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## Madagascar

### Country Reports on Human Rights Practices - [2005](#)

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The country is a multiparty democracy with a population of approximately 18 million. President Marc Ravalomanana, who was elected in 2001 amid widespread allegations of fraud, and his party, Tiako-I-Madagasikara (TIM), dominated political life. The 2002 legislative elections, which international observers judged as generally free and fair, resulted in an overwhelming victory for TIM and its alliance partners. The civilian authorities generally maintained effective control of the security forces.

The Government generally respected the human rights of its citizens and continued its efforts to combat trafficking and to curb widespread official corruption; however, serious human rights problems--some of which were exacerbated by widespread poverty--continued, including:

- security force use of excessive force, which resulted in deaths and injuries
  - harsh prison conditions, which resulted in deaths
  - arbitrary arrest of demonstrators and opposition politicians
  - lengthy pretrial detention
  - restrictions on freedom of speech and of the press
  - forcible dispersion of demonstrators, which resulted in injuries
- 
- restrictions on freedom of religion
  - official corruption
  - societal discrimination and violence against women
  - trafficking in women and girls
  - child labor, including forced labor

#### RESPECT FOR HUMAN RIGHTS

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

###### a. Arbitrary or Unlawful Deprivation of Life

The government or its agents did not commit any politically motivated killings; however, security forces killed criminal suspects and other persons.

In March security forces used grenades and machine guns during the apprehension of three alleged kidnappers, all of whom were killed. One minor was killed and another injured in this operation. A government investigation claimed that security forces had used appropriate force. Also in March prison guards at Tsiafahy prison killed three inmates during an escape attempt.

On May 7, Jone Yvon Hajaniaina Rafanomezantsoa died in police custody after killing two persons in a traffic accident. Police officials charged that Rafanomezantsoa committed suicide by banging his head against his cell wall; however, family members subsequently released autopsy photos that were inconsistent with suicide. No investigation had been conducted by year's end.

In August a gendarme in Ikelihorombe killed 10 persons accused of cattle theft although local judicial authorities had cleared the 10 of all charges. An investigation was being conducted at year's end.

On October 21, National Assembly Deputy Herihajaina Randrianirina was convicted of the March 2004 murder of a gendarme officer and sentenced to seven years of forced labor.

###### b. Disappearance

There were no reports of politically motivated disappearances.

Several members of the Indo-Pakistani community were kidnapped; the motives appeared to be criminal, and the victims generally were released after payment of ransom.

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

The constitution provides for the inviolability of the person; however, security forces subjected prisoners to physical abuse.

Police forcibly dispersed demonstrators, which resulted in injuries (see section 2.b.).

In February four grenades exploded outside judicial offices in Antananarivo. Press reports claimed the perpetrators intended to intimidate striking members of the Magistrates' Union (see section 6.b.).

The remaining detainees held in connection with the June 2004 grenade attacks in Antananarivo, Tamatave, and Fianarantsoa were released without charge. The perpetrators in the 2004 Mahajunga grenade attack were sentenced and released. The trial of the suspects in the Tulear grenade attack was completed; the perpetrators, who were released on bail, were awaiting judgment at year's end.

#### **Prison and Detention Center Conditions**

Prison conditions were harsh and life threatening. The country's 99 facilities, which were built for approximately 13 thousand prisoners, held 20,294 at year's end, according to the Ministry of Justice. The prison in Ambositra had a capacity of 80 inmates but held 400. Once tried, prisoners were required to pay a court fee before receiving their judgment. Prisoners unable to pay the fee were returned to jail, which contributed to overcrowding. Prison cells averaged less than 1 square yard of space per inmate, and a prisoner's diet consisted of 100 grams of cassava or rice per day. Families and nongovernmental organizations (NGOs), including the Catholic Prison Chaplains, supplemented the daily rations of some prisoners. Church leaders and NGOs reported that rape was commonplace in the prisons and often used by prison guards and other inmates to humiliate prisoners. Prisoners could be used as forced labor (see section 6.c.).

