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2010 Human Rights Report: Madagascar

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

2010 Country Reports on Human Rights Practices

April 8, 2011

Madagascar, with a population of more than 20 million, is ruled by an unelected and illegal civilian regime that assumed power in a March 2009 coup with military support. Andry Nirina Rajoelina adopted the title of president of the 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 is in exile, and the parliament has remained suspended since then. In defiance of a negotiated agreement with the African Union (AU) and local political leaders, the regime failed to establish a legitimate 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. On November 17, the de facto regime held a unilateral and internationally unrecognized constitutional referendum that sparked an attempted coup by a small group of military leaders, which was resolved after almost three full days of negotiations. There were instances in which elements of the security forces acted independently of civilian control.

The following human rights problems were reported: unlawful killings and other security force abuses; harsh prison conditions, sometimes resulting in deaths; arbitrary arrest and detention; lengthy pretrial detention; censorship; intimidation and arrest of and violence against journalists; restrictions on freedoms of speech, press, and assembly; curtailment of the right of citizens to choose their government; official corruption and impunity; societal discrimination and violence against women, and 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

There were several reports that the government or its agents committed arbitrary or unlawful killings, under both the Ravalomanana government in 2009 and Rajoelina's de facto government during the year. Police and gendarmes continued to use unwarranted lethal force during pursuit and arrest.

For example, on May 20, during a Religious Leaders' Movement (HMF) protest, an armed confrontation between dissident factions of the gendarmerie's Intervention Force (FIGN) and the joint armed forces sent with the Special Intervention Force (FIS) by the de facto regime resulted in the death of a religious leader, the death of a member of the FIS, and about a dozen injured among the armed forces and civilians. There were no further developments by year's end.

On September 22, the Police Intervention Force in Toamasina shot and killed two persons accused of armed attacks after they reportedly opened fire on police. There were no further developments by year's end.

On August 28, former president Ravalomanana was tried in absentia, convicted, and sentenced to forced labor for life for the February 2009 killings by presidential guards of at least 30 protesters outside Ambohitsorohitra Palace.

Ravalomanana continued to claim his innocence while exiled in South Africa.

There were no further developments in the following 2009 deaths that resulted from actions by security forces: the January deaths of 150 to 300 persons nationwide during riots; the January death of at least 44 persons trapped in a burning department store in Antananarivo; the January killing of a boy outside the MBS television station; and the April shooting deaths of two protesters by security forces.

There were no further developments in the series of small explosions in the capital between April and August 2009, for which the pro-Ravalomanana opposition was blamed.

b. Disappearance

On November 11, Fetison Rakoto Adrianairina and Zafilahy Stanislas, leaders of the opposition group supported by former president Ravalomanana, and Pastor Edouard Tsarahame, a leader of the opposition group supported by former president Zafy, were arrested on charges of holding an unauthorized demonstration. Subsequently, they were moved to different prisons and eventually to an undisclosed location. Their lawyers and family were not permitted to see them or know of their whereabouts from November 20 to 25. Their trial was postponed to January 23, 2011, because the defendants did not appear for the original November 23 trial date despite being held under custody in an undisclosed location at the time.

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.

For example, on November 20, proregime forces arrested a group of military officers who had led an attempted coup that started on November 17. A few days after their arrest, it was reported that most of the attempted coup leaders showed signs of physical abuse and two of them, General Raeolina and Colonel Coutiti, were in critical condition after beatings. A November 21 medical report conducted by the chief doctor at Tsiarahy prison on General Raeolina revealed that he had severe deep bruising in the face and chest and had been in and out of consciousness, likely as a result of physical abuse by the arresting officers. Colonels Andriamihoatra and Jadifara, both involved in the coup attempt and arrested on November 20, received medical exams on November 21 also revealing potential physical abuse by arresting officers.

On April 29, six persons were injured when Antsiranana police opened fire on a funeral procession that passed in front of the central police station. The funeral procession was protesting the death of Ninjaka Olivier, who was allegedly beaten to death two days earlier by police. There were no further developments by year's end.

