

MADAGASCAR 2018 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Madagascar is a semipresidential democratic republic with a popularly elected president, a bicameral legislature (Senate and National Assembly), prime minister, and cabinet. A presidential election was held November 7, with a two-candidate run-off on December 19. Independent observers judged the election as generally free and fair, despite irregularities in the campaign including allegations of voter suppression. The winner was not formally announced before year's end. The National Assembly was elected in 2013. Nationwide municipal elections in 2015 allowed for the subsequent indirect election of the Senate. These elections were peaceful and deemed generally free and fair by international observers.

Civilian authorities at times did not maintain effective control over the security forces.

Human rights issues included arbitrary or unlawful killings by government security force agents; torture by government agents; arbitrary detention by government agents; harsh and life-threatening prison and detention center conditions; political prisoners; substantial interference with the right of peaceful assembly; pervasive corruption; trafficking in persons; lack of accountability in cases involving violence against women and children, in part from government negligence; and use of child labor.

The government rarely prosecuted or punished officials who committed abuses, whether in the security forces or elsewhere in the government, and impunity remained a problem.

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

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

There were numerous reports that the government or its agents committed arbitrary or unlawful killings of criminal suspects. Most killings occurred during security force operations to stem cattle rustling by armed criminal groups in the central, west, and southwest areas as well as during police raids to combat insecurity in urban areas. Villagers sometimes supported government efforts to stem cattle rustling and were responsible for killing cattle rustlers.

In January the National Gendarmerie told the press that in its efforts to combat insecurity, gendarmes had killed 217 presumed thieves in 2017, compared to 220 the year before. Between January and September, media reported 292 deaths from security force actions to combat insecurity, but this number included members of the security forces and civilians as well as presumed thieves. According to media, clashes between alleged cattle thieves and the security forces occurred at least monthly. Usually the security forces were composed of police and gendarmes, but occasionally they included military elements. There were isolated reports of security forces executing cattle thieves or bandits after capture. These could not be substantiated and were rarely, if ever, investigated.

In July bandits kidnapped four employees of a then state owned chromite mining company 115 miles north of Antananarivo. After their ransom was paid and they were released, gendarmes deployed to the area, and in mid-August a gendarme was killed in a shootout. Subsequently an army platoon consisting of 30 soldiers reportedly arrested a number of persons the locals identified as suspected bandits, removed their clothing and applied hot, melted plastic to their bodies. At least five were summarily executed, according to a villager's report to a media outlet.

b. Disappearance

There were no reports of disappearances by or on behalf of government authorities.

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, but security forces subjected prisoners and criminal suspects to physical and mental abuse, including torture, according to media reports.

Security personnel used beatings as punishment for alleged crimes or as a means of coercion. Off-duty and sometimes intoxicated members of the armed forces assaulted civilians. In most cases, investigations announced by security officials did not result in prosecutions.

Media outlets reported on August 25 that police took two presumed thieves to Antananarivo's main public hospital August 23. One of the suspects was dead upon arrival at the hospital and the second one was very weak and died the next day. Both presented injuries including bruises, suggesting they had been the

victims of battery. The suspects had been arrested the previous day for alleged involvement in an armed attack in Ankadindramamy that resulted in the death of a police officer.

Prison and Detention Center Conditions

Prison conditions were harsh and life threatening due to inadequate food, overcrowding, poor sanitation, and insufficient medical care.

Physical Conditions: Severe overcrowding due to weaknesses in the judicial system and inadequate prison infrastructure was a serious problem. One penitentiary surpassed its official capacity by nearly eightfold. As of August the country's 84 prisons and detention centers held an estimated 24,590 inmates, of whom 1,729 were female and 22,861 male. The total number of inmates included 785 minors. This figure represented well over twice the official capacity of 10,360 inmates.

Lengthy pretrial detention was pervasive, contributing significantly to overcrowding. On April 25, the National Human Rights Commission (CNIDH) noted that two-thirds of detainees in the country were in pretrial detention, resulting in as many as 180 detainees sleeping in one room. The largest rooms were dormitory-style rooms designed to hold many detainees. Authorities sometimes held pretrial detainees with convicted prisoners.

Authorities did not always hold juveniles separately from adults, and some children under school age shared cells with their incarcerated mothers. According to the Ministry of Justice, 53 percent of the 43 prisons holding juvenile detainees had separate areas for minors.

During the second quarter of 2017, Grandir Dignement (Grow Up with Dignity), a nongovernmental organization (NGO) dedicated to the rights of imprisoned youth, identified 828 minors held in the country's 41 prisons, 39 jails, and two juvenile detention centers. The NGO estimated that 20 percent of the minor prisoners were collocated with adult prisoners during the day, and 5 percent shared dormitories with adults. Girls were always held together with adult female prisoners.

According to the International Committee of the Red Cross (ICRC), almost one in two prisoners nationwide suffered from moderate or severe malnutrition. Each inmate received approximately 10.5 ounces of cassava per day, compared with the recommended 26 ounces. The ICRC, in collaboration with the Catholic

Chaplaincy for Prisons, treated almost 7,500 prisoners in 14 detention centers for malnutrition during the year, in addition to approximately 2,000 sick prisoners and breastfeeding women.

A deteriorating prison infrastructure that often lacked sanitation facilities and potable water resulted in disease and insect and rodent infestations, although prison officials carried out extermination efforts against insects and rats, minor renovations, and small construction projects with financial support from the ICRC. Access to medical care was limited. Ventilation, lighting, and temperature control were inadequate or nonexistent in many of the smaller facilities hosting fewer than 300 inmates; larger facilities were renovated during the year to address these issues.

The Ministry of Justice recorded 129 deaths in prisons in 2017, none of which were attributed to actions by guards or other staff. The most frequent causes of death were tuberculosis, high blood pressure, and gastrointestinal issues.

Fifteen prisoners tried to escape Antalaha Prison in the northern Sava Region on July 15. During the confrontation between the prisoners and penitentiary agents, two prisoners died and one was seriously injured.

Administration: While a formal process exists to submit complaints to judicial authorities, few detainees used it due to fear of reprisal. Officials authorized weekly visits from relatives and permitted religious observance. Visits outside scheduled days were reportedly possible by bribing guards and penitentiary agents. NGOs reported bribes could purchase small privileges, such as allowing family members to bring food for prisoners.

Independent Monitoring: Authorities generally permitted independent monitoring of prison conditions by the ICRC, several local NGOs, and some diplomatic missions. Authorities permitted the ICRC to conduct visits to all main penitentiary facilities and to hold private consultations in accordance with its standard modalities. Authorities also permitted ICRC representatives to visit detainees in pretrial or temporary detention.

Improvements: As of October, 22 of the country's 41 prisons had established separate areas for boys and men, an increase from 2014 when only 17 prisons had such areas.

