all forms of discrimination; however, no specific government institutions were designated to enforce these provisions.

#### Women

The law prohibits rape in general but does not specifically refer to spousal rape. Penalties ranged from three 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 him or her in contact with children. Rapes committed against children and pregnant women were punishable by hard labor. An additional two to five years' imprisonment could be added in the case of assault and battery, and the government generally enforced these penalties. The Brigade of Morals and Minors reported receiving 10 to 12 rape-related complaints a day throughout the country. There were 217 cases of rape reported during the year in Antananarivo, of which 130 were investigated.

The law prohibits domestic violence, but it remained a significant 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 June 2006 that one out of three women in southern and south-eastern Madagascar would suffer from violence at some point in her life. A 2007 survey on conjugal violence conducted by the Ministry of Health in collaboration with two NGOs found that of 400 women surveyed in Antananarivo, 45 percent were subjected to psychological violence, and 35 percent were victims of 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.

Prostitution is not a crime, but related activities, such as pandering and incitement of minors to debauchery, are criminal. Prostitution was pervasive and particularly visible in areas frequented by tourists. Sex tourism was an increasing problem with the growth of the tourism industry. The government continued with its national awareness campaign by posting signs throughout airports and hotels, including a full-page warning against engaging in sex tourism in the customs booklet given to arriving international passengers. In December 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 sanctions for the authors of such crimes, particularly when committed against children. NGOs reported that the law has been used in court on several occasions, but has not yet resulted in a prosecution.

Sexual harassment is against the law, but 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. The government enforced sexual harassment laws when brought to court; however, there were no reported cases during the year.

Women generally enjoy 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. Widows with children inherit half of joint marital property; however, a husband's surviving kin have priority over widows without children. In practice these requirements 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. Although the country is party to Convention for the Elimination of all Forms of Discrimination Against Women there was no special government 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 and state owned companies. More traditional social structures in rural areas tended to favor entrenched gender roles, as most of the population is engaged in subsistence farming. In 2003 the Ministry of Civil Services and Labor reported that women owned 30 percent of formal sector companies and 53 percent of informal sector companies. While there is little discrimination in access to employment and credit, women often do not receive equal pay for substantially similar work. Women are not permitted to work in positions that might endanger their health, safety, and morals. Per the Labor and Social Protection Codes, such positions include night shifts in the manufacturing sector, and select 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 about their rights, few women lodged official complaints or sought redress when their legal rights were compromised.

#### Children

The ministries of health and education play the principal role in addressing child welfare, but the ministries of justice, civil services and labor, youth and sports, and the State Secretariat for Public Security also play a role. An increase in the budget for education has permitted some improvement in services for vulnerable groups, but a lack of funding generally resulted in inadequate services and precluded the compilation of reliable statistics.

The country has no uniform birth registration system, and unregistered children were not eligible to attend school or obtain health care services. According to a 2003-04 study by INSTAT, the government's office of statistical studies, 25 percent of children in the country under the age of five were not registered.

The constitution provides for tuition-free public education for all citizen children and makes primary education until age 14 compulsory. According to government statistics, 85 percent of primary school-age children were enrolled, although a 2008 report from the International Labor Organization indicates that far fewer actually attend school. Children in rural areas generally studied through middle school, whereas children in urban areas commonly finished the baccalaureate examination process for entrance into university.

Child abuse was a problem. In December 2007 the government adopted a 2008-12 national action plan on violence against children, including child labor, sexual exploitation, and trafficking. 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. In light of recent child-related legislation, several ministries worked with UNICEF to develop training manuals on child rights and safeguards for officials working on child protection networks. In June, the government completed a one-year program to train and assist security forces in the protection of children.

Government statistics indicated that 33 percent of girls 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. As of April 2007 the legal age for marriage without parental authorization was 18 for both boys and girls.

Children engaged in prostitution for survival without third party involvement. Child prostitution constituted one of the primary forms of child labor. A 2007 UNICEF study in the coastal cities of Toamasina and Nosy Be found that

between 30 and 50 percent of female sex workers were under the age of 18.

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 government agencies generally tried to place abandoned children with parents or other relatives first; orphanages and adoption were a last resort. A traditional superstition in the southeast against giving birth to twins led some parents in the region to abandon one or both of their twin children, who were sometimes left to die. The government completed a study on the treatment of twins in Mananzary, and NGOs have actively promoted awareness of the issue, but no changes to the legal framework or enforcement policy had been adopted by year's end.