There were no further developments in the following 2009 cases: the March detention and harsh treatment of Pastor Lala Rasendrasahina; the 2009 arrest and pistol whipping of a member of parliament by Gendarme Commanders Charles Andrianatsoavina and Lylison Rene Urbain; and the September FIS shooting of a woman in the leg in Antananarivo.

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.

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On March 11, a presidential pardon released 1,424 prisoners over the age of 70.

As of June the country's 83 prisons and detention centers held approximately 18,647 prisoners. This total included approximately 736 women and girls and 424 juvenile males. Of those detained, 7,964 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 goal in 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 nongovernmental organizations (NGOs) supplemented the daily rations of some prisoners.

For example, in June and July there were four reported deaths in Taolagnaro prison due primarily to malnutrition. In 2009, 34 deaths were recorded in the first 10 months. However, NGOs and media sources indicated that there was substantial underreporting of prison deaths. The total number of deaths in all prisons during the year was unavailable.

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

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

Male and female prisoners were separated. 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. Prisoners and detainees were authorized to receive weekly visits from relatives and permitted religious observance, although actual prison conditions were too harsh for prisoners to actually receive visitors or engage in worship.

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

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

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; the ICRC was able to hold

private consultations in accordance with its standard modalities. ICRC representatives were also permitted to visit detainees in pretrial or temporary detention, as need arose.

Although the EU funded projects focused on improving prison conditions, there were no known attempts by the government itself to do so during the year.

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 2009 coup; the actual number remained disputed, but several of those arrested since then remained imprisoned (see sections 1.e. and 2.a.).

On November 23, regime forces arrested a former judge on the International Court of Justice, Raymond Ranjeva, and his pregnant daughter, accusing Ranjeva of being involved in the November 17 coup attempt. Ranjeva was released on bail a few hours later, but his daughter remained in custody for insulting regime forces and was sentenced to a month of probation on November 30.

During March demonstrations in Analakely, political and religious activists Charles and Kathy Hilaire were arrested for "offense against national security" when brochures on the HMF were found in their car. After investigations, they were released; however, approximately 50 lower-profile protestors were reportedly arrested in the same incident and remained in prison awaiting trial at year's end.

On May 15, opposition politician Ambroise Ravonison was violently arrested during a radio interview. Two other interviewees and three members of the radio's staff were injured, and the radio station's equipment vandalized. Ravonison, a French citizen, obtained a provisional release and fled the country. No action had been taken regarding the vandalism by year's end.

Journalists were arrested (see section 2.a.).

Senator Eliane, who was arrested in September 2009 for attending an illegal gathering and damaging public property, left the country. At year's end she reportedly remained abroad conducting an information campaign on the de facto regime's lack of respect for human rights.

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 2009. By April 2009 security forces under the control of the de facto government began to assert effective control over demonstrations in the capital, with an accompanying reduction in violence. The creation in March 2009 of the Joint National Investigation Committee (CNME), later renamed the Special Investigation Force, (FIS), diluted the authority of the minister for internal security, as it began to pursue high-profile targets under Commanders Charles Andrianatsoavina and Lylison Rene Urbain and independently outside regular judicial processes. Security forces routinely used excessive force during arrests and while dispersing demonstrations, employing tear gas, flash grenades, and live ammunition.

There is no systematic mechanism available for investigating security force abuses. However, victims may lodge complaints in the court of jurisdiction. This rarely, if ever, occurred.

Arrest Procedures and Treatment While in Detention

Although the law requires that 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 those who could not afford a lawyer were entitled to one provided by the state; however, many citizens were not aware of this right, and even if aware, most were too afraid to request one. Defendants have 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 Ministry of Justice 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 for the charges faced.

Amnesty

On March 11, a presidential pardon released 1,424 prisoners over the age of 70.

As part of the August 2009 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. However, in December 2009 Rajoelina formally abrogated the charter, and with it the existing agreement on amnesty during the transition administration.

Shortly after taking power in March 2009, 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 under poorly enforced house arrest. They included 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 for 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 2009 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 2009. 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.