Medical care was inadequate. The International Committee of the Red Cross (ICRC) and the Ministry for Health and Family Planning provided disinfection services to prevent the outbreak of epidemics; however, 144 prisoners died from malnutrition, disease, and neglect between January 1 and September 30.

Juveniles were not always held separately from the adult prison population, and some preschool-age children shared cells with their incarcerated mothers. Approximately 480 of the country's 20,294 prisoners were under 18. Pretrial detainees were not always kept separate from the general prison population.

The government generally permitted independent monitoring of prison conditions by the ICRC and some NGOs, and such visits occurred during the year.

#### d. Arbitrary Arrest or Detention

The law provides for due process for persons accused of crimes and prohibits arbitrary arrest and detention; however, the government did not always respect these provisions in practice.

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

The minister for public security heads the national police and is responsible for law and order in urban areas. The Gendarmerie Nationale, overseen by the Ministry of National Defense, is responsible for security in all other areas of the island.

The national police and gendarmerie were ineffective, in part due to lack of training and equipment, low salaries, and rampant corruption. During the year the government prosecuted security force members for corruption. In January the Independent Anticorruption Bureau (BIANCO) ordered the arrest of a police officer for soliciting bribes. In February three army officers were charged with trafficking in contraband; two of the three were fined and sentenced to six months' imprisonment.

#### *Arrest and Detention*

Although the law provides that arrest warrants be obtained in all cases except those involving hot pursuit, often persons were detained and jailed on no more than an accusation by another. Defendants have a general right to counsel and the right to be informed of the charges against them, but the government was only required to provide counsel in cases in which indigent defendants faced charges carrying sentences greater than five years. A system of bail exists, but was not available to many defendants in practice. Magistrates often resorted to an instrument known as a retaining writ ("mandat de depot") by which defendants were held in detention for the entire pretrial period.

During the year security forces arrested student demonstrators, religious leaders, and opposition politicians (see sections 2.b., 2.c., and 3).

On September 23, Victor Hong, president of the Families of Persons Arrested During the 2002 Political Crisis Association, was released for lack of evidence. Hong had been arrested in 2004 for organizing a demonstration without a permit and for "threatening state security" by loaning a vehicle to an opposition colonel who used it during the 2002 political crisis. The trial court sentenced him to 5 months'

imprisonment, which he served, for organizing the demonstration and 42 months' imprisonment, which was reduced during the June 26 amnesty, for loaning the vehicle. In September the appeals court released him for lack of evidence on the vehicle charge.

There were no reports of political detainees.

Long pretrial detention was a serious problem. The law mandates that a criminal suspect be charged or released within 48 hours of arrest; however, during the year the government detained individuals for significantly longer periods of time before charging or releasing them. In April the press highlighted the case of a woman who had been in pretrial investigative detention for over five years.

In December the Ministry of Justice reported that 14,185 persons, or approximately 70 percent of the entire prison population, were in pretrial detention. Poor record keeping, lack of resources, and the difficulty of access to remote parts of the island hindered the monitoring of pretrial detainees. Despite legal protections, investigative detentions often exceeded one year. Many detainees spent a longer period in investigative detention than they would have spent incarcerated following a maximum sentence on the charges faced.

#### Amnesty

The government granted 3,742 pardons during the year. In January the Ministry of Justice reported that 835 inmates were eligible for pardon and 1,698 inmates would receive sentence reductions. On June 26, President Ravalomanana announced additional pardons and sentence reductions for 4,395 prisoners. Most pardons were reserved for those who had been incarcerated for nonviolent crimes and had served at least 15 years or who were over 70 years of age.

#### e. Denial of Fair Public Trial

Although the constitution provides for an independent judiciary, the judiciary was susceptible to executive influence at all levels and at times was corrupt. During the year the government withheld judicial salaries in response to a magistrates' strike (see section 6.b.).

In September a judge was suspended for one year for having solicited a \$8 (17 thousand ariary) bribe from the family of a detained prisoner.