Humanity and Inclusion (HI), an NGO that collaborated with the Ministry of Justice penitentiary administration, completed a project called “Prison for a Better Future: From Detention to Reinsertion.” The project addressed the mental well-being of detainees in five detention centers. The project also promoted protection of detainees’ human rights and developed a method for psychosocial support for penitentiary agents, civil society organizations, local communities, and detainees.

Some regional directorates of the penitentiary administration undertook independent initiatives to improve detainees’ well-being. The Antalaha directorate, for example, established agreements with local farmers by which the prisons provided workers from among detainees to farmers, who then allocated part of their harvest to the prison food supply. During the year the administration concluded five such agreements that brought approximately 60 tons of dried foodstuffs including rice, corn, and cassava, to the prisons.

The government allocated an additional two billion ariary (\$560,000) to the Ministry of Justice during the year to increase the pace of hearings and conduct a pilot project to improve detainees’ diet. In the pilot project, detainees in two prisons (Toliara and Miarinarivo) benefitted from a new diet providing three kinds of food to detainees and two meals per day, and the ministry stated its intent to expand this to the remaining prisons. The 2019 budget, approved in November, doubled the amount allocated to the penitentiary administration compared with the reporting year.

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention and provide for the right of any person to challenge the lawfulness of his or her arrest or detention in court, but authorities did not always respect these provisions. Authorities arrested persons on vague charges and detained many suspects for long periods without trial. According to international media reports, women are routinely arrested for crimes their male relatives are accused of, allegedly because they should have known and are thus considered an accomplice.

Role of the Police and Security Apparatus

The national police, under the authority of the Ministry of Public Security, are responsible for maintaining law and order in urban areas. The gendarmerie, under the Ministry of National Defense, is responsible for maintaining law and order in

rural areas. Since 2015 the military has remained active in rural areas, particularly to maintain order in areas affected by cattle rustling and banditry.

The government did not always exercise law enforcement effectively outside the capital. Security forces at times failed to prevent or respond to societal violence, particularly in rural areas.

Government institutions lacked any effective means to monitor, inspect, or investigate alleged abuse by security forces, and impunity was a problem. Victims may lodge complaints in the local court of jurisdiction, although this rarely occurred.

The law gives traditional village institutions authority to protect property and public order. In some rural areas, a community-organized judicial system known as *dina* resolved civil disputes between villagers over such issues as alleged cattle rustling. *Dina* procedures sometimes conflicted with national laws by imposing harsh sentences without due process or by failing to protect the rights of victims. For example, the *dina* system of the Toliara region, adopted in 2016, states that prosecution for wrongful death is unnecessary in cases where a presumed criminal is killed during a robbery. Other *dina* systems prescribe capital punishment, although it has been abolished at the national level. For example, a newspaper reported on April 28 that the town of Tolongoina in the region of Vatovavy Fitovinany had set up a local *dina* to crack down on the frequent cases of vanilla theft. The agreement provided for the decapitation of any thief caught red-handed stealing vanilla.

In May the national police published a booklet entitled “Serve and Protect,” developed with the support of the ICRC, that serves as a guide to police officials for protecting human rights.

Arrest Procedures and Treatment of Detainees

The law requires arrest warrants in all cases except those involving ‘hot pursuit’ (the apprehension of a suspect during or immediately after a crime is committed), but authorities often detained persons based on accusations only and without judicial authorization. The law requires authorities to charge or release criminal suspects within 48 hours of arrest, but they often held individuals for significantly longer periods before charging or releasing them. Defendants have a right to counsel, and the law entitled those who could not afford a lawyer to one provided by the state. Many citizens were unaware of this right, and few requested

attorneys. Defendants have the right to know the charges against them, but authorities did not always respect this right. Authorities frequently denied bail without justification. 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, with a theoretical maximum of eight months for criminal cases. Family members generally had access to prisoners, although authorities limited access for prisoners in solitary confinement or those arrested for political reasons.

Arbitrary Arrest: Security forces arbitrarily arrested journalists, political opponents of the government, demonstrators, and other civilians.

In August the CNIDH reported gendarmes arrested seven persons in the Sava Region for contesting their eviction from their village in Moratsiazo, where they had lived for five years. The court imprisoned the men in Antalaha; two young children and their mother were held in the Sambava police station.

Pretrial Detention: In April the CNIDH noted that two-thirds of detainees in the country were in pretrial detention. According to the Ministry of Justice, as of August 58 percent of the prison population (14,222 of 24,590 inmates) was in pretrial detention. Pretrial detention ranged from several days to several years. Poor recordkeeping, an outdated judicial system, insufficient magistrates, insufficient courts of first instance and lack of resources contributed to the problem. The length of pretrial detention often exceeded the maximum sentence for the alleged crime.

On March 1, the NGO Action des Chretiens pour l'Abolition de la Torture (Action by Christians to Abolish Torture) developed and published a manual to help law enforcement agents reduce the rate of pretrial detention with the aim of decreasing prison overcrowding and improving respect for the rights of prisoners.

Detainee's Ability to Challenge Lawfulness of Detention before a Court: The law provides for the defendant's right to file an appeal concerning his or her pretrial detention with no specific provision concerning his or her right to prompt release and compensation. The law states that a defendant must be released immediately if a prosecutor approves a temporary release requested by the defendant.

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. There were instances in which the outcome of trials appeared predetermined, and authorities did not always enforce court orders. Lack of training, resources, and personnel hampered judicial effectiveness, and case backlogs were “prodigious,” according to Freedom House. Judges reported instructions from the executive to release accused sex offenders who were often, but not always, foreign citizens from donor countries.

The law reserves military courts for trials of military personnel, and they generally follow the procedures of the civil judicial system, except that military jury members must be officers. 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.

Trial Procedures

The law provides for the right to a fair and public trial, but the courts have the authority to direct that a trial be closed to protect the victim or to maintain public order. Trials were often delayed. Prolonged incarceration without charge, denial of bail, and postponed hearings were common. The law provides for a presumption of innocence, but authorities often ignored this right. Defendants have the right to be informed promptly and in detail of the charges against them, and the law provides free interpretation as necessary, from the moment charged through all appeals.

Defendants have the right to legal counsel at every stage of proceedings. Many citizens were unaware of their right to counsel, however, and authorities did not systematically inform them of it. Defendants who did not request or could not afford counsel generally received very limited time to prepare their cases. Defendants have the right to be present at their trials, to present and confront witnesses, and to present evidence. Authorities generally respected such rights if defendants had legal representation. The law provides the right to an interpreter for the judicial police, examining magistrate, and the defendant’s legal advisor but does not mention any such right for the defendant, nor whether it is a free service. The law stipulates that the defendant has the right to refuse an interpreter. In practice, if an external interpreter must be hired, it is at the defendant’s expense. Legislation outlining defendants’ rights does not specifically refer to the right not to be compelled to testify or not to confess guilt. It does include the right to

assistance by another person during the investigation and trial. Defendants have the right to appeal convictions.