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, in June 2009 former president Ravalomanana was tried and convicted in absentia for alleged abuse of power while in office; he later asserted that he was unaware that the trial was taking place. In August the Antananarivo Criminal Court convicted Ravalomanana in absentia for his presumed involvement in the February 2009 presidential palace shootings and sentenced him to a life sentence of hard labor. At year's end Ravalomanana remained in exile in South Africa.

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 in 2009 regardless of whether their incarceration had a criminal aspect alongside their political affiliations. In July a Ministry of Justice source stated that the de facto government had placed 102 "political prisoners" in preventive detention since 2009, many with little or no evidence of having committed criminal or civil offenses. Subsequently, some were released conditionally or with no charges being filed. 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.

In April 18 political detainees in the Tsiafahy top-security prison reportedly went on a hunger strike, requesting review of their cases and unconditional release. The authorities took no action.

On June 15, Manoela was arrested after speaking during opposition movement protests at Magro. On July 12, the criminal court charged Manoela with nine violations including "insulting a police officer" and sentenced him to three months' imprisonment. He was subsequently released.

There were no further developments in the following 2009 cases of political detainees: the April arrest of Ralitera Andrianandraina, former head of security at the High Constitutional Court, for his alleged role in an attempt on Rajoelina's life, and the August arrest of lawyer Lalaharinoro Rabemananjara for alleged complicity in the June and July bombings.

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 were compromised by corruption and political influence, according to Independent Anticorruption Bureau (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 November 23, regime forces arrested Raymond Ranjeva's pregnant daughter and searched his house, accusing Ranjeva of being involved in the November 17 coup attempt. Ranjeva was allegedly told to turn himself in if he wanted his daughter to be released. Ranjeva obliged and was released a few hours later, but his daughter remained in custody for insulting regime forces and on November 30 was sentenced to a month -long probation (see section 1.d.).

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. A September report by international NGO Freedom House on the status of press freedom categorized the country as "not free," diminished from the previous year's rating of "partially free." The report noted that "both main parties routinely ignored constitutional protections for media freedom while in power, using harassment, intimidation, and censorship to restrict media operations. As a result, news coverage became extremely partisan and polarized, while diversity of views receded."

On January 8, two journalists of the FJKM church's radio station Radio Fahazavana--Didier Ravoahangison and Lolo Ratsimba--were arrested and sent to prison for acts of political destabilization due to their alleged complicity in a December 2009 mutiny attempt. They received bail on February 15 and were awaiting trial at year's end.

On March 31, a Radio Feon'Imerina journalist was arrested after the de facto regime's prime minister announced that persons who "caused trouble" in Ambohitovo on March 29 would be sanctioned. The journalist was released the same day.

On May 20, Radio Fahazavana was closed down and 10 of its staff members--six journalists and four technicians--were arrested for an alleged attempt to endanger state security and incite a rebellion. They were released under bail on September 8 and were awaiting trial at year's end.

On August 8, officials from the Ministry of Communications and local police forces ordered the suspension of Radio Mahafaly in Antsirabe. The station was managed by a close ally of former president Ravalomanana. At year's end the suspension remained in effect.

On September 30, based on a Ministry of Communication directive, ministry officials and armed law enforcement elements closed Radio Fototra, owned and operated by the Green Party Hasin'I Madagasikara.

After the coup attempt on November 17, the regime sent warning letters to Ma-TV, TV Plus, and two other stations for airing statements by the attempted coup leaders. The letters implied that airing anything that could be seen as opposing the regime or calling for an end to it and thus an end to the transition could be considered a threat to public order and security and could lead to suspension and even withdrawal of operating permits.

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 2009 *Le Quotidien*, which is owned by former president Ravalomanana, was the newspaper most heavily influenced by the state; since March 2009 *La Verite* has been most closely aligned with the de facto government. The government owned nationwide television and radio networks. There were approximately 256 other radio stations and 39 other television stations nationwide, which provided more limited geographic coverage.

The 2009 politically motivated closure of opposition media outlets, such as Radio Mada, remained in effect at year's end.

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.

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 2009, approximately 1.63 percent of the country's inhabitants used the Internet.

Political groups, parties, and activists used the Internet extensively to advance their agendas, share news, and criticize other parties. Although there were allegations of technical sabotage 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 servers 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. The de facto regime also forbade protests during the holiday season (Christmas to New Year's Day) and during election periods (from election day until election results were official).

