

MADAGASCAR 2012 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Madagascar is ruled by an unelected and illegal civilian regime that assumed power in a March 2009 coup with military support. Andry Nirina Rajoelina, who led the regime, adopted the title of President of the High Transition Authority (HAT). Ousted President Marc Ravalomanana, democratically elected in 2006, was sent into exile. In September 2011 local political leaders signed a “Roadmap For Ending the Crisis in Madagascar,” brokered by mediators acting on behalf of the Southern African Development Community (SADC), which established a transitional process intended to culminate in free and open elections for the restoration of a legal government. In accordance with the letter, if not the spirit, of this roadmap, Rajoelina appointed a “Prime Minister of Consensus,” a 35-member “Government of National Unity” cabinet, a “Transition Congress” (CT) with more than 160 members, and a “High Transitional Council” (CST) with more than 360 members. Military leaders continued to assert their autonomy from the current political leadership, despite their tacit support of Rajoelina and the SADC-endorsed roadmap. There were instances in which elements of the security forces acted independently of civilian control.

The three most important human rights abuses included unlawful killings and other security force abuses; the inability of the transitional government to provide rule of law, which led to a major increase in societal injustice and resulted in the death of both criminals and innocent individuals; and the inability of citizens to choose their government.

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

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

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

a. Arbitrary or Unlawful Deprivation of Life

There were numerous reports that security force personnel continued to commit arbitrary or unwarranted killings, both while in pursuit and during arrest.

The media reported that during the year, law enforcement officers shot and killed at least 100 criminal suspects. In 2011 they shot and killed at least 51 suspects, some of whom were later proved to be innocent. Off-duty and intoxicated members of the armed forces fatally shot civilians.

On May 17, Rapid Intervention Group forces fatally shot and killed a 47-year-old man from Tsaratanana. The security forces said they fired due to the individual's "suspect behavior." The victim's family alleged he had been carrying a large amount of cash and jewelry at the time of his death, all of which disappeared. There were no reports of action taken against security force members in this case.

On September 13, at least 200 members of the Special Intervention Force (la Force d'Intervention Speciale, or "FIS") deployed to the southern part of the country as part of "Operation Tandroka" to stem cattle rustling by armed "dahalo" gangs and restore order to the area following previous failed attempts to do so. Although stealing cattle represents a traditional rite of passage for some ethnic groups, attacks by these dahalo, or cattle rustlers, had become increasingly large and violent over the course of the year. Impunity existed among local and national security forces and politicians in connection with the dahalo attacks. There were regular reports of security force members selling or renting their weapons to dahalo as well as to bandits.

During this three-month operation, Amnesty International (AI), local nongovernmental organizations (NGOs), and the media highlighted reports that security forces were responsible for burning entire villages and hundreds of homes, extrajudicial killings of suspected dahalo, theft, and rape. There were varying and unconfirmed reports of the number of suspects killed during this operation. Authorities denied any wrongdoing, claiming that the operation was legal and noting that members of security forces were also killed. By year's end the FIS had withdrawn amid widespread allegations of human rights violations and calls by AI, the prime minister of consensus, and the international community for the UN to launch an independent investigation into these allegations.

Media reports indicated that at least one colonel involved in Operation Tandroka was placed under a committal order, accused of extortion and illegal violence by a

local farmer. Authorities publicly announced that an internal investigation was underway into the role of FIS or other security forces accused of human rights violations as part of this operation.

There were no further developments in any of the deaths resulting from actions by security forces in 2011, including the beating death of Judge Rehavana by a police mob in Tulear and the beating death of taxi driver Clermont by elements of the Police Intervention Force.

b. Disappearance

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

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

The constitution and law provide for the inviolability of the person and prohibit such practices; however, according to NGOs and press reports, security force personnel subjected prisoners to physical and mental abuse, including torture.

Security personnel used beatings, rape, and destruction of property as punishment for alleged crimes or simply as tools of coercion. Widespread reports described gendarmes setting fire to houses or entire villages to punish the inhabitants.

On January 16, according to the press, a military sergeant incited villagers in Ankazobe to attack an old woman physically and destroy her house and possessions. He accused her of bewitching his child, who suffered from epilepsy. There were no reports of action taken against the sergeant.

There were various unconfirmed reports of torture, rape, and other cruel and inhumane treatment of suspected dahalo and other civilians in the region of the military operation by members of the FIS conducting Operation Tandroka, aimed at stemming cattle rustling in the south.

No updates were available in the case of Alphonse Rafaralahitsimba and Misa Arifetra Rakotoarivelo, two men allegedly coerced under threats and torture into confessing to attempting to assassinate regime leader Rajoelina in March 2011.

Prison and Detention Center Conditions

Prison conditions were harsh and life-threatening. Severe overcrowding, due to weaknesses in the judicial system and inadequate prison infrastructure, was a problem. Lengthy pretrial detention was pervasive. Some NGOs, including Handicap International, reported that harsh prison conditions caused psychological distress among more than 50 percent of the detainees.

Physical Conditions: During the year the country's 81 prisons and detention centers held approximately 18,507 prisoners, although they had capacity for only 10,319. These prisoners included 796 women, 545 boys, and 24 girls. A total of 45 percent (8,363) had been convicted. Overpopulation was a significant concern. For example, there were just under 3,000 individuals incarcerated in Antanimora Penitentiary, a facility designed to house 481 detainees.

Prison conditions for male and female prisoners were essentially the same. Juveniles were not always held separately from the adult prison population, and some preschool-age children shared cells with their incarcerated mothers. As of July 28, a local NGO reported that of the 254 female detainees held in the women's quarters of the Antanimora Penitentiary, 18 were underage, 25 were pregnant, and 28 young children were incarcerated with their mothers. Authorities seldom held pretrial detainees separately from the general prison population.

NGO and media sources indicated substantial underreporting of prison deaths, and the total number of deaths in all prisons during the year was unavailable. Guards reportedly shot to death numerous prisoners trying to escape. For example, on January 4, penitentiary guards allegedly shot and killed two prisoners attempting to escape from Ambalatavoahangy Prison.