By law, the above rights apply to all defendants, and there were no reports that any groups were denied these rights.

Political Prisoners and Detainees

Alain Ramaroson remained in jail at year's end. The leader of an opposition party, Ramaroson was arrested in August 2016 and accused of forgery in a land dispute with one of his family members. After several refusals of his attorneys' requests for temporary release and after several postponements, a first trial was held in July 2017, and he was sentenced to one year in prison and a 900 million ariary (\$252,000) fine. In August 2017 the court rendered a judgement related to another charge and sentenced him to 30 months in prison and a 200 million ariary fine (\$56,000). The media reported that persons seeking to visit him were required to obtain prior approval from the ministry.

There were no reports of any other cases of politically motivated arrests or detentions.

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 through domestic courts. Courts lacked independence, were subject to influence, and often encountered difficulty in enforcing civil judgments. There is no prohibition against appealing to regional human rights bodies, but there was no known case of an appeal. The legal system does not recognize the jurisdiction of the African Court on Human and Peoples' Rights.

Property Restitution

During the year, media reported several similar cases of forced evictions of entire communities in various parts of the country, supported by security forces, to the benefit of foreign investors. There were no reports that the evicted persons in any of these cases received any restitution.

There was no report of government action to seize private properties for public use during the year.

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

The law prohibits such actions, but there were a few reports the government failed to respect these provisions.

On May 20, for example, five soldiers belonging to a unit from Antsirabe seized 15 zebu cattle from a courtyard and burned a house in the district of Manandriana, Amoron'i Mania. The soldiers had allegedly received an anonymous tip that the resident was a cattle rustler and had gone to the village to arrest him. When they found no one in the suspect's presumed house, they burned it and seized the zebus.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Expression, Including for the Press

The constitution provides for freedom of expression, including for the press, but these “may be limited by the respect for the freedoms and rights of others, and by the imperative of safeguarding public order, national dignity, and state security.” The government sometimes restricted these rights. The communication code includes a number of provisions limiting freedom of speech and expression. The code also grants broad powers to the government to deny media licenses to political opponents, seize equipment, and impose fines.

The government arrested journalists and activists who had publicly denounced the misbehavior of public authorities. The government often used unrelated charges to prosecute them.

Freedom of Expression: In accordance with the constitution, the law restricts individuals' ability to criticize the government publicly.

In May the Court of Appeals of Fianarantsoa confirmed a two-year suspended prison sentence for human rights activist Raleva, accused of impersonating the district chief of Mananjary. Raleva publicly questioned the legality of the gold mining permit of a Chinese company operating in Mananjary, on the southeast coast, and denounced the negative impact of the company's activities on the environment and the health of the local population. In October 2017, after a month's detention, the court of Mananjary convicted him of identity fraud against the district chief, for having demanded during a public meeting to see the legal

document authorizing the Chinese company to operate on the site. Civil society members and local and international NGOs condemned the court decision and characterized it as an effort to silence human rights activists.

During the year, the CNIDH and local NGOs issued several communiques denouncing the continuing harassment, including arrest and intimidation, of human rights activists. Most of the affected activists had denounced illegal aspects of the evictions of local communities in several parts of the country to the benefit of foreign investors.

Press and Media Freedom: The communications code contains several articles limiting press and media freedoms. For example, Article 85 requires the owner of a media company to be the chief publisher. This article may permit the harassment of potential opposition presidential candidates, many of whom were also media owners.

Although defamation is not a criminal offense in the communications code, a separate cyber criminality law allows for the charge of criminal defamation for anything published online. It is unclear whether the cyber criminality law, which includes prison sentences for online defamation, has precedence over the 2015 communications code, as all newspapers are also published online. The fines allowed for offenses under the communications code are many times higher than the average journalist's annual salary.

The communications code gives the communications ministry far-reaching powers to suspend media licenses and seize property of media outlets if one of their journalists commits two infractions of the code. Finally, the code allows only state owned radio and television stations the right to broadcast nationally, although this limitation was not always enforced.

The country had numerous independent newspapers. More than 300 radio and television stations operated in the country, although many shifted to live call-in shows in recent years to distance themselves from editorial responsibility for content. Many of them continued to have a national audience, in spite of the code's limitations. Nevertheless, access by nonstate actors, especially the opposition, to public media, was limited.

In August newspapers reported that the minister of communication had ordered staff of the national television station not to broadcast Andry Rajoelina's announcement of his candidacy for president. Although former president and

opposition figure Marc Ravalomanana's radio station MBS was allowed to resume broadcasting after years of suspension, its management alleged the government was deliberately jamming its broadcasts.

On August 8, after a meeting related to the coverage of the presidential election, managers of the state owned media announced their intent to ensure neutrality vis-a-vis the presidential candidates before, during, and after the elections.

Violence and Harassment: There were several reports of journalists being suspended or harassed for coverage of opposition figures. An online media outlet, Gasy Patriot, reported in May that a journalist for the public radio station had been suspended and others moved following accusations by their supervisors that they were too close to opposition members of Parliament who were demonstrating against the government at the time.

Censorship or Content Restrictions: Journalists practiced self-censorship, and authors generally published books of a political nature abroad.

In February the prefect of Mahajanga, Lahiniaina Ravelomahay, banned any interaction with the press about an ongoing conflict within the local university, and required the University of Mahajanga, its student association, and students' parents to obtain official authorization from his office before talking to journalists. The announcement also required journalists to check whether their interviewees had the prefect's written authorization to speak to journalists prior to conducting any interview.

Libel/Slander Laws: There were several reports of government authorities using libel, slander, or defamation laws to restrict public discussion.

Internet Freedom

The government did not restrict or disrupt access to the internet, and there were no credible reports the government monitored private online communications without appropriate legal authority.

A cybercrime law prohibits insulting or defaming a government official online. According to Reporters without Borders, "the law's failure to define what is meant by 'insult' or 'defamation' leaves room for very broad interpretation and major abuses." The law provides for punishment of two to five years' imprisonment and a fine of two million to 100 million ariary (\$560 to \$28,000) for defamation.

Following criticism from the media and international community, the government promised to revise the law, but did not do so.

Public access to the internet was limited mainly to urban areas. According to the International Telecommunication Union, 9.8 percent of the population used the internet in 2017.

Political groups, parties, and activists used the internet extensively to advance their agendas, share news, and criticize other parties. Observers generally considered the internet (exclusive of social media) among the more reliable sources of information.

Academic Freedom and Cultural Events

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

b. Freedoms of Peaceful Assembly and Association

Freedom of Peaceful Assembly

The constitution and law provide for freedom of peaceful assembly, but authorities often restricted this right. The government required all public demonstrations to have official authorization from the municipalities and police prefectures, but these rarely gave authorization to opposition parties. Security forces regularly impeded opposition gatherings throughout the country and used excessive force to disperse demonstrators.