Opposition groups were repeatedly denied the right to hold political rallies in Antananarivo. On October 26, opposition groups sent a letter to the presidentially appointed mayor and the prefect of Antananarivo requesting an explanation for the refusal to hold a rally at three public areas in Antananarivo from October 28 to 30. Opposition leaders confirmed these places were available for the requested dates but were still not given permits. Opposition groups attempted to hold meetings on November 10 and 12 at a public stadium, but the prefecture of police denied their request. From December 1 to 3, opposition groups tried to hold rallies in various public venues in Antananarivo and applied for the proper permits, but all requests were denied.

On November 20, the Association of Mayors of Madagascar and opposition groups held a protest in Analakely. Within five minutes of the start of the protest, police forces broke up the group and arrested Guy Mazime Ralaiseheno, the leader of the Association. Ralaiseheno remained in prison at the end of the year.

Opposition groups were usually authorized to hold political rallies in provincial cities. However, on August 27, a protest in Tulear led by Elimberaza Mandrikake turned into looting of the local affiliate of the national radio. Seven opposition leaders were arrested; Mandrikake reportedly escaped and went abroad.

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 2009 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 2009 coup and the de facto government did not present any plans to do so.

c. Freedom of Religion

[For a discussion of religious freedom, please see the Department of State's 2010 International Religious Freedom Report at www.state.gov/g/drl/rls/rpt/.](http://www.state.gov/g/drl/rls/rpt/)

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

The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. 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 2009 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.

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

Protection of Refugees

The country is not a party to the 1967 Protocol relating to the Status of Refugees (although it is party to the 1951 Convention) 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 Madagascar's independence in 1960, were no longer eligible for any of the three; this applied to their descendants as well. Members of the wider Muslim community suggested that a Muslim-sounding name alone could delay one's citizenship application indefinitely. 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 2009. 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 2009. Unable to consolidate his rule in the face of domestic and international condemnation, from August to December 2009 Rajoelina engaged in a negotiating process. In December, after the negotiations failed to yield results acceptable to him, Rajoelina unilaterally declared his intention to organize elections for as early as March 2010. The opposition rejected this plan, pushing for a return to dialogue and an inclusive transition government. Throughout the year Rajoelina unilaterally announced roadmaps to elections that were postponed multiple times. A constitutional referendum was held on November 17 and countrywide mayoral elections, scheduled for December 20, have been postponed indefinitely. Legislative and presidential election dates are proposed for the first part of 2011; however, opposition groups and the international community have rejected the results from the constitutional referendum and the election timeline as unilateral and unrealistic.

Elections and Political Participation

Indirect elections to the 33-member senate took place in 2008; then president Ravalomanana's I Love Madagascar (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 2009 coup.

Political parties could not operate without restriction or outside inference. Parties opposing the party of the regime leader often had their individual rights, such as freedom of expression, violated. The regime often denied opposition parties the

right to organize and publicize their opinions. Political parties were also heavily dominated by the urban elites from the long-standing Malagasy tribes.

Until March 2009 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 are five women in the cabinet; parliament was suspended after the March 2009 coup and has not been reestablished, although a "transition" parliament has gradually been appointed by Rajoelina after a September 2010 National Conference that was seen as unilateral and remained unrecognized by the international community at year's end.

Until March 2009 there were 11 Muslims and seven Chinese-Malagasy members in the national assembly and eight Muslims in the senate. Chinese-Malagasy and Muslims also held civil service positions. Residents of Indo-Pakistani origin were not well represented in 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 2009 coup. Corruption was rampant in the national police and gendarmerie. The World Bank's most recent Worldwide Governance Indicators reflected that corruption was a problem, as was impunity. NGOs and the media reported that anticorruption efforts in recent years were more effective in pursuing low-level violators than in attacking corruption at the national government level.

The general lack of rule of law created a permissive environment for illegal logging and the export of rare endemic hardwoods, primarily from the country's northern forests, which were 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. Chinese businessmen were caught on tape alleging that they paid de facto leader Rajoelina directly for illegal logging rights.