Chronic malnutrition, which affected up to two-thirds of detainees in some prisons, was the most common cause of death. It was unclear to what extent the Ministry of Justice's regulations on minimum daily food rations (typically dry manioc, rice, or cassava) were implemented, although one international NGO noted some improvement. In many cases families and NGOs supplemented the daily rations of prisoners.

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

Ventilation, lighting, and temperature control in facilities were either inadequate or nonexistent.

Administration: Prison recordkeeping was inadequate and poorly coordinated with police and judicial authorities. There was no provision for ombudsmen to advocate on behalf of prisoners or detainees. There were also no reports that the de facto regime permitted prisoners or detainees to submit complaints of inhumane conditions to judicial authorities, investigated or monitored prison and detention center conditions, or acted to improve them. Authorities authorized prisoners and detainees to receive weekly visits from relatives and permitted religious observance. Visits outside the scheduled days were reportedly possible if guards and penitentiary agents received bribes of approximately 20,000 ariary (\$8.82). Additionally, NGOs reported that bribes could purchase small privileges, such as allowing family to bring food for prisoners. Information was not available on whether authorities used alternatives to sentencing for nonviolent offenders.

Monitoring: Authorities generally permitted independent monitoring of prison conditions by the International Committee of the Red Cross (ICRC), several local NGOs, and some diplomatic missions. The ICRC was permitted to conduct visits to all main penitentiary facilities and to hold private consultations in accordance with its standard modalities. ICRC representatives also were permitted to visit detainees in pretrial or temporary detention for monitoring purposes.

d. Arbitrary Arrest or Detention

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

Role of the Police and Security Apparatus

The de facto minister for internal security oversees the national police and the gendarmerie with authority to preserve law and order in urban and rural areas, although the gendarmerie falls under the authority of both the Ministry of Defense and the Ministry of Interior. Richard Ravalomanana, a close political ally of de facto president Andry Rajoelina, was promoted to general and de facto commander of the gendarmerie late in the year.

The creation in 2009 of the Joint National Investigation Committee, later renamed the FIS, added an additional security force answerable directly to the regime leader

and outside the authority of the de facto minister for internal security. The FIS began pursuing high-profile targets without resorting to regular judicial processes.

There is no systematic mechanism for investigating security force abuses. Victims may lodge complaints in the court of jurisdiction, although this rarely occurred. Media reported that in one exceptional case involving a complaint lodged by a local farmer, authorities arrested and imprisoned a lieutenant colonel, and accused him of extortion and illegitimate violence during Operation Tandroka. The case went to trial on November 26; he reportedly remained in prison, awaiting his next trial date.

The transitional government did not have direct control over matters relating to rule of law outside the capital, and what control it did have through the security forces became less effective during the year.

The law provides traditional village institutions the right to protect property and public order. Some rural areas used an informal, community-organized judicial system, or “dina,” to resolve civil disputes between villagers over such issues as alleged cattle rustling. This system garnered criticism for human rights abuses, particularly for imposing harsh sentences without due process and outside the scope of formal law. In the past these sentences included beheadings, although the more common practice was to exile the convicted individual from the district where the crime occurred. In some cases citizens felt empowered by the dina to commit lynchings or participate in other mob violence against perceived criminals, particularly in the increasing absence of rule of law under the de facto government (see section 6).

Arrest Procedures and Treatment While in Detention

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

the type of crime, with a theoretical maximum of eight months for criminal cases. Family members of prisoners generally had access to prisoners; however, access was more limited to certain prisoners, such as those in solitary confinement or those arrested for political reasons.

Arbitrary Arrest: Arbitrary arrest occurred. Members of political parties opposed to the de facto presidency were subject to arbitrary arrest.

During the year authorities arrested and detained a number of politicians and military officers for allegedly planning violence during public demonstrations and strikes, after arrested demonstrators allegedly denounced them. Dissidents on trial were often denied due process, as the de facto government prolonged incarceration of suspects for weeks without pressing charges and continually postponed hearings while denying bail.

Authorities released 48 suspects allegedly involved in a 2009 attack on Rajoelina's radio and television station and makeshift bomb attacks that occurred during the same period. Their releases were reportedly part of the "national reconciliation and amnesty" measures that the HAT took in accordance with the roadmap. However, one "nonpolitical" suspect was convicted, sentenced to five years of forced labor, and fined 11 million ariary (\$4,850).

Pretrial Detention: During the year the Ministry of Justice reported that approximately 55 percent of the prison population was in pretrial detention.

The law mandates that authorities charge or release criminal suspects within 48 hours of arrest, though authorities often detained individuals for significantly longer periods before charging or releasing them. Poor recordkeeping, an outdated judicial system that favored keeping the accused in detention until trial, an insufficient number of magistrates, lack of resources, and difficult access in remote areas contributed to lengthy pretrial detention, ranging from several days to several years. Many detainees spent longer in investigative detention than they would have spent incarcerated following a maximum sentence for the charges faced.

Amnesty: Unlike the previous year, there were no presidential pardons or amnesties. However, in January the de facto HAT president announced a three-month sentence reduction for all detainees 25 years old and younger charged for common law offenses and a total remission for detainees 65 years old and older.

The SADC roadmap calls for the creation of an amnesty law granting blanket amnesty for all political events occurring between 2002 and 2009, except for crimes against humanity, war crimes, crimes of genocide, and other serious violations of human rights and fundamental freedoms. In April the CST adopted a law that would enable the establishment of a Malagasy Reconciliation Committee that could recommend amnesty for specific individuals. On October 9, the de facto regime appointed a temporary special commission within the Supreme Court to rule on political amnesty. The president of the Final Appeal Court heads this commission. During special hearings the commission is intended to make amnesty decisions, which would have no recourse for appeal. No cases were heard during the year, although observers noted that the potential for numerous presidential candidates and military leaders to be tried and receive amnesty would directly affect the 2013 elections.