Several times during the year, security forces used tear gas to disperse demonstrations by university students, supporters of political opponents, and other groups. Students generally retaliated by throwing stones at security forces or set up roadblocks, which often resulted in injuries and arrests.

During the year, the government systematically hindered political opponents' ability to meet with their supporters in public places. On January 6 and 22, for example, the joint security unit Emmo-Reg prevented former president Marc Ravalomanana from meeting with supporters by blocking supporters' entry and destroying audio equipment in private venues.

Government political restrictions on public political demonstrations peaked in April when a group of parliamentarians demonstrated against the proposed

electoral code. On April 21, in Antananarivo, elements from the Emmo-Reg blocked the entry to City Hall where opposition parliamentarians had planned to meet voters and report on the adoption of the electoral laws that they judged controversial and in violation of democratic principles. Security forces threw tear gas and fired blanks to prevent access to the compound. Later the same day, security forces that reportedly left the area because they were out of supplies allegedly shot at demonstrators who tried to pursue them. Casualty reports after the confrontations differed, with estimates of between two and five dead and 17 injured.

After April 21, security forces issued a statement that they would no longer intervene in demonstrations unless lives or property were endangered. Opposition members were allowed to demonstrate unhindered, which eventually led to the establishment of a consensus government, and the freedom of all parties to hold political rallies and events without interference for the remainder of the year.

Freedom of Association

The constitution and law provide for the right of association, but the government did not always respect this right.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/religiousfreedomreport/.

d. Freedom of Movement

The constitution and law provide for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights. 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. There were no reports that the government pressured or threatened refugees to return to the country from which they had fled.

A 2013 decree prohibits citizens from leaving the country to work abroad in countries deemed “risky, as a measure to reduce trafficking in persons. Because destination countries are not specifically identified in the decree, Malagasy persons

may be prevented from leaving the country to work abroad at the discretion of border agents.

Internally Displaced Persons (IDPs)

More than 70,000 persons were displaced in January and March by Tropical Cyclones Ava and Eliakim and were temporarily housed in common shelters in several regions of the country. Through the National Office in Charge of Risk and Disaster Management (BNGRC), the government, coordinated with private and international donors to provide humanitarian assistance and to assist the majority of them to return home.

According to a survey conducted by the International Organization for Migration in 10 cities, more than 18,000 persons migrated from the deep south of the country between 2009 and 2017, most citing drought conditions. A new survey conducted in 20 other cities in the same region concluded that approximately 5,699 persons were displaced between 2009 and August, 986 of whom were displaced between January and August alone. Among the persons displaced, 42 percent were displaced by drought, 11 percent for economic reasons, and 9 percent due to insecurity. A portion of these IDPs had returned to their homes when climate conditions improved; others decided to resettle elsewhere. The BNGRC also coordinated with private partners and international donors to assist the displaced persons.

Protection of Refugees

As of March, approximately 55 persons had official refugee or asylum seeker status in the country.

Access to Asylum: The law does not include provisions for granting asylum or refugee status, and the government has not established a system for providing protection to refugees. Authorities generally cooperated with UNHCR and other humanitarian organizations in assisting the small number of refugees in the country.

Freedom of Movement: Refugees and asylum seekers reported that police frequently detained some of them and sometimes did not honor UNHCR-issued documents certifying their status or tore them up, rendering them vulnerable to arrest or expulsion.

Employment: Refugees and asylum seekers did not have access to employment, because without a resident visa they were unable to get a work permit.

Access to Basic Services: Refugees and asylum seekers received no support from the government, but the government did not interfere with support provided by UNHCR via a local NGO. Refugees and asylum seekers complained that the amount of support they receive is insufficient because they may not work and receive no government support. Hospitals and service providers charged refugees higher rates as foreigners, making basic medical care unaffordable to refugees.

Stateless Persons

The nationality code promulgated by the president in 2017 gave men and women equal rights to pass their nationality to their children and more protection to women and children against the loss of their nationality. The code's main reform grants Malagasy women the right to transmit nationality to their children regardless of a woman's marital status. The loss of Malagasy citizenship for any reason mentioned in the law does not affect the spouse and the children of the deprived person.

The provisions of the old code of nationality resulted in a large number of stateless persons in the minority Muslim community, many belonging to families that lived in the country for generations. Muslim leaders estimated the laws affected as much as 5 percent of the approximately two million Muslims in the country. Members of the wider Muslim community suggested a Muslim sounding name alone could delay one's citizenship application indefinitely.

According to a July media report, Focus Development, a local NGO working on statelessness, reported an increase in nationality certificate requests since the adoption of the new nationality code. She reported that the court of Antananarivo alone had delivered more than 1,500 certificates since the 2017 legal reform. Even after the adoption of the new code, statelessness remained an issue for those who remained ineligible for nationality.

Some members of the South Asian community--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.

All stateless persons may apply for a foreign resident card, which precludes the right to vote, own property, or apply for a passport, thus limiting international travel. Stateless women may obtain nationality by marrying a Malagasy citizen and may request citizenship before the wedding date, but Malagasy women cannot confer citizenship on a stateless husband. Stateless persons had difficulty accessing education and health care, could not get jobs or buy land, and lived in fear of arrest.

Section 3. Freedom to Participate in the Political Process

The constitution and law provide citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

Elections and Political Participation

Recent Elections: The country held a presidential election on November 7, followed by run-off on December 19 between the two highest vote getters in the first round. During the campaign, there were early efforts by the government to prevent or disperse opposition rallies (See “Freedom of Peaceful Assembly”). Several candidates alleged voter suppression through the selective absence of voter registration materials, vote buying, and other irregularities. Independent domestic and international observers nonetheless judged the elections as generally free and fair. On December 27, the Electoral Commission reported that Andry Rajoelina, a former transitional leader, had taken nearly 56 percent of the vote; his opponent, Marc Ravalomanana, trailed with about 44 percent. The results were not formally certified nor a victor declared before year’s end.

Legislative elections were held in 2013. Despite irregularities that led to cancellation of results by the special electoral court in four districts, international observers--including the EU, the African Union, the Carter Center, and La Francophonie--deemed the elections generally free and fair. In 2014 the National Assembly began its five-year term.

Municipal elections in 2015 were marked by low turnout (25 percent) and irregularities, including the exclusion of qualified voters from the polls, government interference with the nominally independent election authority, cancellation of elections in 19 cities, and other problems. The mayors and municipal counsellors who were elected subsequently elected 42 members of the Senate. The ruling Hery Vaovao ho an’i Madagasikara (New Forces for

Madagascar) party won 36 of the 42 seats. The opposition alleged undue influence by authorities on electors and unequal financial resources available to candidates. The president appointed the remaining 21 senators.

Political Parties and Political Participation: The government restricted opposition parties and denied them the right to demonstrate spontaneously. Official permission is required for all demonstrations, and there were reports that the government denied or delayed permission for opposition parties, especially on national holidays or other symbolic dates.