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

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

Public officials at the director-general level and above, excluding the president, were subject to financial disclosure laws. In practice in 2008 only 33 percent of those required to disclose assets or income did so. Disclosure laws have never been effectively enforced.

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

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 2009 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 on 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, 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 2009 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 African Union, the International Organization of the Francophonie, and the South African Development Community, which has taken the lead role in mediation efforts since the middle of the year.

Section 6 Discrimination, Societal Abuses, and Trafficking in Persons

The constitution and law prohibit all forms of discrimination, including on the basis of race, gender, disability, language, and social status; however, no specific 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. Rape of a child or a pregnant woman was punishable by hard labor. An additional two to five years' imprisonment could be added in the case of rape with assault and battery, although the government did not always enforce these penalties. In 2008 the Morals and Minors Brigade, a department in the Ministry of Interior, reported receiving 10 to 12 rape-related complaints a day countrywide. There were 217 cases of rape reported in 2008 in Antananarivo; 130 were investigated. 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 in prison and a fine of four million ariary (\$2,000), depending on the severity of injuries and whether the victim was 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 Ministry of Health survey on conjugal violence, conducted in collaboration with two NGOs, found that of 400 women surveyed in Antananarivo, 45 percent were subjected to psychological violence and 35 percent to physical violence. Police and legal authorities generally intervened when physical abuse was reported. The Ministry of Health continued working with NGOs in Antananarivo and Fianarantsoa to provide victims with legal advice. Statistics on the number of domestic abusers prosecuted, convicted, or punished were unavailable. Anecdotal evidence from NGO-run welcome centers indicated that the political crisis, and its related social and economic impacts, correlated with a rise in the incidence of domestic violence, with two- or three-fold increases in cases reported.

Sex tourism was an increasing problem with the growth of the tourism industry before the 2009 coup and the economic crisis and lack of legitimate employment opportunities since the coup. The 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. Law enforcement officials noted that the law was often not uniformly interpreted or applied.

Sexual harassment is against the law. Penalties vary from one to three years' imprisonment plus a fine of one to four million ariary (\$500 to \$2,000). This penalty increases to two to five years' 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. In past years, 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. According to the UNFPA, the modern contraceptive prevalence rate was 28 percent. Skilled attendance during childbirth was infrequent, particularly in rural areas, where there were few trained health workers. However, the Population Reference Bureau reports that 54 percent of births were attended by skilled personnel. All delivery services, including caesarean sections, were free in government health facilities. However, since much of the population lived more than two miles away from public clinics over difficult terrain, 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 a lack of resources to address the issue comprehensively. The latest National Statistics Institute (INSTAT) survey conducted between November 2008 and August 2009, and issued in June concluded that the maternal mortality ratio (the ratio of the number of maternal deaths per 100,000 live births) was 498, compared with 269 deaths in the 2004 report. Men and women had equal access to diagnosis and treatment of sexually transmitted infections, including HIV. While there were no legal barriers to access these services, there were enormous infrastructure inconsistencies and some social/cultural barriers and stigma based on ethnicity that limited full access.

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. 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, where most of the population is engaged in subsistence farming, more traditional social structures tended to favor entrenched gender roles. 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

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 a certificate at birth. According to a UNICEF study conducted during the year, 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.

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 Ministry of Health, in collaboration with UNICEF, operated more than 14 multisector networks throughout the country to protect children from abuse and exploitation. Several ministries worked with UNICEF to develop training manuals on child rights and safeguards for officials working in child protection networks. In June 2008 the government completed a one-year program to train and assist security forces in the protection of children.

Government statistics in 2008 indicated that 33 percent of girls and young women between the ages of 15 and 19 were married. Child marriage was especially prevalent in rural areas, where most couples were united in traditional local ceremonies outside the legal system. The legal age for marriage without parental consent was 18 years for both boys and girls.

Children engaged in prostitution for survival with or 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 younger 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. However, no changes to the legal framework or enforcement policy had been adopted by year's end.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international child abduction, please see the Department of State's annual report on compliance at http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.html.