The judiciary is under the Ministry of Justice and has four levels. Courts of first instance hear civil cases and criminal cases carrying limited fines and sentences. The court of appeals includes a criminal court of first instance for cases carrying sentences greater than five years. The supreme court of appeals hears appeals of cases from the court of appeals. The High Constitutional Court reviews the constitutionality of laws, decrees, ordinances, and electoral disputes. The judiciary also includes specialized courts designed to handle matters such as cattle theft.

#### Trial Procedures

The law provides defendants with the right to a full defense at every stage of the proceedings, and trials are public. Defendants have the right to be present at their trials, to be informed of the charges against them, to confront witnesses, and to present evidence. The law provides for a presumption of innocence; however, the presumption of innocence was often overlooked. Juries were used only in labor dispute cases. A 2003 Catholic Relief Services (CRS) report stated that the human rights of a person charged with a crime were often violated, and that there was a "large gap between the laws that served to protect the rights of the accused and the implementation of these laws in fact."

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

The law provides traditional village institutions with the right to protect property and public order. An informal, community-organized judicial system called "*dina*" was used in some rural areas to resolve civil disputes between villagers over such issues as cattle rustling. The law limits *dina* remedies to monetary damages. The *dina* process does not ensure internationally recognized standards of due process; however, there were no reports that *dina* resorted to sentences involving physical force or loss of liberty. *Dina* decisions may be appealed through formal judicial channels to a court of general jurisdiction or to the Office of the Mediator, which investigated and sought redress through formal judicial authorities.

#### Political Prisoners

Of the 347 persons originally detained for their role in the 2002 crisis, 234 were released, 75 were pardoned, and 6 died during detention; 32 remained in prison at year's end. On March 24, General Boba, a former senior gendarmerie official imprisoned for "undermining national security," died.

On December 22, opposition leader and National Assembly deputy Jean Eugene Voninahitsy was sentenced to two years' imprisonment and a three thousand dollar (6 million ariary) fine for "trafficking influence". Observers suspected the conviction was politically motivated, noting that such a charge should have involved BIANCO, which played no role in the case. Voninahitsy, who was in prison at year's end, announced his intention to appeal.

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

## Correspondence

The law prohibits such actions, and while the government generally respected these provisions, security forces sometimes searched the homes and offices of opposition leaders.

On March 22, police searched the Antananarivo residence and office of Renée Rajaonarivelo, wife of Pierrot Rajaonarivelo, leader of the opposition Alliance for the Rebirth of Madagascar (AREMA), who was living in self-imposed exile abroad. Rajaonarivelo said she did not file a complaint to avoid further harassment.

## Section 2 Respect for Civil Liberties, Including:

## a. Freedom of Speech and Press

Although the constitution provides for freedom of speech and of the press, the government limited these rights in practice. There were reports that some government officials pressured the media to curb its critical coverage of alleged government malfeasance and intimidated journalists. Journalists practiced self-censorship.

There were 12 privately-owned major daily newspapers and many other privately-owned national and local news publications that published less frequently. The government owned the only nationwide television and radio networks. There were approximately 229 radio stations, 120 of which were privately owned, and 29 television stations, 12 of which were privately owned. Widespread illiteracy and a poorly developed system for distributing publications printed in the capital limited the effect of print media.

During the year several media associations criticized the government for the 2004 closure of radio stations and for intimidating journalists through lawsuits, imprisonment, fines, and death threats.

In March the court convicted *Gazette de la Grande Ile* publisher Lola Rasoamaharo of libel and sentenced him to two months' imprisonment and a \$1,550 (3 million ariary) fine. Rasoamaharo had referred to the National Assembly vice president as a "real cretin" in one of his articles. *Gazette* editor James Ramarosaona was sentenced to one month in jail after the magazine published a story accusing a state-owned real estate agency of embezzlement. Rasoamaharo and Ramarosaona were granted amnesty on June 26.

