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## 2009 Human Rights Report: Madagascar

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

### 2009 Country Reports on Human Rights Practices

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Madagascar, with a population of over 20 million, is ruled by an unelected civilian regime that assumed power in a coup March 17 with military support. Andry Nirina Rajoelina adopted the title of President of the Transition, at the head of a loose coalition of former opposition politicians, and intends to remain in this position until elections are held. Former President Marc Ravalomanana, democratically elected in 2006, has resided abroad since the coup; since March 21, the parliament has been suspended. In defiance of a negotiated agreement with the African Union (AU) and local political leaders, the regime failed to establish a transitional administration that would oversee free and open elections for the restoration of a legal government. Military leaders continue to assert their autonomy from the current political leadership, despite their tacit support of Rajoelina's de facto government.

The right of citizens to choose their government has been effectively curtailed. In addition, the following serious human rights problems were reported: unlawful killings; other security force abuses; harsh prison conditions, sometimes resulting in deaths; arbitrary arrest and detention; 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.

The conflict between Rajoelina and Ravalomanana began shortly after Rajoelina's election as Mayor of Antananarivo in 2007. An increasingly public feud between the politicians reached a turning point on December 13, 2008, when Ravalomanana closed VIVA TV, owned by Rajoelina. Disparate opposition groups lined up behind Rajoelina, who seized on widespread discontent to mount increasingly large demonstrations in Antananarivo over the following two months, culminating in a series of violent confrontations in January and February. Domestic and international efforts to broker talks failed to achieve resolution and, in early March, a mutiny within the army removed the security forces from Ravalomanana's control. On March 17, Ravalomanana signed a decree granting executive power to a military directorate, which subsequently transferred it to Rajoelina. The ongoing political conflict has resulted in widespread abuses of power, restrictions on assembly, speech, and press freedom, and an increase in politically motivated arrests and detentions.

### RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

There were numerous reports that the government or its agents committed arbitrary or unlawful killings, under both the Ravalomanana government and Rajoelina's de facto government, which ruled after March 17. From January through April, there were a series of deaths and injuries as security forces struggled to maintain control of protests. On February 7, at least 30 protesters were killed and more than 100 injured outside Ambohitsorohitra Palace after presidential guards opened fire on protesters threatening to overrun the main gate.

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Estimates of deaths during the conflict range from 150 to 300 nationwide; many of those fatalities occurred during riots and looting in late January, when at least 44 persons were trapped in a burning department store in Antananarivo. Others were killed during failed attempts to control crowds or intimidate protesters. On January 26, the first day of violent protests in Antananarivo, a boy was shot in a crowd outside Ravalomanana's MBS television station. On April 20, security forces reportedly shot two protesters during a march into the city center; their deaths resulted in larger protests the following day, and an eventual ban on public demonstrations. There were several other such incidents in the course of near-daily protests between January and May, both in Antananarivo and several of the larger regional capitals, none of which resulted in official disciplinary action against members of the security forces.

Between April and August, the pro-Ravalomanana opposition was blamed for a series of small explosions in the capital. The government has not convicted any of the suspects detained in connection with these bombings. On July 18, one man was killed and two injured when an explosive device they were carrying detonated prematurely. Testimony from the two injured suspects led to further arrests. There were allegedly numerous additional bombings, but no group claimed responsibility, and the de facto government has not been able to identify the source.

Police and gendarmes continued to use unwarranted lethal force during pursuit and arrest. In September 2008, police shot and killed a suspected criminal and injured a bystander during pursuit through an Antananarivo market. In a similar incident in October 2008 in Ankasina, police shot and injured a suspected thief who was fleeing. In 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 force members responsible for these killings.

There were no public investigations into any incidents of violence by security forces under either Ravalomanana or Rajoelina, and the de facto government's security forces continued to operate with impunity. On September 26, a soldier later associated with the Special Intervention Force (FIS) shot a woman in the leg in Antananarivo. The de facto prime minister at the time, Roindefo Monja, indicated to the press that the soldier may have been intoxicated although he was never tried or disciplined for the incident.