In January the government put former president Ravalomanana's company, Tiko AAA, under commercial and legal pressure. Some media and political observers described the actions as an effort to eliminate Ravalomanana's financial resources for the upcoming elections. Authorities in Antsirabe, where the company's factory was located, deployed security force elements to search the factory compound to investigate an alleged electricity theft. Security forces searched all vehicles circulating in the neighborhood to prevent staff from going to work and to prevent the delivery of goods. The Ministry of Commerce ordered the confiscation of all Tiko products that they assessed were illegally produced. In August the company resumed operations; there was no official explanation of the ongoing dispute.

Participation of Women and Minorities: No laws limit participation of women or members of minorities in the political process, and they did participate.

Of 209 members of parliament (both houses), 38 were women; eight of 30 members of the cabinet were women. Some observers believed that cultural and traditional factors prevented women from participating in political life in the same way as men, however.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for official corruption, but the government did not implement the law effectively, and officials engaged in corrupt practices with impunity. Corruption was pervasive at all levels of government.

Corruption: Several cases resulting from corruption investigations by the Independent Anticorruption Bureau (BIANCO) went to trial and/or resulted in high-level individuals being jailed on embezzlement and bribery charges.

During the year media reported a number of high-profile cases of corruption; however, apart from the replacement of several government officials, the investigations did not lead to any legal decisions and did not involve any higher-level officials. In March an anonymous video on Facebook showed progovernment parliamentarians receiving large sums of money to vote for three electoral bills. After complaints were lodged with BIANCO in July, its director reported the first group of 15 parliamentarians had been summoned for questioning, but only eight had shown up.

During the year BIANCO continued its investigation of Claudine Razaimamonjy, the unofficial presidential advisor arrested and imprisoned in April 2017 for alleged embezzlement. The investigation implicated former minister of finance Jean Razafindravonona and then-treasury director general Orlando Robimanana for their involvement in the disbursement of the embezzled funds. Robimanana was given temporary release after the investigation, and Razafindravonona was held in custody until the High Constitutional Court ruled in August that an ordinary court was not empowered to prosecute a former minister. On September 11, the new anticorruption court (PAC) of Antananarivo dismissed some charges against Razaimamonjy, but she remained in jail on other charges.

In February the public procurement regulatory authority published on its website the 2016 report on public procurement contracts. The report presented obvious discrepancies such as the allocation of large amounts for very elementary services within some ministries. Some affected officials explained through media that the mentioned amounts corresponded to the maximum amount that could be allocated but was not actually spent. Others alluded to transcript errors. No report indicated the launching of any further investigation.

On June 15, 24 members of the Antananarivo PAC were sworn into office. The new court's mandate was to try cases referred by the anticorruption office BIANCO, the anti-money laundering office, the National Police, and the Gendarmerie. The call for applicants for the Toamasina PAC was published in early August, and the new court was expected to be operational by year's end.

Financial Disclosure: The law requires regular income and asset declarations by individuals in the following positions: prime minister and other government ministers; members of the National Assembly and Senate; members of the High Constitutional Court; chiefs of regions and mayors; magistrates; civil servants holding 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, the army's general inspection, and the national gendarmerie's general inspection; and judicial police officers. BIANCO may inform the Prosecutor's Office in cases of noncompliance and announced publicly in May its intention to apply sanctions to those who failed to declare their assets.

As of August, according to the website of the High Constitutional Court, the prime minister, 23 of the 30 members of his cabinet, and 203 of the 209 members of both houses of parliament had declared their assets as required by law. In February, the anticorruption office had announced that 27 percent of officials--including seven high-ranking civil servants--who were required to declare their assets had not completed their declarations. Subject to potential sanctions, the seven civil servants were awaiting trial in the anticorruption court and had been interviewed by BIANCO's investigative team.

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

Numerous domestic and international human rights groups generally operated without restriction, investigating and publishing their findings on human rights cases. Government officials were not always responsive to their views, but authorities allowed international human rights groups to enter the country, work, and consult freely with other groups.

Several domestic NGOs worked on human rights, but few had the capacity to work effectively and independently.

Government Human Rights Bodies: The CNIDH is composed of 11 commissioners, each elected by members of a different human rights organization and given a mandate to investigate cases of, and publish reports on human rights violations. The government allocated and disbursed two billion ariary (\$560,000) for the commission to operate during the year. In addition some international organizations and diplomatic missions provided some equipment.

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

Women

Rape and Domestic Violence: The law prohibits rape but does not address spousal rape. Penalties range from five years to life in prison. Rape of a pregnant woman

is punishable by hard labor. Authorities may add an additional two to five years' imprisonment if the rape involves assault and battery. Authorities rarely enforced the law.

The law prohibits domestic violence, but it remained a widespread problem. Domestic violence is punishable by two to five years in prison and a fine of four million ariary (\$1,120), depending on the severity of injuries and whether the victim was pregnant. There were few shelters for battered women in the country, and many returned to the home of their parents, who often pressured victims to return to their abusers.

Victims of domestic violence from vulnerable populations could receive assistance from advisory centers, called Centers for Listening and Legal Advice, set up in several regions by the Ministry of Population, Social Protection, and Promotion of Women with the support of the UN Population Fund. These centers counseled survivors on where to go for medical care, provided psychological assistance, and helped them start legal procedures to receive alimony from their abusers.

In April a one-stop center for victims of rape and sexual abuse in the public maternity section of Befelatanana hospital in Antananarivo reported that it received an average of 60 cases of sexual abuse per month, including four or five involving boy victims. They reported half of those cases as incestuous, perpetrated by fathers, stepfathers, uncles, cousins, and grandfathers. Family members generally tried to conceal cases of incest and avoided lodging complaints even though legal assistance for victims was available through the center.

Media reported in April that a 12-year-old girl living in Tolagnaro gave birth after being raped by a religious leader in the town. Her parents lodged a complaint; the girl's father agreed to accept financial compensation from the presumed offender in exchange for withdrawal of the complaint. The clergyman reportedly withdrew from the agreement and instead lodged a complaint against the victim's parents for defamation. Moreover, he reportedly threatened the parents and said that he had high-level protection. There was no report of any further legal action against the offender.

Sexual Harassment: Sexual harassment is against the law, and penalties range from one to three years' imprisonment and a fine of one to four million ariary (\$280 to \$1,120). The penalty increases to two to five years' imprisonment plus a fine of two to 10 million ariary (\$560 to \$2,800) if criminals forced or pressured

the victim into sexual acts or punished the victim for refusing such advances. Authorities did not enforce the law, and sexual harassment was widespread.

On June 6, a 40-year-old woman in Antananarivo was injured by a 50-year-old neighbor who, she alleged, had regularly tried to force her to have sexual intercourse. When she refused, the man beat her, forcing her to run to a public place and defend herself. The woman filed suit against the man for the beating; the man filed a counter-suit. According to the media, the woman continued to be the object of regular reprisals by the man. The woman took no known legal action for the sexual harassment.