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 problem worsened under the de facto authorities, and intimidation surrounded every major judicial decision since 2009. The absence of any legitimate legislative body permitted the de facto government effectively to rule by decree, with no check on executive power. The de facto minister of justice routinely expressed opinions on high-profile judicial decisions to the media before the court announced them.

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

The trial of 22 military officers allegedly involved in a 2010 attempted coup was scheduled for October 2011 in Fianarantsoa. The defendants' families claimed that a fair trial could occur only in Antananarivo, so a new trial was subsequently scheduled for March 19. However, the military officers refused to attend. They alleged that the de facto government had not adhered to its commitments under the SADC roadmap to cease all ongoing legal proceedings that appear to be politically motivated against members of the opposition. On March 21, eight prisoners were acquitted and one remained under medical care in La Reunion. The remainder

received sentences of five to seven years of forced labor, although two of them were conditionally released.

Trial Procedures

The law provides for a presumption of innocence; however, this was often overlooked. The constitution and law provide defendants with the right to a full defense at every stage of the proceedings, and trials are public. While the law provides that juries can be used in all cases, they were used only in labor disputes. Defendants have the right to be present at their trials, to be informed of the charges against them, to call and confront witnesses, and to present evidence. The government is required to provide counsel for all detainees held on criminal charges who cannot afford their own attorney; however, many citizens were not aware of this right, nor made aware of it by authorities. Defendants who do not request or cannot afford counsel generally are given very little time to prepare their case. Attorneys have access to government-held evidence, but this right does not extend to defendants without attorneys. Legislation outlining defendants' rights does not specifically refer to the right not to be compelled to testify but includes the right to be assisted by another person during the investigation/trial. Defendants have the right to appeal convictions.

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

Political Prisoners and Detainees

There was a sharp increase in politically motivated detentions immediately before and after the 2009 coup. The number of such arrestees remained disputed during the year, ranging from 35 to 60 detainees, depending on the source. As of August 1, local human rights activists named 35 individuals who remained in detention as "political detainees" for alleged participation in plots against the de facto regime, some dating to 2009. The majority were military officers reportedly held without due process.

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

Civil Judicial Procedures and Remedies

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

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

The law prohibits such actions, but homes and workplaces of opposition groups were subjected to arbitrary searches without warrants. Regime security personnel also punished family members for alleged offenses committed by individuals.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution and law provide for freedom of speech and press, but the de facto regime and military actors actively and systematically impeded the exercise of freedoms of expression and of the press.

Freedom of Speech: Although the law provides for freedom of speech, there were restrictions placed on the ability of individuals to criticize the regime publicly or privately. Authorities severely restricted freedom of speech by intimidating opponents and resorting to imprisonment or violence when threats failed to dissuade critics. The de facto minister of communications targeted those who expressed dissent, sending official warning letters to news outlets whose coverage displeased the regime. In September the editor of the national television station was suspended, reportedly for having opposition politicians on the air.

Freedom of Press: While the constitution provides for freedom of the press, the ability of the press to criticize the regime was severely limited. In particular the absence of a communications code protecting press freedoms allowed authorities to prosecute journalists under libel law and the criminal code whenever the content of their reporting offended the de facto regime. Several individuals reported that both the de facto regime and their supporters actively impeded political criticism with threats and violence against individuals and opposition groups. In November the de facto minister of communications stated that assertions “harming the general interest” were banned from public media. Such statements by de facto officials essentially prevented public media from covering opposition groups and figures.

Authorities also suspended journalists who continued to broadcast despite government warnings.

The transitional government intimidated and threatened journalists from print and broadcast media. The Special Commission for Audiovisual Communication (CSCA), headed by de facto Minister of Communication Harry Laurent Rahajason, sent warning letters to several radio stations during the year, directing them to stop broadcasting programs perceived to be antiregime and threatening to suspend their licenses and imprison their journalists. In one such instance on June 7, the Ministry of Communication sent Radio Feon'I Toamasina a warning letter, accusing it of broadcasting illegal content that incited public insecurity. Another letter was sent to Radio Taratra in May, accusing it of operating without a license, although one had been issued in 2010. In May the offices of Radio Mada, owned by the exiled president, were raided. The military was also involved in threatening journalists. For example, the army's communications office issued a warning to journalists "not to denigrate the honor of the military or the integrity of the country's citizens."

More than 300 radio and television stations operated in the country, and many shifted to live call-in shows to distance themselves from editorial responsibility for content. Since 2010 de facto Minister of Communication Rahajason has withdrawn the broadcast licenses of an estimated 80 radio and television stations that had previously received licenses and ordered them to suspend broadcasting immediately. At year's end they had not been authorized to reopen.

On May 2, authorities imprisoned the editors of the private radio station Free FM, Lalatiana Rakotondrazafy and Fidel Razara Pierre, for a two-day investigation following a libel suit brought by Mamy Ravatomanga, a well-known backer of the de facto regime. Following a series of public rallies that same month marking the first anniversary of Free FM and calling for greater press freedom, the radio's editors were charged with provoking outrage against the regime, destruction of public goods, mounting opposition to security forces, and holding a public demonstration without authorization. On July 22, authorities closed the radio station, and the two journalists and another colleague went into hiding. On October 2, the three journalists announced their release, reportedly following an agreement between them, the de facto authorities, and the South African embassy, where they sought asylum for several weeks. The radio station announced that it would reopen, but the popular call-in show was canceled.

In November authorities sentenced Lalatiana Rakotondrazafy and her colleagues to suspended three-month jail terms after broadcasting accusations that Mamy Ravatomanga was involved in the illegal smuggling of protected rosewood. A few days later, the court handed Lalatiana and her colleagues additional three-year prison sentences, having convicted them in their absence, and ordered the confiscation of their equipment as punishment for Free FM's leadership of the May rallies calling for press freedom. The defendants and their lawyer were unaware of the judgment and were informed of the sentence through the media. By year's end they had not started serving their sentences, pending appeal, but Free FM remained closed.

De facto leader Andry Rajoelina's media group, officially registered in his father's name, received the option to open new stations in the provinces.