#### 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 and prohibit such practices; however, security forces subjected prisoners to physical and mental abuse.

After opposition leaders took power in March, Gendarme Commanders Charles Andrianatsoavina and Lylison Rene Urbain oversaw the Joint National Investigation Committee (CNME, later renamed the Special Intervention Force), which operated largely outside of the structure of the established security forces and was responsible for many of the high-profile arrests over the following six months. Andrianatsoavina was behind the March detention of Protestant pastor Lala Rasendrasahina and three military leaders due to their connections to Ravalomanana. He allegedly subjected

Rasendrahasina to harsh treatment, including physical violence. Members of the CNME used excessive force during multiple arrests. On April 23, the CNME arrested four members of parliament accused of distributing money to protesters. One of the members of parliament accused Andrianatsoavina of striking him with his pistol while the members were forced to kneel in the street.

#### Prison and Detention Center Conditions

Prison conditions were harsh and life threatening under both the Ravalomanana and Rajoelina regimes. Severe overcrowding due to weaknesses in the judicial system and inadequate prison infrastructure remained a serious problem; pervasive pretrial detention continued. As of December, the country's 82 prisons and detention centers held approximately 17,700 prisoners, exceeding intended capacity by over one-third. This included approximately 700 women and girls, and almost 400 juveniles. Of those detained, 8,480 were in pretrial detention.

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 (MOJ's) efforts in 2007 and 2008 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 NGOs supplemented the daily rations of some prisoners.

The MOJ reported 34 prison deaths from January to October, a reduction from 2007 and 2008. However, 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.

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. Due to the crisis, these gains were lost and the numbers of pretrial detainees rose to previous levels.

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.

Male and female prisoners were kept separate. The central prison had a separate quarter for women, and there was a women's facility in Manjakandriana. 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 imprisonment with the general prison population, but others were generally held in the same facilities. 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 (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 around the country with private consultations in accordance with ICRC standard modalities. ICRC representatives were also permitted to visit detainees in pretrial or temporary detention, as need arose.

#### d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention; however, the government did not always respect these provisions in practice. The government permitted arrest on vague charges and detained suspects for long periods without trial. There was a sharp increase in politically motivated detentions both before and after the March 17 coup; the actual number remained disputed, but several of those arrested since March remained imprisoned (see section 1.e. and section 2.a.).

On April 29, CNME gendarmes arrested Manandafy Rakotonirina, a political ally of former president Ravalomanana, on the grounds that he was "the mastermind" behind anti-Rajoelina protests. On September 22, he was convicted on multiple charges, including inciting disorder and usurping public office, and given a two-year suspended sentence.

On September 12, the FIS, acting without a warrant, arrested Senator Eliane Naika in her hotel on charges of attending an illegal gathering and damaging public property. On September 18, the court granted her provisional release to await the beginning of her trial scheduled for October 13. She left the country on September 20 and had not returned at year's end. There were no further developments in the case.

#### Role of the Police and Security Apparatus

The Minister for Internal Security oversees the national police, the gendarmerie, and the 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. Chronic underfunding and unclear command structures severely diminished the security forces' ability to respond effectively to the civil unrest that began in January. By April security forces under the control of the de facto government began to assert control effectively over demonstrations in the capital, with an accompanying reduction in violence. The creation of the CNME in March diluted the authority of the minister for internal security, as it began to pursue high-profile targets independently outside regular judicial processes under commanders Charles Andrianatsoavina and Lylison Rene Urbain. Security forces routinely used excessive force during arrests and in crowd-control operations to disperse demonstrations, employing teargas, flash grenades, and live gunfire.

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 was unable to address the corruption and abuses of power perpetrated by security forces and did not play a visible role in addressing corruption problems associated with the ongoing political crisis.

#### Arrest Procedures and Treatment While in Detention

Although the law requires that the authorities obtain arrest warrants in all cases except those involving hot pursuit, often persons were detained and jailed based on accusations or political affiliation. Defendants have a general right to counsel and the right to be informed of charges against them, but this right was not always respected. A system of bail exists depending on the crime; bail was frequently 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 mandat de depot, including regulations that 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 was more limited to certain prisoners, such as those in solitary confinement or those arrested for political reasons.