BIANCO, in collaboration with the UN Development Program (UNDP), conducted a study on sexual corruption. The results of the study published in August revealed that sexual harassment qualified as gender-based corruption and prevailed not only in all professional sectors, including in universities. Victims of harassment, however, generally did not complain out of fear or shame. At a workshop connected to the study, students testified that dissertation supervisors compelled them to provide sexual services in exchange for validation of their theses.

The collaboration between BIANCO and UNDP led to the development of a strategy to combat sexual harassment, including setting up a prevention committee to receive anonymous complaints, protecting the confidentiality of victims' identities and conducting public awareness campaigns.

During the year, local NGO Capacity-building for Communities conducted awareness campaigns targeting men in some private universities to combat the culture of impunity for men who sexually harassed women.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization.

Discrimination: While women enjoyed the same legal status and rights as men in some areas, there were significant differences. Women experienced discrimination in employment and transfer of inheritance. While widows with children inherit half of joint marital property, a husband's surviving kin have priority over widows without children, leaving the widow eighth in line for inheritance if there is no prior agreement. Families at times gave women a more favored position in the areas of employment and inheritance transfer, but there were no reports of women taking legal action in cases of alleged discrimination.

Children

Birth Registration: Under the new nationality code, citizenship derives from one's parents. The new law does not confer Malagasy nationality on children born in Madagascar if both parents are noncitizens. It does provide for a minor's right to obtain Malagasy citizenship if one of his or her parents, regardless of their marital status, obtains Malagasy citizenship.

The country has no uniformly enforced birth registration system, and unregistered children typically were not eligible to attend school or obtain health-care services. For additional information, see Appendix C.

Education: The constitution provides for tuition-free public education for all citizen children and makes primary education until the age of 16 compulsory. Nevertheless, parents were increasingly required to pay registration and various fees to subsidize teacher salaries and other costs. As a result, education became inaccessible for many children. According to UNICEF, boys and girls generally had equal access to education, although girls were more likely to drop out during adolescence.

Child Abuse: Child abuse, including rape, was a problem. The press reported more than 20 cases of child rape, with most victims younger than 12; the youngest was three years old. In June the Ministry of Population, in partnership with UNICEF, published a study on violence against children in the country. The study revealed that violence against children, including physical violence, sexual abuse, and rape, occurred in all environments: family, school, social circles, and working places. According to the study, abuse was rarely reported due to a lack of confidence in the justice system, precarious economic conditions, and a desire to avoid social discord in the community. Only 4 percent of respondents to the survey said they had reported cases of child abuse to the police, while 19 percent had reported sexual abuse to the police or gendarmerie. Victims' families often agreed to mediated arrangements involving financial compensation by the wrongdoers and occasionally forced marriage of the victim with the rapist.

In some towns and cities, particularly in Antananarivo, homeless women raise small children in dangerous conditions and environments, and will force children to beg on the streets at ages as young as three years old. Sometimes babies are "rented" to beggars to try to increase sympathy from passersby. Government authorities rarely intervened in these cases of child endangerment.

Government efforts to combat child rape were limited, focusing primarily on child protection networks, which addressed the needs of victims and helped raise public awareness.

With the support of UNICEF, the cities of Antananarivo, Toamasina, Mahajanga, and Nosy Be hosted one-stop victim support centers, called Vonjy Centers, in public hospitals. These centers received child victims of sexual abuse, including rape and sexual exploitation. Apart from the medical care, these centers provided psychological support through social workers assigned by NGOs. Police officials from the minors and child protection brigade recorded their complaints, and volunteer lawyers provided free legal assistance.

In Nosy Be the local office of the Ministry of Population, in collaboration with UNICEF, established a foster family system for child abuse victims who needed placement. Some officials reported that victims of child abuse were returned to the home where the abuse occurred due to a lack of options.

Early and Forced Marriage: The legal age for marriage without parental consent is 18 for both sexes. Nevertheless, child marriage remained very common, particularly in rural areas and in the south.

The practice of “molety,” in which girls are married off at a younger age in exchange for oxen received as a dowry, reportedly continued. The parents of a boy (usually around age 15) look for a spouse for their son (girls may be as young as 12), after which the parents of both children organize the wedding. (For additional information, see Appendix C.)

The government announced initial implementation of the National Strategy to Fight against Child Marriage (SNMLE) in May. Implementation by the Ministry of Population, with the support of UNICEF, was planned for 2018 to 2024. The SNMLE aims to reduce child marriage prevalence--defined as “percentage of women age 20-24 who were married or in a union prior to the age of 18”--from 41 percent to 31 percent by 2024. The main elements of the strategy are to build the capacity of authorities and communities to better protect children and strengthen the ability of children to protect themselves against early marriage and early pregnancy.

Sexual Exploitation of Children: Antitrafficking legislation provides a penalty of hard labor for recruitment and incitement to prostitution involving a child younger than 18, the sexual exploitation of a child younger than 15, and the commercial

exploitation of a child younger than 18. Both the penal code and antitrafficking laws address, specify penalties of two to five years' imprisonment and fines up to 10 million ariary (\$2,800) for perpetrators of child pornography. Authorities rarely enforced the provisions. There is no minimum legal age for consensual sex.

Sexual exploitation of children, sometimes with the involvement of parents, remained a significant problem.

Employers often abused and raped young rural girls working as housekeepers in the capital. If they left their work, employers typically did not pay them, so many remained rather than return empty-handed to their families and villages. UNICEF's 2018 study on violence against children indicated all reported cases of sexual violence in the workplace took place in the domestic labor sector.

In September 2017 the national gendarmerie officially launched its new morals and minors protection unit with responsibility for protecting children, including rape victims in rural areas not covered by the national police's morals and minors brigade. The Ministry of Justice, collaborating with UNICEF and telecommunications companies, implemented a website called "Arozaza" (protect the child) that is intended to combat online sexual exploitation of minors and warn potential abusers. The website includes a form to report child endangerment or online pornography.

The Ministry of Population operated approximately 750 programs covering 22 regions throughout the country to protect children from abuse and exploitation. The ministry collaborated with UNICEF to identify child victims and provide access to adequate medical and psychosocial services. In collaboration with the gendarmerie, the Ministry of Justice, the Ministry of Population, and UNICEF trained local law enforcement officials and other stakeholders in targeted regions on the rights of children.

Infanticide or Infanticide of Children with Disabilities: Media reports documented several deaths of newborns abandoned in gutters and dumpsters. A traditional taboo in the southeast against giving birth to twins also contributed to the problem.

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 first to place abandoned children with parents or other relatives. Authorities placed many children in private and church-affiliated orphanages outside the regulated system.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data.html.

Anti-Semitism

The Jewish community consisted of approximately 360 members; 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/rls/tiprpt/.