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

Violence and Harassment: There were reports of individuals, some with ties to media outlets, who were threatened or arrested for distributing publications that the regime claimed could incite political instability. For example, gendarmes interrogated the editor-in-chief of *Le Courrier de Madagascar* for several hours in April after he ran a story entitled, "Governance--the Brothel Takes Hold at High Levels." Investigative journalists were often targets of threats and harassment from authorities. In May police stopped a journalist from *La Verite*, a proregime newspaper, on his way to cover an event in Antananarivo. Police reportedly beat him and broke his arm.

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

Censorship or Content Restrictions: The regime arbitrarily suspended broadcasting licenses for radio and television stations. On a number of occasions, the CSCA used administrative reasons to threaten media outlets with closure if the Ministry of Communication deemed the media critical of the regime. Journalists from public broadcasters were subject to the unspoken threat of suspension. To maintain access to sources and remain safe, journalists widely practiced self-censorship.

Libel Laws/National Security: The de facto government often cited national security as a justification for suspending licenses and arresting journalists.

Internet Freedom

There were generally no restrictions on access to the Internet, or reports that the de facto government monitored e-mail or Internet chat rooms. However, the de facto minister of communication made several statements throughout the year about restricting the Internet. Public access to the Internet was limited mainly to urban areas. According to the International Telecommunication Union, less than 2 percent of individuals in the country used the Internet in 2011.

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

Academic Freedom and Cultural Events

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

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The constitution and law provide for freedom of assembly, but this right was restricted extensively during the year. De facto government officials and security forces regularly impeded opposition gatherings throughout the country.

NGOs reported an unofficial standing order to continue denying the authorization of any political demonstrations or strikes and intimidation of any group that attempted to apply.

Security forces repressed demonstrations by opposition leaders and labor unions during the year through use of tear gas, firearms, and other violence. De facto authorities caused injuries to protesters and arrested strike leaders. For example, in June security forces shot two persons protesting in favor of democracy at a rally featuring Free FM journalists.

Freedom of Association

The constitution and law provide for the right of association and permit citizens to organize political parties and associations. In reality, however, authorizations are required to hold large public gatherings, and authorities rarely granted opposition groups such authorization. Although the SADC-endorsed roadmap includes a requirement that the Transitional Parliament adopt new laws on political parties and the status of the opposition, by year's end no such laws had been drafted or ratified.

c. Freedom of Religion

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

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

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

Transitional authorities prevented the foreign travel and return to the country of political opponents. For example, on February 19, the de facto regime denied landing clearance to a regularly scheduled South African commercial flight because it carried exiled first lady Lalao Ravalomanana. She attempted to return on July 27, along with her daughter-in-law Guergena. The plane landed without incident, but authorities detained the two women at the Antananarivo airport. Security personnel physically forced them onto the next flight, reportedly injuring Guergena in the process.

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

Exile: The constitution does not explicitly prohibit forced exile, and the coup regime utilized it selectively. Former president Didier Ratsiraka was in exile in France until November 2011, and ousted president Ravalomanana remained in exile in South Africa at year's end. Both were subjected to separate notices issued

by the de facto regime forbidding commercial airlines from allowing them to board flights bound for the country.

The September 2011 SADC roadmap calls for the unconditional return of political exiles, including ousted president Ravalomanana. SADC mediators repeatedly reaffirmed this right of return, including following meetings in July and August in Maputo between Ravalomanana and Rajoelina. In December Ravalomanana publicly declared that he would not be a candidate in planned 2013 presidential elections but reaffirmed his desire to return to the country without further delay. SADC supported his request and urged Rajoelina to withdraw as a potential candidate from the presidential elections. At year's end Ravalomanana remained barred from returning to the country, and Rajoelina had not confirmed whether he would run for president.

Protection of Refugees

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

Stateless Persons

An outmoded system of citizenship laws and procedures resulted in a large number of stateless persons in the minority Muslim community, many belonging to families that have lived in the country for generations. Reliable figures remained unavailable, but Muslim leaders estimated that the laws affected as many as 5 percent of the approximately two million Muslims. Citizenship is transmitted by birth to a citizen parent. Birth in the country does not automatically result in 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 citizenships; this circumstance applied to their descendants as well. Members of the wider Muslim community suggested that a Muslim-sounding name alone could delay one's citizenship application indefinitely. All stateless persons can apply for a foreign resident card, which precludes voting rights, right to own property, and eligibility for a passport, thus limiting international travel.

Stateless women can obtain nationality if they marry a Malagasy citizen and request citizenship before the wedding date.

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

The constitution and law provide citizens the right to change their government peacefully, and citizens previously exercised this right by voting in presidential, legislative, and municipal elections between 2006 and 2008. In 2009, Andry Rajoelina effectively curtailed this right following his coup. Rajoelina unilaterally declared his intention to organize elections for as early as March 2010. The opposition rejected this plan, pushing for a return to dialogue and an inclusive transition government. Throughout 2010 Rajoelina unilaterally announced roadmaps to elections that were postponed multiple times. In November 2010 a referendum to adopt a new constitution was held, but neither the opposition nor most of the international community recognized the constitution due to considerable irregularities both in its drafting and in the conduct of the referendum. The de facto regime adopted the constitution in December 2010 and asserted that it was in effect.

The September 2011 SADC roadmap calls for transitional authorities and institutions to adopt security and confidence-building measures, adhere to the rule of law and the principle of equal treatment, and terminate ongoing legal proceedings that appear to be politically motivated against members of the opposition. It also calls on transitional authorities to allow all Malagasy citizens in exile for political reasons to return to the country unconditionally, ensure the political freedom of all citizens, and ensure an inclusive transition towards free, fair, and credible elections.

Elections and Political Participation

Recent Elections: No elections have been held since the 2009 coup. The last elections took place in 2008 when Indirect elections to the 33-member senate occurred. The I Love Madagascar party of then president Ravalomanana won all 22 elected seats, and the president appointed the remaining 11 members. Allegations of campaign and voting irregularities surfaced during and after the election, but no conclusive legal action occurred.