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 periods before charging or releasing them. Poor record keeping, 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 a longer period in investigative detention than they would have spent incarcerated following a maximum sentence on the charges faced.

#### Amnesty

As part of the August 9 Charter of the Transition, the country's four main political movements agreed to a tentative plan for an amnesty covering political activities from 2002-09. In December however, Rajoelina formally abrogated the charter, and with it the existing agreement on amnesty during the transition administration.

Shortly after taking power in March, Rajoelina's de facto government authorized the release and pardon of 48 individuals it deemed "political prisoners," who were imprisoned under the Ravalomanana government. Twenty of these prisoners had not yet received an official pardon, and remained in a poorly enforced house arrest. These includes a number of nonpolitical criminals, guilty of murder and other grave human rights violations during past conflicts. Most prominent among them was Lieutenant Colonel Assolant Coutiti, who was convicted in 2004 on two counts of torture during the 2002 political conflict, in addition to prior convictions related to politically motivated abductions and murder in the same conflict. Following widespread condemnation of the release, Rajoelina's government did not release any further prisoners whose incarceration predates the current political crisis. Several opposition figures arrested during the year were released in August as a gesture of good faith in advance of implementation of the Charter of the Transition. The release was criticized, however, for requiring them to sign a letter promising not to engage in further political activities.

#### 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 government, and the use or threat of intimidation surrounded every major judicial decision since March 17. The absence of any legislative body permitted the de facto government effectively to rule by decree, with no check on executive power. The minister of justice routinely expressed an opinion on high-profile judicial decisions to the media before the court announced them.

The judiciary is under the MOJ and has four levels. Courts of first instance hear civil and criminal cases carrying lesser fines and sentences. The Court of Appeals includes a criminal court of first instance to adjudicate cases with potential sentences of confinement longer 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 trials 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 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 law provides traditional village institutions the right to protect property and public order. Some rural areas used an informal, community-organized judicial system called "dina" to resolve civil disputes between villagers over such issues as alleged cattle rustling. This system was criticized for human rights abuses, particularly for lack of due process before imposing harsh sentences well outside the scope of formal law.

### Trial Procedures

The law provides for a presumption of innocence; however, the presumption of innocence 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, juries 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 on criminal charges 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. 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. For example, on June 3, former president Ravalomanana was tried and convicted in his absence for alleged abuse of power while in office; he later asserted that he was unaware that the trial was taking place.

### Political Prisoners and Detainees

No definitive numbers were available, but several well-known politicians were imprisoned under Ravalomanana's government, most of whom were released regardless of whether their incarceration had a criminal aspect alongside their political affiliations (see section 1.d.). The de facto government imprisoned more than 50 opposition figures since March, many with little or no evidence of having committed criminal or civil offenses. Subsequently, most were released with no charges being filed, but at least two high-profile figures remained in government detention. 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.

On February 20, Rajoelina ally Jean Theodore Ranjivason was arrested for his alleged role in the January riots, and he remained incarcerated until the de facto government took power in March. President Ravalomanana blocked the request of several resident ambassadors to visit Ranjivason in prison after his arrest. On April 24, four Tiako-I-Madagasikara (TIM) party (former president Ravalomanana's party) parliamentarians were arrested for allegedly distributing money to protesters, without substantial evidence; they remained in prison until August 18, when they received suspended sentences of one year. On April 29, Ravalomanana ally (and presumptive prime minister) Manandafy Rakotonirina was arrested with several members of his opposition cabinet; his trial was postponed several times before he and most of those arrested with him were released in August.

Ralitera Andrianandraina, former head of security at the High Constitutional Court, was arrested in April for possession of illegal weapons, murder, and an alleged role in an attempt on Rajoelina's life. At year's end, his eight-month pretrial detention continued; he had not been to trial, although the government did not produce any evidence to justify his detention.