Persons with Disabilities

The law prohibits discrimination against persons with disabilities and defines persons with disabilities as those presenting congenital or acquired deficiency in their physical, mental, or sensory capacities (without mentioning intellectual disability). The law also provides for a national commission and regional subcommissions to promote their rights. By law persons with disabilities are entitled to receive health care, education, facilitated access to public transportation, and have the right to training and employment; the law does not address access to the judicial system, information, and communications. Educational institutions are “encouraged” to make necessary infrastructure adjustments to accommodate students with disabilities. The law also specifies the state “must facilitate, to the extent possible, access to its facilities, public spaces, and public transportation to accommodate persons with disabilities.”

Authorities rarely enforced the rights of persons with disabilities, and the legal framework for promoting accessibility remained perfunctory.

Access to education and health care for persons with disabilities also was limited due to lack of adequate infrastructure, specialized institutions, and personnel.

Persons with disabilities encountered discrimination in employment. They were also more likely to become victims of various types of abuse, sometimes perpetrated by their own relatives.

The electoral code provides that individuals with disabilities should be assisted in casting their ballots, but it contains no other provisions to accommodate voters with disabilities.

In Antananarivo, persons with disabilities were often seen begging for money, sometimes accompanied by someone who was not disabled to call attention to the disabled person's condition. Security force members did not intervene, even when disabled persons sat between moving lanes of traffic, making it difficult for those in cars to see them.

In June the NGO Humanity and Inclusion, formerly known as Handicap International, with financial support from the French government, launched two 48-month projects called "Inclusive Education and Vocational Training" and "Mental Health." The first project aimed to give equal educational and vocational education opportunity to minors with disabilities; the second was a community-based strategy to promote mental health.

National/Racial/Ethnic Minorities

None of the 18 tribes in the country constituted a majority. There were also minorities of Indian, Pakistani, Comorian, and Chinese heritage. Ethnicity, caste, and regional solidarity often were considered in hiring and 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 politics.

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

The law provides for a prison sentence of two to five years and a fine of two to 10 million ariary (\$560 to \$2,800) for acts that are "indecent or against nature with an individual of the same sex younger than 21," which is understood to include sexual relations. There is no law prohibiting same-sex sexual conduct for those older than 21. Members of the lesbian, gay, bisexual, transgender, and intersex (LGBTI) community reportedly were unaware of the risk of arrest for "corruption of a

minor,” and arrests occurred for such acts, although there were no official statistics.

There are no specific antidiscrimination provisions that apply to LGBTI persons. There were no reports of discrimination in housing, employment, nationality laws, or access to government services. No laws prevent transgender persons from identifying with their chosen gender.

There were no reports of police or other government agents inciting, perpetrating, or condoning violence against LGBTI individuals.

As evidenced by comments in occasional news items involving well-known LGBTI personalities, members of the LGBTI community often continued to face considerable social stigma and discrimination within their own families, particularly in rural areas.

HIV and AIDS Social Stigma

Health care providers subjected persons with HIV/AIDS to stigma and discrimination. HIV/AIDS patients have the right to free health care, and the law specifies sanctions against persons who discriminate against or marginalize persons with HIV/AIDS. Apart from the National Committee for the Fight against AIDS in Madagascar, national institutions--including the Ministries of Health and Justice--did not effectively enforce the law.

Other Societal Violence or Discrimination

Mob violence occurred in both urban and rural areas, in large part due to crime and lack of public confidence in police and the judiciary. The local office of the United Nations Commission on Human Rights (OHCHR) presented a report on mob violence on September 17, stating that between July 2016 and August 2018 it registered 108 cases of mob violence involving 152 deaths and 62 injuries. Crowds killed, beat, burned, or otherwise injured suspected criminals or accomplices, and the media reported 97 deaths resulting from mob violence between January and September. At least 15 of those incidents occurred in the Sava Region, where villagers caught and killed vanilla thieves caught stealing. Villagers also resorted to mob violence to take revenge on residents of other villages for previous alleged attacks. Authorities sometimes arrested the perpetrators, but fear of creating renewed anger hindered prosecution. Media and

observers believed that the law was more likely to be enforced against perpetrators when it was in the interests of authorities or security forces.

In June local consulting firm Afrobarometer Madagascar published survey results on mob violence indicating that 41 percent of respondents considered mob violence acceptable for rape and cattle theft. The same study stated that 80 percent of rural inhabitants and 55 percent of urban residents resorted to *dinas* when handling cases of cattle theft and other social issues. In a September report, the local office of the OHCHR published a report stating that the *dina* system was effective in some regions but dangerous in others.

A mayor in the district of Mananjary went on trial on February 17, accused of involvement in the killing of a presumed thief beaten to death by villagers the previous month. Fellow mayors and members of the mayors association of Nosy Varika and Mananjary demonstrated against the detention of their colleague.

In August the Ministry of Justice, with the support of the UNDP, organized a two-day workshop in Sambava, capital of the Sava region, to mobilize local authorities, other public figures, and locally elected parliamentarians to prevent mob violence and popular revenge in the region. The second day was an open house exhibition during which different ministries shared information to promote civic behavior among the local population. The minister of justice and the minister of public security as well as the state secretary for the gendarmerie were present.

On June 4, in Belanana, villagers of Ambatotsihy killed a 54-year-old suspected thief to enforce a local *dina* ruling. The gendarmes had previously arrested the thief and were holding him in the office of the district chief. A group of villagers estimated at a thousand came to the district office to seize the thief and took him to his home village, Ambatotsihy, where his fellow villagers killed him as required by the *dina*. Media reported a few days later that gendarmes came to make an assessment but did not make any arrests, supposedly to avoid causing social unrest.

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 separate labor codes. Essential workers,

including police, military, and firefighters, may not form unions. The maritime code, does not specifically provide the right to form unions.

The law generally allows for union activities and provides most workers the right to strike, including workers in export processing zones (EPZs). Authorities prohibit strikes, however, 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 remedies, which may take eight months to two and a half years. Magistrates and workers in “essential services” (not defined by law) 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.”

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. The law does not accord civil servants and other public sector employees legal protection against antiunion discrimination and interference.

The law provides workers in the private sector, except 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 associations in public schools, do not have the right to bargain collectively. Authorities did not always enforce applicable laws and penalties were not sufficient to deter violations, and procedures were subject to lengthy delays and appeals. Larger international firms, such as in the telecommunications and banking sectors, more readily exercised and respected collective bargaining rights. These rights, however, were reportedly more difficult to exercise in EPZs and smaller local companies. Union representatives reported workers in such companies often were reluctant to make demands due to fear of reprisal.

The government inconsistently respected freedom of association and collective bargaining rights. The law provides that unions operate independently from the government and political parties. Union representatives indicated employers increasingly attempted to dissuade or influence unions, which often prevented workers from organizing or criticizing poor working conditions. Unions reported that many employers hindered their employees’ ability to form or join labor unions through intimidation and threats of dismissal for professional misconduct. Due to pervasive corruption, labor inspectors, bribed by some employers, usually

approved dismissal of union leaders. As a result, workers were reluctant to join or lead unions.