Political Parties: In effect political parties could not operate without restriction or outside interference. Members of parties opposing the party or policies of the

regime leader often had their individual rights, such as freedom of expression, violated. The regime often denied opposition parties the right to organize and publicize their opinions.

Participation of Women and Minorities: After the “Government of National Unity” cabinet was last reshuffled in 2011, women filled nine of 35 cabinet positions. At the end of the year, 58 of the 375 members of the “Transition Congress” and 21 of the 162 members of the “High Transitional Council” were women. All members of the CST, CT, and the government were appointed in 2011. Three of the 22 appointed regional administrators were women.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for official corruption. However, the de facto regime did not implement the law effectively, and corruption increased after the March 2009 coup.

Corruption was rampant in the national police and gendarmerie. General Richard Ravalomanana, newly appointed de facto commander of the gendarmerie, reportedly announced on October 11 that the gendarmerie was the second-most corrupt institution in the country. The World Bank’s most recent Worldwide Governance Indicators reflected that corruption was a serious problem, as was impunity. NGOs and the media reported that anticorruption efforts in recent years were more effective in pursuing low-level violators than in attacking corruption at the national government level.

High-ranking members of the de facto regime made several efforts to extort international and domestic industries for personal profit by threatening to withhold operating permits and harassing management. According to press reports, regime officials sought a 170 billion ariary (\$75 million) payment from mining company Ambatovy in exchange for a six-month permit. Ambatovy, despite political pressure from the regime, refused to make any payments directly to the government. In contrast, the company set up a 57 billion ariary (\$25 million) social responsibility fund for local community projects in the region of the mine and established a 114 billion ariary (\$50 million) fund for environmental contingencies, both maintained in an offshore account by an independent financial institution. In December the de facto minister of finance publicly declared that a series of large infrastructure projects inaugurated by de facto President Rajoelina had been financed by a 228 billion ariary (\$100 million) payment made to the regime in 2010 by China’s Wuhan Iron & Steel Company in exchange for permits.

The general lack of rule of law created a permissive environment for illegal logging and the export of rare hardwoods, primarily from the northern forests, which was believed to have been facilitated by bribery and profiteering at several levels of government. Foreign NGOs and media reports alleged that high-level corruption, with involvement 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.

At year's end the country remained suspended from the Extractive Industries Transparency Initiative.

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

Regular income and asset declaration is required by decree for individuals in the following positions: the prime minister and other government ministers, senators and elected representatives; members of the High Constitutional Court; provincial governors, chiefs of regions, and mayors; magistrates; civil servants holding official positions of or equivalent to ministry director and above; inspectors of land titling, treasury, tax, and finances; military officers at the company level and above; inspectors from the State General Inspection, from the Army's General Inspection, and from the National Gendarmerie's General Inspection; and anyone serving as a judicial police officer.

These financial declarations are required no later than three months after the nomination or election and must be renewed annually. This requirement also applies to spouses and children. However, some members of Parliament who had been appointed and not elected claimed exemption from these requirements. Financial declarations are confidential, and BIANCO does not publish the names of persons who failed to make a declaration. It occasionally publishes an approximate percentage of those who provided declarations. Statements may be published only upon request of the declaring officer or of judicial and parliamentary authorities and may be used in the context of investigations. BIANCO may inform the Prosecutor's Office in cases of noncompliance with this obligation.

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

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

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

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

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

Government Human Rights Bodies: An Ombudsman office conducted minimal activities. A National Human Rights Commission, led by the Ministry of Justice or Ministry of Foreign Affairs, existed but was not active. On December 4, the de facto government passed legislation creating a national independent human rights commission charged with overseeing legislative and judicial reforms as well as other measures to protect human rights. Commission members were to be assigned full time, with the stated aim of providing rapid responses in cases of human rights violations. By year's end no members had been named.

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

The constitution and law prohibit all forms of discrimination, including due to race, gender, disability, language, and social status. However, no specific governmental institutions were designated to enforce these provisions, and the laws were not effectively enforced.

Women

Rape and Domestic Violence: The law prohibits rape in general but does not specifically refer to spousal rape. Penalties range from five years to life in prison, depending on factors such as the victim's age, the rapist's relationship to the victim, and whether the rapist's occupation involved contact with children. Rape of a child or a pregnant woman is punishable by hard labor. An additional two to five years' imprisonment might be added in the case of rape with assault and battery. The de facto authorities did not often enforce these penalties.

The Union of Social Workers recorded cases at the Public Hospital of Befelatanana in Antananarivo from September 2011 to August and tallied 547 cases of sexual abuse, including rape. The majority of these victims were between the ages of 10 and 18 years old. Observers believed the figures greatly underestimated the extent of sexual violence against women nationwide, but no reliable national data were available. There were alleged cases of rape by security forces (see section 1.c.).

The law prohibits domestic violence. It is punishable with two to five years in prison and a fine of four million ariary (\$1,764), depending on the severity of injuries and whether the victim was pregnant, but it remained a widespread problem. Statistics on the number of domestic abusers prosecuted, convicted, or punished were unavailable. Anecdotal evidence from NGOs indicated that the political crisis and its related social and economic effect correlated with a rise in the incidence of domestic violence, with two- or three-fold increases in the number of cases reported. Domestic violence was not limited to physical or sexual abuse but also related to psychological and economic violence. In the face of a bleak financial situation, women had fewer options to escape violence and ensure their safety and that of their children.

Overall, the Union of Social Workers in Antananarivo noted an increase of recorded violence against women after the beginning of the political crisis. During

the year the entity documented more than 1,000 cases of domestic violence against women, compared with 910 in 2011, 733 in 2010, and 479 in 2009.

Sexual Harassment: Sexual harassment is against the law. Penalties range from one to three years' imprisonment and a fine of one to four million ariary (\$441 to \$1,764). This penalty increases to two to five years' imprisonment, plus a fine of two to 10 million ariary (\$882 to \$4,410), if the victim was forced or pressured into sexual acts or punished for refusing such advances. Despite the legislation sexual harassment was widespread. There were no reported court cases during the year.