In May the government refused to renew the resident visa of Radio France International correspondent Olivier Peguy, who criticized the Ravalomanana government's actions during the 2002 political crisis. In June the international NGO Committee to Protect Journalists wrote an open letter to President Ravalomanana urging the government to reissue Peguy's visa.

Radio Say in Toliara, which the government closed in June 2004 for demonstrating a "lack of respect for the president of the National Assembly" and for "inciting tribal hatred," remained closed at year's end.

On October 13, Tamatave radio stations Radio Feon'i Toamasina, Radio Sky FM, and Radio ny Antsika, all of which the government closed in 2004 after the stations broadcast opposition criticism of the president, were permitted to reopen. The two journalists who were detained after appearing on the radio broadcasts were convicted as accomplices in threatening state security, but were released by the judge presiding over the case.

Many journalists privately admitted practicing self-censorship, particularly at the local level, and there were reports that journalists were threatened with imprisonment, libel suits, or harm to their families if they criticized government or opposition officials.

Government agencies, private companies, and political parties sometimes bribed journalists, who generally received minimum or below minimum wages, to ensure positive coverage of certain events.

There were no government restrictions on the Internet or academic freedom.

## b. Freedom of Peaceful Assembly and Association

**Freedom of Assembly**

The constitution provides for freedom of assembly, but the government at times limited this right. Police forcibly dispersed several student demonstrations during the year.

On April 20, at the University of Antananarivo, police launched tear gas canisters and smoke grenades into a crowd of approximately 300 students protesting proposed educational reforms. Eighteen students were injured, and 16 were arrested. On May 9, student leader John Dorien, who organized the demonstration, was given a three-month suspended sentence and released.

On May 16, eight students at the University of Majunga were arrested as they marched to the administration building to collect their scholarships. On July 12, police launched tear gas canisters into a crowd of students protesting the May 16 arrests.

On May 18, police launched tear gas canisters into a crowd of approximately 100 students protesting the University of Tamatave's failure to disburse scholarship funds. No injuries were reported, but 8 students were arrested for vandalizing vehicles and disturbing public order: 6

were released; and 2 were sentenced to 2 months' imprisonment and a \$4.00 (10 thousand ariary) fine. On September 7, the two were released.

No investigation was conducted into the June 2004 forcible dispersion of reservists or any of the 2003 forcible dispersions of demonstrators. On June 28, the five reservist demonstrators arrested in 2004 were released upon completion of their one-year sentences.

In December the Mayor of Antananarivo announced that all public street demonstrations would be prohibited. Defying the ban, opposition leaders gathered on December 17 to demonstrate. Gangs wielding rocks beat and chased the demonstrators, four of whom were injured.

#### Freedom of Association

The constitution provides for the right of association and permits citizens to organize political parties and associations; however, the constitution also explicitly forbids associations that "call into question the unity of the nation, and those that advocate totalitarianism or ethnic, tribal, or religious segregation." There were numerous political parties.

#### c. Freedom of Religion

The constitution provides for freedom of religion, and the government generally respected this right in practice; however, the government banned the New Protestant Church in Madagascar (FVPM) during the year.

The law mandates that religious organizations register with the Ministry of Interior. Religious organizations that fail to meet the ministry's registration requirements are free to register as simple associations, which do not have the right to receive gifts or hold religious services. Ministry of Interior officials estimate there are more than one thousand religious organizations in the country operating without official state recognition, including both associations and unregistered organizations.

On September 16, the government banned the FVPM, led by Pastor Randrianatoandro, for illegally occupying churches assigned to the mainstream Reformed Protestant Church of Jesus Christ in Madagascar (FJKM); the ban was implemented in November. The FVPM broke away from the FJKM church in 2002 and took approximately 300 thousand worshippers with it. The FPVM claimed the owners offered the buildings, most of which were wood and thatch huts, to the church. The FPVM challenged the ban in court, which refused to rule on the ban, charging that only President Ravalomanana could overturn the decision to ban a church. President Ravalomanana was a lay vice president in the FJKM, and some observers charged that the closure of the church was politically motivated.