Lalaharinoro Rabemananjara was arrested on August 5, while serving as the lawyer for Manandafy Rakotonirina. She was charged with complicity in the June and July bombings and remained in pretrial detention despite a continued lack of evidence against her. At year's end, she was the only person still in prison in connection with the bombings.

Four opposition politicians were arrested on July 22 for their suspected role in the Antananarivo bombings; they remained in prison until August 14 without being charged and were then released on bail. There were a number of other politically motivated cases of detainees still pending; most of those detainees remained in pretrial detention without bail.

Some prisoners remained difficult to classify 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 and political influence, 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, but homes and workplaces of opposition groups were subjected to arbitrary searches without warrants. On several occasions, security forces took suspects' family members hostage to force them to surrender. For example, in July five suspects were sought in connection with the bombs found in Antananarivo. Four were arrested, but family members of the fifth were held for several days before being released without charge, although authorities had not arrested the suspect.

#### 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, but both government and nongovernment groups actively impeded political criticism with threats and violence against reporters, media owners, and media outlets. Journalists were sent to jail, and government security forces attacked residences of editors or owners. For example, on February 7, Ando Ratovonirina, a reporter for the privately owned *Radio et Television Analamanga*, was shot and killed during the violence outside the presidential palace. Two private broadcast groups were closed over the course of the political crisis. In January three radio or television stations (private station MBS, and public stations RNM and TVM) were burned during riots.

There were 13 privately owned major daily newspapers and many other privately owned national and local news publications that were published less frequently. Before March *Le Quotidien*, which is owned by the former president, was the newspaper most heavily influenced by the state; since March *La Verite* and *La Gazette* have been most closely aligned with the de facto government. The government owned nationwide television and radio networks. The former president's privately owned television and radio station, MBS, was permitted to broadcast nationally, a right denied to all other private stations, before it was destroyed by fire in late January. There were approximately 256 other radio stations and 39 other television stations nationwide, which provided more limited geographic coverage.

The government forced the politically motivated closure of opposition media outlets during the year. The closure of then-mayor Rajoelina's VIVA TV in December 2008 by the Ravalomanana government for "disturbing order and public security" immediately precipitated the crisis that led to the coup. In April Rajoelina's transition government closed Radio and TV Mada (owned by Ravalomanana) for "inciting civil disobedience and disturbing public confidence in the institutions of the republic." Radio Mada had become a voice for the post-coup opposition; this role was then taken up by Radio Fahazavana, owned by the Protestant Church of Jesus Christ in Madagascar (FJKM).

During the rioting in January, the residence of parliamentarian and media owner Mamy Rakotoarivelo was attacked for alleged support by his media of the Ravalomanana regime. In March Rivo Christian Rakotonirina, chief editor of a pro-Ravalomanana online magazine, was beaten by pro-Ravalomanana demonstrators after they mistakenly accused him of working for pro-opposition Radio Antsiva. In May Radio Mada journalist Evariste Ramanantsoavina was arrested and

jailed for "inciting revolt"; he was released two weeks later but was required to pay a fine of one million ariary (approximately \$500) for "disseminating false information."

To maintain access to sources and remain safe, journalists practiced extensive self-censorship, and many private radio stations shifted to live call-in shows to distance themselves from editorial responsibility for content.

In December the de facto minister of communication sent a letter to private radio and television stations instructing them to avoid any incitement to violence or to tribal hatred--charges which had previously been used to silence opposition radio. As a result, the call-in program and all news from Protestant church radio Fahazavana were suspended. A separate reminder was sent to Rajoelina's radio station, VIVA Radio, to stop incitement to civil unrest.

#### Internet Freedom

There were generally 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. According to International Telecommunication Union statistics for 2008, approximately 1.65 percent of the country's inhabitants used the Internet.

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

#### 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. Government officials and security forces regularly impeded opposition gatherings in locations around the country.

From January to March, Rajoelina's opposition alliance attempted to hold almost daily demonstrations in two locations in central Antananarivo. The government imposed restrictions on these gatherings after violent riots in early January, although security forces were routinely unable to control the crowds effectively. After the coup in March, the de facto government restricted protests by supporters of Ravalomanana. By April antigovernment demonstrations were limited to one location in Antananarivo at a facility owned by Ravalomanana. Police and gendarme forces moved quickly to disperse any crowds that formed elsewhere in Antananarivo and several provincial cities, citing security concerns.