Reproductive Rights: Couples and individuals freely exercised their reproductive rights with no legal or policy discrimination or coercion. Citizens had free access to contraceptives and family planning information at public clinics, and services were also available in the private sector. According to the UN Population Fund, the modern contraceptive use rate was 28 percent. Skilled attendance during childbirth was estimated at 51 percent but was lower in rural areas, where there were few trained health workers and persons were unable to access reproductive health and maternity services. All delivery services, including caesarean sections, were free in government health facilities. A variety of programs were instituted to expand the availability of quality care, but these were limited due to the constraint on resources. A National Statistics Institute survey issued in 2010 concluded that the maternal mortality ratio (the ratio of the number of maternal deaths per 100,000 live births) was 498, compared with 269 deaths in the 2004 report. The major factors that contributed to a high maternal mortality ratio were the distance from and high cost of health centers, the low quality of hospital services, chronic maternal malnutrition (including anemia), high rates of adolescent pregnancy, and the lack of adequate spacing between pregnancies. While there were no legal barriers to accessing services for sexually transmitted diseases, there were enormous infrastructure inconsistencies throughout the country. Some social and cultural barriers also limited access.

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

A tradition known as “the customary third,” which provides the wife with the right to only one-third of a couple’s joint holdings upon dissolution of the marriage, was occasionally observed. There was no special governmental office to ensure the legal rights of women.

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

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

Children

The effects of the 2009 coup and the significant deterioration in the rule of law have continued to make children particularly vulnerable to poverty, abuse, and exploitation. Poverty has disproportionately affected children. According to the NGO Comite des Droits de l’Enfant, 84.5 percent of children under five years old lived in poverty, and half of children in that same age group suffered from a delayed growth rate due to chronic malnutrition. According to the World Bank, 77 percent of the population lived in poverty and 57 percent were extremely poor. The growing poverty rate led to a decrease in school registration and fuelled child labor, which remained prominent. The worst forms of child labor persisted, primarily in the agricultural, mining, and sex trade sectors. Early forced marriage remained a problem in several communities.

Birth Registration: Citizenship is derived from one’s parents, although children born to a citizen mother and a foreign father must declare their desire for citizenship by age 18 years old. The country has no uniformly enforced birth registration system, and unregistered children have historically not been eligible to

attend school or obtain health care services. UNICEF worked with the government to provide birth certificates for both newborn children and those who did not receive a certificate at birth. According to a 2010 UNICEF study, 80 percent of children in the country under the age of five years old had their births registered. During the year the percentage of children without birth certificates was reportedly reduced to 10 percent, due to efforts by the Ministry of Interior, supported by UNICEF. However, UNICEF did not undertake a formal audit to confirm these figures.

Education: The constitution provides for tuition-free public education for all citizen children and makes primary education until 14 years old compulsory. At the beginning of the school year, some schools asked parents to advance registration fees with the intent that government subsidies would reimburse these. At year's end only some parents were reimbursed. According to a UNICEF study on school registration and completion rates during the year, only 73.4 percent of children between six and 10 years old were enrolled in school. Fewer than half of those enrolled (44 percent) actually completed primary school.

Child Abuse: Child rape is against the law, although the penal code does not set any minimum age for consensual sex. Rape of a minor under 15 years old carries a penalty of forced labor or forced labor for life, if the perpetrator was in a relation of trust with the victim (for example, a relative, teacher, religious leader, or civil servant). Child abuse continued to be a problem. According to the media, cases of child rape increased, with some of the victims as young as three years old. From September 2011 to August, the Union of Social Workers reported 763 cases of child abuse in Antananarivo. The victims were between three months and 18 years old. During the same period, among cases reported at the maternity hospital of Befelatanana in Antananarivo, there were 123 cases of sexual abuse involving children 10 years old and younger and 395 cases involving children between 10 and 18 years old. Authorities rarely intervened in cases of child abuse.

There were developments in two high-profile cases from 2011. On March 2, the appeals court of Mahajanga ordered the release on bail of Jao Jean, a member of the de facto parliament arrested in November 2011 on charges of kidnapping and raping a 16-year-old girl. He was temporarily released in March and had not been tried by year's end. Authorities also arrested Didier Amar, an accomplice of Patrick Nicaud, who was accused in May 2011 of raping underage girls in the port city of Toamasina. Amar was rumored to have been released on bail, but this information could not be confirmed. Authorities had not prosecuted Nicaud by year's end.

Child Marriage: The legal age for marriage without parental consent was 18 years old for both boys and girls. As confirmed by the UN special rapporteur on modern forms of slavery during her mission to the country in December, early forced marriage remained a concern in many communities where girls as young as 10 years old were forced to marry. She noted that “victims of such arrangements are likely to be also victims of domestic servitude and sexual slavery.” An estimated 48 percent of women between 20 and 24 years old were married before age 18, and 14 percent were married before 15 years old, according to UNICEF data collected in 2000-09.

Sexual Exploitation of Children: In general recruitment and incitement to prostitution carries a penalty of two to five years’ imprisonment and a fine of up to 10 million ariary (\$4,410). Recruitment and incitement of prostitution involving a child under 15 years old--as well as sexual exploitation, sex tourism, incest involving a child under 15 years old, and commercial exploitation of a child under 18 years old--all carry a penalty of forced labor. Media reports and NGOs indicated that the commercial sexual exploitation of children, mainly of teenage girls, had increased since 2009. Both the penal code and antitrafficking in persons legislation address pornography, specifying penalties of two to five years’ imprisonment and up to a fine of 10 million ariary (\$4,410). However, authorities rarely enforced the provisions.

Children increasingly engaged in prostitution for survival with or without the involvement of third parties--including, at times, their own parents. According to a NGO Groupe Developpement/ECPAT Madagascar study during the year, most child prostitutes in the coastal cities of Mahajanga and Nosy Be were initiated into sexual activity between the ages of 13 and 15. In 40 percent of the cases, these children had their first sexual encounter as sex workers and, in many cases, their parents were aware of their activities.