In 2002 the government had denied the Universal Church of the Kingdom of God (EURD's) application for recognition as a religious association because its leadership consisted entirely of foreign nationals. The government counseled the EURD to elect a local board and reapply, but it never filed a new application. On January 28, the Ministry of Justice issued an order banning all EURD churches nationwide and the expulsion of all foreign pastors; all EURD pastors had left the country by year's end. In August 2004 the Fianarantsoa Prefecture suspended the EURD for inciting public disorder by allegedly burning a copy of the Bible during a ceremony in which "Satan's materials" were burned.

In April the mayor of Antananarivo dispatched police units to break up an EURD service being held in a private residence. The group protested, since the judicial order only called for the closure of EURD churches, not the interdiction of private practice of one's faith. Many EURD followers continued to worship secretly in their homes.

#### Societal Abuses and Discrimination

The country has a very small Jewish population; there were no reports of anti-Semitic acts during the year.

For a more detailed discussion, see the 2005 [International Religious Freedom Report](#).

#### d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The constitution provides for these rights, and the government generally respected them in practice. The fear of crime restricted travel in some areas, especially at night.

The constitution does not specifically prohibit forced exile; however, the government did not use it. Former President Ratsiraka and other members of his administration remained in self-imposed exile at year's end.

*Certain members of the minority Karana community have been denied Malagasy citizenship, are effectively stateless, and can not obtain travel documents (see section 5).*

#### Protection of Refugees

The law does not include provisions for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees or its 1967 protocol, but the government has established a system for providing protection to refugees. In practice, the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government

granted refugee status or asylum and cooperated with the UN High Commissioner for Refugees and other humanitarian organizations in assisting the small number of refugees in the country.

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

The constitution provides citizens the right to change their government peacefully; however, some degree of turmoil accompanied the 3 changes of government that occurred over the last 14 years.

#### *Elections and Political Participation*

The 2002 legislative elections and four follow-up contests held in 2003 resulted in a substantial majority (106 of 160) of deputies elected from the president's TIM party and its alliance partner, the pro-Ravalomanana National Alliance; only 6 of the country's 160 political parties were represented in the National Assembly. International observer teams found the 2002 election process to be transparent and the results credible, despite some organizational problems.

President Marc Ravalomanana was elected in 2001 amid widespread allegations of fraud. Until May 2002, when President Ravalomanana was declared president, former president Didier Ratsiraka and the AREMA party disputed the election results, which led to widespread violence and numerous deaths. President Ravalomanana regained control over the country in July 2002 and Ratsiraka went into exile.

Political and business leaders disproportionately influenced the administration of the country. Political parties coalesced around a single powerful person, usually the president. *Pensee Unique*, a national belief in which dissent was viewed as an attack on societal harmony, made an effective opposition difficult in practice.

On May 20, security forces arrested five opposition members for organizing actions to "destabilize state safety." The members were printing flyers and preparing for an opposition rally, but weapons were found on the premises.

In July a person claiming to be an assistant to Senator Arsene Velo made a death threat against National Assembly Deputy Boniface Zakahely for allegedly slandering the prime minister.

A series of grenade attacks during the year may have been politically motivated (see section 1.c.).

There were 8 women in the 160-member National Assembly. One of the 22 appointed regional administrators was a woman.

There were six Muslims, one Hindu, and two Chinese-Malagasy members in the National Assembly. Chinese Malagasy and Muslims also held civil service positions. Residents of Indo-Pakistani origin were not represented in the government because few had citizenship (see section 5).

#### Government Corruption and Transparency

The government continued its efforts to curb official corruption, which remained a serious problem throughout the government. In July 2004 the president announced a national anticorruption strategy that included the establishment of BIANCO, an anticorruption tribunal, and a network of drop boxes for public complaints in each of the country's 111 districts. During the year BIANCO officials visited at least one region of the country every 15 days to publicize BIANCO's mission and to conduct investigations. From January through November, BIANCO received 7,573 complaints. BIANCO investigated 479 cases, which led to the arrest of 197 persons, including a ministry director general, government inspectors, mayors, and members of boards of directors of public enterprises. Seven postal administrators were charged with embezzlement, a former fiscal advisor was charged with corrupt practices, and the city manager of Tulear was charged with mismanagement of city funds. Of the 197 arrested, 71 were placed in preventive detention and 123 were released on bail.