Strikes occurred throughout the year, including by magistrates, court clerks, public school and university teachers, and customs office employees. These strikes were not always related to labor conditions, and some officials suggested strikers intended such actions to “destabilize” the country. Observers considered that some union leaders used labor actions during the year as a springboard to gain political notoriety. Several labor unions took part in the antigovernment movement in April and openly called for the dismissal of some ministers.

b. Prohibition of Forced or Compulsory Labor

The antitrafficking law prohibits forced labor, with a penalty of two to five years’ imprisonment and a one to five million ariary fine (\$280 to \$1,400). For trafficking in children the law prescribes a penalty of between five and 10 years’ imprisonment and a two to 10 million ariary (\$560 to \$2,800) fine; however, it was still a significant problem among children in the informal sector.

Forced labor also persisted in *dina* judgments(see section 1.d.). In some communities, local *dinas* imposed forced labor to resolve conflicts or pay debt. These arrangements persisted because authorities did not effectively enforce the law. The legal definition of trafficking includes forced labor.

Union representatives charged that working conditions in some garment factories were akin to forced labor. Setting production targets instead of paying overtime allowances became a general practice among EPZ companies. Workers were assigned higher targets each time they reached the previous goals, obliging them to work more hours to avoid sanctions like salary withholding or even dismissal for low performance.

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

c. Prohibition of Child Labor and Minimum Age for Employment

The law establishes a legal minimum working age of 15, with various restrictions. The law also regulates working conditions of children, defines the worst forms of child labor, identifies penalties for employers, and establishes the institutional framework for implementation. The law allows children to work a maximum of

eight hours per day and 40 hours per week with no overtime and prohibits persons younger than 18 from working at night or where there is an imminent danger to health, safety, or morals. The law prohibits hazardous occupations and activities for children. The law requires working children to undergo a semi-annual medical checkup performed by the company's doctor or an authorized doctor at the expense of the employer.

The government did not effectively enforce the law. Penalties were insufficient to deter violations. The Ministry of Civil Services, Administrative Reform, Labor, and Social Laws is responsible for enforcing child labor laws.

In January the government amended the child labor law to include more detail about the worst forms of child labor such as working in massage centers, car washing in public places, and abusive work on family farms.

Child labor was a widespread problem. Centers operated by NGOs in Antananarivo, Antsirabe, and Toamasina cared for children who were victims of human trafficking and forced labor. Children in rural areas worked mostly in agriculture, fishing, and livestock herding, while those in urban areas worked in domestic labor, transport of goods by rickshaw, petty trading, stone quarrying, artisanal mining for gemstones such as sapphires, bars, and as beggars. Children also worked in the vanilla sector, salt production, deep-sea diving, and the shrimp industry. Some children were victims of human trafficking, which included child sex trafficking and forced labor.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at www.dol.gov/ilab/reports/child-labor/findings/.

d. Discrimination with Respect to Employment and Occupation

Labor laws prohibit workplace discrimination based on race, gender, religion, political opinion, origin, or disability. A special decree on HIV in the workplace provides guidance on discrimination based on serology status. The law does not prohibit discrimination based on sexual orientation, gender identity, age, or language. The government did not effectively enforce the law, and penalties were not sufficient to deter violations. Discrimination remained a problem. Employers subjected persons with disabilities and LGBTI individuals to hiring discrimination. Stateless persons had difficulty accessing employment, and refugees and asylum seekers were barred from employment. Members of some evangelical churches reported limited access to employment if their Sabbath was not on Sunday.

In rural areas, where most of the population engaged in subsistence farming, traditional social structures tended to favor entrenched gender roles, leading to a pattern of discrimination against women. While there was little discrimination in access to employment and credit, women often did not receive equal pay for substantially similar work. Employers did not permit women 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.

e. Acceptable Conditions of Work

The government raised the monthly minimum wage in February to 168,019 ariary (\$47) for the nonagricultural sector and 170,422 ariary (\$47.70) for the agricultural sector. The minimum wage is slightly below the \$1.90 (6,750 ariary) per day poverty level as defined by the World Bank. The standard workweek was 40 hours in nonagricultural and service industries and 42.5 hours in the agricultural sector.

The law limits workers to 20 hours of overtime per week and requires 2.5 days of paid annual leave per month. The law requires overtime pay, generally for more than 40 hours work in one week, but the exact circumstances requiring such pay are unclear. 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 that also denotes the required amount of overtime pay.

The government sets occupational safety and health standards for workers and workplaces, but the labor code does not define penalties for noncompliance, which only requires an inspection before a company may 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. Employers did not always respect this right. Labor activists noted that standards, dating to the country's independence in some cases, were severely outdated, particularly regarding health and occupational hazards and classification of professional positions. There was no enforcement in the large informal sector, which is estimated to comprise as much as 85 percent of the work force.

A 2015 study of the garment and leather industry conducted by the Friedrich Ebert Stiftung, a German foundation, revealed that all 126 companies investigated in Antananarivo had set up safety systems, such as fire extinguishers and emergency

exits, but that only 11 percent of them provided individual protection equipment to workers. The same study reported that 40 percent of employees from the investigated companies, along with their families, were deprived of basic social services because a significant number of employers failed to pay contributions to the national fund for social welfare since the 2009-13 political crisis.

The Ministry of Civil Services' Department of Administrative Reform, Labor, and Social Laws is responsible for enforcing minimum wage and working conditions, but enforcement rarely occurred. The number of labor inspectors was insufficient to monitor conditions outside of the capital. Apart from the insufficient number of inspections, authorities reportedly took no other action during the year to prevent violations and improve working conditions. There were no prosecutions, and penalties were insufficient to deter violations.

Violations of wage, overtime, or occupational safety and health standards were common in the informal sector and in domestic work, where many worked long hours for less than minimum wage. Although most employees knew the legal minimum wage, high unemployment and widespread poverty led workers to accept lower wages.

EPZ companies generally respected labor laws, as many foreign partners required good working conditions in compliance with local law before signing contracts with EPZ companies. Labor organizations, however, reported a shift in recent years from paying hourly wages to a piece-rate payment system that worsened conditions for laborers in the textile sector, who were primarily women. The practice, designed to increase productivity, reportedly led to an increase in work-related accidents and injured the women's health. Observers declared many women unfit to occupy these positions by age 40. In its 2015 study, the Friedrich Ebert Stiftung Foundation reported that EPZ companies prioritized setting a production target that was generally difficult to attain and penalized workers with various sanctions, such as unpaid overtime, disciplinary action, or even dismissal.

Media and union representatives reported that employees of offshore companies operating in customer service and online commerce generally worked in harsh conditions. These employees were subjected to long working hours including night shifts, weekends, and holidays, generally with no appropriate allowances such as overtime pay.

As a result representatives reported many of them were frequently sick or gave up their jobs within a few days.