The phenomenon was also widespread in the capital, Antananarivo. Young rural girls working as housekeepers in the capital often suffered from abuse and rape at the hands of their employers. If they left their employers, they typically were not paid. Rather than return empty-handed to their families and villages, they often remained in the cities as prostitutes.

The Ministry of Population and Social Affairs, in collaboration with UNICEF, operated more than 450 multisector networks throughout the country to protect children from abuse and exploitation and ensure access to adequate medical and

psychosocial services for child victims. Several ministries and specialized training schools and institutions worked with UNICEF to develop training manuals and carry out training sessions on child rights and safeguards for officials working in child protection networks.

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

Infanticide or Infanticide of Children with Disabilities: A traditional taboo in the southeast against giving birth to twins led some parents in the region to abandon one or both of their twin children, who sometimes were left to die.

Displaced Children: Although child abandonment is against the law, it remained a significant problem. There were few safe shelters for street children, and governmental agencies generally tried to place abandoned children with parents or other relatives first. The Felana Maintso center in Antananarivo reported that it received more than three times as many children between January and April as in the same period in 2011.

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

Anti-Semitism

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

Trafficking in Persons

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

Persons with Disabilities

The law prohibits discrimination against persons with physical and mental disabilities, although there is no specific mention of sensory and intellectual disabilities. Legislation broadly defines rights of persons with disabilities and provides for a national commission and regional subcommissions to promote their rights. By law persons with disabilities are entitled to receive health care and education and have the right to training and employment. Educational institutions

are “encouraged” to make necessary infrastructure adjustments to accommodate disabled clients. The law also specifies that “the State must facilitate, to the extent possible, access to its facilities, public spaces, and public transportation to accommodate persons with disabilities.” By law persons with disabilities also have the right to employment and training opportunities, although the legislation does not address air travel.

Authorities rarely enforced these rights, and the legal framework for promoting accessibility remained perfunctory. In December, for example, press reports decried the failure of authorities to apply a reduced bus fare to persons with disabilities, as they do for students and the elderly. They also called for reserved spaces on public transportation. In general access to education for persons with disabilities was also limited, due to lack of adequate infrastructure, specialized institutions, and teachers.

Persons with disabilities were more likely to become victims of crime, particularly sexual abuse. One NGO reported that 80 percent of women with disabilities were also single mothers, facing a number of societal ills alone, including abuse. The de facto government did not provide them with protection against such abuses. On January 26, de facto Minister of Population Olga Vaomalala publicly referred to disabled persons as “votsa” (pejorative for “incapable” or “slow”) and stated that this issue was not a priority for the de facto government or the Transitional Parliament.

National/Racial/Ethnic Minorities

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

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

The penal code provides for a prison sentence of two to five years and a fine of two to 10 million ariary (\$882 to \$4,410) for acts that are “indecent or against nature with an individual of the same sex under the age of 21.” There were reports of

official abuses occurring at the community level, such as administrative officials denying health services to transgender persons or breaking confidentiality agreements, although no cases were pursued in court.

There was general societal discrimination against the LGBT. Examples included reported incidents of violence. In his New Year speech on January 9, the de facto president mentioned gay marriage in reference to certain trends in other countries that he said run counter to the country's culture.

There are no legal antidiscrimination provisions that apply to LGBT persons. Moreover, marriage between persons of the same sex is prohibited. Sexual orientation and gender identity were not widely discussed in the country, with public attitudes ranging from tacit acceptance to violent rejection, particularly of transgender sex workers. Local NGOs reported that most organizations that worked with the LGBT community did so as health-service providers, often in the context of their work to combat the spread of HIV/AIDS. LGBT sex workers frequently were targets of aggression, including verbal abuse, stone throwing, and even murder. In recent years awareness of "gay pride" increased through positive media exposure, but general attitudes did not change.

Other Societal Violence or Discrimination

Persons with HIV/AIDS were subjected to stigma and discrimination. The law provides for HIV/AIDS patients' rights to free and quality health care and specifies sanctions against persons who discriminate against or marginalize persons with the condition. This reportedly helped reduce discrimination, following public testimony and greater awareness of issues affecting those with HIV/AIDS. The Ministries of Health and Justice, as well as the National Committee for the Fight Against AIDS in Madagascar, enforced the law.

Mob violence grew both inside and outside the capital. There were numerous reports that citizens felt less secure following an increase in crime. In response some communities began taking the law into their own hands, lynching criminals and those accused of witchcraft. In attempts to punish perceived criminals, large crowds killed, beat, burned, or otherwise injured the alleged wrongdoers.

Over the weekend of August 31, more than a hundred suspected dahalo cattle rustlers were lynched in two villages in the southern Betroka Region. Regime authorities justified the lynching as villagers exercising "self-defense" against cattle rustling and insecurity.

On February 15, residents of Ambondromisotra burned two alleged thieves to death. Security forces had already arrested the accused thieves when seized by the mob. There were no reports of any action taken against the perpetrators.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

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

The law generally allows for union activities. The law provides most workers with the right to strike, including in export processing zones (EPZs). However, a strike is prohibited if there is a possibility of “disruption of public order” or if the strike would endanger the life, safety, or health of the population. Workers must first exhaust conciliation, mediation, and compulsory arbitration procedures, which may take eight months to two and one-half years. Workers in other “essential services” (not defined by the law), such as magistrates, have a recognized but more restricted right to strike. The law requires them to maintain a basic level of service and to give prior notice to their employer. The labor code also provides for a fine, imprisonment, or both for the “instigators and leaders of illegal strikes” whether the strike is peaceful or not.

The law prohibits antiunion discrimination by employers. In the event of antiunion activity, unions or their members may file suit against the employer in civil court. However, civil servants and public sector employees are not afforded legal protection against acts of antiunion discrimination and interference. The labor code does not address the issue of reinstatement of workers fired for union activity.

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

indicated that authorities did not always enforce applicable law, including effective remedies and penalties, and that procedures were subject to lengthy delays and appeals. Collective bargaining rights were more readily exercised and respected in larger international firms, such as in the telecommunications and banking sectors. These rights were reportedly more difficult to exercise within smaller local companies. Union representatives reported that workers in such companies were often reluctant to make demands due to fear of reprisal. Because of increasing poverty following the 2009 coup, jobs had become much scarcer, and workers were less likely to risk losing their paychecks.