There are no laws that provide for public access to government information. Persons requesting public documents endured a lengthy bureaucratic process, in part due to a lack of standardized record system.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

The government permitted visits during the year by the ICRC and NGOs.

The constitution requires the government to create apolitical organizations that promote and protect human rights. However, the governmental National Commission for Human Rights has been inactive since 2002, when its members' terms expired. The government has offered no explanation for the delay in naming replacements.

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

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

## Women

The law prohibits domestic violence, but domestic violence against women was a problem. Police and legal authorities generally intervened when physical abuse was reported. As many as 50 percent of women experienced domestic abuse, according to media reports.

The law prohibits rape, and penalties for rape ranged from 5 to 10 year's imprisonment. Rapes committed against children and pregnant women were punishable by hard labor. An additional two to five years' imprisonment could be added in the case of assault and battery.

Prostitution was not a crime, but related activities, such as pandering and incitement of minors to debauchery, are criminal. In September President Ravalomanana warned foreigners not to visit for sexual tourism.

There were reports of trafficking in women (see section 5, Trafficking).

Sexual harassment is against the law, but the practice was widespread, particularly in export processing zone (EPZ) factories.

On December 14, an employee of a local automotive company was sentenced to 12 months' imprisonment and a \$1 thousand (2 million ariary) fine for sexual harassment.

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 was dissolved. Widows with children inherit half of joint marital property. 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 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 2003 the Ministry of Labor reported that women owned 30 percent of formal sector companies and 53 percent of informal sector companies. However, women may not work in positions that might endanger their health, safety, and morals.

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, and a lack of knowledge about their rights, few women lodged official complaints or sought redress when their legal rights were compromised.

## Children

The ministries of health, education, and population are responsible for various aspects of child welfare, but a lack of funding resulted in inadequate services and precluded the compilation of reliable statistics.

The constitution provides for tuition-free public education for all citizen children and makes primary education until age 14 compulsory; however, according to a 2004 World Bank study, only 68 percent of primary school-age children were enrolled (see section 6.d.). In September and October, the government distributed one million sets of school supplies to primary school children nationwide as part of the Education for All program.

In June 2004 the UN Children's Fund (UNICEF) and the government launched a three-year campaign to improve birth registration rates. The country has no uniform birth registration system, and unregistered children were not eligible to attend school or obtain health care services. A 2000 UNICEF study found that approximately 2.5 million children under 17 were not registered.

The legal age for marriage without the requirement of parental authorization is 18 for both boys and girls. The law allows the marriage of girls at 14 and boys at 17 with parental authorization. Courts may approve marriages at even earlier ages with parental authorization for "serious reasons" such as pregnancy.

In rural areas, most marriages were not legal civil unions, at least at the outset. Many couples were united in traditional local ceremonies, often at an early age. Some of these unions were subsequently formalized in civil ceremonies when the couple had sufficient money or needed evidence of marriage for other purposes. In rural areas young girls were pressured to move out and marry soon after puberty to test their ability to become pregnant, a virtual prerequisite for marriage. Parents built one-room "homes" for their daughters to begin "courting," and the daughters entered into informal traditional unions soon thereafter.

In major cities, underage marriage existed but was far less prevalent. Urban girls tended to stay in school longer than their rural counterparts. There were anecdotal reports that parents arranged marriages for their underage daughters with more affluent older men in exchange for money.

Child prostitution was a problem. According to a continuing study conducted by the International Labor Organization's International Program for the Elimination of Child Labor (IPEC), there were approximately 700 to 800 child prostitutes in the city of Nosy Be and more than 2 thousand in Toamasina. Some child prostitutes reported earning several times the average per capita monthly income. Acute poverty and lack of family support were the primary reasons that children engaged in prostitution.