#### Trafficking in Persons

As of December 2007 the law specifically prohibits trafficking in persons, but there were reports that persons were trafficked within the country. The vast majority of cases involved children and young women, mostly from rural areas, trafficked for sexual exploitation and forced labor including domestic servitude, mining, and street vending. A sex tourism problem existed in coastal cities, as well as Antananarivo, with a significant number of children exploited as prostitutes. International trafficking was rare; there were unconfirmed anecdotal reports of a limited number of women and girls trafficked for prostitution to the neighboring islands of Mauritius and Reunion.

Principal traffickers ranged from organized criminals to "friends" to taxi drivers to distant family members. Traffickers often took advantage of young women, girls, and boys in rural areas by promising employment opportunities in urban areas, particularly in domestic employment.

Traffickers may be prosecuted under provisions prohibiting procurement of minors for prostitution, pedophilia, pimping, and deceptive labor practices. In August 2007 a new law was adopted prohibiting all forms of violence against children, including sexual exploitation and providing for punishment of adult exploiters of child prostitutes. In December 2007 the government adopted a law defining trafficking in persons, among other crimes, and stipulating sanctions for the authors of such crimes, particularly when committed against children. The Ministry of Justice is responsible for enforcement of such laws, but NGOs reported that the laws were not effectively enforced.

During the year there were no reports of arrests specifically for trafficking. However, the absence of a centralized database of legal cases and a law specifically defining trafficking activities or sanctions before December 2007 impeded prosecution and recordkeeping. A centralized database was established in September under the authority of the secretary of state for internal security; it is now operational, but currently lacks the required legal standing for use in court, and is generally limited to cases in Antananarivo.

Police cooperated with neighboring countries and Interpol in the investigation and prosecution of trafficking cases. The government did not extradite persons charged with trafficking in other countries, nor did it permit extradition of Malagasy nationals. Whether because of corruption, pressure from the local community, or fear of an international incident, local police and magistrates in tourist areas often hesitated to prosecute foreign pedophiles.

The government continued to address child labor and trafficking through educational and birth registration campaigns. Child workers taken into the country's three welcome centers were either given vocational training or placed back in school. The Ministry of Health worked with UNICEF to establish new multisector child protection networks throughout the country to handle individual cases of child exploitation, including trafficking.

#### 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 were rarely enforced, and the legal framework for promoting accessibility remains perfunctory. A 2005 study conducted by 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.

The Ministry of Health is responsible for protecting the rights of persons with disabilities. President Ravalomanana signed the International Convention on the Rights of the Disabled in September 2007 but no implementing legislation had been passed by year's end.

Isolated projects at the community level had some success. 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 have been successfully integrated into public schools in some areas where they had previously had no access. However, reports continue that mainstream schools often reject students with disabilities on the basis of inadequate facilities.

#### National/Racial/Ethnic Minorities

None of the 18 Malagasy tribes 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 election campaigns. 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 has contributed to tension between citizens of highland and coastal descent.

#### Other Societal Abuses and Discrimination

The law does not prohibit discrimination against homosexuals, and there was general societal discrimination against them.

Although the national HIV/AIDS rate was low at approximately 1 percent, there was stigma and occasional discrimination attached to having HIV/AIDS. In July 2007 the government adopted a new law protecting HIV/AIDS patients' rights to free and quality health care and specifying sanctions against persons who discriminate or marginalize people with the disease. The law was enforced by the ministries of health and justice and the National Committee for the Fight Against AIDS in Madagascar.

#### Section 6 Worker Rights

##### a. The Right of Association

The law provides that public and private sector workers may establish and join labor unions of their choice without prior authorization or excessive requirements. However, those classified as essential workers, including police, military, and firefighters may not form unions. Ministry of Civil Services and Labor statistics from 2007 indicated that 14 percent of workers in EPZ companies and 10 percent of all workers were unionized. The government had no reliable statistics on the number of public employees participating in unions, but it was generally believed that few public employees were union members, despite the existence of several public employees' unions.

The law provides most workers with the right to strike, including in EPZs, and workers exercised this right; however, workers must first exhaust the conciliation, mediation, and arbitration procedures. Civil servants and maritime workers have their own labor code; workers in other essential services, such as magistrates, have a

recognized but more restricted right to strike.