In 2008 opposition groups were denied permission to hold meetings in several cities, including Antananarivo, Fianarantsoa, and Tamatave. In several cases, police withheld authorization, 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. For example, opposition leader Henri Lecacheur was given a three-month suspended sentence in September 2008 for allegedly holding an unauthorized rally in Antananarivo in August.

For several weeks starting in late April 2008, 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. For example, protesters threw rocks at police, set fire to a public building in Tulear, took the regional director of Tulear's penitentiary 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 protesters were released; some received suspended prison sentences for inciting violence and disturbing public order.

#### 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, although a law signed in January governing political parties imposes stringent new requirements. Parties are required to have representation in 12 regions within the first 30 months of their creation, hold regular national meetings, and participate in at least three consecutive elections, excluding the presidential election. Only legally constituted political parties would be able to present candidates. This law was not implemented before the March coup, however, and the de facto government did not present any plans to do so.

#### 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 Ravalomanana government and expressed concern about their legal status. They expressed reluctance to describe some of their activities openly as "Islamic" for fear of discrimination although there were no reliable reports of government discrimination except regarding citizenship applications (see section 2.d.).

In April leaders of the original New Protestant Church in Madagascar, formerly known by its acronym FPVM, were permitted by the new regime to reopen their church, which was closed in 2005 under Ravalomanana. The government had permitted the reorganization of the FPVM in 2007 under the new name and with new leadership. The Universal Church of the Kingdom of God remained banned.

In 2007 Jesuit missionary Father Sylvain Urfer was deported 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 Ravalomanana's opposition to his religious activities. Others cited his open criticism of the government as the reason. The Rajoelina transition government lifted the entry ban on Father Urfer, but he remained abroad at year's end.

#### Societal Abuses and Discrimination

There were few reports during the year of societal abuses or discrimination based on religious belief or practice. Some Muslims felt they received unequal treatment in schools, hospitals, private businesses, and the workplace.

The four largest Christian denominations occupy an important role in public life, although their collective role in politics has diminished somewhat in recent years. The Council of Christian Churches in Madagascar, led at the time by the Catholic archbishop, served as an intermediary in the early stages of the crisis this year, but it withdrew entirely following the March coup. Leaders of both the FJKM (associated with the former government of Marc Ravalomanana) and the Catholic Church (associated with the current regime of Andry Rajoelina) tried to maintain a careful distance from the ongoing political struggle. However, both have seen their reputations as neutral actors in civil society severely tainted by perceptions of partisan engagement during the recent political turbulence.

There were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2009 International Religious Freedom Report* at [www.state.gov/g/drl/rls/irf/](http://www.state.gov/g/drl/rls/irf/).

#### 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. The constitution does not explicitly prohibit forced exile, and the government utilized it selectively. Several opposition figures, such as former deputy prime minister Pierrot Rajaonarivelo, returned to the country during the year despite outstanding legal issues arising from convictions handed down in their absence; at year's end, the de facto government had not moved to arrest them.

In December the de facto government issued a ban preventing the return of the three political factions attending the Maputo crisis talks. Rajoelina permitted the politicians' return a week later, once he had announced his formal break with the negotiation process and made clear his intention to proceed with a transition government outside the context of prior agreements.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian agencies.

#### Protection of Refugees

The country is a party to the 1951 Convention relating to the Status of Refugees, but is not a party to its 1967 Protocol and has not ratified the 1969 African Union Convention Governing the Specific Aspects of the Refugee Problem in Africa. 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 on account of their race, religion, nationality, membership in a particular social group, or political opinion. The government granted refugee status or asylum and cooperated with the 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 of whom have lived in the country for generations. Reliable figures remained unavailable, but Muslim leaders estimated as many as 5 percent of the estimated two million Muslims were affected. Citizenship is transmitted through "blood"; birth in the country does not 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 the country'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. Lack of citizenship precluded voting rights and eligibility for a passport, which limited international travel.