There were reports of child trafficking (see section 5, Trafficking).

Child labor, including forced labor, was a problem (see section 6.d.).

#### Trafficking in Persons

The law does not specifically prohibit trafficking in persons, and there were reports of trafficking in women and girls for prostitution between the country and the neighboring islands of Mauritius and Reunion. Children also were trafficked from rural areas to work as prostitutes in urban centers. Traffickers may be prosecuted under provisions of the penal and labor codes that prohibit pedophilia and sexual tourism; however, there were no reports during the year of arrests for trafficking. The Ministry of Justice is responsible for enforcement.

There were several cases of kidnapping, and politicians from the south claimed that children were being sold for up to \$3,200 (16 million ariary) for overseas adoption or forced labor.

During the year the government took several steps to combat trafficking. In May the government passed a new adoption law, in part to protect children from being trafficked under the guise of adoption. The government also continued to construct welcome centers for the victims of trafficking and forced labor (see section 6.d.). The government listed the fight against trafficking as one of its key objectives and created a strategy during the year to address child labor and trafficking in each part of the country.

#### Persons with Disabilities

The law prohibits discrimination against persons with physical and mental disabilities, and there was no official discrimination against persons with disabilities in employment, education, or in access to state services. The law broadly defines the rights of persons with disabilities and provides for a national commission and regional sub-commissions to promote the rights of persons with disabilities; however, neither a national commission nor the regional sub-commissions had been established by year's end. International NGOs and numerous local associations, including the Collective of Organizations Advocating for Persons with Disabilities, advocated for legislation mandating equal access for persons with disabilities and the establishment of the national commission.

There were 24 educational facilities in the country for persons with disabilities. Unlike in the previous year, there were no reports that students were denied the opportunity to take entrance exams because of their disabilities.

In 2004 the government launched an effort to employ persons with disabilities at national and regional levels of government and ordered that persons with disabilities be provided with medical treatment in public and private medical centers; employment without discrimination; eligibility for civil service vacancies; and education at public schools and vocational training centers, which were responsible for ensuring accessibility. Budget cutbacks resulted in little support for these initiatives during the year. A study conducted during the year by Handicap International found that persons with disabilities seldom had access to health care or received professional training and were often the victims of physical violence, particularly women and girls.

#### National/Racial/Ethnic Minorities

The Malagasy, of mixed Malay-Polynesian, African, and Arab descent, were divided into 18 tribes, a term without pejorative overtones in the country. The vast majority of Malagasy spoke a single Malagasy language. None of the 18 tribes constituted a majority. There were also minorities of Indo-Pakistani, Comorian, and Chinese heritage in the country.

A long history of military conquest has resulted in the political dominance of highland ethnic groups of Asian origin, particularly the Merina, over coastal groups of African ancestry. This imbalance has fueled an undercurrent of tension between citizens of highland and coastal descents. Ethnicity, caste, and regional solidarity often were factors in hiring practices.

An economically significant Indo-Pakistani community, commonly referred to as Karana, has been present for over a century. Traditionally engaged in commerce, the Karana number approximately twenty thousand persons. Few hold citizenship, which must be acquired through a native-born Malagasy mother, and many believed they were denied full participation in society and subject to discrimination. In June the president accused certain members of the Karana community of being involved in money laundering and political destabilization. Observers noted that there was no evidence to support the president's charge.

#### Section 6 Workers Rights

##### a. The Right of Association

The law provides that public and private sector workers may establish and join labor unions of their choosing without prior authorization, and workers did so in practice. Essential service workers, including police and military personnel, may not form unions. Unions were required to

register with the government, and registration was granted routinely. Ministry of labor statistics indicate that 14 percent of workers in EPZ companies and less than 10 percent of all workers were unionized. Between 70 and 80 percent of the workforce was engaged in agriculture. Despite the existence of several public employees' unions, few public employees were union members.

The law prohibits discrimination by employers against labor organizers, union members, and unions; however, a December 2004 CRS report on working conditions in the EPZs 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.