Anti-Semitism

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

Trafficking in Persons

For information on trafficking in persons, please see the Department of State's annual *Trafficking in Persons Report* at 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 Association Sembana Mijoro, advocating for rights of persons with disabilities, reported that children with disabilities represent only 0.5 percent of children attending school. In general, access to education for persons with disabilities was limited due to lack of adequate infrastructure, specialized institutions, and teachers.

The Ministry of Health is responsible for protecting the rights of persons with disabilities. Isolated projects at the community level had some success. In 2008 a public market in the city of Majunga gained special handicapped access; a health and transportation benefits program with identity cards was developed in the city of Fianarantsoa; and persons with disabilities had been successfully integrated into public schools in some areas where they previously had no access. With international funding in 2008, the city of Antsirana 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 2009 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 the children's needs, and insufficient resources.

National/Racial/Ethnic Minorities

None of the 18 tribes of the country constituted a majority. There were also minorities of Indo-Pakistani, Comoran, and Chinese heritage. Ethnicity, caste, and regional solidarity often were factors in hiring and were exploited in 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 the LGBT community.

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 targets 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, but general attitudes have not changed.

The penal code provides for a prison sentence of two to five years and a fine of two to 10 million ariary (\$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, which may take eight months to two and one-half years. 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 and are required by law to give prior notice to their employer.

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 2008, labor laws in the EPZ vary somewhat from the country's standard labor code, notably reducing worker rights. 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 enforce 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, government offices can hire them out for public use if the prisoners agree to the terms of employment and monetary compensation stipulated in the labor code. In addition under the Main d'oeuvre penale (MOP) system, prisoners could work voluntarily in prison fields or penal camps or private facilities. Except for those condemned to forced labor, they were entitled to receive a salary. There were also reports that prisoners were sent, at their own request and under state supervision, to perform remunerated work for private individuals. The MOP system was suspended on August 26, as part of the security measures called "Operation Coup de Poing," part of an effort to lessen increasing nationwide insecurity.

Forced labor of children occurred almost exclusively in the informal sector, which accounts for a large portion of the country's economy. Forced labor also occurred in stone quarries, in the mining sector, in the farming and fishing industries, and in domestic servitude.

Also see the Department of State's annual *Trafficking in Persons Report* at www.state.gov/g/tip

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 did not have sufficient resources or personnel to enforce these laws. 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 International Labor Organization's (ILO) 2007 National Survey on Child Labor in Madagascar indicated that approximately 28 percent of children between the ages of five and 17 (1.8 million children) were working on a full- or part-time basis, with an estimated 438,000 children involved in dangerous work. Children in rural areas worked mostly in agriculture, fishing, and livestock herding, while those in urban areas worked in occupations such as domestic labor, transport of goods by rickshaw, petty trading, stone quarrying, work in bars, and begging. Children also were engaged in salt production, deep sea diving, and the shrimp industry. The Ministry of Civil Services and Labor estimated that more than 19,000 children were working in the mining towns of Ilakaka in the south, mostly in the informal sector, helping their families mine for gemstones or working as domestics. Some children were trafficked internally for the purposes of forced labor.

The Ministry of Civil Services and Labor is responsible for enforcing child labor laws and policies in the formal sector and conducted general workplace inspections during the year in response to a range of complaints. During the year the ministry had only 90 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 2009 there was a proposal to amend the 2007 decree aimed at categorizing the types of sanctions to apply to violators, but the political crisis ended this project. During the year the Ministry of Labor organized a child labor workshop for labor inspectors in Ansirabe and established an action plan for regional child labor inspectors to use mass media and private sector monitoring to combat child labor.

The government continued to work with the Malagasy Soccer Federation (FMF) to conduct awareness campaigns around the country to combat child labor as part of the "red card campaign," which 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.

For information on child trafficking, see the Department of State's annual *Trafficking in Persons Report* at www.state.gov/g/tip

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 (\$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 90 labor inspectors in the Ministry of Civil Services and Labor were sufficient to effectively monitor conditions for workers only in the capital. Workers, including foreign or migrant workers, have an explicit right to leave a dangerous workplace without jeopardizing their employment as long as they inform their supervisors. However, this right was not always respected in practice.

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