By law union bodies are meant to operate independently from government and political parties. However, employers did not always respect the right of unions, including those in the EPZs, to conduct their activities without interference. In one notable case in January, national union representatives reported that Manpower Development, a personnel subcontractor for nickel mining company Ambatovy, dismissed five to seven employees because of their union activities. Several unions were active at Ambatovy, which subsequently ended its contract with Manpower. In several other cases, union representatives indicated there were more subtle attempts on behalf of employers to dissuade or influence unions, which often prevented workers from organizing or denouncing poor working conditions.

Strikes occurred frequently and overlapped throughout the year, with public servants in several sectors striking simultaneously throughout the summer and into the fall. Most of these proceeded without incident. However, unions in the public sector did not always operate free from government reprisal. On July 8, the president of the paramedics union was investigated and put on trial, accused of disturbing security during a strike inside a hospital. The move was allegedly to prevent him from leading the strike. The de facto minister of public health ordered striking paramedics back to work. When public doctors went on strike, the de facto minister of public health requisitioned them and threatened disciplinary sanctions for anyone continuing to strike. Along with the president of the paramedics union, authorities investigated the president of the union of public doctors.

In a long-term, high-profile strike of public school teachers, de facto Minister of Education Regis Manoro ordered all striking educators to resume classes on May 5 or face suspension of their salaries. In July and August, the ministry withheld pay from 266 teachers involved in the strike. In November gas station operators led a strike against regime-imposed price controls on fuel prices. A series of other

strikes against the de facto authorities included strikes by the bus operators' union, the court workers union, and employees of the Ministry of Environment.

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

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

b. Prohibition of Forced or Compulsory Labor

While the law prohibits forced labor, it remained a significant problem among children in the informal sector. In addition to child labor, forced labor persisted in the context of "dinas," informal arrangements for payment or in response to wrongdoing. In some communities dinas are common and a generally accepted way of resolving conflicts or paying off debt. As reported by the UN special rapporteur on modern forms of slavery, young women who are forced to marry early are also subjected to domestic servitude and sexual slavery. In all the above cases, de facto authorities did not effectively enforce the law.

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

c. Prohibition of Child Labor and Minimum Age for Employment

The law regulates the working conditions of children, defines the worst forms of child labor, identifies penalties for employers, and establishes the institutional framework for implementation. The legal minimum age for employment is 15 years old, 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, and prohibits persons under 18 from working at night and at sites where there is an imminent danger to health, safety, or morals. Employers must observe a mandatory 12-hour rest period between shifts. Occupational health and safety restrictions include parental authorization and a medical visit before hiring.

The de facto regime did not effectively enforce the law and did not improve its pursuit of labor law violators. The Ministry of Civil Services and Labor is responsible for enforcing child labor laws and policies in the formal sector, and it conducted general workplace inspections during the year in response to a range of complaints. The ministry had approximately 90 inspectors to carry out its responsibilities, but none specialized in child labor, making it difficult to monitor and enforce child labor provisions effectively. There was no enforcement in the much larger informal sector.

Child labor was a widespread problem. NGO-run centers in Antananarivo, Tamatave, and Tulear continued to receive victims of trafficking and forced labor. 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, artisanal gemstone mining, work in bars, and begging. Children also worked in the vanilla sector, salt production, deep sea diving, and the shrimp industry. Some children were trafficked internally for the purposes of forced labor.

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

d. Acceptable Conditions of Work

The monthly minimum wage was 100,000 ariary (\$44) for nonagricultural workers and 101,000 ariary (\$44.50) for agricultural workers. The official estimate for the poverty income level put the threshold at 468,800 ariary (\$206.70) per person per year.

The standard workweek was 40 hours in nonagricultural and service industries and 42.5 hours in the agricultural sector. Legislation limited workers to 20 hours of overtime per week and required 2.5 days of paid annual leave per month. If the hours worked exceed the legal limits for working hours (2,200 hours per year in agriculture and 173.33 hours per month in other sectors), employers are legally required to pay overtime in accordance with a Labor Council decree, which also denotes the required amount of overtime pay. If more than five hours of overtime is required in addition to the regular 40-hour workweek, employers must request an authorization from a labor inspector before being able to impose additional overtime on employees. With or without the authorization of a labor inspector, overtime may not exceed 20 hours per week. The law applies to all workers,

although it is the responsibility of the labor inspector to define the kind of work that may be performed under such an authorization.

The government is charged with setting occupational safety and health standards for workers and workplaces. However, penalties for noncompliance are not defined in the labor code, which only requires an inspection before a company can open. 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.

The Ministry of Civil Services and Labor is responsible for enforcing the working conditions and minimum wages prescribed in the labor code. Authorities often encountered trouble enforcing the minimum wage and workweek laws, due to inadequate resources and insufficient personnel. The labor inspectors in the ministry were sufficient to effectively monitor conditions for workers only in the capital. 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. There was no specific action by de facto authorities during the year to prevent violations and improve wages and working conditions, other than standard inspections, which were not adequate.

Violations of wage, overtime, or occupational safety and health standards were common in the informal sector and in domestic work, where many were paid below minimum wage and worked extensive hours. Although most employees knew what the legal minimum wages were, employers did not always pay those rates. High unemployment and widespread poverty led workers to accept lower wages. Employers often required employees to work until production targets were met. In some cases this overtime was unrecorded and unpaid. The right to remove oneself from a dangerous workplace was not always respected in practice.

EPZ companies in general respected labor laws, as many foreign importers required good working conditions in compliance with local law before signing contracts with EPZ companies. However, in December a raid by labor inspectors on a Chinese foundry in Antananarivo revealed labor code violations, including failure to provide a safe, hygienic, and healthy work environment. Several workers bore physical evidence of workplace injuries. The labor force had also been prevented from organizing, with the factory closing temporarily every time workers made demands.