#### 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 in practice. The law also provides for the right of workers to bargain collectively, but collective bargaining agreements remained rare. The government set civil servant wages and endorsed minimum wages proposed by the private sector (see section 6.e.).

The law provides for the right to strike, including in EPZs, and workers exercised this right during the year. The law calls for workers to exhaust all options including conciliation, mediation, and arbitration before resorting to strikes.

Workers in essential services have a recognized but restricted right to strike. During the year the government withheld judicial salaries in response to a magistrates' strike that began in February and had not been resolved by year's end; however, the salaries were reinstated. The magistrates were demanding better salaries and retirement benefits. The Ministry of Justice claimed that the magistrates could not strike legally because they were responsible for ensuring public security. Some magistrates had returned to work even though their demands had not been met by year's end.

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

The labor code prohibits forced or compulsory labor, including by children, but at times the government did not respect this prohibition, specifically with respect to prison labor. Prisoners and pretrial detainees were hired out to private firms and government officials who provided basic amenities such as food and clothing in return for the prisoners' labor. A 2004 interior ministry study highlighted cases of forced labor among *pousse-pousse* (rickshaw) drivers, petty merchants, and apprentices.

Forced labor by children occurred (see section 6.d.).

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

The law prohibits persons under age 18 from working at night and at sites where there is an imminent danger to health, safety, or morals; however, child labor was a problem. The minimum age for employment was 15 years of age.

Nearly 13 percent of urban children and 36 percent of rural children between the ages of 10 and 14 were intermittently employed, the vast majority on family farms. Children in rural areas generally dropped out of school to help on family farms, and urban children often worked as domestic laborers and servants. In the agricultural sector, children on family subsistence farms may begin work at an even younger age. In cities, many children worked in occupations such as transport of goods by rickshaw, petty trading, and begging. Conditions were often harsh. In 2003 IPEC reported that children as young as eight years of age were being used in mines because they could maneuver in cramped spaces more easily than adults. During the year children as young as three years old were seen using hammers to break rocks in stone quarries, according to media reports.

The government enforced child labor laws in the formal economic sector by means of inspectors from the Ministry of Civil Services; however, enforcement in the much larger informal sector remained a serious problem.

During the year the government continued its efforts to combat forced child labor and trafficking (see section 5.). In February the government increased labor code fines and prison sentences for employers convicted of using child labor. In June 2004 the Ministry of Labor approved a 15-year national plan to combat the worst forms of child labor, citing child prostitution, stone quarry work, salt marsh work, domestic labor, gemstone mining, agriculture, and commercial fishing as areas of particular concern. A national committee made up of high-level government, donor, civil society, and religious group representatives met during the year to raise public awareness and coordinate the national campaign.

During the year the government opened welcome centers in Tamatave and Tulear centers for the victims of trafficking and forced labor. Since July 2004 the welcome centers have rescued more than 120 children employed in the worst forms of child labor, including prostitution, and reintroduced many victims into the educational or vocational training system.

#### e. Acceptable Conditions of Work

The Labor Code and its implementing legislation prescribe working conditions and minimum wages, which were enforced by the Ministry of Civil Service, Labor, and Social Laws. The law has separate provisions for agricultural and nonagricultural work.

The monthly minimum wage was \$25.30 (50,600 ariary) and 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 42½ 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. A 2004 CRS report on working conditions in the EPZs indicated that 86 percent of employees surveyed regularly worked more than 40 hours per week. In some cases this overtime was unrecorded and unpaid.

The law sets rules and standards for worker safety and worksite conditions. In December the Ministry of Labor hired 23 new labor inspectors, bringing the total number to 85, which was sufficient to cover only the capital effectively. If violators do not remedy cited violations within the time allowed, they may be sanctioned legally or assessed administrative penalties. CNAPS, the country's equivalent of the Social Security Administration, published reports on workplace conditions, occupational health hazards, and workplace accident trends. Workers did not have an explicit right to leave a dangerous workplace without jeopardizing their employment.

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