#### 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 was effectively curtailed when opposition protests led to a coup and the overthrow of the elected government in March. Following the December 2008 closure of his television station, VIVA TV, Andry Rajoelina, the former mayor of Antananarivo, led a coup in opposition to President Ravalomanana in March. Unable to consolidate his rule in the face of domestic and international condemnation, he engaged in a negotiating process from August to

December. In December after the negotiations failed to yield results acceptable to him, Rajoelina unilaterally declared his intention to organize elections as early as March 2010. The opposition rejected this plan, pushing for a return to dialogue and an inclusive transition government. The resulting impasse, with political and civil society leaders divided over how to proceed, continued at the end of the year.

#### Elections and Political Participation

There were no elections during the year. Indirect elections to the 33-member senate took place in April 2008; the ruling TIM party 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.

The 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 State Council overturned results in several mayoral contests, citing localized miscounting and improper involvement of TIM candidates. By August 2008, TIM had lost 16 mayoral positions in court and gained six others. TIM did not initially interfere when Rajoelina won the mayoral race in Antananarivo, but the election marked the beginning of a conflict with then-president Ravalomanana, which culminated in the March coup.

In 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. This absence could potentially disadvantage candidates who could not afford to print their own ballots or if the government failed to distribute its ballots adequately.

Until March 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. Under the de facto government, there were six women in the cabinet; parliament was suspended after the March coup and has not yet been re-established.

Until March 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 the government.

#### Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and corruption reportedly increased after the March coup. The World Bank's Worldwide Governance Indicators reflected that in 2008 corruption was a problem, as was impunity. NGOs and the media reported that anticorruption efforts were more effective in pursuing low-level violators in recent years, with less success 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 endemic hardwoods, primarily from the country's northern forests, which was perceived to have been facilitated by bribery 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.

Key members of Rajoelina's High Transition Authority (HAT), a 44-member advisory council attached to the de facto executive, engaged in intimidation and extortion throughout the year with no penalty. Alain Ramaroson, president of the HAT's Defense and Security Commission, reportedly ran a private militia and abused his position to demand bribes, both in terms of money and goods, from both foreign and domestic private companies. Military leaders and the de facto justice ministry stated that they were unaware of such activities, although the allegations were widely publicized.

In 2008 the government created an anti-money laundering agency, SAMIFIN, and an ethics unit within each ministry. BIANCO, the government's Independent Anti-Corruption Bureau, and the MOJ signed an agreement in June 2008 for increased cooperation concerning data collection and case referrals.

Seventeen persons were arrested in 2007 in connection with the embezzlement of 10.8 billion ariary (approximately \$5.4 million) from the Central Bank in Manakara; the director of the Central Bank and two of his staff subsequently left the country to avoid arrest. At their trial in April, four were acquitted, 10 were released for lack of evidence, and six (including the director, in his absence) were given sentences up to 15 years' imprisonment and fines up to 20 million ariary (approximately \$10,000).

Public officials at the director-general level and above, excluding the president, were subject to financial disclosure laws. In practice in 2008 only 33 percent of those required to disclose assets or income did so. Disclosure laws were not enforced during the year.

There are no laws providing for public access to government information. Educational material on corruption, including statistics updated every quarter, was available to citizens and noncitizens, including foreign media.

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

The constitution and law require the government to create apolitical organizations that promote and protect human rights. Responsibilities have been delegated to several organizations covering areas such as child labor and domestic violence.

Numerous domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally unresponsive to their views, particularly after the March coup, but international human rights groups were allowed to enter the country, conduct their work, and consult freely with other groups. Domestic groups reported intimidation following the coup.

There were several domestic NGOs in the country that work in human rights, but very few have 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. Other key organizations included the Observatory of Public Life, SOS aux victimes du non-droit, and Actions by Christians for the Abolition of Torture (ACAT) Madagascar, all of whom worked to monitor human rights issues and actively participated in public and private forums on the subject. Political movements have on occasion attempted to co-opt these organizations, leading to accusations of their increasing politicization, but they were not routinely suppressed or subjected to harassment.