#### b. The Right to Organize and Bargain Collectively

The law provides for unions to conduct their activities without interference, and the government generally respected this right. The law also provides workers in the private sector the right to bargain collectively; however, civil servants were not covered under such agreements.

The law prohibits antiunion discrimination by employers; however, the Ministry of Civil Services and Labor indicated that some employees did not join unions due to fear of reprisal. In the event of antiunion activity, unions or their members may file suit against the employer in civil court.

Following the passage of a new Export Processing Zone (EPZ) law in January, labor laws in the EPZ vary somewhat from the country's standard labor code. EPZ labor contracts can now differ in terms of contract duration, restrictions on the employment of women during night shifts, and the amount of overtime permitted.

#### c. Prohibition of Forced or Compulsory Labor

The labor code prohibits forced or compulsory labor, including by children, but at times the government did not respect this prohibition, specifically with respect to prison labor. While prisoners and pretrial detainees can no longer be forcibly hired out to government officials for private use, unless the prisoner agrees to the terms of employment and monetary compensation stipulated in the labor code, they can still be hired out for public use by government offices. Except for those condemned to forced labor, they are entitled to receive a salary.

Forced labor by children occurred.

#### d. Prohibition of Child Labor and Minimum Age for Employment

There were laws to protect children from exploitation in the workplace and prohibit forced or compulsory labor, but the government sometimes encountered trouble enforcing these laws, due to inadequate resources and insufficient personnel. Child labor was a widespread problem.

The minimum age for employment was 15 years of age, consistent with educational requirements. 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 (ILO) National Survey on Child Labor in Madagascar from 2007 indicated that approximately 28 percent of the child population between the ages of five and 17 (1.8 million children) were working on a full- or part-time basis, with around 438,000 children involved in dangerous work. Children in rural areas worked mostly in agriculture, fishing, and livestock, while those in urban areas worked in occupations such as domestic labor, transport of goods by rickshaw, petty trading, prostitution, stone quarrying, working 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 for gemstones or working as domestics and prostitutes. Children were trafficked internally for the purposes of forced labor and sexual exploitation.

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. The ministry had only 68 inspectors to carry out its responsibilities, making it difficult to monitor and enforce child labor provisions effectively. Enforcement in the much larger informal sector remained a serious problem.

The reduction of child labor is one of the government's main goals in the comprehensive five-year Madagascar Action Plan guiding the country's development. In July 2007 the government adopted a decree regulating the working conditions of children, defining the worst forms of child labor, identifying penalties for employers, and establishing the institutional framework for its implementation. NGOs reported improved awareness of the issue as a result; however, this has not been matched with more effective pursuit of labor law violators.

The Ministry of Civil Services and Labor continued implementing its 15-year national plan to combat the worst forms of child labor, including prostitution. In addition to the existing Regional Committee to Combat Child Labor (CRLTE) in the north, two additional CRLTE were established in 2007 in the southwest and on the east coast.

In May 2007 as part of the ongoing "red card campaign" to raise awareness about the fight against child labor, the government worked with the Malagasy Soccer Federation (FMF) to conduct awareness campaigns around the country; this campaign continued during the year with ongoing support from the FMF and ILO-IPEC.

The government's welcome centers in Antananarivo, Tamatave, and Tulear continued to receive victims of trafficking and forced labor.

#### e. Acceptable Conditions of Work

The Ministry of Civil Services and Labor was responsible for enforcing the working conditions and minimum wages prescribed in the labor code, but it sometimes encountered trouble enforcing these laws due to inadequate resources and insufficient personnel.

The monthly minimum wage was 70,025 ariary (approximately \$42) for nonagricultural workers and 71,000 ariary (\$43) for agricultural workers. This did not provide a decent standard of living for a worker and family, particularly in urban areas. 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.

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, but employees often were required to work until production targets were met. In some cases this overtime was unrecorded and unpaid.

The government sets occupational health and safety standards for workers and workplaces. CNAPS, the country's social security agency, conducted inspections and published reports on workplace conditions, occupational health hazards, and workplace accident trends. The Ministry of Civil Services and Labor's 68 labor inspectors were sufficient to cover only workers in the capital effectively. Workers have an explicit right to leave a dangerous workplace without jeopardizing their employment as long as they inform their supervisor. However, this right was not always respected in practice.