Following the March coup, the UN and other international bodies widely criticized both the Ravalomanana government and the de facto government 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 and the International

Contact Group on Madagascar, alongside the AU, the International Organization of the Francophonie, and the South African Development Community.

#### 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, and disability; 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 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. Rapes of children and pregnant women were 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 government did not always enforce these penalties. In 2008 the Morals and Minors Brigade 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. All of these figures probably underestimated the extent of rape nationwide, but there were no reliable figures available.

The law prohibits domestic violence, but it remained a widespread problem punishable with two to five years of prison and a fine of four million ariary (approximately \$2,000), depending on the severity of injuries and whether the victim is pregnant. 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 of three women in the southern and southeastern section of the country would suffer from violence at some point. A 2007 survey on conjugal violence conducted by the Ministry of Health (MOH) 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 MOH 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 impacts, correlated with a rise in the incidence of domestic violence, with two- or three-fold increases in cases reported.

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 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 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 yet resulted in a conviction.

Sexual harassment is against the law. Penalties vary from one to three years of imprisonment plus a fine of one to four million ariary (approximately \$500 to \$2,000). This penalty increases to two to five years of imprisonment plus a fine of two to 10 million ariary (\$1,000 to \$5,000) 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. The government enforced sexual harassment laws when cases were brought to court; however, there were no reported court cases during the year.

Couples and individuals freely exercised their reproductive rights with no legal or policy discrimination or coercion. The government provided free access to contraceptives and family planning information at public clinics, and services were also available in the private sector. Skilled attendance during childbirth was low, particularly in rural areas, where there were few trained health workers. During the year all delivery services, including Caesarean sections, were free in government health facilities. Men and women had equal access to diagnosis and treatment of sexually transmitted infections, including HIV. However, since much of the population lived over two miles from public clinics, many in rural areas were unable to access reproductive health and maternity services; the government and donors have identified this as a critical constraint and a variety of programs were instituted to expand the availability of quality care. However, there was an overall lack of resources to address the issue comprehensively.

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 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 the 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. In rural areas more traditional social structures 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 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 include 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

The ministries of health, population, and education play the principal role in addressing child welfare, but the ministries of justice, civil services and labor, youth and sports, and the minister of internal security also play a role. In 2008 an increase in the budget for education had permitted some improvement in services for vulnerable groups, but already insufficient education funds were further limited by the suspension of donor funds following the March coup, resulting in inadequate services.

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. The United Nations Children's Fund (UNICEF) worked with the government to provide birth certificates for both newborn children and those who did not

receive one at birth. 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 (ILO) indicated that far fewer actually attended 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. Since the beginning of the political crisis, cases of child rape increasingly appeared in the media.

In 2007 the government adopted a 2008-12 national action plan on violence against children, including child labor, sexual exploitation, and trafficking. The MOH, in collaboration with UNICEF, operated more than 14 multisector 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 in child protection networks. In June 2008 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 years 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 years 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 females exploited in the commercial sex field were less than 18 years old.

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 sometimes were left to die. Three separate studies have been completed on this subject since 2007, including one that focused on the treatment of twins in Mananjary, and NGOs actively promoted awareness of the issue. However, no changes to the legal framework or enforcement policy had been adopted by year's end.

#### Trafficking in Persons

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, although recent cases of young women trafficked for domestic work in Lebanon appeared in the media, following reports of at least one suicide by such a victim. There were unconfirmed anecdotal reports 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 falsely promising employment opportunities in urban areas, particularly in domestic employment.

Traffickers may be prosecuted under provisions prohibiting procurement of minors for prostitution, pedophilia, procuring, and deceptive labor practices. In 2007 a law was adopted prohibiting all forms of violence against children, including sexual exploitation, and providing for punishment of adult exploiters of child prostitutes. Also in 2007 a law was adopted defining trafficking in persons, among other crimes, and stipulating sanctions for the authors of such crimes, particularly when committed against children. The MOJ 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, although there were several cases related to the commercial sexual exploitation of children. However, the absence of a centralized database of legal cases and a law specifically defining trafficking activities or sanctions before 2007 impeded prosecution and recordkeeping. A centralized database was established in September 2008 under the authority of the Secretary of State for Internal Security; it was operational as of the end of 2008, but lacked the required legal standing for use in court.

Police cooperated with neighboring countries and Interpol in the investigation and prosecution of trafficking cases. The government did not extradite foreigners charged with trafficking in other countries, nor did it extradite citizen 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 put in the country's three NGO-run welcome centers were either given vocational training or placed back in school. In 2008 the MOH worked with UNICEF to establish new multisector child protection networks throughout the country to handle individual cases of child exploitation, including trafficking; these centers continued to operate during the year.

The Department of State's annual *Trafficking in Persons Report* can be found at [www.state.gov/g/tip](http://www.state.gov/g/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 were rarely 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.

The MOH is responsible for protecting the rights of persons with disabilities. Then-president Ravalomanana signed the International Convention on the Rights of the Disabled in 2007, but no implementing legislation had been passed by year's end. 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 Antiranana has 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. In June a study on the integration of children with disabilities in the educational system found that their attendance rate was only 0.26 percent in 631 schools surveyed, due to the lack of specialized programs, poor understanding of disabled 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 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 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 law does not prohibit discrimination against lesbian, gay, bisexual, and transgender (LGBT) activity, and there was general societal discrimination against LGBT.

Sexual orientation and gender identity were not widely discussed in the country, with public attitudes ranging from tacit acceptance to outright physical violence, particularly against transvestite 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 were frequently the target of aggression, including verbal abuse, stone throwing, and even murder. In recent years there has been an increased awareness of "gay pride" through positive media exposure and even a march in central Tana, but general attitudes have not changed.

The country's penal code provides for a prison sentence of two to five years and a fine of two to 10 million ariary (approximately \$1,000 to \$5,000) for acts that are "indecent or against nature with an individual of the same sex under the age of 21." There are reports of official abuses occurring at the community level, such as administrative officials denying health services to transvestite men or breaking confidentiality agreements, although no cases have ever been pursued in court.

### Other Societal Violence or Discrimination

Although the national HIV/AIDS rate was low at approximately 1 percent, there was stigma and discrimination attached to having HIV/AIDS. In 2007 the government adopted a law protecting HIV/AIDS patients' rights to free and quality health care and specifying sanctions against persons who discriminated or marginalized persons with the disease. This has reportedly helped reduce discrimination, following public testimony and greater awareness of issues affecting those living with HIV/AIDS. The law was enforced by the ministries of health and justice and the National Committee for the Fight Against AIDS in Madagascar.

### Section 7 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 codes. 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.

Since passage of a new EPZ law in January 2008, labor laws in the EPZ vary somewhat 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.

#### 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. Many children and women were forced into domestic servitude, commercial sexual exploitation, and sometimes street vending and mining. 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. In addition under the *Main d'oeuvre penale* (MOP) system, prisoners can work voluntarily in prison fields or penal camps to engage in agriculture, sometimes producing their own food. Except for those condemned to forced labor, they are 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.

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 years 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 ILO's 2007 National Survey on Child Labor in Madagascar indicated that approximately 28 percent of the 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. They were also victims of commercial sexual exploitation. 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 or 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. In 2008 the ministry had only 68 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.

In 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 had not been matched with more effective pursuit of labor law violators.

In 2008 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 CRLTEs were established in 2007 in the southwest and on the east coast.

In 2007 as part of the continuing "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 support from the FMF and the ILO International Program on the Elimination of Child Labor.

NGO-run 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 often encountered trouble enforcing these laws due to inadequate resources and insufficient personnel.

The monthly minimum wage was 70,025 ariary (approximately \$35) for nonagricultural workers and 71,000 ariary (\$36) 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. 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. The 68 labor inspectors in the Ministry of Civil Services and Labor were sufficient to monitor effectively conditions for workers only in the capital. Workers have an explicit right to leave a dangerous workplace without jeopardizing their employment as long as they inform their supervisors. However, this right was not always respected in practice.